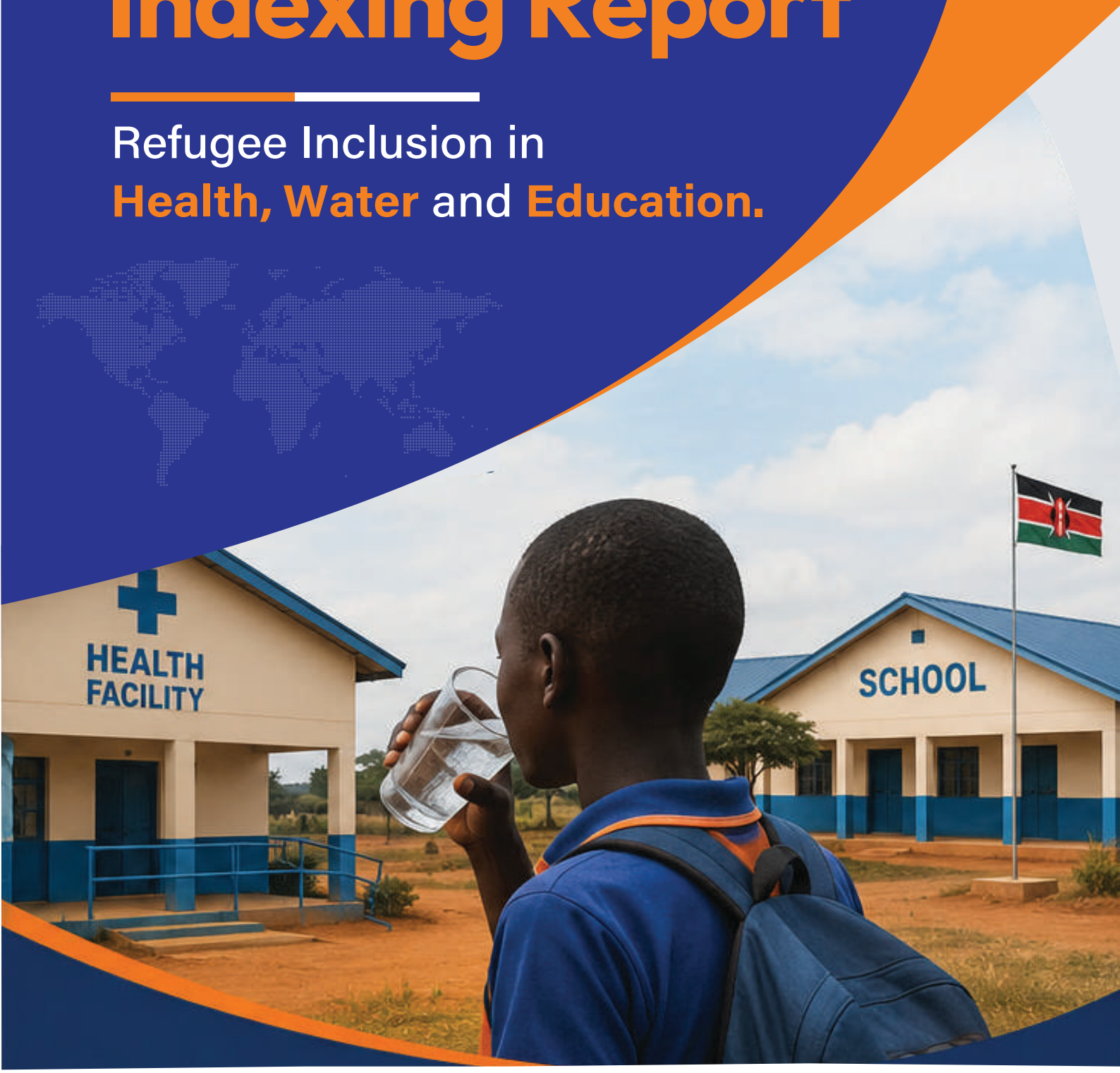
Legislative and Policy Indexing Report

Refugee Inclusion in Health, Water and Education.



RCK

MINISTRY OF FOREIGN AFFAIRS OF DENMARK
Denmark in Kenya

COUNTY ASSEMBLY OF TURKANA





MINISTRY OF FOREIGN AFFAIRS
OF DENMARK
Denmark in Kenya

LEGISLATIVE AND POLICY INDEXING REPORT: INCLUSIVE HEALTH, WATER, AND EDUCATION SERVICES IN TURKANA COUNTY, AND THE NATIONAL LINKAGES

The Refugee Consortium of Kenya is a non-governmental organization formally established in the year 2000 to promote a safe environment where displaced and host populations access justice and protection, and are empowered to live a dignified life and achieve their full potential.

Our ***Vision*** is to realize a just and inclusive society for all the displaced and host populations.

Our ***Mission***is to protect and promote the wellbeing, voice and dignity of the displaced and host populations.

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FOREWORD

For over three decades, Turkana County has hosted one of Africa's largest refugee populations, with refugees and host communities in Kakuma and Kalobeyei sharing essential services and opportunities. Since 2000, the Refugee Consortium of Kenya (RCK) has worked alongside these communities to promote protection, justice, dignity, and equitable access to essential services.

This Legislative and Policy Indexing Report was developed at a critical moment in Kenya's refugee response. The enactment of the Refugees Act, 2021, the Refugees (General) Regulations, 2024, and the implementation of the Shirika Plan represent a significant transition from humanitarian-led assistance to a government-led, inclusive approach that integrates refugees into national and county systems. While these reforms demonstrate Kenya's leadership in advancing refugee inclusion, their success ultimately depends on how effectively they improve access to health, water, and education services for refugees and host communities alike.

To support this transition, RCK, in partnership with the Danish International Development Agency (DANIDA) under the Inclusive Refugee Response Programme, conducted a comprehensive review of national and Turkana County legislation, policies, and regulations governing access to health, water, and education. The study combined policy analysis with evidence gathered through key informant interviews and focus group discussions involving government institutions, service providers, refugees, and host communities. Using the internationally recognized standard of Availability, Accessibility, Acceptability, and Quality (AAAQ) framework, the study developed a robust Policy Index that highlights both legal commitments and implementation realities.

The findings reveal that although Kenya has established a progressive legal framework for refugee protection, important gaps remain within sector-specific legislation and county-level implementation. Challenges related to coordination, financing, administrative practices, and service delivery continue to limit equitable access to essential services. Rather than serving as criticism, this report provides practical evidence to guide legislative reform, strengthen institutional coordination, inform investment decisions, and support evidence-based advocacy.

RCK extends its sincere appreciation to DANIDA for its partnership and to all stakeholders who contributed to this important undertaking. We particularly thank the Government of Kenya, the Turkana County Government, development and humanitarian partners, civil society organizations, refugee-led organizations, and the refugee and host communities whose participation made this research possible.

It is our hope that this report will serve as a practical resource for policymakers, practitioners, researchers, and development partners as they work together to strengthen inclusive, rights-based, and sustainable service delivery in Turkana County and national level at large. By addressing the identified legislative and policy gaps, Kenya can further advance its commitment to ensuring that both refugees and host communities' benefit from equitable access to essential public services.

Barlet Colly Jaji



Executive Director-Refugee Consortium of Kenya

ACKNOWLEDGEMENT

The Refugee Consortium of Kenya (RCK) sincerely acknowledges the many individuals and institutions whose support and collaboration made this Legislative and Policy Indexing Report possible.

We are especially grateful to the Danish International Development Agency (DANIDA) for providing the technical and financial support under the Inclusive Refugee Response Program. Their continued commitment to strengthening evidence-based refugee inclusion and promoting the humanitarian-development nexus in Turkana County made this study possible.

We extend our appreciation to the County Assembly of Turkana, the Turkana County Government, Department of Refugee Services (DRS), National government Ministries, Departments and Agencies, the United Nations High Commissioner for Refugees (UNHCR), other United Nations agencies, humanitarian and development partners, Refugee Led Organizations, Community Based Organizations and Faith Based Organizations operating in Kakuma, Kalobeyei and national level. Their willingness to share information, participate in consultations, and provide institutional perspectives greatly enriched the quality and relevance of this research.

We also recognize the dedication of the policy index research team and technical experts composed of Shadrack Kuyoh, Mitchel Ambasu, Edwin Kagereki, Nerrie David, Boniface Ndiritu, Esther Chepchirchir, Sifuna Nabwile and Grace Mwangi, who led the data collection, cleaning and analysis, and development of the study report, and reviewers who supported in strengthening the report through invaluable feedback. Their professionalism and commitment ensured that the report meets high standards of quality and analytical rigor.

Our deepest appreciation also goes to the refugees, asylum seekers, and host community members of Turkana County who generously shared their experiences during focus group discussions and key informant interviews. Their insights and lived experiences form the foundation of this report and provide critical evidence for understanding the opportunities and challenges of inclusive access to health, water, and education services. We hope that their contributions will inform meaningful policy reforms and strengthen service delivery for all communities.

Finally, we thank the leadership led by the Executive Director Barlet Colly Jaji, Director of Programmes Catherine Njoroge, and staff of RCK for their guidance throughout the study, as well as the many partners from government, civil society, academia, and the humanitarian sector who offered invaluable advice and encouragement during the research process.

EXECUTIVE SUMMARY

This Legislative and Policy Indexing Report assesses the extent to which Kenya's national and Turkana County legislative, policy, and regulatory frameworks support the inclusion of refugees and asylum seekers in access to health, water, and education services. Conducted within the context of Kenya's transition from a humanitarian-led refugee response to an integrated, government-led approach under the Refugees Act 2021, Refugees (General) Regulations 2024, and the Shirika Plan, the study evaluates both the normative strength of existing legal instruments and the realities of implementation in Turkana County, which hosts one of the largest refugee populations in Africa. Using a mixed-methods approach that combined systematic policy review, key informant interviews, and focus group discussions, the study developed a comprehensive policy index grounded in the Availability, Accessibility, Acceptability, and Quality (AAAQ) framework and cross-cutting principles of non-discrimination, documentation, integration, financing, decentralization, and coordination.

The findings reveal a progressive and increasingly inclusive refugee protection framework at the national level, particularly through the Constitution of Kenya, the Refugees Act 2021, and the Refugees (General) Regulations 2024. However, this progressive intent has not been consistently translated into sector-specific legislation or county-level implementation frameworks. Across the water, health, and education sectors, many laws remain silent on refugee inclusion, contain ambiguous provisions, or retain administrative requirements that inadvertently exclude refugees from equitable access to essential services. The policy index demonstrates that refugee-specific legislation scores significantly higher on inclusivity than sectoral laws governing water, health, and education, highlighting a persistent disconnect between refugee protection commitments and mainstream service delivery systems.

In the water sector, the study identifies substantial gaps in legal recognition, financing, governance, and transition planning. While access to water remains heavily dependent on humanitarian support, existing national and county water laws provide limited guidance on refugee inclusion, affordability, infrastructure transition, and representation in water governance structures. Operational challenges, including inadequate water supply, infrastructure vandalism, regulatory weaknesses, declining donor funding, and tensions between refugee and host communities, further undermine equitable access and threaten the sustainability of future government-led service delivery models.

Within the health sector, legal and policy frameworks generally support universal access in principle but fail to adequately address the unique documentation, mobility, financing, and service delivery challenges facing refugee populations. Although health facilities largely provide services without overt discrimination, refugees continue to face barriers in accessing specialized care outside settlement areas, integrating into the Social Health Authority ecosystem, and benefiting from government-funded health financing mechanisms. Critical shortages of health personnel, medicines, infrastructure, and

emergency services, coupled with weak data systems and limited recognition of refugee health workers, constrain the quality and sustainability of healthcare services for both refugees and host communities.

The education sector demonstrates notable progress toward integration, particularly through the transition of refugee schools into the national education system. Nevertheless, significant legal and operational barriers persist. Existing legislation permits tuition charges for non-citizen learners, restricts refugee teachers from professional accreditation and formal employment, and inadequately addresses recognition of prior learning for displaced learners arriving from different education systems. Severe teacher shortages, overcrowded classrooms, documentation challenges, funding constraints, and uncertainty regarding capitation support for refugee learners continue to affect educational access and quality.

A central finding of the study is the significant gap between de jure commitments and de facto realities. While many legal instruments articulate broad rights and principles of inclusion, implementation is constrained by weak operational guidance, inadequate financing, fragmented institutional coordination, insufficient integration of refugee populations into national and county planning systems, and the absence of clear transition frameworks for the handover of humanitarian infrastructure and services. The exclusion of refugee populations from county revenue allocation formulas further compounds resource constraints and places additional pressure on already overstretched public services in Turkana County.

The report concludes that achieving sustainable refugee inclusion requires a shift from policy recognition to institutionalized implementation. Priority reforms include harmonizing sector-specific legislation with the Refugees Act 2021, integrating refugee documentation into national digital service platforms, strengthening county-level financing and planning frameworks, establishing clear transition mechanisms under the Shirika Plan, enhancing intergovernmental coordination, and ensuring that both refugee and host communities benefit equitably from public investments. By addressing these structural and operational gaps, Kenya can strengthen its transition toward an inclusive, rights-based, and sustainable model of service delivery that advances social cohesion, improves development outcomes, and fulfills national, regional, and international commitments on refugee protection and inclusion.

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LIST OF ABBREVIATION

AAAQ	Availability, Accessibility, Acceptability, and Quality
AU	African Union
CHP	Community Health Promoter
CIDP	County Integrated Development Plan
CTF	Cost Transition Framework
DANIDA	Danish International Development Agency
DRS	Department of Refugee Services
FGD	Focus Group Discussion
HRH	Human Resource for Health
ICESCR	International Covenant on Economic, Social and Cultural Rights
KALWASCO	Kakuma, Lopur and Letea Water and Sanitation Company
KEMIS	Kenya Education Management Information System
KII	Key Informant Interview
KISEDP	Kalobeyei Integrated Socio-Economic Development Programme
KMTC	Kenya Medical Training College
KNQA	Kenya National Qualifications Authority
LWF	Lutheran World Federation
PVC	Polyvinyl Chloride
PWJ	Peace Winds Japan
RCK	Refugee Consortium of Kenya
RPL	Recognition of Prior Learning
SHA	Social Health Authority
TSC	Teacher Service Commission
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
WASREB	Water Services Regulatory Board
WFP	World Food Programme

INTRODUCTION

1.1 Background

Kenya hosts over 875,000 refugees and asylum seekers, predominantly from Somalia, South Sudan, the Democratic Republic of Congo, and Ethiopia, establishing itself as one of Africa's largest refugee-hosting countries. The country has undergone a profound policy transition from camp-based humanitarian management to socio-economic inclusion frameworks. This shift is codified in three critical instruments: the Refugees Act 2021, the Refugees (General) Regulations 2024, and the Shirika Plan. These instruments collectively mandate integration of refugees into national systems for health, water, and education rather than perpetuation of parallel humanitarian structures.

The Shirika Plan identifies the period 2023-2027 as the transition phase for moving from humanitarian-led to government-led service delivery, with implementation expected to be fully operationalized by the Shirika Plan Implementation Matrix 2026-2028. The transition phase focuses on strengthening regulatory frameworks, institutional coordination, infrastructure handover arrangements, and the integration of refugee and host community services under county and national government systems.

The devolution of governance in 2013, which transferred service delivery responsibilities to 47 county governments including Turkana, positioned county authorities as central duty bearers for both refugees and host communities. This is in line with the Intergovernmental Technical Relations Committee Advisory on National and County Government Functions under the Fourth Schedule of the Constitution, where refugee protection and immigration management remain national government functions, while county governments are responsible for core devolved services such as county health services, water and sanitation services, and pre-primary education.

This functional overlap requires sustained intergovernmental coordination to ensure that refugee inclusion commitments made at national level are effectively operationalized within county service delivery systems. However, this dual-level governance architecture has created complexity in implementation. Turkana County, which hosts Kakuma and Kalobeyei settlements containing approximately 310,000 refugees, faces challenges in harmonizing national refugee policy objectives with devolved service delivery structures that were designed for citizen populations, not the distinct legal and documentation requirements of refugee populations.

1.2 The Inclusive Refugee Response Program

Kenya's shift toward inclusive refugee responses aligns with commitments under the Global Compact on Refugees, which emphasizes inclusion, responsibility sharing, and integration into national systems. The Refugees Act 2021 fundamentally altered institutional mandates by vesting greater authority in national and county governments while reducing humanitarian actors' role in direct service delivery. This transition links refugee protection explicitly to national development agendas, positioning refugee inclusion not as a charitable obligation but as part of broader development and governance reform.

The Inclusive Refugee Response Program applies a humanitarian-development nexus approach, prioritizing strengthening the legal and institutional capacity of national and county governments. Technical and financial support targets the Department of Refugee Services at national level and Turkana County Government at County level, enabling a gradual shift from partner-led to government-led service delivery in health, water, education, and livelihoods.

1.3 Problem Statement

Despite legislative evolution, significant implementation gaps persist. These gaps manifest as: (1) incoherence across sectors, with health, water, and education policies operating in isolation; (2) unclear delineation of roles between national and county governments; (3) absence of structured data documenting the inclusivity of policies in practice; and (4) limited integration of refugee-specific frameworks into devolved county service systems. In Turkana County, the challenge is particularly acute: the county government must apply an integrated, human rights-based approach while simultaneously managing resource constraints, weak administrative capacity, and institutional gaps between newly devolved functions and humanitarian-led parallel systems.

This legislative and policy indexing research addresses this gap through systematic mapping, coding, and scoring of national and county legislative instruments against the Availability, Accessibility, Acceptability, and Quality framework and core principles of non-discrimination, documentation, integration, financing, decentralization, and coordination.

1.4 General Objective

The purpose of this research is to systematically collect, review and index national and county legislation, policies, regulations, and guidelines relevant to refugee inclusion in access to water, health, and education. The data collection will generate a policy index that provides evidence-based insights into policy coverage, gaps and alignment with international standards.

1.4.1 Specific Objectives

1. To identify and catalog all relevant legislations and policies at the national and county level pertaining to the provision of health, education, and water services.
2. To critically analyze the identified documents for inclusivity, specifically focusing on provisions for refugees and asylum seekers.
3. To assess the implementation gap by comparing the de jure provisions with the de facto reality experienced by refugees and host communities.
4. To develop a searchable policy index that serves as a key advocacy and reference tool for stakeholders.
5. To generate evidence-based recommendations for policy reform, advocacy, and capacity-building targeting both the Kenya's government and Turkana County government.

1.5 Intended Audience and Use of Index

The legislative and policy index was designed to serve multiple stakeholders, including:

- National and County government policymakers and implementers.
- Civil society organizations and refugee-led organizations.
- Development partners and humanitarian actors.
- Researchers and advocates working on refugee inclusion and social service delivery.
- The index is intended as both a diagnostic tool highlighting strengths, gaps and inconsistencies, and an advocacy instrument to support rights-based engagement with duty bearers.

1.6 Scope and Limitations

The research focused on legislation, policies, regulations, strategies and frameworks on the national and county level. Moreover, the geographical scope of the research was Turkana County and limited but critical government agencies at the National level.

CONCEPTUAL AND LEGAL FRAMEWORK

2.1 Conceptual Framework

The conceptual framework adopted by the policy indexing study underpinned the human rights-based approach to service delivery and refugee protection. It recognizes refugees and asylum seekers as rights holders and the State at both National and County levels as the primary duty bearer responsible for ensuring access to basic services without discrimination. The framework draws on international human rights law, refugee law, and Kenya's constitutional and devolved governance architecture to assess whether legislative and policy instruments recognize refugees as legitimate service users and providers, give clear entitlements and obligations and establish mechanisms for implementation, coordination, and accountability.

The index draws on the AAAQ framework to assess both the normative content of laws and their implementation environment. Availability considers whether services exist in sufficient quantity; accessibility focuses on physical, financial, and informational access; acceptability addresses cultural, gender, and rights-based dimensions; and quality examines standards, staffing, and reliability. Cross-cutting themes such as non-discrimination, recognition of refugee documentation, integration into national systems, financing arrangements, decentralization, and coordination are embedded into the indicators to reflect the complex, multi-level nature of refugee inclusion.

2.2 Legal Framework

Foremost, articles 2(5) and 2(6) of the Constitution provide that principles of international law are also incorporated into the laws of Kenya. This research was grounded in international and regional legal frameworks that define states' obligations toward refugees and other forcibly displaced persons. Central among these is the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, which establish core rights related to education, employment, public relief, and administrative assistance. These instruments emphasize non-discrimination and progressive equality between refugees and nationals.

In addition, the International Covenant on Economic, Social and Cultural Rights obligates states to ensure the realization of the rights to health, education, and an adequate standard of living without discrimination based on nationality or legal status. The Global Compact on Refugees further reinforces these obligations by promoting inclusion in national systems and the principle of responsibility-sharing. These commitments are closely aligned with the Sustainable Development Goals, particularly the pledge to "Leave No One Behind," which calls for the inclusion of refugees in national development planning and service provision.

At the national level, Kenya's constitutional framework provides the foundation for inclusive service delivery through the Bill of Rights, which guarantees access to health,

education, water, and social services. The Refugees Act 2021 and the Refugees (General) Regulations 2024 signal a policy shift away from encampment towards integrated, area-based responses that leverage national and county systems. The Shirika Plan further operationalizes this shift by outlining a roadmap for integrating refugees and host communities into national planning and service delivery in sectors such as health, water, and education.

Sectoral, three national Acts establish frameworks for health, water, and education:

Health Act 2017 establishes a unified health system coordinating national government and county health systems. It requires provision of free maternal care and child vaccinations; principles aligned with universal health coverage but without explicit refugee provisions or coordination with refugee-specific health needs.

Water Act 2016 provides regulation and development of water resources and sewerage services through the Water Resources Authority, Water Services Regulatory Board, and National Water Harvesting and Storage Authority. Section 63 invokes general human rights principles and non-discrimination but lacks explicit integration with refugee frameworks or the Global Compact on Refugees.

Basic Education Act 2013 and Early Education Act 2021 establish free primary and secondary education but do not explicitly address refugee children's enrollment, recognition of prior learning, or integration into national curriculum frameworks.

Turkana County Water Act 2019 and Turkana County Education Fund Act 2023 delegate service delivery responsibilities to Turkana County. These instruments recognize refugees as vulnerable groups but lack explicit implementation provisions, financing mechanisms for refugee service inclusion, or transition frameworks from humanitarian to government-led provision.

2.3 Theory of Indexing

The report adopted a theory of indexing that transforms qualitative legal and policy content into quantitative scores for comparability and benchmarking. This approach allows stakeholders to visualize relative strengths and weaknesses across sectors, levels of government, and thematic pillars, and to track changes over time as reforms are implemented. By triangulating de jure analysis with qualitative evidence from key informant interviews and focus group discussions, the index seeks to capture both the formal architecture of inclusion and the lived experience of rights realization in Turkana County.

METHODOLOGY

3.1 Research Design

The study adopted a mixed methods design combining systematic desk review with targeted primary data collection. The desk review focused on identifying and analyzing relevant legislation, policies, regulations, strategies, and guidelines at National and Turkana County levels. Primary data collection through key informant interviews and focus group discussions provided contextual insights into implementation and practical access.

3.2 Selection and Inclusion Criteria

Legal and policy instruments were selected based on their relevance to the provision of health, education, and water services. Inclusion criteria required that documents be officially adopted or endorsed by relevant authorities and applicable at national or county level. Memoranda, strategies, and operational guidelines were included where they materially influenced service delivery or implementation.

For primary data collection, participants were systematically mapped according to their areas of professional expertise within the three sectors to ensure balanced representation in the policy indexing research.

3.3 Indicator Development

The report developed a structured set of indicators grouped into thematic pillars that cut across sectors. Within each pillar, indicators are designed to capture both de jure commitments and de facto implementation conditions. Indicators were formulated to be specific, observable, and applicable across multiple instruments, facilitating consistent coding and scoring. Each indicator was mapped to one or more dimensions of the AAAQ framework and cross-cutting themes such as non-discrimination, documentation, integration into national systems, financing, decentralization, and coordination. This mapping ensures that the index reflects not only the existence of rights but also the systems and resources necessary for their realization.

3.3.1 Scoring Rubric

A rubric-based index is applied to score policy provisions. Each identified provision is assigned as a value based on its level of inclusivity. The standard scoring rubric is as follows:

- 0 – 0.9: Prohibitive or restrictive provisions that explicitly exclude refugees or impose discriminatory conditions on access to services.
- 1 – 1.9: Silent or ambiguous provisions that neither recognize nor explicitly exclude refugees, creating legal uncertainty or reliance on discretionary practices.

- 2 - 2.9: Inclusive provisions with administrative or practical barriers, such as burdensome documentation requirements, limited geographic coverage, or unclear responsibilities.
- 3: Fully inclusive provisions that explicitly guarantee refugees access to services on terms equal or comparable to nationals, supported by clear implementation arrangements.

3.3.2 Weighting and Index Calculation

To reflect the relative importance of different services and indicators, the index applies a weighting scheme across pillars and indicators. The overall Index Score is computed as a weighted average of indicator scores using the following formula:

$$Index\ Score = \frac{\sum_{i=1}^{n} (w_i \cdot s_i)}{\sum_{i=1}^{n} w_i}$$

where *wi* represents the weight assigned to a specific indicator or service category and *si* is the score for that indicator.

3.4 Triangulation and Validation

Indicator scores derived from document review are triangulated with qualitative evidence from interviews and focus group discussions to assess the gap between de jure provisions and de facto implementation. This process helped to validate interpretations of legal texts and to capture discrepancies between formal provisions and actual practice.

3.5 Ethical Consideration

The research upheld the highest ethical standards in both document review and field data collection. Since primary data involved human participants, informed consent was obtained from all interviewees and discussion participants. Participation was voluntary, and individuals had the right to decline or withdraw at any point without consequence. To ensure confidentiality, no personally identifying information will be published, and responses will be anonymized in reporting. Data was securely stored and accessible only to the research team. Care was taken into consideration to avoid overburdening refugee communities, and when engaging with them directly, the study prioritized do no harm, cultural sensitivity, and referral protocols in case participants disclosed protection related needs.

FINDINGS AND ANALYSIS

4.1 Overview of the Legislative and Policy Landscape

The legislative and policy indexing exercise identified and reviewed instruments across national and county levels. These span six thematic categories: refugee-specific and protection law, water, health, education, cross-cutting general law, and protection of persons with special needs at both the National level and Turkana County level. The instruments range from Acts of Parliament and county legislation to regulations, policies, strategies, and integrated development programs.

The overall landscape reflects a progressive normative trajectory at the national level, anchored by the Constitution of Kenya 2010, the Refugees Act 2021, and the Refugees (General) Regulations 2024. These collectively establish a framework that moves decisively away from the camp-based encampment model toward an inclusive, government-led, area-based approach. However, this progressive intent is unevenly translated into sector-specific legislation and county-level instruments, which frequently remain silent on refugee inclusion or contain provisions creating administrative and legal barriers to access.

The refugee FGDs indicated that, at the time of data collection, they were not aware of any laws relating to their rights to access to water, education and health services. Moreover, they have limited to no knowledge about the Shirika plan. They understand that UNHCR and DRS are responsible for providing basic services. However, the host community FGD, were aware of their rights to access clean water, education, health and good environment.

4.2 Sectoral Analysis

4.2.1 Water Sector

Sustainable Development Goal 6 advocates for availability and sustainable management of water and sanitation for all. In addition, the Constitution of Kenya states that "Every person has the right to clean and safe water in adequate quantities." The AU Agenda 2063 recognizes the importance of equitable access to quality water and sanitation stating by 2063, African countries will be amongst the best performers in global quality of life measures.

Refugees in Kakuma and Kalobeyei access water through humanitarian-led systems operated by Peace Winds Japan, while the host community get access through KALWASCO. Participants expressed a perception that PWJ's water interventions primarily focus on refugee populations, with limited attention given to host communities. As a result, the host community felt the service was not inclusive.

However, water access is currently free of charge and financed by humanitarian actors, and the transition toward government-led paid service delivery presents major sustainability risks. The host community noted discrimination in water access, where they have a financial burden to access water which is not adequate. Also, the refugees indicated there is inadequate access to water despite being free for them.

"In a household of 7 people, they are given 3 jerricans to last them for 3 days."- FGD 4

Moreover, in some of the neighborhoods of Kalobeyei Village 1 and blocks in Kakuma 4, some households can go up to three months without piped water access. Participants reported in such cases, they make informal payments to water operators to receive water, undermining the principles of affordability and equity. This is not unique to refugees only, as the host community indicated that there are cartel systems that prolong lack of water so they can sell their own.

Vandalism of PVC water pipes is a significant issue affecting both the host community and the refugees, with both populations being perpetrators and victims of the situation. It continues to negatively affect access to water services within the Kakuma municipality, Kakuma camp and Kalobeyei settlement. The host community indicated that the water pipelines are sold to scrap metal dealers.

In the camp and settlements, whenever pipelines are vandalized, water pumping must be temporarily halted until repairs are completed to prevent water loss and wastage, thereby limiting access to affected areas. Additionally, reduced donor funding has constrained fuel allocations for water operations, resulting in fewer daily pumping hours from 18 hours to 12 hours per day, which has further affected water availability and access within the camps and settlements. This leads to children foregoing to attend schools to fetch water.

It was noted that there are no accountability and consequences when the perpetrator is a refugee. One KII participant stated below:

"Refugees apprehended for stealing water are normally released with no charge from the police stations and the damages on the water pipes are not normally paid for. There is a feeling that they are protected even when they are on the wrong."

It was noted that the water quality is poor with high levels of sanity, and the water tanks at the reception centers are not regularly cleaned. This affects the quality of water accessible to both host community and refugees.

It was noted that majority of the refugees are not aware of KALWASCO and its mandate. This is an information gap. However, the water service provider operates without a WASREB license and applies water tariffs from 2007. Its implication was expressly stated by KII participant as follows:

"Lack of WASREB license is a major compliance gap, as without the license the institution cannot operate optimally or institute tariffs."

In addition, KALWASCO relies entirely on seconded county government personnel rather than its own permanent staff. According to the Turkana Water Act 2019, only 2 water companies are recognized by law (Rural and Urban). KALWASCO at the moment is not recognized by the existing laws.

Normatively, the Water Act 2016 declares the universal right to clean and safe water but lacks explicit provisions for refugees. The Water (Amendment) Act 2024 and the Water (Services) Regulations 2025 continue this gap, with no specific mention of refugee populations or refugee-hosting counties as priority service areas. Section 63 of the Water Act references general non-discrimination principles, but without operational guidance or alignment with the Refugees Act 2021 or the Global Compact on Refugees, this amounts to an aspiration rather than an enforceable entitlement. The National Water Resource Strategy 2020-2025 focuses exclusively on Kenyan citizens, explicitly excluding refugees from its equity and access objectives. The Turkana County Water Act 2019 acknowledges the refugee-hosting context but does not codify explicit obligations for refugee service inclusion.

"Policies exist but implementation remains a challenge. How are officers supposed to enforce policies on water when a group already feel they are a special category?"

The core water governance paradox: three overlapping legal frameworks (Water Act 2016, Turkana Water Act 2019, WASREB regulations) exist, yet the sole municipal water provider operates outside all of them. Regulatory capture is compounded by a free-water legacy from humanitarian actors creating a transition context where communities are unwilling to pay and the provider has no legal authority to enforce payment.

4.2.2 Health Sector

The Constitution of Kenya states that "every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care." Furthermore, Article 43(2) explicitly dictates that no person shall be denied emergency medical treatment.

Health services in Turkana County are generally accessible to both host community and refugees at the point of care, largely because facilities do not discriminate by nationality at service delivery. One of the KII participants stated that

"Health facilities don't recognize the originality of the patients. There are no discriminations in access to health services."

This was emphasized by another KII participant who stated that *"The Kakuma sub-county health facilities have been supporting the refugees to access medical care"*

However, for refugees to access health services outside the camps, they need to have a manifest. In the event, they lack documentation, the only option they have is the health facilities at the reception center. Therefore, refugee have the perception that host community have better access to health care since they are able to move freely to seek specialized services which is not the case for refugees. Furthermore, refugees claimed hospitals in the camp and settlement, only give pain killers and not actual drugs that could help their ailment. However, the host community indicated that those hospitals in the camp and settlement are well equipped with drugs and have better health services.

There are only eight healthcare facilities serving a population of approximately 310,000 refugees plus the host community in Kakuma Refugee Camp and Kalobeyei Settlement. Five of the health facilities operate between 8 am to 3 pm, while the remaining facilities operate 24 hours. The participants noted that the facilities operating between 8am to 3pm normally have long queues and the turnaround time for a patient to close a visit is usually long, especially if they are sent to the laboratory. The accessibility of the services is therefore questionable among the community.

"The turnaround time to get lab results is long. The results are sometimes issued in the evening hence we end up not getting timely treatments." - FGD 1

Turkana County is in phase 3 of Taifa Care in alignment to SHA as they adopted the Kenya's digital health system. SHA registration rates were reported to be low among both refugee and host communities in Turkana, and those registered, struggle to pay premiums due to the high poverty index. Turkana County leads with high poverty rates in Kenya. Low awareness of the registration process is another factor resulting to low SHA registration rates. It was noted that there is a significant large number of host communities with lack of national identification cards. This results in low SHA registration within Turkana County. The low SHA registration was compounding the under-financing of health services at the facility level.

"We are mobilized to register for SHA, but no information is given about the product and why they need to register."-FGD 3.

The information gap is a foreseeable challenge in integrating refugees into the county's health system, as many refugees lack awareness of key policies, including the Social Health Insurance. Moreover, due to insufficient funding to the health programs and systems, the refugee populations put strain on the health system. Regulation 19 of the Social Health Insurance General Regulations does not explicitly direct the inclusion of non-citizen residents in government-paid indigent household premiums. UNHCR continues to finance health bills for refugees who lack documentation and have the need to access specialized services providing a backstop against exclusion. However, this inclusivity is contingent on continued humanitarian financing rather than legal entitlement, creating fragility in service continuity.

One of the KII stated that, "*Human resources for health data for decision making are missing in the county*." This translates to the county being unable to quantify the health practitioners' needs on their workload. Consequently, Turkana is among other counties which reported lowest density of medical officers and nurses. In the refugee camps, the doctor to patient consultation ratio is 1:130 and in cases, the surge of malaria infections, the ratio is 1:150. In addition, there is an implementation gap in attracting and retaining the right and qualified workforce. Moreover, most county locations are classified as hardship areas which do not attract and retain specialized medical personnel. To mitigate the shortage of HRH, through Novdioc Foundation, the county government in partnership with UNHCR and KMTC provided scholarships to aspiring health practitioners. 70% was awarded to local residents while 30% to refugees.

The Digital Health Act 2023 does not address the integration of the Refugee Identity Card into the SHA digital infrastructure, despite the Social Health Insurance Regulations acknowledges the refugee identification documents. The Mental Health (Amendment) Act 2022, requiring written consent from a refugee's country of origin before psychiatric admission, imposes an administrative impossibility for conflict-displaced or stateless persons. Both host community and refugees reported critical drug shortages, absence of ambulance services affecting maternity emergencies, and language barriers between Kenyan healthcare providers and refugee patients, and vice versa. Critical drug shortages might be due to some cases of loss of medicines during transportation and limited funding. High patient to health practitioner ratio affects both the host communities and the refugees.

The Turkana County Facilities Improvement Financing Act 2025 offers a significant opportunity to devolve health financing to facility level but requires approximately KSh 6 million for the law to be published in the Kenya Gazette and dissemination.

Community health promoters, refugees working under humanitarian actors, exist in refugee camps however, they aren't recognized by the national government. Primary Health Care Act, 2023 restricts refugees to be enrolled as CHP, where it expressly outlines to be a CHP, you must be a citizen of Kenya. In addition, there is no clear transition framework outlining how health facilities currently managed by humanitarian actors for refugees will transition to management by the county or designated entities.



4.2.3 Education Sector

Sustainable Development Goal 4 advocates for inclusive and equitable quality education for all. In addition, the Constitution of Kenya states that "Every person has the right to education." Furthermore, it specifically guarantees that "every child has the right to free and compulsory basic education."

There is significant progress made in the transition of 'refugee schools' into public schools, with the TSC already posting head teachers to some of these institutions. However, a key challenge remains with the conversion of community land into public land, which is a prerequisite for the full registration and operationalization of these schools within the national education system. Another challenge is that TSC does not recognize qualified refugees' teachers thereby limiting them from getting formal employment and ability to contribute their skills and expertise to the education sector. This implies that the incentivized refugee teachers will lose their economic livelihood with school transition.

A key concern is whether the law allows the provision of capitation funding for refugee children enrolled in public schools. While refugee learners are integrated into the national education system, schools serving large numbers of refugee children face significant resource constraints.

Civil documentation remains a major challenge, especially within host communities, where many learners lack birth certificates. This limits their ability to be registered in the government education system (KEMIS), which in turn determines student capitation. According to the Kenya Vital Statistics Report (2024) by the Kenya National Bureau of Statistics (KNBS), birth registration completeness rates (the proportion of registered births against expected births) in Turkana County were 38.4% (2020), 38.5% (2021), 35.0% (2022), and 29.9% (2023).

In Kakuma Refugee Camp and Kalobeyei Settlement, 55 learning centers (*19 pre-primary, 27 primary and junior secondary, and 9 senior secondary schools*) serve approximately 73,901 learners. The teacher-to-student ratio is approximately 1:100 to 1:150 in refugee schools, and as high as 1:300 in some Kalobeyei primary schools. The ratio negatively affects education quality. The schools have 770 teachers, only 97 are nationally recruited teachers employed by agencies, while 673 are refugee teachers who are not registered by TSC. Humanitarian organizations, including LWF, are training refugee teachers to improve instructional quality.

One of the KII expressed that "*the Elimu scholarship programme and the accelerated learning pilot in Turkana West represent examples of progressive inclusion, but both are partner-supported without a costed government-led implementation strategy*".

The Basic Education Act 2013, Section 29(2)(a), permits public schools to charge tuition fees for non-citizens, including refugees and asylum seekers. This directly contradicts

Article 53(1)(b) of the Constitution, which guarantees free and compulsory basic education to every child without qualification by nationality. The Turkana County Education Fund Act 2023 use a broad residency-based eligibility definition but does not align this with the Refugees Act 2021, creating legal ambiguity over refugee children's entitlement. The TSC (Amendment) Bill 2024 conditions teacher registration on citizenship, effectively barring refugee teachers from formal accreditation and perpetuating the quality gap in refugee school staffing.

Recognition of Prior Learning (RPL) remains an unresolved and consistently cited barrier across all FGD groups. Refugees who arrive in Kenya having partially completed education in francophone or other curriculum systems are required to re-enter the Kenyan system at Grade 3 to obtain a standard assessment number, regardless of their actual educational level. This practice was identified across five FGD groups as a primary deterrent to enrollment. The introduction of Differentiated Assistance (DA) under WFP has further reduced school attendance, as families facing reduced food rations have returned to their countries of origin. Funding cuts threaten to close secondary schools within Kakuma, with proposed consolidation into host community school's contingent on fee payment from refugees, a cost barrier that lacks a financing solution.

4.3 De Jure vs. De Facto Gap Analysis

A core finding of this study is the systematic divergence between formal legal commitments and the lived reality of service access for refugees in Turkana County. Triangulation of document review scores with qualitative evidence from the KIIs and FGDs reveals that positive normative provisions frequently fail to translate into enforceable rights. This gap is driven by three interconnected factors:

1. The absence of operational guidance converting legal provisions into implementable procedures at the facility or service provider level.

2. The exclusion of refugee populations from county revenue allocation formulas, creating a structural financing deficit.

3. Inadequate coordination between national and county governments, and between government and humanitarian actors, in managing the service delivery transition from the Shirika Plan.

The host community perspective reveals an additional dimension of tension. Several FGD participants from host communities noted perceived disparities, including that refugee facilities offer better drug supplies and free services compared to host community health and water services. While this perception is partially contested by the data, it creates social friction that threatens the political sustainability of inclusive service delivery. Effective refugee inclusion must therefore simultaneously address both refugee

entitlements and host community equity, consistent with the area-based approach of the Shirika Plan.

4.4 Cross-Cutting Findings

Several cross-cutting findings emerge from the sectoral analysis. First, siloed sectoral legislation creates systemic incoherence: the Refugees Act 2021 operates as an island of inclusivity that has not triggered corresponding amendments in the Health Act 2017, Water Act 2016, or Basic Education Act 2013, and other Acts which remain silent or ambiguous on refugee inclusion. Second, the practicability and loophole in Section 34(1) of the Refugees Act allows authorities to deny shared facility access based on discretionary resource interpretation rather than legal entitlement. Third, the Commission on Revenue Allocation does not factor refugee populations into county equitable share calculations, producing a structural financing gap for Turkana County. Fourth, the Shirika Plan remains the most transformative policy reform in the refugee response landscape but lacks an adopted costed implementation matrix, a transition framework for humanitarian infrastructure handover, and an accountability mechanism at county level.



POLICY INDEX SCORES

5.1 Scoring Approach and Interpretation

Each instrument was scored on a 0-3 scale across four AAAQ dimensions and five cross-cutting themes (Non-Discrimination, Documentation, Integration into National Systems, Financing, and Coordination/Decentralization), yielding a composite index score as a weighted average in accordance with the formula specified in Section 3.3.2. Scores reflect the de jure content of instruments, with qualitative KII and FGD evidence used to contextualize gaps between formal provisions and implementation reality. Scores are interpreted as follows: 0.0-0.9 (Prohibitive/Restrictive), 1.0-1.4 (Silent or Ambiguous with Barriers), 1.5-1.9 (Partially Inclusive), 2.0-2.4 (Substantially Inclusive), 2.5-3.0 (Fully Inclusive with Implementation Mechanisms).

5.2 National-Level Instrument Scores

The table below presents index scores for the 27 national-level instruments reviewed. Colour coding indicates inclusivity tier: green (score 2.0-3.0, substantially to fully inclusive), yellow (1.0-1.9, partially inclusive or silent), and red (0-0.9, restrictive or prohibitive).

Policy / Legislation	Sector	Index Score (0-3)	Key Inclusivity Notes
Constitution of Kenya 2010	Cross-cutting	**2.7**	Broad rights guarantees; refugee exclusion gap in implementation
Refugees Act 2021	Protection	**2.5**	Strong normative inclusion
Refugees (General) Regulations 2024	Protection	**2.3**	Operationalizes Act; lacks minimum service standards for reception centers
Water Act 2016	Water	**1.2**	While the Act makes a universal declaration that every person in Kenya has the right to clean and safe water in adequate quantities and to reasonable standards of sanitation, the Act lacks explicit integration with refugee frameworks or the Global Compact on Refugees. While Section 139 of the Act mandates public consultation and community participation before any major licensing, tariff adjustment or water

			service provision decision is made, it lacks an explicit legal mandate to include refugee representatives or Refugee-Led Organizations (RLOs). This creates an acceptability gap where the policy decisions arrived at do not reflect the unique needs of the displaced population, leading to anticipated resistance to tariff introduction due to a lack of meaningful community engagement. The Water Act, through WASREB has established quality benchmarks for all assigned water service provision areas assigned to water service providers. One of the benchmarks is maintaining non-revenue water below the required minimum of 25%, however the WSPs continue to struggle with non-revenue water losses. (This is not a legislative Gap but an operational gap which can be resolved through technological advancement on systems for detection of bursts to reduce water losses from water theft and bursts from dilapidated water infrastructure).
Water (Amendment) Act 2024	Water	**1.0**	It contains no explicit mention of refugees or asylum seekers. While the Act provides for the handover of "commissioned waterworks," it is silent on the specific transition framework for humanitarian-built water infrastructure in refugee settlements. The Act provides a mechanism for setting tariffs but fails to include a refugee affordability assessment or subsidies for vulnerable non-citizens. Section 72(1)(b) mandates the Regulatory Board to evaluate and recommend bulk water tariffs and approve the imposition of such tariffs in line with consumer protection standards for use of water for domestic and commercial purposes. While Section 68(b)(i) of the Act requires bulk water purchase agreements with investors to be made after conducting public participation and in consultation with the Regulatory Board and the relevant county government, the Act does not

			specify that public participation must include refugee populations in hosting counties. This often leads to an acceptability gap characterized by minimal community participation in tariff-setting processes among refugees.
Water (Services) Regulations 2025	Water	**1.1**	While the CECM must implement measures for universal access, the regulations do not codify refugee-hosting areas as a priority for county public waterworks development While the Regulations mandate affordability of the proposed tariff and cushioning for consumers who on account of poverty, cannot afford services. There is no specific refugee affordability assessment or guidance on how non-citizens, who are often excluded from standard social safety nets, will be cushioned from the transition to government-led (paid) water models. The Regulatory Board must undertake public participation with stakeholders likely to be affected by a license or tariff review. The regulations do not explicitly require the inclusion of refugees or RLOs in these consultations. identifies an acceptability gap where there is "minimal community participation in tariff-setting processes", leading to anticipated resistance as refugees move from humanitarian-led (free) to government-led services.
National Water Resource Strategy 2020-2025	Water	**0.8**	The third thematic objective focuses on the availability and equitable access to water for all Kenyans. This focus excludes refugees in the camp.
Sessional Paper No. 1 of 2021 on National Water Policy	Water	**1.0**	The Policy's framework for resource mobilization and financing lacks a directive to factor in the total resident population (including non-citizens) when allocating funds to counties. This leads to resource dilution where the high-water needs of settlements are not reflected in the county's Equitable Share calculation. While the Policy aims to re-engineer the water sector, it is silent on a legal roadmap for the

			handover of humanitarian-built water infrastructure to county-licensed providers. Without a mandated transition protocol, critical assets in settlement areas remain at risk of falling into a maintenance vacuum as humanitarian funding declines The Sessional Paper acknowledges water as an enabler for education and health. However, it fails to mandate the prioritization of water supply to public facilities within settlements, ignoring the reality that water scarcity is a primary driver of the 1:300 teacher-to-student ratio and poor health seeking behaviour in these areas
Health Act 2017	Health	**1.3**	Universal health framing; silent on refugees; community health access barriers
Public Health Act	Health	**0.7**	While Section 29 of the Refugees Act provides the principle of non-refoulement, sections 63, 64, and 71 grant the Cabinet Secretary, the Director-General for health and port health officers' powers that could result in -refoulement, a violation of the principle on non-refoulment which Kenya is obligated to respect.
Primary Health Care Act 2023	Health	**1.2**	Section 9 (2)(a) excludes refugees to be a CHP. Under the Act, community health promoters are responsible for facilitating access to and ensuring the effective delivery of community health services at the community for households. Restricting selection and appointment to citizens locks refugees from this role with the consequence that this may inhibit their access to community health services and in any case, refugee community health promoters would be in a better position to understand the health needs of refugee communities better. Further, there is no justification for this restriction as the government moves towards integrated service delivery and settlements.
Social Health Insurance Act 2023	Health	**1.8**	Section 26(2) leaves room for doubt on whether asylum seekers qualify for registration with the

			Fund, particularly if residence in Kenya were to be defined on the basis of the Kenya Citizenship and Immigration Act. It could be interpreted to only refer to persons holding visas; Section 26(3) though requiring all children born after the commencement of the Act to be registered under the Social Health Insurance Fund is not clear on the rights of children born of refugee or asylum seeker parents to be so registered; Section 26(6) could be used to breach the non-refoulement principle by denying asylum seekers without travel health insurance cover access to Kenya. Under section 25(2)(b) of the Act, the National Assembly has powers to appropriate to the Fund, monies for indigent and vulnerable persons. Further under this provision, it is anticipated that the Fund shall create a 'means testing instrument' to determine the rate payable by the government to the Fund for households in need of financial assistance.
Social Health Insurance Regulations 2023	Health	**2.3**	Regulation 2, definition of "national identification document", paragraphs (j)–(n) explicitly lists the refugee identification documents to be used in SHA registration. Regulation 19 provides for government-paid premiums for indigent households. The inadequacy lies in the lack of an explicit directive to include non-citizen residents (refugees) in this national safety net, leaving their financial access dependent on discretionary interpretation rather than clear legal entitlement.; The criteria for empanelment and contracting (Regulations 31 and 32) are focused on administrative and technical capacity but are textually silent on the cultural and protection-specific competencies required to serve displaced populations. This gap results in services that may be technically available but unacceptable to refugees due to language barriers or lack of specialized care.

Digital Health Act 2023	Health	**1.1**	Refugee ID not integrated into digital health systems; data transfer gap
Mental Health Act 1989 & Amendment 2022	Health	**0.9**	Lack of trauma-informed care: The 2022 Act focuses on the rights of the mentally ill generally but does not mandate the specialized, culturally adapted interventions required for victims of forced displacement and war trauma. The devolution funding gap: The 2022 Amendment shifts the responsibility for mental health services to county governments. However, Turkana County "inherited responsibilities designed for citizen populations," and its health committee faces severe budget constraints. Since refugees don't have the benefit of protection from their countries, section 19 of Mental Health Act 1989 requiring written consent from the refugee's country of origin before admission imposes unnecessary bureaucracies to refugees' access to mental health services in Kenya.
Health Policy 2014-2030	Health	**0.8**	The policy is only focused on the needs of Kenyan citizens. The Constitution in article 43 does not restrict entitlement to the right to health to Kenyan citizens.
UHC Policy 2020-2030	Health	**0.9**	The policy is only focused on the needs of Kenyan citizens. The Constitution in article 43 does not restrict entitlement to the right to health to Kenyan citizens.
Community Health Strategy 2020-2025	Health	**0.9**	The goal of the strategy envisions application that is limited to Kenyan citizens. This provision is restrictive and leaves refugees behind. The Health Strategy Projections that were used in 2018 to create the 167 Community Health Units in Section 7 in Turkana County seem to have not taken into account Kakuma refugee camp. Section 24 excludes refugees from being recruited as Community Health Extension Workers. Refugees

			would be better placed to coordinate community health services within their communities. Under section 28 of the Act, a Community Health Volunteer is responsible for promoting healthy living practices, provide first aid and information about health within the community. A refugee would be better placed to provide this service to his/ her community than a Kenyan citizen.
The Community Health Promoters Bill	Health	**1.2**	Bill at Second Reading Stage. Section 6 (1) dictates the representation of the Council, including members from the Ministry of Health, NGO coordination boards, and County Governors. The Council's composition lacks representation from agency managing refugee affairs (e.g. the Department of Refugee Services). This ensures that refugee-specific community health priorities remain unrepresented at the national regulatory level. Section 26(2) constitutes the Disciplinary Committee from the Chairperson of the Council, a Cabinet Secretary representative, an Attorney-General representative, a Public Health Officers and Technicians Council representative, and one community health promoter nominated by the Council of County Governors. There is no mechanism for including anyone representing the interests of refugee community health promoters who may face discipline proceedings. Section 23 refers to the Second Schedule for prescribed courses. The Second Schedule lists courses including community health, psychology, counselling, social work, HIV counselling, immunization, community development, and health education. While broad, the Bill does not provide any mechanism to recognize or validate training undertaken in refugee settings, camps, or informal institutions, which is the reality for many refugee health workers.

Basic Education Act 2013	Education	**1.3**	Section 29(2)(a) allows public schools to charge tuition fees for persons who are not Kenyan citizens. This category includes asylum seekers and refugees and is in breach of article 53(1)(b) of the Constitution and article 22(1) of the 1951 Convention.
TSC (Amendment) Bill 2024	Education	**0.8**	Bill at Committee Stage. Citizenship condition for teacher registration bars refugee teachers
Sessional Paper No. 1 of 2019 (Education)	Education	**0.7**	Oblivious of non-citizen learner obligations; no refugee framing
Kenya Citizenship and Immigration Act 2011	Education	**0.9**	While the KCIA provides for the issuance of Foreign National Registration Certificates (Alien Cards), it does not mandate their integration into national digital registries like the Social Health Insurance Fund (SHIF) or NEMIS. This documentation gap is the primary driver of de facto exclusion, where refugees cannot access services because digital systems are designed only for Kenyan National ID holders. The KCIA treats all non-citizens under a security and regulatory lens rather than a protection lens. It fails to recognize the specific psychosocial and trauma-informed needs of refugees. This leads to an acceptability gap where health and education services are not culturally or psychosocially adapted for victims of forced displacement. Only “permanent residents” have the explicit right to “access and enjoy social services and facilities” on terms comparable to citizens. Since most refugees do not hold permanent residency, they lack a clear legal path under the KCIA to access subsidized national services.
Children Act 2022	Protection	**1.6**	While the Act recognizes refugees as a category requiring "care and protection," it remains silent on the specific fiscal and infrastructural requirements

			to provide water, health, and education in refugee-hosting areas. Despite inclusive provisions such as Section 9(1) that prohibits discrimination against a child on grounds including "origin, birth, health status, residence or local connection or any other status" and Section 13(1) that guarantees every child the "right to free and compulsory basic education", de facto accessibility is blocked by administrative and financial barriers. The Act does not mandate the technical integration of the Refugee Identity Card into digital registries like NEMIS or SHIF, leaving refugee children "digitally invisible" to social safety nets. Despite the clearly stated mandate in Section 153(11)(a) of the Act, there is a major quality disparity between refugee schools and host community schools stemming from the reliance on underqualified incentive teachers means that the "standard of care" and education quality required by the Act is not being met in settlement areas, where teacher qualifications are often lower than national benchmarks.
Persons with Disabilities Act 2025	Protection	**1.2**	While the Act mandates infrastructure, it is silent on the resource dilution in refugee-hosting areas thus leading to an availability gap in Turkana, where there is "limited disability-friendly health infrastructure". Refugees face a documentation gap because the Act focuses on "nationality" and standard identification. Access to disability-specific services and the Social Health Insurance Fund (SHIF) is blocked by a "lack of integration between refugee databases and the SHA system". Refugees often cannot utilize their Refugee Identity Card to access the benefits promised in Section 14 of this Act.
Community Groups Registration Act 2022	General	**1.5**	Enables refugee-led organizations; practical barriers in implementation

Fair Administrative Action Act 2022	General	**1.3**	Section 4(2) grants the right to written reasons for administrative action, yet the law fails to mandate that these reasons be provided in a language the applicant understands. This textual inadequacy means reasons provided only in English or Kiswahili remain functionally inaccessible to diverse refugee populations Section 5 requires administrators to issue public notice and invite views for actions affecting the public. The Act is silent on the specific methods of notification required for marginalized refugee populations who may lack access to the Gazette or national newspapers, contributing to the minimal community participation in tariff-setting identified in the water sector. Fair administrative action relies on considering all relevant and material facts under Section 5(1)(c). However, the Act fails to mandate the interoperability of refugee status data with county service registries. This means an administrator may lack the material facts regarding a student's legal residence or health status, leading to unfair decisions like the denial of state insurance.
Access to Information Act 2022	General	**0.8**	The explicit limitation of the right to information to citizens under Section 4(1) creates a legal vacuum where refugees cannot use this Act to demand transparency from Water Service Providers (WSPs) or health facilities regarding the persistent shortages of medicines or water rationing. Section 5(1)(c) requires entities to publish facts before initiating projects that affect the public. However, the Act fails to mandate that this disclosure reach refugees through accessible language and channels, leading to the minimal community participation in tariff-setting reported in the water sector While the Act mandates record maintenance (Section 17), it does not require interoperability between refugee databases (DRS) and national

			service registries like NEMIS (Education) or SHIF (Health). This keeps refugee data siloed, preventing administrators from making fair and informed decisions regarding service eligibility
The Early Childhood Education (Amendment) Bill, 2023	Education	**1.3**	Bill passed by the Senate with amendments and referred to the National Assembly for consideration. Section 31 (a) mandates identifying needs within "local communities," a term that lacks a specific legal inclusive definition for refugee settlements or urban refugee populations. Paragraph (d) concerns identifying local resources and fundraising, yet there is no provision for coordinating with humanitarian actors who typically fund refugee education.
Early Childhood Education Act 2021	Education	**1.2**	Section 39 allows public education centres to charge admission fees for persons who are not Kenyan citizens. This category includes asylum seekers and refugees and is in breach of article 53(1)(b) of the Constitution and article 22(1) of the 1951 Convention.
Kenya National Qualifications Framework Act, 2014.	Education	**1.3**	Section 8(1)(l) empowers the Authority to facilitate vertical and horizontal mobility, credit transfers, and exemptions. The text remains completely silent on structural and legal barriers that disproportionately impact refugees, such as restricted freedom of movement under encampment policies or the prohibitive cost of qualification-equating fees. There is no legal waiver or modified procedural track to guarantee physical or economic accessibility for asylum seekers. The guiding principles emphasize "equity in education" and Section 10(5) demands regional, ethnic, and gender diversity within the governing Council. There is a total legal omission of nationality, citizenship, or legal status as protected grounds against discrimination. By omitting refugees or stateless individuals from

			its inclusion language, the Act implicitly treats them under standard immigration or foreign national guidelines.
The Kenya National Qualifications Framework (General) Regulations, 2025	Educatio n	**1.3**	Regulation 15(1)(c) mandates that applications for qualification alignment or validation must be accompanied by "a copy of work permit or letter of provisional admission." This presents a nearly insurmountable barrier for most refugees, who hold refugee identity cards or asylum-seeker passes rather than conventional immigration work permits. Regulation 15(1)(d) and (e) demand copies of original certificates, transcripts, or result slips of all prior qualifications. Form 1 (Second Schedule) asks for passport numbers, country of origin, and explicit "study visas for overseas training." The text provides no alternative assessment mechanisms (such as background portfolios, statutory declarations, or institutional examinations) for displaced persons who fled conflict zones without academic or identity documentation.
Digital Health (Data Exchange Component) Regulations, 2025	Health	**2.3**	Regulation 13(4)(b) explicitly recognizes and validates legal refugee documentation. This guarantees that refugees can be formally assigned a digital health identity. First Schedule (Form DE 2) explicitly includes checkboxes and fields for non-Kenyans to upload soft copies of their Refugee Identification Cards or Asylum-See By anchoring refugees into the primary Client Registry, they inherently gain access to the **Shared Health Record** regulated under Regulation 19. This means that when a refugee moves between a camp-based clinic and a national referral hospital, their medical history, diagnoses, and treatments are portable. This integration structurally guards against fragmented care, which disproportionately impacts mobile or displaced populations.

			Under Regulation 13(6), health data controllers must pay a fee specified in the Third Schedule to access the client registry to verify patient identities. If humanitarian clinics or underfunded facilities hosting refugees face steep cumulative costs for registry queries, it could inadvertently slow down or restrict digital validation at the point of care.
User Guide on Management and Administration of KPSEA and KJSEA (2025)	Education		Section 3.1 Registration in Primary School For primary level, all learners MUST be registered at Grade 3, to acquire their Assessment Number, which will be used to identify learners and link them to their biodata and School Based Assessment (SBA) scores throughout their Basic Education. Section 8.1: Learners joining the Competency Based Education (CBE) system at levels that are above Grade 3 will be required to seek guidance from KNEC on assessment matters before joining the system, for appropriate advice on eligibility, placement, acquisition of Assessment Numbers and SBAs. Section 8.2: Learners transferring from other education systems who wish to join Kenyan CBE system shall apply for verification/equation of their qualification/certification by KNEC. Procedures for learners entering the Kenyan education system after Grade 3 are insufficiently understood and inconsistently implemented. Refugee learners transferring from other countries often face difficulties obtaining assessment numbers and age-appropriate placement. This can result in educational disruption, delayed progression, over-age enrolment, reduced motivation, and increased risk of dropout.

5.3 County-Level Instrument Scores

The table below presents index scores for the Turkana County-level instruments reviewed. County instruments generally score in the partially inclusive range, reflecting acknowledgment of refugee-hosting realities without explicit legal obligations or operational mechanisms.

Policy / Legislation	Sector	Index Score (0-3)	Key Inclusivity Notes
Turkana County Water Act 2019	Water	**1.3**	While Section 23 mandates the department to oversee the maintenance of water supply systems, the Act is silent on the specific prioritization of water infrastructure for refugee-hosting sub-counties. While Section 8(1)(d) allows the department to issue tariff guidelines, the Act lacks a mandate for a refugee affordability assessment, creating a risk that refugees transitioning from humanitarian-led (free) models will be excluded by the new cost-sharing structures. Section 10(1) defines the membership of the County Water Sector Co-ordination Committee but omits a mandatory representative from the Department of Refugee Services (DRS) or Refugee-Led Organizations (RLOs). This results in a coordination gap, where refugee needs are not systematically integrated into the county's water priority-setting Section 51(2)(a) mandates that the Water Services Fund receive at least 10% of the department's annual development budget. However, because the Act does not require the county to factor the refugee population into its developmental need's calculations, the resulting fund is structurally under-financed to handle the resource dilution caused by hosting an additional 200,000 residents. While Section 6 mentions special measures for refugees, it provides no legal directive to prioritize water supply to settlement-based public institutions

			like schools or health facilities. This siloing leads to de facto gaps where health facilities face persistent shortages of water and children miss education to support household water needs
Turkana County Water and Sewerage Services Sector Policy 2018	Water	**1.1**	Overarching gap in the Objectives of the county's Water Resources Management strategy is the lack of explicit inclusivity and equity for all population groups, including refugees, marginalized communities, and vulnerable populations, as well as insufficient emphasis on monitoring, climate resilience, and conflict resolution mechanisms.
Turkana County Education Fund Act 2023	Education	**1.8**	The definition of eligible person, the term 'ancestral origin' excludes refugees 8(2) explicitly states the Ward Education Bursary is exclusively only to students who are permanent residents of the Ward. This restricts children who might need the financial assistant and have no 'permanent resident' status as outlined in the Act.
Turkana County Integrated Development Plan 2023-2027	Multi-sector	**1.8**	While the CIDP III identifies severe infrastructure deficits, including inadequate water infrastructure, inadequate ECDE infrastructures, and inadequate health products and essential supplies as development issues, it does not consistently codify refugee inclusion as a core county obligation. It recognizes hosting realities but lacks explicit implementation provisions or transition frameworks from humanitarian to government-led provision for non-citizens. There is a significant devolution gap because Turkana County inherited responsibilities designed for citizen populations, not refugee-inclusive systems. De facto access is further blocked by documentation barriers. For example, the CIDP III's strategy to increase health access through NHIF (now SHIF) is hampered by unclear documentation flexibility for refugees and a

			lack of data-sharing between refugee registries and county systems. Despite the CIDP III's mission being to facilitate transformation in a culturally sensitive environment, the plan remains silent on specific acceptability standards for displaced populations, such as on the teacher community representation gaps, language barriers, and a lack of "culturally adapted" curricula that aren't addressed in the CIDP's current sectoral strategies
Kalobeyei Integrated Socio-Economic Development Programme II 2023-2027	Multi-sector	**2.1**	While KISEDP II promotes inclusion in SHIF and NEMIS, the program text does not address the legislative barriers in the Health and Education Acts that currently restrict these registries to citizen-only documentation The program assumes "sustainable provision" but fails to mandate that the Commission on Revenue Allocation factor refugee numbers into the Equitable Share criteria, ensuring that hosting counties like Turkana remain financially penalized for service inclusion Water, health, and education components within KISEDP II continue to operate in isolation. The plan lacks a cross-sectoral mandate to address the link where water scarcity in settlements is a primary driver of disease outbreaks and educational dropouts
Turkana County Community Health Services Act 2018	Health	**1.1**	167 CHUs do not include Kakuma refugee settlement catchments
Turkana County Facilities Improvement Financing Act 2025	Health	**1.5**	Status of the Act: Enacted yet to be published at the Government printer "Persons abled differently" should be replaced with "persons with disability" in paragraph 12(3)(h) to mirror the accepted terminology in the Persons with Disability Act 2025. There are two conflicting definitions of 'health facility' in section 2. The interpretation section is wanting as it fails to capture important definitions of funds and entities being referred to, e.g. the health fund. In subsection

			5(e), Public Health Services cannot be a county entity unless the word 'unit' is added as envisioned in the interpretation section. Progressive FIF mechanism; pending full County Assembly enactment
Turkana County Disaster Risk Management Policy 2019	Multi-sector	**0.9**	The policy classifies refugees primarily as a hazard to be managed (refugee influx) rather than as a resident rights-holder entitled to equal protection under the Article 43 constitutional rights to water, health, and education. Relief Registry Exclusion. Section 6.2 proposes a County Disaster Management Plan to identify vulnerability. Without explicit recognition of refugee IDs for individual registration (Section 3.3.1), refugees face a de facto barrier to accessing county-led emergency water and food assistance during droughts or floods
Turkana County Early Childhood Development (ECDE) Policy Framework	Education	**1.9**	The Policy be amended by defining the term "Inclusivity" to expressly recognize refugee children, asylum seekers, stateless children, children with disabilities, and other marginalized groups as beneficiaries under the Policy. 1.1.5 Refugee Inclusion in ECDE Services: The Policy be amended by including provisions recognizing refugee children and outlining mechanisms for their inclusion within ECDE services, including enrolment, transition, coordination, and access to learning support. 1.1.5 Two teachers per learning center: The Policy be amended by including provisions requiring adequate staffing and establishment of standard teacher-to-child ratios within ECDE center's. 1.1.5 Disability-Inclusive Infrastructure: The Policy be amended by including standards requiring disability-friendly infrastructure, including ramps, accessible classrooms, sanitation facilities, and learning spaces for children with disabilities. 2.1.2.1 strategies Sensitization and Awareness Creation: The Policy be amended by including community sensitization on the importance of birth

			registration and documentation as key requirements for access to ECDE and other basic education services. 3.3.1.1 Boards of Management (BOMs): The Policy be amended to ensure Boards of Management are inclusive and representative of marginalized and vulnerable groups, including refugees, women, and persons with disabilities. 4.1.1 Implementation Framework and Budget Allocation: The Policy be amended by developing a detailed implementation framework outlining implementation phases, timelines, responsible institutions, monitoring indicators, and budgetary commitments.

POLICY OPTIONS AND MULTI-CRITERIA ANALYSIS

6.1 Introduction

Drawing on the index findings, qualitative evidence, and the gaps identified in the sectoral analysis, this section presents and evaluates three strategic policy options for improving refugee inclusion in access to water, health, and education services in Turkana County. The multi-criteria analysis follows the approach illustrated in the University of Washington case study framework, applying five criteria on a 1-5 scale (1 = worst, 5 = best) to assess each option. The five criteria are:

1. **Implementation Feasibility:** Assesses the complexity, time, and institutional capacity required for successful implementation, including existing government structures that can be leveraged.
2. **Cost:** Assesses the financial and material costs of the intervention in both the short and long term, including potential for cost-sharing or cost recovery.
3. **Equity:** Assesses the potential benefit to refugees and host communities with the greatest service access needs, including populations with special needs such as women, children, and persons with disabilities.
4. **Non-Discrimination and Rights Alignment:** Assesses the extent to which the option addresses legal ambiguities and explicitly closes the gap between de jure commitments and de facto barriers, strengthening rights-based access.
5. **Sustainability:** Assesses the likelihood that the intervention produces durable, system-level change that reduces reliance on humanitarian financing and builds government-led inclusive service delivery over time.

6.2 Policy Option A: Legislative Amendment of Sector-Specific Acts

Option A involves amending the Health Act 2017, the Water Act 2016 (and its county equivalent), and the Basic Education Act 2013 to explicitly recognize refugees as entitled service users. Amendments would include: (i) inserting explicit refugee inclusion clauses in line with the Refugees Act 2021; (ii) repealing the non-citizen tuition fee provision in Section 29(2)(a) of the Basic Education Act; (iii) defining refugee populations as a priority vulnerable group for county public waterworks development; and (iv) issuing operational guidelines under each Act to guide facility-level implementation of inclusive service delivery.

Implementation Feasibility (Score: 2): Legislative amendment requires sustained parliamentary lobbying and cross-ministerial alignment, and faces political resistance given that refugee inclusion is often perceived as a zero-sum resource allocation decision.

The legislative cycle is lengthy and outcomes uncertain. While the Refugees Act 2021 provides a strong normative base and the Government of Kenya has demonstrated progressive reform intent, the practical capacity to drive simultaneous amendments across three sector ministries is complex.

Cost (Score: 2): The direct cost of legislative drafting and advocacy is relatively modest, but the fiscal implications of explicitly including refugees in universal service delivery entitlements are significant without corresponding adjustments to the equitable share revenue formula and donor support. Additional health, education, and water infrastructure investment will be required to avoid resource dilution that disadvantages both refugees and host communities.

Equity (Score: 5): This option offers the highest equity potential of all three options. Codifying refugees as legally entitled service users removes the discretionary exclusion loophole, benefits the most vulnerable populations, and creates an enforceable standard that can be monitored and held accountable. Explicit provisions targeting women, children, and persons with disabilities within the amendments would amplify equity outcomes.

Non-Discrimination and Rights Alignment (Score: 5): Option A directly addresses the root cause of the de jure gap: the silence of sectoral legislation on refugee entitlements. It converts aspirational constitutional guarantees into sector-specific legal mandates, eliminates the practicability and loophole in shared facility access, and aligns Kenya's domestic legal framework with its international obligations under the 1951 Refugee Convention, ICESCR, and the Global Compact on Refugees.

Sustainability (Score: 5): Legislative change is inherently the most durable form of reform. Once enacted, inclusive provisions become a permanent feature of the legal architecture, establishing a rights-based foundation that does not depend on project cycles, donor priorities, or humanitarian actor presence. It positions the Government of Kenya to lead inclusive service delivery beyond the Shirika Plan transition period.

6.3 Policy Option B: Digital Integration Protocol for Refugee Identity Card

Option B involves developing and implementing a Digital Integration Protocol (DIP) establishing interoperability between the Department of Refugee Services (DRS) database and the key national digital registries: SHA, KEMIS, Taifa Care, and county water utility customer systems. The DIP would formally mandate the Refugee Identity Card as a valid primary key for registration in each system, require data-sharing agreements between DRS, the Ministry of Health, the Ministry of Education, the Digital Health Agency, and Turkana County, and include a pilot deployment in Turkana County as a first phase.

Implementation Feasibility (Score: 3): Existing digital infrastructure in SHA, KEMIS, and Taifa Care provides a foundation for integration without requiring new platform

development. A government-to-government data-sharing protocol is achievable within the existing administrative mandate of DRS and is supported by Section 28(7) of the Refugees Act 2021, which gives the Refugee Identity Card a status comparable to the Foreign National Registration Certificate. The intervention is technically bounded, can be piloted in Turkana County, and does not require parliamentary legislation, only administrative instruments.

Cost (Score: 3): The costs are moderate. System integration requires technical development, cybersecurity infrastructure, staff training, and administrative coordination across multiple ministries. However, donor support is available through existing UNHCR, UNICEF, and World Bank digital inclusion Programmes. Cost savings over time are significant: reducing documentation barriers will decrease emergency UNHCR health bill coverage and reduce the administrative burden of managing parallel humanitarian registration systems.

Equity (Score: 4): Digital integration directly removes documentation as a barrier to health, education, and water service access. The greatest beneficiaries will be refugees who currently cannot access SHIF, register in NEMIS, or enroll in county water utility services. Women, children, and elderly refugees lacking documentation are disproportionately excluded and will benefit most from this intervention. The option also improves data visibility for evidence-based planning and reduces disparities between refugee and host community service quality.

Non-Discrimination and Rights Alignment (Score: 4): The Digital Integration Protocol operationalizes the non-discrimination principle by removing the administrative invisibility of refugees from national service delivery systems. It complements Option A and is consistent with Proposal 2 in the Refugees Act gap analysis. However, it is an administrative rather than legislative solution, and without legislative backing, the protocol remains vulnerable to administrative reversal.

Sustainability (Score: 4): Administrative integration tends to be more durable than project-specific interventions and can be institutionalized as a standard operating procedure across government systems. The main sustainability risk is the dependency on system upkeep and connectivity in arid counties where network infrastructure is unreliable. Building offline enrollment and synchronization capacity for Turkana County would strengthen resilience.

6.4 Policy Option C: Costed Shirika Plan County Transition Framework

Option C involves developing a Costed County Transition Framework (CTF) operationalizing the Shirika Plan at Turkana County level. The CTF would comprise: (i) a detailed implementation matrix for each sector (water, health, education) with timelines, responsible agencies, budget estimates, and milestones; (ii) a KALWASCO Compliance Roadmap achieving WASREB licensing, updated tariff structures, and permanent staffing; (iii) a humanitarian infrastructure handover protocol for transferring UNHCR, PWJ, and partner-held water and health infrastructure to county utilities; and (iv) advocacy to the Commission on Revenue Allocation to include refugee population numbers in the equitable share formula under the national interest and developmental needs parameters.

Implementation Feasibility (Score: 4): This option builds directly on existing government structures, the Shirika Plan framework, the Turkana County Integrated Development Plan 2023-2027, and KISEDP II. County government has demonstrated openness to this approach, and through the KIIs, the respondents confirmed strong institutional appetite for a clearer transition roadmap. The CTF is primarily a planning and coordination instrument, reducing institutional complexity compared to legislative amendment.

Cost (Score: 3): Developing the CTF document itself is relatively low-cost, requiring primarily technical assistance and stakeholder consultation. However, implementing the transition, particularly the KALWASCO compliance roadmap and infrastructure investment requires significant capital expenditure. Achieving WASREB licensing for KALWASCO alone requires renewal of aging PVC water infrastructure, procurement of a water quality testing laboratory, and resolution of tariff structures. Donor co-financing through DANIDA, UNHCR, and World Bank is critical to the financial viability of this option.

Equity (Score: 3): The CTF promotes equity by ensuring that government-led service delivery is planned and financed to reach both refugee and host communities. However, equity outcomes are medium-term rather than immediate, as the transition process will take several years to complete. The risk of service delivery gaps during the transition period is significant, particularly for refugees who currently rely on humanitarian actors and may not be able to pay cost-recovery water tariffs. Robust social protection mechanisms and a hardship exemption system must be embedded in the tariff framework.

Non-Discrimination and Rights Alignment (Score: 3): The CTF operationalizes the non-discrimination principle at the planning and implementation level rather than the legislative level. It is most effective when combined with Option A (legislative amendments) and Option B (digital integration), as the transition framework provides the operational blueprint that the legislative and digital reforms enable. Standalone, it

addresses the planning and coordination gap without resolving the underlying legal ambiguity.

Sustainability (Score: 5): Option C has the highest sustainability score because it is specifically designed to build government-led, self-financing service delivery systems. Achieving WASREB compliance, updating tariff structures, and integrating refugee populations into the county revenue allocation formula creates a durable fiscal architecture for inclusive service delivery that does not depend on humanitarian actor presence. Consistent with the Shirika Plan's long-term vision of self-reliance by 2035, this option aligns service delivery sustainability with national development planning.

6.5 Summary of multi-criteria Analysis

The table below summarizes the multi-criteria analysis scores for the three policy options across the five criteria. Scores range from 1 (lowest) to 5 (highest) per criterion, with a maximum total score of 25.

Policy Option	Implementation Feasibility	Cost	Equity	Non-Discrimination	Sustainability	Total Score (out of 25)
Option A: Amend sector-specific Acts (Health Act, Water Act, Basic Education Act) to explicitly recognize refugees as entitled service users, with binding operational guidance	**2**	**2**	**5**	**5**	**5**	**19/25**
Option B: Establish interoperability between Refugee Identity Card and national digital registries through a Digital Integration Protocol	**3**	**3**	**4**	**4**	**4**	**18/25**
Option C: Develop a costed Shirika Plan County Transition Framework including KALWASCO WASREB compliance roadmap, infrastructure handover protocols, and refugee-inclusive county revenue allocation formula	**4**	**3**	**3**	**3**	**5**	**18/25**

Option A (Legislative Amendment) and Option B (Digital Integration Protocol) are tied on total score at 18 and 19 respectively, with Option A scoring highest overall due to its superior equity and non-discrimination performance. Option C (Costed Transition

Framework) is close behind at 18 points, with the highest sustainability score of any option. Critically, these three options are not mutually exclusive and are most effective when implemented in a sequenced, complementary manner. The recommended implementation sequence is: Option B (Digital Integration Protocol) as the most immediately feasible administrative reform; Option C (Costed Transition Framework) as the medium-term governance and financing architecture; and Option A (Legislative Amendment) as the long-term structural reform that institutionalizes inclusion permanently in Kenya's legal framework.



RECOMMENDATIONS

7.1 For the National Government of Kenya

The following recommendations are applicable to the national government, including the Department of Refugee Services, the Ministry of Health, the Ministry of Education, the Ministry of Water and Sanitation, and the National Treasury.

Amend sector-specific legislation to explicitly include refugees: The Health Act 2017, Water Act 2016, and Basic Education Act 2013 should be amended to explicitly recognize refugees as entitled service users on terms equivalent to nationals, consistent with Article 43 of the Constitution, Section 34 of the Refugees Act 2021, and Kenya's obligations under the 1951 Refugee Convention and the Global Compact on Refugees. The amendment to the Basic Education Act should repeal Section 29(2)(a) to eliminate the non-citizen tuition fee provision for refugees and asylum seekers.

Nevertheless, the national government should pass a law that holds refugees' offenders accountable and face legal consequences.

The government should assess whether there is legislation that allows capitation of refugee students. If not, amend the legislation to facilitate of the same.

Resolve the "practicability" loophole in the Refugees Act 2021: Formulate specific subsidiary regulations under Section 44 of the Refugees Act to define operational criteria for "practicability" in Section 34 (1), converting the shared facility access provision into an enforceable legal entitlement with clear accountability mechanisms.

Shirika Plan target pastoralists communities: Currently, the Shirika Plan focuses on the settled population ignoring the pastoralists population. To be fully inclusive, the Shirika Plan should target the pastoralist communities.

Establish a Digital Integration Protocol for the Refugee Identity Card: The DRS, Ministry of Health (Digital Health Agency), Ministry of Education, and county governments should develop and implement a data-sharing protocol mandating the technical acceptance of the Refugee Identity Card as a valid primary key in SHA, KEMIS, and county water utility customer management systems. This should be implemented through a Turkana County pilot before national rollout.

Revise the equitable share revenue formula to include refugee populations: The Commission on Revenue Allocation should be petitioned to factor refugee population numbers into the "national interest" and "developmental needs" parameters of the equitable share formula under Article 203 of the Constitution. This would address the structural financing deficit in Turkana County, enabling the county government to adequately resource inclusive service delivery.

Issue national operational guidelines for refugee-inclusive service delivery: Each sector ministry should issue formal operational guidelines or circulars directing health facilities, schools, and water service providers on inclusive service delivery for refugees, in alignment with the Refugees Act 2021 and the Shirika Plan. These guidelines should address documentation flexibility, data collection, referral pathways, and grievance mechanisms.

Certification framework for EMR procurement and installation: The Ministry of Health should provide a certification framework that guides the procurement process and installation of EMRs in the health facilities.

Interoperability of National and County Data Repositories: The national government, in collaboration with the county government, should have their data repositories interoperable to each other. The harmonization of data for each government develops trust and facilitates budgeting and planning of resources.

Address the SHIF indigent premium gap for refugees: The Social Health Insurance Fund and Social Health Authority should issue a directive explicitly including refugees and asylum seekers as eligible beneficiaries of government-paid premiums under Regulation 19 of the SHIF General Regulations 2023, subject to vulnerability assessment in partnership with DRS and UNHCR.

UNESCO Qualifications Passport (UQP): The Kenya National Qualifications Authority should fast tract the process of adopting UQP to resolve the challenges about the recognition of prior learning, refugees are facing.

7.2 For the Turkana County Government

The following recommendations are applicable to the Turkana County Government, including the County Executive Committee Members for Health, Water, and Education, the County Assembly standing committees, and Turkana County-managed entities including KALWASCO.

Develop and adopt a Costed Shirika Plan County Transition Framework: Turkana County Government should develop a detailed implementation matrix for the Shirika Plan covering water, health, and education sectors. The framework should specify timelines, responsible agencies, budget estimates, performance milestones, and a humanitarian infrastructure handover protocol. This framework should be formally adopted as an annex to the Turkana County Integrated Development Plan 2023-2027.

Finalize KALWASCO's WASREB compliance and registration: The County Government should prioritize the completion of KALWASCO's Water Resources Authority and WASREB registration process, including updating the water tariff structure (currently based on 2007 rates), establishing a permanent staff complement, installing a

water quality testing laboratory, and developing a refugee-inclusive tariff framework that incorporates hardship exemptions for households living below the poverty line.

Integrate refugee catchment populations into Community Health Units: The Turkana County Community Health Services Act 2018 should be amended, or supplementary county health policy guidance issued, to formally include the Kakuma and Kalobeyei settlement populations within the Community Health Unit catchment areas, ensuring refugees benefit from Community Health Promoter services on an equal basis with host community members.

Fully operationalize the Facilities Improvement Financing Act: The County Assembly should complete the legislative process and mobilize approximately Ksh 6 million for the law to be published in the Kenya Gazette and dissemination. Hospital Boards of Management should receive capacity-building support to implement the Act effectively.

Review and amend existing laws and policies to align with the Standing Order 214: The county government adopted the Standing Order 214 on November, 2025. This should prompt the County Assembly of Turkana to review and amend existing laws prior to the Standing Order to align with it.

Establish a county-level coordination mechanism for the refugee service transition: A formal inter-departmental coordination committee should be established, co-chaired by the County Director of Refugees and the relevant County Executive Committee Member, to coordinate the transition of humanitarian-led water, health, and education services to county government management. This committee should include representatives from humanitarian actors, Refugee-Led Organizations, and host community structures.

Conduct public participation and community sensitization on the Shirika Plan: All FGD groups confirmed that refugee communities have limited awareness of the Shirika Plan and the transition from humanitarian to government-led service delivery. Structured community engagement, in collaboration with DRS and UNHCR, should be conducted in Kakuma and Kalobeyei to build understanding, manage expectations, and capture community priorities in the transition planning process.

Conduct public participation and community sensitization on having National Identity Documents: The county of government should conduct a county-wide community engagement with the host communities of the importance of having birth certificates and, for adults, having a national identification document.

7.3 For Donors and Development Partners

The following recommendations are directed to humanitarian actors, and other development partners supporting the Inclusive Refugee Response Programme in Turkana County.

Invest in system strengthening rather than parallel humanitarian service delivery: Development partners should progressively shift financing from humanitarian actor-led service delivery toward county government system strengthening, in line with the Shirika Plan timeline. This includes financing the KALWASCO compliance roadmap, supporting the Facilities Improvement Financing Act implementation, and providing technical assistance for the Digital Integration Protocol.

Support legislative advocacy and legal reform through RCK and civil society: Donors should increase support to I/NGOs, RLOs and other civil society organizations to engage the line ministries, departments and agencies of health, water and education, and county and national assemblies on legislative amendments recommended in Section 7.1. Targeted advocacy should focus on the Basic Education Act tuition fee provision, the SHIF indigent premium gap, and the Refugees Act practicability loophole.

Finance the development of the Costed County Transition Framework: Donors and partners should commission a costed transition framework for the Shirika Plan in Turkana County as a priority deliverable for 2025-2026, engaging both the Turkana County Government, national line ministries, departments and state agencies. The framework should be developed through a participatory process involving refugee communities, host communities, and humanitarian actors.

Support community engagement and rights awareness Programmes: All FGD groups confirmed that refugees have minimal awareness of their legal rights, the Shirika Plan, or the roles of KALWASCO, DRS, and county government. Targeted community engagement and rights awareness campaigns, delivered in community languages and through trusted community leaders and RLOs, should be a funded priority.

Maintain a safety net during the service transition period: The transition from free humanitarian-provided services to paid government-led services creates a vulnerability window. Partners should maintain emergency financing backstops for health bill coverage, school fee support, and water tariff hardship exemptions during the transition period, with clear phase-out timelines linked to government capacity milestones.

KMTC training and employment absorption for refugee health workers: UNHCR is sponsoring training of refugees at KMTC. An employment absorption framework should be developed, including bonding mechanisms to retain trained health workers in Turkana County. This is a significant opportunity to address both the health worker shortage and refugee employment absorption simultaneously.

7.4 Research Recommendations

The legislative and policy indexing exercise identified significant evidence gaps that limit the quality of policy design and monitoring for refugee and host communities' inclusion in Turkana County... The following research recommendations identify priority studies, assessments, and data

collection activities needed to inform the next phase of the Inclusive Refugee Response Programme.

Water affordability and willingness-to-pay assessment: A mandatory and rigorous household-level affordability assessment, as provided for by Regulation 47 of Water Services Regulations 2025, is urgently needed to inform the design of KALWASCO's updated tariff schedule and the refugee-inclusive hardship exemption mechanism. The assessment should cover both refugee and host community households across Kakuma and Kalobeyei, using consumption-based poverty measurement and differentiated by household type (female-headed, disability-affected, newly arrived). The study should be completed before any tariff revision is gazette. Tariff review and social-economic study, and affordability data is the critical missing input for transitioning water financing to a cost-recovery model.

Refugee SHA registration barriers study: A focused barriers analysis is required to understand why SHA registration rates are low among both refugees and host communities in Turkana. The study should identify documentation, awareness, logistical, and financial barriers to registration; assess the feasibility of mobile SHA registration units; and develop a prototype refugee registration workflow using the Refugee Identity Card as primary documentation. Findings should directly inform the SHA administrative circular.

Recognition of Prior Learning (RPL) scoping study: A dedicated scoping study is needed to document the scope of the RPL problem (numbers of learners affected, levels of education loss, countries of origin and curriculum systems involved) and to assess existing RPL models from comparable refugee-hosting contexts (Uganda, Ethiopia, Tanzania). The study should produce a draft RPL procedure adapted to the Kenyan curriculum context for submission to KNQA for gazetting. RCK should lead the legal analysis component, identifying the administrative and regulatory pathway for implementing RPL without parliamentary legislation.

Host Community and Refugee health outcome and service utilization study: A health service utilization and outcome study is required to quantify the impact of the current service access gaps on refugee health outcomes, including maternal mortality, under-five mortality, communicable disease burden, and mental health morbidity. The study should assess the differential between refugee and host community health outcomes and between government and humanitarian health facility performance. Findings will provide the evidence base for SHA coverage targeting, DHIS2 integration advocacy, and the FIF Act implementation priority.

Disability-disaggregated service access survey: No systematic disability-disaggregated data exists on service access for refugees with disabilities in Turkana County. The baseline survey is to quantify: the prevalence of disability among Kakuma and Kalobeyei populations; access barriers to water, health, and education services for persons with disabilities; and infrastructure accessibility gaps in existing facilities.

Findings should be used to develop minimum disability-inclusive infrastructure standards for the KALWASCO transition framework and the county health facility FIF investment plan.

Host-refugee social cohesion and service equity perception study: Several FGD groups from host communities indicated perceptions of inequitable service quality, with refugee facilities perceived to receive better supplies and free services. A structured mixed-methods study is needed to: measure actual service quality indicators in refugee versus host community facilities; assess host community perceptions and their drivers; identify friction points in host-refugee relations arising from service equity gaps; and test community dialogue intervention models.

Costed County Transition Framework study: The most critical research gap identified by this study is the absence of a costed implementation matrix for the Shirika Plan at Turkana County level. DANIDA should commission a dedicated study to develop the Costed County Transition Framework, covering: sector-by-sector service delivery gap analysis and costing; humanitarian infrastructure valuation and handover schedule; KALWASCO financial modelling to sustainability; county government capacity assessment and capacity investment requirements; and risk analysis for the transition period. The framework should be developed through a participatory process involving Turkana County Government, national line ministries, UNHCR, and refugee and host community representatives.

Refugee population enumeration for equitable share formula: The Commission on Revenue Allocation requires a robust population estimate for refugee populations in Turkana County to consider their inclusion in the equitable share formula. DRS, in partnership with the Kenya National Bureau of Statistics and UNHCR, should commission a formal population enumeration in Kakuma and Kalobeyei aligned with the methodology of the Kenya Population and Housing Census. This study would provide the definitive data input for the CRA proposal and for county budget planning.

Legal reform impact assessment: A monitoring and evaluation framework should be established to assess whether legal reforms translate into improved service access for refugees in practice. RCK, in partnership with DANIDA and DRS, should develop a legal reform impact monitoring protocol tracking: amendment passage and implementation timelines; changes in refugee SHA registration rates; KEMIS enrollment rates for refugee learners; water utility service coverage in refugee settlements; and grievance and remedy utilization rates.

Legislative and policy indexing research study in Garissa County: Garissa County is a refugee hosting county, and it will be of interest of conducting the same research in it. This will help to identify whether implementation gaps are unique to each individual counties, learn from each other in refugee management and provide a general national universal solution which factors the uniqueness of the cultural, geographical scope, legal and policy scope of the counties.

CONCLUSION

This legislative and policy indexing study has systematically reviewed national and county-level instruments to assess the extent to which Kenya's legal and policy framework enables refugees to access water, health, and education services in Turkana County. The findings confirm that Kenya has established one of the most progressive refugee legal frameworks in sub-Saharan Africa through the Constitution of Kenya 2010, the Refugees Act 2021, the Refugees (General) Regulations 2024, and the Shirika Plan. However, the normative foundation has not yet been translated into coherent, enforceable, and sustainably financed service entitlements for refugees across the health, water, and education sectors.

The three most critical barriers are: (1) the legislative silence of sector-specific Acts on refugee entitlements, creating a gap between the general refugee framework and operational service delivery law; (2) the exclusion of refugees from national digital registration systems due to documentation and interoperability gaps, rendering them administratively invisible to the very systems through which inclusion must be operationalized; and (3) the absence of a costed, accountable transition framework for the Shirika Plan at county level, leaving the most transformative refugee policy reform in Kenya's history without an operational roadmap in Turkana County.

The multi-criteria analysis presented identifies a sequenced, complementary package of reforms as the most effective path forward: immediate implementation of the Digital Integration Protocol (Option B) as an administratively achievable intervention; medium-term development and adoption of a Costed County Transition Framework (Option C) as the governance and financing architecture for inclusive service delivery; and a sustained legislative advocacy agenda targeting sector-specific law reform (Option A) as the long-term structural change that permanently institutionalizes refugee inclusion in Kenya's legal architecture. These options collectively address the root causes of the de jure/de facto gap identified throughout this study.

The index also confirms that refugee inclusion and host community development are not competing priorities but complementary imperatives. The area-based approach of the Shirika Plan, which integrates services for refugee and host communities, is the correct strategic direction. Realizing its potential in Turkana County requires deliberate alignment of national and county legal frameworks, clear operational guidance at the facility and service provider level, a reformed financing architecture that accounts for refugee populations in county revenue allocation, and sustained technical and financial support from development partners committed to the humanitarian-development nexus. This report provides both the diagnostic evidence and the advocacy tools to drive that agenda forward.

This report assesses laws, policies and framework in Kenya that impact refugee inclusion in Health, Water and Education. It provides an index of legislative and policy provisions, indentifies gaps and offers recommendations to strengthen inclusive and equitable access to essential services for refugees and host communities.

HEALTH

Promoting access to affordable, equitable and quality health services for refugees and host communities.

WATER

Ensuring sustainable access to safe water and sanitation for refugees and host communities.

EDUCATION

Advancing inclusive and equitable education for all learners and opportunities for refugee children and youth.



RCK

MINISTRY OF FOREIGN AFFAIRS
OF DENMARK
Denmark in Kenya

COUNTY ASSEMBLY OF TURKANA