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THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FOURTH SESSION (2020)

**DEPARTMENTAL COMMITTEE ON
ADMINISTRATION AND NATIONAL SECURITY**

REPORT ON:

THE REFUGEES BILL, 2019

**Directorate of Committee Services,
The National Assembly,
Parliament Buildings,
NAIROBI**

March, 2020

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CHAIRPERSON'S FOREWORD

The Refugees Bill, 2019 (National Assembly Bills No. 62) underwent First Reading on 10th September, 2019. Thereafter, the Bill was committed to the Departmental Committee on Justice and Legal Affairs for review and report to the House pursuant to the provisions of Standing Order 216(5)(c).

Pursuant to the provisions of Article 118 of the Constitution of Kenya and Standing Order 127(3) of the National Assembly Standing Orders, the Committee through local daily newspapers of 9th October, 2019 published an advertisement inviting the public to submit memoranda on the Bill and indeed received memoranda. The Committee through the same advertisement notified the public about its conducting of public hearings on the Bill in selected counties.

The public hearings took place in Nairobi, Mombasa, Nakuru, Uasin Gishu, Garissa and Turkana during which members of the public either individually or representing institutions and organizations made oral presentations and or submitted written memoranda which the Committee took into account while reviewing the Bill.

The report contains public views on the Bill, public participation process, observations and recommendations. The report also contains analysis of public submissions which the Committee found relevant and useful in review of the Bill as well as written memoranda and lists of members of the public who attended the public hearings.

May I take this opportunity to thank and commend Committee Members for devotion and commitment to duty, the Speaker and Clerk of the National Assembly for providing leadership and direction and finally the Committee secretariat for exemplary performance in the provision of technical and logistical support. Indeed, their efforts were critical in the consideration of the Bill and production of this report.

On behalf of the Departmental Committee on Administration and National Security and pursuant to the provisions of Standing Order 199 (6), it's my pleasant privilege and duty to present to the House a report of the Committee on the Refugees Bill, 2019 (*National Assembly Bills No. 62*)

HON. PAUL KOINANGE, M.P.
CHAIRPERSON

1. PREFACE

1.1. Mandate of the Committee

1. The Departmental Committee on Administration and National Security derives its mandate from the provisions of Standing Order No. 216(5) which provides for the functions of Departmental Committees as follows-
 - (a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
 - (b) study the programme and policy objectives of ministries and departments and the effectiveness of their implementation;*
 - (c) study and review all legislation referred to it;*
 - (d) study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - (e) investigate and enquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*
 - (f) vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments)*
 - (g) examine treaties, agreements and conventions;*
 - (h) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
 - (i) consider reports of Commissions and Independent Offices submitted to the House pursuant to provisions of Article 254 of the Constitution; and*
 - (j) examine any questions raised by Members on a matter within its mandate.*
2. The Second Schedule of the Standing Orders on Departmental Committees further outlines the Subjects of the Committee, as follows-
 - (i) National security;
 - (ii) Police services;
 - (iii) Home affairs;
 - (iv) Public administration;

- (v) Public service;
- (vi) Prisons;
- (vii) Immigration;
- (viii) Management of natural disasters; and
- (ix) Community service orders.

1.2. Committee Membership

3. The Committee was constituted on Thursday, 14th December, 2017 and comprises the following Honourable Members-

Chairperson

Hon. Paul Karuga Koinange, MP
Kiambaa Constituency

Jubilee Party

Vice-Chairperson

Hon. John Waluke, MP
Sirisia Constituency

Jubilee Party

Hon. Wamunyinyi, Athanas Wafula, MP
Kanduyi Constituency

Ford Kenya Party

Hon. (Dr.) Tecla Tum, MP
Nandi County

Jubilee Party

Hon. Kaluma, George Peter Joseph, MP
Homa Bay Town Constituency

ODM Party

Hon. Josphat Kabinga, MP
Mwea Constituency

Jubilee Party

Hon. (Dr.) Makali Mulu, MP
Kitui Central Constituency

Wiper Party

Hon. Nimrod Mbai, MP
Kitui East Constituency

Jubilee Party

Hon. Theuri George, MP
MP for Embakasi West Constituency

Jubilee Party

Hon. Ngunjiri Wambugu, MP
Nyeri Town Constituency

Jubilee Party

Hon. Joshua Aduma Owuor, MP
Nyakach Constituency

ODM Party

Hon. Abdi Shurie Omar, MP
Balambala Constituency

Jubilee Party

Hon. Capt. (Rtd) Didmus Barasa Mutua, MP
Kimilili Constituency

Jubilee Party

Hon. Halima Mucheke, MP
Nominated Member

Jubilee Party

Hon. Col. (Rtd) Geoffrey King'ang'i, MP
Mbeere South Constituency

Jubilee Party

Hon. Oku Kaunya, MP
Teso North Constituency

ANC Party

Hon. Arbelle, Marselino Malimo, MP
Laisamis Constituency
Jubilee Party

Hon. Ahmed Kolosh, MP
Wajir West Constituency
Jubilee Party

Hon. Peter Masara, MP
Suna West Constituency
Independent Party

1.3. Committee Secretariat

4. The Committee's secretariat comprises by the following officers –

Mr. George Gazemba
Principal Clerk Assistant

Mr. Joshua Ondari
Clerk Assistant

Ms. Brigita Mati
Legal Counsel

Mr. Edson Odhiambo
Fiscal Analyst

Mr. James Muguna
Research Officer

Mr. Josephat Bundotich
Serjeant-at-Arms

Ms. Eva Kaara
Serjeant-at-Arms

Mr. Yaqub Ahmed
Media Officer

Mr. Rodgers Kilungya
Serjeant-at-Arms

5. Minutes of the Committee sittings on consideration of the Bill form annexure 1 of this report.

2.0 THE REFUGEES BILL, 2019 (NATIONAL ASSEMBLY BILLS No. 62)

2.1 Memorandum of Objects and Reasons of the Bill

6. The principal object of the Bill is to provide for the recognition, protection and management of refugees, to give effect to the 1951 United Nations Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.
7. The Bill does not limit fundamental rights and freedoms neither does it delegate legislative power. The Bill does not directly affect functions and powers of county governments as set out in the Fourth Schedule to the Constitution. The enactment of the Bill shall not occasion additional expenditure of public funds.

3 PUBLIC PARTICIPATION IN THE REVIEW OF THE BILL

3.1 Legal provisions on public participation

8. Public participation on the Bill was undertaken in compliance with the provisions of Article 118 (1) (b) of the Constitution of Kenya which provides that "*Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees*" and Standing Order 127(3) which states that "*The Departmental Committee to which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the Committee makes its recommendations to the House*"

3.2 Methodology used by the Committee in public participation

9. The Bill was read a First time on 10th September, 2019 and immediately committed to the Departmental Committee on Administration and National Security for review. The review process was to entail public participation through appropriate mechanisms including inviting submission of memoranda, holding public hearings and consulting relevant stakeholders pursuant to the provisions of Article 118 (1) (b) of the Constitution of Kenya and Standing Order 127(3) of the National Assembly Standing Orders.
10. Pursuant to the said provisions of the Constitution and Standing Orders, the Committee in the local daily newspapers of Wednesday, 9th October, 2019 invited the public to make representations on the Bill by way of written memoranda as per annexure 3 of the report. The public indeed submitted written memoranda which is part of Volume II of this report.

11. Pursuant to the same advertisement of 9th October, 2019 of the report, the Committee conducted public hearings in selected counties reflecting the face of Kenya. The public hearings were conducted in Nairobi, Mombasa, Eldoret, Nakuru, Turkana and Garissa during which members of the public either individually or representing institutions and organizations made presentations and or submitted memoranda which the Committee took into account while considering the Bill.
12. In order to conveniently cover as many counties as possible in public participation while taking into account the Committee's tight work schedule, timelines and logistical challenges, the Committee constituted three (3) sub-committees which conducted hearings in the various counties.

(a) Nairobi and Mombasa

13. The Members of the sub-committee who conducted the public hearings in these counties were-

- | | | | |
|-------|-------------------------------------|---|--------------------------------|
| (i) | Hon. John Waluke, M.P. | - | <i>Vice Chairperson</i> |
| (ii) | Hon. Oku Kaunya, M.P. | | |
| (iii) | Hon. Ngunjiri Wambugu, M.P. | | |
| (iv) | Hon. Abdi Shurie, M.P. | | |
| (v) | Hon. Geoffrey Kingangi Muturi, M.P. | | |
| (vi) | Hon. Peter Masara, M.P. | | |
| (vii) | Hon. Ahmed Kolosh, M.P. | | |

14. The public hearing was conducted at County Hall, Parliament Buildings in Nairobi on 17th October, 2019 and Kenya School of Government's Tsavo Hall in Mombasa on 19th October, 2019.

(b) Uasin Gishu and Turkana

15. The sub-committee Members who conducted public hearings in these counties were-

- | | | | |
|-------|--------------------------------|---|--------------------------------|
| (i) | Hon. Paul Koinange, M.P. | - | <i>Chairperson</i> |
| (ii) | Hon. John Waluke, M.P. | - | <i>Vice Chairperson</i> |
| (iii) | Hon. Peter Opondo Kaluma, M.P. | | |
| (iv) | Hon. Josephat Kabinga, M.P. | | |

16. The public hearing was conducted at the Teachers Advisory Centre (TAC) in Eldoret on 8th November, 2019 and Silga Valley Restaurant in Kakuma on 9th November, 2019. The hearing was originally to be conducted on 17th October, 2019 in Uasin Gishu and on 18th October, 2019 in Turkana but was rescheduled as a result of unavoidable circumstances.

(c) Nakuru and Garissa

17. The sub-committee Members who conducted public hearings in these counties were-

- (i) Hon. Paul Koinange, M.P. - ***Chairperson***
- (ii) Hon. John Waluke, M.P. - ***Vice Chairperson***
- (iii) Hon. Abdi Shurie, M.P.
- (iv) Hon. Peter Opondo Kaluma, M.P.
- (v) Hon. Peter Masara, M.P.
- (vi) Hon. Aduma Owour, M.P.
- (vii) Hon. Oku Kaunya, M.P.

18. The public hearing was conducted at the Old Town Hall in Nakuru on 23rd October, 2019 and at Daadab IOM (Daadab) Hall in Garissa on 24th October, 2020. The hearing was originally to be conducted in Nakuru on 17th October, 2019 and Garissa on 18th October, 2019 but had to be rescheduled due to unavoidable circumstances.

3.3 Sources of views

19. In response to the Committee's invitation, several members of the public either individually or representing institutions and organizations submitted their views to the Committee by way of written and oral submissions.

20. The institutions and organizations which made representations to the Committee were-

- (i) The Refugees Consortium of Kenya;
- (ii) Danish Refugee Council – Kenya;
- (iii) Agency of Peace;
- (iv) Kituo Cha Sheria;
- (v) United Nations High Commissioner for Refugees;
- (vi) Amnesty Kenya;
- (vii) International Rescue Committee;
- (viii) Central Organization of Trade Unions (COTU)

21. A comprehensive list of members of the public who attended the hearings in the various counties is in Volume II of the report. Written submissions received from the public noting general comments in support of or against the amendments are in Volume II of the report. Analysis of public submissions on the Bill is contained in Volume 1 of the report as annexure 4.

4. RECOMMENDATIONS

22. Upon considering the Bill clause by clause, the Committee recommends the following amendments.

(I) **CLAUSE 2**

THAT clause 2 of the Bill be amended—

- (a) in the definition of “asylum seeker” by deleting the word “case” appearing immediately after the words “but whose” and substituting therefor the word “application”;

Rationale: *For the purposes of consistency the word ‘case’ be replaced with the word ‘application’. Part III of the Act uses the word application rather than case.*

- (b) in the definition of “authorised officer” by inserting the words “ or any other officer assigned such responsibility” immediately after the words “ or immigration officer”;

Rationale: *The Department of Refugee Services officers cannot man all the border and transit routes. Therefore other officers such as chiefs, police officers e.t.c. can be authorized to receive asylum seekers. This is cost effective in the long run.*

- (c) by deleting the definition of “Department” and substituting therefor the following new definition—

“Department” means the Department of Refugee Services established under section 7;

Rationale: *Reference to section 7 cannot be any other law other than the present one. Recommend a correction of the words ‘refugees’ as it appears in this section to refugee.*

- (d) in the definition of “durable solutions” by deleting the words “resettlement to a third party country or local integration” and substituting therefor the words “ local integration in the country of asylum and resettlement to a third country”;

Rationale: *The addition of the word ‘party’ is unnecessary therefore recommend that it be removed. The additional ‘in the country of asylum’ qualifies local integration.*

- (e) in the definition of “Eligibility Panel” by deleting the words “ under section 14” and substitute therefor the words “ under section 13”;

Rationale: *The section makes reference to the wrong section that establishes the panel. It should refer to section 13 and not 14.*

- (f) in the definition of “local integration” by deleting the word “ border” appearing immediately after the words “ refugees attain” and substitute therefor the word “broader”;

Rationale: *The word broader is misspelt. To correct the error.*

- (g) by deleting the definition of “essential services” and substituting therefor the following new definition—

“essential services” means the services that meet the immediate needs of refugees and asylum seekers and include food shelter, education, health, water and sanitation services;

Rationale: *The definition should sufficiently cover all essential services necessary with the notable inclusion of food and shelter.*

- (h) By deleting the definition of “OAU Convention” and substituting therefor the following new definition—

“OAU Convention” means the Organization of Africa Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, done at Addis Ababa on 10th September, 1969 and ratified by Kenya on 28th December, 1987;

Rationale: *The full title of the OAU Convention in the Bill is inaccurate. To reflect the full title of OAU convention*

- (i) By deleting the definition of “Protocol” and substituting therefor the following new definition—

“protocol” means the Protocol relating to the Status of Refugees, done at New York on 31st January 1967 and acceded to by Kenya on 13th November 1981;

Rationale: *To reflect the full title of the Protocol.*

- (j) By deleting the definition of “prima facie refugee status” and substituting therefor the following new definition—

prima facie refugee” means a declaration of refugee status by the Cabinet Secretary as provided for under section 3(2) of this Act;

Rationale: *The definition erroneously states that the committee is the authority that declares prima facie status. This can only be done by the Cabinet Secretary. Also prima facie is a process for recognition and not a status.*

- (k) in the definition of “refugee” by deleting the words “and includes an asylum seeker”;

Rationale: *Accession date is incorrect hence the amendment suggestion. There is an additional capitalization mistake.*

- (l) By deleting the definition of “United Nations Convention” and substituting therefor the following new definition—

“United Nations Convention” means the United Nations Convention relating to the Status of Refugees, done at Geneva on 28th July, 1951 and acceded to by Kenya on 16th May, 1966.

Rationale: *Accession date is incorrect hence the amendment suggestion. There is an additional capitalization mistake.*

- (m) in the definition of “transit centre” by inserting the words “for protection reasons” immediately after the words “under this Act”;

Rationale: *The inclusion of prisons, police stations and remand homes should be qualified only for protection purposes. Refugees should not share with persons who are serving or waiting to resolve their legal situation.*

- (n) by inserting the following new definitions in their proper alphabetical sequence—

“separated child” means a child who has been separated from both parents, or from their previous legal or customary care giver, but is under the care of adults.

Rationale: *The inclusion of the definition of separated children will acknowledge and by extension provide increased protection for this group of individuals*

(II) CLAUSE 3

THAT clause 3 of the Bill be amended—

(a) in subclause (1) by—

- (i) inserting the word “sex” immediately after the words “ race, religion” in paragraph (a);
- (ii) inserting the word “sex” immediately after the words “ race, religion” in paragraph (b); and

Rationale: *The bill omits a well-founded fear of being persecuted on basis of sex as one of the reasons one would be considered for consideration for refugees’ status.*

- (iii) deleting the word “any” appearing immediately after the words “public order in” and substitute therefor the word “either” in paragraph (c);

Rationale: *That the definition reflects and remains consistent with the OAU Convention’s definition.*

(b) by deleting subclause (2) and substitute therefor the following new clause

—
“(2) The Cabinet Secretary, on recommendation from the Refugee Advisory Committee may, through the Gazette, declare any class of persons to be refugees on a prima facie basis if it is evident that these persons qualify to be refugees under section 3 (1) (a), (b) or (c) and may at any time, upon recommendation from the Refugee Advisory Committee, amend or revoke such declaration.

Provided that no such amendment or revocation shall affect the right of any person who is a member of the class of persons concerned and who entered Kenya before the date of such amendment or revocation, to continue to be regarded as a refugee for the purposes of this Act.”

Rationale: *This subclause makes reference to section 3(1)(d) which in turn makes reference to section 3(2). In addition, proviso (ii) does not add any value and only creates confusion.*

(III) CLAUSE 4

THAT clause 4 of the Bill be amended—

(a) in sub clause (1)—

(i) by deleting the words “ the International Crimes Act” appearing immediately after the words “defined in the” and substituting therefor the words “ any international instrument to which Kenya is a party”, in paragraph (a);

(ii) by deleting paragraph (d);

(b) in subclause (2), by inserting the words “ has sought asylum in another country or” before the words “has been granted” in paragraph (b)

Rationale: *Seeking asylum in another country are not grounds for exclusion but rather disqualification. Therefore we recommend that this provision be moved from section 4(1) and be inserted in section 4(2)(b).*

(IV) CLAUSE 5

THAT clause 5 of the Bill be amended in the proviso by deleting the words-

“falling under section 3 (1)(a) and (b) of this Act” appearing immediately after the words “a refugee” and substituting therefor the words “as defined by this Act”

Rationale: *To correct errors in the Bill*

(V) CLAUSE 7

THAT clause 7 of the Bill be amended in subclause (2) by inserting the word “asylum-seeker” immediately after the words” and assistance of” in paragraph (c)

Rationale: *To provide for the inclusion of asylum seekers.*

(VI) CLAUSE 8

THAT clause 8 of the Bill be amended in subclause (2) by —

- (a) inserting the words “and asylum seekers” immediately after the words “all refugees” in paragraph (b);
- (b) inserting the words “coordinate activities to” before the words “ensure the civilian” in paragraph (n);
- (c) deleting the words “co-ordination of” and substituting therefor the words “co-ordinate ,where relevant in collaboration with county authorities,” in paragraph (u).

Rationale: *To provide for collaboration with counties.*

(VII) CLAUSE 9

THAT clause 9 of the Bill be amended by deleting subclause (1) and substituting therefor the following new subclause—

9. (1) The Committee shall consist of—

- (a) the Commissioner and who shall be the chairperson and who shall provide secretariat services to the Committee;
- (b) the Principal Secretary from the Ministry responsible for refugee affairs or a representative in writing from the Ministry responsible for Refugee Affairs
- (c) the Principal Secretary or their representative in writing from the Ministry responsible for foreign
- (d) affairs;
- (e) the Principal Secretary or their representative in writing from the Ministry responsible for devolution affairs;
- (f) the Principal Secretary or their representative in writing from the Ministry responsible for health;
- (g) the Principal Secretary or their representative in writing from the Ministry responsible for
- (h) finance;
- (i) the Principal Secretary or their representative in writing from the Ministry responsible for education;
- (j) the Attorney-General or their representative in writing;
- (k) the Director General of National Intelligence Service or their representative in writing;
- (l) the Director of the Department of Immigration or their representative in writing;
- (m) the Inspector-General or their representative in writing; and
- (n) one person representing the Council of Governors.

Rationale: *To provide that any representative shall be done in writing.*

(VIII) CLAUSE 10

THAT clause 10 of the Bill be amended—

- (a) By inserting the words “asylum seekers” immediately after the words “refugees and” in paragraph (a);

(b) by inserting the words “asylum seekers” immediately after the words “refugees and” in paragraph (b);

(c) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) to advise the Cabinet Secretary in respect of declaration, amendment or revocation of prima facie determinations;”

Rationale: *To include asylum seekers and also to align it to the powers the Cabinet Secretary has been given.*

(IX) CLAUSE 11

THAT clause 11 of the Bill be amended—

(a) by deleting subclause (1) and substituting therefor the new subclause —

“(1) There shall be a Refugee Status Appeals Committee.”

(b) by deleting subclause (3) and substituting therefor the new subclause —

“(3) The quorum for a meeting of the Appeal Committee shall be three members and shall include at least one member under section 11(2) (e).”

(c) in subclause (4) by inserting the word “revocation” immediately after the word “cancellation”, in paragraph (b).

(d) by inserting the following new subclauses immediately after subclause (4)—

“(4A) A member of the Appeal Committee shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

(4B) The quorum for a meeting of the Appeal Committee shall be three members and shall include at least one member under section 11(2) (e).

(4C) Each member of the Committee shall have one vote but in case of a tie in votes, the Chairperson shall have a casting vote.

(4D) The Public Service Commission shall provide the Appeal Committee with a Secretariat for the purposes of discharging its mandate.”

(e) by deleting subclause (7).

Rationale: *-To provide a mandatory provision for inclusion of experts to form quorum;
-To provide a secretariat to the Committee.
-To provide a mandatory provision for inclusion of experts to form quorum;*

(X) CLAUSE 12

THAT clause 12 of the Bill be amended—

(a) by inserting a new subclause immediately after subclause (4)—

“(4A)The department shall liaise with the state legal aid system to provide representation for a refugee where such refugee cannot afford a legal practitioner.”

(b) in subclause (5), by deleting the word “the application” appearing immediately after the words “not to grant” and substitute therefor the words “refugee status”.

Rationale- *To provide for legal aid for refugees and also correct errors.*

(XI) CLAUSE 14

THAT clause 14 of the Bill be amended—

by deleting subclause (2) and substituting therefor the following new subclause—

“(2) A person who is aggrieved by the decision of the Appeals Committee may appeal to the High Court within thirty days of being notified.”
In subclause (3) by deleting the words “sixty days” appearing immediately after the words “shall within” and substitute therefor the words “ninety days”.

Rationale: *To make the period consistent*

(XII) CLAUSE 18

THAT clause 18 of the Bill be amended in subclause (5) by deleting the words “cancelled or revoked” appearing immediately after the words “has been” and substitute therefor the words “revoked and does not appeal or has exhausted the available appeal mechanisms”.

Rationale: *To provide that the CS shall act only when all appeal mechanisms have been exhausted.*

(XIII) CLAUSE 19

THAT Clause 19 of the Bill be amended by deleting the words “section 29” appearing immediately after the words “Subject to” and substituting therefor the words “section 30”.

Rationale: *To correct numbering errors.*

(XIV) CLAUSE 21

THAT Clause 21 of the Bill be amended by inserting the words “trauma or are of old age” immediately after the words “suffer from disability”.

Rationale: *To include other vulnerable persons.*

(XV) CLAUSE 22

THAT Clause 22 of the Bill be in subclause (1) by deleting the words “sixty days” appearing immediately after the words “not exceeding” and substituting therefor the words “ninety days” in paragraph (c).

Rationale: *There is an inconsistency at the time allowed for an asylum seeker whose claim has been rejected to seek admission to another country of his/her choice. A 90 day period is recommended as provided in the current Refugees Act, 2006.*

(XVI) CLAUSE 24

THAT Clause 24 of the Bill be amended —

- (a) by renumbering clause 24 as subclause (1).
- (b) by inserting the following new subclauses immediately after subclause (1)—
 - (2) In the case of a person who is lawfully in Kenya and is subsequently unable to return to his country of origin for any of the reasons specified in section 3 of this Act, he shall, prior to the expiration of his lawful stay, present himself before an appointed officer and apply for recognition as a refugee in accordance with the provisions of this Act.
 - (3) Where there is a large-scale influx of persons claiming to fall within the meaning of refugees under section 3, the Commissioner shall, in consultation with other agencies advise the Cabinet Secretary on emergency measures to be taken including-
 - (a) designation of areas for reception, transit and residence of refugees, having due regard to the security requirement for

- refugees to be settled at a reasonable distance from the frontier of their country of origin;
- (b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women, children, victims of trauma, persons of old age and persons with disabilities; and
 - (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.

Rationale: *The affected subsection was misplaced in section 29 (3).*

(XVII) CLAUSE 25

THAT Clause 25 of the Bill be amended by inserting a new subclause immediately after subclause (3)—

(3A) Asylum seekers at transit centres shall be processed and released within reasonable time.

Rationale: *Asylum seekers should not be held ad infinitum in transit centres.*

(XVIII) CLAUSE 26

THAT Clause 26 of the Bill be amended —

- (a) by renumbering clause 26 as subclause (1).
- (b) by inserting the following new subclause immediately after subclause (1)—
- (2) Reception officer shall serve asylum seekers taking into account the principle of gender.

Rationale: *To provide for male and female reception officers should be available so the refugee has the option to choose who to talk to.*

(XIX) CLAUSE 28

THAT Clause 28 of the Bill be amended by inserting the following new clauses immediately after clause 28—

Right to free movement

28A A recognised refugee is entitled to free movement in Kenya subject to reasonable restrictions specified in the laws of Kenya, or directions issued by the Commissioner, which apply to foreigners generally in the same circumstances, especially on grounds of national security, public order,

public health, public morals or the protection of the rights and freedoms of others.

Right to work

28B. subject to the laws applicable, a refugee recognized under this Act shall, subject to this Act, have the right to have access to employment opportunities and engage in gainful employment.

Rationale: *To provide for the right to work and freedom of movement of a refugee but subject to the laws of the land.*

(XX) CLAUSE 29

THAT Clause 29 of the Bill be amended—

- (a) in subclause (2), by deleting the words “or public order” appearing immediately after the words “national security” ;
- (b) by deleting subclause (3).

Rationale: *Clause 29(2) appears to negate the non-refoulement principle as it empowers government to refouler back to their country individuals considered a threat to public order. The inclusion of public order as a ground needs to be reconsidered.*

(XXI) CLAUSE 31

THAT Clause 31 of the bill be amended by inserting a new subclause immediately after subclause (1)—

- (1a) Despite subsection (1), the Commissioner shall consider any special needs or conditions that may hinder the refugees’ protection and safety before making an order under subsection (1).

Rationale: *To include the condition that safety and protection of the refugee is ensured and prioritised before they are moved.*

(XXII) CLAUSE 33

THAT Clause 33 of the Bill be amended—

- (a) In subclause (1) by inserting the word “entity” immediately after the words “No person”;
- (b) By inserting a new subclause immediately after subclause 2—

(2a) The Commissioner may, on an application, review a decision made under subsection (1) where any new circumstance is brought to his or her attention.

Rationale: To provide for a review process

(XXIII) CLAUSE 34

THAT Clause 34 of the Bill be amended by deleting subclause (1) and substituting therefor the following new clause—

(1) The Commissioner shall, so far as is practicable, ensure that there is shared use of public institutions, facilities and spaces between the refugees and the host communities.

Rationale: *To show that the Commissioner is to perform the tasks as is practicable taking into consideration circumstances on the ground.*

(XXIV) CLAUSE 35

THAT Clause 35 of the Bill be amended by deleting the word “concerns” appearing immediately after the words “that refugee” and substitute therefor the words “matters and concerns”

Rationale: *For clarity purposes.*

(XXV) CLAUSE 36

THAT Clause 36 of the Bill be amended by inserting the words “older persons, victims of trauma” immediately after the words “women, children”.

Rationale: *To provide for other vulnerable persons.*

(XXVI) CLAUSE 38

THAT clause 38 of the Bill be amended by deleting the words “ministry of foreign affairs” and substituting therefor the words “relevant government ministries”

Rationale: *To provide for other agencies other than the ministry of foreign affairs.*

(XXVII) CLAUSE 39

THAT Clause 39 of the Bill be amended by inserting a new clause immediately after clause 39—

Confidentiality

39A. (1) No member of the Committee, employee or agent of the Department of Refugees shall disclose information acquired under this Act except—

- (a) in the course of his duties under this Act; or
- (b) with the consent of the Commissioner.

(2) No person who receives information in contravention of sub (1) shall disclose or publish the information.

(3) A person who contravenes any provision of this commits an offence and shall on conviction be liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months or both such fine and imprisonment.

Rationale: *To retain the confidentiality provisions under section 24 of the Refugees Act, 2006. The section provides for confidentiality in handling asylum seeker and refugee information. Noting that article 31 Constitution of Kenya 2010 provides for the right to privacy and data protection, it is not clear why the provision was dropped in the Bill.*

(XXVIII) CLAUSE 40

THAT Clause 40 of the Bill be amended in subclause (1) by inserting the words “without good reason” immediately after the words “fails to report”.

Rationale: *Not to make it a strict liability offence.*

(XXIX) CLAUSE 42

THAT Clause 42 of the Bill be amended by deleting subclause (2) and (3) and substituting therefor the following new clauses—

- (2) On the commencement day, all rights, powers and liabilities, whether arising under any written law or otherwise which immediately before such day were vested in, imposed on or enforceable against the former Refugee Affairs Secretariat, Refugee Appeals Board and Refugee Affairs Committee shall be deemed to be vested, imposed or enforceable against the current Department for Refugee Services Refugee Status Appeal Committee and Refugee Advisory Committee.
- (3) Any reference in any written law or in any document or instrument to the former Refugee Affairs Secretariat, Refugee Appeals Board and Refugee

Affairs Committee shall, on and after the commencement day, be construed to be a reference to the current Department for Refugee Services, Refugee Status Appeal Committee and Refugee Advisory Committee.

Rationale: *To provide clarity.*

(XXX) CLAUSE 43

THAT Clause 43 of the Bill be amended—

- (a) in subclause (2) by inserting the words “older persons, victims of trauma” immediately after the words “un accompanied minors, in paragraph (k);
- (b) by inserting the following paragraphs immediately after paragraph (t)—
 - (u) period of validity of documentation;
 - (v) circumstances on limitation of rights granted to refugees;
 - (w) documentation to be provided to a recognised refugee.

Rationale: *To provide for clear circumstances when rights are limited and documentations for refugees.*

SIGNED.....this 12th day of March 2020


HON. PAUL KOINANGE, M.P.
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON
ADMINISTRATION AND NATIONAL SECURITY

ANNEXURE 1

(Minutes of Committee sittings on the
consideration of the Bill and adoption of
report)

MINUTES OF THE 17TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON THURSDAY, 12TH MARCH, 2020 AT 9.30 A.M. IN THE BOARDROOM ON 11TH FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDINGS

PRESENT-

- | | | | |
|-----|-------------------------------------|---|-------------------------|
| 1. | Hon. Paul Koinange, M.P. | - | <i>Chairperson</i> |
| 2. | Hon. John Waluke, M.P. | - | <i>Vice Chairperson</i> |
| 3. | Hon. Wafula Wamunyinyi, MP | | |
| 4. | Hon. Peter George Kaluma, MP | | |
| 5. | Hon. Dr. Makali Mulu, MP | | |
| 6. | Hon. Aduma Owuor, MP | | |
| 7. | Hon. Dr. Tecla Chebet Tum, MP | | |
| 8. | Hon. Josphat Kabinga Wachira, MP | | |
| 9. | Hon. Didmus Wekesa Barasa Mutua, MP | | |
| 10. | Hon. Oku Kaunya, MP | | |
| 11. | Hon. Peter Masara, MP | | |
| 12. | Hon. Ahmed Kolosh Mohamed, MP | | |
| 13. | Hon. Halima Mucheke, MP | | |

ABSENT WITH APOLOGIES

1. Hon. Ngunjiri Wambugu, MP
2. Hon. Geoffrey Kingagi Muturi, MP
3. Hon. Nimrod Mbithuka Mbai, MP
4. Hon. Abdi Omar Shurie, MP
5. Hon. George Theuri, MP
6. Hon. Marselino Malimo Arbelle, MP

IN ATTENDANCE-

COMMITTEE SECRETARIAT-

- | | | | |
|----|--------------------|---|------------------------------|
| 1. | Mr. George Gazemba | - | Principal Clerk Assistant II |
| 2. | Mr. Joshua Ondari | - | Clerk Assistant |
| 3. | Mr. Leonard Walala | - | Legal Counsel |
| 4. | Mr. James Muguna | - | Researcher Officer |

- | | | |
|-------------------------|---|---------------|
| 5. Mr. Rodgers Kilungya | - | Audio Officer |
| 6. Mr. James Oloo | - | Support Staff |

MIN No. 52/2020:-

**PRELIMINARIES AND COMMUNICATION
FROM THE CHAIRPERSON**

The Chairperson called the meeting to order at ten minutes past ten. Prayer was said by Hon. Josephat Kabinga, M.P.

MIN No. 53/2020:-

**CONSIDERATION AND ADOPTION OF
REPORT ON THE REFUGEES BILL, 2019**

The Committee considered and unanimously adopted its report on the Refugees Bill, 2019. The adoption was proposed by Hon. Peter Kaluma and seconded by Hon (Dr) Tecla Tum. The report was adopted with the following amendments-

(I) CLAUSE 2

THAT clause 2 of the Bill be amended—

- (a) in the definition of “asylum seeker” by deleting the word “case” appearing immediately after the words “but whose” and substituting therefor the word “application”;

Rationale: *For the purposes of consistency the word ‘case’ be replaced with the word ‘application’. Part III of the Act uses the word application rather than case.*

- (b) in the definition of “authorised officer” by inserting the words “ or any other officer assigned such responsibility” immediately after the words “ or immigration officer”;

Rationale: *The Department of Refugee Services officers cannot man all the border and transit routes. Therefore other officers such as chiefs, police officers e.t.c. can be authorized to receive asylum seekers. This is cost effective in the long run.*

- (c) by deleting the definition of “Department” and substituting therefor the following new definition—

“Department” means the Department of Refugee Services established under section 7;

Rationale: *Reference to section 7 cannot be any other law other than the present one. Recommend a correction of the words ‘refugees’ as it appears in this section to refugee.*

(d) in the definition of “durable solutions” by deleting the words “resettlement to a third party country or local integration” and substituting therefor the words “ local integration in the country of asylum and resettlement to a third country”;

Rationale: *The addition of the word ‘party’ is unnecessary therefore recommend that it be removed. The additional ‘in the country of asylum’ qualifies local integration.*

(e) in the definition of “Eligibility Panel” by deleting the words “ under section 14” and substitute therefor the words “ under section 13”;

Rationale: *The section makes reference to the wrong section that establishes the panel. It should refer to section 13 and not 14.*

(f) in the definition of “local integration” by deleting the word “ border” appearing immediately after the words “ refugees attain” and substitute therefor the word “broader”;

Rationale: *The word broader is misspelt. To correct the error.*

(g) by deleting the definition of “essential services” and substituting therefor the following new definition—

“essential services” means the services that meet the immediate needs of refugees and asylum seekers and include food shelter, education, health, water and sanitation services;

Rationale: *The definition should sufficiently cover all essential services necessary with the notable inclusion of food and shelter.*

(h) By deleting the definition of “OAU Convention” and substituting therefor the following new definition—

“OAU Convention” means the Organization of Africa Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, done at Addis Ababa on 10th September, 1969 and ratified by Kenya on 28th December, 1987;

Rationale: *The full title of the OAU Convention in the Bill is inaccurate. To reflect the full title of OAU convention*

- (i) By deleting the definition of “Protocol” and substituting therefor the following new definition—

“protocol” means the Protocol relating to the Status of Refugees, done at New York on 31st January 1967 and acceded to by Kenya on 13th November 1981;

Rationale: *To reflect the full title of the Protocol.*

- (j) By deleting the definition of “prima facie refugee status” and substituting therefor the following new definition—

prima facie refugee” means a declaration of refugee status by the Cabinet Secretary as provided for under section 3(2) of this Act;

Rationale: *The definition erroneously states that the committee is the authority that declares prima facie status. This can only be done by the Cabinet Secretary. Also prima facie is a process for recognition and not a status.*

- (k) in the definition of “refugee” by deleting the words “and includes an asylum seeker”;

Rationale: *Accession date is incorrect hence the amendment suggestion. There is an additional capitalization mistake.*

- (l) By deleting the definition of “United Nations Convention” and substituting therefor the following new definition—

“United Nations Convention” means the United Nations Convention relating to the Status of Refugees, done at Geneva on 28th July, 1951 and acceded to by Kenya on 16th May, 1966.

Rationale: *Accession date is incorrect hence the amendment suggestion. There is an additional capitalization mistake.*

- (m) in the definition of “transit centre” by inserting the words “for protection reasons” immediately after the words “under this Act”;

Rationale: *The inclusion of prisons, police stations and remand homes should be qualified only for protection purposes. Refugees should not share with persons who are serving or waiting to resolve their legal situation.*

- (n) by inserting the following new definitions in their proper alphabetical sequence—

“separated child” means a child who has been separated from both parents, or from their previous legal or customary care giver, but is under the care of adults.

Rationale: *The inclusion of the definition of separated children will acknowledge and by extension provide increased protection for this group of individuals*

(II) CLAUSE 3

THAT clause 3 of the Bill be amended—

- (a) in subclause (1) by—

- (i) inserting the word “sex” immediately after the words “ race, religion” in paragraph (a);
- (ii) inserting the word “sex” immediately after the words “ race, religion” in paragraph (b); and

Rationale: *The bill omits a well-founded fear of being persecuted on basis of sex as one of the reasons one would be considered for consideration for refugees’ status.*

- (iii) deleting the word “any” appearing immediately after the words “public order in” and substitute therefor the word “either” in paragraph (c);

Rationale: *That the definition reflects and remains consistent with the OAU Convention’s definition.*

- (b) by deleting subclause (2) and substitute therefor the following new clause —

“(2) The Cabinet Secretary, on recommendation from the Refugee Advisory Committee may, through the Gazette, declare any class of persons to be refugees on a prima facie basis if it is evident that these persons qualify to be

refugees under section 3 (1) (a), (b) or (c) and may at any time, upon recommendation from the Refugee Advisory Committee, amend or revoke such declaration.

Provided that no such amendment or revocation shall affect the right of any person who is a member of the class of persons concerned and who entered Kenya before the date of such amendment or revocation, to continue to be regarded as a refugee for the purposes of this Act.”

Rationale: *This subclause makes reference to section 3(1)(d) which in turn makes reference to section 3(2). In addition, proviso (ii) does not add any value and only creates confusion.*

(III) CLAUSE 4

THAT clause 4 of the Bill be amended—

(a) in sub clause (1)—

- (i) by deleting the words “ the International Crimes Act” appearing immediately after the words “defined in the” and substituting therefor the words “ any international instrument to which Kenya is a party”, in paragraph (a);
- (ii) by deleting paragraph (d);

(b) in subclause (2), by inserting the words “ has sought asylum in another country or” before the words “has been granted” in paragraph (b)

Rationale: *Seeking asylum in another country are not grounds for exclusion but rather disqualification. Therefore we recommend that this provision be moved from section 4(1) and be inserted in section 4(2)(b).*

(IV) CLAUSE 5

THAT clause 5 of the Bill be amended in the proviso by deleting the words-

“falling under section 3 (1)(a) and (b) of this Act” appearing immediately after the words “a refugee” and substituting therefor the words “as defined by this Act”

Rationale: *To correct errors in the Bill*

(V) CLAUSE 7

THAT clause 7 of the Bill be amended in subclause (2) by inserting the word “asylum-seeker” immediately after the words “and assistance of” in paragraph (c)

Rationale: *To provide for the inclusion of asylum seekers.*

(VI) CLAUSE 8

THAT clause 8 of the Bill be amended in subclause (2) by —

- (a) inserting the words “and asylum seekers” immediately after the words “all refugees” in paragraph (b);
- (b) inserting the words “coordinate activities to” before the words “ensure the civilian” in paragraph (n);
- (c) deleting the words “co-ordination of” and substituting therefor the words “ co-ordinate ,where relevant in collaboration with county authorities,” in paragraph (u).

Rationale: *To provide for collaboration with counties.*

(VII) CLAUSE 9

THAT clause 9 of the Bill be amended by deleting subclause (1) and substituting therefor the following ne subclause—

9. (1) The Committee shall consist of—

- (a) the Commissioner and who shall be the chairperson and who shall provide secretariat services to the Committee;
- (b) the Principal Secretary from the Ministry responsible for refugee affairs or a representative in writing from the Ministry responsible for Refugee Affairs
- (c) the Principal Secretary or their representative in writing from the Ministry responsible for foreign
- (d) affairs;
- (e) the Principal Secretary or their representative in writing from the Ministry responsible for devolution affairs;
- (f) the Principal Secretary or their representative in writing from the Ministry responsible for health;
- (g) the Principal Secretary or their representative in writing from the Ministry responsible for

- (h) finance;
- (i) the Principal Secretary or their representative in writing from the Ministry responsible for education;
- (j) the Attorney-General or their representative in writing;
- (k) the Director General of National Intelligence Service or their representative in writing;
- (l) the Director of the Department of Immigration or their representative in writing;
- (m) the Inspector-General or their representative in writing; and
- (n) one person representing the Council of Governors.

Rationale: *To provide that any representative shall be done in writing.*

(VIII) CLAUSE 10

THAT clause 10 of the Bill be amended—

- (a) By inserting the words “asylum seekers” immediately after the words “ refugees and” in paragraph (a);
- (b) by inserting the words “asylum seekers” immediately after the words “ refugees and” in paragraph (b);
- (c) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) to advise the Cabinet Secretary in respect of declaration, amendment or revocation of prima facie determinations;”

Rationale: *To include asylum seekers and also to align it to the powers the Cabinet Secretary has been given.*

(IX) CLAUSE 11

THAT clause 11 of the Bill be amended—

- (a) by deleting subclause (1) and substituting therefor the new subclause —

“(1) There shall be a Refugee Status Appeals Committee.”

- (b) by deleting subclause (3) and substituting therefor the new subclause —

“(3) The quorum for a meeting of the Appeal Committee shall be three members and shall include at least one member under section 11(2) (e).”

(c) in subclause (4) by inserting the word “revocation” immediately after the word “cancellation”, in paragraph (b).

(d) by inserting the following new subclauses immediately after subclause (4)—

“(4A) A member of the Appeal Committee shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

(4B) The quorum for a meeting of the Appeal Committee shall be three members and shall include at least one member under section 11(2) (e).

(4C) Each member of the Committee shall have one vote but in case of a tie in votes, the Chairperson shall have a casting vote.

(4D) The Public Service Commission shall provide the Appeal Committee with a Secretariat for the purposes of discharging its mandate.”

(e) by deleting subclause (7).

Rationale: *-To provide a mandatory provision for inclusion of experts to form quorum;*

-To provide a secretariat to the Committee.

-To provide a mandatory provision for inclusion of experts to -form quorum;

(X) CLAUSE 12

THAT clause 12 of the Bill be amended—

(a) by inserting a new subclause immediately after subclause (4)—

“(4A) The department shall liaise with the state legal aid system to provide representation for a refugee where such refugee cannot afford a legal practitioner.”

(b) in subclause (5), by deleting the word “the application” appearing immediately after the words “not to grant” and substitute therefor the words “refugee status”.

Rationale- *To provide for legal aid for refugees and also correct errors.*

(XI) CLAUSE 14

THAT clause 14 of the Bill be amended—

by deleting subclause (2) and substituting therefor the following new subclause—

“(2) A person who is aggrieved by the decision of the Appeals Committee may appeal to the High Court within thirty days of being notified.”

In subclause (3) by deleting the words “sixty days” appearing immediately after the words “shall within” and substitute therefor the words “ninety days”.

Rationale: *To make the period consistent*

(XII) CLAUSE 18

THAT clause 18 of the Bill be amended in subclause (5) by deleting the words “cancelled or revoked” appearing immediately after the words “has been” and substitute therefor the words “revoked and does not appeal or has exhausted the available appeal mechanisms”.

Rationale: *To provide that the CS shall act only when all appeal mechanisms have been exhausted.*

(XIII) CLAUSE 19

THAT Clause 19 of the Bill be amended by deleting the words “section 29” appearing immediately after the words “Subject to” and substituting therefor the words “section 30”.

Rationale: *To correct numbering errors.*

(XIV) CLAUSE 21

THAT Clause 21 of the Bill be amended by inserting the words “trauma or are of old age” immediately after the words “suffer from disability”.

Rationale: *To include other vulnerable persons.*

(XV) CLAUSE 22

THAT Clause 22 of the Bill be in subclause (1) by deleting the words “sixty days” appearing immediately after the words “not exceeding” and substituting therefor the words “ninety days” in paragraph (c).

Rationale: *There is an inconsistency at the time allowed for an asylum seeker whose claim has been rejected to seek admission to another country of his/her choice. A 90 day period is recommended as provided in the current Refugees Act, 2006.*

(XVI) CLAUSE 24

THAT Clause 24 of the Bill be amended —

(a) by renumbering clause 24 as subclause (1).

(b) by inserting the following new subclauses immediately after subclause (1)—

(2) In the case of a person who is lawfully in Kenya and is subsequently unable to return to his country of origin for any of the reasons specified in section 3 of this Act, he shall, prior to the expiration of his lawful stay, present himself before an appointed officer and apply for recognition as a refugee in accordance with the provisions of this Act.

(3) Where there is a large-scale influx of persons claiming to fall within the meaning of refugees under section 3, the Commissioner shall, in consultation with other agencies advise the Cabinet Secretary on emergency measures to be taken including-

(a) designation of areas for reception, transit and residence of refugees, having due regard to the security requirement for refugees to be settled at a reasonable distance from the frontier of their country of origin;

(b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women, children, victims of trauma, persons of old age and persons with disabilities; and

(c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.

Rationale: *The affected subsection was misplaced in section 29 (3).*

(XVII) CLAUSE 25

THAT Clause 25 of the Bill be amended by inserting a new subclause immediately after subclause (3)—

(3A) Asylum seekers at transit centres shall be processed and released within reasonable time.

Rationale: *Asylum seekers should not be held ad infinitum in transit centres.*

(XVIII) CLAUSE 26

THAT Clause 26 of the Bill be amended —

(a) by renumbering clause 26 as subclause (1).

(b) by inserting the following new subclause immediately after subclause (1)—

(2) Reception officer shall serve asylum seekers taking into account the principle of gender.

Rationale: *To provide for male and female reception officers should be available so the refugee has the option to choose who to talk to.*

(XIX) CLAUSE 28

THAT Clause 28 of the Bill be amended by inserting the following new clauses immediately after clause 28—

Right to free movement

28A A recognised refugee is entitled to free movement in Kenya subject to reasonable restrictions specified in the laws of Kenya, or directions issued by the Commissioner, which apply to foreigners generally in the same circumstances, especially on grounds of national security, public order, public health, public morals or the protection of the rights and freedoms of others.

Right to work

28B. subject to the laws applicable, a refugee recognized under this Act shall, subject to this Act, have the right to have access to employment opportunities and engage in gainful employment.

Rationale: *To provide for the right to work and freedom of movement of a refugee but subject to the laws of the land.*

(XX) CLAUSE 29

THAT Clause 29 of the Bill be amended—

- (a) in subclause (2), by deleting the words “or public order” appearing immediately after the words “national security” ;
- (b) by deleting subclause (3).

Rationale: *Clause 29(2) appears to negate the non-refoulement principle as it empowers government to refouler back to their country individuals considered a threat to public order. The inclusion of public order as a ground needs to be reconsidered.*

(XXI) CLAUSE 31

THAT Clause 31 of the bill be amended by inserting a new subclause immediately after subclause (1)—

(1a) Despite subsection (1), the Commissioner shall consider any special needs or conditions that may hinder the refugees’ protection and safety before making an order under subsection (1).

Rationale: *To include the condition that safety and protection of the refugee is ensured and prioritised before they are moved.*

(XXII) CLAUSE 33

THAT Clause 33 of the Bill be amended—

- (a) In subclause (1) by inserting the word “entity” immediately after the words “No person”;
- (b) By inserting a new subclause immediately after subclause 2—

(2a) The Commissioner may, on an application, review a decision made under subsection (1) where any new circumstance is brought to his or her attention.

Rationale: **To provide for a review process**

(XXIII) CLAUSE 34

THAT Clause 34 of the Bill be amended by deleting subclause (1) and substituting therefor the following new clause—

(1) The Commissioner shall, so far as is practicable, ensure that there is shared use of public institutions, facilities and spaces between the refugees and the host communities.

Rationale: *To show that the Commissioner is to perform the tasks as is practicable taking into consideration circumstances on the ground.*

(XXIV) CLAUSE 35

THAT Clause 35 of the Bill be amended by deleting the word “concerns” appearing immediately after the words “that refugee” and substitute therefor the words “matters and concerns”

Rationale: *For clarity purposes.*

(XXV) CLAUSE 36

THAT Clause 36 of the Bill be amended by inserting the words “older persons, victims of trauma” immediately after the words “women, children”.

Rationale: *To provide for other vulnerable persons.*

(XXVI) CLAUSE 38

THAT clause 38 of the Bill be amended by deleting the words “ministry of foreign affairs” and substituting therefor the words “relevant government ministries”

Rationale: *To provide for other agencies other than the ministry of foreign affairs.*

(XXVII) CLAUSE 39

THAT Clause 39 of the Bill be amended by inserting a new clause immediately after clause 39—

Confidentiality

39A. (1) No member of the Committee, employee or agent of the Department of Refugees shall disclose information acquired under this Act except—

(a) in the course of his duties under this Act; or

(b) with the consent of the Commissioner.

(2) No person who receives information in contravention of sub (1) shall disclose or publish the information.

(3) A person who contravenes any provision of this commits an offence and shall on conviction be liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months or both such fine and imprisonment.

Rationale: *To retain the confidentiality provisions under section 24 of the Refugees Act, 2006. The section provides for confidentiality in handling asylum seeker and refugee information. Noting that article 31 Constitution of Kenya 2010 provides for the right to privacy and data protection, it is not clear why the provision was dropped in the Bill.*

(XXVIII) CLAUSE 40

THAT Clause 40 of the Bill be amended in subclause (1) by inserting the words “without good reason” immediately after the words “fails to report”.

Rationale: *Not to make it a strict liability offence.*

(XXIX) CLAUSE 42

THAT Clause 42 of the Bill be amended by deleting subclause (2) and (3) and substituting therefor the following new clauses—

(2) On the commencement day, all rights, powers and liabilities, whether arising under any written law or otherwise which immediately before such day were vested in, imposed on or enforceable against the former Refugee Affairs Secretariat, Refugee Appeals Board and Refugee Affairs Committee shall be deemed to be vested, imposed or enforceable against the current Department for Refugee Services Refugee Status Appeal Committee and Refugee Advisory Committee.

(3) Any reference in any written law or in any document or instrument to the former Refugee Affairs Secretariat, Refugee Appeals Board and Refugee Affairs Committee shall, on and after the commencement day, be construed to be a reference to the current Department for Refugee Services, Refugee Status Appeal Committee and Refugee Advisory Committee.

Rationale: *To provide clarity.*

(XXX) CLAUSE 43

THAT Clause 43 of the Bill be amended—

(a) in subclause (2) by inserting the words “ older persons, victims of trauma” immediately after the words “un accompanied minors, in paragraph (k);

(b) by inserting the following paragraphs immediately after paragraph (t)—

(u) period of validity of documentation;

(v) circumstances on limitation of rights granted to refugees;

(w) documentation to be provided to a recognised refugee.

Rationale: *To provide for clear circumstances when rights are limited and documentation for refugees.*

MIN No. 46/2020:-

ADJOURNMENT

There being no other business to transact, the chairperson adjourned the meeting at five minutes past noon until Monday, 16th March, 2020 at 9.00 am.

Signed.....

Chairperson

Date.....12th March 2020

**MINUTES OF THE 12TH SITTING OF THE DEPARTMENTAL
COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY
HELD ON MONDAY, 2ND MARCH, 2020 AT 2.30 P.M. AT HILTON
GARDEN INN HOTEL, MACHAKOS COUNTY**

PRESENT-

1. Hon. Wafula Wamunyinyi, MP *(Chairing)*
2. Hon. Peter George Kaluma, MP
3. Hon. Aduma Owuor, MP
4. Hon. George Theuri, MP
5. Hon. Dr. Tecla Chebet Tum, MP
6. Hon. Josphat Kabinga Wachira, MP
7. Hon. Marselino Malimo Arbelle, MP
8. Hon. Oku Kaunya, MP
9. Hon. Peter Masara, MP
10. Hon. Halima Mucheke, MP

ABSENT WITH APOLOGIES

1. Hon. Paul Koinange, MP - *Chairperson*
2. Hon. John Waluke, MP *Vice Chairperson*
3. Hon. Dr. Makali Mulu, MP
4. Hon. Ngunjiri Wambugu, MP
5. Hon. Geoffrey Kingagi Muturi, MP
6. Hon. Nimrod Mbithuka Mbai, MP
7. Hon. Ahmed Kolosh Mohamed, MP
8. Hon. Abdi Omar Shurie, MP
9. Hon. Didmus Wekesa Barasa Mutua, MP

IN ATTENDANCE-

COMMITTEE SECRETARIAT-

- | | | |
|-----------------------|---|------------------------------|
| 1. Mr. George Gazemba | - | Principal Clerk Assistant II |
| 2. Mr. Joshua Ondari | - | Clerk Assistant |
| 3. Ms. Brigitta Mati | - | Legal Counsel |
| 4. Mr. James Muguna | - | Researcher Officer |

- | | | |
|-------------------------|---|---------------|
| 5. Mr. Rodgers Kilungya | - | Audio Officer |
| 6. Mr. James Oloo | - | Support Staff |

MIN No. 44/2020:-

**PRELIMINARIES AND COMMUNICATION
FROM THE CHAIRPERSON**

In the absence of the Chairperson and Vice-chairperson, Members present elected Hon. Wafula Wamunyinyi, MP to chair the meeting, pursuant to Standing Order No. 188. Hon. Wafula Wamunyinyi, MP then called the meeting to order at 3.00 am and said a prayer.

MIN No. 45/2020:-

**CONSIDERATION OF THE REFUGEES
BILL, 2019**

During the sitting, the Committee considered the Bill and made the following observation as follows:-

CLAUSE 10

THAT clause 10 of the Bill be amended—

- (a) By inserting the words “asylum seekers” immediately after the words “refugees and” in paragraph (a);
- (b) by inserting the words “asylum seekers” immediately after the words “refugees and” in paragraph (b);
- (c) by deleting paragraph (c) and substituting therefor the following new paragraph—
“(c) to advise the Cabinet Secretary in respect of declaration, amendment or revocation of prima facie determinations;”

To include asylum seekers

To align it to the power CS has been given.

CLAUSE 11

THAT clause 11 of the Bill be amended—

- (a) by deleting subclause (1) and substituting therefor the new subclause —
“(1) There shall be a Refugee Status Appeals Committee.”

(b) by deleting subclause (3) and substituting therefor the new subclause —

“(3) The quorum for a meeting of the Appeal Committee shall be three members and shall include at least one member under section 11(2) (e).”

(c) in subclause (4) by inserting the word “revocation” immediately after the word “cancellation”, in paragraph (b).

(d) by inserting the following new subclauses immediately after subclause (4)—
“(4A) A member of the Appeal Committee shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

(4B) The quorum for a meeting of the Appeal Committee shall be three members and shall include at least one member under section 11(2) (e).

(4C) Each member of the Committee shall have one vote but in case of a tie in votes, the Chairperson shall have a casting vote.

(4D) The Public Service Commission shall provide the Appeal Committee with a Secretariat for the purposes of discharging its mandate.”

(e) by deleting subclause (7).

Provide a mandatory provision for inclusion of experts to form quorum;

Provide a secretariat of the Committee.

Provide a mandatory provision for inclusion of experts to form quorum;

CLAUSE 12

THAT clause 12 of the Bill be amended—

(a) by inserting a new subclause immediately after subclause (4)—

“(4A) The department shall liaise with the state legal aid system to provide representation for a refugee where such refugee cannot afford a legal practitioner.”

(b) in subclause (5), by deleting the word “the application” appearing immediately after the words “not to grant” and substitute therefor the words “refugee status”.

To provide for legal aid for refugees. To correct errors

CLAUSE 14

THAT clause 14 of the Bill be amended—

by deleting subclause (2) and substituting therefor the following new subclause—

“(2) A person who is aggrieved by the decision of the Appeals Committee may appeal to the High Court within thirty days of being notified.”

In subclause (3) by deleting the words “sixty days” appearing immediately after the words “shall within” and substitute therefor the words “ninety days”.

To make the period consistent

CLAUSE 18

THAT clause 18 of the Bill be amended in subclause (5) by deleting the words “cancelled or revoked” appearing immediately after the words “has been” and substitute therefor the words “revoked and does not appeal or has exhausted the available appeal mechanisms”.

To provide that the CS shall act only when all appeal mechanisms have been exhausted

CLAUSE 19

THAT Clause 19 of the Bill be amended by deleting the words “section 29” appearing immediately after the words “Subject to” and substituting therefor the words “section 30”.

To correct errors

CLAUSE 21

THAT Clause 21 of the Bill be amended by inserting the words “trauma or are of old age” immediately after the words “suffer from disability”.

To include other vulnerable persons

CLAUSE 22

THAT Clause 22 of the Bill be in subclause (1) by deleting the words “sixty days” appearing immediately after the words “not exceeding” and substituting therefor the words “ninety days” in paragraph (c).

There is an inconsistency at the time allowed for an asylum seeker whose claim has been rejected to seek admission to another country of his/her choice. A 90 day period is recommended as provided in the current Refugees Act, 2006.

CLAUSE 24

THAT Clause 24 of the Bill be amended —

(a) by renumbering clause 24 as subclause (1).

(b) by inserting the following new subclauses immediately after subclause (1)—

(2) In the case of a person who is lawfully in Kenya and is subsequently unable to return to his country of origin for any of the reasons specified in section 3 of this Act, he shall, prior to the expiration of his lawful stay, present himself before an appointed officer and apply for recognition as a refugee in accordance with the provisions of this Act.

(3) Where there is a large-scale influx of persons claiming to fall within the meaning of refugees under section 3, the Commissioner shall, in consultation with other agencies advise the Cabinet Secretary on emergency measures to be taken including-

(a) designation of areas for reception, transit and residence of refugees, having due regard to the security requirement for refugees to be settled at a reasonable distance from the frontier of their country of origin;

(b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women, children, victims of trauma, persons of old age and persons with disabilities; and

(c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.

The affected subsection was misplaced in section 29 (3).

CLAUSE 25

THAT Clause 25 of the Bill be amended by inserting a new subclause immediately after subclause (3)—

(3A) Asylum seekers at transit centres shall be processed and released within reasonable time.

Asylum seekers should not be held ad infinitum in transit centres.

CLAUSE 26

THAT Clause 26 of the Bill be amended —

(a) by renumbering clause 26 as subclause (1).

(b) by inserting the following new subclause immediately after subclause (1)—

(2) Reception officer shall serve asylum seekers taking into account the principle of gender.

To provide for male and female reception officers should be available so the refugee has the option to choose who to talk to.

CLAUSE 28

THAT Clause 28 of the Bill be amended by inserting the following new clauses immediately after clause 28—

Right to free movement

28A A recognised refugee is entitled to free movement in Kenya subject to reasonable restrictions specified in the laws of Kenya, or directions issued by the Commissioner, which apply to foreigners generally in the same circumstances, especially on grounds of national security, public order, public health, public morals or the protection of the rights and freedoms of others.

Right to work

- 28B. subject to the laws applicable, a refugee recognized under this Act shall, subject to this Act, have the right to have access to employment opportunities and engage in gainful employment.

To provide for the right to work and freedom of movement of a refugee but subject to the laws of the land

CLAUSE 29

THAT Clause 29 of the Bill be amended—

(a) in subclause (2), by deleting the words “or public order” appearing immediately after the words “national security” ;

(b) by deleting subclause (3).

Clause 29(2) appears to negate the non-refoulment principle as it empowers government to refouler back to their country individuals considered a threat to public order. The inclusion of public order as a ground needs to be reconsidered.

MIN No. 46/2020:-

ADJOURNMENT

The Chairperson adjourned the meeting at half past one in the afternoon. The meeting was to be reconvened at 2:30 pm at the same place.

Signed.....
Chairperson

Date.....20th March 2020

- 5. Mr. Rodgers Kilungya
- 6. Mr. James Oloo
-
- Audio Officer
- Support Staff

MIN No. 40/2020:-
PRELIMINARIES AND COMMUNICATION
FROM THE CHAIRPERSON

In the absence of the Chairperson and Vice-chairperson, Members present elected Hon. Wafula Wamunyinyi, MP to chair the meeting, pursuant to Standing Order No. 188. Hon. Wafula Wamunyinyi, MP then called the meeting to order at 9.30 am and said a prayer.

MIN No. 41/2020:-
CONSIDERATION OF THE REFUGEES
BILL, 2019

During the sitting, the Committee considered the Bill and made the following observation as follows:-

CLAUSE 2

THAT clause 2 of the Bill be amended—

- (a) in the definition of “asylum seeker” by deleting the word “case” appearing immediately after the words “but whose” and substituting therefor the word “application”;
- For the purposes of consistency the word ‘case’ be replaced with the word ‘application’. Part III of the Act uses the word application rather than case
- (b) in the definition of “authorised officer” by inserting the words “ or any other officer assigned such responsibility” immediately after the words “ or immigration officer”;
- Department of Refugee Services officers cannot man all the border and transit routes. Therefore other officers such as chiefs, police officers etc can be authorized to receive asylum seekers. This is cost effective in the long run.
- (c) by deleting the definition of “Department” and substituting therefor the following new definition—
- “Department” means the Department of Refugee Services established under section 7;

**MINUTES OF THE 11TH SITTING OF THE DEPARTMENTAL
COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY
HELD ON MONDAY, 2ND MARCH, 2020 AT 9.00 A.M. AT HILTON
GARDEN INN HOTEL, MACHAKOS COUNTY**

PRESENT-

1. Hon. Wafula Wamunyinyi, MP
2. Hon. Peter George Kaluma, MP
3. Hon. Aduma Owuor, MP
4. Hon. George Theuri, MP
5. Hon. Dr. Tecla Chebet Tum, MP
6. Hon. Josphat Kabinga Wachira, MP
7. Hon. Marselino Malimo Arbelle, MP
8. Hon. Oku Kaunya, MP
9. Hon. Peter Masara, MP
10. Hon. Halima Mucheke, MP

(Chairing)

ABSENT WITH APOLOGIES

1. Hon. Paul Koinange, MP -
2. Hon. John Waluke, MP
3. Hon. Dr. Makali Mulu, MP
4. Hon. Ngunjiri Wambugu, MP
5. Hon. Geoffrey Kingagi Muturi, MP
6. Hon. Nimrod Mbitihuka Mbai, MP
7. Hon. Ahmed Kolosh Mohamed, MP
8. Hon. Abdi Omar Shurie, MP
9. Hon. Didimus Wekesa Barasa Mutua, MP

Chairperson

Vice Chairperson

IN ATTENDANCE-

COMMITTEE SECRETARIAT-

1. Mr. George Gazemba
2. Mr. Joshua Ondari
3. Ms. Brigitta Mati
4. Mr. James Muguna
-
- Principal Clerk Assistant II
- Clerk Assistant
- Legal Counsel
- Researcher Officer

Reference to section 7 cannot be any other law other than the present one. Recommend a correction of the words ‘refugees’ as it appears in this section to refugee

- (d) in the definition of “durable solutions” by deleting the words “resettlement to a third party country or local integration” and substituting therefor the words “ local integration in the country of asylum and resettlement to a third country”;

The addition of the word ‘party’ is unnecessary therefore recommend that it be removed. The additional ‘in the country of asylum’ qualifies local integration

- (e) in the definition of “Eligibility Panel” by deleting the words “ under section 14” and substitute therefor the words “ under section 13”;

The section makes reference to the wrong section that establishes the panel. It should refer to section 13 and not 14.

- (f) in the definition of “local integration” by deleting the word “ border” appearing immediately after the words “ refugees attain” and substitute therefor the word “broader”;

The word broader is misspelt. To correct the error.

- (g) by deleting the definition of “essential services” and substituting therefor the following new definition—

“essential services” means the services that meet the immediate needs of refugees and asylum seekers and include food shelter, education, health, water and sanitation services;

The definition should sufficiently cover all essential services necessary with the notable inclusion of food and shelter

- (h) By deleting the definition of “OAU Convention” and substituting therefor the following new definition—

“OAU Convention” means the Organization of Africa Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, done at Addis Ababa on 10th September, 1969 and ratified by Kenya on 28th December, 1987;

The full title of the OAU Convention in the Bill is inaccurate. To reflect the full title of OAU convention

- (i) By deleting the definition of “Protocol” and substituting therefor the following new definition—

“protocol” means the Protocol relating to the Status of Refugees, done at New York on 31st January 1967 and acceded to by Kenya on 13th November 1981;

To reflect the full title of the Protocol

- (j) By deleting the definition of “prima facie refugee status” and substituting therefor the following new definition—

prima facie refugee” means a declaration of refugee status by the Cabinet Secretary as provided for under section 3(2) of this Act;

The definition erroneously states that the committee is the authority that declares prima facie status. This can only be done by the Cabinet Secretary. Also prima facie is a process for recognition and not a status.

- (k) in the definition of “refugee” by deleting the words “and includes an asylum seeker”;

Accession date is incorrect hence the amendment suggestion. There is an additional capitalization mistake.

- (l) By deleting the definition of “United Nations Convention” and substituting therefor the following new definition—

“United Nations Convention” means the United Nations Convention relating to the Status of Refugees, done at Geneva on 28th July, 1951 and acceded to by Kenya on 16th May, 1966.

Accession date is incorrect hence the amendment suggestion. There is an additional capitalization mistake.

- (m) in the definition of “transit centre” by inserting the words “for protection reasons” immediately after the words “under this Act”;

The inclusion of prisons, police stations and remand homes should be qualified only for protection purposes. Refugees should not share with persons who are serving or waiting to resolve their legal situation

- (n) by inserting the following new definitions in their proper alphabetical sequence—

“separated child” means a child who has been separated from both parents, or from their previous legal or customary care giver, but is under the care of adults.

The inclusion of the definition of separated children will acknowledge and by extension provide increased protection for this group of individuals

CLAUSE 3

THAT clause 3 of the Bill be amended—

- (a) in subclause (1) by—
 - (i) inserting the word “sex” immediately after the words “ race, religion” in paragraph (a);
 - (ii) inserting the word “sex” immediately after the words “ race, religion” in paragraph (b); and

The bill omits a well-founded fear of being persecuted on basis of sex as one of the reasons one would be considered for consideration for refugees’ status.

- (iii) deleting the word “any” appearing immediately after the words “public order in” and substitute therefor the word “either” in paragraph (c);

That the definition reflects and remains consistent with the OAU Convention’s definition.

- (b) by deleting subclause (2) and substitute therefor the following new clause —

“(2) The Cabinet Secretary, on recommendation from the Refugee Advisory Committee may, through the Gazette, declare any class of persons to be refugees on a prima facie basis if it is evident that these persons qualify to be refugees under section 3 (1) (a), (b) or (c) and may at any time, upon recommendation from the Refugee Advisory Committee, amend or revoke such declaration.

Provided that no such amendment or revocation shall affect the right of any person who is a member of the class of persons concerned and who entered Kenya before the date of such amendment or revocation, to continue to be regarded as a refugee for the purposes of this Act.”

This subclause makes reference to section 3(1)(d) which in turn makes reference to section 3(2). In addition, proviso (ii) does not add any value and only creates confusion.

CLAUSE 4

THAT clause 4 of the Bill be amended—

- (a) in subclause (1)—
 - (i) by deleting the words “ the International Crimes Act” appearing immediately after the words “defined in the” and substituting therefor the words “ any international instrument to which Kenya is a party”, in paragraph (a);
 - (ii) by deleting paragraph (d);
- (b) in subclause (2), by inserting the words “ has sought asylum in another country or” before the words “has been granted” in paragraph (b)

Seeking asylum in another country are not grounds for exclusion but rather disqualification. Therefore we recommend that this provision be moved from section 4(1) and be inserted in section 4(2)(b).

CLAUSE 5

THAT clause 5 of the Bill be amended in the proviso by deleting the words “falling under section 3 (1)(a) and (b) of this Act” appearing immediately after the words “a refugee” and substituting therefor the words “as defined by this Act”

To correct errors in the Bill

CLAUSE 7

THAT clause 7 of the Bill be amended in subclause (2) by inserting the word “asylum-seeker” immediately after the words” and assistance of” in paragraph (c)

To provide for the inclusion of asylum seekers,

CLAUSE 8

THAT clause 8 of the Bill be amended in subclause (2) by —

- (a) inserting the words “and asylum seekers” immediately after the words “all refugees” in paragraph (b);

- (b) inserting the words “coordinate activities to” before the words “ensure the civilian” in paragraph (n);
- (c) deleting the words “co-ordination of” and substituting therefor the words “ co-ordinate ,where relevant in collaboration with county authorities,” in paragraph (u).

provide for collaboration with counties

CLAUSE 9

THAT clause 9 of the Bill be amended by deleting subclause (1) and substituting therefor the following ne subclause—

9. (1) The Committee shall consist of—

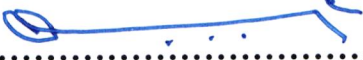
- (a) the Commissioner and who shall be the chairperson and who shall provide secretariat services to the Committee;
- (b) the Principal Secretary from the Ministry responsible for refugee affairs or a representative in writing from the Ministry responsible for Refugee Affairs
- (c) the Principal Secretary or their representative in writing from the Ministry responsible for foreign affairs;
- (d) the Principal Secretary or their representative in writing from the Ministry responsible for devolution affairs;
- (e) the Principal Secretary or their representative in writing from the Ministry responsible for health;
- (f) the Principal Secretary or their representative in writing from the Ministry responsible for
- (g) finance;
- (h) the Principal Secretary or their representative in writing from the Ministry responsible for education;
- (i) the Attorney-General or their representative in writing;
- (j) the Director General of National Intelligence Service or their representative in writing;
- (k) the Director of the Department of Immigration or their representative in writing;
- (l) the Inspector-General or their representative in writing; and
- (m) one person representing the Council of Governors.

To provide that any representative shall be done in writing

MIN No. 43/2020:-

ADJOURNMENT

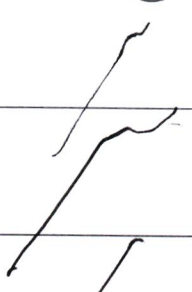
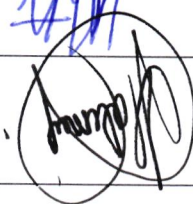
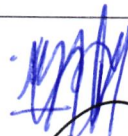
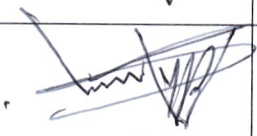
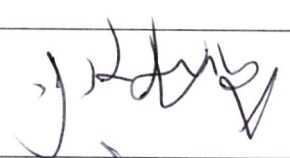
The Chairperson adjourned the meeting at half past one in the afternoon. The meeting was to be reconvened at 2:30 pm at the same place.

Signed.....
Chairperson

Date.....12th March 2020

ANNEXURE 2

(Signed list of Members who attended
the sitting that adopted the report)

10.	Hon. Marselino Malimo Arbelle, MP	
11.	Hon. Dr. Tecla Chebet Tum, MP	
12.	Hon. Josphat Kabinga Wachira, MP	
13.	Hon. Nimrod Mbituka Mbai, MP	
14.	Hon. Ngunjiri Wambugu, MP	
15.	Hon. Abdi Omar Shurie, MP	
16.	Hon. Halima Mucheke, MP	
17.	Hon. Peter Masara, MP	
18.	Hon. Oku Kaunya, MP	
19.	Hon. Ahmed Kolosh Mohamed, MP	

Signed.....
George Gazemba, ACIARB, CPM,
Principal Clerk Assistant,
Departmental Committee on Administration and National Security.
Date..... 12/03/2020

Signed.....
Florence Atenyo-Abonyo,
Director, Committee Services.
Date..... 12/3/2020



DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

ATTENDANCE SCHEDULE

DATE: 12th March, 2019

TIME: 9.30 a.m.

VENUE: Boardroom on 11th Floor, Protection House

AGENDA: a) Adoption of the Report on the Refugees Bill, 2019

b) Adoption of the Report on the Alcoholic Drinks Control (Amendment) Bill, 2019

c) Meeting with Hon. Mwambu Mabongah, MP regarding his Petition on insecurity incidences in

Bumula Constituency

NO.	NAME	SIGNATURE
1.	Hon. Paul Koinange, MP - Chairperson	
2.	Hon. John Waluke, MP - Vice Chairperson	
3.	Hon. Wafula Wamunyinyi, MP	
4.	Hon. George Peter Kaluma, MP	
5.	Hon. Dr. Makali Mulu, MP	
6.	Hon. George Theuri, MP	
7.	Hon. Aduma Owuor, MP	
8.	Hon. Didimus Wekesa Barasa Mutua, MP	
9.	Hon. Geoffrey Kingagi Muturi, MP	

ANNEXURE 3

(Copy of newspaper advertisement of 9th October, 2020 inviting the public to submit memoranda and notifying the public on hearings in selected counties)

NEWS JUDICIARY

AGAINST ROTICH, KVDA OFFICIALS

State wants two dams scandal cases merged

'Combining them will allow faster conclusion of the matter'

JILLO KADIDA
@TheStarKenya

The state wants two cases on the multi-billion shilling Kimwarer and Aror dams scandal to be consolidated.

One is against former Treasury CS Henry Rotich and PS Kamau Thugge while the other is against former Kerio Valley Development Authority MD David Kimosop and eight others.

On Tuesday, the prosecution lawyers Taib Ali Taib and Alexander Muteti told to the court they want the two cases combined since the evidence they will rely on will be similar.

The prosecution said in its applications that the two cases arise from similar facts and circumstances and therefore, it will not be prejudicial to the accused persons to merge them.

"Consolidation of the cases is to

advance the expeditious conclusion of cases," the prosecution said.

Rotich and Thugge are among more than 10 others who have been charged with abuse of office, conspiracy to commit an economic crime, conferring a benefit and single-sourcing for the insurance of the projects and approving payment contrary to the law among other counts. The court heard that they engaged in a project for the construction of Kimwarer multipurpose dam without prior planning. They denied all the charges.

The KVDA, tasked with planning, coordination and implementation of integrated river-based development programs in Kerio Valley Basin, was in charge of the dam projects.

Aror dam will produce more than 60 megawatts of electricity once completed and the Kimwarer dam 20 megawatts.

PROSECUTION SAYS THE TWO CASES ARISE FROM SIMILAR FACTS AND CIRCUMSTANCES, HENCE WILL BE JUST TO ACCUSED

WEEK END MENTION

60 to testify in Lenolkulal's graft case

FAITH NYASUGUTA/At least 60 prosecution witnesses including a forensic analyst will testify in Samburu Governor Moses Lenolkulal's graft case.

The prosecution revealed these details on Tuesday when Lenolkulal appeared for his pretrial before chief magistrate Douglas Ogoti. Some 205 documents will be relied on in the matter, the prosecution said.

The anti-corruption magistrate directed the matter to be mentioned on October 11 for further directions.

Lenolkulal is charged with four counts of abuse of office and conflict of interest leading to the loss of Sh84.6 million public funds.

He denies all charges and is out on Sh150 million bond and a surety of

the same amount or an alternative of Sh100 million cash bail.

The county boss is accused of using his company-Oryx Service Station-to supply petrol and diesel to the county. The prosecution did not oppose bail but had wanted restrictions imposed on Lenolkulal carrying his duties as governor and 13 other co-accused.

They wanted the governor denied access to county offices for 24 months and Ifmis director asked to suspend access rights for all the 14 accused. The governor was arrested on March 26 by the Ethics and Anti-Corruption Commission detectives over Sh2 billion unaccounted for from the county coffers.

CHARGED WITH FOUR COUNTS OF ABUSE OF OFFICE AND CONFLICT OF INTEREST LEADING TO THE LOSS OF SH84.6 MILLION

REPUBLIC OF KENYA



NATIONAL ASSEMBLY TWELFTH PARLIAMENT - THIRD SESSION

In the matter of consideration by the National Assembly:-
The County Wards Development Equalization Fund Bill (Senate Bill No. 34 of 2018)

SUBMISSION OF MEMORANDA

Article 118(1)(b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees". Further, the National Assembly Standing Order 127(3) requires the Committee to which a Bill is committed to facilitate public participation and take into account views and recommendations of the public when the Committee makes its report to the House.

The County Wards Development Equalization Fund Bill, (Senate Bill No. 34 of 2018) seeks to provide a framework for establishment of a County Ward Development Fund and the establishment of administrative structures to oversee the management of the Fund.

The County Wards Development Equalization Fund Bill, (Senate Bill No. 34 of 2018) has undergone First Reading pursuant to Standing Order 127(3) and stands committed to the **Select Committee on National Government Constituencies Development Fund** for consideration and thereafter reporting to the House.

Pursuant to Article 118 (1)(b) of the Constitution and Standing Order 127, the Committee invites interested members of the public to submit any representations they may have on the said Bill. The Submissions may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi**; hand-delivered to the **Office of the Clerk, Main Parliament Building, Nairobi**; or emailed to clerk@parliament.go.ke; to be received on or before **Friday 18th October, 2019 at 5.00 pm**.

Copy of the Bill may be downloaded from Parliamentary website:
<http://www.parliament.go.ke/the-national-assembly/house-business/bills>

**MICHAEL R. SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY**

REPUBLIC OF KENYA



NATIONAL ASSEMBLY TWELFTH PARLIAMENT - THIRD SESSION

In the matter of consideration by the National Assembly:-
The Refugees Bill (National Assembly Bill No. 62 of 2019)

SUBMISSION OF MEMORANDA AND NOTIFICATION FOR PUBLIC HEARINGS

Article 118(1)(b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees". Further, the National Assembly Standing Order 127(3) requires the Departmental Committee to which a Bill is committed to facilitate public participation and take into account the views and recommendations of the public when the Committee makes its report to the House.

The principal object of the Refugees Bill (National Assembly Bill No. 62 of 2019) is to provide for the recognition, protection and management of refugees to give effect to the 1951 United Nations convention relating to the status of refugees, the 1967 protocol relating to the status of refugees and 1969 African Union convention governing the specific aspects of refugee problems in Africa.

The Refugees Bill (National Assembly Bill No. 62 of 2019) has undergone First Reading pursuant to Standing Order 127(3) and is now committed to the Departmental Committee on **Administration and National Security** for consideration and thereafter report to the House.

Pursuant to Article 118(1)(b) of the Constitution and Standing Order 127(3), the Committee invites interested members of the public to submit any representations that they may have on the said Bill. The representations may be made orally or by submission of written memoranda in the following manner:-

- Written Memoranda may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi**, hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi** or emailed to clerk@parliament.go.ke, pbo@parliament.go.ke, to be received on or before **Friday 18th October, 2019**.
- Public Hearings shall be held in the following Counties on **Thursday 17th, Friday 18th and Saturday 19th October, 2019 from 10.00 am. to 5.00 pm** as indicated below:-

COUNTY	VENUE	
Thursday, 17th October, 2019		
NAIROBI	Mini Chamber, First Floor, County Hall, Parliament Buildings	10.00 am - 5.00 pm
UASIN GISHU	Teachers Advisory Centre (TAC) (Eldoret Town)	10.00 am - 5.00 pm
NAKURU	Old Town Hall (Nakuru Town)	10.00 am - 5.00 pm
Friday, 18th October, 2019		
GARISSA	Daadab IOM (Dadaab)	10.00 am - 5.00 pm
TURKANA	Silga Valley Restaurant (Kakuma)	10.00 am - 5.00 pm
Saturday, 19th October, 2019		
MOMBASA	Kenya School of Government, Tsavo Hall (Mombasa Town)	10.00 am - 5.00 pm

Copy of the Bill may be downloaded from Parliamentary website:
<http://www.parliament.go.ke/the-national-assembly/house-business/bills>

**MICHAEL R. SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY**

Parliament questions CASs mandate

by Anthony Mwangi
@PeopleDailyKe

A standoff is looming between the Legislature and the Executive after MPs questioned the authority of Chief Administrative Secretaries (CAS) in honouring House summonses on behalf of their respective ministries.

The National Assembly yesterday said CAS position is not constitutional, hence the office holder cannot respond to queries on official government matters.

Trouble started when Kililili MP Didmus Baraza, who sits in the parliamentary Health Committee, rejected attempts to have Health CAS Rashid Aman to respond to his question.

Baraza said the position was not recognised in law, and that only the Cabinet Secretary or the Principal Secretary should appear before the team, to address the House's queries.

In the afternoon session, Baraza re-opened the debate when he sought Speaker Justin Muturi's ruling on whether the CASs can respond to questions before committees.

"CASs have no constitu-



Health CAS Rashid Aman when he appeared before the National Assembly's Committee on Health at Parliament Buildings, yesterday. PD/ SAMUEL KARIUKI

tional mandate to speak on behalf of the Executive and, therefore, any information they give on behalf of the ministries will be null and void," the MP maintained.

Accounting officer

Leader of Majority Aden Duale also asked Muturi to give direction on who among the CS, PS and CAS should appear before MPs.

"The Constitution is clear that it is the PS who is the accounting officer in the ministry," he said.

Duale, however, defended

President Uhuru Kenyatta's move to create the positions saying: "He was within the law in creating the positions. However, it's the Speaker who should direct on who should respond to questions addressed to a CS."

Last year, the President announced the creation of the new CAS position in every ministry to ostensibly enhance the operations of the ministries.

The move, seen as a bid to award 2017 election losers, seems to have created confusion, especially be-

tween PSs and CASs.

Yesterday, Leader of Minority John Mbadi said the Constitution was meant to establish a lean government, but "the Executive abused this and created CAS positions".

"I don't know how we can deal with the matter at this stage," he said.

Budget Committee chairman Kimani Ichungwa said queries regarding a ministry are directed to a person with executive powers, thus CASs

cannot purport to speak on behalf of CSs.

He claimed some CASs were misusing the positions.

Uguya MP David Ochieng said the Constitution is clear that it is only the CS or the PS who can appear before Parliament and the mandate cannot be delegated.

Justice and Legal Affairs Committee chair William Cheptum said MPs were not fighting the Executive, but wanted the law interpreted.

BRIEFLY

Police pursue man over wife's killing

Police in Gilgil have launched a manhunt for a suspect who allegedly hacked his wife to death yesterday morning following a domestic dispute. The man is said to have attacked the mother of seven with a machete as her children watched at Kambi Turkana village. Gilgil police boss Emmanuel Oporu said they were yet to establish the motive of the murder, adding that the woman's mutilated body had been moved to Gilgil mortuary.

-KIRERA MWITI

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY TWELFTH PARLIAMENT – THIRD SESSION

In the matter of consideration by the National Assembly:-
The Refugees Bill (National Assembly Bill No. 62 of 2019)

SUBMISSION OF MEMORANDA AND NOTIFICATION FOR PUBLIC HEARINGS

Article 118(1)(b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees". Further, the National Assembly Standing Order 127(3) requires the Departmental Committee to which a Bill is committed to facilitate public participation and take into account the views and recommendations of the public when the Committee makes its report to the House.

The principal object of the Refugees Bill (National Assembly Bill No. 62 of 2019) is to provide for the recognition, protection and management of refugees to give effect to the 1951 United Nations convention relating to the status of refugees, the 1967 protocol relating to the status of refugees and 1969 African Union convention governing the specific aspects of refugee problems in Africa.

The Refugees Bill (National Assembly Bill No. 62 of 2019) has undergone First Reading pursuant to Standing Order 127(3) and is now committed to the **Departmental Committee on Administration and National Security** for consideration and thereafter report to the House.

Pursuant to Article 118(1)(b) of the Constitution and Standing Order 127(3), the Committee invites interested members of the public to submit any representations that they may have on the said Bill. The representations may be made orally or by submission of written memoranda in the following manner:-

- Written Memoranda may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi**, hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi** or emailed to clerk@parliament.go.ke, pbo@parliament.go.ke, to be received on or before **Friday 18th October, 2019**.
- Public Hearings shall be held in the following Counties on **Thursday 17th, Friday 18th and Saturday 19th October, 2019 from 10.00 am. to 5.00 pm** as indicated below:-

COUNTY	VENUE	
Thursday, 17 th October, 2019		
NAIROBI	Mini Chamber, First Floor, County Hall, Parliament Buildings	10.00 am - 5.00 pm
UASIN GISHU	Teachers Advisory Centre (TAC) (Eldoret Town)	10.00 am – 5.00 pm
NAKURU	Old Town Hall (Nakuru Town)	10.00 am – 5.00 pm
Friday, 18 th October, 2019		
GARISSA	Daadab IOM (Dadaab)	10.00 am – 5.00 pm
TURKANA	Silga Valley Restaurant (Kakuma)	10.00 am – 5.00 pm
Saturday, 19 th October, 2019		
MOMBASA	Kenya School of Government, Tsavo Hall (Mombasa Town)	10.00 am - 5.00 pm

Copy of the Bill may be downloaded from Parliamentary website: <http://www.parliament.go.ke/the-national-assembly/house-business/bills>

MICHAEL R. SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA



TWELFTH PARLIAMENT THE SENATE

PUBLIC HEARINGS / RECEIPT OF MEMORANDA

The Kenya Sign Language Bill (Senate Bills No. 15 of 2019)

The Kenya Sign Language Bill (Senate Bills No. 15 of 2019) was read a First Time in the Senate on 11th September, 2019 and thereafter stood committed to the Senate Standing Committee on Education.

Pursuant to the provisions of Article 118 and standing order 140 (5) of the Standing Orders of the Senate, the Standing Committee on Education now invites interested members of the public to submit any representations that they may have on the Bill. The representations may be made orally or by submission of written memoranda in the following manner –

- Public Hearing for the Bill shall be held on **Thursday, 17th October, 2019 from 10.00 am to 12.00 noon at County Hall Mini Chambers, Nairobi**; or
- Written Memoranda may be forwarded to the **Clerk of the Senate/ Secretary, Parliamentary Service Commission, P.O. Box 41842-00100, Nairobi**, hand-delivered to the **Office of the Clerk of the Senate/ Secretary, Parliamentary Service Commission, First Floor, Main Parliament Buildings, Nairobi** or emailed to cSenate@parliament.go.ke, to be received on or before **Wednesday, 16th October, 2019 at 5.00 p.m.**

The Bill may be found on the Parliament website at <http://www.parliament.go.ke/senate>.

CLERK OF THE SENATE / SECRETARY,
PARLIAMENTARY SERVICE COMMISSION.

ANNEXURE 4

(Analysis of public submissions on the
Bill)

1.	CLAU SE	PROPOSI NG ENTITY	PROVISION IN THE BILL	PROPOSED AMENDMENT	RATIONALE	
2.	CLAU SE 2	(DRC) The Danish Refugee Council	"essential services" include education, health, water and sanitation services;	"essential services" means the services that meet the immediate needs of refugees and asylum seekers and include food shelter, education, health, water and sanitation services;	The definition should sufficiently cover all essential services necessary with the notable inclusion of food and shelter	The use of the words "essential services means those services that meet the immediate needs of refugees and asylum seekers" is vague. Anything can be construed to be immediate needs such as transport to and from other areas in the country.
3.	CLAU SE 2	DRC		Insertion of the definition of the term "separated child" means a child who has been separated from both parents, or from their previous legal or customary care giver, but is under the care of adults.	The inclusion of the definition of separated children will acknowledge and by extension provide increased protection for this group of individuals.	Clause 20 (2) (3) provides for adequate protection status for children. There is no substantive provision stating the protection of

					the separated children.
4.	CLAUSe 2	Host Communities living in Nairobi	"transit centre" means areas designated by the Cabinet Secretary for the purposes of temporarily accommodating persons covered under this Act pending transfer to either the designated areas, reception centres, settlement centres or pending health or security screening, and may include prisons, immigration detention centres, police stations, remand homes or any other areas designed as such;	"transit centre" means areas designated by the Cabinet Secretary for the purposes of temporarily accommodating persons covered under this Act pending transfer to either the designated areas, reception centres, settlement centres or pending health or security screening, and may include immigration detention centres, remand homes or any other areas designed as such;	Most asylum seekers are already traumatized from events that forced them to flee their countries. Therefore it would be insensitive to subject them to be held in such institutions. The proposal is to have transit centres be built and staffed adequately and such centres should be established in several border areas and entry points in Kenya. Refugees be allowed to work and pay taxes in Kenya in order to contribute to the finances that will build transit centres
5.	Clause 2	UNHCR IRC(International Rescue Committee) Refugee leaders from Nakuru		"transit centre" means premises used for the purposes of temporarily accommodating refugees and asylum seekers in order to undertake health or security screening or for the purposes of repatriation or resettlement.	The current definition lists prisons, immigration centres, police stations and remand homes as possible places. These institutions are closed institutions where persons in conflict with the law are held and are not suitable for asylum seekers.

		County			Seeking asylum is not a criminal act and there is therefore a risk of blurring the distinction between suspects and civilians seeking asylum.	
6.	Clause 2	Lutheran World Federation World Service (LWF WS)		Amend by inserting the words "for protection reasons" immediately after the words "covered under this Act"	The inclusion of prisons, police stations and remand homes is problematic and should only be considered if they are qualified for protection purposes. They should not share with persons serving awaiting to resolve their legal situation	
7.	CLAUSE 2	RCK (Refugee Consortium Kenya)	Definition of an asylum seeker "asylum seeker" means a person seeking protection in Kenya in accordance with the provisions of this Act but whose case has not been determined;	Amend by replacing the word "case" with "application" as follows: "asylum seeker" means a person seeking protection in Kenya in accordance with the provisions of this Act but whose application for refugee status has not been determined	For the purposes of consistency we propose that the word 'case' be replaced with the word 'application'. Part III of the Act uses the word application rather than case.	
8.	CLAUSE 2	RCK (Refugee Consortium Kenya)	Definition of an authorized officer "authorized officer" includes the Commissioner for Refugees Affairs, refugee officer, a settlement or immigration officer	"authorized officer" includes the Commissioner for Refugees Affairs, refugee officer, a settlement or immigration officer or any other administrative officer	Department of Refugee Services officers cannot man all the border and transit routes. Therefore other officers such as chiefs, police officers etc can be authorized to receive asylum seekers. This is cost effective in the	

9.	CLAUSE 2	RCK (Refugee Consortium Kenya)	Definition of Department of Refugee Services Department" means the Department of Refugees Services established under section 7 of the Act;	Amend the section by deleting the letter 's' after the word 'Refugees' and deleting the words 'of the Act' that appear at the end of the definition as follows: "Department" means the Department of Refugee Services established under section 7;	long run. We recommend the removal of the words as they are redundant. The reference to section 7 cannot be any other law other than the present one. We also recommend a correction of the words 'refugees' as it appears in this section.	
10.	CLAUSE 2	RCK (Refugee Consortium Kenya)	Definition of durable solutions "durable solutions" means voluntary repatriation to the country of origin, resettlement to a third party country or local integration;	Amend the section as follows: "durable solutions" means voluntary repatriation to the country of origin, local integration in the country of asylum and resettlement to a third country;	The addition of the word 'party' is unnecessary therefore recommend that it be removed. The additional 'in the country of asylum' qualifies local integration.	
11.	CLAUSE 2	RCK (Refugee Consortium Kenya)	Definition of eligibility panel "Eligibility Panel" means the Refugee Status Eligibility Panel established under section 14;	Amend the section by deleting 'section 14' that appears at the end of the definition and replacing it with the words 'section 13' as follows: "Eligibility Panel" means the Refugee Status Eligibility Panel established under section 13;	The section makes reference to the wrong section that establishes the panel. It should refer to section 13 and not 14.	
12.	CLAUSE 2	RCK (Refugee Consortium Kenya)	Definition of essential services "essential services" include education, health, water and sanitation services;	Amend the section by as follows: "essential services" means the services that meet the immediate needs of refugees and asylum seekers and include food, shelter, education, health, water and sanitation services;	The definition does not sufficiently provide for other essential services such as food and shelter.	
13.	CLAUSE 2	RCK (Refugee)	Definition of local integration "local integration" means the gradual	Amend the section by replacing the word "border" that appears	The word broader is misspelt and the	

		Consortium Kenya)	process through which refugees are incorporated into the society through a process that ensures that refugees attain border rights, have improved standards of living and positively contribute to the social life of the host country;	between the words 'attain' and 'rights' with the word "broader" and by including the words 'and economic' between the words 'social' and 'life' as follows: "local integration" means the gradual process through which refugees are incorporated into the society through a process that ensures that refugees attain broader rights, have improved standards of living and positively contribute to the social and economic life of the host country;	definition is also incomplete.	
14.	CLAUSE 2	RCK (Refugee Consortium Kenya)	Definition of OAU convention "OAU Convention" means the Organization of Africa Unity Convention Governing the Specific Aspects of the Refugee problem in Africa, done at Addis Ababa on 10th September, 1969 and ratified by Kenya on 28th December, 1987;	Amend by deleting the word 'the' that appears between the words 'aspects of' and 'refugee problem' and also add the letter 's' after the word 'problem' ad capitalize the letter 'p' that appears in the word 'problem' as follows: "OAU Convention" means the Organization of Africa Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, done at Addis Ababa on 10th September, 1969 and ratified by Kenya on 28th December, 1987;	The full title of the OAU Convention in the Bill is inaccurate.	
15.	CLAUSE 2	RCK (Refugee Consortium Kenya)	Definition of Protocol "protocol" means the Protocol relating to the status of refugees, done at New York on 31st January 1967 and acceded to by Kenya on 13th November 1981	Amend the section as follows: "protocol" means the Protocol relating to the Status of Refugees , done at New York on 31st January 1967 and acceded to by Kenya on	To reflect the full title of the Protocol	

16.	CLAUSE 2	RCK (Refugee Consortium Kenya)	Definition of prima facie “prima facie refugee status” means a declaration of refugee status by the Committee in respect of large scale influxes of persons on the basis of the readily apparent circumstances in the country of origin giving rise to the exodus;	13th November 1981; Amend the section by deleting the word ‘status’; replace the word ‘Committee’ with “Cabinet Secretary as provided for under section 3(2) of this Act’ as follows: prima facie refugee” means a declaration of refugee status by the Cabinet Secretary as provided for under section 3(2) of this Act;	The section erroneously states that the committee is the authority that declared prima facie status. This can only be done by the Cabinet Secretary. Also prima facie is a process for recognition and not a status.	
17.	CLAUSE 2	RCK (Refugee Consortium Kenya)	Definition of United Nations Convention “United Nations Convention” means the United Nations Convention relating to the status of Refugees, done at Geneva on 28th July, 1951 and acceded to by Kenya on 13th November, 1981	Amend the section to read as follows: “United Nations Convention” means the United Nations Convention relating to the Status of Refugees, done at Geneva on 28th July, 1951 and acceded to by Kenya on 16 th May, 1966.	Accession date is incorrect hence the amendment suggestion. There is an additional capitalization mistake.	
18.	CLAUSE 2	RCK (Refugee Consortium Kenya)	Definition of refugee “refugee”, has the meaning assigned to it under section 3 of this Act and includes an asylum seeker;	Amend the section by deleting the words “and includes an asylum seeker” that appears at the end of the clause as follows: “refugee”, has the meaning assigned to it under section 3;	The section includes asylum seekers which is already defined elsewhere in section 2.	
19.	CLAUSE 2	RCK (Refugee Consortium Kenya)	Definition of separated children No provision has been made	Amend by inserting the following clause between the clauses that define “settlement officer” and “spouse”: “separated child” means a child who has been separated from both parents, or from their previous legal or customary primary caregiver, but is under the care of adults;	No provision has been made in the Bill.	

20.	CLAUSE 2	RCK (Refugee Consortium Kenya)	Definition of a transit centre “transit centre” means areas designated by the Cabinet Secretary for the purposes of temporarily accommodating persons covered under this Act pending transfer to either the designated areas, reception centres, settlement centres or pending health or security screening, and may include prisons, immigration detention centres, police stations, remand homes or any other areas designed as such;	“transit centre” means premises used for the purposes of temporarily accommodating refugees and asylum seekers in order to undertake health or security screening or for the purposes of repatriation or resettlement;	Seeking asylum is not a criminal offence. We therefore recommend that mention of prisons, immigration detention centres and police stations be deleted.	
21.	Clause 3(1)	Kituo cha sharia-Coast Regional office	Definition of Refugee (1) A person shall be a refugee for the purposes of this Act if such person — (a) being outside of his or her country of nationality and owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion who is in Kenya and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of his or country of nationality or the country of habitual residence; (b) not having a nationality and being outside the country of his or her former habitual residence owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political	Amend by inserting the word “sex” both paragraph (a) and (b).	The bill omits a well-founded fear of being persecuted on basis of sex as one of the reasons one would be considered for consideration for refugees’ status. This is unlike the 2006 Act(in line with the 1951 UN and the 1969 OAU conventions on refugees matters that listed fear of persecution based on sex as a reason for seeking refugee status. This would result to many being barred from seeking and / or getting asylum based on their sexual orientation.	

			opinion, who is in Kenya and is unable or, owing to such fear, unwilling to return to the country of his or her habitual residence			
22.	Clause 3(1)(c)	RCK (Refugee Consortium Kenya)	Meaning of "refugee" (c) owing to external aggression, occupation, foreign domination or events seriously disturbing public order in any part or whole of his or her country of origin or nationality is compelled to leave his or her place of habitual residence in order to seek refuge in another place outside his or her country of origin or nationality;	Amend the section by deleting the word 'any' that appears between the words '...public order in' and the words 'part or whole...' and replace it with the word 'either' as follows: Section 3(1)(c) owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or whole of his or her country of origin or nationality is compelled to leave his or her place of habitual residence in order to seek refuge in another place outside his or her country of origin or nationality;	That the definition remain consistent with the OAU Convention's definition.	
23.	Clause 3(1)	Francis Njoroge	Meaning of Refugee	Amend by deleting the words "who is in Kenya" and substitute therefore the words ", is outside the country of his or her nationality" in paragraphs (a) and (b)	The insertion of the phrase "who is in Kenya" operate to restrict the definition of refugee. It excludes persons with well founded fear of persecution based on the convention grounds and are at the frontier or seeking asylum at any Kenyan mission.	
24.	Clause 3(2)	RCK (Refugee Consortium)	Meaning of "refugee" (2) Subject to sub-section (1), if the Cabinet Secretary, on recommendation from	Amend the section by deleting section 3(2) and replacing with a new section 3(2) and deleting	There is a circular logic in that this subsection makes reference to section	

		Kenya)	the Committee considers that any class of persons are prima facie refugees as defined in subsection (1)(a),(b),(c) or (d) the Cabinet Secretary may, through the Gazette, declare such class of persons to be prima facie refugees and may at any time amend or revoke such declaration, Provided that no such amendment or revocation shall affect the right of any person—	proviso (ii) as follows:	3(1)(d) which in turn makes reference to section 3(2). In addition, proviso (ii) does not add any value and only creates confusion.	
		UNHCR	(i) who is a member of the class of persons concerned and who entered Kenya before the date of such amendment or revocation, to continue to be regarded as a refugee for the purposes of this Act; or (ii) (ii) who is a person referred to in subsection (1) (d), to be recognized as a refugee for the purposes of this Act.	Provided that no such amendment or revocation shall affect the right of any person who is a member of the class of persons concerned and who entered Kenya before the date of such amendment or revocation, to continue to be regarded as a refugee for the purposes of this Act.		
25.	Clause 4(1)(a):	RCK (Refugee Consortium Kenya) Kituo cha sharia	Exclusion and disqualification from refugee status (a) has committed a crime against peace, a war crime or a crime against humanity as defined in the International Crimes Act;	Amend section 4(1)(a) by deleting the words ‘the international Crimes Act’ and replace with ‘any international instrument to which Kenya is a party’ as follows: Section 4(1)(a) has committed a crime against peace, a war crime or a crime against humanity as	The reference of the International Crimes Act may not adequately cover other similar crimes not provided under the said Act but provided under the Geneva Conventions IIV and Additional Protocol I & II.	

		Amnesty International		defined in any international instrument to which Kenya is a party;		
26.	Clause 4(1)(b):	RCK (Refugee Consortium Kenya) UNHCR	Exclusion and disqualification from refugee status 4.(1)A person shall be excluded from being considered for refugee status if there exists serious reason to believe that the person– (d) has sought asylum in another country. (2) A person shall be disqualified from being a refugee if the person– (b) has been granted refugee status in another country prior to entry in Kenya and can be re-admitted to that country and benefit currently and in the future in that country from effective protection; or	Amend by deleting section 4(1)(d) and inserting the words ‘has sought asylum’ before the words ‘has been granted...’ as appears in section 4(2)(b) as follows: Section 4(2)(b) has sought asylum or has been granted refugee status in another country prior to entry in Kenya and can be re-admitted to that country and benefit currently and in the future in that country from effective protection; or	<i>Seeking asylum in another country are not grounds for exclusion but rather disqualification. Therefore we recommend that this provision be moved from section 4(1) and be inserted in section 4(2)(b).</i>	
27.	Clause 4 (1) (d)	Kituo cha Sheria Francis Njoroge Abdulahi Ali 30 Refugee	Exclusion and disqualification from refugee status (1)A person shall be excluded from being considered for refugee status if there exists serious reason to believe that the person – (d) has sought asylum in another country.	Amend by deleting section 4 (1) (d)	The Bill excludes secondary movers from seeking asylum in the country unlike the previous Act, which was silent on this. The bill puts this as one of the reasons to exclude persons from seeking asylum in the country. To recommend removal of the paragraph as seeking asylum in another country should not be the basis for	

		Representatives		denying one a right to apply for asylum in Kenya as provided under the international conventions	
28.	Clause 5 (proviso):	RCK (Refugee Consortium Kenya) UNHCR	Cessation of refugee status Provided that paragraphs (e) and (f) shall not apply to a refugee falling under section 3(1)(a) and (b) of this Act who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself or herself the protection of their country of nationality or former habitual residence	Amend the proviso to the section by deleting the words 'falling under section 3(1)(a) and (b) of' and replacing therefore with 'as defined by this Act' as follows: Provided that paragraphs (e) and (f) shall not apply to a refugee as defined by this Act who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself or herself the protection of their country of nationality or former habitual residence.	The manner the proviso is framed creates confusion. We propose that the section be reframed as suggested.
29.	Clause 7 (1)	Relief, Reconstruction and Development Organisation (R.R.D.O)	Department of Refugee Services (1) There is established a Department known as the Department of Refugee Services which shall be an office in the public service.	Delete subsection (1) and substitute therefor the following— (1) There is established a Department known as the Department of Refugee Services which shall be an autonomous entity with powers to make decisions without the interference of other bodies.	To make the office independent from interference from other players in making decisions
30.	Clause 7(2)(c):	RCK (Refugee Consortium Kenya)	Department of Refugee Services (2) The functions of the Department shall be— (c) to handle all operational aspects of	Amend the section 7(2)(c) to include the words 'and asylum seekers' after the words 'refugees' as follows:	We recommend to include asylum-seekers. This is more so given the recommendation to

		Amnesty International	protection and assistance of refugees;	Section 7(2) The functions of the Department shall be—(c) to handle all operational aspects of protection of asylum-seekers and refugees;	remove asylum-seekers from the definition of “refugee”; this also consistent with 7(2) (a) and (b).	
31.	Clause 8	Garissa County	8. (1) There shall be a Commissioner for Refugee Affairs whose office shall be an office in the Public Service and who shall be the head of the Department.	Amend by insertion subsection (1) (a) The Commissioner for refugee shall a) Hold a degree from a recognized university in Kenya; b) Have over ten years’ experience in a relevant field; and c) Be competitively and transparently be recruited.	The overall manager the requirements should be clearly spelt out.	
32.	Clause 8(2) (e)	LWFWF	Functions for Commissioner of Refugees (e) co-ordinate all measures necessary for promoting the welfare and protection of refugees and asylum seekers and advise the Cabinet Secretary and the Committee thereon	Inserting the words “paying special attention to the promotion, protection and fulfillment of all their rights and fundamental freedoms in adherence to the relevant international, regional and national legal frameworks immediately after the words “refugees and asylum seekers	The functions of the commissioner are concentrated on management and operational matters for refugees, and less on ensuring the fulfillment of the rights of refugees	
33.	Clause 8 (2) (i)	LWFWF	in liaison with the police, arrest any person suspected of committing an offence under this Act;	Delete the words “ in liaison with the police” and substitute therefore the words “ refer to the police for the”	The commissioner should refer the case to the police or the Ag and they should conduct the arrest	

					and proceed with the investigation	
34.	Clause 8 (2) (q)	LWF WF	ensure treatment of all asylum seekers and refugees in compliance with national law;	Insert the words “and pertinent international law” immediately after the words “national law”		
35.	Clause 8(2)(b):	RCK (Refugee Consortium Kenya)	Commissioner for Refugee Affairs (2)The functions of the Commissioner shall be to— (b) receive, register and maintain a register for all refugees in Kenya;	Amend section 8(2)(b) to insert the words ‘and asylum seekers’ after the word ‘refugees’ as follows: Section 8(2)(b) receive, register and maintain a register for all refugees and asylum seekers in Kenya.	We recommend to include asylum-seekers. This is more so given the recommendation to remove asylum-seekers from the definition of “refugee”.	
		UNHCR		Amend by inserting the following words “and asylum seekers in Kenya and ensure that the fingerprints of an asylum seeker and family members are checked against all national fingerprint databases.	There is need to ensure that the data of asylum seekers and refugees are stored safely and no personal data shall be disclosed.	
36.	clause 8(2)(n):	RCK (Refugee Consortium Kenya)	Commissioner for Refugee Affairs (n) ensure the civilian and humanitarian character of the designated areas is maintained;	Amend the section by adding the words ‘co-ordinate activities to’ before the word ‘ensure’ as follows: (n) ‘coordinate activities to ensure the civilian and humanitarian character of the designated areas is maintained;	Beyond the capacity of the Commissioner to ensure that the civilian and humanitarian character of the designated areas is maintained.	
37.	clause 8(2)(u):	RCK (Refugee Consortium)	Commissioner for Refugee Affairs (u) co-ordination of all services and activities provided to refugees and	Amend the section by inserting the words ‘where relevant in cooperation with county	Given the fact that asylum-seekers and refugees will be more and	

		Kenya)	asylum seekers by implementing agencies;	authorities' between the words 'coordination' and 'of all services and activities' as follows:	more included in Government services and the international community is no longer funding parallel structures, some devolved services will be provided by the county authorities. Hence, need to include reference to county authorities.	
38.	Clause 8 (2) (d)	Equity Bank Limited	(d) issue refugee identification documents and facilitate issuance of civil registration and other relevant documentation by other government agencies;	(d) to exempt agencies in issuing identification documents	The commissioner to be given powers to issue an exemption to refugees in obtaining a document from other government agencies e.g. KRA or explicitly assure the refugee in obtaining PIN numbers among other relevant documentation	
39.	CLAUSE 9(1):	RCK (Refugee Consortium Kenya) UNHCR	The Refugee Advisory Committee 9. (1) The Committee shall consist of— (a) the Commissioner who shall be the chairperson and who shall provide secretariat services to the Committee; (b) the Principal Secretary or their representative from the Ministry responsible for refugee affairs; (c) the Principal Secretary or their representative from the Ministry responsible for foreign	Amend section 9(1)(a) to (k) by inserting the word 'in writing' after the word 'representative' wherever it appears as follows: 9. (1) The Committee shall consist of— the Principal Secretary from the Ministry responsible for refugee affairs who shall be the chairperson or in his or her absence the Commissioner and	It is recommended to include the Principal Secretary from the Ministry responsible for refugee affairs as the chairperson and in his/her absence, the Commissioner (hence, deletion of current 9(1)(b). Designation of representatives of ministries and other officers on the RAC ought	

		affairs; (d) the Principal Secretary or their representative from the Ministry responsible for devolution affairs; (e) the Principal Secretary or their representative from the Ministry responsible for health; (f) the Principal Secretary or their representative from the Ministry responsible for finance; (g) the Principal Secretary or their representative from the Ministry responsible for education; (h) the Attorney-General or their representative; (i) the Director of the Department of Immigration or their representative; (j) the Inspector-General or their representative; and (k) one person representing the Council of Governors.	who shall in the presence of the Principal Secretary be a member of the Committee and also provide secretariat services to the Committee; (b) the Principal Secretary or their representative in writing from the Ministry responsible for foreign affairs; (c) the Principal Secretary or their representative in writing from the Ministry responsible for devolution affairs; (d) the Principal Secretary or their representative in writing from the Ministry responsible for health; (e) the Principal Secretary or their representative in writing from the Ministry responsible for finance; (f) the Principal Secretary or their representative in writing from the Ministry responsible for education; (g) the Attorney-General or their representative in writing; (h) the Director of the Department of Immigration or their representative in writing; (i) the Inspector-General or their representative in writing; and (j) one person representing the Council of Governors.	to be in writing. This will guarantee that the officer chosen to represent the appointing authority would be accountable and consistency in the representation at the Committee.	
40.	Clause 9 (1)	Relief,	The Refugee Advisory Committee	Delete Clause 9(1) and substitute	

		Reconstruction and Development Organisation (R.R.D.O)	9. (1) The Committee shall consist of— (a) the Commissioner who shall be the chairperson and who shall provide secretariat services to the Committee; (b) the Principal Secretary or their representative from the Ministry responsible for refugee affairs; (c) the Principal Secretary or their representative from the Ministry responsible for foreign affairs; (d) the Principal Secretary or their representative from the Ministry responsible for devolution affairs; (e) the Principal Secretary or their representative from the Ministry responsible for health; (f) the Principal Secretary or their representative from the Ministry responsible for finance; (g) the Principal Secretary or their representative from the Ministry responsible for education; (h) the Attorney-General or their representative; (i) the Director of the Department of Immigration or their representative; (j) the Inspector-General or their representative; and	therefore the following— (1) There is established a Refugee Advisory Board whose function shall be— (a) Appointing the Commissioner of Refugees; (b) Appointing of Senior managers in Refugee Affairs Secretariat; (c) Oversight the Commissioner of Refugee Affairs and Refugee Affairs Secretariat (2) The Refugee Advisory Board shall be composed of— (a) persons from the private sector; (b) an officer from the Ministry of Foreign Affairs; (c) an officer from the Ministry of Interior and coordination of national government;	
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			(k) one person representing the Council of Governors.		
41.	Clause 9(1)	LWFWF Francis Njoroge	Insert the following paragraphs immediately after paragraph (k)— a) one person from Kenya National Commission on Human rights; b) one person from national gender and equality commission; c) one person representing ministry of labour; d) one person representing Ministry responsible for social protection	There is need to promote proactively refugees human rights. this should form a key component of the function of the committee.	
42.	Clause 9(1)	Amnesty International	By deleting paragraphs (a) and (b) and substituting therefor the following— (a) the principal Secretary or their representative in writing from the Ministry responsible for refugee affairs who shall be the chairperson; (b) the Commissioner who shall provide secretariat services to the committee	The Commissioner cannot stand in as chair and provide secretarial services to the Committee at the same time.	
43.	Clause 9(1)	Garissa County	one person representing the Council of Governors. Amend as follows; One person representing each of	Having a member from the ministry of devolution	

			the county governments with host communities	and a person representing council of governors is not sufficient. There is need to recognize county government hosting refugees.	
44.	Clause 9(2)	RCK (Refugee Consortium Kenya)	The Refugee Advisory Committee (2) The Committee may when necessary co-opt any person to attend the meeting of the Committee and advise it on performance of its duties.	Amend section 9 by amending section 9(2)) as follows: Section 9(2) The Committee shall include a representative from each of the designated counties and one member from the civil society and may coopt any other person to attend the meeting of the Committee and advise it on performance of its duties.	The section does not include a representative from the designated counties and civil society as was the case in section 8(5) of the Refugees Act, 2006.
		Amnesty International UNHCR			
45.	Clause 10(a) and (b):	RCK (Refugee Consortium Kenya) UNHCR	Functions of the Committee (a) advise the Cabinet secretary on formulation of national policies on matters relating to refugees in accordance with international standards; (b) advise the Cabinet Secretary on matters relating to refugees;	Amend the section as follows: (a) advise the Cabinet Secretary on formulation of national policies on matters relating to refugees and asylum seekers in accordance with international standards; (b) advise the Cabinet Secretary on matters relating to refugees and asylum seekers ;	We recommended to include asylum seekers. This is more so given the recommendation to remove asylum-seekers from the definition of "refugee". There is also a capitalization error.
46.	Clause 10	LWF WS	(a) advise the Cabinet secretary on formulation of national policies on matters relating to refugees in accordance with international standards;	Amend the section as follows: Overall advising on the development of favourable and enabling policy, legal and institutional that promote, protect	The functions are heavy on management.

			and fulfill human rights and freedoms for refugees and asylum seekers	
47.	Clause 10(c):	RCK (Refugee Consortium Kenya) R.R.D.O (Relief, Reconstruction and Development Organisation) Amnesty International UNHCR	Functions of the Committee (c) make a recommendation for declaration and revocation of prima facie status Amend the section as follows: (c) To advise the Cabinet Secretary in respect of declaration, amendment or revocation of prima facie determinations;	The CS has the power to amend the prima facie determination but RAC which advises him/her does not have a corresponding mandate. Other changes made to make the section read better
48.	Clause 11(1):	RCK (Refugee Consortium Kenya)	Refugee Status Appeals Committee 11. (1) There shall be a Refugee Status Appeals Committee which shall be the successor to the Appeal Amend Section 11(1) by deleting reference to section 10 of the Refugees Act, 2006 as follows: 11. (1) There shall be a Refugee Status Appeals Committee.	It is not necessary to mention the predecessor organization as this has been handled in the Transition Clauses of the Bill.
49.	Clause 11(1)	R.R.D.O (Relief, Reconstruction and Development Organisation)	Refugee Status Appeals Committee 11. (1) There shall be a Refugee Status Appeals Committee which shall be the successor to the Appeal Amend by deleting subsection (1) and substitute with the following— 11. (1) There shall be a Refugee Status Appeals Tribunal.	This is in order to entrench independence having a tribunal in place under the supervision of the High Court, will go a long way to exercise judicial or quasi-judicial

		n)			functions and supplement the ordinary courts in the administration of justice.	
50.	Clause 11(2):	RCK (Refugee Consortium Kenya) UNHCR	Refugee Status Appeals Committee (2)The Cabinet secretary shall, by notice in the Gazette appoint the following persons to serve in the Appeals Committee— (a) a representative of the Principal secretary responsible for refugee matters who shall be the chairperson of the Committee; (b) a representative of the Kenya National Commission for Human Rights; (c) a representative of the State Department responsible for Immigration; (d) one person nominated by the Attorney General; and (e) three other persons with knowledge and experience in refugee matters.	Amend section 11(2) as follows: (2)The Cabinet secretary shall, by notice in the Gazette appoint the following persons to serve in the Appeals Committee— (a) a chairperson who is an advocate of not less than ten years standing appointed by the Cabinet Secretary; (b) a representative of the Kenya National Commission for Human Rights; (c) a representative of the State Department responsible for Immigration; (d) one person nominated by the Attorney General; and (e) two other persons with knowledge and experience in refugee matters.	With the current change of the composition of the Refugee Status Appeals Committee, this second instance is no longer an independent decision-making body. In order for a remedy to be effective, the appeal should be considered by an authority different from and independent of that making the initial decision. We also propose that the number of members be reduced from seven to six.	
51.	Clause 11(2)	R.R.D.O (Relief, Reconstruction and	UNHCR	Insert a new subsection immediately after subsection (2)- (2A)The Appeals Committee shall be independent in the exercise of its functions under this Act	To include a reference to the independence of the Appeals Committee	
			11.(2) The Cabinet secretary shall, by notice in the Gazette appoint the following persons to serve in the Appeals Committee —	Amend by deleting subsection 11(2) and substitute the following—	The intention of the Bill is to have the Appeals committee/tribunal independent therefore	

		Development Organisation)	(a) a representative of the Principal secretary responsible for refugee matters who shall be the chairperson of the Committee; (b) a representative of the Kenya National Commission for Human Rights; (c) a representative of the State Department responsible for Immigration; (d) one person nominated by the Attorney General; and (e) three other persons with knowledge and experience in refugee matters.	11(2) The Cabinet Secretary shall, by notice in the gazette appoint the following persons to serve in the appeals committee— (a) A chairperson nominated from legal practitioners of seven years standing as an Advocate of the High court of Kenya in the private practice; and (b) four other members possessing knowledge and experience in refugee affairs who are not in public service	the bill in its current form and design of the Appeals committee grossly defeats this intention	
52.	Clause 11(2)	Amnesty international Mr. Ekai Nabenyio		Amend by deleting subsection 11(2) and substitute the following— 11(2) The Cabinet Secretary shall, by notice in the gazette appoint the following persons to serve in the appeals committee— (a) A chairperson nominated by Judicial Service Commission and qualified for appointment as a Judge of the High Court; and (b) four other members possessing knowledge and experience in refugee affairs who are not in public service	The intention of the Bill is to have the Appeals committee/tribunal independent therefore the bill in its current form and design of the Appeals committee grossly defeats this intention	
53.	Clause 11(3):	RCK (Refugee Consortium	Refugee Status Appeals Committee (3) The quorum for a meeting of the Appeal Board shall be three members.	Amend section 11 by making the changes in bold and italics: (3) A member of the Appeal	The amendment are meant to do the following: • Make provision of	

Kenya)	UNHCR (Clause 11(4))	(4) The function of the Appeal Board shall be to hear and determine appeals against any decision of the Commissioner with regard to — (a) the rejection of any individual application for refugee status; and (b) the cancellation and termination of refugee status. (5) The Appeals Committee may co-opt an officer of the United Nations High Commissioner for Refugees to advise the Committee in performance of its functions. (6) The Appeals Committee shall convene as and when appeals have been filed against decisions of the Commissioner and, save as expressly provided in this Act, regulate its own procedures. (7) A person who is aggrieved by the decision of the Appeals Committee may appeal to the High Court within thirty days of being notified.	Committee shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years. (4) The quorum for a meeting of the Appeal Committee shall be three members and shall include at least one member under section 11(2) (e). (5) Each member of the Committee shall have one vote but in case of a tie in votes, the Chairperson shall have a casting vote. (6) The function of the Appeal Committee shall be to hear and determine appeals against any decision of the Commissioner with regard to — (a) the rejection of any individual application for refugee status; and (b) the cancellation, revocation and termination of refugee status. (7) The Appeal Committee shall be independent in the exercise of its functions under this Act. (8) The Government shall provide the Appeal Committee with a Secretariat for the purposes of discharging its mandate.	decision making for the Committee; Provide a mandatory provision for inclusion of experts to form quorum; ● Provide a secretariat and independence of the Committee. Provide a mandatory provision for inclusion of experts to form quorum; Provide a secretariat and independence of the Committee.	
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				(9) The Appeals Committee may co-opt an officer of the United Nations High Commissioner for Refugees to advise the Committee in performance of its functions.		
				(10) The Appeals Committee shall convene as and when appeals have been filed against decisions of the Commissioner and, save as expressly provided in this Act, regulate its own procedures.		
54.	Clause 11(4)	UNHCR	(4) The function of the Appeal Board shall be to hear and determine appeals against any decision of the Commissioner with regard to – (b) the cancellation and termination of refugee status.	Amend in paragraph (b) by deleting the word “termination” and substituting therefor the word “revocation and termination”	The section needs to be amended to include that one of the functions of the appeals committee is to hear and determine appeals against revocation and cessation decisions. The word termination refers to a umbrella term covering all types of termination	
55.	Clause 11	UNHCR		New subclause The Government shall provide the appeals committee with a secretariat for the purposes of discharging its mandate	To ensure that the appeals committee will be an effective second instance body.	
56.	Clause 11(7):	RCK (Refugee Consortium Kenya)	Refugee Status Appeals Committee (7) A person who is aggrieved by the decision of the Appeals Committee may appeal to the High Court within thirty days of being notified.	Amend by deleting the sub section from this section and taking the same to section 14(2)	Reference to appeal to the High Court. It is similar with section 14(2) and therefore we recommend it be used to replace the current section 14(2).	

57.	Clause 12 (4)	LWF WS	Application for Refugee Status (4) The Applicant shall present his claim in person but retains the right to be accompanied by legal practitioner if he or she desires, provided that the expense for legal representation shall not be borne by the Department.	Insert 4 (A) The department shall liaise with the state legal aid system to provide representation for a refugee where such refugee cannot afford a legal practitioner	There should be provisions for legal aid for a refugee who cannot afford legal services.	
58.	Clause 12(5)	RCK (Refugee Consortium Kenya)	Granting of refugee status	(5) The decision of the Commissioner to grant or not to grant refugee status shall be notified to the applicant in writing and where the application is refused, the Commissioner shall give reasons for the refusal.	Granting of "refugee status" – not application - is more appropriate wording; also consistent with 12(7).	
59.	Clause 12(6)	Francis Njoroge	Refugee Status Determination officers exercising delegated authority under 12(6) (6) The Commissioner may delegate the function of conducting interviews to his or her staff within the Department who shall, upon finalization of the interview, forward the interview files to the Status Eligibility Panel for further review.	Amend by inserting a new subclause immediately after (6) (6a) the Commissioner shall delegate authority contemplated under subsection (6) to persons who have qualifications, experience and knowledge of refugee matters.	This delegation is key to the functioning of the asylum process and as such delegation may only be done to refugees status determination officers.	
60.	Clause 13(3)	LWF WS	Establishment of Refugee Status Eligibility Panel (3) The Eligibility Panel may, through the Commissioner co-opt representatives of the United Nations High Commissioner for Refugees or other agencies to provide technical advice.	Amend by deleting the word "may" and substitute with "shall"	In order to not leave coopting of UNHCR or other agencies at the discretion of the eligibility panel through the commissioner.	
61.	Clause 14(2)	RCK (Refugee)	Appeals (2) A person aggrieved by the decision	Amend this section by replacing it with the current section 11(7) as	See explanation in recommendation 31	

		Consortium Kenya)	of the Appeals Committee may within thirty days of such decision appeal to the High Court.	follows: (2) A person who is aggrieved by the decision of the Appeals Committee may appeal to the High Court within thirty days of being notified.	above.	
62.	Clause 14(3):	RCK (Refugee Consortium Kenya)	Appeals (3) Where the High Court upholds the decision of the Commissioner against which an applicant had unsuccessfully appealed to the Appeals Committee, the Commissioner shall within sixty days of the ruling of the High Court notify the Director of Immigration of the decision, who shall thereafter deal with the applicant in accordance with written law on immigration.	Amend section 14(3) by deleting 'within sixty days' and inserting 'within ninety days' therefor as follows: (3) Where the High Court upholds the decision of the Commissioner against which an applicant had unsuccessfully appealed to the Appeals Committee, the Commissioner shall within ninety days of the ruling of the High Court notify the Director of Immigration of the decision, who shall thereafter deal with the applicant in accordance with written law on immigration.	This change is proposed for the sake of consistency with section 22(1) (c) and section 22(2).	
63.	Clause 14 (3) and (4)	LWFWWS	(3) Where the High Court upholds the decision of the Commissioner against which an applicant had unsuccessfully appealed to the Appeals Committee, the Commissioner shall within sixty days of the ruling of the High Court notify the Director of Immigration of the decision, who shall thereafter deal with the applicant in accordance with written law on immigration.	Amend by inserting the words "in accordance with written law on immigration and always under humanitarian consideration to their human dignity."		
64.	Clause 16	RCK	Medical screening	Amend by inserting subsection (2)	This provision appears to	

		(Refugee Consortium Kenya)	16. All refugees and asylum seekers who have entered Kenya shall be subjected to health screening upon entry in accordance with the provisions of the Public Health Act for purposes of detecting and containing the spread of contagious diseases.	into section 27 as follows: 27. (1) Any asylum seeker or refugee entering Kenya shall be subjected to security screening in accordance with the provisions of this Act and any other written law for purposes of detecting and containing any person who may pose a danger to the security of Kenya or the safety of the people and to prevent the proliferation of arms and other contraband items. (2) All refugees and asylum seekers who have entered Kenya shall be subjected to health screening upon entry in accordance with the provisions of the Public Health Act for purposes of detecting and containing the spread of contagious diseases.	be misplaced. It fits better under Part IV Reception for Refugees and Asylum Seekers where a similar provision on security screening is placed (Section 27) Therefore, it is recommended that this Section be moved from Part III Application for Refugee Status of the Bill to Part IV Reception for Refugees and Asylum Seekers.	
65.	Clause 16	LWF WS	Medical screening	Insert the following words "and for the immediate medical support or treatment for refugees.	Medical screening should not only be used for the purpose of detecting and containing the spread of contagious diseases.	
66.	Clause 16	Mr. Ekai Nabenyo	16. All refugees and asylum seekers who have entered Kenya shall be subjected to health screening upon entry in accordance with the provisions of the Public Health Act for purposes of detecting and containing the spread of contagious diseases.	Amend by deleting section 16 and substituting therefor the following new section 16. Refugees and asylum seekers who are from countries suspected to be from a country with an outbreak of contagious disease,	Mandatory health screening for asylum seekers and refugees entering Kenya should be reworded to specify only those that come from a country suspected to have an outbreak	

			shall be subjected to health screening upon entry in accordance with the provisions of the Public Health Act for purposes of detecting and containing the spread of contagious diseases.		
67.	Clause 17 (6)	UNHCR	Cancellation of Refugee Status (6) Where refugee status under this part has been cancelled, that person shall cease to be a refugee and any member of his or her family with derivative status shall cease to be so recognised under this Act on the expiration of seven days after notification of cancellation of status by the Commissioner.	By inserting the words "or upon final determination on appeal" immediately after the word "Commissioner"	It is important to ensure that the cancellation decision shall only be applicable to the main applicant and family members with derivative status after the exhaustion of all available appeal mechanisms
68.	Clause 17(6)	Abdulahi Ali		By deleting subclause (7) Despite subsection 6 the expiration period after notification of cancellation, shall be thirty days for persons with disability, children and vulnerable persons recognized under the act	
69.	Clause 18	RCK (Refugee Consortium Kenya)	Revocation of refugee status 18. (1) The Commissioner may revoke the status of any refugee if the refugee at any time after recognition as a refugee has committed a war crime or a crime against humanity, as defined in any international instrument to which Kenya is a party. (2) Where refugee status under this part has been revoked that person shall cease to be a refugee under this	Amend as follows: 18. (1) The Commissioner may revoke the status of any refugee if the refugee at any time after recognition as a refugee has committed a war crime or a crime against humanity, as defined in any international instrument to which Kenya is a party. (2) Where refugee status under this part has been revoked that	The amendments were made because: • There was a missing section 18(3); • Section 18(5) repeats a provision already made under section 17(5).

			Act on the expiration of seven days after the date on which the Commissioner notifies the person concerned that his or her recognition has been revoked. (4) Where refugee status under this part has been revoked, every person who, immediately before such revocation, was within Kenya as a member of the family of such refugee shall have the right to apply to be considered as a refugee under section 12 of this Act. (5) Any person whose refugee status has been cancelled or revoked shall leave the country within thirty days of notification of the final order relating to the cancellation or revocation, failing which the Cabinet Secretary shall remove such person immediately.	person shall cease to be a refugee under this Act on the expiration of seven days after the date on which the Commissioner notifies the person concerned that his or her recognition has been revoked. (3) Any person whose refugee status has been revoked and does not appeal or has exhausted the available appeal mechanisms, shall leave the country within thirty days of notification of the final order relating to the revocation, failing which the Cabinet Secretary shall remove such person immediately.		
70.	Clause 18	UNHCR		Amend as follows The Commissioner may revoke the status of any refugee if there are serious reasons for considering that a refugee has committed a crime against peace, a war or a crime against humanity, as defined in the international instruments drawn up to make provision for such crimes, or has been guilty of acts contrary to the purposes and principles of the United Nations and the African	It is important to ensure that the revocation decision shall only be applicable to the main applicant and family of derivative status after exhaustion of all available appeal mechanisms	

			Union. (2) Where refugee status under this part has been revoked and all appeal mechanisms have been exhausted, that person shall cease to be a refugee under this Act on the expiration of seven days after the date on having received the final decision that his or her recognition has been revoked. (3)*remains as is* (4)Any person whose refugee status has been revoked and does not appeal or has exhausted the available appeal mechanisms, shall leave the country within thirty days of notification of the final order relating to the revocation, failing which the Cabinet Secretary shall remove such person immediately/		
71.	Clause 19 (1)	RCK (Refugee Consortium Kenya)	Expulsion of refugees or members of their families 19. (1) Subject to section 30, the Cabinet Secretary may order the expulsion from Kenya of any refugee or member of his family if the Cabinet Secretary considers the expulsion to be necessary on the grounds of national security or public order.	Amend by deleting 'section 30' as it appears on Section 19(1) and replace it with 'section 29' as follows: 19. (1) Subject to section 29, the Cabinet Secretary may order the expulsion from Kenya of any refugee or member of his family if the Cabinet Secretary considers the expulsion to be necessary on the grounds of national security or public order.	Section 30 of the Bill concerns designated areas whereas Section 29 deals with the principle of non-refoulement. It is clear that Section 19(1) intended to cite Section 29 as it is more relevant to its purposes.

72.	Clause 19 (1)	R.R.D.O (Relief, Reconstructi on and Developme nt Organisatio n)	Expulsion of refugees or members of their families 9. (1) Subject to section 30, the Cabinet Secretary may order the expulsion from Kenya of any refugee or member of his family if the Cabinet Secretary considers the expulsion to be necessary on the grounds of national security or public order.	Amend by deleting the words "Cabinet Secretary" and substituting therefor the words "Refugee Advisory Board"	This should be a reserve of the proposed Refugee Advisory Board.	
73.	Clause 19 (2)	RCK (Refugee Consortium Kenya) Kituo Cha sheria (Coast region)	Expulsion of refugees or members of their families 19. (1) Subject to section 30, the Cabinet Secretary may order the expulsion from Kenya of any refugee or member of his family if the Cabinet Secretary considers the expulsion to be necessary on the grounds of national security or public order.	Amend by deleting the subsection(2) and renumbering as follows: 19. (1) Subject to section 29, the Cabinet Secretary may order the expulsion from Kenya of any refugee or member of his family if the Cabinet Secretary considers the expulsion to be necessary on the grounds of national security or public order. (2) Before ordering the expulsion from Kenya of any refugee or member of his family in terms of subsection (1) of this section, the Cabinet Secretary shall act in accordance with the due process of law.	Section 19(2) is superfluous. An expulsion provision is granted under section 19(1) and section 29(2). Expulsion based on morality would be in contravention to the principle of non-refoulment. It is enough to expel them based on issues of national security which is captured by clause 19(1). The aspect of public morality here as a ground for expulsion may be conceived to target minority groups such as LGBTI.	The provision does not provide for any due
		UNHCR IRC Garissa County	(2) Subject to subsection 19(1) a refugee or an asylum seeker engaging in a conduct that is in breach or is likely to result in breach of public order or contrary to public morality irrespective of whether the conduct is linked to his claim for asylum or not, may be expelled from the Kenya by an order of the Cabinet Secretary. (3) Before ordering the expulsion from Kenya of any refugee or member of his family in terms of subsection (1) of this section, the Cabinet Secretary shall act in accordance with the due process of law			

		Francis Njoroge		Section 19 and Section 29(2) of the Bill be revised to include procedural and administrative safeguards enshrined in the Bill of rights prior to any expulsion	process rights of refugees and their family members before being expelled on grounds of national security or public order	
74.	CLAUSE 20	DRC	20. (1) The Commissioner shall ensure that specific measures are taken to ensure the dignity and safety of women and children seeking asylum and women and children who have been granted refugee status at all times during their stay in designated areas.	20(1) The Commissioner shall ensure that specific measures are taken to ensure the dignity and safety of women and children seeking asylum and women and children who have been granted refugee status at all times during their admission into and stay in Kenya	Clause 20 (1) qualifies the benefits of the protection in designated areas. The safeguards provided by this provision should apply irrespective of where the subjects of this protection are located in Kenya.	Definition of "designated area" provides for any reception area, transit point or settlement area
						A26 of 1951 convention, host country shall allow refugees the "right to choose their place of residence to move freely within its territory",
75.	Clause 20	RCK (Refugee Consortium)	Refugee women and children 20. (1) The Commissioner shall ensure that specific measures are taken to	Amend section 20(1) by deleting 'during their stay in designated areas' and replacing it with 'during	Section 20(1) ensures measures for the protection of women and	Clause 28

		Kenya)	ensure the dignity and safety of women and children seeking asylum and women and children who have been granted refugee status at all times during their stay in designated areas.	admission into and stay in Kenya' as follows: 20. (1) The Commissioner shall ensure that specific measures are taken to ensure the dignity and safety of women and children seeking asylum and women and children who have been granted refugee status at all times during admission into and stay in Kenya.	children in designated areas but not if they reside outside. It is recommended that Section 20(1) be expanded to ensure protection for women and girls who are exempted from living in designated areas; this is then also consistent with wording of section (21).	
76.	Clause 21	DRC	Care for persons with disability and persons who have suffered trauma 21. The Commissioner shall ensure that appropriate measures are taken to ensure the safety of asylum seekers and refugees who suffer from disability and persons or groups of persons who have been traumatized or otherwise require special protection at all times during admission into and stay in Kenya.	The Commissioner shall ensure that appropriate measures are taken to ensure the safety of asylum seekers and refugees who suffer from disability, trauma or are of old age or otherwise require special protection at all times during admission into and stay in Kenya.	To expressly provide for the inclusion of the elderly in express terms	
77.	Clause 21	RCK (Refugee Consortium Kenya) UNHCR	21. The Commissioner shall ensure that appropriate measures are taken to ensure the safety of asylum seekers and refugees who suffer from disability and persons or groups of persons who have been traumatized or otherwise require special protection at all times during admission into and stay in Kenya.	Amend the section by replacing the phrase 'suffer from disability and persons or groups of persons who have been traumatized' with '...suffer from disability, trauma and older persons' as follows: 21. The Commissioner shall ensure that appropriate measures are taken to ensure the safety of asylum seekers and refugees who	Recommendation to include persons of old age and specify the support to be provided to all three groups in the Regulation.	

			suffer from disability, trauma or are of old age or otherwise require special protection at all times during admission into and stay in Kenya.			
78.	Clause 22(1) (c) & 22(2)	RCK (Refugee Consortium Kenya) Refugee Leaders in Nakuru	Right to remain in Kenya during status determination (c) where such person has appealed under section 14, and his or her appeal has been unsuccessful, until such person has been allowed a reasonable time, not exceeding sixty days to seek admission to a country of his or her choice. (2) The Cabinet Secretary may, on application being made to him or her by the person concerned, extend the three-month period referred to in subsection (1)(c) if he or she is satisfied that there is a reasonable likelihood of the person being admitted to a country of his or her choice within such extended period.	Amend by deleting the phrase 'not exceeding sixty days..' as it appears on section 22(1)(c) and replacing it with 'not exceeding ninety days' as follows: (c) where such person has appealed under section 14, and his or her appeal has been unsuccessful, until such person has been allowed a reasonable time, not exceeding ninety days to seek admission to a country of his or her choice.	There is an inconsistency at the time allowed for an asylum seeker whose claim has been rejected to seek admission to another country of his/her choice. A 90 day period is recommended as provided in the current Refugees Act, 2006.	
79.	Clause 23(5)	RCK (Refugee Consortium Kenya) Mr. Ekai Nabenyio	Applicant to be issued with an asylum seeker's pass (5) A person who has submitted an application for refugee status shall be under obligation to abide by all the laws of Kenya including all the lawful orders given by the mandated institutions under this Act, failure to which the Commissioner shall have powers to strike them out of the asylum process and advice the	Amend section 23 by section 23(5) and substituting it with two new subsections as follows: (5) A person who has submitted an application for refugee status shall be under obligation to abide by all the laws of Kenya including all the lawful orders given by the mandated institutions under this Act.	The manner in which Section 23(5) has been framed opens an interpretation wherein a misdemeanor could be used to expel a refugee or asylum seeker. Moreover, expulsion provisions under section 19(1) and 29(2) are sufficient.	

		UNHCR Refugee Leaders in Nakuru County	Cabinet Secretary to remove them from Kenya subject to the applicable immigration laws.	(6) A person who contravenes subsection (5) above commits an offence.		
80.	Clause 24	RCK (Refugee Consortium Kenya) UNHCR	Entry into Kenya by refugees 24. Any person entering Kenya to seek asylum shall make his or her intention known immediately upon entry or within thirty days by reporting to the nearest reception centre or the nearest government administrative office.	Amend section 24 as follows: 24. (1) Any person entering Kenya to seek asylum shall make his or her intention known immediately upon entry or within thirty days by reporting to the nearest reception centre or the nearest government administrative office. (2) In the case of a person who is lawfully in Kenya and is subsequently unable to return to his country of origin for any of the reasons specified in section 3 of this Act, he shall, prior to the expiration of his lawful stay, present himself before an appointed officer and apply for recognition as a refugee in accordance with the provisions of this Act. (3) Where there is a large-scale influx of persons claiming to fall within the meaning of refugees under section 3, the Commissioner shall, in consultation with the	Section 11(2) of the Refugees Act, 2006 expressly provided for asylum seekers that are in Kenya legally and for reasons provided under the provisions that define refugees are unable or unwilling to return to their countries of origin. This allowed them to apply for the status before the expiry of their lawful stay. This is the justification for proposing a section 24(2) Proposed section 24(3) has been moved from 29(3); see justifications for section 24(3).	

				representatives of the United Nations High Commissioner for Refugees advise the Cabinet Secretary on emergency measures to be taken including- (a) designation of areas for reception, transit and residence of refugees, having due regard to the security requirement for refugees to be settled at a reasonable distance from the frontier of their country of origin; (b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women and children; and (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.		
81.	Clause 25	RCK (Refugee Consortium Kenya)	Designation of refugee reception officers (3) Subject to subsection (2) asylum seekers may be temporarily accommodated at the reception holding areas as they await further processing by the Department. (4) Asylum seekers who enter the country through places, other than gazetted entry points, shall	Amend to include a new subsection (4) and renumber the current subsection (4) as follows: (3) Subject to subsection (2) asylum seekers may be temporarily accommodated at the reception holding areas as they await further processing by the Department. (4) Asylum seekers at transit	Asylum seekers should not be held ad infinitum in transit centres.	

			immediately report to the nearest government administrative office for further assistance.	centres shall be processed and released within reasonable time; (5) Asylum seekers who enter the country through places, other than gazetted entry points, shall immediately report to the nearest government administrative office for further assistance.		
82.	Clause 26(1)	LWF WS	Duty of reception officers	Insert the following subsection (2) Reception officers shall serve asylum seekers respecting the principle of gender.	There must be a provision that states male and female reception officers should be available so the refugee has the option to choose who to talk to.	
83.	Clause 27	Refugee leaders from Nakuru County	Security Screening. Any asylum seeker or refugee entering Kenya shall be subjected to security screening in accordance with the provisions of this Act and any other written law for purposes of detecting and containing any person who may pose a danger to the security of Kenya or the safety of the people and to prevent the proliferation of arms and other contraband items.	Insert the words "in the presence of a humanitarian officer," immediately after the words "screening in	To prevent officer planting contraband or illegal things on asylum seekers that may jeopardize their application status	
84.	Clause 28	RCK (Refugee Consortium Kenya) Kituo cha sheria	Rights and obligations of refugees 28. (1) Subject to this Act, every refugee and every asylum seeker within Kenya shall be entitled to the rights and be subject— (a) to the duties contained in the UN Convention, its Protocol and the OAU Convention; and (b) all the laws in	Amend section 28 as follows: 28. (1) Subject to this Act, every refugee and every asylum seeker within Kenya shall be entitled to the rights and be subject— (a) to the duties contained in the UN Convention, its Protocol and the OAU Convention; and	The section as is currently framed does not offer a clear provision on the benefits of holding refugee documents. The proposed amendment is meant to address this gap. It also does not spell out	

UNHCR	30 Refugee Representatives Garissa County	force in Kenya. (2) The Cabinet Secretary may, by notice in the Gazette and in consultation with the relevant county governments, designate specific counties to host refugees. (3)The Cabinet Secretary may, by notice in the Gazette, designate places and areas in Kenya to be transit centres for purposes of temporarily accommodating refugees. (4) Subject to this Act, refugees shall be enabled to contribute to the economic and social development of Kenya by facilitating access to, and issuance of, the required documentation at both levels of Government.	(b) all the laws in force in Kenya. (2) Without prejudice to the generality of section 28(1) above: (a) Every refugee has the right to identification documents, travel documents, social protection, access to education and health services, as well as engagement in livelihood activities and shall be under an obligation to contribute to the national and local economy through taxation; and (b) Every asylum-seeker has the right to documentation and access to essential services, including food, shelter, education, health, water and sanitation services, and where relevant, social protection. (3) The Cabinet Secretary may, by notice in the Gazette and in consultation with the relevant county governments, designate specific counties to host refugees purposes of accommodating of refugees who require essential services. (4)The Cabinet Secretary may, by notice in the Gazette, designate places and areas in Kenya to be transit centres for purposes of	the rights in a clear manner. Also section 40(1)(m) provides an offence but there is no corresponding duty that underpins the offence.	
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			temporarily accommodating refugees for security and medical screening. (5) Subject to this Act, refugees shall be enabled to contribute to the economic and social development of Kenya by facilitating access to, and issuance of, the required documentation at both levels of Government. (6) The refugee and asylum seeker identification shall be adequate to the rights provided by law.		
		Abdulahi Ali 30 Refugee Representatives	Insert a new subclause Documentation under subsection (2) shall be valid for a period of five years.		
85.	Clause 28(2)	LWF WS	Rights of and obligations of refugees Amend in subclause (2) by deleting the word "may" and substituting therefore the word "shall"	The use of the word may provides a loophole for misinterpretation.	
86.	Clause 28 (2)	UNHCR	Amend by inserting the words "for the purposes of accommodating asylum seekers"	Newly arriving asylum seekers may not be self-sufficient and will require	

			governments, designate specific counties to host refugees.	and refugees who require essential services" immediately after the words "to host refugees"	essential services to have their basic needs met. Therefore it is proposed that refugees should only be required to reside in designated areas if they are in need of essential services.	
87.	Clause 28(3)	Garissa County	(3) The Cabinet Secretary may, by notice in the Gazette, designate places and areas in Kenya to be transit centres for purposes of temporarily accommodating refugees.	Provide in regulation section Transit and settlement centres or Declaration of designated areas	The law should provide that transit centres should be constructed as soon as possible and be constructed at a reasonable distance from the border in order to protect asylum seekers.	
88.	Clause 28(4)	LWF WS		Insert a new subclause (5) (5) The government shall develop policy and legislative frameworks to enable access to jobs, livelihoods and self-reliance options that includes expanded access to labour markets as well as freedom of movement.	To align the commitments made within the kampala declaration on jobs, livelihoods and self-reliance for refugees, returnees and host communities.	
89.	CLAUSE 28(4)	Host Communities living in Nairobi	(4) Subject to this Act, refugees shall be enabled to contribute to the economic and social development of Kenya by facilitating access to, and issuance of, the required documentation at both levels of Government	(4) Subject to this Act, refugees shall be enabled to contribute to the economic and social development of Kenya by facilitating access to, and issuance of, the required documentation such as MPESA and Bank accounts, at both levels of Government	Recommend that the law explicitly spells out that refugee documentation would be sufficient to access services such as MPESA and bank accounts. This will allow them to contribute to the economy	It's too descriptive.
90.	Clause 28	Mr. Ekai	Freedom of movement	(1) Subject to subsection (2) of this	Refugee hosting countries	

		Nabenyio Abdulahi Ali 30 Refugee Representatives Garissa County	New Clause	section, a recognised refugee is entitled to free movement in Kenya (2) The free movement of a recognised refugees in Kenya is subject to reasonable restrictions specified in the laws of Kenya, or directions issued by the Commissioner, which apply to foreigners generally in the same circumstances, especially on grounds of national security, public order, public health, public morals or the protection of the rights and freedoms of others.	have recognized the need to allow refugees the freedom of movement.	
91.	Clause 28	Mr. Ekai Nabenyio	New Clause Right to work	A refugee recognized under this Act shall, subject to this Act, have the right to have access to employment opportunities and engage in gainful employment.	Clause 40 (1) (m) provides for an offence of a refugee who works and does not pay tax. The law should therefore explicitly state that a refugee has a right to work.	
92.	Clause 28(4) and 28(1) (b)	Equity Bank			The enactment of the tax procedure act, 2015 provides that it is mandatory for customers to produce KRA personal identification numbers to open or activate a bank account. Provide explicit rights that allow refugees due to their status to have specified allocation of	

					funds to be issued to refugee by government for the following projects 1.financial literacy for refugees by national and county governments; 2. Allocation of funds for entrepreneurship education	
93.	Clause 28 (4)	IRC		Amend by deleting subsection (4) and substituting therefor the following new subsection (4) subject to this Act, the government shall issue required documentation at both levels of government to facilitate local integration of refugees to enable them to contribute to the economic and social development of Kenya	The definition of local integration is not applied anywhere in the bill. Section 28(4) refers to local integration and should be adjusted to make express reference by including the term local integration	
94.	Clause 29(2)	Mr. Ekai Nabenyio	(2) The benefit of the subsection 1 may not, however, be claimed by a refugee or asylum seeker whom there are reasonable grounds for him or her being regarded as a danger to the national security or public order of Kenya.	Amend by deleting the word "or public order"	Clause 29(2) appears to negate the non-refoulment principle as it empowers government to refouler back to their country individuals considered a threat to public order. The inclusion of public order as a ground needs to be reconsidered.	
95.	Clause 29(3)	RCK (Refugee Consortium	Non-refoulement (3)Where there is a large-scale influx of persons claiming to fall within the	Amend section 29 by deleting subsection (3) and moving it to Section 24.	The affected subsection is misplaced in the current section.	

		Kenya)	meaning of refugees under section 3, the Commissioner shall, in consultation with the representatives of the United Nations High Commissioner for Refugees advise the Cabinet Secretary on emergency measures to be taken including- (a) designation of areas for reception, transit and residence of refugees, having due regard to the security requirement for refugees to be settled at a reasonable distance from the frontier of their country of origin; (b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women and children; and (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.	Amend by inserting the words in bold (b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women and children and other vulnerable groups; and		
96.	Clause 29	LWF WS	Non-refoulement	Insert the following provision	Approximately 13,000	

			immediately after (2) A refugee who voluntarily avails himself or herself to return to his or her country of origin, but upon return to his country of origin encounters that the environment that circumstances in the country of origin have not changes or other factors create an unconducive environment requiring him or her to seek asylum again, should be granted asylum with all basic services guaranteed.	undocumented refugee/ asylum seekers who returned from Somali to dadaab face this predicament	
97.	Clause 31(1)	RCK (Refugee Consortium Kenya)	Requirement to reside in a designated area 31. The Commissioner may require any refugee is within a designated areas to move to or reside in any other designated area.	Amend the section as follows: 31. (1) The Commissioner may require any refugee who is in need of essential services and is within a designated areas to move to or reside in any other designated area.	The revision is meant to make the section clearer.
98.	CLAUSE 31(1)	DRC	31. (1) The Commissioner may require any refugee is within a designated areas to move to or reside in any other designated area.	The Commissioner may require any refugee who is in need of essential services and is within a designated area to move to or reside in any other designated area.	Clause 31 (1) provides that refugees will be required to live in a designated area which currently are Dadaab Refugee Camp and Kakuma. The Bill should provide for designated areas for short term purposes including delivery of humanitarian assistance and essential services.
					Clause 30 (4) provides that a refugee or asylum seeker may change his or her place of residence and notify the Commissioner in the prescribed manner. 43 (h) (i).

99.	CLAUSE 31(1)	Host Communities living in Nairobi	31. (1) The Commissioner may require any refugee is within a designated areas to move to or reside in any other designated area	Insert a new subsection (1) (a) Despite subsection (1), a refugee may give compelling reasons to the Commissioner on why they can or cannot relocate to the specified designated area	There is need to revise this power in order to afford a refugee an opportunity to explain him or herself on reasons as to why he or she may not adhere to an order.	
		Kituo cha Sheria		Despite subsection (1), the commissioner shall consider a refugee's protection and safety before making such order.	To include the condition that safety and protection of the refugee is ensured and prioritised before they are moved.	
		UNHCR		The Commissioner may require refugees and asylum-seekers in need of essential services to be within a designated area, to move to or reside in any other designated area.	Newly arriving asylum seekers may not be self-sufficient and will require essential services to have their basic needs met. Therefore it is proposed that refugees should only be required to reside in designated areas if they are in need of essential services.	
100	Clause 32	RCK (Refugee Consortium Kenya)	Control of Designated Areas 32. The Cabinet Secretary shall make rules for the control of designated areas and, without prejudice to the generality of the foregoing, such rules and directions may make provision in respect of all or any of the following	Amend the section as follows: 32. The Commissioner shall make rules for the control of designated areas and, without prejudice to the generality of the foregoing, such rules and directions may make provision in respect of all or	We recommend the changes to make the section read better.	

		matters— (a) the organization, safety and discipline and administration of a designated area; (b) the reception, transfer, settlement, treatment, health and well-being of refugees; (c) the manner of inquiring into disciplinary offences and the payment of the fine and other (penalties); or (d) the powers of settlement officers and the delegation of such powers	any of the following matters— (a) the organization, safety and discipline and administration of a designated area; (b) the reception, transfer, settlement, treatment, health and well-being of refugees; (c) the manner of inquiring into any offence committed under this Act; or (d) the powers of settlement officers and the delegation of such powers.		
101	Clause 33	RCK (Refugee Consortium Kenya) UNHCR Restriction of Persons Entering a Designated Area 33(1) No person other than a person authorized by the Commissioner, a person employed by the Department, or a refugee shall enter a designated area except with the permission of the Commissioner. (2) A person seeking to enter a designated area shall make an application to the Commissioner in writing stating the reasons and time for such an application. (3) A person who contravenes the provisions of this section commits an offence and shall upon conviction be liable to a fine not exceeding two hundred thousand shillings or imprisonment for a term not exceeding five years or, to both.	Amend section 33 as follows: 33(1) No person other than a person authorized by the Commissioner, a person employed by the Department, or a refugee shall enter a designated area except with the permission of the Commissioner. (2) A person seeking to enter a designated area shall make an application to the Commissioner in writing stating the reasons and time for such an application. (3) The Commissioner shall review such request as made under section 33(2) and issue a decision in writing without undue delay. (4) The Commissioner may authorize entry, upon request, of the UNHCR, other UN agencies,	Section 33(2) of the Bill does not provide a clear timeline within which this decision is to be made. It also does not provide an avenue for appeal in the case on is dissatisfied with the decision of the Commissioner. Finally it does not speak to organizations that have worked and work in the designated areas that exists that would need to be authorized.	

			public benefit organizations and other organisations that seek to offer services to refugees in these areas. (5) A person who contravenes the provisions of this section commits an offence and shall upon conviction be liable to a fine not exceeding two hundred thousand shillings or imprisonment for a term not exceeding five years or, to both.			
102	Clause 33 (1)	Kituo cha sheria Refugee leaders in Nakuru County	Restriction of Persons Entering a Designated Area. 33. (1) No person other than a person authorized by the Commissioner, a person employed by the Department, or a refugee shall enter a designated area except with the permission of the Commissioner.	Delete section 33	This section restricts entrance to a designated area by persons other than refugees and those authorized by commissioner. This provision is a hindrance to the local integration of the refugees and host communities.	
103	Clause 33 (1)	LWF WS	Restriction of Persons Entering a Designated Area.	Insert a new subsection (1a) Despite subsection (1) persons working in humanitarian organisations mandated to operate in these areas, shall have unfettered access to a designated area	Possibility of the clause being misinterpreted and consequently hindering essential service delivery and human rights protection for refugees.	
104	Clause 33			Provide regulations Authorized persons in a designated area	The provision is necessary in order to ensure that the civilian and humanitarian	

				character of the designated area is maintained. Clause 2 lists settlements among designated areas. Trade activities are envisioned in such settlements to enhance integration between refugees and host communities		
105	Clause 34 (1)	RCK (Refugee Consortium Kenya)	Integration of refugees into communities 34. (1) The Commissioner shall ensure that there is shared use of common social amenities between the refugees and the host communities.	Amend the section by replacing the words 'social amenities' and replacing therefor with "public institutions, facilities and spaces" as follows: 34. (1) The Commissioner shall ensure that there is shared use of public institutions, facilities and spaces between the refugees and the host communities.	The term social amenities was ambiguous and thus the proposed rephrasing.	
106	Clause 34(1)	Mr. Ekai Nabenyio		Amend the section by inserting the words " sharing of economic and other benefits" immediately after the words " social amenities"	This is to meaningfully integrate refugees into the local communities. This is also in order to clearly show how the host communities will benefit.	
107	CLAUSE 35	DRC RCK (Refugee Consortium Kenya)	35. The Commissioner shall liaise with the national and county governments for the purposes of ensuring that refugee concerns are taken into consideration in the initiation and formulation of sustainable development and environmental plans.	Amend the section as follows: 35 (1) The National Government in liason with the Commissioner shall take into consideration refugee matters in sustainable development and environmental protection planning. (2) County governments in liason	The clause will be improved and by extension enhance socio economic integration. By considering refugee populations in the formulation of development plans	Subclause 2 should be tied to the specific countries hosting refugees.

			with the Commissioner shall take into consideration refugee matters in the development of the County Integrated Development Plans, spatial plans and other plans as mandated by law.	including CIDP, there will be better use of shared resources and amenities envisioned in clause 34 (1).		
108	Clause 36	RCK (Refugee Consortium Kenya)	Affirmative action for women, children and persons with disabilities 36. In the integration of refugees in the host communities, the Commissioner shall, in cooperation with the United Nations High Commissioner for Refugees and the other organizations involved in the assistance of refugees, ensure that special attention is given to women, children and persons with disabilities.	Amend the section as follows: 36. In the integration of refugees in the host communities, the Commissioner shall, in cooperation with the United Nations High Commissioner for Refugees, relevant County Governments and the other organizations involved in the assistance of refugees, ensure that special attention is given to women, children persons with disabilities, older persons and other vulnerable groups .	Proposal to include reference to County governments in light of devolved services and reference to older persons.	
109	Clause 38(2)	RCK (Refugee Consortium Kenya)	Resettlement of refugees residing in Kenya (2) The Commissioner in liaison with the Ministry of Foreign Affairs shall seek for more resettlement quarters in addition to the ones allocated through other agencies.	Amend the section by deleting the word "quarters" and replacing therefor with the word "quotas" as follows: (2) The Commissioner in liaison with the Ministry of Foreign Affairs shall seek for more resettlement quotas in addition to the ones allocated through other agencies.	To correct "quarters" to "quotas"	
110	NEW CLAUSE 39A	RCK (Refugee Consortium)	Confidentiality 39. (1) The Department shall keep and maintain a register of all persons who	Amend the Bill by inserting a new section 40 after the current section 39 and amend the later as	Retain the confidentiality provisions under section 24 of the Refugees Act,	

		Kenya)	have been granted refugee status and persons seeking asylum in Kenya. (2) The Department shall as soon as practicable after the coming into force of this Act update the register to take into account the matters provided for by this Act. (3) The Commissioner shall register and keep records of all asylum seekers and refugees present and the designated areas established in Kenya and for this purpose shall be deemed to be the Registrar of the asylum seekers and refugees provided that he or she may delegate this function in writing to a Settlement officer or refugee officer.	follows as follows: 39A. (1) No member of the Committee, employee or agent of the Department of Refugees shall disclose information acquired under this Act except— (a) in the course of his duties under this Act; or (b) with the consent of the Commissioner. (2) No person who receives information in contravention of sub (1) shall disclose or publish the information. (3) A person who contravenes any provision of this commits an offence and shall on conviction be liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months or both such fine and imprisonment.	2006. The section provides for confidentiality in handling asylum seeker and refugee information. Noting that article 31 Constitution of Kenya 2010 provides for the right to privacy and data protection, it is not clear why the provision was dropped in the Bill.	
111	Clause 40 (1) (c)	RCK (Refugee Consortium Kenya) Mr. Ekai Nabenyio LWF WS	Offences and penalties	Amend the current Section 40(1)(c) as follows: (c) after entering Kenya, fails to report without good reason within the period set out in this Act to a refugee officer or authorised officer to apply for asylum to recognition as a refugee;	Offence applicable if asylum-seeker does not show good reason.	
112	Clause 40 (1) (m)	RCK (Refugee Consortium	Offences and penalties (m) being a refugee, works or is engaged in gainful employment	Amend the section by deleting section 40(1)(m)	Current Section 40 to be renumbered – now 41. In addition, offence is	

	Kenya)	without the payment of tax.		justified if the Government facilitates access to work permits. Otherwise, proposal to delete this provision	
113	Clause 40(3) Garissa County	(3) A person commits an offence of if that person – (a) being a Kenyan citizen, knowingly applies for or obtains recognition, admission or registration as an asylum-seeker or refugee in Kenya; (b) being a refugee, knowingly applies for a Kenyan identity card or passport; or (c) assists another person to commit the offence set out in paragraph (a) or (b), and shall be liable, on conviction, to a fine not exceeding five hundred thousand shillings or imprisonment for a term not exceeding three years, or both	Insert a new subclause(4) (4) this section shall not act retrogressively.	A number of Kenyans who are currently registered as refugees. The committee should inquire from the ministry on the status and progress of re-registration of those affected.	
114	Clause 42 (2) and (3) RCK (Refugee Consortium Kenya)	(2) On the commencement day, all rights, powers and liabilities, whether arising under any written law or otherwise which immediately before such day were vested in, imposed on or enforceable against the former Board and Committee shall be deemed to be vested, imposed or enforceable against the former Board and Committee. (3) Any reference in any written law	Amend the section as follows: (2) On the commencement day, all rights, powers and liabilities, whether arising under any written law or otherwise which immediately before such day were vested in, imposed on or enforceable against the former Refugee Affairs Board and Refugee Affairs Committee shall	The phrasing of the current sections are confusing. We recommend the amendments to address this.	

			or in any document or instrument to the former Board and Committee shall, on and after the commencement day, be construed to be a reference to the former Board and Committee.	be deemed to be vested, imposed or enforceable against the current Department for Refugee Services Refugee Status Appeal Committee and Refugee Advisory Committee. (3) Any reference in any written law or in any document or instrument to the former Refugee Affairs Secretariat, Refugee Appeals Board and Refugee Affairs Committee shall, on and after the commencement day, be construed to be a reference to the current Department for Refugee Services, Refugee Status Appeal Committee and Refugee Advisory Committee.	
115	Clause 42(8)	RCK (Refugee Consortium Kenya)	Transitional provisions (8) The members of the former Appeal Board shall continue in office until the expiry of their existing term and upon the expiry of their existing term, all the assets of the Appeal Board shall be handed over to the Refugee Commissioner for use by the Refugee Status Appeal Committee.	Amend the section as follows: (8) The members of the former Appeal Board shall continue in office until the expiry of their existing term and upon the expiry of their existing term, all the assets of the Appeal Board shall be handed over to the newly appointed Committee Chairperson for use by the Refugee Status Appeal Committee. Rationale for handing over the assets to the Commissioner and not to the next Committee Chair is not clear	
116	Clause 43(1)	RCK (Refugee)	Regulations 43. (1) The Cabinet Secretary shall,	Amend the section as follows: 43. (1) The Cabinet Secretary shall,	Recommend that a time limit to set for the

		Consortium Kenya) UNHCR	make regulations generally for giving effect to this Act, and for prescribing anything required or necessary to be prescribed by or under this Act.	make regulations generally for giving effect to this Act, and for prescribing anything required or necessary to be prescribed by or under this Act within 6 months of the commencement of this Act.	enactment of the regulations for the proper administration of the law.	
117	Clause 43 (2) (k)	RCK (Refugee Consortium Kenya)	Regulations (k) the protection of women, children, unaccompanied minors, persons with disabilities and other vulnerable groups;	Amend the section by including the words 'separated children' as follows: (k) the protection of women, children, unaccompanied minors, separated children , persons with disabilities and other vulnerable groups;	There is a difference between unaccompanied minors and separated children thus the need for their protection.	
118	Section 43(2)(c)			Provision to be moved to after Section 43(2)(l)	The change is proposed to make the section be read better.	
119	Section 43 (2)	Abdulahi Ali 30 Refugee Representatives Garrisa County	Regulations	New paragraphs a) Facilitation of local integration; b) On access to employment and affirmative action for refugees with respect to employment;	There is need for specific regulations on sharing of resources e.g as firewood with local community. Refugees need quotas of jobs and access to similar job opportunities Local integration especially where there is intermarriage between locals and refugees	

New clauses

Confidentiality

- (1) No officer of the Secretariat, employee or agent of the Department of Refugees shall disclose information acquired under this Act except—
- (a) in the course of his duties under this Act; or
- (b) with the consent of the Commissioner.
- (2) No person who receives information in contravention of subsection (1) shall disclose or publish the information.
- (3) A person who contravenes any provision of this section commits an offence and shall on conviction be liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months or both such fine and imprisonment.
- (refugees and asylum seekers are persons at risk owing to the circumstances in their home countries and as such the protection of their data of key importance to their safety and protection)***

Preferential Treatment for Refugees Origination from EAC member states

To give special treatment to refugees from EAC countries and further be exempted from refugee status.

Provisions on land acquisition for setting up refugee holding areas/designated areas

- (1) The Commissioner may, in accordance with the Constitution and any other law, by notice published in the Gazette, designate places or areas on public land to be transit centres or refugee settlements for the purposes of—
- (a) temporarily accommodating persons who have applied for grant of refugee status pending the processing and consideration of their applications by the Committee; and
- (b) local settlement and integration of refugees whose applications for refugee status have been granted.
- (the acquisition of community land should be done in accordance to the laws specifically laws dealing with public participation. This is to enable such decisions be a win for both refugees and local communities)***

Family Re-union

- (1) A recognised refugee may apply to the Status Eligibility Committee for permission for a member of his or her family to enter and reside in Kenya for purposes of reunion.
- (2) Regulations made under this Act shall prescribe the procedure for applying for a family reunion under subsection (1) of this section, taking into account the principle of family unity.

Amnesty International – the are no financial provisions for the established authorities in the Bill as is the practice in other acts of Parliament. The Act should expressly provide for the remuneration of the Commissioner and staff of the Department of Refugee Services that will guarantee functional independence of the Commissioner and the Tribunal

ANNEXURE 5

(Public memoranda on the Bill)



MEMORANDUM ON THE REFUGEES BILL 2019

Introduction

1. Relief, Reconstruction and Development Organization (**RRDO**) is a relief and development organisation that was founded and registered in Kenya in 2008 under the NGO coordination act. The organization was formed by a group of local professionals from Northern Kenya. The sole purpose was to respond effectively to local humanitarian challenges and contribute to development efforts through addressing humanitarian needs in Northern Kenya, especially for the refugee hosting communities.
2. RRDO commends the tabling of The Refugee Bill 2019, since in the recent past: Kenya's commitment to refugee protection has come to a sharp focus. A case in point (*the Government's ordered in February 2019, for the closure of Dadaab refugee camp within six months citing "national security" concerns*). Thus the tabling of The Refugee Bill 2019 is timely having in mind the long title thereof, that seeks to give effect to the 1951 United Nations Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.

Summary of Issues

Administrative Provisions

3. We propose that Clause 6 (b) be amended to replace the Refugee Advisory Committee with a Board (Refugee Advisory Board), whose membership shall largely be drawn from the private sector with representation from key ministries such as Interior and Coordination of National Government, Foreign Affairs, Devolution among others. The Cabinet Secretary in charge of Interior and Coordination of National Government shall appoint the board members, since the Refugee Affairs Secretariat (*RAS*) is currently under the said ministry. The

functions of the Board shall include but not limited to appointing the Commissioner for Refugee Affairs and other senior managers and offering oversight.

4. Clause 7(1) establishes a **Department of Refugee Services (DRS)** as an office in the public service. We propose that the DRS, should be an autonomous entity with powers to make decisions on determination of refugee status as regards to documentation and protection to safeguard the delicate balance of institutional decision independence.
5. Clause 10(c) provides the function of the RAC to "*make a recommendation for declaration and revocation of prima facie status*". We propose that the Clause be amended to retain the advisory role to the cabinet Secretary and not to make recommendations as to prima facie determination.
6. Clause 11(1) provides for the establishment of the **Refugee Status Appeals Committee**. We propose that be replaced with the **Refugee Status Appeals Tribunal** thus equally affecting Clause 6 (c). We are of the view that to entrench independence, having a tribunal in place under the supervision of the High Court, will go a long way to exercise judicial or quasi-judicial functions and supplement the ordinary courts in the administration of justice. Appeals wherefrom, should terminate at the High Court unless there exists extraneous factors to warrant a second appeal and third appeal.
7. Clause 11(2) provides for the composition of the RSAC, to which we raise concerns about. While the intention of the Bill is to have the Appeals Committee independent, the bill in its current form and design of the Appeals Committee grossly defeats this intention.
8. To ensure independence of the proposed Tribunal, we propose the chairperson be a person nominated from legal practitioners of seven (7) years standing as an Advocate of the High Court of Kenya in the private practice, to be appointed by the Cabinet Secretary in charge, who shall also possess experience in refugee affairs. In addition, we propose, four other members possessing knowledge and experience in refugee affairs and who are not in employment of the Government.

Expulsion

9. Clause 19 speaks to expulsion of refugees or members of their families. We propose that this be a reserve of the proposed Refugee Advisory Board to be established under Clause 9 as opposed to the Cabinet Secretary as envisaged in Clause 19 (1)

Delegated Authority

10. Part IX of the Bill empowers the Cabinet Secretary to come up with regulations generally to give effect to the Act. It is our view that the same should not be whimsical and as such the regulations must be tabled before Parliament before the same can take effect.

Freedom of Movement

11. We believe that any proposed limitation to this right must meet the criteria laid down under Article 24 of the Constitution; it must be clearly and concisely provided in law; **it must be necessary and proportionate in an open and democratic society and must pursue a legitimate aim.**

12. We note that there is urgent need to align the bill with court rulings on the aspect of freedom of movement of refugees. Clause 31 proposes the requirement to reside in a designated area made by the Commissioner. Clause 31(2) creates an offence of failing to reside in a designated area. Further, Article 31(1) provides that every person has the right to freedom of movement. Article 39 of the Constitution ought to be read together with Article 26 of the 1951 Refugee Convention in order to give effect the rights of refugees. Article 26 provides thus; “ Each contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory subject to any regulations applicable to aliens generally in the same circumstances. (Emphasis Ours)”

13. Article 39 of the Constitution makes a clear distinction between a person and a citizen. Freedom of movement under the Constitution relates to everyone, but the right to enter, remain and reside anywhere in Kenya is accorded only to citizens hence the State may impose reasonable condition upon the right to enter, remain in and reside anywhere in Kenya upon non-citizens. As such, refugees should be

allowed to settle freely in any part of the country save in special circumstances and only those with special needs or in need of essential services should be in camps.

Conclusion

14. In conclusion, we appreciate the initiative and spirit in ensuring that the general populace is involved in this noble cause to express their views and opinions on this Bill. We hope that the issues raised will be subjected to careful scrutiny and consideration.

Presented by



Ahmed M Abdi
Executive Director,
RRDO.



**MEMORANDUM ON REFUGEES BILL 2019 PRESENTED TO THE DEPARTMENTAL
COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY.**

17TH October 2019

Amnesty International welcomes the Refugees Bill 2019 to which we are pleased to submit this memorandum. We appreciate that the principal object of the Bill is to provide for the recognition, protection and management of refugees to give effect to the 1951 United Nations Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.

Amnesty International further appreciates the Government of Kenya on the generosity of hosting refugees and asylum seekers for more than 20 years within the country. We equally appreciate that the Government of Kenya has sponsored a Bill to review the legal framework for refugees. Amnesty International published in May 2016 the first Refugees Welcome Index¹, based on a global survey of more than 27,000 people from 27 countries conducted by the internationally renowned GlobeScan. The survey found that 65% of Kenyans would welcome people escaping war and persecution in Kenya.² 62% of Kenyans wanted the Kenyan government to do more to help refugees. 72% of Kenyans would personally accept people fleeing from war or persecution into their household, neighborhood, their city/town/village and Kenya. Amnesty believes that the Refugees Bill 2019 should be developed and enacted hand in hand with the aspirations of Kenyans to protect and welcome refugees.

In February 2019, the Government of Kenya ordered for the closure of Dadaab refugee camp within six months citing "national security" concerns. Amnesty International is deeply concerned by the constant threat of closure that Dadaab refugee camp faces and the disproportionate targeting of Somali asylum seekers in counter-terrorism response.

Amnesty International urges the National Assembly Departmental Committee on Administration and National Security to further develop the Refugees Bill 2019 to conform

¹ Refugees Welcome Survey 2016, Views of Citizens Across 27 Countries, May 2016 available at <https://www.amnesty.org/en/latest/news/2016/05/refugees-welcome-survey-results-2016/> (accessed 16 October 2019)

² In Kenya, the survey was conducted in seven out of the eight former administrative provinces targeting 45 per cent of the adult population in urban and mixed settlements. The survey sample included urban populations in 30 counties representing 64 percent of all counties. The counties in the sample were Bungoma, Busia, Kilifi, Kirinyaga, Kisii, Kisumu, Kitui, Kwale, Laikipia, Machakos, Marsabit, Meru, Migori, Mombasa, Nairobi, Nakuru, Narok, Nyamira, Nyandarua, Nyeri, Siaya, Trans Nzoia, Turkana, Uasin Gishu and Vihiga



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with Kenya's international obligations and protect fundamental rights and freedoms as envisioned in the Constitution of Kenya.

SUBSTANTIVE COMMENTS ON THE REFUGEES BILL 2019

While Amnesty is in support of and has signed the joint memorandum from non-governmental organizations working in the refugee sector and further to the schedule of amendments attached, Amnesty International emphasizes on the following Clauses.

PRELIMINARY

Clause 4(1)(a) provides for the **Exclusion and disqualification from refugee status** where it proposes exclusion and disqualification on commission of a crime against peace, a war crime or a crime against humanity as defined in the International Crimes Act. We propose that reference of the International Crimes Act does not adequately cover other similar crimes not provided under the said Act but covered in the Geneva Conventions hence we propose the definition be expanded to any international instrument to which Kenya has ratified.

ADMINISTRATIVE INSTITUTIONS.

Clause 7(2)(c) provides for the functions of the **Department of Refugee Services**, where it provides that *"to handle all operational aspects of protection and assistance of refugees"*. We propose that the clause be amended to include asylum seekers given the recommendation to remove asylum seekers from the definition of refugees. This recommendation also applies to the functions of the Commissioner for Refugee Affairs to include asylum seekers and refugees separately.

Clause 8(2) provides for the functions of the **Commissioner for Refugee Affairs**, Clause 8(2)(u) provides that the *"co-ordination of all services and activities provided to refugees and asylum seekers by implementing agencies"*. We propose that the Commissioner for Refugees co-operate with County Governments for services that have been devolved to counties as per the Fourth Schedule of the Constitution of Kenya. Some of the services sought by refugees and asylum seekers are provided by counties and as such we propose that the Clause be amended to require the Commissioner, where applicable, to coordinate with county governments.

Clause 9(1) provides for the **Refugee Advisory Committee** and provides for the composition of the advisory committee. We propose an amendment to Clause 9(1) to have the Principal Secretary from the Ministry responsible for refugee affairs chair the Committee while the Commissioner provides secretariat services to the Committee. We propose that the Commissioner cannot stand in as chair and provide secretarial services to the Committee at the same time.



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We also propose a general amendment to Clause 9(1) to require that the designation of representatives from the members of the Committee be communicated in writing to ensure that officers representing are held accountable.

Clause 9(2) provides co-opting of persons to attend and advise the RAC in the performance of its functions. We strongly propose an amendment to the composition of the committee to include representation from each of the designated counties and equally a member from the civil society as it was the case in the Refugee Act of 2006.

Clause 10(c) provides the function of the RAC to "*make a recommendation for declaration and revocation of prima facie status*". We propose that the Clause be amended to retain the advisory role to the Cabinet Secretary and not make recommendations as to the prima facie determination.

Clause 11(1) provides for the establishment of the **Refugee Status Appeals Committee**. Clause 11(2) provides for the composition of the RSAC which Amnesty presents very deep concerns about. While the intention of the Bill is to have the Appeals Committee independent, the current architect and design of the Appeals Committee grossly defeats this intention.

Amnesty believes that this Bill should replace the Refugee Status Appeals Committee with a Refugee Status Appeals Tribunal. Tribunals in Kenya are bodies established by Acts of Parliament to exercise judicial or quasi-judicial functions and supplement the ordinary courts in the administration of justice. Tribunals are equally subject to the supervision of the High Court.

To ensure independence of the proposed Tribunal, we propose the chairperson be a person nominated by the Judicial Service Commission and appointed by the Cabinet Secretary, who shall be a person qualified for appointment as a judge of the High Court of Kenya who shall possess experience in refugee affairs. In addition, we propose, four other members possessing knowledge and experience in refugee affairs and who are not in employment of the Government, Commissioner for Refugees or the Department to join the Tribunal.

We call upon the Departmental Committee to look at the establishment and composition of other Tribunals established by other Acts of Parliament such as the Transport Licensing Appeals Board, Communication and Multimedia Appeals Tribunal, State Corporations Appeals Tribunal among others as a matter of practice.

Amnesty is greatly concerned about the omission of financial provisions for the established authorities in the Bill, the practice in other Acts of Parliament is that an Act expressly provides for the remuneration of the Commissioner and staff of the Department of Refugee Services and members of the Tribunal. We hence propose an amendment to provide that the financial provisions be included in the Bill. This guarantees the financial and functional independence of the Commissioner and the proposed Tribunal.

The omission of this key component of funding and staffing of the institutions proposed to be created is very detrimental to the implementation of the Act. The lack of this provisions



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hence means that it is vague as to how the institutions so established by the Act will get draw funds and how these funds are accounted for.

REFUGEE STATUS

Amnesty is also concerned by the vague wording of Clause 19 which deals with the expulsion of refugees or members of their family. We are deeply concerned by the vague and ambiguous terminologies used in the phrases '*national security*' '*public order*' and '*public morality*'. These terms if left undefined give the Cabinet Secretary wide discretion to apply them arbitrarily putting refugees and asylum seekers at risk. The blanket exclusion based on public order, public morality and national security will be prone to abuse by the State if left in the ambiguous wording it has currently. This ambiguity does not satisfy the principle of legality.

Article 238(2) of the Constitution requires that **national security shall be pursued in compliance with the law and with the utmost respect for the rule of law, democracy, human rights and fundamental freedoms**. Amnesty strongly recommends that this threshold be used guide the Cabinet Secretary.

Clause 19(3) requires the Cabinet Secretary to act in accordance with due process of the law before ordering the for the expulsion of any refugee. Amnesty is deeply concerned by the ambiguity of this '*due process of law*' as it is not clear what threshold will be used to determine due process of the law. This is further aggravated by the fact that the Cabinet Secretary will gazette regulations to provide for the procedure of expulsion of refugees. This therefore connotes that the Cabinet Secretary has been given leeway to decide the process the Ministry will use for expulsion.

RIGHTS AND OBLIGATIONS OF REFUGEES

We propose an amendment to Clause 28 which provides for the rights and obligations of refugees; we propose the inclusion of asylum seekers in these rights and obligations. In its current framing, the Clause does not expressly provide for benefits for holders of refugee documents. We therefore recommend that every refugee has the right to identification and civil registration documents and travel documents. We also propose the amendment to include the right to access education, healthcare as well as economic inclusion.

For Asylum seekers, we propose Clause 28 be amended to provide for the right to identification and civil registration of asylum seekers to enable them access essential services and social protection.

FREEDOM OF MOVEMENT

Amnesty notes that there is need to align the Bill with court rulings on the aspect of freedom of movement of refugees. Clause 31 proposes the requirement to reside in a designated area made by the Commissioner. Clause 31(2) creates an offence of failing to



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reside in a designated area. Article 31(1) provides that every person has the right to freedom of movement. Article 39 of the Constitution ought to be read together with Article 26 of the 1951 Refugee Convention in order to give effect the rights of refugees. Article 26 provides thus; "Each contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory subject to any regulations applicable to aliens generally in the same circumstances.

Article 39 of the Constitution makes a clear distinction between a person and a citizen. Freedom of movement under the Constitution relates to everyone, but the right to enter, remain and reside anywhere in Kenya is accorded only to citizens hence the State may impose reasonable condition upon the right to enter, remain in and reside anywhere in Kenya upon non-citizens. Amnesty draws two conclusions from Article 39 of the Constitution. First, although the right under Article 39(3) is limited to citizens, it does not expressly limit the right of refugees to move within Kenya guaranteed under Article 39(1). Second, it does not expressly recognize the right of refugees to reside anywhere Kenya but more important the Constitution does not prohibit refugees from residing anywhere in Kenya.

We believe that any proposed limitation to this right must meet the criteria laid down under Article 24 of the Constitution; **it must be clearly and concisely provided in law; I must be necessary and proportionate in an open and democratic society and it must pursue a legitimate aim.**

CONFIDENTIALITY AND DATA PROTECTION

Amnesty is deeply concerned that this Bill has dropped the confidentiality clause as was the case in Refugees Act 2006. Article 31 of the Constitution provides that every person has the right to privacy, which includes refugees. We propose that a Clause be inserted to provide for confidentiality and data protection.

Refugees and asylum seekers are persons at risk owing to the circumstances in their home countries and as such the protection of their data is of key importance to their safety and protection.

Amnesty proposes that the confidentiality and data protection clauses adhere to the internationally accepted principles of data protection. We further propose, in light of the Data Protection Bill, that the data collected, processed and stored by operation of this Act be in accordance with the provisions of the Kenyan data protection law. As to the penalties, we propose that the penalties in the data protection law in force be applied in the Act. The penalties in the Refugees Act 2006 are very minimal and do not serve the deterrent purpose for data breaches and hence we propose that the same is not replicated for the Refugees Act 2019.

End



THE
LUTHERAN
WORLD
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Department
for World Service

member of OIC Alliance

www.lwf-kenya.org

② CAZEMBA
Please deal
FA
23/10/19

① Director,
27/10/19

REF: LWF/NAI/REP/040-2019

18th October 2019

Michael R. Sialai EBS,
Clerk of the National Assembly
P. O. Box 41842-00100
NAIROBI

Dear Sir,

RE: SUBMISSION ON REFUGEE BILL 2019

The Lutheran World Federation (LWF) appreciates the opportunity to submit our comments to engage with the Refugee Bill public consultation process (Kenya National Assembly No 62 of 2019).

The LWF is a global communion of 144 churches in the Lutheran tradition, founded in 1947 and representing over 72 million Christians in 79 countries. The LWF Kenya, Djibouti, Somalia Program is a country program of the LWF Department of World Service (WS) that has been working with refugees, asylum seekers and host communities in Kenya since 1975. The Program is an UNHCR implementing partner both in Kakuma and Dadaab Refugee camps and Kalobeyei Integrated settlement and the host communities surrounding these areas, working in the areas of provision of primary education, special needs education and early childhood development; reception centre services and child protection; youth protection and development; peacebuilding, community services and mobilization; and livelihoods interventions.

This legislative formulation process is of great import to LWF and we are willing to continue engaging in the dialogue to give more feedback as and when called upon.

Sincerely,

Saara Vuorensola-Barnes
Country Representative
Lutheran World Federation – Kenya-Djibouti-Somalia

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THE
LUTHERAN
WORLD
FEDERATION

actalliance

**SUBMISSION ON THE REFUGEE BILL
(NATIONAL ASSEMBLY NO 62 OF 2019)**

TO:

**THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND
NATIONAL SECURITY,
REPUBLIC OF KENYA,
NATIONAL ASSEMBLY**

BY:

**THE LUTHERAN WORLD FEDERATION (LWF) WORLD SERVICE:
KENYA DJIBOUTI SOMALI PROGRAM**

OCTOBER 18, 2019

Contact Person:

Saara Vuorensola- Barnes

Country Representative

LWF World Service Kenya Djibouti Somalia

Email: saara.vuorensola.barnes@lutheranworld.org

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The Lutheran World Federation World Service (LWF WS): Kenya

Djibouti Somali Program Submission on the Refugee Bill 2019

The Lutheran World Federation (LWF) is a global communion of 144 churches in the Lutheran tradition representing over 72 million Christians in 79 countries. The organisation was founded in 1947 to promote the collaboration among the Lutheran churches globally and to assist refugees and displaced people globally. LWF has a consultative status with ECOSOS since 1952 and is actively engaged with the United Nations' Universal Periodic Review mechanism.

LWF Kenya, Djibouti, Somalia Program is a country program of the LWF Department of World Service (WS) that has been working with refugees, asylum seekers and internally displaced persons (IDPs) since the 1975. The Programs' work is motivated by hope and resilience of the people we serve and seeing them improve their quality of life through meeting their basic needs, achieving their full potential in an environment that supports justice, peace, dignity, respect for diversity and the ability to claim for their universal human rights. In Kenya, LWF works as an UNHCR implementing partner both in Kakuma camps and Kalobeyei Integrated settlement and Dadaab camps working with refugees and host communities in the areas of provision of primary education, special needs education and early childhood development; reception center services and child protection; youth protection and development; community services and community mobilization; and livelihoods interventions.

The Refugee Bill 2019

The LWF considers national refugee legislation such as this one, as a significant framework for enabling the full enjoyment of human rights and freedoms not only refugees and asylum seekers but for the host community as well. In this regard, LWF recognizes the efforts the Government of Kenya is making towards the promotion and protection of rights and freedoms of refugees and asylum seekers through the establishment of a progressive refugee legal regime.

LWF recognizes some significantly progressive provision within this Refugee Bill 2019 aimed at the actualization of various relevant national, regional and international laws; the Comprehensive Refugee Response Framework (CRRF) as well as other relevant regional Declarations.

Noteworthy, the Bill proposes refugees to live in designated areas and places within specific counties, a positive change from the existing restrictive encampment policy model to a more dignified refugee settlement concept. The Bill also proposes a local integration model, which promotes expanded rights and freedoms enjoyment for refugees and asylum seekers while enabling them to live a dignified life, one of LWFs key values. This is a great effort to operationalize the Kampala and Djibouti declarations. Importantly also is the explicit provision for the inclusion and protection of the basic needs and rights of women, children and persons with disabilities (PWDs).

In order to enrich the proposed Bill once enacted into law, LWF would like to comment on a number of clauses within the bill, to be considered for review.

Clause	Comment	Recommendation
2: Interpretation	The inclusion of prisons, police stations and remand homes could be problematic and should only be consider if they are qualified as or for protection purpose. For instance, during a situation of Post Election Violence or related internal upheavals, where refugee and asylum seekers can seek refugee from the mentioned facilities. The same for Police stations, refugees should not share the same space with people caught by the police who are awaiting to resolve their legal situation because presumable have committed a crime.	<i>“Transit center” means areas designated by the Cabinet Secretary for the purpose of temporary, a period not exceeding 1 week, accommodation for persons covered under this Act for <u>protection reasons</u> pending transfer to..... such an arrangement should ensure that the asylum seekers or refugees are accommodated separately from persons who are in those facilities pending a judicial decision or are serving time.</i>
8 (1) Administrative provision	The functions of the Commissioner are concentrated on management and operational matters for refugees, and less on ensuring the fulfilment of the rights of the refugees.	Under section 8 (1) (e) add after protection <i>“paying special attention to the promotion, protection and fulfillment of all their rights and fundamental freedoms...in adherence to the relevant international, regional and national legal frameworks.</i>
8. (2) (j) Functions of the Commissioner for Refugee Affairs.	Sub clause 2 (j) proposes that the Commissioner for Refugee Affairs would in liaison with the police, make arrests.	The Commissioner should refer the case to the police or the Attorney General and they should conduct the arrest and proceed with the investigation.

8. (2) (q) Functions of the Commissioner for Refugee Affairs.		Add at the end of the paragraph: “... and pertinent international law”.
9 (1) Refugee Advisory Committee.	Promoting proactively refugees’ human rights should form a key component of the function of this Committee.	Consider inclusion to RAC membership the following: - Kenya National commission on Human Rights - National Gender and Equality Commission (NGEC) - The Ministry in charge of labor - Ministry in charge of social protection (children, women, youth, persons with disability)
10: Functions of RAC	The functions are heavy on management	Consider including: “Overall advising on the development of favorable and enabling policy, legal and institutional that would promote, protect and fulfil human rights and freedoms for refugees and asylum seekers”
12. (4) Application for Refugee Status.	There should be provision for legal aid for a refugee who does not afford yet requires legal support. This should also be the case of minors – separated or child headed families.	Add: “The department should liaise with the State Legal Aid System to provide representation for the refugee”
13 (3);		Consider use of the word Shall in place of May so as not to leave coopting of UNHCR or other agencies at the discretion of the eligibility panel through the Commissioner
14. (3) and (4) Appeals	At the end of each of these paragraphs says: “... in accordance with written law on immigration”.	Add at the end of the provisions: “... in accordance with written law on immigration and always under humanitarian consideration to their human dignity”.
16. Medical screening	The medical screening should not be used only for the purpose of <i>detecting and containing the spread of contagious diseases</i>	Include: ‘.... but also should be done to see if the refugees need immediate medical support or initiate a treatment’
17. (6) and 18. (4) Cancellation or Revocation of refugee status	In these clauses, it is stated that those family members whose derivative status is affected by the decision of cancellation of refugee status of the	Consider rephrasing to ensure that the cancellation of refugee status of a person as provided for under clause 17 should not affect any member of his/her family

	main applicant can apply to be considered as a refugee under Section 12, which means to start the process all over again. In the case of minors this could be problematic since they are always represented by the parent or representative, and in some cases could be problematic for women whose testimony or participation in the process might not be active and was not taken into account in it. In some cases, the main applicant is the man (for different reasons but there is a gender construction there too) so usually men are heard and have their version of the facts and the process is seen through the eyes of the man only.	with derivative status. Each member of the family should be treated individually after registration without losing the family unity in the process.
26. (d) Duty of Reception Officers	There is need to provide for an engendered approach to service provision	There must be a provision that states that male and female Reception Officers should be available so the refugee has the option to choose who to talk to.
28 (2): Rights of and obligations of refugees	The use of the word “ may ” provides a loophole for misinterpretation	Use the word SHALL
28 (2):	While this sounds great there is a possibility of restrictiveness as is suggested in section 8 where refugees require a movement pass to move within designated areas.	To align to the commitments made within the Kampala Declaration on jobs, livelihoods, and self-reliance for refugees, returnees and host community <i>“The government shall develop policy and legislative frameworks to enable access to jobs, livelihoods and self-reliance options that includes expanded access to labor markets as well as freedom of movement”</i>
29: Non-refoulement	The approximately 13,000 undocumented refugee/asylum seekers who returned from Somali to Dadaab refers	Add a provision that recognises that such refugees are a special category and should access all required services. <i>....“A refugee who voluntarily avails himself or herself to return to his/her country of origin, but upon return to his/her country of origin encounters that</i>

		<i>the environment that circumstances in the country of origin have not changed or other factors create an unconducive environment requiring her/him to seek asylum again, should be granted asylum with all basic services guaranteed”</i>
31. Requirement to reside in a designated area	In line with Kenya’s effort to have a more socio-economic model of refugee governance, controlled designated areas might hinder realization of that ambition. Further, it could be problematic for refugees in urban settings if a Designated Area is not in an urban area.	The law to make provisions and exception for refugees residing in urban areas.
33. Restriction of Persons Entering a Designated Area	There is a possibility of this clause being misinterpreted and consequently hindering essential service delivery and human rights protection for the refugees and asylum seekers. organizations mandated to operate in these areas.	It should be clarified that access to these designated areas is lifted for humanitarian organizations mandated to operate in these areas. As well it should be clarified that national/constitutional human rights organizations shall be granted unfettered access to these areas.
40. (1) (C) Offences and penalties		We would like to suggest to add to the paragraph a phrase that says: “after entering Kenya, fails to report ... <i>without justifiable cause...</i> ”.
40. (1) (m) Offences and penalties.		Consider providing for exceptions for refugees in Kenya at least for certain period of time.
General comment: For instance, in Clause 9. (2) and 11. (2) (e).	There Bill barely provides for refugees participation in the different instances and processes created in the proposed law to supervise the enactment of the Refugee Bill.	Add in clauses such as 9. (2) and 11. (2) (e). <i>“The government shall promote the participation of refugees, asylum seekers and host community in all decision making processes governing the refugee protection at all levels in Kenya and internationally”</i>

② CAZOMBA
Please check
FA 23/10/19

**MEMORADUM TO THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON
ADMINISTRATION AND NATIONAL SECURITY IN RELATION TO THE REFUGEES BILL,
(NATIONAL ASSEMBLY BILL NO. 62 OF 2019)**

① Dec-11-001
8-23/10/19

A. INTRODUCTION

We, the drafters of this memorandum, commend the National Assembly's efforts in drafting and legislating on this Refugees Bill No. 62 of 2019 aimed at streamlining the management of the institution of asylum and improve the welfare and treatment of refugees and asylum seekers in Kenya while conforming to international standards as set out in the different treaties that Kenya has ratified such as the Convention on the Status of Refugees, 1951.

This memorandum, drafted by refugee and forced migration law practitioners Francis Njoroge and Allan Mukuki of Strathmore Law School as well as the East African Centre for Forced Migration & Displacement is jointly submitted to the Clerk of the National Assembly pursuant to Article 118 (1) (b) of the Constitution of Kenya 2010 as read together with National Assembly Standing Order 127 (3). It noted our common concerns regarding the draft provisions and summarizes our recommendation to the National Assembly with a focus on the Constitution of Kenya, 2010 and Kenya's obligations under international law as a result of all treaties Kenya has ratified in relation to the reception, treatment and management of refugees and asylum seekers more so under the 1951 Convention on the Status of Refugees

I. Definition of "members of family of a refugee" (S. 2)

"members of family of a refugee", in relation to a refugee means — (a) any spouse of the refugee; (b) any child of the refugee, including an adopted child under the age of eighteen; (c) a person who is related to the refugee by blood or marriage and who is dependent upon the refugee; and (d) any other dependent living in the same household as the refugee and who is dependent on the refugee.

The drafters note that members of the refugee's family have been defined to include the spouse as well as adopted children and any other dependents living in the same household, the definition excludes destitute, aged or infirm members of the asylum seeker or of the refugee who may not be living in the same household but are fully depended on the asylum seeker or refugee.

Recommendation 1: Amend the definition of the phrase "members of family of a refugee" to include "destitute, aged or infirm members of the family of the asylum seeker or refugee"



II. Definition of the phrase “refugee”

Section 3 (1) (a) defines a refugee as-

A person shall be a refugee for the purposes of this Act if such person — being outside of his or her country of nationality and owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion **who is in Kenya** and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of his or country of nationality or the country of habitual residence

While a cursory glance of the definition of the definition of a refugee seems aligned with the internationally accepted definition in the Refugees Convention, the inclusion of the words “**who is in Kenya**” immediately after the phrase “political opinion”, operates to restrict the scope of who is a refugee by applying a narrow definition than that contained in Article 1 A (2) of the 1951 Refugee Convention. The latter, to which Kenya has bound itself to provide that:-

...the term “refugee” shall apply to any person who: ...owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, **is outside the country of his nationality** and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country...

In our opinion, the insertion of the phrase “who is in Kenya” operates to restrict the definition of a refugee, a well settled concept and excludes persons with a well-founded fear of persecution based on any of the convention grounds and are at the frontier or seeking asylum at any Kenyan mission.

Recommendation 2: We recommend that the definition of the phrase “refugee” in both Sections 3 (1) (a) & (b) be revised to reflect a verbatim the definition contained in Article 1A (2) of the 1951 Convention on the Status of Refugees.

III. Exclusion from being considered for refugee status on the basis of “seeking asylum in another country”. S. 4(1) (d)

Section 4(1) (d) of the draft bill seeks to exclude and disqualify persons who have previously sought asylum in another country by providing that

4. (1) A person shall be excluded from being considered for refugee status if there exists serious reason to believe that the person —
- (d) has sought asylum in another country.

The drafters of this memorandum, reiterating the UNHCR Standing Committee notes on exclusion clauses note that international refugee instruments governs refugee law lay out criteria for the recognition of refugees. They also establish criteria by which individuals may be excluded from international protection. The term "exclusion clauses" therefore refers to legal provisions designed to achieve this effect.

We note that under Article 1 F of the 1951 Refugees Convention "the idea of an individual "not deserving" protection as a refugee is related to the intrinsic links between ideas of humanity, equity, and the concept of refuge. The primary purposes of these exclusion clauses are to deprive the perpetrators of heinous acts and serious common crimes, of such protection, and to safeguard the receiving country from criminals who present a danger to that country's security."

It is our considered opinion that exclusion clauses are carefully [*and restrictively*] enumerated in the 1951 Convention, and describe those [*only permitted*] situations in which persons who fulfil the positive requirements of recognition as refugees are nonetheless constrained from being recognized as such. Use of these exclusion clauses is, therefore, an extreme measure of last resort. Exclusion clauses as enumerated under Section 4 of the Bill must be interpreted within narrow limits and in a manner which does not undermine the integrity of international protection.¹

In our view, seeking asylum in another country does not operate to exclude the Applicant from being considered a refugee if he or she has met the criteria set out under international law.

Recommendation 3: Section 4(1) (d) of the Bill ought to be deleted.

IV. Membership and functions of the Refugee Advisory Committee (S. 9)

Section 9 of the Bill provides for the establishment of a Refugee Advisory Committee. S. 9(1) provides for 11 permanent members while subsection 2 empowers the committee to co-opt any other member on an advisory capacity. While laudable, a cursory look at the functions of the committee as provided under Section 10 as:-

¹ UN High Commissioner for Refugees (UNHCR), *Background Paper on the Article 1 F Exclusion Clauses*, June 1998, available at: <https://www.refworld.org/docid/4410337f4.html> [accessed 17 October 2019]

“(a) advise the Cabinet secretary on formulation of national policies on matters relating to refugees in accordance with international standards; (b) **advise** the Cabinet Secretary **on matters relating to refugees**; (c) make a recommendation for declaration and revocation of prima facie status; and (d) ensure in liaison with other government authorities that adequate and appropriate facilities and services are provided for the reception and care of refugees during emergency situation.’

It is notable that the main function of the committee is the formulation of refugee policies as well as matters involving the application of Kenya’s obligations under international refugee law such as cessation, revocation and declaration of refugee status. However, save for the Attorney General under S. 9(1) (h) and the chairperson, all other nine members of the committee are more likely to have limited or no knowledge of international refugee law and therefore lack the expertise of such a specialized field to undertake their core functions (the application of international refugee law). Further, the quorum of 5 members excluding the co-opted members as provided under S. 9(3) creates a real risk of misapplication of refugee law and policies occasioning serious injury to refugees and asylum seekers’ rights

Recommendation 4: we recommend that the membership of the Refugee Affairs Committee be amended to include professionals with experience and knowledge of international refugee law as main members of the committee.

V. Refugee Status Determination Officers exercising delegated authority under S.12 (6)

Section 12 (6) of the Bill empowers the Commissioner of Refugees to delegate powers to conduct interviews and determine applications for refugee status to his or her own staff.

(6) The Commissioner may delegate the function of conducting interviews to his or her staff within the Department who shall, upon finalization of the interview, forward the interview files to the Status Eligibility Panel for further review.

While the delegation of such authority is key to the functioning of the asylum process, it is our considered view that such delegation may only be done to refugee status determination officers who are clearly identified and whose offices are established by the Bill. Delegation of such powers to any staff within the department may occasion the risk of misapplication of refugee law and denying the right to asylum to persons with a well-founded fear of persecution and deserving of international protection.

Recommendation 5: We recommend that S.12 (6) be amended to provide that such delegation may only be done to such officers who have qualifications, experience and knowledge of refugee matters as makes them capable of performing their functions.

VI. Expulsion on the grounds of public order or public morality S. 19(2)

Section 19 of the Bill empowers the Cabinet Secretary to expel any refugee or members of his or her family on the grounds of “public order or public morality” irrespective of whether such conduct is linked to his or her refugee claim.

However, the provision, as currently worded is too vague and grants the cabinet secretary broad powers to determine what actions warrants expulsion. Further, the provision does not provide for any due process rights for refugees and their family members before being expelled on grounds of national security or public order. Due to the country’s history on enforced disappearance, it would be prudent to ensure that there are mechanism to produce a person considered a danger to national security or public order before a court of law. This would prevent abuse of this discretionary powers and ensure that families of the refugee are notified before adverse action are taken action such a person.

Section 29 (2) of the Bill goes against the letter and the spirit of Article 25 and 51 of the Constitution of Kenya, 2010 as it fails to protect the constitutional rights of presumption of innocence until the contrary is proved. This is a violation of Article 25, which guarantees that a right to a fair trial cannot be limited. Section 29 (2) of the Bill exempts such persons from enjoying the right under principle of non-refoulment as follows:

“The benefit of the subsection 1 may not, however, be claimed by a refugee or asylum seeker whom there are reasonable grounds for him or her being regarded as a danger to the national security or public order of Kenya.”

Recommendation 6: We recommend that Section 19 and Section 29 (2) of the Bill be revised to include procedural and administrative safeguards enshrined in the Bill of rights prior to any expulsion. Further, we recommend that any criminal act committed by the refugee or any member of his family be subjected to the criminal procedure of Kenya and not be grounds for arbitrary expulsion.

We commend the Bill as we note the Bill gives effect to the Constitution of Kenya, 2019 especially Article 47 which gives any person affected by the decision of a public office or body right to a fair hearing and also right of appeal which is provided under the Fair Administrative Action Act, 2015. The Bill in sections 14, 16, 22 and 23.

MEMORANDUM OF OBJECTS AND REASON

The Bill, under section 43, delegates power to the Cabinet Secretary to make regulations. The Bill also seeks to limit rights and fundamental freedom of asylum seekers and refugees. The provision should be amended to reflect that position.

The Bill affects County Governments as follows:

- Refugees directly needs services offered by county governments including health, cultural activities and sports, trade development and regulations , transport, planning and development, pre-primary education and village polytechnics among others stipulated under Fourth Schedule of the Constitution.
- The Bill also requires the involvement of County Governments in different areas including conservation of the environment as highlighted in sections 28 (2), 30, 34 (3) and 35. It is also prudent to notice that one person representing the Council of Governors shall be appointed in the Refugee Advisory Committee under section 9 of the Bill.

Therefore, the Bill should be considered as one to be concerning County Governments under Article 110 of the Constitution of Kenya, 2010. This should include the involvement of the Senate.

The institutions the Bill seeks to create already exists in the Refugee Act No. 13 of 2006. It is therefore unclear how the implementation of this Bill will incur additional expenditure.

CONCLUSION

This Bill is a progressive step towards attaining the values and principles as stated under Article 10 of the Constitution of Kenya, 2010. It is important that the National Assembly reflects on the Bill and consider it a Bill that affects county Governments. It is also notable that County Governments are best placed to address the grievances of the host community and address conflicts that may address due to refugee hosting such

as Environment and Land. The Bill is forward looking and we hope that the National Assembly may consider our recommendation.

The drafters of this Memorandum remain committed to support and advice the National Assembly on modalities of incorporating these recommendations and may be contacted via

Francis Njoroge at 0715682617 or francis.wanjiku@strathmore.edu.

Or

Allan Mukuki : amukuki@strathmore.edu

Or

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② CAZEMBA
Please def
FA
23/10/19

① Director
8/2/19

EQUITY BANK (KENYA) LIMITED

**MEMORANDUM ON THE DRAFT REFUGEE BILL 2019 (NATIONAL ASSEMBLY
BILL NO. 62 OF 2019)**

This memorandum is submitted in response to the invitation for comments from the National Assembly.

General Recommendations

1. PART V- Rights And Duties If Refugees And Asylum Seekers In Kenya: - explicit reference of certain rights of refugees such as allocation of funds for financial literacy and entrepreneurship to strengthen the status of the Refugees in the society and grow the Kenyan economy.
2. Powers of the Commissioner: the Commissioner to issue exemption to refugee in obtaining certain documentation from government agencies such as Kenya Revenue Authority.

Refugee Bill 2019 (National Assembly Bill No. 62 of 2019)

Provision	Comments
<u>PART II- ADMINISTRATIVE PROVISIONS</u> <u>Section 8 (2) (d) the function of the commissioner shall be to:-</u> <u>Issue Refugee Identification Documents and facilitate issuance of civil registration and other relevant documentation by other government agencies.</u>	To enable the refugee access certain government services pursuant to the Constitution under Article 6 which provides that that a person has a right to access government services. This right would require the refugee to have a Personal Identification Number to access certain services such as incorporating a business or opening an account. We propose the commissioner is given powers to issue an exemption to refugees in obtaining a document from other government agencies e.g. Kenya Revenue Authority or explicitly assure the Refugee in obtaining Personal Identification Numbers to refugees among other relevant documentation from other government agencies.
<u>PART V- RIGHTS AND DUTIES IF REFUGEES AND ASYKUM SEEKERS IN KENYA</u> <u>Section 28 (4) Subject to this Act, refugees shall be enabled to contribute to the economic and social development of Kenya by facilitating access to, and issuance of, the required documentation at both levels of Government.</u>	Following the enactment of the Tax Procedure Act 2015 and Kenya Bankers Association circular letter No. 96/2018 dated 19.06.2018, it is now mandatory for customers to produce KRA personal identification number to open or activate bank accounts. This presents a challenge to refugees who do not have refugee Identification number.



	A significant number of refugees who already have accounts with the bank are yet to submit their Refugee Identification Cards to the bank for update and hence cannot apply for KRA personal identification number.
<u>PART V- RIGHTS AND DUTIES IF REFUGEES AND ASYKUM SEEKERS IN KENYA</u> <u>Section 28 (1) (b) the refugee and every asylum seeker within Kenya shall be entitled to the rights and be subject to all the laws in force in Kenya.</u>	It's a Constitutional right of an individual to access funds allocated by the government or the counties through project initiatives. We propose to have an explicit right that allo refugees due to their status to have speci allocation of funds to be issued to refugee by the government. The allocation of funds should be for the following projects :- 1. Financial literacy for refugees by the National government as well as county governments. 2. Allocation of funds for entrepreneurship education <u>Use Case:</u> Kakuma is said to be the biggest market place a study by IFC shows that Kakuma's total consumption to be \$56M with more than 2,000 businesses.



UNHCR

United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

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① Dic 2019
8/23/10/19

Notre/Our code: **KEN/NBI/EXEC/19/198**

18 October 2019

Dear Sir,

RE: PUBLIC PARTICIPATION FORUM ON REFUGEES BILL, 2019

We thank you for according us the opportunity to present during the Public Participation Forum on the Refugees Bill 2019, held on 17 October 2019.

Enclosed herewith please find UNHCR's comments on the Bill, for further consideration.

Please do not hesitate to contact my Office if you have any questions or require additional information.

Yours sincerely

Fathiaa Abdalla
Representative



② C. AZEMBA
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FA

23/10/19

Attn: Michael R. Sialai, EBS
Clerk of the National Assembly
P.O. Box 41842-00100
Nairobi

CC:

Mr. Kodeck Makori
Ag. Commissioner
Refugee Affairs Secretariat
Ministry of Interior and Co-ordination
of National Government
The Castle House, James Gichuru Rd
Nairobi, Kenya



Encl.

UNHCR Comments on the Legislative Proposal: The Refugees Bill, 2019

I. Introduction

1. The Office of the United Nations High Commissioner for Refugees (hereafter “UNHCR”) welcomes the opportunity to provide comments on the Refugees Bill, 2019 (hereafter “the Bill”), an Act of Parliament to provide for the recognition, protection and management of refugees to give effect to the 1951 Refugee Convention, its 1967 Protocol and the 1969 OAU Convention.
2. UNHCR has a direct interest in law proposals in the field of asylum, as the agency entrusted by the United Nations General Assembly with the responsibility for providing international protection to refugees and other persons within its mandate, and, together with Governments, for seeking solutions to the problem of refugees.¹ Paragraph 8(a) of its Statute confers upon UNHCR the responsibility to supervise the application of international conventions for the protection of refugees, most notably the 1951 Refugee Convention to which Kenya is a State party.² In turn, Article 35(1) of the 1951 Refugee Convention obliges States Parties to cooperate with UNHCR in the exercise of its functions.³
3. UNHCR’s supervisory responsibility is exercised in part by the issuance of interpretative guidelines on the meaning of provisions and terms contained in international refugee instruments, in particular the 1951 Refugee Convention as well as by providing comments on legislative and policy proposals impacting on the protection and durable solutions of its persons of concern.
4. The following comments are based on international protection standards set out in the 1951 Convention, the 1969 OAU Convention, in international human rights law, on Conclusions on International Protection of the UNHCR Executive Committee (hereafter “ExCom”), and on UNHCR guidelines. In addition, comments also consider the latest developments on enhanced refugee management, protection and solutions as outlined in

¹ See Statute of the Office of the United Nations High Commissioner for Refugees, G.A. Res. 428(V), Annex, U.N. Doc. A/1775, para. 1 (1950) (“Statute”).

² According to Article 8(a) of the Statute, “The High Commissioner shall provide for the protection of refugees falling under the competence of his Office by: (a) Promoting the conclusion and ratification of international conventions for the protection of refugees, *supervising their application* and proposing amendments thereto” [emphasis added]. This responsibility is reiterated in the Preamble of the 1951 Convention relating to the Status of Refugees (hereinafter: “1951 Refugee Convention”) and Article II of the 1967 Protocol relating to the Status of Refugees (hereinafter: “1967 Protocol”).

³ According to Article 35(1) of the 1951 Refugee Convention “The Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees ... in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention”.

the different Declarations (New York, Nairobi, Djibouti and Kampala) and the Global Compact on Refugees.

5. UNHCR hopes that the comments and recommendations hereby submitted will provide a valuable contribution to the enactment of the said legislation in compliance with international standards and practice, which will fully correspond to Kenya's long-standing international leading role in upholding refugee and human rights.

II. GENERAL OBSERVATIONS

6. UNHCR welcomes Kenya's efforts to align its Bill with the Constitution of Kenya, 2010, its various international obligations as applicable under national laws, and the regional and global developments in the area of refugee management.
7. It is recognized that the Bill addresses several issues which presented a challenge in the past. Examples include: double registration, security and medical screening, removal from the territory of asylum applicants whose applications have been rejected or of refugees whose status was cancelled or revoked. Further, compared to the Refugees Act, 2006, there are a number of positive provisions, including those which effectively ensure harmonious decision-making in the refugee status determination area (e.g. Refugee Status Eligibility Panel), references to coordination with county authorities; inclusion of refugees in national and county development plans; integration of refugees in communities; handover of facilities upon departure of refugees; etc.
8. Nevertheless, there are some areas where the Bill would benefit from further amendments in order to bring it in line with international refugee and human rights law and which are presented under Part III. UNHCR has also been part of the Inter-Agency Forum on the Review of the Refugees Act, 2006 where a memorandum together with a list of proposed amendments has been submitted. Since this submission captures only key issues; we would like to refer you to the afore-mentioned list for proposed minor amendments.

III. DETAILED OBSERVATIONS

• Access to the territory and procedures

UNHCR welcomes the clear reference that no asylum-seeker/refugee shall be refused entry into Kenya if her or his life, physical integrity or liberty would be threatened (Section 29), that they are to be properly informed of the process to apply for refugee status (Section 25) and that they should not be penalized for unlawful entry or presence (Section 15).

While it is fully understandable that transit centers may be needed for the initial reception of asylum-seekers, however, the current definition lists "prisons, immigration centers, police

stations and remand homes” as possible places. These are closed institutions where persons in conflict with the law are held and are not suitable for asylum-seekers. Seeking asylum is not a criminal act, and there is therefore a risk of blurring the distinction between suspects, convicts and civilians seeking asylum. Further, research conducted in different parts of the world highlighted the negative impact closed facilities have on asylum-seekers and therefore recommended that such facilities should only be used as a measure of last, rather than first resort.

UNHCR therefore recommends to amend Part I, Section 2 “transit centre” as follows:

“transit centre” means premises used for the purposes of temporarily accommodating refugees and asylum seekers in order to undertake health or security screening or for the purposes of repatriation or resettlement;

- **Refugee recognition and termination**

- **Refugee definition and grant of status on an individual or prima facie basis**

Definitions- UNHCR welcomes that Section 3(1) of the Bill incorporates overall the refugee definitions as set out in the 1951 Refugee Convention and the 1969 OAU Convention, and that the recognition of a refugee on a *prima facie* basis is applicable to all refugees, irrespective of whether they fall under Section 3(1)(a), (b) or (c). In contrast, prima facie recognition under the Refugees Act, 2006 was only applicable to refugees fulfilling the extended refugee definition under the 1969 OAU Convention.

Meaning of a “refugee”- While the determination of refugee status is only of a declaratory nature – meaning any person meeting the criteria of the refugee definition is a refugee whether s/he is formally recognized or not, in practice there is a difference between a refugee and an asylum-seeker. Further, recognized refugees and asylum-seekers may have at times different entitlements.

UNHCR therefore recommends to amend Part I, Section 2 “refugee” as follows (deletion of the words “and includes an asylum seeker”), in addition to reflecting the wording of the refugee definitions as contained in the 1951 Refugee Convention and the 1969 OAU Convention:

“refugee”, has the meaning assigned to it under section 3 of this Act;

Meaning of “prima facie refugee”- A *prima facie* approach is often used in situations of a large-scale influx where individual status determination is impractical, impossible or unnecessary. In certain situations, a *prima facie* approach may be applied within individual refugee status determination procedures. Later provisions of the Bill refer that the declaration of refugee status is made by the Cabinet Secretary and not by the Committee.

UNHCR therefore recommends to amend Part I, Section 2 “*prima facie* refugee status” as follows:

“prima facie refugee status” means a declaration of refugee status by the Cabinet Secretary as provided for under section 3(2) of this Act;

Declaration of prima facie refugees- Section 3(2) of the Bill stipulates that the Cabinet Secretary can make a declaration upon recommendation from the Committee, however, s/he can unilaterally amend and revoke such a declaration. To ensure the same consultative process, it is recommended to equally involve the Committee in decisions to amend or revoke the declaration to grant refugee status on a *prima facie* basis.

In defining who the *prima facie* refugees are, there is a circular logic in that Section 3(2) refers to Section 3(1)(d) which in turn refers to Section 3(2); further provision (ii) does not add further value.

UNHCR therefore recommends to amend Section 3(2) as follows:

The Cabinet Secretary, on recommendation from the Refugee Advisory Committee may, through the Gazette, declare any class of persons to be refugees on a prima facie basis if it is evident that these persons qualify to be refugees under subsection 3(1)(a), (b) or (c) and may at any time, upon recommendation from the Refugee Advisory Committee, amend or revoke such declaration.

Provided that no such amendment or revocation shall affect the right of any person who is a member of the class of persons concerned and who entered Kenya before the date of such amendment or revocation, to continue to be regarded as a refugee for the purposes of this Act.

Sur place claims- A person may become a refugee *sur place* due to circumstances arising in his/her country of origin during his/her absence or as a result of his/her own actions. The Refugees Act, 2006 under Section 11(2) provides a provision according to which such persons are able to apply for refugee status before the expiry of their lawful stay.

UNHCR therefore recommends to replicate this provision in the Bill in Part VI, Section 24 with some adjustments:

(2) In the case of a person who is in Kenya and is subsequently unable to return to her or his country of origin for any of the reasons specified in section 3 of this Act, she or he shall present her- or himself before an appointed officer and apply for recognition as a refugee in accordance with the provisions of this Act.

- **Exclusion / disqualification from refugee status**

The rationale for exclusion clauses is that certain acts are so grave rendering persons who meet the refugee definition undeserving of international protection. Given the serious implications of excluding a person from international protection as a refugee, the exclusion

clauses listed in the 1951 Refugee Convention/1969 OAU Convention **are exhaustive**. Section 4(1)(d) provides for exclusion where an asylum-seeker could have 'sought asylum in another country'.

In general, claims should be processed by the State where the asylum-seeker is present. Should a State determine that another State is responsible for either determining refugee status or providing protection, then adequate safeguards need to be in place such as:

- a. The other State must agree to admit the person;
- b. Protection from persecution and threats to physical safety and freedom in that State;
- c. The opportunity to re-avail him or herself of protection previously enjoyed in that State.
- d. If not previously recognized as in need of international protection, access to a fair and efficient asylum and appeals procedure;
- e. A right to remain lawfully in the territory for the duration of the asylum procedure, as well as a right lawfully to stay if found to be in need of international protection; and
- f. Standards of treatment commensurate with the 1951 Convention and international human rights standards including, but not limited to, protection from *refoulement*.

In general, onward movement does *not* mean that a person is not a refugee or in need of international protection. Seeking asylum in another country should not be a ground for exclusion but rather disqualification where it can be established that there is a right of admission and access to the asylum procedure in that country. Section 4(2)b provides cause for disqualification if a refugee who was granted status in another country can be readmitted and will benefit from effective protection in that country. The same safeguards should apply to asylum-seekers.

Further, Section 4(1) refers to excluding a person if there "exists serious reason to believe" that the person committed any of the acts listed. The standard in the 1951 Refugee Convention and 1969 OAU Convention is "serious reasons to consider". Though not clearly defined, "serious reasons to consider" can be interpreted as the existence of reliable, credible and convincing evidence, which does not require a determination of guilt in the criminal justice sense, but goes beyond a balance of probabilities. Further, the exclusion provision in the Bill should replicate the wording of the 1951 Refugee Convention exclusion clauses.

UNHCR therefore recommends to amend Section 4(1), Section 4(1)(a) and to remove the reference "could have sought asylum in another country" from Section 4(1)d and include it with "has been granted refugee status in another country" under Section 4(2)(b):

4.(1) A person shall be excluded from being granted refugee status if there exists serious reasons *for considering* that the person-

(a) has committed a crime against peace, a war crime or a crime against humanity, *as defined in the international instruments drawn up to make provision in respect of such crimes;*

...

*(2)(b) **has sought asylum** or has been granted refugee status in another country prior to entry in Kenya and can be re-admitted to that country and benefit currently and in the future in that country from effective protection; or*

○ **Termination of refugee status: Cessation, Cancellation or Revocation**

Cessation- Refugee status is in principle a transitory phenomenon which lasts only as long as the reasons for fearing persecution in the country of origin persist. Once these reasons disappear, refugee status may be legitimately terminated. Alternatively, refugee status ceases in cases where the refugee has acquired another nationality. Section 5 includes overall the cessation provisions as stipulated under Article 1C of the 1951 Refugee Convention. The last paragraph of Section 5 however limits the raising of compelling reasons to refugees recognized under the 1951 Refugee Convention and not under the 1969 OAU Convention. Yet, there could be situations where refugees who were granted status under the extended refugee definition might equally have compelling reasons to argue that the cessation clauses should not be applicable to them.

UNHCR therefore recommends to amend the last paragraph of Section 5 as follows:

*Provided that paragraphs (e) and (f) shall not apply to a refugee **as defined by this Act** who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself or herself the protection of their country of nationality or former habitual residence.*

Cancellation- While overall safeguards have been included in Section 17 as for the cancellation of refugee status, it is important to ensure that the cancellation decision shall only be applicable to the main applicant and her/his family members with derivative status after the exhaustion of all available appeal mechanisms. The current provision of Section 17(6) does not clearly provide this safeguard.

UNHCR therefore recommends to amend Section 17(6) as follows:

*Where refugee status under this part has been cancelled, that person shall cease to be a refugee and any member of his or her family with derivative status shall cease to be recognized under this Act on the expiration of seven days after notification of cancellation of status by the Commissioner **or upon the final determination on appeal.***

Provided that the family members whose derivative status is affected by the cancellation shall have the right to apply to be considered as a refugee under section 12 of this Act.

Revocation- Given the grave consequences for a refugee in case his status is erroneously revoked, it is important to ensure that the revocation decision shall only be applicable to the main applicant and her/his family members with derivative status after the exhaustion of all available appeal mechanisms. Where relevant, it may be prudent to defer decisions on revocation until completion of any domestic criminal proceedings, as the latter may have

significant implications for the assessment of the applicability of the relevant asylum claim. In addition, it is recommended that Section 18(1) is brought into line with the criteria of Art 1F(a) and (c) of the 1951 Refugee Convention.

UNHCR therefore recommends to amend Section 18 as follows (reflecting also that section 18(3) is currently missing):

*(1) The Commissioner may revoke the status of any refugee **if there are serious reasons for considering that a refugee at any time after recognition as a refugee has committed a crime against peace, a war crime or a crime against humanity, as defined in the international instruments drawn up to make provision for such crimes, or has been guilty of acts contrary to the purposes and principles of the United Nations and the African Union.***

*(2) Where refugee status under this part has been revoked **and all appeal mechanisms have been exhausted**, that person shall cease to be a refugee under this Act on the expiration of seven days **after the date on having received the final decision** that his or her recognition has been revoked.*

(3) Where refugee status under this part has been revoked, every person who, immediately before such revocation, was within Kenya as a member of the family of such a refugee shall have the right to apply to be considered as a refugee under section 12 of this Act.

*(4) **Any person whose refugee status has been revoked and does not appeal or has exhausted the available appeal mechanisms**, shall leave the country within thirty days of notification of the final order relating to the revocation, failing which the Cabinet Secretary shall remove such person immediately.*

In addition, Section 11(4)(b) needs to be amended to include that one of the functions of the Appeals Committee is to hear and determine appeals against revocation and cessation decisions (deletion of the reference to termination which is an umbrella term covering all three types of termination).

*The function of the Appeal **Committee** shall be to hear and determine appeals against any decision of the Commissioner with regard to —*

- (a) the rejection of any individual application for refugee status; and*
- (b) the cancellation, **revocation and cessation** of refugee status.*

- **Institutions dealing with refugees and coordination of refugee affairs**

In order for a State to deal and manage effectively refugee affairs, there is a need for strong institutions with officers having the requisite expertise on refugee issues and adequate coordination structures.

- **Department of Refugee Services, Commissioner for Refugee Affairs and Eligibility Panel**

UNHCR welcomes the clear functions of the Department of Refugee Services and the broader functions of the Commissioner, compared to the Refugees Act, 2006. Further, the proposed establishment of the Eligibility Panel under Section 13 is a welcome development, thereby ensuring a consistent decision-making by RSD Eligibility Officers.

○ **Refugee Advisory Committee (RAC)**

Composition- Given the fact that refugee issues are cross-cutting, UNHCR welcomes the engagement of the different line Ministries in the Refugee Advisory Committee, as well as representatives from the Offices of the Attorney General, the Inspector General and the Council of Governors. Given the significant role counties play in hosting refugees and asylum-seekers and including them in services and development plans, as well as the support provided by civil society, it is recommended to include representatives from designated counties and civil society in the RAC.

UNHCR therefore recommends to amend Section 9(2) as follows:

The Committee shall include a representative from each of the designated counties and one member from the civil society and may co-opt any other person to attend the meeting of the Committee and advise it on performance of its duties.

Chair of RAC- Section 9(1) refers to the Commissioner as the Chairperson. Since the RAC foresees participations of Principal Secretaries from the different line Ministries, it is proposed to include the Principal Secretary from the Ministry responsible for refugee affairs as the chairperson and in his/her absence, the Commissioner (with deletion of current Section 9(1)(b)). Further, to ensure effectiveness and accountability of the RAC members, it is proposed that the designation of representatives of Ministries and other officers on the RAC will be in writing.

UNHCR therefore recommends to amend Section 9(1) as follows:

- (1) *The Committee shall consist of—*
- (a) ***the Principal Secretary from the Ministry responsible for refugee affairs*** who shall be the chairperson ***or in his or her absence the Commissioner*** and who shall ***in the presence of the Principal Secretary be a member of the Committee and also*** provide secretariat services to the Committee;
 - (b) *the Principal Secretary or their representative* ***in writing*** from the Ministry responsible for foreign affairs;
 - (c) *the Principal Secretary or their representative* ***in writing*** from the Ministry responsible for devolution affairs;
 - (d) *the Principal Secretary or their representative* ***in writing*** from the Ministry responsible for health;
 - (e) *the Principal Secretary or their representative* ***in writing*** from the Ministry responsible for finance;
 - (f) *the Principal Secretary or their representative* ***in writing*** from the Ministry responsible for education;
 - (g) *the Attorney-General or their representative* ***in writing***;
 - (h) *the Director of the Department of Immigration or their representative* ***in writing***;
 - (i) *the Inspector-General or their representative* ***in writing***; and
 - (j) *one person representing the Council of Governors.*

Functions of the RAC- It is recommended to include a reference to asylum-seekers under Section 10(a) and (b) as well as to revise 10(c) in order to be consistent with Section 3(2). The RAC advises the Cabinet Secretary not only on the declaration or revocation but also on a possible amendment. Further, it is recommended to refer to “prima facie determinations” instead of “prima facie status” since refugees recognized on a *prima facie* basis will remain refugees until their status is terminated. What is being brought to a stop is the practice of recognition of refugees on a prima facie basis; instead newly arriving asylum-seekers would go through individual refugee status determination.

UNHCR therefore recommends to amend Section 10 as follows:

The functions of the Committee shall be to-

- (a) *advise the Cabinet Secretary on formulation of national policies on matters relating to refugees **and asylum seekers** in accordance with international standards;*
- (b) *advise the Cabinet Secretary on matters relating to refugees **and asylum seekers**;*
- (c) ***advise the Cabinet Secretary in respect of declaration, amendment or revocation of prima facie determinations;** and*
- (d) *ensure in liaison with other government authorities that adequate and appropriate facilities and services are provided for the reception and care of refugees during an emergency situation.*

○ **Refugee Status Appeals Committee**

Chair/independence of the Committee- Procedures in place in most States recognize that standards of due process require an appeal or review mechanism to ensure the fair functioning of asylum procedures, although the nature of the appeal or review can vary quite widely depending on administrative law standards applicable in the country. A key procedural safeguard deriving from general administrative law and essential to the concept of effective remedy, has become that the appeal be considered by an authority different from and independent of that making the initial decision.

As stipulated in the Bill, the first instance decision would be taken by the Commissioner, who directly reports to the Principal Secretary in the Ministry of Interior. The Chair of the second instance body is appointed by the Principal Secretary (the same person to whom the Commissioner reports). It is notable that the Refugees Act, 2006 provided for the appointment of a Chair “who is an advocate of not less than ten years’ standing”. Further, the Refugees Act, 2006 under Section 9(4) stipulated that the appeals body shall be independent in the exercise of its functions. The current draft provisions seemingly reduce the authority and independence of the Committee established under this section.

UNHCR therefore recommends to amend Section 11(2)(a) as follows, in addition to including a reference to the independence of the Appeals Committee under Section 11:

(2) The Cabinet secretary shall, by notice in the Gazette appoint the following persons to serve in the Appeals Committee—

- (a) ***a chairperson who is an advocate of not less than ten years standing appointed by the Cabinet Secretary;***

(x) The Appeals Committee shall be independent in the exercise of its functions under this Act.

Decision-making of the Committee- The current Bill foresees a quorum of three members. Given the grave implications of possible erroneous decisions, it is important to ensure that members with knowledge and experience in refugee matters are included in order to form a quorum.

UNHCR therefore recommends to amend Section 11(3) as follows:

The quorum for a meeting of the Appeal Committee shall be three members and shall include at least one member under section 11(2)(e).

Secretariat- To ensure that the Appeals Committee will be an effective second instance body, there is a need to create a Secretariat that will assist the Committee to execute its mandate. Members of the Secretariat will record appeal applications, arrange and conduct interviews and prepare the assessments, record decisions, etc. This part of the work cannot be done satisfactorily by Committee Members given that they have their own functions. However, considering cost implications resulting from the establishment of a Secretariat, this could be offset through reducing the number of Committee members.

UNHCR therefore recommends to add a provision at the end of Section 11:

The Government shall provide the Appeals Committee with a Secretariat for the purposes of discharging its mandate.

- **Expulsion of asylum-seekers or refugees, including removal from application process**

Expulsion- The implementation of the current Section 19(2) - expulsion of asylum-seekers or refugees engaged in conduct that “is in breach or likely to be in breach of public order or contrary to public morality” - would lead to a violation of the *non-refoulement* principle. Exceptions to the right to *non-refoulement* are exhaustively listed in Article 33(2) of the 1951 Refugee Convention as being: a refugee for “whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country”.⁴ Breach or likely breach of public order or public morality would be too extensive an interpretation of this provision. Further, while public order could be a ground for expulsion under Section 32 of the 1951 Refugee Convention, public morality is not. Besides, the forward-looking nature of the terminology “likely to be in breach” is not covered under the situations for expulsion.

⁴ Note, however, that the *non-refoulement* provision under CAT and ICCPR would fully apply without exception if the person would be subject to torture upon return.

UNHCR therefore recommends the deletion of this provision, bolstered by the fact that these offences are already regulated under the Penal Code.

Removal from application process- Section 23(5) which provides for removal of asylum-seekers from the application process if they do not abide by lawful orders issued by the mandated institutions. The expulsion provisions under Sections 19(1) and 29(2) of the Bill are enough to ensure that the State can expel persons who are regarded as a danger to the national security or public order in Kenya.

UNHCR therefore recommends to amend Section 23(5) as follows:

(5) A person who has submitted an application for refugee status shall be under an obligation to abide by all the laws of Kenya including all the lawful orders given by the mandated institutions under this Act.

(6) A person that contravenes section 23(5) above commits an offence.

- **Rights and obligations of refugees and asylum-seekers**

Section 28(1) summarizes the rights and obligations of refugees and asylum-seekers referencing international instruments and national laws. A number of basic refugee rights are reflected in other parts of the Bill⁵ or can be inferred from other provisions in the Bill (e.g. access to health and education comes under “access to essential services”). Section 40(1) lists a number of offences, including “being a refugee, works or is engaged in gainful employment without the payment of tax”. At the same time, refugees face various obstacles in being granted a work permit, obtaining a KRA PIN or having access to financial services; hence, in the absence of an enabling environment for refugees to work, it is proposed to delete this provision.

While the Constitution of Kenya, 2010 provides for the automatic incorporation of international instruments into national law and the 1951 Refugee Convention, therefore, is directly applicable at the national level, not all provisions of the 1951 Refugee Convention are self-executing. Further, there are Articles like Article 18 of the 1951 Refugee Convention which provides the State with the option to provide ‘treatment as favourable as possible, and in any event, not less favourable than that accorded to aliens generally in the same circumstances ...’. In other words, States can grant refugees the same rights as citizens (treatment as favourable as possible) or treat them like ‘normal’ foreigners. The decision regarding the rights and treatment refugees will receive must be taken when adopting a

⁵ The Bill provides for some rights in other parts: Section 12 – right to file an application for refugee status, including access to appeals (Refugee Status Appeals Committee; High Court); Section 15 – right not to be penalized for unlawful presence; Section 22 - right to remain in Kenya during status determination; Section 29 – right not to be *refouled*; Section 37 – right to voluntary repatriation.

national law and cannot be left to the discretion of executing authorities. In addition, the listing of rights introduces certainty of the law, removes the element of discretionary powers, leaves little opportunity for arbitrary action and enable refugees to contribute more once their rights and investments are protected.

While it would be preferable to have the rights and obligations of asylum-seekers and refugees clearly listed in the Bill (see, for example, the refugee laws in Uganda or Ethiopia), it is recommended to have at least, at a minimum, a provision which makes reference to the relevant rights, also to address areas which significantly hinder the refugees' self-reliance (e.g. access to work permits and registration of businesses; access to KRA PIN, bank accounts, mobile money, etc.) and contributing to local economies, including through payment of taxes. This provision could be included after Section 28(1), in addition to clarifying that the identification for refugees and asylum-seekers shall be adequate to the rights provided by law:

(2) Without prejudice to the generality of section 28(1) above:

(a) The grant of refugee status shall constitute lawful presence in Kenya;

(b) Every refugee has the right to identification and civil registration documents, travel documents, social protection, access to education and health services, as well as right to gainful employment, including access to banking, financial and telecommunication services, and shall be under an obligation to contribute to the national and local economy through taxation; and

(c) Every asylum-seeker has the right to identification and civil registration documents and access to essential services, including food, shelter, education, health, water and sanitation services, and where relevant, social protection.

(x) The refugee and asylum-seeker identification shall be adequate to the rights provided by law.

- **Refugee management**

Research has shown that previous refugee models – care and maintenance of refugees in camps, parallel service structures – are not only responsible for the refugees' dependency on continued relief but do not adequately take into account the needs of host communities. In line with the Comprehensive Refugee Response Framework, the Global Compact on Refugees and the Sustainable Development Goals (including the principle of leaving no one behind), the protracted situations of the majority of refugees in Kenya can only be adequately addressed through expanded self-reliance of asylum-seekers and refugees (which also requires improved freedom of movement), their socio-economic inclusion in the existing and future services and infrastructures and the gradual transformation of the current camps in integrated settlements where both the refugee and host populations live together and access the same services. The current Bill has a number of provisions which reflect this direction in Parts V, VI and VII.

Designated counties/areas- Under Section 28(2), the Cabinet Secretary may designate specific counties for hosting refugees (instead of only referencing designated areas), thus providing more freedom of movement and allowing refugees to better contribute to the economic development of the areas where they are residing.

The Bill empowers the Commissioner to manage the movement of refugees and s/he may require any refugee to move to or reside in a designated area (Section 31(2)). Newly arriving asylum-seekers will not be self-sufficient and will require essential services to have their basic needs met. Therefore, it is proposed that refugees should only be required to reside in designated counties/areas if they are in need of essential services. Self-reliant refugees should not be required to live in designated areas/counties.

Therefore, UNHCR recommends to amend Section 33 as follows:

- 28. (2)** The Cabinet Secretary may, by notice in the Gazette and in consultation with the relevant county governments, designate specific counties for the ***purposes of accommodating asylum-seekers and refugees who require essential services.***
- 31. (1)** *The Commissioner may require refugees and asylum-seekers in need of essential services to be within a designated area, to move to or reside in any other designated area.*

Facilitation of access to designated areas- While from a security point of view it is important to put in place arrangements which ensure that the Commissioner is aware of who is residing in a designated area, the current phrasing in the Bill is very restrictive and requires that a permission be sought preemptively before entering the designated area. In particular, this may negatively impact the ability and interest of private sector investment within the current "camps". In addition, the current punishment appears to be excessive.

Therefore, UNHCR recommends to amend Section 33 as follows:

- 33(1)** *No person other than a person authorized by the Commissioner, a person employed by the Department, a refugee or asylum seeker shall enter a designated area except with the permission of the Commissioner.*
- (2)** *A person seeking to enter a designated area shall make an application to the Commissioner in writing stating the reasons and time for such an application.*
- (3)** *The Commissioner shall review such request as made under section 33(2) and issue a decision in writing without undue delay.*
- (4)** *The Commissioner may authorize entry, upon request, of the UNHCR, other UN agencies, public benefit organizations, other organisations and private sector that seek to offer services to refugees in these areas.*
- (5)** *A person who contravenes the provisions of this section commits an offence and shall upon conviction be liable to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months, to both.*

Keeping and maintaining a register- In order for the Commissioner to effectively manage the asylum-seeker and refugee population, it is vital that s/he is able to keep and maintain a register where the data of all refugees and asylum-seekers are kept. In order to avoid future double registration, it is proposed to reflect that the fingerprints of an asylum seeker and family members are checked against all national fingerprint databases.

Data protection/confidentiality- Further, there is a need to ensure that adequate data protection and confidentiality provisions are in place to ensure that the data of asylum-seekers and refugees are stored safely and no personal data shall be disclosed, directly or indirectly, to the authorities or agents of the country of origin, including foreign missions, unless in the context of voluntary repatriation. The Refugees Act, 2006 under its Section 24 provides for the confidentiality in handling asylum-seeker and refugee information.

In light of the above, UNHCR recommends to include Section 24 of the Refugees Act, 2006 in the current Bill, Part VIII with some adjustments, in addition to revising Section 8(2)(b):

Part VIII

*(1) No member of the Committee, employee or agent of the Department of Refugee **Services** shall disclose information acquired under this Act except—*

(a) in the course of his duties under this Act; or

(b) with the consent of the Commissioner.

*(2) No person who receives information in contravention of sub (1) shall disclose or publish the information, **particularly not to the authorities or agents of the country of origin.***

(3) A person who contravenes any provision of this commits an offence and shall on conviction be liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months or both such fine and imprisonment.

*8.(2)(b) receive, register and maintain a register for all refugees **and asylum seekers in Kenya** and ensure that the fingerprints of an asylum seeker and family members are checked against all national fingerprint databases;*

- **Protection of vulnerable refugee groups**

Section 43(k) of the Bill makes specific reference to women, children, unaccompanied minors, persons and other vulnerable groups who may require additional protection. Other Sections refer to different groups considered in need of special measures. To ensure a more inclusive approach of other vulnerable groups, it is recommended to amend Sections 21, 29(3)(b) and 36 accordingly.

*21. The Commissioner shall ensure that appropriate measures are taken to ensure the safety of asylum seekers and refugees who **suffer from disability, trauma or are of old age** or otherwise require special protection at all times during admission into and stay in Kenya.*

*29(3)(b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women, children **and other vulnerable groups**;*

*36. In the integration of refugees in the host communities, the Commissioner shall, in cooperation with the United Nations High Commissioner for Refugees, relevant County Governments and the other organizations involved in the assistance of refugees, ensure that special attention is given to women, children, persons with disabilities, **elderly and other vulnerable groups**.*

- **Regulations**

In order to implement the Bill, Section 43(1) foresees that the Cabinet Secretary will issue regulations. To ensure the timely issuance of regulations, there is a need for a time limit.

UNHCR recommends to amend Section 43(1) as follows:

*43. (1) The Cabinet Secretary shall make regulations generally for giving effect to this Act and for prescribing anything required or necessary to be prescribed by or under this Act **within six months of the commencement of this Act**.*

UNHCR Kenya, 18 October 2019

Local Host Communities (See Clause 34 of the Bill) →

The Bill has recognized as key stakeholders and has provided for the involvement of local host communities in refugee recognition, protection and management. Be that as it may, however, there is need to bolster the provisions on such host communities, who are increasingly becoming very key in refugee management as the Turkana and Garissa Counties experience may have indicated. In addition to the sensitization that has been provided for, this provision must also clearly indicate how host communities will **meaningfully benefit** from refugee presence in their midst. This will help reduce the tensions that are often witnessed between refugees and host communities over land use, natural resource management and cultural differences. Apart from a mention at Clause 34, the Bill has not adequately addressed itself to the critical issue of host communities that often face the brunt of refugee presence in their midst. Apart from sharing common social amenities, it is my proposal that this section be expanded to include **the sharing of economic and other benefits by refugees & the host communities** so as to meaningfully integrate refugees into the local communities. It is important to note that most of local communities evidently face the same challenges as refugees except that they have not crossed an international border. This may help tone down the acrimony that has often existed between Refugees and Hosts especially in a context like Turkana's. In the words of a refugee scholar, Dr. Ekuru Aukot, it shouldn't be better to be a refugee than a Turkana in Kakuma again.

Freedom of Movement for Refugees (See Clause 28 of the Bill) →

Progressively, refugee hosting countries that are enacting refugee legislations at this point in time, such as Republic of Uganda in 2006 and most recently Ethiopia, have recognized the need to allow refugees the freedom of movement. Refugee zero-grazing/warehousing in refugee camps/settlements has proven to be ineffective as it has concomitant negative repercussions on refugee livelihoods and self-reliance. Uganda for instance has a liberal refugee law/policy that allows refugees the freedom to move and earn a living. The UN Convention, 1951 also accords refugees this right. Notably, Kenya has signed to this convention and to the Protocol of 1967. While it was provided for under the 2016 Agostino

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October 16th, 2019

Clerk of the National Assembly

P.O. BOX 41842-00100

Nairobi, Kenya

Attention: Departmental Committee on Administration and National Security

RE: The Refugees Bill, 2019: A Memorandum

Introduction

In keeping with the developments taking place globally, Kenya has instituted a review of its refugee legal and institutional framework so as to align it further with international norms and best practices. The Refugees Bill, 2019 is currently before the National Assembly of the Republic of Kenya as a Government sponsored Bill, tabled by Hon Aden Duale, the Member of Parliament for Garissa Township who also doubles up as the Leader of Majority Party in parliament. Pursuant to Article 118(1)(b) of the Constitution of Kenya, 2010, I do hereby wish to submit this memorandum to the committee detailing my observations and/or comments critical of a clause, provision or omissions in the Bill.

Key Provisions in the Bill

¹ Ekai Nabenyio is a holder of Bachelor of Laws (LLB) degree from the University of Nairobi and a Master of Laws (Migration and Refugee Law) degree from the University of Dar es Salaam (United Republic of Tanzania). His LLM Thesis was Titled: *Freeing Refugees from the Limbo of Donor-Dependency: An Analysis of Kenya's Refugees Bill, 2016.*

Neto Bill that was rejected by the President due to concerns on public participation, **Freedom of Movement for refugees has not been provided for under the current Bill.** It is high time Kenya provided for this in consonance with global developments in refugee management and because Kenya is a state party to international refugee instruments that allow refugees the freedom of movement. Parliament should also examine this proposal especially in light of the developments at Kalobeyei Refugee Settlement in Turkana County through the Kalobeyei Integrated Social and Economic Development Programme (KISEDPP) and in which Kenya is a global leader. Globally, there is likely to be a shift from Refugee Camps (temporary and makeshift) to Refugee Settlements (permanent) in the very near future and the proposed law must take care of this early enough.

Right to Work for Refugees (See Clause 40(1)(m))



The right to work for refugees has not been captured at all apart from an indirect mention at Clause 40(1)(m) of the Bill. The said clause provides as follows:

“A person commits an offence if that person

(m) Being a refugee, works or is engaged in gainful employment without the payment of tax”

This particular section is problematic as it is not explicit on whether refugees are allowed to work. **Criminalizing “gainful employment without the payment of tax” appears to suggest that refugees are allowed to work.** The law only penalizes them for non-payment of tax from the benefits accruing from the employment. It loosely means that if a refugee engages in gainful employment and duly pays the statutory taxes as required by law, they will be within the law. Does self-employment such as running wholesale or retail business inside the refugee camps/settlements amount to employment? There is need to reconsider the wording of this particular clause to take care of the lacuna I have pointed out.

Access to employment for refugees is a matter that is progressively being adopted in the refugee world and **there is need to finally decide whether or not Kenya intends to allow its refugees the right to work.** Pursuant to The Kenya Citizenship Regulations, 2012 there is a Class M permit that, in theory, ought to be given to refugees who elect to engage in gainful

employment in Kenya. However, only in rare cases does this happen in practice and refugees are essentially not allowed to work. There is need to create an equilibrium between law and practice as far as refugee protection and management in Kenya is concerned. Ambiguity and lack of clarity also creates room for loopholes for a possible legal challenge to the law in the future.

Refugee Status Appeals Committee (See Clause 11 of the Bill, 2019)



should be independent

There is need for the Refugee Status Appeals Committee to be **chaired by a person qualified to be a judge of a superior court** since it is a body that decides whether or not refugee status is accorded, which is very critical in refugee protection.

Extinguishing Derivative Refugee Status for Dependents (See Clause 17(6))



Notably, Clause 17(6) is problematic as it indirectly extinguishes refugee status for family members and other dependents when the principal loses refugee status contrary to the UN Convention, 1951. There is need to revisit this particular provision as the opportunity to apply anew for refugee status consideration is inadequate. Refugee status determination is an individual-based consideration and that a principal refugee loses refugee status should not extinguish the status of those who got derivative status on account of having been the principal's dependents.

Commission of a Criminal Offence in Kenya While Awaiting RSD (See Clause 23(5))



Clause 23 (5) of the Bill is also problematic as it provides that commission of a criminal offence while awaiting refugee status determination empowers the Commissioner to strike them out of the RSD/asylum application process. This is very harsh as commission of such an offence can be punishable under the Kenyan criminal law without necessarily requiring that an individual loses their right to be granted asylum or acquire refugee status. There is need to reconsider this particular provision.

Criminalization of Failure by Asylum Seeker to Report (See Clause 40(c)) →

• Clause 40(c) is also problematic as it criminalizes failure by asylum seekers to report to a refugee officer within a set period of time. In general, it is improper to punish a refugee for failure to report presence during the asylum seeking process especially during the period when they haven't got in contact with a Government refugee officer or UNHCR. Given the vulnerability and psychological torture that some asylum seekers go through, there ought to be a provision for such punishment to only happen if a refugee fails to report **“without a reasonable excuse”**.

Non-Refoulement (See Clause 29(2))

Clause 29(2) appears to negate the non-refoulement principle as it empowers government to “refouler” back to their country, individuals considered a threat to national security and public order even if those persons feel unsafe back home. While national security consideration is an exception to the general rule against non-refoulement under the UN Convention, 1951, there is need to reconsider this to require this **“in time of war or other grave and exceptional circumstances”** as provided for under Article 9 of the UN Convention, 1951. Whether an individual is a threat to public order is subjective and prone to abuse by the authorities. The inclusion of public order as a ground for breaching the principle against non-refouler needs to be reconsidered.

Subjecting Asylum Seekers/Refugees to Medical Screening (See Clause 16)

Clause 16 is problematic as it requires a mandatory health screening for all asylum seekers and refugees entering Kenya for the purposes of detecting and containing the spread of contagious diseases. The current practice is that all migrants are not subjected to health screening, apart from the requirement for a yellow fever certification that is a global practice. Subjecting asylum seekers to this screening is punitive. The clause should be reworded to specify that only asylum seekers from countries that are suspected to have an outbreak of contagious diseases shall be subjected to the mandatory health screening.

Key Provisions Not Provided for in the Bill

•Preferential Treatment for Refugees Originating from East African Community (EAC) Member States

Kenya may set the pace by granting refugees originating from EAC Member States special refugee status or better still, regarding them as EAC community nationals and not refugees. This of course shall be subject to EAC Treaty and Protocols as well as Kenya's immigration laws. The implication of this is that refugees from Uganda, South Sudan, Burundi and Tanzania shall be exempted from refugee status, strictly defined. There is need to look at and learn from the European context where for instance a Holder of European Union Passport may live in any part of the European Union without having to apply for refugee status if their country were to experience events that result into a mass exodus of asylum seekers.

Provisions on Land Acquisition for Setting up Refugee Holding/Designated Areas

Pursuant to the provisions of the Community Land Act, 2016 and the Land Act, 2012, there is an urgent need for this Bill to specify steps that ought to be taken by a County Government or the relevant National Government departments for acquisition of community land for hosting refugees with adequate public participation as a mandatory requirement. The experience in Turkana County for the acquisition of the community land in Kalobeyei for the Kalobeyei Integrated Social and Economic Development Program (KISEDPP) is not clear but anecdotally has been that the county government made pronouncements setting aside the community land for refugee hosting in the assumption that the project was a win-win for both refugees and local communities. That is a very dangerous precedent setting a recipe for a chaotic future especially if a new county government comes in and declares the manner in which the land was acquired and allocated for refugee hosting by the previous county government a nullity due to want of legal procedure. There is need to provide for the relevant procedures to be followed in such land acquisition in the Refugee Bill, 2019 so as to avoid processes that are backed up by nothing more than political goodwill of the current county administration. This will cushion refugees from the changing political establishments nationally and in the counties.

Family Re-Union

The critical issue of family re-union that is a basic tenet in international refugee protection has not been captured at all by the Bill. There is need to have a provision in the Bill to govern how family members may be re-united before, during or after the RSD process.

Ouster Clause

a) Status Eligibility Panel



b) Refugee Status Appeals Committee



c) High Court



d) Court of Appeal



e) Supreme Court

It is provided under the Bill that an applicant for refugee status who is dissatisfied with the decision of the Status Eligibility Panel may appeal to the Appeals Committee and further to the High Court. However, to avoid the abuse of the court process by asylum seekers, there is need to have an ouster clause in the Bill to expressly provide that the **decision of the High Court shall be final**.

Conclusion

As pointed out throughout this Memorandum, there are key omissions that the Bill has not adequately addressed as far as refugee protection and management in Kenya is concerned. If this particular provisions are included in the Bill and the already existing ones are re-examined with a bid to make the necessary changes, the Refugees Bill, 2019 will be a very progressive and liberal refugee policy for Kenya's refugees. There are, however, clauses in the Bill that require fine-tuning due to typographical and other minor errors that may not go into the heart of the contents of the Bill but may cause ambiguity.

UNHCR Comments

- ✓ International principles on refugee management
- ✓ Identification Documents

Amnesty Kenya

- ✓ Kithus cha Sheria ✓

* For the next 1,000 years, Kenya may host Refugees

- ✓ Criminalize the admission of information on Refugees
 - Case of Refugee lawyers abducted in Kenya & later executed.

- ✓ Appeals → Tribunal proposed instead

MEMORANDUM

To: Departmental Committee on Administration and National Security of the National Assembly

From: Eldoret Refugee Community Representatives

Date: 8th November, 2019

Subject: Eldoret Refugee Community views and recommendations on the Refugees Bill, 2019

Introduction

1. The Eldoret Refugee Community Representatives (hereinafter referred to as the Representatives) is a group of refugee community representatives residing in different parts of Eldoret and the larger Uasin Gishu County. The representatives comprise of refugee leaders, students, business persons and persons living with disabilities, drawn from the different refugee communities residing in Uasin Gishu County, in particular Eldoret. Some of the nationalities represented include: South Sudanese, Somalis, Congolese, Burundians, Sudanese and Rwandese. The leaders are duly elected by the refugee community in Uasin Gishu County.
2. The representatives are tasked with coordinating the community affairs in liaison with the government through Refugees Affairs Secretariat and other agencies; enhancing protection and promotion of refugee rights through monitoring and reporting of human rights violations; and voicing community's grievances and concerns to relevant stakeholders, among others. It is on this backdrop, that the representatives have gathered contributions of the refugee community residing in Eldoret on elements of the Refugees Bill, 2019. This memorandum, therefore, outlines some of the pertinent issues of concern as raised by the community and it is our wish that they inform the development of the refugee law.

Summary of Issues

1. Police harassment and arrests

- Refugees are given identification documents by the government (RAS) and examples of this include the Refugee ID cards, movement passes, appointment slips, proof of registration and waiting cards, the police still harass and arrest refugees even when they have this documents.
- We recommend that the police and other government officials to recognize refugee documents and to stop the harassment of refugees.

2. Freedom of movement

- Section 8 (2) of the Refugee Bill says that the commissioner of refugees will give movement passes to refugees in order for them to move within the country. As Eldoret Refugees, we move to other areas to look for education, work, medical assistance and to visit our relations. Unfortunately, the police arrest us and harass us even with the movement pass from RAS.
- At times, we are forced to pay money at the numerous road blocks as the police do not recognize the movement passes issued.
- We recommend that:
 - a) For police officers to recognize movement passes as valid documents that are given by the government and not ask for bribes from refugees.
 - b) If the government can do away with the requirement to obtain movement passes and to allow free movement of refugees

3. Access to financial services

- Section 28 (4) of the Refugee Bill says that refugees can contribute to the economic and social development of Kenya. This is a good section and as refugees we support it.
- However, refugees are not able to use their identification documents (The Refugee ID card) to access important services such as M-Pesa, M-Shwari, E-citizen, Banks and

Bank loans, KRA PIN, Driving licences and TIMS Account (NTSA) which are key and very essential services.

- We recommend that refugees be able to access these services with their refugee ID card in order to enable them contribute to the economic and social development of Kenya.

4. Provide for more areas for refugees to reside

- Presently, all refugees are to stay in Kakuma and Dadaab refugee camps and all new arrivals are issued with Kakuma refugee camp documentation.
- However, refugees may want to stay in other places such as Eldoret, Nairobi, Nakuru so as to access schools, hospitals and other amenities of their choice. We support that Section 28 (2) of the Bill provides that the Cabinet Secretary can designate counties to host refugees.
- We recommend that more designated areas such as Uasin Gishu County be added to the list of designated areas.

5. Access to work permits

- All foreigners including refugees require work permits to work in Kenya. Currently, it is very hard for refugees to acquire work permits for work and livelihood purposes.
- This exposes refugees to police harassment, exploitation and abuse.
- We recommend that the government make work permits more accessible for refugees to work, open businesses and pay taxes.

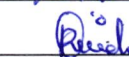
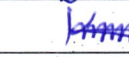
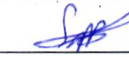
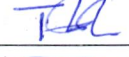
6. Additional grounds for expulsion

- The requirement for refugees to abide by all the laws of Kenya or be expelled from the country is unfair and discriminatory as given in Section 23 (5).
- Asylum seekers and refugees in Kenya who break the Kenyan law should be punished just like any other Kenyan as provided in the law. A refugee should only be removed from Kenya if they are a threat to national security.

- It is recommended that asylum seekers should be taken through the same justice system that Kenyans go through when they commit crimes and not be expelled from Kenya
- It is also recommended that additional grounds to expel a refugee from Kenya to be removed from the bill.

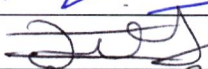
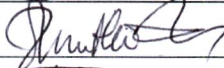
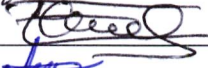
Conclusion

- The Eldoret Refugee Community appreciates the opportunity provided to us to outline and express our views on the Bill.
- We, the undersigned submit this memorandum to the Departmental Committee on Administration and National Security of the National Assembly in response to a call for public participation by the said Committee as required by Article 118(1) (b) of the Constitution of Kenya, 2010 and Standing Order 127(3) of the National Assembly Standing Orders.

No.	Name	Signature
1	DAU AJANG CHUOL	
2	WAMUOR KONG YAOCH	
3	DENCA DENCA KUR	
4	REBECCA ADENG	
5	AROP KONDOK RING	
6	LIEP KUR	
7	PHILIP MAKER LUOL	
8	GARANG AKUAK MABLO	
9	SHADRACK CHOL MAJALIS	
10	JOSEPH MALOU BOO	
11	DENG KUOL VALENTINO	
12	TERESA NYALERA RUOT	
13	NARTHA NYENHIAL KUOL	
14	ANGELINA NYERHIMAKUON	
15	MANG BUGA MAPUR	

16 ELBATHAR NYAKHUNG 'EL

17 ALI ADAN ABASS AL

	NDASHIMIYERodrigue	
	Nyongabo Ewale	
	NITUMGA Yves	
	NEENDAKUMANA Elee	
	Abdullahi OSMAN	

Mohamed Hassan Mohamed 

Eliza AKUACH Deng 

3. **Exclusion and Disqualification from refugee status. (Section 4 (1) (d));** The bill excludes secondary movers from seeking asylum in the country and unlike the 2006 Act which was silent on this, the bill puts it as one of the reason to exclude persons from seeking asylum in the country. We recommend removal of this clause as seeking asylum in another country should not be a basis for denying one a right to apply for asylum in Kenya as provided under international conventions (UNCSR 1951 OAU 1969). The section on “exclusion” also seems to focus on fleeing persecution but does not take into account other relevant considerations like fleeing external aggression, occupation, foreign domination, or events seriously disturbing public order. It is critical that these clauses be amended to ensure that they are in line with the provisions of the OAU Convention.
4. The Act at section 19(2) introduces expulsion of refugees for breach of public order or public morality irrespective of whether it is linked to claim to asylum. Expulsions based on morality would be in contravention to the principle of non-refoulement. It is enough to expel them based issues of national security which is captured by clause 19(1) The application of laws of Kenya to the refugees and the penalties prescribed the same in those laws should also apply for refugees without expelling them. The aspect of public morality here as a ground for expulsion which may be conceived to target minority groups such as LGBTI and should therefore be addressed. Leaving it as is would lead to discrimination.
5. Inclusion of refugees in economic and social development of the country - Section 28 (4) of the Refugee Bill acknowledges that refugees are entitled to contribute to the economic and social development of the country. However, this progressive provision is undermined by limiting this contribution “subject to the Act.” It remains vague as to what this actually entails. It should be expanded to include the right to identification documents, travel documents, social protection, access to education and health services, engagement in livelihood activities as well as an obligation to contribute to the national and local economy through taxation. *(This provision should be compared to more progressive legal frameworks (such as Uganda) where there is greater specification of the economic and social rights to be enjoyed by refugees, and the precise form of documentation to which refugees are entitled to access to these rights.)*

Throughout the Bill, rights are only referred to in generic and not specific terms. Government should ensure that institutions presiding over these various aspects of life are cognizant of the plight of refugees and that their government issued documentation is recognized by these entities.

6. Section 31(1) enables the Commissioner to require any refugee is within a designated area to move to or reside in any other designated area. This does not provide for a consideration to their protection and safety of the refugees but creates an offence on failure to comply in clause 31(2). This section should be amended to include the condition that the safety and protection of the refugee is ensured and prioritized before they are moved to other areas.
7. Restriction of persons entering designated areas; Section 33(1) Restricts entrance to a designated area by persons other than refugees and those authorized by commissioner. This provision is a hindrance to the local integration of the refugees and host communities. This provision should be removed or alternatively activities that would warrant authorization before entry should be clearly stated.
8. The Bill at Part IV (Reception of refugees & Asylum -Seekers) principle of Non-penalisation on account of illegal entry which is steeped in the 1951 UN Convention on the Status of refugees. This should be included alongside at section 24 to prevent exploitation of new entrants by nefarious elements in the society.

Signed

For Kituo Cha Sheria

Coast Refugee Leaders Representatives

..... Philip Musannia 19/10/2019
..... (Signature) 19/10/2019
..... (Signature) 19/10/2012
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**MEMORANDUM TO THE PARLIAMENT'S DEPARTMENTAL
COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY
PURSUANT TO THE REFUGEE BILL NO. 62 OF 2019**

TO:

The Clerk of the National Assembly,

Parliament,

P. O. Box 41842-00100,

NAIROBI.

Kituo cha Sheria – Coast Regional Office (a Non-Governmental Organization pursuing to access justice for the poor and marginalized via legal aid and civic education, advocacy and Public Interest Litigation) having considered the proposed legislation in consultation with the refugee community at the Coast Region, do highlight some points of interest and make the following recommendations;

1. **Meaning of “refugee”;** Section 3(1) of the bill omits a well-founded fear of being persecuted on basis of sex as one of the reasons one would be considered for consideration for refugee status. This is unlike the 2006 Act (In line with the 1951 UN and the 1969 OAU conventions on refugee matters that listed fear of persecution based on sex as a reason for seeking refugee status.) this clause would result in many being barred from seeking and/or getting asylum based on their sexual orientation. It is our recommendation that sex be included as a basis for one having a well-founded fear of persecution in the said definition.
2. Amend section 4(1)(a) by deleting the words ‘the international Crimes Act’ and replace with ‘any international instrument to which Kenya is a party’ as follows: Section 4(1) (a) has committed a crime against peace, a war crime or a crime against humanity as defined in any international instrument to which Kenya is a party. The reference to the International Crimes Act may not adequately cover other similar crimes not provided under the said Act but provided under the Geneva Conventions I-IV and Additional Protocol I & II.

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REFUGEE CONSORTIUM of KENYA

Advocacy and Policy Development Centre

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MEMORANDUM

To: Hon. Paul Koinange, Chairman of the Departmental Committee on Administration and National Security of the National Assembly

From: Refugee Consortium of Kenya (RCK)

Date: 8th November, 2019

Subject: Submission of RCK views on the Refugees Bill, 2019

Introduction

1. The Refugee Consortium of Kenya (RCK) is writing to you in response to the call for public participation advertised by the National Assembly Departmental Committee on Administration and National Security to get public views on Refugees Bill, 2019 (National Assembly Bill No. 62 of 2019). RCK is a registered national non-governmental organization whose mission is to safeguard and protect the rights and dignity of forced migrants and host communities through the provision of legal aid, psychosocial services, advocacy, capacity building and promotion of inclusive governance. As a critical stakeholder in refugee management in Kenya, RCK wishes to submit its view on the Bill as well as recommendations on areas of improvement.

Analysis of Issues

2. Refugees need protection and are protected under Kenyan law
 - a. **Who is a refugee?:** A refugee is a person that had fled their home country into another country for fear of persecution based on race, nationality, religion, political opinion, or membership of a social group and is unable or unwilling to return to their home country owing to this fear. It also include those nationals of a foreign country that have fled war, foreign domination and occupation and other events seriously disturbing public order. By this definition, nobody choses

to be a refugee and are therefore referred to as involuntary or forced migrants. The reason they flee their home country is to seek protection for their lives. This is the main reason they come to Kenya.

- b. ***Majority of refugees/asylum seekers are women & children:*** There are 479,194 refugees and asylum seekers in Kenya as at 31st August, 2019.¹ Seventy-nine percent of these come from the restive regions of Somalia & South Sudan fleeing war and armed conflict. *A majority of those that flee are women and children who constitute 78 percent of the refugee and asylum seeker population in Kenya.* As is normally the case, women and children are the most vulnerable in instances of armed conflict.
- c. ***Kenyan law is sensitive to refugee protection:*** Guiding principles of the refugee protection in Kenya are found in the
 - i. Constitution of Kenya, 2010 (reference art.2(5) & 2(6);
 - ii. United Nations Convention relating to the Status of Refugees, done at Geneva on 28th July, 1951 and acceded to by Kenya on 16th May, 1966;
 - iii. Protocol relating to the Status of Refugees, done at New York on 31st January 1967 and acceded to by Kenya on 13th November 1981;
 - iv. Organization of Africa Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, done at Addis Ababa on 10th September, 1969 and ratified by Kenya on 28th December, 1987

3. Why amend the Refugees Act, 2006?

a. ***Improve measures to maintain the civilian and humanitarian in character of refugee protection***

- i. Refugee regime is meant to protect the people in need of international protection. This can be done through:
 - a) *Screening:* Security and medical screening are necessary to ensure that asylum seekers entering the country pose no harm to Kenyans and other persons living within our borders. These provisions, in spite of their necessity, are missing in the Act but are present in the Bill under clause 16 & 27.
 - b) *Control of designated areas:* The Act and the Bill create designated areas in their provisions. However, clause 33 of the

¹ United Nations High Commissioner for Refugees,

Bill goes further and empowers the Commissioner to restrict entry into designated areas. This control ensures that the Government is aware of and controls who accesses the camps and who resides therein so that excludable elements do not gain entry.

c) Refugee and asylum seeker registration & data management: To ensure that civilian and humanitarian character of refugee protection in Kenya, the Government needs to know how many refugees and asylum seekers are in Kenya and where they reside. The Bill provides for a refugee register in clause 39 and provides under clause 31 that refugees and asylum seekers must notify the Commissioner every time they move. The Act only provides for the movement passes but does not provide for a register for refugees and therefore this provision is good as it will improve the management of refugees.

d) Application of exclusion parameters: Exclusion parameters are meant to deny status to asylum claimants that have committed serious non-political crimes that include international crimes. Section 4 of the Refugees Act, 2006 has this provision. The same has been retained in clause 4 of the Refugees Bill, 2019 but this provision is much clearer than what is provided under section 4 of the Act;

e) Expulsion: Expulsion of refugees and asylum seekers that are adjudicated to be a threat to national security and public order. The Act has makes provision of this in section 21 which is replicated under clause 19 and 29 of the Bill. However the provisions of clause 19(2) and 23(5) of the Bill go beyond what is necessary and allowable under the Constitution and other applicable laws. We recommend that they be revised as per the attached schedule of amendments in our written memorandum.

b. ***Strengthen the statutory institutions to effectively maintain the civilian and humanitarian character of refugee protection in Kenya***

i. Staffing at the Refugee Affairs Secretariat (RAS): The body that currently administers the Act is RAS. One of the biggest challenges that



RAS has is understaffing. This means that they have to rely on donor funding for support. This situation is not optimal for an agency that is meant to vet and verify claims of asylum from foreign nationals. It is akin to having the Immigration Department substantially funded by foreign donors. The Bill creates the Department of Refugee Services and provides that it be staffed by the National Government (see clause 7(3)).

- ii. Increased refugee status determination (RSD) rigour: The Bill creates a panel that ensures initial refugee status determination (RSD) decisions are valid; that those asylum claims that fall under the exclusion clause in clause 4 of the Bill are not granted asylum. This strengthens the rigorous nature of the process and ensures that those accessing the asylum space in Kenya deserve international protection. The Act does not have this safety feature.
- iii. Clear mandate of the Refugee Affairs Committee (RAC) renamed Refugee Advisory Committee by the Bill: Section 8 of the Act creates RAC. The section also provides the mandate of RAC as assisting ‘the Commissioner in matters concerning the recognition of persons’ which is vague. Clause 10 of the Bill provides a clear mandate for the renamed Refugee Advisory Committee of which the Commissioner for Refugee Affairs shall be the chairperson. This new RAC will support the Cabinet Secretary on policy key policy decisions such as when to grant refugee status en masse (prima facie recognition) where there is a large influx of asylum seekers that DRS capacity may not be able to handle. With a clear mandate RAC will be able to effectively assist the Cabinet Secretary to make decisions that will maintain the humanitarian character of refugee protection in Kenya.

c. Clarify provisions that would allow refugees to contribute to Kenya’s social and economic development

- i. Refugees are contributing to the economic and social development in Kenya:

- a) According to a recent study conducted in Kakuma² refugees own about and run about 1000 businesses in the camp with an

² International Finance Corporation (2018). *Kakuma as a Market Place*, IFC: Washington DC, USA.

estimated household consumption of Kes.4.1 billion in Kakuma Town and Kes.1.7 billion in Kakuma camp itself.³

- b) Mobile phone penetration among refugees in Kakuma is high (69% in the camp and 85% in the town) and so is the use of mobile phone money platforms such as Mpesa. This increases the level of transaction by refugees which yields revenues for the service providers that can be taxed and thereby contribute to the Consolidated Fund.
- c) Refugee owned businesses also contribute to the reduction of unemployment in Kenya. According to a study done in 2015⁴ of all the businesses that are owned by refugees in Nairobi, half of those employed therein are Kenyan nationals.

ii. Refugees Act as is framed limits the Government's ability to reap the benefits of refugee hosting:

- a) Only 38 percent of refugee owned businesses in Kakuma are registered owing to unclear legal framework. The Act speaks of 'wage-earning employment' which many Government officials take to mean formal employment thereby denying the chance for refugees to register their businesses and contribute to the Consolidated Fund through taxes.
- b) Bank account penetration in Kakuma for instance is low (10% in the camp and 54% in the town)⁵ owing to lack of recognition of refugee documents. This situation persists because refugees have restricted access to Kenya Revenue Authority (KRA) PINs that would allow them to open and operate bank accounts. This situation leads to a lot of money that is outside the financial institutional framework and thus hard to track.
- c) In Nairobi, only 5% of refugees report having a work permit⁶ despite the fact that they have businesses that contribute to

³ Ibid p.

⁴ Refugee Consortium of Kenya (2015). *Myths and Truths*, RCK: Nairobi, Kenya

⁵ Ibid, IFC (2018)

⁶ Ibid, RCK (2015)

reducing unemployment in Kenya. The specific reference of 'wage-earning employment' coupled with a lack of express provisions of what refugee documentation entitle the holder contribute to this situation.

- d) Despite the high mobile phone penetration, the law limits refugee access to the mobile phone services as it does not recognize the refugee documents as sufficient for the purposes of registration. This means that the revenue that would have been generated from refugee transactions will be lost as they will be locked out of the available mobile phone platforms.

iii. *There needs to have a clear reference to refugee rights and duties to support refugee contribution to Kenya's economy:*

- a) The Bill does provide a requirement for documents to be issued by both levels of Government to allow refugees to contribute to the social and economic fabric of Kenyan society.
- b) However the provisions of the Bill do not go far enough to state what these documents would entitle refugees to e.g. KRA PINs, work permits etc
- c) The Bill also creates an offence of not paying taxes but does not create a duty for the same.
- d) These gaps need to be addressed as per our recommendations in the schedule of amendments.

d. ***Clarify provisions on durable solutions for refugees in Kenya***

- i. Refugee status is not meant to last forever. Protection for refugees is a temporary matter. It is meant to last until a durable solution is found. There are three durable solutions that are recognized globally. These are: voluntary repatriation (where refugees voluntarily return to their home country); third country resettlement (where refugees gain access to another country not their home country for the purposes of protection) and local integration (where refugees are granted right similar to those of nationals of their host country). In Kenya, the two most common durable solutions are voluntary repatriation (as is the case with the Somali refugees in Dadaab) and third country resettlement. Kenya does not implement the local integration durable solution.

- ii. The Act does not have a clear provision on how the Commissioner for Refugee Affairs is meant to promote durable solutions. The Act gives the responsibility of seeking durable solutions to the Commissioner for Refugee Affairs (CRA). However it neither spells out what these solutions are nor how the CRA is go about implementing the same.
- iii. The Bill elaborates on this issue. It devotes an entire part (Part VII) to this matter. The sections in this part elaborate clearly the duties of the CRA when it comes to implementing durable solutions for refugees. This elaboration is likely to yield success as it enunciates clearly the durable solutions that are prioritized (voluntary repatriation and third country resettlement) as well as the steps that the CRA will undertake to ensure that these durable solutions are achieved in Kenya.

Conclusion

- 4. In conclusion, RCK would like to reiterate its appreciation to the Committee on engaging the public on this important issue. Moreover, we recognize that the Bill as is presently drafted is a good step towards addressing the issues that refugees face in Kenya. However, there is more though that needs to be put into its provisions. RCK therefore recommends a list of amendments that can be able to improve the provisions of the Bill as attached to this memorandum.
- 5. Nobody choses to be a refugee; they are forced by life threatening circumstances to flee their homes to seek refuge in Kenya. While they are here and before they get a durable solution, the law should allow for them to live in dignity, to earn from their hard work rather than rely on hand-outs and contribute to the economy of this great nation.

**LIST OF AMENDMENTS TO THE REFUGEES BILL, 2019
PROPOSED BY THE REFUGEE CONSORTIUM OF KENYA**

No.	Section	Proposal	Justification
1.	Section 2: Definition of local integration “local integration” means the gradual process through which refugees are incorporated into the society through a process that ensures that refugees attain border rights, have improved standards of living and positively contribute to the social life of the host country;	Amend the section by replacing the word “border” that appears between the words ‘attain’ and ‘rights’ with the word “broader” and by including the words ‘and economic’ between the words ‘social’ and ‘life’ as follows: “local integration” means the gradual process through which refugees are incorporated into the society through a process that ensures that refugees attain broader rights, have improved standards of living and positively contribute to the social and economic life of the host country;	The word broader is misspelt and the definition is also incomplete. We propose the inclusion of a reference to economic contribution since refugees do contribute to Kenya’s economy.
2.	Section 2: Definition of a transit centre “transit centre” means areas designated by the Cabinet Secretary for the purposes of temporarily accommodating persons covered under this Act pending transfer to either the designated areas, reception centres, settlement centres or pending health or security screening, and may include prisons, immigration detention centres, police stations, remand homes or any other areas designed as such;	Amend the section as follows: <i>“transit centre” means premises used for the purposes of temporarily accommodating refugees and asylum seekers in order to undertake health or security screening or for the purposes of repatriation or resettlement;</i>	Seeking asylum is not a criminal offence. We therefore recommend that mention of prisons, immigration detention centres and police stations be deleted.
3.	Section 3(2): Meaning of “refugee” (2) Subject to sub-section (1), if the Cabinet Secretary, on recommendation from the Committee	Amend the section by deleting section 3(2) and replacing with a new section 3(2) and deleting proviso (ii) as follows:	There is a circular logic in that this subsection makes reference to section 3(1)(d) which in turn makes reference to

	considers that any class of persons are prima facie refugees as defined in subsection (1)(a),(b),(c) or (d) the Cabinet Secretary may, through the Gazette, declare such class of persons to be prima facie refugees and may at any time amend or revoke such declaration, Provided that no such amendment or revocation shall affect the right of any person — (i) who is a member of the class of persons concerned and who entered Kenya before the date of such amendment or revocation, to continue to be regarded as a refugee for the purposes of this Act; or (ii) who is a person referred to in subsection (1) (d), to be recognized as a refugee for the purposes of this Act.	Section 3(2) The Cabinet Secretary, on recommendation from the Refugee Advisory Committee may, through the Gazette, declare any class of persons to be refugees on a prima facie basis if it is evident that these persons qualify to be refugees under section 3 (1)(a), (b) or (c) and may at any time, upon recommendation from the Refugee Advisory Committee, amend or revoke such declaration. Provided that no such amendment or revocation shall affect the right of any person who is a member of the class of persons concerned and who entered Kenya before the date of such amendment or revocation, to continue to be regarded as a refugee for the purposes of this Act.	section 3(2). In addition, proviso (ii) does not add any value and only creates confusion.
4.	Section 4(1)(d): Exclusion and disqualification from refugee status 4.(1)A person shall be excluded from being considered for refugee status if there exists serious reason to believe that the person— (d) has sought asylum in another country. (2) A person shall be disqualified from being a refugee if the person— (b) has been granted refugee status in another country prior to entry in Kenya and can be re-admitted to that country and benefit currently and in the future in that country from effective protection; or	Amend by deleting section 4(1)(d) and inserting the words 'has sought asylum' before the words 'has been granted...' as appears in section 4(2)(b) as follows: Section 4(2)(b) <i>has sought asylum</i> or has been granted refugee status in another country prior to entry in Kenya and can be re-admitted to that country and benefit currently and in the future in that country from effective protection; or	Seeking asylum in another country are not grounds for exclusion but rather disqualification. Therefore we recommend that this provision be moved from section 4(1) and be inserted in section 4(2)(b).

5.	Section 5 (proviso): Cessation of refugee status Provided that paragraphs (e) and (f) shall not apply to a refugee falling under section 3(1)(a) and (b) of this Act who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself or herself the protection of their country of nationality or former habitual residence.	Amend the proviso to the section by deleting the words 'falling under section 3(1)(a) and (b) of' and replacing therefore with 'as defined by this Act' as follows: Provided that paragraphs (e) and (f) shall not apply to a refugee <i>as defined by this Act</i> who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself or herself the protection of their country of nationality or former habitual residence.	The manner the proviso is framed creates confusion. We propose that the section be reframed as suggested.
6.	Section 9(2): The Refugee Advisory Committee (2) The Committee may when necessary co-opt any person to attend the meeting of the Committee and advise it on performance of its duties.	Amend section 9 by amending section 9(2)) as follows: <i>Section 9(2) The Committee shall include a representative from each of the designated counties and one member from the civil society and may co-opt any other person to attend the meeting of the Committee and advise it on performance of its duties.</i>	The section does not include a representative from the designated counties and civil society as was the case in section 8(5) of the Refugees Act, 2006.
7.	Section 11: Refugee Status Appeals Committee (2) The Cabinet secretary shall, by notice in the <i>Gazette</i> appoint the following persons to serve in the Appeals Committee— (a) a representative of the Principal secretary responsible for refugee matters who shall be the chairperson of the Committee; (b) a representative of the Kenya National Commission for Human Rights; (c) a representative of the State Department responsible for Immigration;	Amend section 11(2) as follows: (2) The Cabinet secretary shall, by notice in the <i>Gazette</i> appoint the following persons to serve in the Appeals Committee— (a) <i>a chairperson who is an advocate of not less than ten years standing appointed by the Cabinet Secretary;</i> (b) a representative of the Kenya National Commission for Human Rights; (c) a representative of the State Department responsible for Immigration;	• With the current change of the composition of the Refugee Status Appeals Committee, this second instance is no longer an independent decision-making body. In order for a remedy to be effective, the appeal should be considered by an authority different from and independent of that making the initial decision. • We also propose that the number of members be reduced from seven to six.

	(d) one person nominated by the Attorney General; and (e) three other persons with knowledge and experience in refugee matters.	(d) one person nominated by the Attorney General; and (e) <i>two</i> other persons with knowledge and experience in refugee matters.	
8.	Section 11: Refugee Status Appeals Committee (3) The quorum for a meeting of the Appeal Board shall be three members. (4) The function of the Appeal Board shall be to hear and determine appeals against any decision of the Commissioner with regard to — (a) the rejection of any individual application for refugee status; and (b) the cancellation and termination of refugee status. (5) The Appeals Committee may co-opt an officer of the United Nations High Commissioner for Refugees to advise the Committee in performance of its functions. (6) The Appeals Committee shall convene as and when appeals have been filed against decisions of the Commissioner and, save as expressly provided in this Act, regulate its own procedures. (7) A person who is aggrieved by the decision of the Appeals Committee may appeal to the High Court within thirty days of being notified.	Amend section 11 by making the changes in bold and italics: (3) A member of the Appeal Committee shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years. (4) The quorum for a meeting of the Appeal Committee shall be three members and <i>shall include at least one member under section 11(2)(e).</i> (5) <i>Each member of the Committee shall have one vote but in case of a tie in votes, the Chairperson shall have a casting vote.</i> (6) The function of the Appeal Committee shall be to hear and determine appeals against any decision of the Commissioner with regard to — (a) the rejection of any individual application for refugee status; and (b) the cancellation, <i>revocation</i> and termination of refugee status. (7) <i>The Appeal Committee shall be independent in the exercise of its functions under this Act.</i> (8) <i>The Government shall provide the Appeal Committee with a Secretariat for the purposes of discharging its mandate.</i>	The amendment are meant to do the following: • Make provision of decision making for the Committee; • Provide a mandatory provision for inclusion of experts to form quorum; • Provide a secretariat and independence of the Committee.

		(9) The Appeals Committee may co-opt an officer of the United Nations High Commissioner for Refugees to advise the Committee in performance of its functions. (10) The Appeals Committee shall convene as and when appeals have been filed against decisions of the Commissioner and, save as expressly provided in this Act, regulate its own procedures.	The Appeals Committee may co-opt an officer of the United Nations High Commissioner for Refugees to advise the Committee in performance of its functions. (10) The Appeals Committee shall convene as and when appeals have been filed against decisions of the Commissioner and, save as expressly provided in this Act, regulate its own procedures.	
9.	Section 14(3): Appeals (3) Where the High Court upholds the decision of the Commissioner against which an applicant had unsuccessfully appealed to the Appeals Committee, the Commissioner shall within sixty days of the ruling of the High Court notify the Director of Immigration of the decision, who shall thereafter deal with the applicant in accordance with written law on immigration.	Amend section 14(3) by deleting 'within sixty days' and inserting 'within ninety days' therefor as follows: (3) Where the High Court upholds the decision of the Commissioner against which an applicant had unsuccessfully appealed to the Appeals Committee, the Commissioner shall <i>within ninety days</i> of the ruling of the High Court notify the Director of Immigration of the decision, who shall thereafter deal with the applicant in accordance with written law on immigration.	This change is proposed for the sake of consistency with section 22(1)(c) and section 22(2).	
10.	Section 18: Revocation of refugee status 18. (1) The Commissioner may revoke the status of any refugee if the refugee at any time after recognition as a refugee has committed a war crime or a crime against humanity, as defined in any international instrument to which Kenya is a party. (2) Where refugee status under this part has been revoked that person shall cease to be a refugee under this Act on the expiration of seven days after the date on which the Commissioner notifies the person concerned that his or her recognition has been revoked.	Amend as follows: 18. (1) The Commissioner may revoke the status of any refugee if the refugee at any time after recognition as a refugee has committed a war crime or a crime against humanity, as defined in any international instrument to which Kenya is a party. (2) Where refugee status under this part has been revoked that person shall cease to be a refugee under this Act on the expiration of seven days after the date on which the Commissioner notifies the	The amendments were made because: • There was a missing section 18(3); • Section 18(5) repeats a provision already made under section 17(5).	

	(4) Where refugee status under this part has been revoked, every person who, immediately before such revocation, was within Kenya as a member of the family of such refugee shall have the right to apply to be considered as a refugee under section 12 of this Act. (5) Any person whose refugee status has been cancelled or revoked shall leave the country within thirty days of notification of the final order relating to the cancellation or revocation, failing which the Cabinet Secretary shall remove such person immediately.	person concerned that his or her recognition has been revoked. <i>(3) Any person whose refugee status has been revoked and does not appeal or has exhausted the available appeal mechanisms, shall leave the country within thirty days of notification of the final order relating to the revocation, failing which the Cabinet Secretary shall remove such person immediately.</i>	Section 19(2) is superfluous. An expulsion provision is granted under section 19(1) and section 29(2).
11.	Section 19(2): Expulsion of refugees or members of their families 19. (1) Subject to section 30, the Cabinet Secretary may order the expulsion from Kenya of any refugee or member of his family if the Cabinet Secretary considers the expulsion to be necessary on the grounds of national security or public order. (2) Subject to subsection 19(1) a refugee or an asylum seeker engaging in a conduct that is in breach or is likely to result in breach of public order or contrary to public morality irrespective of whether the conduct is linked to his claim for asylum or not, may be expelled from the Kenya by an order of the Cabinet Secretary. (3) Before ordering the expulsion from Kenya of any refugee or member of his family in terms of subsection (1) of this section, the Cabinet Secretary shall act in accordance with the due process of law.	Amend by deleting the section and renumbering as follows: 19. (1) Subject to section 30, the Cabinet Secretary may order the expulsion from Kenya of any refugee or member of his family if the Cabinet Secretary considers the expulsion to be necessary on the grounds of national security or public order. (2) Before ordering the expulsion from Kenya of any refugee or member of his family in terms of subsection (1) of this section, the Cabinet Secretary shall act in accordance with the due process of law.	

12.	Section 20(1): Refugee women and children 20. (1) The Commissioner shall ensure that specific measures are taken to ensure the dignity and safety of women and children seeking asylum and women and children who have been granted refugee status at all times during their stay in designated areas.	Amend section 20(1) by deleting 'during their stay in designated areas' and replacing it with 'during admission into and stay in Kenya' as follows: 20. (1) The Commissioner shall ensure that specific measures are taken to ensure the dignity and safety of women and children seeking asylum and women and children who have been granted refugee status at all times <i>during admission into and stay in Kenya</i>.	Section 20(1) ensures measures for the protection of women and children in designated areas but not if they reside outside. It is recommended that Section 20(1) be expanded to ensure protection for women and girls who are exempted from living in designated areas; this is then also consistent with wording of section (21).
13.	Section 21: Care for persons with disability and persons who have suffered trauma 21. The Commissioner shall ensure that appropriate measures are taken to ensure the safety of asylum seekers and refugees who suffer from disability and persons or groups of persons who have been traumatized or otherwise require special protection at all times during admission into and stay in Kenya.	Amend the section by replacing the phrase 'suffer from disability and persons or groups of persons who have been traumatized' with '...suffer from disability, trauma and older persons' as follows: 21. The Commissioner shall ensure that appropriate measures are taken to ensure the safety of asylum seekers and refugees who <i>suffer from disability, trauma or are of old age</i> or otherwise require special protection at all times during admission into and stay in Kenya.	Recommendation to include persons of old age and specify the support to be provided to all three groups in the Regulation.
14.	Section 22(1) (c) & 22(2): Right to remain in Kenya during status determination (c) where such person has appealed under section 14, and his or her appeal has been unsuccessful, until such person has been allowed a reasonable time, not exceeding sixty days to seek admission to a country of his or her choice.	Amend by deleting the phrase 'not exceeding sixty days..' as it appears on section 22(1)(c) and replacing it with 'not exceeding ninety days' as follows: (c) where such person has appealed under section 14, and his or her appeal has been unsuccessful, until such person has been allowed a reasonable time, <i>not exceeding ninety days</i> to seek	There is an inconsistency at the time allowed for an asylum seeker whose claim has been rejected to seek admission to another country of his/her choice. A 90 day period is recommended as provided in the current Refugees Act, 2006.

	(2) The Cabinet Secretary may, on application being made to him or her by the person concerned, extend the three-month period referred to in subsection (1)(c) if he or she is satisfied that there is a reasonable likelihood of the person being admitted to a country of his or her choice within such extended period.	admission to a country of his or her choice.	
15.	Section 23(5): Applicant to be issued with an asylum seeker's pass (5) A person who has submitted an application for refugee status shall be under obligation to abide by all the laws of Kenya including all the lawful orders given by the mandated institutions under this Act, failure to which the Commissioner shall have powers to strike them out of the asylum process and advise the Cabinet Secretary to remove them from Kenya subject to the applicable immigration laws.	Amend section 23 by section 23(5) and substituting it with two new subsections as follows: <i>(5) A person who has submitted an application for refugee status shall be under obligation to abide by all the laws of Kenya including all the lawful orders given by the mandated institutions under this Act.</i> <i>(6) A person that contravenes section 23(5) above commits an offence.</i>	The manner in which Section 23(5) has been framed opens an interpretation wherein a misdemeanour could be used to expel a refugee or asylum seeker. Moreover, expulsion provisions under section 19(1) and 29(2) are sufficient.
16.	Section 24: Entry into Kenya by refugees 24. Any person entering Kenya to seek asylum shall make his or her intention known immediately upon entry or within thirty days by reporting to the nearest reception centre or the nearest government administrative office.	Amend section 24 as follows: 24. (1) Any person entering Kenya to seek asylum shall make his or her intention known immediately upon entry or within thirty days by reporting to the nearest reception centre or the nearest government administrative office. (2) <i>In the case of a person who is lawfully in Kenya and is subsequently unable to return to his country of origin for any of the reasons specified in section 3 of this Act, he shall, prior to the expiration of his lawful stay, present himself before an appointed</i>	Section 11(2) of the Refugees Act, 2006 expressly provided for asylum seekers that are in Kenya legally and for reasons provided under the provisions that define refugees are unable or unwilling to return to their countries of origin. This allowed them to apply for the status before the expiry of their lawful stay. This is the justification for proposing a section 24(2)

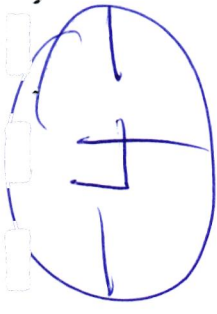
		<i>officer and apply for recognition as a refugee in accordance with the provisions of this Act.</i> <i>(3) Where there is a large-scale influx of persons claiming to fall within the meaning of refugees under section 3, the Commissioner shall, in consultation with the representatives of the United Nations High Commissioner for Refugees advise the Cabinet Secretary on emergency measures to be taken including-</i> <i>(a) designation of areas for reception, transit and residence of refugees, having due regard to the security requirement for refugees to be settled at a reasonable distance from the frontier of their country of origin;</i> <i>(b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women and children; and</i> <i>(c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.</i>	Proposed section 24(3) has been moved from 29(3); see justifications for section 24(3) in recommendation 46 below.
17.	Section 25: Designation of refugee reception officers (3) Subject to subsection (2) asylum seekers may be temporarily accommodated at the reception holding areas as they await further processing by the Department. (4) Asylum seekers who enter the country through places, other than gazetted entry points, shall	Amend to include a new subsection (4) and renumber the current subsection (4) as follows: (3) Subject to subsection (2) asylum seekers may be temporarily accommodated at the reception holding areas as they await further processing by the Department.	Asylum seekers should not be held ad infinitum in transit centres.

	immediately report to the nearest government administrative office for further assistance.	(4) <i>Asylum seekers at transit centres shall be processed and released within reasonable time</i> (5) Asylum seekers who enter the country through places, other than gazetted entry points, shall immediately report to the nearest government administrative office for further assistance.	
18.	Section 28: Rights and obligations of refugees 28. (1) Subject to this Act, every refugee and every asylum seeker within Kenya shall be entitled to the rights and be subject— (a) to the duties contained in the UN Convention, its Protocol and the OAU Convention; and (b) all the laws in force in Kenya. (2) The Cabinet Secretary may, by notice in the Gazette and in consultation with the relevant county governments, designate specific counties to host refugees. (3) The Cabinet Secretary may, by notice in the Gazette, designate places and areas in Kenya to be transit centres for purposes of temporarily accommodating refugees. (4) Subject to this Act, refugees shall be enabled to contribute to the economic and social development of Kenya by facilitating access to, and issuance of,	Amend section 28 as follows: 28. (1) Subject to this Act, every refugee and every asylum seeker within Kenya shall be entitled to the rights and be subject— (a) to the duties contained in the UN Convention, its Protocol and the OAU Convention; and (b) all the laws in force in Kenya. (2) Without prejudice to the generality of section 28(1) above: (a) Every refugee has the right to identification documents, travel documents, social protection, access to education and health services, as well as engagement in livelihood activities and shall be under an obligation to contribute to the national and local economy through taxation; and (b) Every asylum-seeker has the right to documentation and access to essential services, including food, shelter, education, health, water and sanitation	The section as is currently framed does not offer a clear provision on the benefits of holding refugee documents. The proposed amendment is meant to address this gap. It also does not spell out the rights in a clear manner. Also section 40(1)(m) provides an offence but there is no corresponding duty that underpins the offence.

	the required documentation at both levels of Government.	<i>services, and where relevant, social protection.</i> (3) The Cabinet Secretary may, by notice in the Gazette and in consultation with the relevant county governments, designate specific counties to host refugees <i>purposes of accommodating of refugees who require essential services.</i> (4) The Cabinet Secretary may, by notice in the Gazette, designate places and areas in Kenya to be transit centres for purposes of temporarily accommodating refugees for <i>security and medical screening.</i> (5) Subject to this Act, refugees shall be enabled to contribute to the economic and social development of Kenya by facilitating access to, and issuance of, the required documentation at both levels of Government. <i>(5) The refugee and asylum seeker identification shall be adequate to the rights provided by law.</i>	The affected subsection is misplaced in the current section.
19.	Section 29(3): Non-refoulement (3) Where there is a large-scale influx of persons claiming to fall within the meaning of refugees under section 3, the Commissioner shall, in consultation with the representatives of the United Nations High Commissioner for Refugees advise the Cabinet Secretary on emergency measures to be taken including- (a) designation of areas for reception, transit and residence of refugees, having due regard to the security requirement for refugees to be	Amend section 29 by deleting subsection (3) and moving it to Section 24 as indicated in recommendation 16 above.	

	settled at a reasonable distance from the frontier of their country of origin; (b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women and children; and (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.		
20.	Section 31: Requirement to reside in a designated area 31. The Commissioner may require any refugee is within a designated areas to move to or reside in any other designated area.	Amend the section as follows: 31. (1) The Commissioner may require any refugee <i>who is in need of essential services and</i> is within a designated areas to move to or reside in any other designated area.	The revision is meant to make the section clearer.
21.	Section 34(1): Integration of refugees into communities 34. (1) The Commissioner shall ensure that there is shared use of common social amenities between the refugees and the host communities.	Amend the section by replacing the words 'social amenities' and replacing therefor with "public institutions, facilities and spaces" as follows: 34. (1) The Commissioner shall ensure that there is shared use of <i>public institutions, facilities and spaces</i> between the refugees and the host communities.	The term social amenities was ambiguous and thus the proposed rephrasing.
22.	Section 36: Affirmative action for women, children and persons with disabilities 36. In the integration of refugees in the host communities, the Commissioner shall, in cooperation with the United Nations High Commissioner for Refugees and the other organizations involved in the assistance of refugees,	Amend the section as follows: 36. In the integration of refugees in the host communities, the Commissioner shall, in cooperation with the United Nations High Commissioner for Refugees, <i>relevant County Governments</i> and the other organizations involved in the assistance of refugees, ensure that special attention is given to women, children	Proposal to include reference to County governments in light of devolved services and reference to older persons.

	ensure that special attention is given to women, children and persons with disabilities.	persons with disabilities, <i>older persons and other vulnerable groups</i> .	
23.	Missing section: Confidentiality 39. (1) The Department shall keep and maintain a register of all persons who have been granted refugee status and persons seeking asylum in Kenya. (2) The Department shall as soon as practicable after the coming into force of this Act update the register to take into account the matters provided for by this Act. (3) The Commissioner shall register and keep records of all asylum seekers and refugees present and the designated areas established in Kenya and for this purpose shall be deemed to be the Registrar of the asylum seekers and refugees provided that he or she may delegate this function in writing to a Settlement officer or refugee officer.	Amend the Bill by inserting a new section 40 after the current section 39 and amend the later as follows as follows: 39. (1) The <i>Commissioner</i> shall keep and maintain a register of all persons who have been granted refugee status and persons seeking asylum in Kenya. (2) The <i>Commissioner</i> shall as soon as practicable after the coming into force of this Act update the register to take into account the matters provided for by this Act. (3) The Commissioner shall register and keep records of all asylum seekers and refugees present and the designated areas established in Kenya and for this purpose shall be deemed to be the Registrar of the asylum seekers and refugees provided that he or she may delegate this function in writing to a Settlement officer or refugee officer. 40. (1) No member of the Committee, employee or agent of the Department of Refugees shall disclose information acquired under this Act except— <i>(a) in the course of his duties under this Act; or</i> <i>(b) with the consent of the Commissioner.</i>	Retain the confidentiality provisions under section 24 of the Refugees Act, 2006. The section provides for confidentiality in handling asylum seeker and refugee information. Noting that article 31 Constitution of Kenya 2010 provides for the right to privacy and data protection, it is not clear why the provision was dropped in the Bill.



MEMORANDUM

To: Hon. Paul Koinange, Chairman of the Departmental Committee on Administration and National Security of the National Assembly

From: Kakuma Host Community

Date: 8th November, 2019

Subject: Submission of Kakuma Host Community views on the Refugees Bill, 2019 (National Assembly Bill No. 62 of 2019)

Introduction

With regards to the call for public participation advertised by the National Assembly Departmental Committee on Administration and National Security, on Refugees Bill, 2019 Kakuma Host Community writes to you with our views/suggestions on some of the provisions of the Bill and for your consideration as we have been living alongside the refugees and asylum seekers from the year 1992. Our concerns and suggestions are as indicated below-

LIST OF AMENDMENTS TO THE REFUGEES BILL, 2019 AS PROPOSED BY THE KAKUMA HOST COMMUNITY

No.	Clause	Proposal	Justification
1.	Preliminaries	• Provide a clear definition of the term host	The local population is a broad term

		community. • Use the term host community in place of local population. • Provide a clear definition of the term local integration and the consequences of local integration to the host community.	which includes persons from other areas residing in the area for purposes of employment or business.
2.	Clause 28: Rights and Obligations of Refugees 2) The Cabinet Secretary shall in consultation with the relevant county governments designate specific counties to host refugees.	The designated areas that is, the refugee camps should remain as they are in the Refugee Act of 2006 as follows- 2) The Cabinet Secretary shall in consultation with the relevant county governments designate specific areas to be refugee camps.	Challenges that could arise from this clause are as follows; • Insecurity • Land disputes • Interference with host community culture and values because of practises among some of the refugees such as homosexuality.
3.	Clause 29 (3) Non Refoulment (c) Ensuring civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.	Replace local population with host population in the clause as follows- c) Ensuring civilian and humanitarian character of areas designated for refugees and the sensitization of the host community for their reception.	The local population is a broad term which includes persons from other areas residing in the area for purposes of employment or business.
4.	Clause 30: Designated areas The Commissioner shall work with the national and county Government authorities within and around the designated areas to ensure the protection of the environment and the	Inclusion of UNHCR and agencies in protection of the environment and the rehabilitation of designated areas.	Agency personnel together with the host community and the refugees have better capacity to protect the environment and rehabilitate

	rehabilitation of areas that had been used as designated areas.		designated areas together.
5.	Clause 33: Restriction of persons entering a designated area 2) A person seeking to enter a designated area shall make an application to the Commissioner in writing stating the reason and time for such an application.	Amend the clause to be clear on persons who need to make an application to the Commissioner in writing for them to enter designated areas.	Some members of the host community live in or around the designated areas with the refugees so it is not clear whether these persons also need to make a written application to the Commissioner for them to enter the designated area
6.	Clause 34: Integration of Refugees into Communities 1) The Commissioner shall ensure that there is shared use of common social amenities between the refugees and the host communities	Amend the clause to include social amenities for refugees and those of the host community separately and not shared Inclusion of a clause allowing the host community to benefit from agency services for example food from UNHCR.	We propose that houses be built for the host community in Kalobeyei also because the current structures have been built for refugees while the host have no houses. We suggest a 50/50 ratio benefit. On food distribution, that refugees receive food distribution from UNHCR while the host community sometimes lack food so we propose that a clause be included allowing the host community to benefit from agency services,
7.	Clause 34: Integration of Refugees into Communities	Amend this clause to include the involvement of local leadership to ensure peaceful coexistence	Involvement of local leadership is important especially in matters of

	2) The Commissioner shall sensitize the host community about the presence of refugees and any other matter relating to their co existence with each other.	between refugees and the host community.	peaceful coexistence.
8.	Clause 34: Integration of Refugees into Communities 3) The Commissioner shall in Consultation with the Cabinet Secretary, establish measures for the handing over of amenities set up for the use of asylum seekers and refugees to national and county government authorities upon departure of refugees from the place where the amenities had been set up for their use.	Amend this clause to state that resources to be handed over to the host community as follows- The Commissioner shall in Consultation with the Cabinet Secretary and County government authorities, establish measures for the handing over of amenities set up for the use of asylum seekers and refugees to the host community upon departure of refugees from the place where the amenities had been set up for their use. Include a clause concerning the disposal of current assets to the host community.	The resources should benefit the host community living within the areas designated for hosting refugees.

Conclusion

Thank you for giving us an opportunity to raise our views on the Refugee Bill 2019. We hope that our concerns will be taken into consideration.

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9. Duties of the commissioner should include awareness creation on refugee matters and documents amongst various national and county governmental authorities.

The refugee community of Kakuma and Kalobeyei appreciate the opportunity to share their views on the Bill. We submit the memorandum pursuant to call for public participation as required by the Constitution of Kenya 2010. We hope that these suggestions will be considered and be taken into account in the final Act.

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Hon. Paul Koinange, Chairman of the Departmental Committee on Administration and
National Security of the National Assembly
8th November, 2019
The Clerk,
National Assembly,
P.O. Box 41842-00100, Parliament Building,
Nairobi

RE: REFUGEE VIEWS ON THE REFUGEES BILL, 2019

Dear Sir,

Receive greetings from the refugees living in Kakuma. We write as refugee leaders and and members community to share our views on the Refugee Bill 2019. Kindly find below issues for your kind consideration and action:

1. We recommend that refugees or their representatives be involved in the development of rules referred to under Section 32 of the subject Bill. The rules apply to the refugee population and thus should be involved in the formulation process.
2. We recommend that refugee identification cards issued by the national government, give refugees the powers to contribute to the social and economic development of Kenya as provided under section 28(4) by accessing services such as KRA pin, telecommunication services, banking and mobile banking services, e-citizen and EFNS.
3. We further recommend a more simplified process for the acquisition of a work permit.
4. We recommend that Refugee Identity cards should not have an expiry but should be surrender to the Department of Refugee Services upon attaining a durable solution.
5. A refugee identity card issued by the national government should be deemed as sufficient for purposes of traveling outside designated areas as the same applies to citizens and aliens traveling within the country.
6. Refugees or their representative humanitarian organisation to be considered as a member of the Refugee Advisory Committee.
7. Refugees should not only be involved in the initiation and formulation of sustainable development and environmental plans according to section 35, we recommend that the refugees should be involved in the implementation of such as it gives them an active role and participation in the social and economic development of Kenya. .
8. We recommend the replacement of the word appropriate as provided under section 21 and replace it with the word proper as it shows that it is not optional but have made a commitment.

		(2) <i>No person who receives information in contravention of sub (1) shall disclose or publish the information.</i> (3) <i>A person who contravenes any provision of this commits an offence and shall on conviction be liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months or both such fine and imprisonment.</i>	
24.	Section 43(1): Regulations 43. (1) The Cabinet Secretary shall, make regulations generally for giving effect to this Act, and for prescribing anything required or necessary to be prescribed by or under this Act.	Amend the section as follows: 43. (1) The Cabinet Secretary shall, make regulations generally for giving effect to this Act, and for prescribing anything required or necessary to be prescribed by or under this Act <i>within 6 months of the commencement of this Act.</i>	We recommend that a time limit to set for the enactment of the regulations for the proper administration of the law.

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No.	Name	Signature
1.	SILALE EDUPO CALISTUS	
2.	PROT KALAWAS LUCAS	
3.	SILVIA EKAN TAN	
4.	JOHN EKAN INOK	
5.	EDUNG LOWEET GABRIEL	
6.	COSMAS EKAR JULIUS	
7.	SELINA KIYONGA	
8.	EWESIT ETIIR	
9.	FRANCIS JOSEPH MUNOIR	
10.	EKAR MATHEW EWAAAT	
11.		
12.		

COUNTY GOVERNMENT OF GARISSA

MEMORANDUM OF VIEWS ON THE REFUGEES BILL, 2019 (NATIONAL ASSEMBLY BILL NO.62 OF 2019) SUBMITTED TO THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY OF THE NATIONAL ASSEMBLY

Introduction

This is a memorandum of views on the Refugees Bill, 2019 (National Assembly Bill No.62 of 2019) submitted by the County Government of Garissa. The County Government takes note of the Constitutional mandate of the National Assembly to make legislation and lauds the Departmental Committee on Administration and National Security (DCANS) for organising for public input as requires by article 118(1)(b) of the Constitution of Kenya, 2010.

Summary of Issues

X County government exclusion

County governments are the levels of government that directly engage with refugees and asylum seekers as they are hosted in the counties. For instance, the County Government of Garissa has been hosting refugees in the Dadaab refugee camp complex for close to three decades. The refugees have lived side by side with the residents of the county and shared the local resources. Since the Constitution of Kenya, 2010 has devolved certain functions such as provision of water and health care which are among the shared resources between the two populations, it is important that hosting county governments are involved in the decision making process that would affect the sharing of such resources.

We however note that this is not reflected in the Refugees Bill, 2019. Clause 9 creates the Refugee Advisory Committee (RAC).. The Committee is meant to advise the Cabinet Secretary on policy decisions such as setting up designated areas among other decisions. We view the provision for a representative from the Ministry of Devolution and a representative from the Council of Governors as inadequate representation. He who wears the shoe know where it pinches. We recommend that hosting county governments, that

have first-hand experience with refugees, are represented in the proposed Refugee Advisory Committee.

Additionally, clause 34 calls for the sharing of resources between the refugees and host community. It puts the responsibility to ensure this sharing on the Commissioner for Refugee Affairs. It further provides that the responsibility of raising awareness among the host community on co-existence with refugees lies with the Commissioner. Whereas this provision is necessary for the social and economic integration of refugees, we take issue with the fact that the Commissioner need not engage the County Governments hosting these refugees. We wonder how the Commissioner of Refugee Affairs can ensure shared use of resources that is provided by the County Governments without the involvement of the County Governments that host refugees. We further urge the Departmental Committee on Administration and National Security (DCANS) to review this provision and include a clear provision that will compel the Commissioner to engage the hosting County Governments on such decisions.

Non-retroactivity of penalty on double registration

The County Government of Garissa has noted that clause 40 (3) creates the offence of double registration. That is to say that where a Kenyan knowingly registers as a refugee then he/she commits an offence. Whereas there is need to regulate this matter for the effective implementation of the Bill, if it becomes law as is, we are concerned about the fate of the current stock of Kenyans registered as refugees.

- ✕ There are a number of Kenyans that are registered as refugees in the United Nations High Commissioner for Refugees (UNHCR) database. Some of these Kenyans were registered while they were minors by their adult parents and relatives. Others registered as adults. They registered as refugees in order to receive food and other type of assistance provided to refugees during drought period when other sources of assistance failed them. As such, they did this for their very survival.

They are currently living with the consequences of this decision. Kenyan children registered as refugees that have reached the age of majority cannot get a national identification card as their names are still in the refugee register. Without the national identification card, they cannot get jobs or get access to higher education financing from institutions such as the Higher Education Loans Board (HELB) that requires the document. Some have been passed over for scholarships overseas because they cannot be

able to travel abroad without a passport that requires the national identification card. Our fear is that the provisions of clause 40(3) may be applied retrogressively thereby adding hardship to these people.

Therefore the County Government of Garissa recommends that the clause expressly states that it will not apply retrogressively. This will ensure that the law will not be used to punish past indiscretions. We further call upon (DCANS), using its constitutional authority of oversight, to inquire from the Ministry of Interior and Coordination of National Government about the progress of re-registration of those affected as Kenyans as ordered by His Excellency the President Hon. Uhuru Kenyatta in 2017 at a public function in Garissa.

X *Control of designated areas*

Clause 33 of the Refugees Bill provides for the control of designated areas. It forbids the entrance of any person not authorized by the Commissioner or that is not a refugee or an employee of the Department of Refugee Services (DRS) in to the area. Moreover, it makes it an offence to enter the designated area without the authority of the Commissioner.

We understand that this provision is necessary to ensure that the civilian and humanitarian character of the designated area is maintained. However, we are concerned that the implementation of this provision may hinder the effective execution of refugee hosting county governments' mandate. Clause 2 lists settlements among designated areas. It is our understanding that trade activities are envisioned in such settlements to enhance integration between refugees and the host community as it currently the case with the Kalobeyei Settlement in Turkana County. If our understanding is accurate, how would county governments be able to access these areas for the sake of revenue collection and enforcement of other county laws? Additionally, where an emergency occurs which would fall under the jurisdiction of county governments to address, the hosting county governments would have to seek permission from the Commissioner of Refugee Affairs to effect their constitutional mandate.

This provision needs to be better phrased to facilitate the county governments to execute their constitutional mandate in the designated areas. A proviso needs to be provided that in cases that fall under the jurisdiction of the county government, then nothing in the

provisions under clause 33 shall be deemed to limit the hosting county government to act in accordance with its constitutional mandate.

Reception centres

Garissa County Government welcomes the provisions on the creation of reception centres. We view these centres as essential to maintaining a civilian and humanitarian character of refugee management in Kenya. Reception centres will be places where asylum seekers will be screened for security and medical issues thereby ensuring that hosting refugees and asylum seekers do not affect the security and public safety of Kenyans.

Be that as it may, we view that this provision will be fraught with a significant challenge. The border between Kenya and Somalia, the biggest contributor of refugees in Kenya, remains closed ostensibly to improve national security. This decision has had the opposite effect to what was intended. The closure has meant the withdrawal of government presence at border points which means no security or medical screening. Those plying the routes between the two countries for the purposes of trade have fallen victims to bandits that charge them unofficial taxes.

In light of this concern, we propose that the law provides that these transit areas be constructed as soon as possible. We also propose that the centres be constructed at a reasonable distance from the country of origin to ensure the protection of asylum seekers. Finally, we request that DCANS follow-up with the Ministry of Interior and Coordination of National Government to understand whether the decision to close the border between Kenya and Somalia still serves the purpose for which it was intended.

Qualifications of the Commissioner for Refugee Affairs

Clause 8 creates the office of the Commissioner for Refugee Affairs. This is an important office as the Commissioner is the overall manager of refugee affairs in Kenya. We therefore believe that this position requires clearly spelt out requirements of the office holder. Furthermore, the appointment of the Commissioner needs to be competitive and the appointment made through a Gazette Notice.

Freedom of movement

Freedom of movement is a human right. Refugees and asylum seekers, like other human beings, also have this right. The same has been affirmed by our courts in the case of *Attorney General v. Kituo Cha Sheria & 7 others [2017] eKLR*. In that case the Court of Appeal affirmed the reasoning of High Court delivered by Justice Majanja in *Kituo Cha Sheria & 8 Others v. Attorney General [2013] eKLR*. He found that article 26 of the 1951 United Nations Convention on the Status of Relating to Refugees was recognized by and should be read into the Constitution of Kenya, 2010. Article 26 of the Convention provides for freedom of movement for refugees.

We note that Kenya is located in a conflict prone geopolitical location. Therefore we understand the need to strike a balance between national security and refugee protection. However we view that warehousing refugees causes more damage to national security than it promotes it. Warehousing refugees creates a population that is destitute in the camps and cannot seek opportunities for their economic wellbeing. Noting that most of those in the camps have lived there for close to 30 years, this state of affairs leads to idleness which is more likely to lead to criminality and insecurity. We recommend that the proposed refugee database under clause 39 of the Bill be used to map out the details of refugees including where they reside. This will be an effective tool of tracking the movement of refugees in Kenya while at the same time protecting their right to movement as provided by the Constitution of Kenya, 2010.

Local integration

The Refugee Bill, 2019 improves on the Refugees Act, 2006 in many respects. One of the improvements is the definition of local integration and the provisions on how the same is to be implemented under Part VII of the Bill. However, we note that the provision does not go far enough to cover deserving cases especially for those living in Dadaab refugee camp.

Local integration has been defined in a way that leaves out a path for any other alternative status such as permanent residency. This despite the fact that some Kenyans have intermarried with the refugee population and such marriages have produced children. Article 53 of our Constitution provides that such children, being Kenyans as they are born by a Kenyan parent, have the right to the protection and care from both parents. One parent being a refugee subject to the process of repatriation to their country of origin may

fly in the face of this right. We recommend that alternative immigration status pathways be considered for such individuals for their sake and that of their children.

Due process

The rule of law is an integral part of a civil society. Due process is a necessary condition for the rule of law. Therefore, the County Government of Garissa is concerned about the provision under clause 19(2) of the Bill. This clause empowers the Cabinet Secretary to expel a refugee or asylum seeker without access to due process on the part of the later. This limits the right to a fair trial for affected refugees and asylum seekers. We therefore recommend that this provision be removed as it is unnecessary in light of a similar provision under clause 19(1).

Refugee documentation

Clause 28(4) of the Refugees Bill, 2019 speaks of facilitation to access and issuance of documents for refugees. These documents are meant to encourage the participation of refugees in the economic and social life of Kenya. As much as this provision is a slight improvement of the wording in section 16(4) of the Refugees At, 2006, it is very vague as to the rights that these documents will entitle the holder. We therefore recommend that the clause clearly spell out rights such as employment (including self-employment), social security, health, education among other rights.

Conclusion

The County Government of Garissa would like to reiterate its appreciation to DCANS for this opportunity to be heard on this important Bill. We do hope that the issues that we have raised in this memorandum will be carefully considered and suggested amendments be input in the final version of the Bill. We are available to this Committee should there be any issues that require clarification.

Section 40 3

x What happens to those who are already registered with refugees to greener practices but are Kenzans?

- Inter Marriage

x Many Kenzans married refugee & vice versa, what happens to the children born out of that marriage?

- Compensation

x This region has hosted refugees for more than 20 yrs, how will these bill address the issue of compensation in terms of:-

i) roads - The road from DDB to GSA

ii) Environment

IDRIS G. NOOR

PA MP DADARIS
Date 24/10/2019



MEMORANDUM ON THE REFUGEES BILL, 2019

Introduction

1. The Inter-agency Ad Hoc Committee on the Review of the Refugees Act, 2006 (hereinafter referred to as the Committee) is a committee made up of eight refugee non-governmental agencies working in Kenya. These organizations have been formally engaging the Refugee Affairs Secretariat (RAS) to support the review of the Refugees Act being undertaken by RAS. The eight organizations include the United Nations High Commissioner for Refugees (UNHCR), Kituo cha Sheria, RefuShe, Danish Refugee Council (DRC), International Rescue Committee (IRC), HIAS, Amnesty International and the Refugee Consortium of Kenya (RCK).
2. The purpose of the Committee was to consolidate the view of organizations and agencies working on refugee issues in Kenya. To this end, the Committee gathered views from the organizations headquartered and/or working in Nairobi. These views have been consolidated into a List of Proposed Amendments annexed to this memorandum. What follows is a summary of the proposed issues to be amended in the Bill as were raised by the refugee agency that were consulted in the making of this memorandum.

Summary of Issues

Expulsion

3. Two of the provisions in the Bill on expulsion of refugees are too harsh and surpass what is necessary and allowable under the Constitution of Kenya, 2010 and other applicable laws. Clause 19(2) could possibly lead to refoulement¹ contrary to the safeguards provided in the 1951 Convention. Section 19(2) empowers the Cabinet Secretary to remove a refugee or an asylum seeker if their conduct ‘...is in breach or is likely to result in breach of...or contrary to public morality...’ which means that offences against the order of nature that are punishable under the Penal Code would now become offences that would cause a refugee or an asylum seeker to be expelled. The addition

¹¹¹ Refoulement is a term used to describe forceful return of a refugee to a country where they are likely to face persecution or where their lives or wellbeing are threatened. Generally, the law prohibits Kenya from doing such an act. This is a principle that is recognized under general principles of international law as well as by article 2(5) of the Constitution of Kenya, 2010. It is also recognized under article 32 of the United Nations Convention relating to the Status of Refugees, done at Geneva on 28th July, 1951 and acceded to by Kenya on 16th May, 1966 and article 3 of the Convention against torture and other cruel, inhuman or degrading treatment or punishment, adopted by the General Assembly of the United Nations on 10th December 1984 and acceded to by Kenya on 21st February, 1997. These two conventions are recognised as Kenyan law through article 2(6) of the Constitution of Kenya.

of 'public morality' goes beyond the confines of article 32 of the 1951 UN Refugee Convention which binds Kenya which provides for the removal of a refugee or asylum seeker that poses a threat to national security and public order.

4. It is our considered opinion that clause 18, 19 (1), 19 (3) and 29 sufficiently provide for the expulsion of a refugee that is found to be guilty of offences that breach or are likely to breach national security and public order. Should refugees and asylum seekers commit offences that do not rise to the level of threatening national security and public order, then they should be handled by the criminal justice system that is in place in Kenya.

Data Management and Confidentiality

5. The Committee lauds the Government of Kenya's proposal to establish and maintain a refugee and asylum seeker register. To maintain the civilian and humanitarian character of refugee protection in Kenya, the Government needs to know how many refugees and asylum seekers there are in Kenya and where they reside. The Bill provides for a refugee register in clause 39 and provides under clause 31 that refugees and asylum seekers must notify the Commissioner every time they move. The Refugees Act, 2006 only provides for the movement passes but does not provide for a register for refugees and therefore this provision is good as it will improve the management of refugees.
6. Be that as it may, we are concerned by the lack of data protection and confidentiality provisions in the law. Section 24 of the Refugees Act, 2006 does make provisions on how refugee information should be handled. Taking into consideration that some of these refugees have fled brutal regimes that might seek to take their lives, handling of data concerning them must be clearly spelt out to avoid the same falling into the wrong hands. Moreover, article 31 Constitution of Kenya 2010 provides for the right to privacy and data protection, it is not clear why the provision was dropped in the Bill.

Refugee rights and obligations

7. The provisions on the refugee and asylum seeker rights under clause 28(4) of the Bill need be elaborated. Section 16(4) of the Refugees Act, 2006 currently limits access to the labour market to 'wage-earning employment.' However, refugees can and very often do engage in employment creation businesses. This creates a challenge for refugees that are seeking work permits as entrepreneurs and complicates their ability to

abide to Kenya's tax laws as they cannot access Kenya Revenue Authority (KRA) personal identification numbers (PINs).

8. According to a recent study conducted in Kakuma,² refugees own and run about 1000 businesses in the camp with an estimated household consumption of Kes.4.1 billion in Kakuma Town and Kes.1.7 billion in Kakuma camp itself.³ These businesses have hired the local Turkana population thereby contributing to the reduction of unemployment in Kenya and the improvement of welfare among the Kenyans living there. Additionally, a study conducted in 2015⁴ found that half of those employed in refugee owned businesses in Nairobi were Kenyan nationals.
9. There needs to have a clear reference to refugee rights and duties to support refugee contribution to Kenya's economy. Refugee businesses are currently being conducted outside the ambit of tax laws thereby making refugees – who want to contribute to the economy – outlaws. The provisions of this clause need to clarify what rights accrue to refugees and what the limitations, if any, are as provided by article 24 of the Constitution of Kenya.

Fair administrative action

10. Article of 47 of the Constitution of Kenya provides for the right to fair administrative action. The Committee notes that some positive changes have been made in the Bill that would allow asylum seekers to access fair administrative action. The Bill establishes the Eligibility Panel (clause 13) and the Refugee Status Appeals Committee (clause 11) to ensure that asylum seekers have the right to heard and their case fairly determined.
11. However we are concerned by the lack of independence of the Refugee Status Appeals Committee and that it lacks a secretariat to assist in the discharge of its functions. Section 9 (4) of the Refugees Act, 2006 provides for the independence of the Refugee Appeals Board, the predecessor to the Appeals Committee should the Bill be enacted into law. We therefore do not see why this provision should be removed from the current Bill under consideration by DCANS. The independence of this Committee is necessary for the realization of fair administrative action.

² International Finance Corporation (2018). *Kakuma as a Market Place*, IFC: Washington DC, USA.

³ Ibid

⁴ Refugee Consortium of Kenya (2015). *Myths and Truths*, RCK: Nairobi, Kenya

12. Moreover, the Bill doesn't not elaborate how decisions are to be made by the Appeals Committee. Section 9(6) as read with provision 7 of the Fifth Schedule to the Refugees Act, 2006 provide a clear manner on how decisions are to be made by the Refugee Appeals Board. The decisions of the Board are to be made by voting. This is similar to what the Bill proposes as the decision making system for the Refugee Advisory Committee under clause 9(4) of the Bill. We propose this be included in the Bill.

Conclusion

13. In conclusion, we appreciate the invitation from DCANS to express our opinion on this Bill. We hope that the weighty issues that we have raised would be carefully considered. Attached to this memorandum is a list of proposed amendments that provide detail of the changes that the Inter-Agency Ad Hoc Committee on the Review

0711952677
Kuit makeru Duk
damazimpele@gmail.com



MEMORANDUM

RECOMMENDATIONS ON THE REFUGEES BILL, 2019

To: Departmental Committee on Administration and National Security of the National Assembly

From: Refugee Leaders in Nakuru County

Date: 23rd October, 2019

Introduction

1. This memorandum is submitted by Refugees Leader in Nakuru County on the Refugees Bill, 2019. Names of the leaders are provided at the end of the memorandum.
2. This memorandum provides recommendation on the Refugees Bill, 2019 that is currently before the National Assembly for discussion. The recommendations were agreed on by the refugee leaders and it is our prayer that they inform the development of the refugee law.

Summary of Issues

1) Restrictions against entering designated areas – Section 33

- The restrictions against entering designated areas without permission from the Commissioner are unnecessary for refugees and members of the host community because they are the residents of those areas. Penalty for not seeking permission is a fine of not more than Kshs. 200,000 or imprisonment of not more than 5 years or both. It is our view that the penalty for not seeking permission is too harsh.
- It is recommended that refugees and the members of the host community be exempt from the provision of seeking permission. It is further recommended that the penalty for not seeking permission to enter a designated area be reduced.

2) Additional grounds for expulsion- Section 23 (5)

- The requirement for refugees to abide by all the laws of Kenya or be expelled from the country is unfair and discriminatory as given in Section 23 (5).

- Asylum seekers and refugees in Kenya who break the Kenyan law should be punished just like any other Kenyan as provided in the law. A refugee should only be removed from Kenya if they are a threat to national security or public order as stated in Section 19.
- It is recommended that asylum seekers should be taken through the same justice system that Kenyans go through when they commit crimes and not be expelled from Kenya
- It is also recommended that additional grounds to expel a refugee from Kenya to be removed from the law.

3) Transit centres- Section 2

- It is provided that prisons and police stations may be used as transit centres for temporarily accommodating asylum seekers. It is not proper that prisons and police stations be used as transit centres because such institutions may re-traumatize asylum seekers who are already experiencing trauma from the reasons that caused them to flee their countries.
- Secondly, no specific provision is given on how long asylum seekers are to be accommodated at the transit centres.
- It is recommended that humanitarian organisations and religious institutions such as churches be used as transit centres instead.
- It is recommended that asylum seekers be held at transit centres for no more than one week.

4) Special measures for refugee women and children- Section 20

- The provision for special measures to be taken to protect refugee women and children living in designated areas is good.
- There are other people in the community who require help such as elderly, widowers, mentally challenged persons and persons living with HIV.
- It is recommended that the provision be expanded to include the elderly, widowers, mentally challenged persons and persons living with HIV.
- It is further recommended that the provision be expanded to protect all vulnerable persons living not just in the designated areas but also in urban areas.

5) Security Screening- Section 27

- Taking asylum seekers through security screening at the entry points is a good provision. However, there is the risk of security officers planting contraband or illegal things on asylum seekers to jeopardize their application for refugee status.
- It is recommended that the security screenings be done in the presence of a humanitarian officer in order to prevent such cases from happening.

6) The requirement to live in designated areas- Section 31

- The provision that refugees and asylum seekers are to reside in designated areas is good but some exceptions could be made.
- There are refugees who have businesses or have been employed outside the camps and are able to provide for themselves.
- It is recommended that refugees who have the ability to be self-sufficient should be allowed to reside in urban areas.

7) Time allowance for an asylum seeker to stay in the country after his application for refugee status has been declined- Section 22

- The provision that asylum seekers whose refugee status applications have been declined are given 60 days to seek admission into another country is not adequate time.
- Also, Section 22(3) states that time period will be 90 days. It is not clear if the time will be 60 days or 90 days.
- It is recommended that the time period be extended to 90 days to allow sufficient time to be admitted into another country.

Report of the Refugee Bill Sensitization Workshop Held on 14th & 15th October 2019 at Dadaab

30 Refugee representatives from Ifo, Hagadera and Dagahaley attended a two day sensitization workshop conducted by RCK on the Refugee Bill 2019. The Participants comprised of representatives from the Somali, Sudanese, Congolese, Ethiopian and Host community members. The objective of the workshop was to:

- Sensitize the participants on the provisions of the current Refugees Act 2006
- Sensitize the participants on the provisions of the proposed Refugee Bill 2019
- Deliberate on emerging concerns emanating from the provisions of the Refugee Bill.

The representatives found the sessions very informative and raised the following concerns that they hoped would be addressed through inclusion in the contents of the Bill.

The major concern raised was how some of the provisions of the Bill would be implemented, for instance how integration would be effected and eventually enjoyed by both the Host communities and the Refugees as proposed under **clause 28(4)** of the RB19.

The following were the proposals made by the representatives:

- Alien Cards to be used for more purposes other than identification e.g to be used as travel documents within Kenya, in the same way that Kenyans use ID Cards to move within Kenya. *→ to do business & the integration will create co-existence & harmony*
- Validity of Alien Cards to be more than 5 years and expire only when a durable solution is attained. The process of renewal is tedious and marred with technicalities from RAS, where renewed Alien Cards are issued way after they have already expired.
- Regulations to be developed to facilitate local integration. There needs to be specific regulations on sharing of natural resources such as firewood, land, water points, to avoid conflict with the host community and other authorities for instance the Kenya Police Reservists (KPR) and the National Police Service.
- Regulations on equal access to jobs for both refugees and Kenyans. There is need for affirmative action for refugees to have certain quotas of jobs and access to similar employment opportunities.

- Have a refugee representative in the Refugee Advisory Committee (**Clause 9(1)(K) RB19**).
- Abolishment of the encampment policy and refugees to be allowed to settle anywhere in the country.
- Rephrasing of **Clause 4(1) (d)** as it amounts to violation of the right to seek asylum. There are circumstances under which a POC may seek asylum in more than one country due to safety concerns in the first country of asylum.

WAY FORWARD

The participants stated that the contents of the Bill looked promising especially the provisions on local integration. They expressed hope in the Bill being enacted into law and expected that RCK to lobby the government to implement the contents of the Bill when it becomes Law. They asked for more forums to be held within the community in order to sensitize the whole camp of the ongoing process.

Mr. Michael Sialai, EBS,
The Clerk,
National Assembly,
P.O. Box 41842- 00100,
Parliament Building,
Nairobi

23rd October, 2019

Dear Sir,

RE: REFUGEE VIEWS ON THE REFUGEES BILL, 2019

Greetings from the refugees living in Dadaab. We write as refugee chairpersons to share our views on the Refugee Bill 2019.

We humbly raise the below issues for your kind consideration:

1. We recommend that refugee ID cards to be used for more purposes other than identification e.g to be used as travel documents within Kenya, in the same way that Kenyans use ID Cards to move within Kenya.
2. We further recommend that the validity of refugee ID cards be more than 5 years and expire only when a durable solution is attained. The process of renewal is tedious and marred with technicalities from RAS, where renewed refugee ID cards are issued way after they have already expired.
3. We recommend that regulations be developed to facilitate local integration. There needs to be specific regulations on sharing of natural resources such as firewood, land, water points, to avoid conflict with the host community and other authorities for instance the Kenya Police Reservists (KPR) and the National Police Service.
4. We propose the formulation of regulations on equal access to jobs for both refugees and Kenyans. There is need for affirmative action for refugees to have certain quotas of jobs and access to similar employment opportunities.
5. We recommend the inclusion of a refugee representative in the Refugee Advisory Committee (**Clause 9(1)(K) RB19**).
6. We recommend the abolishment of the encampment policy and refugees to be allowed to settle anywhere in the country.

7. We recommend the rephrasing of **Clause 4(1) (d)** as it amounts to violation of the right to seek asylum. There are circumstances under which a POC may seek asylum in more than one country due to safety concerns in the first country of asylum.
8. We further recommend that the time period in Clause 17 regarding cancellation be extended beyond the 30 days provided for vulnerable persons, persons with disabilities and children.

We hope that these suggestions will be considered and be taken into account in the final Act to ensure better protection of refugees in the country.

Yours sincerely,

Name	<u>Abdullehi Ali</u>	ID No.	<u>794534</u>	Signature	<u></u>
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Nyasijin Tiger
Panyuan

A43423993



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International Rescue Committee

Kenya Program

Tel: +254 (0)733-344443 or +254 (0)20-2717730

E-mail: irckenya@rescue.org

②

GAZOMBA

Please deal

MA
31/10/19

October 30, 2019

Mr. Michael R Sialai, EBS
Clerk of the National Assembly,
Office of Clerk, Main Parliament Building,
P.O. Box 41842-00100,
Nairobi

① DLcoms
Please deal.
31/09/19

Dear Mr. Sialai,

Greetings from the International Rescue Committee,

The International Rescue Committee (IRC) is a humanitarian organization, founded in 1933, that responds to the worst humanitarian crises and helps people whose lives and livelihoods are shattered by conflict and disaster to survive, recover and gain control of their future. The IRC operates in more than 40 countries around the world. Since 1992, in Kenya we have been providing health care, nutrition, women's protection and empowerment, livelihood support, protection and governance interventions to hundreds of thousands of refugees and Kenyan communities in Garissa, Turkana and Nairobi counties.

The IRC submits this memorandum pursuant to the call for submission of memorandum in the matter of consideration by the National Assembly:- The Refugees Bill (National Assembly Bill No. 62 of 2019)

Section	Proposal	Justification
Section 2: Definition of a transit centre "transit centre" means areas designated by the Cabinet Secretary for the purposes of temporarily accommodating persons covered under this Act pending transfer to either the designated areas, reception centres, settlement centres or pending health or security screening, and may include prisons, immigration detention centres, police stations, remand homes or any other areas designed as such;	Amend the section as follows: <i>"Transit centre means premises used for the purposes of temporarily accommodating refugees and asylum seekers in order to undertake health or security screening or for the purposes of repatriation or resettlement"</i>	The Bill introduces immigration detention. Section 2 of the Bill defines transit centres to include prisons, immigration detention centres and police stations. These are areas in which individuals in conflict with the law are held. Therefore such facilities are not suitable for asylum seekers because seeking asylum is not a crime. Moreover, there are no timelines in which a person is required to stay at a transit centre. This therefore could mean an indeterminate stay at these facilities that often do not have enough monetary resources to house even the individuals that are in conflict with the law.
Section 2: Definition of "Local Integration" "local integration" means the gradual process through which refugees are incorporated into the society through a process that ensures that refugees attain border rights, have improved standards of living and positively contribute to the social life of the host country;	Amend the section to include the word "economic" "local integration" means the gradual process through which refugees are incorporated into the society through a process that ensures that refugees attain border rights, have improved standards of living and positively	The definition should include "economic" life, so that it refers to both economic and social rights.

RECEIVED

31 OCT 2019

DIRECTOR COMMITTEE SERVICES

Time:

H.M

30 OCT 2019
CLERK'S OFFICE
P. O. Box 41842, NAIROBI



	contribute to the economic and social life of the host country;"	
Section 19(2): Expulsion of refugees or members of their families	Amend by deleting "or contrary to public morality"	
19. (2) Subject to subsection 19(1) a refugee or an asylum seeker engaging in a conduct that is in breach or is likely to result in breach of public order or contrary to public morality irrespective of whether the conduct is linked to his claim for asylum or not, may be expelled from the Kenya by an order of the Cabinet Secretary.	Subject to subsection 19(1) a refugee or an asylum seeker engaging in a conduct that is in breach or is likely to result in breach of public order irrespective of whether the conduct is linked to his claim for asylum or not, may be expelled from the Kenya by an order of the Cabinet Secretary.	Section 19(2) may amount to refoulement contrary to the 1951 Refugee Convention because it sets a lower threshold for expulsion than what is defined in article 32 of the 1951 UN Refugee Convention. The conventions provides for expulsion for threat to national security and public order.
Section 28: Rights and obligations of refugees	Amend section 28 as follows:	
28. (4) Subject to this Act, refugees shall be enabled to contribute to the economic and social development of Kenya by facilitating access to, and issuance of, the required documentation at both levels of Government.	28. (4) Subject to this Act, the government shall issue required documentation at both levels of government to facilitate local integration of refugees to enable them to contribute to the economic and social development of Kenya	"Local Integration" as defined in the preliminary section (Part 1, Section 2) is not applied anywhere in the bill. Section 28(4) refers to local integration and should be adjusted to make express reference by including the term "local integration".

We laud the by the Departmental Committee on Administration and National Security for extending this invitation to interested members of the public to submit representations on the said bill.

Regards,



Mohamed ELMontassir Hussein
Country Director
International Rescue Committee



Name: HOSI. MUHAMMAD ABDI FARAH
Designation: MCA DADAAB
Date: 24/10/2019

COUNTY GOVERNMENT OF GARISSA

MEMORANDUM OF VIEWS ON THE REFUGEES BILL, 2019 (NATIONAL ASSEMBLY BILL NO.62 OF 2019) SUBMITTED TO THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY OF THE NATIONAL ASSEMBLY

Introduction

This is a memorandum of views on the Refugees Bill, 2019 (National Assembly Bill No.62 of 2019) submitted by the County Government of Garissa. The County Government takes note of the Constitutional mandate of the National Assembly to make legislation and lauds the Departmental Committee on Administration and National Security (DCANS) for organising for public input as requires by article 118(1)(b) of the Constitution of Kenya, 2010.

Summary of Issues

County government exclusion

County governments are the levels of government that directly engage with refugees and asylum seekers as they are hosted in the counties. For instance, the County Government of Garissa has been hosting refugees in the Dadaab refugee camp complex for close to three decades. The refugees have lived side by side with the residents of the county and shared the local resources. Since the Constitution of Kenya, 2010 has devolved certain functions such as provision of water and health care which are among the shared resources between the two populations, it is important that hosting county governments are involved in the decision making process that would affect the sharing of such resources.

We however note that this is not reflected in the Refugees Bill, 2019. Clause 9 creates the Refugee Advisory Committee (RAC). The Committee is meant to advise the Cabinet Secretary on policy decisions such as setting up designated areas among other decisions. We view the provision for a representative from the Ministry of Devolution and a representative from the Council of Governors as inadequate representation. He who wears the shoe know where it pinches. We recommend that hosting county governments, that

have first-hand experience with refugees, are represented in the proposed Refugee Advisory Committee.

Additionally, clause 34 calls for the sharing of resources between the refugees and host community. It puts the responsibility to ensure this sharing on the Commissioner for Refugee Affairs. It further provides that the responsibility of raising awareness among the host community on co-existence with refugees lies with the Commissioner. Whereas this provision is necessary for the social and economic integration of refugees, we take issue with the fact that the Commissioner need not engage the County Governments hosting these refugees. We wonder how the Commissioner of Refugee Affairs can ensure shared use of resources that is provided by the County Governments without the involvement of the County Governments that host refugees. We further urge the Departmental Committee on Administration and National Security (DCANS) to review this provision and include a clear provision that will compel the Commissioner to engage the hosting County Governments on such decisions.

Non-retroactivity of penalty on double registration

The County Government of Garissa has noted that clause 40 (3) creates the offence of double registration. That is to say that where a Kenyan knowingly registers as a refugee then he/she commits an offence. Whereas there is need to regulate this matter for the effective implementation of the Bill, if it becomes law as is, we are concerned about the fate of the current stock of Kenyans registered as refugees.

There are a number of Kenyans that are registered as refugees in the United Nations High Commissioner for Refugees (UNHCR) database. Some of these Kenyans were registered while they were minors by their adult parents and relatives. Others registered as adults. They registered as refugees in order to receive food and other type of assistance provided to refugees during drought period when other sources of assistance failed them. As such, they did this for their very survival.

They are currently living with the consequences of this decision. Kenyan children registered as refugees that have reached the age of majority cannot get a national identification card as their names are still in the refugee register. Without the national identification card, they cannot get jobs or get access to higher education financing from institutions such as the Higher Education Loans Board (HELB) that requires the document. Some have been passed over for scholarships overseas because they cannot be

able to travel abroad without a passport that requires the national identification card. Our fear is that the provisions of clause 40(3) may be applied retrogressively thereby adding hardship to these people.

Therefore the County Government of Garissa recommends that the clause expressly states that it will not apply retrogressively. This will ensure that the law will not be used to punish past indiscretions. We further call upon (DCANS), using its constitutional authority of oversight, to inquire from the Ministry of Interior and Coordination of National Government about the progress of re-registration of those affected as Kenyans as ordered by His Excellency the President Hon. Uhuru Kenyatta in 2017 at a public function in Garissa.

Control of designated areas

Clause 33 of the Refugees Bill provides for the control of designated areas. It forbids the entrance of any person not authorized by the Commissioner or that is not a refugee or an employee of the Department of Refugee Services (DRS) in to the area. Moreover, it makes it an offence to enter the designated area without the authority of the Commissioner.

We understand that this provision is necessary to ensure that the civilian and humanitarian character of the designated area is maintained. However, we are concerned that the implementation of this provision may hinder the effective execution of refugee hosting county governments' mandate. Clause 2 lists settlements among designated areas. It is our understanding that trade activities are envisioned in such settlements to enhance integration between refugees and the host community as it currently the case with the Kalobeyei Settlement in Turkana County. If our understanding is accurate, how would county governments be able to access these areas for the sake of revenue collection and enforcement of other county laws? Additionally, where an emergency occurs which would fall under the jurisdiction of county governments to address, the hosting county governments would have to seek permission from the Commissioner of Refugee Affairs to effect their constitutional mandate.

This provision needs to be better phrased to facilitate the county governments to execute their constitutional mandate in the designated areas. A proviso needs to be provided that in cases that fall under the jurisdiction of the county government, then nothing in the

provisions under clause 33 shall be deemed to limit the hosting county government to act in accordance with its constitutional mandate.

Reception centres

Garissa County Government welcomes the provisions on the creation of reception centres. We view these centres as essential to maintaining a civilian and humanitarian character of refugee management in Kenya. Reception centres will be places where asylum seekers will be screened for security and medical issues thereby ensuring that hosting refugees and asylum seekers do not affect the security and public safety of Kenyans.

Be that as it may, we view that this provision will be fraught with a significant challenge. The border between Kenya and Somalia, the biggest contributor of refugees in Kenya, remains closed ostensibly to improve national security. This decision has had the opposite effect to what was intended. The closure has meant the withdrawal of government presence at border points which means no security or medical screening. Those plying the routes between the two countries for the purposes of trade have fallen victims to bandits that charge them unofficial taxes.

In light of this concern, we propose that the law provides that these transit areas be constructed as soon as possible. We also propose that the centres be constructed at a reasonable distance from the country of origin to ensure the protection of asylum seekers. Finally, we request that DCANS follow-up with the Ministry of Interior and Coordination of National Government to understand whether the decision to close the border between Kenya and Somalia still serves the purpose for which it was intended.

Qualifications of the Commissioner for Refugee Affairs

Clause 8 creates the office of the Commissioner for Refugee Affairs. This is an important office as the Commissioner is the overall manager of refugee affairs in Kenya. We therefore believe that this position requires clearly spelt out requirements of the office holder. Furthermore, the appointment of the Commissioner needs to be competitive and the appointment made through a Gazette Notice.

Freedom of movement

Freedom of movement is a human right. Refugees and asylum seekers, like other human beings, also have this right. The same has been affirmed by our courts in the case of *Attorney General v. Kituo Cha Sheria & 7 others [2017] eKLR*. In that case the Court of Appeal affirmed the reasoning of High Court delivered by Justice Majanja in *Kituo Cha Sheria & 8 Others v. Attorney General [2013] eKLR*. He found that article 26 of the 1951 United Nations Convention on the Status of Relating to Refugees was recognized by and should be read into the Constitution of Kenya, 2010. Article 26 of the Convention provides for freedom of movement for refugees.

We note that Kenya is located in a conflict prone geopolitical location. Therefore we understand the need to strike a balance between national security and refugee protection. However we view that warehousing refugees causes more damage to national security than it promotes it. Warehousing refugees creates a population that is destitute in the camps and cannot seek opportunities for their economic wellbeing. Noting that most of those in the camps have lived there for close to 30 years, this state of affairs leads to idleness which is more likely to lead to criminality and insecurity. We recommend that the proposed refugee database under clause 39 of the Bill be used to map out the details of refugees including where they reside. This will be an effective tool of tracking the movement of refugees in Kenya while at the same time protecting their right to movement as provided by the Constitution of Kenya, 2010.

Local integration

The Refugee Bill, 2019 improves on the Refugees Act, 2006 in many respects. One of the improvements is the definition of local integration and the provisions on how the same is to be implemented under Part VII of the Bill. However, we note that the provision does not go far enough to cover deserving cases especially for those living in Dadaab refugee camp.

Local integration has been defined in a way that leaves out a path for any other alternative status such as permanent residency. This despite the fact that some Kenyans have intermarried with the refugee population and such marriages have produced children. Article 53 of our Constitution provides that such children, being Kenyans as they are born by a Kenyan parent, have the right to the protection and care from both parents. One parent being a refugee subject to the process of repatriation to their country of origin may

fly in the face of this right. We recommend that alternative immigration status pathways be considered for such individuals for their sake and that of their children.

Due process

The rule of law is an integral part of a civil society. Due process is a necessary condition for the rule of law. Therefore, the County Government of Garissa is concerned about the provision under clause 19(2) of the Bill. This clause empowers the Cabinet Secretary to expel a refugee or asylum seeker without access to due process on the part of the later. This limits the right to a fair trial for affected refugees and asylum seekers. We therefore recommend that this provision be removed as it is unnecessary in light of a similar provision under clause 19(1).

Refugee documentation

Clause 28(4) of the Refugees Bill, 2019 speaks of facilitation to access and issuance of documents for refugees. These documents are meant to encourage the participation of refugees in the economic and social life of Kenya. As much as this provision is a slight improvement of the wording in section 16(4) of the Refugees At, 2006, it is very vague as to the rights that these documents will entitle the holder. We therefore recommend that the clause clearly spell out rights such as employment (including self-employment), social security, health, education among other rights.

Conclusion

The County Government of Garissa would like to reiterate its appreciation to DCANS for this opportunity to be heard on this important Bill. We do hope that the issues that we have raised in this memorandum will be carefully considered and suggested amendments be input in the final version of the Bill. We are available to this Committee should there be any issues that require clarification.

ANNEXURE 6

(Signed list of public hearing
participants)

PARLIAMENT OF KENYA

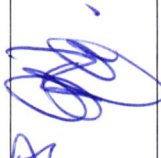
THE NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND
NATIONAL SECURITY

PUBLIC PARTICIPATION ON THE REFUGEES BILL, 2019

PUBLIC ATTENDANCE REGISTER

Date.....Time.....
17/10/19 10:00AM
Venue.....
MINI CANTERIN COUNTY HALL

NAMES IN FULL	ORGANIZATION	DESIGNATION	PHONE NO	SIGN
1. Eunice Ndonga	Refugee Coordination of Kenya (RCK)	Executive Director	0721736088	
2. OSCAR MURUKI	DANISH REFUGEE COUNCIL - KENYA	PROGRAMME COORDINATOR	0723386570	

3.	JOY NYAMUYEJI	Refugee		0705108293	Adipio
4.	ZANINKA Alice Desange	Refugee		0798290845	Adipio
5.	Joseph Agutu Dunga	Community Patrol Chief		0721403326	Adipio
6.	Narscent Okelo Ojave	Community Representative		0726454901	Adipio
7.	ANTHONY MACHARIA	DCC STARHE		0723336910	Adipio
8.	AMMAN SALEEM	SCOPE V/CHAM- KIBRA SUB COUNTY	VICE CHAIRMAN	0729652965 0729652965	Adipio
9.	Dwino KOTENDO	CLADA		0722966171	Adipio
10.	NTWARI RUBERA ADEODAT	REFUGEE		0729930125	Adipio
11.	IBRAHIM ADIPO	MATHARE SUB COUNTY	CHAIRMAN	0720729769	Adipio

12.	DORCAS NJOLU GACHEGE	MAITHARE	CHAIRLADY 3C	072481792	Handwritten Signature
13.	PETER MAMBUKU	MAITHARE	ELDER	0723500295	Handwritten Signature
14.	ALIB MOHAMED	KIBERA	KNCE	0721245869	Handwritten Signature
16.	ZAHRRA KHALID	KIBRA SUB- COUNTY WOODLEY DIVISION	MEMBER	07254408 99	Handwritten Signature
17.	Nauma Ibrahim	Kibra Subcounty Woodley division	Member	0725449429	Handwritten Signature
18.	A212A HAMISI	KIBRA	MEMBER	0717831538	Handwritten Signature
19.	Said ABUKAR	EASTLEGH	KADANA REFUGEE ASSOCIATION	099187237	Handwritten Signature
20.	Ahmed M. Abd	RADO	FD	0721306348	Handwritten Signature

21.	DOROTHY. APOWDI. 0200	ESTATE ADMINISTRATOR NGEI PHASE LANDWEATTA	ESTATE ADMINI STRATOR	0724305770 0734099804	0724305770
22.	Stephen Sikoba	RAS - MICHA	Protection Officer	0711517030	0711517030
23.	Kotol T. Beyene			072855120	072855120
24.	IRENE MATHENGE	O.P.		0700-329832	0700-329832
25.	NGERI WA WAWERU			0727107966	0727107966
26.					
27.					
28.					

PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY
DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND
NATIONAL SECURITY

PUBLIC PARTICIPATION ON THE REFUGEES BILL, 2019

PUBLIC ATTENDANCE REGISTER

Date..... Time.....
 Venue.....

	NAMES IN FULL	ORGANIZATION	DESIGNATION	PHONE NO	SIGN
1.	DORCAS NJOKI GACHIGIE	MATHARE	3C CHAIRMAN	0724811792	
2.	JACIONE OTIENO MARIENKA	LANGATA MUGUMDINE A	CHAIRMAN	0722590472	

3.	ROMANUS ONUTO AIGAT	MEMBERSHIP-9 LAWGATA.	CHAIRMAN	0719881537	
4.	ABDI ABDULLAH MOHAMED	Agency of Peace	Member	0705617051	
5.	Mohamed Aswaleh	Agency of Peace	Executive Director	0772234228	
6.	NUR YUSUF MOHAMED	Agency of Peace	Member	07822591688	
7.	ABDIQADIR ABDULLAH SHAKIN	EASTLEIGH H YOUTH CBO	CEO	0727805730	
8.	GEORGINA ANNE	Refugees Consultation	Member	0721349424	
9.	FLORENCE WANJIRU THURI	Refugees Consevation	Member	0714343631	
10.	YES NDIRUMUKI ZA	Youth leader, KASABAN/	Youth leader	0727223999	
11.	GILBERT WATITHA	SUB-COMMITTEE PEACE COMMITTEE CHINA - KATOLE	CHAIRMAN	0710778216	

27

12.	Eunice Ndonger Githungo	RCH	Executive Director	0721736038	
13.	Andrew Mairu	ROK	Programme Officers	0725750001	
14.	Oscar Muriuki	Danish Refugee Council - Kenya	Programme Coordinator	0723 386570	
16.	EMMANUEL X. Ambrose	LYNCHER & RAS Youth Representative	Youth Representative	0724522080	
17.	Nafisa Abdalla Angelo	LYNCHER/RAS	MONITOR HIAS PROTECTION	0713635802	
18.	BATHIKYE KASIKA JEAN PAUL	KITWO CHA SHERIA	Para legal / Interpreter	0726594886	
19.	Fardous Ahmed Salah	KITWO cha Sheria	Refugee rep	070645727	
20.	G'inni Jide Ochalla	KITWO cha Sheria	Refugee rep	0780797438	

21.	DIANA ODARI	REFUGEE AFFAIRS SECRETARY	ASSISTANT SECRETARY	0727310224	
22.	LEONARD NYAMARI	REFUGEE-KIBRO	CATAMMAN	0721380764	Leonard
23.	DANIEL OROG	UWOZI Consolm - Kenya.	Program Director	0710225967	
24.	CLARA BARASA	KITUO CHA GHERIA	PROGRAM MANAGER - FORCED MIGRATION PROGRAM	0720854595	
25.	CHARITY WARIQUI	KITUO CHA GHERIA	LEGAL OFFICER / PROGRAM OFFICER	0721152618	
26.	LEILA MURUTHIA SIMIYU	REFUGEE CONSORTIUM OF KENYA	SENIOR PROGRAMME OFFICER	0722 636045	Leila
27.	NANGOR MILLICENT LOKALE	TURKANA COUNTY	STUDENT KSL	0708157210	
28.					

PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

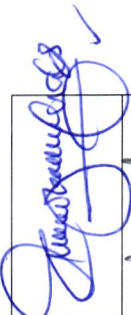
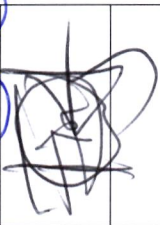
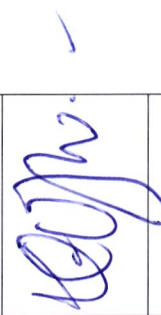
DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND
NATIONAL SECURITY

PUBLIC PARTICIPATION ON THE REFUGEES BILL, 2019

PUBLIC ATTENDANCE REGISTER

Date.....Time.....
17/10/19 10:00 AM.
Venue.....
NAIROBI COUNTY HALL

NAMES IN FULL	ORGANIZATION	DESIGNATION	PHONE NO	SIGN
1. VICTOR NDEDE	AMNESTY KENYA	POLICY RESEARCHER	0740719 819	
2. Dennis Kiprono	Amnesty Kenya	Campaign Manager Safety & Dignity	"	

3.	ELAN NABUYO	URUKANA COUNTY GOVT	CITIZEN OFFICE ADMINISTRATOR	0715248355	
4.	Jamir M. Kibura, 19	International Rescue Committee	Protection Officer	0710700865	
5.	ANNE NABUNGA	UNHCR	Asst. Protection Officer		
6.	LILIAN ODIPPO	UNHCR	Associate Protection Officer	0715515617	
7.	Walpurga ENGELBRECHT	UNHCR	Deputy Representative	0742 974 805	
8.	KEVIN DIALLE	Youth leader	Langeeta Sub-County	0711355008	
9.	MESHAKE ONYANGO	PEACE BUILDER LANGUATA	LANGUATA	0727524647	
10.	ALFRICK BIEGON	REFUGEE AFFAIRS SECRETARIAT	NAROKSI	0726038555	
11.	Dr. Samson Oluo	Diocese	Langeeta	0723174727	

PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND
NATIONAL SECURITY

PUBLIC PARTICIPATION ON THE REFUGEES BILL, 2019

PUBLIC ATTENDANCE REGISTER

Date 19th OCT 2019 Time 10.00 A.M
Venue Raji, NLOMBURA KENYA SCHOOL OF GOVERNMENT

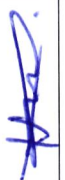
	NAMES IN FULL	ORGANIZATION	DESIGNATION	PHONE NO	SIGN
1.	Jacqueline K. Mwakwa	BALORI	TUGBO	0720887032	[Signature]
2.	CHARLES O. OKOYA	V/ELDER	CHUR	071279472	[Signature]

~~15/10~~

3.	LINET OTIENO	BALOZI	TUDOR	0723363230	
4.	Faiz R. Xogman	Sum	Samal	0720727113	
5.	Ebed Salim ali	Refugee	SP BANN	0716320111	
6.	VANDY H. WABABA	BALOZI	TUDOR	0729473831	
7.	Abubakariz H. Abulkarim	REFUGEE	KIBIKONI	0720103717	
8.	SUSAN T. LUGANGE	BALOZI	BBURUKENGE	0724728605	
9.	ZOO ALAIN MINDUTI	REFUGEE	BAMBURI	070230534	
10.	MOSEKA SHINDANO	REFUGEE	MASOGOBO	078369992	
11.	REGINA MAINA	BALOZI	TUDOR	072338730	

12.	Annette Ndumu	Balozi	Tudor	072273677	Ado
13.	Josephine Kamuk	Refugee	MURINI	070565798	Ado
14.	MART MWIKALI	BALDZI	TUDOR	072365193	Ado
16.	Issa Kazungu Kanda	Welder	Tudor Kanda	072243987	Ado
17.	Sadiya moolim		Tudor	0729275143	Ado
18.	FATIMA MOHAMMED	V/ELDER	TUDOR	076198085	Ado
19.	SHARIF ABDIRAHMAN		OLD TOWN	0701322228	SHARIF
20.	PHILIP ABONGO	V/ELDER	Tudor	0722-723106	Ado

21.	Fatma Mohammed	V/Onder	MASJENLO	0722557706	0722557706
22.	SOPHIA SULEIMAN VIGBO	ASS / ELDER	MASJENLO	0729337538	A.
23.	AYAN AHMED	REFUGIES	MASJENLO	0715406462	0715406462
24.	FATMA MOHAMMED		MASJENLO	0715406462	0715406462
25.	DISHANI FARANI	BALOZI	TUDOR	0712419872	0712419872
26.	Philip Musanniq	Kituo Cha Sheria	Bamburi	0717629395	0717629395
27.	ALICE OSUNDE	RIFUGEE	MASJENLO	0721666207	0721666207
28.	HASSAN AHMED ABU	STADIUM	KIBERA	0751273793	0751273793

29.	JOHN KUTHEE	BALOCI	SPAK	0728473410	
30.	ABDUL A. AZI	V/ELDER	M/SRMS TYDOR	0720312018	
31.	Muhammad Bilal	BALOZI Chim Tydor	SPARER	0705116792	
32.	SARAFIA MOHAMMAD	V/ELDER	TYDOR BALOCI	0723923210	
33.	CHARLES OUNDO	BALOZI	9/RAILWAYS	0725770601	
34.	RUKIYA HUSSEN	BALOZI	MAJENGO	0725112531	
35.	YUSRA MUHAMMAD	REFUGEE	MAJENGO	0724682268	
36.	PHILIP KENZA	BALOZI	TUOR	0727631257	

37.	MUSTAFA SALIM	V ELDER	MASANGO	0720-050002	Jah
38.	MADINA Dinar Hassan	BARZI	MASANGO	0718-713543	
39.	SAID OMAR SALIM	BAJZI	MASANGO	0720659248	
40.	JEAN SARAFU		CHANNI	0722414854	
41.	ELYSE FURUTA	REFUGEE	BAMBUKI	0708082746	
42.	GARUS HANSHI HUSSEIN	Refugee	BAMBUKI	0729444569	
43.	STHUKURU MATHON MATHON		RIKONI	0740403919	
44.	STHUKURU - KASWIKI	REFUGEE	RIKONI	0783748873	

PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND
NATIONAL SECURITY

PUBLIC PARTICIPATION ON THE REFUGEES BILL, 2019

PUBLIC ATTENDANCE REGISTER

Date.....19/10/19.....Time.....10.00A.M.....
Venue.....VENUA SCHOOL OF GOVERNMENT, NJOI BABA.....

	NAMES IN FULL	ORGANIZATION	DESIGNATION	PHONE NO	SIGN
1.	ALEX M LEWA	TUDOR	V/ELDER	0724280597	
2.	MICHAEL M. KAMAU	TUDOR	BALDZ	0729513483	

3.	Simon Ndura Fredrick	Tubor	BALUZI	0708514371	Shonas.
4.	JACINTA MWAUGU	Tubor	Balogi	0726619371	Shonas.
5.	JOANNE MUSAU	Tubor	BALUZI	0701791643	Shonas.
6.	PATIA WANGU	Tubor	V. ELDER	0715882677	Shonas.
7.	KAZUNGO GIMO	Tubor	V. ELDER	0723332231	Shonas.
8.	SHEILLA IZUNGU	Tubor	BALUZI	0722291817	Shonas.
9.	CLEMENCE MURKAMBA	Tubor	BALUZI	0724169371	Shonas.
10.	BETTY MWAUGU	Tubor	BALUZI	0726245428	Shonas.
11.	KAMENE MUSAU	Tubor	BALUZI	0727117397	Shonas.

12.	EMILY MWADIMÉ	TUDOR	BALOGH	0729470637	EMILY			
13.								
14.								
16.								
17.								
18.								
19.								
20.								

PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND

NATIONAL SECURITY

PUBLIC PARTICIPATION ON THE REFUGEES BILL, 2019

PUBLIC ATTENDANCE REGISTER

Date 19/10/15 Time 10.00 A.M.
Venue Kenya School of Government, Nairobi

	NAMES IN FULL	ORGANIZATION	DESIGNATION	PHONE NO	SIGN
1.	LEILA SHARIF MAHMUD.		KIBUKONI	0725365546	
2.	FATUMA SIDA ALI		KiBukoni	0707845854	

3.	FUEBE-MOLALO	V/ELDER	MTUAPA	0725376171	Alkuny
4.	LEONARD HARRISON BUIRE	BHLOZI	TUDON BANDU	0725292018	Harrison
5.	BOMBOLE MUWAVIA	V/ELDER	T. BANDAMW.	0700838317	BOMBOLE
6.	STEPHANE KILUNDA	V-/ELDER	T. BANDAMW.	0720625082	
7.	Lilian Obige	Refugee Consortium of Kenya	—	0718813386	
8.					
9.					
10.					
11.					

PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND

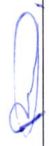
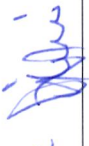
NATIONAL SECURITY

PUBLIC PARTICIPATION ON THE REFUGEES BILL, 2019

PUBLIC ATTENDANCE REGISTER

Date..... Time.....
19/10/20 10:00 A.M
Venue..... KENYA SCHOOL OF GOVERNMENT, MOMBASA

	NAMES IN FULL	ORGANIZATION	DESIGNATION	PHONE NO	SIGN
1.	OSMAN ADAN	✓ ELDER	TUO	0702095811	
	MUKATAMA N. KATISI		BALOGI TUO	0718 203829	
2.	SHAGAN M. MALEMBAI	✓ ELDER	TUO	0719359974	

3.	SUMA LEWA	BALUZI	TUDOR	0758614600	
4.	PATRICK SHABAN	BALUZI	TUDOR	0728656919	
5.	SAID RAJAB SAID	BALUZI	SPALICA	0722905001	
6.	JUSTIN OPANGO LUKOSI	BALUZI	MAHINDI	0792142624	
7.	LUMDA-RITHA-LUDA		MTWAPA	0723624735	
8.	Flomina Kavirira	BALUZI	TUDOR	0710955426	
9.	REGINA MBITHI	BALUZI	TUDOR	0710395307	
10.	MAURICE MUMU	BALUZI	TUDOR	0721908944	
11.	MUNDUS RAJAB SAID	BALUZI	TUDOR	0712055252	

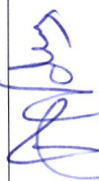
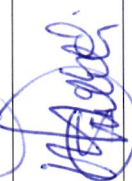
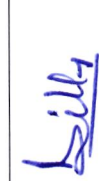
12.	SALIM MENZA	BALOZI	TUDOR	0712375318	AK
13.	MARY K. NDUNDA	BALOZI	TUDOR	0711487812	AK
14.	REGINA S. MWANJEWU	BALOZI	TUDOR	0729043573	B
16.	MARY DAMA	BALOZI	TUDOR	0717639031	AK
17.	AMINA KIEMA	VILLAGE ELDER	TUDOR	0722681158	AK
18.	JACQUELINE OTIENO	BALOZI	TUDOR	0722678230	AK
19.	SERA NUGU	BALOZI	TUDOR	0726883439	AK
20.	Joanne MUSA	BALOZI	TUDOR	0701791643	AK

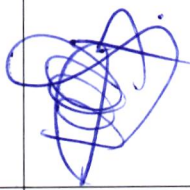
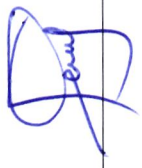
21.	IRENIA MWANGI	SAOZI	TUOR	0726619371	Shato
22.	MARGARET A. OKWON	C/BOHICY	TUDOR	0722929795	Nh
23.	ROSARIA WAMPALA	VLEDER	TUDOR	0726128805	Emp
24.	Ahmed Musa Ahmed		Kobokoni	0722474190	Shato
25.	KOMBE M. JUSTE	BALAZI	TUDOR	0727475041	Shato
26.	KENGA KATANA	BALAZI	TUDOR	0723032021	Shato
27.	PETTY K. KARISA	V/ELDER	TUDOR	0727524197	PETTY
28.	DAVID KIMANZI	BALAZI	TUDOR	0715438237	Shato

PUBLIC ATTENDANCE REGISTER

Date.....19/01/19.....Time.....10.00 A.M.....
Venue.....Governing School of Government
Mombasa

NAMES IN FULL	ORGANIZATION	DESIGNATION	PHONE NO	SIGN
1.	FIRDAUS ARTINED	Refugee leader	0780009477	
2.	GUERLORD LUYANU	REFUGEE LEADER	0770770006	
	Timothy Volong	V-ELDER	0718335341	

3.	ANNE NDUNGU	UNITER				
4.	Swaleh Mohamed	Leader.				
5.	TONY LMBUNGA	REFUGEE LEADER				
6.	Said Abdulrahman	REFUGEE				
7.	ABULIMALI FOMCO	REFUGEE				
8.	KAZUNGU NUSSA	Refugee			0729430035	
9.	MATPENZU WAMBWA	BALAZI		10 DOR	0725677664	
10.	MARTIN MABINDA	BALAZI		TUDOR	0723267471	
11.	ABDULLAH M. KARORI	BALAZI		TUDOR	0704291881	

12.	PAUL	Refuge	LIKONI	010075066	
13.	ANANIA MULINDA	Refuge	LIKONI	074510117	
14.	CHANCE HABIMANA	Refuge	LIKONI	078650747	
16.	HAMULI KOKO CALVIN	R	LIKONI	0782337969	
17.	AME - KAMUYOTI	R	LIKONI	074900582	
18.	OSMAN ABDULKADIR ISMAIL	R	KIKOKONI	0716964415	
19.	AHMED HUSEIN	R	BONDENI	0706754455	
20.					

NATIONAL ASSEMBLY

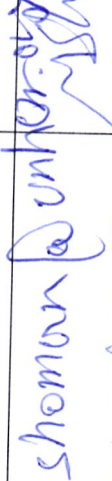
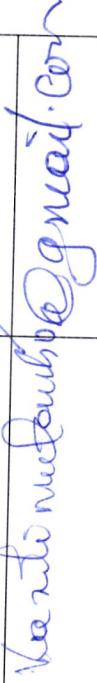
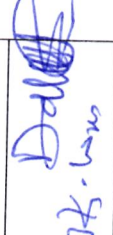
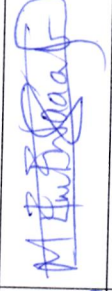
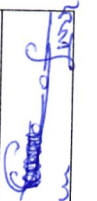


DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY PUBLIC HEARING ON REFUGEES BILL, 2019 IN TURKANA COUNTY

DATE: 09/11/2019

VENUE: KAKUMA

TIME: 10.00AM

NO.	NAME	DESIGNATION	CONTACT	SIGNATURE
1.	MUHAMMAD SHAMIR	UNHCR	shomir@unhcr.org	
2.	KASIA MUTAMBO	RAS MANAGER	kasiakmutambo@gmail.com	
3.	MOSES POROM	LOCAL RES.	esekom@gmail.com	
4.	DAVID LOCHAN	LOCAL RES.	david.lochan@outlook.com	
5.	AKAI MATHEW EWAAAT	LOCAL RES.	matthewaak@yahoo.com	
6.	Ewan Joseph Munoi	LOCAL RES.	ewan.josephmunoi@gmail.com	

NATIONAL ASSEMBLY



DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY
PUBLIC HEARING ON REFUGEES BILL, 2019 IN TURKANA COUNTY

DATE: 09/11/2019

VENUE: KAKUMA

TIME: 10.00AM

NO.	NAME	DESIGNATION	CONTACT	SIGNATURE
1.	COSMAS NAKAYAA-E	Chief	077600094	
2.	TUSSUK J. SAKAT	Acci	077464500	
3.	HOTAKI Mwangi	XPO - Ass. Programme Officer	0725976098	
4.	Garang A'ang	Block leader	0715887284	
5.	Kamerino Ochang	Leader - Kv, N34	0743769565	
6.	ODHIENG AKWAY	Village2 leader	0725935621	

NAME	Designation	Phone No.	Signature
1. MARY LONOSO	Moral Women Reader	0727 37 3305	
2. Noor Methmas Noor	Refugee	0700439222	
3. Mark Athuok Mbur	Refugee	0741253889	
4. BIGHIRIMANA DAVID	Refugee PWD	0713352533	
5.			
6.			
7.			
8.			

NATIONAL ASSEMBLY



DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

PUBLIC HEARING ON REFUGEES BILL, 2019 IN TURKANA COUNTY

DATE: 09/11/2019

VENUE: KAKUMA

TIME: 10.00AM

NO.	NAME	DESIGNATION	CONTACT	SIGNATURE
1.	SIKALE EDUPU CHRISTUS	JOURNEMIST	0719414309	
2.	Rebecca gom malile	REFUGEE	0713798285	
3.	Makelina Paul	Refugee Kakuma Youth Parliament clerk	0743730931	
4.	JACOB DENG BIAB	REFUGEE LEADER	07145571413	
5.	COSMAS EIKAL JULIUS	HOST LEADER	0741251042	
6.	JACKLINE ACTHAR PAUL	REFUGEE LEADER	07997774733	

NATIONAL ASSEMBLY



County Commissioner Courtesy Call

DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

PUBLIC HEARING ON REFUGEES BILL, 2019 IN UASIN GISHU COUNTY

DATE: 08/11/2019

VENUE: ELDORET

TIME: 10:00AM-9:00AM

NO.	NAME	DESIGNATION	CONTACT	SIGNATURE
1.	ABDULMOMAK JAZOEH	County Commissioner UG	0728952519	
2.	KEHA NYAMUNDI	CIC	0720929595	
3.	JOHANSON O. HARIT	CPC-KPS	0715843900	
4.	FLANLIS WABUKI	OCPD KAPSAR 57	0722784365	
5.	JOHN KANULUA	CIPU APS	0712462085	
6.	ISAAC J. ONYANGO	CCIO UASIN GISHU	072211165	

NATIONAL ASSEMBLY



DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

PUBLIC HEARING ON REFUGEES BILL, 2019 IN UASIN GISHU COUNTY

DATE: 08/11/2019

VENUE: ELDORET

TIME: 10.00AM

NO.	NAME	DESIGNATION	CONTACT	SIGNATURE
1.	Eileen A. Imbosa	Advocate	079884060	
2.	Lilian Obiye	Advocate	0718873355	
3.	Astone Arundo	UNIVEN	0725228073	
4.	AROP Kondok Ring	Pioneer	0716552432	
5.	PHILIP MARKER LUAL	KAPSOSA	0725702548	
6.	CHARANGA AMUK MABTOR	KAPSOSA	0741186794	

NATIONAL ASSEMBLY



DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY PUBLIC HEARING ON REFUGEES BILL, 2019 IN UASIN GISHU COUNTY

DATE: 08/11/2019

VENUE: ELDORET

TIME: 10.00AM

NO.	NAME	DESIGNATION	CONTACT	SIGNATURE
1.	SHADRACK CHOL MAJAKS	UASIN GISHU COUNTY Eldoret East	0726744292	
2.				
3.	REBECCA ADENG	UASIN GISHU COUNTY ELD ELD	0715569080	
	MAJ' MAGAY	UASIN GISHU COUNTY ELD ELD	0703719742	
4.				
5.	TAI TUGA VRES ROBIA	UASIN GISHU COUNTY ELD	0725704110	
	AGENDAKUMANA ELIE	UASIN GISHU COUNTY ELD	0705672653	
6.	JUSTINA MALONG	UASIN GISHU COUNTY ELD	0794087634	

NATIONAL ASSEMBLY



DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY PUBLIC HEARING ON REFUGEES BILL, 2019 IN UASIN GISHU COUNTY

DATE: 08/11/2019

VENUE: ELDORET

TIME: 10.00AM

NO.	NAME	DESIGNATION	CONTACT	SIGNATURE
1.	WAMUOR KONG YOAET	Students - Refugees	0700182529	
2.	Ayer Kibir Aluong	Students Refugees	0728223020	
3.	Nyanjira William Gai	Students - Refugees	0798186332	
4.	DAU AJANGU CHUOL	Students - Refugees	0713314090	
5.				
6.				

NATIONAL ASSEMBLY



DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

PUBLIC HEARING ON REFUGEES BILL, 2019 ON 23RD OCTOBER, 2019 IN NAKURU

NO.	NAME	DESIGNATION	CONTACT	SIGNATURE
1.	Florence Wairera	community organizing	0708328164	
2.	ERSY CHERVOT	RAS	0722416512	
3.	JONATHAN KANTARIS	RAS	0729028953	
4.	Okata Jackson	Media	0718615035	
5.	Phyllis Muscaria	Nation Media Group	0703358809	
6.	Faith Mwangi		0720999723	

NATIONAL ASSEMBLY



DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

PUBLIC HEARING ON REFUGEES BILL, 2019 ON 23RD OCTOBER, 2019 IN NAKURU

NO.	NAME	DESIGNATION	CONTACT	SIGNATURE
1.	JENYUCAH NJOKI	—	0712224003	
2.	LUCY NJERI	—	0727740822	
3.	MARGARET NJAMBI	—	0725738287	
4.	JANE WANGARI	—	0728118398	
5.	Joseph Kiragu	NCD A	0728993808	
6.	Jane Wanjiku	—	0700478265	

NATIONAL ASSEMBLY



DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

PUBLIC HEARING ON REFUGEES BILL, 2019 ON 23RD OCTOBER, 2019 IN NAKURU

NO.	NAME	DESIGNATION	CONTACT	SIGNATURE
1.	ELIZABETH WANJIA	-	0721325993	
2.	NANCY WAIRIMU	-	0706595003	
3.	George Njengo	Senior Asst Chief	0722341618	
4.	Timothy Mwangi Kireu	Asst Chief	072382723	
5.	MARY KICHOIHO	SNR ASS CHIEF	0726791839	
6.	PATRICK CHACHE	CHIEF	0721-27443	

NATIONAL ASSEMBLY



DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

PUBLIC HEARING ON REFUGEES BILL, 2019 ON 23RD OCTOBER, 2019 IN NAKURU

NO.	NAME	DESIGNATION	CONTACT	SIGNATURE
1.	Mohammed Abdi	C.P.C	0722357656	
2.	Dickson Mwaraka	C.P.C	07982267217	
3.	Cuthbert Ngunjiri	MEDIA	0728699600	
4.	Elijah Chemutich	MEDIA	0720697581	
5.	Goran Mwangi	MEDIA	0702949850	
6.	Cleopas Isidoro	CoTu.K. Nakuru Branch	0725764330	

NATIONAL ASSEMBLY



DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

PUBLIC HEARING ON REFUGEES BILL, 2019 ON 23RD OCTOBER, 2019 IN NAKURU

NO.	NAME	DESIGNATION	CONTACT	SIGNATURE
1.	Kamba Michael		0792015937	
2.	SUPITA MURITHI	—	0722418189	
3.	Rokhaya Kenani		0795817543	
4.	Charles KAMBO	MEDIA	0707181777	
5.	PETER KAKAT	Youth in Action	0722464682	
6.	Rev. Ernest Njoroge	CHAIRMAN	0723600405	
	Willem Bress	AS/CHIEF	0725606149	

NATIONAL ASSEMBLY



DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

PUBLIC HEARING ON REFUGEES BILL, 2019 ON 23RD OCTOBER, 2019 IN NAKURU

NO.	NAME	DESIGNATION	CONTACT	SIGNATURE
1.	Simon M. Wagathio	Elders Council	0711746253	
2.	Peter N. Githae	BIASHARA WARD	0721105220	
3.	Paul Mugyoki	Nakuru Ward	0713703046	
4.	ELIZABETH Kheira	Nakuru Ward	0713703046	
5.				
6.				

NATIONAL ASSEMBLY



DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

PUBLIC HEARING ON REFUGEES BILL, 2019 ON 23RD OCTOBER, 2019 IN NAKURU

NO.	NAME	DESIGNATION / ORGANISATION	CONTACT	SIGNATURE
1.	MARY W. MWANGI	Asst Nakuru County	0724361393	
2.	ACINUR HASSAN	CHIEF - NGAO	0728472561	
3.	John Mubugi	Nakuru URS	0720988086	
4.	FRANCIS MWASERA	Nakuru KRP	0727400915	
5.	Alfred Mwangi	NAKURU	074401512	
6.	ANGELES ATIENO	NAKURU TOWN	072177505	

NATIONAL ASSEMBLY



DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

PUBLIC HEARING ON REFUGEES BILL, 2019 ON 23RD OCTOBER, 2019 IN NAKURU

NO.	NAME	DESIGNATION	CONTACT	SIGNATURE
1.	David Kangeetha	Country Director	0714402879	
2.	Seigmo Taiwa	Rec. Intern.	0703795069	
3.	Onguti Mangani	UNHCR	0798499887	
4.	Machoka Devin	Lawyer	0702478114	
5.	Gerald Chege	nrto	0710489440	
6.	Wilson Kimani	CPC	0712276328	

NATIONAL ASSEMBLY



DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

PUBLIC HEARING ON REFUGEES BILL, 2019 ON 23RD OCTOBER, 2019 IN NAKURU

NO.	NAME	DESIGNATION	CONTACT	SIGNATURE
1.	LYNETTE NYAMBURA	C.P.C	0713614005	
2.	MAURICE OTIENO	CHIRUMBA BAHARINI COMMUNITY FORAM PRESIDENT ASSOCIATION	0723733203	
3.	STEPHEN M. WACHANA	SENIOR CHIEF. FINCH AREA LOCATION	0720482508	
4.	ELIJAH NUTEMI	ACC-LANET DIV	0724067380	
5.	KUT MAKETH DUK	Coordinator of community NAKURU REFUGEE LEADER	0702467714	
6.	WICKLIFFE. A. OLUODA	MR. SPEAKERS FORUM	0722965408	

CHIRUMBA

NATIONAL ASSEMBLY



DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

PUBLIC HEARING ON REFUGEES BILL, 2019 ON 23RD OCTOBER, 2019 IN NAKURU

NO.	NAME	DESIGNATION	CONTACT	SIGNATURE
1.	KUMI SALEH ALAMIN	YOUTH LEADER SHABAS-NAKURU-WEST.	0701680864 0706841166	
2.	Malual Aliet Ayiei	Disability representative	0714452922	
3.	Choi Garang Anjiet	Youth Leader Kiti	0762099764	
4.	Rachel Apet	Elder	0792072092	
5.	Tobias Mwakur	elder of urban refugees	0726614194	
6.	Mathiang Dub Majak	Chairman of Nakuru West	0799945340	

NATIONAL ASSEMBLY



DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

PUBLIC HEARING ON REFUGEES BILL, 2019 ON 23RD OCTOBER, 2019 IN NAKURU

NO.	NAME	DESIGNATION	CONTACT	SIGNATURE
1.	Mabereh Makoot	Refugee	0722622223	
2.	Abuk Jook	Chair lady in community	0704722006	
3.	SUSAN CHEEKORIR		0723318029	
4.	MONICA WANJIRU		0712643590	
5.	JANE NIGRI	COMMUNITY POLICING	0724893600	
6.	STACEY MUTISO	O.V.C R.A.S	0712037277	
7.	Rhassif Hagoma	NAKURU RESIDENTS ASS. CHAIRMAN	0729367337	

158 lat.
130 ft.

NATIONAL ASSEMBLY



DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

PUBLIC HEARING ON REFUGEES BILL, 2019 ON 24TH OCTOBER, 2019 IN GARISSA COUNTY

NO.	NAME	DESIGNATION	CONTACT	SIGNATURE
1.	HON. MURAHABU ABU FARAH	NCA - DADAAB	0722114960	
2.	DUBAT A. AMEZ	Chief Kibici Gwin	0721699616	
3.	Hassan Dahir Nor	Chairman - Garissa Watchdog	0727172740	
4.	OSMAN IBRAHIM	Chairman - Garissa Watchdog	0720848844	
5.	Dns G. Joor	PA MP Dadaab	0724178111	
6.	Nyasijiri Tiger Faruq	Refugee R.C.P	0748906003	

NATIONAL ASSEMBLY



DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

PUBLIC HEARING ON REFUGEES BILL, 2019 ON 24TH OCTOBER, 2019 IN GARISSA COUNTY

NO.	NAME	DESIGNATION	CONTACT	SIGNATURE
1.	Abdullahi Ali	DAQ Camp Chairman	0721820047	
2.	Col (Rtd) J K Ngili	RAS-PDB Camp Manager	0702081497	
3.	Aisha Ngomae	UNHCR - Protection	0717968219	
4.	ABDULLAH HASSAN BULLE	DEDKAS YOUTH	0726219008	
5.				
6.				

