

**The Sub-Saharan Refugee  
Crisis: Three Decades of  
Somali Refugees in Kenya.  
How did Kenya become the  
home of half a million  
Somali refugees?**

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**Abstract**

This study is the case study seeks to unpack the origins of Somali displacement and the subsequent Kenyan policy responses to the unfolding crisis. The number of Somali refugees in Kenya has nearly trebled since 2006. Despite the fact that not all of these reasons for migration fit under the 1951 UN Refugee Convention, Kenya had an open-door policy in place, following the collapse of Siad Barre's authoritarian regime in 1991. This research uses descriptive qualitative method with literature study. The research paper shall follow a threefold structure. Firstly, an outline of the context under which these people became refugees to aid understanding of the displacement from Somalia over three decades. Secondly, this paper shall address why Kenya is the predominant destination of those leaving Somalia. This section shall also focus on Kenyan policy in response to the evolving refugee situation. Finally, this paper will focus on the changing policy of Kenya, the attempts to resettle Somali refugees and to close the Dadaab complex. One will pose the question why this policy is not working. This study find that the relationship between marginalisation and extremism is another understudied topic. For the refugees who take the brunt of the blame for Al-Shabaab, we rarely see the impact that terrorist groups have on their lives and why many are not pushed over the edge in extremism.

**Keywords:** government policy; counter-terrorism; Indonesia; soft approach; hard approach

## Introduction

The Somali refugee crisis is unique. Somalia has been the site of one of the longest humanitarian crises in the world (Menkhaus, 2010, p. 1). There is not simply one reason for so many globally and internally displaced Somalis, but an accumulation of factors. Cross-border movement has been driven by a combination of persecution, conflict and a turmoil of environmental issues (Betts, 2013, p. 135). Consistent weak governance has played an instrumental and overarching role in the unprecedented refugee crisis. This is most starkly illustrated by the effects of the 2011 drought and famine (Betts, 2013, p. 136). The number of Somali refugees in Kenya has nearly trebled since 2006, passing half a million in September 2011 (Lindley, 2011, p. 14). Despite the fact that not all of these reasons for migration fit under the 1951 UN Refugee Convention, Kenya had an open-door policy in place, following the collapse of Siad Barre's authoritarian regime in 1991. (Murphy, cited in Betts, 2013, p. 137). Generations of Somalis have grown up in the vast camps of Kenya. According to the latest UNHCR report, some 2.6 million people are internally displaced, and 820,000 Somalis are seeking refuge in countries across the Horn of Africa (2020a). Most notably, they are residing in Kenya. Furthermore, Kenya has the four largest refugee camps in the entire world within its borders. All of these are predominantly occupied by Somali refugees (Hale, 2020; ERSI Maps, 2020).

## **Research Method**

The research paper shall follow a threefold structure. Firstly, an outline of the context under which these people became refugees to aid understanding of the displacement from Somalia over three decades. Secondly, this paper shall address why Kenya is the predominant destination of those leaving Somalia. This section shall also focus on Kenyan policy in response to the evolving refugee situation. Finally, this paper will focus on the changing policy of Kenya, the attempts to resettle Somali refugees and to close the Dadaab complex. One will pose the question why this policy is not working.

## **Result**

The Somalia is generally seen as the archetypal failed state (Murphy, cited in Betts, 2013, p. 137). 'The current displacement crisis is part of longer trajectories of governance failure and conflict' (Lindley, 2011, p. 16). The causes and cycles of displacement from Somalia can be divided into four broad phases.

The onset of civil war in the early 1990s saw the first phase of the major displacement crisis. Without a functioning state, the people of Somalia had no institutions to guarantee and protect their basic human rights (Betts, 2013, p. 135). The crossing of the Somali border was driven by a combination of factors. In this first phase of migration, it is marked by persecution. This falls under the 1951 Refugee

Convention, of which Kenya is a signatory (Betts, 2013, p. 135; UNHCR, 2020d). Upon the state collapse, Somali entered a period of factional violence underneath ‘warlords’ (Lindley, 2011, p. 16). Despite international peace-keeping efforts between 1992 and 1995, instability and a lack of institutions still prevailed in Somalia. In 1990, before the ousting of President Siad Barre’s regime, Kenya was home to 330 Somali refugees. Within two years, it would become a shelter for 285,619 Somali refugees (UNHCR dataset, 2020). As the fighting spread, so too did drought and subsequent famine. Many of the Somalis lived a pastoralist lifestyle. Such movement became impossible as fighting spread throughout the country (Hammond, 2014, p. 4). With few options, many would flee to neighbouring countries-such as Kenya. Dadaab complex was set up in 1991 to provide asylum and assistance for these people.

The second phase, between 1996-2006, can be seen as the period of relative stability in Somalia. The number of new, unregistered refugees arriving in Kenya slowed. Within Somalia, pockets of safety developed under local administrations and there was a push to return there. Small numbers left the camps and voluntarily repatriated back to Somalia, many leaving the refugee camps merely to become internally displaced persons living in poverty around urban areas such as Mogadishu (Hammond, 2014, p. 6). The Islamic Courts Union (ICU)

emerged from this newfound stability as a major political force. Al-Shabaab became the hard-line militia wing of the ICU (Lindley, 2011, p. 17). However, owing to the lack of a stable, central government and security fears, no meaningful large-scale repatriation took place (Menkhaus, 2003, pp. 405-422).

The penultimate phase, between 2006-2011, is marked by a return to conflict and the rise of Al-Shabaab, a Somali-based terrorist group (Betts, 2013, p. 138; Lindley, 2011, p. 16; Menkhaus, 2010 p. 321). This trend of migration is driven by natural disasters and fleeing violence. The rapid increase of control of, and Somali support for, the ICU, coincided with the global 'War on Terror' (Lindley, 2011, p. 16). A strong Islamic State in Somalia prompted foreign intervention in 2006 (Lindley, 2011, p. 17). This propelled a renewed displacement crisis. International forces sponsored the 'Transitional Federal Government (TFG) and attempted to dislodge the ICU from power. Al-Shabaab took up arms against the TGF and violence intensified throughout Somalia. Many people were displaced by this political violence. Furthermore, the worst drought in 50 years caused unprecedented havoc (Hammond, 2014, p. 6; Lindley, 2011, p. 17). As a result of the economic effects of the conflict and a lack of central government to prepare for the drought, there was a severe famine. By September 2011, some four million

people were in need of emergency humanitarian aid (Menkhaus, cited in Lindley, 2011, p. 18). 260,000 people are estimated to have died due to malnutrition during the drought (UN cited in Hammond, 2014, p. 21). In 2011, Kenya recorded over half a million Somali refugees crossing the border in search of asylum. 517,666 Somali refugees in Kenya- the majority of whom end up setting up camp in Dadaab (UNHCR database, 2020). Dadaab camp is said to be a sprawling city the 'size of New Orleans' (Rawlence, 2016, p. 2, 103). What was only meant to be a temporary haven, is now 28 years old.

The final phase of the crisis has not been academically scored in great detail as events are still unfolding. However, one can characterise this period with the entry of Kenyan troops in Somalia, another severe drought in 2016, displacing over 400,000 Somalis (OCHA, 2017) and a sharp U-turn in Kenyan open-door policy. While the number of new refugees seeking shelter in Kenya has gradually levelled off, as of 2019, Kenya is still home to 257,766 Somali refugees and 6,499 asylum seekers (UNHCR Database, 2020). The UNHCR estimates that there are currently 2,648,000 Internally Displaced Persons (IDPs) of concern within Somalia (2020). This figure has doubled since 2011 (UNHCR Database, 2020). As well as an estimated 2.6 million people having been displaced by the conflict in Somalia, there have been 939,000 people newly displaced in 2020 (OCHA

UNICEF, 2020). One could also cite an increase in attacks by Al-Shabab, such as the Westgate Mall in Nairobi in 2013. Al-Shabaab has demonstrated that it is still a potent regional security threat (Hammond, 2014, p. 8). These events catalysed the desire of the Kenyan Government to close the refugee camps and much blame and fear was placed on Somali refugees in Kenya.

The refugee situation in Kenya has experienced important changes in the last 30 years. The events of 2011 illustrate the important role the international scope on refugees has played. Somali refugees are on the cusp of the international concept of a refugee. Somali cross border displacement has not been solely due to individualised persecution, but a complex interaction of conflict, war, weak governance and environmental crises and it has thus defied the 1951 Convention (Betts, 2013, p. 142). Fleeing famine and drought are not found within the 1951 Convention, the 1967 Protocol or the 'Organisation of African Unity' Convention, as a right to asylum and to be given the status of refugee (UNHCR, 2020e). As global warming increases, the arbitrariness of the 1951 Convention shall likely become even more stark. In many ways, Kenya has become the predominant refuge for Somalis due to its open recognition of their plight. Kenya's policies have been almost unrivalled in their inclusivity of defining a refugee (Betts, 2013, p. 136). For decades, it has recognised people

fleeing south-central Somalia on a prima facie basis. A prima facie approach can be defined as ‘the recognition granted by a state, to a group on the basis of objective circumstances from their country of origin’ (Rutinwa, 2002a, p. 1). The purpose of this prima facie refugee status is to ensure admission to safety and humanitarian treatment for those who patently need it (Rutinwa, 2002a, p. 1). Kenya has hosted hundreds of thousands of Somalis for almost three decades, regardless of their reason for fleeing (Betts, 2013, p. 136).

Geographically, Kenya is the most logical border country for those fleeing Central-South Somalia. As of 2020, the world’s largest refugee camp is Kakuma, located in North-western Kenya (Hale, 2020; ESRI Maps, 2020). Both Kakuma and the Dadaab complex were established in 1992, after the destabilisation of Barre’s regime in 1991 (Betts, 2013, p. 135). Dadaab is approximately 50 miles from the Kenya-Somali border (Betts, 2013, p. 146; Al Jazeera, 2011). There are effectively two Somali refugee populations in Kenya: the long-term established refugees who fled the instability of clan violence in the early 1990s; and the recent refugees who have fled famine and violence in the late 2000s, early 2010s (Lindley, 2011, p. 18). These refugees are now living in a protracted refugee situation. The Kenyan Government policy has been one of containment. Since the construction of Dadaab, refugees must reside in the designated camps under the watchful eye



of the UNHCR (Betts, 2013, p. 143; Hammond, 2014, p. 9; Lindley, 2011, p. 20). They may only travel without the fear of arrest if they are provided with a 'movement pass', something issued very rarely (Betts, 2013, p. 144).

The emerging Somali refugee crisis in the early 1990s was greeted with a Kenyan government-led, laissez-faire approach (Lindley, 2011, p. 20). However, as the number of refugees crossing the North Kenyan border increased, the government faced a conundrum. Before 2006, Kenya had no legal framework to handle incoming refugees. In 2006, they passed the Refugee Act and in 2009 created a Department of Refugee Affairs (DRA) to liaise between the government and the UNHCR. In March 2011, as refugee numbers increased dramatically, the DRA took over the reception and registration of refugees (Lindley, 2011, p. 21). The Government of Kenya refused to recognize the protection letters which the UNHCR had been issuing refugees. The government announced that the UNHCR no longer had the authority to grant refugee status in Kenya (O'Neill et al., 2000, p. 154). By 2018, all documents issued by the UNHCR had been phased out to maintain DRA documentation only (UNHCR, 2020f).

As the 2011 drought increased the intake of Somali refugees, coinciding with the rise of Al-Shabab, Kenya began a more hostile policy approach to the refugee camps. The policy toward Somalis

became increasingly subject to security and immigration-control agendas (Betts, 2013, p. 145). Following the Al-Shabaab Garissa University College attack in April 2015, the Kenyan government have continually threatened to close the Dadaab complex. In 2016, they announced a plan to close the camp within three months. The threat to close the Dadaab camp in 2016 created a climate of fear amongst its refugees. Such plans were ruled unconstitutional by the Kenyan High Court in 2017 (Amnesty International, 2019; Financial Times, 2017). Judge John Mativo said in his ruling that “The government decision specifically targeting Somali refugees is an act of group persecution, illegal, discriminatory and therefore unconstitutional” (cited in Financial Times, 2017). The Kenyan government have quietly disregarded the ruling and have been refusing to register arriving refugees.

Officially there are 15,969 undocumented individuals in Dadaab- a quarter of whom are Somalis who returned to Somalia through the repatriation and have since returned to the camp (Research and Evidence Facility, 2020). This highlights the challenging security and economic conditions in Somalia that the refugees are being ‘encouraged’ to return.

In 2019, the National Public Radio broadcast renewed threats to close the camp. This was also reported, and advised against, by the

Human Rights Watch (2019). Border closures were carried out in an attempt to stop new refugees from arriving in Kenya. Security reasons were cited by the government. The Kenyan government indefinitely closed parts of the Somali-Kenyan border throughout 2019 and 2020 (Africa News, 2019; Dalsan Radio (Mogadishu) cited in AllAfrica, 2020). While the Kenyan government have attempted to break international law by forcibly repatriating Somali refugees, they have faced minimal condemnation by the UNHCR. This reflects issues faced by refugees in camps in neighbouring countries everywhere.

‘We very much regret the latest decision’ (UN, 2009); the ‘UNHCR is concerned by the recent decision’ (UNHCR, 2012). Both of these phrases are played on a loop with regard to Somalia. There is only so much that the UNHCR can do to stand up to the host countries that it has been invited into. As the Kenyan Government grow restless about the burgeoning refugee crisis, the UNHCR have to attempt to legally accommodate these wishes. On 10 November 2013, the Governments of Kenya and Somalia, and UNHCR signed a Tripartite Agreement for the voluntary repatriation of Somali refugees. The UNHCR began a pilot return phase in December 2014 (UNHCR, 2015). This was the most that the UNHCR could do to provide an alternative to Kenya’s forced repatriation. 84,981 Somali refugees have been assisted by UNHCR and partners to voluntarily return to Somalia from

Kenya between December 2014 and 31 December 2019 (UNHCR, 2020h). This figure does not include those who spontaneously returned without assistance. 'The voluntary repatriation program from Kenya is currently suspended as a COVID-19 measure' (UNHCR, 2020b). 263, 467 recorded Somali refugees are still in Kenya as of the 30th of September 2020 (UNHCR, 2020c). Successful return will depend upon putting in place the necessary services and ensuring that relief and development organizations have access to the area to support returnees and local communities (Hammond, 2014, p. 8). However, it is debatable how secure the situation is in Somalia.

The dire conditions of the camps are well documented, and the Kenyan government have made their attempts to repatriate the refugees well known (Betts, 2013, p. 146). Return to one's country of origin remains the Government of Kenya's preferred pathway to durable solutions (Research and Evidence Facility, 2020, p. 15). 'The refugees in Dadaab face insecurities of a physical, economic and existential nature that at times are similar to those faced before and during the war in Somalia' (Horst, cited in Betts, 2013, p. 147). Yet, many refugees would rather stay in a protracted situation in Dadaab than return to the unknown. \*\*In 2016, Human Rights Watch reported intimidation by the Kenyan government and inadequate information on what the situation was genuinely like in Somalia (HRW, 2016). The

1951 Refugee Convention prohibits refoulement. Refoulement is defined as the forcible return of a refugee to a place where their life or freedom would be threatened (HRW, 2016). Western governments have deemed Somalia unsafe to travel to, citing continuous activity by Al-Qaeda affiliated, Al-Shabaab (Wikitravel, 2020). In 2018, the UN found Somalia to be the country with the most child soldiers in the world. In 2019, this trend continued as Al-Shabaab ruthlessly punished communities for not handing over their children. The United Nations Assistance Mission in Somalia (UNSOM) recorded a total of 1,154 civilian casualties by mid-November 2019. 67% of this figure is due to indiscriminate and targeted attacks, the majority improvised explosive devices (IEDs) attacks, by the terrorist group Al-Shabab (Human Rights Watch, 2020).

The humanitarian situation in Somalia in 2020 has remained fragile (UNHCR, 2020i). Over 84,000 Somalis have voluntarily returned to an unstable Somalia under the assistance of the Kenyan Government and the UNHCR (2020c). Environmental issues are proving a further hurdle against Somalis choosing to repatriate. In 2020, close to 500,000 Somalis have been displaced by a combination of problems: severe flooding in Somali's central region and a severe locust infestation to highlight two (UN, 2020). Responding to COVID-19 has further exacerbated the humanitarian crisis. The Research and

Evidence Facility compiled a report on ‘circular refugee returns’ in 2020. This report finds that while Somalis are returning voluntarily, many are returning to Kenya due to security and economic challenges in Somalia (Research and Evidence Facility, 2020, p. 7). Somali refugees are stuck between a rock and a hard place. At the time of writing, UNHCR Kenya plans to undertake another intention survey of Somali refugees related to the Voluntary Repatriation Programme, and there are plans by UNHCR Somalia to carry out an assessment of returnees to Somalia. The UN Office for the Coordination of Humanitarian Affairs, alongside UNICEF, have released their predictions for the 2021 humanitarian situation in Somalia. In Somalia, 5.9 million people, including 3.9 million children, will need humanitarian assistance in 2021 due to the devastating impact of flooding, desert locusts and the COVID-19 Pandemic (UNOCHA ReliefWeb, 2020). They have also stated that conflict is continuing to disrupt the lives of children and increasing their vulnerability. This mirrors the numerous stories of forced child soldiers by Al-Shabaab occurring in Somalia.

As the Kenyan government continues to exert their influence and control over the refugees, they hope to encourage as many Somali refugees as possible to return to Somalia. However, owing to the lack of a stable, central Somali government, no meaningful large-scale

repatriation has taken place (Menkhaus, 2003, pp. 405-422). It must be noted that 55.6% of Somali refugees in the Kenyan camps are under 18 years old, with many of them having been born in the camps and never having set foot on Somali soil (UNHCR, 2020g). Approximately 10,000 refugees are 'third generation' where even their parents were born in the camps (Hammond, 2014, p. 9). This statistic is likely to be much higher in 2020. This is significant because Kenyan policy toward the refugees has been one of containment and a push to return. Yet, where do the children of the camps return to? Having been born in Kenya, in a protracted situation, and never having been 'home', many refugees are left stranded in limbo. They know nothing of life outside of the camps, much less the place that they are being pushed to 'return' to.

The Somali refugee crisis is merely one window into the many displaced persons worldwide. Displacement within, and from, Somalia is one of the longest-running crises in the world (Hammond, 2014, p. 16). It has affected countries all over the Horn of Africa, but most prominently Kenya. The changing terms of Kenyan policy and the influence that host countries have on refugee's lives is a key study in itself. The international law surrounding refugees has many gaps which morph further as time continues, particularly for environmental refugees as climate change worsens. The UNHCR has to be invited into Kenya to assist with the burgeoning refugee situation, and because of

this, they have to walk a fine line between condemning Kenya's actions and being allowed to stay and provide aid to the vulnerable. The Somali refugee crisis will remain a key political issue in Kenya in the months and years to come. Analysis of the Kenyan response also crystallizes many of the salient issues in relation to Somali displacement that also preoccupy policymakers elsewhere in the region (Lindley, 2011, p. 19). As long as the reality of violence, conflict and serious abuses of human rights continues critically to characterize the situation in Somalia, pressure to end protracted displacement of its thousands of refugees should be balanced with ensuring that a protection space remains available for those who will continue to need it (Hammond, 2014, p. 16). There is no immediate solution to the conflict in Somalia. The longer the desperate situation endures, the more negatively the Kenyan Government and people view the refugees. This adverse opinion only worsens as Al-Shabaab attacks continue to rise. Refugees are increasingly becoming scapegoats for the terrorist attacks. Many of these same refugees have fled Al-Shabaab.

## **Conclusion**

We are yet to see the impact that COVID-19 will have on the refugee crisis and the current violence and political climate in Somalia. The relationship between marginalization and extremism is another understudied topic. For the refugees who take the brunt of the blame



for Al-Shabaab, we rarely see the impact that terrorist groups have on their lives and why many are not pushed over the edge in extremism. As climate change worsens, the studying of environmental refugees will increase. It is a subject area that has grown in recent years, but environment-related issues are not recognized by the 1951 Refugee Convention. Furthermore, on the 16<sup>th</sup> of December 2020, the Governments of Kenya and Somalia officially severed diplomatic ties. It remains to be seen what influence this will have on the Somali refugees in Kenya. The perfect storm continues to brew.

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### **Declaration of Conflict Interest**

The Author declares that there is no conflict of interest regarding the publication of this article.