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CHAIL PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT - FOURTH SESSION (2020)

DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY

REPORT ON:

THE REFUGEES BILL, 2019

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

March, 2020

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#### CHAIRPERSON'S FOREWORD

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

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

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

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

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

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

HON. PAUL KOINANGE, M.P. CHAIRPERSON

#### 1. PREFACE

#### 1.1. Mandate of the Committee

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

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

## 1.2. Committee Membership

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

## Chairperson

Hon. Paul Karuga Koinange, MP Kiambaa Constituency

## Jubilee Party

Vice-Chairperson

Hon. John Waluke, MP Sirisia Constituency

## Jubilee Party

Hon. Wamunyinyi, Athanas Wafula, MP Kanduyi Constituency

## Ford Kenya Party

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

## **ODM Party**

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

## Wiper Party

Hon. Theuri George, MP MP for Embakasi West Constituency

## Jubilee Party

Hon. Joshua Aduma Owuor, MP Nyakach Constituency

## ODM Party

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

## Jubilee Party

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

## Jubilee Party

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

## Jubilee Party

Hon. Josphat Kabinga, MP Mwea Constituency

## Jubilee Party

Hon. Nimrod Mbai, MP Kitui East Constituency

## Jubilee Party

Hon. Ngunjiri Wambugu, MP Nyeri Town Constituency

## Jubilee Party

Hon. Abdi Shurie Omar, MP Balambala Constituency

## Jubilee Party

Hon. Halima Mucheke, MP Nominated Member

## Jubilee Party

Hon. Oku Kaunya, MP Teso North Constituency

## ANC Party

Hon. Arbelle, Marselino Malimo, MP Laisamis Constituency Jubilee Party Hon. Ahmed Kolosh, MP Wajir West Constituency Jubilee Party

Hon. Peter Masara, MP Suna West Constituency Independent Party

#### 1.3. Committee Secretariat

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

Mr. George Gazemba Principal Clerk Assistant

Mr. Joshua Ondari Clerk Assistant Ms. Brigita Mati Legal Counsel

Mr. Edson Odhiambo Fiscal Analyst Mr. James Muguna Research Officer

Mr. Josephat Bundotich Serjeant-at-Arms Ms. Eva Kaara Serjeant-at-Arms

Mr. Yaqub Ahmed Media Officer Mr. Rodgers Kilungya Serjeant-at-Arms

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

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

## 2.1 Memorandum of Objects and Reasons of the Bill

- The principal object of the Bill is to provide for the recognition, protection and management of refugees, to give effect to the 1951 United Nations Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of 5. Refugees, the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.
- The Bill does not limit fundamental rights and freedoms neither does it delegate legislative power. The Bill does not directly affect functions and powers of county governments as set out in the Fourth Schedule to the Constitution. The 7. enactment of the Bill shall not occasion additional expenditure of public funds.

## PUBLIC PARTICIPATION IN THE REVIEW OF THE BILL 3

## 3.1 Legal provisions on public participation

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

# 3.2 Methodology used by the Committee in public participation

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

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

#### (a) Nairobi and Mombasa

- The Members of the sub-committee who conducted the public hearings in these counties were-
  - (i) Hon. John Waluke, M.P. Vice Chairperson

(ii) Hon. Oku Kaunya, M.P.

(iii) Hon. Ngunjiri Wambugu, M.P.

(iv) Hon. Abdi Shurie, M.P.

(v) Hon. Geoffrey Kingangi Muturi, M.P.

(vi) Hon. Peter Masara, M.P.

- (vii) Hon. Ahmed Kolosh, M.P.
- 14. The public hearing was conducted at County Hall, Parliament Buildings in Nairobi on 17<sup>th</sup> October, 2019 and Kenya School of Government's Tsavo Hall in Mombasa on 19<sup>th</sup> October, 2019.

#### (b) Uasin Gishu and Turkana

- 15. The sub-committee Members who conducted public hearings in these counties were-
  - (i) Hon. Paul Koinange, M.P

Chairperson

(ii) Hon. John Waluke, M.P.

Vice Chairperson

- (iii) Hon. Peter Opondo Kaluma, M.P.
- (iv) Hon. Josephat Kabinga, M.P.
- 16. The public hearing was conducted at the Teachers Advisory Centre (TAC) in Eldoret on 8<sup>th</sup> November, 2019 and Silga Valley Restaurant in Kakuma on 9<sup>th</sup> November, 2019. The hearing was originally to be conducted on 17<sup>th</sup> October, 2019 in Uasin Gishu and on 18<sup>th</sup> October, 2019 in Turkana but was rescheduled as a result of unavoidable circumstances.

#### (c) Nakuru and Garissa

- The sub-committee Members who conducted public hearings in these counties were-
  - (i) Hon. Paul Koinange, M.P. Chairperson
  - (ii) Hon. John Waluke, M.P Vice Chairperson
  - (iii) Hon. Abdi Shurie, M.P.
  - (iv) Hon. Peter Opondo Kaluma, M.P.
  - (v) Hon. Peter Masara, M.P.
  - (vi) Hon. Aduma Owour, M.P.
  - (vii) Hon. Oku Kaunya, M.P.
- 18. The public hearing was conducted at the Old Town Hall in Nakuru on 23<sup>rd</sup> October, 2019 and at Daadab IOM (Daadab) Hall in Garissa on 24<sup>th</sup> October, 2020. The hearing was originally to be conducted in Nakuru on 17<sup>th</sup> October, 2019 and Garissa on 18<sup>th</sup> October, 2019 but had to be rescheduled due to unavoidable circumstances.

#### 3.3 Sources of views

- 19. In response to the Committee's invitation, several members of the public either individually or representing institutions and organizations submitted their views to the Committee by way of written and oral submissions.
- 20. The institutions and organizations which made representations to the Committee were-
  - The Refugees Consortium of Kenya;
  - (ii) Danish Refugee Council Kenya;
  - (iii) Agency of Peace;
  - (iv) Kituo Cha Sheria;
  - (v) United Nations High Commissioner for Refugees;
  - (vi) Amnesty Kenya;
  - (vii) International Rescue Committee;
  - (viii) Central Organization of Trade Unions (COTU)
- 21. A comprehensive list of members of the public who attended the hearings in the various counties is in Volume II of the report. Written submissions received from the public noting general comments in support of or against the amendments are in Volume II of the report. Analysis of public submissions on the Bill is contained in Volume 1 of the report as annexure 4.

#### 4. RECOMMENDATIONS

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

#### (I) CLAUSE 2

THAT clause 2 of the Bill be amended—

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

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

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

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

(c) by deleting the definition of "Department" and substituting therefor the following new definition—

"Department" means the Department of Refugee Services established under section 7;

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) By deleting the definition of "Protocol" and substituting therefor the following new definition—

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

Rationale: To reflect the full title of the Protocol.

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

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

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

(k) in the definition of "refugee" by deleting the words "and includes an asylum seeker":

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

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

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

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

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

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

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

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

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

#### (II) CLAUSE 3

THAT clause 3 of the Bill be amended—

#### (a) in subclause (1)by-

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

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

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

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

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

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

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

#### (III) CLAUSE 4

THAT clause 4 of the Bill be amended-

(a) in sub clause (1)—

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

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

#### (IV) CLAUSE 5

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

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

Rationale: To correct errors in the Bill

#### (V) CLAUSE 7

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

Rationale: To provide for the inclusion of asylum seekers.

#### (VI) CLAUSE 8

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

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

Rationale: To provide for collaboration with counties.

#### (VII) CLAUSE 9

- THAT clause 9 of the Bill be amended by deleting subclause (1) and substituting therefor the following ne subclause—
- 9. (1) The Committee shall consist of—
- (a) the Commissioner and who shall be the chairperson and who shall provide secretariat services to the Committee;
- (b) the Principal Secretary from the Ministry responsible for refugee affairs or a representative in writing from the Ministry responsible for Refugee Affairs
- (c) the Principal Secretary or their representative in writing from the Ministry responsible for foreign
- (d) affairs;
- (e) the Principal Secretary or their representative in writing from the Ministry responsible for devolution affairs;
- (f) the Principal Secretary or their representative in writing from the Ministry responsible for health;
- (g) the Principal Secretary or their representative in writing from the Ministry responsible for
- (h) finance;
- (i) the Principal Secretary or their representative in writing from the Ministry responsible for education;
- (j) the Attorney-General or their representative in writing;
- (k) the Director General of National Intelligence Service or their representative in writing;
- (l) the Director of the Department of Immigration or their representative in writing;
- (m) the Inspector-General or their representative in writing; and
- (n) one person representing the Council of Governors.

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

#### (VIII) CLAUSE 10

THAT clause 10 of the Bill be amended—

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

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

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

#### (IX) CLAUSE 11

THAT clause 11 of the Bill be amended-

- (a) by deleting subclause (1) and substituting therefor the new subclause
  - "(1) There shall be a Refugee Status Appeals Committee."
- (b) by deleting subclause (3) and substituting therefor the new subclause
  - "(3) The quorum for a meeting of the Appeal Committee shall be three members and shall include at least one member under section 11(2) (e)."
- (c) in subclause (4) by inserting the word "revocation" immediately after the word "cancellation", in paragraph (b).
- (d) by inserting the following new subclauses immediately after subclause (4)—
- "(4A)A member of the Appeal Committee shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.
- (4B) The quorum for a meeting of the Appeal Committee shall be three members and shall include at least one member under section 11(2) (e).
- (4C)Each member of the Committee shall have one vote but in case of a tie in votes, the Chairperson shall have a casting vote.
- (4D) The Public Service Commission shall provide the Appeal Committee with a Secretariat for the purposes of discharging its mandate."
- (e) by deleting subclause (7).

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

-To provide a secretariat to the Committee.

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

#### (X) CLAUSE 12

THAT clause 12 of the Bill be amended—

- (a) by inserting a new subclause immediately after subclause (4)—
  - "(4A)The department shall liaise with the state legal aid system to provide representation for a refugee where such refugee cannot afford a legal practitioner."
- (b) in subclause (5), by deleting the word "the application" appearing immediately after the words "not to grant" and substitute therefor the words "refugee status".

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

#### (XI) CLAUSE 14

THAT clause 14 of the Bill be amended—

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

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

Rationale: To make the period consistent

#### (XII) CLAUSE 18

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

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

#### (XIII) CLAUSE 19

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

Rationale: To correct numbering errors.

#### (XIV) CLAUSE 21

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

Rationale: To include other vulnerable persons.

#### (XV) CLAUSE 22

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

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

#### (XVI) CLAUSE 24

THAT Clause 24 of the Bill be amended —

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

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

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

#### (XVII) CLAUSE 25

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

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

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

#### (XVIII) CLAUSE 26

THAT Clause 26 of the Bill be amended —

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

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

#### (XIX) CLAUSE 28

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

Right to free movement

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

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

Right to work

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

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

#### (XX) CLAUSE 29

THAT Clause 29 of the Bill be amended—

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

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

#### (XXI) CLAUSE 31

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

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

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

#### (XXII) CLAUSE 33

THAT Clause 33 of the Bill be amended—

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

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

Rationale: To provide for a review process

#### (XXIII) CLAUSE 34

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

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

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

#### (XXIV) CLAUSE 35

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

Rationale: For clarity purposes.

#### (XXV) CLAUSE 36

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

Rationale: To provide for other vulnerable persons.

#### (XXVI) CLAUSE 38

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

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

#### (XXVII) CLAUSE 39

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

#### Confidentiality

- 39A. (1) No member of the Committee, employee or agent of the Department of Refugees shall disclose information acquired under this Act except—
- (a) in the course of his duties under this Act; or
- (b) with the consent of the Commissioner.
- (2) No person who receives information in contravention of sub (1) shall disclose or publish the information.
- (3) A person who contravenes any provision of this commits an offence and shall on conviction be liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months or both such fine and imprisonment.

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

#### (XXVIII) CLAUSE 40

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

Rationale: Not to make it a strict liability offence.

#### (XXIX) CLAUSE 42

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

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

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

Rationale: To provide clarity.

(XXX) CLAUSE 43

THAT Clause 43 of the Bill be amended-

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

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

SIGNED this 12th day of March 2020

HON. PAUL KOINANGE, M.P.

CHAIRPERSON, DEPARTMENTAL COMMITTEE ON
ADMINISTRATION AND NATIONAL SECURITY

## ANNEXURE 1

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

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

#### PRESENT-

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

#### ABSENT WITH APOLOGIES

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

#### IN ATTENDANCE-

#### COMMITTEE SECRETARIAT-

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

Mr. Rodgers Kilungya

6. Mr. James Oloo

Audio Officer

Support Staff

### MIN No. 52/2020:-

## PRELIMINARIES AND COMMUNICATION FROM THE CHAIRPERSON

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

### MIN No. 53/2020:-

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

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

### (I) CLAUSE 2

## THAT clause 2 of the Bill be amended—

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

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

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

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

(c) by deleting the definition of "Department" and substituting therefor the following new definition—

"Department" means the Department of Refugee Services established under section 7;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### (III) CLAUSE 4

THAT clause 4 of the Bill be amended—

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

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

#### (IV) CLAUSE 5

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

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

Rationale: To correct errors in the Bill

#### (V) CLAUSE 7

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

Rationale: To provide for the inclusion of asylum seekers.

#### (VI) CLAUSE 8

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

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

(b) inserting the words "coordinate activities to" before the words "ensure the civilian" in paragraph (n);

(c) deleting the words "co-ordination of" and substituting therefor the words "co-ordinate ,where relevant in collaboration with county authorities," in paragraph (u).

Rationale: To provide for collaboration with counties.

#### (VII) CLAUSE 9

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

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

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

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

#### (VIII)CLAUSE 10

THAT clause 10 of the Bill be amended-

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

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

#### (IX) CLAUSE 11

THAT clause 11 of the Bill be amended—

- (a) by deleting subclause (1) and substituting therefor the new subclause
  - "(1) There shall be a Refugee Status Appeals Committee."
- (b) by deleting subclause (3) and substituting therefor the new subclause —
- "(3) The quorum for a meeting of the Appeal Committee shall be three members and shall include at least one member under section 11(2) (e)."

- (c) in subclause (4) by inserting the word "revocation" immediately after the word "cancellation", in paragraph (b).
- (d) by inserting the following new subclauses immediately after subclause (4)—
  - "(4A)A member of the Appeal Committee shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.
  - (4B) The quorum for a meeting of the Appeal Committee shall be three members and shall include at least one member under section 11(2) (e).
  - (4C)Each member of the Committee shall have one vote but in case of a tie in votes, the Chairperson shall have a casting vote.
  - (4D) The Public Service Commission shall provide the Appeal Committee with a Secretariat for the purposes of discharging its mandate."
- (e) by deleting subclause (7).
- **Rationale:** -To provide a mandatory provision for inclusion of experts to form quorum;
  - -To provide a secretariat to the Committee.
  - -To provide a mandatory provision for inclusion of experts to -form quorum;

#### (X) CLAUSE 12

THAT clause 12 of the Bill be amended-

- (a) by inserting a new subclause immediately after subclause (4)—
  - "(4A)The department shall liaise with the state legal aid system to provide representation for a refugee where such refugee cannot afford a legal practitioner."
- (b) in subclause (5), by deleting the word "the application" appearing immediately after the words "not to grant" and substitute therefor the words "refugee status".

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

#### (XI) CLAUSE 14

THAT clause 14 of the Bill be amended—

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

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

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

Rationale: To make the period consistent

#### (XII) CLAUSE 18

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

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

#### (XIII)CLAUSE 19

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

Rationale: To correct numbering errors.

#### (XIV) CLAUSE 21

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

Rationale: To include other vulnerable persons.

#### (XV) CLAUSE 22

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

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

#### (XVI) CLAUSE 24

THAT Clause 24 of the Bill be amended -

- (a) by renumbering clause 24 as subclause (1).
- (b) by inserting the following new subclauses immediately after subclause (1)—
  - (2) In the case of a person who is lawfully in Kenya and is subsequently unable to return to his country of origin for any of the reasons specified in section 3 of this Act, he shall, prior to the expiration of his lawful stay, present himself before an appointed officer and apply for recognition as a refugee in accordance with the provisions of this Act.
  - (3)Where there is a large-scale influx of persons claiming to fall within the meaning of refugees under section 3, the Commissioner shall, in consultation with other agencies advise the Cabinet Secretary on emergency measures to be taken including-
    - (a) designation of areas for reception, transit and residence of refugees, having due regard to the security requirement for refugees to be settled at a reasonable distance from the frontier of their country of origin;
    - (b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women, children, victims of trauma, persons of old age and persons with disabilities; and
    - (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.

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

#### (XVII) CLAUSE 25

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

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

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

#### (XVIII) CLAUSE 26

THAT Clause 26 of the Bill be amended —

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

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

#### (XIX) CLAUSE 28

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

Right to free movement

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

#### Right to work

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

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

#### (XX) CLAUSE 29

THAT Clause 29 of the Bill be amended—

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

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

# (XXI) CLAUSE 31

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

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

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

# (XXII) CLAUSE 33

THAT Clause 33 of the Bill be amended—

- (a) In subclause (1) by inserting the word "entity" immediately after the words "No person";
- (b) By inserting a new subclause immediately after subclause 2-
  - (2a) The Commissioner may, on an application, review a decision made under subsection (1) where any new circumstance is brought to his or her attention.

# Rationale: To provide for a review process

# (XXIII) CLAUSE 34

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

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

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

# (XXIV) CLAUSE 35

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

Rationale: For clarity purposes.

#### (XXV) CLAUSE 36

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

Rationale: To provide for other vulnerable persons.

#### (XXVI) CLAUSE 38

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

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

#### (XXVII) CLAUSE 39

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

#### Confidentiality

- 39A. (1) No member of the Committee, employee or agent of the Department of Refugees shall disclose information acquired under this Act except—
- (a) in the course of his duties under this Act; or
- (b) with the consent of the Commissioner.
- (2) No person who receives information in contravention of sub (1) shall disclose or publish the information.

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

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

# (XXVIII) CLAUSE 40

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

Rationale: Not to make it a strict liability offence.

# (XXIX) CLAUSE 42

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

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

Rationale: To provide clarity.

# (XXX) CLAUSE 43

THAT Clause 43 of the Bill be amended—

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

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

# MIN No. 46/2020:-

#### **ADJOURNMENT**

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

Signed. Chairperson

Date 12 march 2020

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

## PRESENT-

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

# ABSENT WITH APOLOGIES

Chairperson Hon. Paul Koinange, MP -1. Vice Chairperson

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

# IN ATTENDANCE-

# COMMITTEE SECRETARIAT-

Principal Clerk Assistant II 1. Mr. George Gazemba

Clerk Assistant 2. Mr. Joshua Ondari

Legal Counsel 3. Ms. Brigitta Mati

Researcher Officer 4. Mr. James Muguna

5. Mr. Rodgers Kilungya

Audio Officer

6. Mr. James Oloo

Support Staff

#### MIN No. 44/2020:-

# PRELIMINARIES AND COMMUNICATION FROM THE CHAIRPERSON

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

#### MIN No. 45/2020:-

# CONSIDERATION OF THE REFUGEES BILL, 2019

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

#### CLAUSE 10

THAT clause 10 of the Bill be amended—

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

#### To include asylum seekers

To align it to the power CS has been given.

#### CLAUSE 11

THAT clause 11 of the Bill be amended—

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

- (b) by deleting subclause (3) and substituting therefor the new subclause "(3) The quorum for a meeting of the Appeal Committee shall be three members and shall include at least one member under section 11(2) (e)."
- (c) in subclause (4) by inserting the word "revocation" immediately after the word "cancellation", in paragraph (b).
- (d) by inserting the following new subclauses immediately after subclause (4)— "(4A)A member of the Appeal Committee shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.
  - (4B) The quorum for a meeting of the Appeal Committee shall be three members and shall include at least one member under section 11(2) (e).
  - (4C)Each member of the Committee shall have one vote but in case of a tie in votes, the Chairperson shall have a casting vote.
  - (4D) The Public Service Commission shall provide the Appeal Committee with a Secretariat for the purposes of discharging its mandate."
- (e) by deleting subclause (7).

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

Provide a secretariat of the Committee.

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

CLAUSE 12

THAT clause 12 of the Bill be amended-

- (a) by inserting a new subclause immediately after subclause (4)— "(4A)The department shall liase with the state legal aid system to provide representation for a refugee where such refugee cannot afford a legal practitioner."
- (b) in subclause (5), by deleting the word "the application" appearing immediately after the words "not to grant" and substitute therefor the words "refugee status".

To provide for legal aid for refugees. To correct errors

#### CLAUSE 14

THAT clause 14 of the Bill be amended—

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

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

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

# To make the period consistent

#### CLAUSE 18

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

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

#### CLAUSE 19

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

#### To correct errors

#### CLAUSE 21

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

# To include other vulnerable persons

#### CLAUSE 22

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

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

#### CLAUSE 24

## THAT Clause 24 of the Bill be amended —

- (a) by renumbering clause 24 as subclause (1).
- (b) by inserting the following new subclauses immediately after subclause (1)—
  - (2) In the case of a person who is lawfully in Kenya and is subsequently unable to return to his country of origin for any of the reasons specified in section 3 of this Act, he shall, prior to the expiration of his lawful stay, present himself before an appointed officer and apply for recognition as a refugee in accordance with the provisions of this Act.
  - (3) Where there is a large-scale influx of persons claiming to fall within the meaning of refugees under section 3, the Commissioner shall, in consultation with other agencies advise the Cabinet Secretary on emergency measures to be taken including-
    - (a) designation of areas for reception, transit and residence of refugees, having due regard to the security requirement for refugees to be settled at a reasonable distance from the frontier of their country of origin;
    - (b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women, children, victims of trauma, persons of old age and persons with disabilities; and
    - (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.

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

#### CLAUSE 25

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

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

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

#### CLAUSE 26

THAT Clause 26 of the Bill be amended —

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

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

#### CLAUSE 28

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

# Right to free movement

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

# Right to work

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

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

CLAUSE 29

THAT Clause 29 of the Bill be amended—

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

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

# MIN No. 46/2020:-

# ADJOURNMENT

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

Signed. Chairperson

Date 204 March 2020



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

# PRESENT-

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

# ABSENT WITH APOLOGIES

1. Hon. Paul Koinange, MP -Chairperson Vice Chairperson Hon. John Waluke, MP 2.

- Hon. Dr. Makali Mulu, MP 3.
- Hon. Ngunjiri Wambugu, MP 4. Hon. Geoffrey Kingagi Muturi, MP 5.
- Hon. Nimrod Mbithuka Mbai, MP 6.
- 7. Hon. Ahmed Kolosh Mohamed, MP
- 8. Hon. Abdi Omar Shurie, MP
- Hon. Didmus Wekesa Barasa Mutua, MP 9.

# IN ATTENDANCE-

# COMMITTEE SECRETARIAT-

Principal Clerk Assistant II 1. Mr. George Gazemba

Clerk Assistant 2. Mr. Joshua Ondari Legal Counsel 3. Ms. Brigitta Mati

Researcher Officer 4. Mr. James Muguna

odgers Kilungya ames Oloo

Audio Officer

# PRELIMINARIES AND COMMUNICATION

FROM THE CHAIRPERSON

osence of the Chairperson and Vice-chairperson, Members present elected Jafula Wamunyinyi, MP to chair the meeting, pursuant to Standing Order 8. Hon. Wafula Wamunyinyi, MP then called the meeting to order at 9.30

d said a prayer.

CONSIDERATION OF THE REFUGEES

ring the sitting, the Committee considered the Bill and made the llowing observation as follows:-

in the definition of "asylum seeker" by deleting the word "case" appearing immediately after the words "but whose" THAT clause 2 of the Bill be amended—

and substituting therefor the Word "application";

For the purposes of consistency the word 'case' be replaced with the word 'application' Part III of the Act uses the word 'application' ror the purposes of consistency the word case be replaced with the word 'application'. Part III of the Act uses the word in the definition of "authorised officer" by inserting the

in the definition of authorised officer assigned such responsibility"
words
words words or any other officer assigned such responsible or any other officer assigned such responsible or immigration officer; application rather than case

Department of Refugee Services officers cannot man all the border Department of Refugee Services officers cannot man all the border and transit routes. Therefore other officers such as This is considered to receive contains and the border. and transit routes. Therefore other officers such as chiefs, police officers etc can be authorized to receive asylum seekers. This is cost

by deleting the definition of "Department" and substituting "Department" means the Department of Refugee Services effective in the long run. therefor the following new definition— (c)

established under section 7;

# **ANNEXURE 2**

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



#### REPUBLIC OF KENYA



#### DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

#### ATTENDANCE SCHEDULE

DATE:

12th March, 2019

TIME:

9.30 a.m.

VENUE: Boardroom on 11th Floor, Protection House

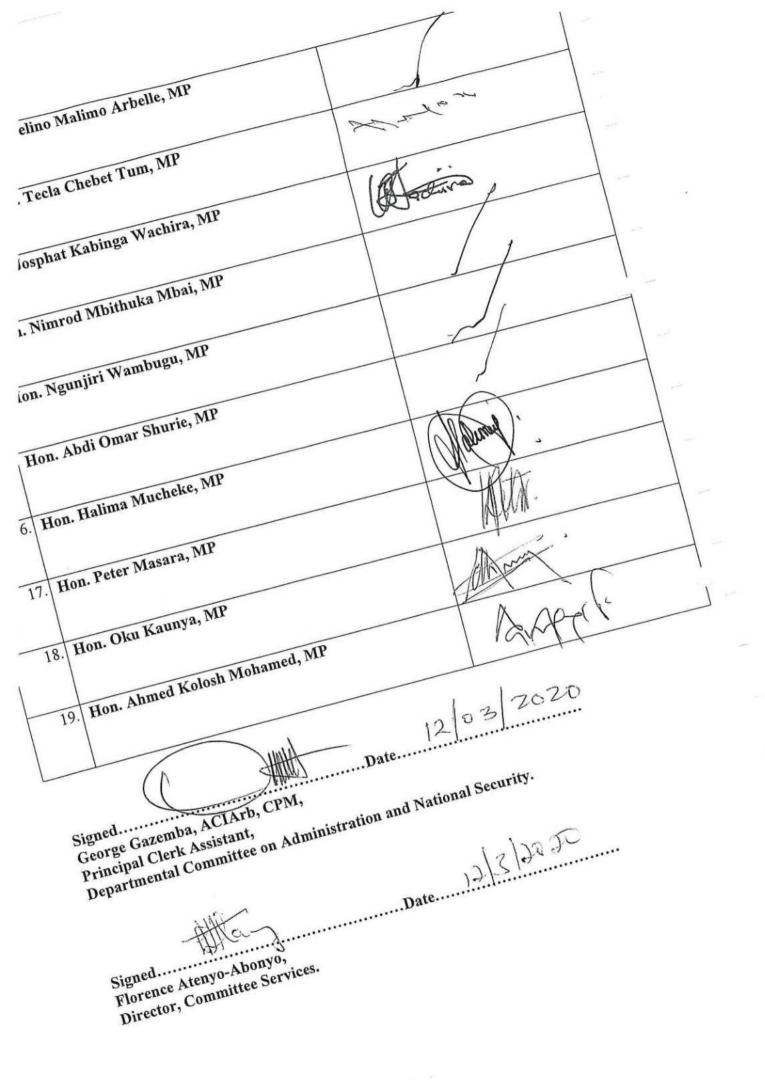
AGENDA: a) Adoption of the Report on the Refugees Bill, 2019

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

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

**Bumula Constituency** 

	Bumula Constituency	
NO.	NAME	SIGNATURE
1.	Hon. Paul Koinange, MP - Chairperson	0
2.	Hon. John Waluke, MP - Vice Chairperson	4/humits
3.	Hon. Wafula Wamunyinyi, MP	( Jamming )
4.	Hon. George Peter Kaluma, MP	De
5.	Hon. Dr. Makali Mulu, MP	Forman
6.	Hon. George Theuri, MP	
7.	Hon. Aduma Owuor, MP	
8.	Hon. Didmus Wekesa Barasa Mutua, MP	Ros Welles
9.	Hon. Geoffrey Kingagi Muturi, MP	



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

				CLAUSE 4	_
The word broader is	Amend the section by replacing	Definition of local integration "local	RCK	CI VIICE 2	12
	sanitation services;				
	education, health, water and				
,	seekers and include food, shelter,				
such as food and shelter.	needs of refugees and asylum		Kenya)		
other essential services	services that meet the immediate	health, water and sanitation services;	Consortium		
sufficiently provide for	"essential services" means the	"essential services" include education,	(Refugee		
The definition does not	Amend the section by as follows:	Definition of essential services	RCK	CLAUSE 2	12.
	established under section 13;				
	the Refugee Status Eligibility Panel				
to section 13 and not 14.	follows: "Eligibility Panel" means				
the panel. It should refer	it with the words 'section 13' as	under section 14;	Kenya)		
section that establishes	end of the definition and replacing	Status Eligibility Panel established	Consortium		
reference to the wrong	'section 14' that appears at the	"Eligibility Panel" means the Refugee	(Refugee		
The section makes	Amend the section by deleting	Definition of eligibility panel	RCK	CLAUSE 2	11.
integration.					
of asylum' qualifies local	resettlement to a third country;				
additional 'in the country	in the country of asylum and	or local integration;			
that it be removed. The	country of origin, local integration	resettlement to a third party country	Kenya)		
therefore recommend	voluntary repatriation to the	repatriation to the country of origin,	Consortium		
'party' is unnecessary	"durable solutions" means	"durable solutions" means voluntary	(Refugee		
The addition of the word	Amend the section as follows:	Definition of durable solutions	RCK	CLAUSE 2	0.
this section.					_
'refugees' as it appears in					_
a correction of the words	established under section 7;				
one. We also recommend	Department of Refugee Services				
other than the present	"Department" means the				_
cannot be any other law	definition as follows:				
reference to section 7	that appear at the end of the	established under section 7 of the Act;	Kenya)		
they are redundant. The	and deleting the words 'of the Act'	ent of Refugi	Consortium		_
removal of the words as	letter 's' after the word 'Refugees'	Services Department" means the	(Refugee		_
We recommend the	Amend the section by deleting the	Definition of Department of Refugee	RCK	CLAUSE 2	-
long run.					_

	the Protocol	7 7 7	e Protocol relati refugees, done at inuary 1967 and i	(Refugee Consortium Kenya)		
To reflect the full title of	To reflect t	Amend the section as follows:	Definition of Protocol "protocol"	RCK	CLAUSE 2	15.
		by Kenya on 28th December,				
		10th September, 1969 and ratified				
		Africa, done at Addis Ababa on				
		Aspects of Refugee Problems in				
		Convention Governing the Specific				
		Organization of Africa Unity				
		Convention" means the	1987;			
		'problem' as follows: "OAU	ratified by Kenya on 28th December,			
		nat appears in th	Adda on Tota September, 1969 and			
		word propress an capitalize the	Abel and Antica, dolle at Addis			
		word 'problem' ad capitalize the	problem in Africa done at Addis			
		and also add the letter 's' after the	the Specific Aspects of the Refugee	Kenya)		0.50
	inaccurate.	'aspects of' and 'refugee problem'	of Africa Unity Convention Governing	Consortium		
Convention in the Bill is	Convention	that appears between the words	Convention" means the Organization	(Refugee		
The full title of the OAU	The full titl	Amend by deleting the word 'the'	Definition of OAU convention "OAU	RCK	CLAUSE 2	14.
		economic life of the host country;				
		contribute to the social and	8			
		standards of living and positively				
		broader rights, have improved				
		ensures that refugees attain				
		society through a process that			3	
		refugees are incorporated into the				
		gradual process through which	country;			
		"local integration" means the	contribute to the social life of the host			
		'social' and 'life' as follows:	standards of living and positively	IRC		
		economic' between the words	attain border rights, have improved			
		and by including the words 'and	a process that ensures that refugees			
	incomplete.	'rights' with the word "broader"	incorporated into the society through	Kenya)		
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Amend the section by deleting the word 'status'; replace the word 'Committee' is with "Cabinet Secretary as decl provided for under section 3(2) of statuthis Act' as follows: prima facie refugee" means a declaration of refugee status by the Cabinet Secretary as provided for under section 3(2) of this Act; Amend the section to read as follows: "United Nations Convention relating to the Status of Refugees, done at Geneva on 28th July, 1951 and acceded to by Kenya on 16 th May, 1966.  Amend the section by deleting the words "and includes an asylum seeker" that appears at the end of the clause as follows: "refugee", in seeker" that appears at the end of clause between the clauses that define "settlement officer" and "spouse": "separated child" means a child who has been separated from both parents, or from their previous legal or		customary primary caregiver, but				
persons on the basis of the readily provided for under section 3(2) of status. This can only apparent circumstances in the prima facie refugee status by the Committee in respect of large scale influxes of apparent circumstances in the provided for under section 3(2) of status. This can only apparent circumstances in the prima facie refugee status by the Color, this car as follows:    Country of origin giving rise to the prima facie refugee status by the Calor, this car as follows:   Convention of United Nations Convention of Fefugee status by the Calor, this car as follows:   Convention of United Nations Convention relating to the status of Refugees, done at for under section 3(2) of this Act; status. This can only declaration of refugee status by the Calor, this car as follows:   Convention of United Nations Convention of refugee status by the Calor, this car as follows:   Convention of Fefugee status by the Calor, this car as follows:   Convention of refugee status by the Calor, this car as follows:   Convention of Refugees, done at for under section of Refugees, done at follows:   Convention of Refugees, done at follows: "United Status of Refugees, done at on 28th July, 1951 and acceded to by Kenya on 15th May, 1966.   Convention of refugee status of Refugees, done at mistake. In the meaning assigned to it under section 3; was provided for a sylum seekers whith the calor status of Refugees, done at section to seekers that appears at the end of already defined elsev that appears at the end of already defined elsev has been made as follows: "refugee", in section 2.		from their previous legal or				
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persons on the basis of the readily apparent circumstances in the persons on the basis of the readily apparent origin giving rise to the country of origin giving rise to the convention of United Nations Convention means the On 28th July, 1951 and acceded to by status of Refugees, done at Geneva on 28th July, 1951 and acceded to by the meaning assigned to it under section 3 of this Act and includes an syal) apparent apparent of prima facile refugeer means a scretary. Also prima facile refugeer means a scretary.		"separated		Kenya)		
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refugee status" means a declaration of refugee status by the Committee in respect of large scale influxes of persons on the basis of the readily apparent circumstances in the country of origin giving rise to the exodus;  Country of origin giving rise to the exodus;  Convention of United Nations Convention relating to the status of Refugees, done at Geneva on 28th July, 1951 and acceded to by Kenya on 13th November, 1981  Confinition of refugee "refugee", has the meaning assigned to it under section 3 of this Act and includes an asylum seeker;  Amend the section by deleting the word 'Committee' with "Cabinet Secretary as provided for under section 3(2) of this Act; and declaration of refugee status by the Cabinet Secretary as provided for under section 3(2) of this Act;  Convention "United Nations Convention" means the United Nations Convention relating to the Status of Refugees, done at on 28th July, 1951 and acceded to by Kenya on 16 th May, 1966.  Definition of refugee "refugee", has section 3 of this Act and includes an asylum seeker; that appears at the end of the clause as follows: "refugee", has the meaning assigned to it		under section 3;				
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Definition of prima facie "prima facie word status"; sortium of refugee status" means a declaration of refugee status by the Committee in replace the word 'Committee' is the autions of refugee status by the Committee in replace the word 'Committee' is the autions of refugee status by the Committee in replace the word 'Committee' is the autions of refugee status of Refugees status by the Committee in replace the word 'Committee' is the autions of respect of large scale influxes of with "Cabinet Secretary as declared provided for under section 3(2) of status. This country of origin giving rise to the exodus; by the Cabinet Secretary as provided recognition is a provided sortium.  Definition of United Nations Convention relating to the status of Refugees, done at Geneva Status of Refugees, done at mistake.			on 28th July, 1951 and acceded to by			
Definition of prima facie "prima facie refugee status" means a declaration sortium of refugee status by the Committee in respect of large scale influxes of persons on the basis of the readily apparent circumstances in the country of origin giving rise to the exodus;  Tugee Convention of United Nations Convention relating to the sortium Nations Convention relating to the prima facie refugee status by is a provided for under section 3(2) of status. This convention to read as convention is sortium of United Nations Convention relating to the via the convention relating to the convention relating to the convention relating to the via the section by deleting the states that the section of replace the via the committee in replace the word 'Committee' is the authout which adclared provided for under section 3(2) of status. This convention is the united suggestion. The section by deleting the states that the section is the authout with "Cabinet Secretary as provided recognition is a provided suggestion. The section by deleting the states that the section is the authout with "Cabinet Secretary as declared provided for under section 3(2) of this Act; status.  The section word 'Committee' is the authout with "Cabinet Secretary as provided recognition is a provided suggestion. The section by the country of origin giving rise to the prima facie refugee status by is a provided recognition is status.  The section by deleting to the word 'Committee' is the authout with "Cabinet Secretary as provided recognition is a provided status.  The section by deleting to the with "Cabinet Secretary as provided recognition is a provided status."  The section by deleting to the with "Cabinet Secretary as provided and secretary as provided status."  The section of refugee status by is a provided status.  The section of committee in the with "Cabinet Secretary as provided and secretary as	mistake.	of —	status of Refugees, done at Geneva			
ugee refugee status" means a declaration sortium of refugee status by the Committee in respect of large scale influxes of persons on the basis of the readily apparent circumstances in the country of origin giving rise to the exodus;  Definition of United Nations sortium Convention" means the United Sortium Amend the section by deleting the states that the states. This country as provided for under section 3(2) of status. This country of origin giving rise to the declaration of refugee status by is a provided status.  Definition of United Nations follows: "United Nations hence the suggestion. I		Nations Convention relating to the		Kenya)		
ugee refugee status" means a declaration sortium of refugee status by the Committee in persons on the basis of the readily apparent circumstances in the country of origin giving rise to the exodus;  Definition of United Nations fugee in refugee status by the Committee in replace the word 'Committee' is the authord with "Cabinet Secretary as declared provided for under section 3(2) of status. This country of origin giving rise to the exodus;  Definition of United Nations follows: "United Nations hence the section of the section date of the section date of the section of the section date of the section date of the section of the section date of the section date of the section of the section date of the section date of the section date of the section of the section date of the section date of the section of the section date of the section of the section date of the section date of the section of the sectio			means the	Consortium		
ugee refugee status" means a declaration word 'status'; sortium of refugee status by the Committee in persons on the basis of the readily apparent circumstances in the country of origin giving rise to the exodus; Definition of United Nations Amend the section by deleting the states that the commit sortium word 'status'; states that the commit states'; states that the commit state		"United	"United	(Refugee		
ugee refugee status" means a declaration word 'status'; sortium of refugee status by the Committee in respect of large scale influxes of persons on the basis of the readily apparent circumstances in the country of origin giving rise to the exodus; Amend the section by deleting the states that the commit status'; states that the commit replace the word 'Committee' is the authority of status. This can only declared prima for under section 3(2) of status. This can only declared prima for under section 3(2) of status. This can only declared prima for under section 3(2) of status. This can only declared prima for under section 3(2) of status. This can only declared prima for under section 3(2) of status.	Accession date is incorrect	004	of United	RCK	CLAUSE 2	17.
ugee refugee status" means a declaration sortium of refugee status" means a declaration respect of large scale influxes of persons on the basis of the readily apparent circumstances in the country of origin giving rise to the exodus;  Amend the section by deleting the states that the commit vord 'Status'; states that the commit replace the word 'Committee' is the authority to declared prima for under section 3(2) of status. This can only done by the Cab declaration of refugee status by is a process that the commit the commit replace the word 'Committee' is the authority to declared prima for under section 3(2) of status. This can only done by the Cab declaration of refugee status by is a process that the commit replace the word 'Committee' is the authority to declared prima for under section 3(2) of status. This can only done by the Cab declaration of refugee status by is a process that the commit replace the word 'Committee' is the authority to declared prima for under section 3(2) of status. This can only done by the Cab declaration of refugee status by is a process the commit replace the word 'Committee' is the authority to declared prima for under section 3(2) of status. This can only done by the Cab declared prima for under section 3(2) of status. This can only done by the Cab declared prima for under section 3(2) of status. This can only done by the Cab declared prima for under section 3(2) of status. This can only done by the Cab declared prima for under section 3(2) of status. This can only done by the Cab declared prima for under section 3(2) of status. This can only done by the Cab declared prima for under section 3(2) of status. This can only done by the Cab declared prima for under section 3(2) of status. This can only done by the Cab declared prima for under section 3(2) of status. This can only done by the Cab declared prima for under section 3(2) of status. This can only done by the Cab declared prima for under section 3(2) of status. This can only done by the Cab declared prima for under section	status.	for under section 3(2) of this Act;				_
ugee refugee status" means a declaration sortium of refugee status by the Committee in persons on the basis of the readily apparent circumstances in the country of origin giving rise to the exodus;  Definition of prima facie "prima facie Amend the section by deleting the states that the commit word 'status';  replace the word 'Committee' is the authority to declared prima for under section 3(2) of status. This can only done by the Cab declaration of refugee" means a secretary. Also prima for exodus;	recognition and not a	the Cabinet Secretary as provided				_
refugee status" means a declaration word 'status'; respect of large scale influxes of persons on the basis of the readily apparent circumstances in the country of origin giving rise to the prima facie Amend the section by deleting the word 'status'; replace the word 'Committee' with "Cabinet Secretary as provided for under section 3(2) of this Act' as follows:	is a process for	declaration of refugee status by	exodus;			
Definition of prima facie "prima facie Amend the section by deleting the refugee status" means a declaration word 'status'; sortium of refugee status by the Committee in respect of large scale influxes of persons on the basis of the readily apparent circumstances in the this Act' as follows:	Secretary. Also prima facie		country of origin giving rise to the			_
Definition of prima facie "prima facie and the section by deleting the section errone refugee status" means a declaration sortium of refugee status by the Committee in respect of large scale influxes of persons on the basis of the readily provided for under section 3(2) of status. This can on	done by the Cabinet	this Act' as follows:	circumstances in			_
Definition of prima facie "prima facie Amend the section by deleting the states that the comm sortium of refugee status by the Committee in very confusion of large scale influxes of with "Cabinet Secretary as declared prima respect of large scale influxes of with "Cabinet Secretary as declared prima respect of large scale influxes of with "Cabinet Secretary as declared prima respect of large scale influxes of with "Cabinet Secretary as declared prima respect of large scale influxes of with "Cabinet Secretary as declared prima facie   Amend the section by deleting the   Ine section errone   Secretary   Secretary	status. This can only be	provided for under section 3(2) of	persons on the basis of the readily			
Definition of prima facie "prima facie Amend the section by deleting the line section errone refugee status" means a declaration word 'status'; states that the common of refugee status by the Committee in replace the word 'Committee' is the authority	declared prima facie	"Cabinet Secretary	large scale	Kenya)		
Definition of prima facie "prima facie   Amend the section by deleting the refugee status" means a declaration word 'status';	authority		of refugee status by the Committee in	Consortium		_
Definition of prima facie "prima facie   Amend the section by deleting the	states that the committee	word 'status';	refugee status" means a declaration	(Refugee		
	The section erroneously	Amend the section by deleting the	Definition of prima facie "prima facie	RCK	CLAUSE 2	16.

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

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

Protocol I & II	or a crime against humanity as				
IIV and Additional	crime against peace, a war crime		sharia		
the Geneva Conventions	Section 4(1)(a) has committed a		Kituo cha		
Act but provided under					
provided under the said	Kenya is a party' as follows:	the International Crimes Act;			
other similar crimes not	international instrument to which	crime against humanity as defined in	Kenya)		
may not adequately cover	Crimes Act' and replace with 'any	crime against peace, a war crime or a	Consortium		
International Crimes Act	the words 'the international	refugee status (a) has committed a	(Refugee		
The reference of the	Amend section 4(1)(a) by deleting	Exclusion and disqualification from	RCK	Clause 4(1)(a):	25.
		purposes of this Act.			
	purposes of this Act.	as a refugee for the			
	regarded as a refugee for the	(1) (d), to be recognized			
	revocation, to continue to be	referred to in subsection			
	the date of such amendment or	(ii) (ii) who is a person			
	and who entered Kenya before	of this Act; or			
	the class of persons concerned	refugee for the purposes			
	of any person who is a member of	to be regarded as a			
	or revocation shall affect the right	or revocation, to continue			
	Provided that no such amendment	date of such amendment			
		entered Kenya before the			
	amend or revoke such declaration.	concerned and who			
	Refugee Advisory Committee,	of			
	upon recommendation from the	(i) who is a member of the			
	(b) or (c) and may at any time,	the right of any person—			
	refugees under section 3 (1) (a),	amendment or revocation shall affect			
	that these persons qualify to be	declaration, Provided that no such			
	a prima facie basis if it is evident	time amend or revoke such			
	class of persons to be refugees on	prima facie refugees and may at any			
confusion.	through the Gazette, declare any	declare such class of persons to be			
any value and only creates	Refugee Advisory Committee may,	Secretary may, through the Gazette,			
proviso (ii) does not add	recommendation from the	(1)(a),(b),(c) or (d) the Cabinet			
section 3(2). In addition,	3(2) The Cabinet Secretary, on	refugees as defined in subsection	UNHCR		
makes reference to		class of persons are prima facie	200 M 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		
3(1)(d) which in turn	proviso (ii) as follows:	the Committee considers that any	Kenya)		

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

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

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

	N-min)	aculum seekers by implementing	authorities' between the words	more included in
	Nciiya)	3	ă	rnment
	<u> </u>		and activities' as follows:	the international
	Amnesty			וונץ וא ווט
	Internationa		cooperation with county	structures, some devolved
	3		all service	services will be provided
			ovided	by the county authorities.
			asylum seekers by implementing	Hence, need to include
			agencies;	reference to county
				authorities.
38. Clause 8 (2) (d)	Equity Bank	(d) issue refugee identification	(d) to exempt agencies in issuing	The commissioner to be
-	Limited	cuments a	identification documents	given powers to issue an
		civil registration and other relevant		exemption to refugees in
		documentation by other government		obtaining a document
		agencies;		from other government
				agencies e.g KRA or
				explicitly assure the
				refugee in obtaining PIN
				numbers among other
				relevant documentation
39. CLAUSE 9(1):	RCK	The Refugee Advisory Committee	Amend section 9(1)(a) to (k) by	It is recommended to
	(Refugee	9. (1) The Committee shall consist	inserting the word 'in writing'	include the Principal
	Consortium	of-	after the word 'representative'	Secretary from the
	Kenya)	(a) the Commissioner who shall be the	wherever it appears as follows:	Ministry responsible for
	•	chairperson and who shall provide	- TO ACT	refugee affairs as the
	UNHCR	secretariat services to the Committee;	9. (1) The Committee shall consist	chairperson and in his/her
		(b) the Principal Secretary or their	of—	absence, the
		representative		Commissioner (hence,
		from the Ministry responsible for	the Principal Secretary from the	deletion of current
		refugee affairs;	Ministry responsible for refugee	9(1)(b). Designation of
		(c) the Principal Secretary or their	affairs who shall be the	representatives of
		representative from	chairperson or in his or her	ministries and other
-		the Ministry responsible for foreign	absence the Commissioner and	officers on the RAC ought

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

																									-			n (R.R.D.O)	Organisatio	nt	Developme	on and	Reconstructi
representative: and	(j) the Inspector-General or their	their representative;	Immigration or	(i) the Director of the Department of	representative;	(h) the Attorney-General or their	education;	the Ministry responsible for	representative from	(g) the Principal Secretary or their	the Ministry responsible for finance;	representative from	(f) the Principal Secretary or their	the Ministry responsible for health;	representative from	(e) the Principal Secretary or their	devolution affairs;	the Ministry responsible for	representative from	(d) the Principal Secretary or their	affairs;	the Ministry responsible for foreign	representative from	(c) the Principal Secretary or their	refugee affairs;	from the Ministry responsible for	representative	(b) the Principal Secretary or their	secretariat services to the Committee;	chairperson and who shall provide	(a) the Commissioner who shall be the	of -	9. (1) The Committee shall consist
								national government;	Interior and coordination of	(c) an officer from the Ministry	Foreign Affairs;	(b) an officer from the Ministry of	sector;	-	osed of—	_			Secretariat	Affairs and Refugee Affairs	Commissioner of Refugee	(c) Oversight the	Affairs Secretariat;	managers in Refugee	(b) Appointing of Senior	Refugees;	Commissioner of	(a) Appointing the		Advisory Board whose function	(1)There is established a Refugee		the following

the ministry of devolution	One person representing each of	of Governors.	County		
Having a member from	Amend as follows;	one person representing the Council	Garissa	Clause 9(1)	43.
	committee				
	provide secretariat services to the				
	(b) the Commissioner who shall				
	chairperson;				
	affairs who shall be the				
	Ministry responsible for refugee				
at the same time.	representative in writing from the				
services to the Committee	(a) the principal Secretary or their				
provide secretarial	following—		-		
stand in as chair and	and substituting therefor the		Internationa		
The Commissioner cannot	By deleting paragraphs (a) and (b)		Amnesty	Clause 9(1)	42.
misapplication of the law.					
This may create a risk of					
international refugee law.					
knowledge of					
memebers have limited					
the composition of the					
knowledge because as is	social protection				
experience and	Ministry responsible for				
professionals with	d) one person representing		*		
membership of	ministry of labour;				
Amend to include	representing				
	ion;				
	gender and equality				
committee.	<ul><li>b) one person from national</li></ul>				
the function of the	Human rights;		Njoroge		_
form a key component of	National Commission on		Francis		
human rights, this should	a) one person from Kenya				
proactively refugees					
There is need to promote	Insert the following paragraphs		LWFWF	Clause 9(1)	41.
		Council of Governors.			_
		(v) one berson representing the			_

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

judicial or quasi-judicial			Organisatio		
long way to exercise			nt		
the High Court, will go a	11. (1) There shall be a Refugee   the		Developme		
under the supervision of		successor to the Appeal	on and		
having a tribunal in place	following—	Appeals Committee which shall be the	Reconstructi		
entrench independence	stitute with the	11. (1) There shall be a Refugee Status	(Kellet,		
This is in order to	end by deleting subsection (1)	Refugee Status Appeals Committee	R.R.D.O	Clause II(I)	49.
Bill.	Status Appeals Committee. B			200	5
Transition Clauses of the	11. (1) There shall be a Refugee T				
been handled in the		successor to the Appeal	Kenya)		
organization as this has	Refugees Act, 2006 as follows: o	Appeals Committee which shall be the	Consortium		
mention the predecessor	reference to section 10 of the n	11. (1) There shall be a Refugee Status	(Retugee		
It is not necessary to	Amend Section 11(1) by deleting It	Refugee Status Appeals Committee	RCK	Clause 11(1):	48.
			UNHCR		
			-		
			Internationa		
			Amnesty		
			2		
			Organisatio		
			Organization		
			De actiopine		
Serie.			Developme		
hetter	<b>T</b>		on and		
make the section read			Reconstructi		
S	ions;		(Relief,		
sponding mandat	of prima facie		R.R.D.O		
does not have a	declaration, amendment or d				
	y in respect of	facie status	Kenya)		
determination but RAC	(c) To advise the Cabinet d	declaration and revocation of prima	Consortium		
amend the prima facie	o.	(c) make a recommendation for	(Refugee		
The CS has the power to	Amend the section as follows:	Functions of the Committee	RCK	Clause 10(c):	4/.
	seekers			2	ì
	ns for refugee:				
	- Birth				

independent	OW III	Appeals Committee —	on and	
to have the A	11(2) and substitute the	notice in the Gazette appoint the	(Relief,	
The intention of the Bill is	Amend by deleting subsection	11.(2) The Cabinet secretary shall, by	R.R.D.O	Clause 11(2)
To include a reference to the independence of the Appeals Committee	Insert a new subsection immediately after subsection (2)-(2A)The Appeals Committee shall be independent in the exercise of its functions under this Act		UNHCR	
reduced from seven to six.	on nominated by neral; and ther persons vand experience ers.	(d) one person nominated by the Attorney General; and (e) three other persons with knowledge and experience in refugee matters.		
considered by an authority different from and independent of that making the initial decision.  We also propose that the number of members be	years standing appointed by the Cabinet Secretary; (b) a representative of the Kenya National Commission for Human Rights; (c) a representative of the State Department responsible for	of the Committee; (b) a representative of the Kenya National Commission for Human Rights; (c) a representative of the State Department responsible for		
independent decision- making body. In order for a remedy to be effective,		(a) a representative of the Principal secretary responsible for refugee matters who shall be the chairperson	UNHCR	
of the composition of the Refugee Status Appeals Committee, this second instance is no longer an	(2)The Cabinet secretary shall, by notice in the Gazette appoint the following persons to serve in the	Refugee Status Appeals Committee (2)The Cabinet secretary shall, by notice in the Gazette appoint the following persons to serve in the	RCK (Refugee Consortium Kenya)	Clause 11(2):
functions and supplement the ordinary courts in the administration of justice.			n)	

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

																				a de la composição de l	11(4)	(Clause	UNHCR				(Kenya)
,						thirty days of being notified.	may appeal to the High Court within	decision of the Appeals Committee	person who is aggrieved by the	regulate its own procedures. (7)A	expressly provided in this Act,	the Commissioner and, save as	have been filed against decisions of	shall convene as and when appeals	functions. (6) The Appeals Committee	the Committee in performance of its	Commissioner for Refugees to advise	the United Nations High	Committee may co-opt an officer of	of refugee status. (5) The Appeals	(b) the cancellation and termination	application for refugee status; and	the rejection of any individual	Commissioner with regard to — (a)	appeals against any decision of the	shall be to hear and determine	(4) The function of the Appeal Board
discharging its mandate.	(8) The Government shall provide the Appeal Committee with a Secretariat for the purposes of	its functions under this Act.	(7) The Appeal Committee shall be independent in the exercise of	and termination of refugee status.	(b) the cancellation, revocation	application for refugee status; and	(a) the rejection of any individual	regard to —	decision of the Commissioner with	determine appeals against any	Committee shall be to hear and	(6) The function of the Appeal	vote.	Chairperson shall have a casting	but in case of a tie in votes, the	Committee shall have one vote	(5)Each member of the	section 11(2) (e).	at least one member under	three members and shall include	the Appeal Committee shall be	(4) The quorum for a meeting of		one further term of three years.	eligible for re-appointment for	term of three years and shall be	Committee snall noid office for a
													Committee.	independence of the	Provide a secretariat and		experts to form quorum;	provision for inclusion of	Provide a mandatory	Committee.	independence of the	<ul> <li>Provide a secretariat and</li> </ul>	experts to form quorum;	provision for inclusion of	Provide a mandatory	Committee;	decision making for the

ישוויכווני טכיכווסוו דדוביי					
current section 14(7)					
it be used to replace the		thirty days of being notified.			
therefore we recommend		may appeal to the High Court within	Kenya)		
with section 14(2) and	same to section 14(2)	decision of the Appeals Committee	Consortium		
High Court. It is similar	from this section and taking the	(7)A person who is aggrieved by the	(Refugee		
Reference to appeal to the	Amend by deleting the sub section	Refugee Status Appeals Committee	RCK	Clause 11(7):	56.
	discharging its mandate				
body.	secretariat for the purposes of				
effective second instance	appeals committee with a				
committee will be an	The Government shall provide the				
To ensure that the appeals	New subclause		UNHCR	Clause 11	55.
termination					
covering all types of					
refers to a umbrella term					
The word termination					
and cessation decisions.					
appeals against revocation		of refugee status.			
hear and determine		(b) the cancellation and termination			
appeals committee is to	"revocation and termination"	Commissioner with regard to —			
one of the functions of the	and substituting therefor the word	appeals against any decision of the			
amended to include that	deleting the word "termination"	shall be to hear and determine			
The section needs to be	Amend in paragraph (b) by	(4) The function of the Appeal Board	UNHCR	Clause 11(4)	54.
	regulate its own procedures.				
	expressly provided in this Act,				
	of the Commissioner and, save as				
	have been filed against decisions				
	convene as and when appeals				
	(10) The Appeals Committee shall				
	in performance of its functions.				
	Refugees to advise the Committee				
	Nations High Commissioner for				
	co-opt an officer of the United				
	(9) The Appeals Committee may				

61. Clause 14(2)		60. Clause 13(3)			59. Clause 12(6)		58. Clause 12(5)		57. Clause 12 (4)
RCK (Refugee		LWFWS			Francis Njoroge		(Refugee Consortium Kenya)		LWFWS (4
Appeals (2) A person aggrieved by the decision	representatives of the High Commissioner for Refugees or other agencies to provide technical advice.	Eligibility Panel may, through (3) The Eligibility Panel may, through the Commissioner co-opt	the interview files to the Status Eligibility Panel for further review. Establishment of Refugee Status	icting interviews aff within the shall, upon terview, forward		notermination			
with t	Ameno		Amend by deleting the word "may" and substitute with "shall"	who have qualifications, who have qualifications, experience and knowledge of refugee matters.	subclause immediately alter (6) (6a) the Commissioner shall delegate authority contemplated	give reasons for the refusal.  Amend by inserting a new		to ne	t 4 (A) department shall liase with state legal aid system to state representation for a vide representation refugee use where such refugee not afford a legal practitioner
	See explanation					of	wording; also consistent with 12(7).	Granting of "refugee status" – not application - status" appropriate is more appropriate	There shows provisions for legal aid for provisions for legal aid for a refugee who cannot afford legal services.
24	in 31	0 <							

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

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

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

Section 30 of the Bill concerns designated areas whereas Section 29 deals with the principle of non-refoulement. It is clear that Section 19(1) intended to cite Section 29 as it is more relevant to its purposes.	Amend by deleting 'section 30' as it appears on Section 19(1) and replace it with 'section 29' as follows:  19. (1) Subject to section 29, the Cabinet Secretary may order the expulsion from Kenya of any refugee or member of his family if the Cabinet Secretary considers the expulsion to be necessary on the grounds of national security or public order.	Expulsion of refugees or members of their families  19. (1) Subject to section 30, the Cabinet Secretary may order the expulsion from Kenya of any refugee or member of his family if the Cabinet Secretary considers the expulsion to be necessary on the grounds of national security or public order.	RCK (Refugee Consortium Kenya)	Clause 19 (1)	71.
	Cabinet Secretary shall remover such person immediately/				
	revocation, failing which the				
	final order relating to the				
	thirty days of notification of the				
	- D				
	- CU				
	status has been revoked and does				
	(4)Any person whose refugee				
	(3)*remains as is*				
	final decision that his or her				
	the date on having received the				
	the expiration of seven days after				
	to be a refugee under this Act on				
	exhausted, that person shall cease				
	appeal mechanisms have been				
	this part has been revoked and all				
	(2) Where refugee status under				
	Union.				

THE PLOYISION GOES HOE		process of law		
The provision does not		of this section, the Cabinet Secretary		
		of his family in terms of subsection (1)		
LGBII.	of law.	(3) Before ordering the expulsion		
minority groups such as	accordance with the due process	order of the Cabinet Secretary.		
be conceived to target	Cabinet Secretary shall act in	may be expelled from the Kenya by an		
ground for expulsion may	subsection (1) of this section, the	linked to his claim for asylum or not,		
public morality here as a	member of his family in terms of	irrespective of whether the conduct is	County	
clause 19(1). The aspect of	from Kenya of any refugee or	order or contrary to public morality	Garissa	
which is captured by	(2) Before ordering the expulsion	likely to result in breach of public		
issues of national security		in a conduct that is in breach or is	IRC	
to expel them based on	public order.	refugee or an asylum seeker engaging		
refoulment. It is enough	the grounds of national security or	(2) Subject to subsection 19(1) a	UNHCR	
principle of non-	the expulsion to be necessary on			
contravention to the	the Cabinet Secretary considers	national security or public order.		
morality would be	refugee or member of his family if	be necessary on the grounds of	region)	
Expulsion based on	expulsion from Kenya of any	Secretary considers the expulsion to	(Coast	
	Cabinet Secretary may order the	or member of his family if the Cabinet	sheria	
29(2).	19. (1) Subject to section 29, the	expulsion from Kenya of any refugee	Kituo Cha	
section 19(1) and section		Cabinet Secretary may order the	Kenya)	
provision is granted under	follows:	19. (1) Subject to section 30, the	Consortium	
superfluous. An expulsion	subsection(2) and renumbering as	their families	(Refugee	
Section 19(2)	Amend by deleting the	Expulsion of refugees or members of	RCK	Clause 19 (2)
		national security or public order.		
		be necessary on the grounds of	<u> </u>	
		Secretary considers the expulsion to	Organisatio	
		or member of his family if the Cabinet	nt	
		expulsion from Kenya of any refugee	Developme	
	"Refugee Advisory Board"	Cabinet Secretary may order the	on and	
Advisory Board.	substituting therefor the words	9. (1) Subject to section 30, the	Reconstructi	
the proposed Refugee	Cabinet Secretary" and	their families	(Relief,	
This should be a reserve of	****	Exhuision of reingees of members of	7.7.0.0	Ciause 13 (1)

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

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

		Act.	asylum process and advice the			
	->(=) are samelene		and an arrange and and are the			
	29(2) are sufficient	mandated institutions under this	powers to strike them out of the	Nabenyo		
1) and	under section 19(1) and	all the lawful orders given by the	which the Commissioner shall have	Mr. Ekai		
provisions	expulsion pro	by all the laws of Kenya including	institutions under this Act, failure to			
reover,	asylum seeker. Moreover,	shall be under obligation to abide	orders given by the mandated			
agee or	used to expel a refugee or	an application for refugee status				
could be	misdemeanor cou	(5) A person who has submitted	under obligation to abide by all the			
rein a	interpretation wherein a		application for refugee status shall be	Kenya)		
an	framed opens	subsections as follows:	(5) A person who has submitted an	Consortium		
been	Section 23(5) has been	and substituting it with two new	asylum seeker's pass	(Refugee		
which	The manner in	Amend section 23 by section 23(5)	Applicant to be issued with an	RCK	Clause 23(5)	79.
			period.			
			her choice within such extended			
			being admitted to a country of his or			
			reasonable likelihood of the person			
		or her choice.	if he or she is satisfied that there is a			
		seek admission to a country of his	period referred to in subsection (1)(c)			
		time, not exceeding ninety days to	concerned, extend the three-month			
		has been allowed a reasonable	made to him or her by the person			
	Refugees Act, 2006.	unsuccessful, until such person	Secretary may, on application being			
ent	provided in the current	his or her appeal has been	his or her choice. (2) The Cabinet	Nakuru		
	recommended as	appealed under section 14, and	days to seek admission to a country of	Leaders in		
	A 90 day period is	(c) where such person has	reasonable time, not exceeding sixty	Refugee		
hoice.	country of his/her choice.		such person has been allowed a			
nother	seek admission to another	ninety days' as follows:	appeal has been unsuccessful, until			
cted to	claim has been rejected to	replacing it with 'not exceeding	under section 14, and his or her	Kenya)		
se .	asylum seeker whose	appears on section 22(1)(c) and	(c) where such person has appealed	Consortium		
for an	at the time allowed for an	exceeding sixty days' as it	status determination	(Refugee	22(2)	
tency	There is an inconsistency	Amend by deleting the phrase 'not	Right to remain in Kenya during	RCK	Clause 22(1) (c) &	78.
		stay in Kenya.				
	//4	times during admission into and				
		require special protection at all				
		are of old age or otherwise				
		suffer from disability, trauma or				
				The second second second		- 10

	Clause 24	Refugee Leaders in Nakuru County RCK (Refugee Consortium Kenya)	Entry into Kenya by refugees 24. Any person entering Kenya to seek asylum shall make his or her intention known immediately upon entry or within thirty days by reporting to the nearest reception centre or the nearest government administrative office.	Amend section 24 as follows: 24. (1) Any person entering Kenya to seek asylum shall make his or her intention known immediately upon entry or within thirty days by reporting to the nearest government administrative office. (2) In the case of a person who is lawfully in Kenya and is subsequently unable to return to his country of origin for any of the reasons specified in section 3 of this Act, he shall, prior to the expiration of his lawful stay, present himself before an appointed officer and apply for recognition as a refugee in accordance with the provisions of this Act. (3)Where there is a large-scale influx of persons claiming to fall within the meaning of refugees under section 3, the comsultation with the	Section 11(2) of the Refugees Act, 2006 expressly provided for asylum seekers that are in Kenya legally and for reasons provided under the provisions that define refugees are unable or unwilling to return to their countries of origin. This allowed them to apply for the status before the expiry of their lawful stay. This is the justification for proposing a section 24(2) Proposed section 24(3) has been moved from 29(3); see justifications for section 24(3).
		Dafingen			
Refires		Leaders in			
Refugee Leaders in		Nakuru			
Refugee Leaders in		County			100 m
3		RCK	Entry into Kenya by refugees	Amend section 24 as follows:	Section 11(2) of the
Refugee Leaders in Nakuru County County RCK Entry into Kenya by refugees Amend section 24 as follows:	_	(Refugee	24. Any person entering Kenya to seek	24. (1) Any person entering Kenya	Refugees Act, 2006
Refugee Leaders in Nakuru County County Refugee  RCK Entry into Kenya by refugees Clause 24 (Refugee 24. Any person entering Kenya to seek RCK Entry into Kenya by refugees 24. Any person entering Kenya to seek RCK Refugee		Consortium	asylum shall make his or her intention	to seek asylum shall make his or	expressly provided for
Refugee  Leaders in  Nakuru  County  Clause 24  (Refugee  (Refugee  Consortium asylum shall make his or her intention to seek asylum shall make his or		Kenva)	known immediately upon entry or	her intention known immediately	asylum seekers that are in
Refugee  Leaders in  Nakuru  County  Clause 24  (Refugee  Consortium  Kenva)  Refugee  Amend section 24 as follows:  Entry into Kenya by refugees  Amend section 24 as follows:  24. (1) Any person entering Kenya to seek  24. (1) Any person entering Kenya to seek asylum shall make his or her intention to seek asylum shall make his or her intention known immediately		, , , , ,	within thirty days by reporting to the	upon entry or within thirty days by	Kenya legally and for
Refugee  Leaders in  Nakuru  County  Clause 24  (Refugee  (Refugee  Consortium  Kenya)  Refugee  Entry into Kenya by refugees  24. Any person entering Kenya to seek Consortium  Kenya)  Kenya  RCK  Entry into Kenya by refugees  24. Any person entering Kenya to seek Consortium  Kenya)  Within thirty days by reporting to the  Leaders in  Amend section 24 as follows:  24. (1) Any person entering Kenya  to seek asylum shall make his or her intention known immediately upon entry or within thirty days by			nearest reception centre or the	reporting to the nearest reception	reasons provided under
Refugee  Leaders in  Nakuru  County  RCK (Refugee Consortium Kenya)  Kenya)  Refugee  24. Any person entering Kenya to seek Consortium Known immediately upon entry or within thirty days by reporting to the nearest reception  Refugees Amend section 24 as follows: 24. (1) Any person entering Kenya to seek asylum shall make his or her intention known immediately upon entry or the reporting to the nearest reception			government administra	centre or the nearest government	the provisions that define
Refugee  Leaders in  Nakuru  County  Clause 24  (Refugee  Consortium  Kenya)  Kenya)  RCK  Entry into Kenya by refugees  Consortium  Kenya)  Kenya)  Within thirty days by reporting to the nearest reception centre or the reporting to the nearest reception centre or the reporting to the nearest government administrative centre or the nearest government		UNHCR		administrative office.	refugees are unable or
Refugee  Leaders in  Nakuru  County  Clause 24  RCK  (Refugee  Consortium  Kenya)  Kenya)  Within thirty days by reporting to the nearest reception nearest government administrative office.  Refugee  Consortium  Kenya)  Within thirty days by reporting to the office.  UNHCR  Office.  Refugees  Entry into Kenya by refugees  Amend section 24 as follows:  24. (1) Any person entering Kenya to seek asylum shall make his or her intention to seek asylu				(2) In the case of a person who is	unwilling to return to their
Refugee Leaders in Nakuru County RCK (Refugee Consortium Kenya) Kenya) Kenya)  Kenya)  Refugee  Consortium Kenya)  Kenya)  Kenya)  Kenya)  Kenya)  Kenya)  Kenya  Kenya)  Kenya  Kenya  Kenya  Kenya)  Kenya				in Kenya and	countries of origin. This
Refugee  Leaders in  Nakuru  County  Clause 24  RCK  (Refugee  Consortium  Kenya)  Kenya)  Kenya)  May person entering Kenya to seek  Consortium  Kenya)  Kenya)  Kenya)  May person entering Kenya to seek  Amend section 24 as follows:  24. (1) Any person entering Kenya to seek asylum shall make his or her intention to seek asylum shall make his or within thirty days by reporting to the nearest reception centre or the nearest reception centre or the nearest government administrative office.  UNHCR  Office.  UNHCR  In the case of a person who is lawfully in Kenya and is				subsequently unable to return to	allowed them to apply for
Refugee  Leaders in  Nakuru  County  Clause 24  RCK  (Refugee  Consortium  Kenya)  Kenya)  Kenya)  Manend section 24 as follows:  Consortium  Rown immediately upon entry or within thirty days by reporting to the nearest reception centre or the nearest government administrative office.  UNHCR  RCK  Entry into Kenya by refugees  24. (1) Any person entering Kenya to seek 24. (1) Any person entering Kenya to seek asylum shall make his or her intention known immediately upon entry or upon entry or within thirty days by reporting to the nearest reception centre or the nearest reception centre or the nearest government administrative centre or the nearest government administrative subsequently unable to return to				his country of origin for any of	the status before the
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Refugee Leaders in Nakuru County Clause 24 RCK (Refugee Consortium Kenya) Kenya Kenya) Kenya) Kenya Kenya) Kenya Kenya) Kenya Kenya) Kenya  Kenya Kenya  Keny				-	proposing a section 24(2)
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Refugee  Leaders in  Nakuru  County  Clause 24  RCK  (Refugee  Consortium  Kenya)  Within thirty days by reporting to the nearest reception centre or the nearest government administrative office.  UNHCR  UNHCR  REfugee  County  Entry into Kenya by refugees  24. Any person entering Kenya to seek kenya)  within thirty days by reporting to the nearest reception centre or the reporting to the nearest government administrative centre or the nearest government administrative office.  (2) In the case of a person who is lawfully in Kenya and is subsequently unable to return to his country of origin for any of the reasons specified in section 3 of this Act, he shall, prior to the expiration of his lawful stay, present himself before an appointed officer and apply for					has been moved from
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Refugee Leaders in Nakuru County Clause 24  (Refugee Consortium Kenya)  New mearest reception centre or the reporting to the nearest government administrative office.  UNHCR  Office.  Refugees Consortium Kenya)  Nakuru  Clause 24  Refugee Consortium Kenya)  Nearest reception centre or the reporting to the nearest government administrative office.  UNHCR  Office.  Refugees Consortium Kenya)  Namend section 24 as follows:  Amend section 24 as follows:  Ca. (1) Any person entering Kenya to seek asylum shall make his or her intention known immediately upon entry or within thirty days by reporting to the reporting to the nearest government administrative office.  (2) In the case of a person who is lawfully in Kenya and is subsequently unable to return to his country of origin for any of this Act, he shall, prior to the expiration of his lawful stay, present himself before an appointed officer and apply for recognition as a refugee in accordance with the provisions of this Act.  (3)Where there is a large-scale				influx of persons claiming to fall	
Refugee Clause 24 (Refugee Consortium Kenya)  Clause 24 (Refugee Consortium Kenya)  Clause 24 (Refugee Consortium Kenya)  Makuru  Clause 24 (Refugee Consortium Kenya)  Makuru  Clause 24 (Refugee Consortium Kenya)  Make his or her intention Nearest reception centre or the reporting to the nearest government administrative administrative office.  UNHCR  Office.  Clause 24 (Refugee Consortium Kenya)  Make his or her intention Nearest reception centre or the reporting to the reporting to the nearest government administrative office.  (2) In the case of a person who is subsequently unable to return to his country of origin for any of the reasons specified in section 3 of this Act, he shall, prior to the recognition as a refugee in accordance with the provisions of this Act.  (3)Where there is a large-scale influx of persons claiming to fall					
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or the commission of the civilianaracter of t			(4) Asylum seekers at transit	gazetted entry points, shall			
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Nations High Commissioner for Refugees advise the Cabinet Secretary on emergency measures to be taken including- (a) designation of areas for reception, transit and residence of refugees, having due regard to the security requirement for refugees to be settled at a reasonable distance from the frontier of their country of origin; (b) porvision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women and children; and (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local			population for their reception.				
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meant to address this gap.	UN Convention, its Protocol and	ition, its Protocol and the (	sheria		
proposed amendment is	(a) to the duties contained in the	rights and be subject— (a) to the duties contained in the UN	Kituo cha		
benefits of holding	within Kenya shall be entitled to	within Kenya shall be entitled to the	Kenya)		
rovision	refugee and every asylum seeker	refugee and every asylum seeker	Consortium		
framed does not offer a	28. (1) Subject to this Act, every	28. (1) Subject to this Act, every	(Refugee		
The section as is currently	Amend section 28 as follows:	Rights and obligations of refugees	RCK	Clause 28	84.
		contraband items.			
		proliferation of arms and other			
		people and to prevent the			
		security of Kenya or the safety of the			
		who may pose a danger to the			
		detecting and containing any person			
		other written law for purposes of			
application status		the provisions of this Act and any	County		
that may Jeopardize their	"screening in	security screening in accordance with	Nakuru		
things on asylum seekers	immediately after the words	entering Kenya shall be subjected to	from		
contraband or illegal	nanitarian o	Any asylum seeker or refugee	leaders		
To prevent officer planting	ert the words "in the	Security Screening.	Refugee	Clause 27	83.
choose who to talk to.					
refugee has the option to	25 to 100				
should be available so the	principle of gender.				
female reception officers	asylum seekers respecting the				
that states male and	(2) Reception officers shall serve				
There must be a provision	Insert the following subsection	Duty of reception officers	LWF WS	Clause 26(1)	82.
	for further assistance.				
	government administrative office				
	immediately report to the nearest				
	than gazetted entry points, shall				
	country through places, other				
	(5) Asylum seekers who enter the	further assistance.			
	released within reasonable time;	government administrative office for			
	cellues stidii ne brocessen aria	immediately report to the nearest			

																									County	Garissa		ives	Representat	30 Refugee		ONLOW
															OCACHIIIICIIC.		documentation at both levels of	issuance of, the required	Kenya by facilitating access to, and	economic and social development of	be enabled to contribute to the	(4) Subject to this Act, refugees shall	temporarily accommodating refugees.	to be transit centres for purposes of	designate places and areas in Kenya	may, by notice in the Gazette,	refugees. (3)The Cabinet Secretary	designate specific counties to host	relevant county governments,	Gazette and in consultation with the	Secretary may, by notice in the	Torce III Nellya. (2) The Capillet
cen	places and areas in Kenya to be	notice in the Gazette, designate	(4)The Cabinet Secretary may, by	services.	refugees who require essential	purposes of accommodating of	specific counties to host refugees	county governments, designate	consultation with the relevant	notice in the Gazette and in	(3) The Cabinet Secretary may, by	relevant, social protection.	samuation services, and where		to essential s	20000		(b) Every asylum-seeker has the	through taxation; and	to the national and local economy	under an obligation to contribute	livelihood activities and shall be	services, as well as engagement in	access to ed	documents, social protection,	6-65	(a) Every refugee has the right to		generality of section 28(1) above:	(2) Without prejudice to the		(b) all tile laws ill loice ill Nellya.
																											underpins the offence.	corresponding duty that	offence but there is no	40(1)(m) provides an	manner. Also section	rise lights in a clear

Newly arriving asylum seekers may not be self-sufficient and will require	Amend by inserting the words " for the purposes of accommodating asylum seekers	(2) The Cabinet Secretary may, by notice in the Gazette and in consultation with the relevant county	UNHCR	Clause 28 (2)	86.
1 10 C	Amend in subclause (2) by deleting the word "may" and substituting therefore the word "shall"	Rights of and obligations of refugees	LWF WS	Clause 28(2)	85.
			30 Refugee Representat ives		
			Abdulahi Ali		
	Insert a new subclause Documentation under subsection (2) shall be valid for a period of five years.				
	adequate to the rights provided by law.				
	(6) The refugee and asylum seeker identification shall be				
	of, the required documentation at both levels of Government.				
	facilitating access to, and issuance				
	omic and so				
	shall be enabled to contribute to				
	(5) Subject to this Act, refugees				
	refugees for security and medical screening.				

governments, designate specific and refugees who require counties to host refugees.  87. Clause 28(3)  Garissa  Garissa  Gounty  Dates and areas in Kenya by Eransit and settlement centres or places and areas in Kenya by Eransit centres for purposes of temporarily accommodating refugees.  Insert a new subclause (5)  (5) The government shall develop policy and legislative frameworks to enable access to labour markets as well as freedom of movement.  (4) Subject to this Act, refugees shall (4) Subject to this Act, refugees shall (4) Subject to this Act, refugees shall (4) Subject to this Act, refugees of, the required documentation government of Kenya by facilitating access to, and development of the required documentation government of, the required documentation and social Government shall bevels of Government as the both levels of Government as the both levels of Government are specific and social graphs.  10. Clause 28(4)  10. The Cabinet Secretary may, by Provide in regulation section and refugees.  10. Provide in regulation section after the words "to host refugees" in the Gazette, designate essential essential services" immediately after the words "to host refugees" in the Gazette, designate essential essential services" immediately after the words "to host refugees" in the fazette, designate and sestion section of designated areas are the transit and self-refugees to jobs, livelihoods and self-reflance options that includes expanded access to abour markets as well as freedom of movement.  10. Subject to this Act, refugees shall (4) Subject to this Act, refugees of the economic and social development of the economic and soci	Refugee hosting countries	-	(1) Subject to subsection (2) of this		Freedom of movement	Freed	Mr. Ekai	Clause 28	90.
Clause 28(3)  Clause 28(4)  Clause 28(5)  Communitie be enabled to contribute to the sliving in Kenya by facilitating access to, and documentation at both levels of strengtical services.  Clause 28(4)  Clause 28(5)  Clause 28(6)  Clause 28(6)  Clause 28(7)  Clause 28(8)  Clause 28(8)  Clause 28(8)  Clause 28(8)  Clause 28(9)  Clause 28(9)  Clause 28(1)  Clause 28(	economy		ž						
Clause 28(3)  Clause 28(3)  Clause 28(4)  Clause 28(5)  Clause 28(6)  Clause 28(6)  Clause 28(7)  Clause 28(8)  Clause 28(9)  Clause 28(9)  Clause 28(9)  Clause 28(1)  Clause 28(1)  Clause 28(1)  Clause 28(1)  Clause 28(2)  Clause 28(3)  Clause 28(4)  Clause 28(4)  Clause 28(6)  Clause 28(6)  Clause 28(7)  Clause 28(8)  Clause 28(8)  Clause 28(8)  Clause 28(8)  Clause 28(9)  Clause 28(9)  Clause 28(1)  Clause 28(1)  Clause 28(1)  Clause 28(1)  Clause 28(1)  Clause 28(2)  Clause 28(2)  Clause 28(3)  Clause 28(4)  Cl			equired doc MPESA	levels of	at	docur			
Clause 28(3)  Clause 28(4)  Clause 28(5)  Clause 28(6)  Clause 28(6)  Clause 28(6)  Clause 28(7)  Clause 28(8)  Clause 28(8)  Clause 28(8)  Clause 28(8)  Clause 28(9)  Clause 28(9)  Clause 28(9)  Clause 28(1)  Clause 28(1)  Clause 28(1)  Clause 28(1)  Clause 28(2)  Clause 28(3)  Clause 28(4)  Clause 28(4)  Clause 28(4)  Clause 28(5)  Clause 28(6)  Clause 28(6)  Clause 28(7)  Clause 28(8)  Clause 28(8)  Clause 28(8)  Clause 28(9)  Clause 28(9)  Clause 28(1)  Clause 28(1)  Clause 28(1)  Clause 28(1)  Clause 28(2)  Clause 28(2)  Clause 28(3)  Clause 28(4)  Cl	ial refugee documentation by would be sufficient to	ce ob se	the economic and social development of Kenya by facilitating access to, and issuance	ss to, and required	omic and social deve a by facilitating acce nce of, the	Kenya	Nairobi		
Clause 28(3)  Clause 28(4)  Clause 28(4)  Clause 28(4)  Clause 28(4)  Clause 28(4)  Clause 28(5)  Clause 28(6)  Clause 28(6)  Clause 28(7)  Clause 28(8)  Clause 28(8)  Clause 28(8)  Clause 28(8)  Clause 28(9)  Clause 28(9)  Clause 28(1)  Clause 28(1)  Clause 28(1)  Clause 28(1)  Clause 28(1)  Clause 28(1)  Clause 28(2)  Clause 28(2)  Clause 28(3)  Clause 28(4)  Clause 28(6)  Clause 28(7)  Clause 28(8)  Clause 28(8)  Clause 28(8)  Clause 28(9)  Clause 28(9)  Clause 28(1)  Cl	es Recommend that the law to explicitly spells out that	to es	Subject to this II be enabled to	ugees shall te to the	ubject to this Act, ref	(4) Su be e	Host Communitie	CLAUSE 28(4)	89.
Clause 28(3)  Clause 28(4)  Clause 28(4)  Clause 28(4)  County  Clause 28(4)  County  Clause 28(4)  Clause 28(4)  County  Clause 28(4)  County  Clause 28(4)  Clause 28(5)  Clause 28(6)  Clause 28(7)  Clause 28(8)  Clause 28(8)  Clause 28(8)  Clause 28(9)  Clause 28(1)  Clause 28(1)	Communication.	2	as freedom of movement.						3
Clause 28(3)  Clause 28(4)  Cl	_	ded	options that includes expanded						
Clause 28(3)  Clause 28(4)  Clause 28(4)  Clause 28(4)  County  Clause 28(4)  County  Clause 28(4)  Clause 28(4)  County  Clause 28(4)  County  Clause 28(4)  County	nce reliance for refugees,	псе							
Clause 28(3)  Clause 28(3)  Clause 28(3)  Clause 28(3)  County  After the words "to h  Provide in regulation  Transit and settleme  places and areas in Kenya to be transit  County  County  County  After the words "to h  Provide in regulation  Transit and settleme  places and areas in Kenya to be transit  County  County  County  After the words "to h  Provide in regulation  County  County  County  After the words "to h  Provide in regulation  County  County  After the words "to h  Provide in regulation  County  County  After the words "to h	livelihoods	sd	to enable access to jobs,						
Clause 28(3)  Clause 28(3)  Clause 28(4)  Clause 28(4)  County  Clause 28(4)  County  County  Clause 28(4)  County  Co	orks declaration on jobs	orks	policy and legislative framewo						
Clause 28(3)  Clause 28(3)  Garissa  County  places and areas in Kenya to be transit centres for purposes of temporarily accommodating refugees.  Garissa  Garissa  Garissa  Garissa  County  places and areas in Kenya to be transit centres for purposes of temporarily accommodating refugees.  Garissa		2	Insert a new subclause (5)				LWF WS	Clause 28(4)	88.
Clause 28(3)  Clause 28(3)  Garissa  County  places and areas in Kenya to be transit centres for purposes of temporarily accommodating refugees.  Governments, designate specific essential services" after the words "to host refugees."  Provide in regulation Transit and settleme accommodating refugees.	protect asylum seekers							2	8
Clause 28(3)  Clause 28(3)  County  Co	the border in order to								
Clause 28(3)  Clause 28(3)  County  Co	reasonable distance from								
Clause 28(3)  Clause 28(3)  Clause 28(3)  Garissa  County  places and areas in Kenya to be transit centres for purposes of temporarily  Governments, designate specific and refugees vessential services" after the words "to he after the words after the words "to he after the words the heart the words after the words "to he after the words the heart the words after the words after the words after the words "to he after the words after the wo	constructed at				nmodating refugees.	accon			
Clause 28(3)  Clause 28(3)  County  Clause 28(3)  Garissa  County  places and areas in Kenya to be transit  governments, designate specific essential services" after the words "to he services" after the words af		as	Declaration of designated areas	temporarily	es for purposes of	centr			
Clause 28(3)  Garissa  County  Governments, designate specific essential services" after the words "to host refugees.  County  Garissa  Governments, designate specific essential services" after the words "to host refugees.  Gounty  Gounty  Gounty  Gounty  Gounty  Governments, designate specific essential services" after the words "to host refugees.  For in the Gazette, designate Transit and settleme	constructed as soon as			o be transit	s and areas in Kenya t	place			
governments, designate specific and refugees vessential services" after the words "to host refugees after the words "to host refugees.  Clause 28(3)  Garissa  (3) The Cabinet Secretary may, by Provide in regulation	_	sor	Transit and settlement centres or	designate		notice	County		
designate specific and refugees vost refugees. essential services" after the words "to h	The law should provide		Provide in regulation section	y may, by		(3) T	Garissa	Clause 28(3)	87.
designate specific and refugees verse essential services" after the words "to he specific essential services"	services.								
designate specific and refugees verse essential services" after the words "to he specific and refugees verse after the words "to he specific and refugees verse ve	are in need of essential								
designate specific and refugees vost refugees. essential services" after the words "to h	designated areas if they								
designate specific and refugees vost refugees. essential services" after the words "to head of the services of	be required to reside in								
designate specific and refugees vost refugees. essential services" after the words "to hear the mords of the services of the s	_		明さ						
designate specific and refugees vost refugees.	_	s,	after the words "to host refugees"						
designate specific and refugees who	_	tel	ntial services" imm		ties to host refugees.	count			
	require essential services to have	uire	refugees who		22	gover			

92. Clause 28(4) and Equity Bank 28(1) (b)	91. Clause 28 Mr. Ekai N Nabenyo Ri	Abdulahi Ali 30 Refugee Representat ives Garissa County
	New Clause Right to work	
	A refugee recognized under this Act shall, subject to this Act, have the right to have access to employment opportunities and engage in gainful employment.	entitled to free movement in Kenya  (2) The free movement of a recognised refugees in kenya is subject to reasonable restrictions specified in the laws of Kenya, or directions issued by the Commissioner, which apply to foreigners generally in the same circumstances, especially on grounds of national security, public order, public health, public morals or the protection of the rights and freedoms of others.
procedure act, 2015 provides that it is mandatory for customers to produce KRA personal identification numbers to open or activate a bank account.  Provide explicit rights that allow refugees due to their status to have specified allocation of	to an over the same of a second	to allow refugees the freedom of movement.

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

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						UNHCR					E:	-																		Kenya)
								for their reception.	sensitization of the local population	designated for refugees and the	humanitarian character of areas	(c) ensuring the civilian and	reference to women and children; and	affected by the influx with particular	necessary for the group of persons	appropriate facilities and services	(b) provision of adequate and	the frontier of their country of origin;	settled at a reasonable distance from	requirement for refugees to be	having due regard to the security	transit and residence of refugees,	(a) designation of areas for reception,	measures to be taken including-	Cabinet Secretary on emergency	Commissioner for Refugees advise the	of the United Nations High	consultation with the representatives	the Commissioner shall, in	mediling of refugees utider section of
groups; and	and children and other vulnerable		necessary for the group of persons	appropriate facilities and services	(b) provision of adequate and	bold	Amend by inserting the words in	AL I																						
	groups; and	and children and other vulnerable groups; and		necessary for the group of persons affected by the influx with particular reference to women and children and other vulnerable groups; and	u	(b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women and children and other vulnerable groups; and			for their reception.	sensitization of the local population for their reception.	designated for refugees and the sensitization of the local population for their reception.	humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.	(c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.	reference to women and children; and (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.	affected by the influx with particular reference to women and children; and (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.	necessary for the group of persons affected by the influx with particular reference to women and children; and (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.	appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women and children; and (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.	(b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women and children; and (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.	the frontier of their country of origin; (b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women and children; and (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.	settled at a reasonable distance from the frontier of their country of origin; (b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women and children; and (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.	requirement for refugees to be settled at a reasonable distance from the frontier of their country of origin; (b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women and children; and (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.	having due regard to the security requirement for refugees to be settled at a reasonable distance from the frontier of their country of origin; (b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women and children; and (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.	transit and residence of refugees, having due regard to the security requirement for refugees to be settled at a reasonable distance from the frontier of their country of origin; (b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women and children; and (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.	(a) designation of areas for reception, transit and residence of refugees, having due regard to the security requirement for refugees to be settled at a reasonable distance from the frontier of their country of origin; (b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women and children; and (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.	measures to be taken including- (a) designation of areas for reception, transit and residence of refugees, having due regard to the security requirement for refugees to be settled at a reasonable distance from the frontier of their country of origin; (b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women and children; and (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.	Cabinet Secretary on emergency measures to be taken including- (a) designation of areas for reception, transit and residence of refugees, having due regard to the security requirement for refugees to be settled at a reasonable distance from the frontier of their country of origin; (b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women and children; and (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.	Cabinet Secretary on emergency measures to be taken including- (a) designation of areas for reception, transit and residence of refugees, having due regard to the security requirement for refugees to be settled at a reasonable distance from the frontier of their country of origin; (b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women and children; and (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.	of the United Nations High Commissioner for Refugees advise the Cabinet Secretary on emergency measures to be taken including- (a) designation of areas for reception, transit and residence of refugees, having due regard to the security requirement for refugees to be settled at a reasonable distance from the frontier of their country of origin; (b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women and children; and (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.	consultation with the representatives of the United Nations High Commissioner for Refugees advise the Cabinet Secretary on emergency measures to be taken including- (a) designation of areas for reception, transit and residence of refugees, having due regard to the security requirement for refugees to be settled at a reasonable distance from the frontier of their country of origin; (b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women and children; and (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.	the Commissioner shall, in consultation with the representatives of the United Nations High Commissioner for Refugees advise the Cabinet Secretary on emergency measures to be taken including- (a) designation of areas for reception, transit and residence of refugees, having due regard to the security requirement for refugees to be settled at a reasonable distance from the frontier of their country of origin; (b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women and children; and (c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.

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

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0 Clause 32			CLAUSE 31(1)
RCK (Refugee Consortium Kenya)	UNHCR	Kituo cha Sheria	Host Communitie s living in Nairobi
Control of Designated Areas 32. The Cabinet Secretary shall make rules for the control of designated areas and, without prejudice to the generality of the foregoing, such rules and directions may make provision in			any refugee is within a designated areas to move to or reside in any other designated area
Amend the section as follows:  32. The Commissioner shall make rules for the control of designated areas and, without prejudice to the generality of the foregoing, such rules and directions may such rules and directions fall or	The Commissioner may require refuges and asylum-seekers in need of essential services to be within a designated area, to move to or reside in any other designated area.	Insert a new subsection (2)  Despite subsection (1), the commissioner shall consider a refugee's protection and safety before making such order.	Despite subsection (1), a refugee may give compelling reasons to the Commissioner on why they can or cannot relocate to the specified designated area
We recommend the changes to make the section read better.	Newly arriving asylum seekers may not be self-sufficient and will require essential services to have their basic needs met. Therefore it is proposed that refugees should only be required to reside in designated areas if they are in need of essential services.	To include the condition that safety and protection of the refugee is ensured and priotised before they are moved.	this power in order to afford a refugee an opportunity to explain him or herself on reasons as to why he or she may not adhere to an order.

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

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

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

Clause 36  Consortium Consortium Kenya)  Clause 36  Clause 38(2)  Clause 38(3)  Clause 38(4)  Clause 38(5)  Clause 38(6)  Clause 38(7)  Clause 38(8)  Clause 38(8)  Clause 38(9)  Clause 38(10)  Clause 38(		section 40 after the current section 39 and amend the later as	39. (1) The Department shall keep and maintain a register of all persons who	(Refugee Consortium	110 New CLAUSE 39A
Clause 36  Clause 36  Clause 36  Clause 36  Clause 36  Clause 36  Consortium  Commissioner for kehyees in her organizations involved in the section as follows:  Commissioner of Refugees and the other organizations involved in the special attention is given to women, children and persons with disabilities.  Consortium  Commissioner for Refugees and the Nations High Commissioner for Refugees and the Nations High Commissioner for Refugees and the Nations High Commissioner for Refugees, ensure that special attention is given to women, children persons with disabilities, special attention is given to women, children persons with disabilities.  Consortium  Commissioner for Refugees and the Nations High Commissioner for other organizations involved in the special attention is given to women, children persons with disabilities, special attention is given to women, children persons with disabilities, special attention is given to women, children persons with disabilities.  Consortium  Clause 38(2)  RCK  Resettlement of refugees residing in Amend the section by deleting the Ministry of Foreign Affairs shall seek for more tesettlement quarters with the word "quotas" attention to the ones allocated through other agencies.		5			
Clause 36  Clause 36  RCK  Comsortium  Commissioner for Refugees and the other operance of refugees, relevant confideren and persons with disabilities.  Refugee  Commissioner for Refugees and the section as follows:  Commissioner for Refugees and the communities, the commissioner for Refugees, relevant Commissioner for Refugees, relevant Commissioner for Refugees, relevant County  assistance of refugees, ensure that special attention is given to women, children persons with disabilities, special attention is given to women, children persons with disabilities, older persons and other underable groups.  Refugee  Consortium  (Refugee  Consortium  Kenya)  Clause 38(2)  RCK  Resettlement of refugees residing in Memod the section by deleting the Ministry of Foreign Affairs shall seek for more resettlement quarters in addition to the ones allocated Affairs shall seek for more		the ones allocated through other	through other agencies.		
Clause 36  Consortium  Consortium  Connortium  Commissioner shall, in cooperation of refugees and before the communities, the commissioner of refugees and the commissioner of refugees, ensure that special attention is given to women, children and persons with disabilities.  Consortium  Clause 38(2)  Clause 38(2)  Consortium  Clause 38(2)  Consortium  Kenya)  Clause 38(2)  Consortium  Kenya)  Clause 38(2)  Consortium  Kenya)  Clause 38(3)  Consortium  Kenya)  Clause 38(4)  Consortium  Kenya)  Clause 38(5)  Clause 38(6)  Consortium  Consortium  Kenya)  Clause 38(7)  Clause 38(8)  Consortium  Consortium  Consortium  Kenya)  Clause 38(8)  Consortium  Kenya)  Consortium  Kenya)  Clause 38(8)  Consortium  Kenya)  Clause 38(8)  Consortium  Kenya)  Clause 38(9)  Clause 38(10)		Affairs shall seek for more	in addition to the ones allocated		
Clause 36  Clause 36  Clause 36  Clause 36  Clause 36  Consortium the host communities, the communistioner shall, in cooperation of refugees assistance of refugees, ensure that special attention is given to women, children pard persons with disabilities.  Clause 38(2)  Clause 38(3)  Clause 38(2)  Clause 38(2)  Clause 38(3)  Clause 38(2)  Clause 38(3)  Clause 38(2)  Clause 38(2)  Clause 38(3)  Clause 38(4)  Clause 38(6)  Clause 38(6)  Clause 38(7)  Clause 38(8)  Clause 38(8)  Clause 38(8)  Clause 38(8)  Clause 38(9)  Clause 38(1)  Clause 38(1)  Clause 38(1)  Clause 38(1)  Clause 38(2)  Clause 38(3)  Clause 38(2)  Clause 38(3)  Clause 38(2)  Clause 38(3)  Clause 38(2)  Clause 38(3)  Clause 38(4)  Clause 38(5)  Clause 38(6)  Clause 38(6)  Clause 38(7)  Clause 38(8)  Clause 38(8)  Clause 38(8)  Clause 38(8)  Clause 38(8)  Clause 38(9)  Clause 38(1)  Clause 38(2)  Clause 38(3)			seek for more resettlement quarters		
Clause 36  Clause 36  Clause 36  Clause 36  Commissioner shall, in cooperation with the United Commissioner for Refugees and Sistence of refugees, ensure that special attention is given to women, children and persons with disabilities.  Commissioner shall, in cooperation of refugees and the Norther organizations involved in the special attention is given to women, children and persons with disabilities, special attention is given to women, children and persons with disabilities, special attention is given to women, children and persons with disabilities, special attention is given to women, children persons with disabilities, special attention is given to women, children persons with disabilities, special attention is given to women, children persons with disabilities, special attention is given to women, children persons with disabilities, special attention is given to women, children persons with disabilities, special attention is given to women, children persons with disabilities, special attention is given to women, children persons with disabilities, special attention by deletting the formatters and the section by deletting the formatters and the section by deletting the formatters and the vord "quarters" and replacing the formatters and the section by deletting the formatters and the section by deletting the formatters and the section by deletting the formatters and the vord "quotas" therefor with the word "quotas" therefore with the word "quotas" the persons with the word "quotas" therefore with the word "quotas" the persons with the word "q		(2) The Commissioner in liaison	the Ministry of Foreign Affairs shall		
Clause 36  Clause 36  Clause 36  Clause 36  Clause 36  Clause 37  Clause 38  Affirmative action for women, children and persons with disabilities. Special attention is given to women, children persons with disabilities, older persons and other vulnerable groups.  Clause 38  Clause 48  Comonvisioner for Comminisioner for Comminisioner for Comminisione		as follows:	(2) The Commissioner in liaison with	Kenya)	
Clause 36  Clause 36  Clause 36  Clause 36  Clause 36  Clause 36  Consortium  Kenya)  Commissioner for Refugees of the refugees, ensure that special attention is given to women, children and persons with disabilities. Special attention is given to women, children and persons with disabilities, special attention is given to women, children persons with disabilities, special attention is given to women, children persons with disabilities, special attention is given to women, children persons with disabilities, special attention is given to women, children persons with disabilities, special attention is given to women, children persons with disabilities, special attention is given to women, children persons with disabilities.  Clause 38(2)  RCK  Resettlement of refugees residing in Amend the section by deleting the voluses.  County intergrated Development envisioned in clause resources and other volunes follows:  Proposal to incluse reference to county assistance of refugees and the Nations High Commissioner for other organizations involved in the special attention is given to women, children persons with disabilities.  Clause 38(2)  RCK  Resettlement of refugees residing in Amend the section by deleting the voluses.  County Intergrated Development envisioned in clause reference to county assistance of refugees, ensure that special attention is given to women, children persons with disabilities.  Commissioner for Refugees, ensure that special attention is given to women, children persons with disabilities.  Amend the section by deleting the To correct "quarters" and organized mand amendite voluntars and other to incluse and other to incluse the commissioner for planes.  Commissioner for Refugees and the Nations High Commissioner for other special attention is given to women, children persons and other volunterable groups.		therefor with the word "quotas"		Consortium	
Clause 36  RCK  Children and persons with disabilities  Kenya)  Commissioner for Refugees and the united Commissioner for Refugees and the special attention is given to women, children and persons with disabilities.  Commons with disabilities.  Commons involved in the special attention is given to women, children persons with disabilities.  RCW  Resettlement of refugees residing in Amend the section by law.  Affirmative action for women, county Intergrated Development envisioned in clause Plans, spatial plans and other (1).  Plans as mandated by law.  Proposal to inclu county reference to County in the host communities, the commissioner shall, in cooperation with the United Commissioner for Refugees and the section sincolved in the special attention is given to women, children persons with disabilities.  RCW  Resettlement of refugees residing in Amend the section by deleting the To correct "quarters" and the section by deleting the To correct "quarters	-	word "quarters" and replacing	Kenva	(Refugee	
Clause 36  Clause 36  Clause 36  Clause 36  Consortium  Consortium  Consortium  Commissioner shall, in cooperation of refugees and the united of refugees and the special attention is given to women, children and persons with disabilities.  Special attention is given to women, children and persons with disabilities, special attention is given to women, children persons with disabilities, special attention is given to women, children persons and disabilities, older persons and other other other other vulnerable groups.		Amend the section by deleting the	Possettlement of refugees residing in	DCK.	
Clause 36  Clause 36  RCK  Children and persons with disabilities.  Kenya)  Commissioner shall, in cooperation of refugees and sassistance of refugees, ensure that special attention is given to women, children and persons with disabilities.  Children and persons with disabilities.  Consortium  Kenya)  Commissioner shall, in cooperation cooperation with the United of the other organizations involved in the assistance of refugees, ensure that children and persons with disabilities.  Children and persons with disabilities.  Commissioner for Refugees and the special attention is given to women, children persons and disabilities, older persons and disabilities, older persons and disabilities, older persons and county reference to refugees, relevant County assistance of refugees, ensure that special attention is given to women, children persons with disabilities, older persons and		other vulnerable groups.			
Clause 36  RCK (Refugee Consortium Kenya)  Commissioner for Refugees and the ther of the ther of the commissioner for Refugees, ensure that special attention is given to women, children persons with disabilities.  Clause 36  RCK (Refugee Consortium Commissioner for Refugees in the host communities, the communities, the other of refugees and the section as follows:  Commissioner shall, in cooperation with the United Nations High Commissioner for Refugees, ensure that special attention is given to women, children persons with disabilities.  Clause 36  RCK  Clause 36  RCK  Children and persons with disabilities (Refugee 36. In the integration of refugees governments in the host communities, the Commissioner shall, in reference to comperation with the United Persons.  Commissioner for Refugees and the Refugees, relevant County assistance of refugees, ensure that special attention is given to women, children persons with		older			
Clause 36  Clause 36  Consortium  Consortium  Kenya)  Commissioner shall, in cooperation other other organizations involved in the secial attention is given to women, children and persons with disabilities.  Consortium the host communities, the commissioner for Refugees and the section as follows:  Consortium the host communities, the Commissioner shall, in cooperation with the United Nations High Commissioner for Refugees and the section as follows:  Consortium the host communities, the cooperation of refugees in the host communities, the cooperation with the United Nations High Commissioner for other organizations involved in the section as follows:  Consortium the host communities, the cooperation of refugees and the other other organizations involved in the assistance of refugees, ensure that special attention is given to women, children and persons with disabilities.  Clause 36  Affirmative action for women, Amend the section as follows:  Proposal to reference to governments in cooperation with the United cooperation with the United persons.  Commissioner for Refugees and the Ogovernments and the other organizations involved in the assistance of refugees, ensure that special attention is given to women, plans as mandated by law.  Proposal to reference to governments in cooperation with the United persons.  Commissioner for Refugees and the Ogovernments and the other organizations involved in the section as follows:  Proposal to reference to governments in reference to persons.  Solutions High Commissioner for persons with disabilities.		children			
Clause 36  RCK  (Refugee  Consortium  Consortium  Kenya)  Commissioner for Refugees assistance of refugees, ensure that  children and persons with disabilities.  Commissioner for Refugees, ensure that  children and persons with disabilities.  Consortium  Consortium  Consortium  Commissioner for Refugees and the section as follows:  Proposal to reference to governments in in the host communities, the cooperation with the United Nations High Commissioner for other organizations involved in the section as follows:  Proposal to reference to governments in cooperation with the United Service sand the Commissioner for Refugees, ensure that special attention is given to women, children and persons with disabilities.	11.		į.		
Clause 36  Clause 36  RCK  (Refugee  Consortium  Kenya)  Commissioner for Refugees and the passistance of refugees, ensure that special attention is given to women, special attention is given to women, special attention is given to women, into consideration refugees in matters in the development of the matters in the development of matters in the development of the county Intergrated Development envisioned in the Plans, spatial plans and other (1).  Plans, spatial plans and other plans and other organization of refugees in the section as follows:  plans as mandated bylaw.  proposal to reference to commissioner shall, in the host communities, the devolved service to reference to operation with the United persons.  Governments and the other organizations involved in the other special attention is given to women, organizations involved in the section as follows:  Plans, spatial plans and other (1).  Plans, spatial plans and other organization of refugees to persons.  Proposal to reference to opperation with the United persons.		assistance of refugees, ensure that	children and persons with disabilities.		
Clause 36  Clause 36  RCK  (Refugee Consortium Kenya)  Commissioner for Refugees and the other organizations involved in the assistance of refugees, ensure that  Consortium the bost communities, the other organizations involved in the assistance of refugees, ensure that  Consortium the host communities, the other organizations involved in the assistance of refugees, ensure that  Consideration consideration refugee be better use of matters in the development of resources and a County linter grated Development of resources and a County linter grated Development of resources and the county matters in the development of the resources and a County linter grated Development of resources and the other (1).  Plans, spatial plans and other (1).  Proposal to reference to commissioner shall, in the host communities, the devolved service to commissioner for other organizations involved in the Refugees, relevant County assistance of refugees, ensure that Governments and the other		involved in	special attention is given to women,		
Clause 36  Clause 36  Clause 36  Clause 36  Clause 36  County Intergrated Development of the plans, spatial plans and other (1).  Affirmative action for women, children and persons with disabilities  (Refugee Consortium Kenya)  Commissioner shall, in cooperation with the United Other organizations involved in the Refugees, relevant County  Into consideration refugee matters in the development of the county Intergrated Development envisioned in circle resources and a County Intergrated Development envisioned in circle resources and other (1).  Plans, spatial plans and other (1).  Proposal to reference to governments in in the host communities, the devolved service commissioner for Refugees and the Nations High Commissioner for other organizations involved in the Refugees, relevant County		and the	assistance of refugees, ensure that		
Clause 36  Clause 36  Clause 36  Clause 36  Clause 36  County Intergrated Development of the envisioned in clause 36  RCK  Children and persons with disabilities  (Refugee 36. In the integration of refugees in Consortium the host communities, the Commissioner shall, in cooperation with the United Nations High Commissioner for Refugees and the Revolved service to Refuge the Revolved Service Amend the Section as follows:  Proposal to Plans, spatial plans and other (1).  Plans, spatial plans and other (1).  Proposal to Proposal to Proposal to Refugees to Proposal to Refugees to Proposal to Refugees to Proposal t		relevant	other organizations involved in the		
Clause 36  Clause 36  RCK  Consortium  Consideration refugee be better use of matters in the development of the resources and a county Intergrated Development of the envisioned in clause in clause 36. In the integration of refugees in Consortium the host communities, the Kenya)  Kenya)  Commissioner shall, in cooperation with the United Nations High cooperation with the United persons.		Nations High Commissioner for	Commissioner for Refugees and the		
Clause 36  Clause 36  RCK  RCK  Children and persons with disabilities  Consortium  Kenya)  Commissioner shall, in cooperation  into consideration refugee matters in the development of the resources and a County Intergrated Development envisioned in classioner shall, in the consideration of refugee matters in the development of the resources and a County Intergrated Development envisioned in classioner shall matters in the development of the resources and a County Intergrated	persons.		with the United Nations High		
into consideration refugee be better use of matters in the development of the county Intergrated Development of the county Intergrated Development of the county Intergrated Development envisioned in classification for women, plans as mandated by law.  Clause 36  RCK  Affirmative action for women, Amend the section as follows:  (Refugee 36. In the integration of refugees in Consortium the host communities, the in the host communities, the devolved service for the consideration of the matters in the development of the county Intergrated Development of the county Interpretation of the county Intergrated Development of the county Interpretation of the county Interpretation	to	Commissioner shall, in	Commissioner shall, in cooperation	Kenya)	
into consideration refugee be better use of matters in the development of the county Intergrated Development of the county Intergrated Development envisioned in classiance in class and other (1).  Clause 36  RCK  Affirmative action for women, Amend the section as follows: plans as mandated by law.  (Refugee 36. In the integration of refugees in 36. In the integration of refugees in 36. In the integration of refugees in 36. In the integration of refugees governments in	services	in the host communities, the	host communities,	Consortium	
into consideration refugee be better use of matters in the development of the cources and am County Intergrated Development envisioned in clauplans, spatial plans and other plans as mandated by law.  Affirmative action for women, Amend the section as follows: reference to reference to		36. In the integration of refugees	36. In the integration of refugees in	(Refugee	
into consideration refugee matters in the development of the County Intergrated Development Plans, spatial plans and other plans as mandated by law.  Clause 36  Affirmative action for women, Amend the section as follows:	to		children and persons with disabilities	RCK	
consideration refugee ters in the development of the ty Intergrated Development s, spatial plans and other s as mandated by law.	to	Amend the section as follows:	action for		
consideration refugee ters in the development of the tylintergrated Development separatial plans and other		-			
consideration refugee ters in the development of the	(1)	_			
consideration refugee	envisioned in clause 34	County Intergrated Development			
consideration refugee	resources and amenities	matters in the development of the			
	be better use of shared	into consideration refugee			

addition, offence is	10-959000	engaged in gainful employment	Consortium		
renumbered - now 41. In	section 40(1)(m) renu	(m) being a refugee, works or is	(Refugee		
Current Section 40 to be	Amend the section by deleting Curi	Offences and penalties	RCK	Clause 40 (1) (m)	112
	refugee;		LWF WS		
	asylum to recognition as a				
	authorised officer to apply for		Nabenyo		
	Act to a refugee officer or		Mr. Ekai		
	within the period set out in this		- 2752 - 200 - 201		
	report without good reason		Kenya)		
show good reason.	(c) after entering Kenya, fails to show		Consortium		
asylum-seeker does not	40(1)(c) as follows: asyl		(Refugee		
ence applicable if	Amend the current Section Offence	Offences and penalties	RCK	Clause 40 (1) (c)	111
	such fine and imprisonment.				
	exceeding six months or both				
	imprisonment for a term not				
	twenty thousand shillings or to				
	be liable to a fine not exceeding				
	offence and shall on conviction	refugee officer.			
	any provision of this commits an	writing to a Settlement officer or			
	(3) A person who contravenes	or she may delegate this function in			
_	the information.	seekers and refugees provided that he			
	sub (1) shall disclose or publish	to be the Registrar of the asylum	99		
dropped in the Bill.	information in contravention of drop	and for this purpose shall be deemed			
why the provision was	(2) No person who receives why	designated areas established in Kenya			
protection, it is not clear	Commissioner. prot	seekers and refugees present and the			
to privacy and data	(b) with the consent of the to	and keep records of all asylum			
2010 provides for the right	under this Act; or 201	(3) The Commissioner shall register			
Constitution of Kenya	(a) in the course of his duties Con	provided for by this Act.			
Noting that article 31	_	take into account the matters			_
gee information.	disclose information acquired refugee	force of this Act update the register to			
um seeker and	the Department of Refugees shall asylum	practicable after the coming into			
confidentiality in handling	Committee, employee or agent of conf	(2) The Department shall as soon as			
provides for	39A. (1) No member of the prov	persons seeking asylum in Kenya.			
6. The section	follows as follows: 2006.	have been granted refugee status and	Kenya)		

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

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

In Clause 43 (2) (k) RCK Regulations (k) the protection of women, childrer Consortium (k) the protection of women, childrer Kenya) (disabilities and other vulnerable groups;  Section 43(2)(c) Abdulahi Ali Regulations  Garrisa  Garrisa  Garrisa  Gounty  Gounty  Geoups  Gounty  Geoups  Gounty  Geoups  Gounty  Geoups  Gounty  Geoups  Gounty  Geoups  Gounty  Gounty		Consortium	make regulations generally for giving	make regulations generally for	enactment of the	
Clause 43 (2) (k) RCK Regulations (Refugee Consortium Kenya) unaccompanied minors, pe disabilities and other groups; Section 43(2)(c) Abdulahi Ali Regulations Section 43 (2) Abdulahi Ali Garrisa Garrisa County		Kenya)	effect to this Act, and for prescribing anything required or necessary to be	giving effect to this Act, and for prescribing anything required or	regulations for the proper administration of the law.	
Clause 43 (2) (k) RCK Regulations (Refugee Consortium (k) the protection of women Kenya) unaccompanied minors, per disabilities and other groups;  Section 43(2)(c) Abdulahi Ali Regulations  Section 43 (2) Abdulahi Ali Regulations  Garrisa  Garrisa  County		UNHCR	prescribed by or under this Act.	necessary to be prescribed by or under this Act within 6 months of		
Clause 43 (2) (k) RCK Regulations  (Refugee Consortium (k) the protection of women kenya) unaccompanied minors, per disabilities and other groups;  Section 43(2)(c) Abdulahi Ali Regulations  Section 43 (2) Abdulahi Ali Regulations  (Garrisa Garrisa County)				the commencement of this Act.		
(Refugee Consortium Kenya)  (k) the protection of wome unaccompanied minors, pe disabilities and other groups;  Abdulahi Ali Regulations  Representat ives  Garrisa County		RCK	Regulations	Amend the section by including	There is a difference	
County (k) the protection of wome unaccompanied minors, pe disabilities and other groups;  Abdulahi Ali Regulations  30 Refugee Representat ives  Garrisa  County		(Refugee		the words 'separated children' as	-	
Kenya) unaccompanied minors, pe disabilities and other groups;  Abdulahi Ali Regulations  30 Refugee Representat ives ives  Garrisa  County		Consortium	(k) the protection of women, children,	follows:	minors and separated	
Abdulahi Ali Regulations  30 Refugee Representat ives Garrisa County		Kenya)	unaccompanied minors, persons with	(k) the protection of women,	children thus the need for	
Abdulahi Ali 30 Refugee Representat ives ives Garrisa County			and othe	children, unaccompanied minors,	their protection.	
Abdulahi Ali 30 Refugee Representat ives ives Garrisa County			groups;	separated children, persons with		
Abdulahi Ali 30 Refugee Representat ives Garrisa County				disabilities and other vulnerable		
Abdulahi Ali 30 Refugee Representat ives Garrisa County				groups;		
Abdulahi Ali 30 Refugee Representat ives Garrisa County	18 Section 43(2)(c)			Provision to be moved to after	The change is proposed to	
Abdulahi Ali 30 Refugee Representat ives ives Garrisa County				Section 43(2)(I)	make the section be read	
Abdulahi Ali 30 Refugee Representat ives ives Garrisa County					better.	
30 Refugee Representat ives ives Garrisa County	19 Section 43 (2)	Abdulahi Ali	Regulations	New paragraphs	There is need for specific	
30 Refugee Representat ives Garrisa County				a) Facilitation of local	regulations on shairing of	
30 Refugee Representat ives Garrisa County				integration;	resources e.g as firewood	
Representat ives Garrisa County		30 Refugee		b) On access to employment	with local community.	
ives Garrisa County		Representat		and affirmative action for	3	
Garrisa County		ives		refugees with respect to	Refugees need quotas of	
Garrisa County				employment;	jobs and access to similar	
Garrisa County					job opportunities	
Garrisa County						
County		Garrisa			Local integration	
		County			especially where there is	
					intermarriage between	
					locals and refugees	

New clauses

## Confidentiality

- (1)No officer of the Secretariat, employee or agent of the Department of Refugees shall disclose information acquired under this Act except—
- (a)in the course of his duties under this Act; or
- (b) with the consent of the Commissioner.
- (2)No person who receives information in contravention of subsection (1) shall disclose or publish the information.
- thousand shillings or to imprisonment for a term not exceeding six months or both such fine and imprisonment. (3)A person who contravenes any provision of this section commits an offence and shall on conviction be liable to a fine not exceeding twenty

of key importance to their safety and protection, (refugees and asylum seekers are persons at risk owing to the circumstances in their home countries and as such the protection of their data

## Preferential Treatment for Refugees Origination from EAC member states

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

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

- on public land to be transit centres or refugee settlements for the purposes of-(1) The Commissioner may, in accordance with the Constitution and any other law, by notice published in the Gazette, designate places or areas
- applications by the Committee; and (a) temporarily accommodating persons who have applied for grant of refugee status pending the processing and consideration of their
- (b) local settlement and integration of refugees whose applications for refugee status have been granted

enable such decisions be a win for both refugees and local communities) (the acquisition of community land should be done in accordance to the laws specifically laws dealing with public participation. This is to

## Family Re-union

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

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