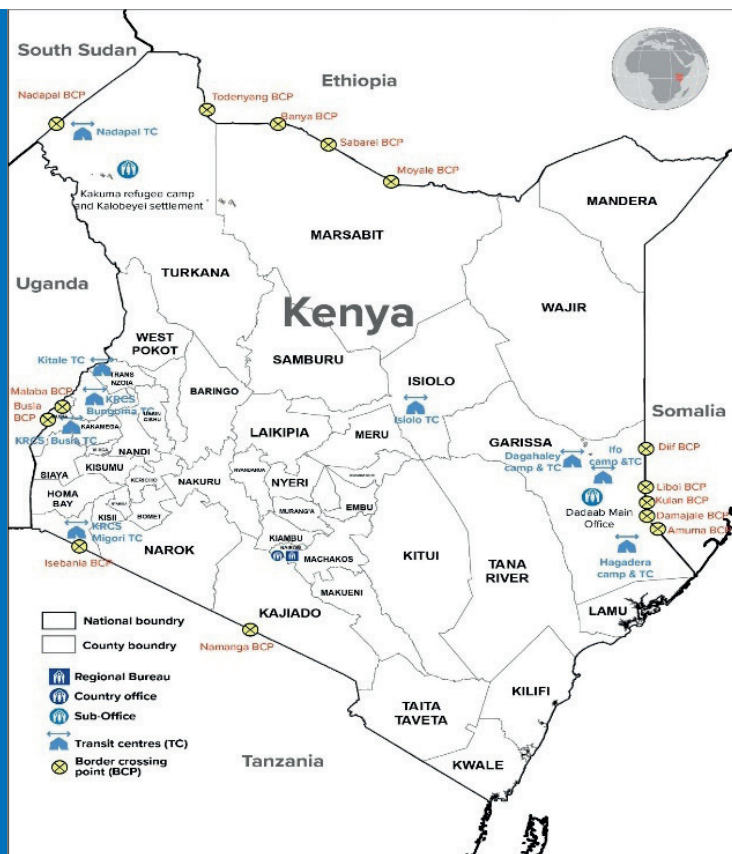


KENYA

As of December 2021, Kenya hosted 540,068 refugees and asylum-seekers, making it the fifth largest refugee-hosting country in Africa. Most of the refugees in Kenya are from Somalia, South Sudan, the Democratic Republic of the Congo, Rwanda, Uganda, Ethiopia and Eritrea. Kenya also has a population of stateless persons estimated at around 19,000 persons, though several statelessness risk factors highlighted by different research, as well as data from the 2019 national population and housing census in Kenya, indicate that this number is probably underestimated. The country is placed in the medium human development category, and despite its own challenges Kenya continues to provide refugees with asylum and access to basic rights and services. The introduction of the Roadmap for Solutions in 2021 highlights Kenya's commitments to comprehensively address the needs of refugees and find lasting solutions for them.



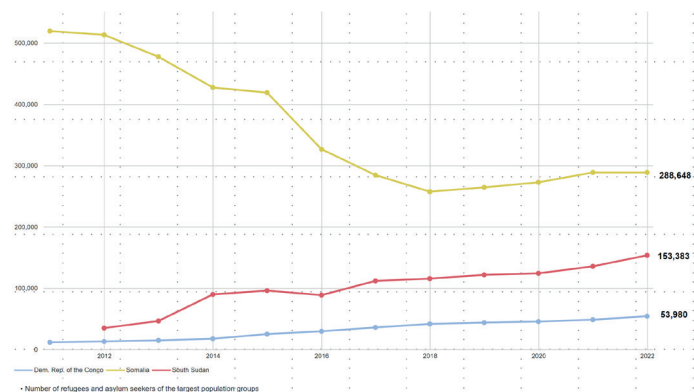
KEY POPULATION DATA

481,058
Refugees

59,010
Asylum-seekers

1.0%
of the country's population (53.01 million)
are refugees and asylum-seekers

Kenya maintains an encampment policy. Roughly 84% of the refugee population resides in the Dadaab Refugee Complex in Garissa County and the Kakuma camp and Kalobeyei integrated settlement in Turkana County. An estimated 205,000 Kenyans live in refugee-hosting areas in the two counties and access humanitarian programmes and development projects, notably as part of the Kalobeyei Integrated Socioeconomic Development Plan (KISED) in Turkana County. More than 53% of the refugee population is from Somalia, with the majority located in Dadaab. Refugees from South Sudan make up 25% of the population and are residing mainly in Kakuma and Kalobeyei. About 16% of the population lives in urban areas, mainly Nairobi, Eldoret, and Mombasa, though perhaps only half have been authorized by the Government to do so.



POLICY DIMENSIONS

(AS OF 31 DECEMBER 2021)

1. Host Communities

1.1 Support for communities in refugee-hosting areas

Refugee camps and settlements in Dadaab and Kakuma-Kalobeyi are located in areas that are economically disadvantaged and among the poorest and most sparsely populated regions of the country. As national services are limited in the two refugee-hosting counties, host communities are supported with basic services provided in the camps by UNHCR and other humanitarian partners, particularly in the areas of education, health care and water. The Kalobeyi Integrated Socioeconomic Development Plan (KISED) in Kakuma is a joint initiative with the Government, UN agencies, development partners and the private sector, that aims to enhance socio-economic development in support of both refugees and hosting communities. Between January 2018 and June 2021, a total of USD 107.3 million was spent on the initiative, including USD 20 million from Kenya's national budget. Similarly, the Garissa County Government has developed the Garissa Integrated Socioeconomic Development Plan (GISED), which is pending finalization and endorsement by the Government. Section 35 of the Refugees Act, 2021 confirms that national and county governments should ensure that "refugee matters are taken into consideration in the initiation and formulation of sustainable development and environmental plans," and the County Integrated Development Plans (CIDPs) will serve as an important framework for planning and resource mobilization in refugee-hosting areas in coordination with the implementation of KISED and GISED.

In line with the implementation of KISED and the ongoing development of GISED, priorities for medium- and long-term financing in host communities include: (1) development of WASH infrastructure to mitigate the effects of recurring drought and flooding; (2) improved public infrastructure, including roads, markets, economic zones and waste management facilities; (3) expansion of renewable energy solutions; (4) enhanced access to financial services, including micro-finance programmes, to support self-reliance; (5) improved health-care and nutrition programmes, including facilities and services; (6) support to agriculture and pastoralism; (7) improved and expanded education and vocational skills training; and (8) increased use of cash-based interventions to provide temporary assistance and contribute to economic development.

The Bill of Rights in the [Constitution of Kenya](#) guarantees all individuals in Kenya their social, economic and cultural rights and binds the state to provide appropriate social security to persons unable to support themselves and their dependants. This right is closely linked to other social protection rights, including the right to health, human dignity, reasonable working conditions and access to justice. The Vision 2030 as well as other poverty reduction policy documents also recognize and place great emphasis on social protection as a powerful tool for improving the quality of life for all Kenyans.

The National Safety Net Programme, known as *Inua Jamii*, includes cash transfers for orphans and vulnerable children, older persons, and persons with severe disabilities, while the Hunger Safety Net Programme covers eight Arid and Semi-Arid Lands (ASAL) counties, including the two refugee-hosting counties, Turkana and Garissa. On average, 25% of the population in Kenya is covered by various national social protection programmes, with 1.2 million persons benefitting from the *Inua Jamii* programme, including the Hunger Safety Net Programme and cash transfer programmes for orphaned and vulnerable children, older persons, and persons with severe disabilities.

The *Inua Jamii* programme has the ability to scale up payments based on shocks or other criteria, though significant gaps remain in refugee-hosting counties where poverty levels are high. The National Social Security Fund primarily services the formal sector, and the National Hospital Insurance Fund (NHIF) is increasing its coverage in line with a presidential focus on universal health-care coverage. However, social insurance coverage of the agricultural and informal sectors, where most Kenyans access their livelihoods, is limited.

The proportion of spending financed by domestic sources is increasing, with the Government now financing all regular cash transfers and development partner resources increasingly focused on technical assistance including capacity-building, policy development, monitoring, complementary pilots, coordination, etc. World Bank support to the sector comes through the Kenya Social and Economic Inclusion Programme, a results-based financing programme, while UNICEF, USAID, WFP, UKAid, FAD, HelpAge International and UNHCR are engaged in various financing and systems strengthening initiatives.

1.2 Social cohesion

The refugee settlements in Dadaab and Kakuma host refugees from more than 20 different countries of origin, the majority being from South Sudan and Somalia, with diverse ethnicities, cultures and languages that often create tensions that can lead to conflict, including between refugees and members of host communities.

National policies can be applied to identify, prevent and mitigate potential social tension and risks of violence in refugee-hosting areas. In this regard, the Refugees Act, 2021 includes various provisions that relate to the relationship between refugees and the communities hosting them, including:

- **Sub-section 34(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.”
- **Sub-section 34(2):** “The Commissioner shall sensitize the host communities about the presence of refugees and any other matters relating to their co-existence with each other.”
- **Sub-section 8(2)(t):** The Commissioner shall “initiate, in collaboration with the development partners, projects that promote peaceful and harmonious co-existence between the host communities and refugees.”

Additionally, the National Cohesion and Integration Act, 2008, while not specifically mentioning refugees, seeks to encourage national cohesion and integration by outlawing discrimination on ethnic grounds.

UNHCR regularly engages community leadership structures to promote social cohesion, including dialogues with elected community leaders, councils of elders, youth groups and members of ethnic groups, as a measure to mitigate protracted conflicts. Initiatives to promote peace-building and social cohesion between refugees and host communities are central components of the ongoing response. Peace Committees, with membership from both the refugee and host communities, are involved in settling disputes and facilitating reconciliation at both individual and group level. Peace committees are also helpful in promoting dialogue between communities and identifying issues that impact peaceful co-existence.

In close partnership with the Department of Refugee Services (DRS), Community Peace and Protection Teams (CPPTs) are in place. They comprise police, DRS, and representatives of the refugee and host communities, with their core function being to report crimes, security incidents and other issues affecting peaceful co-existence. The CPPT structure, which has individuals in each block and neighbourhood, is effective in ensuring the quick resolution of conflicts including misunderstandings between refugees and members of the host community.

In urban areas, NGOs such as Pamoja Trust continue to support local peacebuilding and security mechanisms by promoting community dialogues between refugees, security actors and members of host communities, which provides the opportunity for all to air their concerns and find a mutually beneficial way forward.

The Constitution of Kenya provides for freedom from discrimination and places an obligation on the State to take affirmative action to design programmes and policies that redress any disadvantages suffered by any particular groups. The Constitution offers equal protection of political, economic, cultural and social opportunities for both men and women. However, the Constitution does not protect against discrimination on grounds of diverse sexual orientation and gender identity, and the Penal Code criminalizes same-sex

conduct under Sections 162 and 165. Additionally, sub-section 19(2) of the Refugees Act, 2021 provides that a refugee may be expelled from Kenya if the individual is engaging in conduct that is in breach of public order or contrary to public morality under the law, irrespective of whether the conduct is linked to his or her claim for asylum; while this provision does not specifically refer to persons with an LGBTIQ+ profile it could be applied in this context.

Under the Refugees Act, 2021, the Commissioner for Refugee Affairs is required to take specific measures to ensure the protection of the dignity and safety of women and children and those living with disabilities, including affirmative action measures.

Other laws that offer protection from discrimination in the workspace and in recruitment processes include the Employment Act, 2007, the Labour Relations Act, 2007 and the Persons with Disabilities Act, 2003.

1.3 Environmental management

The Constitution of Kenya provides for the right to a clean and healthy environment for all, with Chapter V dealing with the protection of the environment and enforcement of environmental rights. The Environmental Management and Co-ordination Act (Cap 387) provides the framework of Kenya's environmental law and aims to improve the legal and administrative coordination of diverse sectoral initiatives so as to enhance the national capacity for effective environmental management. The Act harmonizes sector-specific legislation touching on the environment in a manner designed to ensure greater protection of the environment in line with the National Environment Policy, 2013. Section 58 of the Act requires proponents of a development likely to have deleterious effects on the environment to prepare and submit an environmental impact assessment (EIA) to the National Environment Management Agency (NEMA). In addition, several regulations have been enacted to operationalize the Act, including:

- Environmental Management and Coordination (Impact Assessment and Audit) Regulations, 2003, which guide the preparation of EIAs and provide guidelines and standards.
- Environmental Management and Coordination (Water Quality) Regulations, 2006, which address the pollution of water resources, water conservation and the protection of water sources.
- Environmental Management and Coordination (Waste Management) Regulations, 2006, which focus on the management of solid waste, industrial waste, hazardous waste, pesticides and toxic and radioactive substances, with the aim of addressing the impact of pollution.
- Environmental Management and Coordination (Air Quality) Regulations, 2014, which are aimed at controlling, preventing and abating air pollution.
- The Environmental Management and Co-Ordination (Conservation of Biological Diversity and Resources, Access to Genetic Resources and Benefit Sharing) Regulations, 2006, which provide that no person shall engage in any activity that may have an adverse impact on any ecosystem, lead to the introduction of any exotic species, or lead to unsustainable use of natural resources.
- The Water Act, 2016, which provides for the regulation, management and development of water resources, water and sewerage services, and other connected purposes; every water resource, according to Section 5 of the Act, is vested in and held by the national Government in trust for the people of Kenya.
- The Public Health Act, 2012, which aims at prohibiting activities that may be injurious to the general public. It outlines the responsibilities of county governments to maintain a safe and clean environment by controlling development activities during the establishment and operation of proposed projects.
- The National Climate Change Action Plan (NCCAP) 2018 – 2022, which is a five-year plan that helps Kenya adapt to climate change and reduce greenhouse gas emissions; the Act requires the Government to develop action plans to guide the mainstreaming of climate change into sector functions and sets out priority action areas with adaptation and mitigation measures.

Furthermore, County Integrated Development Plans (CIDPs) identify key environmental areas of concern, including contributors to environmental degradation, the effects of climate change, and environmental mitigation measures and adaptation strategies. The influx of refugees is cited as one of the factors contributing to environmental degradation in the CIDPs for Garissa and Turkana Counties, where Dadaab and Kakuma are located. In this regard, a key component of the Government of Kenya's Development Response to Displacement Impacts Project (KDRDIP) is to enhance environmental management for communities hosting refugees through integrated natural resources management and access to energy.

1.4 Preparedness for refugee inflows

The Refugees Act, 2021, the Refugee Regulations, 2009 (which are currently being updated), Kenya's 2020 Comprehensive Refugee Response Framework (CRRF) roadmap, and the [Support for Host Community and Refugee Empowerment](#) (SHARE) initiative, form the basis for Kenya's national preparedness framework to respond to refugee inflows in ways that minimize short- and medium-term socioeconomic impacts on hosting regions.

In October 2020, the Government of Kenya approved the SHARE initiative, which focuses on ensuring access to asylum, enhancing host community and refugee resilience through education, economic inclusion and livelihoods, including by strengthening registration and refugee status determination processes, timely issuance of documentation, supporting the immediate and ongoing needs of host communities, refugees and asylum-seekers, and promoting regional cooperation and international responsibility sharing in the realization of durable solutions. The document calls for the establishment of a national steering committee and other coordination structures towards achieving these objectives, though as yet these structures have not been put in place.

In practice, refugee protection and response, as well as emergency preparedness, are coordinated through national interagency multi-year strategic plans drafted by the Government's Department of Refugee Services and UNHCR. Joint programming will continue to be implemented with other UN agencies as part of the UN Sustainable Development Cooperation Framework (UNSDCF) over the next four years, with Turkana and Garissa Counties being selected, among others, as priority locations.

2. Regulatory Environment and Governance

2.1 Normative framework

Kenya became party to the 1951 Convention relating to the Status of Refugees on 16 May 1966, and its 1967 Protocol on 13 November 1981, both without reservations. The 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa was ratified by Kenya on 23 June 1992. Under Article 3 of the Constitution of Kenya, any treaty or convention ratified by Kenya shall form part of the laws of Kenya.

These international and regional refugee instruments are implemented through the Refugees Act, 2021, which replaces the Refugees Act, 2006. The Act requires that regulations be developed to operationalize the provisions of the Act within six months of its commencement, though this process is expected to be completed by the end of 2022. In practice, the Refugee Regulations, 2009 are still used as an *ad hoc* implementing framework.

The Refugees Act, 2021 generally provides refugees and asylum-seekers rights in line with international and regional refugee protection standards and Kenya's commitments under the Global Compact on Refugees (GCR). It provides protection against refoulement and outlines asylum procedures, including registration, documentation and refugee status determination. The Act recognizes the rights of refugees to participate in economic and social development, specifically the right to engage in gainful employment and economic enterprise. It also supports refugee inclusion by urging national and county governments to include refugees

in development planning – which is one of Kenya’s GRF pledges. While the Act grants recognized refugees the right to engage in gainful employment and economic enterprise subject to applicable laws, it does not provide for simplified access to labour markets through the issuance of work permits for refugees, which is regulated by the Citizenship and Immigration Act, 2011.

While offering a range of benefits to refugee protection in Kenya, the Refugees Act, 2021 maintains the encampment policy and includes exclusion clauses and expulsion modalities that are not fully compliant with the relevant provisions of the 1951 Convention.

The Government of Kenya made a total of 10 pledges at the October 2019 High-Level Segment on Statelessness and the December 2019 GRF. Among these, three are strategic GRF pledges that build on ongoing GCR-related activities on protection, education and solutions, the UN Sustainable Development Goals, and other regional policy instruments including the Nairobi Process, the Djibouti Declaration on Refugee Education, and the Kampala Declaration on Jobs, Livelihoods, and Self-Reliance for Refugees, Returnees and Host Communities. In October 2020, the Government of Kenya approved the CRRF and developed its own action plan, SHARE. Its implementation was to be overseen by a national steering committee which is yet to be formed. Details regarding SHARE have been released but have not yet been widely disseminated among relevant government counterparts and host communities.

Key principles on refugee inclusion in national services reflected in these policies are also incorporated in the Refugees Act, 2021, which generally provides more opportunities for local solutions for refugees in Kenya. The Act recognizes the rights of refugees to participate in economic and social development and provides a legal framework for advancing refugee inclusion by highlighting the need to consider refugees in national and county development plans, and emphasizing the shared use of public institutions, facilities and spaces between refugees and host communities. The inclusion of refugees in national programmes is also a key commitment made by the Government of Kenya at the GRF in 2019. It is expected that the forthcoming Refugee Regulations will more clearly outline how greater inclusion will be achieved under the Act.

Medium- to long-term development financing would be particularly beneficial to support the Government to expand the KISEDIP initiative in Kakuma and Kalobeyei and to get the GISEDIP in Garissa County, where the Dadaab camps are located, off the ground following delays in implementation due to security concerns and (unrealized) expectations of large-scale returns of Somali refugees. Both initiatives provide an excellent opportunity for the application of the CRRF and the GCR. The second phase of KISEDIP (2023-2027) will be implemented in line with the Refugee Act, 2021 and the Turkana County Integrated Development Plan, and will be aligned with UNHCR’s Multi-Year Strategy for 2023-2026. KISEDIP II aims to further build resilience, expand opportunities for self-reliance and reduce poverty for both refugees and host communities through enhanced socioeconomic inclusion, integrated service provision and improved economic opportunities by engaging the private sector through a whole-of-society approach. The forthcoming Refugee Regulations will be instrumental in guiding the implementation of KISEDIP and GISEDIP and expanding access to self-reliance opportunities.

The development of regulations to guide the implement the Refugees Act, 2021 is ongoing. As a relatively new piece of legislation, many stakeholders, including the refugee and host communities, are not yet conversant with its provisions. The Department of Refugee Services is tasked under the Act with creating awareness and liaising with relevant stakeholders on its implementation.

Sub-section 28(7) of the Refugees Act, 2021 indicates: “Without prejudice to the generality of the foregoing, and subject to the special circumstances of refugees, the Refugee Identity Card shall at a minimum have a similar status to the Foreign National Registration Certificate issued under Section 56 (2) of the Kenya Citizenship and Immigration Act for the purposes of accessing the rights and fulfilling obligations under this law.” However, as dissemination of the Act remains limited, government departments and service providers, including those offering financial services, are generally not aware that the refugee identity card can be used to access such services.

The Refugees Act, 2021, which came into effect in February 2022, and the Refugee Regulations, 2009, which are currently being updated in line with the new Act, provide the framework for registration, documentation and refugee status determination (RSD). Under the Act, RSD recommendations are made by the Refugee Status Eligibility Panel (RSEP), comprising officials from the DRS and UNHCR. Similar to the Technical Advisory Committee (TAC) under the Refugees Act, 2006, the RSEP makes recommendations based on interviews and assessments completed by DRS eligibility officers. UNHCR can be co-opted to provide the RSEP with technical advice. The final decision at first instance is taken by the Commissioner for Refugee Affairs, who endorses or overturns the recommendations of the RSEP. Appeals of negative decisions are to be considered by the Refugee Status Appeals Committee, with a final appeal available to the High Court of Kenya. Asylum-seekers from South Sudan are recognized as refugees through a *prima facie* approach, while all other asylum-seekers undergo individual RSD.

While this system envisaged in the legislation is in line with applicable norms and standards, in practice the process is heavily dependent on UNHCR funding. DRS staff positions are funded through UNHCR's annual operations budget and are not created as permanent positions in line with government procedures, and significant staff turnover impacts long-term RSD capacity development of DRS staff. Furthermore, more needs to be done to improve efficiency through implementation of streamlined and diversified RSD case-processing methodologies, particularly for case profiles in which objective and reliable country of origin information indicate a high presumption of eligibility. This is necessary to address the recurring problem of RSD backlogs, which as of end-2021 stood at more than 59,000 individual asylum-seekers awaiting a decision. Further delays have been seen over the past two years due to work-from-home modalities and restrictions on in-person interviews put in place during the COVID-19 pandemic, although these restrictions have now all been lifted. Additional concerns relate to inconsistent and discriminatory access to asylum procedures. Registration, documentation and RSD procedures have remained suspended for Somali asylum-seekers in Dadaab since May 2016, while RSD decisions for asylum-seekers with an LGBTIQ+ profile have not proceeded since mid-2021.

At the 2019 GRF, Kenya pledged to support the strengthening of institutions and structures that manage asylum, deliver services and provide security in refugee-hosting areas. Based on the pledges made at the GRF, Kenya and Denmark were proposed as a match under the Asylum Capacity Support Group during the follow-up of the GRF in 2021. Further to the matching process, Kenya and Denmark have developed a project with the objectives of strengthening the Government of Kenya's asylum management system to deliver fair, efficient and adaptable national RSD procedures aligned to national and international legal frameworks, and to improve procedures for admission and reception of asylum-seekers and protection against *refoulement*.

2.2 Security of legal status

The Refugees Act, 2021 requires that any person entering Kenya to seek asylum shall make his or her intention known immediately upon entry, or at least within thirty days, by reporting to the nearest reception centre or the nearest government administrative office. The Act grants asylum-seekers the right to stay in the country for the duration of the refugee application. Asylum-seekers are provided with an asylum-seeker pass that is valid for ninety days, which is renewable. The asylum-seeker pass grants them the right to stay until such time as their status has been determined, but the renewal of passes has not been consistent and has often been subject to significant delays. In 2017, a directive was issued by the then-Commissioner for Refugee Affairs, requiring all new arrivals registered in urban areas to report to the designated areas (refugee camps) unless exempted by the Government, and consequently the automatic renewal of asylum-seeker passes was suspended. Once refugee status has been granted, refugees are entitled to a refugee identity card with a renewable validity of five years; as with asylum-seeker passes, the renewal of refugee identity cards is often delayed. There are no limitations on the right to stay, in policy or in practice, unless the individual's refugee status is cancelled, revoked, or ceased under the Act.

Generally, persons whose claims have been rejected and who have exhausted the appeal process remain in the country, mostly as undocumented persons. Sub-section 14(3) of the Refugees Act, 2021 now mandates

the Commissioner for Refugee Affairs to notify the Director of Immigration within 60 days of final rejections of asylum applications, and the Director of Immigration shall deal with the applicant in accordance with immigration law.

The Refugees Act, 2021, provides the right of asylum-seekers to remain in the country until the asylum process is completed and to be protected against *refoulement*, including the safeguard that any expulsion shall only be undertaken following due process of law. Exceptions to the principle of *non-refoulement* through wider grounds for expulsion of asylum-seekers and refugees have been expanded to include persons “engaging in a conduct that is in breach or is likely to result in breach of public order or contrary to public morality” under sub-section 19(2) of the Act. This issue is under discussion, including as part of the process of drafting Refugee Regulations to guide the implementation of the Act, to ensure that affected persons have access to applicable legal remedies and to ensure respect for the principles of non-discrimination, *non-refoulement* and non-penalization enshrined in the 1951 Refugee Convention.

Asylum-seekers with a claim based on sexual orientation and/or gender identity can lodge their asylum claims on that basis. However, further processing of such claims to determine refugee status is proving challenging and appears to have been suspended since mid-2021 (without formal notification). There are indications that the protection space for such claimants in Kenya may be becoming increasingly restrictive, as noted above with regard to sub-section 19(2) of the Refugees Act, 2021.

Sub-section 4(2)(b) of the Refugees Act, 2021 imposes restrictions on access to asylum for individuals who have sought asylum or been granted refugee status in another country prior to entry to Kenya if he or she can be readmitted to that country and benefit from effective protection. While the assessment on effective protection is a welcome safeguard for people in need of international protection, it remains to be seen how this will be implemented in practice.

In 2021, there were no known cases of *refoulement* or unlawful termination of refugee status. While one individual’s refugee status was withdrawn in accordance with the law by the Commissioner for Refugee Affairs, this decision was overturned by the Refugee Appeals Board in March 2021 and the individual’s refugee status was reinstated.

COVID-19 containment measures and border closures affected access to the territory and the right to seek asylum; however, with the lifting of these measures and the reopening of borders mid-2021, access to the territory remains largely unrestricted. Certain border points, nevertheless, remain closed officially, in particular the border between Kenya and Somalia, so asylum-seekers continue to enter the country through informal border crossing points.

2.3 Institutional framework for refugee management and coordination

The Department of Refugee Services (DRS), the Refugee Advisory Committee (RAC), the Refugee Status Eligibility Committee (RSEC) and the Refugee Status Appeals Committee (RSAC) are the administrative institutions outlined in the Refugees Act, 2021. DRS, led by the Commissioner for Refugee Affairs, is the main government interlocutor responsible for administrative matters, coordination of activities and programmes, and operational aspects of refugee protection, with the RAC providing advice and guidance on policy matters. Although the Act does not define the competent line Ministry overseeing DRS, the Department is currently under the Ministry of Interior and National Administration. The Commissioner acts as an interlocutor between the various ministries, the national and county governments, and relevant stakeholders, including UNHCR and other UN agencies, NGOs, development partners, and the donor community.

The RAC is mandated to provide guidance to the Cabinet Secretary on refugee matters and includes representatives from the Ministry of Interior and Coordination of national Government, the Ministry of Foreign Affairs, the Ministry of Devolution, the Ministry of Health, the Ministry of Finance, the Ministry of Education, the Office of the Attorney-General, the Office of the Inspector-General, the Department of Immigration

and the Council of Governors. The Act provides that the RAC should meet at least four times a year, and notes that the RAC can co-opt other relevant stakeholders to attend meetings and provide advice on the performance of its duties. It is expected that the forthcoming Refugee Regulations will provide guidance on the operationalization of the RAC and on the engagement of other stakeholders in its meetings, which could include UNHCR and other relevant UN agencies, development partners and key donors.

Following the March 2021 announcement by the Government to close the refugee camps in Kenya, the Government and UNHCR jointly developed a Roadmap for Solutions for the main refugee groups in Kenya. The Roadmap involves various coordination structures including a National Technical Committee, comprised of several government ministries and the international community, as well as a number of sector-specific working groups to guide the implementation of the Roadmap. The Roadmap provides a comprehensive strategy for solutions for refugees in Kenya, including through expanding access to resettlement and complementary pathways, creating conditions in countries of origin to support sustainable return and reintegration, and facilitating temporary local solutions in Kenya as a complement to the SHARE initiative, without prejudicing the possibility for eventual opportunities for more permanent durable solutions within the scope of the Refugees Act, 2021.

Medium- to long-term development financing would be particularly beneficial to support the Government in the search for comprehensive durable solutions by assisting in the implementation of the Roadmap, SHARE and other solutions initiatives, including supporting refugees and members of host communities to become self-reliant and offering support to countries of origin to create conditions for sustainable return and reintegration.

Community participation is ensured through elected refugee community governance structures. Refugee elections are overseen by DRS, with active participation and support from UNHCR and partners, with the elections establishing leadership structures overseeing particular geographic areas in both camps and urban settings. Due attention is paid to representation of women, youth and persons with specific needs, including persons living with disabilities. Meetings of elected community leaders take place monthly and are attended by representatives of UNHCR, DRS and other relevant partners.

A number of additional committees, including on GBV, child protection, food, sanitation and shelter, provide avenues for consultation on specific issues. In addition, the Community Peace and Protection Teams (CPPTs) have been established to support security and safety in the camps in close coordination with the police and DRS.

The Refugees Act, 2021 clearly expresses a commitment by the Government towards hearing the views of refugee communities, including through a provision directing national and county governments to ensure the inclusion of refugee matters in the formulation and initiation of sustainable development and environmental plans.

Refugees, asylum-seekers and certain communities of stateless persons were included in the national population census, which was last conducted in August 2019, though reports produced did not provide statistics or other information relating to these groups. Discussions are ongoing to ensure the inclusion of these populations in [the Huduma Bill](#), which involves the largest set of changes to the legal framework governing Kenya's identification system since before independence. If enacted, the Bill would become the single law anchoring birth and death registration, providing a unique identifier for each person, issuing documentation including identity cards, and overseeing the governance of the [National Integrated Identity Management System \(NIIMS\)](#).

Section 35 of the Refugees Act, 2021 confirms that national and county governments should ensure that "refugee matters are taken into consideration in the initiation and formulation of sustainable development and environmental plans," and in this regard the County Integrated Development Plans (CIDPs) serve as an important framework for planning and resource mobilization in refugee-hosting areas.

2.4 Access to civil registration and documentation

The Refugees Act, 2021 provides the right to identity documents for refugees and asylum-seekers. Sub-section 28(6) states that “a refugee and an asylum-seeker shall have the right to identification and civil registration documents and such documents shall be sufficient to identify a refugee or asylum seeker for the purposes of access to rights and services under this Act and any other applicable law.”

The Government of Kenya issues machine-readable Convention Travel Documents (CTDs). The Commissioner for Refugee Affairs, under Section 8 of the Refugees Act, 2021, is mandated to issue travel documents to refugees in liaison with the Department of Immigration. CTDs are issued free of charge under the Kenya Citizenship and immigration Act, 2011.

The issuance of documentation to refugees and asylum-seekers has certain shortcomings, including:

- The asylum-seeker pass is valid only for 90 days, though the refugee status determination (RSD) process often takes in excess of two (or more) years; this necessitates regular renewals, and the procedures lack efficiency. Additionally, the pass is often not recognized by service providers.
- Recognition of refugee status is a pre-requisite for issuance of a refugee identity card, which is valid for five years and provides access to a range of government services. The backlog in RSD leads to a lengthy period in which asylum-seekers do not have access to services that are offered to those with refugee identity cards.

Refugees and asylum-seekers are entitled to register vital events that occur in Kenya, including births, marriages, divorces and deaths. Sub-section 8(1)(d) of the Refugees Act, 2021 mandates the Commissioner for Refugee Affairs to issue refugee identification documents and to facilitate the issuance of civil registration and other documentation by other government agencies. Notification and registration are mandatory for all births and deaths occurring in Kenya in line with the principle of universal birth and death registration, and are undertaken by the Department of Civil Registration according to the Births and Death Registration Act, 2012, which will be integrated in NIIMS. Refugees and asylum-seekers have access to civil registration procedures, but there is no clear data on how many have been issued vital events documents as issuance is not normally recorded in the refugee database by DRS. According to UNHCR statistics, however, the birth registration rate for refugees and asylum-seekers in the refugee camps is at 95%, which is higher than for the host population. UNHCR and its partners facilitate the process of birth registration, but as many refugee children born in Kenya still have not had their births certified by the competent authorities, they may be at risk of statelessness.

Marriage is provided for under the Marriage Act, 2014, which recognizes civil, Christian, Muslim, Hindu and traditional or customary marriages, and requires all marriage unions to be registered. A decree of divorce is available by way of petition through the courts or under Islamic law for those professing the Muslim faith. While the services are available to refugees and asylum-seekers, many face challenges in accessing these rights due to limited information on the process, lack of required documentation, administrative barriers and the cost of applicable statutory fees.

Medium-term priorities include: (1) supporting the Department of Civil Registration to improve access to birth registration, including by establishing civil registrars in Kakuma and Dadaab and facilitating late birth registration for all refugees born in Kenya whose birth has not yet been registered; (2) supporting the completion of the digitization process to enable linkages and interoperability between the civil registration database and other user systems (including in the areas of education, health care, social protection and financial services); and (3) supporting the process of legal reforms to facilitate the implementation of NIIMS and ensure the inclusion of refugees, asylum-seekers and stateless persons and the issuance of a unique identifier for access to national services.

2.5 Justice and security

The security situation in refugee-hosting areas is fluid and unpredictable, mainly due to the large number of different countries of origin and ethnic groups among the refugee population, and the sometimes strained relationship between the refugee and host communities. Crime remains a concern, especially in Turkana County where Kakuma and Kalobeyei are situated. This is largely due to the worsening economic situation in the area, which is exacerbated by the ongoing drought across the northern part of Kenya. In Dadaab in Garissa County, security remains a major concern for the Government following a series of terrorist attacks in Nairobi and Garissa committed by fundamentalist groups from Somalia, and as a result the management of the refugee operation in Dadaab is heavily influenced by security considerations.

During participatory assessments conducted with refugees and asylum-seekers in the camps and in urban areas, insecurity, violence, theft and burglary, physical assault, arbitrary arrest and harassment were key security concerns reported. Arbitrary arrest, harassment and extortion by police were largely attributed to the lack of or expired documents, or police not acknowledging or recognizing the documents. Insecurity is also attributed to engagement in casual labour and the perception among host communities that they are competing for scarce jobs with the refugee population, which has resulted in verbal and physical assault. It was also reported that the socioeconomic hardship created by the COVID-19 pandemic and the ongoing drought has aggravated security risks for both communities. This situation creates security challenges and may compromise peaceful co-existence between the refugee population and the communities hosting them.

Considering the huge camp population against limited police personnel, community policing initiatives partly bridge this gap and enhance safety and security through community volunteers involved in Community Peace and Protection Teams (CPPTs) comprising police, DRS and representatives of the refugee and host communities. There are shortcomings in the funding of the incentives of Kenyan Police officers, under the Security Partnership Project, involved in the facilitation of humanitarian activities in the camps. The CPPTs are not sufficient in number and lack training on community policing and material support.

The Constitution of Kenya provides that all people are entitled to the enjoyment of their rights and fundamental freedoms without discrimination. The Refugees Act, 2021 provides that every refugee and asylum-seeker shall be entitled to the rights and subject to the duties contained in the laws of Kenya, the 1951 Convention and its 1967 Protocol, and the OAU Convention.

The level of security enjoyed by refugees is comparable to that enjoyed by nationals in the same areas. They have access to law enforcement officers directly or through UNHCR, partners and the Department of Refugee Services (DRS). Arbitrary arrest and extortion continue to be reported, particularly in cases of undocumented refugees or those residing outside designated areas.

Nationals and refugees face similar challenges in accessing justice, including high costs, limited legal representation and, to an extent, the use of local mechanisms to resolve disputes, which can lead to violations of rights. UNHCR and its partners provide legal representation in cases involving asylum-related matters and, exceptionally, in criminal matters to ensure that due process is followed.

The Legal Aid Act, 2016, with its objective of ensuring the provision of affordable, accessible and sustainable legal aid and promoting alternative dispute resolution mechanisms, has included refugees and asylum-seekers among the indigent groups that should benefit from legal aid. Operationalization of the Act has, however, encountered some challenges in the inclusion of refugees, notably the lack of awareness that refugees can benefit from national programmes and the fact that legal aid is normally provided in cases involving serious offences.

To ensure the full functioning of the court in Dadaab and Kakuma, investment is required in terms of infrastructural and logistical support (vehicles, ICT connectivity, etc.), additional courtrooms (including for handling cases involving children), and availability of accommodation for magistrates and other court

officials. The implementation of programmes to ensure qualified legal assistance and representation for refugees in conflict with the law is greatly needed.

Article 27 of Kenya's Constitution has a strong focus on equality and non-discrimination and includes special provisions on the protection of rights for particular groups vulnerable to discrimination. It provides that every person has the right to freedom and security of their person regardless of their nationality, the right not to be subject to any form of violence from either public or private sources, or any form of torture, whether physical or psychological, or cruel, inhuman or degrading treatment. The right to security in the Constitution safeguards women's rights against gender-based violence (GBV). The Bill of Rights under Chapter 4 provides guarantees for a wide range of rights and fundamental freedoms. Article 27 and Article 43 address reproductive health and place a duty on the Government to make, among others, family planning services and information available to women.

The National Policy for Prevention and Response to Gender Based Violence, 2014, is informed by various government policy documents and statutory frameworks, including the Constitution of Kenya, the Kenya Penal Code, the Criminal Law (Amendment) Act, 2003, the Sexual Offences Act, 2006 and the Sexual Offences (Amendment) Act, 2011, the Sexual Offences Regulations, 2008, the Sexual Offences Dangerous Offenders DNA Data Bank Regulations, 2008, the Counter Trafficking in Persons Act, 2011, the Prohibition of Female Genital Mutilation (FGM) Act, 2011, the Employment Act, 2008 and the National Reproductive Health Policy, 2007.

The main aim of the National Policy is to accelerate efforts towards the elimination of all forms of GBV in Kenya. The policy seeks to: ensure a coordinated approach in addressing GBV and effective programming; enhance enforcement of laws and policies towards GBV prevention and response; increase access to quality and comprehensive support services across sectors; and improve the sustainability of GBV prevention and response interventions. Through this policy, various structures at county level have been established with the aim of preventing GBV and supporting survivors. Although refugees are not mentioned expressly in the policy, structures serve both refugee and host communities without discrimination. The coordination structures in the camps and in urban areas link with national and county mechanisms with a common objective of addressing and preventing GBV. There is no available data to assess the extent to which members of host communities benefit from GBV services, though GBV survivors within the refugee community are generally believed to have better access to comprehensive services, particularly medical and psychosocial support.

Policy shortcomings include the following:

- GBV remains prevalent across Kenya despite the policy and legal instruments and service delivery mechanisms in place at national and county levels.
- The concept of protecting survivors is still not well formulated and operationalized, partly due to weak institutional capacities, persistent cultural practices and social norms, and gender inequality. Additionally, issues of intersectionality, particularly in terms of gender identity and sexual orientation, traditional concepts about masculinity, religious beliefs and traditional constructs on issues such as women's and children's rights, continue to perpetuate a system of gender inequality and oppression that can lead to GBV.
- The GBV coordination mechanisms established under the National Policy for Prevention and Response to Gender Based Violence have not been fully implemented and lack operational efficiency, which affects implementation. Coordination mechanisms and service delivery guidelines and protocols need strengthening.
- GBV data collection, analysis and reporting is still fragmented by different stakeholders, resulting in duplication, incomprehensive collection and analysis and lack of data sharing mechanisms. Refugee related data cannot be analysed from the current data management system, though the development of a National GBV information management system that will include refugee data is under discussion.
- Emerging issues such as cyber and online bullying are not covered in the current policy framework.

3. Economic Opportunities

3.1 Freedom of movement

Refugees' right to freedom of movement is restricted due to the Government's long-established encampment policy, and this is reaffirmed in the Refugees Act, 2021, which provides in sub-section 28 the possibility for the Cabinet Secretary responsible for refugee matters to designate specific counties as areas of residence for refugees, and to designate specific areas for refugees to be accommodated, with certain exemptions possible at the discretion of the Commissioner for Refugee Affairs. The Act further defines a designated area as any reception area, transit point or settlement area as may be declared by the Cabinet Secretary. This is mitigated by the issuance of movement passes by the Government to refugees who have valid reasons for leaving designated areas, including for education, medical treatment and to support economic enterprises. Nevertheless, challenges remain as there is no clear and established criterion or standard format for the issuance of movement passes, which are issued at the discretion of DRS. The exemption process through which refugees are authorized to reside in urban areas remains largely suspended, and refugees found outside designated areas without authorization are subject to arrest, detention and prosecution. Freedom of movement remains a key barrier to efforts to promote refugee self-reliance. The Refugee Regulations currently being developed is anticipated to set out clear criteria for refugees to be issued movement passes and to be permitted to reside outside designated areas.

The Government's encampment policy remains in place under the Refugees Act, 2021, but refugees who are authorized by the Government to reside in urban areas are free to choose their place of residence. It should be noted that the majority of urban refugees settled in the main urban centres prior to the effective enforcement of the encampment policy.

3.2 Rights to work and rights at work

The Refugees Act, 2021 provides refugees access to economic opportunities, with sub-section 28(5) of the Act indicating that a refugee has the right "to engage in gainful employment or enterprise or to practice a profession or trade where he holds qualifications recognized by competent authorities in Kenya." Further, sub-section 28(4) states that "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." Despite these provisions, the Government's encampment policy remains in place under the Act and limits refugees' access to national labour markets. Refugees also continue to face difficulty accessing work permits due to their lack of required identification documents (e.g. national passports) and administrative hurdles imposed by immigration officials, notably the requirement that work permits can only be issued to refugees if the authorities are satisfied that no Kenyan is able to take the job. These challenges force most refugees to work informally both inside and outside the camps, thereby preventing them from attaining formal employment that would allow them to pay taxes, which is required under sub-section 41(1) of the Act. Further, relevant provisions in the Act refer only to recognized refugees, leaving more than 59,000 asylum-seekers without formal access to economic and other opportunities.

Under the Citizenship and Immigration Act, 2011, refugees in Kenya have the right to apply for Class M work permits for employment across a range of sectors, which are specific to refugees and free of charge, but the application process is demanding and there is a lack of clarity on the approval process once work permit applications are submitted through government procedures. Acquiring a work permit through the Department of Immigration takes as long as 12 months, and while Class M work permits are free, in practice obtaining them may require the services of a legal representative, which can be prohibitively expensive (with legal fees as high as KES 250,000 per work permit, or roughly USD 2,100). In addition, the work permit is issued in connection with a specific employer which complicates the process of securing another job once the contract with the employer is no longer valid. Other challenges include requirements to present valid national passports (which most refugees do not have), competition with the national labour force, lack of highly specialized skills, and lack of freedom of movement. While there is no data available on the number

of refugees that possess work permits, in view of these challenges UNHCR is aware of only a handful of refugees who have been able to secure a work permit, primarily those with high level of skills and expertise. Most therefore work in the informal sector, exposing them to possible exploitation.

According to Sub-section 28(5) of the Refugees Act, 2021, all refugees have the right “to engage in gainful employment or enterprise or to practice a profession or trade where he holds qualifications recognized by competent authorities in Kenya.” County governments are responsible for issuing licences required to open businesses and are generally willing to do so. While some refugees have been successful in opening and registering businesses under their own name, challenges include difficulties accessing mobile money services and acquiring business capital from financial institutions. Refugees face additional barriers to access labour. To acquire a licence, a permanent facility for business is required. The process to obtain a licence is not well known to refugees and the requirements in terms of documentation are neither consistent across all business types nor clearly advertised. Most self-employed refugees, involved in street vending, home-based businesses and businesses run out of temporary stalls, are not eligible to obtain a licence. A permit is necessary to carry out such informal businesses. A refugee who runs a small restaurant needs to obtain additional permissions from health or fire authorities, which are not easy to obtain. Some refugees use Kenyans as a proxy due to a lack of awareness of these authorities on the refugees’ right to work and documentation. Most refugees struggle to meet the costs associated with the prerequisite documentation and application process for licences and permits.

Other barriers to legal employment and self-reliance include limited job opportunities in the counties hosting refugee camps, restrictions on freedom of movement, low levels of education and skills among refugees, and limited access to financial resources. Refugees are presently unable to acquire professional accreditation as teachers and other professionals, despite having sufficient qualifications, due to the lack of access to national accreditation mechanisms. Kenya is a party to the Kampala Declaration on Jobs, Livelihoods and Self-Reliance adopted in March 2019, which commits IGAD member states to expanding livelihood opportunities and economic inclusion of refugees. Kenya has also endorsed the Djibouti Declaration on Refugee Education, which includes commitments to promoting the inclusion of refugee teachers in national education systems, facilitation of teacher accreditation, and alignment of pay and conditions of service between host community and refugee teachers; the implementation of these commitments remains pending.

Article 41 of the Constitution of Kenya explicitly provides for the rights of workers, including the right to fair labour practices, fair remuneration, reasonable working conditions, to join a trade union and to go on strike. Additionally, the Employment Act, 2007 contains provisions for workers’ protection in the labour market, including prohibitions against forced labour, discrimination and sexual harassment; protocols for employer-employee relationships, including contracts for services; protection of wages; basic minimum conditions for employment, including work hours and rights to sick, vacation, and parental leave; protocols for termination and dismissal; and protocols for the protection of children. While none of the Government’s laws and policies relating to worker protection specifically mention refugees, these provisions apply to workers in general and do not exclude refugees.

Kenya’s 2020 [Policy on Recognition of Prior Learning](#) (RPL) acknowledges the assets and skills of refugees and asylum-seekers in Kenya. But a comprehensive recognition of prior learning system for migrant workers, refugees and returnees remains a gap. The equivalency process for qualified professionals and the registration and accreditation process has opportunities for improvement.

The forthcoming Refugee Regulations should provide clarity on the issuance of Class M work permits and the issuance of licenses for refugee-owned businesses, including through the establishment of services within the scope of the Huduma Bill, 2021, once enacted.

3.3 Land, housing and property rights

Article 40 of the Constitution of Kenya gives every person the right to own property of any description, including land, in any part of Kenya. However, non-citizens, including refugees, can only own land

on a leasehold title, for a maximum of 99 years. The Lands Act, 2012 provides for three different land classifications: private land, public land and community land. Public land is vested in the government for the benefit of the people of Kenya and community land is held and managed by communities. The Act recognizes four land tenure systems: freehold; leasehold; other forms of partial interest as may be defined under the Act or other laws, including easements; and customary land rights. Private land is land owned by an individual under freehold or leasehold tenure. A freehold title is the greatest interest a person can have on land as it gives the holder absolute ownership of the land for life, and for his descendants for as long as the family lineage exists. A freehold title generally has no restrictions as to use or occupation. A leasehold interest in land is for a specific period and is subject to payment of a fee or rent to the respective county government. Titles held under settlement schemes can only be transferred via succession.

Though there is no policy denying refugees access to the purchase and ownership of land in Kenya, in 2021 the Ministry of Lands and Physical Planning rolled out the digitization of land systems and transactions through the National Lands Information Management System (NLIMS) in line with the Lands Act and the Land Registration (Electronic Transactions) Regulations, 2020. This was intended to address the recurrent challenges of record management, though users have reported challenges accessing NLIMS as it verifies the identity of its users with the records maintained by the Registrar of Persons. Currently, the system locks out non-citizens who own property in Kenya, and thus refugees cannot access the platform to register their titles and any transactions. The digitization of the lands records and transactions has not been completed. Ensuring that refugees have better access to registration procedures, including through inclusion in NIIMS and issuance of a unique identifier, could be addressed in the Refugee Regulations that are under development.

As noted above, under Article 40 of Kenya's Constitution, non-citizens can only own land on a leasehold title for a maximum of 99 years. The same applies to companies that are not 100% owned by Kenyan citizens if they buy land or property. The Lands Act, 2012 guarantees access, equal recognition, and enforcement of land rights arising, as well as non-discrimination in ownership, under all tenure systems. It does not distinguish between refugees and foreign nationals and categorizes persons transacting in land and property simply as citizens and non-citizens. In this regard, the Refugees Act, 2021 confirms that the refugee identity card has the same status as a Foreign Nationals Registration Certificate, which should support equal treatment between refugees and other foreign nationals.

Kenya continues to impose an encampment policy and the majority of refugees reside in the camps in Kakuma and Dadaab. Refugees residing in urban areas, however, are able to access rental housing on the same terms as nationals.

The Affordable Housing Programme is an initiative of the Government of Kenya under the Big Four Agenda, targeting low- and medium-income households. To enhance affordability the Government has created a National Housing Development Fund for employees and created the Kenya Mortgage Refinance Cooperation with the World Bank in coordination with local banks. Even though the majority of refugee households fall in the low- to medium-income category, they are at present left out of the initiative. To register for allocation, one has to be a Kenyan citizen and hold a Kenyan national identity card. Further, to qualify for long-term mortgage facilities, the household must earn a monthly income of USD 500-1,500, which is well beyond the capacity of most refugee families.

3.4 Financial and administrative services

Neither the asylum-seeker pass nor the refugee identity card is listed among the documents identified for the "Know Your Customer" requirements imposed by the Central Bank of Kenya and the Communications Authority of Kenya, thereby preventing refugees from accessing financial inclusion.

While refugees are permitted to open bank accounts in Kenya, the Proceeds of Crime and Anti-Money Laundering Act, 2009 and the "Know Your Customer" regulations in place result in most banks refusing to recognize refugee identity cards as a sufficient form of identification for opening bank accounts, despite the

fact that sub-section 28(7) of the Refugees Act, 2021 states that “the Refugee Identity Card shall at a minimum have a similar status to the Foreign National Registration Certificate issued under section 56(2) of the Kenya Citizenship and Immigration Act for the purposes of accessing the rights and fulfilling obligations under this law.” These barriers limit refugees’ access to both conventional and digital banking services, including mobile banking services (such as M-Pesa) and microfinance programmes that are critical for them to open businesses. Again, asylum-seekers’ access to financial services is even further limited. Inclusion of refugees in programmes under the Huduma Bill, 2021, once enacted, would also support access to financial services.

Refugees are currently unable to access mobile money or mobile phone banking services. The Kenya Information and Communications Act, 2011 does not include refugee identity cards as an acceptable document for SIM card registration and therefore makes it difficult for refugees to register a SIM card in their own name. That said, many refugees are able to register SIM cards in their own name, though it is currently not possible to create mobile money accounts (e.g. M-Pesa) linked to those SIM cards.

With respect to other national administrative services, Section 10 of the Kenya National Qualification Authority Regulations, 2018, provides for the alignment and validation of qualifications into the Kenya National Qualifications Framework awarded by foreign universities.

Though not expressly provided for under the Traffic Act, 2012 or the Refugees Act, 2021, refugees can obtain driving licences, though persistent inherent administrative challenges prevent most refugees from accessing licences due to technical issues with the National Transport and Safety Authority e-portal, which requires reconfiguration to process applications by refugees considering their unique status and documentation.

Refugees have access to vocational and technical training in Kenya, in both camps and urban settings, delivered by both humanitarian agencies and national institutions, and certificates issued to refugees are recognized by the Kenyan Government. A small number of refugees have been able to access national institutions on an *ad hoc* basis, though refugees are not currently included in national selection for technical and vocational education and training (TVET) and are not eligible for financial support accorded to some nationals. Barriers remain to ensuring that refugees are included in national selection processes and that they receive the same support as Kenyan nationals once enrolled (capitation payments, apprenticeship placements, etc.). TVET institutions, focused on refugee-hosting areas, require expansion and equipment in order to expand opportunities for enhanced livelihoods and self-reliance.

4. Access to National Public Services

4.1 Education

Refugees and asylum-seekers in camp schools study the Kenyan national curriculum and sit for national examinations administered by the Ministry of Education. While there is no policy that explicitly denies refugees access to the national education system, there are numerous barriers to refugees’ access to education under the same conditions as the country’s nationals. Currently, schools in the camps are managed and funded by the UNHCR and the international community. Camp schools in Kakuma and Kalobeyei are registered with the Ministry of Education at county level, but this is not recognized at national level. The Ministry does not deploy qualified national teachers to refugee schools. Camp schools in Dadaab are not currently registered. Full registration as public learning institutions, recognized at all levels of Government, is a critical step for inclusion in the national system and for aligning the governance and management structures of refugee schools with national protocols. It is also a pre-requisite for teacher deployment, the disbursement of public funds (including running costs, payment of capitation grants assessment and examination fees and school feeding programmes) and the extension of other national initiatives.

While scholarship opportunities are available for refugees in Kenya, and even if refugees often attain among the highest grades in national examinations each year, those residing in camps are excluded from national selection processes for secondary and university education, which limits opportunities to study with their academic peers.

Refugees residing in urban areas attend public and private schools in the areas in which they reside. Refugees with birth certificates living in urban areas may be registered in the National Education Management Information System (NEMIS) and are accorded the same support as nationals. However, many face challenges when seeking admission to public schools if they do not have a birth certificate. As a result, those without birth certificates and the majority of those residing in camps are not included in NEMIS, which excludes the majority of refugees from being included in national budgets and receiving government support. This prevents the school from including refugee learners for capitation payments and other core costs and may result in refugees being asked to pay the equivalent of the capitation payment directly to the school. Primary and secondary schools in Kakuma and Kalobeyei hold temporary registration certificates (issued by the County), but these are not recognized at national level and therefore do not benefit from national processes. Primary and secondary schools in Dadaab are not registered.

The Basic Education Act, 2013 and the Sessional Paper on the Policy Framework for Reforming Education and Training for Sustainable Development of Education, 2019, along with other national education policies, provide for specialized services in general but are not specific to refugees. The National Education Sector Plan references refugees, and Kenya's SHARE initiative includes strategies to support equitable access to education. Currently, such specialized services are provided in camp schools by UNHCR and its partners and are, to the extent possible, aligned to national regulations and standards.

Legal provisions allow refugees to attend national schools should they wish to enrol independently. The 2016 "Guidelines on Admission of Non-citizens to Institutions of Basic Education and Training in Kenya" policy states that all children residing in Kenya are entitled to enrolment in Kenyan schools regardless of citizenship status. This policy, in conjunction with the Refugees Act, 2021, establishes an important legal framework that allows schools to accept refugee and other non-citizen learners, though the Government's encampment policy restricts refugees' movement and thereby limits access to such educational opportunities outside the camps. Other specialized education-related services, including examination and assessment and provision of curriculum materials, are governed by the [Kenya National Examination Council Act, 2012](#) and the [Kenya Institute for Curriculum Development Act, 2013](#). Refugee schools are able to access national exams and learning materials but have to pay for them.

The Government of Kenya's 2019 pledge at the GRF to systematically implement a policy of inclusion of refugees in the national education system includes their registration in NEMIS as a priority. Medium-term financing may include the adaptation of NEMIS to include the documentation issued to refugees and asylum-seekers and options for disaggregation.

4.2 Health care

Refugees and asylum-seekers residing in the Dadaab and Kakuma camps and Kalobeyei settlement, along with members of host communities residing in refugee-hosting areas, have full access to free primary health care in facilities funded primarily by UNHCR and its partners. Conditions that cannot be managed locally are referred to Garissa and Lodwar for specialist treatment, while patients with serious medical conditions with good prognoses are referred to public health facilities in Nairobi or Eldoret for specialist care. Although available, the referral facilities at country level generally lack capacity in human resources, infrastructure and equipment for the provision of quality health-care services.

Facilities in camps and settlements are registered as public health facilities and receive support from the Government. This support ranges from commodities for TB treatment, HIV care, vaccines, malaria commodities, including mosquito nets, and supervision to ensure quality of care.

In line with government policy to promote universal health-care coverage, refugees and asylum-seekers access national health insurance under the same conditions as nationals under an MoU between UNHCR and NHIF, and thus far UNHCR has financially supported more than 8,500 households in urban areas and 13,920 households in the Kalobeyei settlement to enrol in the programme. In urban areas, refugees who are

not supported through NHIF access public health facilities under the same conditions as nationals. Through sensitization efforts, many refugees have enrolled themselves on NHIF and are paying the premium, and in the long run the plan is to support refugee self-reliance so that those with an income will transition out of UNHCR-funded NHIF support. However, some groups of vulnerable refugees and members of the host communities cannot afford these fees.

The use of the Kenya Health Information System and the Logistic Information Management System provide additional benefits to the provision of effective health care, including for the procurement of nutrition commodities, which are delivered by the Kenya Medical Supply Agency at no cost.

Refugee women and girls can access sexual and reproductive health services in health-care facilities within the camps, which are registered as public facilities though they are largely financed by UNHCR and the international community.

In urban areas, women and girls access reproductive health services through the national Linda Mama scheme, which aims to address the challenge of high maternal mortality and increase access to skilled delivery services countrywide. The policy relating to the scheme is implicit on coverage of the refugee population, and in most urban areas refugee women and girls are able to access services covered under the scheme. Ensuring the continuous inclusion of refugee and asylum-seeking women as beneficiaries of this scheme is critical.

4.3 Social protection

Through progressive initiatives, such as the creation of the integrated host-refugee settlement in Kalobeyei, refugees and host communities are living side by side and accessing the same services and jointly contributing to the economic development of their communities. However, the path towards inclusion of refugees is hampered by the Government's encampment policy and resulting lack of free movement, along with resource concerns, delays in status determination, and limited options for engaging in the labour market (and therefore pay into contributory systems).

Presently, refugees are not included in the Kenya National Safety Net Programme, and support to those in need continues to be delivered through parallel systems and aligned assistance programmes. For instance, UNHCR is working with the State Department for Social Security and Protection on a small pilot cash transfer programme targeting 70+ refugees in urban areas, which is aligned to the Government's Inua Jamii 70+ programme.

Forums for social protection and humanitarian activities still remain fairly separate. However, the Cash Working Group is working to address this at national level. The group is chaired by the Kenya Red Cross and the National Drought Management Authority, and the State Department of Social Protection attends from time to time.

As part of the drought response, efforts have been made to encourage partners to utilize the data in the Enhanced Single Registry (ESR), which includes social registry data for several drought affected counties, though the refugee population is not yet included in the system. The collaborative work with the State Department for Social Security and Protection and relevant line ministries is key to the inclusion of refugees in national social protection programmes. The Government has agreed to the inclusion of refugees in the ESR, which is a gateway for eligible refugees to access a range of national social protection programmes. A roadmap for inclusion has been agreed between the Government and UNHCR, though significant investment will be required to support the process.

The Sector Group for Social Protection is a key coordination forum for development partners and government counterparts that engage in policy- and programming-related discussions. The group includes the Government of Kenya, the World Bank, the UK's Foreign, Commonwealth and Development Office,

the Government of Japan, the Swedish International Development Cooperation Agency, the US Agency for International Development, UNICEF, ILO, WFP, FAO and UNHCR. Additionally, the Child and Social Protection Working Group brings together UN agencies and government counterparts working on child and social protection on a monthly basis and reports against a common workplan. Agreed targets focus on furthering refugee access to social protection systems, including tracking the number of refugees included in national social protection programmes.

4.4 Protection for vulnerable groups

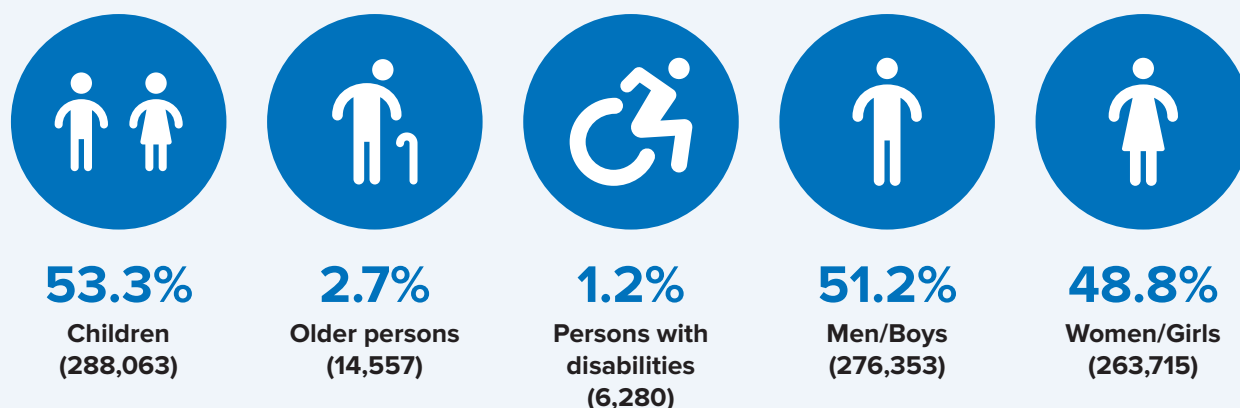
The Refugees Act, 2021 directs the Commissioner for Refugee Affairs, in cooperation with UNHCR, to ensure that special assistance is provided to women, children, older persons, victims of trauma and persons with disabilities. In addition to the Constitution of Kenya, 2010, the Children Act, 2001 and the Refugees Act, 2021, Kenya has a range of legislation, policies, and services for children at risk of exploitation, abuse or neglect, including refugee children, unaccompanied and separated children, survivors of GBV and trafficking victims. Refugees and asylum-seekers have equal access to these services, although implementation may be challenged by underdeveloped institutions and limited resources. Additional challenges include:

- Limited staffing and capacity for child protection and GBV-related activities within government structures, with the majority of personnel engaged in such activities being located away from the camps and settlements. While communities do make efforts to step in to provide community-based care, this support is limited. To ensure GBV survivors are able to access all appropriate response services, collaboration between government agencies needs to be strengthened, for example by building the capacity of police officers at gender desks that have been established to provide safe reporting mechanisms.
- Continued implementation of the encampment policy hampers efforts by women and girls to increase opportunities for economic independence.
- Capacity building of border officials, including information dissemination on referral pathways, is needed to ensure early detection of refugee women and children at risk.

5. Cross Sectors

Characteristics of registered refugees and asylum-seekers in total refugee population

As at 31 December 2021



5.1 Gender

Gender considerations can be improved in all sub-dimensions. In terms of priority for socioeconomic development, these could include access to education to address the gap between enrolment of boys and girls; access to skills training and work opportunities; participation of women in community representative structures in a meaningful manner, beyond just their formal inclusion; and improved access to health-care and reproductive health services. Some of these considerations apply equally to Kenyan nationals.

5.2 Social inclusion

The most consequential challenges in terms of social inclusion and socioeconomic development are related to legal status. Refugees, asylum-seekers and stateless persons generally have limited access to social and financial services due to their legal status, lack of documentation and/or because of a lack of understanding of their rights under Kenyan law. Asylum-seekers from Somalia in Dadaab have not had access to registration, documentation or RSD since May 2016 following the suspension of these procedures based on security concerns, while RSD for asylum-seekers with an LGBTIQ+ profile has not proceeded since mid-2021.

Kenya – Annex on Key International and Regional Instruments ratified or adhered to

- [Additional Protocol to the Geneva Conventions of 12 August 1949 \(Protocol I\)](#)
- [Additional Protocol to the Geneva Conventions of 12 August 1949 \(Protocol II\)](#)
- [Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984](#)
- [Convention on the Elimination of All Forms of Discrimination Against Women, 1979](#)
- [Convention on the Rights of Persons with Disabilities, 2007](#)
- [Convention on the Rights of the Child, 1989](#)
- [Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict](#)
- [Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography](#)
- [Fourth Geneva Convention relative to the Protection of Civilian Persons of 1949](#)
- [ILO Abolition of Forced Labour Convention, 1957 \(No 105\)](#)
- [ILO Discrimination \(Employment and Occupation\) Convention, 1958 \(No 111\)](#)
- [ILO Equal Remuneration Convention, 1951 \(No 100\)](#)
- [ILO Forced Labour Convention, 1930 \(No 29\)](#)
- [ILO Labour Inspection Convention, 1947 \(No 81\)](#)
- [ILO Right to Organise and Collective Bargaining Convention, 1949 \(No 98\)](#)
- [ILO Minimum Age Convention, 1973 \(no. 138\)¹](#)
- [ILO Tripartite Consultation \(International Labour Standards\) Convention, 1976 \(No 144\), 1976](#)
- [ILO Worst Forms of Child Labour Convention, 1999 \(No 182\)](#)
- [International Convention on the Elimination of All Forms of Racial Discrimination, 1965](#)
- [International Covenant on Civil and Political Rights \(ICCPR\), 1966](#)
- [International Covenant on Economic, Social and Cultural Rights, 1966²](#)
- [Convention for the Protection of All Persons from Enforced Disappearance](#)
- [African Charter on Peoples and Human Rights](#)
- [African Charter on the Rights and Welfare of the Child](#)
- [Protocol to the African Charter on Human and People's Rights on the Establishment of an African Court on Human and People's rights](#)
- [Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children](#)
- [African Charter on Human and Peoples' Rights on the Rights of Women in Africa³](#)

¹ Minimum age specified as 16 years

² Reservation to Article 10 paragraph 2

³ Reservation to Article 14