



# SEIZING THE MOMENT

## STAKEHOLDER PERSPECTIVES ON FUTURE APPROACHES TO HOSTING REFUGEES IN KENYA

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**ReDSS**  
Unlocking Protracted Displacement



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## **THE REGIONAL DURABLE SOLUTIONS SECRETARIAT (ReDSS)**

The Regional Durable Solutions Secretariat (ReDSS) is a coordination and information hub created in 2015 that acts to catalyse forward thinking and policy development on durable solutions for displacement-affected communities. ReDSS seeks to improve joint learning and programming, inform policy processes, enhance capacity development, and facilitate coordination in the collective search for durable solutions. It is comprised of 14 organisations (ACF, ACTED, CARE International, Concern Worldwide, DRC, IRC, INTERSOS, Mercy Corps, NRC, OXFAM, RCK, Save the Children, World Vision, and LWF) working together to maintain focused momentum and stakeholder engagement towards durable solutions for displacement-affected communities in East Africa and the Horn of Africa and Great Lakes.

## ReDSS GLOSSARY OF KEY TERMS

<b>Area-Based Approach</b>	An approach that defines an area, rather than a sector or target group, as the main entry point. All stakeholders, services and needs are mapped and assessed and relevant actors mobilised and coordinated with. (IRC)
<b>Durable Solutions</b>	A durable solution is achieved when the displaced no longer have any specific assistance and protection needs that are linked to their displacement and can enjoy their human rights without discrimination on account of their displacement. It can be achieved through return, local integration and resettlement. (IASC framework)
<b>Host communities</b>	The local, regional and national governmental, social and economic structures within which refugees live. (UNHCR)
<b>Internally Displaced Persons (IDPs)</b>	Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border. (Guiding Principles on Internal Displacement).
<b>Livelihoods</b>	A combination of the resources used and the activities undertaken in order to live. Resources include individual skills (human capital), land (natural capital), savings (financial capital), equipment (physical capital), as well as formal support groups and informal networks (social capital). (DFID)
<b>Local Integration</b>	Local integration as a durable solution combines three dimensions. Firstly, it is a legal process, whereby refugees attain a wider range of rights in the host state. Secondly, it is an economic (material) process of establishing sustainable livelihoods and a standard of living comparable to the host community. Thirdly, it is a social and cultural (physical) process of adaptation and acceptance that enables the refugees to contribute to the social life of the host country and live without fear of discrimination. (Fielden/UNHCR).
<b>Protracted Displacement Situation</b>	Situations where the displaced “have lived in exile for more than 5 years, and when they still have no immediate prospect of finding a durable solution to their plight by means of voluntary repatriation, local integration or resettlement”. (UNHCR)
<b>ReDSS Durable Solutions Framework</b>	A rapid analytical tool to assess to what extent durable solutions have been achieved in a particular context. The Framework contains 31 indicators that relate to a) Physical Safety – protection, security and social cohesion/ b) Material Safety – access to basic services, access to livelihoods, restoration of housing land and property/ c) Legal Safety – access to documentation, family reunification, participation in public affairs, access to effective remedies and justice.
<b>Refugee</b>	A person who “owing to well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinions, 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” (Geneva Convention relating to the Status of Refugees, Art. 1A(2), 1951)
<b>Reintegration</b>	The achievement of a sustainable return to country of origin i.e. the ability of returnees to secure the political, economic and social conditions to maintain their life, livelihood and dignity. (Macrae/UNHCR)
<b>Resilience</b>	Resilience is the ability of countries, communities and households to manage change, by maintaining or transforming living standards in the face of shocks or stresses – such as earthquakes, drought or violent conflict – without compromising their long-term prospects. (DFID)
<b>Resettlement</b>	The transfer of refugees from an asylum country to another State that has agreed to admit them and ultimately grant them permanent settlement. (UNHCR)
<b>Returnee</b>	The act or process of going back to the point of departure. This could be within the territorial boundaries of a country, as in the case of returning internally displaced persons (IDPs) and demobilised combatants; or between a host country (either transit or destination) and a country of origin, as in the case of migrant workers, refugees, asylum-seekers, and qualified nationals. There are subcategories of return which can describe the way the return is implemented, e.g. voluntary, forced, assisted and spontaneous return; as well as sub-categories which describe who is participating in the return, e.g. repatriation (for refugees). (IOM)
<b>Self-Reliance</b>	The social and economic ability of an individual, household or community to meet basic needs (including protection, food, water, shelter, personal safety, health and education) in a sustainable manner and with dignity. (UNHCR).
<b>Social Cohesion</b>	The nature and set of relationships between individuals and groups in a particular environment (horizontal social cohesion) and between those individuals and groups and the institutions that govern them in a particular environment (vertical social cohesion). Strong, positive, integrated relationships and inclusive identities are perceived as indicative of high social cohesion, whereas weak, negative or fragmented relationships and exclusive identities are taken to mean low social cohesion. Social cohesion is therefore a multi-faceted, scalar concept. (World Vision)

**Urban  
Systems/  
Networks**

Urban environments are complex systems, meaning that different networks and communities co-exist and interact at different moments and in different places. This interconnectedness means that work in one system, for instance economy and livelihood, affects other systems such as infrastructure and services or space and settlement (Campbell, 2016)

## **LIST OF ACRONYMS**

<b>CBO</b>	Community Based Organisation
<b>CRRF</b>	Comprehensive Refugee Response Framework
<b>CIDPs</b>	County Integrated Development Plans
<b>GCR</b>	Global Compact for Refugees
<b>GISEDP</b>	Garissa Integrated Socio-Economic Development Plan
<b>HLP</b>	Housing, Land and Property
<b>IGAD</b>	Intergovernmental Authority on Development
<b>ILO</b>	International Labour Organisation
<b>KISED</b>	Kalobeyei Integrated Socio-Economic Development Plan
<b>PAIC</b>	Public Accounts and Investments Committee
<b>(I)NGO</b>	(International) Non-governmental Organisation
<b>RLO</b>	Refugee Led Organisation
<b>WASH</b>	Water, Sanitation and Hygiene
<b>UN</b>	United Nations
<b>UNHCR</b>	United Nations High Commissioner for Refugees

## EXECUTIVE SUMMARY

Global failures to resolve conflicts that have generated refugees, alongside a corresponding failure to find solutions to displacement, have led to protracted exile for a significant proportion of the world's refugees. This has had a major impact on countries in the global south that are hosting the majority of refugees: with global north states only absorbing a token number of refugees through resettlement programmes, they are taking a disproportionate level of responsibility for hosting refugees, reinforcing global inequalities.



***“Kenya is taking a disproportionate level of responsibility for hosting refugees, reinforcing global inequalities.”***

Kenya's response to this has been complicated. On the one hand, it has been a regional leader on migration and has offered sanctuary to hundreds of thousands of asylum seekers and refugees. On the other, it has often prioritised security over protection for refugees, which has led to a strong emphasis on limitations on freedom of movement, with the majority of refugees living in camps located at the peripheries of the country in counties that are, themselves, historically marginalised. In addition, refugee status has long been perceived as transient, and durable solutions have remained out of reach for most: the quest for resettlement places has been akin to chasing shadows; repatriation has failed to deliver; and barriers to integration have remained in place. While some refugees have created spaces for integration outside of the camps, this has often been done below the radar.<sup>1</sup>

### A Changing Approach To Refugee Management

However, a number of recent shifts in approach by the government signal a significant step-change. The creation of Kalobeyi settlement in Turkana County (premised on promoting self-reliance for refugees and greater interaction with the host community), followed by the new Refugee Act in 2021 (hailed as progressive in the promotion of socio-economic integration of refugees) and, most recently, an initiative called the Shirika Plan (which seeks to transition refugee camps into 'integrated settlements' so that refugees and host communities can live side by side and benefit from inclusion in national services and become more self-reliant), are all marks of a significant transition.

If implemented, the aggregate of these changes has the potential not only to enhance the lives of refugees and the Kenyan communities they live among, but also to create a positive knock-on effect on refugee protection throughout the region. Conversely, if the current trajectory fails or is seen to fail, greater freedoms are likely to be further diluted and barriers to integration increase. The situation in Uganda is salutary in this regard: Uganda's approach to hosting refugees, lauded for the past decade as a 'model' for other countries, continues to fray around the edges.<sup>2</sup>

This report is designed to assist the multiple stakeholders involved in the process of translating this vision and these foundations into a more workable and realistic plan, by identifying key principles and approaches for moving forward. Based on 93 interviews with government, UN, civil society actors, and community representatives living in Garissa and Turkana counties (including both Kenyans and refugees), it assesses the current status of these changes from an administrative point of view alongside the wider political temperature or appetite for the process. Specifically, the study evaluates the impact of devolution on refugee rights in Garissa and Turkana Counties in light of the evolving policy framework, the upgrading of both Dadaab and Kakuma towns to municipalities, the Refugees Act 2021, and other major developments in refugee management between the county governments and UNHCR (including the Kalobeyi Integrated Socio-Economic Development Plan in Turkana West (KISED) and ongoing discussions on the Garissa Integrated Socio-Economic Programmes (GISED)).

1. See, for instance, International Refugee Rights Initiative, "Protection for refugees not from refugees: Somalis in exile and the securitisation of refugee policies." Rights in Exile working paper, October 2017. <https://reliefweb.int/report/somalia/protection-refugees-not-refugees-somalis-exile-and-securitisation-refugee-policy>

2. Norwegian Refugee Council (2023) Briefing Note, Failing the "Uganda Model: Why donors must urgently bridge Uganda's refugee financing gap. June

## The Political Context For Change

The findings show that most of those interviewed hailed the proposed changes as a positive shift away from political rhetoric around unsubstantiated links between refugees and security incidents, which have characterised public statements and policy approaches for a number of years. However, many remain cautious owing to the long history of ad hoc shifts to refugee management policy in Kenya.<sup>3</sup> There is a strong level of realism that the government's securitised narrative has not disappeared altogether, and that a major terror incident could reverse the current trajectory.

Furthermore, many interviewees asserted that the government is pushing through a changed policy approach with the expectation that this will leverage significant additional financial resources, in the context of a renewed push for global 'responsibility sharing'. Therefore, if international partners do not sufficiently support these changes, then the process could be derailed. The findings point to a complex picture in this regard. On the one hand, the international community needs to be seen by the government to be delivering; while on the other, international donors are willing to support these changes, but want to know that they are sustainable before they fully commit. And the stakes are currently high.

Moreover, findings further demonstrate that the intended transition from 'camps' to 'integrated settlements', as outlined in the Shirika Plan and Refugees Act 2021, has created both optimism that refugees are no longer being viewed as a short-term crisis, but also scepticism about what the government intends in practice and whether or not there is sufficient political capital to ensure this approach will, in reality, benefit refugee and Kenyan communities living in Garissa and Turkana. Therefore, while there was optimism regarding current changes in Kenya's legal and policy environment, and particularly around the shift from camps to 'integrated settlements', there was significant concern and realism regarding both the motivation that lies behind it, and confusion about what these changes mean in practice and whether they will lead to qualitative change on the ground.

## The Mechanics Of Change

From an *administrative* point of view, the intended move away from a humanitarian response to a more development-oriented approach to assisting refugees is being mapped onto a wider national process of devolution which, itself, is still undergoing complex change. Inevitably, breaking out of this siloed way of operating is creating challenges. Support to refugees continues to fall primarily under national mechanisms supported by humanitarian actors, and assistance to Kenyan citizens is delivered through county structures. This is blocking the implementation of the humanitarian-development nexus, and is creating tensions between county and national government actors. As a result, many of those interviewed expressed concern that the Shirika Plan will represent a development approach in name only, while remaining stuck in the same humanitarian systems and mechanisms that have prevailed for decades. Specifically, many interviewees are concerned that current changes still appear to be driven, to a significant extent, by UNHCR, which has traditionally focused on humanitarian responses.



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There are some promising signs, including the fact that refugees are now included in the third generation County Integrated Development Plans (CIDPs). However, while refugees have been mentioned in previous CIDPs, there has been no corresponding resource allocations by counties for service delivery to refugees. Not being excluded in theory, therefore, is not the same as being included in practice, and lack of political will on the part of the county administrations, along with barriers at the point of access, were seen as significant concerns.

The recently created Kakuma and Dadaab municipalities are seen as a potential opportunity to bring together these parallel systems. As a mechanism under devolution intended to bring services closer to the people, many

3. IRRI, 2017

of those interviewed view municipalisation as a tool for opening up municipalities to infrastructural developments with support from the World Bank and agencies such as UN Habitat. Furthermore, because the camps are situated inside municipalities (or designated municipalities), there is a belief that they will create an opportunity for genuine integration of refugee and Kenyan populations and services within a specific geography.

It remains unclear, however, whether or not this level of integration is what the government envisages in practice. Interviewees expressed concern that 'integrated settlements' will continue to be siloed spaces if the policy environment does not genuinely allow for refugees to sufficiently integrate – economically and socially, but also through being represented within the municipality and having a genuine voice. Without access to the full spectrum of rights, including freedom of movement and access to relevant documentation, and without a seat at the table where decisions are being made, there are widespread concerns among many stakeholders, including refugees themselves, that once refugees are integrated into a municipality and become the responsibility of the county government, refugees will be side-lined as non-citizens without representation. While the government has expressed its commitment to develop a new Refugee Management Policy, which is where the Shirika Plan would be anchored, the process for this has yet to start.

The implementation of KISED, in its second phase of implementation, is salutary in this regard. Many of those interviewed criticised the project design for its failure to include the national government, which is the lead agency in refugee protection; and several interviewees questioned its sustainability due to lack of county government contribution. It therefore remains to be seen whether or not the county government will allocate resources to the KISED sectors that have been aligned to the CIDP3, a move that has the potential to promote inclusion of refugees at the level of service delivery.

Finally, and most significantly, for refugees and Kenyans living in proximity to refugee camps, the recent government step-change has created a sense of hope that current shifts might lead not only to increased economic opportunities, but also to mutually beneficial and stronger social integration. However, refugees are uncertain about what this might mean in practice in the absence of them having a political voice; and Kenyan communities are worried that services are already over-stretched. The precedent set by the Kalobeyi initiative was cause for concern among many of those interviewed: although it was billed as mutually beneficial, many of those living in Turkana who were interviewed feel that it has failed to deliver as promised, leaving many feeling disillusioned. It is vital, therefore, not only that these shifts are sufficiently resourced, but that local communities – Kenyans and refugees alike – have voice and influence in the localities in which they are living.

## Findings and Recommendations

Therefore, the findings show that moments of transition offer great opportunity, but also create challenges. The government of Kenya has opened the door to change – change that is not only needed, but for which there is fertile ground among a wide range of actors who recognise the need for it. In a global context of falling international aid budgets and questionable commitment to responsibility sharing, the possibility of building greater durability into the refugee response in such a way that benefits not only refugees but Kenyans living in refugee-hosting areas holds significant promise. The changes also signify a welcome shift away from securitised approaches to hosting refugees.

However, both the politics and the mechanics of this transition remain a significant challenge. With entrenched parallel systems in place, there is considerable confusion and competing expectations regarding what should and will happen next. And lack of clarity is likely to lead to failure.

In order to create clarity, a number of difficult trade-offs will need to be tackled head on, and the research points to two that are particularly important. First, it is important to recognise that the more refugees are able to move, the better their prospects for self-reliance will become. Freedom of movement, therefore, is critical to the success of plans moving forward. Second, implementation is contingent upon ensuring the right balance of roles and responsibilities for national and devolved governments, particularly around municipalities. Therefore, incentives need to be aligned between donors, national government, county governments and local populations; and the mechanics need to be in place to deliver an integrated approach. KISED offers pointers as to some of the likely challenges and potential solutions to both of these, but not a blueprint for the future.



*The Shirika Plan has set out a vision for the outcomes of a new approach but not the pathway to get there.*

With multiple moving parts, these trade-offs are complicated but vital. Conversely, if the mechanics of the process are left vague, it will significantly undermine the chances of success. The report, therefore, sets out seven key principles, with accompanying recommendations, for moving forward.

## **The Shirika Plan is, and should be, a national and county (Garissa and Turkana) government-led initiative**

The Kenyan government has taken the decision to promote progressive refugee policies through current changes underway. However, while the Shirika Plan sets out a vision for certain outcomes of a new approach, it does not, as yet, provide the pathway to get there.

- Therefore, **it is critical that the government provides clarity on the process moving forward, its relationship to other initiatives, and the roles and responsibilities of key actors.** The recently announced commitment to developing a comprehensive asylum policy for Kenya – a significant gap in the current policy framework – is an important opportunity to enable this. Such a policy should provide a firmer basis for operationalisation of the Refugee Act, implementation of the regulations, and clarity over the inter-governmental frameworks that are needed to take forward the Shirika Plan over the short-, medium- and long-term.
- At the same time, **humanitarian agencies and development partners should support the transition towards government-led, inclusive delivery of social services to refugee and Kenyan communities.** Current interventions should support the longer-term goal of moving towards government-led, inclusive social service delivery, in line with the humanitarian-development nexus approach in refugee hosting areas.
- Specifically, **sufficient technical expertise is needed to enable the formulation and implementation of the Shirika Plan through the inclusion of professional associations** such as the Institute of Surveyors of Kenya, the Architectural Society and other relevant technical bodies.

## **To succeed long-term, the Shirika Plan needs unequivocal, reliable and adequate support from a global community that is jointly responsible for supporting refugees.**

While it is vital that the process continues to be unequivocally government-led, implementation is contingent upon sustained and tangible commitment from the international community.

- **Therefore, international actors need to deliver on promises of significant financial support for meaningful positive changes to be achieved.** Any failure to deliver on its promises could undermine the whole process, and there are no shortcuts in this regard.

## **Local government actors need to be central, rather than peripheral, to efforts to promote integration of refugees in their counties.**

Counties are being asked to take responsibility for populations that have, until now, been the responsibility of national and international mechanisms. This represents a significant shift, not least given that their own citizens are living with the legacy of decades of marginalisation and are struggling with limited resources and services.

Therefore, ensuring their ongoing buy-in is critical to the success of the integration of services and livelihoods for refugees and Kenyan populations. Conversely, without their support, integrated settlements are unlikely to work in practice. This has a number of implications:

- The **national government and international actors need to ensure that county governments are supported and empowered** to take on the responsibilities that come with hosting significant refugee populations within their counties, in line with devolution mechanisms.
- While traditional humanitarian efforts need to be sustained or even scaled up, this should be complemented by innovative development programmes targeting county governments to address the medium to long term socio-economic impact of forced displacement, in line with the CRRF long-term commitment from donors. Therefore, **donors should support capacity enhancement of county governments to contribute to the improved responsiveness of county governments to the needs of the different communities – including both Kenyans and refugees – in their constituency.**

## **Freedom of movement is pivotal to creating the conditions for economic opportunities for both refugees and Kenyans living in refugee-hosting areas**

Integration is contingent upon a genuine dismantling of the underlying structures of encampment. At the heart of this is the need to enable refugees to move freely in order to support themselves and their families in both rural and urban settings, albeit with targeted assistance when needed. Four key factors are critical to enabling this to happen:

- First, **there is need for clarity over what forms of identification are valid** to enable refugees and asylum to move freely around the country and to access services.
- Second, and once ascertained, **UNHCR and its partners should advocate for wide acceptance of the refugee identity card by relevant authorities in order to enable refugees to move freely in order to access labour markets and promote economic inclusion and livelihoods.** They should also advocate to relevant regulatory bodies and associations such as the Central Bank of Kenya and Communications Authority for refugees to surmount 'Know Your Customer' requirements.
- Third, in order to ensure that refugees can engage in economic opportunities above the radar and potentially pay tax, as reflected in the Refugees Act 2021 and the Shirika Plan, **the government needs to clarify and change current requirements and guidelines on current practice at Directorate of Immigration Services with respect to acquisition of work permits.**
- Fourth, refugees need to be protected from arbitrary arrest outside designated areas following the repeal of the Refugees Act 2006. Therefore, **the government needs to make proclamations and/or political declarations discouraging the practice of arbitrary arrest among the law enforcement agencies.**

## **Multiple actors and stakeholders need to be involved in current changes, outside of current silos**

The current siloed approach, often dominated by single actors or institutions, will not be viable in a more integrated approach. In practice, this means ensuring that local, county, national and international actors work together; that humanitarian and development actors coordinate their activities; and that new actors that have been less involved – including the private sector and refugee led organisations – become active players. It will demand different

leadership structures, different coordination structures and different approaches to financing; and it will mean that some agencies will have to step back, and others will have to step up.

- **Garissa and Turkana County Governments should ensure that the Department of Refugee Services (DRS) is included in county steering committees** in order to mainstream refugee activities in the county coordination forums.
- In addition, **humanitarian agencies, rather than delivering programmes in sector-specific silos, must take a community- or area-based and multisectoral approach to programming**, while also engaging in meaningful partnerships with other organisations, including non-traditional humanitarian partners and the private sector; and **development partners, national government, county governments and the private sector should synergise their efforts and adopt a coordinated approach** to partnerships and implementation of projects and programmes in all sectors to avoid multiplicity of efforts. Lessons from the KDRDIP project, in which counties were peripheral, are important in this regard.
- Many of the proposed changes rely on increased investment and economic opportunity in both Garissa and Turkana. Therefore, **the government should continue to engage the private sector and incentivise them to invest in refugee-hosting areas so that both refugees and Kenyans have greater access to jobs.**

## **The equitable and clearly defined use of land is critical to sustainability in hosting refugees**

The transformation of refugee camps to integrated settlements through the Shirika Plan and Refugees Act 2021 inevitably involves the use of land, and land is a critical resource for production and economic development. Any initiative to expand current camps, therefore, needs to be carried out with great care and sensitivity towards the communities living in the areas under consideration.

- In practice, Section 110 of the county government Act mandates county governments to prepare County Spatial Plans to give effect to principles and objects of county planning, which is a function of the county government. During the period of the study both Garissa and Turkana Counties had not developed County Spatial Plans, although there are segregated spatial plans for some of the refugee hosting areas. While recognising that Turkana county government has started the process, **county governments need to develop County Spatial Plans in order to address land use within the county and provide strategic guidance in respect to the location and nature of development of settlements as envisioned under the Refugees Act 2021.**

## **Kenyan and refugee communities directly impacted by these changes need to be central, need to be heard and need to have influence**

Community and refugee-led organisations are not being sufficiently consulted, yet they are best placed to understand the challenges faced by their communities. Therefore, they should be viewed as leading players in facilitating and implementing the current proposed changes and should be supported and empowered to lead the way in promoting social cohesion, developing economic opportunities and ensuring equitable service delivery.

- It is important that refugees are engaged in decision-making that impacts their lives. **Therefore, county governments need to ensure that refugees and their leaders are given access to civic education to prepare them to participate in county public participation forums. The allocation of one position for a refugee representative in Kakuma Municipality Board is an example that could be replicated elsewhere.**

- Small, locally owned, carefully resourced initiatives led by Kenyans and refugees from the localities in which they are living are likely to have far more impact than large-scale programmes implemented by outsiders with large budgets but limited understanding of the context. **Therefore, donors and international actors need to recognise that big is not necessarily best when it comes to programming, and invest far more support in CBOs and RLOs.**
- The presence of refugees in marginalised regions, along with the international spotlight (and resources, albeit often inadequate) that it has attracted, present an opportunity not only to catalyse economic development, but also to draw in communities and local authorities that have felt deeply marginalised economically and politically. However, **there needs to be a more nuanced understanding by all actors working within refugee-hosting counties not only of who the host communities are and how they are defined, but also who represents them.**<sup>4</sup>

In sum, therefore, the findings demonstrate that in order to be durable, responses to refugee populations need to be viewed as an ongoing political and administrative process that operates at multiple levels. Globally, a more development-oriented approach relies on an ongoing commitment from international actors to ensure genuine responsibility sharing rather than an approach that has often appeared to those countries hosting the majority of refugees somewhat fickle and unpredictable; nationally, it relies on a conducive legal and administrative environment that is clearly articulated and that allows for greater freedom of movement and the right to work in both policy and practice, thereby opening up spaces for greater local integration; and at a local level, it relies on sufficient buy-in from local actors who are, themselves, often marginalised within the broader national context. Any approach to promoting self-reliance needs to be context-specific in approach; it needs to be rooted in historical and political realities; and it cannot be seen as an exit-strategy for donors – in fact, quite the opposite. It is a long-term project that demands long-term commitment rooted in political realities.

**Emerging conclusions were discussed in Garissa and Turkana in November 2023 as part of a validation exercise. The following gives an overview of some of the key issues that emerged from these discussions:**

Turkana County	Garissa County
<b><i>Spatial Plans</i></b>	
While segregated spatial plans exist for Kakuma and Kalobeyei, the county government has now initiated a process of developing an integrated county spatial plan. Once finalised, these will be adopted by the executive and approved by the county assembly. The practical steps towards creation of the settlement is to regularise the structures in Kakuma 1, 2, 3 and 4 respectively, and to improve and/or upgrade them and standardise them.	The starting point for developing integrated settlements is the formulation of a spatial plan. However, at the time of publication, and although supported by FAO, the county did not yet have a spatial plan due to costs associated with the process. The county therefore needs to start the process of formulating the county spatial plan to provide a road map for the creation of integrated settlements.
<b><i>County Involvement</i></b>	
County governments need to be at the centre of the Shirika Plan. Yet the current coordination framework is inadequate because only the governor sits on the steering committee. This could be strengthened by adding technical personnel from the county to the Shirika Plan Technical Committee. In addition, professional associations such as the Institute of Surveyors need to be brought on board.	The county authority is currently inadequately able to shape implementation of the Shirika Plan in Garissa, and there is a need to strengthen participation throughout the implementation architecture to allow it to be localised and contextualised. It may require a sub-committee at the county level.

4. In practice, this needs to include a recognition of "hosts" both as people living in proximity to refugees in specific geographical locations and as geographically delineated units within the system of local governance.

### ***Staffing and resources***

Kakuma municipality has been approved, including staffing. The county is in the process of recruiting the municipal board and manager and an allocation of KShs 20,000,000/= has been made for the municipality in the current financial year. To enhance refugees' participation in the governance of the municipality, a position has been reserved for them in the board.

Garissa County currently has four municipalities: Garissa township, Msalani, Dadaab and Bura respectively. Dadaab municipality has a municipal board and manager in place, with offices in Dadaab. The board has been allocated about KShs 20,000,000/= in the current financial year

### ***Planning and implementation frameworks***

To address parallel service delivery, it is clear that DRS needs to be brought into the county steering committee to mainstream refugee issues at that level. KISED P has been aligned to CIDP III to address parallel service provision.

All developments within the county need to be anchored in the CIDP, and DRS needs to join the county steering committee. GISED P should be aligned to CIDP, although GISED P is still at the fundraising stage.

### ***Refugee participation***

In both counties, refugees have been included in CIDP III after robust public participation at the camp level in preparation of CIDP III. However, there remains some caution as to whether this inclusion will actually result in expenditure of public resources for the benefit of refugees.



## INTRODUCTION

Global failures to resolve conflicts that have generated refugees, alongside a corresponding failure to find solutions to displacement, have led to protracted exile for a significant proportion of the world's refugees. This has had a major impact on countries in the Global South hosting the majority of refugees, making them “unintended ‘shock absorbers’ for growing conflict, insecurity, and weak governance in neighbouring countries,”<sup>5</sup> and has created a fundamental global inequality.<sup>6</sup>



***Kenya, as one of these shock-absorbers, is taking a disproportionate level of responsibility for hosting refugees within the broader international context,***

Kenya's response to this has been complicated. On one hand, the government has been a regional leader on migration, for instance leading on Intergovernmental Authority on Development (IGAD) initiatives and generating political peer pressure within the region.<sup>7</sup> On the other, it has often prioritised security over protection, leading to a strong emphasis on encampment and limitations on freedom of movement. Refugee status has long been perceived as transient, with refugee camps located at the peripheries of the country, close to state borders and located in counties that are, themselves, historically marginalised.

In line with the government's emphasis on repatriation as the preferred durable solution,<sup>8</sup> this has taken a huge toll on refugees and Kenyans living in proximity to camps alike. While some refugees have created spaces for integration outside of the camps, this has often been done below the radar. Meanwhile, durable solutions have remained out of reach for most: the quest for resettlement places has been akin to chasing shadows; repatriation has failed to deliver; and barriers to integration have remained in place. At the same time, Kenyan communities living in proximity to refugees are on the economic and political peripheries. Not only are the counties they live in marginalised within a broader national context, but many belong to the poorest communities within those counties.

However, a number of recent shifts in approach by the government signal a significant step-change. If implemented, these changes have the potential not only to enhance the lives of refugees and the Kenyan communities they live among, but to create a positive knock-on effect on policy trajectories throughout the region. Conversely, if the current trajectory fails or is seen to fail, greater freedoms are likely to be further diluted and barriers to integration increase. The situation in Uganda is salutary in this regard. Lauded for the past decade as a ‘model’ for other countries, the Ugandan approach to hosting refugees continues to fray around the edges.<sup>9</sup> In part, this is because Uganda's policies have been part of a broader strategy of engagement with the international community that has sought to boost Uganda's reputation and guarantee that its government has access to external aid.<sup>10</sup> However, funding targets have repeatedly not been met, and the process is becoming increasingly fraught.<sup>11</sup> Likewise in Tanzania, the failure of international actors to deliver on past promises of assistance led to significant tensions between the Tanzanian government and international donors and agencies.<sup>12</sup> The Tanzanian government's subsequent withdrawal from the Comprehensive Refugee Response Framework (CRRF) was seen as a symptom of international failure to genuinely share responsibility.<sup>13</sup> Ensuring that the current trajectory has a positive outcome for refugees and Kenyans alike, therefore, is critical not only in Kenya but the wider region.

5. Apurva Sanghi, Harun Onder and Varalakshmi Vemuru (2016), Yes in my backyard: The economics of refugees and their social dynamics in Kakuma, Kenya. Washington D.C., World Bank Group. <http://documents.worldbank.org/curated/en/308011482417763778/Yes-in-my-backyard-The-economics-of-refugees-and-their-social-dynamics-in-Kakuma-Kenya>

6. For a wider discussion on this, see Lucy Hovil and Nicholas Maple (2022), Local Integration: A Durable Solution in need of Restoration? Refugee Survey Quarterly, Volume 41, Issue 2, June 2022, Pages 238–266, <https://doi.org/10.1093/rsq/hdac008>

7. Research and Evidence Facility (2019), Comprehensive Refugee Responses in the Horn of Africa: Regional Leadership on Education, Livelihoods and Durable Solutions. Summary of findings. London and Nairobi: EU Trust Fund for Africa Research and Evidence Facility

8. See, for instance, ReDSS and Samuel Hall (2015), Devolution in Kenya: Opportunity for Transitional Solutions for Refugees? Analysing the impact of devolution on refugee affairs in refugee hosting counties. <https://static1.squarespace.com/static/5cfe2c8927234e0001688343/t/5d53f0110753590001d3c853/1565782041036/ReDSS-Devolution-in-Kenya.pdf>

9. For a critique of the Ugandan approach, see Lucy Hovil (2018), Uganda's refugee policies: the history, the politics, the way forward. Rights in Exile discussion paper, <http://refugee-rights.org/uganda-refugee-policies-the-history-the-politics-the-way-forward/>

10. Ibid.

11. Norwegian Refugee Council Briefing Note (2023), Failing the ‘Uganda Model’: Why donors must urgently bridge Uganda's refugee financing gap. June

12. Centre for the Study of Forced Migration and International Refugee Rights Initiative (2008), Going Home or Staying Home? Ending Displacement for Burundian Refugees in Tanzania. <https://www.refworld.org/pdfid/53b3defa6.pdf>

13. L. Hovil (2018) “We Are Like a Bat. We Are Neither Birds Nor Animals”: Where the Formal and Informal Collide as Burundian Refugees in Tanzania Struggle for Belonging. In O. Bakewell and L.B. Landau, L.B. (eds), Forging African Communities, 27-50. Palgrave Macmillan, London

This shifting legal and policy environment, which coincides with a time of political change and policy development in the country, is the focus of this study. It builds on a 2015 study by ReDSS and Samuel Hall,<sup>14</sup> which assessed opportunities posed by Kenya's devolution process for potential solutions for refugees in Kenya's key refugee-hosting counties of Turkana and Garissa. The 2015 study looked at increased opportunities for self-reliance of refugees; and at the architecture of devolution in relation to refugee affairs. It identified a number of challenges, including the nascent stage of devolution at the time of the study; administrative and fiscal challenges, in light of the fact that counties did not consider refugees part of their beneficiaries and hence fiscal budgets were being allocated to benefit host populations alone; the fact that refugees did not have access to formal employment both within and outside the camps, making the discourse on economic empowerment weak; and challenges in the institutional landscape of the county administrations.

This study updates these findings. It lies at the intersection of several processes and shifts, including ongoing political devolution in Kenya, debates around medium and long-term solutions for refugees, and the realities of informal integration.



*The study lies at the intersection of several key processes and shifts, including ongoing political devolution in Kenya, debates around medium and long-term solutions for refugees, and the realities of informal integration.*

It presents an overview of the current status of the refugee legal and policy framework, and looks specifically at how settlement planning is being undertaken in Dadaab and Kakuma-Kalobeyi, and what considerations and interests are guiding the national and county government actors, host communities and other interest groups with regards to determining settlements. It also analyses the impact of the devolved governance system in Kenya on refugee management, including how county policy processes have interacted with refugee hosting (with regards to access to services and livelihood opportunities, access to economic rights, land provision etc.), and identifies key individuals and institutions involved in different aspects of local governance arrangements around camps/designated areas. Finally, it considers the implications for integrated settlements of the municipalisation of Kakuma/Kalobeyi and Dadaab; and it analyses how the current legal and policy shifts are likely to impact ongoing and upcoming refugee and host community assistance programmes, economic and livelihood strategies and access and rights on service delivery.

The paper is divided into two main sections: a background section that presents the global, national and local legal and policy context, followed by a presentation of the findings of the field research.

<sup>14</sup> ReDSS and Samuel Hall (2015), Devolution in Kenya: Opportunity for Transitional Solutions for Refugees? Analysing the impact of devolution on refugee affairs in refugee hosting counties. <https://static1.squarespace.com/static/5cfe2c8927234e0001688343/t/5d53f0110753590001d3c853/1565782041036/ReDSS-Devolution-in-Kenya.pdf>

## BACKGROUND TO A SHIFTING LEGAL AND POLICY CONTEXT

This section begins with an overview of the methodology. It then gives an overview of the global context in which the research took place; the Kenyan legal and policy framework for hosting refugees; and a summary of the Shirika Plan in the wider context of devolution, and the elevation of Kakuma and Dadaab towns to municipalities.

### Methodology

The study is based on a review of relevant literature and qualitative data collected in July and August 2023. Data collection took place in Nairobi, Garissa County (10 – 14 July 2023), Turkana County (24 – 28 July 2023) and online. Interviews were conducted with a wide range of government actors and policy makers, including national and county government actors working with refugees as well as those in specific line ministries, regulatory agencies, professional associations and national and international agencies; with donors, NGO, INGO and UN representatives; and with individuals working in the private sector. Interviews and focus group discussions also took place with refugees in Garissa and Turkana counties, as well as Kenyans living in proximity to refugee camps, in order to provide vital insight from the anticipated beneficiaries of this integrated approach.

An interview map was developed as a guide for the interviews, which was then adapted according to the individual being interviewed; and research guidelines, including ethical guidelines, were developed for data collection. Transcripts of all the interviews were produced following each discussion, which was then used as the basis for the analysis, which was manually coded. All interviews are used anonymously.

A total of 93 individuals were interviewed, including 22 interviews with national and county government representatives; 15 interviews with donors, UN agencies, humanitarian and development actors; 3 interviews with private sector actors; 25 interviews with refugees living in Garissa and Turkana counties (including Refugee Led Organisation (RLO) representatives and community leaders); and 28 with Kenyans living in Garissa and Turkana counties (including Community Based Organisation (CBO) representatives and community leaders). Of the total number, 58 were individual interviews, and 35 individuals were part of four focus group discussions. Following the drafting of the paper, a validation exercise was conducted in Garissa and Turkana counties in early November to test the findings with relevant officials.



The following section presents an outline of the legal and policy context relating to the government's response to refugees, its ongoing process of devolution, and the interaction between the two.

### Kenya's Legal and Policy Framework

Kenya has one of the largest refugee populations<sup>15</sup> living in some of the world's oldest refugee camps. The Dadaab refugee complex, which hosts predominantly Somali refugees, is located in Garissa County near the border with Somalia;<sup>16</sup> and Kakuma camp in Turkana County was set up in 1992 to receive Sudanese refugees

15. Latest figures show there are 636,024 registered refugees in Kenya. See UNHCR (2023) <https://www.unhcr.org/ke/wp-content/uploads/sites/2/2023/08/Kenya-Statistics-Package-31-July-2023-DIMA.pdf>

16. Ibid.



*Dialogue meeting in Lorengippi-Turkana, Kenya*

but has since received refugees of other nationalities, including Ethiopians, Somalis, Rwandese, Congolese and Burundians among others. Despite the enforcement of a strict encampment policy, tens of thousands of refugees and asylum seekers also live in the urban areas of Nairobi, Eldoret, Kitale, Nakuru and Mombasa. These refugees and asylum seekers often have to remain hidden and stay within the informal settlements with limited access to basic services, decent jobs, and or livelihood support.<sup>17</sup>

**At an international level,** Kenya is party to the 1951 Convention relating to Status of Refugees, its 1967 Protocol, the 1969 OAU Convention Governing Specific Aspects of Refugee Problems in Africa, and various international human rights instruments that protect refugees pursuant to the principle of non-discrimination.<sup>18</sup> It is also party to a number of international declarations on the protection of refugees, including the 2016 New York Declaration for Refugees and Migrants which calls for enhanced global solidarity in refugee protection and lays out a set of commitments towards supporting refugee-hosting countries through shared responsibility by the international community. Consistent with the requirements of the New York Declaration, in 2018 UNHCR, in consultation with relevant stakeholders, developed the Comprehensive Refugee Response Framework (CRRF) and the Global Compact on Refugees (GCR) to guide states, regional bodies and partners in their humanitarian and development interventions. Kenya is also party to the Agenda 2030 for Sustainable Development adopted in 2015, which sets out 17 sustainable development goals and 169 targets that provide a global benchmark for development, including in humanitarian settings; and is party to the African Union Agenda 2063, a 50 year development plan that seeks inclusive and sustainable development across the continent.

At a sub-regional level, Kenya is a member of the East African Community (EAC) and the Intergovernmental Authority on Development (IGAD). In the case of the former, it is party to the Protocol on the establishment of the East African Community Common Market whose annexes provide for freedom of movement, residence and establishment. In the case of the latter, IGAD has played a key role in changing the regional discourse on durable solutions,<sup>19</sup> both through its regional policy processes and through the convening power it holds with governments.<sup>20</sup>

17. Ibid.

18. These include the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), the Convention on the Elimination of All Forms of Racial Discrimination (1965), the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (1984), the Convention on the Rights of the Child (1989), and the 1981 African Charter on Human and Peoples' Rights.

19. ReDSS (2019), Advancing multi-stakeholder engagement to sustain solutions: Learning from the application of the CRRF in East Africa to inform a common agenda post GRF. December

20. It has introduced a number of policy instruments relating to migration management, including the Regional Framework for Durable Solutions for Somali Refugees, the Djibouti Declaration and action plan on quality refugee education and the subsequent call for action on IGAD regional technical and vocational education Training strategy, and the Kampala Declaration on jobs, livelihood, and self-reliance for refugees, returnees, and host communities. All available at <https://igad.int/attachments/article/2689/Kampala%20Declaration.pdf>

Nationally, the Constitution of Kenya 2010 is the Supreme law of the Republic of Kenya. Chapter IV of the Constitution provides a robust bill of rights which protects refugees and asylum seekers except for political rights which are reserved for citizens. It is complemented by various Acts of Parliament such as the Refugees Act 2021, which prescribes the normative and institutional frameworks for protection of refugees.

Despite this robust framework, Kenya has not had a national asylum or refugee policy – although it has recently announced that it will develop a Refugee Management Policy. Instead, its policies with respect to refugee management have been largely ad hoc and reactive and have often appeared somewhat contradictory as a result.

Finally, at county level, the County Assembly, the law-making organ of the county government, may make laws to facilitate the performance functions of the county government. The laws passed by county assemblies in refugee hosting counties form part of the framework for the protection of refugees.

In sum, therefore, Kenya has a robust normative and institutional legal framework for the protection of refugees, but lacks the relevant policy guidance to clarify implementation.

## **Refugee governance and responsibility**

Refugees are the responsibility of the national government through the Department of Refugee Services (DRS) at operational level and the Ministry of Interior and National Administration at a strategic level. This has been reinforced by the Refugees Act 2021, which states that the coordination of refugee protection is a function of the national government. DRS, in turn, is supported by UNHCR as the lead agency for responding to the humanitarian needs of refugees. In refugee-hosting counties this has created a parallel system, in which refugees are supported by the national government with the assistance of UNHCR and its partners, and Kenyans living in proximity to refugees are supported by county structures.

In line with a broader process of devolution in Kenya, this strong national function is supposed to operate increasingly in close collaboration with county governments in refugee hosting areas. Devolution has changed the fiscal and political landscape for refugee-hosting counties, and there are now certain functions with respect to refugee protection that fall under the mandate of counties hosting refugees. These include primary healthcare, pre-primary education, water and sanitation services, county planning, trade development and regulations, market, trade licences and fair trade practices.

In order to undertake these functions, the law sets out a planning and budgeting framework for county governments. Article 203(2) of the Constitution provides that at least 15 percent of revenue collected nationally should be allocated to county governments in every financial year.<sup>21</sup> It further establishes the Equalisation Fund as an affirmative action fund to support specific services in marginalised areas.<sup>22</sup> Both Turkana and Garissa Counties have been beneficiaries of this fund, which consists of 0.5 percent of revenue collected nationally. It is meant to provide basic services, including water, roads, and health facilities in the identified marginalised areas, and is intended to ensure that these areas catch up with the rest of the country. Additionally, the Constitution assigns the county government powers to administer some taxes and raise revenue from services provided. County governments are required to prepare County Integrated Development Plans (CIDPs), which form the basis for annual plans and budgets over the subsequent five years. In addition, county governments are required to develop sectoral plans, spatial plans, and city/municipal plans for governance of urban areas, which collectively form the basis for county budgets.

In a context in which parallel systems have become deeply entrenched, it is clear that there are numerous moving parts involved in any transition to integrated service delivery. A key question for this study, therefore, is to what

21. This is a constitutional public finance minimum to ensure that county governments are not denied resources and that there is a predictable basis upon which to plan county government activities. See Article 203 of the Constitution of Kenya for further details.

22. Article 204 of the Constitution of Kenya, 2010

extent this shift from parallel to integrated service delivery is taking place, not only through inclusion of refugee populations within CIDPs, but also in practice.

## The Shirika Plan: A shifting legal and policy approach

The move towards greater integration of services is a key component of the government's current shift in approach to refugee management. It not only reflects changes brought about as a result of devolution, but it represents a Kenyan, context-specific interpretation of wider international changes. Following Kenya's nomination as a CRRF pilot country, and after several delays (which meant that Kenya was unable to benefit from the World Bank 2018 sub-window for financing), in 2020 the government began to develop its own CRRF Kenya policy document and a National Action Plan. Despite some progress, there was no clear implementation of the CRRF, and soon after the policy document was published online in March 2021, the government declared its intention to close the refugee camps. Instead, in 2021 the government signalled a policy shift in refugee management through an initiative called the Shirika Plan,<sup>23</sup> formerly called the Marshal Plan.



*The Shirika Plan is the government's pioneering and innovative approach to refugee management in Kenya*

The Shirika Plan is the government's pioneering and innovative approach to refugee management in Kenya, and is aimed at transforming refugee camps into 'integrated settlements' that will support the socio-economic inclusion of refugees and host communities in Garissa, Turkana and urban areas. It builds on existing frameworks and initiatives (including the GCR, the CRRF, Kenya's Bottom-UP Economic Transformation Agenda (BETA), Vision 2030 and efforts to achieving the SDG 2030 agenda and the AU Agenda 2063), contributes to various international and national commitments made by the government, and operationalises various IGAD declarations and commitments on forced displacement.

The Shirika Plan's framework consists of six key components that lay out a transition from refugee camps to integrated human settlements and robust economic hubs, with the stated aim of preparing refugees for eventual return to their homes should conditions in their country of origin permit. Importantly, it does not appear to be designed as a pathway to naturalisation but rather as a more sustainable, but nevertheless still temporary, solution to the challenges posed by the long-term presence of refugee populations.

Many of the provisions and approaches encapsulated in the Refugee Act 2021 and Shirika Plan were, in effect, encapsulated in the establishment of the Kalobeyi settlement in Turkana County in 2016, which was the result of the Turkana County Government and UNHCR embarking on a 15 year multi-sectoral and multi-stakeholder plan known as the Kalobeyi Integrated Socio-Economic Development Plan (KISED). Its vision was to create a structure in which both refugees and host communities could benefit from strengthened national service delivery systems, and from increased socio-economic opportunities generated by sustained investment and the building of skills and capabilities, to act as drivers of economic growth in Turkana West Sub-County.

A similar approach has been initiated in Garissa County through the Garissa Integrated Socio-Economic Development Plan (GISED) for Dadaab refugee camp. The implementation of GISED is scheduled to follow a two-phased approach (an initial phase of 2023-2027 and a follow-up phase of 2028-2032), in line with the County Integrated Development Plan (CIDP) phase III and IV respectively.<sup>24</sup>

23. Shirika is Swahili for "I cooperate". See, for instance, The East African, "Kenya's radical solution to an age-old refugee problem", May 2023. <https://www.theeastafrican.co.ke/tea/news/east-africa/kenya-radical-solution-to-age-old-refugee-problem-4241098>

24. See, Garissa Socio-Economic Development Plan (GISED) for enhancing socio-economic inclusion of refugees and host communities in refugee hosting sub-counties of Dadaab, Fafi and Lagdera in Garissa County, Kenya. Phase I: 2023-2027

## Camps to integrated settlements

One of the core changes envisaged in both the Shirika Plan and the Refugees Act 2021 is a shift from camps to integrated settlements – although neither document actually defines a settlement. As the establishment of a settlement is fundamentally an issue of land use, the relevant framework for this transition includes the Constitution, the County Government Act, the Physical and Land Use Planning Act and the Urban Areas and Cities.<sup>25</sup> County governments are responsible for county planning and development based around County Spatial Plans, which are required to set out basic guidelines for a land use management system in the county, taking into account any relevant guidelines, regulations, or laws.

The first step in the establishment of integrated settlements is the formulation of County Spatial Plans, which should act as the guiding framework to develop a new settlement in line with the local county and national development goals. In the absence of this blueprint, there may be challenges in transition of refugee camps into settlements in view of segregated spatial plans that currently exist in Turkana County. In addition, a settlement, by nature, requires additional land. This demands significant sensitivity on the part of county governments, which are the custodians of unregistered community land. Ensuring the buy-in of communities currently living on or in proximity to that land is vital in this regard. And in a context in which both Garissa and Turkana Counties are inhabited by pastoralists, this requires an in-depth understanding of the multiple interconnected socio-cultural, economic, political, ecological, and climatic factors that affect rangelands and pastoralism.

## Municipalisation

A key component to transforming refugee camps into integrated settlements in Garissa, Turkana and urban areas, is a process of urbanisation through the creation of municipalities under whose mandate the camps are currently situated. This process is aligned with the objectives of the Shirika plan, which seeks to promote socio-economic integration of refugees in urban areas.

As a mechanism under devolution intended to bring services closer to the people, municipalities are a tool for attracting infrastructural development with support from the World Bank and agencies such as UN Habitat, and for creating an opportunity for genuine integration of refugee and Kenyan populations and services within a specific geography.

The Urban Areas and Cities Act of 2011 (amended 2019) states that an area may be classified as a municipality if it satisfies the criteria set out in section 9 of the Act,<sup>26</sup> and it establishes a municipal board to manage the affairs of the municipality. The municipal board's executive authority is delegated by the county executive and ensures the provision of services to its residents. Both Turkana and Garissa counties have concluded the process of elevating Kakuma and Dadaab towns to municipalities. It is critical to note that the Dadaab refugee camps are situated in two sub-counties: Dadaab and Fafi. Dagahaley and Ifo 1 and 2 camps are within Dadaab Sub-County, whereas Hagadera and Kambioos camps are within Fafi Sub-County. The elevation affects the camps in Dadaab town only.

The creation of Kakuma and Dadaab municipalities is critical to the lives of refugees for a number of reasons. First, the rationale for creating devolved units is to bring services closer to the people: a municipality ought to offer a number of key services (as listed in the First Schedule of the Urban Areas and Cities Act) and should, in theory, bring the services of the county government closer to the residents. Second, because the municipality is supposed to raise its own funds, the board should formulate policies, integrated plans and by-laws that will drive economic growth within the municipality. Finally, through the board and municipal manager, refugees, host community, and humanitarian actors can engage the authorities strategically at the municipal level and work with the governor and county executives on matters beyond the scope of the municipal board.

25. At the national level, all planning should be inspired by the Kenya Vision 2030 (Kenya's development blueprint). Several Acts of Parliament are in place to provide the legal framework for planning and establishment of integrated settlements. They are complemented by the National Housing Policy for Kenya (2004), Integrated National Transportation Policy, National Spatial Plan and Sessional Paper No. 1 of 2017 which provides a framework and vision that guide the long-term spatial development of Kenya. One of the objectives of the National Spatial Plan is to create liveable and functional Human Settlements in both urban and rural areas.

26. Section 9 (3) of the Act establishes the eligibility criteria which includes a population of at least 250,000 residents, has an integrated development plan in accordance with this Act, has demonstrable revenue collection or revenue collection potential and has demonstrable capacity to generate sufficient revenue to sustain its operations.

## In summary

In sum, therefore, Kenya is currently in a period of significant transition (or potential transition), and there are multiple moving parts. These shifts reflect global changes that have increasingly moved away (at least in theory) from a 'care and maintenance' approach to refugee support, to an increased emphasis on self-reliance and resilient livelihoods.<sup>27</sup> Or, to use different terminology, a shift from a primarily humanitarian and short-term response to refugees, to a more development-oriented approach, commonly referred to as the humanitarian-development nexus.

In practice, however, these shifts are complex and involve changes in structures and ways of operating that are deeply embedded in institutional structures and mindsets. The intended move away from a dominant humanitarian response to a more development-oriented approach (a transition that would be a challenge in any context) is being mapped onto a wider national process of devolution that is still undergoing complex change. Any potential integration of refugees into national and county structures is, inevitably, going to be a challenge and incorporate multiple transitions simultaneously. This study contributes to an understanding of where these different transitions have got to from an *administrative* point of view, while at the same time considering the wider *political* appetite for the process – and ultimately, the interaction between the two.

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27. Estella Carpi (2019), Towards a Neo-cosmetic Humanitarianism: Refugee Self-reliance as a Social-cohesion Regime in Lebanon's Halba. *Journal of Refugee Studies*, Vol. 33, No. 1, p. 224.

## PERSPECTIVES ON A POLICY CONTEXT IN TRANSITION



Dadaab digital skills training-Hagadera

The following section presents the findings from the field research. It begins with an overview of the political context in which changes are happening, and how interviewees perceive these changes. It then considers some of the more technical aspects to these changes, including an understanding of current views on devolution from within Garissa and Turkana counties; an overview of the current status of county policy processes and their interaction with refugee services and livelihoods; an assessment of what has and has not changed with regards to the humanitarian-development nexus; an overview of changing funding mechanisms; a consideration of the potential impact on refugee and host dynamics; and an overview of the current municipalisation process. The following sub-section looks at the Kalobyei settlement model and considers some of the successes and challenges that it presents. The penultimate section analyses how Kenyan and refugee communities directly impacted by these changes view what is taking place, before the report concludes with a number of findings and recommendations.

All of those interviewed stressed that current or proposed changes in the 2021 law and the subsequent Shirika plan amount to a major step-change on the part of the national government. The fact that this has been backed up by public statements was seen as further evidence of a significant shift. As one interviewee said, “it’s a transition from a much more negative stance on refugee management to a more positive, or possibly ambivalent, stance.”<sup>28</sup> This change in approach has been a core focus of sustained advocacy over many years by an active civil society in Kenya with support from a number of donors. It is also deeply embedded in *realpolitik*. Interviewees were acutely aware of the broader political context at local, national, regional and global levels, and its influence on the potential outcome of the process. Specifically, three interconnected areas of focus emerged from the findings: the wider national and regional security context, the broader financial or economic context, and the increasing recognition of the reality of protracted displacement in the region. These are considered in turn.

### Geopolitics and the wider security context

First, there was recognition that Kenya’s response to refugees is intimately tied to the wider regional context, and specifically to bilateral relations between Kenya and Somalia. Several interviewees stated that improved

28. Interview with INGO official, online, July 2023

diplomatic relations between Somalia and Kenya, as evidenced by the reopening of borders (albeit temporarily) between the two countries and re-starting of the registration of Somali refugees in Dadaab, had created a more enabling regional geopolitical context. Specifically, the role of IGAD and a recognition of the need for regional cooperation to refugee management was seen as having played an important role. Combined, these factors have been an important driver behind this changing approach.

As a result, many pointed to a positive shift away from political rhetoric linking refugees and security incidents that has characterised public statements and policy approaches for a number of years. One interviewee described how, when someone raised the issue of the threat of terrorism at a public launch of the Shirika Plan, “a senior official in the government department that handles security said that’s not something we need to talk about – that we shouldn’t blame refugees for terrorism.”<sup>29</sup> There was optimism, therefore, that the securitised approach to hosting refugees – as evidenced, for instance, by limitations on freedom of movement – is being dislodged.

However, there was also a strong level of realism that the government’s security concerns have not disappeared, and that a major terror incident could reverse the current trajectory. Interviewees also pointed to a lack of alignment between national and county perspectives on the implications of proposed changes from a security perspective. This was particularly evident in Garissa, where there has been a recent increase in security incidents near to the border with Somalia. Several interviewees pointed to a lack of buy-in from county government actors in Garissa for the current proposed policy changes due to security concerns. As one interviewee said, “The County Commissioner is not very open to refugees walking freely in the county. While refugee protection is still under national government, there is hesitation about these changes at the county level because of security concerns.”<sup>30</sup> As another interviewee said, “there is a lack of alignment between national and county governments because of security concerns.”<sup>31</sup> While the government’s current de-linking of the presence of refugees from security incidents is positive, therefore, there was also recognition of the precarity of the current changes and that the situation could quickly change.

## Financial support and the broader economic context

Many of those interviewed also pointed to economic factors as having motivated current shifts, asserting that the government is, in part, pushing through a changed policy approach in order to leverage the dividend potential of hosting refugees. As stated above, Kenya has borne a disproportionate share of the global responsibility for hosting refugees, supported by an international community that has been both erratic and fickle. With the war in Ukraine diverting limited funds, along with governments in Europe increasingly squeezing their international aid budgets, the current context of decreasing support was well recognised. In many respects, therefore, it is perfectly reasonable for the government to be taking this stance. As an NGO representative working in Kakuma said,

Kenya has hosted refugees for three decades, supporting them with resources as well as support from humanitarian, donor and development partners. But now there is donor fatigue that has left Kenya with reduced funding and a huge burden of refugee management.... Many organisations have scaled down or completely closed their operations in Kakuma as a result.<sup>32</sup>

Specifically, there was a strong awareness that maintaining a humanitarian approach in a protracted situation was fundamentally unviable. It is not unreasonable, therefore, that the country should wish to leverage better support, drawing a direct line between its changing approach to hosting refugees and increased funding. As one interviewee said, “A settlement will bring funding from the World Bank and the UN.”<sup>33</sup>

29. Interview with UN representatives, online, July 2023

30. Interview with NGO official, online, July 2023

31. Interview with NGO official, online, July 2023

32. Interview with INGO official, Kakuma, July 2023

33. Interview with CBO official, Kakuma, July 2023

It is critical, therefore, to understand the extent to which resource mobilisation is motivating current changes: ultimately, a policy shift premised on the leverage obtained by the promise of international support relies on sufficient investment from external actors in order to succeed. This is a complex issue.



*On the one hand, the international community needs to be seen by the government to be delivering, while on the other, international donors want to know that the changes are sustainable.*

On the one hand, the international community needs to be seen by the government to be delivering, while on the other, international donors want to know that the changes are sustainable. And the stakes are currently high. As one interviewee said, “if donors don’t support the new plan, the government will rethink its policy and will not be as open as it is now.”<sup>34</sup> While there was significant optimism that the national conversation around refugee policy has changed significantly, there was also a strong level of realism that the process remains finely balanced. If international partners fail to deliver, there is a significant chance that any progress will be reversed.

### **Protracted displacement and the failure to secure durable solutions**

Linked to broader challenges around security and global failures around genuine responsibility sharing, is the reality of protracted displacement. As stated above, Kenya has long enforced an encampment policy for refugees (with the exception of Kalobeyei, as explored below). Yet at the heart of the changes in the Shirika Plan is an intended transition from ‘camps’ to ‘integrated settlements’, which has created significant optimism that refugees are no longer being viewed as a short-term crisis but as a long-term population with the potential to contribute to the development of the country. There were multiple dimensions to how interviewees interpreted and understood what the proposed move to ‘integrated settlements’ means.

First, the shift was seen as recognition of the unviability of camps in a context of long-term displacement. As the head of a refugee youth organisation said, “In my view, one of the reasons behind the new policy approach is the length of time refugees stay in Kenya... It makes sense for the government to allow refugees to work like any other qualified Kenyan professional.”<sup>35</sup> Likewise a civil society representative working in Dadaab said, “We have third generation refugees who do not know where to go. We need to integrate them, improve infrastructure, promote peaceful co-existence with the host community... This will be less expensive for the government in the long term.”<sup>36</sup> While refugees and civil society have been pushing back against encampment of refugees for decades, it is significant that this is now aligning with the government’s approach.

Not surprisingly, refugees interviewed talked of their strong optimism around proposed changes, seeing it as a way of breaking out of the inefficiency and wasted human potential of the current system. As one refugee said, “According to the information we received, this new act will enable refugees to access the Kenyan employment market and grant freedom of movement, allowing refugees in Dadaab to move freely throughout Kenya and return to Dadaab.”<sup>37</sup>

Second, it was linked to a recognition that the current approach is inefficient and of minimal benefit to Kenyan citizens, particularly those living in refugee-hosting counties. There was a strong perception that current changes are not only about refugees, but about a broader focus on populations living in refugee-hosting areas. As a refugee living in Kakuma said, “I feel that the locals have been abandoned totally by their government. Sometimes

34. Interview with donor representative, online, July 2023

35. Interview with RLO and refugee youth leader, Kakuma, July 2023

36. Interview with INGO official, Dadaab, July 2023

37. Interview with refugee man, religious leader, Dadaab, July 2023



*Youth in Kakuma Refugee Camp- Kenya*

even refugees feel better than locals.”<sup>38</sup> As one county government official said, We have hosted refugees for more than 30 years in closed camps and gained nothing. We hope that an integrated settlement will allow people to integrate and do business. This can raise the county’s own revenue flows. As you are aware we are pastoralist communities and the county has very little revenue streams.<sup>39</sup>

This positivity, however, was also tempered by a degree of scepticism as to whether or not this approach will, in reality, benefit Kenyan communities living in Garissa and Turkana. As explored below, the precedent set by previous approaches that were billed as beneficial to hosts but that failed to deliver as promised, has left many Kenyans living in proximity to refugees feeling somewhat jaded.

Third, many of those interviewed spoke of freedom of movement as a key feature of the shift from camps to ‘integrated settlements’. As one county official said, “if it means promoting freedom of movement, it is a good approach.”<sup>40</sup> Conversely, there was a strong belief that if restrictions on movement continue, then the change will be meaningless. As a civil society representative in Garissa said, “I do not think there will be any fundamental difference if refugees cannot move freely, except for the permanence of settlements.”<sup>41</sup> This was echoed in interviews in Turkana: “There’s no difference between a settlement and a camp. Kakuma camp and Kalobeyei settlement are under my jurisdiction, but they’re both the same. There are limitations on freedom movement and they are confined to the settlement. There’s no movement after 6pm and they need a movement pass to travel.”<sup>42</sup>

38. Interview with refugee woman, Kakuma, July 2023

39. Interview with Garissa county government official, Nairobi, July 2023

40. Interview with county government official, Garissa, July 2023

41. Interview with NGO official, Garissa, July 2023

42. Interview with county government official, Turkana West sub-county, July 2023



*Any shift from camps to settlements will only be meaningful if the legal and policy environment allows for free movement*

Ultimately, therefore, many of those interviewed acknowledged that any shift from camps to settlements will only be meaningful if the legal and policy environment allows for free movement – accompanied by the relevant documentation to facilitate that to happen. As a county official in Turkana said, “The government and UNHCR should facilitate refugees to start their lives, which has to start with refugee identity cards, KRA PIN, and relevant documentation.”<sup>43</sup> Or, as an NGO worker in Garissa said, “Everything in Kenya is linked to documents. If the refugee identity card allowed freedom of movement it would fundamentally change the landscape on refugee protection. Even refugees who are married to Kenyans cannot move freely.”<sup>44</sup>

Therefore, while there is a strong level of optimism regarding current shifts from camps to ‘integrated settlements’, there was also significant concern and realism regarding the motivation that lies behind it, and scepticism about what these changes will mean in practice and whether or not – or to what extent – they will lead to qualitative change on the ground. With the multiple bureaucratic hurdles that lie in the way of implementation, there is a concern that camps will simply be re-labelled as ‘integrated settlements’ without any tangible change in the lives of refugee and Kenyan communities.

It is also important to note that as of when this research was conducted, neither Garissa nor Turkana County had formulated and/or approved comprehensive county spatial plans as a basic guideline for land use management in order to facilitate this shift from camps to settlements, although Turkana County has recently started the formulation of a county spatial plan. Officials from Turkana County alluded to the existence of a segregated spatial plan for Kalobeyei settlement, while in Garissa the formulation of the county spatial plan is still at a formative stage with the support of the Food and Agriculture Organisation (FAO).

With many of the details of what potential changes will look like in practice, therefore, many described the current policy changes as a ‘work in progress’. Current levels of political will, therefore, need to be reinforced by a clear policy framework for implementing the 2021 Refugee Act, in order to create a stable environment for implementation.

This section, therefore, has given a broad overview of perspectives on this shifting policy environment. While many of the proposed (or anticipated) changes remain largely rhetorical at this point, there is a strong level of buy-in for the current direction of travel. However, while there is optimism that current changes mark a significant and positive shift in Kenya’s refugee-hosting trajectory, multiple political and bureaucratic challenges remain in place. Building on this, the following sections look at some of the administrative details in order to understand better what is currently taking place in practice.

### **Understanding devolved governance on refugee management: parallel, complementary or contradictory approaches?**

The government’s proposed legal and policy shifts are taking place in a wider context of devolution in Kenya and have to be viewed within that context. The majority of those interviewed in both Garissa and Turkana counties felt that devolution has brought services and resources closer to the people at the grassroots. In Garissa this was associated in particular with the county referral hospital that has a cancer centre and has substantially reduced

43. Interview with county government official, Turkana West sub-county, July 2023

44. Interview with NGO official, Garissa, July 2023

maternal mortality rates in the district,<sup>45</sup> alongside an increase in the number of boreholes drilled by the county government. In Turkana, the positive impact of devolved services was particularly associated with an improved road network and power connectivity. As a county official in Turkana said, “Many things have changed with devolution... There is development, we have schools, water, jobs. There is also a university in the offing, Turkana University. Most people now have access to electricity. It seems like we got independence once again. It has opened our minds and changed our culture and attitude.”<sup>46</sup> There was also mention of improved coordination between the county administration and development partners. As an interviewee in Garissa said, “Partners are now able to speak to each other. Through proper coordination we have put resources together and there is no duplicity.”<sup>47</sup>

However, multiple challenges around the implementation of devolution were also mentioned, including corruption, nepotism and cronyism; the irregular or delayed disbursement of devolved funds from the National Exchequer; limited resources as a result of low revenue collection levels from local sources; and weak and uncoordinated planning and execution.

### Implications for refugee support

Inevitably, this mixed picture on devolution has had a direct impact on refugee support – and on the potential trajectory for future support mechanisms. While integrated support and services for refugees and hosts is a key goal of the current refugee legal and policy shifts, in practice there are multiple moving parts in order for this to happen – and a significant degree of confusion on the ground as a result. At one level, this confusion is the responsibility of the national government, which needs to be clear about how the Shirika plan will be implemented and who is responsible. As one civil society actor said, “The government needs to be clear who has the control in integrated settlements – is it the DRA or another body? It should technically move to the county government, but at the moment that is not clear.”<sup>48</sup> This points to the tension between a process that has been initiated at a national level, but needs to be implemented at a county level. As another interviewee said,

With the discussion around the Shirika plan happening at a high level, they need to bring it down a notch. The government needs to be talking with the local administrators to understand what needs to change in terms of governance, and to understand how operations are managed... the two processes need to speak to each other and be part of a broader conversation.<sup>49</sup>

Given the need for willingness on the part of county governments to implement these changes, the lack of guidelines for what it will mean in practice is causing concern. As one interviewee said, “There’s a brief that documents that UNHCR and DRS have worked on how the Shirika plan is being organised. But since it was launched in March, we have not been told what this means in practice. We are concerned that we are only involved in principle and on paper.”<sup>50</sup> While it is important to emphasise that changes are still at an early stage, the fact that counties are not being integrated into national-level planning from the beginning is creating disquiet.

The key to resolving these differences is having a clear sense of ownership throughout the different levels of government based on a clear understanding of responsibilities. In a context in which refugees continue to be managed primarily through national government structures, there is a need for increased interaction between national and county government actors. Some interviewees went as far as to say that this was deliberate on the part of county actors, as it allows them to leverage support at both a county and national level. As one interviewee said, “You find that the local governments want to maintain refugees within those two spaces [county

45. Interview with Garissa county government official, Nairobi, July 2023

46. Interview with county government official, Kakuma, Turkana County, July 2023

47. Interview with Garissa County government official, online, July 2023

48. Interview with INGO official, online, July 2023

49. Interview with INGO official, online, July 2023

50. Interview with INGO official, online, July 2023

and national], because they continue to attract money.”<sup>51</sup> Regardless, ensuring the necessary coordination mechanisms between national and county administrations is going to need significant attention moving forward.



*Ensuring the necessary coordination mechanisms between national and county administrations is going to need significant attention moving forward.*

### **Current status of county policy processes and their interaction with refugee services and livelihoods**

One measure of political will towards the integration of refugees into county mechanisms are the County Integrated Development Plans (CIDPs) and the priorities within them. A CIDP is critical for evaluating county policy processes because it provides a five-year development plan that integrates the long-term spatial, sector and urban plans with national government plans and programmes, past county development performance and the views and expectations of other development actors and the public at large. Integrating refugee populations into CIDPs, therefore, marks a significant shift of responsibility for supporting refugees from the national government to the county. As one official said, “Previously we did not know whether refugees belonged to the county or the national government, and UNHCR did not know how to engage the county governments.”<sup>52</sup> Turkana and Garissa Counties, like other counties in Kenya, are currently in their third iteration of CIDPs since the Constitution ushered in the devolved system of government.

Section 125 of the Public Finance Management Act requires the budget process for county governments in any financial year to consist of an integrated development planning process, which includes long and medium-term planning as well as financial and economic priorities for the county over the medium term. Section 126 of the Act further obligates each county government to prepare an integrated development plan that includes strategic priorities for the medium term that reflect the county government’s priorities and plans, a description of how the county government is responding to changes in the financial and economic environment, and programmes to be delivered. In other words, they are a key indicator of where the county’s priorities lie.



*Not being excluded in theory is not the same as being included in practice.*

In theory, many county officials interviewed saw no reason why refugees would be excluded from accessing resources and services in their county. As one official said, “We don’t discriminate at service delivery level.”<sup>53</sup> Not being excluded in theory, however, is not the same as being included in practice. The findings show that while refugees have been mentioned in previous CIDPs, there has been no corresponding resource allocations for service delivery to refugees. As a current county government official said, when asked if refugees were incorporated into the CIDP, “Yes, in the current CIDP [2022-2027] we consulted refugees. We reached out to UNHCR and requested to be allowed to meet the agencies and the refugees. We travelled to Dadaab and had technical meetings with NGOs. We also held separate meetings with the refugees. So yes, refugees are now catered for in the CIDP.”<sup>54</sup> Similar comments were made in Turkana. However, this has not translated into tangible support. In an interview with a former county official in Garissa, when asked whether hosting refugees has any effect on the

51. Interview with INGO official, online, July 2023

52. Interview with county government official, Turkana, July 2023

53. Interview with county government official, Garissa, July 2023

54. Interview with Garissa County government official, online, July 2023



*Refugee Crafts woman - Dadaab*

county's resource allocation, they replied, "No, there are no additional resources for hosting refugees."<sup>55</sup> Likewise as an NGO worker said, "Sometimes the county allocates resources but the money does not come through. We have a WASH project where they were supposed to contribute but have not done so."<sup>56</sup>

Lack of political will on the part of the county administrations to support refugees was seen as a significant concern. As one interviewee said,

Refugees are mentioned in writing in the county planning. But there is nothing much beyond that. There is no political good will from the county government to provide for refugees... For instance, the county is responsible for provision of permits for refugee business. My biggest challenge with the county is lack of understanding, they do not have technocrats who understand the refugee context.<sup>57</sup>

Furthermore, and as outlined below, resources within both Garissa and Turkana counties, both of which have long been marginalised and neglected, remain stretched. In a context of finite resources, it is not surprising – or even unreasonable – that county actors prioritise Kenyan communities, not least given perceptions that refugees are supported by humanitarian actors (as discussed below) – and are often perceived to be better off as a result. Therefore, while the CIDP 3 for both Garissa and Turkana Counties have recently been concluded and refugees included, it would be premature to evaluate whether or not in practice resources will be allocated to them. Indeed, refugee community leaders interviewed confirmed that they have not benefited from services from the county, and instead that they continue to rely on services from humanitarian agencies.

The precedent of KISEDIP, which was supposed to lead to resource allocation for refugees through the CIDP, was viewed as not promising in this regard. As one interviewee said, "The KISEDIP process was not great. UNHCR didn't spend a long time with the new county governor to make sure it was reflected in the CIDP. But that lesson has been learnt and there is more alignment between KISEDIP 2 and the CIDP, although I'm not sure how far it will go."<sup>58</sup> While it is too early to assess resource allocation for refugee populations at this point, therefore, what is clear is that parallel systems of support continue to persist, and that contributions from counties towards refugees, even where agreements exist, should not be assumed.

Likewise several interviewees talked about the fact that the World Bank funded programme, KDRDIP, which was designed to incorporate refugees and host communities, has been compromised in its effectiveness because it has failed to sufficiently engage county-level structures. It points to the dangers of leaving out county-level engagement and oversight, leading to a lack of ownership despite being labelled as 'community driven'. According to interviewees, the project coordinator, although housed at the Deputy County Commissioner's office in Turkana West Sub-County, currently does not work with national government officials; and disbursed grants to unregistered entities resulted in a loss of money as the sub-county security team under the Deputy County Commissioner was not privy to the project processes.

There was, however, optimism that changes in funding structures will alleviate some of these challenges. While there have not yet been significant changes in funding for support for refugees (as discussed further below), there was a strong belief that it is simply a matter of time before this will happen – even if *how* it will happen is not yet entirely clear. The challenge remains that most donors are not prepared to channel money directly to county governments. As another interviewee said, "I'm not sure if the donors will be able to contribute to local government, because there's a lot of risk in doing that, while channelling money through the UN de-risks the situation. But ultimately, this will need to be a requirement."<sup>59</sup>

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55. Interview with former county government official for Dadaab sub-county, Garissa, July 2023

56. Interview with INGO official, Dadaab, July 2023

57. Interview with UN official, Kakuma, July 2023

58. Interview with development actor, online, July 2023

59. Interview with UN representative, online, July 2023

Oversight of funding will be critical in this regard. Legislative oversight is provided by the county assembly on behalf of the public over all county government matters, including audits. Audit reports from the Auditor General are normally reviewed by the County Public Accounts and Investments Committee (PAIC) of the county assembly, following which actionable recommendations are developed and approved by the whole House. Therefore, while the county does have oversight mechanisms for funds received, several interviewees suggested that these mechanisms are not always effective. As one official said, “They work but are not fool-proof.”<sup>60</sup>

Instead, many of the recommendations are not followed through, which results in pilferage of public funds, a fact attested to by numerous interviewees at the county level. While Kenya has put in place a number of institutions to fight corruption, several weaknesses and gaps in the laws and policies remain, especially with regard to campaign financing laws, freedom of information, and protection of whistle-blowers among others. The institutions established to fight corruption suffer multiple challenges with funding, expertise, management and coordination/cooperation which, ultimately, undermines service delivery in the counties. The way ahead, therefore, is not entirely clear.

### **Humanitarian-Development nexus: What has and has not changed?**

One of the key reasons why there is a discussion around the need to integrate refugee support and services into county systems in the first place is because of the parallel system for assisting refugee and host communities that has become entrenched over the past decades. Refugees have long been assisted by humanitarian actors, primarily by UNHCR and its implementing partners operating under the Department of Refugees (or previous iterations), while Kenyans living in the same counties have been supported by county structures with assistance from development partners. This parallel system ties in with the bifurcated system outlined above, whereby refugee support falls under national mechanisms and processes, and assistance to Kenyan citizens under county structures. While in theory there has been significant impetus to incorporate a more development-oriented (and, by implication, county-led) approach to assisting refugees, the extent to which this has happened remains much debated. At best, it was described as ‘work in progress’.



*The parallel system for assisting refugee and host communities has become entrenched over decades.*

### **An (un)healthy mix of humanitarian and development approaches?**

When asked if they would describe responses to refugees as primarily humanitarian or developmental, there was general consensus that it is a bit of both, but with a strong emphasis on the former. As one NGO representative said, “we have both types of programmes running. A lot of what is coming through UN and EU channels is humanitarian; while you also see more innovative programmes, such as the Dutch and the EU Trust Fund, that fall within the realm of development.” However, as the same interviewee went on to explain, whether an approach is humanitarian or developmental has to be judged by who it targets and the activities that are carried out. Ultimately, therefore, it has to be judged not by its initial framing, but by its outcomes. The interviewee gave the example of Kalobeyei, “which ended up being subsumed as humanitarian assistance.”<sup>61</sup> Healthcare was seen as something of an exception to this. As one interviewee said, “Our health facilities are open to refugees and host communities, and this is also the path that most donors are taking – ensuring that funding available takes care of both.”<sup>62</sup>

Two interconnected factors were identified as standing in the way of a more development-oriented approach in practice. First, there was a strong notion that more engagement and, ideally, leadership from development organisations will be required if a more genuinely developmental approach is to be achieved. In other contexts,

60. Interview with County government official, Lodwar, Turkana County, July 2023

61. Interview with INGO representative, online, July 2023

62. Interview with INGO representative, online, August 2023

UNHCR has struggled to lead such an agenda if the commitment is not there from development actors.<sup>63</sup> At the same time, a number of interviewees expressed frustration that the ongoing leadership of UNHCR from the international side is creating a significant barrier to bringing a more developmental approach into focus. Second, many stated that it is not possible to move to a more development-oriented approach in the context of encampment, a point that has been argued at length in multiple other contexts.<sup>64</sup> Therefore, in a context in which UNHCR has long been the primary international player in maintaining refugee camps, there is a need for a significant shift in approach to allow multiple other actors to step in, alongside a de-emphasis on encampment.



*In a context in which UNHCR has long been the primary international player in maintaining refugee camps, there is a need for a significant shift in approach to allow multiple other actors to step in.*

A key challenge lies around the issue of sequencing: for as long as the legal and policy environment keeps people in camps, they will remain in need of humanitarian assistance and not be able to work towards supporting themselves. Although this environment is shifting, with the exception, arguably, of Kalobeyei (discussed below) it has not yet happened. Therefore, once again while the direction of travel can be assessed, it is harder to discern where it will land.

From the perspective of county government officials, humanitarian actors are perceived to be present within their counties primarily or exclusively to assist refugees. Not surprisingly, this has made county officials prioritise non-refugee communities. As a county official in Kakuma said, “There is no exclusion of refugees here. In fact, it is the humanitarian agencies that exclude refugees from the host community through their programming.”<sup>65</sup>

This approach is seen to have led to a lack of parity that was widely recognised at a county level, not least given the fact that the counties hosting refugees are, themselves, already economically marginalised areas where the impact of climate change is being acutely felt. As a Kenyan community leader living in Dadaab said, “At the moment, refugees receive more substantial support from UNHCR and its partners compared to the assistance provided to members of the host community. Yet the presence of refugees has significantly impacted the local environment, with issues such as deforestation due to firewood collection and hunting of wild animals, negatively affecting the locals.”<sup>66</sup> As a Kenyan CBO representative said, “The government has failed us as a local community, while UNHCR is doing quite a good job of taking care of refugees. Imagine every morning refugee children go to school, whereas our children go to the refugee camp as child labour to look for casual jobs.”<sup>67</sup>

Given these realities, there was a strong sense that neither the government nor the international actors have either the resources or interest to fund parallel mechanisms to provide a welfare state for refugees where there is no such thing for the host population. As one interviewee said, “It’s an unfair system to have Kenyans paying for water when refugees don’t have to pay.”<sup>68</sup> Providing parallel services is not only unviable, but fundamentally unfair.

In practice, this means that UNHCR is likely to have to take a significant step back to create the space for other actors to come in; and other actors are going to have to take a significant step forward. That is not to say that there is not a need for some form of reception facility and emergency response in situations where there are new arrivals of asylum seekers and refugees. With ongoing conflict in Somalia and South Sudan, conflict (re)erupting

63. See, for example, Freddie Carver, *Refugee and host communities in Ethiopia: 2018–2019*. ODI, 2020 <https://odi.org/en/publications/refugee-and-host-communities-in-ethiopia-20182019/>

64. See, for example, IRRI 2018.

65. Interview with county government official, Kakuma, Turkana County, July 2023

66. Interview with Kenyan community leader, Dadaab, July 2023

67. FGD with Kenyan CBO representatives and community leaders, July 2023

68. Interview with UN official, online, July 2023

in Sudan and multiple other challenges in the region, adequate protection of new arrivals will continue to be vital. Furthermore, even among those who have been in the country for years or even decades, assistance continues to be a life-line for many, and with services for the host population remaining scant, there is minimal infrastructure for refugees to rely on. Turkana West, for instance, only has 8 schools, a number that can hardly provide for the host community.

The withdrawal of assistance, therefore, is dependent on the creation of alternative sources of support. While there have been some attempts to fortify longer-term, development approaches through programmes that are intended to develop livelihoods and self-reliance, with the multiple structural obstacles that refugees continue to face in accessing labour markets, it is unlikely that they will accumulate sufficient capital and be able to depend on their own physical, social and capital resources and capabilities without external assistance in the current context. Certainly, this will not happen in the absence of freedom of movement.

### **Strong donor impetus**

As with the shift from national to county support discussed above, the donors clearly have a role to play in pushing for a strong emphasis on developmental, as opposed to humanitarian, programming. Interviews with donors suggest strong levels of support for the changes envisaged in the Shirika Plan, particularly the increased emphasis on development-focused programming. Indeed, Some programming is beginning to be rolled out that draws together a wide range of actors, including UNICEF, UNHCR, the International Labour Organisation, the International Financial Corporation, World Bank and others.<sup>69</sup>

This re-allocation of funding towards more development-focused programming is also reflected in line ministries, where refugees are increasingly being incorporated into cost planning. In theory, the Shirika Plan is supposed to bring all of these different components together under one umbrella, managed by a steering committee that includes government, donors, UN agencies and others; and a secretariat comprised of DRS and UNHCR.<sup>70</sup> As stated above, however, the financing of these changes remains something of a catch-22: donors are looking for substantive changes in the form of legal and policy milestones in order to unlock finances; but the government does not want to make changes until it knows that the funds will follow.

Therefore, significant work remains to be done and sequencing is vital: although the new policy environment is critical to the changes taking place, so is the up-front investment from donors, which will lead to tangible benefits on the ground. And while the government is positioning itself as a leading actor in the implementation of the Shirika Plan, the need for adequate resources to come through is critical, otherwise there is a danger that it will represent a development approach in name only, while in reality remaining stuck in the same humanitarian systems and mechanisms.



*There is a danger that it will represent a development approach in name only, while in reality remaining stuck in the same humanitarian systems and mechanisms.*

### **Municipalisation vs local settlement – a parallel or complementary process?**

As stated above, municipalities are an important mechanism under devolution. They are intended to bring services closer to the people (through the functions highlighted in the first schedule of the Urban Areas and Cities) and allow the municipality to raise its own funds and formulate policies, integrated plans and by-laws that will drive economic growth within the municipality. They are also an opportunity for refugees and Kenyans living in a particular area, along with humanitarian actors, to engage the authorities strategically at the municipal level as the Act provides for their participation

69. Interview with donor representative, online, July 2023

70. Interview with UN representative, online, July 2023

A municipal board, once in place, formulates and implements an integrated development plan. It is also responsible for control of land use, land subdivision, land development and zoning by public and private sectors. In theory, none of this should create a parallel process to integrated settlements as municipal integrated plans should be aligned with the county plans: it should bring the settlements under the control of the municipality through its board. Municipalities also unlock specific support from the World Bank funded Kenya Urban Support Programme, and UN Habitat acting as an implementing partner to support two new refugee municipalities in Garissa and Turkana over the next five years.

On the ground, there is a strong mix of perspectives on municipalities and what they mean for the wider processes around the Shirika Plan. In theory, many of those interviewed saw municipalisation in areas where refugee camps currently exist as positive for two key reasons. First, it was seen as confirmation of the government's commitment to enable refugees to live outside of camps. Second, confirmation of the status of municipalities, by its structure, will lead to support and financing moving away from humanitarian assistance towards development financing. There was recognition, therefore, that incorporating refugee populations into municipalities has the potential to cut across many of the challenges outlined above. It recognises that camps are, in effect, urban centres given their significant populations, and it allows for them (and, therefore, for refugees) to be deliberately integrated into local structures. As one interviewee said,

When you talk about Kakuma and Kalobeyei becoming municipalities, it is about how to elevate the town as it is – recognising that it has grown over time, but that more infrastructure is needed... The focus changes into becoming much more of an urban, municipal area that comes with the benefits of having spatial planning, zoning of areas and opportunities for the county in general.<sup>71</sup>

Indeed, municipalisation was described by one interviewee as a way for the government to “take back the camps from the international community and bring them back to Kenya. They will be seen as human settlements in Kenyan territory, governed by its laws and by-laws and institutions that govern cities or towns of similar size.”<sup>72</sup>

However, interviewees were concerned about what this will mean for actors that have, to date, been the primary players in assisting refugees. Strong opinions were expressed in this regard by one interviewee, who said, “The resistance from UNHCR is going to be huge. But it needs to be UNHCR working its way out of business. That's what their job should be. We have to convince Kenya there is something in it for them to host refugees, that Kenyans won't continue to be second class citizens in their country.”<sup>73</sup>

There is considerable confusion about how municipalisation will happen in practice. This is partly because many of those interviewed at a county level did not know what it meant, partly because Turkana County only has one municipality so far (Lodwar), and Garissa two, (Garissa Township and Masalani), and partly because there is considerable confusion about how municipalities will affect ‘integrated settlements’ (and vice versa), as a result. As one interviewee said,

It is not clear what came first or triggered the other – the whole integrated settlement or the municipality. What does that mean? Are the current camps just going to be reconfigured? Or moved? There are no government documents on this. The Shirika plan is very top line with no details of how the transition is going to happen.<sup>74</sup>

There was concern that the benefits that are promised by municipalisation will simply reinforce previous promises that have not been delivered upon. As a Kenyan business leader said, “sometimes we see in the papers that Kenya has received 28 billion in support of refugees and transformation of Kakuma refugee camp into a municipality.

71. Interview with INGO representative, online, July 2023

72. Interview with NGO representative, online, July 2023

73. Interview with international actor, online, July 2023

74. Interview with donor representative, online, July 2023

We read the KISED P document and attended forums on it. But when it comes to implementation, nothing is implemented, especially projects in host community areas. We hear that Kakuma is going to be a municipality, but there is no sign that suggests this will happen.”<sup>75</sup>

While significant work around spatial planning has been undertaken by UN Habitat, the move towards municipalities will take considerable work, and the process is still in its early stages. Some of the key areas for consideration that were raised included the need to provide sufficient support to county government actors to build up their capacity, for instance in how to understand how the different financial mechanisms work; and ensuring that all the relevant humanitarian *and* development actors, including the DRS and UNHCR as well as those working more directly with the county, are involved in order to avoid creating parallel systems.

There was also a recognition of the need for clarity over the status of land, which was seen as potentially one of the more challenging aspects in all of this. While Kalobeyi (as discussed below) was created where few people were already living, the designation of municipalities will take place where people are already living. While this overcomes the challenges around relocating populations who do not want to be relocated, adding infrastructure into those locations presents specific challenges. As one interviewee said, “Housing Land and Property [HLP] considerations are going to be fundamental in planning and implementing settlement activities because a settlement should be planned within the legal framework governing land in Kenya.”<sup>76</sup>

Furthermore, although the creation of municipalities is helpful, national intervention remains critical to economic inclusion of refugees. There is a need for national level action to facilitate refugees’ access to the labour market and enable self-reliance, particularly with respect to restrictions on freedom of movement, the right to work and access to work permits. For instance, many banks do not recognise refugee identity cards as a sufficient form of identification for opening bank accounts and registering for mobile money transfers despite the provisions of section 28(7) of the Refugees Act.<sup>77</sup> These barriers limit refugees’ access to financial services, credit and digital banking services.

Ultimately, however, despite the multiple challenges around implementation there was a feeling that municipalities create an opportunity for genuine integration of refugee and Kenyan populations within a specific geography, and signify a change from the current encampment approach that effectively delineates a space for refugees outside of the county structures and leaves them siloed within the context of the county as a result. If done well, they offer the chance for a more rights-based approach that recognises urban centres that already exist and allows those who live within them to become part of the decision-making structures. In addition, the elevation of Kakuma and Dadaab to municipalities opens the door to World Bank through the Kenya Urban Support Program (KUSP) under window 2, which supports county governments in the formulation of urban development plans, establishment and operationalisation of urban institutional arrangements (including charters, boards and administrations), and initial preparation of urban infrastructure investments. Furthermore, it should enable refugees to experience enhanced service delivery and infrastructural development from the county government, moving away from the current tripartite arrangement of national and county government and UNHCR. The opportunity, therefore, is significant, although the implementation remains a huge challenge.

It remains unclear, however, whether or not this is what the government envisages and whether, in practice, the necessary rights will allow it to be realised. There is also a danger that if the government is not prepared to go far enough with creating a policy environment that genuinely allows for refugees to sufficiently integrate – economically and socially, but also through being represented within the municipality and having a genuine voice – then ‘integrated settlements’ will simply continue to be siloed spaces. Without a seat at the table, there is a significant risk that once refugees are integrated into a municipality and they become the responsibility of the county government, they will be side-lined because they are not represented.

75. FGD with Kenyan business leader, Kakuma, July 2023

76. Interview with county government official, Garissa, July 2023

77. Section 28(7) of the Refugees Act 2021 equates the refugee identity card to Foreign National Registration Certificate issued to other foreigners under the Kenya Citizenship and Immigration Act



*Digital skills interview at Dadaab coworking space*

## **LEARNING FROM THE KALOBYEI INTEGRATED SETTLEMENT MODEL**

As outlined above, many of the provisions and approaches encapsulated in the Refugee Act 2021 and the Shirika Plan have, in effect, started being implemented through the establishment of the Kalobeyi settlement in Turkana County in mid-2016. Its vision was to create a structure in which both refugees and host communities could benefit from strengthened national service delivery systems, and from increased socio-economic opportunities generated by sustained investment and the building of skills and capabilities, to act as drivers of economic growth in Turkana West Sub-County. Phase I (2018-2022) was launched in 2018, The plan, which follows a three-phase approach, is currently in phase II (2023-2027), following Phase I, which was implemented from 2018 to 2022.

Kalobeyi is being viewed as something of a prototype for understanding what, in practice, 'integrated settlements' might look like moving forward. However, it is important to take stock of the extent to which the Kalobeyi model was effective, not last before replicating it. Previous studies have shown mixed reviews. For instance, one study found that less than 16 percent of refugees who heard about Kalobeyi were willing to be resettled there, even if land were provided. It emphasised the disruption to social networks as a major disincentive for refugees, and pointed to the need to understand 'self-reliance' on a communal as well as individual basis.<sup>78</sup> Likewise those interviewed for this research pointed to both the strengths and weaknesses of Kalobeyi, which are outlined in the following section.

78. Alexander Betts, Naohiko Omata and Olivier Sterck, "Self-reliance and Social Networks: Explaining Refugees' Reluctance to Relocate from Kakuma to Kalobeyi." *Journal of Refugee Studies* Vol. 33, No. 1, 2020.

## What worked?

First, there was recognition that the approach taken by Kalobeyei has shifted the political conversation around hosting refugees and incentivised some of the changes represented in the new Refugee Act and the Shirika Plan, including a recognition that refugees cannot stay in camps indefinitely. As an NGO representative in Dadaab said, “It shaped the discussions on integration and revealed the possibility of integration, and it influenced the Refugees Act 2021.”<sup>79</sup> As another interviewee said, “it opened up the space for the government to think differently about settlements as long-term spaces, as well as to think about how to bring in development actors.”<sup>80</sup>

Another key strength mentioned is that it had strong buy-in from the county structures – indeed, it was spear-headed by the then county governor. As an NGO representative in Kakuma said, “It recognises the county government as a key player, it encourages integration and has brought on board other stakeholders such as FAO into the refugee operation.”<sup>81</sup> This has led to greater coordination, which is increasingly being seen through the alignment between KISED P and the CIDP themes or sectors, between the eight components of KISED P and relevant sectors within the county government, and the involvement of development actors and private partners.

As a county government official said, “Through KISED P, we have seen new businesses in Kakuma. It’s really a brain child of the former governor and UNHCR. So we [the county administration] have been involved from the outset.”<sup>82</sup> Others mentioned the fact that some infrastructure has been built as a result of the new settlement, including a new Girls Secondary School and pointed to the Huduma Biashara Centre and the Kakuma-Kalobeyei Challenge Fund, which issues grants to refugees and host communities.

Some of those interviewed also said that it has created increased opportunities for refugees to achieve self-reliance as they can now run businesses without restrictions. As an RLO representative said,

In Kalobeyei, refugees are free to establish restaurants, wholesale and retail shops, hotels, and easily obtain a business licence. Unlike in Kakuma camp, Kalobeyei allows refugees to take the initiative and implement their business ideas. In Kakuma, setting up organisations and registering them is more challenging, as refugees are required to have a Kenyan executive member, but in Kalobeyei, this requirement does not apply, making it easier to register organisations.<sup>83</sup>

## What didn’t work?

Alongside the recognition of some of its achievements, however, was a strong awareness of the multiple challenges that it has faced, which brings into question the extent to which it should be used as a model or prototype. For many, despite being called a ‘settlement’ it is still essentially a camp with restrictions on movement (albeit slightly less than in Kakuma camp) and minimal benefits to the Kenyan communities living in proximity to it. As one interviewee said, “When the government talks about integrated settlements, it’s short-hand for Kalobeyei – there’s no difference. Kalobeyei is a camp, but structured differently. Hosts are at the periphery, with everything focused on refugees at the centre.”<sup>84</sup>

Many did not see it as a genuine shift towards a more development-oriented approach that has the potential to create the opportunity for refugees to become increasingly self-reliant. As a county government official said, “I think KISED P is just another humanitarian approach, because there are no solutions. The refugees are still in a camp

79. Interview with INGO official, Dadaab, July 2023

80. Interview with development actor, online, July 2023

81. Interview with INGO official, Kakuma, July 2023

82. Interview with County government official, Turkana County, July 2023

83. Interview with RLO and refugee youth leader, Kakuma, July 2023

84. Interview with INGO official, online, July 2023

and depend on cash-based interventions rather than food rations.”<sup>85</sup> This was echoed by another county official: “KISED P remains humanitarian because the refugees are still living in a settlement with no freedom of movement. How can they be self-reliant in those circumstances?”<sup>86</sup> In the absence of freedom of movement, therefore, the differences between Kalobeyei and other camps in Kenya remain somewhat moot. Their status continues to be a major barrier to their ability to integrate.

Furthermore, there was concern that the national government was only partially engaged, leading to a strong disparity between hosts and refugees with regards to the benefits that were supposed to be derived from this new approach. As another county official said, “A good example is the Kakuma-Kalobeyei-Challenge Fund which was started under KISED P. Only 5 host community members benefited out of 100 applicants. The KISED P project design ought to be reviewed so that the host community can fully benefit.”<sup>87</sup> Furthermore, several interviewees pointed out that the new administration is less invested in support for Kalobeyei: “KISED P is a baby of the former governor, and now it’s mistaken as UNHCR’s agenda, so there is no buy-in from the new administration. And without contribution from the county government KISED P may not be sustainable. Having integrated KISED P into the CIDP, I hope they will allocate resources towards it.”<sup>88</sup>

In addition, while some progress has been made in bringing private sector actors on board – for instance through the Challenge Fund mentioned above – interviewees described this as being problematic in a context in which operating models are still, essentially, humanitarian in nature. As one interviewee said, “UNHCR, as well as NGOs, are still very much stuck in a humanitarian mind-set.”<sup>89</sup> The fact that most of those living in Kalobeyei are new arrivals has further exacerbated this.

Ultimately, therefore, there was widespread feeling that Kalobeyei is an example of a camp trying not to look like a camp but, in essence, still being a camp. This is critical for any thinking about ‘integrated settlements’ and considering whether they mark a genuine departure from encampment or whether they simply represent the re-hatting of camps. As an NGO worker asked, “why are we still clinging to the camps? We’re still gazetting those and calling them settlements. It’s not what the law provides for, so we need to change the mindset at a national level.”<sup>90</sup> Instead, many of those interviewed called for an emphasis on free movement facilitated by documentation as the marker of change in any approach moving forward.

Therefore, the findings suggest that it would be a mistake to replicate the approach taken by Kalobeyei without learning from what has and has not worked. As one interviewee said, “It’s just a camp that is better managed, that has moved from just giving food items to cash-based interventions. But we shouldn’t use it as a blueprint.”<sup>91</sup> Indeed, one interviewee said that they thought that Nairobi County had much more to offer by way of lessons for moving forward, including access to livelihoods and services.<sup>92</sup>



***It would be a mistake to replicate the approach taken by Kalobeyei without learning from what has and has not worked.***

In theory, many of these challenges could be resolved by Kalobeyei and Kakuma becoming municipalities – a process that, as outlined above, is already in motion. This would allow them to be viewed more as geographic urban or semi-urban spaces where hosts and refugees are living, rather than as settlements with all the insider/outsider, humanitarian/development, county/national divides that entails.

85. Interview with County government official, Kakuma, Turkana County, July 2023

86. Interview with County government official, Turkana West sub-county, July 2023

87. Interview with County government official, Kakuma, Turkana County, July 2023

88. Interview with UN official, Kakuma, July 2023

89. Interview with donor representative, online, July 2023

90. Interview with NGO official, online, July 2023

91. Interview with NGO official, online, July 2023

92. Interview with INGO official, online, July 2023

## **GISED P: the same approach?**

Based on what was considered to be the successful implementation of KISED P, in October 2023 UNHCR and the Garissa County Government launched GISED P with a view to replicating the KISED P model in Garissa County, with a two-phased approach beginning in 2023. In a context in which KISED P is being viewed as a model to be replicated, a clear understanding of the strengths and weaknesses of KISED P is vital to the implementation of GISED P. Already, GISED P is encountering challenges, including concerns that the county assembly has not been sufficiently involved in the early stages of planning.<sup>93</sup> Furthermore, the context in Garissa is different to Turkana in multiple ways, including some of the dynamics between different clans, and these need to be taken into consideration. As one interviewee said, “The context is different hence, so a copy and paste might not work.”<sup>94</sup>

That said, there was a strong level of enthusiasm for the idea of a more integrated approach among county officials in Garissa. As one interviewee said, “GISED P is the best thing that can happen in Garissa if it is well structured, planned and implemented. If refugees move out of the camps to Garissa town, they can open businesses in Garissa town. This will open up the economy.”<sup>95</sup> Refugees currently living in Dadaab echoed this sentiment: “[GISED P] will foster coexistence between the refugee and host communities, allowing them to live together, interact, engage in business ventures together, and learn from each other.”<sup>96</sup>

Putting this into practice, however, is more challenging, and there is a significant danger that the perception of what GISED P will deliver and reality are two very different things. The interviews demonstrate that GISED P is being viewed as an opportunity for the Kenyan population in Garissa to benefit from the services that refugees currently receive. While this may be true, there is a danger that the benefits have been over-inflated, which is likely to lead to tension further down the road. In addition, while improved relations between Kenya and Somalia provide progressive and conducive policy impetus for the development of GISED P, it remains unclear whether there will be sufficient national level support, political will and attention to the GISED P plan as was seen for KISED P in Turkana County. In the past, the status of Dadaab as a refugee hosting area has faced challenges, especially in relation to the complex security situation and the camp’s proximity to Somalia.

What is clear, therefore, is that public participation and training will be critical in order to involve and educate refugees and Kenyans living in Garissa alike about any changes moving forward. As another Kenyan said, “Given the larger refugee population in Dadaab compared to the local community, it is essential to sensitise the host community about issues like land ownership, the freedom of refugees to move and settle anywhere in the country.”<sup>97</sup>

93. Interview with Garissa County government official, online, July 2023

94. Interview with Garissa County government official, Nairobi, July 2023

95. Interview with former County government official for Dadaab sub-county, Garissa, July 2023

96. Interview with refugee man, Dadaab, July 2023

97. Interview with Kenyan community leader, Dadaab, July 2023

A man in a red polo shirt stands with his back to the camera, facing a classroom of students. The shirt has the text "FREE AND QUALITY EDUCATION IS A RIGHT FOR ALL CHILDREN" printed on the back. The students are seated at wooden desks, some writing. The classroom has a corrugated metal roof and walls.

**FREE AND QUALITY EDUCATION IS  
A RIGHT FOR ALL CHILDREN**

## CENTERING REFUGEE AND KENYAN COMMUNITIES

It is all too easy to get caught up in the bureaucratic processes of the current proposed changes and forget that Kenyans and refugees living in Garissa and Turkana counties are the main protagonists in all of this. While the views of refugees and Kenyans living in proximity to refugees have been incorporated throughout the report, this section brings these perspectives together. For years, refugees living in Kenya have been on the political, social and economic margins of the country. At the same time, many of the Kenyan communities living in proximity or amongst refugees are also on the economic and political peripheries.



*Many of the Kenyan communities living in proximity or amongst refugees are also on the economic and political peripheries.*

Not only are the counties they live in marginalised within a broader national context, but many belong to the poorest communities within those counties. This section, therefore, highlights some of their views to emphasise the importance of ensuring that those who will be most impacted by the proposed changes are at the centre of discussions moving forward.

### High expectations

The recent changes proposed by the government have created a sense of expectation and hope that the status quo, which has appeared so intransigent, might change. A refugee woman living in Dadaab, for instance, described the sense of hope created by a visit from a government official:

We were visited in Dadaab refugee camp by Professor Kindiki Kindure [the Cabinet Secretary for Interior and Administration of the National Government] ... It marked an historic occasion as it was the first time a Cabinet Secretary had visited the camp. During his visit, he told us that in the following two months, refugees would start experiencing their full rights in Kenya, following the establishment of ministerial regulations to govern the implementation of the Refugee Act 2021 in the country.<sup>98</sup>

There is an expectation that 'integrated settlements' will, as the name suggests, create a legal and policy environment for much greater integration.

### Economic opportunities?

First, there was a sense that proposed changes, if implemented, should lead to economic opportunities. The issue of freedom of movement was seen as fundamental in this regard. Multiple refugees interviewed pointed to the challenges they face in running businesses and supporting themselves without the ability to move freely outside of the camps, and hope that these changes will resolve some of the challenges. As a refugee living in Dadaab said,

As a refugee business woman, I operate a kiosk and milk shop, and I possess a refugee ID. However, I am unable to travel to Garissa town, the closest urban centre, to purchase the supplies I need. Unfortunately, this constraint is a barrier to expanding my business. If I want it to grow, I have to seek the assistance of a local Kenyan who can receive money from me and procure the necessary products in Garissa town. I hope this new approach will help me in this.<sup>99</sup> Freedom of movement, documentation and economic integration, therefore, were all seen as indivisible.

98. Interview with refugee and business woman, Dadaab, July 2023

99. Interview with refugee business woman, Dadaab, July 2023

However, there was also a level of disquiet about the uncertainty of what this might look like in practice. In part, this is an issue of timing and sequencing. A number of refugees expressed their concerns about humanitarian agencies pulling out before sufficient support and an enabling policy environment is in place to replace it. As a refugee community leader in Dadaab said, “All throughout the last thirty years, refugees have been depending on humanitarian assistance which cannot be stopped just after the launching of the settlement.”<sup>100</sup>

Meanwhile, refugees continue to struggle with decreasing humanitarian support but an ongoing restrictive policy environment – in effect, the worst of both worlds. In the absence of freedom of movement, adequate documentation to move and the necessary investment needed for them to support themselves in a meaningful way, it is clear that life is currently becoming increasingly precarious. A Kenyan community leader expressed his concern about the situation: “the support refugees receive has decreased significantly. Refugees are now required to fetch firewood from the bush, whereas previously, they used to receive firewood from UNHCR and its partners. This reduction in funding is acknowledged by UNHCR and its collaborators.”<sup>101</sup> What is clear, therefore, is that the current status quo is unviable, but that change needs to be carefully managed.

### **Integrated services?**

There was also awareness that current shifts are working towards much greater integration of services for refugees and their hosts. On the one hand, this was seen as positive – not least as there was a strong feeling that many Kenyans have been excluded from services that refugees have access to (and vice versa). The opportunity for integrated service delivery, therefore, was seen to create the possibility for a more level playing field, with expectations high.

However, many of those interviewed also expressed concern. Refugees are worried about what this might mean in practice in the absence of them having a political voice given that their status as refugees excludes them from equal political rights: there is concern that their right to access services will be viewed by the wider communities as less valid as they are not Kenyan citizens. At the same time, members of the Kenyan communities living in proximity to the camps have concerns over losing land and having to further share services that are already scarce. As one local businesswoman in Kakuma said, “Locals feel that if they sell land to refugees, they may find themselves being pushed away from the town because refugees have more money compared to us. We fear that refugees can buy the best lands in town and locals will go back to rural areas in the villages.”<sup>102</sup>

In a context of limited resources and stretched services, this points to the need to foster an environment that enables social integration as a prerequisite to service integration. The interviews also demonstrate that not only is this possible, but that it has been done. A Kenyan man living in Kakuma pointed to improved relations between the Kenyan and refugee communities living in his area as a result of efforts to bring refugees and hosts together, for instance through sporting activities:

Over the last two years, I’ve seen improvements in the interactions between refugees and locals. A variety of sports activities have been introduced, which have brought refugees and locals together... There has been a noticeable shift among local Kenyans, as discriminatory attitudes towards refugees have subsided in Kakuma compared to the past.<sup>103</sup>

Indeed, it was striking that many Kenyans living close to the camps recognised the challenges that refugees face, and were positive about the prospect of increased integration. As one man said, “refugees in Kalobeyei still have to apply for a movement pass like refugees in Kakuma camp when it comes to travelling to other counties

100. Interview with refugee community leader, Dadaab, July 2023

101. Interview with Kenyan community leader, Dadaab, July 2023

102. Interview with Kenyan woman, CBO worker, Kakuma, July 2023

103. FGD with Kenyan man, CBO worker, Kakuma, July 2023

in Kenya, and whenever I travel with refugees to Nairobi, I see the police harassing them.”<sup>104</sup> While, in practice, citizenship remains off the table at present, this demonstrates the extent to which spaces for the inclusion of refugees exist within communities.

In sum, therefore, there was strong recognition of the need to ensure sufficient investment in community-level sensitisation of both refugee and Kenyan populations in order to prevent tensions arising as a result of competition over scarce resources. Conversely, there was also a sense that the integration of services would facilitate stronger social ties. As another refugee, who has been living in Kenya for 29 years, said, “I find great satisfaction in the idea of refugees and Kenyans accessing all services from a single place or institution. It promotes unity as we can dine together, sit together, and share experiences collectively.”<sup>105</sup>



*I find great satisfaction in the idea of refugees and Kenyans accessing all services from a single place or institution. It promotes unity as we can dine together, sit together, and share experiences collectively.*<sup>106</sup>

### Political and legal integration?

With the government clear that pathways to naturalisation are not on the table as part of the Shirika Plan, there is a need for clarity about what rights and entitlements are to be made available. The more that refugees are integrated into public planning processes, the more it is essential that they have some kind of voice and representation to shape these processes and hold them to account.

Many refugees interviewed said that they want to participate in and contribute to the country that is hosting them – to be part of the solution to the security challenges, and to contribute to the local economy. As one RLO representative said, “When it comes to budgeting, planning, refugees should be invited to participate so they can bring in their contribution. They’re not only job-creators, but they will pay taxes.”<sup>106</sup> Many see the current proposed changes as an opportunity for this to happen.

However, for this to be most effective, refugee and Kenyan communities alike need to be consulted at different levels of policy and planning formulation. To date, this has not happened in any significant way. Indeed, the Constitution emphasises participation in a number of critical governance areas, including planning and the development of policies and legislation. Effective public participation, however, requires an open, accountable and structured process where the public can interact and influence decisions. Yet weak structures for civic education have led to a lack of engagement by refugees who do not have adequate awareness of the importance of their involvement in decision-making processes at county governance levels. And, when they are invited, interviews suggest that the lack of civic education undermines the quality of their participation. Indeed, only the Chairman for Kalobeyei alluded to being invited to such a meeting and, even then, stated there was no preparation beforehand.

As one interviewee said, when asked if communities were consulted, “They’re nowhere to be seen or heard. Any consultation is tokenistic in nature. Merely ticking boxes to meet donor expectations. For instance, during the drafting of regulations for the Shirika Plan, refugees were not involved, their submissions were not welcome, and their involvement is at the final stages to merely ‘validate’ opinions.”<sup>107</sup> While there has been more effort made to include them in public consultations for the CIDPs, including through offering interpretation for Somalis in Garissa, there are still clear gaps in voices being heard in fora where decisions are being taken on their behalf.

At the same time, local communities, including refugees, need not only to be heard but to be represented. There

104. Interview with Kenyan woman, CBO worker, Kakuma, July 2023

105. Interview with refugee religious leader, Dadaab, July 2023

106. Interview with RLO representative, online, July 2023

107. Interview with INGO official, online, July 2023

was a strong level of disillusionment amongst many of the Kenyan interviewees in this regard. As a Kenyan business leader said, “Locals do not have issues with refugees. The problem we have is that the county government officials are not playing their part in making sure locals get their share. Local leaders do not solve issues faced by the local community.”<sup>108</sup> This illustrates the extent to which issues of governance lie at the heart of many of the challenges.

Ultimately, it demonstrates that integration is a highly complex and multi-faceted process. Economic integration relies on a significant level of social cohesion, which is dependent upon groups on the legal margins having a voice and being brought into the centre of communities, and having governance structures that genuinely represent them. What is clear, however, is that the isolationist, camp-based approach that has long sought to keep refugees siloed in counties that are, themselves, marginalised, is being viewed by the government as no longer viable. For refugees and Kenyans alike, this provides a strong starting point for a transition that, if managed well, can be positive regardless of refugee or citizen status.

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108. FGD with Kenyan business leader, Kakuma, July 2023

## Conclusions and Recommendations

The government of Kenya has opened the door to change – change that is not only needed, but for which there is fertile ground among a wide range of actors who recognise the need for it. In a global context of falling international aid budgets and questionable commitment to responsibility sharing, the possibility of building greater durability into the refugee response in such a way that benefits not only refugees but Kenyans living in refugee-hosting areas holds significant promise.



*The possibility of building greater durability into the refugee response in such a way that benefits not only refugees but Kenyans living in refugee-hosting areas holds significant promise.*

However, to date the Shirika Plan has set out a *vision* for the outcomes of a new approach but not the pathway to get there. As a result, both the politics and the mechanics of this transition remain a significant challenge. With entrenched parallel systems in place, there is considerable confusion and competing expectations regarding what should and will happen next. And lack of clarity is likely to lead to failure.

In order to create clarity, there are a number of difficult trade-offs that will need to be tackled head on, and the research points to two that are particularly important. First, it is important to recognise that the more refugees are able to move, the better their prospects for self-reliance will become. Freedom of movement, therefore, is critical to the success of plans moving forward. Second, implementation is contingent upon ensuring the right balance of roles and responsibilities for national and devolved governments, particularly around municipalities. Therefore, incentives need to be aligned between donors, national government, county governments and local populations; and the mechanics need to be in place to deliver an integrated approach. KISED P offers pointers as to some of the likely challenges and potential solutions to both of these, but not a blueprint for the future.

With multiple moving parts, these trade-offs are complicated but vital. Conversely if the mechanics of the process are left vague, this will significantly undermine the chances of success. The report concludes by drawing out seven key principles, with accompanying recommendations, for moving forward.

### **The Shirika Plan is, and should be, a national and county (Garissa and Turkana) government-led initiative**

The Kenyan government has taken the decision to promote progressive refugee policies through current changes underway. However, while the Shirika Plan sets out a *vision* for certain outcomes of a new approach, it does not, as yet, provide the pathway to get there.

- Therefore, **it is critical that the government provides clarity on the process moving forward, its relationship to other initiatives, and the roles and responsibilities of key actors.** The recently announced commitment to developing a comprehensive asylum policy for Kenya – a significant gap in the current policy framework – is an important opportunity to enable this. Such a policy should provide a firmer basis for operationalisation of the Refugee Act, implementation of the regulations, and clarity over the inter-governmental frameworks that are needed to take forward the Shirika Plan over the short-, medium- and long-term.
- At the same time, **humanitarian agencies and development partners should support the transition towards government-led, inclusive delivery of social services to refugee and Kenyan communities.** Current interventions should support the longer-term goal of moving towards government-led, inclusive

social service delivery, in line with the humanitarian-development nexus approach in refugee hosting areas.

- Specifically, **sufficient technical expertise is needed to enable the formulation and implementation of the Shirika Plan through the inclusion of professional associations** such as the Institute of Surveyors of Kenya, the Architectural Society and other relevant technical bodies.

### **To succeed long-term, the Shirika Plan needs unequivocal, reliable and adequate support from a global community that is jointly responsible for supporting refugees.**

While it is vital that the process continues to be unequivocally government-led, implementation is contingent upon sustained and tangible commitment from the international community.

- **Therefore, international actors need to deliver on promises of significant financial support for meaningful positive changes to be achieved.** Any failure to deliver on its promises could undermine the whole process, and there are no shortcuts in this regard.

### **Local government actors need to be central, rather than peripheral, to efforts to promote integration of refugees in their counties.**

Counties are being asked to take responsibility for populations that have, until now, been the responsibility of national and international mechanisms. This represents a significant shift, not least given that their own citizens are living with the legacy of decades of marginalisation and are struggling with limited resources and services. Therefore, ensuring their ongoing buy-in is critical to the success of the integration of services and livelihoods for refugees and Kenyan populations. Conversely, without their support, integrated settlements are unlikely to work in practice. This has a number of implications:

- The **national government and international actors need to ensure that county governments are supported and empowered** to take on the responsibilities that come with hosting significant refugee populations within their counties, in line with devolution mechanisms.
- While traditional humanitarian efforts need to be sustained or even scaled up, this should be complemented by innovative development programmes targeting county governments to address the medium to long term socio-economic impact of forced displacement, in line with the CRRF long-term commitment from donors. Therefore, **donors should support capacity enhancement of county governments to contribute to the improved responsiveness of county governments to the needs of the different communities – including both Kenyans and refugees – in their constituency.**

### **Freedom of movement is pivotal to creating the conditions for economic opportunities for both refugees and Kenyans living in refugee-hosting areas**

Integration is contingent upon a genuine dismantling of the underlying structures of encampment. At the heart of this is the need to enable refugees to move freely in order to support themselves and their families in both rural and urban settings, albeit with targeted assistance when needed. Four key factors are critical to enabling this to happen:

- First, **there is need for clarity over what forms of identification are valid** to enable refugees and asylum to move freely around the country and to access services.

- Second, and once ascertained, **UNHCR and its partners should advocate for wide acceptance of the refugee identity card by relevant authorities in order to enable refugees to move freely in order to access labour markets and promote economic inclusion and livelihoods.** They should also advocate to relevant regulatory bodies and associations such as the Central Bank of Kenya and Communications Authority for refugees to surmount ‘Know Your Customer’ requirements.
- Third, in order to ensure that refugees can engage in economic opportunities above the radar and potentially pay tax, as reflected in the Refugees Act 2021 and the Shirika Plan, **the government needs to clarify and change current requirements and guidelines on current practice at Directorate of Immigration Services with respect to acquisition of work permits.**
- Fourth, refugees need to be protected from arbitrary arrest outside designated areas following the repeal of the Refugees Act 2006. Therefore, **the government needs to make proclamations and/or political declarations discouraging the practice of arbitrary arrest among the law enforcement agencies.**

### **Multiple actors and stakeholders need to be involved in current changes, outside of current silos**

The current siloed approach, often dominated by single actors or institutions, will not be viable in a more integrated approach. In practice, this means ensuring that local, county, national and international actors work together; that humanitarian and development actors coordinate their activities; and that new actors that have been less involved – including the private sector and refugee led organisations – become active players. It will demand different leadership structures, different coordination structures and different approaches to financing; and it will mean that some agencies will have to step back, and others will have to step up.

- **Garissa and Turkana County Governments should ensure that the Department of Refugee Services (DRS) is included in county steering committees** in order to mainstream refugee activities in the county coordination forums.
- In addition, **humanitarian agencies, rather than delivering programmes in sector-specific silos, must take a community- or area-based and multisectoral approach to programming,** while also engaging in meaningful partnerships with other organisations, including non-traditional humanitarian partners and the private sector; and **development partners, national government, county governments and the private sector should synergise their efforts and adopt a coordinated approach** to partnerships and implementation of projects and programmes in all sectors to avoid multiplicity of efforts. Lessons from the KDRDIP project, in which counties were peripheral, are important in this regard.
- Many of the proposed changes rely on increased investment and economic opportunity in both Garissa and Turkana. Therefore, **the government should continue to engage the private sector and incentivise them to invest in refugee-hosting areas so that both refugees and Kenyans have greater access to jobs.**

### **The equitable and clearly defined use of land is critical to sustainability in hosting refugees**

The transformation of refugee camps to integrated settlements through the Shirika Plan and Refugees Act 2021

inevitably involves the use of land, and land is a critical resource for production and economic development. Any initiative to expand current camps, therefore, needs to be carried out with great care and sensitivity towards the communities living in the areas under consideration.

- In practice, Section 110 of the county government Act mandates county governments to prepare County Spatial Plans to give effect to principles and objects of county planning, which is a function of the county government. During the period of the study both Garissa and Turkana Counties had not developed County Spatial Plans, although there are segregated spatial plans for some of the refugee hosting areas. While recognising that Turkana county government has started the process, **county governments need to develop County Spatial Plans in order to address land use within the county and provide strategic guidance in respect to the location and nature of development of settlements as envisioned under the Refugees Act 2021.**

### **Kenyan and refugee communities directly impacted by these changes need to be central, need to be heard and need to have influence**

Community and refugee-led organisations are not being sufficiently consulted, yet they are best placed to understand the challenges faced by their communities. Therefore, they should be viewed as leading players in facilitating and implementing the current proposed changes and should be supported and empowered to lead the way in promoting social cohesion, developing economic opportunities and ensuring equitable service delivery.

- It is important that refugees are engaged in decision-making that impacts their lives. **Therefore, county governments need to ensure that refugees and their leaders are given access to civic education to prepare them to participate in county public participation forums. The allocation of one position for a refugee representative in Kakuma Municipality Board is an example that could be replicated elsewhere.**
- Small, locally owned, carefully resourced initiatives led by Kenyans and refugees from the localities in which they are living are likely to have far more impact than large-scale programmes implemented by outsiders with large budgets but limited understanding of the context. **Therefore, donors and international actors need to recognise that big is not necessarily best when it comes to programming, and invest far more support in CBOs and RLOs.**
- The presence of refugees in marginalised regions, along with the international spotlight (and resources, albeit often inadequate) that it has attracted, present an opportunity not only to catalyse economic development, but also to draw in communities and local authorities that have felt deeply marginalised economically and politically. However, **there needs to be a more nuanced understanding by all actors working within refugee-hosting counties not only of who the host communities are and how they are defined, but also who represents them.**<sup>109</sup>

In sum, therefore, the findings demonstrate that in order to be durable, responses to refugee populations need to be viewed as an ongoing political and administrative process that operates at multiple levels. Globally, a more development-oriented approach relies on an ongoing commitment from international actors to ensure genuine responsibility sharing rather than an approach that has often appeared to those countries hosting the majority of refugees somewhat fickle and unpredictable; nationally, it relies on a conducive legal and administrative environment that is clearly articulated and that allows for greater freedom of movement and the right to work in both policy and practice, thereby opening up spaces for greater local integration; and at a local level, it relies on sufficient buy-in from local actors who are, themselves, often marginalised within the broader national context. Any approach to promoting self-reliance needs to be context-specific in approach; it needs to be rooted in historical

<sup>109</sup> In practice, this needs to include a recognition of "hosts" both as people living in proximity to refugees in specific geographical locations and as geographically delineated units within the system of local governance.

and political realities; and it cannot be seen as an exit-strategy for donors – in fact, quite the opposite. It is a long-term project that demands long-term commitment rooted in political realities.

Emerging conclusions were discussed in Garissa and Turkana in November 2023 as part of a validation exercise. The following gives an overview of some of the key issues that emerged from these discussions:

Turkana County	Garissa County
<b><i>Spatial Plans</i></b>	
<p>While segregated spatial plans exist for Kakuma and Kalobeyei, the county government has now initiated a process of developing an integrated county spatial plan. Once finalised, these will be adopted by the executive and approved by the county assembly. The practical steps towards creation of the settlement is to regularise the structures in Kakuma 1, 2, 3 and 4 respectively, and to improve and/or upgrade them and standardise them.</p>	<p>The starting point for developing integrated settlements is the formulation of a spatial plan. However, at the time of publication, and although supported by FAO, the county did not yet have a spatial plan due to costs associated with the process. The county therefore needs to start the process of formulating the county spatial plan to provide a road map for the creation of integrated settlements.</p>
<b><i>County Involvement</i></b>	
<p>County governments need to be at the centre of the Shirika Plan. Yet the current coordination framework is inadequate because only the governor sits on the steering committee. This could be strengthened by adding technical personnel from the county to the Shirika Plan Technical Committee. In addition, professional associations such as the Institute of Surveyors need to be brought on board.</p>	<p>The county authority is currently inadequately able to shape implementation of the Shirika Plan in Garissa, and there is a need to strengthen participation throughout the implementation architecture to allow it to be localised and contextualised. It may require a sub-committee at the county level.</p>
<b><i>Staffing and resources</i></b>	
<p>Kakuma municipality has been approved, including staffing. The county is in the process of recruiting the municipal board and manager and an allocation of KShs 20,000,000/= has been made for the municipality in the current financial year. To enhance refugees' participation in the governance of the municipality, a position has been reserved for them in the board.</p>	<p>Garissa County currently has four municipalities: Garissa township, Msalani, Dadaab and Bura respectively. Dadaab municipality has a municipal board and manager in place, with offices in Dadaab. The board has been allocated about KShs 20,000,000/= in the current financial year.</p>
<b><i>Planning and implementation frameworks</i></b>	
<p>To address parallel service delivery, it is clear that DRS needs to be brought into the county steering committee to mainstream refugee issues at that level. KISED P has been aligned to CIDP III to address parallel service provision.</p>	<p>All developments within the county need to be anchored in the CIDP, and DRS needs to join the county steering committee. GISED P should be aligned to CIDP, although GISED P is still at the fundraising stage.</p>
<b><i>Refugee participation</i></b>	
<p>In both counties, refugees have been included in CIDP III after robust public participation at the camp level in preparation of CIDP III. However, there remains some caution as to whether this inclusion will actually result in expenditure of public resources for the benefit of refugees.</p>	



**ReDSS**  
Unlocking Protracted Displacement



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