

## Strategy on Legal Assistance and Camp-based Protection Kakuma Refugee Camp

### Introduction

UNHCR remains engaged with national authorities to provide protection assistance to individuals in need of international protection. Together with civil society actors, the situation at land borders are kept monitored, detention facilities regularly visited. The responsibility of provision of physical security and safety rests with the Kenyan authorities while the Community Peace Protection Team (CPPT) comprised of refugees assists the Kenyan police in patrolling, crime investigation and crowd control. Legal aid and legal representation are provided to persons of concern by UNHCR and partners.

This strategy is informed by the existing standard operating procedures on the various protection activities in Kakuma refugee camp.

### Guiding Principles

Protection strategy for persons of concern in Kakuma is guided by the following principles:

- **Systems approach.** Strengthening protection systems and services in line with UNHCR's legal framework for the protection of refugees and designing holistic programming that address the full range of protection risks.
- **Do No Harm:** Conducting actions, procedures and programmes in a way that does not put persons of concern at further risk of harm, especially as a result of unintended consequences, and does not negatively affect access to asylum territory or protection of persons of concern, the credibility of UNHCR, access to UNHCR by affected populations.
- **Inclusivity.** The strategy takes into consideration specific needs of refugee women and girls, men and boys, in particular, unaccompanied and separated children and children with disabilities.
- **Family and Community-based Protection.** The strategy needs to understand, support and build upon existing family- and community-based mechanisms that provide protection and care that refugees, particularly vulnerable persons, need.
- **Availability:** Protection interventions should be available to all asylum seekers and refugees upon arrival and throughout their stay in the Kakuma camps.
- **Impartiality.** Humanitarian action is based solely on need, with priority given to the most urgent cases irrespective of race, nationality, gender, religion, political opinion and membership of a particular social group.
- **Personal Data Protection and Confidentiality:** Processing of the personal data of persons of concern must comply with relevant policies and guidance set out in the *UNHCR Data Protection Policy* and the *UNHCR 2010 Policy on Information Classification, Handling and Disclosure*, as appropriate.
- **Equity.** The strategy aims at addressing the needs of all refugees on an equal basis. Specific attention is paid to ensure equal access to services for women and girls, boys and other persons with specific needs.
- **Urgency:** There is a need to address the immediate protection risks faced by vulnerable persons, including those with specific needs.

## Strategic Objectives

UNHCR works on the following strategic objectives to provide protection to persons of concern:

### **Objective 1- The number of *refugees detained on the basis of migration-related charges* reduced.**

The freedom of movement and protection from *refoulement* are enshrined in international human rights and refugee law. Seeking asylum is not an unlawful act and the detention of asylum-seekers and refugees only because they sought asylum (including if they entered a country without authorization) is not in line with article 31 of the 1951 Convention.

International law provides substantive safeguards against unlawful and arbitrary detention. Migration-related detention is only acceptable if it is necessary in each individual case, reasonable in all circumstances and proportionate to a legitimate purpose, and where less coercive or intrusive measures (alternatives to detention) are considered ineffective in the individual case.

UNHCR will closely monitor the effective enjoyment of these rights by all persons of concern, and intervene with the relevant authorities where appropriate within the line of international refugee law and Kenya Laws. In that respect, UNHCR Kakuma together with partners, conduct border monitoring trips to Nadapal Transit Center and also, Busia and Malaba border towns, (Western and North Rift flight corridors) in order to intervene on behalf of person of concern, in order to ensure safe and unhindered access to the territory and the asylum procedures also to monitor the procedures and conditions of detention facilities. UNHCR also undertakes capacity building activities to court users committees in Western Kenya and Turkana County drawn from government departments in the area of law enforcement, immigration services, prison services, and administration of justice, refugee protection and aims at strengthening the pro bono lawyer's scheme.

The implementation of the encampment policy results in refugees being arrested and charged for residing outside the designated areas as they need to obtain a movement pass each time they travel out of the camp. The lack of a comprehensive exemption policy remains a gap. As refugees are at risk of detention if they travel without a movement pass, legal assistance is required for all these cases either by partners or UNHCR.

The activities that UNHCR will undertake may include:

- Increase activities supporting the development of protection-sensitive border management particularly in the North Rift and Western corridors; and respect of international refugee law, including the principle of *non-refoulement*;
- Capacity building activities either during the monitoring missions or through special workshops on existing refugee law and practices, and referral pathways to enhance safe flight corridors for persons of concern;
- Conducts frequent monitoring and visits to detention centers;
- Revise the SOP on detention and border monitoring;
- Strengthen the operational capacity of UNHCR and partner staff in rapid assessments and interventions, particularly for vulnerable persons like minors, women but particularly pregnant women, elder persons i.e. those over 55 years old, sick/ disabled/ mentally ill, asylum seekers and any other category of refugees in danger of being refouled by the authorities;

- Conduct sensitization workshops or meetings with government officials on asylum-seekers and refugees, and access to asylum;
- Enhance awareness amongst refugee community on reporting mechanisms in the event that their family members are at risk of detention and/or *refoulement*;
- Maintenance of Transit center (in Nadapal ) and improving the conditions together with other UNHCR units, providing transport from the border to Kakuma together with RAS;
- Improve the quality of legal advice services including *pro-bono* services for detained asylum-seekers and refugees, and provide information on the detained persons of concern to family members in the camp;
- Create awareness amongst the community on fraud reporting mechanisms.

**Objective 2: The number of refugees benefiting from legal assistance and legal remedies increased**

The current judicial presence and capacity remain historically limited in Kakuma, and due to the large number of cases and protracted nature of the caseload, there is a huge demand for legal assistance. Necessary legal interventions is undertaken for particularly sensitive and urgent cases by partners.

The activities that UNHCR will undertake may include:

- Advocate to authorities for an increase of number of legal clinics to raise community awareness on access to justice, legal system and due process;
- Provide legal counseling to refugees in conflict with the law;
- Provide legal advice to refugees on business-related issues;
- Strengthen referral mechanisms for refugees including SGBV survivors requiring legal representation and/or legal advice;
- Build capacity of service providers as well as refugee incentive workers in identifying refugees with protection concerns or risks, particularly those with legal implications;
- Advocate to authorities for increased judicial presence in Kakuma to expedite hearing and decisions of court cases;
- Create awareness amongst the community on fraud reporting mechanisms;
- Undertake regular assessment of protection needs of refugees in the protection areas and safe haven, devise and implement exit strategies when needed. through an inter-unit approach;
- Provide regular counselling to refugees in protection areas and safe haven;
- Improve the quality and availability of the assistance and protection services in the Protection Areas;
- Revise the existing SOPs for the Protection Areas and also Inter-Agency SOPs for Safe Haven together with partners.

**Objective 3: Refugees receive documentation attesting their civil status including birth and death certificates in a timely manner.**

Civil documents to refugees in Kakuma camp are provided by the Department of Civil Registration in Lodwar town in Turkana County. The documents provided by the government to refugees include birth certificates, marriage certificates and death certificates. Birth registration by national

authorities is the legal proof of a child's existence at birth and the birth certificate can be used for establishing the nationality of the child. UNHCR successfully deployed procedures whereby birth registration is taking place and documentation is issued as part of measures to reduce and prevent statelessness amongst children of concern born in Kakuma camp. Without these documents, persons of concern may lack access to basic assistance in the camp and children may be rendered stateless. Due to competing work demands for the Civil Registrar Officer in Lodwar whose jurisdiction covers the entire Turkana County, challenges continue to be faced in ensuring efficient and prompt civil registration and documentation for persons of concern.

The activities that UNHCR will undertake may include:

- Identify policy and operational barriers to issuance of civil documentation and undertake advocacy for their removal;
- Coordinate with partners issuance of birth and death registration, issuance and distribution processes in liaison with the Civil Registrar's office in Lodwar;
- Catalogue all uncollected birth and death certificates for easy access upon requests for documents at a later date by persons of concern or other interested parties and facilitate timely distribution of uncollected certificates;
- Advocate for training of health personnel on the importance of birth and death notification and registration;
- Advocate for permanent presence by the Department of Civil Registration as well Registrar of Civil Marriages in Kakuma refugee camp; in the meantime, facilitate regular visits by the authorities to facilitate the issuance of documentation;
- Sensitize refugees particularly leaders on the value of civil documentation, including the differences between issuance of custody orders by the Kadhi courts and the Children's courts.

#### **Objective 4: Data and information management informs protection responses**

UNHCR will work in partnership with government actors, civil society and UN actors to promote improved knowledge on data collection and management and availability of greater resources needed to protect refugees. Comprehensive assessments on protection needs and responses including the specific needs of boys, women and girls, adolescents and youth should be improved through a protection monitoring tool that can be developed within UNHCR.

The activities that UNHCR undertakes may include:

- Strengthen the collection of individual data of refugees in need of legal advice and services;
- Facilitate the capture and analysis of individual data on issuance of civil documentation including birth, death and marriage certificates;
- Strengthen the data collection of relevant information at different stages of protection processes including intervention by CPPT using ProGres and other databases.

#### **Strategic Approaches**

To achieve the Kakuma refugee protection objectives, this sector will focus on the

**Coordination and Partnerships.** Fostering partnership with relevant agencies and the Government of Kenya plays a crucial role in coordination of activities and monitoring delivery of assistance and services to refugees.

UNHCR Kakuma  
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