


THE STATUS OF LEGAL INTEGRATION OF REFUGEES IN KENYA

A NAIROBI CASE STUDY





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Abbreviations

CRA – Commissioner for Refugee Affairs

DRA – Department of Refugee Affairs

IOM – International Organisation for Migration

KCIA – Kenya Citizenship and Immigration Act, 2011

RCK – Refugee Consortium of Kenya

UNHCR – United Nations High Commissioner for Refugees

Acknowledgement

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Executive Summary

Although local integration is considered one of the three durable solutions for people that have been forcefully displaced, it has not been available to refugees in Kenya. This is due to the Kenyan government's rigid policy of encampment that frustrates any discourse on local integration.

This study adopted an understanding of local integration as conferring the same rights to refugees as Kenyan citizens. This can be made possible through the process of registration. The study identified three ways through which a refugee can become a Kenyan citizen through registration. These are: marriage, lawful residence and adoption. The study delved into the specific requirements for each provision and concluded that, in theory, refugees do qualify for citizenship, but in practice access to citizenship is limited. It also looked into the status of permanent residence as an alternative for granting citizenship. The objectives of the study were to examine whether refugees can legally apply for Kenyan citizenship; to examine whether Kenyan refugee policy encourages local integration through citizenship and to establish refugees' and asylum seekers' perception towards citizenship as a durable solution.

The study revealed that Kenya has yet to formulate and adopt a comprehensive refugee policy. This has resulted in gaps in guidance as to how refugees can move from the refugee status to citizenship or permanent residency status. Furthermore, the restrictive encampment policy does not provide a conducive environment for local integration to thrive.

A total of 642 refugees were interviewed for this study to provide their views on citizenship by registration. The study found that Eritreans were the most likely to apply for Kenyan citizenship given an opportunity. It also found that refugees that have been in Kenya longer were more likely to apply for citizenship while those with some form of employment were least likely to apply for the same. Those that have been in Kenya longer have interacted more with Kenyans and thus feel at home. In contrast, those that have some form of employment are more likely to encounter harassment from state officials looking to effect the encampment policy.

Introduction

Local integration can be defined as a gradual process by which a country of first asylum grants to refugees the same rights as the host nationals (Meyers, 2006: p.52 & Lindley, 2011: p.22). There are three main models through which states advance local integration. The first is a complete grant of citizenship to refugees. In this model, refugees possess the same rights as the local population (Lindley p.22). They have the right to vote and stand in elections as candidates as far as is permitted by law of the country of asylum¹ among other rights.

The second is the permanent residency model. In this model, refugees are given permanent residency which means they have all rights relative to native nationals in the country of asylum except for some political rights such as participation in elections. However they can access citizenship through registration on application. An example of this type of integration is when Tanzania gave permanent residency to 3000 Somali nationals; they were not recognised as citizens of Tanzania but could apply for it subject to the applicable laws (Fielden, 2008:10).

The third is the development assisted integration (DAI). This model is based on the assumption that legal local integration is not feasible. Therefore, instead of refugees being huddled in camps, they are afforded access to a wide array of rights including access to factors of production such as land (Feldman, 2007: p.59). The main objective of this model is to promote self-sufficiency among refugees and asylum seekers. However, this is more of a transitional solution than a durable one.

Problem statement

Discussion on local integration as a durable solution for refugees in Kenya has been muted. This is because 'local integration...continues to carry with it a negative connotation of permanency, insecurity and resource scarcity' (Campbell, Kasuku & Musyimi, 2006: 105). This is coupled with the notion that legal local integration means mass or blanket recognition of refugees as Kenyan citizens (Grayson, 2013:7). The result is that formal and overt structures of local integration have not been developed.

Whereas section 7(2)(e) of the Refugees Act, 2006 mandates the Commissioner for Refugee Affairs (CRA) to 'promote, as far as possible, durable solutions for refugees granted asylum in Kenya,' there has not been a concerted effort to examine the current legal regime and determine to what extent it supports local integration. The Refugees Act, 2006 neither clearly stipulates how the CRA is to discharge this obligation nor does it define what these durable solutions are.

¹ It is important to note that there are some African countries such as Tanzania and Kenya where one cannot constitutionally vie for the Office of the President unless they are nationals of these countries by birth.

This study therefore looked at the possibility of access to legal local integration for refugees that qualify for Kenyan citizenship through registration. It also looked at the legal provisions of permanent residency as an alternative to granting citizenship. The study interrogated the provisions of the Kenya Citizenship and Immigration Act, 2011 (KCIA) that relate to acquisition of Kenyan citizenship by foreign nationals and those that provide for permanent residence. It also identified and discussed the willingness and key concerns that refugees have about becoming Kenyan citizens.

Study Limitations

The major limitation encountered by this study is the lack of a viable sampling frame. It was assumed that the United Nations High Commissioner for Refugees (UNHCR) would have data on refugees that qualify for local integration. However this was not the case and therefore it was not possible to validly determine refugees that meet the criteria for Kenyan citizenship through registration. However, the study relied on data collected in April 2015 by RCK that looked at the economic contribution of refugees in Nairobi.² The study used a sample of 630 refugees that were asked about their willingness to apply for Kenyan nationality. These refugees were sampled using the quota sampling procedure and thus the generalisability of the findings is limited.

Literature review

Scholarship on local integration is limited particularly in countries of asylum in sub-Saharan Africa, including Kenya. However the limited literature available on local integration in Kenya agrees that a so-called *laissez faire* refugee policy existed prior to 1991 (Verdirame, 1999: p.57; Banki, 2004: p.12; Abuya, 2007: p.71 and Lindley, 2011: p.2). During this period, refugees had more freedom of movement and access to local integration. This situation changed when a massive number of refugees entered the country from 1991.

According to Campbell, the Government of Kenya wholly handled the refugee management prior to the mass influx of 1991 (2005: p.4). In this period, refugees could 'apply for legal local integration' (2005: p.4). However the author does not provide any citation or analysis of how that was done and there is no other study on this subject that corroborates this particular finding. Therefore, it is difficult to ascertain whether refugees then actually applied for citizenship as a durable solution to their displacement or determine the procedure that they used to apply.

The findings in Campbell's study, with the pointed exception of the finding on legal local integration, were largely corroborated by Abuya (2007) who studied the development of

2 See Refugee Consortium of Kenya (2016) *Myths and Truths: The facts about refugee self-sufficiency and economic contribution in Nairobi*.

refugee law in Kenya since independence. The study found that the Government of Kenya was primarily responsible for refugee management (p.6). Refugees had access to a wide range of rights including freedom of movement that is integral to the process of local integration. However after the collapse of the Somali Government as well as political turmoil in Ethiopia, refugee numbers in Kenya increased by over 300% (p.84). The government's refugee management system collapsed and the encampment policy was born. A corollary of this policy was the limitation to opportunities for local integration that were available before the influx (p.84).

Pavanello et al (2010), in their study on urban refugees in Nairobi, found that local integration discourse was largely hindered by negative perceptions about refugees. Refugees and asylum seekers were largely seen by the government and the host community as threats to national security and wealth creation (p.28). Their study also posits that in spite of self-reliance among urban refugees, they were still not 'wholly accepted as part of the Kenyan society.' This finding is corroborated by Campbell et al (2006: p.93) and Lindley (p.23) who state that even though there was factual local integration, legal integration was very limited.

The conclusion made from available literature is that local integration was more factual than legal. Refugees could move freely in Kenya before a policy change was effected in 1991. In spite of this free movement, there is no evidence that refugees were ever registered as citizens. There is also a gap in knowledge on the applicable law in Kenya for local integration. For instance there is no information on how citizenship laws in Kenya can be used to access local integration. Secondly there is limited information on the willingness of and interest by refugees to apply for Kenyan citizenship. This study looks at these issues with the aim of contributing to knowledge extant on the subject matter.

Objectives

The objectives of this study were:

1. To examine whether refugees can legally qualify for Kenyan citizenship;
2. To examine whether Kenyan refugee policy encourages local integration through citizenship;
3. To establish refugees' and asylum seekers' perception towards citizenship as a durable solution.

Research Questions

This study was guided by the following questions:

1. Can refugees legally qualify for Kenyan citizenship?
2. Does Kenyan refugee policy encourage local integration through citizenship?
3. What are the perceptions among refugees and asylum seekers towards citizenship as a durable solution?

Methodology

This research relied on desktop review as well as interviews with refugees and key informants. The desktop review focused on citizenship and immigration laws in the country to understand the qualifications and requirements for applying for Kenyan citizenship and residency. Further, it looked into the possibility of refugees applying for Kenyan citizenship as a durable solution. Finally, this study examined literature on refugee attitudes towards legal local integration in Kenya and their willingness to apply for Kenyan citizenship should they qualify.

The study interviewed 642 refugees in Kenya. A total of 630 respondents (representing households in Nairobi) were interviewed through one-on-one interviews while 12 were interviewed through two focussed group discussions. The focus group discussions targeted refugees that are married to Kenyans to assess the nature of these marriages and whether they would be willing to become Kenyan nationals.

The study employed quota and purposive non-random sampling procedures. These procedures were used as there was no sampling frame available to randomly draw respondents for the study. The quota sampling method was used to identify the 630 respondents while the purposive approach was used to identify an additional 12 respondents. The purposive approach also enabled the researchers to talk to individuals that have met the requirements for citizenship to understand their attitude towards citizenship thus providing qualitative data. Data collectors, using one on one interview schedules, collected data from the 630 respondents in April, 2015 and the remaining 12 respondents were interviewed in May, 2016.

A semi-structured questionnaire was used to obtain information on the respondents' willingness to be apply for Kenyan citizenship. The data collected was analysed using descriptive statistics against the livelihood, nationality and length of stay in the country. Respondents were provided with details of the research and the responses were anonymised.

Citizenship by Registration: Legal and Policy Framework Analysis

This section outlines the legal and policy framework of acquiring citizenship by registration in Kenya. It specifically analyses the qualifications for citizenship by registration and interrogates the extent to which refugees meet these requirements. The policy environment is also assessed to establish whether it is conducive enough to encourage refugees to apply for Kenyan citizenship.

Legal Framework Analysis

The Kenya Citizenship and Immigration Act, 2011 (KCIA) provides three ways in which a foreign national can become a Kenyan citizen. These are through marriage, lawful residence and adoption. The rules on qualifications and requirements are found in sections 11, 13 and 14 of the KCIA. Further, the Kenya Citizens and Immigration Regulations, 2012 (hereinafter referred to as Regulations) are instructive on the requirements a foreign national needs to meet to apply for citizenship. All these provisions are anchored by article 15 of the Constitution of Kenya, 2010. Since refugees are foreign nationals, they must meet each of the requirements enumerated below to qualify for citizenship.

Marriage

Foreign nationals married to Kenyans qualify for Kenyan nationality if they have been married for a continuous period of at least seven years. The marriage must have been solemnised under a system of law recognised in Kenya, which means that the marriage must not necessarily have occurred on Kenyan soil. Section 11 of the KCIA also states that the marriage must not have been entered for the purposes of acquiring citizenship or improving immigration status or privilege. The applicant must also not have been declared a prohibited migrant³ under the KCIA or any other Act. Finally the Act provides that the marriage should subsist at the time of application.

There is an exemption to this last rule on the subsistence of the marriage at the time of application. Section 12 of the KCIA provides for widows and widowers wherein they can apply for citizenship after seven years even if the spouse died before expiry of this period. All of the above mentioned requirements should be present, save for the subsistence of marriage, for the widow/widower to qualify for Kenyan nationality. One additional rule for this category is that they ought not to have remarried a foreign national before the expiry of the seven-year minimum period.

3 See section 33 of the Kenya Citizenship and Immigration Act, 2011 for the definition of a prohibited migrant

Marriage is defined as the union of two consenting adults.⁴ The Marriage Act, 2014 recognises five forms of marriages: civil, Christian, Hindu, Muslim and customary marriages.⁵ The first three marriages are considered monogamous while the last two could be polygamous or potentially polygamous.⁶ This section means that refugees or asylum seekers cannot seek Kenyan citizenship through marriage if they are in same-sex unions. Secondly it also means that those refugees who have married under the Muslim faith or traditional customs and have a Kenyan among the wives, qualify for nationality.

The Marriage Act does not recognise common law marriages. A common law marriage or cohabitation is one in which a man and a woman hold themselves out to be married without the formalities of a marriage (Keane, p.661). In other words, a man and a woman would live together without going through a formal marriage ceremony but still consider themselves as husband and wife. This recognition is also shared by the community in which they live.

Application forms for both these categories of foreign nationals through marriages are found in the first schedule of the regulations.⁷ These forms (Form 8 and Form 9) require that the applicant provides personal information such as name, date of birth and place of birth. It also requires the applicant to make a declaration that he/she meets the requirements as set out in section 11 or 12 of the KCIA whichever is applicable for the specific case.

Unlike the other categories of applying for Kenyan citizenship by a foreign national, the issue of legal residence is not addressed by the said sections. There is therefore an assumption that the foreign national ought to be in the country under a valid permit or pass. Section 34 of the KCIA suggests that asylum seekers are considered to be in the country legally. The section states that 'a person who is not a citizen of Kenya or an asylum seeker shall not enter or remain in Kenya unless she or he has a valid permit or pass.' This provision dovetails the provision in section 12 of the Refugees Act, 2006 that grants the right of asylum seekers to remain in Kenya until the final determination of their asylum claim. Therefore, in theory, asylum seekers can be granted citizenship through registration if they are validly married to a Kenyan citizen.

Refugees are not explicitly mentioned as exempted from applying for Kenyan citizenship but section 33(1)(u) and section 33(2)(f) of the KCIA could provide some insight. They state that an asylum seeker whose status has been revoked or rejected ought to be removed from the country. This section ought to be read with section 14 of the Refugees Act, 2006 which provides for the right of refugees and asylum seekers to reside in the country.

This study finds that refugees that are married to Kenyans for at least seven years can apply for nationality after reviewing the aforementioned provisions. Since refugees are foreign

4 See Article 45(2) of the Constitution of Kenya, 2010 and section 3(1) of the Marriage Act, 2014

5 See section 6(1) of the Marriage Act, 2014

6 See section 6(3) of the Marriage Act, 2014

7 See annex

nationals, they fall under the purview of these sections should they be married to a Kenyan national or have been married to a Kenyan national that is deceased at the time of application.

Those foreign nationals that apply for Kenyan nationality through this means may not need to meet the lawful residence requirement. It means that applicants hereunder do not have to prove that they have resided in Kenya for the seven years but that their marriages have subsisted for that period. This means that refugees that have married Kenyan nationals in other jurisdictions, but whose laws are recognised by Kenyan laws, can apply for Kenyan citizenship even though they have lived in Kenya for some period of time.

Foreign nationals such as refugees applying hereunder do not need to prove that they can speak either Swahili or a local dialect. Under the KCIA and the regulations, there is no mention that a candidate for citizenship under section 11 and 12 needs to speak Swahili or a local dialect. This provision is restricted to those that seek to apply under 'lawful residence' as described in section 13 of the KCIA.

Lawful residence

Citizenship through lawful residence is provided under section 13 of the KCIA. This requires foreign nationals seeking to apply for Kenyan nationality to have resided in Kenya for a continuous period of at least seven years. In addition, the applicant needs to have 12 months continuous residence prior to making the application. The residence of the applicant must be under the authority of a valid permit unless exempted by the Cabinet Secretary responsible for immigration matters.

The section does not provide the list of permits that it mentions. Moreover, section 2 of the KCIA refers the reader to section 40 that is concerned with issuance of permits. Section 2 states: "'permit' means a permit issued under section 40." Section 40, on the other hand, also does not define permits but prescribes a process of acquiring permits. It does not even mention the types of permits available to foreign nationals.

This raises the question of whether refugee certificates issued under the Refugees Act, 2006 could fit into the definition of a permit. The certificate confers the holder residence in the Republic of Kenya until such a time that a durable solution for their displacement has been found. Since legal local integration is a recognised durable solution and refugees have legal residence, it could be argued that refugees would automatically qualify to apply hereunder.

However a reading of section 41 may invalidate the argument made above. Section 41 appears to qualify the term permits to work or residence permits. The heading of the section reads: "Invalidation of a work or residence permit." Since section 40 of the KCIA deals with issuance of permits and section 41 deals with invalidation of the same, one can reasonably conclude that section 40 must be referring to work or resident permits. In the

same breath, a counter argument can be made that section 41 of the KCIA merely provides for the invalidation of a work or residents permit rather than define the scope of issuance under section 40.

This argument is resolved by a reading of section 36 of the KCIA. It states that ‘there shall be such classes of permits and passes as shall be prescribed under the regulations.’ The regulations being described thereunder are the Kenya Citizenship and Immigration Regulations, 2012 which do not list the refugee certificate as among the permits. They only recognise work and residence permits. This means that the KCIA as read with the regulations does not recognise refugee identification documents as permits. However it recognises the Class M Work Permit (set aside for refugees) among the permits and therefore refugees could use this to apply for citizenship provided they meet the other requirements as set out in the law.

Further, language requirements should be met. According to section 13, applicants must satisfy the Cabinet Secretary that they can speak and understand either Swahili or a local dialect. The latter points to an understanding of at least one of the more than 40 ethnic tongues that exist in Kenya. It is not clear from the KCIA or the regulations whether the Immigration Department would be required to issue a test on an applicant to determine that they can speak and understand Swahili or a local dialect. All the applicant requires to make is a declaration under rule 10 of the Regulations. An Immigration Officer is then required to assess the veracity of this declaration.

Applicants need to understand the rights and duties of Kenyan citizens as contained in the KCIA. These rights and duties are contained in section 22 and 23 and include right of residence, right to vote, right to own land, duty to pay taxes and duty to obey the laws of Kenya. Applicants also need to understand the nature of the citizenship application they are making. They also ought not to have been convicted of a criminal offence and sentenced to three years, or longer, in prison or have been adjudged bankrupt.

Finally the applicant must convince the Cabinet Secretary that he/she intends to reside in Kenya after registration. Moreover it must be determined that the applicant “has made or is capable of making a substantive contribution to the progress or advancement in any area of national development within Kenya.”⁸ The onus of proving this is on the applicant who has to show that their grant of Kenyan nationality will be beneficial to the republic. The Act specifies that an objective criterion be used to make this determination but goes no further in specifying the procedure.

There are other requirements that do not explicitly appear in the KCIA but appear on the list of requirements in the application form. Applicants under this section are required to have a certificate of good conduct or a police clearance certificate. Moreover they are

8 See section 13(1)(j) of the Kenya Citizenship and Immigration Act, 2011

required to provide a tax clearance certificate, which means that they ought to be registered tax payers. Finally the application requires that the applicant provides a passport number. According to section 10(2) of the Regulations, these details must be provided when making the application.

Adoption

The last option of acquiring Kenyan citizenship is through adoption under section 14 of the KCIA. It involves a Kenyan national applying for citizenship on behalf of a minor that is a foreign national. The relationship between the minor and the national applying ought to be of legal guardianship. The person applying for the minor must show that he/she is a Kenyan national and that the child is being legally adopted. They also have to prove that the child has been and is in Kenya legally.

Refugee children can benefit from this application. Where refugee minors are adopted by Kenyan nationals, the adoptive parents have the onus of applying for nationality on behalf of the child. This is because the child is deemed to lack consent to make such an application. Since refugees are considered to be residing in Kenya lawfully, by dint of section 34 of the KCIA, proof of legal residence can be found in refugee documentation such as the refugee identity pass as is required by section 14 of the Refugees Act, 2006.

A person seeking to apply for Kenyan nationality using this section, must fill out Form 11 as set out under the Regulations (a sample of the same has been attached in the annex of this report). The form requires information on the particulars of the child such as name, place and date of birth, nationality at birth and present nationality. It also requires particulars of the residence of the child in Kenya and other countries if the child is adopted.

Permanent residency

Another means through which refugees can acquire more rights over those of a refugee is through permanent residency. This does not confer the same rights as those of the citizen but provides more permanency than that conferred to refugees. It is regulated by section 37 of the KCIA that sets out the requirements.

Refugees who have held a work permit for at least seven years and have continuously resided in Kenya for three years preceding the making of the application for residence permit, are eligible to apply. In the same breath, refugees that have been married to a Kenyan citizen for at least three years are also eligible to apply for permanent residence.

Section 38 of the KCIA sets out the rights and obligations of a permanent resident to include:

- i. Right to enter and remain in Kenya;
- ii. Right to employment;

- iii. Right to access education facilities;
- iv. Right to own property;
- v. Right to move and settle anywhere in Kenya; and
- vi. Right to access and enjoy social services and facilities in Kenya.

The right to vote or vie in civic or national elective posts has not been mentioned. In this regard, the rights of permanent residency are not at the same level as those of a citizen. However, permanent residents have more rights than those of a refugee. Refugees do not enjoy freedom of movement as a right in Kenya owing to the encampment policy. This right is explicitly stated in the KCIA for permanent residents and therefore they enjoy wider rights than refugees.

To maintain a permanent residency status, one needs to comply with obligations set out by the KCIA. One has to comply with any prescribed residency obligation and comply with such other conditions as are imposed under the Kenya Citizenship and Immigration Regulations, 2012. Failure to do this may lead to the loss of permanent residency.⁹ One can also lose permanent residency if they have been granted Kenyan citizenship, have a removal order against them, and communicates to the Director of Immigration Service of their intention to cease holding the status or where the marriage is not *bona fide*.¹⁰

This status is relevant to this study owing to the sensitive nature of advocating for local integration in Kenya (Banki, p.12). Therefore, advocacy efforts can be channelled towards the provision of permanent residency which is less controversial than the grant of full citizenship rights to refugees. The incentive therein is the lack of access to the right to vote that may raise obstacles among politicians.¹¹

Policy Framework Analysis

Kenya does not yet have a comprehensive asylum policy that guides how refugees can apply for nationality. However, from government practice, it appears that the notion is that refugee matters are temporary.¹² Further, it is clear that the Government of Kenya prefers repatriation and third country resettlement to local integration.¹³

One government practice that indicates that the Government of Kenya may not be interested in local integration as a durable solution is the encampment policy. The government has

9 See section 39 of the Kenya Citizenship and Immigration Act, 2011

10 Ibid

11 See Jeff Crisp, 'A State of Insecurity: The Political Economy of Violence in Kenya's Refugee Camps', *African Affairs* 99(397) p.619

12 See Anna Lindley, 'Between a Protracted and a Crisis Situation: Policy Responses to Somali Refugees in Kenya' *Refugee Quarterly Survey* (2011) pp.1-36

13 Ibid, pp. 23-24

since 1991 been implementing an encampment policy which requires refugees to remain in the designated camps: Dadaab and Kakuma refugee camps.¹⁴ They are not allowed outside these camps save for higher education, specialised medical attention or to attend a resettlement interview.¹⁵

The rationale behind this was the brevity and temporariness of the refugee situation. At the time that the camps were being created, it was thought that refugees would only stay in Kenya for a brief period of time. This happened during an influx of refugees from Sudan (predominantly South Sudanese), Ethiopia and Somalia.

Initially the Government of Kenya was more receptive of the idea of local integration. Before the influx of refugees in 1991, Uganda refugees fleeing the Idi Amin regime were allowed to move about freely (Abuya p.57). Once they were recognised as refugees, they could freely work and reside outside the Thika Reception Centre where their status was determined. Although there was no official recognition such as the granting of citizenship, there was *de facto* local integration. This meant that the Ugandans could live and work among Kenyans without being legally accorded Kenyan citizenship. Therefore, they could not access such rights as voting or vying for public office.

The enforcement of the encampment policy means that those that reside in the camps can never fulfil the requirements of section 13 of the KCIA and acquire Kenyan nationality. This is because, even though they live and work in Kenya, they would not necessarily get work permits or residence permits to become Kenyan nationals as they require to travel outside the designated areas to make relevant applications. Furthermore, by dint of the encampment policy, refugees and asylum seekers would have less interactions with Kenyan nationals, with the exception of those with strong cultural bonds and common language such as the Somali refugees and locals in Dadaab, and thereby not be able to assimilate into the local culture through learning of a Kenyan language or marriage.¹⁶ According to section 13 of the KCIA, to acquire Kenyan nationality, one must speak a local language. Moreover, section 11 of the KCIA dictates that one ought to have married a Kenyan national for at least seven years to be eligible for Kenyan nationality. Lack of freedom of movement makes it difficult for refugees to achieve these requirements.

The encampment policy, though in various government statements (Campbell, 2005: p.10), was not effectively implemented. This can be seen by the growing urban refugee population in Nairobi from 2011 to 2016 (as at 31st May, 2016).¹⁷ It is further evidenced by the fact that the refugee camps were never gazetted in the Kenya Gazette, making them official designated areas, until 2014. This was eight years after the enactment of the Refugees Act, 2006. This

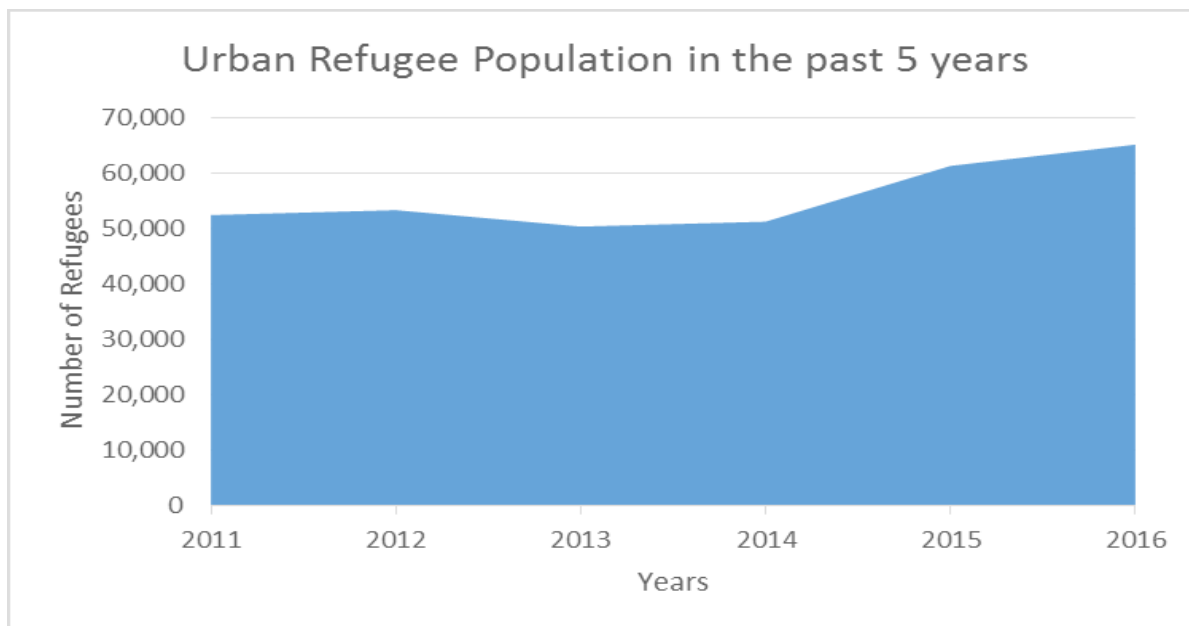
14 Jeff Crisp, p.616

15 Ibid

16 See Jeff Crisp p.610

17 United Nations High Commissioner for Refugees, Refugees in the Horn of Africa: Somali Displacement Crisis, at <http://data.unhcr.org/horn-of-africa/regional.php> accessed on 22nd June, 2016

meant that no refugee could be charged in court for being outside a designated area because the law did not state what or where these designated areas were.



Graph 1: Size of the refugee population in Nairobi in past 5 years

This loophole in implementation of the encampment policy saw refugees coming into the urban areas such as Nairobi, making it possible for them to interact with the local population--some set up businesses while others settled down with Kenyan spouses. However, they did not access crucial citizenship documents such as a work permits either because of a lack of information or fear of the labourious bureaucratic processes they had to go through. Since they could not access citizenship, they integrated by fact, not by law.

Moreover the issuance of these documents to the so called urban refugees would have been inimical to the policy of encampment. Even though the implementation of the encampment policy was not air tight, it would have been foolhardy for government officials to issue work permits for refugees living in urban areas when they are supposed to reside in the camps. This could further explain why urban refugees had limited access to formal local integration. Therefore one can discern the attitude of the Government of Kenya towards refugee integration through its actions, particularly how it has treated refugees since 1991.

Citizenship Intention Survey

This section discusses the intentions among refugees sampled to become Kenyan citizens given the opportunity. Its objective is to establish refugees' and asylum seekers' perception towards citizenship as a durable solution. The data is analysed by nationality, employment status and length of stay in Kenya.

Analysis by Nationality

Figure 1 below depicts the responses to the question put to the 630 respondents on whether they would like to apply for Kenyan citizenship. The question had 87 percent response rate. It shows that 60 percent of the respondents did not want to apply for Kenyan citizenship, leaving only 27 percent of refugees indicating that they would want to apply for Kenyan citizenship given the opportunity.

In the last column of Table 1, there are ratios that indicated the proportion of refugees that would take up the option of citizenship against those that would not. The calculation for the same is depicted below:

$$\text{Ratio: } \frac{\text{Number of respondents that want citizenship}}{\text{Number of respondents that do not want citizenship}}$$

A higher ratio score denotes that a refugee is more likely to be open to citizenship. For instance, the Congolese-- with a score of 0.2-- are less likely to embrace citizenship than the Eritreans with a score of 0.86. Furthermore the score of 0.2 among the Congolese means that for every one refugee that wants citizenship, there are five that do not want it. Compare this with the Eritreans where the ratio is almost one to one as for every 10 people that want citizenship there are 11 that do not.

Burundians and Rwandans also recorded ratios that were favourable to local integration. They indicated that, owing to the shrinking alternatives to durable solutions (third country resettlement and voluntary repatriation), they would rather become Kenyan nationals given the opportunity. They felt that they had already integrated into the community either by strong communal ties to the host population or by the length of their stay in the country of asylum.

Overall, for every one refugee that wants to apply for Kenyan citizenship there are two that don't. The highest ratio of those who would not want to apply for citizenship is found among the Ethiopian refugees who preferred other durable solutions to local integration. Eritreans on the other hand had the highest percentage of those willing to apply for Kenyan citizenship.

Unlike the Ethiopians, the Eritreans felt more comfortable in Kenya. Ethiopians interviewed for the study mentioned police harassment during swoops as the main reason for not wanting Kenyan citizenship. In interpreting this data it should be noted that Eritreans are less likely to interact with local authorities as they are far fewer in number than the Ethiopians and therefore less likely to face harassment.

The pie charts in Figure 1 and Figure 2 below show the proportions of those willing to apply for Kenyan citizenship and those that are not.

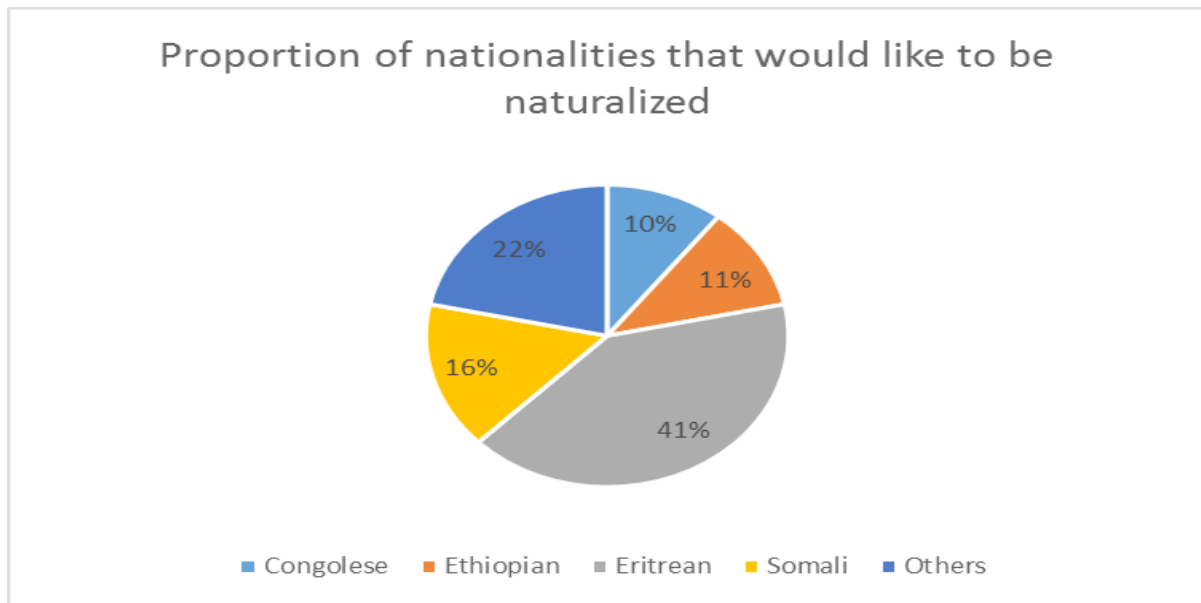


Figure 1: Proportion of nationalities that would like to be naturalised

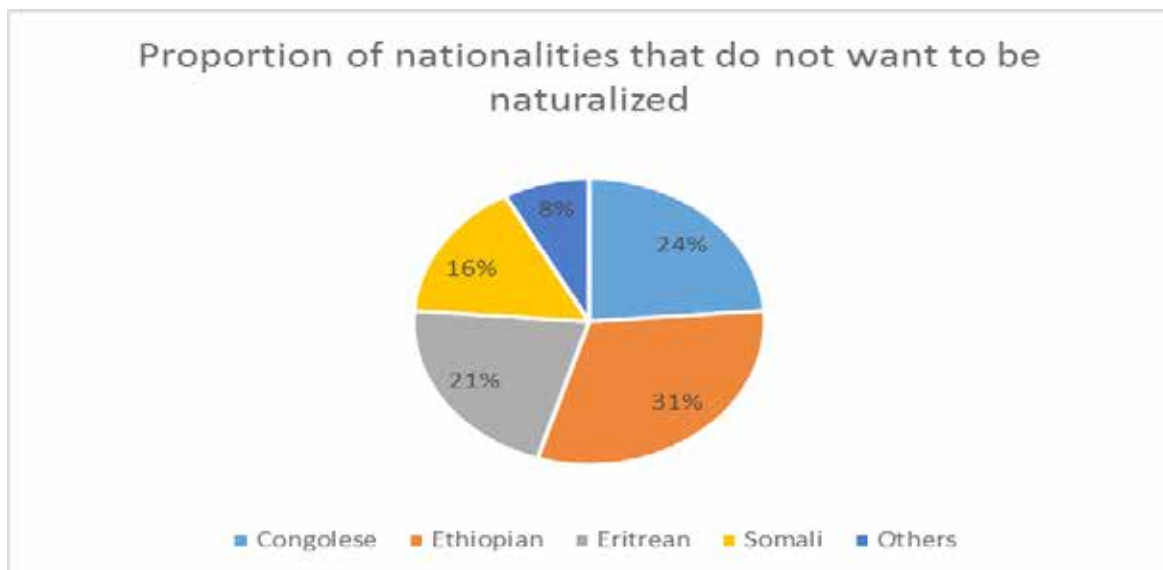


Figure 2: Proportion of nationalities that do not want to be naturalised

The reluctance to apply for citizenship among refugees could be explained by several factors, including harassments during security operations and suspicion of being linked to terror groups such as the Al Shabaab. It should be noted that at the time of data collection, the country was just coming to terms with an Al Shabaab attack at Garissa University College which occurred on 2nd April 2015, claiming the lives of 148 Kenyans and leaving scores of others wounded. The government blamed the attack on the presence of refugees in the country. A parliamentary committee report was later to claim that the attack was planned at the Dadaab Refugee Camp and went on to recommend that the camp be closed as it was also linked to the terrorist attack on Westgate shopping mall in 2013.¹⁸

In the aftermath of the Garissa University attack, the Deputy President William Ruto gave an ultimatum to UNHCR for the closure of Dadaab Refugee Camp within 90 days from 11th April, 2015. This announcement was followed by security swoops in Nairobi, but Eastleigh in particular. This announcement is one among other government announcements that have painted refugees in Kenya as criminals and terrorists. In 1990, the then Kenyan President Daniel Moi asked Rwandan and Ugandan refugees to return to their countries of origin as they were no longer welcome in Kenya. He blamed them for using Kenya as a base for subversive activities, a claim that was never substantiated (Human Rights Watch, p.5).

In 1993 and 1997 President Moi again linked refugees to the rise in insecurity in the country. This time, it was about proliferation of small arms and light weapons and the target population was the Somalis. He threatened the deportation of Somali refugees, which prompted UNHCR to create safe zones inside Somalia to stem the flow of refugees into the country; an initiative that largely failed (Lindley, p.11 & Burns, p.9). Each of these statements was followed by security swoops intended to flush out these criminals, but were nothing more than extortion exercises (Human Rights Watch (2013: p.18).

The biggest operation targeting refugees and other foreign nationals was Operation Usalama Watch (Operation Security Watch). This operation was conducted in 2014 where large numbers of refugees and foreign nationals were rounded up in Nairobi and taken to the Safaricom Stadium, which had been gazetted as a police station,¹⁹ for verification. The government also officially gazetted Kakuma and Dadaab refugee camps as designated areas where refugees and asylum seekers should reside.²⁰

Against this securitised context, a majority of the Ethiopians interviewed did not deem local integration as viable for them. They cited that the Kenyan Government would not allow them to do so as they are viewed with so much suspicion. Moreover, they have been victims of police swoops before and found it difficult to believe that they would live peacefully in Kenya even as citizens.

18 Government of Kenya, *National Security and Administration Parliamentary Committee Report on the Garissa University Attack*, 2015

19 See Government of Kenya, *Kenya Gazette*, Gazette Notice No. 2719 dated 17th April, 2014

20 See Government of Kenya, *Kenya Gazette*, Gazette Notice No. 1927 of 2014 dated 17th March, 2014

Second group that recorded the least likelihood of citizenship was the Congolese despite the fact that they can easily blend in to the host community owing to their ability to speak Swahili as a local language. However they were hesitant to take up Kenyan nationality because they felt discriminated against by the host community. They often complain of disproportionate rent prices as many Kenyan land lords assume that they have a lot of money owing to their resource rich country (Campbell, Kasuku & Musyemi, p.99). Some respondents cited fear of loss of nationality as a major hindrance for accepting Kenyan nationality. Congolese law does not allow for dual nationality but Kenyan law does.²¹ This means when a Congolese takes up Kenyan nationality, they would have to forfeit their Congolese nationality. One of the respondents interviewed for this study is a politician fleeing persecution from the ruling party in Congo and had this to say:

"I am in Kenya for protection. I would love to go back to my country and serve my people once the conditions are right. If this means that I do not take up the option of Kenyan nationality, so be it".²²

However this does not mean that there are no Congolese refugees that wish to be apply for Kenyan citizenship. This study interviewed three Congolese who have been cohabiting with Kenyan nationals for over seven years and expressed their desire to become Kenyan nationals. They thus felt that they qualified for citizenship on the basis of the common law marriage under. However, with respect to common law marriages and citizenship, the applicant must show that he/she has contracted a marriage. This is done through the submission of a valid marriage certificate which would indicate that the marriage has been duly registered by the government. Furthermore, common law marriages are not recognised as such by section 6 of the Marriage Act, 2014. This means that those applicants in common law marriages who cannot show that they have a valid marriage are not eligible for Kenyan nationality under the section 11 of the Act.

Surprisingly, the Somali population recorded a higher ratio of disinterest in applying for Kenyan citizenship than the Ethiopians and the Congolese. Whereas there were six Ethiopians and five Congolese that were against citizenship for every one that was for it (6:1 and 5:1 respectively), there were two Somalis against it for every one for it (2:1). Considering that Somali refugees have often been the target of security swoops and harassment, it is understandable that they have the least appetite for citizenship compared to the other refugee nationalities.

However qualitative data from the Somali respondents points to the fear of impending repatriation. The governments of Kenya and Somalia together with UNHCR signed a tripartite agreement to repatriate Somali refugees from Kenya by November 2016. The respondents were very apprehensive of going back to their country of origin and with

21 Interview with a Congolese Political refugee

22 Ibid

the fall of third country resettlement opportunities, the only option for some 33 percent of them was to seek Kenyan nationality. Furthermore the fact that they speak the same language as the Kenyan Somali and therefore felt they could easily blend into the Kenyan host community in Eastleigh.

These findings indicate that a majority of the refugees interviewed for the study would not prefer local integration as a durable solution. They mostly blame the hostility by the local authorities in the areas they reside. Discrimination by the host community was another reason that was offered by refugees to explain their reluctance to apply for Kenyan nationality.

Analysis by length of stay in Kenya

The data collected from the respondents was analysed against the length of stay of each respondent. Figure 3 below depicts the results of this analysis. It shows that those refugees and asylum seekers that have been in Kenya for the shortest period were less interested to accept a citizenship offer than those who have been here the longest. With the exception of those that have been here for more than 20 years, who were only two respondents, the graph shows that there is a marked difference between those respondents that have been here for less than 10 years and those that have been here for more than 10 years.

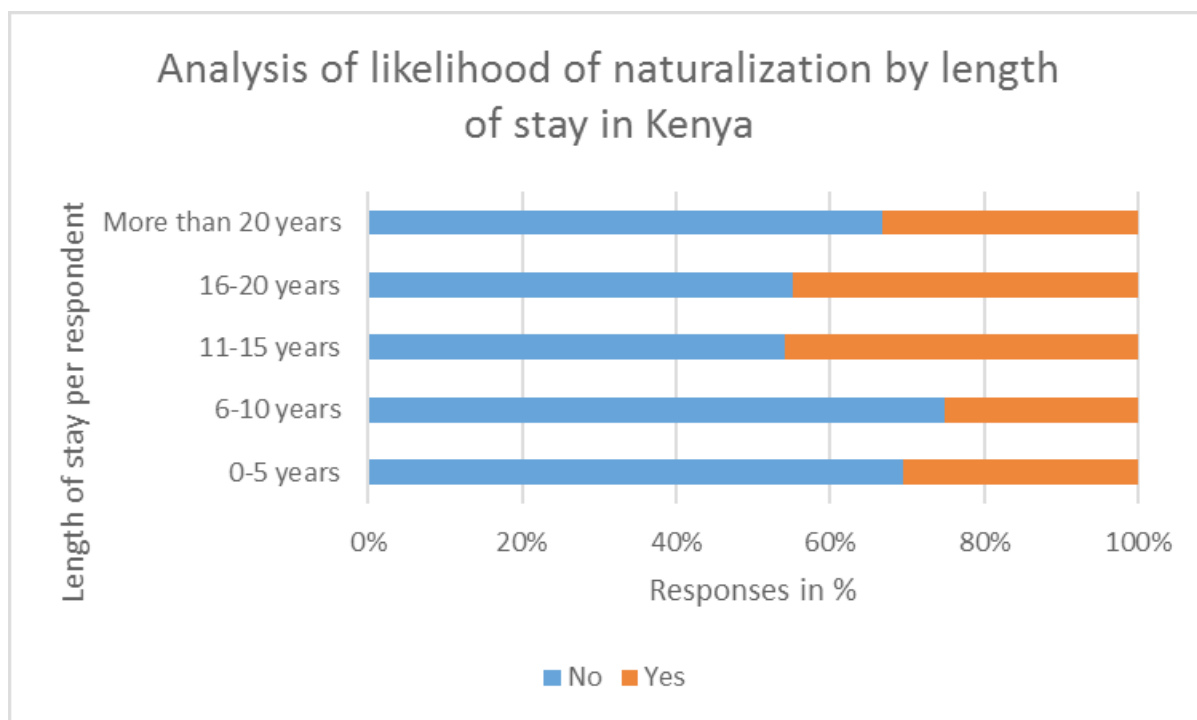


Figure 3: Analysis of likelihood of naturalisation compared to the respondent's length of stay in Kenya

This demonstrates that those that have been in Kenya longer have fewer ties to their countries of origin than those that have been in here for a shorter period of time. This also means those that have been in Kenya for a short period of time have a stronger affinity with their countries of origin. This was the same observation made by the Refugee Intention Survey conducted by the International Organisation for Migration and the UNHCR in 2014. In their report, they noted that the levels of intention to return, among those refugees coming into Kenya after 2010, were higher than those of refugees who came at an earlier period.

However, it should be noted that for citizenship, with the exception of adoption, sometime ought to have been spent in the country. As explained in the legal analysis section of this study, an applicant either needs to have lived in the country under a valid permit or married to a Kenyan national for at least seven years. This effectively excludes the population that has been residing in Kenya for less than seven years.

The conclusion that can be made here is that length of stay in Kenya is a factor for refugees who would like to become Kenyan nationals. Those that have been in Kenya longer than seven years and are interested to be Kenyan nationals qualify by dint of the law. Conversely, those refugees who have been in Kenya for less than seven years, even though interested in applying, are barred by the law.

Analysis by livelihood activities

Employment	Do you want to be apply for Kenyan citizenship?		
	No	Yes	Ratio
Self-employment	168	82	2.05
Employment	107	36	2.97
None	103	53	1.94

Table 1: Analysis of responses against the respondents' economic activity

Desire for citizenship was low among the refugees that had some form of employment. For every one refugee that was self-employed and expressed interest in Kenyan citizenship, there were two that did not. Similarly, for every refugee that was employed and indicated interest in applying for Kenyan citizenship, there were almost three that were not interested. There was consensus among the respondents that the harassment they face as refugees would not change with acquisition of citizenship. The interest in citizenship was also low among those that did not have any form of employment. For every one refugee that indicated interest in applying for Kenyan citizenship, there were two that were not interested (see Table 1 above).

When the total ratios of the responses of the employed and the unemployed were compared, it emerged that those that are not employed are more likely to apply for Kenyan citizenship compared to those that are employed. The response ratio among the former was at 1.97 compared to the latter two which stood at 2.05 and 2.97 for the self-employed and employed respectively. The ratio of those that indicated that they would apply for citizenship against those that would not among the self-employed, compared to those employed, was two and three respectively. This means that those in self-employment were more likely to apply for citizenship than those in employment but less likely to apply compared to those who did not have any form employment. This question had a response rate of 86.67 percent.

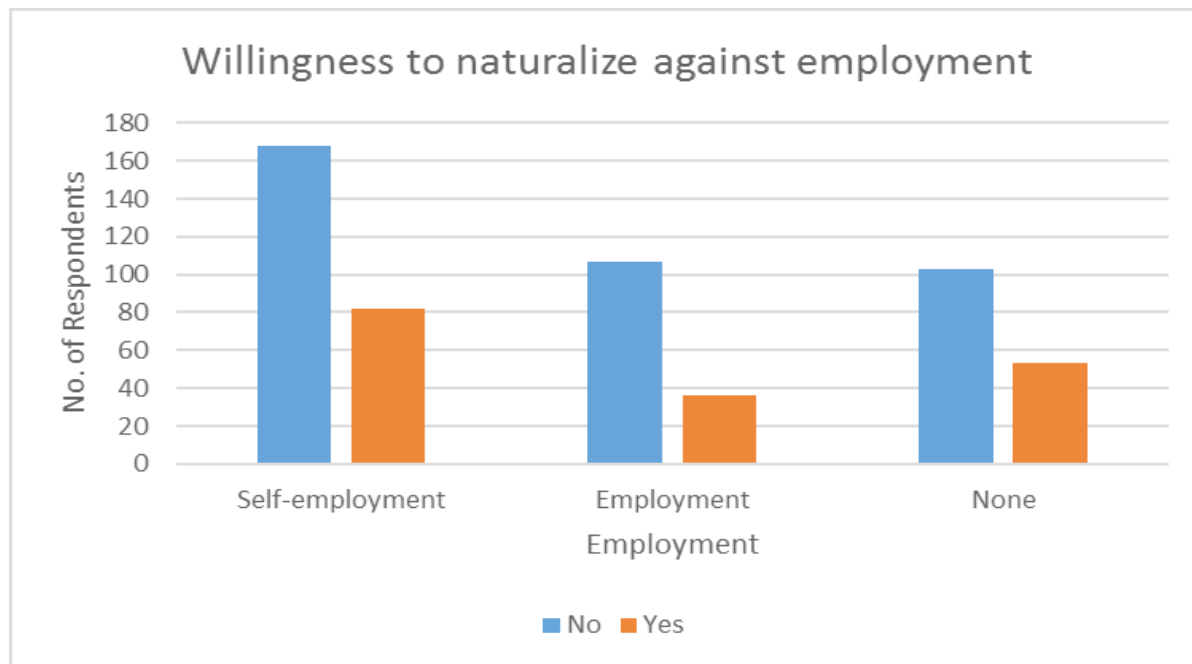


Figure 4 Willingness to naturalise against employment

Having a job is not the only determining factor in getting citizenship. As indicated in the legal analysis section of this study, one would require to have held a work permit or a resident's permit for at least seven years to be eligible under section 13 of the KCIA. According to a study conducted by the RCK in 2016, only two percent of the population surveyed had work permits.²³

The conclusion that can be made from the foregoing is that employment status does not have a significant impact on refugee perception to apply for nationality. The number of no responses to the question on willingness to naturalise were higher than yes responses. The lack of access to work permits also presents a problem for those refugees willing to apply for citizenship. Refugees without this document do not qualify to apply for Kenyan citizenship under section 13 of the KCIA.

²³ Refugee Consortium of Kenya, *Myths and Truths: The facts about refugee self-sufficiency and economic contribution in Nairobi*, 2016 p.26

Conclusions and Recommendations

Conclusion

This study has demonstrated that there are no legal impediments to applying for Kenyan citizenship. The law provides for three ways in which a person can become a Kenyan citizen. These are through marriage, lawful residence and adoption. This study has also demonstrated that refugees that have met the criteria and have the requisite documentation such as marriage certificates and work permits can obtain Kenyan citizenship.

However there are several impeding factors. One is the lack of a policy framework to provide guidelines on how refugees can realise this. Kenya still has no refugee policy that guides the law on access to citizenship. Furthermore the requirement by the government that refugees remain in the camps does not create a conducive environment for local integration to thrive.

Secondly, the issue of harassment and hostility from state officers and host community members reduces the likelihood that refugees would apply for Kenyan nationality. This stands even where refugees would qualify to apply for the same. The harassment and hostility make refugees feel that they are unwelcome in Kenya.

Finally there is the pervasive lack of information among refugees about the requirements to qualify for nationality. Refugees who had common law marriages believed that they were eligible to apply but the law on citizenship does not recognise this. Furthermore, some refugees interviewed in Nairobi confessed not to be aware of the requirement to get work permits. This means that a majority of refugees are engaged in work without the requisite work permit which not only affects their chances of applying for citizenship but puts them in conflict with the law.

Recommendations

Government of Kenya

- Engage all stakeholders in drafting a comprehensive refugee policy that fully addresses the process that refugees would have to go through to acquire either a residents permit or a Kenya Citizenship certificate;
- Create parameters in the policy that will allow for some form of local integration: full citizenship or permanent residency. Such parameters should take into account such factors as the amount of time a refugee has spent in Kenya, what they have been doing to contribute to national development and whether the refugee is married to a Kenyan or not;

- Create and maintain a database of full details of refugees including whether they have a work permit or not, whether they are married to Kenyans or not or even whether these marriages have borne children;
- Expand the reasons for consideration in granting a movement pass to include application for a work permit and citizenship;
- Initiate an information campaign that targets refugees to educate them on the need to acquire Class M work permit to legally work in Kenya;
- Rein in on public officials and Kenyans that harass or intimidate refugees. The government in conjunction with other stakeholders should also educate its officers on refugee rights to avert infringement of their rights.

UNHCR and the Civil Society

- Engage the government in drafting a comprehensive refugee policy to ensure that there are proper steps guiding the attainment of either citizenship or permanent residency by refugees;
- Lobby the government to create parameters in the policy that will allow for some form of local integration: full citizenship or permanent residency;
- Conduct assessment of the refugee population to document those refugees that have met the requirements for either local integration or permanent residency and keep an updated database of these individuals. This will provide information for targeted assistance for local integration;
- Advocate for the inclusion of wage earning refugees in the roll of tax payers so that they are able to fully contribute to the national economy;
- Provide information on the local integration options to refugees that have qualified for local integration and also educate them on the importance of having documents such as the Class M work permit.

Refugees

- Seek work permits and regularise their employment arrangements as required by law;
- Ensure that their marriages are properly registered by the government and seek the relevant certificates of their marriages as well as the children born of these marriages.

References

- Adrian Keane (2008). *The Modern Law of Evidence*, Oxford University Press: London
- Alexandra Fielden (2008). Local Integration an Under-Reported Solution to Protracted Refugee Situations. *Policy Development and Evaluation Service, UNHCR*, 22, 1-23.
- Anna Lindley (2011). Between a Protracted and a Crisis Situation: Policy Responses to Somali Refugees in Kenya, *Refugee Survey Quarterly* pp. 1-36
- Avery Burns (2010). Feeling the Pinch: Kenya, Al-Shabaab and East Africa's Refugee Crisis, *Refugee* 27(1), pp. 5-15.
- BBC (2015). Kenya tells UN to close down Dadaab camp after Garissa attack, accessed at <http://www.bbc.com/news/world-africa-32269944> on 25th August, 2016
- Edwin Abuya (2007). Past Reflections, Future Insights: African Asylum Law and Policy in Historical Perspective, *International Journal of Refugee Law* 19, pp. 51-95
- Elizabeth Campbell, Jean Kasuku and Iddi Musyemi (2006). Congolese refugee livelihoods in Nairobi and the prospects of legal Local Integration, *Refugee Survey Quarterly* 25(1) pp. 93-108
- Elizabeth Campbell (2005). Formalising the informal economy: Somali refugee and migrant trade networks in Nairobi, *Global Migration Perspectives* 17, pp. 1-35
- Government of Kenya, *National Security and Administration Parliamentary Committee Report on the Garissa University Attack*, 2015
- Government of Kenya, *Marriage Act*, 2014
- Government of Kenya, *Kenya Gazette*, Gazette Notice No. 2719 dated 17th April, 2014
- Government of Kenya, *Kenya Gazette*, Gazette Notice No. 1927 of 2014 dated 17th March, 2014
- Government of Kenya, *Kenya Citizenship and Immigration Regulations*, 2012
- Government of Kenya, *Kenya Citizenship and Immigration Act*, 2011
- Government of Kenya, *Constitution of Kenya*, 2010
- Government of Kenya, *Refugees Act*, 2006
- Guglielmo Verdirame, 'Human Rights and Refugees: The Case of Kenya' *Journal of refugee Studies* 12(1) 1999 pp. 54-77

- Human Rights Watch (2013), 'You are all terrorist', available on Human Rights Watch website at https://www.hrw.org/sites/default/files/reports/kenya0513_ForUpload_0_0.pdf (visited on 29th June, 2016)
- Human Rights Watch (1990). 'Kenya: Human Rights Developments', available on Human Rights Watch website at <http://www.hrw.org> (visited 29th June, 2016)
- Jeff Crisp, 'A State of Insecurity: The Political Economy of Violence in Kenya's Refugee Camps', *African Affairs* 99(397) pp. 601-632
- Refugee Consortium of Kenya (2016), *Myths and Truths: The facts about refugee self-sufficiency and economic contribution in Nairobi*, p.26
- Sara J. Feldman, (2007), Development Assisted Integration: A Viable Alternative to Long Term Residence in Refugee Camps? *The Fletcher Journal of Human Security*, 21, 49-70
- Sara Pavanello, Samir Elhaway and Sara Pantuliano (2010). Hidden and Exposed: Urban Refugees in Nairobi, Kenya. Humanitarian Partnership Group Working paper accessed at <https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/5858.pdf> on 7th April, 2016
- Susan Banki, 'Refugee Integration in the Immediate Term: A Study of Nepal, Sri Lanka and Kenya' *New Issues in Refugee Research* Working Paper no. 108 accessed at <http://www.unhcr.org/research/RESEARCH/416b98b94.pdf> on 7th April, 2016
- United Nations High Commissioner and International Organisation for Migration (2014). *Refugee Return Intention Survey*, UNHCR & IOM: Nairobi

Appendices

Appendix A: Questionnaire

Question	Response
1. Nationality	
2. Age	
3. Civil Status	a. Married (Kenyan/Foreigner) b. Single c. Divorced d. Widow/widower
4. If married (for how long?)	
5. If widowed (remarried?)	
6. Do you have children?	
7. Area of registration	a. Camp b. Urban
8. If camp, why did you leave? Do you have a movement permit?	
9. Time spent in Kenya	
10. Do you work? (what type of work?)	
11. Do you have a work permit? (why not, if answer is no)	
12. Given an opportunity would you want to be a Kenyan citizen/resident? (why/why not)	
13. Please rate a durable solution option from your most suitable to the your least suitable (what are your reasons for this response?)	a. Local integration b. Repatriation c. Resettlement
14. To what extent has your experience in Kenya shaped your choice for a suitable durable solution?	

Appendix B:

Citizenship application form for a foreign national married to Kenyan citizen

FORM 8

(r. 10)

THE KENYA CITIZENSHIP AND IMMIGRATION ACT 2011

APPLICATION FOR REGISTRATION AS A CITIZEN OF KENYA BY A SPOUSE OF A KENYA CITIZEN

(Under section 11)

Fill this form in capital letters

Full name:.....

Address.....

I.....ofhereby
apply for registration as a citizen of Kenya under section 11.

PARTICULARS OF APPLICANT

Place and date of birth

Present nationality

Name of spouse

Place and date of marriage

Place and date of birth of spouse.....

Spouse's present contact

Address.....

Telephone.....

Email address.....

Other.....

1. Spouse's Kenyan citizenship was acquired *by birth/descent/registration/ naturalisation
2. ID/passport//citizenship certificate number of spouse (attach a copy)

DECLARATION BY APPLICANT

3. I do solemnly and sincerely declare that :

- (a) my marriage was subsisting at the time of this application
- (b) the marriage was not entered into for the purpose of acquiring a status or privilege in relation to immigration or citizenship
- (c) I have not been convicted of an offence and sentenced to imprisonment for a term of three years or longer;
- (d) the particulars stated in this application are true and within my knowledge.

.....

Signature of Applicant

Declared at..... this..... day of20.....

.....

*Signature. *(Magistrate/Commissioner for Oaths.)*

**Delete as applicable*

**Note that you shall be called upon to demonstrate your declaration*

FOR OFFICIAL USE ONLY

Documents produced: -

Passport No.....

Marriage Certificate No.

Spouse's Passport No.

Spouse's Citizenship Certificate No

Other documents.....

Receiving officer.....Date.....

Signature.....

Appendix C: Citizenship application form for a foreign national who has been married to Kenyan citizen that has since died

FORM 9

(r. 10)

THE KENYA CITIZENSHIP AND IMMIGRATION ACT, 2011 APPLICATION FOR REGISTRATION AS A CITIZEN OF KENYA BY A WIDOW OR WIDOWER OF A KENYA CITIZEN

(Under section 12) Fill form in capital letters

Full name.....

Address.....

I.....of.....

hereby apply for registration as a citizen of Kenya under section 12.

PARTICULARS OF APPLICANT

1. Place and date of birth

2. Present nationality.....

3. Maiden or other previous name where applicable.....

4. Place and date of marriage.....

5. Name of deceased spouse.....

6. Place and date of birth of deceased spouse.....

7. Spouse's address before death.....

8. Place and date of death (attach death certificate).....

9. Spouse's citizenship was acquired *by: birth/descent/registration/
naturalisation.

10. ID/passport/citizenship certificate number of deceased spouse.....

DECLARATION BY APPLICANT

I..... do solemnly and sincerely declare that:

- (a) my marriage subsisted from.....to..... when my spouse died
- (b) I did not enter into any other marriage with a non-citizen within the period of seven years from the date of my marriage to the deceased Kenyan spouse
- (c) the marriage to the deceased was not entered into for the purpose of acquiring a status or privilege in relation to immigration or citizenship.
- (d) the particulars stated in this application are true and within my knowledge.

.....
Signature of applicant

Declared at this..... day of20.....

.....
*Signature. *(Magistrate/Commissioner for Oaths.)*
*Delete as applicable

FOR OFFICIAL USE ONLY

Documents produced: -

Passport No
Marriage Certificate No
Spouse's ID card No.....
Spouse's Passport No.....
Spouse's Certificate of Citizenship No.....
Death certificate No.....
Other documents.....

Receiving officer.....Date.....Signature.....

Appendix D: Citizenship application from for a foreign national lawfully residing in Kenya

FORM 10

(r.10)

THE KENYA CITIZENSHIP AND IMMIGRATION ACT, 2011

APPLICATION FOR REGISTRATION AS A CITIZEN OF KENYA

(Under Section 13(1))

Fill form in capital letters

Full name.....

Address.....

I ofhereby make an application for registration as a citizen of Kenya under Section 13(1).

PERSONAL PARTICULARS

1. Place and date of birth.....
2. Nationality at birth
3. Current nationality (if different)
4. Address in Kenya
5. Occupation
6. If original name has been changed give particulars
7. If nationality has changed since birth give particulars
8. Details of permit/exemption held for the last seven years.....
9. Marital status (single, married, separated, widowed or divorced)
10. If married give evidence.....
11. Give particulars of children:- *(Use separate sheet if necessary)*

<i>Name of child</i>	<i>Date of Birth</i>	<i>Place of Birth</i>	<i>Present residence</i>	<i>Citizenship</i>

DECLARATION BY APPLICANT

- Ido solemnly and sincerely declare that: (a) I do not and have not enjoyed the privileges and immunities under the Privileges and Immunities Act in the last seven years.
- (b) I understand the nature of the application and I have made/am capable of making substantial contribution to the progress or advancement in the national development of Kenya.
- (c) I have not been convicted of an offence and sentenced to imprisonment for a term of three years or longer.
- (d) I have adequate knowledge of Kenya and of the duties and rights of citizens. (e) I understand and speak Swahili or a local dialect.
- (f) I am not adjudged bankrupt.
- (g) The information given in this application is true within my knowledge and belief and that and hereby undertakes to do all things necessary to evidence my new allegiance.

.....
Signature of applicant

Declared atthisday of.....20.....

*(*Magistrate/Commissioner for Oaths*)

*Delete as applicable

Note that you shall be called upon to demonstrate your declaration.

FOR OFFICIAL USE ONLY

Documents produced: -

Passport No

Permit/exemption

Tax clearance certificate.....

Certificate of good conduct/police clearance certificate.....

Receiving officer.....Date.....Signature.....

Appendix E:

Citizenship application form for a minor foreign national adopted by a Kenyan citizen.

FORM 11

(r.10)

THE KENYA CITIZENSHIP AND IMMIGRATION ACT 2011

APPLICATION FOR REGISTRATION AS A CITIZEN OF KENYA FOR A CHILD (*Under Sections 13(3) and 14*)

Full name and address of parent in capitals

Iofam a citizen of Kenya by registration/naturalization and a parent of..... to whom the following particulars relate. I hereby apply on behalf of the child whose particulars appear herein below for *his/her registration as a citizen of Kenya.

**Delete as applicable.*

PARTICULARS OF CHILD

1. Full name
2. Place and date of birth
3. Present address.....
4. Nationality at birth
5. Present nationality if now different.....
6. If no nationality, give circumstances in which it was lost.....
7. If adopted, give details of the child's residence in Kenya and other countries, since birth including dates and addresses:

.....
.....

DECLARATION BY PARENT

Ido solemnly and sincerely
declare that the information given in this application is true and within my knowledge.

.....
Signature

Declared atthisday of20
Before me

.....
**(Magistrate/Commissioner for oaths.)*

**Delete as applicable*

FOR OFFICIAL USE ONLY

Documents produced:

Passport No.
Birth/adoption Certificate No.
Parent's ID card No.
Parent's Passport No.
Parent's Citizenship Certificate No.
Proof of lawful residence.....

Receiving officer.....Date.....Signature.....







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