

FINDING DURABLE SOLUTIONS: REFUGEES' ACCESS TO CITIZENSHIP AND PERMANENT RESIDENCE IN KENYA



REFUGEE
STUDIES
CENTRE



REFUGEE-LED
RESEARCH HUB



KITUO CHA SHERIA
LEGAL ADVICE CENTRE
we care for justice

Refugee-Led Research Series
Research Report no. 6

About the study

The study was supported by the Open Society Foundations (OSF). The report was prepared by Bisimwa Mulemangabo (Lead Researcher, RLRH) and Dr Kenneth Wyne Mutuma (Lead Consultant, Kituo Cha Sheria). It was published in April 2023.

About the RLRH

The Refugee-Led Research Hub (RLRH) is an initiative of the Refugee Studies Centre (RSC) at the University of Oxford. RLRH supports individuals with lived experience of displacement to become leaders in the field of Refugee and Forced Migration Studies. We do so by creating opportunities for researchers with displacement backgrounds to lead primary and secondary research studies, from start to finish. Our main research interests relate to 1) livelihoods and self-reliance; and 2) leadership and participation of displaced populations in humanitarian response and policy. RLRH also offers complementary academic programming to a global cohort of students who have been affected by displacement, supporting access to graduate degrees and professional development opportunities. The mission of RLRH is embodied in our leadership structure: the majority of our team have lived experience of displacement.

About the Refugee-Led Research Series

The Refugee-Led Research Series publishes primary and secondary research that has been authored by individuals who have been affected by forced displacement. The Series comprises 'Research Reports' and 'Working Papers'. We prioritise papers that apply ethical and rigorous research methods to capture the priorities of displaced communities. Through the Refugee-Led Research Series, we aim to provide evidence to stakeholders to advance policies and programmes that are responsive to refugee community needs.

About Kituo Cha Sheria

Kituo Cha Sheria (Legal Advice Centre) is the oldest human rights non-governmental organisation in Kenya, established in 1973. It works to empower the poor and marginalised and to enhance equity and access to justice for all through advocating, networking, legal aid and representation as well as advocacy.

About RELON-Kenya

RELON – Kenya is a network of refugee-led organisations (RLOs) based in Kenya whose leaders are refugees from a diverse refugee background. In collaboration with RLOs, and a wide range of partners, RELON – Kenya focuses on identifying and implementing innovative approaches that are effective in improving self-reliance and resilience of the refugees and building the capacity of the RLOs to become self-sustaining and impactful. RELON – Kenya is a member of the Global Refugee-Led Network Africa Chapter (GRNA).



**REFUGEE-LED
RESEARCH HUB**



KITUO CHA SHERIA
LEGAL ADVICE CENTRE
we care for justice

Acknowledgements

The authors would like to thank the research assistants and translators who participated in this study: Jean-Paul Kasika, Jean Marie Ishimwe, Abdifatah A Hussein, Emmanuel Wethniak, Mathiew Akeyo, Fardowso Sirad Gelle, Pascal Zigashane, Amin Bolis, Bahati Ghislaine, Victor Kihika, Dunstan Ondieki, Mary Muthoni, Maryanne Mburu, Larrisa Trunchan, Ojunni Ochalla, Fabian Oriri, and James Kalulu Muthoka. Thank you for your commitment and professionalism. We achieved our aims in large part because of your efforts.

We would also like to thank all those members of the refugee communities who participated in this research. We hope that you see some of the changes you hope for as a result of this project. We are grateful to the staff of the organisations and other institutions who gave up their time to participate in the validation workshop and talk to us about issues affecting refugee access to permanent residency and citizenship in Kenya. We learned a lot from your experience, and we thank you for sharing it. The authors would also like to recognise the commitment shown by the staff of RLRH, Kituo Cha Sheria, and RELON Kenya, to this project.

Special thanks go to Khairunissa Dhala, Dr Annette Mbogoh, and Shem Alubala Otinga, for their dedicated review and inputs to this report.

The report can be referenced as follows: RLRH, Kituo Cha Sheria, and RELON-Kenya. (2023). Finding durable solutions: Refugees' access to citizenship and permanent residence in Kenya. Refugee-Led Research Series, Research Report (5), April 2023.

CONTENTS

Acronyms	1
Executive summary	2
1. Introduction	6
1.1. Background	6
1.2. Research methods	8
2. The institutional and legislative framework for local integration	11
3. Aspirations of refugees for local integration	14
3.1. Meaning and interest in local integration	14
3.2. Aspirations of refugees who are either married to a Kenyan or born to a Kenyan parent to access citizenship	15
3.3. Legal accruing entitlements of refugee, permanent and/or citizenship status	17
3.4. Awareness of their eligibility to apply for permanent residency and citizenship, and relevant application process	17
4. Experiences of refugees who have applied for permanent residency or citizenship	16
4.1. Demographics of applicants and non-applicants	18
4.2. Challenges in applying	18
4.3. Grounds for acceptance or denial	20
4.4. Experience of families with a Kenyan spouse and/or child	21
5. Extent to which refugees enjoy the right to work	23
5.1. Profiles of successful and unsuccessful applicants for KRA PINs and work permits	23
5.2. Identification, KRA PINs and work permits	24
6. Perceptions from the host community	26
6.1. Emerging social integration issues	26
6.2. Reactions from members of the host communities	27
7. Select experiences of refugees	30
7.1. Challenges emanating from encampment	30
7.2. Inability to access essential services and opportunities	30
7.3. Administration of refugee services	30
7.4. Psychosocial issues	31
Recommendations	32
References	34
Annex 1: The demographics of study participants by category (survey 1)	35
Annex 2: The demographics of study participants (survey 2)	36
Annex 3: Minimum requisite application documents	37

Acronyms

CRRF	Comprehensive Refugee Response Framework
DIS	Directorate of Immigration Services
DRC	Democratic Republic of Congo
DRS	Department of Refugee Services
FGD	Focus group discussion
IRC	International Rescue Committee
KCIA	Kenyan Citizenship and Immigration Act
KHRC	Kenya Human Rights Commission
KRA	Kenya Revenue Authority International non-governmental organisation
NGO	Non-governmental organisation
PIN	Personal Identification Number
RCK	Refugee Consortium of Kenya
RLO	Refugee-Led Organisation
RELON	Refugee Led Organisations Network
RLRH	Refugee-Led Research Hub
UNHCR	United Nations High Commissioner for Refugees

Executive Summary

Background

Many refugee communities in Kenya are in a protracted situation having lived in the country for decades or even having been born there. Many refugees have no hope to return to their countries of origin due to ongoing conflicts, nor the opportunity to be resettled to a third country due to limited resettlement places being offered. Local integration as an alternative durable solution has also not been fully eased by the government even for refugees who have family ties with Kenyan nationals through mixed marriages. On this premise, the objective of this study is to assess the extent of local integration in Kenya. In particular, the study seeks to understand the experiences of refugees who have applied for permanent residency and/or citizenship with a particular focus on refugee spouses of Kenyans and children born of mixed marriages in Kenya (the legal aspect of the local integration process); to understand the aspiration of refugees in regard to local integration; to assess the extent to which refugees enjoy the right to work (as an economic aspect of integration); and to evaluate the nature of the host community's perception of refugees (as a social aspect of integration).

Quantitative and qualitative research methods were used to gather primary data to achieve the research objectives and to answer the specific research questions. The approach was dominated by two in-person independent quantitative surveys of 223 and 180 refugees respectively across six locations: Mombasa, Nairobi, Kakuma, Nakuru, Eldoret, and Dadaab. The first survey focused on access to citizenship, while the second survey focused on access to work permits as a means for local integration. Additionally, the research team conducted seven focus group discussions and ten in-depth interviews with refugees, and three interviews with two key government officials and one representative from the UN Refugee Agency, UNHCR. An extensive review of secondary data was also conducted to supplement the findings from primary data collection.

Experiences of applicants and the aspirations of refugees

- Whereas some of the respondents were uncertain about the durable solution that suits them best and therefore opted for multiple choices, 34% (n=180) of the respondents were interested purely in local integration as their durable solution whereas 40% (n=180) were interested purely in resettlement to a third country.
- Overall, refugees who met the citizenship criteria and who have the requisite documents were willing to apply for permanent residency and citizenship. Refugee spouses of Kenyan nationals, in particular, were more willing to apply than other interviewed refugees.
- However, lack of information among most respondents as to their eligibility to apply, where to apply, and the process hindered them from applying. Urban refugees were more informed, interested and likely to apply for permanent residency and citizenship than camp-based refugees.
- A majority of the participants reported that already being registered in the UNHCR refugee database was a major challenge for them in terms of attaining rights to permanent residency or citizenship, followed by unclear application guidelines and lack of legal support.

- Qualitative interviews revealed that applicants followed up with multiple government institutions for several months and even for years to get feedback. In the process, some faced extortion and harassment from government officials. The waiting time to get feedback for applications varied across all the study participants. The average waiting time according to the data gathered from the 38 applicants was eight months, though some applicants had to wait for years to get feedback on their applications.
- Structural level challenges including Kenya's encampment policy have made it challenging for refugees who are camp based to access legal support to secure the necessary documents in order to apply for permanent residency and citizenship.
- The majority of children of mixed marriages that the team interviewed are not listed on the refugee database. Children who are listed on the database find it difficult to deregister and they report a lack of guidance to be able to deregister.

The extent to which refugees enjoy the right to work

- Refugees cited challenges relating to non-recognition of refugee ID cards as a valid form of identification by employers as a hindrance to obtaining KRA PINs¹ and work permits.
- In addition to identification issues, refugees were required to present information regarding their prospective employer, namely their KRA PIN, business licence, and also have a filled form containing the employer's information. Fear on the part of refugees to approach potential employers asking for these details, and the reluctance of the employers to provide the information, dissuaded them from following through with applications.
- Only 12% (14, n=61) of the respondents who attempted to apply for KRA PIN certificates did so successfully, whereas only 4% (2, n=46) of those who attempted to apply for work permits did so successfully. This was attributable to lack of knowledge and support during the process as well as onerous bureaucratic requirements for obtaining work permits.

The nature of the host community's feelings

- Most members of the host community interviewed sympathise with the situation of refugee communities. While a minority believe that the presence of refugees causes economic strain and that they should therefore be repatriated, the majority hold the view that they should be afforded legal protection of the requisite degree to open up their enjoyment of rights, but that this should be done within strict limits, to avoid attracting large numbers of migrants.
- The majority took the position that refugees in Nairobi had diverse social interactions with the host community and only withdrew from the community and separated themselves when they felt the need to support each other, being in similar circumstances.
- The host community engaged during the study disapproved of the encampment policy. However, with regard to intimate relationships with refugees, including marriage, many expressed reservations due to the temporal status of refugees.

¹ A KRA PIN (Kenya Revenue Authority Personal Identification Number) is a number that allows the holder to make transactions including buying and selling land, importing goods, registering a business and many more.

- Lastly, whereas some respondents felt that the presence of refugees strained the economy and increased economic insecurity for locals, the majority felt that opening up the economy to them and garnering their potential would be more beneficial than it would be detrimental.

Recommendations

To the Government of Kenya

- Request that the Director of Immigration develops guidelines for refugees to be able to apply for permanent residency and citizenship within a reasonable timeframe, and at an affordable cost to them. The guidelines should include the right to appeal within a reasonable timeframe.
- Establish registration centres and other essential infrastructure in areas where refugees are present, including Kakuma and Dadaab refugee camps, to address inequalities in accessing services for both refugee and host communities living in those areas, and to alleviate any potential exclusion from receiving necessary documents or services as a result.
- Develop a formal mechanism for individuals who are entitled to Kenyan nationality but who are on the refugee database to be removed from it within a clear timeframe and provide them with necessary documents and services.
- Ensure that the Department for Refugee Services finalises the regulations of the Refugee Act, 2021 in consultation with civil society and the refugee community, and takes measures to operationalize the act including provisions related to the integration of refugees.
- Implement a multi-departmental approach within government to ensure more internal coordination and collaboration on refugee related issues, including but not limited to the Department of Refugee Services, Department of Immigration, Ministry of Education, Department of Civil Registration and the Attorney General's Office.
- Operationalize the legal aid fund under the Legal Aid Act in order to provide support to refugees in need of legal assistance.
- Take immediate steps to end the encampment policy and ensure that the design of settlements and other measures taken towards meaningful integration of refugees are undertaken in consultation with refugees, host communities and civil society actors.

To civil society actors

- Empower refugees with legal knowledge so they can understand regulations and laws that relate to issues that affect them including access to permanent residency or citizenship, and hold the government to account in ensuring that policies are implemented in a timely manner.
- Support the government through providing technical assistance where needed to meaningfully integrate refugees in Kenya including ensuring that policies that would allow refugees to access permanent residency and citizenship are implemented in a timely manner.

- Advocate for the progressive implementation of the requirements of the rights of refugees and the obligations of the state under national and international law.
- Provide awareness raising sessions to host communities on refugees and their rights in order to create a sense of cohesion between the communities.
- Raise awareness amongst institutions within the private sector that have the mechanisms to address deficits amongst employers so that refugees have the ability to access economic livelihoods.

To international organisations, donors, and UNHCR

- Provide adequate funding and technical support to the government to enable it to implement policies related to refugee integration in a timely manner.
- Support civil society organisations that work with refugees through providing adequate and sustainable resources and solidarity.
- Request that UNHCR coordinates with the government to ensure that individuals who are entitled to Kenyan nationality are removed from the refugee database and provided with nationality documents in a timely manner.
- Call on the international community, in particular wealthy nations, to meaningfully share responsibility with Kenya in protecting and supporting refugees. This includes providing adequate funding to Kenya to continue hosting refugees as well as resettling refugees to third countries.

To research organisations

- Carry out more research to better understand refugee integration in Kenya and other major refugee hosting countries. In particular, studies that seek to monitor and assess socioeconomic outcomes of integration that would provide evidence on the importance of integration as a durable solution.

1. Introduction

1.1. Background

Local integration is considered one of the three durable solutions¹ to the plight of refugees.² Through the mechanism of local integration, refugees have the chance of enjoying the same rights as nationals of the host state they reside in. It is a gradual process by which a country of first asylum grants refugees the same rights as the host nationals (Lindley, 2011). An assortment of factors in host states impede or delay this crucial process, hindering the realisation of local integration, and Kenya is no exception.

Kenya currently hosts over 500,000 refugees. It has been hosting refugees and managing refugee affairs for several decades, and is now classified as a protracted refugee situation.³ There have been limited pathways for long-term residency and citizenship as a legal aspect of local integration, even for refugees who have lived in Kenya for several decades, for refugee spouses of Kenyan citizens, and children born of mixed customary or common law marriages between a Kenyan and a refugee. This has been partly attributed to the rigid nature of the Kenyan government's encampment policy, which has hindered prospects of local integration by preventing refugees from accessing services and other opportunities that they would otherwise access in a non-camp setting (Campbell, 2006). Locally, the progressive development of a robust legal and policy framework for refugees has been, until recently, continually hindered by the government's misplaced focus on imagined security concerns rather than finding a lasting solution for refugees (Reuters, 2022).

The development of refugee laws in Kenya may be traced to three periods, namely: the golden age, the rise of the encampment policy, and the balance of protection and national security (Maina, 2020). During the golden age which ran from 1963 to 1991, the government of Kenya dealt with refugee-related issues directly. Kenya hosted refugees from the 1960s who were allowed to live freely with Kenyan nationals and move freely within the country. They also had the ability to secure jobs and most of them became integrated into the country, thus the naming of the period as golden.

The situation changed in the 1990s when Kenya received an influx of refugees from Somalia and South Sudan due to conflicts in the region. In 1990, about 15,000 refugees were hosted in Kenya. By 1992, this figure rose to 400,000, with Somali refugees accounting for 300,000 (Abuya, 2007). This raised security concerns in the country, given a noted rise in instances of possession of illegal firearms and increased crime rates. In response to the rising number of refugees, the Kenyan government decided to open two refugee camps in the semi-arid northern part of Kenya to accommodate refugees: Dadaab refugee camp in Garissa County and Kakuma refugee camp in Turkana County. The camps were initially established as a temporary fix to the growing refugee population, with refugees confined to the camps and restricted from moving freely within the country. With this increasing refugee population, Kenya turned to the UN Refugee Agency, UNHCR, for support (Refugee

¹ UNHCR promotes three durable solutions for refugees: voluntary repatriation, local integration, and resettlement.

² The term refugee refers to a person who has been forced to flee their home State owing to a legally defined hardship. The 1951 Refugee Convention defines a refugee as someone that has moved away from their home State for "fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion and is unable to return owing to such fear".

³ We use the UNHCR definition of a protracted refugee situation as one where at least 25,000 refugees from the same country have been living in exile for more than five consecutive years.

Consortium of Kenya, 2016).

Kenya's encampment policy had been intended to be a temporary way of handling the influx of refugees as the government forged a permanent solution. However, this was not the case and during the time of the influx of refugees and ensuing reported insecurity, the government prioritised security policies over protection policies and refugees remained mainly confined to camps. This encampment policy, together with other policies in Kenya, has created parallel systems for refugees, which have hindered prospects for local integration. These include registering refugees in a separate refugee database that is not integrated with other services and systems, creating additional bureaucratic hurdles for refugees with separate refugee IDs, and the inability to easily access work permits or apply for permanent residency or citizenship in the same way as other foreign nationals in Kenya.

Additionally, in March 2021, the Kenyan government announced its intention to close the Kakuma and Dadaab refugee camps (Thomson Reuters Foundation, 2017; The Sentinel Project, 2021), and in April 2021, it laid out a roadmap, with UNHCR's involvement, to close the camps. This was not a new development as the government has had the intention to close the Dadaab camp since 2014, owing "to national security concerns over infiltration by militants from the Somalia-based Islamist group al Shabaab" (Reuters, 2022). While those plans have been reneged by the government in this instance, refugees continue to live in a state of limbo and continue to face the constant threat of being forcibly returned to their countries of origin where they could be at risk of persecution and other human rights violations.

The newly enacted Refugee Act 2021 has introduced progressive policies that give hope to refugees and asylum seekers to socio-economically integrate into the host society. The government has also announced its intention to shift away from camps towards settlements where refugees would have more freedom of movement and be able to engage in a wider range of economic activities. However, these measures were still being conceptualised at the time of writing this report, and have not yet come into fruition.

Despite the promotion of local integration by existing international and national legal frameworks, local integration of refugees in Kenya remains something that is still unattainable for the majority of refugees. The existing legal and regulatory provisions show that refugees, as any other foreigners, have the right to permanent residency and citizenship. They can obtain citizenship through marriage with a Kenyan national, legal residence, and adoption by a Kenyan national. Permanent residence is another way for refugees to gain more rights than they would otherwise have, including the right to work and the right to eventually access citizenship. However, when it comes to practical application, the majority of refugees who have attempted to legally integrate in the country have faced barriers in doing so.

This study by RLRH, Kituo Cha Sheria, and RELON Kenya seeks to assess the local situation in so far as local integration is concerned, with an aim of determining how Kenya can expedite access to durable solutions for refugees through local integration, particularly pathways to permanent residency or citizenship.

1.2. Research objectives

The overall aim of the research is to assess the extent of local integration for refugees in Kenya, with a particular emphasis on the gap between policy and practice of access to permanent residency and citizenship. It is based on the hypothesis that local integration is hindered by the encampment policy and the lack of application of Kenya's laws and policies which would allow for refugees to access permanent residency and citizenship in the same way as other foreign nationals in the country. Within the overall aim, the research adopts four broad parameters which define the four major objectives, namely:

1. Understand the experiences of refugees who have applied for permanent residency and/or citizenship

What are the profiles of successful and unsuccessful applicants in terms of gender, education, nationality, and location?

What challenges do refugees face in the process of application for permanent residency and citizenship?

Do refugees understand the legal entitlements accruing from refugee permanent resident and/or citizen status? Are refugees aware of their eligibility to apply as well as the relevant application process?

Does the experience and procedure of application for permanent residency and citizenship for families with Kenyan spouses and/or children differ from refugees who have lived in Kenya for at least 7 years?

2. Understand the aspirations of refugees for local integration

To what extent are refugees who are a) married to a Kenyan or b) born to a Kenyan parent able to access permanent residency and/or citizenship, and willing to be integrated into Kenya through permanent residency and/or citizenship?

To what extent are refugees willing to be integrated into Kenya through permanent residency and/or citizenship?

Are refugees aware of their eligibility to apply for permanent residency and citizenship as well as the relevant application process?

3. Assess the extent to which refugees enjoy the right to work as an economic aspect of integration

What are the profiles of successful and unsuccessful applicants for KRA PIN and work permits?

Is the refugee ID card accepted as a valid form of identification enabling persons with refugee status access to legal benefits and entitlements?

Are refugees able to benefit economically from their refugee status?

4. Evaluate the nature of the host community's feelings as a social aspect of integration

What are the social issues that hinder local integration in Kenya?

What are the feelings of the host community regarding local integration?

1.3. Research methods

Area of study and population of interest

The study was conducted in six locations within the country, namely Dadaab Refugee Camp, Kakuma Refugee Camp, Nairobi City, Mombasa City, Nakuru City, and Kisumu City. It was targeted at both camp refugees and urban refugees, key stakeholders in the refugee framework as well as members of the host community. With regards to refugee respondents, a careful selection was undertaken, taking into consideration those who were aware of and/or had gone through the process of local integration or were considering it. The research team reached out to refugee participants through snowballing techniques.

Primary research

The research team used both quantitative and qualitative research approaches to achieve the study objectives and answer the study questions. The researchers identified samples of respondents from whom primary data was collected by way of survey questionnaires, in-depth interviews, and focus group discussions. In-person interviews involved refugees based in cities and those in rural or camp areas, taking into account the need for adequate representation of all key stakeholders. The researchers also interviewed key stakeholders and members of the host community with the aim of establishing their perception of the local integration of refugees, including awareness, opinions on their rights, and challenges encountered. The views of three main key stakeholder groups – the Department of Refugee Affairs (DRA), Directorate of Immigration Services (DIS), and UN Refugee Agency (UNHCR) – were collected via in person and telephonic interviews.

The quantitative data was collected through in-person interviews using tablets and smartphones. The research team designed standardised questionnaires and uploaded them to the KoBo server to allow for mobile data collection and remote data quality monitoring. A total of 223 quantitative interviews were completed in the four study locations (Mombasa, Nairobi, Kakuma, and Dadaab), followed by another 180 quantitative interviews completed in all the aforementioned six locations. The population of interest for this study were refugee spouses of Kenyan nationals, refugee children of mixed couples/marriages, and generally refugees who have been in Kenya for over seven years. The qualitative interviews were complemented by 7 focus group discussions (FGDs) involving 56 persons, 10 in-depth interviews (IDIs), and 3 key informant interviews (KIIs). The FGDs were conducted through in-person meetings, while the IDIs and KIIs were remote through phone calls. Prior to data collection, a team of research assistants were trained on data collection tools, how to conduct interviews, and safeguarding issues. The training was led by researchers from the RLRH.

Secondary research

In line with the research objectives, a further aspect of the research involved a literature review. This involved gathering and analysing information in books, journal articles, reports, statutes, case law, and policy as well as the internal documents of key professional and regulatory institutions, including from INGOs and UNHCR. The literature review was conducted by way of desk-based research and comprised an analysis of journal articles published by scholars, practitioners, and professional institutions that were relevant to the context and objectives of the research. This second layer of research not only corroborates but also provides a context within which the findings of the primary research may be

understood.

Data processing and analysis

The research yielded both qualitative and quantitative data that has informed the findings presented herein. The quantitative data was collected using the KoBo toolbox and reviewed on a daily basis for outliers and general quality control. Regular weekly meetings were organised to discuss challenges the team faced in the field and jointly come up with solutions and ways forward. Overall, the first survey yielded 223 valid interviews while the second survey had 180 valid interviews. The quantitative data collected was then analysed using descriptive statistics using the Microsoft Excel software program whereas qualitative data was manually transcribed and analysed thematically in Taguette.

Limitations

A series of attempts were made to gain access to respondents considered to be key informants owing to their role in concerned government departments, but these proved ineffective due to either unavailability or unwillingness to participate.

Although efforts were made to identify and speak to as many children of mixed marriages as possible, the team only managed to interview 15 children of mixed marriages for the quantitative survey. In addition, due to safeguarding concerns, the team deliberately targeted refugees who are 18 years and above.

Lastly, due to the lack of a complete sampling frame for the quantitative surveys, the sample population of refugees who participated is not representative of the study population. Thus, though this report includes indicative findings for each category of respondents, it is not advisable to read the findings as comparable across categories and locations as some categories and locations might be under- or over-represented.

2. The institutional and legislative framework for local integration in Kenya

The law envisages the naturalisation of refugees through local integration into host communities through granting them citizenship and permanent residence. This is reflected in both international and domestic law. Kenya has ratified three key international instruments on refugee protection, namely the 1951 United Nations Convention Relating to the Status of Refugees and its 1967 Protocol Relating to the Status of Refugees (UN 1951 Convention) and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (AU Refugee Convention). Pursuant to articles 2(5) and (6) of the Constitution of Kenya 2010, the three form part of the law of Kenya. While the 1951 Convention obligates the contracting parties to expedite the assimilation and naturalisation of refugees and to reduce the charges or costs of the proceedings as far as possible, the AU Convention provides for local settlement of refugees.

International law allows states to exercise discretion in management of nationality issues through their domestic laws. Kenya accordingly enacted the Refugees Act No 10 of 2021 (and the Refugee Act No 13 of 2006) to give effect to the provisions of those instruments and to provide for the recognition, protection and management of refugees. The Refugees Act, 2021 (the Act) introduced new rights that give hope to refugees and asylum seekers to socio-economically integrate into the host society. The Act establishes the Department of Refugee Services, the Refugee Advisory Committee and the Refugee Status Appeals Committee. The Commissioner has the responsibility of promoting durable solutions for refugees granted asylum in Kenya; issuing movement passes to refugees wishing to travel outside the designated areas; and exempting asylum seekers and refugees from residing in designated areas where there are compelling reasons. With regard to the integration, the Commissioner is required to ensure the shared use of public institutions, facilities, and spaces between the host communities and the refugees as fast as practicable and to be sensitive to the host communities about the presence of refugees and any other matters relating to their harmonious coexistence.

Additionally, the Act regulates the application for refugee status, the reception, rights and duties of refugees and asylum seekers, and the control of designated areas as well as the integration, repatriation and resettlement of refugees. While the envisaged refugee management under the Act seems to depart from the language of camps as a temporary and emergency measure and towards settling refugees in “designated areas”, it neither specifies that these are intended to be settlements nor clearly distinguishes between camps and settlements. Several factors come into play in considering the distinction. These include the extent to which refugees are free to move rather than be restricted, ability to participate in and contribute to the economy while gaining a livelihood rather than reliance on aid, the governance model of either, as well as permanence as opposed to temporal nature of camps to cater for emergencies.

Either way, once refugees are locally integrated, the law provides for an elaborate framework governing the manner in which they can gain citizenship and permanent residence, which is applicable to all other foreign nationals. This is captured in Chapter 3 of the Constitution of Kenya which gives effect to the Kenya Citizenship and Immigration Act No 12 of 2011 (KCIA).

Citizenship may be acquired by birth or registration. A person becomes a Kenyan citizen by birth if, on the day of their birth, either of their parents is a Kenyan citizen, whether or not the person is born within Kenya. As such, where a refugee bears children with a Kenyan national, the child becomes a Kenyan citizen by birth, whether or not they are married to them. Citizenship by registration may be acquired through marriage, lawful residence, and adoption. A person is eligible to apply for Kenyan citizenship if the person has been married to a Kenyan citizen or lawfully resided in Kenya for a minimum continuous period of seven years provided that they meet the raft of conditions required under the KCIA. Additionally, a child who is not a Kenyan citizen but subsequently adopted by a Kenyan citizen is eligible to apply for Kenyan citizenship under the Act.

Permanent residence is provided for in section 37 of the KCIA which outlines the persons eligible to apply for permanent residence status in Kenya. First, persons who were citizens by birth but subsequently renounced their citizenship or otherwise lost their citizenship status. Second, those who hold work permits for at least seven years and have been residents in Kenya for three years before making the application. Third, children of Kenyan citizens born outside Kenya and who acquired the citizenship of the domicile country. Fourth are spouses of Kenyan citizens married for at least seven years. There are different classes of permits and passes that foreign nationals may apply for (section 36 of KCIA). These are prescribed under the seventh schedule of the Kenya Citizenship and Immigration Regulations, 2012. Class M work permits are set aside for refugees and the spouses of refugees who intend to take up employment or engage in a specific occupation, trade, business, or profession. Permanent resident status confers a wide array of rights on the holders. These include the right to enter and remain in Kenya, be employed, attend educational facilities, own property legally, move and settle anywhere in Kenya, access and enjoy social services and facilities, comply with the prescribed residence obligations, be provided with a permanent residence certificate, and comply with such other conditions as are imposed under the regulations. A person loses the permanent residence status upon acquisition of citizenship, failure to comply with residence obligations or if the marriage is discovered not to have been bona fide, among other reasons.

In light of the foregoing, it is pertinent to remark that the domestic law affords refugees the level of protection envisaged by international standards. However, the aspirations of the law have not been realised due to challenges in implementation, which emanate first and foremost from a lack of detailed regulations prescribing guidelines necessary for implementation with sufficient clarity, compounded with inconsistent policy. However, the government has stated that at the time of writing this report, that legislative efforts were underway to develop regulations that are hoped to remedy this.

It will become apparent from the findings that unclear guidelines, with an associated lack of and inaccessibility of legal and administrative support majorly attributable to the lack of clear guidelines, is the major reason why refugees fail to enjoy the level of protection guaranteed in law. This is particularly detrimental to camp refugees whose activity is essentially limited within the camps. In this regard, due to Kenya's encampment policy, refugees who reside in camps are unlikely to fulfil the requirements under the KCIA and acquire a citizenship or lawful residence. Even if they have lived in Kenya for 7+ years, they are unable to get work or residency permits or travel outside the designated camps to acquire the necessary documents. Further, these refugees have less access to Kenyan nationals, and therefore assimilating is more challenging.

However, the government may be credited for the legislative efforts it is undertaking to formulate regulations to guide better implementation of the legal and institutional framework. As these continue, complex questions such as the distinction between camps and settlements ought to be addressed in depth and due consideration given to the practical realities rather than textbook definitions. Furthermore, discussions are underway regarding the integration of refugees from East African Community member states, who constitute a significant portion of the refugees that Kenya hosts and that it may potentially host.

3. Aspirations of refugees for local integration

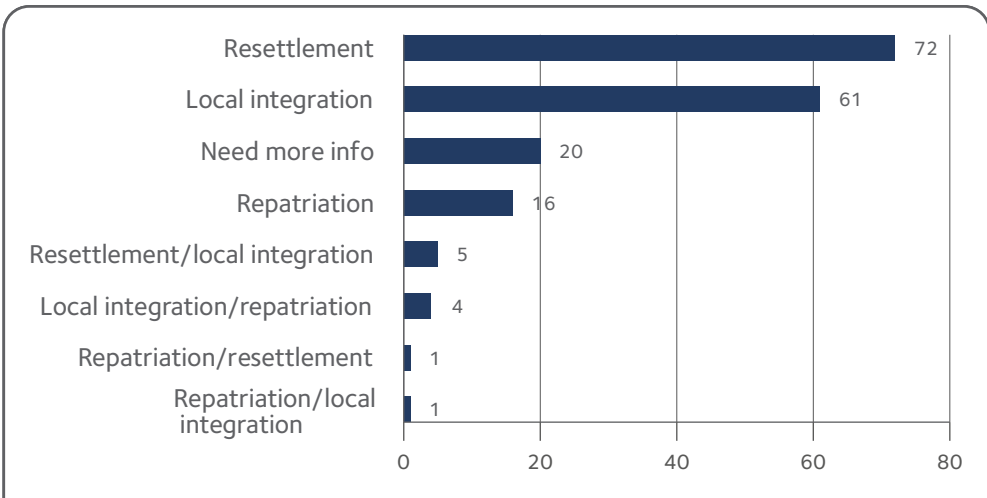
3.1. Meaning and interest in local integration for refugees in Kenya

Local integration entails a long-lasting solution that includes three elements. Firstly, it is a legal procedure through which refugees gain a broader variety of rights in the receiving country. The second element is an economic one that involves creating stable sources of income and a living standard that is at par with that of the host society. This second step is likened to development assisted integration which seeks to ensure that refugees and asylum seekers are self-sufficient. Thirdly, there is a cultural and social process of integration and inclusion, also termed the permanent residency model of integration, which enables refugees to participate in society and live free from discrimination in their new home (Sever, 2020, p. 30). It should be noted that the process of local integration becomes a durable solution only when a respective refugee becomes a naturalised citizen of his/her asylum country.

International refugee law is firmly founded on the idea of local integration. The 1951 UN Refugee Convention emphasised the value of citizenship in creating long-lasting solutions and recognised the importance of local integration. The integration and naturalisation of refugees must be facilitated as far as feasible by contracting states, as according to article 34 of the Convention. In particular, they must use every effort to hasten the naturalisation process. The office of the Commissioner of Refugees is established by Refugees Act No. 10 of 2021, and its responsibility is to ensure refugees' assimilation into host communities. Articles 13(2), 14 and 15 of the Constitution of Kenya 2010 enunciate the naturalisation of foreign nationals, including refugees.

The study conducted found that local integration was the second most preferred durable solution, chosen by 34% (n=180) of the interviewed refugees in the respective regions, as indicated in Figure 1 below.

Figure 1: Preferred durable solution (n=180)



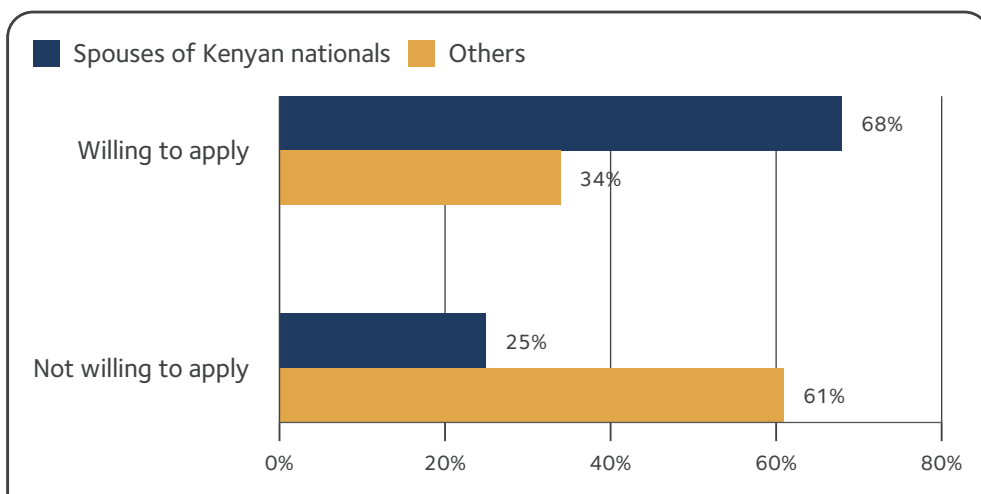
However, the government may be credited for the legislative efforts it is undertaking to formulate regulations to guide better implementation of the legal and institutional framework. As these continue, complex questions such as the distinction between camps and settlements ought to be addressed in depth and due consideration given to the practical realities rather than textbook definitions. Furthermore, discussions are underway regarding the integration of refugees from East African Community member states, who constitute a significant portion of the refugees that Kenya hosts and that it may potentially host.

While some refugees would like to be integrated into local communities through permanent residency and citizenship, the majority were not aware of the legal requirements, and even when they were, they could hardly decipher the guidelines. Very few refugees have sufficient information to apply, implying that insufficient sensitisation has been done to educate refugees about local integration and the application process for citizenship and permanent residency.

3.2. Aspirations of refugees who are either married to a Kenyan or born to a Kenyan parent to access citizenship

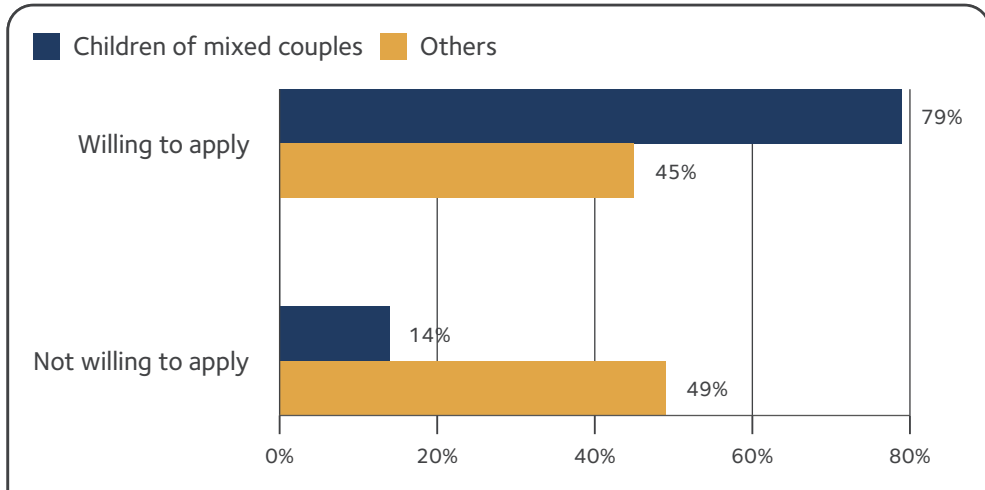
Figure 2 shows that most of the spouses of Kenyan nationals are willing to apply for citizenship: 68% (59/87) of the spouses of Kenyans interviewed are willing to apply for citizenship and permanent residency. Conversely, only 34% (41/122) of other participants, including refugees who have been in Kenya for over seven years, are willing to apply for citizenship and permanent residency. Figure 3 shows that the majority of the children of mixed couples who participated in the study are more likely to be willing to apply (79%).

Figure 2: Percentage of spouses of Kenyans who are willing to apply for citizenship (n=87) vs other participants (n=209)⁴



⁴ This visual excludes 'Do not know' and 'Refuse to answer' counts.

Figure 3: Percentage of children of mixed couples willing to apply for citizenship (n=14) vs other participants (n=191)



The major reason across all respondents for wanting to apply for citizenship is the fact that participants have been living in Kenya for decades. This corroborates with the findings from the study conducted by the Refugee Consortium of Kenya (2016) exploring refugee perceptions towards citizenship as a durable solution, which found that refugees' "length of stay is a factor for refugees who would like to become Kenyan nationals."

Why respondents would like to apply for permanent residency or citizenship: testimonies from Focus Group Discussions

'I wish I could apply even now; I have been here for 29 years. I want to be a Kenyan, I qualify. I know the national anthem, Kiswahili and English. You qualify and then you are not given a chance. You feel it was your mistake to be married so I am very much planning and I want to lead a good life and also, I don't want my kid to be restricted to work or to finish education.'

– Female, Congolese refugee in Mombasa

'If you stay in a place 20 years or 30 years like me then it means I like it here so need to be assisted to become Kenyan, it will assist me to support my family and kids and also will make me a proud Kenyan.'

– Male, Rwandan refugee married to a Kenyan in Nairobi

'To stay in Kenya in case of camp closure.'

– Female, Somali refugee living in Dadaab

For respondents who are not willing to apply, the main reasons were: 1) that there are no clear guidelines for the application process; 2) they are in the resettlement process or prefer being resettled to a third country; and 3) that they feel there are no opportunities for them to thrive in Kenya. For example, during an in-depth interview with a refugee man married to a Kenyan woman in Nairobi, the respondent noted that "I have not yet applied because I am still waiting to see how the UNHCR Process goes [...] The process I am talking about is the resettlement process. My file is with UNHCR, we are waiting to see if they will give us resettlement."

3.3. Legal accruing entitlements of refugee, permanent and/or citizenship status

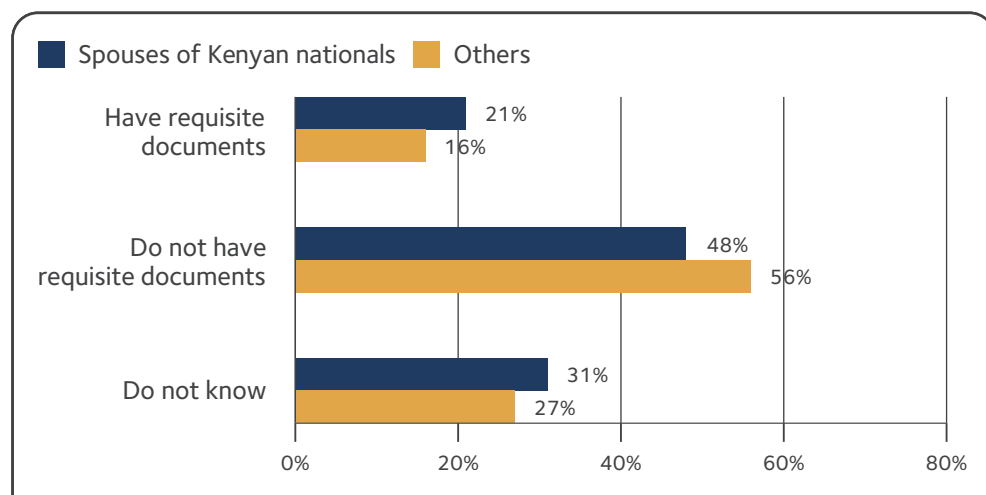
Refugees are entitled to formal identification in recognition of their status. Upon registration, they are issued Refugee Identity Cards which they are required to present as proof of status. This is pursuant to Section 28(6) and (7) of the Refugees Act, 2021 which provides that refugees have the right to identification and civil registration documents and such documents ought to be sufficient to identify them for the purposes of access to rights and services under the Act and any other applicable law. This Refugee ID Card is envisaged to have, at a minimum, a similar status to the Foreign National Registration Certificate (issued under section 56 (2) of the Kenya Citizenship and Immigration Act No 12 of 2011) for the purposes of accessing the rights and fulfilling obligations under the law.

As such, the law grants adequate legal protection for the identification and the benefits that refugees are entitled to enjoy by virtue of refugee status. However, challenges with the implementation of these provisions continue to impede the ability of refugees to enjoy the benefits accruing from recognition as refugees. In practice, refugees are unaware of the benefits accruing from the status as described.

3.4. Awareness of their eligibility to apply for permanent residency and citizenship, and relevant application process

The results show that spouses of Kenyan nationals are more willing to apply for citizenship and permanent residency, though only 21% of them have the requisite documents (n=87). Most refugees who do not have the requisite documents are in the category of refugees who have been in the country for over seven years (56%, n=122) and are not spouses of Kenyan nationals, nor are they children of mixed marriages. The requisite application documents for citizenship and permanent residence according to the KCIA, 2011 are summarised in [Annex 3](#).

Figure 4: Percentage of spouses of Kenyan nationals willing to apply who said they have the requisite documents (n= 87) compared with other respondents (n= 122)



4. Experiences of refugees who have applied for permanent residency or citizenship

4.1. Demographics of applicants and non-applicants

Overall, only 17% (n=223) of the research participants applied for Kenyan citizenship, and of these, 7% (n=223) applied for both permanent residency and citizenship, while 10% (n=223) applied for only citizenship.

Table 1: Research participants who have applied and who have not applied (n=223)

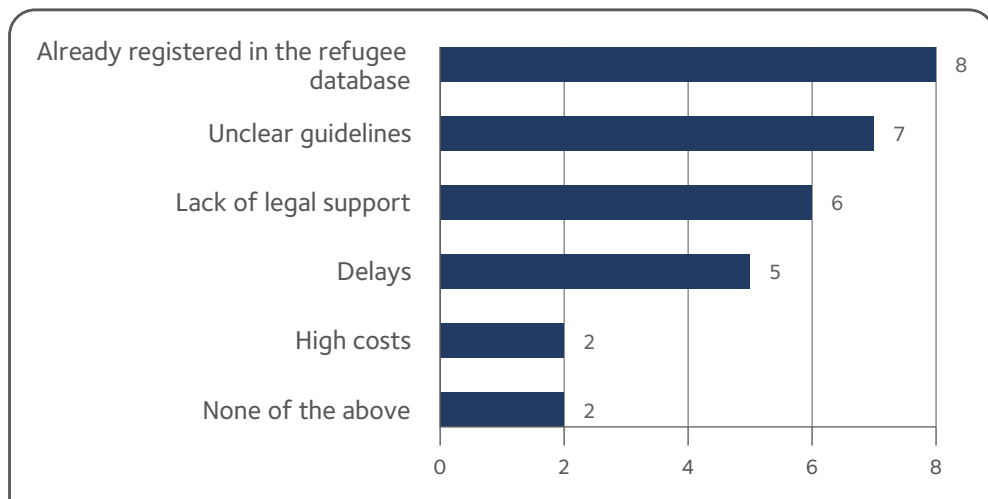
Research participants who:	Frequency	Percentage
Have not applied	185	83%
Have applied	38	17%

With regards to the profiles of applicants, the results show that there were a total of 13 female applicants and 25 male applicants, and that the majority of the applicants were Somali (13), followed by Ethiopian (10) and Congolese (5). Most applicants were located in Nairobi (16), Mombasa (11), and Dadaab (9). In terms of education level, 10 had no formal education, 9 completed primary school, 9 had secondary level education, 6 had attained a bachelor’s degree, and 2 held a Master’s degree. Of the total 38 who applied, only 7 reported to have been successful, 28 were unsuccessful, and 3 were waiting for feedback. Five of the 7 successful applicants live in Dadaab; 4 are of Somali origin, and 1 is a child of a mixed couple (Kenyan father and Somali mother). This may be unsurprising given that most refugees residing in Dadaab are Somali, and the camp is more ethnically integrated than Kakuma. In Dadaab, refugees and host communities (Kenyan Somalis) share similar cultures, including the language, and it is often difficult to distinguish between them (Shcarre, 2018).

4.2. Challenges in applying

Figure 5 shows that ‘being already registered in the refugee database’ was the most reported challenge (reported by eight applicants), the other major challenges reported include ‘unclear guidelines (reported by seven applicants), a ‘lack of legal support’ (reported by six applicants), and ‘delays’ (reported by five applicants).

Regarding the challenges by category of respondents, the data show that ‘lack of legal support’ and ‘unclear guidelines’ are the major challenges for spouses of Kenyan nationals and children of mixed couples when trying to apply for citizenship. While for refugees who have been in Kenya for over seven years and do not fall under the latter categories, ‘the fact that they already exist in the refugee database’ is the most prominent challenge.

Figure 5: Challenges faced by applicants while applying for citizenship and residency

Additionally, in the early 2000s, Kenyans living near the refugee camps routinely entered the camps to access services otherwise unavailable to them and were mistakenly registered as refugees. These Kenyans, mainly from the Somali community, were registered on UNHCR's refugee database but are Kenyan citizens – an issue known as double registration. Due to being on UNHCR's database, they have been unable to attain Kenyan nationality documents that they are entitled to and access their rights as citizens as a result.

Qualitative data from in-depth interviews and focus group discussions reaffirmed the above findings. The key challenges mentioned during the interviews are summarized in the below interview extracts:

'We also tried applying together with a group of 10 others people. They called us for vetting where we were told our aliens needed to be changed. We can't get citizenship with alien. They told us to go to UN to have our names extracted from there from the refugee system first.'

– Male refugee applicant married to a Kenyan in Nairobi

'I was told to go to Nairobi because I had a refugee ID. They told me to first go to Nairobi to have my finger print removed from the refugee database before applying for the national ID. My finger prints will always show that I am a refugee if they are not removed from the data base. I did not go enough means to travel to Nairobi and get back to Mombasa. It is challenging.'

– Female applicant married to a Kenyan in Mombasa

'When I applied, I did not get a good service. The persons in office are rude, they do not talk well with people. There is another person I know who applied for citizenship but he has never got any feedback. They put applicants in a state of uncertainty where you are not sure whether in fact you will ever get the citizenship. There is no clarity in the process. We want government to help us because our lives and the lives of our children are at stake.'

– Male applicant who is married to a Kenyan in Nairobi

While these are the main practical challenges refugees face in the process of application, there are also considerable challenges at the structural level, such as the encampment policy, which was further entrenched following a series of attacks by Al Shabaab militants, including the Westgate shopping mall attack in 2013, Garissa University attack in 2015, and the Dusit D2 complex attack in 2019. The Kenyan government claimed that there was an association between the presence of Somali refugees in the country and attacks by Al Shabaab, and has since periodically reinforced the encampment policy, among other discriminatory policies against refugees.

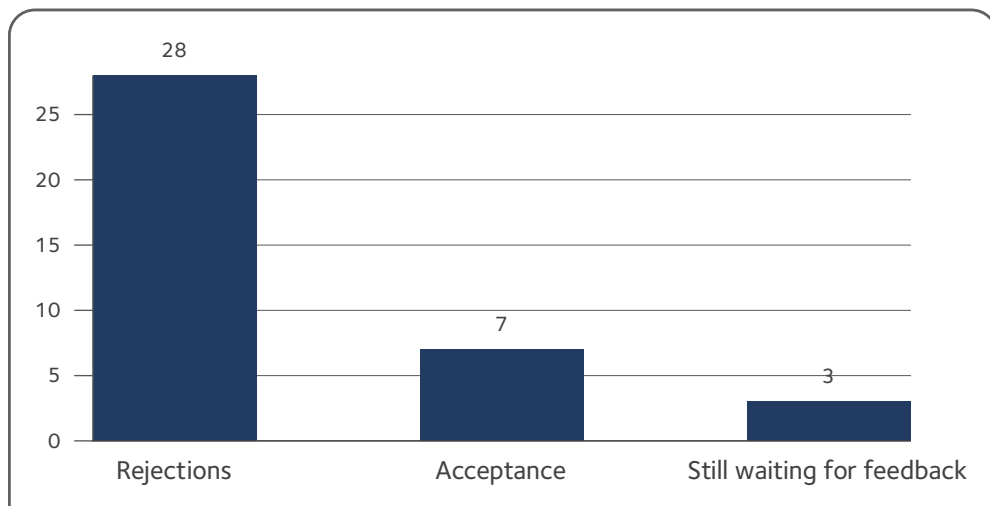
When asked about their experiences during the application process, the majority of the respondents said that they had a negative experience (42%, n=38). 32% (n=38) of the respondents said their experience was positive, and 26% (n=38) said their experience was neutral.

The data shows that half of the applicants who said their experience was positive were successful in their application (16%, n=38), while most of the applicants whose applications were rejected said their experience was negative. This means that the outcome of the application might have influenced the response to the question on the experience of the applicant. In addition, the results show that applicants waited for months and even for years (up to 4 years) to get feedback from the authorities on their application; the average reported waiting time was eight months.

4.3. Grounds for acceptance or denial

Most applicants said they were not given a written reason for rejection, save for three applicants: one woman married to a Kenyan said that the authority told her that her customary marriage was not legally registered; a female refugee of Ugandan origin living in Mombasa and married to a Kenyan preferred not to tell the reason for rejection; and a male Somali who has been in Kenya for over seven years also preferred not to tell the reason. The lack of reason given could also be why most of the applicants (25/28) who were denied citizenship said that they were planning to apply again.

Figure 6: The application status



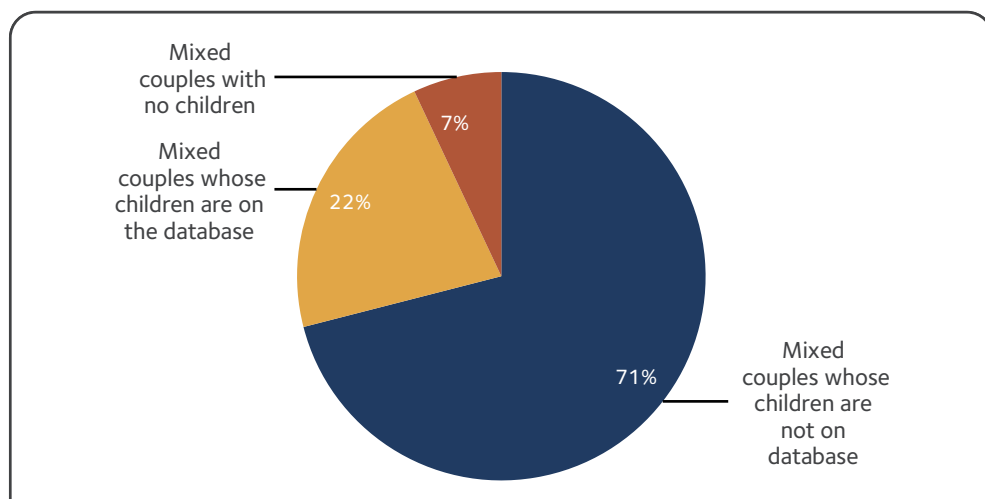
Researchers interviewed a key informant from the Department of Immigration (who preferred to remain anonymous) and he confirmed the report's findings, stating that granting refugees permanent residency status was not taken to be in the national interest, and was as such discouraged rather than encouraged. Moreover, for applicants, the process is a lengthy one involving screening by security agencies. However, he declined to provide precise statistics of the applications, success rates as well as challenges facing unsuccessful applicants. The feedback with regard to citizenship was similar. The informant supposed that the situation as he perceived it then was unlikely to change in the near future, given that the mainstream view affirmed the temporal status of refugee protection. Therefore, in his view Kenya has done its part by offering temporary status, and durable solutions ought to be explored elsewhere.

4.4. Experience of families with a Kenyan spouse and/or child

An analysis of the findings shows that a number of the interviewed refugees were married to Kenyan spouses and were blessed with children. Their expectations were that if they were to get married to Kenyan spouses, their application process for citizenship would be easier if the marriage had subsisted for seven years as the Kenyan law provides. Similarly, for those whose children had been born from their marriages with Kenyan spouses, they expected that maybe they would acquire Kenyan citizenship solely by being parents to Kenyan children or that their application process would be easier. However, the experiences of these respective refugees were different from their expectations. Most of the refugees with Kenyan spouses consequently have children from the marriage, and while the children acquire Kenyan birth certificates, the refugee parents are still registered as refugees. Most of these parents have not made efforts to apply for Kenyan citizenship.

While examining the situation of children of mixed marriages, the analysis mainly focused on their inclusion in the refugee database and how that affects their access to citizenship. Most of the spouses of Kenyan nationals interviewed (71%, n=96) said that their children are not listed on the refugee database, with only 22% having their children listed.

Figure 7: Percentage of participant spouses of Kenyans who say their children are listed or not listed on the refugee database (n=96)



15 children of mixed marriages were interviewed by the research team to establish whether they are registered in the refugee database or not. Nine children said they were registered in the refugee database while six children said they were not. It is also important to note that most spouses of Kenyan nationals who applied for citizenship (11 out of 19, n=19) and whose children are not registered in the refugee database were not granted citizenship.

Five of the 15 children of mixed couples interviewed said they had tried to remove themselves from the refugee database but had failed. It became apparent that children from mixed couples do not have the right information on the process for deregistration. There is no clarity on this question, and there is not a policy governing the status of children of refugees born in Kenya who have reached the age of majority yet.

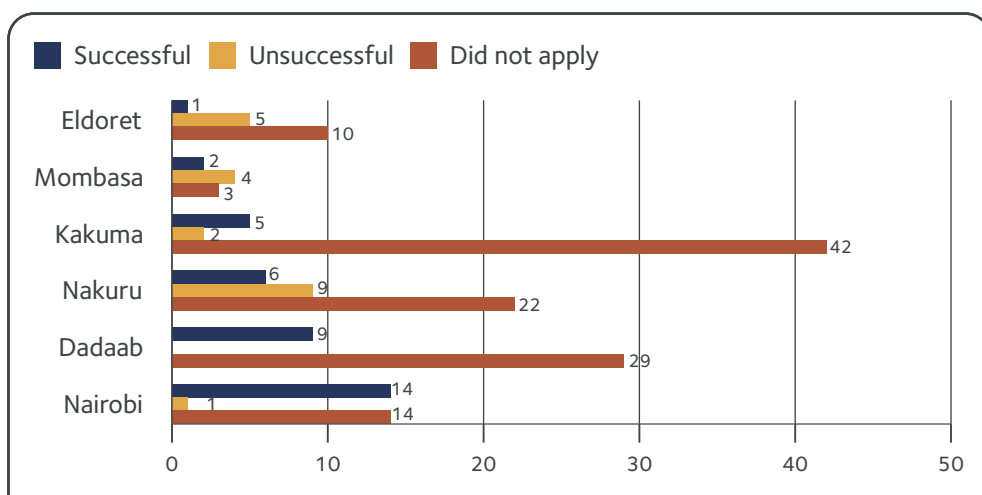
Another critical issue is the role of the parent's status during applications by children of such mixed families. In the present findings, there was an instance where a child's application for citizenship was rejected due to the father's status as a refugee. The recurrent experience is that most refugees married to Kenyan spouses and who have children born out of the said marriage have not tried or attempted to apply for citizenship or permanent residency.

5. Extent to which refugees enjoy the right to work

5.1. Profiles of successful and unsuccessful applicants for KRA PINs and work permits

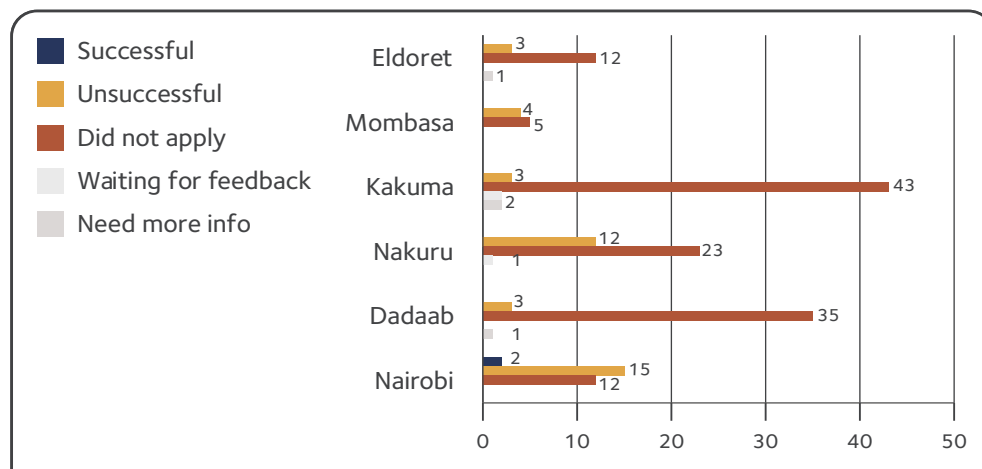
The rates of attempting to apply for Kenya Revenue Authority Personal Identification Numbers (hereinafter KRA PINs) were as follows: whereas 34% (n=180) of all the respondents from all locations studied had attempted to obtain KRA PINs, 65% (n=180) had not. Of the 34% who had attempted, 61% (n=61) were successful. Of the 37 successful applicants, 14 were from Nairobi, 9 from Dadaab, 6 from Nakuru, 5 from Kakuma, 2 from Mombasa, and 1 from Eldoret, as illustrated in Figure 8 below.

Figure 8: Attempts at securing a KRA PIN and success rates



On the other hand, the rates of attempting to apply for work permits were as follows: whereas 26% (n=180) of all the respondents from all locations had attempted to obtain work permits, 73% (n=180) had not. Only 1% (n=180) were successful, translating to two people, who were both from Nairobi, as illustrated in Figure 9 below.

Figure 9: Attempts at securing work permits and success rates



The two applicants who successfully applied for work permits were urban refugees, which illustrates the importance of knowledge of and exposure to the existence of these avenues as well as the process. This aside, issues of nationality were also raised. A respondent of Somali nationality indicated that nationality was taken as a key factor in the provision of services by the Directorate of Refugee Services, and that refugees of Somali descent were discriminated against on this basis. Additionally, it was observed that in the digital age, information is readily accessible to those refugees who cared to find it. Therefore, while lack of knowledge has a role to play in the minimal interest in application and low success rates, other factors such as nationality and preference ought to be given prominence.

5.2. Identification, KRA PINs and work permits

The study found that despite the law pertaining to the identification of refugees and the benefits deriving therefrom, refugee ID cards are often not recognised as alien cards/a valid form of identification by the host community, particularly by institutions that are key to the enjoyment of their rights, especially the right to work. Consequently, refugees face considerable challenges to obtain KRA PINs and work permits that are requirements for potential employers or business partners, impeding refugees' ability to obtain gainful employment or engage in other formal work (Vuni & Iragi, in press).

Respondents mentioned specific challenges in regard to recognition and acceptance of identification and the impediments presented with regard to obtaining work permits and KRA PINs. The refugee ID is not included as a valid form of identification in online job application forms at the drop-down list, which is a function on many software programs enabling applicants to select a particular category within a said set. As such, they had no means of identifying themselves when applying for jobs and presenting themselves for consideration. While business licences and KRA PINs are not legally required prerequisites for refugees to obtain a first-time Class M work permit, respondents indicated that the staff at the DRS often required them, at the time of application, to present KRA PINs, business licences, and other details of the business with which they proposed to work or be employed. In addition, some of the respondents, specifically in Nakuru, mentioned instances of extortion by officers at the Immigration Office who would charge sums ranging from Kshs. 100,000 to Kshs. 200,000 (between approximately USD 760 and USD 1,500) for a Class M permit which should be obtained at no cost.

A striking finding is that urban refugees (in Nairobi, Nakuru, Eldoret, and Mombasa) seemed to have more difficulties applying for KRA PINs and work permits than camp-based refugees (see Figures 8 and 9). Seeking to establish why this was so, the researchers interviewed a key informant from the Department of Immigration who requested that their identity be withheld. They intimated that the ground for denial of work permits was that *"grant of work permits is considered, on a policy level, not to be in national interest. In fact, the grant of work permits is discouraged, rather than encouraged, owing to that policy."* As such, they were unable to provide statistics of applicants, their profiles and success rates at that moment. In the same vein, they declined to highlight challenges facing unsuccessful applicants. This kind of approach demonstrates non-compliance with the national, regional and international obligations Kenya is signatory to. Thus, the situation on the ground does not reflect the progressive requirements of the law.

This limited access to work permits and KRA PINs has led to refugees being unable to acquire immovable assets like land and other properties, and to them being vulnerable to extortion

by Kenyans, as was the case with a respondent in Nairobi who narrated that: *"I applied but I was not given it. It is very difficult to do business in Kenya without a work permit. We are many facing this challenge. I deal in goat selling, I cannot do good business without a work permit, some companies like hotels and restaurant require you to show a work permit to buy from you. We are continuously facing these challenges. I bought a plot of land using the names of a Kenyan friend. He ended up selling my plot and I cannot take a legal recourse. I don't know what to do. He sold my plot at 4 million shillings and relocated from the village. I stayed with that friend of mine for years, but you can see what he has done for me..."*

6. Perceptions from the host community

6.1. Emerging social integration issues

The integration of refugees through citizenship and permanent residence does not happen in a vacuum but in the wider context of the local/host communities. The effect of local integration of refugees through citizenship and permanent residence is that it terminates the refugee status and allows the refugees to maintain their identities and become part of the host community. This is meant to enable them to coexist peacefully with the host population without fear of discrimination, intimidation or any form of exploitation. As discussed in the preceding sections of this study, local integration has legal, social and economic dimensions. As to whether these dimensions are realised in practice, the feelings and perceptions of the host community are decisive and momentous.

Whether or not the locally integrated refugees will enjoy the legal rights available to them will depend on the relevant stakeholders' willingness to respect, uphold and protect those rights. Whether they will be able to meaningfully and effectively participate in the local economy and establish sustainable livelihoods will depend on the willingness of the local community to employ them and work with them, and the willingness of the relevant stakeholders to provide them with the prerequisite documents, including work permits and business licences. Further, whether or not they can naturally coexist with the host population, for example, through marriage without discrimination, depends on the host communities' willingness to accept them unconditionally regardless of their difference and social markers. It will also depend on the attitude of various stakeholders, such as the judiciary and law enforcement authorities, to call out unjustifiably prejudicial conduct against refugees.

The heavy politicisation and securitisation of international migration, whether forced or voluntary, is highly influential in swaying the host communities' feelings and attitudes about the local integration of refugees. The national security rhetoric portrays refugees as threats to national security. These stereotypes and prejudices lead to discrimination and a lack of acceptance of the displaced people.

This section turns to the primary research findings to establish whether the host community in Kenya and the key stakeholders are open to the integration of refugees into the country through permanent residence or citizenship. It considers whether the host community is willing to hire and work with integrated forced migrants or whether unreasonable requirements are imposed on them in their quest to participate in the local economies.

Some interviewed refugees cited discrimination in Kenya in stating their preference for voluntary repatriation and resettlement to local integration. One male respondent stated: *"my stay in Kenya has been challenging because I am discriminated against, beaten, and denied job opportunities because of my refugee status."* He is wary that the local community will never accept him as a full Kenyan even if he obtains Kenyan citizenship. He only wishes to be resettled to a country where he will not be questioned on whether he is Congolese or set apart because he is an African. Another female respondent from Burundi reiterated this fear that even if she obtained Kenyan citizenship, she would still be perceived as a refugee. She claims to have suffered discrimination because of her looks and speech. In her view, Kenyan citizenship will not be enough to shield her from discrimination. A Congolese respondent preferring resettlement reported that even if presented with the opportunity for Kenyan citizenship, she would not take it because she is not accepted in Kenya. A male Ethiopian

hoped for repatriation because despite staying in Kenya for nine years and working for three months, he was not respected and felt unwanted. A substantial number of interviewed refugees expressed their experiences of rejection, discrimination, and separation. This perhaps explains why resettlement is the most preferred durable solution for the interviewed refugees. Only a handful of interviewed refugees felt accepted in Kenya.

In light of the harassment experienced by some of the refugees, they may be hesitant to apply for local integration since it would mean they would have to succumb to hostilities from the host community.

6.2. Reactions from members of the host communities

A focus group discussion was held with some Nairobi residents who have interacted with refugees in Kenya. The participants came from various areas in Nairobi including Kayole, Kawangware, Makadara Estate, Pangani, and Westlands. The discussions were designed to find out, amongst other issues, the familiarity of the host community with the refugee situation, their general perceptions of refugees, and their views or feelings on durable solutions for refugees, particularly social, economic and legal integration. All the participants in the focus group discussions had in some way interacted with at least one refugee.

Views were diverse on their general perceptions of the refugees they had interacted with. Some participants expressed that they sympathised with the refugees' situation because of the circumstances in which they fled their countries of origin. A majority acknowledged that anyone can find themselves in such a situation. As stated by one of the participants, this is a fact that is taken for granted by a greater percentage of the host community due to the relatively longer peacetime enjoyed by Kenya over time. Effectively, most of the participants felt the forced migrants did not bring their refugee situation upon themselves and, therefore, they ought not be discriminated and prejudiced against in any way because of their status. Some participants stated that save for the difference in their country of origin, the city/urban refugees were just like Kenyans. They had mingled and interacted with the local community and hence were accustomed to the local community's culture including their language, and therefore there was no need to treat them differently because of their refugee status.

Two of the participants residing in Kawangware observed, however, that some refugees withdrew from the rest of the community and were selective in terms of who to conduct business with. They stated that the refugees opted to buy items from their fellow refugees even when doing so meant travelling a longer distance and bypassing the local residents selling the same items. One felt that she could not blame them because, being refugees, they understood each other's situations more than the local residents would and, therefore, their election to trade amongst themselves was primarily out of the need to support each other. It was not that they did not want to trade with the host community but rather that they understood that their fellow refugees needed their support more than the local traders. While stating this, the female respondent observed that in the early months of opening their businesses, the refugees found it difficult to attract customers because of their 'otherness'. Perhaps this difficult beginning is what, in her view, informed their selectiveness in who to trade with. However, she now observes that after worshipping with the refugees in the same churches, and interacting with them in various social settings, the local residents of Kawangware have embraced the refugees. In light of this, the Kawangware-based female

participant stated that she did not perceive the refugees as being any different from Kenyans apart from the fact that their country of origin was different.

In contrast, reacting to the refugees in their neighbourhood opting to buy items from among themselves even when the local residents sold the same items at a greater convenience, another Kawangware-based female participant stated that the refugees discriminated against the local residents. For this reason, she stated that she is not excited about their presence in the host community.

When questioned on whether the participants felt there is any value in the continued presence of refugees in the host community, a majority of the participants felt that the prevailing encampment policy restricting refugees to the camps eroded the value that the local community could draw from the refugee population. With this policy the refugees' movement outside the camps was restricted; hence they were not able to take jobs or create jobs, and hence they could not make any meaningful contribution to the local economy. Other than the encampment policy, the participants highlighted the bureaucratic hurdles that prevented refugees from obtaining work permits and the prerequisite documentation to open businesses as one of the reasons why the continued presence of the refugee population was not of any value to the local community. They stated that given the opportunity to open businesses, refugees would make a valuable contribution to the economy through payment of taxes, creation of jobs, and utilisation of their intellectual resources. One of the participants used the case of Eastleigh, a neighbourhood in Nairobi, to highlight the potential value that could be tapped from the refugee population. The Pangani-based male participant observed that the Eastleigh town area, which is nicknamed 'Little Mogadishu', comprises a largely Somali population and has become a Somali immigrants business hub. This shows that if the refugee population were empowered to start businesses in the host community, they would make a significant contribution to the local economy. Effectively, the mainstream view was that currently the continued presence of refugees in Kenya is not of any value to the host community, attributing this to the unfavourable legal environment including the encampment policy.

However, a few participants were positive in their response. One observed that the refugee population, particularly urban refugees, were valuable to the host community. She stated that a few Congolese refugees had established churches in Kawangware estate where they participated in worship with the local residents. She also observed that most of these refugees were pious and devout and were thus adding value to the local community in terms of reinforcing morals.

Regarding social integration of refugees, participants were asked to state whether they would be open to marrying a refugee. This question elicited nuanced responses with the difference in opinion between male and female participants being heavily influenced by the local culture and the gender dynamics. All the male participants stated they would not mind marrying a refugee. For the men it was an easy decision to make because according to the mainstream culture, the men are the providers so it would not matter if the spouse was a refugee having no property. The majority of the female participants on the other hand were reluctant and said they would be unwilling to marry a refugee. They reasoned that it would be difficult because the economic status of a male suitor is an important consideration in the decision to marry or not to marry. Since refugees do not come with any property, their refugee ID card is not enough to enable them to own land in Kenya,

and they may not have the necessary work permits to work in Kenya, they would not be appealing suitors for marriage.

There was also a difference in opinion on the issue of economic integration of refugees. The participants were asked whether the refugees should be allowed to work in the country and provided with work permits. One male participant stated that such a development would intensify the economic insecurity in the local community. He observed that a significant percentage of the population in the host community is unemployed. Against this background, he stated, allowing refugees to work in the country and giving them work permits to the effect that they compete with the local population for the local jobs would not be received well by the local unemployed residents. He stated that the right way to go about it is to allow the refugees to work in Kenya and provide them with work permits on condition that the local residents are given preference.

However, a majority of participants interviewed welcomed the idea of economically integrating the refugees. Sympathising with their forced immigration and economic status, they stated that economic integration is the least that the host community can do to enable the refugees to lead dignified lives. The participants held the view that the refugees should be allowed to compete with the host population for the available jobs without giving any preferences. One participant stated that the journey from one's state of origin to the host state is one of strive, determination and hard work. Effectively, given an opportunity, refugees can divert this determination, resolve and hard work into economic production, ultimately making significant contributions to the local economy.

Observing that we are not leveraging all economic gains from refugees, one female participant and expert in humanitarian law stated that the economic and legal exclusion of refugees exposes them to the black market because they are forced to obtain fake identification documents and fake work permits. She also stated that we should scout for unique talents among the refugee population and accommodate those talents, especially those that are not common among the native population. Another participant stated that we should economically integrate the refugee population but that we should grant them access only to industries that are not congested. For example, since the mitumba (second hand clothing) sector is already fully engaged by the host population, the work permits issued to refugees should not allow them to gain employment or start businesses in the mitumba sector.

On legal integration of refugees through granting of citizenship and permanent residence status, the views were also diverse. Two of the participants were opposed to granting citizenship and permanent residence to refugees. One suggested that refugees should be allowed to enjoy certain rights like Kenyans but with limitations and without necessarily giving them citizenship. He reasoned that refugees would compete for the scarce economic opportunities. Therefore, he was agreeable to opening access to economic opportunities to refugees but on condition that native citizens are given preference.

However, the mainstream view among the participants was that refugees should be legally integrated. The participants expressed their willingness to have the refugee population granted citizenship or permanent residence status provided that they are well-mannered individuals and respectful to the host community. However, some stated that some measures need to be put in place to ensure that such legal integration does not lead to an influx of refugees from neighbouring countries.

7. Select experiences of refugees

7.1. Challenges emanating from encampment

The encampment of refugees presents challenges particular to camp locations, including lack of educational or economic opportunities for youth, compounded with the fact that they are essentially restricted to the camp setting. It also makes it difficult for refugees to integrate with the host community.

On the other hand, urban refugees are easily socially integrated within the communities where they live, and although they face challenges, most are industrious and are contributing to the country's economy. This is a clear indication that policy is far behind reality as far as integration is concerned, and more importantly, that the host community is not ideologically opposed to the idea of integrating refugees from a general perspective. Respondents proposed the total abolition of camps or finding a middle ground, that is a situation that would allow for local integration as envisaged by international standards.

7.2. Inability to access essential services and opportunities

A refugee respondent who had managed to leave the camp and was now an urban refugee recounted his experience and the challenges faced by camp refugees, most of them relating to limited access to the market, education, healthcare, opportunities for growth, and so forth. Regarding access to the business market, the location of the camps is an impediment to trade since even if a refugee is granted a temporary permit to leave the camp, they have to travel long distances to the nearest towns to obtain goods for their kiosks at the camps or for other reasons, and in the process withstand significant police harassment at various stops. Consequently, they are not just unable to conduct trade among themselves in an efficient manner, as industrious as they may be, but also the cost of business and the cost of living becomes very high as the resources are scarce within camps. Outside, urban refugees who provide a lot of value to the economy are still unable to perform mobile transactions such as Safaricom MPESA (a mobile money platform that pervades every aspect of payment in the country and which is absolutely essential) because they cannot be registered by the service provider without a national ID card.

Turning to education, while about one-third of refugees have access to secondary education in Kenya, a majority of them eventually get assistance to proceed to tertiary education (UNHCR, n.d.). And even though urban refugees may have access to tertiary education, they still face huge difficulties accessing employment opportunities by virtue of being refugees. As regards health, the facilities provided within the camps lack the necessary equipment to cater to certain health needs, often requiring patients to be referred elsewhere outside the camps, permits for which are difficult to obtain. Finally, access to national services such as issuance of foreign travel documents is limited. This limits, if not totally impedes, the ability of refugees to leave the country for whatever reason, be it for the pursuit of further education, business opportunities, and so forth.

7.3. Administration of refugee services

A key informant from a DRS satellite office and a camp refugee respondent highlighted a challenge with the centralisation of services at the headquarters in Nairobi, requiring refugees to travel long distances to acquire documents. It would be easier to do this from the satellite or field offices, saving refugees considerable costs in travel and accommodation,

which they cannot afford. Moreover, even when refugees do apply, challenges of delays set in. A respondent highlighted an instance where class permits take so long to process that when they are finally issued, if at all, it is close to expiry, and the vicious cycle continues.

7.4. Psychosocial issues

Some psychologists working on refugee issues have observed that there has been too much focus on the economic welfare of refugees to the neglect of psychological issues. From a psychological perspective, there is a need to clarify and simplify the concepts and processes relating to refugee's entitlement, eligibility and the process involved for local integration by breaking them down to make it easier for refugees comprehend them, and second, to offer psychosocial support to them for the trauma they experience in the course of their lives.

Recommendations

The interviews carried out have shown that refugees in Kenya are faced with several barriers in terms of locally integrating, and that their experiences of attempting to locally integrate have been complex due to a number of challenges faced as refugees living in Kenya. In light of the findings, RLRH, Kituo Cha Sheria and RELON-Kenya recommend:

To the Government of Kenya

- Request that the Director of Immigration develops guidelines for refugees to be able to apply for permanent residency and citizenship within a reasonable timeframe, and at an affordable cost to them. The guidelines should include the right to appeal within a reasonable timeframe.
- Establish registration centres and other essential infrastructure in areas where refugees are present, including Kakuma and Dadaab refugee camps, to address inequalities in accessing services for both refugee and host communities living in those areas, and to alleviate any potential exclusion from receiving necessary documents or services as a result.
- Develop a formal mechanism for individuals who are entitled to Kenyan nationality but who are on the refugee database to be removed from it within a clear timeframe and provide them with necessary documents and services.
- Ensure that the Department for Refugee Services finalises the regulations of the Refugee Act, 2021 in consultation with civil society and the refugee community, and takes measures to operationalize the act including provisions related to the integration of refugees.
- Implement a multi-departmental approach within government to ensure more internal coordination and collaboration on refugee related issues, including but not limited to the Department of Refugee Services, Department of Immigration, Ministry of Education, Department of Civil Registration and the Attorney General's Office.
- Operationalize the legal aid fund under the Legal Aid Act in order to provide support to refugees in need of legal assistance.
- Take immediate steps to end the encampment policy and ensure that the design of settlements and other measures taken towards meaningful integration of refugees are undertaken in consultation with refugees, host communities and civil society actors.

To civil society actors

- Empower refugees with legal knowledge so they can understand regulations and laws that relate to issues that affect them including access to permanent residency or citizenship, and hold the government to account in ensuring that policies are implemented in a timely manner.
- Support the government through providing technical assistance where needed to meaningfully integrate refugees in Kenya including ensuring that policies that would allow refugees to access permanent residency and citizenship are implemented in a timely manner.

- Advocate for the progressive implementation of the requirements of the rights of refugees and the obligations of the state under national and international law.
- Provide awareness raising sessions to host communities on refugees and their rights in order to create a sense of cohesion between the communities.
- Raise awareness amongst institutions within the private sector that have the mechanisms to address deficits amongst employers so that refugees have the ability to access economic livelihoods.

To international organisations, donors, and UNHCR

- Provide adequate funding and technical support to the government to enable it to implement policies related to refugee integration in a timely manner.
- Support civil society organisations that work with refugees through providing adequate and sustainable resources and solidarity.
- Request that UNHCR coordinates with the government to ensure that individuals who are entitled to Kenyan nationality are removed from the refugee database and provided with nationality documents in a timely manner.
- Call on the international community, in particular wealthy nations, to meaningfully share responsibility with Kenya in protecting and supporting refugees. This includes providing adequate funding to Kenya to continue hosting refugees as well as resettling refugees to third countries.

To research organisations

- Carry out more research to better understand refugee integration in Kenya and other major refugee hosting countries. In particular, studies that seek to monitor and assess socioeconomic outcomes of integration that would provide evidence on the importance of integration as a durable solution.

References

- Reuters. (2022). Kenya tells UN it will shut two camps with 410,000 refugees by June 2022. Available at <https://www.reuters.com/world/africa/>
- Abuya. E.A. (2007). 'Past Reflections, Future Insights: African Asylum Law and Policy in Historical Perspective', *International Journal of Refugee Law* 19, no. 1: 51–95.
- Campbell, E. H. (2006). Urban refugees in Nairobi: Problems of protection, mechanisms of survival, and possibilities for integration. *Journal of refugee studies*, 19(3), 396–413.
- Lindley, A. (2011). Between a protracted and a crisis situation: Policy responses to Somali refugees in Kenya. *Refugee Survey Quarterly*, 30(4), 14–49.
- Maina, A. (2020). Development of Refugee Law in Kenya – Refugee Consortium of Kenya. Retrieved Feb 28, 2022. Available at <https://www.rckkenya.org/development-of-refugee-law-in-kenya/>
- RCK (2016). 'The Status of Legal Integration of Refugees In Kenya: A Nairobi Case'. Available at <https://www.rckkenya.org/resource-center/>
- The Refugee Act of 2021. Available at http://www.kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/2021/TheRefugeesAct_No10of2021.pdf
- Reuters. (2022). Kenya tells UN it will shut two camps with 410,000 refugees by June 2022. Available at <https://www.reuters.com/world/africa/>
- Scharre, T. (2018) "Ambiguous citizens": Kenyan Somalis and the question of belonging, *Journal of Eastern African Studies*, 12:3, 494–513.
- The Sentinel Project. (2021). Closing Kenya's Kakuma and Dadaab refugee camps: Thoughts from the ground. Available at <https://thesentinelproject.org/2021/06/29/closing-kenyas-kakuma-and-dadaab-refugee-camps-thoughts-from-the-ground/>
- Thomson Reuters Foundation. (2017). A review of the legal framework relating to the proposed closure of the Dadaab refugee camp and repatriation of Somali refugees. Available at <https://www.nrc.no/globalassets/pdf/reports/a-review-of-the-legal-framework-relating-to-the-proposed-closure-of-the-dadaab-refugee-camp-and-repatriation-of-somali-refugees/2017-dadaab-camp-closure-report.pdf>
- UNHCR, Kenya. (n.d). Education. Available at <https://www.unhcr.org/ke/education>
- Vuni, F. & Iragi, B. (in press). Refugees' access to work permits and business licences in Kenya. *Refugee-Led Research Series* (5).

Annex 1: The demographics of study participants by category (survey 1)

Profile		Child of mixed couple	Spouse of a national	Refugee in Kenya for over 7 years	Total	
					Count	Percent
Location	Dadaab	4	6	32	42	19%
	Kakuma	0	11	37	48	22%
	Mombasa	2	47	25	74	33%
	Nairobi	9	21	29	59	26%
	Total	15	85	123	223	100%
Gender	Male	12	59	76	147	66%
	Female	3	26	47	76	34%
	Total	15	85	123	223	100%
Age group	18-34	4	31	69	104	46.5%
	35-59	8	48	50	106	47.5%
	60+	3	6	4	13	6%
	Total	15	85	123	223	100
Country of origin	Burundi	0	6	5	11	5%
	DR Congo	1	30	29	60	27%
	Ethiopia	8	3	23	34	15%
	Rwanda	1	13	4	18	8%
	Somalia	3	21	37	61	27%
	South Sudan	0	9	18	27	12%
	Sudan	0	1	3	4	2%
	Uganda	0	1	3	4	2%
	Other	2	1	1	4	2%
	Total	15	85	123	223	100%
Education level	Bachelor's degree	1	10	15	26	12%
	Master's degree	0	2	1	3	1%
	No formal education	6	11	24	41	18%
	Primary school	5	23	21	49	22%
	Secondary school	2	36	44	82	37%
	Other	1	3	18	22	10%
	Total	15	85	123	223	100%

Annex 2: The demographics of study participants (survey 2)

Place	Nationality	Female	Male	Withheld
Dadaab	Ethiopian	2	2	4 1
	Somali	7	16	
	South Sudanese		7	
Eldoret	Somali	6	4	
	South Sudanese	3	3	
Kakuma	Burundian	1	2	1
	Congolese	6	10	
	Ethiopian	4	6	
	Somali	2		
	South Sudanese	7	3	
	Sudanese	1	4	
	Ugandan	3		
Mombasa	Congolese	2	2	
	Ethiopian	1		
	Rwandan	1		
	Somali	1	2	
Nairobi	Burundian	1	1	
	Congolese	7		
	Ethiopian	1	0	
	Rwandan	1		
	Somali	2	4	
	South Sudanese	1	2	
Nakuru	South Sudanese	15	17	1
	Sudanese	2	2	

Annex 3: Minimum requisite application documents

The table below lists the minimum requisite application documents for citizenship and permanent residence according to the KCIA, 2011.

Citizenship application		Permanent residence application	
For spouses of Kenyan National:	For other lawful residents:	For spouses of Kenyan National:	For other lawful residents:
Passport or ID	Passport or ID	Passport or ID	Passport or ID
Marriage Certificate (the applicant must have been married for at least 7 years preceding the date of application)	Work permit or certificate of permanent residence	Marriage Certificate (the applicant must have been married for at least 3 years preceding the date of the application)	Work permit (held for at least 7 years preceding the date of the application)
Spouse's ID or Passport or Citizenship Certificate	Tax clearance certificate	Spouse's ID or Passport or Citizenship Certificate	Application fees: 10,000Kshs
Application fees: 30,000Kshs for spouses from Non-East African Community member states & 5,000Kshs for spouses from East African Community member states	Certificate of good conduct or police clearance	Application fees: 5,000Kshs	
	Application fees: 200,000Kshs		



REFUGEE
STUDIES
CENTRE



REFUGEE-LED
RESEARCH HUB

Refugee-Led Research Hub

at the British Institute in East Africa

Laikipia Road

Nairobi, Kenya

Department of International Development

University of Oxford

3 Mansfield Road

Oxford, OX1 3TB, United Kingdom

Tel: +44 (0)1865 281720 **Email:** info@refugeeledresearch.org

Web: www.rsc.ox.ac.uk/research/refugee-led-research-hub

Twitter: [@RLRH_Oxford](https://twitter.com/RLRH_Oxford)

Designed by: Habesha Media

Published by: Refugee Studies Centre, March 2023

Citation: RLRH, Kituo Cha Sheria, and RELON-Kenya. (2023). Finding durable solutions: Refugees' access to citizenship and permanent residence in Kenya. Refugee-Led Research Series, Research Report (5), April 2023.