

# UGANDA'S REFUGEE MANAGEMENT APPROACH WITHIN THE EAC POLICY FRAMEWORK



# UGANDA'S REFUGEE MANAGEMENT APPROACH WITHIN THE EAC POLICY FRAMEWORK

A study by youth4policy, a youth think-tank initiative of the  
Konrad-Adenauer-Stiftung, Uganda and South Sudan Programme

## Authors

1. Winnie Watera
2. Claire Seremba
3. Ivan Otim
4. Donnas Ojok
5. Bernard Mukhone
6. Anna Hoffmann

---

©Konrad-Adenauer-Stiftung 2017

All rights reserved. Reproduction of all or parts of this publication for educational or other Noncommercial purposes is authorized without prior written permission from the copyright Holder provided the source is fully acknowledged and any alterations to its integrity are indicated. Reproduction of this publication for sale or other commercial purposes is prohibited without prior written consent of the copyright holder. The views expressed in this report do not necessarily reflect that of @Konrad-Adenauer-Stiftung but that of the authors.



# CONTENTS

Introduction	2
Background	2
Differentiating between Refugees and Asylum seekers	3
Overview of the Refugee Situation and Legislation	4
Uganda	4
Key Refugee Data	5
South Sudan Refugee Crisis	7
A progressive refugee management approach	8
But at What Cost?	8
Refugee Policy and Legislation	9
An assessment of the provisions in the refugee legislation	10
Naturalization	11
The political economy of refugee management in Uganda	12
The security dimensions	12
The Second National Development Plan (NDP II)	14
Kenya	17
Refugee Legislation and Policy	18
The socio-economic and political climate surrounding refugee policy development	19
Tanzania	22
Key Refugee Data	23
Legal and Policy Framework	24
Rwanda	26
South Sudan	27
Burundi	27
Rationale For Refugee Policy at the East African Community (EAC) Level	28
Onward Movement of Refugees	30
Recommendations	31
A Transition from Relief to Development	32
Next Generation Refugees	33
Integration as a Viable Option: Better to be Part than to be Apart	33
Annex I	35
Annex II	36

# INTRODUCTION

The East African region presents a unique case study for refugee management and protection. Not only have almost all East African countries (apart from Tanzania) experienced violent conflicts that forced millions of their citizens out as refugees or political asylum seekers but some countries in the region have also played key roles in hosting millions of refugees even from the horn of Africa. The 1959 civil war in Rwanda and the 1994 Genocide forced millions out of Rwanda. To date, Burundi remains politically unstable due to President Pierre Nkurunziza refusal to step down when his term expired. In Kenya, the 2007 post-election violence forced millions to flee the once relatively peaceful country to find safety. The LRA insurgency in Northern Uganda displaced millions while the current South Sudan conflict has created the world's worst contemporary humanitarian crisis.

Most fundamentally, the region has played a pivotal role in refugee management and protection. Kenya's Dadaab camp was home to more than 200,000 refugees for over two decades. Uganda's Bidi-Bidi camp is currently the world largest settlement camp with more than 270,000 dwellers, all of them South Sudanese refugees. Uganda's generous refugee management approach which almost treats refugees as its own citizens giving them farmlands, work permits, access to health

care and school facilities has been hailed as one of, if not the best refugee management practice in the world.

This paper provides a comprehensive review of the East Africa refugee management framework both from legal, economic and political angles. In doing so, the paper provides a comparative analysis of different refugee management approaches in five East African member states.

Most specifically, the paper takes a closer look at Uganda's refugee management 'best-practice: How sustainable is this approach in the face of land shortage and the economic support for refugees and host communities within the context of larger national economic challenges? How best can the EAC as a regional block coordinate the management of refugees?

A plethora of recommendations for refugee management and protection approaches are suggested by this paper. Key of which is the need for different member states to develop robust and creative refugee management policies clearly spelling out strategies and contingency plans. As a next step, the harmonization of regional refugee policies will go a long way in influencing regional concerted refugee management initiatives.

---

## BACKGROUND

The East African region constitutes a flash-point of forced migration. With countries simultaneously hosting and assisting internally displaced persons, refugees, returnees, victims of trafficking, as well as labor migrants, the region stands out in the management of refugees. However, the trend is becoming complex and dynamic in today's refugee crisis reality.

Currently the EAC consists of six member states, i.e. Uganda, Kenya, Tanzania, Burundi, Rwanda and South Sudan. On country level, countries that are recipients of refugees like Kenya, Uganda, Tanzania and Rwanda, Burundi face a myriad of challenges in the management of refugees; although, the laws, policies and attitudes towards refugees vary from country to country. Uganda has made a transition from relief to a development self-reliance strategy due to the unprecedented of refugees and the protracted situations under which they are living.

# DIFFERENTIATING BETWEEN REFUGEES AND ASYLUM SEEKERS

There is no single definition of the term “refugee”, it has varied over time and differs from country to country, nonetheless, in reality, a refugee is a person forced to flee their home (involuntary migrate) due to persecution, whether on an individual basis or as part of a mass exodus due to political, religious, military or other factors that may arise and threaten their peace. Nevertheless, the definition is associated with humanitarian aims and all refugees have these characteristics in common; they are homeless, and they lack national protection and status.

In line with Article 1A (2) of the 1951 United Nations’ Refugee Convention, a refugee is defined as:

*A person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.*

The problem of defining an asylum seeker and a refugee is becoming a global challenge. Asylum seekers are those who are seeking refugee status in another country, they must establish individually that their fear of persecution is well founded, and then undergo a legal procedure in which the host country decides qualification for the refugee status.

Whereas it is important to scrutinize between genuine refugees and asylum seekers, the European refugee crisis has put the process to the test because it is difficult to qualify and differentiate between migrants seeking refuge or asylum during mass migration. It has proven to be challenging for a host country to carry out individual screening in certain circumstances, particularly where civilians are fleeing for similar reasons.<sup>1</sup>

In reality, a refugee is an involuntary migrant, a victim of politics, war or natural catastrophe. In the above context, one becomes a refugee migrant, but not every migrant is a refugee. The broader case is that not every asylum seeker is a refugee. The current trend of the refugee problem indicates that there are asylum seekers disguised as refugees; they leave their country of origin with an eye on another one, usually for economic reasons. The occurrence of these two phenomena has put the conversation between refugee and asylum seekers in a context that needs to be examined in relation to the laws, policies and implementation plans of different countries.

<sup>1</sup> Available at <http://www1.umn.edu/humanrts/edumat/studyguides/refugees.html>

# OVERVIEW OF THE REFUGEE SITUATION AND LEGISLATION

## UGANDA

### Historical Overview of the Refugee Situation

For decades now, Uganda has been a favorable destination for refugees and asylum seekers from neighboring conflict-afflicted areas such as Burundi, Rwanda, Congo, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sierra Leone, Senegal, Mozambique, South Africa and Zimbabwe. The country's first experience of welcoming refugees dates back to World War II when 7,000 Polish refugees fleeing the violence in Europe were hosted in Nyabyeya and Kojja in 1942 and were later resettled in Britain, Australia and Canada.

In 1955, Uganda became deeply immersed in the "refugee problem" after 78,000 Sudanese refugees entered during the Anyanya civil war; however, after the signing of the Addis Ababa Accord in 1972, many were repatriated.<sup>2</sup> This influx was soon followed by the arrival of numerous refugees generated by unrest in the aftermath of the various struggles for independence in Kenya, including the Mau Mau struggle. Rwandese, mainly of Tutsi origin, escaping the disastrous civil strife of 1959 also fled to Uganda. Similarly, Congolese, in the aftermath of Patrice Lumumba's assassination in 1961, sought safety in Uganda. Both the Congolese and the Rwandese were settled in the same areas in western and southwestern Uganda,<sup>3</sup> with some being allocated the pastoral lands in Nakivale and Oruchinga refugee settlements in Mbarara district; these camps were located in present-day Isingiro district. Although it is difficult to ascertain the number of Congolese refugees who migrated to Uganda, several of them settled in Kyaka 1

refugee settlement near the Kazinga Channel in Kabarole district; many also resettled among relatives in Kasese and Bundibugyo districts while others moved to urban areas, such as Kampala. The country also received several refugees from Ethiopia and Somalia during this period.

As peace and stability returned to Rwanda in 1994, owing to the victory of the Rwandan Patriotic Army (RPA), many refugees were repatriated. This, in turn, generated an influx of over 1,000 refugees to Uganda, most of them of Hutu descent, who fled after the Rwanda Genocide. The same would happen to the Congolese in 2000, when the UNHCR and the Ugandan government promoted a repatriation project. The Congolese, however, were not as lucky as the Rwandese. They were forced to return to Uganda after the outbreak of the civil war in eastern Congo that displaced up to 1,200 refugees.

In 1980, civil war broke out between the Sudanese People's Liberation Army/Movement (SPLA/M) and the Khartoum government. During this time, many refugees had settled in refugee camps in the northern and West Nile regions of Uganda. Uganda has continued receiving refugees from South Sudan to-date; this is essentially due to the protracted tensions in the region.

The influx of refugees also saw Ugandans displaced to the Congo during the turmoil that followed Idi Amin's overthrow and those who escaped to South Sudan during the Lord's Resistance Army (LRA) insurgency return.

<sup>2</sup> Available at <http://www.immis.org/wp-content/uploads/2010/05/Policy-Analysis-Report-Uganda.pdf>

<sup>3</sup> Lomo, Z., Naggaga, A. and Hovil, L. (June 2001). *The Phenomenon of Forced Migration in Uganda: An Overview of Policy and Practice in an Historical Context*. The Refugee Law Project.

<sup>4</sup> Rwamwanja, Kamwenge and Kyaka in the districts of Kabarole and Kyenjojo.

<sup>5</sup> Available at <http://www.immis.org/wp-content/uploads/2010/05/Policy-Analysis-Report-Uganda.pdf>

<sup>6</sup> Palorinya (Moyo), Rhino Camp (Arua) Madi Okollo (Nebbi), Ikafe and Imvepi (Aringa) and Mongula (Adjumani), among others.

# KEY REFUGEE DATA

Since achieving her independence in 1962, Uganda has been hosting an average of approximately 161,000 refugees per year.<sup>7</sup> In the recent past, the UNHCR has reported that about 37,491 refugees

were welcomed into Uganda just three weeks after South Sudan plunged into civil unrest on 8 July 2016.

**Table 1:** The Estimated Refugee and Asylum Seeker Population in Uganda

Country of Origin	Number
South Sudan	900,000
Democratic republic of Congo	219,463
Somalia	39,902
Burundi	39,902
Rwanda	19,951
Other Nationalities	13,301

Source: UNHCR

Uganda is now home to 1.2 million refugees from 13 countries with at least 86% comprising of women and children; these refugees are settled in various refugee settlements in nine districts, the number surged, doubling from when a World Bank study on forced displacement and mixed migration in the Horn of Africa estimated the number at 500,000.<sup>8</sup>

It is therefore argued that Uganda’s forward-looking approach is being stretched to its limits. Uganda is currently the largest refugee-hosting country in Africa, after surpassing Ethiopia and Kenya in early 2017. Bidibidi became the largest refugee camp hosting more than 270,000 displaced persons<sup>9</sup>.



**Figure 1:** Aerial View of the Bidibidi refugee settlement.

Photo Credit:  
Dan Kitwood/GettyImages

<sup>7</sup> Available at <http://blogs.worldbank.org/nasikiliza/engendering-hope-ugandas-progressive-policies-on-refugee-management>

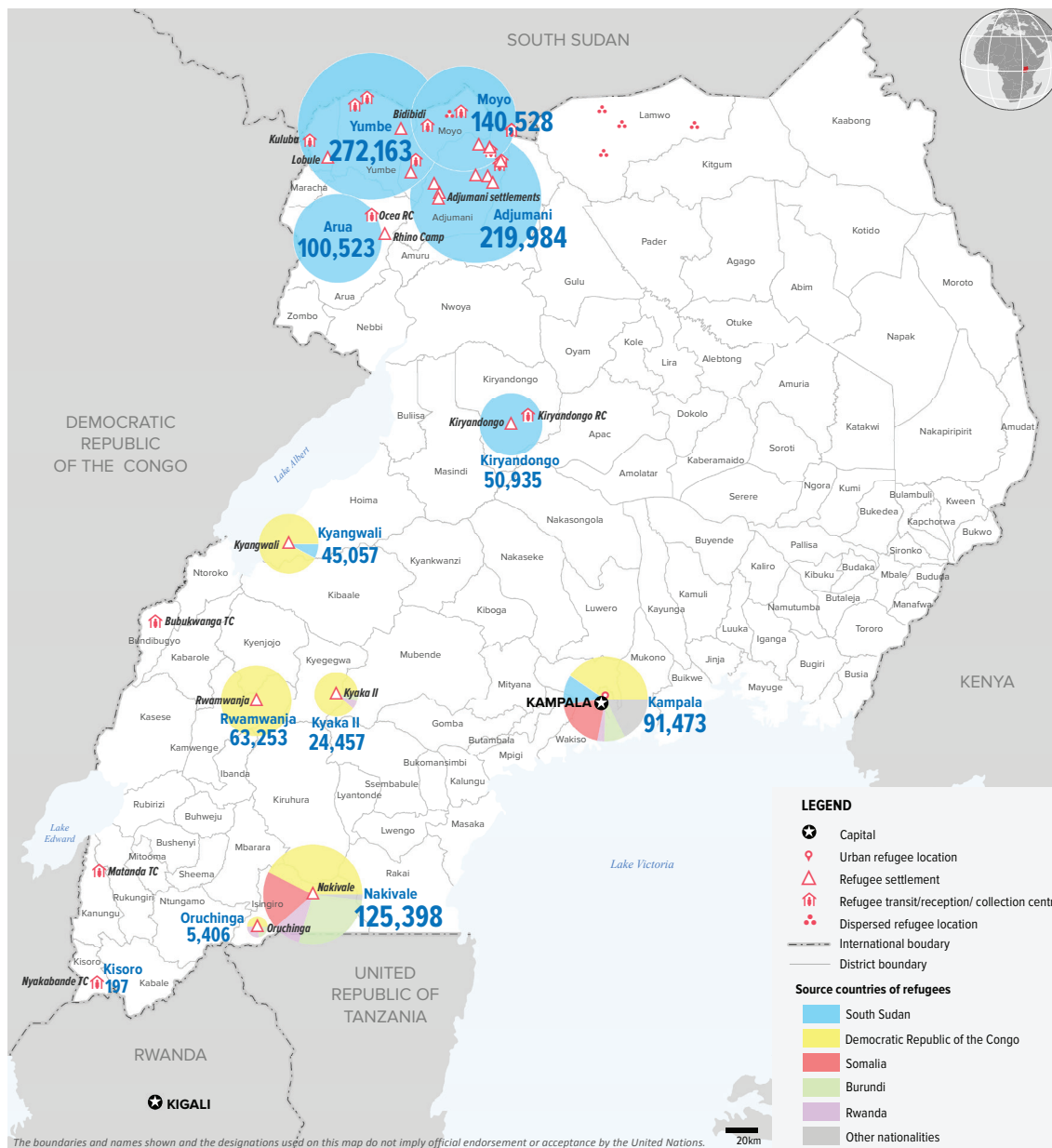
<sup>8</sup> Forced Displacement and Mixed Migration in the Horn of Africa.

<sup>9</sup> The <https://www.theguardian.com/global-development/2017/apr/03/uganda-at-breaking-point-bidi-bidi-becomes-worlds-largest-refugee-camp-south-sudan>

Nakivale is the ninth, hosting more than 60,000 refugees, most of them from the Democratic Republic of Congo (DRC).<sup>10</sup> The Nyumanzi transit centre, where refugees wait before their relocation to permanent settlements in Adjumani, was built in early 2014 to hold 2,000 people for no more than two weeks. Now it holds 5,000 and stays of a month or more are routine. A new settlement at Palabek, in Lamwo district was opened to enhance refugee reception capacity for new arrivals.

While the refugee situation in Uganda becomes protracted owing to the continuous influx of refugees from different conflict stricken regions and the onward movement of refugees to Uganda, the size of land, a major source of livelihood for refugees and nationals alike, has remained the same, causing scarcity and increased tension among host communities.

**Figure 2:** A map showing the refugee hosting districts in Uganda



Source UNHCR 2017

10 Available at [https://opendocs.ids.ac.uk/opendocs/bitstream/handle/.../mulumba\\_MAK\\_res.pdf?...1](https://opendocs.ids.ac.uk/opendocs/bitstream/handle/.../mulumba_MAK_res.pdf?...1)



# SOUTH SUDAN REFUGEE CRISIS

South Sudan, the world's newest state is currently saddled in a protracted conflict, economic troubles and famine which has forced more than half of the country's population to flee their homes and/or to seek refuge in neighboring countries like Uganda,

Ethiopia, Sudan, Kenya and The Central African Republic. This makes South Sudan the most fled country in the world after Iraq and Afghanistan. By July 2017, the West Nile and Acholi sub-regions were home to more over 800,000 refugees.

**Figure 3:** Refugees at the Bidibidi Refugee Camp

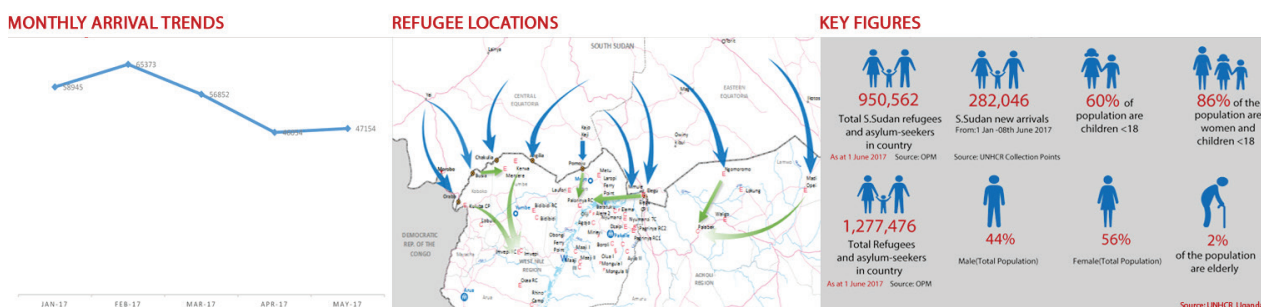


Figure 3: Refugees at the Bidibidi Refugee Camp. Photo Credit - James Akena

In March 2017, the South Sudanese influx to Uganda peaked at over 2,800 refugees registered per day while it is projected that 1,025,000

refugees from South Sudan will be hosted in Uganda by the end of 2017<sup>11</sup>.

**Figure 4:** Trends Depicting Refugee Arrivals in Uganda



11 UNHCR 2017

To date, there is no end in sight to South Sudan's conflict. The Schism between SPLM-IG and SPLM-IO continue widening as Riek Machar and Salva Kiir, the leading protagonists fail to agree on a sustainable political path for the country. The conflict has since experienced an ethnic twist, with the major tribes the Nuer and Dinka and

other smaller tribes constantly getting embroiled in violent contestations. Recently, there have been warnings of ethnic cleansing in several parts of the country and even a potential genocide has been reported. Further, there has been an emergence of various new armed groups, exacerbating an already fragile political and security situation.

---

## A PROGRESSIVE REFUGEE MANAGEMENT APPROACH

Uganda's refugee management approach has been hailed as one which is not only progressive and compassionate but also smart. As part of the International Solidarity Summit tour around the camps in West Nile in June 2017, Antonio Guterres, and the UN Secretary General remarked:

*"... It important to underline that Uganda, in the past, received these South Sudanese refugees and I had the opportunity when visiting the same area that I visited yesterday, to see that they were not in camps but in so-called settlements that are in reality villages, like villages of the*

*Ugandan people. This allows them to farm the land, allows them to go to the same schools, the same health centers, to have jobs, to allow them to have normal lives, to live in dignity."*

In Uganda, refugees are allocated settlements where residential and agricultural land is provided. In Uganda, refugees access social services like education; they participate in the labour market and enjoy freedom of movement. By this, refugees are able to pursue their livelihoods just like the Ugandan population<sup>12</sup>.

---

## BUT AT WHAT COST?

The principle of responsibility sharing enshrined in the international human rights and refugee law, where States' have obligations to provide support to each other to host refugees has so far not yielded enough support. Many examples provide conclusive evidence that international

commitment towards refugee management is still wanting. For instance, in 2015, the U.N. appealed for \$1.6 billion to assist 4.6 million refugees in need in 2015 but only 62 percent of the required finances were raised. By May 2017, the South Sudan Refugee Response Plan for Uganda was

---

<sup>12</sup> Kiranda, Y & Ojok D (2017) A home away from home? Exploring the situation of South Sudan refugees in Uganda. Country Report of the Konrad Adenauer Stiftung.

only 15 percent funded. The refugee solidarity summit was held in Kampala in June 2017. It took place when Uganda had the highest number of refugees ever and the main contributing factor to the crisis was the ongoing conflict in South Sudan. The summit aimed to mobilize international support to meet the immediate humanitarian needs of refugees, in addition to the longer-term needs of refugees and host communities. It also aimed to provide significant funding for the STA and ReHOPE. Slightly above 350 million dollars was raised.

However, 82.3 percent of the target of two billion dollars is yet to be realised. Uganda needs more support.<sup>13</sup>

Many experts have expressed concerns about the international community's failure to play their roles. Muthoni Wanyeki, Amnesty Regional Director for East Africa, the Horn and the Great Lakes lamented,

*"By failing to share responsibility with Uganda, donor countries are failing to protect thousands of refugees' lives; which is an obligation under international law."*

---

## REFUGEE POLICY AND LEGISLATION

Uganda is party to international and regional conventions including the 1951 Refugee Convention and its 1976 Protocol and the 1969 Organization of African Union Convention on Refugees (known as the AU Convention). Many of the early laws build on colonial era immigration control legislation. Prior to independence, refugee legislation fell under the colonial government, which promulgated the Control of Aliens Ordinance of 1960. The new independence government later adopted these ordinances, the Control of Aliens and Refugees Act which, however, left a lot to be desired. To this end, the Act was repealed and the Refugees Act of 2006 was enacted, followed by the Refugee Regulations of 2010, which enshrined the UN and OAU Conventions governing specific aspects of refugee problems and other international obligations of Uganda on the same. The Act provided for the set-up of legal frameworks and infrastructure to cater for refugee management.

Pursuant to the Refugee Act of 2006 Article 7 (2), the Office of the Director of Refugees is responsible for the protection of refugees and

the coordination of the provision of services for their welfare; identifying and initiating projects for refugees in refugee-affected areas as well as ensuring the maintenance of law and order in refugee settlements. Therefore, the Department of Refugees and Disaster Preparedness was set up under the Office of the Prime Minister and the Directorate of Refugees under this department works closely with the public service to recruit commandants, who, in turn, work with the refugees.

The above notwithstanding, Uganda's progressive legal framework has other impressive aspects: (1) opening Uganda's door to all asylum seekers irrespective of their nationality or ethnic affiliation; (2) granting refugees relative freedom of movement, administrative permits to leave and return to their designated settlements, and the right to seek employment; (3) providing prima facie asylum for refugees of certain nationalities; and (4) giving a piece of land to each refugee family for their own exclusive (agricultural) use.

There is, however, one significant limitation of

<sup>13</sup> Ibid

the legal framework, as it does not provide a permanent solution of citizenship for refugees who can neither be repatriated nor be resettled elsewhere. The position is not very different in most countries in Africa and across the world. For the refugees to whom repatriation is not a feasible solution, there have been calls for realistic alternative solutions.

In 1999 the Government of Uganda and the UNHCR embarked on implementing a “self-reliance strategy” (SRS) for long-term refugees. Self-reliance is defined as “the ability of an individual, household or community to depend (rely) on their own resources (physical, social and natural capital or assets), judgment and capabilities with minimal external assistance in meeting basic needs, and without resorting to activities that irreversibly deplete the household or community resource base”.<sup>14</sup> The overarching goal of the SRS was to move from the relief model to a development method of refugee management.

The plan was that by 2003 every refugee would be able to support themselves. Critics called the SRS a ‘conceptual approach’ that assumed self-reliance was a linear process over time and it did not factor in the effects of drought and other shocks.<sup>15</sup>

The achievements, shortfalls and lessons learnt from the SRS provoked government action and Development Assistance for Refugees (DAR) was conceptualized. DAR was envisaged as a solution to the protracted refugee situation and aimed at promoting self-reliance for refugees and at improving burden-sharing for countries and communities hosting large numbers of refugees.<sup>16</sup> The solutions under DAR include voluntary repatriation, local integration or resettlement to a third country and are intended to benefit both refugees and the host communities.

---

## AN ASSESSMENT OF THE PROVISIONS IN THE REFUGEE LEGISLATION

The Ugandan government also holds the view that refugees are held in settlements areas, not camps, re-echoing Omata & Kaplan (2013), who noted that

*“unlike many of its neighbors, which encamp refugees, the Ugandan government promotes the ‘self-reliance’ of refugees; this means that rather than limiting responses to refugees to humanitarian relief, a space is open for a development-based approach to refugees.”<sup>17</sup>*

Uganda accords refugees the rights enshrined in the UN Convention Relating to the Status of Refugees and African Union Convention Governing the Specific Aspects of Refugee Problems in Africa, freedom of movement and the right to work. The Refugee Act, although commendable for streamlining the institutional structures with regard to refugee management, has stipulated restrictions to movement, work and livelihood that have had varying impacts on refugee settlement.

---

<sup>14</sup> Handbook for Repatriation and Reintegration Activities. UNHCR, 2004.

<sup>15</sup> Strategy Paper: Self-Reliance for Refugee Hosting Areas in Moyo, Arua, and Adjumani Districts, 1999-2006.

<sup>16</sup> Ibid., p. 34.

<sup>17</sup> Omata and Kaplan, “Refugee livelihoods in Kampala, Nakivale and Kyangwali refugee settlements: patterns of engagement in the refugee sector”, quoting Betts, 2012. Humanitarian Innovation Project, Refugee Studies Centre, University of Oxford, Working Paper Series No. 95, October 2013. Available at: <http://www.rsc.ox.ac.uk/publications/refugee-livelihoods-inkampala-nakivale-and-kyangwali-refugee-settlements-patterns-of-engagement-with-the-private-sector>.

Section 30(1) of Uganda's Refugee Act states that "a recognized refugee is entitled to free movement in Uganda", but the provision is contradicted by section 30(2), which states that this is "subject to reasonable restrictions specified in the laws of Uganda". Despite acknowledging Uganda's "freedom of movement" for refugees, research findings by Betts et al. from 2014 assert that refugees in Nakivale and Kyangwali settlements do not typically venture outside those designated spaces to transact business. As such, although refugees can move about freely within the settlement, their freedom of movement remains restricted if they want to travel longer distances.

Per Regulation 65 of the Uganda Refugees Regulations 2010, refugees who reside in designated refugee settlements have free access to land for the construction of private residences (residential plots) and cultivation to improve their welfare/livelihoods. No refugee can sell lease or use settlement land as security or alienate such land allocated to them in any way.

Studies have indicated that refugees are still faced with problems such as inadequate health provision, lack of housing, critical food shortage, unclear policies relating to their right to work, detention because of lack of proper documentation, and a frequent perceived lack of personal security and safety (Dryden-Peterson and Hovil, 2003).<sup>18</sup>

---

## NATURALIZATION

Section 45 of the Refugees Act, the constitution and any other laws in force in Uganda regulating naturalization shall apply to the naturalization of a recognized refugee. Uganda has long operated a prima facie status determination system; and although since 2007 it has been conducting individual assessments, the country stopped granting prima facie status in 2007. Similarly, in section 46 on the voluntary repatriation of refugees, a recognized refugee who voluntarily wishes to be repatriated shall express his or her wish in writing to the Commissioner who shall, in consultation with UNHCR, cause arrangements to be made for the repatriation of that refugee.

Under EAC Article 104 of the treaty, the partner states agreed to adopt measures to achieve free movement of persons, labor and services

and to ensure the enjoyment of the right of establishment and residence of their citizens within the community. Under the domestic refugee laws of Uganda, an asylum seeker whose application for refugee status is rejected may appeal to an administrative appeals body – which in the case of Uganda is effectively the same body that heard the initial status application – but there is no automatic possibility appeals the courts of rejected cases.

Since naturalization is almost impossible, many refugees in protracted situations have been integrated as 'de facto' Ugandan citizens, who own property and have intermarried with Ugandans. However, without legal protection refugees are left vulnerable, as they do not know when their legal status might be questioned.<sup>19</sup>

18 Mulumba, D. and Mlahagwa Olema, W. (2009). *Policy Migration Report: Mapping Migration in Uganda*. Available at <http://www.immis.org/wp-content/uploads/2010/05/Policy-Analysis-Report-Uganda.pdf>

19 South Sudanese Refugees in Adjumani District, Uganda: *Telling a New Story*. The International Refugee Rights Initiative. July 2015. Available at <http://www.refugee-rights.org/Publications/Papers/2015/TellingADifferentStory.pdf>

# THE POLITICAL ECONOMY OF REFUGEE MANAGEMENT IN UGANDA

Article 14(1) of the Universal Declaration of Human Rights states that, “Everyone has the right to seek and to enjoy in other countries asylum from persecution”. However, the political and economic climate of host countries, combined with the international/global regimes’ politics that govern the humanitarian and development world, plays a major role in determining national policy frameworks.

Countries have argued that international conventions and agreements have ostracized the individual economic interests of host governments as many are finding it rather strenuous to honor their humanitarian commitments and to meet their domestic needs at the same time.

Uganda has long been in the center of violence-prone areas, in addition to her own internal civil

unrest. As such, the presence of refugees in designated areas and surrounding areas is not a new phenomenon. As a respondent shared in a study on Sudanese refugees in Adjumani:

*“We are used to refugees – they have been here for a very long time and they continue coming because there is a saying that at one time some of us were refugees from South Sudan before we became citizens ourselves.”<sup>20</sup>*

Initially, the Ugandan government assumed the crisis to be temporary and as such set up transit camps like Nyumanzi. However, the civil and political upheavals have shown no sign of letting up, but these measures continue in place, acting insufficiently as permanent solutions. This has exacerbated the political tensions within the camps and the host communities.

---

## THE SECURITY DIMENSIONS

Many of the original acts match the security-rights dichotomy that influenced the 1969 Convention deliberations. Although Article 26 of the 1951 United Nations Convention Relating to the Status of Refugees confers the right to freedom of movement, these rights are sometimes unrecognized in relation to the political and security realities of host states. Refugees have been marked as sources of insecurity. The government has thus stated that not only does the

influx of refugees lead to the spread of violence at its borders, but it also is an avenue for militant insurgents to penetrate the country. Take, for instance, the insurgence attacks, such as the July 2010 Kampala attack in which over 74 lives were lost at Kyadondo Rugby Stadium. These attacks were attributed to Somali Islamist militant cells<sup>21</sup> operating in Kampala slums that had penetrated the borders under the guise of seeking refugee assistance and settlement.

---

18 Mulumba, D. and Mlahagwa Olema, W. (2009). Policy Migration Report: Mapping Migration in Uganda. Available at <http://www.immis.org/wp-content/uploads/2010/05/Policy-Analysis-Report-Uganda.pdf>

19 South Sudanese Refugees in Adjumani District, Uganda: Telling a New Story. The International Refugee Rights Initiative. July 2015. Available at <http://www.refugee-rights.org/Publications/Papers/2015/TellingADifferentStory.pdf>

20 South Sudanese refugees in Adjumani district, Uganda: Telling a new story. The International Refugee Rights Initiative. July 2015. Available at <http://www.refugee-rights.org/Publications/Papers/2015/TellingADifferentStory.pdf>

21 Accessed from [www.bbc.com/news/10593771](http://www.bbc.com/news/10593771)

Furthermore, economic conditions in host states aggravate the tensions. Most African states are underdeveloped, with scarce or minimal resources to cater for the local population; thus, refugees are deemed as an added economic burden, unsustainable without the assistance of the international community. 'Local settlements' were reckoned to be a durable solution by the ruling government; however, social services and resources are stretched thin. A case in point is Elegu Primary School which is attended by over 1,000 refugees daily. According to Anthony Atube Omach, an Amuru district official, some South Sudanese refugees who had camped at Elegu Primary School have been relocated to stop them from encroaching on the locals' land.

*"It was creating another conflict because local people in the area felt deprived of their resources and infrastructure,"*

he explained.<sup>22</sup> Whereas the host countries have shown a willingness to accommodate the plight of refugees, they are reluctant to bear the further costs involved in diverting the considerable resources and adjusting infrastructure that may be needed to accommodate refugees.

Conclusively, Tania Kaiser (2000:18) states:

*"Integration can only be temporary [...] because it exists in the full expectation that the presence of the refugees itself is only temporary and will be brought to a conclusion by an eventual repatriation."<sup>23</sup>*

The idea of repatriation is still not within sight. Not only is there a need to consolidate the policies and legal frameworks to reflect the needs of both refugee and host populations; there also is a need to organize better structures and mobilize resources and infrastructure to accommodate the rising numbers of refugees. It is important to note that Uganda is signatory to all the principal international instruments<sup>24</sup> on the protection of refugees. The governing law is the Refugees Act of 2006. Whereas the draft policy is still under development, it is generally perceived as progressive and forward-looking. It seeks to build self-reliance and integrate refugees and asylum seekers into the host communities. Instead of limiting refugees to humanitarian relief, development based response is employed.<sup>25</sup>

However, Uganda now hosts a population of about 1.2 million refugees and its forward-looking approach is stretched to its limits. In addition, while the refugee situation in Uganda becomes protracted with the continuous influx of refugees from South Sudan, Burundi and the DRC, the quantity of land, a major source of livelihood for refugees and nationals alike, has remained the same, causing scarcity of resources and increased tension among host communities.<sup>26</sup>

22 Available at <http://www.irinnews.org/report/99477/refugee-arrivals-uganda-raise-humanitarian-security-concerns>. Smolinská, L. (2004). No chance to find safe asylum: What factors contribute to the plight of refugees? A case study: 23

Sudanese refugees in Uganda and Kenya. PRAGUE. Available at [http://www.unhcr-centraleurope.org/\\_assets/files/content/resources/pdf\\_cz/evaluation\\_and\\_research/smolinska\\_ap.pdf](http://www.unhcr-centraleurope.org/_assets/files/content/resources/pdf_cz/evaluation_and_research/smolinska_ap.pdf)

24 The 1951 Refugee Convention, the 1976 Protocol and the 1969 OAU (Organization of African Unity) Convention.

25 Betts, 2012.

26 Available at [http://www.refugeelawproject.org/files/working\\_papers/RLP.WP08.pdf](http://www.refugeelawproject.org/files/working_papers/RLP.WP08.pdf)

# THE SECOND NATIONAL DEVELOPMENT PLAN (NDP II)

The government of Uganda included the scope of refugees to the five-year development master plan. The plan requires the government to **enhance national response capacity to refugee emergency management**. The interventions proposed include;

## i. Formulate and implement a national refugee policy

The Ugandan government is currently in the process of drafting a national refugee policy. This policy is generally perceived as progressive and forward-looking. It seeks to build self-sufficiency and integrate refugees and asylum seekers into the host community. Instead of limiting refugees to humanitarian relief, a development-based 'self-reliance' approach is employed. The legislation and policies in Uganda initiate strategies that invoke self-sufficiency, but amidst this lies the need to develop more durable solutions to the refugee question.<sup>27</sup>

The mass entry into Uganda is mainly attributed to the liberal 'policy' that Uganda holds in regard to refugee management has been referred to as not only progressive but compassionate and smart'. The welcoming attitude of both the government of Uganda and Ugandans is in practice not consolidated in policy. By July 2017, the legislation and policies in Uganda initiated strategies to invoke self-sufficiency, but amidst this lies the need to develop more durable solutions to the refugee question.

## ii. Develop and implement a Refugee Settlement Transformative Agenda (RSTA)

The goal of the RSTA is to achieve self-

reliance and local settlement for refugees, and to promote social development in the refugees hosting areas as a durable solution to the refugees' problems, while protecting national and local interests. Given that refugees are allotted pieces of land, the main justification of the programme is to shift refugees from the traditional peasant economic model to more productive and economically diverse opportunities. Over a period of five (5) years, the programme has six objectives; Land management, sustainable livelihoods, governance and rule of law, peaceful co-existence, environmental protection and community infrastructure and is supported by the United Nation's Human Rights Commission for Refugees (UNHCR).

## iii. Receive and grant asylum to refugees in accordance with national, regional and international covenants

Uganda is living up to its international obligations to refugees notwithstanding the pressures created by the unprecedented influx. In addition, refugees enjoy legal, physical and social protection. Refugees use available public health services, have access to universal primary and lower secondary education, and engage in economic activity in addition to relief from aid related agencies. Most refugees reside in rural settlements (not Camps) alongside Ugandan citizens. Uganda is among the nations which has pioneered an out of camp policy in the region. Due to freedom of movement, nearly 100,000 live as urban refugees in towns and cities.

<sup>27</sup> Betts, 2012.



iv. Develop and implement projects and programs for refugees and refugee hosting areas.

The Ugandan government has committed to continue supporting the settlement project for refugees. In June 2017, Uganda's Parliament approved a 50-million-dollar World Bank loan to enable the implementation of the Refugee and Host Population Empowerment (ReHOPE) programme. Through this initiative, host communities and refugees are envisaged to build strong social ties and create a better environment for economic engagement. Gradually, surrounding districts where refugee settlements are located have started to witness improvements in public service delivery in sectors such as health and education for both the host communities and the refugees<sup>28</sup>. This optimism is shared by the Ugandan legislator active on South Sudan parliamentary discussions who opined that Uganda's progressive refugee approach will go a long way in being a successful model if it continues striking a balance between the interest/needs of the host communities and that of the refugees.<sup>29</sup>

v. Develop and implement contingency plan for refugee emergencies.

Contingency planning is an inter-agency process, in anticipation of potential crises, of developing strategies, practical arrangements and procedures, and identifying additional resources needed, to address the humanitarian needs of those adversely affected by crises. Inter-agency contingency planning for refugee situations is (co-)led by UNHCR with the host Government<sup>30</sup>.

vi. Review domestic laws governing refugees.

Refugee Policy is now in draft stages. Stakeholder wide consultations have been carried out.

28 Kiranda, Y & Ojok D (2017) A home away from home? Exploring the situation of South Sudan refugees in Uganda. Country Report of the Konrad Adenauer Stiftung.

29 Ibid

30 <https://emergency.unhcr.org/entry/35283/ppre-contingency-planning-refugee-situations>



*Photo Credit: Caritas International*

# KENYA

## Historical Overview of the Refugee Situation

Kenya hosts a large asylum-seeking and refugee population. This dates back to the 1960s when neighboring countries descended into conflict. This is due largely to the country's location in a conflict-prone region. For example, refugees from neighboring Uganda, Rwanda, South Sudan, Somalia and Ethiopia have trickled into Kenya over the years. In 1971, Kenya received its first major wave of refugees, mainly of Asian origin, trying to escape the political upheavals in Uganda during President Idi Amin's regime.<sup>31</sup> In 1984, the idea of a refugee law was formally proposed at government level as Kenya continued to experience an influx of refugees from Uganda. At the time, the government was responsible for refugee status determination (RSD) through the Refugee Secretariat under the Ministry of Home Affairs.

Conflict ensued in the Sudan, Ethiopia and Somalia in the 1990s and the influx of refugees to Kenya increased tenfold, from 20,000 in the 1970s to 200,000 in the 1990s. Following the overthrow of President Mohamed Siad Barre in 1991, 123,000 Somali refugees moved and settled in Kenya, with an estimated 3,000 crossing over daily. By June 1991, 13,000 Ethiopian refugees had also arrived in Kenya, following the overthrow of Mengistu Haile Mariam, in a bid to escape the ensuing conflict. Thus, camps were established in Kakuma in the Rift Valley Province of Mandera in northeastern Kenya and Utange in the coastal region for Somali refugees. It was also the year that marked the beginning of encampment as the official government refugee management policy. In April of the following year, 46,500 Ethiopian refugees arrived in Kenya, with an estimated 1,000 crossing over daily. A year later in 1992, Kenya was home to an estimated 400,000 refugees, the majority of whom were of Somali origin.<sup>32</sup>

As a result, a small refugee camp was established in Dadaab (although now it is the largest in the world) in northeastern Kenya.

By the end of 1990, Kenya's refugee population was recorded at 14,400 refugees; at the same time, the UNHCR budget for Kenya was estimated at USD 2.7 million. Two years later in December 1992, the refugee population in Kenya was estimated at over 287,000, with the numbers going steadily up.

By January 2015, Kenya was hosting 585,363 registered refugees and asylum seekers residing either in the Dadaab and Kakuma camps, or registered in Nairobi. The refugee population of Dadaab stood at 356,014 (178,488 female) while that of the Kakuma refugee camp was 178,079 (83,297 female).<sup>33</sup> A total of 26,604 new arrivals have been registered since the beginning of 2016, of which 4,060 new arrivals were registered during December 2016 alone.

As of 31 December 2016, 39,316 Somali refugees had returned home from 8 December 2014, when the UNHCR started supporting the voluntary return of Somali refugees in Kenya. Out of this number, 33,725 were supported in 2016 alone. UNHCR reported the number of registered refugees and asylum seekers at 490,656 (444,964 and 45,692 respectively).

On the 3<sup>rd</sup> January 2017, UNHCR reported that refugee management in Kenya would require USD 272.1 million, including special situations for the year and 104.6million (38%) in contributions had been received.<sup>34</sup>

31 Available at [https://en.wikipedia.org/wiki/Expulsion\\_of\\_Asians\\_from\\_Uganda](https://en.wikipedia.org/wiki/Expulsion_of_Asians_from_Uganda)

32 Thousands of Sudanese Stream into Kenya. *New York Times*, 31 May 1992.

33 Available at <http://reporting.unhcr.org/node/2537?y=2016#year>

34 Available at <http://www.unhcr.org/ke/wp-content/uploads/sites/2/2017/01/Kenya-Operation-Factsheet-December-2016.pdf>

# REFUGEE LEGISLATION AND POLICY

As a signatory to the 1951 United Nations Convention relating to the Status of Refugees, and the 1967 Protocol in 1981 and being party to the 1969 African Union (AU) Convention Governing the Specific Aspects of Refugee Problems in Africa, Kenya had an obligation towards the rights and welfare of refugees within her borders.

In 1991, a draft Refugee Bill was prepared but owing to conflicting opinions from the government, NGOs and UN agencies, the bill was shelved in 1994. After consultations in 1991, fresh reviews began in 2000; but the bill was only published as the Refugee Bill in 2003 after reviews of the Refugee Bill 2000 were undertaken by the Government, NGOs and UN agencies and recommendations made. In 2005, the Refugee Affairs Secretariat was revived. By the end of the year, the secretariat was made a department within the Ministry of State for Immigration and Registration of Persons. Parliament finally considered the bill in 2006 when it was republished (after its expiry in 2003) and became the Refugee Bill of 2006.

In 2006, Kenya enacted the Refugee Act that was consequently operationalized in 2007. The law, among other things, established the Department of Refugee Affairs (DRA), the Refugee Affairs Committee and the Refugee Affairs Board, bodies that were legally charged with the affairs of all refugees. The Department of Refugee Affairs is managed jointly by the United Nations High Commission for Refugees (UNHCR) and the Government of Kenya established under the 2006 Refugees Act and the 2009 Refugees Regulations.

Kenya recognizes two classes of refugees: prima facie refugees and statutory refugees. All asylum seekers go through an initial registration. At this point, they are screened for their eligibility to seek asylum.<sup>35</sup> The law provided for Class M entry permits to regulate the entry and settlement of the refugees and the interpretation of the term refugee. However, it circumvented the terms of their residence, did not legally provide for non-refoulement (i.e. the forcible return of refugees or asylum seekers to a country where they are liable to be subjected to persecution), the right to work, or freedom of movement. In other words, the law was not as comprehensive, and did not provide durable solutions for the refugee situation in Kenya.

Critics of the law assert that while it provides for the right to work and access work permits; the same law restricts the movement of refugees and confines them within the settlement camps, which they can only leave after authorization. Refugees acting contrary are liable to penalties prescribed in the law – either a six-month jail term or a fine of 20,000 Kenyan shillings (approximately USD 200), or both penalties.

<sup>35</sup> *Ibid.*

# THE SOCIO-ECONOMIC AND POLITICAL CLIMATE SURROUNDING REFUGEE POLICY DEVELOPMENT

Kenya's outlook on the refugee question dates back to 1992 after she started experiencing vast influxes of refugees. With the influx of refugees every year and their protracted stay, Kenya's welcoming attitude towards refugees drastically changed.<sup>36</sup> The refugees notwithstanding, Kenya at the time was also experiencing a problem with internally displaced persons (IDPs) because of land clashes in various parts of the country. The situation was exacerbated by a sharp increase in crime and the entry of illegal arms into the country. Since this was the same period within which both refugees and foreigners were flooding the country, inevitably the former were blamed for this. Furthermore, in the same year, economic troubles befell the country as Kenya was undergoing economic changes, especially the structural adjustment programmes that caused unemployment and inflation to soar by more than 50%. In the light of the economic changes, the refugees were seen through different lenses, particularly as an unwelcome competition for the locals. The government handed over the responsibility for RSD and management to the United Nations High Commissioner for Refugees (UNHCR) in 1992. Between 1995 and 1997, camps in urban areas were gradually closed and amalgamated with Dadaab and Kakuma refugee camps, which became bigger camps to accommodate the ever-increasing numbers and remained the only camps.

Amid consultations on the proposed refugee law by the stakeholders, Kenya transitioned from the Kenya African National Union (KANU) in 2003. While this stalled the process to a certain extent, refugees were still pouring into Kenya in vast numbers in 2006 and this revived the process to re-

consider the bill. With RCK championing advocacy for the law, the Refugee Bill was introduced to Parliament for the second time 15 years after it was first drafted. The bill was passed as an Act of Parliament on 29 November 2006 and assented to on 30 December 2006. Consequently, on 15 May 2007, the Refugee Act was operationalised.

In 2012 Kenya sent out a directive in response to the 2012 terrorist attacks allegedly attributed to warring factions of al-Shabaab in Somalia. Citing a breach of security by those welcomed through the borders, the government issued the Structural Encampment Policy aimed at refugees living in urban centers. The directive in December 2012 ordered refugees from Somalia living in Kenya's urban areas to move to Dadaab in the northeast, and the other nationalities to move to Kakuma in the northwest of the country. The country ceased the registration of refugees outside camps and illegal migrants were targeted for deportation, while refugees were relocated to camps. The following year on 5 June 2013, the Kenyan and Somali governments announced an agreement on voluntary repatriation for Somali refugees in Kenya. The resettlement process in Dadaab had been complicated by growing insecurity in the camp and subsequent difficulties in accessing populations living there. Resettlement was considered an important, viable and durable solution for Somali refugees. These dynamics greatly affected discussions around the review of existing refugee laws.

In 2014, efforts to realign some specific laws with the Kenyan constitution were started, to either repeal or amend the Refugees Act of 2006. In 2014, the Security Laws (Amendment) Act 2014

<sup>36</sup> *Development of Refugee Law in Kenya.*

was passed. While it was mainly geared towards the security situation in Kenya, it affected the affairs of refugees directly. One clause capped the number of refugees allowed in the country at 150,000. The constitutionality of eight clauses was questioned, with a verdict passed recently proving the illegality. Under a USD 9 million Security Partnership Project (SPP), the government deployed 692 police officers to Dadaab and Kakuma. Owing to the efforts made by the Government of Kenya (GoK) and the UNHCR under the SPP, Dadaab has been pacified and has experienced a decline in security incidents, particularly regarding improvised explosive device (IED) attacks and kidnappings.

In May 2016, the GoK announced that it would be closing Dadaab and repatriating over 260,000 refugees. The government claimed that the camp acted as a breeding ground for militias and also cited the economic, environmental and social issues posed by the refugees' continued stay. Kenya was accused of excessive politicisation of refugee issues and the move to close the camp was referred to as political rhetoric. The UNHCR warned against political pressure to curtail the rights of refugees, contrary to national and international law.

The International Conference on Assistance to Refugees in Africa, 1981 and 1984 (ICARA 1 and ICARA 2) highlighted the 'burden' that refugees place on their host states, i.e. imposing additional costs on already hard-pressed public and social welfare budgets, arresting economic growth, distorting markets, causing environmental degradation and putting political strains on already fragile and conflict-affected countries.<sup>38</sup>

These burdens resonated with the reasons the GoK has candidly spoken about. Dr. Karanja Kibicho, the Principal Secretary in the Ministry of Interior and Coordination of National Government, said that

*"Kenya has continued to shoulder a very heavy economic, security and environmental burden on behalf of the regional and international community."*

He added, 'the Government of Kenya acknowledges that the decision will have adverse effects on the lives of refugees and therefore the international community must collectively take responsibility on humanitarian needs that will arise out of this action.'<sup>39</sup> Refugees have been accused of cutting down trees to build shelters or to use as firewood. Locals have complained that aid agencies hire refugees as cheap labour and give more assistance to refugees than to needy locals, all accounts denied by aid agencies. On the other hand, research on Dadaab has shown a positive economic impact of the camps on the host community.<sup>40</sup>

The humanitarian approach to refugees have ignored the impact host communities face as a result of refugees.<sup>41</sup> Often, there are discrepancies between what host governments and donors/NGOs seek as long-term benefits for refugees. While governments tend to assess the impacts and costs for the refugees as well as host communities, donors and NGOs focus on the outcomes of their skills development and income-generating projects, food rations or cash and vouchers assistance for refugee livelihoods – which only create dependency and are not sustainable. A case in point is what happened in June 2015 when the refugees' daily food rations were reduced by 30%.<sup>42</sup>

37 Available at <http://www.standardmedia.co.ke/article/2000152677/judges-declare-eight-sections-of-new-security-law-illegal/?pageNo=2>

38 Are refugees an economic burden or benefit? Roger Zetter.

39 Available at <http://reliefweb.int/report/kenya/kenya-ps-karanja-kibicho-explains-why-government-shutting-down-refugee-camps>

40 Available at <http://tinyurl.com/reliefweb-dadaab2010>

41 Available at [http://www.fmreview.org/preventing/zetter.html#\\_edn2](http://www.fmreview.org/preventing/zetter.html#_edn2)

42 Available at <https://www.wfp.org/news/news-release/lack-funds-forces-wfp-reduce-food-rations-again-refugees-kenya>

Kenya has considered these policy and conceptual challenges and contended that the 'costs' of refugees to their hosts –rising food and commodity prices, the depression of local wage rates, fiscal pressures, increasing environmental degradation– outweigh other micro-economic, macro-economic and security benefits.<sup>43</sup>

Notwithstanding that Kenya is party to international treaties and conventions relating to human and refugee rights, the interpretation within the confines of the national laws are arbitrary and unpredictable—dualist jurisdiction—as this invariably depends on political will and interest. On the other hand, it is important to note that though the 2010 Kenyan Constitution does not make specific provisions for refugees and asylum seekers, its provisions on citizenship may be of benefit to refugees where Kenyans, for example, can confer citizenship on refugees through marriage (see Refugee Rights, p. 8).

The Constitution of Kenya also offers several kinds of protection to refugees via Chapter IV that guarantees the fundamental rights and freedoms of all persons and groups. Similarly, the conventions and treaties are fully domesticated via section 16 of the Refugees Act, which is to the effect that every recognized refugee and every member of their family living in Kenya shall be entitled to the rights and be subject to the obligations contained in the international conventions to which Kenya is party.

43 *Ibid.*

# TANZANIA

## Historical Overview of Refugee Situation

At the dawn of independence in Tanzania in 1961, the influx of refugees from all over the Great Lakes region was attributed to Julius Nyerere who, as the president, encouraged an “open-door policy”. His vice president, Rashid Kawawa, enunciated this government policy saying:

*“Tanzania’s government is convinced that her independence is incomplete before the whole of Africa becomes free. We shall neither give up nor lag behind in supporting the refugees [...]. We cannot help those who run away to seek a luxurious life. We will help those who want to free their countries.”<sup>44</sup>*

Tanzania’s stand on refugees was premised on the fact that the borders in Africa were drawn by autocratic forces, and the onus was on her to welcome both victims and freedom fighters alike, since the winds of political change were blowing. Despite having a weak economy, Tanzania believed she had sufficient resources to share and to cater for the local population. Tanzania’s refugee population mainly came from the DRC, Rwanda and Burundi. However, over the years; there were doubts as to the sustainability of Tanzania’s policy on refugees.

The post-Nyerere era saw a reduction in the influx of refugees into Tanzania. In 1993 Burundi experienced armed conflict after Melchior Ndadaye, the first Hutu president, was assassinated, sparking violence against the Tutsis. The conflict escalated in 1994, after the assassination of the Rwanda and Burundian presidents Juvénal Habyarimana and Cyprien Ntaryamira as they returned from the Arusha Peace Accord Meeting. Over 700,000 Burundians sought refuge 750,000 from Rwanda in 24 hours, the largest and fastest influx ever recorded in history. Tanzania ended up hosting over 2,000,000 refugees. Benaco refugee camp, in northwestern Tanzania, became the largest in the world.

Shortly after, in 2006, the DRC also plunged into conflict and the refugee camps in the eastern part of the country were attacked so the refugees relocated to Tanzania together with Congolese fleeing the war. The number of refugees literally quadrupled from only 400,000 between 1961 and 1993 to 1.5 million between 1993 and 2000. Most of these were allotted land in the underdeveloped western regions of Kagera, Rukwa and Tabora.

After Julius Nyerere’s retirement in 1985, a new wave of leaders emerged. These were Ali Hassan Mwinyi and Benjamin Mkapa, to whom the open-door policy did not appeal in terms of economic, environmental and social development. The refugees in Tanzania were viewed as more of a liability than an asset, with President Benjamin Mkapa referring to them as ‘an unbearable burden’ posing a serious security threat which would undo the progress Tanzania had made so far. The Great Lakes crisis saw about 1,000,000 refugees enter Tanzania, and soon there was a reversal in this trend. In 1995 the western border of Tanzania was closed by the government, became militarised and refugees were forcibly denied entry, in contravention of the non-refoulement principle. Amidst an international backlash, President Mkapa announced that all Rwandese refugees in Tanzania were expected to return home by 31<sup>st</sup> December 1996. Consequently, many Rwandese refugees were repatriated and in 1998, a tripartite agreement was signed between Burundi, Tanzania and the UNHCR to promote Burundian repatriation. In the same year, the Refugee Act, which ended the open-door policy, was enacted. These were meant to discourage refugees from seeing Tanzania as a favorable place to seek refuge and asylum. The stipulations within the Act confined refugees within the camps as opposed to integrating them into society, and forbade them from working outside the camps and from owning farms within the camp grounds. The liberalization policy also de-emphasized the agricultural industry, rendering labor-intensive techniques impractical for the Tanzanian government.

<sup>44</sup> Chaulia, 2003.



In 2002, another tripartite agreement was signed between Burundi, Tanzania and the UNHCR to promote the voluntary repatriation. In 2003, a national refugee policy was implemented which made available only three options for the refugees, i.e. resettlement, safe zones and voluntary repatriation. By 2008, Tanzania had repatriated approximately 300,000 and had closed six camps, leaving only five in the northwestern part of Tanzania to accommodate the 200,000 refugees. At a point where the government set deadlines to repatriate all Burundian refugees because there

was no political strife in the country, Burundi argued that she did not have the infrastructure to accommodate the returning refugees.

Recently, Tanzania experienced an influx of Burundian refugees as conflict broke out after the controversial election of Pierre Nkurunziza in 2015. The country is home to the world's third largest refugee camp, Nyarugusu, holding 140,000 Burundians and 60,000 Congolese, three times the number it was meant to hold.

---

## KEY REFUGEE DATA

Tanzania received a large population of both asylum seekers and refugees fleeing conflict areas within the first three decades of independence. There is an estimated 1,000,000 refugees in the country, 99% of whom originated from the Great Lakes region. The overwhelming majority of them are Burundians (69 %) (Roos, 2005).<sup>45</sup>

According to the UNHCR, over 800,000 refugees reside in Tanzania, with Burundian and Congolese refugees comprising the majority. Additionally, the current instability in Burundi has increased the number of individuals seeking refuge in the country. As of 24 May 2015, international aid organizations have estimated that anywhere between 47,000 and 70,000 new Burundian refugees have arrived in Tanzania since the inception of the recent political crisis in the country. Tanzania has only one permanent refugee camp – known as Nyarugusu—and with more Burundians entering each day, the camp is estimated to be at 200% of its original capacity.<sup>46</sup>

Tanzania hosts currently a large number of refugees, of this number, some 409,419 are assisted by the UNHCR in eleven camps, mainly in northwestern Tanzania – 250,961 are refugees from Burundi, 153,568 are from the DRC, 2,867 are Somalis, 183 are Rwandese and 1,840 are of mixed origin. About 200,000 refugees reside in the self-supporting settlements in Rukwa and Tabora regions.<sup>47</sup> Additionally, the government estimates that there are 200,000 refugees without official status in Tanzania, the majority of who are believed to have spontaneously settled in Tanzanian villages. One estimate suggests that there are 20,000 refugees living clandestinely in urban areas. Refugees from Burundi are predominantly Hutu. Currently, the UNHCR is facilitating return to all but four provinces of Burundi, namely Bururi, Bujumbura Rural, Bubanza and Cibitoke, which are too insecure.<sup>48</sup> Many of the 153,000 Congolese refugees in Tanzania are from the Kivu Provinces.<sup>49</sup>

<sup>45</sup> Available at <http://urban-refugees.org/dar-es-salaam/>

<sup>46</sup> Available at <http://reliefweb.int/report/united-republic-tanzania/state-freedom-movement-refugees-tanzania-overview>

<sup>47</sup> Available at <http://www.unhcr.org/uk/474ac8c90.pdf>

<sup>48</sup> Ibid.

<sup>49</sup> DR of Congo: UN reports big increase in refugee returns from Tanzania.

These areas remain highly insecure and, therefore, facilitated repatriation of Congolese refugees is not being contemplated at this moment. The Somali refugees in Tanzania are part of the Bantu Somalis, many of whom trace their origins to Tanga Region in Tanzania. In early 2003, these refugees were allowed by the Government of Tanzania to settle in Chogo, a settlement within Tanga Region.<sup>50</sup>

By mid-2004, the UNHCR was making progress in assisting the refugees with their applications for citizenship despite the fact that some of the refugees were still determined to return to Somalia, while others were more attracted by

resettlement in the U.S. As noted earlier, there are some 800,000 refugees and asylum seekers in Tanzania. Of these, the 409,419 who reside in official settlements assisted by the UNHCR, some 200,000 refugees in the self-supporting settlements in Rukwa and Tabora and the refugees who have been authorised to reside in urban areas have official status. By simple calculation, this means that nearly 200,000 refugees, or about 25%, do not have official status. These comprise refugees who have spontaneously settled in villages. The UNHCR has a prominent presence in refugee camps in Tanzania, which includes sub/field-offices in Kasulu, Kibondo, Kigoma, Lugufu and Ngara.<sup>51</sup>

---

## LEGAL AND POLICY FRAMEWORK

In the period immediately following its independence in 1961, Tanzania co-opted existing British laws on refugees and became signatory to the 1951 Refugee Convention in 1964. Tanzania also had what was considered an 'open-door' policy towards asylum seekers and freedom fighters although a written account of this was not formulated and never would.<sup>52</sup> This stems from then-President Nyerere's socialist moral beliefs and Pan-African vision that sought a unified African state. The main tenets of the policy focused on Nyerere's policy of self-sufficiency: 1) prima facie/group (as opposed to individual) determination of status; 2) generous allocation of land, local integration; and 3) the offer of en-masse citizenship through naturalisation.<sup>53</sup> However, this policy lacked a clear legal framework.

Owing to colonial influences and structures, post-independence governments enacted the Refugees (Control) Act in 1965 with the intention of administering settlement in an organised manner. The law, however, was problematic as it did not define a 'refugee' or provide for 'refugee entitlements'. This Act (1965) introduced the confinement of refugees to designated areas, thereby restricting their movement unless granted permission, with the intent of controlling refugee influxes and their negative implications. Government officials also exercised overzealous powers to ensure that the camps were administered in an efficient and orderly manner.<sup>54</sup>

---

<sup>50</sup> *The East African*.

<sup>51</sup> Available at <http://www.unhcr.org/429b19982.pdf>

<sup>52</sup> *Refugee politics in Tanzania: Receding receptivity and new approaches to asylum refugee politics*, p. 15.

<sup>53</sup> Kamanga, 2005, p. 103.

<sup>54</sup> *United Republic of Tanzania*, 1965, p. 7.

In 1998 Tanzania enacted a new piece of legislation, the New Refugees Act, which replaced older laws and sought to conform with the country's obligations pursuant to the signing of the OAU Convention Governing Specific Aspects of Refugees' Problems in Africa of 1969 (the OAU Convention).<sup>55</sup> In addition to seeking conformity with the country's continental commitments, a secondary objective of the 1998 Act, Dr Khoti Kamanga, of the University of Dar-es-Salaam, argues, was

*"to signal disengagement from the open-door policy of the [previous] Nyerere administration, with a view to making Tanzania a less attractive destination for asylum seekers, and sending a deterrent message to authorities in refugee-generating countries."*

The government policy also encouraged repatriation as the preferred solution, the new legislation intensified restrictions on the rights of refugees in the country and controls on the movement of encamped refugees increased. As Dr Lucy Hovil, a senior researcher for IRRI, explains;

Although refugees had long required permission to leave their settlements, these controls became stricter over time, and eventually their movements were restricted to a four-kilometer radius from the center of the camps.<sup>56</sup>

The 1998 Act makes no specific mention of the right of freedom of movement for refugees. However, pursuant to sections 16 and 17, authorities have the power to restrict any asylum seeker or refugee to reside within a "designated area" (DA) – a euphemism for a refugee camp or settlement.

However, per the UNHCR, "in practice, all refugees are required to reside in camps or settlements." Further, Tanzania's 2003 National Refugee Policy (2003 Policy), which is not codified law but frames the general direction the government intends to pursue in refugee matters, affirms in paragraph 28 that

*"refugees will be hosted in designated areas whereby the international community will be obliged to provide material assistance"*<sup>57</sup>

Furthermore, the government also advocates the establishment of 'safe zones' within the conflict countries, to alleviate the burden of refugee-receiving countries.

<sup>55</sup> Available at <http://reliefweb.int/report/united-republic-tanzania/state-freedom-movement-refugees-tanzania-overview>

<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid.*

# RWANDA

The Rwandan repealed refugee law stated that any person who no longer has a nationality and staying outside the country of her/his former habitual residence and owing to a well-founded fear of being persecuted for reasons as stated above was a refugee. Furthermore, “[a]ny person who owing to an external aggression, occupation, foreign domination or events seriously disturbing public order is compelled to leave his/her place of habitual residence to seek refuge in another place outside his/her country of origin or nationality.”<sup>58</sup>

Per the 2001 law, the national department in charge of refugees had a mandate to establish a National Refugee Council, whose role was to follow up and examine issues of not only foreign refugees who sought asylum in Rwanda but also of Rwandan refugees in the diaspora. What is critical is that under Article 4 of the 2001 law, the council was composed of a representative from the President’s Office, the Prime Minister’s Office, the Ministry of Refugee Affairs, the Ministry of Foreign Affairs, the Ministry of Security, the Ministry of Justice, the Ministry of Defense and National Integrity, the Ministry of Human Resettlement and Environmental Protection and, finally, the National Commission on Human Rights. With regard to the process or procedure for obtaining refugee status Article 12 stated that:

*“any person who flees his/her own country for reasons mentioned must on arrival in Rwanda present himself/herself to the nearest local district/town authority and without prejudice to other legal provisions. The person must register himself/herself to the nearest immigration office within a period not exceeding fifteen (15) days of his/her arrival.”<sup>59</sup>*

In the process under Article 15, the National Refugee Council would then examine every application submitted to it within a period not exceeding six months from the time of notification. In the follow-up Article 17, if a person applying for refugee status is not satisfied with the decision

taken by the National Refugee Council, he or she may file a case with the High Court of the Republic within a period not exceeding 15 working days starting from the day of the decision.

An important aspect of the 2001 Rwanda refugee law was that the applicant had the right to stay in Rwanda during the period in which he or she filed the case, until the day the court render edits irrevocable decision. The law gave refugees a right to a fair hearing, which is not the case with the laws of other countries. In the event that the applicant is denied refugee status, he/she is asked to leave but has the right to stay in Rwanda for an extra period not exceeding 60 working days renewable only once, as stated under Article 20.

It is important to recognize that under the circumstances stated in Article 22, without prejudice to existing laws, every refugee had the same rights and liberties as those recognized in international conventions. Among these rights is the right to non-discriminatory treatment; the freedom of worship; the right to movable and immovable assets; the right to copyright and patent rights; the right to be part of associations and political activities; the right to sue and to be represented in courts of law; the right to employment; the right to shelter; the right to assistance from the administration; the right of free movement. These rights existed for refugees under the repealed law.

The new refugee law of 2014 domesticates critical provisions of international refugee law, reflected in the 1951 Convention, that were previously absent, including provisions related to non-refoulement, cessation, exclusion, revocation, naturalization, family unity and references to socio-economic rights. The new law also clarifies the role of the government concerning the influx of combatants and provides clear timelines with regard to the application process. According to the Ministry of Disaster Affairs and Refugee Management, Rwanda currently hosts 163,000 refugees in the six refugee camps and urban areas around the country, with the largest camp, Mahama, hosting 51,000 Burundian refugees.

<sup>58</sup> Rwanda: Law No. 13 ter/2014 of 21/05/2014 relating to refugees

<sup>59</sup> Procedure for attaining refugee status.

# SOUTH SUDAN

Following a power crisis that erupted in Juba in 2013, South Sudan has spiraled into a national, political and ethnic conflict that has quickly spread across many parts of the country and led to the death of thousands of women, children and men. Since then, more than 4.7 million people have been forced to flee their homes owing to brutal war. Out of these, 1.9 million have been internally displaced in South Sudan and over a million have sought safety in Uganda.<sup>60</sup>

South Sudan is, therefore, a major source of the refugees hosted by the other EAC member states. For instance, as of July 2017 more than 70% of the refugee influx into Uganda has been attributed to South Sudan. Between January and June 2017, Uganda received more than 300,000 South Sudanese refugees and Bidi-Bidi, now the world's largest refugee settlement is home to only South Sudanese refugees.

---

# BURUNDI

More than 99% of the refugees in the country originate from the DRC because of the protracted civil and armed conflict there.<sup>61</sup> Burundi is also one of the major sources of refugees in East Africa and other countries.<sup>62</sup>

<sup>60</sup> Available at <https://www.oxfam.org/en/emergencies/crisis-south-sudan>

<sup>61</sup> Available at <http://www.unhcr.org/afr/burundi>

<sup>62</sup> The Burundi situation.

# RATIONALE FOR REFUGEE POLICY AT THE EAST AFRICAN COMMUNITY (EAC) LEVEL

## 1) AU Refugee Convention: A Catalyst of Regional Policy Formulation

All members of the EAC are signatories to the African Union Convention Governing Specific Aspects of Refugee Problems in Africa of 1969 (the AU Refugee Convention) which notes with concern “the constantly increasing numbers of refugees in Africa” and “the need for an essentially humanitarian approach towards solving the problem of refugees”. South Sudan became the 46th country to have ratified the OAU Convention<sup>63</sup> and some of the duties bestowed upon member states include the granting of asylum, <sup>64</sup> the issuance of travel documents,<sup>65</sup> providing the Secretariat with information and statistical data requested concerning the condition of refugees, and implementing the convention, laws, regulations and decrees that are in force relating to refugees. <sup>66</sup>

However, while the AU Refugee Convention was enacted with a purpose of setting standards for the treatment of refugees in recipient countries, it is not addressing itself to events in the countries of origin. <sup>67</sup> At the time the convention was signed, many African states were enthusiastic and willing to take in many refugees.

This is mainly attributed to solidarity with Africans fleeing conflict arising from the struggle against colonialism. Given that many of the recent conflicts are homegrown, refugees are not welcomed with the gusto that once used to exist.<sup>68</sup> African states are increasingly following the lead of other regions by closing their borders and threatening to forcibly return those who have made it into their territories, such as in the case of Kenya and Tanzania. Even in the countries where refugees are readily admitted and where comprehensive policies are in place, the treatment does not always conform to the convention. <sup>69</sup>

The commitment by state parties under the convention makes a compelling case for the need for the EAC to further articulate refugee issues with the aim of developing concrete, long-lasting strategies. Despite the shortcomings, members of the EAC can carry the good intentions of the convention further by developing a more streamlined regional policy that is in line with emerging refugee issues, e.g. the need to interrogate the role of countries of origin, the emerging security concerns, a sustainable solution to the management of refugees and issues attributed to the increasing influx of refugees in the region.

<sup>63</sup> The instruments of accession were deposited at the African Union in Addis Ababa on 19 May 2016.

<sup>64</sup> Article II, OAU Refugee Convention.

<sup>65</sup> Article IV, OAU Refugee Convention.

<sup>66</sup> Article VII, OAU Refugee Convention.

<sup>67</sup> Okello, J.O.M. *The 1969 OAU Convention and the Continuing Challenge for the African Union*. Available at <http://www.fmreview.org/faith/okello.html>

<sup>68</sup> *Ibid.*

<sup>69</sup> *Ibid.*

## 2) The Need to Expand the Refugee Paradigm

Governments in the EAC view forced migration majorly through the prism of national security, as a cautionary measure, and several national policy decisions are nearly devoid of humanitarian language. An example was the plan to force the more than 70,000 Burundian refugees living in Rwanda to seek shelter elsewhere, with Rwanda citing national security reasons,<sup>70</sup> and the decision by the government of Kenya to close the Dadaab refugee's camp as a measure against increased militia activity.<sup>71</sup> Similarly, Tanzania has closed policy on refugees informed by national security arguments.

The root causes of forced migration should be interrogated at regional level to elevate each country's understanding of the refugee crisis beyond the narrow national security prism. Expansion should encompass the economic, social and environmental concepts that have a proceeding impact of refugee incursions into the EAC. Limiting solutions to containment and restrictive laws is unlikely to reduce the mass influx of refugees into East Africa.<sup>72</sup>

In terms of refugee management, the EAC is home to hundreds of thousands of refugees owing to the regions' proximity to centers of conflict within the Great Lakes region and the Horn of Africa. In accordance with Article 124 (4) and (5) (h) of the treaty, the partner states agreed to establish common mechanisms for the management of refugees. In addition, Article 7(8) of the Protocol on the Establishment of the East African Community Common Market stipulates that the movement of refugees is to be governed by the relevant international conventions.<sup>73</sup>

Under priority area 3, on the promotion of regional peace and security strategic intervention (h), it is stated that the strategic framework will support the harmonization of IDP and refugee management practices across the region.

In view of the above, we examine how the EAC is ceding refugee management in the region to international conventions, although, according to the strategic plan, there is a plan in the pipe line for the development of the EAC refugee management policy and action plan.

70 Rwanda's Way of Solving Its Refugee Problem? Kick Its Refugees Out. See <http://foreignpolicy.com/2016/02/12/rwandas-way-of-solving-its-refugee-problem-kick-its-refugees-out/>

71 Available at <http://www.bbc.com/news/world-africa-37953344>

72 *Supra*, n. 1 at p. 34.

73 Protocol on the Establishment of the East African Community Common Market.

# ONWARD MOVEMENT OF REFUGEES

Uganda has been, and continues to be, a favorite destination for refugees, standing at the geographical center of a region characterized by instability and conflict. The country has had many issues that have led to an increase in the numbers of refugees.

The country continues to present different images to the world on matters of handling refugees with a long standing history in managing refugees.<sup>74</sup> The onward movement of refugees challenges the country more in its efforts to manage the refugee population. This movement involves people who have been recognized as refugees in a country of first asylum, but who have moved on to another state to access better protection, solutions or improved livelihoods. For instance, there is evidence to suggest that some of the Burundians, Congolese, Eritreans and Rwandans moving south are people leaving refugee camps to look for better protection and opportunities elsewhere.<sup>75</sup>

The onward movement in Kenya from the Dadaab and Kakuma camps is for reasons such as population pressures, limited access to livelihoods and restrictions on freedom of movement.<sup>76</sup> These reasons and many others make refugees choose to move on to where the environment is most favorable. This movement presents several protection challenges as it is recognised that refugees cannot be returned to their country of origin and must be protected against refoulement. Moreover, states in the region generally lack the capacity to identify and return refugees who are engaged in onward movement while, also, countries of first asylum are unwilling to re-admit refugees who have left their territory.<sup>77</sup>

<sup>74</sup> Available at [http://refugeelawproject.org/files/working\\_papers/RLP.WP01.pdf](http://refugeelawproject.org/files/working_papers/RLP.WP01.pdf)

<sup>75</sup> *In harm's way: the irregular movement of migrants to Southern Africa from the Horn and Great Lakes regions*

<sup>76</sup> *A Long and Winding Road. Background Paper (September 2010) Regional Conference on Refugee Protection and International Migration: Mixed Movements and Irregular Migration from the East and Horn of Africa and Great Lakes Region to Southern Africa -United Nations High Commissioner for Refugees and International Organisation for Migration.*

<sup>77</sup> UNHCR: *A Long and Winding Road.*



# RECOMMENDATIONS

## Feasibility of a Refugee Policy at EAC Level

According to the Universal Periodic Review of Rwanda,<sup>78</sup> the UNHCR recognised the lack of policy coordination in the EAC. The following is an extract of the submission on the issue; and there are notable differences in asylum procedures, policy, and strategies within the EAC. In March 2010, the Representative of the UNHCR to Tanzania, Mr Oluseyi Bajulaiye, and the Secretary-General of the EAC, Ambassador Juma Volter Mwapachu, signed a Memorandum of Understanding in Dar-es-Salaam. This agreement aimed to establish a framework for cooperation between the EAC and the UNHCR in areas of common concern, including the protection of forcibly displaced people, regulatory regimes affecting the movement of persons, immigration and refugee management.<sup>79</sup>

It was declared that central to the partnership would be the promotion of the rights of refugees and internally displaced people, including strengthening of national legislation. The two organizations would also join efforts to enhance their response to the increasingly complex migratory movements of people within and through the sub-region, which include people fleeing conflict. Additionally, the promotion of human rights, peace-building, and developing early warning systems would also feature prominently among the joint activities.

However, the member states have not been convening and have not demonstrated tangible efforts to harmonize their asylum policies with a view to protecting the rights of persons of concern. Among other serious incidents, where the respect of due process was problematic and that took place in EAC countries, in 2013 Tanzania expelled over 14,000 Rwandan as well as 15,000 Burundian nationals.

Furthermore, up until now, the right of free movement between the members of the EAC is not recognized for refugees residing in the member states. This right would create valuable livelihood opportunities for protracted refugees.

Whereas the 1951 Refugee Convention does not force a state to admit a refugee, it is clear that there is a gap here between the individual's right to seek asylum and the state's discretion in providing it. Because of this ambiguous state of affairs, governments' practice in granting asylum varies widely, in terms of both the procedure they use for determining refugee status and the actual legislation that is applied. It is, therefore, fundamental that the policy should lay out a position on what process asylum seekers should undertake, i.e. the process of applying or refugee status that does not undermine the individual rights of the asylum seekers.

The practical realization of a regional refugee policy is likely to be met by major challenges, such as a notable lack of reliable data on migration flows in the region and many knowledge gaps. Therefore, a first step for a regional strategy on migration and mobility might be the development of strong migration information systems and national migration profiles, as a basis for evidence-based policy formulation.

Elsewhere on the continent, positive steps have been taken by other regional economic communities. A case in point is the Economic Community of West African States (ECOWAS) that has developed the ECOWAS Common Approach on Migration. The member states recognize six principles to maximize the developmental potential of migration and mobility in the region:<sup>80</sup>

- 1) Free movement of persons within the ECOWAS zone is one of the fundamental priorities of the integration policy of ECOWAS member states.

<sup>78</sup> As of March 2015. See <http://www.refworld.org/pdfid/56371c604.pdf> p. 8.

<sup>79</sup> East African Community Secretariat, Arusha, Tanzania, 22 March 2017.

<sup>80</sup> ECOWAS Common Approach on Migration.

- 2) Legal migration towards other regions of the world contributes to ECOWAS member states' development.
- 3) Combating human trafficking and humanitarian assistance are moral imperatives of ECOWAS member states.
- 4) Harmonizing policies.
- 5) Protection of the rights of migrants, asylum seekers and refugees.
- 6) Recognizing the gender dimension of migration policies.

The Common Approach on Migration goes ahead to define action plans under each principle. On the protection of the rights of migrants, asylum seekers and refugees, the member states undertake to put in place mechanisms for granting rights of residence and establishment to refugees from ECOWAS countries.

---

## A TRANSITION FROM RELIEF TO DEVELOPMENT

Self-reliant integration has allowed cultivation to produce food and generate income to enable refugees to become more self-reliant. However, this approach has been criticized for concentrating almost entirely on the integration of service provision and not broader economic and social integration.

Land has been made available for the refugees to use, but as adversity is predominant in the rural areas where many of the settlements are located, inadequate resources and infrastructure have seriously undermined such attempts.

Self-reliance strategies (SRS) will be introduced to avoid the establishment of parallel structures and foster the capacity of refugees to sustain

them. This aims to integrate refugee services within district development plans basing on the recognition that refugees and local communities share services.

The aspect of self-reliance as a strategy has gone some way to integrate the services provided to refugees and the local host population to reduce aid dependency. The implementation of the strategy has been constrained by lack of resources and problems of insecurity. Owing to inadequate resource funding to the proliferating programmes for refugees, many refugees continue to live in harsh conditions, with inadequate facilities for schooling, health and other basic humanitarian needs.

# NEXT GENERATION REFUGEES

In contrast, for refugees who arrive in their host country as children or as children of immigrants or who are born in the host country, schooling in the host country is an important determinant of their childhood development and labor performance in the future. As economic growth is a central aspect in most growing nations, an educated critical mass will be beneficial to both refugees and host countries. Therefore, policies that ensure comprehensive access to education programmes will enable the development of a productive labor force. Furthermore, in the case of the refugees

who arrive in their host country as adults, who have completed different levels of formal education in their home country, or who were engaged in any skilled labor, the presence of restrictive mobility policies will only be a hindrance to the economic growth of the host countries. It is thus important to have a policy that reflects the long-term tertiary or vocational education for refugees. The policy should consider the existing skill sets. Host countries can capitalise on and develop these individuals' capabilities by initiating them into the labour market, thereby creating human capital.

---

## INTEGRATION AS A VIABLE OPTION: BETTER TO BE PART THAN TO BE APART

The integration of refugees is determined by how communities can understand the challenges and be part of the solution. The reality of refugee life is that migration brings with it the aspect of multiculturalism, which is all about the need for recognition and the celebration of different cultures in a society. The nature of this multiculturalism varies from one country to another. Culture involves beliefs, values and norms that determine the behavior acquired during socialization by a certain group of people.

The process should be able to build on interculturalism, which would essentially be about promoting interaction between the majority and the minority cultures, thus fostering understanding. This would play a role in fostering respect for the different cultures within the refugee situation and the host communities because culture defines our identity.

The long-term prospects for intercultural learning could sustainably hinge on the freedom to intermarry, in the process advancing the role of host communities.

A comprehensive training package using online training programmes for students and community outreach consisting of several modules used together, as well as discussing the protection of and assistance to refugees guaranteed by international law, will be important. With the crisis becoming complex, higher institutions of learning should start refugee studies as part of their curriculum.

The New York Declaration for Refugees and Migrants<sup>81</sup> expresses the political will of world leaders to save lives protect rights and share responsibility on a global scale. At the summit, the long-term expectation from the landmark declaration would be that world leaders'

<sup>81</sup> *New York Declaration for Refugees and Migrants.*

commitment to the implementation as regards to refugees, migrants and those who assist them in the host communities would result in benefits. The New York Declaration also contains concrete plans for building on these, especially with regard to refugee management and resource distribution.

The New York Declaration contains commitments to address the issues the world is faced with now while preparing for future challenges. These commitments include:

- I. Protecting the human rights of all refugees and migrants, regardless of status. This includes the rights of women and girls and promoting their full, equal and meaningful participation in finding solutions.
- II. Ensuring that all refugees and migrant children are receiving education within a few months of their arrival in the host country.
- III. Preventing and responding to sexual and gender-based violence.
- IV. Supporting those countries rescuing, receiving, and hosting large numbers of refugees and migrants.
- V. Working towards ending the practice of detaining and hosting large numbers of refugees and migrants.
- VI. Strongly condemning xenophobia against refugees and migrants, and supporting a global campaign to counter it.
- VII. Strengthening the positive contributions made by migrants to economic and social development in their host countries.
- VIII. Implementing a comprehensive refugee response, based on a new framework that sets out the responsibility of member states, civil society partners and the UN system, whenever there is large movement of refugees or a protracted situation.

IX. Finding new homes for all refugees identified by the UNHCR as needing resettlement, and expanding the opportunities for refugees to relocate to other countries through, for example, labor mobility or education schemes.

X. Strengthening the global governance of migration by bringing the International Organization for Migration (IOM) into the UN system.

In support of the above issues, it is important that the current trend of increasing refugee numbers be taken care of under the New York Declaration for Refugees and Migrants. The commitment goes further to support countries rescuing, receiving and hosting large numbers of refugees and migrants. This will improve the delivery of humanitarian and development assistance to those countries most affected, including supporting through innovative multilateral financial solutions the understanding that large numbers of migrants come with costs for the economy of the host countries, and that there is, therefore, need to close all funding gaps.

The declaration reflects the will to move on to a comprehensive refugee response, based on a new framework that sets out the responsibility of member states, civil society partners and the UN system, whenever there is large movement of refugees or a protracted refugee situation.

# ANNEX I

Uganda has ratified the following international legislation relevant to mixed migration and protection of human rights of migrants and refugees:

- 1951 Convention relating to the Status of Refugees and the 1967 Protocol
- 1969 International Convention on the Elimination of All Forms of Racial Discrimination
- 1976 International Covenant on Civil and Political Rights
- 1976 Optional Protocol to the International Covenant on Civil and Political Rights
- 1976 International Covenant on Economic, Social and Cultural Rights
- 1981 Convention on the Elimination of All Forms of Discrimination against Women
- 1987 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- 1990 Convention on the Rights of the Child
- 2002 Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
- 2002 Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
- 2003 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
- 2003 United Nations Convention against Transnational Organized Crime
- 2003 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (signed but not yet ratified)
- 2004 Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (signed but not yet ratified)
- 2006 Pact on Security, Stability and Development in the Great Lakes Region, including its protocols on IDPs and the property rights of returnees
- 2008 Convention on the Rights of Persons with Disabilities
- 2008 Optional Protocol to the Convention on the Rights of Persons with Disabilities
- 2010 International Convention for the Protection of all Persons from Enforced Disappearance (signed but not yet ratified)
- 2012 AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)

# ANNEX II

*The following are refugee related legal frameworks adopted in Uganda*

- *Aliens (Registration and Control Act) 1985*
- *Adoption of Children Rules, 1997 (No. 52 of 1997)*
- *Children Act, 1997 (Cap. 59)*
- *The National Policy for Internally Displaced Persons, 2004*
- *Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulations, 2005 (2005 No. 62)*
- *The Uganda Citizenship and Immigration Control Act*
- *Refugees Act 2006 (Act No. 21 of 2006)*
- *Equal Opportunities Act, 2007*
- *Prevention of Trafficking in Persons Act, 2009*
- *Refugee Regulations, 2010*
- *Employment (Employment of Children) Regulations, 2012 (S.I. 2012 No. 17)*
- *Prevention and Prohibition of Torture Act, 2012 (No. 3 of 2012)*

*i ibid*



# UGANDA'S REFUGEE MANAGEMENT APPROACH WITHIN THE EAC POLICY FRAMEWORK

Cover Page Photo Credit:  
James Akena/Reuters

**Konrad-Adenauer-Stiftung**  
Uganda Office

51 A, Prince Charles Drive, Kololo  
P.O.Box 647 Kampala, Uganda.

T: +256-393-262011/2  
E: [info.kampala@kas.de](mailto:info.kampala@kas.de)  
[www.kas.de/uganda/en](http://www.kas.de/uganda/en)

 [/kasuganda](https://www.facebook.com/kasuganda)  [@KasUganda](https://twitter.com/KasUganda)  [kas.de/uganda/en/](http://kas.de/uganda/en/)

