

# REBUILD

Boosting Livelihoods

**Influence and Adoption Of the Refugee Policy Legal Framework  
Analysis**

# Re: Build seeks to address some of these challenges

## Re:Build

Refugees In East Africa: Boosting Urban Innovations For Livelihoods Development


€30 million invested

Re:Build is made possible by IKEA Foundation funding. It is one of the single largest investments in urban refugee livelihoods in East Africa

## The program has three core pillars:

### Service Provision

Delivering livelihoods services and community-driven and market-based improvements to 20,000 people, both refugee and hosts.



### Evidence & Learning

Gathering evidence and learning through an iterative process of testing, with randomized control trials (RCTs), pilots, monitoring data, and other methods that help illustrate "what works."



### Influence & Adoption

Encouraging adoption of program evidence and learning, to change policies, practices, and investments globally.



## 2 large cities

We are focusing on supporting thriving economies and cohesive communities in a selection of low-income neighborhoods in **Kampala** and **Nairobi**

## 20,000 people

We are delivering direct services to both **refugee** and **host residents** in these neighborhoods

## Learnings

- ✓ Whether certain interventions are more or less effective for refugees.
- ✓ The impact of building social networks for refugees.
- ✓ The impact and cost efficiency of different delivery models.
- ✓ The impact of livelihoods programs on social cohesion.

**RE:BUILD VISION:**

Urban refugees and vulnerable host residents achieve economic self-reliance and benefit from strengthened urban economic, regulatory and social environments

**GLOBAL ECOSYSTEM GOAL:**

Inclusive policies, practices, and investments enable refugees to achieve economic self-reliance in urban settings

**Global Policy Change**

National, regional and global policy makers adopt policies and practices that improve refugee economic self-reliance

**Global Sector Change**

Humanitarian and development actors adopt investment strategies and practices that enable refugee economic self-reliance

**CITY GOAL:**

Refugees and vulnerable host residents in Nairobi and Kampala achieve economic self-reliance

**Individual and Household Change**

People have sustainable livelihoods

People are self-employed

People are employed

People manage financial risk

**City and Community Change**

Strong markets and effective and responsive city services are accessible to all

The local economy is strengthened

Cohesive communities have equitable access to services

# POLICY EVALUATION

- The policy evaluation involved an analysis of the legal framework that includes policies and legislation which regulate the refugees' operating environment in Uganda and Kenya.
- The assignment included detailed analysis of the responsiveness, strengths and gaps in the refugees' related policies and legislation.



# KEY FINDINGS

# 1. Refugees Legal Identity Kenya

## In Theory

- Under the refugees Act, the Commissioner for Refugee Affairs (Now sitting in the DRS) receives and processes applications for refugee status. Applicants provide oral evidence to support their claim and decisions are made by a refugee status eligibility panel within **90 days**.
- Applicants receive temporary identification passes while they await the decision
- If their application is approved, refugees are issued identification documents as directed by the Refugee Act of 2021.

## In Practice

- Refugees submit applications for status determination to the DRS., where there is a backlog of applications (**~60,000 outstanding applications as of March, 2021**).
- Refugees are waiting anywhere from **3 months, to three years to complete the status** determination process.
- Refugees report receiving unclear or conflicting information about the process
- Given that identification documents are not provided until after the process has been completed, **many asylum seekers do not have ID cards and poses a significant challenge to accessing the labor market.**

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## 2. Socio-Economic Inclusion Kenya

### In Theory

- The Employment Act provides the **right to work and prohibits discrimination**
- The Refugee Act of 2021 **entitles refugees to the legal documents** that they need to participate in social and economic development.
- Class M work permits are provided by the Department of Immigration and facilitated by the DRS.
- Refugees may acquire business permits and establish small business under the Refugee Act of 2021 and the Micro and Small Enterprises Act No. 55 (2012)
- Both the Refugee Act of 2021 and the Kenya CRRF recognize the need for streamlining the process of obtaining work permits and recognizing foreign qualifications

### In Practice

- Refugees **report difficulty in accessing work permits and business licenses** as a result of confusion about the policies and procedures, an inability to provide necessary documentation for applications, and online systems for business registration.
- Refugees may often suffer from negative stereotypes, distrust, and mistreatment as a result of a perception of their having a negative effect on the labor market.

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# 3. Socio-Economic Inclusion Uganda

## In Theory

- The Refugees Regulations 2010 ensures that refugees are able to engage in gainful employment and exempt from paying any fees or charges in order to gain employment.
- OPM grants work permits, free of charge
- The Companies Act of 2012 ensures the right of refugees to establish businesses and the Partnerships Act of 2010 ensures the ability to establish partnerships

## In Practice

- Most refugees are participating in the informal economy where they face discrimination, GBV, and lack of knowledge about the refugee rights among employers.



# 4. Freedom of Movement In Uganda

## In Theory

- The Refugee Act of 2006 ensures **freedom of movement** for all refugees.

## In Practice

- Most **protection and humanitarian assistance is directed toward settlements** where refugees are presumed to be less self-reliant.
- While this may be a reasonable presumption, it does mean that freedom of movement is in effect granted to those who are most self-reliant.
- Urban Refugees at times leave family members in settlements to not lose access to assistance.

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# 5. Education and Skills Development Kenya

## In Theory

- The Djibouti Declaration on refugee education and the Kampala Declaration on Jobs commits the Kenya government to take collective responsibility to ensure that every refugee has access to quality education to integrate refugees into national education policies and strategies, to integrate refugees into Education Sector Plans by 2020, include plans for development of refugee teachers, develop minimum education standards for refugees, and link refugees into TVET institutions, among others.

## In Practice

- Many of these commitments have not yet been enshrined into law
- No framework for allowing refugees access to formal TVET institutions
  - Require certificates of completion from Kenyan Schools or passed Kenyan exams
  - TVET programs may be too expensive for refugees
  - Typically, English or Swahili language

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## 6. Education and Skills Development Uganda

### In Theory

- The Refugees Act of 2006 ensures that Refugees receive the same education opportunities as Ugandan citizens.
- The Uganda Education and Sports Sector Strategic Plan (ESSP) 2017-2020 commits the Ugandan government to provide training (TVET) to refugees.
- The Refugee Acts guarantees the recognition of foreign credentials.

### In Practice

- Most free public schools are located in settlements and schools in urban areas are often not free of charge.
- Participants in interviews felt that the skills being offered at TVET centers did not match the skills demand.
- Some negative perceptions around TVET training.
- Recognition of foreign credentials may be cost prohibitive and a difficult process.

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## 7. Access to Justice

### In Theory

- The Kenya Constitution states that every person has the **right to institute court proceedings** and the state ensure access to justice for all persons at a reasonable cost.

### In Practice

- Hiring lawyers may be **cost prohibitive**
- The legal Aid Fund and National Legal Aid service do not have the resources to adequately meet the needs of all people who may need access to these services.
- Low levels of awareness of Kenyan law among refugees, especially their rights at work.

# 8. Social Security and Protection Kenya

## In Theory

- Article 43(1) of the Constitution states that every person has the right to social security. And that the state will provide appropriate social security to those who are unable to support themselves.
- The National Social Protection Policy (2012) establishes three pillars for social security including social assistance, social security, and health insurance. However, social security is limited to contributory schemes.
- The National Social Security Fund and the National Hospital Insurance Fund are the major schemes.
- Refugees are allowed to contribute to and benefit from the schemes according to the National Social Security Fund Act of 2013
- The Haba Haba Scheme is established for informal sector employees

## In Practice

- Most refugees we spoke with are unaware of the concept of social protection and associate social protection with humanitarian aid, not something to be provided by the government.

## Recommendations for NGOS

- **Integrate information campaigns, for refugee and host communities, related to registration, work permits, and business licences into existing refugee programming.** As the above analysis shows, refugees often cite confusion of how to navigate the bureaucratic processes associated with the RSD process, obtaining work permits, and registering a business.
- **Link refugees to private sector employers and support refugees in obtaining the appropriate documentation.** Refugees can suffer from negative stereotypes and discrimination in the workplace and employers are disincentivized from hiring refugees
- **Advocate for the development of legislation and policy that reflects the commitments of Government to integrate refugees into education systems.** Commitments made under the Djibouti Declaration on Refugee Education and the Kampala Declaration on Jobs, Livelihoods and Self-Reliance for Refugees, Returnees and Host Communities in IGAD Region have not been enshrined in legislation.

## Recommendations for NGOs

- **Continue efforts to expand access to humanitarian services to urban refugees.** While urban refugee programming is included in the Uganda Refugee Response Plan and Jobs and Livelihoods Integrated Response Plan for Refugees, and initiatives such as Refugee Engagement Forum (REF) and the Kampala Working Group, have worked to expand access to assistance to urban refugees, they are, in effect, excluded from much of the humanitarian assistance in Uganda.
- **Expand legal aid services for refugees, particularly with respect to work-related matters.** Accessing legal assistance is cost-prohibitive for many refugees. Further, most refugees live far from justice institutions and legal aid providers.
- **Mobilize funding to support refugee education.** While the Kenyan Government has made commitments to better meet the educational needs of refugees, support is needed to help meet those commitments. Programming aimed at training refugee teachers and supporting refugee secondary education and skills training will go a long way in helping to support these ambitions.

## Recommendations for Government

- **Make regulations and procedures for obtaining refugee identification documents clear.** While in practice, refugees receive identification documents upon conferral of refugee status, this process is not stipulated in legislation. As a result, there is a lack of clarity among refugees about the procedures for RSD or obtaining documentation.
- **RSD processes must be streamlined in Kenya.** There is a substantial backlog of RSD applications of around 60,000 applicants as of March 2021. Various estimates find that the RSD process can take anywhere from three months to three years to complete (Graham and Miller, 2021; Zetter and Ruaudel, 2016). Access to documentation is vital for refugees to participate in labour markets and access education and vocational training opportunities. Lack of access to documentation also makes refugees vulnerable to harassment and resistance from police and other government officials. As such, these substantial delays in conferral of refugee status, and thus in refugees' abilities to receive formal documentation, severely limit refugee employment in the formal economy and pose protection risks.



## Recommendations for Governments

- **Make the Refugee I.D. sufficient for obtaining work.**
- **Make the Refugee I.D. sufficient for accessing mobile money and SIM registration.**
- **Further develop and clarify existing regulations and policies that give full effect to socio-economic rights contained in the Refugee Act of 2021.** While the Refugees Act 2021 28(4) states that “refugees shall be enabled to contribute to the economic and social development of Kenya” and “a refugee recognized under this Act shall have the right to engage individually or in a group, in gainful employment or enterprise, or to practice a profession or trade where he holds qualifications recognized by competent authorities in Kenya”, these provisions leave room for interpretation.
- **Development of proactive policies and legislation to help refugee’s exercise their rights.** While the Kenyan policy and legislative environment has moved toward full integration of refugees into the labour force, they still face discrimination in terms of lower wages, fewer benefits, and a pervasive sentiment that refugees threaten the economic prospects of Kenyans.

## Policy Evaluation Report findings implementation and Adoptions

- Engagement with the private sector through roundtable meetings and MOU for joint implementation and advocacy
- Supporting Government on Implementations and development of regulations to operationalise some of the policy recommendation's
- Engaging NGOs to consider addressing some of the gaps established by the report
- Advocacy activities from Community, National , Regional and Global level.
- Working with RLOs organizations to enhance the capacity of their members and strengthen their networks to advocate
- Working with City Authorities for joint implementations
- Developing Partnership with Civil Society organizations and Community organised groupings through our Influencing and adoption partners