



**A COMPREHENSIVE ASSESSMENT ON
THE LEVEL OF AWARENESS OF RIGHTS
AND LEGAL STATUS AMONG REFUGEES,
ASYLUM SEEKERS, AND IDPS IN KENYA**





Courtesy: Kenya Red Cross Society

Table of Contents

List of Acronyms	7
EXECUTIVE SUMMARY	9
Findings	9
Recommendations	9
INTRODUCTION AND BACKGROUND	10
1.1 Refugees and IDP Situation in Kenya	10
1.2 Purpose of the Study	11
1.3 Efforts towards Protecting the Rights and Freedoms of Refugees, Asylum Seekers and IDPs in Kenya	11
1.4 Objectives of the Study	13
1.5 Scope of Study	13
METHODOLOGY	14
2.1 Research Approach	14
2.1.1 Mixed Methods Approach	14
2.1.2 Phased Technical Approach	14
2.2 Research Process	14
2.2.1 Phase I: Inception and Planning	14
2.2.2 Phase II: Fieldwork Phase	15
2.2.3 Phase III: Data Management, Analysis and Report Writing	18
2.3 Study Limitations and Challenges	19
ANALYSIS OF POLICIES AND LEGAL FRAMEWORKS	20
3.1 Introduction	20
3.1.1 International Conventions and Protocols	20
3.1.2 Regional Conventions and Protocols	21
3.1.3 National Legal and Policy Framework	21
3.1.4 Kenya's Refugee Framework	22
3.1.5 Internally Displaced Persons in Kenya	22
3.2 Strengths and Gaps in the Kenyan Refugee Legal and Policy framework	23
3.2.1 Strengths	23
3.2.2 Gaps and challenges in implementing the legislative frameworks	23

FINDINGS ON LEVEL OF AWARENESS OF RIGHTS	25
4.1 Introduction	25
4.2 Background of the Respondents	25
4.3 Registration Status	26
4.4 Awareness of Rights	28
4.4.1 Level of Awareness of the Rights	28
4.4.2 Sources of Information on the Rights	29
4.4.3 Top Priority Areas	29
4.5 Access to Economic Opportunities	34
4.6 Co-existence with the Local Community	35
CONCLUSION AND RECOMMENDATIONS	36
5.1 Conclusions	36
5.2 Recommendations	37
ANNEXES	38
List of Key Informants	38
Participants Dissemination Workshop - Garissa	39

List of Tables

Table 1. 1: Population Distribution of Refugees and Asylum seekers	10
Table 1. 2: Distribution of IDPs in Turkana and Garissa Counties	11
Table 2. 1: Technical Approach	14
Table 2. 2: Sampling for KIIs	16
Table 2. 3: Sample FGDs	16
Table 2. 4: Quantitative Study Sample	17
Table 3. 1: Distribution of Background Characteristics of Study Population	25
Table 3. 2: Level of Awareness of Rights Among Refugees, Asylum Seekers and IDPs	29
Table 3. 3: Source of Information about Rights	29
Table 3. 4: Priority Areas among the study population	30
Table 3. 6: Access to Socio-cultural wellbeing	31
Table 3. 7: Awareness SGBV	33
Table 3. 5: Distribution of Access to Economic Activities	35

List of Figures

Figure 3. 1: Proportion of Registered Respondents and Process	27
Figure 3. 2: Levels of Awareness of Rights	28
Figure 3. 3: Psychosocial support	32
Figure 3.4: Awareness SGBV	33

List of Acronyms

AGD	Age Gender Diversity
AU	African Union
CHVs	Community Health Volunteers
CIDPs	County Integrated Development Plans
CoK	Constitution of Kenya
CREAW	Centre for Rights Education Awareness
CRRF	Comprehensive Refugee Response Framework
DRL	Dataworld Research Limited
DRS	Department of Refugee Services
DRA	Department of Refugees Affairs
EAC	East Africa Community
FBOs	Faith Based Organizations
FGDs	Focus Group Discussions
GBV	Gender Based Violence
GCR	Global Compact on Refugees
GISEDP	Garissa Integrated Socio-Economic Development Plan
GoK	Government of Kenya
ID	Identity Document
IDMC	Internal Displacement Monitoring Center
IFRC	International Federation of the Red Cross
IGAD	Intergovernmental Authority on Development
IRC	International Red Cross
KIIs	Key Informant Interviews
KISEDP	Kalobeyei Integrated Socio-Economic Development Plan
KRCS	Kenya Red Cross Society
LGBTQ	Lesbians Gays Bisexual, Transgender Queer
RRE	Regional Refugee Education
NCCK	National Council of Churches of Kenya
NGOs	Non-Governmental Organizations
OAU	Organization of African Union
ODK	Open Data Kit

PWD	Persons with Disabilities
ReDSS	Regional Durable Solutions Secretariat
RSD	Refugee Status Determination
SDG	Sustainable Development Goal
SGBV	Sexual and Gender Based Violence
SHARE	Support for Host Community and Refugee Empowerment
SIM	Subscriber Identification Module
ToR	Terms of Reference
UNHCR	United Nations High Commission for Refugees
KPSA	Kenya Private Sector Alliance
KAM	Kenya Association of Manufacturers
FKE	Federation of Kenya Employers
KBA	Kenya Bankers Association
UDHR	Universal Declaration of Human Rights

EXECUTIVE SUMMARY

Kenya is presently providing shelter to 525,383 registered refugees and 110,941 asylum seekers, resulting in a total of 636,024 individuals, with some among them lacking formal registration. Most of these refugees and asylum seekers live in two designated camps; in Turkana and Garissa Counties as well as urban areas. It is estimated that about 96,206 refugees and asylum seekers live in urban areas including Nairobi. Due to security concerns and COVID-19 measures, borders and registration centers were closed leading to increased numbers of unregistered individuals. Kenya Red Cross Society (KRCS) estimates that there are about 16,200 unregistered migrants in Dadaab and more than 4,500 in Kalobeyei integrated settlement.

This research aims to assess the level of awareness of rights and legal status among refugees, Asylum seekers, and IDPs in Turkana and Garissa Counties. The study will therefore inform project interventions toward facilitating the registration of these migrants as well as the protection of their rights.

The assessment employed a mixed methods approach, creating an opportunity for both learning and evidence-based reporting of the results. The study used both qualitative and quantitative data sources to assess the legal frameworks protecting refugees, asylum seekers and IDP rights, challenges and gaps during registration, and the level of awareness of their rights.

Findings

On legal and policy frameworks, the study found that Kenya is a party to various international and regional conventions on refugees and asylum seekers which have been entrenched in the country's laws and regulations. The Country has put in structures to implement a number of the conventions albeit challenges including ineffectual enforcement of the right to work, limited access to financial and social services, encampment policy continuation alongside integration, qualifications approval requirement and security challenges posed by Kenya-Somalia Relations.

The Kenyan laws governing refugees, asylum seekers, and IDPs provide for their right to be registered unless they contravene provisions of the law that would disqualify them from registration. Among the refugees and asylum seekers, only nationals of South Sudan enjoy the prima facie status. All other Nationalities have to go through the Refugee Status Determination (RSD) process before they can be registered as refugees. On the level of awareness of rights, 83% of the respondents are aware of their rights. Rights critical to them are the right to food (86%), right to shelter (77%), right to health (75%), and right to education (63%). Community leaders and media are the main sources of information.

Funding gaps present a major challenge particularly for the refugees and asylum seekers who majorly rely on humanitarian assistance for all their basic needs. The move towards self-reliance is slow and is hampered by some existing institutional frameworks and the mind-set of the refugees and asylum seekers.

Recommendations

The following recommendations were drawn from the study for the government and implementing partners:

- Establish robust legal and policy safeguards for Asylum Seekers, Refugees, and IDPs;
- Streamline Registration and Refugee Status Determination (RSD);
- Enhance the level of awareness of rights and legal status among refugees, asylum seekers and IDPs;
- Promotion of Socio-Economic Integration,
- Enhancement of Refugee Participation in Development Planning;
- Advocacy for Refugee Rights;
- Strengthening of stakeholder capacity to provide services including incentivizing the private sector and enhancing public private partnerships

INTRODUCTION AND BACKGROUND

1.1 Refugees and IDP Situation in Kenya

Kenya is currently hosting a total of 636,024 refugees and asylum seekers¹, out of which 525 383 are refugees and 110,941 are asylum seekers, many of whom are not registered². Majority of refugees and asylum seekers in Kenya are from Somalia, Ethiopia, Sudan, Burundi, DRC, Eritrea, Rwanda and Uganda. Most of these refugees and asylum seekers live in two designated camps, in Turkana County (Kakuma Refugee Camp and Kalobeyei integrated settlement) and Garissa (Dadaab Refugee Camp consisting of Hagadera, Dagahaley and Ifo camps). About 96,206 refugees and 18,000 asylum seekers are estimated to live in Nairobi and other urban areas.

Turkana County is home to 270,273 refugees and asylum seekers, of which 208,646 (77.2%) live in Kakuma camp, while 61,627 (22.8%) are in Kalobeyei integrated settlement. Among the refugees living in Turkana County, majority (58.1%) are from South Sudan, followed by Somalia (15.4%), Democratic Republic of Congo (8.3%), Burundi (7.6%) and Ethiopia (4.8%)³. On the other hand, Garissa County hosts 269,545 refugees and asylum seekers, of which 82,955 (34.6%) are in Hagadera, 79,028 (32.5%) in Dagahaley, and 79,001 (32.9%) in Ifo. Majority (96.6%) of these refugees and asylum seekers in Dadaab are from Somalia⁴

Table 1. 1: Population Distribution of Refugees and Asylum seekers

County	Refugee Camp	Population	Percentage by site	Overall Percentage
Turkana	Kakuma	208,646	77.2%	32.8%
	Kalobeyei	61,627	22.8%	9.7%
Total in Turkana		270,273	100.0%	42.5%
Garissa (Dadaab)	Hagadera	92,787	34.6%	14.6%
	Dagahaley	88,394	32.5%	13.9%
	Ifo	88,364	32.9%	13.9%
Total in Garissa		269,545	100.0%	42.4%
Urban Refugees		96,206		15.1%
Grand Total		636,024		100.00%

Source: UNHCR, 31 June 2023

United Nations Guiding Principles on Internal Displacement (1996) defines “Internally displaced persons (IDPs) as persons or a group of persons who have been forced or obliged to flee or to leave their homes of habitual residence, in particular as a result of or in order to avoid effects of armed conflict, situation of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border”.

Internal displacement in Kenya has been experienced since the colonial era and continued even in the post-colonial Kenya. Drivers of internal displacement are political, economic, cultural, ethnic and climate related factors. Despite the volatile situation, there are no known estimates of IDPs in the Country. These Populations are prone to internal displacement due to frequent resource-based conflicts, climate-related disasters such as prolonged and recurrent droughts and floods witnessed in recent years⁵. According to UN Migration⁶ and IDMC Data Portal⁷ it is estimated that Turkana and Garissa Counties have a total of 610,704 IDPs, as presented in Table 1.2 below.

1. <https://www.unhcr.org/ke/wp-content/uploads/sites/2/2023/08/Kenya-Statistics-Package-31-July-2023-DIMA.pdf>

2. <https://www.redcross.or.ke/uploads/tenders/pr432023PRF11494PRF11494>

3. <https://data.unhcr.org/en/country/ken/796>

4. <https://data.unhcr.org/en/country/ken/794>

5. <https://www.knchr.org/Our-Work/Displacement-and-Forced-Evictions/Internal-Displacement>

6. <https://kenya.iom.int/sites/g/files/tmzbd926/files/documents/2023-03/DTM%20INFOSHEET%20September%202022-February%202023%20%28final%29.pdf>

7. Global Internal Displacement Database | IDMC - Internal Displacement Monitoring Centre ([internal-displacement.org](https://www.internal-displacement.org))

Table 1. 2: Distribution of IDPs in Turkana and Garissa Counties

Counties	Natural Disaster*		Conflicts	Total IDPs (Est)**
	Drought	Floods	Including political and resource based	
Turkana	92,000	0	156,658	248,658
Garissa	183,000	470	178,576	362,046
Total	275,000	470	335,234	610,704

Source: IDMC and Kenya Displacement Tracking Matrix (DTM), Sept 2022 - Feb 2023.

There are a number of challenges that refugees, asylum seekers and IDPs face. Some of these challenges include, but not limited to; policy barriers, security threats, lack of livelihood opportunities, limited access to health services, sexual and gender-based violence.

1.2 Purpose of the Study

Kenya Red Cross Society (KRCS) estimates that camps/settlements host a high number of unregistered migrants, with more than 16,200 in Dadaab and more than 4,500 in Kalobeyei⁸. Due to security concerns and COVID-19 measures, borders and registration centres were closed which led to increased numbers of unregistered individuals⁹. Registration and Identification of migrants is crucial to their legal and socio-economic inclusion as well as their protection. This research aims to assess the level of awareness of rights and legal status among refugees, Asylum seekers and IDPs in Turkana and Garissa Counties. Furthermore, registration and identification are vital in facilitating access to services and livelihood opportunities. For example, the refugee ID card allows movement of refugees, empowers refugees to open bank accounts, register for a SIM card and access online services and opportunities available to them. The study highlights the level of awareness of rights and legal status and access to services among the refugees, asylum seekers and IDPs in the two Counties. The study also provides an assessment of the legal structures in place to protect the rights of the refugees, asylum seekers and IDPs.

1.3 Efforts towards Protecting the Rights and Freedoms of Refugees, Asylum Seekers and IDPs in Kenya

Refugees and Asylum Seekers

Kenya has been a host to refugees and asylum seekers mainly from the Horn, East and Central African Regions since the 1960s. In the 60s, the refugee population was small, estimated at 5,000¹⁰. They were integrated with the Kenyan population, enjoyed freedom of movement and access to formal employment. In the early 1990s, civil war erupted in a number of countries including Somalia, Rwanda, Burundi, and Ethiopia leading to an influx of people seeking asylum in Kenya. To handle the large numbers, the GoK set up the Kakuma and Dadaab refugee camps with UNHCR taking up a dominant role in the management of refugee affairs¹¹.

To affirm commitment by Government of Kenya to offer protection to refugees in line with the UN Convention relating to the status of refugees and the OAU Convention, the Refugees Act of 2006 was enacted and operationalized in 2007 while the Refugees Regulations was passed in 2009. This Act provides for 'the recognition, protection and management of refugees'; and covers a broad range of areas including the process of administration, management and coordination, and rights and duties of refugees. The Ministry of Interior and Coordination of National Government in the Office of the President discharges government functions relating to refugees, initially through the Department of Refugee Affairs (DRA) and currently through the Refugee Affairs Secretariat (RAS). Due to security concerns, following a series of terrorist attacks, in 2012, the government tightened the encampment policy requiring all refugees and asylum seekers, including those residing in urban areas, to relocate to designated camps. This policy limited their movements and consequently their access to various social and economic opportunities¹².

8. Project Terms of Reference]. Due to security concerns and COVID-19 measures, borders and registration centres were closed which led to increased numbers of unregistered individuals[https://www.unodc.org/documents/Advocacy-Section/HTMSS_Thematic_Brief_on_COVID-19.pdf
9. https://www.unodc.org/documents/Advocacy-Section/HTMSS_Thematic_Brief_on_COVID-19.pdf
10. A Situation Analysis of Access to Refugee Health Services in Kenya: Gaps and Recommendations (york.ac.uk)
11. Dadaab Refugee Complex – UNHCR Kenya
12. Maina A. Development of Refugee Law in Kenya. In. Vol 2020: Refugee Consortium of Kenya (RCK)

In 2016, DRA was replaced with the Refugee Affairs Secretariat (RAS), that was mandated to undertake the registration of asylum seekers and refugees in Kenya; managing refugee camps, reception and transit centres; coordination of humanitarian assistance programs to refugees and surrounding host communities; refugee status determination (RSD); and addressing refugee needs and referring them to relevant authorities, among others. At the same time, the government announced the decision to close Dadaab camp on claims that the Al-shabaab were using it to plan terrorist attacks in Kenya¹³. The government ordered for the repatriation of Refugees in the camp back to their countries of origin. The decision to repatriate the refugees was blocked by the High Court in 2017 on grounds that it contravened the CoK and Kenya's International obligations. The government revised the Refugees law to limit their numbers. The government again in 2019, pronounced the decision to close Dadaab camp and requested UNHCR to expedite the re-location of refugees and asylum seekers residing in Dadaab¹⁴.

In line with the Comprehensive Refugee Response Framework (CRRF)¹⁵ and the Global Compact on Refugees (GCR)¹⁶, the Government of Kenya and UNHCR developed the Roadmap for Solutions and subsequently the area-based program plans i.e. KISED P I (2018-2022), KISED P II (2023-2027 in Turkana County and the Garissa Integrated Socio-Economic Development Plan (GISED P I) (2023-2027) in Garissa County, which are aligned to the respective County Integrated Development Plans (CIDPs), Kenya Vision 2030 and its Medium-Term Plan. They outline the social and economic development priorities and strategies for the benefit of refugees and host community. The KISED P and GISED P are multi-year and multi-agency development plans running through to the year 2030. The achievements of KISED P I (2018-2022) include the following: -

1. Built partnerships and close collaborations between National Government, County Government, UNHCR, donor, development and humanitarian partners and the private sector;
2. Inclusion and participation of refugees in legal and policy frameworks;
3. Integration and inclusion of refugee and host communities in social and economic development in Turkana West;
4. Promoted peaceful existence between refugees and host communities.

In 2016, the government allowed for the creation of an integrated settlement at Kalobeyei, that provides a more enabling environment for refugee and host community livelihoods, resilience, and self-reliance by setting aside land for agricultural use among others. The Kalobeyei Integrated Socio-Economic Development Plan (KISED P) is an area-based development framework, formulated in 2016 by the government and UNHCR that envisions both refugees and host communities benefiting from strengthened national service delivery systems, increased socioeconomic opportunities and sustained investments in people's skills and capabilities, so that they can become drivers of economic growth in Turkana West sub county. The move signals a shift from the earlier strict encampment policy.

Under the Marshal Plan now replaced by the Shirika Plan launched in 2023, the government seeks to transition Dadaab and Kakuma camps into Refugee Villages that will provide infrastructure in education, health, water, energy, security and conservation in designated areas. The Plan is to be implemented jointly by GoK and UNHCR¹⁷.

The Refugees Act 2021 was enacted on November 17, 2021. This Act entrenches the protection and rights of the refugees and asylum-seekers in Kenya which will boost, social and economic inclusion and integration. The Act recognizes both encampment and integration of refugees.

Internally Displaced Persons

Internal displacement in Kenya is mainly as a result of political and climate related calamities i.e. floods, drought and the resulting resource-based conflict. There is no exact known number of IDPs in Kenya, they are estimated at 380,000¹⁸.

The United Nations Guiding Principles on Internal Displacement; the Great Lakes Pact including its Protocol on Protection and Assistance to Internally Displaced Persons, and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa ("the Kampala Convention"), all recognize that to maximize the effectiveness of protection and assistance for IDPs, the state must: collect information about the needs of IDPs; seek the participation from IDPs in all policy and decision-making affecting them, and disseminate information to IDPs about their rights and allow access to publicly held information.

The United Nations Guiding Principles on Internal Displacement ("the Guiding Principles") were presented to the UN Commission on Human Rights at its 54th session in 1998, and it was not until September 2005 that heads of state and governments assembled at the World Summit in New York recognised the Guiding

13. Understanding the Socioeconomic Conditions of Refugees in Kenya Volume B: Kakuma Camp Results from the 2019 Kakuma Socioeconomic Survey

14. A Situation Analysis of Access to Refugee Health Services in Kenya: Gaps and Recommendations - A Literature Review

15. Comprehensive Refugee Response Framework | UNHCR

16. The Global Compact on Refugees | UNHCR

17. UNHCR Kenya: Multi-year Strategy 2023 - 2026 - Livelihoods and Economic Inclusion (June 2022) - Kenya | ReliefWeb

18. RAKenya_engOK (fidh.org)

Principles as “an important international framework for the protection of internally displaced persons

The Great Lakes Protocol on Protection and Assistance to Internally Displaced Persons (“the Protocol”) was ratified by 10 member states, Kenya included. The Protocol is the first binding multi-lateral treaty providing a legal basis for the domestication of the UN Guiding Principles and contains much of the same substance regarding participation and access to information. It is a significant milestone in recognizing the interdependence of protecting the rights of IDPs and achieving peace and stability in the Great Lakes Region

Following the mass displacement of people during the 2007 post-election violence, Kenya embarked on the process of creating legal and policy frameworks to guide the response to IDPs. The IDP Act of 2012 was born, however it is yet to be implemented. The IDP policy is yet to be assented to and remains a draft. The 2010 Constitution of Kenya articulates a bill of rights that protects the basic rights of IDPs in Kenya. Without an IDP framework in place it is difficult to resettle the IDPs with many living in temporary conditions in IDP camps.

1.4 Objectives of the Study

The specific objectives of the study are to:

- i. Provide a detailed analysis of the local and regional legislation frameworks protecting refugee and IDP rights.
- ii. Provide an understanding of the challenges around refugee registration.
- iii. Identify gaps and challenges in implementing the legislative frameworks concerning the protection of Refugees and IDPs.
- iv. Provide an analysis of the level of awareness of Refugee and IDP rights;
- v. Provide comprehensive recommendations for areas where implementation must be strengthened to facilitate the attainment of refugee and IDP Rights in Kenya.

1.5 Scope of Study

The geographical scope of this research is the two hosting Counties of Turkana and Garissa specifically Dadaab, Kakuma and Kalobeyei. The research covered the refugee population, asylum seekers and the IDPs within the two Counties. However, it was established that there were no IDPs in Dadaab sub County.

METHODOLOGY

2.1 Research Approach

2.1.1 Mixed Methods Approach

The assessment employed a pragmatic (mixed methods) approach, creating an opportunity for both learning and evidence-based reporting of the results. The study used qualitative and quantitative data sources to collect data to assess the level of awareness of rights and legal status among refugees, asylum seekers and IDPs. In doing this the study also assessed the challenges faced during registration and identified gaps in the implementation of the legislative frameworks. The mixed method approach enabled triangulation, which checks the validity of the data collected.

2.1.2 Phased Technical Approach

This assessment adopted a phased technical approach, with three (3) key phases as presented in Table 2.1 below. Each phase had a number of activities leading into their respective deliverable(s).

Phases	Activities	Deliverables
Inception Phase	<ul style="list-style-type: none">• Inception meeting-common understanding of the ToR, sharing documents, roles and responsibilities of the client and the consultant.• Review of existing relevant documents- project documents, protocols, Conventions, Constitutions, Laws• Preparation of Inception Report	<ul style="list-style-type: none">• Inception report• Data collection tools
Fieldwork and data Management	<ul style="list-style-type: none">• Data Collection• Data processing and analysis	<ul style="list-style-type: none">• Fieldwork Reports
Reporting	<ul style="list-style-type: none">• Report writing• Presentation of findings• Submission of the final report	<ul style="list-style-type: none">• Draft Assessment Report• Validation workshop• Final report

Table 2. 1: Technical Approach

2.2 Research Process

Outlined below are the phases, and activities that were undertaken during the implementation of this assignment.

2.2.1 Phase I: Inception and Planning

This assignment began with a scoping meeting with the KRCS project team which took place on Thursday 13th July 2023, during which the study team received a detailed briefing for this assessment. All documentation relevant to the assessment were provided to the DRL team during this phase. This phase involved reviews of all documents shared by KRCS team as well as review of literature from relevant sources. A thorough thematic analysis of these documents was carried out, focusing on the assessment objectives. This facilitated the development of a background bank of knowledge and understanding of the subject matter. This information was used to update the study design, study methodology and data collection tools. Deliverables at the end of this phase was an inception report outlining the consultant's understanding of the terms of reference of the assignment including an updated detailed work plan and

data collection tools (Key Informant Interview, survey questionnaires, and Focus Group Discussion guides).

2.2.2 Phase II: Fieldwork Phase

The data collection took a period of 15 days in both Turkana and Garissa Counties. The research team worked closely with KRCS focal persons in order to facilitate the development of an access strategy to all relevant stakeholders and negotiate any complexities associated with logistical arrangements. Activities under this phase included the following:

I. Systematic Desk Review

A literature review of secondary data on human rights, legal and socio-economic data including policies, protocols, strategies, regulations, reports and other related documentation on refugees, asylum seekers and IDPs was conducted. The literature reviewed covered international, regional and country specific frameworks on refugees, asylum seekers and IDPs. Some of these documents include but are not limited to the following;

International Conventions and Protocols on Refugees

- 1951 Convention relating to the Status of Refugees
- The 1967 Protocol relating to the Status of Refugees
- The 1969 Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa
- New York Declaration for Refugees and Migrants (2016)
- Leaders' Summit on Refugees (2016)
- The Comprehensive Refugee Response Framework (CRRF) (2018)
- Global Compact on Refugees (2018)

Policies and Legal Frameworks on Refugees and Asylum Seekers

- The Constitution of Kenya (2010)
- The Refugees Act No. 10 of 2021
- Internally Displaced Persons Act, 2012

Legal instruments guiding the protection of IDPs

- UN Guiding Principles on Internal Displacement (1998) serve as an international standard to guide governments as well as international humanitarian and development agencies in helping and protect IDPs.
- The Pact on Peace, Stability and Development in the Great Lakes Region (commonly known as the Great Lakes Pact) entered into force on 21st June 2008. The pact provides a legal framework governing relation between the ten-member states to which Kenya is signatory,
- Kampala Convention (2009)
- National Policy (Draft) on the Prevention of Internal Displacement, Protection and Assistance to Internally Displaced Persons (IDPs) in Kenya (2011)

II. Field data collection

Qualitative Data

To collect the qualitative data, different sets of guides were developed to guide the discussions with key informants and focus group discussants. The respondents were purposively sampled based on their roles, position in the community, availability and willingness to participate. Qualitative data was collected from both national and County respondents, mainly representatives from institutions that are charged with the

responsibilities of policy formulation or implementation. At the county level, the departments of social services, health, disaster risk management, and trade formed part of the informants due to their administrative and coordination roles. At the camp level, implementing partners and various camp leaders, men, women, youth and the minority groups participated in the interviews.

Key informant interviews (KIIs) were carried out with the selected key informants. These interviews provided insight into the functionality of refugee legal frameworks and their management systems. Where face to face interviews were not feasible, virtual interviews were conducted through telephone, google meet or Zoom. The summary of the key informants interviewed is presented in Table 2.2 below and the list provided in Annex I.

Table 2. 2: Sampling for KIIs

KII Category/Area	National		Turkana		Garissa	
	Planned	Actual	Planned	Actual	Planned	Actual
KRCS Staff	1	0	1	1	1	1
County Government officials			3	1	0	0
Policy Partners (UNHCR, DRS)	2	0	2	0	2	2
Implementing Partners			5	2	5	4
Private Sector (Financial Institutions)			3	2	2	0
Total	3	0	14	6	12	7

Focus group discussions (FGDs) were conducted with refugees, asylum seekers and IDPs with a view to understanding challenges that they face in getting registered as well as some of the foreseeable gaps in the implementation of policy and legal frameworks. The aim of the FGDs was to gather qualitative data to triangulate, explain, and expand upon the quantitative data gathered. The FGDs were disaggregated by age, gender and the minority groups. These groups comprised participants of between 6-10 members. Dadaab sub-county does not host any IDPs, accounting for the fewer number of FGDs conducted. In total, eight (8) FGDs were conducted against a target of 11 as presented in Table 2.3 below.

Table 2. 3: Sample FGDs

FGD Category/Area	Turkana		Garissa		Total
	Planned	Actual	Planned	Actual	
Women (36+ years)	2	2	1	1	3
Men (36+ years)	2	2	1	1	3
Youth (18 -35 years)	2	1	1	0	1
Vulnerable groups (Ethnic Minority)	1	1	1	0	1
Total	7	6	4	2	8

Quantitative Data

A cross-sectional survey was used to supplement the existing qualitative data, thus providing quantitative data on the level of awareness of the study population. Quantitative data was gathered through a direct interviewing approach, using an individual survey questionnaire. A quantitative approach used a randomized sample design. Data collection tools were developed, reviewed and approved by KRCS project team before the actual data collection was undertaken. After approval, the DRL team digitized the tools to enable deployment through ODK digital platform.

Sampling Strategy for Refugees, Asylum Seekers and IDPs

The survey respondents were sampled using multi-stage random sampling to ensure the different dynamics are represented in the sample. For instance, nationality, type of settlement-integrated or camped and the IDPs were considered. The sample sizes for each County, (Garissa and Turkana) were also determined separately. The first stage of sampling was based on the settlements (i.e Turkana- Kalobeyei or Kakuma; while Garissa the 3 camps), where Kalobeyei and Ifo were selected for this study. The sample was distributed proportionate to the size of the population. The second stage of sampling was based on nationality as represented in the camps. This was applied to the sample for both counties.

The sample size was determined based on the target population using the formula below:

$$\text{Sample size, } n = N * \frac{\frac{Z^2 * p * (1 - p)}{e^2}}{[N - 1 + \frac{Z^2 * p * (1 - p)}{e^2}]}$$

Where:

N = Population size, = 539,818

Z = Critical value of the normal distribution at the required confidence level, 95%

p = Sample proportion, 50

e = Margin of error 5%

Applying an online sample size calculator¹⁹ at (CI=95% e= 5% and p= 50%, N= (539,818 for both Turkana and Garissa) the sample size required for the study was 384 divided proportionately between Garissa and Turkana. The study was able to interview a total of 386 refugees and asylum seekers; 218 in Turkana and 168 in Garissa.

A total of 50 IDPs were sampled for this study out of which 49 were interviewed. Table 2.4 below presents the respondents interviewed for this study.

Table 2. 4: Quantitative Study Sample

		Counties		Total
County		Turkana	Garissa	
% representation		50.1%	49.9%	100%
Refugees and Asylum Seekers	Sample	192	192	384
	Interviewed	218	168	307
Total		218	168	386
IDPs	Sample	50	0	50
	Interviewed	49	0	49
Total Participants		267	168	435

Quality Assurance

Below is an outline of how the data collection was coordinated and managed to ensure all data protocols were adhered to.

- **Team Recruitment, Training and Briefing:** The field team leadership was composed of an overall supervisor (key consultant), and a supervisor for each of the two County teams. The enumerators were recruited from a list of Kenya Red Cross volunteers drawn from the study counties. A team of 10

19. Sample Size Calculator

enumerators were assembled, five allocated for each County. The enumerators were drawn from persons with relevant educational qualifications as well as experience in similar assignments. Face-to-face training was conducted with a view to discussing and understanding the study objectives, tools as well as the mobile data collection application. It was necessary for the entire project personnel to fully familiarize themselves with the objectives, data collection tools and methodology. The Consultant performed the role of coordination as well as conducting the KIs and FGDs. Data collection took place concurrently across the two counties for a period of about two weeks.

- **Training for field supervisors and enumerators** was done to ensure that responses are consistent, and that high-quality data was collected. The training covered the following topics:
 - I.How to ask questions and record responses;
 - Definition of key indicators;
 - How to collect high quality data;
 - Techniques to increase the response rate for participants;
 - Confidentiality and use of the data;
 - Research Ethics;
 - How to use the mobile application (ODK) in data collection and submission and
 - Mock trial runs on the ODK application
- **Data quality Control:** Quality assurance in this research was mainstreamed through selection of duly qualified research assistants; design and pre-testing of data collection tools; intensive training of research assistants; design and use of appropriate methods of data management; and consistent oversight of all stages of the research.

The process of data management started in the field where the interviewers ensured that data collected was accurate, complete, reliable, relevant, consistent and up to date (timeliness). Additionally, the Consultant held daily reviews of the interviews conducted by each team to obtain their perspectives of the interviews and to address any challenges encountered in the data collection process.

2.2.3 Phase III: Data Management, Analysis and Report Writing

Information obtained from the desk review was analyzed using interpretive techniques of coding and recursive abstraction.

Computer Assisted Personal Interview (CAPI) data collection method was used. CAPI facilitates logic checks, skip patterns, and validation during interviews. This makes the survey more efficient and helps assure quality of data. It also saves later efforts on data cleaning and data entry. Quantitative Data was downloaded from CAPI application (ODK) directly to the Statistical Package for Social Sciences (SPSS) software for processing and analysis. The processing included screening for normality, consistency checks, checking for missing data etc. No attempt was made to impute missing responses. Descriptive and inferential analysis was used to provide estimates and differences across different groups/categories.

The transcribed texts were transferred to NVivo 10 qualitative analysis software for qualitative data and analyzed. Following coding of the transcripts, a full list of themes was generated for categorization within a hierarchical framework of main and sub-themes. The thematic framework was then systematically applied to all of the interview transcripts. Patterns and associations of the themes were identified, compared and contrasted within and between the different groups of respondents to enhance the triangulation of data.

The study team engaged in data analysis and report writing during this phase. The Analysis focused on the assessment objectives as well as any additional questions formulated during the inception phase of this Consultancy. Qualitative data was analyzed thematically using NVivo 10. The study team also applied a gendered and Age Gender Diversity (AGD) lens in the analysis to gain a more nuanced understanding on how aspects such as age, gender and diversity play a significant factor in determining challenges that migrants face in getting registered.

A draft final report during this phase was submitted to KRCS for reviews and circulated to relevant stakeholders for comments. This was followed by a validation workshop to discuss stakeholder feedback, validate assessment findings and discuss recommendations made. Building on the debrief and initial

feedback obtained from the client.

2.3 Study Limitations and Challenges

Data collection for research is always challenging, and this study was not an exception. The following are some of the challenges that the Consultant encountered during the data collection phase;

Challenges	Mitigation measures taken
<p>Competing priorities: Sampled key informants had other engagements during the time allocated for data collection.</p>	<ul style="list-style-type: none"> • Making appointments when the interviewer is available and follow-ups. Flexibility of interviewing platforms that included virtual meetings when the situation demanded so. • Flexibility of rescheduling meetings that was made possible by the fact that there was more than one consultant available to conduct the KIIs.
<p>Delayed timelines: Delays in the release of communication, documents and funds to start off the assignment in turn caused further delays in kick-starting the assignment and interruptions in the performance of planned activities. This led to unforeseen changes in the timelines of this assignment.</p>	<ul style="list-style-type: none"> • Flexibility in planning – giving room for adjusting the plan as necessary.
<p>Non-Response: Low response especially among the key informants. Some stakeholders whose contacts were provided in the list of KIIs to be interviewed did not participate as they claimed that the nature of their work was too sensitive and therefore, they were to seek permission from their supervisors. This permission in the long run did not appear to be forthcoming</p>	<ul style="list-style-type: none"> • Drawing a larger sample than is needed to cater for non-respondents.
<p>Non-participating respondents: Some proposed respondents in the list of KIIs provided were not operating in the project area. This therefore meant that they could not be interviewed.</p>	<ul style="list-style-type: none"> • Replacement of respondents not operating in the area with those in the area.

ANALYSIS OF POLICIES AND LEGAL FRAMEWORKS

3.1 Introduction

Kenya has played a critical role in hosting refugees and asylum seekers mostly from east and horn of Africa since 1960s and is among the top countries globally hosting the largest numbers of refugees, asylum seekers and IDPs. Kenya is a signatory to various international and regional conventions on refugees, asylum seekers and IDPs which have as a result been entrenched in the country's legislative and regulatory frameworks. This section provides a synopsis of the conventions that Kenya has ratified including laws, regulations and policies that govern protection of refugees, asylum seekers and IDPs.

According to Article 2 of the Constitution of Kenya, (CoK) 2010 is the supreme law of the country and it binds all persons and all state organs at both levels of government. Article 5 and 6 of the Constitution recognizes international laws, treaties and conventions ratified by Kenya. Consequently, any international or regional treaty that Kenya ratifies is admissible under the Kenyan law and cannot be challenged. As such persons and state organs at both levels of Government cannot go against any ratified convention or treaty.

3.1.1 International Conventions and Protocols

The Universal Declaration of Human Rights (UDHR) of 1948 provides for human rights, which should be enjoyed by all persons without discrimination. Article 1 of the UDHR states that "human beings are born free and equal in dignity and rights". The UDHR forms the basis of all laws of party states pertaining to the treatment of human beings and their interactions. In 1951 the United Nations Convention relating to the Status of Refugees was adopted. The 1951 convention was limited to persons fleeing events occurring before 1st January 1951 within Europe. This convention was amended in 1967 to give it universal coverage. The 1951 Convention endorses a single definition of the term "refugee" in Article 1, the emphasis of this definition is on the protection of persons from political or other forms of persecution. A refugee, according to the Convention, is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion. The Convention is both a status and rights-based instrument and is under-pinned by a number of fundamental principles, most notably non-discrimination, non-penalization and non-refoulement. According to the Convention, refugees should not be penalized for their illegal entry or stay, cannot be forcefully expelled or returned and shall be provided with documentation, including a refugee travel document in passport form.

The New York Declaration for Refugees and Migrants of 2016 addresses the large movements of refugees and migrants. Among the commitments in this declaration are; ensuring that all refugee and migrant children are receiving education within a few months of arrival, preventing and responding to sexual and gender-based violence and commitment to support countries, rescuing, receiving and hosting large numbers of refugees and migrants. The declaration sets the Comprehensive Refugee Response Framework (CRRF), a call for greater support to refugees and their host countries of which Kenya has adopted.

The New York Declaration ushered in the Global Compact for Safe, Orderly and Regular Migration adopted by majority of the members states in 2018. The Global Compact on Refugees is a non-binding document that respects states' sovereign right to determine who enters and stays in their territory and demonstrates commitment to international cooperation on migration. It is aligned to target 10.7 of the 2030 Agenda for Sustainable Development that commits Member States to international cooperation to facilitate safe, orderly and regular migration.

The Global Refugee Forum brings together States, refugees, host communities, civil society organizations, private sector, international organizations, cities, municipalities and local authorities, academia and researchers, parliaments, and other stakeholders supporting refugees every four years to monitor the Global Compact. The first one was held in Geneva in December 2019, culminated in 1,400 pledges of financial, material, technical, and policy support and places for resettlement or other pathways to solutions. Kenya is an active participant in the Global Refugee Forum. The country has provided land for integrated refugee settlements in Kalobeyei and Ifo 2. Together with UNHCR, and the County governments, the KISED (2018-2022) was developed and successfully implemented with notable achievement including integration of health services with an NHIF health facility constructed in Kalobeyei that caters for both the refugees and host communities, advocacy for inclusion of refugees e.g. The Huduma Bill, which calls for every Kenyan from 6 years of age and foreign nationals, including refugees living in the country, to register for the unique personal identification (although the implementation was halted), and inclusion of refugees in the proposed National Unemployment Insurance Fund etc²⁰

3.1.2 Regional Conventions and Protocols

The OAU Convention adopted in 1969 governs the specific aspects of the refugee problems in Africa. The Convention binds the member states to protect refugees and asylum seekers under their jurisdiction, including from abuse by police, military, or other state agents; violence by host communities or local citizens; and retaliation by agents from refugee's home Countries. It provides for humanitarian approaches towards solving the problems of refugees, voluntary repatriation and provision of travel documents among others.

The African Charter on Human and People's Rights (Banjul Charter) adopted in 1981, provides that every individual is entitled to enjoyment of rights and freedoms recognized without any kind of discrimination. This charter is the framework for human rights in Africa.

Djibouti Declaration on Regional Conference on Refugee Education in IGAD Member States (2017), puts emphasis on the quality and inclusive education and aims at ensuring refugee self-sufficiency. The declaration also calls for continuous learning through Technical and Vocational Education and Training and Post-Secondary training as well as non-formal learning opportunities. These instruments prepare refugees for the success of future generations. The Ministry of Education (MoE) is one of the key stakeholders of the education of refugees and asylum seekers. The schools in the camps are registered under the Ministry of Education, they teach the national curriculum and all head teachers and principals are registered by the Teachers Service Commission (TSC)

The Inter-Agency Standing Committee (IASC) framework in relation to displaced persons provides guidance for achieving durable solutions following internal displacement in the context of armed conflict, situations of generalised violence, violation of human rights and natural or human-made disasters. Its overarching goal is to help international and non-governmental actors to better assist the government in dealing with humanitarian and development challenges resulting from Internal displacement. Further, the framework provides guidance to the affected countries who have the primary mandate to protect and provide humanitarian assistance to IDPs

The Kampala Declaration of 2019, commits Member States to provide jobs, livelihoods and Self-reliance for Refugee, Returnees and Host Communities in the IGAD region in line with the GCR. The African Union Protocol on Free Movement of Persons, Right of Residence and Right of Establishment adopted in January 2018, provides for the free movement of refugees and refugees' access to third-country solutions in the region.

The East Africa Community (EAC) has a draft EAC Common Policy on Refugee Management of which Kenya was actively involved in its development. The draft policy aims at harmonizing 17 key areas of refugee management²¹

3.1.3 National Legal and Policy Framework

The Constitution of Kenya 2010 (CoK, 2010) provides a progressive Bill of Rights and citizenship. The CoK provision for a foreigner acquiring citizenship through marriage is beneficial for refugees who marry Kenyans and seek to be recognized as citizens. Kenyan law on citizenship provides that a person who has been lawfully residing in Kenya for a continuous period of at least seven years and who meets other conditions prescribed in the relevant legislation may be naturalized. This law builds a strong case for the naturalization of refugees. Applicants for naturalization must have the ability to speak Kiswahili or a local language and the capacity to make a substantive contribution to Kenya's development as approving conditions among those provided for in the Kenya Citizenship and Immigration Act.

Kenya's legislation also contains provisions that protect stateless persons and persons at risk of statelessness. However, it does not pronounce safeguards to prevent statelessness at birth, as Kenya has not acceded to any of the Conventions on statelessness. Registration of Persons Act (2012) and the Births and Deaths Registration Act (2012) provide guidelines on who qualifies for registration in Kenya and it remains silent on the refugees. The Country, however, has legislation that provides for the registration of refugees in the Country.

Refugees Act (2021) provides for the recognition, protection and management of refugees in relation to the international and regional treaties. The Act recognizes both encampment and integration. The Act has made remarkable changes on the inclusion of refugees which include changes in policy on refugee economic inclusion, integration, refugee status determination, and the ability for refugees to contribute to Kenya's national and local economy. The Act states that refugees from EAC countries can decide to no longer be treated as refugees and use their status as EAC citizens instead. This is in accordance with the rights granted by EAC Treaty and Protocol.

21. [https://www.eala.org/uploads/C12342_\(1\).pdf](https://www.eala.org/uploads/C12342_(1).pdf)

The Kenya Vision 2030 aims to transform Kenya into a newly industrialized, middle-income country providing a high quality of life to all its citizens by 2030 in a clean and secure environment. The Vision 2030 aims to secure and guarantee the Bill of Rights which include civil, political, economic, social, and cultural rights for women, children, elderly, people living with disability and refugee rights. Vision 2030 is implemented through Medium Term Plans (MTPs) that is reflected within respective County Integrated Development Plans (CIDP) for Garissa and Turkana Counties.

The Kenyan Comprehensive Refugee Response Framework (KCRRF) is a refugee response strategy guided by principles of humanity and international solidarity with emphasis on the shift from humanitarian to development assistance. The framework seeks to achieve the objectives set out in the New York Declaration of Refugees under Annex 1. The core objective is to provide strategic solutions to the challenges experienced by refugees and the host communities in the Education, Water, Sanitation and Hygiene, Health and nutrition, Housing, Land, and Property, Livelihood, self-reliance and Social Protection, Environmental Management and Energy and Agriculture sectors in collaboration with the international community.

Transition from encampment to integrated settlement brings out the need for proper management and coordination to ensure both the host community and the refugees are benefiting from inclusion in national services and from aid programs. The Shirika Plan a replacement of the Marshal plan is built upon the Support for Host Community and Refugee Empowerment (SHARE) initiative, Kenya's Comprehensive Refugee Response Framework, the KISED and the GISED, and is aligned with the respective CIDPs. The multi-year plan prepared by a multi-stakeholder consultative approach aims at facilitating self-reliance, community-led economic development, and peaceful co-existence. It is based on the integrated area-based settlement plans supporting the local economic development and equitable access to services for an enhanced protection of environment and solutions affecting the communities. Key stakeholders include refugees, host communities, County Governments, line ministries, humanitarian and development agencies, international financial institutions, donor governments, the private sector, and civil society. The Shirika Plan will also contribute to various international and national commitments made by the Government of Kenya and other actors including the Sustainable Development Goals (SDG) and the AU Agenda 2063.

3.1.4 Kenya's Refugee Framework

Refugee camps are temporary facilities built to provide immediate protection and assistance to people who have been forced to flee their homes due to war, persecution or violence. In 2012 the government of Kenya directed that all refugees and asylum seekers, including those residing in urban areas, to relocate to designated camps, which is against a range of international and regional instruments that provide for and facilitate refugee integration²². The encampment and restriction of movement policy directive was to counter the increasing incidences of terrorist attacks. The encampment policy constraints refugees from leaving the camps without permission, thus interfering with their social and economic activities. With support from the United Nations and efforts by the government and the refugee community, the security situation in the camps and the country at large realized great improvements as threats from terrorism were reduced. As a result of the progress realised, the government shifted its approach to refugee management from encampment to integrated settlements. So far two integrated settlements have been established; in Kalobeyei in Turkana County and Ifo 2 in Garissa County.

Although the law allows refugees to be issued with work permits, information obtained from key informants indicates that it is extremely difficult and only those with very specialized skills or investments may be successful to obtain the class M permits. Among the Key informants with knowledge on the Class M permit, none of them is aware of any refugee that has succeeded in acquiring it. However, they are able to engage in trade within the camps particularly in small-scale trading as well as in formal employment by the implementing partners as incentive workers.

3.1.5 Internally Displaced Persons in Kenya

The prevention, protection and assistance to internally displaced persons and affected communities Act 2012 provides for the prevention, protection and provision of assistance to internally displaced persons and affected communities. The legislation is designed to implement the Great Lakes Protocol of 2004 and the United Nations Guiding Principles on Internal Displacement both of which focus on the protection and assistance of IDPs. This Act ensures that the rights and freedoms as outlined in the Bill of Rights of the Constitution are guaranteed and also provides safeguards against displacement. Through this Act the Government is responsible for creating favourable conditions and offering durable and sustainable solution for IDPs, while respecting their right to make informed and voluntary decisions regarding their return, local integration or resettle elsewhere within the country.

22. Incoherent policies and contradictory priorities in Kenya | Forced Migration Review (fmreview.org)

The Act established a committee known as the National Consultative Coordination Committee on Internally Displaced Persons to address issues relating to internal displacement.

3.2 Strengths and Gaps in the Kenyan Refugee Legal and Policy framework

3.2.1 Strengths

Under its CRRF, Kenya outlined three pillars, namely:

1. Enhancing the protection space for asylum seekers and refugees;
2. Supporting immediate and ongoing needs for asylum seekers, refugees and host communities;
3. Promoting regional co-operation and international responsibility sharing in the realization of durable solutions for refugees.

In addressing the above core areas, a number of challenges are identified as a hinderance to refugee self-reliance, namely:

1. Lack of documentation and non-recognition of issued documentation by some sectors of the economy;
2. Legal and policy barriers on access to work opportunities including freedom of movement, access to work permits, business licenses and other documents;
3. Inadequate access to skills training;
4. Financial exclusion;

The CRRF proposes strategic responses to eliminate the above-named challenges with the hope of enhancing the ability of refugees living in Kenya (both camp and urban) to attain self-reliance. The Refugees Act 2021 elevates the status of the refugee identity card to a similar status as the alien card thereby providing a legal basis for the recognition of the document for the purpose of access to both public and private services. The Act conveys a clear intent to foster refugee self-reliance in accordance with the commitments made under the CRRF. Its provisions seek to streamline the issuance of documents that are crucial in enabling refugees participate in livelihood activities, access financial and other services from both government and private institutions and most importantly give refugees a voice in the formulation of development plans.

3.2.2 Gaps and challenges in implementing the legislative frameworks

The following are some of the gaps that exists in the implementation of the legal framework;

1. **Ineffectual Enforcement of the Right to Work:** While the Refugee Act of 2021 acknowledges the right of refugees to work, the absence of corresponding mechanisms for compliance, enforcement, and remedies renders this right illusory.
2. **Limited Access to Services:** Refugees encounter challenges when attempting to access services, including financial and social services. These challenges arise from the non-recognition of refugee documents by various private and public service providers. This lack of recognition may result from service providers' unawareness of refugee documents, the absence of connections between different government databases, or refugees' limited knowledge of their rights associated with the refugee card. Although recent efforts by UNHCR and NGOs led Safaricom, mobile operators, Equity, and Kenya Commercial Bank (KCB) to recognize the refugee card, refugees often report being required to provide additional documents, such as certificates of good conduct, to prove their identity when dealing with banks and telecommunication companies. In addition, other banks have not been made aware of the legal status of the refugee card thus may have contributed to their not venturing into the refugee markets. As a result, the refugees' choice of financial services is limited thus inhibiting their financial inclusion.
3. **Encampment Policy Continuation:** The Refugee Act is ambiguous regarding the freedom of movement and continues the encampment policy by designating specific areas for refugee settlement. This ongoing encampment policy significantly restricts refugees' ability to access and engage in livelihood activities.

- 4. Qualifications Approval Requirement:** The Act mandates that refugees have their qualifications approved by the Kenyan National Qualifications Authority, which certifies and harmonizes educational qualifications in the country. This poses several challenges: (i) refugees fleeing conflict may not have their educational documents; (ii) refugees need movement passes to access the Authority in Nairobi; (iii) certain professions, such as engineering, nursing, medicine, and law, require members to take professional exams or undergo training before registration, incurring additional costs that many refugees cannot afford. Furthermore, the Act introduces a bias against refugees from non-East African Community (EAC) member states like Ethiopia and Somalia, which constitutes a significant portion of refugees in Kenya. Additionally, the Act limits refugees' participation in development planning to designated "refugee areas," contradicting the integration and inclusion policy.
- 5. Challenges Posed by Kenya-Somalia Relations:** The evolving relationship between Kenya and Somalia creates challenges in implementing the legal framework. Periodically, Kenya has had to close its border with Somalia due to security threats and actual attacks by Al-Shabaab within Kenya's borders, which further complicates the framework's implementation.

FINDINGS ON LEVEL OF AWARENESS OF RIGHTS

4.1 Introduction

This chapter presents the findings based on quantitative and qualitative analysis of the level of awareness of rights and legal status among refugees, asylum seekers and IDPs and is guided by the study objectives.

4.2 Background of the Respondents

From the study, most (61.4%) of the respondents were from Turkana County, comprising of refugees (56.6%), asylum seekers (25.1%) and IDPs (18.4%). In Garissa County, 93% of the respondents were refugees while 7.1% were asylum seekers. This assessment found that most of the respondents (63%) were female with a distribution cutting across asylum seekers (51.9%), IDPs (73.5%) and refugees (64.2%). The study further established that most of the respondents were not engaged in any occupation, with the largest being among the IDPs. This means that the refugees and Asylum seekers are more likely to be involved in income generating activities compared to the IDPs. Unemployment is high among refugees and most refugees live under the internationally recognized poverty line of a daily average income of USD 1.98 per person per day²³

In terms of educational level, a majority of the respondents have secondary education or higher. Most of the respondents are married, with about a third being single (either divorced, never married or widowed). The findings further established that majority of the respondents are the main household providers. Table 3.1 provides background information about the study population.

Table 3. 1: Distribution of Background Characteristics of Study Population

		Asylum seeker (n=79)	IDP (n=49)	Refugee (n=307)	Total (n=435)
County	Garissa	7.1%	0.0%	92.9%	38.6%
	Turkana	25.1%	18.4%	56.6%	61.4%
Gender	Female	51.9%	73.5%	64.2%	63.0%
	Male	48.1%	26.5%	35.8%	37.0%
Economic Activities/ Occupation	Business/ Trade	8.9%	2.0%	22.1%	17.5%
	Employment	30.4%	0.0%	14.7%	15.9%
	Farming	7.6%	0.0%	12.7%	10.3%
	None	50.6%	93.9%	46.9%	52.9%
	Others	2.5%	4.1%	3.6%	3.4%
Education level	College	19.0%	16.3%	19.9%	19.3%
	Bachelor degree	50.6%	18.4%	28.7%	31.5%
	Secondary	29.1%	63.3%	48.9%	46.9%
	Primary	0.0%	2.0%	2.3%	1.8%
	None	1.3%	0.0%	.3%	.5%
Marital status	Divorced	1.3%	6.1%	5.9%	5.1%
	Married	74.7%	75.5%	70.4%	71.7%
	Separated	1.3%	0.0%	.7%	.7%
	Single, never married	20.3%	4.1%	14.7%	14.5%
	Widowed	2.5%	14.3%	8.5%	8.0%
House provision	Yes	81.0%	67.3%	76.2%	76.1%
	No	19.0%	32.7%	23.8%	23.9%

4.3 Registration Status

The Kenyan laws governing refugees, asylum seekers and IDPs all provide for their right to be registered unless they contravene provisions of the law that would disqualify them as refugees, asylum seekers or IDPs. Among the refugees and asylum seekers only nationals of South Sudan enjoy the prima facie status²⁴. All other Nationalities have to go through the Refugee Status Determination (RSD) process before they can be registered as refugees. According to the members of the community who were interviewed, when they come in, they are expected by the law to register with the DRS office. In the absence of reception centers along the borders and the migration corridors, they get to the camps before their details are recorded. Once they get to the camp they are advised by their hosts, or the block leaders to visit the DRS office for registration and what will be required. At this stage details of each family member and unaccompanied minors are taken. They are issued with a manifest which makes them eligible for humanitarian assistance from UNHCR. However, without the manifest they can have access to treatment at the health facilities in the camp and to education. Those with the manifest are issued with the UNHCR ration card - “bamba chakula” card.

“The process was not easy. The process was long as verification took long but once we were registered, we were allocated land at the camp, and we are living without any discrimination”.

Male FGD participant Kalobeyei

The next step is the profiling-finger prints of all applicants for purposes of screening. This is to ensure that locals do not register as refugees. They are then invited for an RSD interview. The RSD interview is what determines if they will be granted refugee status or not. They, however, have a right to appeal. Once they have a manifest, they are eligible for legal assistance from organizations such as RCK and NRC that provide assistance to asylum seekers to get legal identity.

According to the Refugees Act, “a person who has submitted an application for refugee status in accordance with the Act shall be issued with a temporary pass valid for ninety days and it shall be evidence that the person has applied for refugee status in Kenya”. Based on information from the respondents this process takes long, even up to 2 years thus for the majority, the temporary pass expires way before they get the refugees ID. Causes of delay can be from both the applicants and DRS. For instance, it was reported that the applicants may fail to present the documents as required. On the part of DRS according to the DRS official interviewed, the interviewing panel is based in Nairobi and has scheduled meetings, which limits the number of people they can interview. Other sources of delay from DRS are operational such as in recent months, they had problems with internet connectivity which caused them to halt the registration as they sourced for a new provider. They also had problems of insufficient personnel as a result of the back log, occasioned by closure of border and registration but they have since employed more personnel.

Majority of the respondents (asylum seekers and refugees), indicated that there are no official reception centers to assist asylum seekers at the border points and within Dadaab camp. Their first contact is usually with a sympathizer, who might be a refugee or asylum seeker themselves who hosts them and advises them on what they are required to do. This is a gap that might lead to further delays in the processing if the correct information is not passed on to them. At the camp, the block leaders are responsible for identifying newcomers in their blocks, relaying messages from DRS, and they also guide the newcomers on the registration process.

The Refugees Act 2021 states that “the Commissioner shall ensure availability of reception officers at designated entry points provided that where there are no designate reception officers, the immigration officers or other government officers stationed at the entry points shall act as reception officers.”

Those that succeed in the RSD process are issued with refugee cards which become their legal identification document. With the refugee card they qualify for land allocation and relocation to a third Country. The law provides for the entire process to take a maximum of 6 months.

In Kakuma the situation is different as DRS operates a reception centre in Kitale, where the asylum seekers are received and screened. The challenge however is that some refugees who cross in through the unofficial border points closer to Kakuma find their way directly to the camp.

NGOs such as NRC and RCK operating in the camps provide legal information, counselling and legal aid to fill in the gaps in the registration process. They ensure that the asylum seekers and refugees are aware of the registration process, are able to present all the documentation required, and also help them to argue their cases during the screening processes. They also try to seal some gaps such as facilitating the civil registration office, which operates from Garissa town and Lodwar, to work from within the camp quarterly to facilitate civil registration.

24. <https://yorkspace.library.yorku.ca/server/api/core/bitstreams/4ca1d1fc-7429-421d-8b03-e74b47aba601/content>

The Refugee Act 2021 provides that “No person shall be refused entry into Kenya, expelled, extradited from Kenya or returned to any other country or be subjected to any similar measure. Asylum seekers who enter the country through places, other than gazette entry points shall immediately report to the nearest government administrative office for further assistance.”

According to the provisions of the Kenya Citizenship and Immigration Act, 2011 no proceedings shall be instituted against any person or any member of his or her family in respect of his or her unlawful entry or presence within Kenya. However, despite these progressive provisions, the government has on some occasions closed the borders and the registration mainly as a result of security concerns. In 2020, all borders were closed due to COVID-19, as a measure to prevent the spread. Whereas other borders were opened with the lifting of the COVID-19 measures the Somalia border remains closed because of insecurity and registration was also temporarily halted until March 2023 when it was reinstated. Border closure does not stop the asylum seekers from entering the country. These border and registration closures have created a backlog leading to long waits for documentation. For instance, the DRS reported that they had profiled 18,000 new arrivals by February 2017, 105,000 by November 2022 and 135,000 by April 2023.

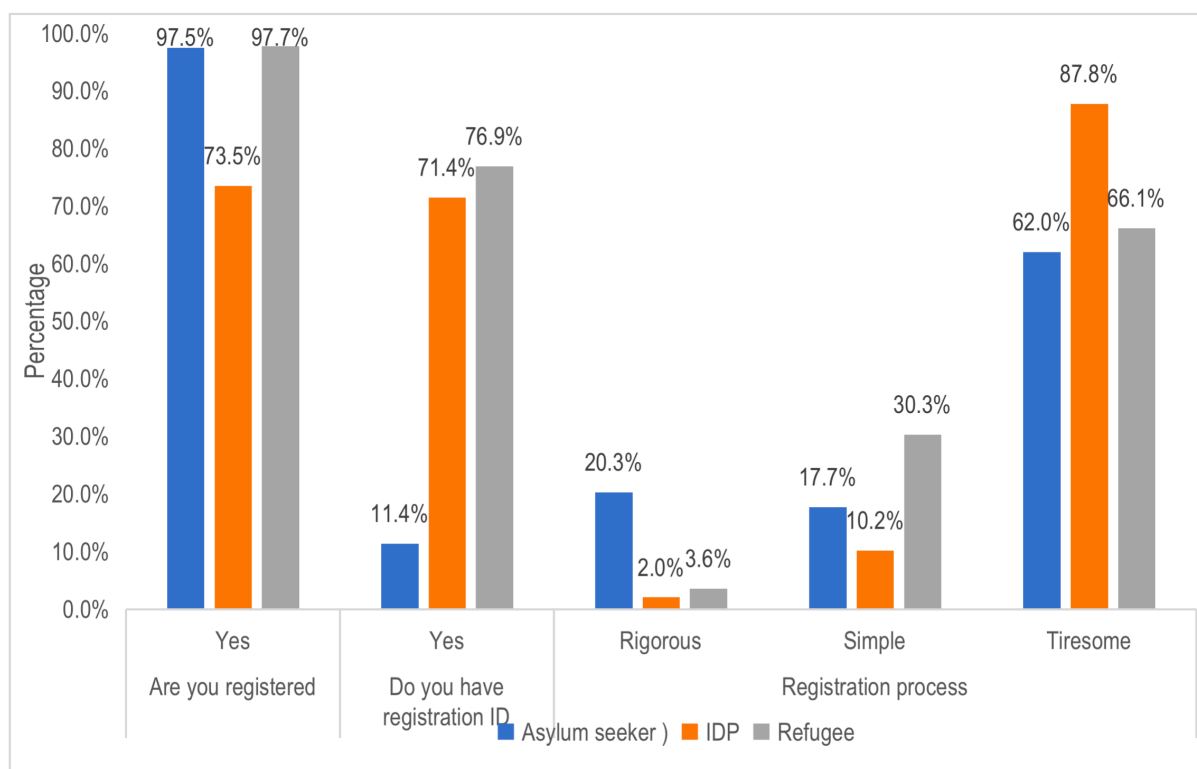
The IDPs respondents also indicated that the registration process is tedious, with the verification process taking very long. There are two categories of IDPs; those in camps and those that are integrated, but the registration process is the same for both groups. Before registration they did not qualify to be allocated land for resettlement though they received humanitarian assistance such as food from NGOs operating within the area.

“The renewal process is also tedious. The card expires after five years. People wait for up to even 6 months before they can get their renewed card. With an expired card you cannot move from Ifo to Dagahaley for example, the police will arrest you”.

Female FGD participant Ifo Camp

As presented in Figure 3.1 below, among the respondents, 97.5% are registered as asylum seekers, 73.5% as IDPs, and 97.7% as refugees. Despite the high number of asylum seekers who have registered, only a handful (11.4%) of them had received their registration documents. The story is different on the Refugees and IDPs side as most IDPs (71.4%) and refugees (76.9%) have received their registration IDs. The study also established that the registration process was quite tiresome. This is emphasized by the fact that 62.0% of asylum seekers, 87.8% of IDPs and 66.1% of refugees all confirmed that the registration process was tiresome.

Figure 3. 1: Proportion of Registered Respondents and Process

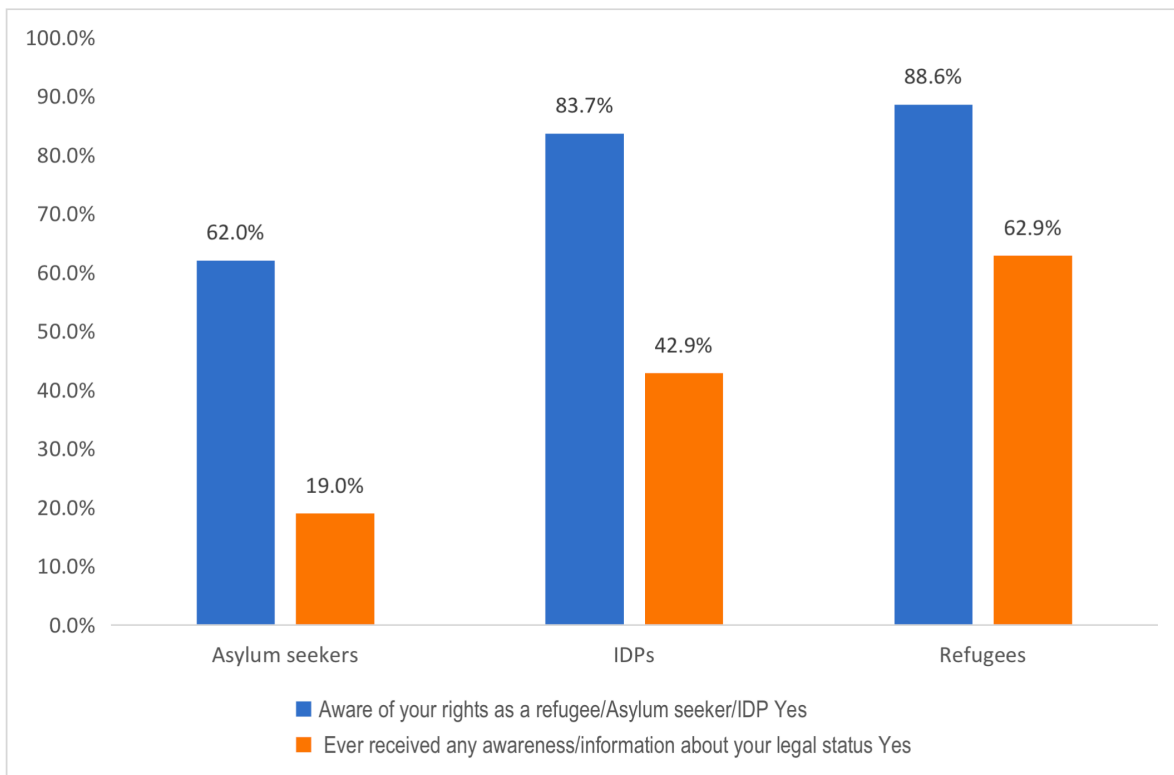


4.4 Awareness of Rights

Organizations working in the camp that participated in this study noted that awareness of rights among refugees, asylum seekers and IDPs is key in understanding their legal status. Organizations have channels for creating awareness among the community and also have feedback channels such as using community leaders, toll-free numbers, partners and Field post (UNHCR). The results presented in Figure 3.1 below show that most asylum seekers (62.0%), IDPs (83.7%) and refugees (88.6%) are aware of their rights.

Although the level of awareness of rights on the refugees' side can be attributed to them receiving awareness/information about their legal status from various platforms, the IDPs and asylum seekers recorded that they had received minimal information about their legal status. This is shown by the fact that 62.9% of refugees confirmed that they have information on their legal status while 81.0% of asylum seekers and 57.1% of IDPs recorded that they had not received any information on their legal status. This low level of awareness on the legal status of asylum seekers could be partly to blame for the delays reported by DRS on the registration process and also the tedious process as reported by IDPs.

Figure 3. 2: Levels of Awareness of Rights



4.4.1 Level of Awareness of the Rights

Table 3.2 below presents the results on the level of awareness of rights among the respondents. The findings show that their primary right is the right to food (86%), followed by the right to shelter (77%), health (75%), and education (63%). The least rights that the respondents are aware of include rights to associate (20%), do business (25%), justice (26%), freedom of movement (29%) and employment (35%). The refugees, asylum seekers and IDPs are more aware of the rights to the very basic needs which would mean they are more concerned with their basic survival. Whereas the refugees and asylum seekers who participated in the focus group discussions expressed their displeasure with the restriction on movement outside of the refugee camps which they indicated is a challenge particularly among those who are engaged in business, less than 30% were aware that they have a right to movement.

Table 3. 2: Level of Awareness of Rights Among Refugees, Asylum Seekers and IDPs

Which Rights are you aware of	Category			Total
	Asylum seeker	IDP	Refugee	
Right to food	95.9%	73.2%	86.0%	85.9%
Rights to shelter	83.7%	61.0%	77.6%	76.5%
Rights to health services	51.0%	65.9%	80.5%	74.9%
Rights to Education	59.2%	22.0%	70.2%	63.3%
Right to water and sanitation	20.4%	56.1%	45.6%	43.4%
Rights to employment	22.4%	41.5%	36.8%	35.4%
Freedom of movement	18.4%	39.0%	29.8%	29.3%
Rights to access justice	22.4%	24.4%	26.8%	26.0%
Rights to do business	16.3%	43.9%	23.5%	24.9%
Rights to association	16.3%	22.0%	20.6%	20.2%

4.4.2 Sources of Information on the Rights

The findings in Table 3.3 below show the different platforms that have been used to convey information/ awareness on the legal status of asylum seekers, IDPs and refugees. It is established that most asylum seekers (86.7%), IDPs (100%) and refugees (86.0%) majorly got awareness on their rights from the community leaders, followed by partner agencies and media (TV, Radio and newspapers).

Table 3. 3: Source of Information about Rights

Sources of Information	Category			Total
	Asylum seeker	IDP	Refugee	
Community leaders	86.7%	100.0%	86.0%	87.3%
NGOs	60.0%	76.2%	35.2%	40.6%
TV/ Radio/Newspapers	66.7%	76.2%	34.2%	40.2%
Friends and relatives	26.7%	23.8%	31.6%	30.6%
Social media (Facebook, Twitter etc)	13.3%	0.0%	15.5%	14.0%
Public Forums	6.7%	9.5%	8.3%	8.3%
Government officials	13.3%	4.8%	7.3%	7.4%
Others	0.0%	0.0%	4.1%	3.5%
Rights to do business	16.3%	43.9%	23.5%	24.9%
Rights to association	16.3%	22.0%	20.6%	20.2%

4.4.3 Top Priority Areas

The findings in Table 3.4 below show the areas of priority in the households as per the respondents. The study established that food was a top priority among the asylum seekers (91.1%), IDPs (89.8%) and refugees (92.5%). The second topmost priority was health (81%), followed at a distant third by housing (69%). These findings echo the findings presented in Table 3.2 on the rights to awareness where food was highly ranked and employment ranked low. This could be indicative of a deeply rooted dependency system raising the need for investment towards the economic inclusion. These priority areas are further discussed below.

Table 3. 4: Priority Areas among the study population

Priority areas	Category			Total
	Asylum seeker	IDPs	Refugee	
Food	91.1%	89.8%	92.5%	92.0%
Health	68.4%	57.1%	87.9%	80.9%
Housing	75.9%	79.6%	64.8%	68.5%
Security	60.8%	36.7%	32.9%	38.4%
Education	31.6%	20.4%	41.7%	37.5%
Employment	3.8%	8.2%	6.2%	6.0%
Information	0.0%	0.0%	3.9%	2.8%
Others	0.0%	4.1%	0.3%	0.7%
Rights to do business	16.3%	43.9%	23.5%	24.9%
Rights to association	16.3%	22.0%	20.6%	20.2%

Food

According to the United Nations Committee on Economic, Social and Cultural Rights “the right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement”.

Displacement not only affects people’s health but also their self-reliance, and physical, mental, and socioeconomic well-being. In response to desperate situations, many people, especially women and girls, resort to coping strategies that are nutritionally harmful, such as skipping or reducing meals or opting for less nutritious food. According to literature these negative health effects are worse for women who are pregnant or lactating. The findings above place food as the top most priority among refugees, asylum seekers and IDPs.

UNHCR provides food tokens - bamba chakula cards to ease access to food by refugees and asylum seekers. However, it was reported by the beneficiaries, their leaders and some key informants that the food rations have been reduced and continue to reduce. As a result, they are forced to go hungry some days or share whatever little they have with their neighbors. The women FGD group reported that the health status of their children has been affected due to reduced rations, yet there are households that depend entirely on UNHCR to meet their food needs.

According to information obtained from the IDPs, they have no provisions for food assistance of any form unless their household meets the requirements to qualify for the Hunger Safety Net Program. They are not restricted in movement or economic engagement thus making it much easier for them to obtain food as compared to the refugees and asylum seekers. This could explain the variation in the awareness of their rights to food, 73% among IDPs ,96% and 86% among asylum seekers and refugees respectively as indicated on Table 3.2 above.

“Food support from UNHCR is on the decline from 100% to 80% and now 60%”.

Key Informant

Health

The Refugees Act 2021 provides that “the Commissioner shall, so far as is practicable, ensure that there is shared use of public institutions, facilities and spaces between the refugees and the host communities.” Together with the Marshal Plan now replaced by the Shirika Plan the government in collaboration with UNHCR and donors have initiated the development of infrastructure for the benefit of refugees and host communities.

Access to Health Services

Findings presented in Table 3.6 below show that most asylum seekers (81.0%) and refugees (49.5%) receive health services from local UNHCR facilities whenever they get ill while most (98.0%) of IDPs get health services from public health facilities.

Table 3. 6: Access to Socio-cultural wellbeing

Locations	Category			Total
	Asylum seeker	IDP	Refugee	
Local UNHCR Dispensary	81.0%	2.0%	49.5%	49.9%
Public Health Facility	11.4%	98.0%	21.5%	28.3%
Others	11.4%	2.0%	28.7%	22.5%
Spiritual healers	1.3%	0.0%	6.5%	4.8%
Private Health Facility	1.3%	2.0%	3.9%	3.2%
Traditional healers	0.0%	0.0%	3.9%	2.8%
Herbal Practitioners	1.3%	0.0%	1.0%	0.9%
Others	0.0%	4.1%	0.3%	0.7%
Rights to do business	16.3%	43.9%	23.5%	24.9%
Rights to association	16.3%	22.0%	20.6%	20.2%

According to findings from the field interviews, the refugees are provided with free health care from facilities in the refugee camps. Cases that cannot be handled at the refugee camps are referred to county or national referral hospitals. The challenges in terms of accessing health care that were raised by the respondents include:

1. Facilities are not adequately equipped to handle the health issues brought to them;
2. Long waiting queues and long walks to access the health facilities due to closure of some facilities in the camps;
3. Restriction on movement outside the camp.
4. Restrictions by UNHCR on referral of chronic illnesses.

Psychosocial Health

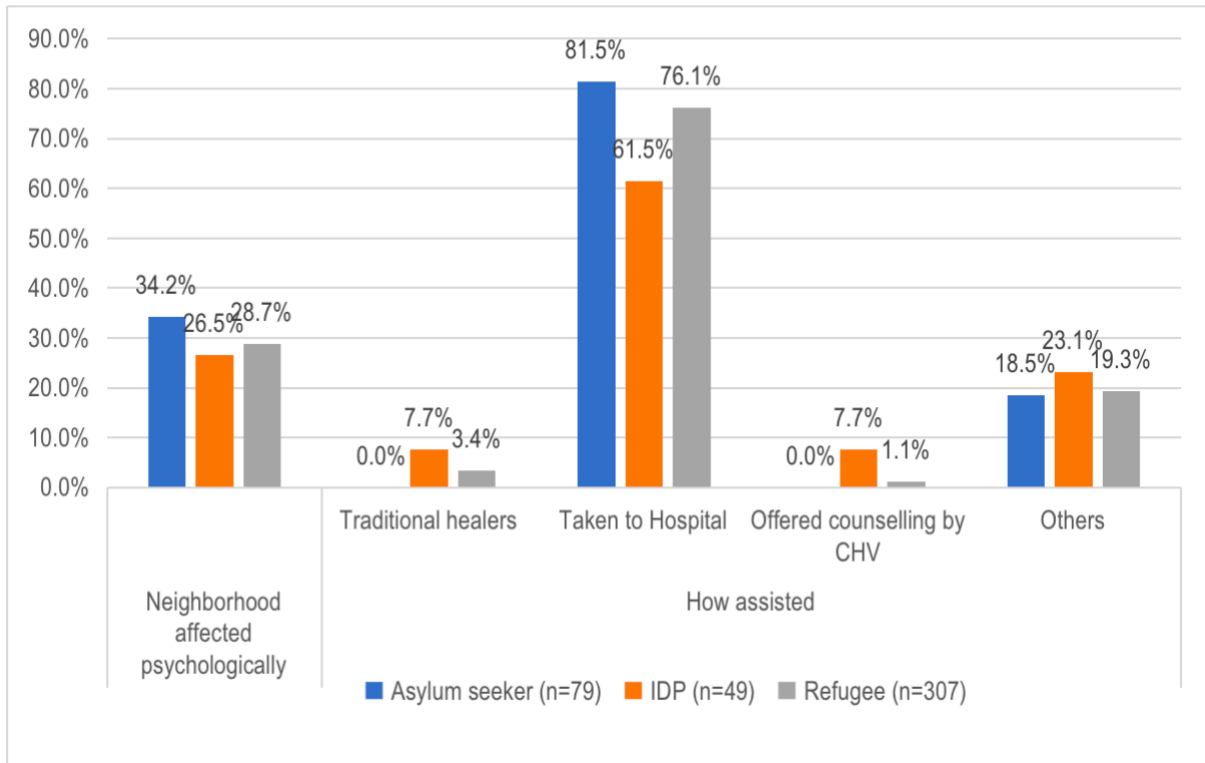
Compounded with difficult living conditions, socio-cultural barriers and uncertain employment situations, refugees are at a higher risk of depression, anxiety and post-traumatic stress disorder (PTSD). Children in refugee camps are also at risk of developing emotional and behavioural problems. Due to mass displacement, traditional support structures such as those from extended family members and community networks are broken, leading to challenges with coping mechanisms and resilience.

The results presented in Figure 3.3 below show that about one-third of the respondents are aware of someone within their neighborhood who has suffered from psychological problems. The majority of those affected sought assistance from a health facility according to 75.8% of the respondents.

The Kenya Mental Health Policy 2015-2030²⁵ was developed to reform mental health needs in the country with one of the key objectives being to integrate mental health services within the Kenya Essential Package for Health (KEPH). Despite these efforts by the government to reform the mental health environment in Kenya more broadly, the policy fails to acknowledge the need for specific support for vulnerable groups such as refugee populations.

25. Kenya-Mental-Health-Policy.pdf (universalhealth2030.org)

Figure 3. 3: Psychosocial support



Sexual and Gender Based Violence

Sexual and gender-based violence (SGBV) is a huge problem in refugee settings. SGBV includes: acts of physical, emotional and sexual violence; harmful traditional practices such as female genital mutilation (FGM); forced and early marriage; sexual exploitation and abuse.

The results in Table 3.7 below show that almost a quarter of the respondents know of someone that has experienced Sexual and Gender Based Violence (SGBV). It is established that majority of the SGBV cases are handled at community level by the community leaders. Victims of SGBV usually don't report the cases to the authority or when they do so, they report anonymously, and do not proceed with the case for fear of victimization by the perpetrator, his/her family or members of the community. For this reason, community resolution mechanisms have become the better option. From the FGDs it was evident that they know what to do in case they are victims or know of someone who is a victim. Knowledge of SGBV is transmitted to them by NGOs through the camp leaders, women, men and youth groups and the health volunteers. They are provided with a toll-free number to call in the event one is abused. However, it was reported that most SGBV cases are resolved using community settlement mechanisms such as the elders- who are all male. Though majority of the women felt that whereas the system will resolve the issue at the community level, i.e. mostly the perpetrator will pay an agreed sum of money to the victim's family the victim herself does not get the justice that such crimes deserve. In some cases, the perpetrator is required to marry the girl he has defiled or raped. This according to the majority of the women whereas is seen as safeguarding the honor of the girl it ends up tormenting the girl for life.

Table 3. 7: Awareness SGBV

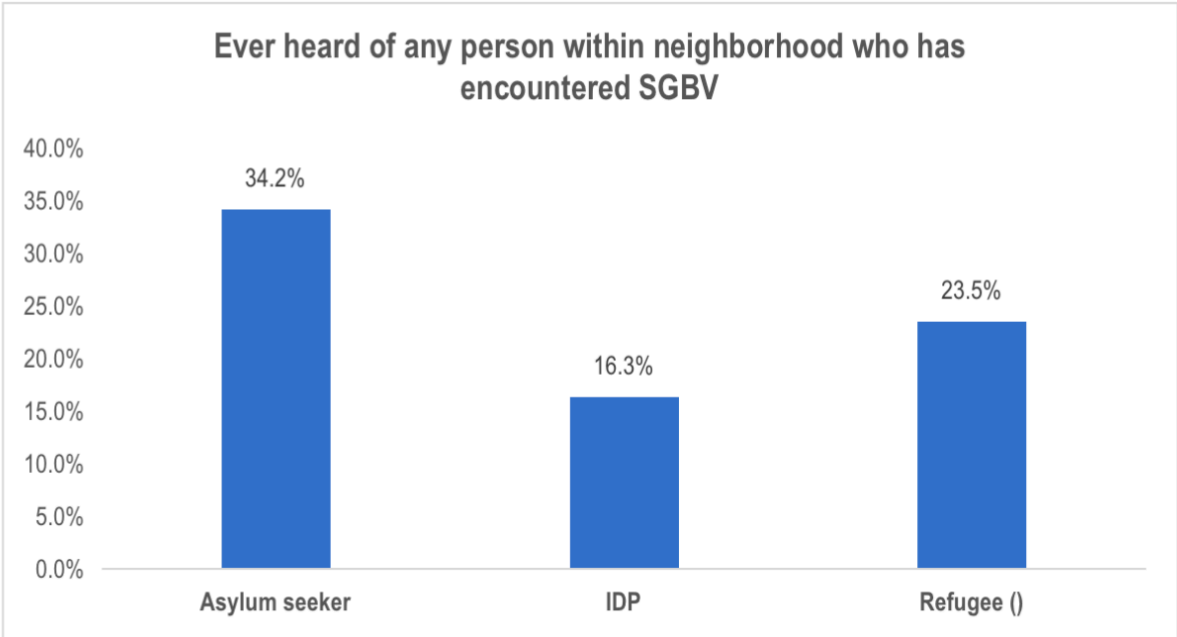


Figure 3.4: Awareness SGBV

- Education**

According to the field findings education was ranked among the least of the refugees, asylum seekers and IDPs needs with 32% of asylum seekers, 20% of IDPs and 42% of refugees rating it as a top priority (Table 3.4). The Kenyan Constitution (2010) and the Basic Education Act (2013) stipulates access to education as the right of every child in Kenya, including non-citizens. Majority of the refugee and asylum-seeking children of school age attend schools located in the camps and Kalobeyei settlement with a few cases getting a chance to join the government secondary school within and outside the county. The camp offers technical and vocational training. Those that meet the minimum requirements to join universities locally or abroad get the opportunities to continue with higher education. The schools teach the Kenyan curriculum and learners sit for the Kenya National Examinations. The schools are under the jurisdiction of the MoE subcounty office although they are fully financed by UNHCR and partners. MoE provides curriculum support e.g. all camp-based teaching personnel have been trained on the competency Based Curriculum. The government has a Draft Education Policy²⁶ for the Inclusion of Refugees and Asylum Seekers in education in line with the international, regional and national laws, protocols and frameworks for refugees.

According to the FGD participants and key informants, all children whether registered or not have access to education. At the primary level, the children are restricted to schools within the refugee camps. However, at the secondary level and beyond they are able to attend schools outside the camps and anywhere in the country where they are offered placement. UNHCR processes movement permits from DRS for them. Parents are also provided with movement permits to visit the children schooling away from the camp and to attend parent’s meetings. UNHCR is responsible for the school levies. No child is denied education on the basis of poverty or any other grounds of discrimination. The NGOs in the camp provide technical and vocational training for children that do not make it to join the national universities. UNHCR and other organizations offer scholarships to the refugees to study abroad. However, all is not smooth. The unregistered asylum seekers in standard 8 or form 4 cannot register for national exams as the Kenya National Examination Council requires a birth certificate or refugee registration to be registered as a candidate.

Whereas there are no restrictions in access to education by refugees and asylum seekers, UNHCR reports that not all school age children attend school. Only one-third access secondary education and less than one-sixth attend post-secondary education. Whereas primary school attendance is better compared to secondary and tertiary attendance, it is still way below the universal standards²⁷

26. Learning together: Inclusive education for refugees in Kenya | IIEP-UNESCO
 27. Education – UNHCR Kenya

“If a child comes into the camp today they can start attending school even tomorrow, they do not have to be registered. The problem would arise if the child is not registered as a refugee and has to register for the national examinations. This is because the child needs some form of identification to register. For the Kenyan students they use the birth certificate”.

Key Informant, Dadaab

4.5 Access to Economic Opportunities

The Refugees Act 2021 entrenches economic inclusion of refugees and asylum seekers. According to the Act, refugees, “shall have the right to engage individually or in a group, in gainful employment or enterprise or to practice a profession or trade where he/she holds qualifications recognized by competent authorities in Kenya”.

Refugees face a range of political, policy, and economic barriers which hinder their full integration into Kenya’s labour market. For instance, all the respondents indicated that refugees must apply for a Class M work permit to be able to get employment. The requirements to qualify for this permit are tedious thus disqualifying and discouraging many refugees and asylum seekers from applying. Only 4.9% of the refugees interviewed indicated they have a work permit and only 4.6% of refugees and 1% of asylum seekers indicated they have access to work outside the camp (Table 3.5). They are mostly engaged in the labour market as entrepreneurs, unskilled labour and incentive workers.

The IDPs interviewed indicated that they are limited in terms of getting employment or participating in business due to hostility from the host community. It is no wonder that employment and business are not presented as priority areas.

Among the asylum seekers 4% indicated that employment is a priority need, 6% among refugees and 8% among IDPs. Only 22% of asylum seekers, 37% of refugees and 39% of IDPs were aware of their right to employment and 16% asylum seekers, 25% of refugees and 44% of IDPs were aware of their right to do business (Table 3.2). Slightly more than half (51%) of refugees had access to work outside the camp while 14% of refugees, asylum seekers and IDPs have access to online work. More than half of the refugees (58%) and IDPs (65%) can register or own a business (Table 3.5).

Movement restriction that requires the refugees and asylum seekers to acquire a movement pass if they have to move out of the refugee camps has also restricted their economic participation. An individual application for a movement permit takes an average of one to two weeks, with some delaying up to even one month. This forces the businessmen and women to use middlemen to source for them goods from Garissa and Nairobi. This increases their cost of doing business and reduces their profit margins. They also risk losing their money as reported by some of the participants in the FGDs. Quite a number of business people noted to have given money to middle-men to source for them goods only for the person to disappear with their money.

Refugees have shockingly low levels of employment compared to the surrounding host community in the project area and the Country at large. Easing restrictions on refugees’ capacity to work and providing easy-to-access information can translate into increased participation in the labor market. Engaging the private sector can further enhance the labour market opportunities for both communities.

There is great economic potential in the refugee camps emanating from businesses run and owned by refugees and asylum seekers, e.g., Kakuma is home to more than 2,500 businesses and an economy worth about \$16.5 million as of 2017²⁸. The private sector has a crucial role to play in addressing the welfare of refugees. Refugees and asylum seekers have limited access to financial institutions and credit facilities mainly due to lack of the required documentation. For instance, study established that roughly half (52.0%) of the respondents have registered SIM cards, of which a one in five (19%) are asylum seeker and 58% are refugees. Mobile money is the most widely used financial product thus the low numbers of those with access is worrying. It is not until recently that Safaricom and mobile operators recognized the refugee ID card as a legal registration document, this was after lobbying by UNHCR and NGOs. This could be partly the reason why the respondents indicating they have access to Sim Card is low.

This study further established that about one in five (20%) of the respondents have a bank account while 6% of asylum seekers interviewed and 17% of refugees can access a cooperative society. Among the IDPs 4% can access a cooperative. These figures are low particularly in a population whose predominant economic activity is trade. Interviews with one of the local financial institutions indicated that refugees have the rights to operate a bank account and even access loans so long as they have the required registration documents such as the refugee ID, KRA PIN certificate and a police clearance certificate (certificate of good conduct). Findings from the interviews indicate that there are on going efforts by UNHCR and partners to make it possible for refugees and asylum seekers to access financial services. For instance, UNHCR and partners have negotiated with Kenya Commercial Bank (KCB) and Equity Bank to recognize the refugee

28. <https://www.cipe.org/blog/2023/07/14/call-to-action-refugee-financial-inclusion-in-kenya/>

ID as an official identification document. They have negotiated with the banks to tailor make financial products to suit the special circumstances of the refugees and asylum seekers. For example, Equity Bank mostly lends money to refugees through risk-partnerships with organizations²⁹ UNHCR and partners also train women and youth groups on table banking and support Village Savings and Loans Associations (VSLA's) which are registered by the county government. Some organizations are offering credit facilities to the refugees and asylum seekers

“It is not easy to get a permit to work. There are refugees who are qualified as teachers and other professions. They are employed by the NGOs but they are not paid the same as the Kenyans. They are employed as incentive worker, only given a stipend”.

Male FGD Participant, Kalobeyei

“It is difficult for us to get jobs. We compete for the same jobs and business opportunities with the host community, who feel we are taking their opportunities”.

Table 3. 5: Distribution of Access to Economic Activities

4.6 Co-existence with the Local Community

Those who have a...	Asylum seeker	IDP	Refugee	Total
Registered SIM card to your name	19.0%	65.3%	57.7%	51.5%
Right to start or register own business	17.7%	34.7%	55.7%	46.4%
Bank account	8.9%	12.2%	23.8%	19.8%
Do you have the right to own or rent a house?	3.8%	51.0%	14.0%	16.3%
Access to employment services such as online platforms and agencies	3.8%	4.1%	18.2%	14.0%
Business permit	6.3%	4.1%	16.9%	13.6%
Right to be a member or have access to cooperatives society	6.3%	4.1%	16.6%	13.3%
Access to loans or any financial services	3.8%	4.1%	14.3%	11.3%
Right to work outside the camp	1.3%	51.0%	4.6%	9.2%
Access work permit	0.0%	8.2%	4.9%	4.4%
Rights to association	16.3%	22.0%	20.6%	20.2%

According to findings from the qualitative interviews, the host communities perceive the refugees, Asylum seekers and the IDPs as a threat to them in terms of accessing social and economic benefits. For instance, they feel that they are being discriminated against by programs such as the ration cards and bamba chakula which only target refugees and asylum seekers. It is worth noting that despite challenges like the above mentioned which are triggered by competition for resources, the refugees, asylum seekers and IDPs intermarry with their hosts. With the opening of Ifo 2 and Kalobeyei the host community feels aggrieved because the refugees and asylum seekers have been allocated land, yet the host community lives in communal land. Findings from the service providers at the county level attest to the refugees and asylum seekers getting a better deal than the host communities in terms of services for instance the communities in the camps access free water whereas the host communities have to pay for the same water.

29. World Bank Group 2019 Understanding the Socioeconomic Conditions of Refugees in Kenya Volume B: Kakuma Camp Results from the 2019 Kakuma Socioeconomic Survey

CONCLUSION AND RECOMMENDATIONS

5.1 Conclusions

Legal and Policy Framework on Asylum Seekers, Refugees and IDPs

The Country has laws in place to protect the rights of the asylum seekers, refugees and IDPs. The laws are anchored on the International and Regional conventions and treaties that Kenya has ratified. With regulations being developed to implement the Refugees Act 2021, various stakeholders have been engaged to provide their views. There are a number of development frameworks like the CRRF, Shirika Plan, KISEDIP and GISDEP that have been instrumental in fostering the implementation of the Refugees Act 2021. There are also other partner organizations including ReDSS that have created awareness of the Refugees Act 2021. Whereas both counties have included refugees and asylum seekers in their CIDPs even gone ahead to involve them in public participation that is where it ends at. For Counties to effectively target refugees for service delivery there is need for a localized policy framework that will guide the allocation of funds for projects in the camps.

On the IDP Act, it can be concluded that the IDP Act has not been fully implemented given that the regulation is still in a draft which limits its enforcement.

Registration and Refugee Status Determination (RSD)

The Refugee Act 2021 gives provision for the asylum-seeking process from reception, and registration to the RSD. Initially, UNHCR was the first point of contact for the asylum seekers but that has changed, and the entire process is handled by the DRS. UNHCR had reception places along the entry points, but DRS operates at the camp level. Asylum seekers face harassment from police along the long journey from the border points to the refugee camps despite the law clearly protecting them whether they come through the proper channels or otherwise, providing them with up to 90 days to present themselves for registration. The Act stipulates the rights and responsibilities of the asylum seekers during the process, the rights and responsibilities of the DRS, and the committees mandated to undertake this function. Whereas the findings indicate that the asylum seekers have knowledge of the process, it was also clear that they do not have comprehensive knowledge which contributes to delays as some of them are not adequately prepared for the process. There are NGOs including Film Aid, RCK, and NRC operating in the camps that educate the asylum seekers on the RSD process, assisting them in putting their application documents together and even representing them when need be.

The process is also slowed down by government directives including the discontinuation of the registration process which creates a backlog. The vetting committee seats around twice per month, as its membership is not based at the camps but at the headquarters. There is a need to increase human resource at the DRS in order to clear the backlog with a view of shortening the RSD process.

Socio-economic Integration

The encampment policy has prevented the asylum seekers and refugees from achieving their economic potential eventually denying the government revenue. Their movement is restricted, limiting their participation in business. Their limited or no access to credit from financial institutions denies them the much-needed capital to start or expand their business. Although the government is moving towards integration, the pace is slow and lacks full commitment from the government mainly due to security concerns.

The Refugee Act envisages that the refugee ID will be as strong as the foreign national certificates and this may render work permit null and void. This is yet to be actualized. Whereas the law provides for refugees to apply for citizenship once they meet the conditions set out, and naturalization through marriage, no refugee has successfully applied for citizenship. Children born in the camp are not issued national IDs when they reach the age of 18 instead, they are issued with alien cards. Many refugees have expressed interest in being naturalized with some having lived in Kenya for over 30 years and even born and raised in Kenya.

Sexual and Gender-Based violence

It was established that the camps and settlement do have reported cases of SGBV. As other studies have established, displaced women and girls are more vulnerable to deprivation, abuse including SGBV and early marriages. The study found out that they are aware of what to do, where to seek help and the reporting channels in case of abuse. But they still prefer to use the non-formal dispute resolution mechanisms. Fear of retribution and lack of trust in the formal justice system are some of the key factors that make the traditional mechanisms attractive.

5.2 Recommendations

1. **Establishing Robust Legal and Policy Safeguards for Asylum Seekers, Refugees, and IDPs:** Achieving comprehensive implementation of laws, policies, and development plans necessitates securing high-level political support. This entails engaging leadership, raising awareness at various governmental levels, and involving a spectrum of stakeholders, including regulatory bodies, law enforcement agencies, civil registration departments, NGOs, UNHCR, faith-based organizations (FBOs), the private sector, and host communities. All these parties should collaborate to ensure the efficient management and coordination of asylum seekers, refugees, and internally displaced persons (IDPs) while delivering sustainable solutions.
2. **Streamlining Registration and Refugee Status Determination (RSD):** To expedite the process and enhance the security and accuracy of registration, the Department of Refugee Services (DRS) should establish reception centers at designated entry points, along migration corridors, and within refugee camps. Government personnel stationed at entry points should undergo training in the Refugees Act to guide asylum seekers, minimizing their exposure to potential harassment during transit. Strengthening human resources within DRS and leveraging digital technology is crucial for swift and precise registration.
3. **Promoting Socio-Economic Integration:** Facilitating the integration of refugees requires a collaborative approach led by the government. All government departments must acknowledge the presence of refugees and develop policies that incorporate them, such as recognizing refugee identity cards. The private sector should be incentivized to offer financial services, infrastructure support, and an environment conducive to economic growth for both refugees and host communities. Effective regulation of refugee businesses can potentially contribute significantly to the country's revenue. Key organizations like the Kenya Private Sector Alliance (KPSA), Kenya Association of Manufacturers (KAM), Kenya Bankers Association, and Kenya Federation of Employers should be engaged to drive sustainable integration and development for refugees and host communities.
4. **Enhancing Refugee Participation in Development Planning:** Encouraging the involvement of refugees in development planning should be adopted at the county level, enabling the prioritization of their needs and the identification of interventions that promote self-reliance. Creating guidelines is essential to establish a framework for refugee participation in the formulation of these plans. Additionally, increased resource allocation to the Department of Refugee Services is necessary to facilitate national-level participation in development planning.
5. **Advocating for Refugee Rights:** Advocacy groups should work towards ensuring that the government upholds the rights of refugees as stipulated in laws and regulations, including the 2014 Marriage Act, which currently omits refugees and asylum seekers as potential candidates for citizenship through marriage. Advocacy efforts should focus on law enforcement and closing any legal gaps that could be exploited to deny refugees, asylum seekers, and IDPs their rights. A fair hearing process should be extended to refugees, similar to other naturalization applicants.
6. **Strengthening Government Capacity and Partnerships:** Successfully implementing laws, regulations, policies, and plans for refugees, asylum seekers, and IDPs necessitates enhancing the capabilities of related government departments. This involves adopting technology, improving infrastructure, and providing the necessary skills to respond effectively to refugee situations. Collaboration with civil society, the UN, donors, and the private sector is vital to secure the required support.
7. **Dispute resolution mechanisms:** There is need to address the systematic and social barriers to access of the formal justice system. In addition, it is important for the formal justice system to integrate and capacity build the informal justice system so that it does not operate as a parallel system but a complementary system that ensures justice for victims of SGBV including other aggrieved cases.

Disclaimer

The views expressed in this report are those of the study team. They do not represent those of Kenya Red Cross Society nor of any of the institutions referred to in the report. All errors and omissions remain the responsibility of the assessment team.

Authors

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