



Women refugees and sexual violence in Kakuma Camp, Kenya

**Invisible rights, justice, protracted protection
and human insecurity**

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This document represents part of the author's study programme while at the Institute of Social Studies. The views stated therein are those of the author and not necessarily those of the Institute.

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List of Acronyms

UNHCR	United Nations High Commissioner for Refugees
AU	African Union
UDHR	Universal Declaration on Human Rights
OAU	Organisation of African States
RCK	Refugee Consortium of Kenya
LWF	Lutheran World Federation
IRC	International Rescue Committee
JRS	Jesuit Refugee Services
NGO	Non-governmental Organisation
DRC	Democratic Republic of Congo
NCCK	National Council of Churches
UN	United Nations
DRA	Department of Refugee Affairs
NGEC	National Gender and Equality Commission
GSU	General Service Unit
AP	Administration Police
WFP	World Food Programme
GTZ	German Agency for Technical Cooperation
STD	Sexually Transmitted Diseases
PEP	Post exposure prophylaxis (PEP)
MIRP	Ministry of State and Immigration of persons
NGEC	National Gender and Equality Commission
KLRC	Kenya Law Reform Commission
SEA	Sexual Exploitation and Abuse

Abstract

This paper will study the human rights violations of women refugees in Kakuma Camp in North-West Kenya. Given the high numbers of refugees in Kenya¹ the question arises of what actions are being taken to promote implementation of the International Refugee Convention in line with formal international legal provisions.² The specific focus in this study is on refugee women of Somali origin, aged between 18-59, and living in Kakuma Camp under extensive human rights violations that affect their well-being. The research will look specifically at the question of sexual violence against these women and how it is being addressed. For the study, over twenty interviews with refugee women and men, community leaders and NGO workers were carried out in the camp. UNHCR and other humanitarian agency reports on human insecurity and gender-based violence were also used to inform the study. To understand the problem of sexual violence against refugee women, and how it can be addressed, the study combined human security and human rights-based approaches, so as to be able to envision women's well-being more holistically. The key findings included a high level of sexual violence cases among the women, partly due to high human insecurity, and the failure to protect the women in the camp. A 'gap' in human rights realisation was identified, and as an 'intersectionality' analysis of Somali refugee women's position showed, cultural conditions of women need to be factored into humanitarian agencies' efforts to address sexual violence. The hope is that this study can contribute to filling some gaps in the existing literature and research on women refugees, and sexual violence, from a human rights perspective.

¹ Total population 101,191 as of August 2012 (UNHCR 2012)

² A new Kenyan Constitution was enacted in 2010 whose provisions domesticate the UN Convention relating to the Status of a Refugee (1951)

Relevance to Development Studies

The research topic focuses on refugee women, mainly of Somali origin focusing on a particularly vulnerable group in Kenyan society, and assessing sexual violence from a human rights perspective. According to the 2001 UNHCR Community Development Policy ‘it highlights the fact that refugees should be “subjects” in the search for durable solutions and be considered as resourceful and active partners, rather than “objects” or passive recipients of assistance’ (UNHCR 2001:1). In a sense, the study aims to go beyond the mere ‘humanitarian’ approach which tends to have been adopted in the past by UNHCR and the relevant NGOs working in Kakuma Camp. As such, it will be an important part of this study to evaluate sexual violence concerns from the human rights based and human security lens. Above all, this research will seek to further give room to problematize the gap between women refugee’s human rights related to sexual violence as portrayed in the Kenyan legal instruments such as the Refugee Act (2006) and (2011), the Sexual offences Act (2006) and other consecutive international and regional conventions. This is relevant to development studies in seeking to hold the Kenyan government accountable as a rights bearer.

Keywords

Women, refugees, Somali women, Kakuma, sexual violence, rape, protracted protection, human security, human insecurity, intersectionality.

Chapter 1

The promise of Human Rights in Kakuma

How long can the human spirit be patient?

(Interview 19, Lutheran World Federation Coordinator of projects)

1.0 Background

There are two main refugee camps in Kenya; the Kakuma refugee camp in North-Western Kenya and Dadaab refugee camp in North-Eastern Kenya, which together host between 800,000 and one million refugees. In Kakuma specifically, there were approximately '101,191' refugees as of August 2012 (UNHCR 2012:1). Kakuma is divided into three phases: Kakuma I, which houses mixed nationalities such as the Ethiopians, Eritreans, and Rwandese among others. Kakuma II has a predominantly Somali population while Kakuma III also houses mixed nationalities (UNHCR et. al 2011:15). The researcher worked mainly in Kakuma II and III, where interviews were carried out with Somali men and women, using an interpreter where necessary. Other nationalities in the camp include those from North and South Sudan and the Democratic Republic of Congo (DRC) (UNHCR 2012).

According to UNHCR, Kakuma Camp is still facing an influx of refugees arriving in Kenya due to the civil unrest in North and South Sudan and hostilities in Somalia and DRC (IRIN 2012). Consequently, the government of Kenya is making plans to acquire land so as to build more refugee camps to host the new arrivals as a temporary solution due to the over-congestion in the two existing camps (UNHCR 2011). Latest statistics further illustrate that there are fewer Somali women than men aged between 18-59 (see Table 1) (UNHCR 2012).

Invariably, all human beings have a right to flee persecution as established in the 1951 UN Convention relating to status of a refugee.

The Convention refers to a refugee as, a person who '(o)wing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or owing to such fear is unwilling to avail himself of the protection of that country' (Art. 1(2)UN Convention relating to the Status of Refugees 1951).

According to the same Convention it is clear that States have a responsibility to receive and give a place of refuge to asylum seekers.

No Contracting State shall expel or return ("refoule") 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 (Art.33 (1)UN Convention relating to the Status of Refugees 1951).

Historically the Kenyan state has had a 'laissez-faire' approach in accepting refugees, consequently the situations they live in remain unsafe and deplorable (Verdirame & Harrell-Bond 2005: 31). The Ministry of State and Immigration of Persons in Kenya is the official Ministry dealing with refugees matters such as registration, refugee status determination and also issues travel documents under the department for refugees (MIRP 2012). Thereafter upon entry into the camp UNHCR carries out profiling of refugees, and a mandate is usually given that allows refugees to access food, water, mosquito nets and other basic needs. However the Kenyan policy on refugees remains retrogressive in the sense that encampment is the main measure the government has taken in addressing their situation on a policy level (UNHCR 2011).

Moreover, the government of Kenya has relegated the responsibility of refugees to the United Nations High Commissioner thus perhaps, allowing international funding of the organisation determine the refugees fate. In principle, the recently adopted human-rights based approach UNHCR (2001) should lead to greater integration of an inductive approach in principle in dealing with refugees in Kakuma Camp. Yet the focus has remained on durable solutions such as repatriation and resettlement, hence less attention may be paid to refugee's well-being, and most importantly their human rights. This affects women refugees especially in relation to sexual violence, which is the main focus of this study.

Under the recently enacted Sexual Offences Act (2006), rape is defined as:

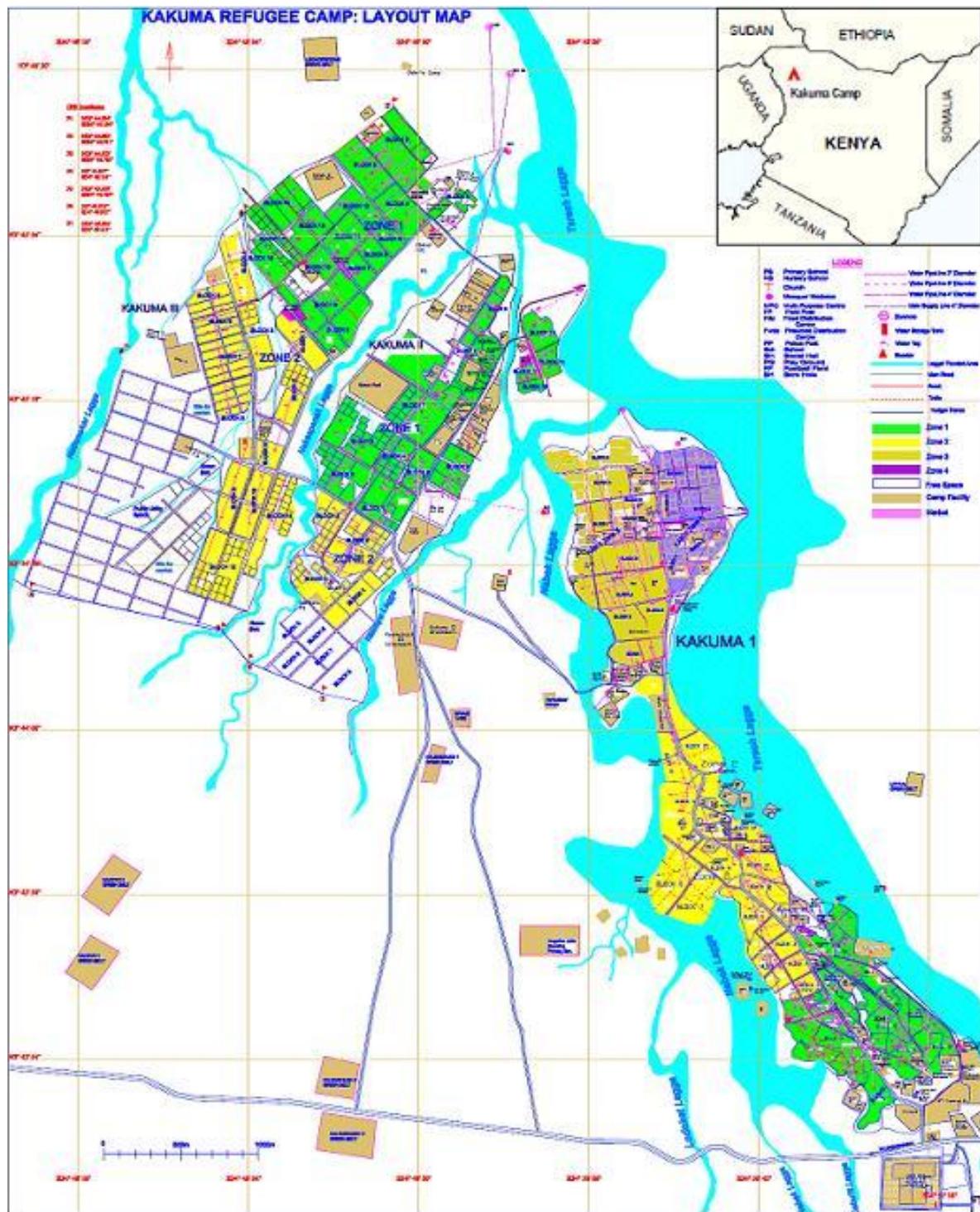
....the act of unlawfully and intentionally committing an act which causes penetration with his or her genital organ and once can be convicted for imprisonment for a term which shall not be less than five years but may be enhanced to imprisonment for life. While defilement is when a person intentionally commits rape or an indecent act with another, within the view of a family member, a child or a person with mental disabilities. If found guilty of the offence he/she is liable upon conviction to imprisonment for a term which shall not be less than ten years. (Art 3(1) Sexual Offences Act 2006)

In a broad sense, UNHCR and the Kenyan government recognize that gender-based violence occurs in refugee camps. However the official statistics are likely to be an underestimation due to a large number of unreported incidences (USAID, 2008). A 2008 USAID report published on refugees knowledge and attitudes towards gender-based violence, stated that 'violence originating from external sources (outside the family) is underreported because of the ensuing stigma and risk of reprisals for victims and their families, while domestic violence is not reported because incidents are generally perceived as unremarkable and culturally normative' (USAID 2008:3). Moreover, research by the Refugee Consortium of Kenya (RCK), one of the NGOs that work with refugees in Kenya, also suggest that in camp conditions, there may be a gap in sexual and reproductive health care, undermining women's wellbeing in general (RCK 2011). Among other problems, there is a lack of inclusiveness of refugee women's specific needs in the battle against HIV/AIDS, as well as in relation to

other health matters such as malaria, diarrhoea, cholera and other water-borne diseases due to poor living conditions.

Furthermore, Kakuma refugee camp faces many problems in terms of deteriorating human and political security conditions, and increased human rights violations against women in Kakuma camp. According to a report produced by the International Rescue Committee that focuses on health matters in the refugee camps 'the incidences of SEA (Sexual Exploitation and abuse) in the refugee camp and host community is high, with vulnerability varying from community, sex, age groups and ethnicity' illustrating different categories of vulnerable groups among the refugee women (IRC 2005:5). The findings of this 2005 report demonstrated that a large number of women were raped while collecting firewood, food, while at status determination centres, food distribution centres, hospital, schools and also faced sexual exploitation while trying to access social services, albeit with a low rate of reporting (IRC 2005). However later reports by NGO's on the ground (SGBV July monthly report 2012) point toward rape in the home of survivors or that of the perpetrator (later addressed in Chapter 4).

Map 1: Layout map of Kakuma Refugee Camp, Kenya



Source: Kakuma Camp Master Plan (2011:16)

Table 1: Camp Population Statistics



Camp Population Statistics
by Country of Origin, Sex and Age Group

UNHCR SO Kakuma

Refugee Camp Population by CoO, Sex, Age Group (Final)
Individuals: Active, Held - 041120

CoO	0 - 4			5 - 11			12 - 17			18 - 59			60+			Grand Total				
	F	M	Total	F	M	Total	F	M	Total	F	M	Total	F	M	Total	F	M	Unk.	Total	%
BDI	283	261	544	270	289	559	135	175	310	591	1,127	1,718	16	4	20	1,295	1,856	0	3,151	(3.1%)
CMR	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	1	0	1	(0.0%)
COB	1	1	2	4	3	7	3	3	6	4	9	13	0	0	0	12	16	0	28	(0.0%)
COD	578	566	1,144	634	658	1,292	344	412	756	1,028	1,478	2,506	20	7	27	2,604	3,121	0	5,725	(5.7%)
ERT	1	3	4	4	4	8	1	5	6	20	67	87	0	0	0	26	79	0	105	(0.1%)
ETH	397	476	873	457	493	950	305	457	762	1,295	2,185	3,480	21	20	41	2,475	3,631	0	6,106	(6.0%)
ICO	0	0	0	0	0	0	0	0	0	3	3	0	0	0	0	0	3	0	3	(0.0%)
IRN	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	1	0	1	(0.0%)
RWA	41	43	84	37	46	83	37	31	68	109	143	252	3	4	7	227	267	0	494	(0.5%)
SOM	4,026	4,033	8,059	5,119	5,547	10,666	3,141	3,844	6,985	10,914	10,766	21,680	468	309	777	23,668	24,499	0	48,167	(47.6%)
SSD	2,421	2,663	5,084	3,640	4,638	8,278	2,607	4,292	6,899	5,957	5,441	11,398	305	91	396	14,930	17,125	0	32,055	(31.7%)
SUD	180	230	410	275	411	686	231	669	900	500	2,139	2,639	10	6	16	1,196	3,455	0	4,651	(4.6%)
TAN	0	1	1	1	1	2	2	2	4	1	5	6	0	0	0	4	9	0	13	(0.0%)
UGA	55	48	103	59	71	130	63	56	119	149	179	328	4	6	10	330	360	0	690	(0.7%)
ZIM	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	1	0	1	(0.0%)
Grand Total	7,983	8,325	16,308	10,500	12,161	22,661	6,869	9,946	16,815	20,568	23,545	44,113	847	447	1,294	46,767	54,424		101,191	
	49.0%	51.0%		46.3%	53.7%		40.9%	59.1%		46.6%	53.4%		65.5%	34.5%		46.2%	53.8%			

Source: UNHCR August 31st 2012

1.1 Research problem

The research intends to adopt an approach which focuses on a basic human right, in this case the preservation of human dignity, in considering issues of concern of sexual violence as prioritized issues experienced by women refugees in Kakuma camp. Earlier studies have researched the case of women refugees in Kakuma in regard to problems of camp insecurity and especially livelihood insecurity where most refugees migrate to Nairobi (Jansen 2008, De Montclos and Kagwanja 2000). Research on the problems of refugee women in Kenya suggests that they suffer from high levels of poverty, socio-economic disparity and lack of access to employment opportunities (Horn 2010a), in general. Although these problems are not the main focus of this study, they do predetermine the position of refugee women, and are part of the broader context of their increased vulnerability to sexual exploitation and abuse within the camp system.

This study also intends to highlight gaps in provision and protection for women refugees and how these affect their wellbeing in totality. The specific focus is on sexual violence, and questions why human security has been so far out of reach Somali women refugees who are among the largest group of women in the camp. In addition the study will explore how vulnerability and insecurity can result in increased human rights violations against these women, which are not fully addressed either by UNHCR, humanitarian organisations and the Kenyan government. The research will use cases of sexual violence, particularly rape of women aged between 18-59. The study will further view issues of protracted protection of these Somali women in a camp setting.

What is more, a critical issue that emerges in protracted refugee camps all over the world is that of neglect. This is where camp residents, and women in particular, are left to fend for themselves by international and regional actors, within the context of receiving States and local camp authorities (Loescher and Milner 2008).

This is a violation of the UN Convention relating to the Status of Refugees, which states that:

The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals... (Art 24(1) UN Convention relating to the Status of Refugees 1951).

From a wider perspective, there are international and regional laws that assert refugee rights and their protection. On the other hand, one problem seems to be in implementation, which resonates among other human rights issues, where realities are far removed from legal concepts, especially in the refugee camp. After the Kenyan government first opened a Department of Refugee Affairs (DRA) in 1994, there has been increasingly rapid movement of refugees into the country. Since the DRA was established, the government's role in refugee matters has slightly increased. Consequently, Kenya's commitments include documentation of refugee populations, but data collection has been much less systematic on refugees' problems, especially sexual violence. Similarly, the National Gender and Equality Commission (NGEC) in principle includes refugees within its framework, but in practice there is little available data about women refugees' issues from the NGEC.

In Kenya, new institutions have not always translated into greater protection for refugee women. Thus, despite legal improvements which have led to greater reporting on sexual violence against women refugees, this has not led to greater official responsiveness is lacking. In the camp context, it is important to note that the existence of communal courts amongst the different ethnic groups in Kakuma camp, which have been instrumental in the official response to dealing with sexual violence cases (interview 6). These community-based institutions, known as *Maslaha* courts have dealt with cases of rape and sexual abuse, as reported by Somali women. For this to be a solution would imply that women seeking justice should trust their own community leaders more than formal legal systems in the Kenyan courts, or other agencies like UNHCR and NGOs. Yet it is not clear that *Maslaha* institutions can protect Somali women refugees as human rights may not always be best served.

Moves to improve refugee protection from a legal perspective have not led to law being both a weapon and a shield for defending and redressing women's concerns in relation to sexual violence. Thus, this paper will address the failure of current refugee legal provisions in Kenya in terms of seeking redress, and will question the reasons for the apparent inadequacy of the existing legal framework to protect the basic human rights of women refugees. In part, the study will question both the individualistic definition of human rights in the formal legal process, and the community based definition of women's rights within Kakuma Camp itself.

The study will further approach the situation of sexual violence against women refugees with regard to the protracted timeline which means that their problems in the camp involve protracted protection. The refugee women were asked to reflect on their past experiences, over several years, throughout the time they spent in the camp in order to try to understand the longer-term aspect of incidences of sexual violence. Sexual violence in the context of protracted protection were two issues interlinked by the study, seeing that the camps are unlikely to close down in the near future, due to increasing refugee populations in Kenya.

In light of this, an interesting part of this study is to see how implementation of human rights protection measures can be improved in Kakuma and how the government can learn from this in future. The state's duty as a right-bearer is to better ensure the respect of women refugees' rights within Kakuma and more generally. The camp is analysed as a location of the re-traumatization of already vulnerable women, in this case women who fled civil war (and often sexual violence) in Somalia. The research thus intends to draw conclusions that might help move us beyond the present camp situation, which has become a barrier to realising refugee women's rights.

1.2 Research Objectives

This study intends on viewing women refugees and their wellbeing as an element of preservation of human dignity. The research focuses on sexual violence particularly rape, of Somali women through a human rights and human security lens. In the final analysis we aim to understand further what has been a barrier to the realisation of refugee rights in relation to protection in Kakuma Camp Kenya, and how they can be improved.

1.3 Linked Central Research Questions

How can we understand the high incidence of sexual violence against Somali women refugees in Kakuma Camp in Kenya? Are the sexual rights and well-being of these women being refugees respected?

1.3.1 Sub-questions

- What kinds of methods and concepts do we need to understand the high incidence of sexual violence against women refugees in Kakuma camp?
- What kinds of legal and other protection measures are in place for women refugees in regards to sexual violence and insecurity, and how do legal and cultural justice systems in the camp deal with the rape?
- How is sexual violence affecting Somali women refugees in Kakuma?
- What role do NGOs, the Kenyan government and other actors play in terms of protecting the rights of women refugees in Kakuma?

1.4 Chapter Outline

- Chapter 2 Theories, methods, ethics and beyond
- Chapter 3 Rhetoric versus reality? A socio-legal perspective on human rights and justice for Somali women refugees
- Chapter 4 Invisible sexual rights? Sexual violence, insecurity and intersectionality
- Chapter 5 Agents of change? NGO's, the State and camp security
- Chapter 6 Conclusion

Chapter 2

Theories, methods, ethics and beyond

High trauma levels from past traumatic incidences during war affect refugee's daily lives
(Interview 17, LWF Counsellor)

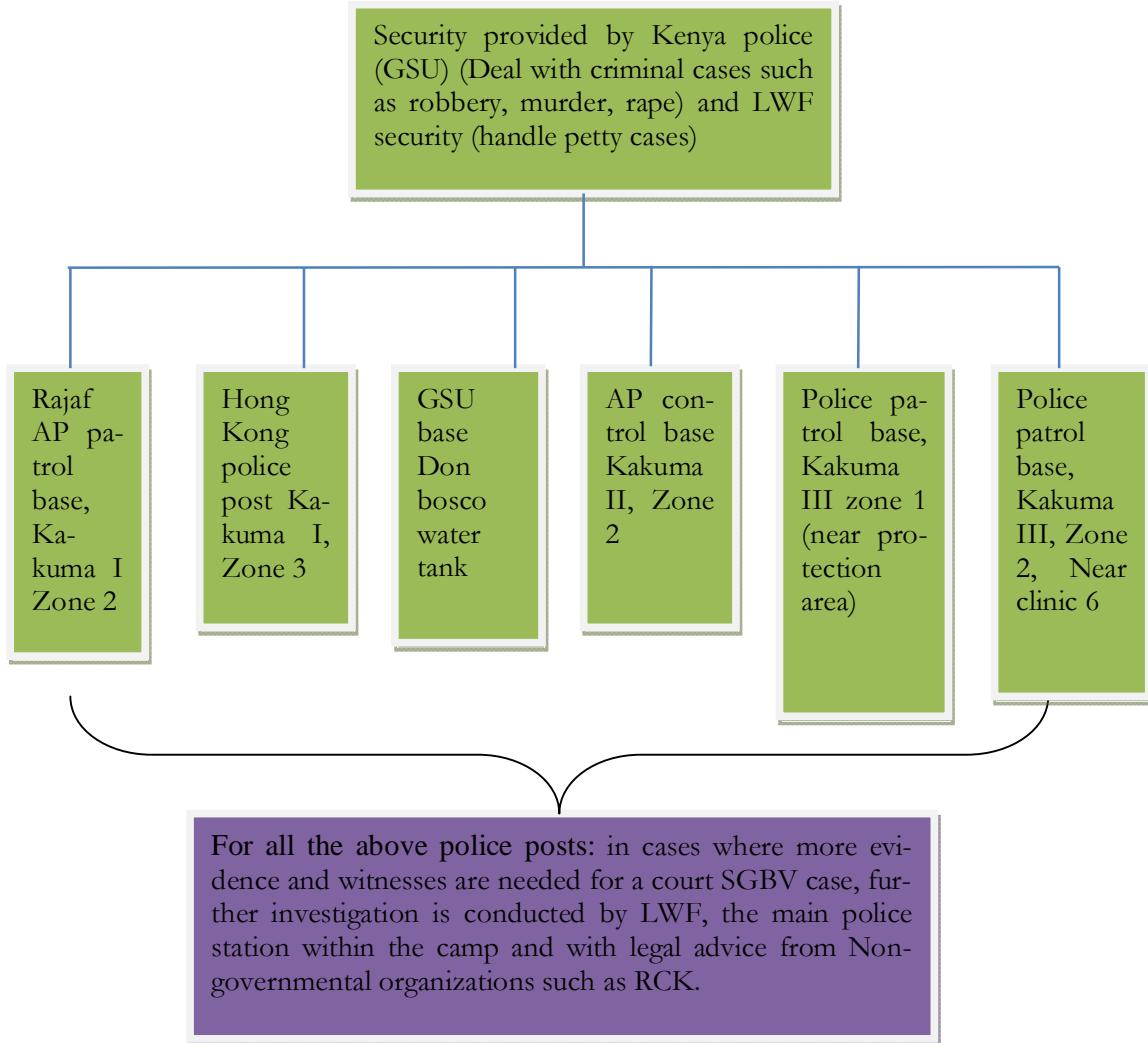
2.0 Introduction

This chapter outlines the methods of research used in the study in an effort to extract a high level of qualitative data through interviews with women, men, NGO workers and community leaders in Kakuma. It further describes the reasons why methods were chosen and strategic advantages of in-depth interviews, unstructured observation, narratives, coupled with analysis of reports by UNHCR and unpublished literature from NGO's. The chapter also examines ethical difficulties encountered during fieldwork drawing on interviews, including the challenging atmosphere of Kakuma camp, political impasses with NGO actors and the effect on personal security as a researcher. In the last section of the chapter theories and concepts to be operationalized in the paper are discussed.

2.1 Researching Kakuma camp: Mapping and Methodology

According to Mackenzie et al, the problem with research with refugees is that invariably it needs to go beyond Mary Anderson's notion of 'do no harm' (Mackenzie et al. 2007:299). In this case, the notion highlights an ethical manner during research where it was deemed necessary not to re-create a web of violence as already experienced by refugees in the particularly vulnerable setting of Kakuma camp. By being alive to the volatile political, social and cultural constructions in the muddled setting of the camp the researcher began by mapping the complex security structure in the camp.

Figure 1: Security Structure in Kakuma Camp



Source: Researcher's own field data.

Caption: The above security structure was found to be useful in mapping out the gaps in protection for Somali women refugees in Kakuma, and will be referred to again and developed further in Chapter 5, along with other field data. As Wehr points out the mapping 'gives both the intervener and the conflict parties a clearer understanding of the origins, nature, dynamics and possibilities for resolution of the conflict' (Wehr 1979:18). The study was located mainly in the wider context of homes in Kakuma II near Administration Police (AP) control base, and in the one-stop gender centre inside Kakuma main hospital (see Map 1). Similarly research was based in homes in Kakuma II and III and also in dispensaries such as clinic 6.

The study was based on the idea of a humanistic approach that seeks out the opinions and participation of respondents themselves (Rodgers 2004). This was done in regard to seeking improvements to women's protection as part of a forward outlook to better policies for refugees (See no.13 of questionnaire). Doing no harm also meant that the researcher not to involve herself with politics of conflict while doing research in the refugee camp or empathize to the

point that she takes sides. It was equally essential that the researcher not to reflect on matters of the past wars or reasons for flight in the post-conflict setting.

The study further approached methods of research with the intent of creating deeper understanding of sexual violence through field experience and balanced this with secondary literature. In taking on a mixed-methods approach, qualitative sources of information included in-depth interviews with two community leaders, twelve in-depth interviews with women survivors of rape and seven interviews with NGO's. Out of the twelve interviews with women three respondents were Ethiopian while the rest were of Somali origin. The dominant experiences of Somali refugees are the focus of the paper in order to contextualize the oppressive cultural structures which have led to greater social injustice, when Somali women report rape in Kakuma. In addition, the research entailed a review of the relevant ethnographic, scientific and academic literature in relation to sexual violence from the human security and human rights perspective. Moreover, analysis of grey literature including reports by the related Non-governmental Organisations working in Kakuma Camp such as the RCK and LWF were crucial to the study.

Fieldwork was conducted in Nairobi, Kenya for period of six weeks in order to gain access to the headquarters of Non-governmental institutions dealing with refugees. Whereas some respondents were open during interviews, others preferred to protect the interests of the NGO and did not speak of the realities regarding women's wellbeing in Kakuma. Nevertheless, the meetings were helpful in setting up the context and describe the challenges they faced in the difficult field of refugees in Kenya.

Thereafter, the researcher travelled to Kakuma Camp for a period of one week and positioned herself in the environment of a difficult camp setting. This required official authorisation from the DRA. A key tool of study was the ethnographic approach where, the goal was to 'see' things the way the refugees in Kakuma do, particularly the Somali population (O'Leary 2010:115). In understanding cultural interpretations and beliefs about human rights the study was able to reflect on the context and gaps in human rights realisation. Due to expenses the researcher faced a time limitation in Kakuma, however context-setting and building of trust with community members was effectively achieved through collaboration with Somali community leaders.

Moreover, through volunteer work with RCK who are mainly pro-bono lawyers working with refugees, the researcher was able access relevant cases of sexual violence. By stating the purpose the researcher sought 'informed oral consent' (Hugman et al. 2011:669) from all interviewees, so as to allow the opportunity to be equal participants in the research process. All respondents were receptive in sharing their experiences and the private setting was useful for confidentiality purposes, more so ascertaining a level of honesty from respondents through detailing facts. In spite of access to first-hand information the study assures that shared information will not contribute to re-traumatization of the victims by keeping names confidential and for purposes of referencing, will use in-text style method ranging between interviews 1-21.

While in Kakuma the researcher travelled inside the camp mainly Kakuma II and III to converse one-on-one with women through unstructured in-depth interviews. The topics of discussion centred on women's well-being, health and

sexual violence. Although there was questionnaire was in hand so as to keep in mind vital discussion topics, conversations were allowed to flow freely in order to extract a high level of qualitative data. The narratives of refugee women and men in Kakuma were equally significant in giving insight to 'human subjectivities, the ways in which people position themselves within their immediate environment' (Chamberlain and Leydesdorff 2004:236-237). This led us to reflect on realities of flight from civil war and human agency applied in methods of survival in Kakuma (Harrell-Bond and Voutira 2007). Most interviews were carried out in Kiswahili in areas where language barriers were experienced, interpreters were made available most of whom are local gender-based violence activists and therefore understood context of research.

The use of unstructured observation was equally necessary to understand the interactions, and relationships within the Kakuma Camp in envisioning the coping mechanisms of Somali women who experienced sexual violence. In most cases random respondents were identified by visiting sporadic homes, hospitals, food distribution centres and field post offices (see Map 1 reception for new arrivals) in Kakuma 2 and 3. On three occasions, the snowballing approach was effective in referring the researcher from one case to another by rape survivors in order to access respondents with similar experiences.

A key finding was that the quantitative data particularly on incidences of rape is contradictory to a small interview sample of qualitative data. This means that the statistics documented by NGO's are a high under-estimation due to large numbers of unreported incidents and also because of un-registered refugees who do not have an official mandate from UNHCR and thus are considered invisible in the camp.³ More so, the lack of properly documented grey reports from NGO's in Kakuma such as the LWF who record monthly sexual and gender-based violence reports created uncertainty in empirical statistics.

2.2 Ethical Dilemmas

A key aspect considered was the extraordinary trauma levels in Kakuma camp, from past and present incidences of violence. The researcher was sensitive to the high cost of suffering and disruption of 'social identity, place, family, livelihood and support systems' (George 2010:383) that can take place through war. Nussbaum speaks of empowering women not only to cry but instead speak out in order to translate 'tears into thoughts' (Nussbaum 2005: 181). Similarly, the researcher sought to understand the complexity of emotions and memories of shame and oppression, while seeking not to harm but encourage respondents to draw strength from their own accounts and their own voice. During interviews the researcher sensed the dark presence of insecurity, and experienced pain together with the respondents. The experience of sexual violence is not confined to war-time or camp life. Sexual violence affects women's daily lives, which meant that I took this research as an opportunity to take my own personal step into a kind of freedom. Thus, in undertaking this research it involved a personal change process as well. Where possible, I have translated my

³ The UNHCR mandate gives refugees access to food, mosquito nets, materials for shelter-building

own understandings of suffering into a platform through which I could conduct meaningful interviews with women more vulnerable than myself.

The sensitive nature of the study evoked greater levels of emotional stress through trigger of painful memories, which have sometimes been called 'vicarious re-traumatisation'. Despite these challenges the researcher realised 'a deep sense of hopefulness about the capacity of human beings to endure, overcome and even transform their traumatic experiences' (McCann and Pearlman, 1990: 147). The emotional interviews also called for careful adjustment to the situation, in not pushing for information where deemed unnecessary, for example where women felt intimidated by their perpetrators. The complex nature of research further required diligence and careful interpretation of experiences yet also required a level of academic distance (Jacobsen and Landau 2003). During fieldwork while at the Kakuma main hospital (See Map 1) the researcher came across a distressed twelve year old girl who had been defiled and had conceived in the process. This required a different kind of ethics of intervention where the researcher choose to take on a role of listening realizing that a fellow human being was in need. The ultimate reward of the research is to offer some modest recommendations that may empower some of my respondents in the future.

On another note, Kibreab (2004) points out the importance of realising the tendency of refugees to distort realities especially considering the hostile living conditions in the camp. This was an ethical dilemma experienced for the researcher, since given increased levels of desperation for resettlement in a third country. Often respondents might claim to be in a worse situation, thinking it might help their case (this tendency is further explored as a form of human agency in Chapter 4). In order to address this challenge the researcher emphasised that the aims of the study were not linked to any form of prospective resettlement.

This study also came across gaps in accountability in the NGO-refugee relationship, where humanitarian agencies are considered as distant bodies with no human face. In many instances the politics of power relations between humanitarian agencies and NGO's overshadowed the concept of achieving human rights, yet it was important to remain impartial as a researcher. Finally due to considerations of personal security in the camp the research was limited to specific times of day in the camp and had to travel within a group.

2.3 Theorising human security in the Kenyan refugee context

On a policy level the Kenyan government has a Refugee Act that was enacted in 2006. Despite the improved constitutional provisions, a serious gap has emerged in policy versus reality of high level of human rights violation and human insecurity. In particular, there is some evidence of high levels of neglect of women refugees' well-being in much research and data collection with regard to refugees as expressed by Verdirame's 'Janus-faced humanitarianism' portraying a double-faced attitude in dealing with matters at Kakuma Camp (Verdirame & Harrell-Bond 2005:xii). However it is critical to note that human rights cannot be encompassed in humanitarianism. Nonetheless, Kenya is party to the International Conventions including the UN Convention Relating

to the Status of Refugees (1951), and the African Union Convention Governing the Specific Aspects of Refugee Problems in Africa (1969) by way of the newly adopted constitution, which mandates the State to take international conventions into account. It will be interesting to consider how the Refugee Act of 2006 has grown closer to implementation of a human rights-based approach on the ground, in response to its international legal obligations.

On the regional level the Protocol to the African Charter on Human and People's Rights of Women in Africa embodies an additional protocol that is linked to the status of women refugees. According to Art 4 (1);

Every woman shall be entitled to respect for her life and the integrity and security of her person. All forms of exploitation, cruel, inhuman or degrading punishment and treatment shall be prohibited. (Art 4(1) Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa 2003)

Similarly Art 4(1) continues to stipulate that;

k) State parties will take appropriate and effective measures to ensure [...] that women refugees are accorded the full protection and benefits guaranteed under international refugee law, including their own identity [...] (Art 4(1) Protocol to the African Charter on Human and people's Rights on the Rights of Women in Africa 2003)

The international legal instruments will mainly be used as tools to critique the development of refugee protection at policy level, and will form an important part of the socio-legal perspective as expressed in terms of responsiveness to sexual violence and security concerns.

The grounding theory of the study is that of human security. Human security is integrated into 'Human rights, Human development and Human Security as three facets of a common ethical base for the protection of human life and dignity as enshrined in the Universal Declaration of Human Rights (UDHR) and subsequent Human Rights treaties' (Truong, Wieringa and Chhachhi 2006:xi). Indeed, the three work together for the attainment of well-being of an individual. However in terms of human insecurity in Kakuma Camp women refugees have mainly been viewed from a needs-based approach; where the immediate necessities like food, blankets, shelter supersede consideration of total well-being. This needs-based approach has proven to be problematic, with regard to the long-term problems of protracted protection.

According to the 2003 *Human Security Now* report by the United Nations Commission on Human Security; human security refers to 'protecting fundamental freedoms [...] people from critical (severe) and pervasive (widespread) threats and situations' (UN Commission on Human Security 2003: 4). Human security can also be defined as 'a state of complete physical, mental and social well-being' (UN Commission on Human security 2003: 96), including in relation to health and sexuality for Somali women in Kakuma. From these definitions the research intends to explore these three aspects of human security that is, 'protecting fundamental freedoms [...] protecting people from critical (severe) and pervasive (widespread) threats and situations...' (UN Commission on Human security 2003:96) and 'social well-being', as referred to above (ibid:4). These three intertwined elements are crucial when addressing sexual violence against refugee women.

In order to gain a deeper understanding of frustrations in the camp the study will analyse women's experiences through the intersectionality approach. Pioneered by Kimberly Crenshaw in the 1970's, intersectionality can be defined as 'the concurrent analyses of multiple, intersecting sources of subordination/oppression, and is based on the premise that the impact of a particular source of subordination may vary, depending on its combination with other potential sources of subordination' (Denis 2008:677). This includes an analysis of power dynamics and structured relations within the Somali cultural context. This methodology will be used in tandem with Nussbaum's (2005) capability approach, in critiquing the lack of agency as exhibited by Somali women to resist the cases of sexual violence. The study will focus on women refugees' voices as a critical part of fieldwork, used to explore their concerns on sexual violence.

Furthermore, a critical underlying factor in Kakuma is poverty where women and men have little security in terms of livelihood and personal integrity. As has been shown 'socio-economic' situations tend to create a wider range of difficulties in refugee life (Horn 2010a: 20). It is argued that increased sexual violence in Kakuma Camp may be a depiction of deeper frustration in Kakuma that increases tension between multicultural and host communities living together and thus increased possibilities of rape incidents. Due to the curtailed freedom of refugees for example to work and create a livelihood, they remain trapped in encampment which affecting women in the long run. Poverty and deprivation will inform the baseline of analysis between women refugees and their bodies being a centre of frustration in the camps.

What is more, according to the report by International Rescue Committee (IRC) in Kakuma some of the women refugees who undergo sexual exploitation in exchange for social services in Kakuma Camp tend to view this as "part of the process" considering what they get in return (generally services that they should have received in any case) (IRC 2005). Although the paper will not focus on NGO sexual abuse, it is important to keep this in mind in understanding deep-seated oppression of women and the "normalisation" of rape as reflected in the lives of Somali women.

To complement a human security approach, an agency-based human rights approach is used as a tool of analysis to view UNHCR and other actors in the camp in their efforts to protect women refugees. The 2003 *United Nations Common Understanding of a Rights-based Approach to Development* report 'recognizes refugees as active subjects and rights-holders, thus establishing the duties and obligations of those against whom a claim can be brought to ensure that rights are fulfilled' (Ho and Pavlish 2011:90). Hence agency and human rights-based perspective are interlinked as a crucial part of this study.

Finally, the study intends to problematize the half-baked government oversight in running of policies, and gender security provisions, for women refugees in Kakuma from a 'Responsibility To Protect' perspective as encompassed in the *2003 Report Of The International Commission on Intervention and State Sovereignty* (International Commission on Intervention and State Sovereignty 2001:13). The view will be to obligate the government of Kenya as a duty-bearer in translating international law to the local context and questioning the extent of implementation of refugee law also as related to advocacy in Kenya from a socio-legal perspective (Merry 2006). The universalist versus cultural relativist debate will feature as a critique of the legal tools of responsiveness to

sexual violence versus the cultural context. This will form the basis of the theoretical framework.

2.4 Conclusion

This chapter has outlined the methodological approach utilized to understand the phenomenon of rape incidents in Kakuma camp. It has also reflected on the challenges faced in fieldwork and the lessons learned in researching refugees. Lastly, this section has given an overview of theories to be operationalized in the next chapters in an effort to understand the question of sexual violence against Somali women in Kakuma.

Chapter 3

Rhetoric versus reality? A socio-legal perspective on human rights and justice for Somali women refugees

Rape is rampant in Kakuma camp

(Interview 13, Pro bono lawyer for sexual violence cases)

3.0 Introduction

This chapter explores the legal instruments on refugees in Kenya from a socio-legal perspective in order to view refugee policy in Kenyan law. The government recently enacted a Refugee Act (2006) that acts as an indigenous guiding tool (currently improvements for the 2011 Refugee Bill are on-going) for refugee affairs in Kenya and a Sexual Offences Act (2006) serves as a benchmark against gender-based violence. This chapter critiques the legal tools as inadequate in achieving protection for women in terms of progression of legal provisions as pertains to refugees. In viewing at the legal framework we also look at how despite advocacy in claiming and framing refugee rights this has failed to deter violation of women's rights. The study problematizes the inadequacy of laws and communal courts to fully achieve the emancipatory potential of human rights, in a complex setting such as Kakuma. Thereafter an assessment is made regarding the failure of the human rights individualistic approach to attain human rights in a communal setting. Lastly, this section suggests better methods to increase greater fusion between the tools such as the Refugee Act of 2006 and reality of unique and complex cultural society of Kakuma camp.

3.1 The Refugee Act (2006), Refugee Bill (2011) and Advocacy

The Refugee Act of 2006 was hailed as a regional legal instrument instituting human rights obligations reflecting the objectives of the UN 1951 Convention and the 1969 OAU Convention which were previously the only existent laws relating to refugees in Kenya. Conversely, the latest amendment to the 2006 Refugee Act is the 2011 Refugee Bill that is yet to be tabled in parliament. The proposed 2011 Refugee Bill prescribes certain improvements on women's protection and is instrumental in assessing responsiveness related to the legal approach to sexual violence. The 2011 proposed Refugee Bill brings to fore an amendment to the vulnerable groups in society including women and children. In addition the 2011 Refugee Bill addresses other significant reforms such as granting work permits for refugees, so as to increase their productive capability, which is a step forward from previous oppressive 1975 encampment policy that has restricted movement of refugees outside the camp area to date.

While the proposed 2011 Refugee Bill has not yet been passed in parliament yet it is lacking in values to protect vulnerable groups of society such as women. In the section on vulnerable groups in the proposed 2011 Refugee Bill the clause on vulnerable groups fails to address women and children. The vulnerable groups section states that;

...shall ensure that specific measures are taken having regard to the specific nature of every situation to ensure the safety of asylum seekers and refugees who suffer from disability and persons or *groups of persons who have been traumatized or otherwise require special protection*, at all times during admission into and stay in designated areas (section 20, Proposed Refugee Bill 2011).⁴

Because of this, the Kenya Law Reform Commission proposed that the above statement be amended in the proposed 2011 Refugee Bill so as to include 'all vulnerable groups such as women, children, elderly and other minority groups' (Kenya Law Reform Commission, 2012:9). As such the need for greater protection is emphasized by members of the civil society requiring more emphasis on the exact definition of vulnerable groups (Kenya Law Reform Commission, 2012:9). In light of this, the question remains as to how far this shift in refugee policy will allow for equal change on the ground as a downward translation from laws to actual realizing of rights in Kakuma camp. While reforms in terms of refugee laws are progressive and sets standards for human rights in Kenya, Kakuma Camp does not reflect these changes especially for women. This distance between reforms and actual change may be related to deeper structural and political hindrances in the Kenyan government.

Nonetheless, Kenya is considered a generous State as far as hosting an estimated '101, 191' refugees of fifteen different nationalities (UNHCR 2012:1). According to *World Bank Development Indicators in 2005* however, national poverty levels in Kenya are estimated at '45.9 %' (World Bank 2005)⁵. A further study on *Poverty levels by district* shows that in Turkana district where Kakuma Camp is positioned poverty levels are at '94.3%' which is highest in the country (Kenya Open Data 2005)⁶. These high poverty levels among Kenyans versus refugees has had a negative impact on claiming and framing rights of refugees by civil society actors, because the State is deemed to consider the wellbeing of citizens before refugees. Another factor is that Kakuma is based in North West of Kenya and is largely inhabited by refugees, who make no addition to the national economy (because refugees are not allowed to work formally). This reality forms lack of political will by the State, and explains the complacency attached to the government's approach to the protracted nature of Kakuma camp. In the State's defense the poverty levels in Kenya as a whole, have been a hindrance to progress in terms of implementation of economic and social rights let alone sexual rights, for women refugees, because it has not fulfilled the same for ordinary Kenyans. However the fact remains that all inhabitants of the State should be accorded their human rights.

⁴ The section on vulnerable groups does not mention women or children

⁵ Latest statistics available from World Bank Development Indicators: Kenya country profile 2005

⁶ Latest statistics from Kenya government website Kenya Open Data 2005

In the same way, we can link the mentioned improvements by the Kenya Law Reform Commission (KLRC) in the proposed 2011 Refugee Bill to the idea of claiming and framing of rights by refugee rights activists. In advocacy, the claiming and framing of is critical to realization of the refugee rights within existing policy frameworks. The sharing of a common frame of rights with the Kenyan State could lead to greater success in realizing the rights of women. Yet in the case of Kakuma and other refugee camps the political will to transform the lives of refugee women is lacking. Therefore, structural causalities of low rights realization for refugee women may be traced to the lack of political will of the State to enhance social justice as per international and national refugee obligations.

From another perspective, the case sensitive framing (by focusing on vulnerable groups) and claiming of refugee rights as portrayed by actors in the civil society, envisions refugees as people in need instead of focusing on their productive capabilities. This can be seen as another cause of lethargic attitude of the government in realizing the human rights of Somali women in Kakuma.

It can also be observed that Kenyan government policies seek to further suppress refugees in Kakuma because refugees are viewed as threats. The reality on the ground is that the State prefers to focus on long-run solutions such as repatriation, third country resettlement or local integration but is less focused implementing the rights of refugees in Kenya. Therefore, without seeing the urgency and importance of refugee rights as critical to holistic human rights realisation in Kenya the government fails to fulfill its mandate to ‘protect fundamental freedoms’ (UN Commission on Human Security 2003: 4) of Somali women refugees Kakuma camp.

In spite of efforts to make amendments in on the legal front, the argument put forward here is that the proposed Refugee Bill (2011) does not reflect the interlinked levels of vulnerability that pertain to women refugees. Regardless of the grouping of refugee rights together to gain ‘collective identity’ (Patel and Mitlin 2009:110) by the civil society in Kenya there is lack of a clear definition of women’s vulnerability and more so a refugee-centered approach to change. Even with the inclusion of ‘women, children and minority groups’ (proposed section 20 amendment) the proposed Refugee Bill (2011) still does not reflect the intersecting frustrations of “womanhood” and “refugeehood”. It does not guarantee the protection of women in refugee status, and can be viewed as merely an attempt at standard setting for human rights but lack of the will to implement women refugee rights on the ground. This creates a myriad of apparent protection of women refugees but in reality does not exist.

3.2 Sexual Offences Bill (2006) hope for Somali women refugees?

The Sexual offences Act (2006) serves as another key litigation tool to realizing sexual rights. Sexual rights of women comprise of

...the right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health. Free of

coercion, discrimination and violence. (Beijing Platform for Action paragraph 95, UNESCO 1995).⁷

In addition according to Article 4 (2a) the State is required to

...enforce laws to prohibit all forms of violence against women including unwanted or forced sex whether the violence takes place in private or public (Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa 2003).⁸

However, the sexual offences act has limitations in that it is mainly a legislative means of realizing human rights. As Khan asserts, the law is crucial in realizing rights, however the realization of sexual rights through litigation alone proves problematic (Khan 2009). For law to be used as a shield, it must go beyond raising the legal consciousness of individuals to actual change on the ground in order to reflect human rights norms.

When analyzed the operationalizing of the the Sexual offences Act (2006) or Refugee Act (2006) in Kenya has faced numerous challenges. The first challenge is the need for solid evidence to try a case of rape in a court of law. According to a lawyer working under the Refugee Consortium of Kenya in Kakuma, documented proof mainly comes from police reports, which most times are compromised due to the lapse of time between the attack and actual reporting by the survivors of rape (interview 18). The Somali women refugees who face rape incidents may also be hesitant to identify perpetrators due to fear, victimization as it could result in a threat to the woman's life.

Another structural challenge on reporting is the lengthy process of reporting and bureaucratic delays in police stations at Kakuma Camp (further explored in Chapter 4 and 5). Once a rape case occurs the women refugees visit the hospital and are treated minimally. Thereafter, they can choose to report the case to the Lutheran World Federation (LWF) protection officers who escort the victim to the police station or take the case to the community elders who may choose whether or not to involve the police or not. In a population of over one hundred thousand refugees there are two main police stations; one inside Kakuma and another outside and six police posts that are poorly managed and under-equipped to handle a high-level of case reports (interview 18).⁹ Furthermore, there are fewer refugees who know about the protection measures, particularly in Kakuma III comprised of new arrivals (as from 2008 onwards) and therefore do not know where to file complaints.

The Sexual offences Act (2006) indeed acts as a means of standard setting in Kenya against sexual violence resonating with international obligations and is crucial in the development of international refugee law. It has successfully criminalized rape and other sexual offences where punishment ranges from ten years to life imprisonment (Sexual Offences Act 2006). While this reform in Kenyan law is imperative it is assumed that resulting implementation will fol-

⁷ Beijing Platform For Action Fourth World Conference on Women (1995)

⁸ Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (2003)

⁹ The main police station in Kakuma can be seen in the security structure, but the second police station outside of Kakuma is not included

low. However when the situation in Kakuma Camp is analysed and compared to influential literature (Horn 2010a, Norwejee 2009) many of these human rights obligations are not fulfilled. The cost of this is that Somali women refugees are unprotected despite existing legal frameworks. The law can only be transformative if used as a shield and weapon to increase the freedom of refugee women.

Thus far, there is a mobile court that travels to Kakuma to address protection issues every month, and focuses on sexual and gender-based violence on a wider scale. Despite the existence of the courts, legal redress is time consuming and requires a high level of evidence, whereas the complex setting of Kakuma at times prevents the naming and shaming of the perpetrator due to intimidation that can further jeopardize the rape survivors' lives. Therefore, benign neglect may be a term described to explain the relationship between the State and its refugees, where the redemption of rights as linked to the formal justice system has failed to enhance protection of Somali women.

3.3 *Maslaha Courts*: Patriarchal subjugation and human rights

The ultimate challenge is the prevalence of multiple justice systems representative of different cultures in Kakuma camp. A key finding during the interviews is that Somali women refugees have less belief in the Kenyan formal legal system and prefer to handle cases in the *Maslaha* courts which is a traditional dispute resolution mechanism. This is a system that is rooted in culture of the Somalis, where community members intervene as an informal peace-building tool. As Merry asserts, 'local communities often conceive of social justice in quite different terms from human rights.' paradigms (Merry 2006:1). There are higher levels of legitimacy derived from the traditional court, backed by an indigenous patriarchal society where little belief is placed in gender equity and family structures are based on power and male dominance (interview 19).

'The *Maslaha* system settles disputes through compensation' (Population Council 2009: iv). For example, 'punishment for raping a virgin girl is more severe than that of older or married women; perpetrators are ordered to pay more goats to the families of young survivors or even to marry them' (Population Council 2009: iv). This nature of punishment for rape by exchanging goods conflicts the formal legal system and more so human rights principles of justice. While this punishment based on paying back in goats may be a form of deterrence in deprived socio-economic situations; it is short-lived and gives opportunity for repeat offences to occur.

Meanwhile the Security Council resolution 1325 emphasizes;

...the need to implement [...] and human rights law that protects the rights of women and girls during and after conflicts. (Security Council Resolution 1325)¹⁰

¹⁰ Security Council Resolution 1325 fulfilling the commitments of the Beijing Declaration and Platform for Action (1995)

Another form of punishment as prescribed by the *Masalaha* court requires that the perpetrator forcefully marrying the survivor of rape; is equally problematic and constitutes a violation of women's rights according to Art. 6 (a) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa that states;

...no marriage shall take place without the free and full consent of both parties; (Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa)¹¹

When examined deeply the community-based approach to resolving disputes based on compensation, is a continuation of subjugation and oppression of Somali women refugees. In contrast, the 2009 report on *Assessment of Sexual and gender-based violence in North Eastern Kenya* from the neighbouring town of Wajir who are Kenyan Somalis, the author notes that there are 'high attrition rates of sexual and gender-based violence survivors from the police stations to the courts' (Population Council 2009:v). This could either be attributed to the interception of community based intervention mechanism *Masalaha* courts that is grounded in the Somali culture. Alternatively due to the demands of the conventional legal system, for example the process of securing evidence or witness accounts is a possible cause of discouragement to rape survivors and can easily be compromised.

On the other hand the compromising nature of Kenyan police also plays a role, who can be bribed to loose reports of rape incidents. Also there are possibilities of sexual exploitation by these authority figures. From a human rights perspective the community courts may be viewed as a culture that is inhibiting towards justice where Somali women refugees in Kakuma prefer to deal with rape cases traditionally. But from a human security perspective the lack of reporting may be indicative of gaps in accountability and an inadequate system of protection for women in the camp at large (further explored in Chapter 5).

According to one interviewee the police role is more reactive than proactive where they respond not during the time of attack but after the incidence (interview 7). As a result women are discouraged from reporting to the police, creating a greater sense of dependence on traditional means of justice. When problematizing both systems of justice Nowrojee explains that despite the inadequacy of the Kenyan criminal justice system the traditional mechanisms of justice do not hold the 'power to enforce their judgements' and thus cannot be a supplement (Norwrojee 2009:133).

As such the human insecurity in Kakuma can be related to gaps in accountability and protection of Somali women. As a result rape incidents are mediated by failed justice systems. In one interview a respondent related human insecurity to increased incidents of rape due to lack of protection in Kakuma.

We are being deprived of our right to security, and facing continuous suffering but we cannot help our neighbours even when we hear them screaming as they are raped because we fear that our girls will be raped too.

¹¹ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003)

We have been warned by the police not to go out to help which goes against the Somali culture to help one's neighbour. (Excerpts from interview 11).

It is critical to consider if reporting rape incidents bridges the gap in realizing rights or extends the suffering of women. By subjecting women in a refugee camp such as Kakuma to high levels of requirements of evidence and documented proof to prove a case in court, access to fair trial becomes difficult. Similarly the failure by the police in gathering evidence for rape cases is a key factor to consider. Moreover the bureaucracy involved in filing any report takes time and resources most of which women refugees do not have (explored further in Chapter 4 and 5).

3.4 Conclusion

This chapter has dealt with the exclusionary principles as encompassed in the proposed 2011 Refugee Bill, where current reforms are lacking a women-centred approach to the framing of rights. The section has also analysed conventional justice frameworks as insufficient in realising women's sexual rights in Kakuma. Rape incidents in Kakuma have been problematized from the socio-legal perspective by the *Maslaha* Courts which is a justice system that resonates with the ethnic identity of Somali refugees in Kakuma and the larger North-Eastern Kenya. These justice mechanisms have been seen to fill the void State presence in the camp but on the other hand, have acted to widen the gap between rhetoric and reality of sexual rights for women survivors of sexual violence. Moreover, the indigenous tools of justice are equally repressive when Somali refugee women report rape incidents to community based authorities. Nonetheless the dilemma remains between the universalist approach versus cultural murky notions of human rights.

In the past, cultural influences were typically perceived as barriers to human rights realization however the view put forward here, is that in a setting such as Kakuma culture must be seen as part of the solution. A hybrid approach to justice systems in Kakuma can offer synergy and perhaps create accountability between the unique Somali culture and formal legal framework. Improvements to the system include a culturally sensitive and easily accessible form of justice for Somali women refugees. For example, in 1940-1960's pre-colonial Kenya, traditional 'Ritongo' courts of 'Gusiland' (Western Kenya) showed a means of justice that resonated with the culture and environment of the district (Shalde 2008:32). When a woman was raped she could present her torn semen-filled dress as proof of attack with use of force. While this example may be problematic in legal sense and even logically, the notion behind it is that justice was adapted to the environment and to the people who could not attain structurally sound systems of dispute resolution. By having minimal sources of "evidence" required to prove a case of rape in court, the community leaders found justice which addressed human dignity in a traditional setting. This non-conventional approach to justice could lead to greater results in the unusual camp setting of Kakuma preceded by high levels of trauma, inefficient courts and lack of expertise that cannot be compared to any formal legal procedural expectations. Chapter 3 addresses rape of Somali women and intersecting forms of oppression with reflections from lived experiences.

Chapter 4

Invisible sexual rights? Sexual violence, insecurity and intersectionality

Kakuma is not a safe haven. Victims live in the same premises as your perpetrator.

(Interview 18, Refugee Consortium of Kenya lawyer)

4.0 Introduction

In this chapter, I reflect on how women report sexual violence and propose that human security can be viewed as the foundation stone of human rights. The chapter will briefly assess the current state of insecurity in Kakuma Camp and relate this with refugee women's vulnerability to sexual violence. The challenges of social and gender inequality and poverty are mapped out through an intersectionality lens, through which the aim is to explain some of the underlying structural causes of sexual violence in the camps. Another goal of viewing gender violence and sexuality through the lens of intersectionality is to understand the deeper frustrations of Somali women and view interrelated oppressions in daily life at Kakuma camp. Moreover, this section includes reflections on incidents and experiences reported during interviews with Somali refugee women aged between 18-59 (see Table 1). The chapter returns to consider Somali cultural influences in more detail, especially the intersecting role of patriarchy, religion and human insecurity. Chapter 4 also puts the lack of realisation of human rights into perspective, relating it in Chapter 5 to the need for protracted protection for women refugees in relation to sexual violence. The role of police in Kakuma Camp is not considered in this section, except briefly, and will be returned to in Chapter 5.

4.1 The role of human insecurity in the camp and its correlation to increased sexual violence

Previous studies (Crisp 2000, Horn 2010b, Kirui and Mwaruvie 2012) have highlighted the insecurity in Kakuma Camp ranging from community, domestic, intimate partner violence and sexual violence. Most of the community violence takes place between different nationalities or across majority and minority ethnic groups within a nationality. On the other hand domestic and intimate partner violence in one way can be attributed to a severe environment of socio-economic disparity and other 'displacement related' frustrations that strain the family structure in a post conflict nature of Kakuma camp (Horn 2010a: 20).

In viewing human insecurity it is also critical to consider that the web of violence experienced in the refugees' country of origin which in many occasions continues into the camp life making a safe haven a far-fetched concept in Kakuma. In one example a of recurrent form of violence in refugee life; a female respondent aged 30 stated that she was nervous living in Kakuma because her ex-in-laws continue to verbally abuse her, because she is from a minority tribe.

“They spoke badly of me and spoiled my name in the community because I had a baby. I also do not feel safe in the camp because thieves often enter the area of where I live.” (Excerpts from interview 2)

As mentioned earlier in Chapter 2, Human security can be defined as a state of ‘protecting fundamental freedoms [...] protecting people from critical (severe) and pervasive (widespread) threats’ (UN Commission on Human Security 2003:4). Similarly it is perceived as a state of ‘social wellbeing’ (UN Commission on Human Security: 96). Taking these policy definitions into consideration human insecurity can thus be related to increased levels of ‘vulnerability’ with respect to threats to mere an individual’s existence (Suhrke 2003:103). As such human security conceptualization has moved from the state-centric realist perspective, to contemporary focus on individuals (Suhrke 2003).

While there is no clear definition of *human insecurity*, it can be conceptualized as the lack of ‘..protection from critical threats..’(UN Commission on Human Security 2003:4). This a critical factor in Kakuma due to the protracted timeline of Kakuma Camp that has shifted from being a humanitarian crisis to an encamped society, and perhaps a transit point for those seeking resettlement to a third country (Jansen 2008). Sexual violence has taken non-discriminate forms targeting women and men from multiple nationalities and cultures in Kakuma camp, and has been categorized as a part of daily lives (interview 11). As such, it can be seen that human insecurity in Kakuma Camp underlies the phenomenon of sexual violence on a wider scale. However this paper is limited to viewing sexual violence in Somali women’s lives and experiences.

The lack of safety in the camp especially at night after 6pm was evident especially in Kakuma III, where respondents pointed towards host community attacks by armed perpetrators (interview 4 and 8). Rape incidents related to high insecurity has been a trend since the establishment of refugee camps in Kenya (Crisp 2000). Consequently, some respondents remain psychologically traumatized from past incidences and cannot sleep at night. In many cases perpetrators were not identified, partly because the women interviewed remain silent due to psychological manipulation and fear of a counter-attack, considering the state of encampment in Kakuma where there is nowhere to run. This silence could also mean the perpetrators are known to the survivor and may even be family friends or neighbours (Horn 2010b). In this case the survivor may receive threats of violence from her community, leading to a high level account of unknown perpetrators (interview 6).

4.2 Refugee and host relations in Kakuma and rape

In interpreting sexual violence, it is equally important to consider the trade-offs in scarce resources in the semi-arid Turkana as a causality of tension between host-community and refugees. The refugees are positioned in Turkana district, who are pastoralists based in North West Kenya and face similar poverty levels as refugees in Kakuma and have faced political and economic forms of marginalisation dating back to the 1990’s (Aukot 2003). Arguably the wealth of international humanitarian organisations in Kakuma also presents a challenge to the Turkana community. This is because until recently when oil was discovered in the region, Turkana has remained a marginalized part of Kenya. The

North Western region has been plagued by poverty as a result of unequal distribution of resources.

With this in mind, we can understand the socio-economic disparity caused by presence of international agencies in Kakuma. Agencies such as the World Food Programme (WFP) or German Agency for Technical Cooperation (GTZ) provide fundamental basic needs to refugees such as food, shelter and firewood in Kakuma according to the size of a family (interview 18). On the one hand these NGO's are seen by the Turkana as access to resources and basic needs but on the ground the reality is that the rations provided to refugees are meagre for example 15kgs of food per month including oil, flour, rice, ugali flour and an allowance of 21 litres per day of water are barely enough for families to survive (interview 18) This applies only to refugees who have a mandate given by UNHCR upon entry (interview 6). Nonetheless, the perceived imbalanced distribution of resources has played a role in creating antagonism between camp residents and host community in Kakuma.

Conversely, another critical aspect affecting human security in the region is the militarization of Turkana district region as a result of long-term conflict among pastoralists in the Northern region and also adjacent pastoralists from north-west Uganda and south-east Sudan (Bevan 2008). This has had a negative impact on the stability of Kakuma camp due to its positioning in Turkana district. The upshot of Bevan's article is that the Turkana community, particularly the warriors receive support in terms of arms from the Kenya police in order to achieve peace in the region (2008).

Despite this policy being viewed as an effort to fill the government vacuum in this marginalised part of Kenya, the presence of ammunition among pastoralists has resulted in a culture of violence that lowers the threshold of attainment of well-being, particularly the criteria of individual security for the refugee population. The institutionalised form of "self-defence" plays a great role in the agency of Turkana warriors to protect their community but results in increasing forms of brutality where they may prompt hostilities towards other Kenyans and refugees (Bevan 2008).

It can be said that negative peace as defined in the 'absence of overt behavioural violence' (Jacoby 2008: 25) describes the atmosphere in Kakuma Camp as influenced by violence in the larger host community. Consequently, the security dilemma in North Turkana has been translated into Kakuma Camp through a high level of attacks on camp residents where the most vulnerable link are women, children and new arrivals particularly Kakuma III, who are positioned closest to the host community. It is critical to note however, despite prevalence of small arms and light weapons in Turkana district there are fewer numbers of refugees in Kakuma who are militarized, and in most cases remain defenceless in the face of attacks from the host community (Allen 2010).

That said, human insecurity can be said to be the underlying structural causes of sexual violence in Kakuma Camp amongst a surrounding militarized community who are equally victims of structural inequality, injustice and protracted conflict. With this in mind, achievement of the basic human right of individual security and wellbeing precedes any human rights realisation. The consistency of rape reports every week may further be interrogated through a gender and intersectionality perspective.

4.3 Incidence of Rape of Somali women in Kakuma II and III

Presently there is a high level of rape incidents among Somali women in Kakuma II and III. They encounter frequent attacks in their homes, and individual security is challenged. This insecurity counters the perceived form of well-being as related to the individual in relation to conditions that can make a 'human being feel safe, secure and confident about the future' (UN Commission on Human Security 2003: 96).

'Xogitan' or 'Xogis' is the term used to describe rape in Somali language (Population Council 2009: 6). Rape has been viewed as one of the extensive range of abuses against refugees in Kakuma Camp (Norwejee 2009, Crisp 2000). In Norwejee's explanation on some of the causalities of the sexual violence against women she points towards ethnicity, political affiliation and the aspect of gender in targeted attacks (Norwejee 2009).

According to statistics from the Lutheran World Foundation (LWF) who operate a gender office in Kakuma rape incidences have changed from occurring only when women are carrying out their daily chores, such as collecting firewood and fetching water to direct attacks in their home or the perpetrators home. However these field statistics are a high under-estimation rehashing Nussbaum's point that sexual violence data is never accurate due to the societal stigma attached to reporting incidents especially within in Kakuma (2005). The stigma attached to rape has resulted in a low level of reporting. On the other hand statistical data on male sexual violence is difficult to access due to low level reporting and the resulting shame attached to incidences such as rape, sodomy mainly related to ethnic minorities, or single mother families in the camp.

Table 2: SGBV Incident Table

CAMP NAME	LOCATION OF SGBV INCIDENT	SECTION IN KAKUMA	BLOCK IN KAKUMA	TOTAL INCIDENCES
Kakuma I	At the perpetrator's home	Zone 4	1 4 6	1 1 1
		Zone 4 Total		3
	At the perpetrator's home Total			3
	At the survivors home	Zone 1	3 5 6 9	1 1 1 1
		Zone 1 Total		4
		Zone 2	1 2 6 14	1 2 1 1
		Zone 2 Total		5
		Zone 3	3 7	2 1
		Zone 3 Total		3
		Zone 4	4	1
		Zone 4 Total		1
		At the survivors home Total		13
	Other	Unknown	Unknown	1
		Unknown Total		1
	Other Total			1
Kakuma I Total				17
Kakuma II	At the perpetrator's home	Zone 2	4	2
		Zone 2 Total		2
	At the perpetrator's home Total			2
Kakuma II Total				2
Kakuma III	At the survivors home	Unknown	Unknown	1
		Unknown Total		1
		Zone 1	3	1
		Zone 1 Total		1
	At the survivors home Total			2
	Kakuma III Total			2
Outside camps	At the perpetrator's home	Outside camp	Outside camp	1
		Outside camp Total		1
	At the perpetrator's home Total			1
Outside camps Total				1
Unknown	At the survivors home	Unknown	Unknown	1
		Unknown Total		1
	At the survivors home Total			1
Unknown Total				1
Grand Total July 2012				23

Source: Field (Lutheran World Federation SGBV July monthly report 2012)

Caption: The table above is divided into camp name (ranging between Kakuma 1-III). It is further divided into location of SGBV incident in Kakuma though it does not specify the type of sexual and gender-based violence e.g. sexual harassment, rape sodomy etc. It is useful in tracking incidents of sexual violence. The table is further divided into homes in Kakuma namely Zone 1-4, and inside Zones it is divided into blocks 1-19 in order to specify refugees' houses. It highlights the high level of rape attacks in the survivor's home as part of a Sexual and Gender-based Violence July monthly report by LWF that identifies trends rather than manage individual case reports. In Kakuma I there are 3 total rape incidents in the perpetrators home, and 13 in the survivor's home. In Kakuma II there are 2 rape incidents in the perpetrators home, In Kakuma III there are 2 rape cases in the survivor's home, 1 case outside the camps and 1 unknown case in the survivor's home.

During field work in Kakuma II and III rape was related to attacks by the host community at night as expressed by a group of Somali women who went to visit a friend in the evening hours and never forgot their life altering experiences:

“We had gone to visit, a friend who was sick but as we were leaving, two of our friends went ahead of the group. On leaving our friends met some men who told them to sit down give over their money, belongings and remove their clothes. The men raped our two friends as we watched while holding a gun in one hand and then proceeded to steal from the rest of us. We are traumatized, suffering and frustrated, previously in Somalia there was a lot of killing but the high level of rape in Kakuma is beyond us. You can lose your life but rape keeps you suffering for a long-time not to mention the risk of contracting HIV/AIDS from our encounters. It is also a disgrace to the community and we feel ashamed. The police only came to the rescue the morning after the incident and took us to report at the police station. The attackers have not been apprehended and we continue to live in constant fear.” (Excerpts from interview 11)

As Harcourt asserts ‘rape is not about sex but about power and domination, it involves the loss of control over the body, sexuality and the core of self’ (2009:97). The consistency of rape targeted at Somali women in Kakuma II and III is a direct cause of humiliation on the larger community identity ultimately eroding dignity of the survivor. In addition, the perpetrators who could either be Turkana, or members of community can be viewed as using their power to subordinate Somali refugee women.

Moreso, high levels of vulnerability precede women as a result of flight from civil war and ultimately a break down in the family structure (Hynes and Cardozo 2000) . Therefore when a rape incident occurs the survivors are re-traumatized and apart from living experience deep emotional pain. This was evident in the respondent’s narrations of attacks where one woman asserted that rape is a part of their life of their daily struggles, emphasising the reality that rape does not occur only once or twice but is a common part of refugee life (interview 7).

Life as a refugee woman represents a different levels of tightly knit intersecting struggles. As earlier defined ‘Intersectional analysis involves the concurrent analyses of multiple, intersecting sources of subordination/oppression, and is based on the premise that the impact of a particular source of subordination may vary, depending on its combination with other potential sources of subordination’(Denis 2008:677). As such, being a Somali woman in Kakuma Camp can be interpreted through multiple intersecting lenses of gender, class,

refugee womanhood, Islam, extreme poverty levels, and ethnicity which embody interacting forms of oppression (Degele & Winker 2011).

The Somali patriarchal culture and most of the cultures represented in the cosmopolitan environment of Kakuma exemplifies power differences between the woman and man that mutually construct each other to create an oppressive set-up. A woman is not considered equal to a man; furthermore the cultural oppression is accentuated by the poor living environment of Kakuma. As emphasised by Sheill (2008) in an atmosphere where the notion of gender equality is lacking, the consequence is that sexual rights cannot be appreciated.

Furthermore, the idling life of refugees, who either work incentive jobs or have no formal employment is another factor contributing to the extreme frustration that relate to shrinking capabilities of men and women who cannot take part in creation of livelihood outside of rations as provided by NGO's. As a result of this, women's bodies are a direct channel of expression of frustration not only within relationships and marriage but also outside these boundaries as well. Using the work of Truong and et al. we can draw a conclusion that in refugee life 'human bodies particularly female [...] have become literal battle-fields of broader struggles' (Truong, Wieringa and Chhachhi 2006: xv).

Therefore, Somali women experience subjugation as a result of a combination of gender identity of womanhood according to Somali culture. In refugee studies, Somali and Sudanese cultures are considered (Hyndman in Kibreab 2004) as most rigid and patriarchal populations as compared to other cultures such as Ethiopian, Eritrean or Congolese in Kakuma. The categorization of social inequality based on patriarchal domination in the Somali culture makes Somali women subjects of male domination whereby the woman's voice, feelings and thought are suppressed.

Moreover, Somali Islamic religious beliefs further reinforce subordination of women through heterosexual masculine identity that derives legitimacy from the principles of the Koran. According to Islam a Muslim woman is meant to uphold moral integrity of her family through being subservient to her husband. Particularly, a married Somali woman is expected to exclusively to give birth to many children and serve the needs of her husband. Consequently, the unyielding Somali culture ostracizes women who are raped due to the central notion of reproduction and moral integrity that formulate the definition of a Muslim Somali woman in Kakuma. This view interplays with the cultural expectations of Islam to create a dominating power structure that subjects Somali women deeper.

In one interview 12, a respondent stated that she had been raped and was now pregnant which had increased the tension in her family. "I feel stressed because my husband is not happy and the community ostracizes me" (interview 12).

Moreover in cases where that the male is unable to act within his dominant role to protect his family this causes further strain within families (interview 9). This results in the woman carrying the burden of rape and in many cases subsequent pregnancy alone. In other cases where men were present during the rape incident, they were observed to be highly irritable and frustrated (interview 14). Yet still other male authorities such as husbands or brothers of violated Somali women had become equal subjects of community stigmatization.

In one interview, a woman aged 29 who had been in Kakuma since 2000 narrated that she has been raped twice since she has been in Kakuma Refugee Camp. “The first rape occurred in 2000 when I was collecting firewood, one man raped her. After getting married to her husband in 2007 the second rape occurred in 2009 when collecting food rations from the Distribution Centre, three men raped me but nowadays you can even be attacked at home. I reported the rape to the hospital and the community members began to inform my husband. Since then, my husband’s relatives and other community members have ill-treated and ostracized me. The community members say ‘You want to kill your husband. You have HIV’. When I used to collect water, people used to laugh at me. I no longer collect water; my husband does that duty now. I sustained burns on the front side of my body from a petrol explosion in my kerosene lamp. I suspect this was intentional, it is possible someone wanted to harm me. I do not feel safe living in Kakuma refugee camp.” (Excerpts from interview 1).

Furthermore, in considering Somali women who have faced during attack from Turkana host community who are armed, it can be seen that men have lost their capability to provide protection.

A respondent lamented that “I feel no security with men such as my father or her brothers around because the perpetrators are mostly armed; and a mere man cannot challenge another man with a gun.” (Excerpts from interview 10).

Thus male vulnerability in the face of human insecurity must be considered in analysis of intersecting frustrations of rape. This is because in the past, men were an important source of protection in camp life as active measure of safety, whereby rape cases are identified to be higher amongst single, widowed or divorced women (interview 11). Nonetheless, due to militarization of host community, men are unable to fulfill their masculine responsibility to protect. This vulnerability in turn results in higher levels of frustration among the men who cannot protect their families. The former social-cultural forms of resistance such as exhibited by male authorities has been undermined for various reasons such as protracted displacement frustrations. In many cases men leave their families or cause division in the family structure as a result of reduced male capacity not only to provide for but mostly protect their family (interview 8). It also means that single and married women face the same likelihood of rape and other forms of sexual violence.

Furthermore internal stigmatization among Somalis women and men in Kakuma who have faced sexual violence decreases the levels of support for a Somali woman who has encountered rape. That is, the social structures that could initially have been supportive in the harsh environment of Kakuma are now removed. When rape occurs, survival strategies such as communal solidarity that was found amongst refugees as strategies of survival in the face human insecurity are broken. This alienation causes greater frustration for survivors of rape.

On the contrary, despite reduced masculine capacity to protect a single woman without male authorities in her life is exposed to more sexual harassment and rape incidences (UNIFEM and RCK 2008). For example, Kakuma III is home to both new arrivals (see Map 1, some who have been there since 2009) and Somali Bantus. Somali Bantus are considered minorities among other dominant Somali clans (UNIFEM and RCK 2008). Somali Bantu minority-

identity creates greater level of susceptibility to inter-community rape that occurs across different clans. In fact, the marital status of a Somali bantu woman may not be sufficient in protecting women from the larger Somali community sexual abuse, making her most vulnerable. Also where male authority is absent in lives of Somali Bantu mothers, boys from these families are seen to be most vulnerable to incidences of sodomy from dominant ethnic Somali clans. This cultural perception Somali Bantu minority-identity has been a key actor fundamental role in inter community-based rape incidents that intersects with clanism originating from Somalia and continues to interplay in Kakuma camp (interview 13).

In both ethnic Somali and Somali Bantu, it was observed that rape cases occur among new arrivals in the camp, especially single Somali women, in one example a respondent needed to build a mud house to settle in and had to pay back with sex (interview 18). She viewed this as a necessary transaction, therefore could not fully realize her internal capability to resist. Another example is where vulnerability as related to lack of basic needs leads to rape. As mentioned earlier upon entry into the camp UNHCR gives a mandate. In this case the respondents had been rejected by UNHCR upon entry into Kenya for unknown reasons and did not receive a mandate, thus she did not have access to basic needs (interview 6). As a result she had to resort to prostitution in return for food for her family. According to refugee law in Kenya there is no provision for appeal after rejection of the UNHCR mandate. She was raped by older refugees in Kakuma and her basic human needs were used as bait. Transactional sex is part of refugee life however, the point of view presented here is that without choice for consent, and in consideration of vulnerable state after flight from conflict-ridden State, this sex cannot be considered as 'transactional' as it benefits one party yet leaves little options to resist rape.

It is important to consider the broad range of incidences that make women refugees vulnerable in the wider discourse of a culture of rape in Kakuma which not only constitutes rape by host Turkana community but across refugees themselves. Despite rape being indiscriminate ultimately, both single and married, ethnic Somali or Somali Bantu women have tried to resist the incidents of rape by through having a male figure in their lives. Male figures however, face greater challenges than the women due to expectations of masculine role to protect his household. The demeaning environment of Kakuma Camp causes the dominant Somali males to feel further subordinated in their role to protect women, and are equally subject to the status of refugeehood. This has meant that even though women often seek to have male figures in their lives, it does not always result in better protection for refugee women.

4.4 Forms of resistance by Kakuma brotherhood

Despite limitations in physical capability to protect their women Somali men have resorted to resistance in terms of social change at Kakuma. Yet seemingly adapting to their state of 'second class status' under cultural, patriarchal domination (Nussbaum 2005:175) Somali women peg on to hope of protection by their male counterparts. Somali refugee women have expressed limited agency and despite being 'denied the ability' have not really 'acquired the ability', to empower themselves (Kabeer 1999:435).

Nonetheless, by realizing that the rape is not only affecting women, young girls and boys but the entire community as a whole the Kakuma Brotherhood has been instrumental in sensitizing communities in Kakuma on sexual and gender-based violence. The Kakuma brotherhood are dominant Somali male refugees who have used have used this tool of peace-building to dialogue in inter-community sensitization. By doing so the Somali male refugees are reaching beyond their vulnerability of not being able to physically protect their women. All in all, refugee life is about survival and creating solutions within one's cultural and society.

This is a positive development however raises questions as to how far women's concerns as related to rape can be brought out by men representatives. Nevertheless in an atmosphere such as Kakuma Camp the cultural legitimacy of male resistance is important in the fight against sexual violence derived from the notion that; men are stripped of their pride when their sisters, mothers or wives are raped. Nevertheless, there are no clear indicators of reduced cases of rape as a result of sensitization. In one interview it was noted by a counsellor in the LWF gender clinic that no matter the levels of sensitization the cases of rape and defilement are still very high (interview 20).

4.5 Structures of reporting rape incidents

When Somali women refugees report rape they can either visit the main NGO compound where the LWF Gender and Human rights office is found or approach community leaders or protection officers from LWF or UNHCR, but this is a long distance especially from Kakuma II and III. Other times the survivors go directly to the hospitals where they are treated with post exposure prophylaxis (PEP) in order to counter pregnancy, HIV/AIDS and STD's. The IRC manages the main hospital and a number of clinics in Kakuma. They have one ambulance and a small unit within the main hospital that deals with gender-based violence.

Alternatively a rape survivor can also report in one of the three field posts in Kakuma I, II and III where designated representatives from LWF or UNHCR and receive support (such as being escorted to the police station). Once in the police station the survivor is given a medical examination form (P3) to fill in the details of the incident after visiting any of the hospitals in Kakuma. However, there is a special medical examination after rape incident that requires a fee estimated to be 400 Kenya shillings (4 Euros) which is too expensive for refugees in Kakuma. Afterwards in order to prove the case in court ideally forensic evidence must be collected and analysed. This process is challenged by the poor conditions of the main police station in Kakuma. Somali women can also receive psycho-social support from Jesuit Refugee Centre (JRS) and upon analysis of the status of the survivor can be referred to Safe havens or UNHCR protection area if her life is in danger. But the safe havens and protection areas face limitations in that, they few and are run on a short-term basis where maximum stay there is one month (interview 16).

4.6 Resettlement versus agency?

In general by refugees try to escape camp frustration through resettlement. Hence in exercising a form of agency refugees have found ways to secure better lives in third countries to escape the severe living conditions in Kakuma. Jansen's argument is that the protracted nature of Kakuma Camp has led to a high level of false insecurity claims as a means to influence resettlement opportunities (2008). This was indeed evident during fieldwork, for example where new claims of sexual abuse by parents towards their children were observed so as to gain access to protection sites. This is because when a minor is in need of protection, they are taken to a safe haven or a protection site and increases possibilities for entire family resettlement in a third country (interview19). Consequently, innocent people have been accused in order to gain resettlement while genuine cases may be unrecognized in the facade of refugee manipulation.

This has impacted women refugees negatively because genuine cases of violated refugee women are difficult to prove. However the perspective presented here is that sexual violence remains a weapon and tool of humiliation to the survivor, yet on the other hand human rights need not be negotiated through agency and in this case extreme measures of resettlement. As much as claims of insecurity by refugees have become a tool to impact resettlement opportunities (Jansen 2008) the right to human dignity remains relevant for all categories of people. For this reason, where resettlement is the only form of hope for any human being, this kind of vulnerability impedes reasoning. What is required is a shift in humanitarian policy that assures rights realisation for all refugees in Kakuma Camp.

4.7 Conclusion

This chapter has analysed incidences of rape in Kakuma drawing a possible conclusion that human security underlies attainment human rights. Human insecurity claims in Kakuma can be related to the Somali culture that has played a part in mediating the increased vulnerabilities. As seen in Chapter 3 forms of justice as related to the Kenyan legal system versus the *Maslaha* courts have been used as a tool to subjugate women further. Therefore incidences of rape create a deeper sense of vulnerability because it refers women back to overarching dual-systems of power and oppression that intersect with not only Somali womanhood but also refugeehood.

Apart from being a woman who is perceived to be voiceless in Somali culture through patriarchal domination, the state of refugeehood in Kakuma intersects here to construct a woman as someone on the lower echelons of society. The outcome of this section is that without gender equality in the face of a patriarchal culture, sexual rights remain far from reach in Kakuma.

Similarly, the forms of resistance so far have been limited to following the cultural constructs in order to resist rape in Kakuma II and III. In one way being married or being single have ceased to be valuable in terms of protection as male figure are equally vulnerable. In attacks related to host community it was seen that men could not fight for their families, while inter-community rape incidents were viewed to be related to Somali-bantu women or single women

who did not have the myriad of male presence as protection figures and are greatly exposed. The resistance by Somali men is linked to their loss of honour and therefore comes from a point of survival and not necessarily from a liberating human rights approach. Agency has been viewed as limited among both ethnic and Somali Bantu women. Chapter 5 analyses the camp from a protracted framework.

Chapter 5

Agents of change? NGOs, the State and camp security

Refugees have to help themselves in order to be helped
(Interview 15, UNHCR Gender-based violence officer)

5.0 Introduction

This is a short chapter that looks at how sexual violence is being addressed by the State, NGO's and other relevant authorities in the camp. Earlier studies (USAID 2008, IRC 2005) indicate existing knowledge of gender-based violence in the camp attributed to sensitization by humanitarian organisations, including visible posters that agitate for social change in the camp on various issues (see picture 2, Appendix III). By highlighting the disconnect between humanitarianism and human rights with regard to protracted refugee situations in Kenya we seek to question to what extent NGOs, with the support of government and other agencies, can be part of a positive change process in the protracted timeline of Kakuma Camp and its residents.

5.1 A Protracted protection perspective

A protracted refugee camp situation such as Kakuma ought to be viewed within the wider political, social and economic context of both country of origin and the host country in order to gain an in-depth understanding of 'protracted refugee situation' (Loescher and Milner 2008:23). In this sense, Somali women refugees must be understood with reference to the political and economic implications such as strained relations between the host State and country of origin, and on the other hand compassion fatigue as experienced by humanitarian organisations in Kakuma. Kakuma Camp has been in existence for over twenty years (UNHCR 2011), hence according to the definition of a protracted status;

...a protracted refugee situation is one in which refugees find themselves in a long-lasting and intractable state of limbo. Their lives may not be at risk, but their basic rights and essential economic, social and psychological needs remain unfulfilled after years in exile. (UNHCR Protracted Refugee Situations 2004:1)

In the first place, refugees are by-products of human rights violations in the country of origin; therefore re-traumatisation of Somali women refugees through rape incidents in Kakuma critically affects their wellbeing and human dignity. Furthermore, in a protracted timeline, refugee societies face long-term repetitive problems where resources of humanitarian organisations both at international and regional level fluctuate according to urgency of latest humanitarian crises (Loescher and Milner 2008) as highlighted by the media.

Invariably due to the protracted nature of the camp human security has been compromised over the years, as it faces underlying issues such as socio-

economic disparity as mentioned earlier where hierarchy of needs of a human being cannot be met. Basic needs such as food and security which formulates the baseline for all human beings has faced challenges in Kakuma. Moreover, the camp is plagued by the web of violence that is a key factor contributing to low levels of human rights realisation particularly for refugee women who face higher levels of vulnerability as discussed in chapter 4.

5.2 Role of NGO's and government: welfarism in addressing sexual violence

Refugee studies in Kenya (Horn 2010, Crisp 2000) have focused on the symptomatic problems of refugees but it is equally important to consider the role of NGO's and authorities in Kakuma such as the police contributing towards change or oppression in the camp. The 'band-aid' (Raper 2003: 353) approach to protracted timeline in Kakuma Camp has often led to non-progressive consequences. In fact, in the process of sensationalist drives against gender-based violence NGO's are caught up in momentary problem-solving. For example, rape survivors could be moved to high protection areas or safe havens (as earlier referred to in Chapter 3). While these measures are helpful, they are limited in their long term approach and blind to intersecting structural causes of sexual violence such as the vicious cycle of sexual violence among both residents of the camp and host community amidst human insecurity and extended levels of vulnerability in a protracted situation.

The question arises as to whether the presence of NGO's in Kakuma guarantee real protection of women against sexual violence. When the physical structures of reporting are considered, the camps closest to the NGO compound are Kakuma I and II. Kakuma III is placed far from NGO's and is physically isolated exposing women to adverse dangers in their homes (see Map 1). It was also found that Kakuma I, II and III are in different levels of development in where Kakuma I and II having been there the longest are more established in terms of access to services, and media exposure. Therefore problems vary between the different camps and strategies to target eradication of sexual violence should include this factor in mind.

Most Somali women approach trustworthy community leaders who may refer them to *Maslaha* or protection officers from LWF at the field post. The women may only resort to the police only if protection is guaranteed. Nonetheless, there are several accountability issues that deter the reporting of cases. These include the lack of knowledge of existing structures of protection especially in Kakuma III who are isolated and have been there for a shorter time. More so there are language barriers that discourage refugees from raising their concerns and in other cases the low literacy levels slow down the reporting process. A greater challenge is the deductive top-down approach in implementation of human rights change by NGO's in Kakuma where refugees are viewed as objects of change rather than part of the process. The 'Savages-Victims and Saviours metaphor' as put forward by Mutua, contributes to a particular interpretation of human rights theory that emphasises the 'hierarchical relationship' between internationally funded NGO's versus refugees (2001:243). The westernized policy solutions as implemented by NGO's, which although being soundly based, often traces the broad outlines of complex refu-

gee problems but do not consider indigenous solutions to enhance human dignity. Besides this, conflict between the formal legal system and the *Maslaha* courts which hold greater cultural legitimacy (as elaborated earlier in Chapter 3 and 4) and offer logical criticism to the current security structure. This is because reporting a case to the police could possible result in threats of violence across communities. It also makes the situation worse for the survivor, therefore most rape incidents are stifled.

On the societal level there is increased education on human rights discourse by NGO's including concepts such as women's empowerment which most times conflicts with the patriarchal cultures in Kakuma (see picture 2, Appendix III). RCK and LWF offer civic education on sexual and gender-based violence in order to raise awareness in Kakuma. While this is progressive, there is a gap between sensitization and implementation of the concepts of human rights, and in particular sexual rights. It has often led to greater mental oppression of women refugees because in practice despite knowledge of that rights exist, they remain far-fetched from reality.

In one interview (interview 9) a man who had been attacked in his home and whose were daughters raped as he watched expressed that "I know human rights exist but since I went report my case to the police no-one has come to my aid, which means I have no rights as a refugee".

In this sense human rights has been associated with the poor security structures especially police and NGO's who assume the role of duty-bearers in absence of the State in Kakuma camp. Another related matter is the detachment between refugees and humanitarian organisations in Kakuma camp. Indeed the far-placed perspective NGO's in Kakuma results in a sense of apathy between refugees and NGOs. This may be as a result of NGO abuse of refugee's vulnerability not only in terms of sexual abuse but also in distribution of basic needs and social services. As such, Kibreab's rightly concludes that higher levels of transparency and accountability can be achieved through NGO's employing realistic strategies to increase the involvement of refugees in matters concerning them (2004).

As for the State, there is distant involvement with refugee affairs. The government operates through the tentacles of UNHCR, smaller NGO's, and the police. Despite the DRA being instituted as a governing body since 1994 this has not translated into sufficient presence of government in refugee affairs. For that reason this "tentacled governance" as a practice of peripheral government involvement in refugee problems does not sufficiently protect the sexual rights of Somali women refugees. The distance from reality of refugee daily life results in the government failing in its obligation as human rights bearers.

5.3 Role of police in addressing sexual violence

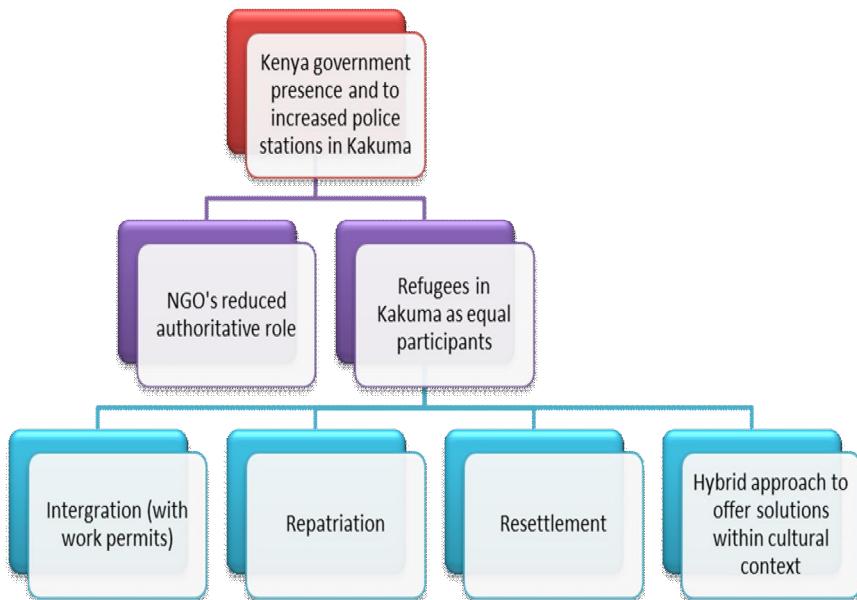
As mentioned earlier in Chapter 3 the police role has been viewed as reactive which is questionable citing the high levels of human insecurity in Kakuma. Apart from the poor state of police stations in Kakuma the measures of protection seem to burden the women refugees further, as the sentiments below illustrates.

“I feel hopeless because when I report a rape incident to the police I am told to fence my home, but I do not have money to fence. I end up selling my food rations in order to get money to buy wood for fencing from the neighbouring Turkana.” (Excerpts from interview 7).

In any case, the prescribed fencing as a security measure is not safe enough (see picture 1, Appendix 3). And as reflected in the quote at the beginning of this chapter, the Kenyan police system’s idea of self-help in negotiating protection has led to more challenges. Forms of resistance such as Kakuma brotherhood (mentioned earlier in Chapter 3) and other survival strategies have been constructed to counter the minimal police role in providing security.

In reflecting on the current security structure (earlier mentioned in chapter 2) the main police station and other police posts (manned by few police officers) have failed to increase security in Kakuma camp. In the physical sense, they are not enough to cater to a refugee population that is over one hundred thousand, let alone an armed host community. Subsequently, we can trace back the gaps in protection of women refugees back to the Kenya police, who are insufficiently mandated by the government in line with its responsibility to protect. Below is a suggestion for an improved approach.

Figure 2: Security, justice and improved capability structure



Caption: The above structure is a suggestion of a better mechanism that includes increased State presence in refugee affairs which would lead to policing, therefore increased physical protection. It also includes a reduced role of NGO's in refugee affairs and greater participation of refugees. Under the refugees are possible long-term sustainable solutions such as local integration with work permits included so as to increase the productive capability of both refugee men and women. It also includes repatriation and resettlement while a hybrid justice mechanism under cultural context is considered for cases of sexual violence among others. The hybrid system could mean a system that considers culture, intersecting oppression of refugee life and conventional approach to justice in order to achieve human rights.

5.4 Conclusion

This section has analysed gaps in protection and security by highlighting the role of Kenyan government, NGO's and police in the camp. Thus far, UNHCR and other NGO's play an authoritative role in Kakuma Camp as a result of far-placed government involvement. Likewise, the implementation of a deductive human rights approach to women's rights also generates more oppression because these rights remain far from reach. Greater protection for women refugees begins with the Kenyan State where a shift is required in order to appreciate Kakuma Camp through a protracted lens, through the prioritization of long term security needs. Figure 2 proposes increased human security by greater physical protection through police, and synergy between NGO's and refugees in addressing their problems. A solution is also sought in local integration with work permits so as to increase productive capability of refugees as well as equal opportunities for resettlement. Moreover repatriation is considered in the figure where peace is attained in the country of origin, and finally a hybrid justice system to suit Kakuma and its varying cultures.

Chapter 6

Conclusion

This paper sought to study sexual violence of Somali women refugees in Kakuma Camp in North-West Kenya. The research viewed the question of sexual violence against these women by embracing a human security and human rights agency based approaches. It is evident that the legal obligations of the State to protect the rights of women refugees have been undermined by reforms that are prescriptive and exclusionary in nature, mediated by the lack of political will in to follow through with commitments. The result has been a smoke screen of human rights rhetoric that is far from the deep seated injustices of refugee lives.

In contributing to the universality and cultural relativist debate, conventional justice mechanisms have been viewed as retrogressive in a vulnerable setting such as Kakuma. The long-term solutions thus far are void of the overlaying cultural factors. Culture should not be seen as a barrier but to human rights realisation but as a critical medium that defines the meaning of justice and human rights activities. Ultimately it is critical that we question how to intervene within intersecting realities of Somali women in Kakuma and view this as part of the long-term solution (as proposed in figure 2).

Based on the question of rape among Somali women, the study analysed rape as a human rights violation that is driven deeper by predominant dual systems of both Kenyan formal laws, intersecting with culture leading to powerful actors in deteriorating lives of Somali women in Kakuma. Somali women refugees' vulnerability under patriarchal domination has led to forms of resistance which was linked to male figures of protection who faced similar vulnerability. The research depicts male vulnerability through the lens of reduced capabilities to physically protect Somali women viewed as part of the web of sexual violence. Similarly the overlaying factors that affect rape need be considered in understanding sexual violence across cultures, races, ethnic backgrounds and religion. While it is not possible to fully understand the causes of high levels of rape incidents, human insecurity in Kakuma directly links to low-level realisation for sexual rights. In addition, patriarchal cultural practices have obstructed gender equality and especially empowerment of Somali women in Kakuma. Furthermore the study has reflected on the police role in provision of security and the tedious process of proving of rape as instilled a culture of silence in Kakuma camp.

Through this research the gap in human rights realisation was identified, as intersecting with protracted protection and lack of government oversight in refugee matters. A clear outcome is that the deductive idealistic human rights approach is retrogressive in Kakuma because it is blind to the intersecting realities of refugee life. Furthermore, humanitarian agencies have been seen to cause more oppression for Somali women refugees due to problems in accountability. The NGO structures have played a role in repression of rape incidents escalating subjection of Somali women because despite their presence in Kakuma Camp there is a lack of adequate supportive structures of reporting. Ironically, sensitization by NGO's without real implementation widens the gap between rhetoric and reality of human rights. In moving towards greater influ-

ence as NGO's in Kakuma it is clear that emphasis ought to be maintained on strategies that view the daily intersecting frustrations of refugee life.

Protracted protection was considered an important factor in the government's approach to women refugees in Kakuma. It is necessary to consider a shift in implementation that will not only keep the focus not only on notions of resettlement, repatriation and re-integration and but also gives adequate attention to present sexual violence against women in Kakuma. It is equally significant for refugee policies in Kenya, to move from viewing the presence of refugees as an emergency situation and instead deal with the needs of a protracted refugee society. This would mean focus on implementing sustainable policy implications in order to genuinely achieve upholding of human rights beyond mere humanitarianism.

All in all rape in Kakuma has been used to understand Somali women refugees' challenges to wellbeing and failed human rights obligations in Kakuma. There is a greater need for women refugees to be positioned in the human rights domain in order to restore human dignity and make rights visible. Further research could focus on an intersectional approach that factors the different cultures of women in Kakuma Camp and their ways of resisting sexual violence.

Annex I: Discussion topics for women and men in-depth interview

Age:

Education level:

Male/Female:

to

Period in Kakuma/other camp: From

1. What was/is life like in the camp? How did/do you feel t/here?
2. Were/are you or your family members ever sick in the camp?
3. If so, what kinds of problems did were there in getting access to proper health care?
4. In relation to your health as a woman (man), have you been respected by those who work in the camp or not?
5. Are you respected by your own family members in terms of your health needs?
6. Do you have knowledge of your rights?
7. Have you ever felt as if your rights have been violated?
8. Have you ever faced exploitation/ abuse when dealing with authorities? (e.g. when accessing social services)
9. How did this impact you?
10. How are you received when accessing social services in Nairobi?
11. In relation to camp life, how do you feel that women's lives could be improved and made safer?

Annex II: Discussion topics with NGO's

Profession:

Male/Female:

Task with refugees:

1. What is life like in the camp?
2. How are sick family members treated in the camps?
3. What kinds of problems are there in getting access to proper health care?
4. In relation to women's health (reproductive) are their rights respected by those who work in the camp?
5. Do you feel the rights of women refugees are respected?
6. Do women refugees have knowledge of their rights?
7. How has sexual violence impacted the women refugees, in terms of general wellbeing and their wellbeing?
8. Are women respected by your own family members?
9. How are women/men refugees received when accessing social services in Nairobi?
10. How is sexual exploitation/ abuse dealt with, in cases where the authorities are the perpetrators? (in cases of abuse when accessing social services)
11. Has the new constitution had some positive effect on realizing refugee rights?
12. Has the Refugee Act of 2006 impacted the protection of women refugees?
13. In relation to camp life, how do you feel that women's lives could be improved and made safer?

Annex III: Pictures of human rights sensitization in Kakuma

Picture 1: Typical fencing structure of a home in Kakuma made from shrubs and wood



Source: Field Kakuma Camp pictures

Picture 2: Human rights sensitization



Source: Field Kakuma camp pictures

References

Allen, S. (2010) 'Harboring Or Protecting? Militarized Refugees, State Responsibility, and the Evolution of Self-Defense', *The Fletcher Journal of Human Security* XXV:5-22. AU (2003)

Aukot, E. (2003) "It is Better to be a Refugee than a Turkana in Kakuma": Revisiting the Relationship between Hosts and Refugees in Kenya', *Refuge: Canada's Journal on Refugees* 21(3): 73-83. Accessed 9 September 2012
<http://pi.library.yorku.ca/ojs/index.php/refuge/article/viewFile/23482/21678>.

Bevan, J. (2008) 'Kenya's Illicit Ammunition Problem in Turkana North District', Graduate Institute of International Development Studies (Small Arms Survey): 1-108. Accessed 10 October 2012
http://www.essex.ac.uk/ARMEDCON/story_id/SAS-OP22-Kenya.pdf.

Chamberlain, M. and S. Leydesdorff (2004) 'Transnational Families: Memories and Narratives', *Global Networks-A Journal Of Transnational Affairs* 4(3): 227-241. Accessed 21 October 2012
<http://onlinelibrary.wiley.com/doi/10.1111/j.1471-0374.2004.00090.x/abstract;jsessionid=B236AA70992EA4C5A054DFF11F8BEBD0.d03t02>.

Crisp, J. (2000) 'A State of Insecurity: The Political Economy of Violence in Kenya's Refugee Camps', *African Affairs* 99(397): 601-632. Accessed 20 October 2012 <http://afraf.oxfordjournals.org/content/99/397/601.full.pdf+html>

De Montclos, M.A.P. and Kagwanja P.M. (2000) 'Refugee Camps Or Cities? the Socio-Economic Dynamics of the Dadaab and Kakuma Camps in Northern Kenya', *Journal of Refugee Studies* 13(2): 205-222. Accessed 18 October 2012
<http://jrs.oxfordjournals.org/content/13/2/205.full.pdf+html>.

Degele, N. & Winker, G. (2011) 'Intersectionality as Multi-Level Analysis: Dealing with Social Inequality', *European Journal of Women's Studies* 18(1): 51-66. Accessed 18 October 2012
<http://ejw.sagepub.com/content/18/1/51.full.pdf+html>.

Denis, A. (2008) 'Review Essay: Intersectional Analysis: A Contribution of Feminism to Sociology', *International Sociology* 23(5): 677-694. Accessed 18 October 2012 <http://iss.sagepub.com/content/23/5/677.full.pdf+html>.

George, M. (2010) 'A Theoretical Understanding of Refugee Trauma', *Clinical Social Work Journal* 38(4): 379-387. Accessed 10 October 2012
http://download.springer.com/static/pdf/565/art%253A10.1007%252Fs10615-009-0252-y.pdf?auth66=1352715786_cb824fbea81e3f63907175af92e4faa&ext=.pdf

Harcourt, W. (2009) Body Politics in Development: Critical Debates in Gender and Development. London: Zed Books.

Harrell-Bond, B. & Voutira, E. 2007, "In Search of 'Invisible' Actors: Barriers to Access in Refugee Research", *Journal of Refugee Studies*, 20(2) 281-298. Accessed 9 July 2012 <http://jrs.oxfordjournals.org/content/20/2/281>

Ho, A. and C. Pavlish (2011) 'Indivisibility of Accountability and Empowerment in Tackling Gender-Based Violence: Lessons from a Refugee Camp in Rwanda', *Journal of Refugee Studies* 24(1): 88-109. Accessed 10 September 2012
<http://jrs.oxfordjournals.org/content/24/1/88.full.pdf+html>

Horn, R. (2010a) 'Exploring the Impact of Displacement and Encampment on Domestic Violence in Kakuma Refugee Camp', *Journal of refugee studies* 23(3): 356-376. Accessed 10 June 2012
<http://jrs.oxfordjournals.org/content/23/3/356.full.pdf+html>

Horn, R. (2010b) 'Responses to Intimate Partner Violence in Kakuma Refugee Camp: Refugee Interactions with Agency Systems', *Social science & medicine* 70(1): 160-168. Accessed 14 July 2012
<http://www.sciencedirect.com/science/article/pii/S0277953609006273#>

Hugman, R., L. Bartolomei and E. Pittaway (2011) 'Human Agency and the Meaning of Informed Consent: Reflections on Research with Refugees', *Journal of refugee studies* 24(4): 655-671. Accessed 8 August 2012
<http://jrs.oxfordjournals.org/content/24/4/655.full.pdf+html>

Hynes, M. and B. Lopes Cardozo (2000) 'Sexual Violence Against Refugee Women', *Journal of women's health & gender-based medicine* 9(8): 819-823. Accessed 7 June 2012
<http://online.liebertpub.com/doi/pdf/10.1089/152460900750020847>

IRC (2005) 'Prevention of Sexual Exploitation and Abuse', *International Rescue Committee*: 1-13. Accessed 17 May 2012
<http://www.hapinternational.org/pool/files/complaints-mech-for-sexual-exploitation,-kakuma-kenya.pdf>

IRIN (2012) 'Kenya -Sudan-South-Sudan Back in Kakuma Camp again', *Humanitarian News and Analysis*. Accessed 13 October 2012
<http://www.irinnews.org/Report/95486/KENYA-SUDAN-SOUTH-SUDAN-Back-in-Kakuma-camp-again>

Jacobsen, K. and L.B. Landau (2003) "The Dual Imperative in Refugee Research: Some Methodological and Ethical Considerations in Social Science Research on Forced Migration", *Disasters* 27(3):185-206. Accessed 11 October 2012
<http://onlinelibrary.wiley.com/doi/10.1111/1467-7717.00228/pdf>

Jacoby, T. (2008) Understanding Conflict and Violence: Theoretical and Interdisciplinary Approaches. London: Routledge.

Jansen, B.J. (2008) 'Between Vulnerability and Assertiveness: Negotiating Resettlement in Kakuma Refugee Camp, Kenya', *African Affairs* 107(429): 569-587. Accessed 6 June 2012
<http://afraf.oxfordjournals.org/content/107/429/569.full.pdf+html>

Kabeer, N. (1999) 'Resources, Agency, Achievements: Reflections on the Measurement of Women's Empowerment', *Development and Change* 30(3): 435-464. Accessed 10 November 2012
<http://onlinelibrary.wiley.com/doi/10.1111/1467-7660.00125/pdf>

Kenya Open Data (2005) 'Poverty by district' Accessed 10 November 2012
<https://opendata.go.ke/Poverty/Poverty-Rate-by-District/i5bp-z9aq>

Khan, I. (2009) 'Claiming rights: legal empowerment to end poverty' in *The unheard truth: Poverty and Human rights*, pp. 201-221 New York: Norton.

Kibreab, G. (2004) 'Pulling the Wool Over the Eyes of the Strangers: Refugee Deceit and Trickery in Institutionalized Settings', *Journal of Refugee Studies* 17(1): 1-26. Accessed 7 October 2012
<http://jrs.oxfordjournals.org/content/17/1/1.full.pdf+html>

Kirui, P. and Mwaruvie, J. (2012) "The Dilemma of Hosting Refugees: A Focus on the Insecurity in North-Eastern Kenya", *International Journal of Business and So-*

cial Science 3(8):161-171. Accessed 7 October 2012
<http://search.proquest.com/docview/1010404251>.

Loescher, G. and Milner J.(2008) 'Understanding the problem of protracted refugee situations' in G. Loescher, J. Milner, E. Newman and G. Troeller(eds) *Protracted Refugee Situations: Political, Human Rights and Security Implications*, pp.20-41. Tokyo: United Nations University Press.

Mackenzie, C., McDowell C. and Pittaway E. (2007) 'Beyond 'do no Harm': The Challenge of Constructing Ethical Relationships in Refugee Research', *Journal of Refugee Studies* 20(2): 299-319. Accessed 5 May 2012
<http://jrs.oxfordjournals.org/content/20/2/299.full.pdf+html>

Mutua M. (2001), 'Introduction to "Savages, Victims, and Saviors: the Metaphor of Human Rights"', *Harvard International Law Journal* 42: 201-209. Accessed 6 May 2012
http://www.law.buffalo.edu/Faculty_And_Staff_submenu/MutuaM/mutuaJournals.asp

McCann L., and. Pearlman L.A. (1990) 'Vicarious Traumatization: A Framework for Understanding the Psychological Effects of Working with Victims', *Journal of traumatic stress* 3(1): 131-149. Accessed 21 October 2012
<http://link.springer.com/article/10.1007%2FBF00975140?LI=true>

Merry, S.E. (2006) Human Rights and Gender Violence: Translating International Law into Local Justice. Chicago: University of Chicago Press.

MIRP (2012) Ministry of State for Immigration and Registration of Persons Kenya Government Portal. Accessed 16 May 2012 <<http://www.mirp.go.ke/>>.

Norwejee B. (2009) 'Sexual Violence, Gender roles and Displacement' in Hollenbach, S. J. (ed) *Refugee Rights: Ethics, Advocacy, and Africa*. Washington: Georgetown University Press.

Nussbaum, M.C. (2005) 'Women's Bodies: Violence, Security, Capabilities', *Journal of Human Development* 6(2): 167-183. Accessed 9 May 2012
<http://www.tandfonline.com/doi/pdf/10.1080/14649880500120509>

O'Leary, Z. (2010) *The Essential Guide to Doing Your Research Project*. London: Sage Publications Ltd.

Patel S. and Miltin D. (2009) 'Reinterpreting the rights-based Approach: A Grassroots Perspective on Rights and Development, in S Hickey. and D Miltin(eds) *Rights-Based Approaches to Development: Exploring the Potential and Pitfalls* pp. 107-121 Sterling, VA: Kumarian Press.

Population Council (2009) 'An Assessment of Sexual and Gender-based Violence in Wajir District in North-Eastern Kenya', *Reproductive Health Programme* 1-22. Accessed 26 September 2009.<<http://www.svri.org/assessment.pdf>>.

Raper, M. (2003) 'Changing roles of NGO's in refugee assistance' in E. Newman, and J. Selm (eds) *Refugees and forced displacement: International security, human vulnerability, and the state*. pp.350-366 Tokyo: United Nations University Press.

RCK (2011) 'Refugee Insights', *Refugee Consortium of Kenya-legal aid and policy development centre* (10th): 2-18. Accessed 14 May 2012
<<http://rckkenya.org/index.php/component/rokdownloads/downloads/newsletters/28-refugee-insights-10th-issue.html>>.

Rodgers, G. (2004) "Hanging out" with Forced Migrants: Methodological and Ethical Challenges', *Forced Migration Review* 21: 48–49. Accessed 7 September 2012
<http://www.fmreview.org/sites/fmr/files/FMRdownloads/en/FMRpdfs/FMR21/FMR2119.pdf>

Security Council (2000) 'Resolution 1325' Adopted by the Security Council at its 4213th meeting, on 31 October 2000. Accessed 20 October 2012
http://www.un.org/events/res_1325e.pdf

Shalde, B. (2008) 'Rape in the Courts of Gusiiland, Kenya, 1940s-1960s' *African Studies Review* 51(2): 27-50. Accessed 20 October 2012
http://muse.jhu.edu/journals/african_studies_review/v051/51.2.shadle.html

Sheill, K. (2008) 'Sexual Rights are human rights' in A. Cornwall, S. Correa and S. Jolly (eds) *Development with a Body: Sexuality, Human Rights and Development* pp. 45-66 London: Zed Books.

Suhrke A. (2003) 'Human security and the protection of refugees' in E. Newman, and J. Selm (eds) *Refugees and forced displacement: International security, human vulnerability, and the state*. pp. 93-108. Tokyo: United Nations University Press.

Truong, T.D. , S.E. Wieringa, and A. Chhachhi (2006) 'Introduction: Gender Questions in the Human Security Framework' in T.D. Truong, S.E. Wieringa and A. Chhachhi (eds) *Engendering Human Security: Feminist Perspectives*, pp. ix-xxx. London: and New Dehli: Zed Press and Women Unlimited.

UNDP (2003) 'United Nations Common Understanding of a Rights-based Approach to Development' United Nations Development Fund. Accessed 8 August 2012 <http://www.unicef.org/sowc04/files/AnnexB.pdf>

UNHCR (2011) '2012 UNHCR Country Operations Profile-Kenya "Working Environment"', United Nations High Commissioner for Refugees. Accessed 16 May 2012 <<http://www.unhcr.org/pages/49e483a16.html#>>.

UNHCR (2001) 'Reinforcing a Community Development Approach', United Nations High Commissioner for Refugees. Accessed 20 May 2012<<http://www.unhcr.org/refworld/pdfid/470629c82.pdf>>.

UNHCR (2004) 'Protracted Refugee Situations' Executive Committee on the High Commissionaire's Programme. Accessed 4 June 2012
<http://www.unhcr.org/40c982172.pdf>

UNIFEM and RCK (2008) 'An Assessment and Mapping of Responses during Emergencies: Specific Needs of Women and Children in Dadaab Refugee Camp', *United Nations Development Fund For Women*: accessed 6 August 2012<<http://www.rckkenya.org/rkdownloads/research/Specific%20Needs%20for%20Women%20in%20Dadaab.pdf>>.

USAID (2008) 'Refugee Knowledge and Attitudes on Gender-Based Violence', *Extending Service Delivery Project (ESD)*:3-12. Accessed 14 May 2012<http://www.esdproj.org/site/DocServer/Refugees_GBV_Assessment_Report_Kakuma.pdf?docID=2242>.

Verdirame, G. and Harrell-Bond, B. (2005) *Rights in Exile Janus-faced Humanitarianism*. Oxford: Berghahn Books.

Wehr, P. (1979). *Conflict Regulation*, Boulder, Co: Westview Press.

World Bank (2005) 'World Development Indicators' Accessed 10 November 2012
<http://data.worldbank.org/country/kenya>

- ***Declarations***

African Union (2003) 'Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa'. Accessed 16 June 2012
<http://www.africauion.org/root/au/Documents/Treaties/Text/Protocol%20on%20the%20Rights%20of%20Women.pdf>

UNESCO (1995) 'Beijing Declaration and Platform for Action Fourth World Conference on Women'. Accessed 17 May 2012
<http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf20on%20the%20Rights%20of%20Women.pdf>

UNHCR (1951) 'Convention Relating to the Status of Refugees', United Nations High Commissioner for refugees. Accessed 17 May 2012
<<http://www2.ohchr.org/english/law/pdf/refugees.pdf>>.

- ***Kenyan Refugee Laws***

Proposed Refugee Bill (2011). Accessed 8 November 2012<http://cickenya.org/sites/default/files/bills/The%20Refugee%20Bill%20FINAL%20AG_0.pdf>.

Sexual Offences Act (2006) Laws of Kenya. Accessed 20 July 2012
<<http://www.google.nl/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&sqi=2&ved=0CBwQFjAA&url=http%3A%2F%2Fwww.kenyalaw.org%2Ffa-mi-ly%2Fstatutes%2Fdownload.php%3Ffile%3DSexual%2520Offences%2520Act.pdf&ei=VqSLUMLEMpKQhQfig4G4Bw&usg=AFQjCNEWRHsRP1f3GbOzuHUkkmvOci1FcQ&sig2=iHgFd7aeJwWRD0XV3UlOfg>>.

- ***Reports***

UN Commission on Human Security (2003) 'Human Security Now': 4-96 New York. Accessed 19 May 2012
<<http://reliefweb.int/sites/reliefweb.int/files/resources/91BAEEDBA50C6907C1256D19006A9353-chs-security-may03.pdf>>.

International Commission on Intervention and State Sovereignty (2001) 'The Responsibility to Protect':13-108 Canada: International Development Research Centre. Accessed 4 October 2012
<http://responsibilitytoprotect.org/ICISS%20Report.pdf>

- ***Unpublished material***

Kenya Law Reform Commission (2011) 'Comments on Refugee Bill' (KLRC) Kenya.

UNHCR DRA, LWF, IRC, WFP, IOM, GIZ, JRS, FAI, DBK, RCK, KRCS and NCCK (2011). 'Kakuma Refugee Camp Master Plan and Settlement Guidelines.' Kenya.

UNHCR(2012) 'Camp Population Statistics by Country of Origin, Sex and Age Group.' United Nations High Commissioner for Refugees Kenya.