

**THE UNITED REPUBLIC OF TANZANIA
MINISTRY OF HOME AFFAIRS**

THE NATIONAL REFUGEE POLICY

TABLE OF CONTENTS
LIST OF ABBREVIATIONS
FOREWORD

CHAPTER ONE- GENERAL Overview

Introduction
The Policy Vision
Mission Statement

**CHAPTER TWO – REFUGEES ADMISSION
PROCEDURES 4**

The Concept of Refugee Status
Determination of Refugee Status

CHAPTER THREE. - REFUGEES WELFARE

Refugee Rights, Treatment and States Obligations
Durable Solutions
Refugees Education
Refugees Employment

**CHAPTER FOUR - ADMINISTRATION AND
MANAGEMENT**

Law Enforcement
Destruction of Property and Environment
Burden Sharing as a Global Responsibility

CHAPTER FIVE- IMPLEMENTATION STRATEGIES

Policy Outlook
Specific Strategies
Conclusion

ABBREVIATIONS

UN - United Nations
UNHCR - United Nations High Commissioner for Refugees
NGOs - Non-governmental Organizations
OUT - Organization of African Unity

FOREWORD

The National Refugee Policy is a very important tool in the general refugee management and protection services. For decades, Tanzania has been running refugee affairs without any reference to documented guidelines, save for directives given from time to time by politicians and executives, mostly verbally. This policy sets out standards and procedures which conform with the generally accepted principles enshrined in the International Conventions and Protocols on refugees which we are party to. Further, this Policy takes into account the increasing scale and changing nature of migrations and their complexities. The Policy expresses concern on the negative impact created by refugee presence in the country and indicates the role to be played by the international community in mitigating the impact under the auspices of burden sharing.

Out of this policy it is expected that an effective legislation will be drawn which will be a guiding principle to refugees' conduct and obligations as well as other stakeholders' action. The Government of the United Republic of Tanzania commits itself within the policy framework to respect -and honour the international obligations including the observance of the principle of non-refoulement and in not supporting refugees in whatsoever way to sabotage, attack or attempt to remove by force Governments of countries of origin. As a solution to the refugee problem, this policy advocates the concept of "Safe Zones" within countries of origin and seeks the indulgence of the international community to pursue it seriously.

The Government is all set to see that there is effective administrative and managerial machinery for the implementation of various strategies including fair and effective refugee admission procedures and working for durable solutions. In all these undertakings the Government will work closely with other partners and particularly UN organizations; Governmental and Non- Governmental Organizations both national and International to address refugee issues.

CHAPTER ONE:

GENERAL OVERVIEW

Introduction

We believe in collaboration, dialogue and consultative process in achieving the best of the results. Let us all work together towards a common goal. God bless us all.

1. The standard definition of the term refugees is the 1951 UN Convention Relating to the Status of Refugees describes a refugee as any person whom owing to fear from persecution for reasons of race, religion, membership of a particular social group or political opinion outside his country of nationality or habitual residence unable or unwilling to avail himself to the protection government which he has previously fled The OAU definition refugee status also includes those compelled to leave his country for reasons of external aggression, occupation, domination or events seriously disturbing public order in part or the whole of the country of origin It must moreover be determined that their government in the country of origin cannot or will not effectively counter the above risk consequence of which there 'is a 'need for international protection in another country.

2. Tanzania, over the past four decades of her independence has generously played host to thousands of refugees from neighboring as well as distant countries Initially, the refugees who entered the country fled their countries of origin as a result of independence struggle, Therefore, it was the belief of the government of Tanzania that the refugee problem was temporal and could be considerably reduced after the liberation of all African countries. To the contrary, in recent years and particularly during the 1990 the refugee problem, a new turn as a result of massive influxes of refugees into Tanzania due to escalating conflicts and civil wars In the Great Lakes Region.

3. During all these past years, the government has had no documented policy for guidance. However, in place was the practice which could best be described as an "open door policy" that reflected the government's behavior and attitude towards refugees emanating from the spirit of Pan-Africanism and respect for humanity. The government was also being guided by National Legislation (initially - the Refugees Control Act NO.2 of 1965 which was later replaced by the Refugees Act No.9 of 1998) and various conventions which Tanzania is party to such as the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol; and the 1969 OAU Convention Governing Specific Aspects of Refugee Problems in Africa.

4. However, in the course of hosting and managing an ever increasing number of refugees, the government has been experiencing a number of challenges in the areas of economic development, security, the environment and social services. These challenges have necessitated the government to formulate this policy in order to address them. The policy outlines the vision, fundamental goals and direction of the government of the United Republic of Tanzania in the maintenance of a just and fair system of refugee

management which takes into account both the interests of our nation and those of the international community at large in respect of refugees protection.

5. Nevertheless, considering that the primary principle of refugee protection is that no one is returned to a country of origin where he or she would face serious harm, the exclusion clauses will be applied objectively and with due regard to the principle of human rights and due process of law. Furthermore, it is also important to observe that asylum and protection are guaranteed for refugees as long as the need for protection continues. The need for international protection may cease when the circumstances in connection with which refugee status was granted have fundamentally and durably changed and national protection can safely be resumed.

The Policy Vision

6. In working towards the fulfillment of this policy the government will indeed be guided by its long term and cherished vision, which is, working towards the creation of a refugee free world community or at least a world community where refugee issues are handled in the spirit of international co-operation and burden sharing.

Mission Statement

7. The country's refugee policy mission is to fulfill two inter-related objectives. On the one hand the policy is constructed to reflect the fulfillment of the international and constitutional obligations of the government of the United Republic of Tanzania and on the other to reflect directly and indirectly national interests and priorities. The most important of these priorities concern the migration control objectives, prevalence of law and order, ever rising criminality in refugee hosting areas, environmental degradation, various aspects of national and state security, social and economic interests, as well as bilateral, regional and international relations.

CHAPTER TWO

REFUGEES ADMISSION PROCEDURES

Concept of Refugee Status

8. International protection is exclusively provided to those individuals who satisfy the definition and meet the criteria for refugee status under international refugee instruments. The government recognizes that its responsibilities and obligations and the quality and quantity of the measures that it is called on to deliver pursuant to these obligations are set out in international legal and human rights standards. The government has assumed these obligations both through its accession to the relevant international refugee and human rights instruments and by incorporating a number of basic principles and standards in the municipal laws.

The government of Tanzania will therefore continue to provide asylum and refugee protection to those persons who have indeed lost this in their countries of origin, and have fled into, or are forced to remain in Tanzania for reasons or circumstances which are

recognized in refugee and humanitarian laws and giving rise to the need for international protection. In order to ensure that the designated areas remain civilian and humanitarian in character, any asylum-seeker or refugee who engages in military activities will be separated and interned in a separation facility.

Determination of Refugee Status

9. Tanzania has a tradition of providing a safe haven to people who flee persecution and conflicts in their countries of origin. It is for this reason that the system of refugee status determination has been put in place to assist the government to offer the required protection to those who deserve. In granting refugee status, the government decides on an applicable procedure (through individual status determination or declaration of a group basing on factors which forced asylum-seekers to flee and seek asylum). So far the government has been using the individualized system of status determination which works well despite the fact that resources have continued to be the major obstacle in making it more efficient and effective. For large influxes it has been more convenient to use the group recognition or the *prima facie* approach through Ministerial Orders issued by the Minister responsible for refugee affairs.

The government of Tanzania will work out mechanisms that will require all refugees to present themselves to authorized officers for documentation.

10. However, experiences have shown that people take advantage of a grant of refugee status to a group. In that way fugitives and those accused of committing crimes against international law have mixed with genuine refugees to enjoy the benefits of refugee protection.

REFUGEES WELFARE

Refugee Rights, Treatment and State Obligations

11. The government is committed to securing for refugees in Tanzania adequate protection as provided for under international refugee instruments. Subsequently, the right to asylum shall be guaranteed.

Refugees will not be expelled from Tanzania except on grounds of national security or public order and in accordance with applicable principles contained in the refugees instruments. A refugee expulsion, if necessary, will result from a decision reached in accordance with due process of law. Except where compelling reasons of national security require otherwise, the refugee will be allowed to submit evidence, and to appeal to and have their cases reviewed by competent authorities. The government will apply any justifiable and legitimate measures it may consider necessary for better management of the expellee including allowing him a reasonable period within which to seek legal admission into another country.

In cases where refugee status has ceased any final settlement will be concluded in an essentially humanitarian way. All rules relating to naturalisation shall have to be adhered

to before an application by a refugee for naturalization can be considered by the Government.

12. Similarly, the government is committed to treat all refugees in a humane way. However, there may be crisis situations in other countries whereby considerable numbers of refugees arrive at the Tanzanian borders, or cross the borders within a relatively short period of time. As it will be appreciated, the pressure of the needs in such crises, together with practical limitations, can make it impossible to meet the standards which should be applied in light of international instruments and protection principles

The government will endeavor in collaboration with other stakeholders to promote acceptable standards of treatment under international refugee law, particularly with regard to the security and dignity of human life and take appropriate measures to ensure that law and order prevails and the security of the country is not jeopardized.

Durable Solutions

13. The refugee problem has three durable solutions which are voluntary repatriation, local settlement and resettlement in a third country. Voluntary repatriation is a situation whereby refugees decide to go home as conditions in the' country of origin turn to be conducive. On the other hand local settlement means that refugees could continue to stay in the countries in which they first sought asylum until conditions which forced them to flee have remarkably changed. Finally, resettlement takes place when a refugee moves to a third country due to security, health and social reasons, also as part of other countries assisting the country where the refugees first sought asylum to ease the burden of hosting a big number of refugees.

14. The government has always considered voluntary repatriation of refugees to be the best solution to the refugee problem. In this regard the government of Tanzania will continue to call upon the international community to take measures to promote conditions in the respective countries of origin which will not only encourage voluntary repatriation, but also ensure that such repatriation is sustainable and irreversible. Such measures include steps towards the healing of ethnic, political religious or regional divisions and restoration of law and order, respect for human rights and good governance as well as social and economic development.

15. It is largely recognized that no one would really prefer to continue staying in a foreign land and refugees also feel the urge of going back home when situations normalize in their countries of origin. It is in this context that local settlement may be viewed as merely a temporary solution rather than a permanent one in our endeavors to alleviate the plight of refugee!'; This view has emanated in relation to the country's experience In hosting large number of refugees for a long period with adverse effects on the environment, infrastructures, as well as security in refugee hosting areas.

The government of Tanzania will continue to appeal that safe zones be created within countries generating refugees in order to alleviate the burden on host countries.

In this regard the government of Tanzania will admit within which arrangements should be made to take them back to the established safe zones in their countries of origin. In cases where refugee status has ceased, any final settlement will be concluded in an essentially humanitarian way. Rules relating to naturalization shall have to be adhered to before an application by a refugee for naturalization can be considered by the government

Refugees and Education

16. Education is a powerful tool in the process of adaptation and social Integration for refugees forms the basis for personal development and through education refugees Improve their chances to contribute to society through participation in the labour market and other processes when they go back home. For refugees, who have been uprooted and forced to flee, the process of rebuilding their lives in a new environment must therefore be momentous and as such they need to be facilitated by the easy access to education provision. Considering that refugees will eventually return home and In order to make it easier for them to easily reintegrate In their societies, the government will allow provision of education to refugees In accordance with the curricula used in their countries of origin. As for post primary education, the government will encourage the international community through UNHCR and other agencies to establish special schools and Institutions in the camps.

Refugees and Employment

17. The government acknowledges that adequate protection of refugees requires the attainment of a degree of self sufficiency. Furthermore, allowing refugees to use their skills or develop new ones while in exile will facilitate meaningful reintegration in their countries of origin when they are able to return. In this regard this policy takes into account the National Employment Policy which is multi-sectoral in nature, because employment issues are the concern of everybody and calls for the participation of many stakeholders beside the government. It is worth pointing out that refugees are a human resource which could be utilized for the Improvement of the economy and betterment of life and living standards. The employment policy however, takes a look at the national employment growth potentials and reveals that the labour market is generally in crisis and faces many challenges.

It is in this respect that the government will continue to commit itself to the humanitarian deed, meanwhile it will continue to look for solutions to its unemployment problem and this calls for all stakeholders to join hand in developing a conducive environment for more employment opportunities. As far as refugees concerned, the government will allow small income generating activities to be undertaken within the camps.

CHAPTER FOUR

ADMINISTRATION AND MANAGEMENT

18 The government takes the issue of the increase in criminality in refugee hosting areas seriously. It is noted that refugee affected areas are barely equipped with adequate resources, both human and physical to cope with this problem.

In this regard the government will continue to solicit more support from the international community so that law enforcement organs (the judiciary, police, prisons, wildlife divisions and local governments) are properly equipped in their endeavors to suppress crimes in refugee hosting areas.

Among the areas to be supported will target on special tailored training of officers posted to refugees affected areas so that they are better equipped In terms of skills and knowledge in handling refugees and related law enforcement issues. The improvement on skills and knowledge must go hand in hand with improvements in facilities and the level of personnel.

The government calls on all asylum- seekers and refugees to obey laws of the land and to respect lawful orders issued for smooth management of refugees and their affairs and shall continue to take appropriate measures and do everything in its powers to ensure that law and order is maintained at all times in those areas.

Destruction of property and environment

19 Mass influx of asylum - seekers and refugees has sometimes occasioned untold damages to the environment and property belonging to *local* communities or residents of such communities. Several complaints have been received in this regard and frequently the communities and residents whose property has been destroyed by the influx demand compensation for the damages caused to their property by the asylum -seekers and refugees. This issue has never been easy to handle despite the fact that the complaints have not been without substance. Indeed, the government is aware of the difficulties local communities and residents must endure when their property and environment are damaged in the Course of II the asylum seekers and refugees' movement into the country.

It is in this regard that the government, in collaboration with other stakeholders such as UNHCR, shall endeavor to find a suitable mechanism for compensating local communities and residents in case their property and environment are damaged by refugees or asylum-seekers in the Course of seeking sanctuary so that local communities and residents do not suffer while granting refuge to those fleeing for their safety.

Burden Sharing as a Global Responsibility.

20. Once a human rights tragedy unfolds, the *international* community has the responsibility to protect refugees. States have agreed to international treaties which ensure this Protection in the spirit of burden sharing and international cooperation, but too often these are ignored for the sake of political or economic expediency.

21 The presence of large numbers of refugees in sparsely populated and remote areas of a poor country like Tanzania increases competition between the refugee Population and the local community for resources and socio-economic benefits. Therefore, it remains the shared responsibility of the international community to support the capacity of host states to receive and protect refugees. Special attention need be directed to those lacking the necessary resources and where domestic concerns, including sentiments on crimes as well as other social, economic, political and environmental will militate against effective protection. It is also a matter of utmost importance that a mechanism is worked out to ensure that the refugee presence does not have only negative impacts and become a burden on the hosting communities. In this case development assistance needs to be extended to refugee hosting areas so as to balance the level of services in the camps and those available in the surrounding areas.

In this respect the humanitarian and relief organizations involved in assisting refugees will be required to procure goods locally and utilize the local labour market for personnel to be used in service delivery activities unless they are not available in the country.

22. The government of Tanzania also believes that the first responsibility of the governments of the world is to stop the human rights violations that force people to abandon their homes and communities. If the international community committed the necessary resources and political will to prevent human rights abuses, then many refugee crises and individual tragedies could be averted. , The government of Tanzania will persistently call upon all States to assume a more proactive role in preventing and eradicating all phenomena that lead to refugees being created.

CHAPTER FIVE

IMPLEMENTATION STRATEGIES

Policy Outlook

23. The National Refugee Policy will be implemented alongside other related government policies. This policy outlines the responsibilities and obligations of various actors. The nature of this policy is that it evolves around the global changing environment, and therefore is dynamic and flexible enough to respond to the future needs. This policy will be implemented under the direct supervision of the Ministry of Home Affairs.

24. A number of stakeholders will be involved in the implementation of this policy. However, the major actors will be:-

- (i) The government, whose roles will be:
 - (a) Coordination and supervision of all matters pertaining to refugees.
 - (b) Maintenance of law and order in refugee designated areas.
 - (c) Control of refugee movements outside their designated areas.

- (d) Administration of justice in accordance with laws, rules and regulations.
- (e) Sensitization of the public to distract from tendencies of labouring refugees without notifying the relevant authorities.

(ii) UN Agencies, whose role will be:

Provision of international mobilization of resources maintenance of refugees. Protection for care and

(iii) NGOs, whose role will be:

Provision of material assistance to refugees in line with acceptable standards.

(iv) Donors, whose role will be:

Provision of material and moral support to complement the government efforts in assisting refugees.

(v) The local community, whose role will be:

Participation in the reception, initial screening and provision of temporary asylum to new arrivals prior to being transferred to designated areas.

Specific Strategies

25. The effectiveness of this policy hinges on the following strategies which will have to be put into application.

(i) Strategy on Refugee Status

26. The interpretation of all matters pertaining to the concept of refugee status will be under the jurisdiction of the Director of Refugees Services.

(ii) Strategy on Status Determination

27. The Security and Defense Committees at villages through which refugees enter the country, shall be effectively used in the screening of new arrivals order to eliminate any loophole which could jeopardise the national security, law and order. Similarly such committees shall assume this role at other respective levels, to ensure that every asylum seeker entering the country goes through screening mechanism. The government of Tanzania with the assistance of UNHCR will ensure that all refugees are registered and issued with Identity cards upon admission into the country.

(III) Strategy on Refugees Rights and Treatment

28. In considering Refugees rights, treatment and the state obligations, the government will be guided by the International Humanitarian principles without compromising National interests. Refugees will be hosted in designated areas whereby the international community will be required to provide material assistance. To avoid environmental destruction, and for efficient service delivery, management and monitoring, no camp shall accommodate more than fifty thousand refugees. These camps should not be concentrated in one area (at least 30 kilometers apart) so as to avoid imminent pressure

on natural resources and minimize the burden placed on the shoulders of local authorities. Refugees will not be allowed to own land. Nevertheless, plots will be temporarily allocated to them for purposes of building their shelter and kitchen gardening. The maximum plot size will be 35x35 meters per household.

(iv) Strategy on durable solutions

29. As far as durable solutions are concerned, the government of Tanzania will promote voluntary repatriation through:-

(I) Tripartite Agreement mechanisms involving the countries of asylum, origin and the UNHCR.

(II) Positioning refugee camps not too far away but at least 50 kilometers from the international border.

(iii) Participation in efforts aimed at finding lasting solutions to conflicts in countries of origin.

(iv) Promoting education for peace and reconciliation in the refugee camps.

v) Strategy on Education

30. The government of Tanzania will continue to encourage UNHCR and other responsible agencies to secure curricula and teaching materials from the respective countries of origin. It is emphasized that the nature of education given should focus on repatriation and reintegration in their countries of origin. Special efforts will be made to secure examinations from their countries of origin and corresponding certification.

31. On post primary education emphasis shall be put on vocational training In order to facilitate self-employment upon their return to their countries of origin.

(vi) Strategy on Refugee Employment

32. Refugee employment shall be regulated by the National Employment Promotion Services Act of 1999 which should be amended to suit both formal and self-employment.

(vii) Strategy on Law Enforcement

33. In order to ensure speedy disposal of cases and quick dispensation of justice in refugee camps and surrounding areas, courts will be established in the camps. In this respect the international community will be approached for assistance of the required facilities.

(viii) Strategy on Destruction of Property and Environment

34. In addressing the negative impacts of refugees' presence, special projects will be executed alongside the assistance programme. Where trees are being cut there must be corresponding tree planting activities. Where public buildings or any other infrastructure is destroyed as a result of refugee presence, the international community shall be called upon to assist in the rehabilitation.

(ix) Strategy on Burden Sharing

35. On burden sharing, the government will continue to use relevant international fora to remind the international community of their obligation and responsibilities to care for refugees without geographical discrimination.

(x) Strategy on Control of Spill-over Effects

36. In order to ensure that negative socio-economic effects of large numbers of refugees do not spill-over beyond the borders of a country, the government will seek the indulgence of the international community into working out a refugee protection regime that will ensure the creation of safe zones within the boundaries of the refugee generating countries.

Conclusion

37. An effective implementation of the National Refugees Policy will ease the burden and possibly ensure a sustainable refugee management system. The contribution to be made by every actor in the implementation of this policy is vital for achievement of the expected results. The government is at the same time committed, to fulfill all of its obligations while the international community is requested to provide full support. By so doing it is apparent that the refugee problem will be a shared responsibility.