# Bridging the Humanitarian-Development Divide for Refugee Children in Eastern Africa and the Great Lakes Region

## Mapping existing national child protection practice

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## ACKNOWLEDGEMENTS

This study is the result of a joint initiative between UNHCR Regional Service Centre/ Division of International Protection and UNICEF Regional Office for Eastern and Southern Africa. The initial draft was prepared by Mariana Muzzi, an independent Consultant.

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# EXECUTIVE SUMMARY

This document was jointly commissioned by the UNHCR Regional Service Centre and the Division of International Protection and the UNICEF Eastern and Southern Africa Regional Office.

The study explores the nexus between humanitarian and development approaches to child protection and explores practical ways this divide can be bridged. Bridging the humanitarian-development divide for child protection and refugee response is multi-faceted and the study outlines three specific dimensions of this endeavour aiming to

a) The promotion of government's leadership for all child protection response – including refugee child protection response;

b) Harmonization of humanitarian child protection response with national child protection policies and procedures, in line with international legal frameworks; and

c) Inclusion of refugee children in national systems and services.

This study offers practical examples of how the New York Declaration for Refugees and Migrants (2016) can be operationalised in relation to child protection. The New York Declaration has an emphasis on longer-term multi-stakeholder planning and creating links between humanitarian and development responses, as well as an emphasis on meeting child protection needs through public authorities for child protection and welfare.

In this respect, the study maps existing government practice where humanitarian-development linkages already exist between national child protection systems and humanitarian child protection response in refugee settings in East Africa and the Great Lakes region.

The study identifies various entry points for the gradual integration of refugee children into national child protection and social welfare systems, including:

- National legal frameworks;
- National development plans;
- National child protection policies and standards;
- The national Child Protection and Social Welfare workforce;
- National surveys and research;
- Birth/civil registration systems; and
- Regional entry points.

In relation to these entry points, particularly promising practice was identified in the form of national child protection policies which include refugee children as well as national child protection/social welfare workers who provide case management services for individual refugee children. However, missed opportunities for inclusion of refugee children were identified in relation to national surveys and research on child protection, such as national violence against children surveys which have not included refugee children and subsequently, needs of refugee children are not reflected in national action plans and programmes. An exception to this is national civil registration and vital statistics assessments, which have been more inclusive of refugee children.

This study will be complemented by a joint UNICEF-UNHCR guidance document which will support country teams wishing to engage the government and other stakeholders in a consultative process aiming at identifying short and longer term actions for inclusion of refugee children in national child protection systems and services.

The Sustainable Development Goals (SDGs) made a commitment to 'leave no one behind'; this will require specific attention to the needs of marginalized groups who have specific vulnerabilities, including refugees and locals living in areas affected by population displacement. In relation to protection of children, the SDGs specifically include targets for ending violence, trafficking and sexual exploitation of children. Progress on the SDG child protection targets in refugee settings will require close cooperation between national and local authorities, international organizations, development and humanitarian actors, and civil society. Inclusion of refugee children in national child protection systems is an important step towards fulfilling our collective commitments to the SDGs.

## Key Findings/Recommendations:

- Facilitate country-level consultations to explore opportunities for inclusion of refugee children in national child protection systems, policies and plans.
- Inclusive national legal frameworks are an important gateway for inclusion of refugee children in wider national structures, policies, and planning.
- Considering refugee children in longer term development plans and thematic programmes alongside national children can facilitate access to development funding for refugee hosting areas.
- Inclusion if refugee children in national child protection policies and standards ensures that these are centrally monitored and enforced by relevant government entities.
- Involvement of government child protection workers in refugee child protection response is a long-term investment for the resilience and capacity of the national child protection system to withstand in emergencies.
- Creating linkages between national statutory community-based child protection mechanisms and similar mechanisms in camps/settlements is a cost-effective way to include refugee children in national informal child protection systems and avoid the creation of duplicate systems.
- Exclusion of refugee children from national surveys and research is a common missed opportunity.
- National efforts to strengthen Civil Registration Systems provide an opportunity to ensure access to birth registration for refugee children.
- Cooperationbetween refugee authorities and child protection departments, is essential for inclusion of refugee children in national child protection systems and to reduce duplication and parallel structures.
- Regional processes and organisations can provide an opportunity to promote greater national inclusion of refugee children.

SECTION 1

# INTRODUCTION

## 1.1 BACKGROUND

Sub-Saharan Africa hosts more than a quarter of the world's refugee population. 51% of refugees globally are children.[1] In Eastern Africa and the Great Lakes region, the percentage of children is typically higher than the global average, for example children make up 65% of the refugees from South Sudan, and 58% of Burundian refugees.[2]

Child protection needs in the region as a whole are immense, and often exacerbated by natural disasters, drought, and conflict. Emergencies and displacement situations can be an additional shock to national systems, as refugee communities are living side by side with host communities. Already over-stretched and under-resourced national child protection and social welfare authorities are facing challenges in meeting child protection needs in these situations. National child protection and social welfare authorities in the region are involved in child protection response for refugee children, though often in a limited and localized manner.

This study maps some of the existing practice relating to the engagement of national authorities in the protection of refugee children in East Africa and Great Lakes region.

While UNHCR and UNICEF are working closely for the protection of refugee children, the focus often tends to be on 'child protection in emergencies', i.e. a humanitarian approach focusing on service delivery. Less focus has been placed on joint 'upstream' efforts, i.e. longer-term initiatives aiming to strengthen national child protection systems which are accessible to all children (including refugees) and which are more shock-resistant, and thereby more capable of responding to emergencies and displacement situations.

> *"States should promote the establishment and implementation of child protection systems, in accordance with international obligations of States concerned, and to which children under their jurisdiction should have non-discriminatory access;"*

> *"The support provided by UNHCR and other relevant agencies and partners in helping States fulfil their obligations should supplement and strengthen the national child protection system in areas where gaps exist, and be delivered in a spirit of partnership by building on each actor's comparative advantages to reinforce the beneficial impact on the protection of children;"*

> UNHCR Executive Committee Conclusion No. 107 (LVIII) – Conclusion on Children at Risk (2007)

UNICEF and UNHCR have distinct but complementary roles in supporting States in the fulfilment of their international obligations, vis-à-vis children in general and refugee children more specifically.[3] This entails, inter alia, supporting governments to strengthen their national child protection systems in order to respond to protection concerns of all children, including refugees.

In terms of refugee protection, this means support for the development of age-sensitive national asylum systems, which are able to cater to the needs of refugee children.

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1 UNHCR, Global Trends 2015, available at: http://www.unhcr.org/576408cd7.pdf [Accessed 13 February 2017]

2 UNHCR, South Sudan Situation, Regional overview of population of concern of 31 December 2016. UNHCR data portal. Available at: http://data.unhcr.org/SouthSudan/regional.php [Accessed 13 February 2017]

3 These obligations are enshrined in the Convention of the Rights of the Child (1989) which is applicable to all children on the territory of a State and the 1951 Refugee Convention and its 1967 Protocol.

This study is timely given the increasing global commitment to child protection, as evidenced by the inclusion of child protection-specific targets in the Sustainable Development Goals (SDGs).

The commitment of the SDGs to 'leave no one behind' requires specific attention to the needs of marginalized groups with specific vulnerabilities, such as refugee communities and local communities in areas affected by population displacement. Progress on SDG child protection targets will require close cooperation between national and local authorities, international organizations, development and humanitarian actors, and civil society.

This review is also timely, in that it is closely linked to the New York Declaration for Refugees and Migrants, UN Doc. A/Res/71/1 of 3 October 2016, (New York Declaration), and its emphasis on longer-term planning through multi-stakeholder initiatives and consequent links between humanitarian and development responses.

The New York Declaration and its Annex include specific commitments to explore delivery of assistance through national, including public authorities for social services and child protection, to the extent possible.

This review provides concrete examples of how the New York Declaration can be operationalized for refugee children.

## 1.2 PURPOSE & AIMS OF THE STUDY

This study was jointly commissioned by UNICEF and UNHCR; specifically, UNHCR Regional Service Centre, UNHCR Division of International Protection and the UNICEF Eastern and Southern Africa Regional Office.

It aims to explore ways in which refugee children can be further integrated into national child protection systems and national legal and policy frameworks.

The study thereby explores ways in which child protection response in refugee settings can be integrated with mainstream national child protection systems and services.

The study has the following specific objectives:

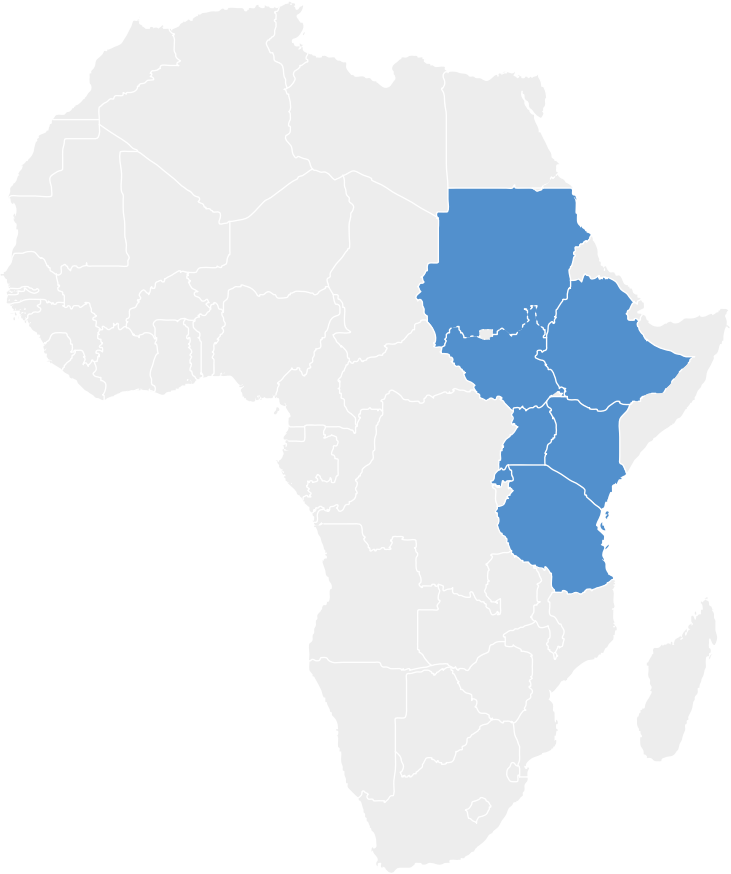
- To identify existing promising practice regarding inclusion of refugee children in government child protection systems and services;
- To review national legal and policy frameworks to see whether they enable the inclusion of refugee children in national government or statutory child protection services;
- To identify potential entry points for an incremental inclusion of refugee children in national child protection systems and services, as well as development and other, longer-term, national plans.

The study aims to provide insights for practitioners working on child protection in development contexts as well as child protection practitioners working in refugee operations, in order to ensure a more integrated and sustainable response. Thus, the study targets UNICEF, UNHCR, government refugee and child protection officials, and NGO staff in capitals and in the field.

The study focuses on the seven countries in Eastern Africa and the Great Lakes region, namely: Ethiopia, Kenya, Rwanda, South Sudan, Sudan, Tanzania and Uganda.[4]

This study is based on literature review and key informant interviews (see Annex), and represents Phase 1 of a two-phased initiative. Phase 2, will result in guidance for UNICEF and UNHCR country teams, and other country level actors on ways to explore possibilities for increased engagement by national child protection authorities in the protection of refugee children and building on specific 'entry points' for inclusion identified in Phase1.

[4] UNHCR data (Sept 2017), Ethiopia (883,546refugees), Kenya (488,698), Rwanda (160,197), Sudan (605,790,000), and South Sudan (281,560), Tanzania (357,386), and Uganda (1,380,000-. 0) hosted the highest number of refugees in the region.



## 1.3 METHODOLOGY

The desk review sought to identify promising practices, entry points and missed opportunities for inclusion of refugee children into national child protection systems. It included the following documents (see Annex 1):

NATIONAL LEGISLATION

- ➔ Constitutions: Is there an explicit commitment to refugees? Is discrimination on the grounds of birth or nationality explicitly prohibited? Are children's rights explicitly mentioned? Are children's rights applicable to all children or limited to nationals of the host country? Is best interest of the child explicitly mentioned?
- ➔ Refugee acts: Are children addressed explicitly? Are special provisions for unaccompanied and separated children foreseen?
- ➔ Child-specific legislation[5]: Is the law applicable to every child? Does the law include a non-discrimination clause? Does the law express an explicit commitment to refugee children?
- ➔ Birth registration acts: Does the law explicitly mention refugees? Do procedures foreseen in the law impose requirements that refugees have more difficulty in complying with than host country nationals?

NATIONAL POLICIES

- ➔ National development plans[6]: Are refugees explicitly mentioned? Do national development plans include specific objectives for refugees?
- ➔ National child protection policies: Are refugee children included explicitly? What is the child protection coordination structure?
- ➔ Gender-Based Violence/Violence against Children plans of action: Are refugee children explicitly mentioned?

**RESEARCH:**

Child protection systems mapping, capacity gap analyses of public social welfare workforce, and other child protection-related research.

**GREY LITERATURE:**

Internal UNHCR and UNICEF reports, concept notes, and meeting/conference presentations.

Key informant interviews were held with 45 child protection practitioners and advisors, especially UNHCR and UNICEF staff, at global, regional and country/field levels to confirm/validate the promising practices, entry points, and missed opportunities identified in the desk review and provide further analysis and insights. See Annex 2 for a full list of participants.

[5] The focus of this study has been on child-specific legislation. However, a wider approach, also considering e.g. nationality legislation, legal provisions regarding education would be useful as such legislation would have an impact on the status of children and how refugee children can access the national education system.

[6] The focus of this study is national development plans, however, it should be noted that UN inter-agency longer term plans and programmes, led by IFIs also constitute potential entry point for inclusion of refugee children in national systems.

Interviews were especially important to add nuance and depth to the promising practices identified during the desk review, given that enabling laws and policies do not necessarily translate into reality for refugees. Likewise, it may also be that even in a country with restrictive laws and policies, there may be promising practices for the inclusion of refugee children in government or statutory child protection systems and services.

## 1.4 OVERVIEW

**SECTION 1:**
This introduction provides an overview of the context, purpose, aims, geographic scope, and methodological approach adopted.

**SECTION 2:**
This section sets the scene of child protection globally and at national level, with the aim of giving practitioners a better understanding of the components and structure of a national child protection system which require strengthening, and of which components and structures could serve as entry points for the inclusion of refugee children.

**SECTION 3:**
This is the main section of the study, reviewing existing practices from the countries studied. It also presents potential entry points for inclusion of refugee children into national child protection systems, as well as considering regional entry points with the East African Community and in Southern Africa.

**SECTION 4:**
The final section makes national and regional-level recommendations for practitioners working on refugee child protection, broken down by the entry points identified by the report.

SECTION 2

# STRENGTHENING CHILD PROTECTION SYSTEMS IN REFUGEE CONTEXTS

## 2.1 GLOBAL CONTEXT: CHILD PROTECTION AND CHILD PROTECTION SYSTEMS

Every child has a right to be protected from violence, exploitation, abuse and neglect, enshrined in the Convention on the Rights of the Child 1989. Child protection refers to the prevention and response to violence, exploitation, abuse and neglect.[7] In refugee settings child protection has additional dimensions, especially the search for durable solutions and ensuring non-discrimination (UNHCR Framework for Protection of Children, 2012).[8]

States hold the primary responsibility for protection of all children. The establishment and implementation of national child protection systems, have proven to be the most efficient and sustainable way to prevent and respond to child protection related risks, whether in emergency situations or in stable contexts.[9] In line with the UN Convention on the Rights of the Child 1989 (CRC) Article 2(a), UNHCR Executive Committee (EXCOM) has stated that such child protection systems should be accessible to all children under the jurisdiction of a state, without discrimination.[10]

UNHCR and UNICEF are committed to a systems approach to child protection.[11] The UNICEF Child Protection Strategy (2008) outlines the need for an upstream approach to child protection, in order to assist governments in meeting their responsibilities with regards to child rights. The UNHCR Executive Committee has instructed UNHCR and 'other relevant agencies' to support States to strengthen national child protection systems (UNHCR ExCom Conclusion No. 107 (LVIII) – Conclusion on Children at Risk, 2007).

> *"Child protection systems comprise the set of laws, policies, regulations and services, needed across all social sectors – especially social welfare, education, health, security and justice – to prevent and respond to child protection related risks."*
>
> UNICEF Child Protection Strategy (2008)

The Sustainable Development Goals (SDGs) has been an important milestone for child protection as the global goals includes specific targets to address violence and exploitation of children, harmful practices, trafficking and worst forms of child labour as well as targets relation to birth registration. In 2016, a Global Partnership to End Violence against Children was established, as a public-private partnership to support the implementation of the SDGs in relation to violence against children.[12]

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7 See UNICEF Child Protection Strategy (2008), UNHCR ExCom Conclusion No. 107 (LVIII) – Conclusion on Children at Risk (2007), UNHCR Framework for Protection of Children (2012)

8 UNHCR Framework for Protection of Children, 2012

9 See UNICEF Child Protection Strategy (2008), UNHCR ExCom Conclusion No. 107 (LVIII) – Conclusion on Children at Risk (2007), UNHCR Framework for Protection of Children (2012); Wulcyn et al: Adapting a Systems Approach to Child Protection: Key Concepts and Considerations (2010)

10 UNHCR ExCom Conclusion No. 107 (LVIII) – Conclusion on Children at Risk (2007)

11 UNICEF Child Protection Strategy (2008); UNHCR ExCom Conclusion No. 107 (LVIII) – Conclusion on Children at Risk (2007); UNHCR Framework for Protection of Children (2012)

12 For more information see: http://www.end-violence.org/

## 2.2 CHILD PROTECTION SYSTEMS IN REFUGEE CONTEXTS

The UNHCR ExCom Conclusion No. 107 (LVIII) – Conclusion on Children at Risk (2007), has outlined some key principles for child protection systems strengthening in refugee settings. The support provided by UNHCR and other relevant agencies should:

- Help States fulfil their international obligations including in relation to the establishment and implementation of national child protection systems to which children under their jurisdiction should have non-discriminatory;
- Supplement and strengthen the national child protection system in areas where gaps exist; and
- Be delivered in a spirit of partnership, by building on each actor's comparative advantages to reinforce the beneficial impact on the protection of children.

In refugee contexts, upstream work to strengthen protection systems can entail, inter alia:

- Advocacy for non-discriminatory access to protection systems and services, i.e. access on a par with nationals, through enabling legal and policy frameworks that are implemented;
- Ensuring that reception and asylum systems are age- and gender-sensitive, through review of laws and policies, capacity building etc;
- Engagement with authorities to ensure policy frameworks and national plans and tools reflect the specific needs of refugee children e.g. in relation to alternative care;
- Strengthening and professionalizing community-based child protection systems and networks which are linked with the formal child protection system;
- Advocacy for the presence and engagement of national child protection authorities in areas hosting refugees – for the benefit of refugees and host communities;
- Ensuring that refugee children are registered at birth in national civil registration systems by, for example, addressing obstacles that disproportionately affect refugees and by reviewing laws/procedures; and
- Enhancing the capacity of national child protection and social welfare systems to respond to emergency situations, including population displacement.

Efforts to include refugee children in national child protection systems and efforts to strengthen such systems for the benefit of all children are a key element of the Comprehensive Refugee Response Framework, as outlined in the New York Declaration.

> *"7. Host States, in cooperation with UNHCR and other UN entities, financial institutions and other relevant partners would […]*
>
> *b) Deliver assistance, to the extent possible, through appropriate national and local service providers such as public authorities for health, education, social services and child protection;"*
>
> New York Declaration for Refugees and Migrants, Annex I, para 7 (b).

Inclusion in national systems mitigates the risk of long-term marginalization, which has become a feature in protracted refugee situations. This is in line with the 'progressive approach to solutions' which call for a continuous advancement of the enjoyment of rights, including non-discriminatory access to national services and systems, while a comprehensive, long term solution is being pursued.[13]

Bridging the humanitarian-development divide for child protection and refugee response is multi-faceted and broader than a narrow focus on inclusion

[13] See UN Doc. EC/67/SC/CRP.14, para. 5, new approaches to solutions; and Interview with Jackie Keegan Head of Comprehensive Solutions Unit, UNHCR HQ on 10 January 2017.

of refugee children in national services. It entails the following 3 dimensions:

### 1. Promoting government leadership:

- National child protection/social welfare authorities lead and oversee all child protection response – including refugee child protection response; and
- National child protection/social welfare authorities, at national and sub-national level, have the skills and capacity required for child protection response in emergencies, including in refugee situations.

### 2. Harmonizing child protection policies & procedures:

- Ensuring coherence between the national child protection response and refugee child protection response; and
- Ensuring close coordination and collaboration between child protection actors working in refugee settings and those working with host communities, including through the establishment of joint coordination groups.

### 3. Inclusion of refugee children in national systems, i.e.:

- Inclusion in legal and policy frameworks relating to social welfare, child protection and civil registration;
- Inclusion of refugee children in national child protection, social welfare and social protection services;
- Government child protection/social workers provide case management services to refugee children at heightened risk and guide.

Recent global guidance and frameworks, applicable to both UNICEF and UNHCR, set out a clear agenda for promoting inclusion of refugee children in national child protection systems, and also discourage the development of parallel service-delivery models, as this might duplicate and even undermine the capacity of government systems to deliver critical child protection services. However, the capacities of national child protection systems to respond to refugee situations (whether emergencies or protracted situations) will vary, so this can be seen as long-term work. The entry points presented in this study can constitute important milestones on the way towards incremental inclusion of refugee children in national systems and services.

Systems-strengthening efforts should therefore aim to build national child protection capacities, both in terms of resources and know-how. Although, in the immediate term, it may not be possible to entirely avoid parallel systems, they should be seen as a temporary measure while investments are being made to strengthen the national system.

Identifying potential entry points for including refugees into national child protection systems and services, which differ by country, is a starting point for work: the opportunity for integration may be violence against children in Tanzania, but could be alterative care in the cases of Rwanda and Kenya.

## 2.2 NATIONAL CHILD PROTECTION SYSTEMS – ENTITIES INVOLVED AND COORDINATION

Compared with health and education, child protection is a recent area of work, and responsibilities for child protection are often spread across multiple government sectors, with services delivered by local authorities, non-governmental, and community-based organizations.

The structure of a national child protection system is context-specific, but entities usually involved in child protection include:

- Ministry of Social Welfare (or the institute responsible for childcare): social welfare institute, provincial/District CP officers, social welfare workforce, staff in homes and shelters;
- Ministry of Health: mental health, forensic medicine, health outreach, clinics;
- Ministry of Interior: Specialised police units/desks, one-stop centres;

- Ministry of Justice: civil registrar, child friendly benches, detention facilities; and

- Ministry of Education: schools (teachers & directors, committees, clubs) and school-based violence prevention programmes and reporting structures/mechanisms.

At national level, these government entities are responsible for monitoring, standard-setting, guidance and sectorial budget allocations to sub-national levels. At subnational level, these entities engage in service delivery.

Reflecting the plethora of actors involved, the child protection structure is more complex than the education and health sectors. Given the myriad actors engaged in child protection, effective coordination between sectors and levels (e.g. a referral system) is essential in order for a child protection system to be effective.

Typically, one ministry – e.g. the Ministry of Social Welfare – assumes the overall coordination, monitoring, oversight, strategic guidance, and standard-setting for the child protection system. In some countries the Prime Minister's Office assumes the overall coordination role.

To demonstrate the variety of models used for coordinating this sector, Annex 3 includes diagrams of the Child Protection Coordination Structures for Kenya, Tanzania, and Uganda.

When dealing with refugees, additional government ministries and other government entities are involved, including disaster management offices, specific refugee departments housed within other ministries (such as the Ministry of the Interior) with a mandate over refugee affairs and immigration.

While national refugee authorities have experience in the management of refugee affairs, the expertise in child protection is in most situations located in other ministries or departments. This situation calls for increased cooperation between those responsible for refugee affairs and those responsible for social and child welfare.

## TANZANIA: CHILD PROTECTION COORDINATION UNDER THE PRIME MINISTER'S OFFICER

### A PROMISING PRACTICE

The United Republic of Tanzania's Child Protection coordination structure represents a promising practice in the region. The Government of Tanzania seized the momentum and political commitment around the issue of violence against children to raise the profile of its national child protection coordination structure.

Among the countries of this research, Tanzania stands out with regards to addressing violence against children: it was one of the first countries in Africa to conduct the National Violence against Children Survey in 2009, and subsequently developed a Multi Sector National Plan of Action to Prevent and Respond to Violence against Children 2013-2016.

As a follow up to the 2016 Action Plan, and as Tanzania joined a group of 'Pathfinding Countries'* committed to advance the aims of the Global Partnership to End Violence Against Children, a National Plan of Action to End Violence Against Women and Children (2017/18-2021/22) was developed. The National Plan of Action consolidates previously disparate coordination structures for women and children into one coordination structure overseen by the Prime Minister's Office.

* For more information on the Global Partnership and Pathfinding Countries, see: http://goo.gl/SpP8HW

SECTION 3

# OPPORTUNITIES FOR INCLUSION OF REFUGEE CHILDREN IN NATIONAL CHILD PROTECTION SYSTEMS AND SERVICES

This section presents concrete examples of entry points for inclusion of refugee children in national child protection systems and services based on existing practice in this region. Entry points consist of specific moments or opportunities in law reform, national planning or policy design, or programmes and services which can serve as steps towards a gradual inclusion of refugee children in national systems.

These entry points can also guide system-strengthening interventions which aim at inclusive and resilient national child protection systems, and thereby also increased national child protection capacities to respond to emergencies and displacement situations.

Interventions can include, for example: capacity building; establishment of child protection infra-structure; secondment of staff to local government social welfare departments; technical advice to develop child-sensitive asylum systems; and enabling legal and policy frameworks.

A regular stock-taking of entry points is needed, as new opportunities might arise. Joint UNHCR-UNICEF assessment of entry points/opportunities is important as it is an opportunity to harness the comparative advantage of both organizations: UNHCR's refugee expertise and UNICEF's privileged linkages with relevant government line ministries with responsibility for child protection coordination and service delivery.

However, an assessment of the risks that may be involved in working towards increased inclusion of refugee children in national child protection services should also be conducted.

> *"Budget analysts recently noted that the funding committed to humanitarian agencies in South Sudan in 2015 alone would fund the Ministry of Gender, Children and Social Welfare (MoGCSW) for 66 years of operations at its 2012–2013 budget levels."*
>
> (Canavera 2016, Muchabaiwa et al. 2016).

While this study argues for the inclusion of refugees in national child protection systems and services in host countries, it also acknowledges some of the persisting dilemmas regarding the feasibility of inclusion of refugee children in over-stretched and under-resourced national child protection systems. At times, there is disparity between quality and capacity of national child protection services and quality and capacity of services provided by relatively better-resourced international organizations when dealing with highly vulnerable children in emergency situations. This often due to the imbalance between international humanitarian funding and national resources available for the social welfare sector. The inclusion of refugee children in national child protection/social welfare services should not come at the expense of other vulnerable children. On the contrary, it could be seen as an opportunity to advocate for increased prioritization of and resource allocation for the social welfare sector.

# **ENTRY** POINT 1: NATIONAL LEGAL FRAMEWORKS AND THE PROTECTION OF REFUGEE CHILDREN

This section considers entry points within national legal frameworks, including constitutions, refugee acts, and child-specific legislation, which could contribute to enhancing the protection of refugee children. The analysis considers to what extent the laws reviewed are enabling or restrictive in terms of concerns relating to protection of refugee children.

It should be noted that the countries within the purview of this research have different legal systems: this has complicated the analysis. Kenya, South Sudan, Tanzania and Uganda have common law-based legal systems, whereas Ethiopia has largely a civil law system. Rwanda has a dual legal system which embraces aspects of both civil and common law. Sudan's legal system combines common law and Islamic Sharia.

## Constitutional provisions relating to refugees and/or children

None of the constitutions reviewed explicitly mentions refugees, but most include non-discrimination (equality) clauses, explicitly prohibiting discrimination on the grounds of place of birth or nationality, thus safeguarding refugees against discrimination.

However, the equality clause of the Constitution of Sudan (Article 31) does not explicitly forbid discrimination on the grounds of birth or nationality. Similarly, the Constitution of Rwanda (Article 16), refers to the equality of all Rwandans and prohibits any form of discrimination but does not explicitly mention birth or nationality as prohibited grounds for discrimination. However, based on subsequent Rwandan case law, the article and its non-discrimination clause does apply to foreigners, including refugees.[14]

Children's rights are enshrined in nearly all the constitutions reviewed for this study, with the exception of Tanzania. In Ethiopia, Rwanda, South Sudan and Sudan, children's rights are constitutionally protected, but the rights to education, health and social services are limited to nationals.

In this respect, the Constitutions of Kenya and Uganda are more progressive and enabling when it comes to including refugee children. The Constitution of Kenya refers to "every child" (Article 53). The Constitution of Uganda does not express any limitation to the application of the relevant article (Article 34) based on the nationality or origin of the child – it only refers to " a child" and "No child…".

> The Constitutions of Kenya and Uganda represent the 'gold standard', as the outlined rights apply to all children, and thus also to refugee children.

Most constitutions reviewed include specific provisions regarding child protection, such as the right to be protected from exploitation, to be protected from unlawful detention; and in the case of detention, to be separated from adults, with the exception of Sudan and the United Republic of Tanzania. Thebest interests of the child is explicitly mentioned in the Constitutions of Ethiopia, South Sudan and Uganda either as general principle or in relation to specific provisions.

The right to a name (birth registration) is explicitly mentioned in the constitutions of Ethiopia, Kenya and South Sudan.

[14] Email communication with Nathalie Bussien, Child Protection Officer, UNHCR Rwanda of 8 February 2017

The following table provides an overview of the relevant provisions in the Constitutions reviewed.

| CONSTITUTION | |
|---|---|
| **Are refugee rights explicitly mentioned?** | |
| **Ethiopia** | NO |
| **Kenya** | NO |
| **Rwanda** | NO |
| **South Sudan** | NO |
| **Sudan** | NO |
| **Tanzania** | NO |
| **Uganda** | NO |
| **Is discrimination on the grounds of birth or nationality explicitly prohibited?** | |
| **Ethiopia** | YES<br>Nationality & birth (art. 25) |
| **Kenya** | YES<br>Birth & Protection of the marginalized (arts. 10 & 27) |
| **Rwanda** | NO<br>Discrimination of any kind is prohibited. The article is limited to Rwandan nationals (art. 16), but case law states that this applies to foreigners. |
| **South Sudan** | YES<br>Birth (art.14) |
| **Sudan** | NO<br>Discrimination on the grounds of birth or nationality is not explicitly prohibited (art.31) |
| **Tanzania** | YES<br>Nationality & place of origin (art. 13) |
| **Uganda** | YES<br>Birth (art.21) |
| **Are children's rights explicitly mentioned?** | |
| **Ethiopia** | YES |
| **Kenya** | YES |
| **Rwanda** | YES |
| **South Sudan** | YES |
| **Sudan** | YES |
| **Tanzania** | NO |
| **Uganda** | YES |

| CONSTITUTION | |
|---|---|
| **Are children's rights, applicable to all children?** | |
| **Ethiopia** | NO<br>Right to education, health & social services limited to Ethiopians (arts. 36, 41 & 90) |
| **Kenya** | YES<br>(art.53) |
| **Rwanda** | NO<br>Right to education & health limited to Rwandans (arts. 19, 20 &21) |
| **South Sudan** | NO<br>Right to education & health limited to South Sudanese (arts.17, 29 & 30) |
| **Sudan** | NO<br>Right to education and health limited to Sudanese citizens (arts. 44 & 46) |
| **Tanzania** | NO |
| **Uganda** | YES<br>(art. 34) |
| **Are refugee rights explicitly mentioned?** | |
| **Ethiopia** | YES<br>(art. 36) |
| **Kenya** | YES<br>(art. 53) |
| **Rwanda** | NO |
| **South Sudan** | YES<br>(art.17) |
| **Sudan** | NO |
| **Tanzania** | NO |
| **Uganda** | NO |

As none of the constitutions reviewed explicitly mentions refugees, they are not particularly 'enabling' when it comes to protection of refugees and refugee children. The Constitutions of Kenya and Uganda represent the 'gold standard': both are applicable to all children, which means that the provisions are also applicable to refugee children and other non-national children. That said, taking into account non-discrimination clauses, Ethiopia, Rwanda, and South Sudan boast partially enabling constitutions, whereas the constitutions of Sudan and the Tanzania are less enabling with regards to refugee children.

## Refugee acts including provisions relating to children

All countries reviewed for this study are State Parties to the Convention relating to the Status of Refugees (1951) and the Protocol relating to the Status of Refugees (1967), with the exception of South Sudan which has acceded to neither of these.

All countries reviewed have enacted refugee acts, including South Sudan. This section considers whether the Refugee Acts are inclusive of children's rights.

With the exception of Sudan, all countries covered by this study have included specific provisions relating to children in their Refugee Acts.[15] Some of these acts grant refugee children special protection, and others have provisions relating to specific rights. The following specific children's rights are foreseen: right to education, health, and child protection rights to safety, family tracing, legal protection, and issuance of identification and travel documents. Some explicitly extend protection to specific categories of refugee children.

In Kenya, South Sudan, and Uganda the Refugee Acts grant unaccompanied refugee children the right to alternative care arrangements and placements (including foster care), on an equal footing with host country nationals who are permanently or temporarily deprived of family. Uganda's Act foresees that an unaccompanied refugee child may be considered for adoption. The Refugee Act of Kenya assigns specific functions to the Commissioner for refugee affairs, who is called upon to assist in tracing parents or relatives of refugee child, in order to support family reunification.

To cater for the special protection needs of refugee children and, in particular, unaccompanied and separated children, countries such as Uganda and South Sudan have included expeditious procedures or forseen a need for urgent attention for children's cases.

The right to health and primary education are explicitly mentioned in the legislation of South Sudan, Tanzania and Uganda, with refugees being granted this right on a par with host country nationals.

However, the right to be protected from exploitation, violence, abuse and neglect is notably missing in the refugee acts, with the exception of the Kenya Refugees Act (revised in 2014), which includes the right to safety and protection (Agengo, 2016).[16]

The Refugee Acts of South Sudan (Article 46) and Uganda (Article 48) call for regulations regarding: the protection and integration of refugees in host communities for the purpose of self-reliance; the integration of refugee concerns in local, national and regional development plans; and affirmative action for the integration of refugee women, refugee children, and refugees with disabilities.

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[15] Refugee Acts: Ethiopia: Refugee Proclamation (Proclamation No. 409/2004) (2004), Kenya: Refugees Act (revised in 2014); Rwanda: Law No. 13 ter/2014 of 21/05/2014 relating to refugees (2014) & Law No. 29/2006 Modifying and Complementing Law No. 34/2001 relating to Refugees; South Sudan Refugee Act (2012); Sudan: The Regulation of Asylum Act (1974); Tanzania: Refugees Act (1998); Tanzania: Refugees Act (1998) and National Refugee Policy (2003) and Uganda: The Refugees Act (2006).

[16] Interview with Yvonne Agengo, UNHCR Division of International Protection, Roving Child Protection Advisor, held on 21 November 2016

The table below presents an overview of refugee acts and what specific provisions relating to children are included in these acts.

| REFUGEE ACTS | |
|---|---|
| **Are children mentioned?** | |
| **Ethiopia** | YES |
| **Kenya** | YES |
| **Rwanda** | YES<br>(ID cards to be issued to children of refugees Art. 12) |
| **South Sudan** | YES |
| **Sudan** | NO |
| **Tanzania** | YES |
| **Uganda** | YES |
| **Are children granted special rights/protection – if so, in relation to which rights?** | |
| **Ethiopia** | NO |
| **Kenya** | YES<br>Safety, protection, assistance & family tracing (Art. 23) |
| **Rwanda** | NO |
| **South Sudan** | YES<br>Access to health services & primary education (similar to South Sudanese) (Art. 33) |
| **Sudan** | NO |
| **Tanzania** | YES<br>Primary education; secondary contingent upon rules defined by Ministry of Education (art. 31); provisions relating to Family union (Art. 35) |
| **Uganda** | YES<br>Expeditious procedure (art. 22), ID, elementary education (similar to Ugandans) & all rights as per national, regional and international legal framework,(Art. 32) |
| **Unaccompanied children (UAC) mentioned? Are special measures foreseen for UASC children?** | |
| **Ethiopia** | NO |
| **Kenya** | YES<br>UAC will be accorded the same protection as any other child deprived of his/her family (art. 23)<br>Regulations may be enacted to further protect unaccompanied children (Art. 26) |
| **Rwanda** | NO |
| **South Sudan** | YES<br>Assistance for UAC in asylum application (Child Act 2008).<br>The Minister of Gender, Child and Social Welfare shall appoint some guardian ad litem. (Art. 36)<br>UAC should be treated in expeditious manner (Art. 27) |
| **Sudan** | NO |
| **Tanzania** | NO |
| **Uganda** | YES<br>UAC may be considered for adoption, upon recommendation by Commissioner, as per Children Act (Art. 27) |
| **Is affirmative action or integration explicitly mentioned?** | |
| **Ethiopia** | NO |
| **Kenya** | NO |
| **Rwanda** | NO |
| **South Sudan** | YES<br>(possibility for affirmative action in the integration of refugee women, children and persons with disabilities; self-reliance; national and regional |
| **Sudan** | NO |
| **Tanzania** | NO |
| **Uganda** | YES<br>(possibility for affirmative action in the integration of refugee women, children and persons with disabilities; self-reliance; national and regional development plans; (Art. 48) |

In summary, Uganda and South Sudan have Refugee Acts which are more enabling for the protection of refugee children, in that they include children's rights. They foresee urgent and preferential treatment of children's cases, and allow for integration of refugee concerns into national and local development plans.

The Kenyan Refugees Act (2014) is partially enabling, but while it is inclusive of children's rights, it does not include a specific provision regarding further integration of refugees in the Act's complementary regulations.

Ethiopia, Rwanda, Sudan, and Tanzania are less enanlo Refugee Acts which either make no reference to children (Sudan) or only mention children in general terms (Ethiopia, Rwanda, and Tanzania).

## Child-specific legislation and policy frameworks inclusive of refugees

All countries reviewed are State Parties to the UN Convention on the Rights of the Child, 1989 (CRC). The CRC applies to all children under the jurisdiction of a state without discrimination, but also contains specific obligations to uphold the rights of refugee children (Article 22).

The domestication of the CRC does not necessarily imply the adoption of an integrated children's act consolidated into a single piece of legislation, but all countries reviewed, with the exception of Ethiopia, have a child-specific act. It is important to note that while a country might have children's act consolidated into one piece of legislation, alongside it there are laws that include children's rights, such as family law (custody, care, etc.), criminal law (statutory rape, abuse, etc.), legislation pertaining to civil registration, juvenile justice, child marriage, harmful traditional practice. In addition, national policy frameworks relating to children can include national plans of action for children, national plans of action for orphans and vulnerable children, child protection policies, etc.

This section analyses national legal and policy frameworks relating to children and child refugees, and is not limited to analysis of children's acts. Refer to Annex 1 for a complete list of children-related legislation, policies, strategies and action plans reviewed for this study.

Amongst the countries reviewed for this study, the rights of refugee children are explicitly included the laws relating to children in Kenya, Rwanda and South Sudan.

Rwanda's Law Relating to the Rights and the Protection of the Child 2011 includes a specific article on refugee children: Article 49 enshrines the right of asylum-seeking and refugee children to protection and humanitarian assistance and foresees family tracing for unaccompanied children.

> *"Article 49: Refugee Children*
>
> *Any child who seeks to obtain refugee status or who is considered as a refugee in accordance with applicable laws, whether alone or accompanied by his/her parents or any other person, receives protection and humanitarian assistance in order to allow him/her to enjoy the rights that are recognized to him/her.*
>
> *An Order of the Minister in charge of refugees determines appropriate measures to carry short or long-term solution within the framework of tracing family members of the unaccompanied children for the reunification."*
>
> Rwanda: Law Relating to the Rights and the Protection of the Child (2011)

Article 40 of the law also states that one of the reasons that can lead to the placement of a child in a social welfare institution is if he/she is a refugee and has not yet found his or her parents.

Article 29 of the South Sudan Child Act 2008 specifically provides for the protection of refugee children and access to assistance in the provision of basic services, and family tracing without discrimination. Refugee children whose parents, legal guardians, or other close relatives cannot be found are entitled to the same protection as any other children without parental care.

> *"Rights of a Refugee and a Displaced Child.*
>
> *(1) A refugee and a displaced child is entitled to the protection of his or her rights, and the Government shall ensure that he or she has access to assistance in the provision of basic services, and in tracing his or her parents in a manner consistent with his or her dignity and without discrimination.*
>
> *(2) Where no parents, legal guardians or close relatives can be found, every refugee and displaced child shall be accorded the same care and protection as any other child permanently or temporarily deprived of his or her family environment for any reason."*
>
> South Sudan Child Act, Article 29

Kenya's National Children's Act 2012 lists the functions of the National Council for Children's Services, among which is the duty to 'ensure enhancement of the best interests of children among displaced or unaccompanied children held in care, whether in refugee camps or in any other institution' (Article 32(2)(h)).

Although Ugandan and Tanzanian laws related to children fail to explicitly address refugee children's rights, they include a non-discrimination clause which arguably renders the acts applicable to every child in Uganda and Tanzania respectively, including refugee children.

The legal frameworks relating to children are weaker in Ethiopia and Sudan when it comes to the protection of refugee children, as the relevant laws do not explicitly mention refugee children. Furthermore, these Acts do not have a non-discrimination clause.

| CHILDREN'S ACTS | |
|---|---|
| **Are the laws related to children applicable to every child, with a specific non-discrimination clause?** | |
| **Ethiopia** | NO |
| **Kenya** | YES |
| **Rwanda** | YES |
| **South Sudan** | YES |
| **Sudan** | NO |
| **Tanzania** | YES |
| **Uganda** | YES |
| **Are refugee children explicitly mentioned in the laws related to children?** | |
| **Ethiopia** | NO |
| **Kenya** | YES |
| **Rwanda** | YES |
| **South Sudan** | YES |
| **Sudan** | NO |
| **Tanzania** | NO |
| **Uganda** | NO |

Overall, amongst the countries reviewed, South Sudan, Rwanda and Kenya have enabling legislation related to refugee children: South Sudan and Rwanda's laws have a specific article protecting refugee children's rights, and Kenya includes refugees within an article on the functions of the National Council for Children's Services.

Uganda and Tanzania have partially enabling legislation related to children: refugee children's rights are not explicitly mentioned but the laws have a non-discrimination clause. Sudan's Children's Act is more restrictive in terms of refugee children.

In order to promote inclusion of refugee children in national child protection systems, an enabling legal and policy framework is important.

A review or revision of national child acts and similar child specific legislation should consider:

- Inclusion of a specific article pertaining to refugee children;
- Inclusion of wording that explicitly states the government's obligations with regards to refugee children, including which services refugee children have the right to access, and which government entities are responsible for delivery of the service; and
- Inclusion of wording that states that refugee children have rights on a par with nationals.

## **ENTRY POINT 2:** LINKING WITH DEVELOPMENT PLANS

National development plans are frameworks for economic policy that, broadly speaking, aim to promote economic growth, eliminate poverty, and reduce inequality. National development plans or strategies are both political (usually linked to length of term in office of the current government) and operational/planning documents with a 4 to 5 year duration, and are linked to an expenditure framework for the same time period, often called Medium Term Expenditure Framework.

Annual sectoral plans (education, health, social welfare, justice, etc.) and accompanying expenditure plans stem directly from respective sectoral multi-

year plans/strategies (education sector plan, etc.). For the achievement of long-term planning for refugees and potential allocation of public expenditure for refugees, it is necessary for refugees to be at least mentioned in national development plan objectives. This mention acts as a 'place holder' for inclusion in more detailed national and subnational sectoral plans.

If refugees are excluded from development plans, it becomes difficult for key line ministries responsible for ensuring refugees have basic services (health and education, birth registrars, social welfare etc.) to plan and allocate budgets locally and to implement refugee children-inclusive programmes, even where there may be willing local/district authorities.

While host countries are making significant contributions to refugee response, in terms of providing and allocating land for camps and settlements, provision of security services etc., refugee response in the region still depends on international actors and donors to provide for the needs of refugees.

> *"Data suggested that existing international funding strategies focused mainly on emergency response rather than systems strengthening. Most of the funding from the international community rarely surpassed a one-year timeframe. Around 80% of available child protection funding was through donor mechanisms related to the conflict, making humanitarian funding by far the largest component of child protection funding disbursed."*
>
> 'And then they left': Challenges to child protection systems strengthening in South Sudan. Canavera et al. 2016, p. 363

This funding is mainly coming through humanitarian funding streams. Development plans at national level are an important entry point to secure inclusion of refugees in host-government led long-term planning and funding for refugee affected areas, which would also include social welfare and child protection response.

At the same time, government engagement and commitment are also key for long-term solutions which rely on governments instead of depending on international protection and assistance through international organizations. This is part of UNHCR's 'Progressive Approach to Solutions', which aims to improve the enjoyment of the rights of refugees throughout displacement, doing so progressively while also moving towards a comprehensive and durable solution based on multi-year strategic partnerships in the legal, economic, social & and cultural, political & and civil dimensions, all of which must be addressed.[17]

This section considers the inclusion of refugees into national development plans and longer-term development funding through international financial institutions to refugee hosting areas.

## Inclusion of Refugees in National Development Plans

Amongst the development plans of the countries reviewed,[18] refugees are explicitly mentioned in only three: Kenya, South Sudan, and Uganda. In development plans of Kenya and South Sudan, refugees are mentioned in the situation analysis section, but no specific objectives for refugees were included.[19]

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[17] UNHCR, A Progressive Approach to Solutions – a Preliminary Guide (forthcoming); Interview with Jackie Keegan, Head of Comprehensive Solutions Unit, UNHCR HQ on 10 January 2017

[18] Development Plans: Ethiopia: Federal Democratic Republic of Ethiopia Growth and Transformation Plan II (GTP II) (2015/16-2019/20); Kenya Vision 2030 Second Medium Term Plan 2013-2017; Rwanda Economic Development and Poverty Reduction Strategy 2013 – 2018 & Rwanda Vision 2020; South Sudan Development Plan 2011-2016; Sudan: not available; Tanzania Development Vision 2025; Uganda Second National Development Plan (NDP II) 2015/16 – 2019/20.

[19] As per Kenya Vision 2030 Second Medium Term Plan 2013-2017, '(…) *Political instability in the neighbouring countries especially in Somalia and Sudan leading to proliferation of illicit small arms and light weapons and influx of refugees and aliens'*. As per South Sudan Development Plan 2011-2016, *'The South Sudan Land Commission has made progress toward putting in place policies, laws and administrative systems that secure the rights of landholders, foster economic development and help provide the foundations of an enduring peace. However, the Land Act did not address adequately the restitution and resettlement policies for Internally Displaced Persons (IDPs) and refugees. Laws, acts, policy papers and service provision orders have been passed/ published, such as the South Sudan Child Act of 2008, the SSHRC Law, 2009; the SPLA Act, 2009)'*.

# UGANDA SECOND NATIONAL DEVELOPMENT PLAN (NDP II) 2015/16 – 2019/20: EXCERPTS RELATING TO REFUGEES

## PUBLIC SECTOR MANAGEMENT

**Objective: 6.** Enhance national response capacity to refugee emergency management

**Interventions:**

i. Formulate and implement a national refugee policy

ii. Develop and implement a Refugee Settlement Transformative Agenda

iii. Develop and implement contingency plan for refugee emergencies

iv. Review domestic laws governing refugees

v. Develop and implement projects and programs for refugees and refugee hosting areas.

vi. Receive and grant asylum to refugees in accordance with national, regional and international covenants

## WATER AND SANITATION

**Objective: 1.** Increase access to safe water supply in rural areas.

**Intervention:** Promote Water, Sanitation and Hygiene (WASH) humanitarian preparedness and response especially in settlements for poor communities, refugees and displaced persons.

There are a number of possible reasons for refugees being, by and large, overlooked in development plans, one explanation being that visions and development plans typically focus on economic growth, often overlooking human & social development. A development plan may have pre-dated the refugee influx, or perhaps the displacement situation is perceived as a temporary situation. Governments thus opt not to include refugees in their long/medium term development planning & budgeting.

| NATIONAL DEVELOPMENT PLANS | |
|---|---|
| **Are refugees explicitly mentioned?** | |
| **Ethiopia** | NO |
| **Kenya** | YES |
| **Rwanda** | NO |
| **South Sudan** | YES |
| **Sudan** | n/a |
| **Tanzania** | NO |
| **Uganda** | YES |
| **If yes, are there specific objectives for refugees?** | |
| **Ethiopia** | NO |
| **Kenya** | NO |
| **Rwanda** | NO |
| **South Sudan** | NO |
| **Sudan** | n/a |
| **Tanzania** | NO |
| **Uganda** | YES |
| **If yes, are refugee children contemplated?** | |
| **Ethiopia** | NO |
| **Kenya** | NO |
| **Rwanda** | NO |
| **South Sudan** | NO |
| **Sudan** | n/a |
| **Tanzania** | NO |
| **Uganda** | NO |

Uganda is the outlier of the countries reviewed. The Government of Uganda took a bold decision to include refugee management and protection within its own domestic mid-term planning framework: the 'second National Development Plan (2015-20)'. The specific objective relating to refugees seeks to 'enhance national response capacity to refugee emergency management'.

Refugee settlements are also included in the Water and Sanitation objective.

Building on the National Development Plan and the Government of Uganda's continued commitment to refugees, the Refugee and Host Population Empowerment (ReHoPE) strategy was launched to support the Government's Settlement Transformation Agenda. It explores opportunities that benefit both refugees and the communities that host them, by bridging the gap between humanitarian and development interventions.

ReHoPE represents a key building block of a comprehensive response to displacement in Uganda, and a critical component of the application of the Comprehensive Refugee Response Framework, as stipulated in the New York Declaration.

The ReHoPE initiative brings together the government, UN agencies and the World Bank. One of the objectives is to improve basic social service delivery (currently mainly focusing on education and health) in terms of access, quality, and efficiency to all people in refugee hosting districts. The initiative is funded by a World Bank soft loan, a World Bank-UN joint programme, and development programmes.[20]

## International Financial Institutions Stepping-Up Investments for Refugees and Host Communities

In Kenya, financing from the World Bank targets Turkana County, where land for a new settlement in Kalobeyei was allocated by the Government to accommodate the increasing number of refugees in Kakuma camp.

The settlement will also host members of the local community. The financing is consolidated in the Kalobeyei Integrated Social and Economic Development Program (KISEDP), a 14-year long multi-agency collaboration to develop the local economy and service delivery at Kalobeyei, and that is to be part of the County Integrated Development Plan.

KISEDP is to be co-led by UNHCR, the World Bank, and the county government, with support from the central government, other UN agencies and international partners. The Department of Refugee Affairs (DRA), the Turkana County government and all key stakeholders have agreed to use this loan to develop a settlement with sustainable urban and agricultural/livestock development for the host community and refugees, non-discriminatory services for both refugees and host communities, private sector involvement, and avoidance of parallel service deliveries.

The increased community voice and role in budget decision-making and in the design and implementation of development interventions will support social accountability and will contribute to improved social cohesion between refugees and host communities.

World Bank finance is also being received by Ethiopia (100 million USD) and Uganda (50 million USD) to help mitigate the impact of forced displacement on refugee-hosting communities.

The fact that Kenya, Ethiopia, and Uganda are investing in refugee-hosting communities demonstrates political commitment to supporting refugees as well as their hosting communities, looking beyond humanitarian assistance to long-term development solutions. It also demonstrates that these governments have understood that relief to the refugee humanitarian response alongside support to host communities, will facilitate the social and economic integration of refugees and stimulate local development.

This financing, in the case of Ethiopia and Uganda, is part of the World Bank's Development Response to Displacement Impacts Project (DRDIP), which is working closely with UNHCR in seeking durable solutions to refugee crises, focusing on interventions that help refugee-hosting areas by investing in infrastructure to improve economic opportunities for both refugees and host communities.

It will make use of government financing systems, structures, and institutions, in order to deliver a development response to forced displacement. The DRDIP project is the first phase of an expanded program to include other countries affected by forced displacement.

[20] ReHoPE, Strategic Framework brief, available at: https://goo.gl/B3Rxin

## Concluding reflections

Inclusion of refugees in national development plans is an important milestone, but needs to be coupled with prioritization of refugees in local government budgets in order to be meaningful. The Child Protection 'sector', though new in comparison to more consolidated sectors, can learn from advocacy efforts that have resulted in inclusion of refugee children into multi-year education and health sector plans and budgets.

Among the countries reviewed for this study, successful advocacy efforts have led to the inclusion of refugee children in multi-year education sector plans in Ethiopia, Kenya, South Sudan and Uganda, creating an opportunity for 'regular' annual budget allocations incorporating refugee children. However, it may be more difficult for host governments to include refugee children in child protection and social welfare services than into education and health systems.

While schools and health facilities generally exist in host communities, child protection and social welfare services are usually comparatively limited and when services do exist, they tend to be even more under-resourced, or limited to capitals or major urban areas.

The opportunity to include the refugees and refugee children in current national development plans was missed for nearly all the countries reviewed, with the exception of Uganda. Learning from the Ugandan experience, UNHCR and UNICEF could explore joint advocacy with governments, aimed at the inclusion of refugee children in the next cycle of national plans and expenditure frameworks.

Effective advocacy efforts for inclusion of refugee child protection requires knowledge of national development and other multi-year planning and budgeting processes. Economic arguments and language that resonates with respective ministries of planning and finance, stemming from recent body of evidence in terms of economic benefits of integrating refugees, are likely to be useful in advocacy efforts. Advocacy and technical support for child responsive budgeting should also consider budgeting for refugee children in national and district level sector budgets.

With regards to World Bank loans, although the focus is economic development, improvement of basic services (health, education and social services) is a promising entry point for increased investment in strengthening under-resourced and under-staffed child protection services for both refugee and host community children who are in need of these services.[21] However, the World Bank IDA18 sub-window of $2 billion which was established to support refugees and their host communities represents an important paradigm shift. The purpose of the sub-window is to provide resources on more favorable terms to countries hosting refugees for medium- to long-term investments that will benefit both refugees and host communities.[22] UNHCR input is provided in the form of 'protection notes' in order to inform initiatives funded under the IDA 18 sub-window.

The IDA 18 sub-window aims, inter alia, to strengthen preparedness for increased or potential new refugee flows and can support projects focusing on promoting refugees' welfare, inclusion and access to services. Technical support to governments at national and district/county level when preparing financing proposals to international financial institutions to ensure child protection and social welfare services are included, potentially including:

- strengthening district/county level child protection and social welfare structures;
- increased number of social welfare workforce;
- strengthening the linkages between community child protection mechanisms with the more formal system; and
- strengthening the capacity of the civil registration system.

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[21] Interview with Yonatan Araya, Senior Solutions and Development Officer. Operational & Transition Section on 30 November 2016

[22] http://ida.worldbank.org/financing/replenishments/ida18-overview

## **ENTRY POINT 3:** INCLUSION OF REFUGEE CHILDREN IN NATIONAL CHILD PROTECTION POLICIES AND STANDARDS

National and sub-national child protection policies, guidelines, and standards are a core element of a functional child protection system, as these operationalize international and national legal provisions related to children's rights and protection.

In order to ensure government leadership for the protection of all children, national child protection policies, guidelines and standards need to be inclusive of all children, and reflect different operational contexts, i.e. emergencies and displacement situations. Inclusiveness can be expressed by an explicit statement that provisions apply to all children or through specific provisions addressing the situation and needs of refugee children.

For refugee children, inclusion in national child protection policies and directives is an essential element in including refugee children in the formal child protection system and in ensuring safeguards and national standards are applicable to them.

This section presents promising practices from Kenya and Rwanda relating to the inclusion of refugee children in national child protection policies and standards.

### **Kenya:** Refugee children in national alternative care guidelines

The explicit inclusion of refugee children in the 'Guidelines for the Alternative Family Care of Children in Kenya' (2014) is a positive practice. The Guidelines cover kinship care, foster care, guardianship, adoption,support to child-headed households, independent living, and institutional care.[23]

> *"Children in a refugee situation should be given the same level of protection as all other children in Kenya."*
>
> Guidelines for the Alternative Family Care of Children in Kenya (2014), Chapter 16(8)

Chapter 16 specifically addresses 'Care of Children in Emergency Situations' and includes specific provisions for the care and protection of children in refugee situations and acknowledges the Government of Kenya's commitment to ensure that, 'children in a refugee situation should be given the same level of protection as all other children in Kenya'.[24]

This chapter outlines clear roles and responsibilities for relevant child protection actors in refugee situations, including government authorities from the Department of Children's Services (DCS), Department of Refugee Affairs (DRA) and Children's Courts. It also provides details on how to implement alternative care in refugee settings. The inclusion of detail on how DCS and DRA should work together shows that the Government of Kenya has maximized the respective expertise from both departments, which in itself constitutes a promising practice. While the DRA (now RAS)[25] has the overall responsibility for refugees, and specifically functions related to registration and refugee status determination responsibilities related to e.g. formalization of alternative care lies with the DCS and the Children's Court.

The Guidelines make reference to best interests assessments/determination[26] which suggests communication between organizations working on refugees and the government Department of Children's Services when drafting the policy, but also demonstrates that specific globally recognized procedures applied to refugees can help strengthen the national child protection system by becoming part of the national policy framework.

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[23] Government of Kenya (2014) Guidelines for the Alternative Family Care of Children in Kenya. p. vii. Available at: http://goo.gl/AoSFKz [Accessed 19 December 2016]

[24] Ibid, pp125-128

[25] In 2016, DRA was disbanded and refugee affairs functions were transferred to the new Refugee Affairs Secretariat.

[26] UNHCR, Guidelines on Determining the Best Interests of the Child, 2008, p. 8

# GUIDELINES FOR THE ALTERNATIVE FAMILY CARE OF CHILDREN IN KENYA, SECTION 8, PP.125-128 (2014)

## FOSTER CARE FOR CHILDREN IN REFUGEE SITUATIONS

The following are recommended steps in administering emergency foster care and guardianship placements for refugee children living in refugee camps and within the community.

**Step 1:** Identification and registration

- The Department for Refugee Affairs (DRA) is mandated to identify and register all refugees coming into the country during which time they also identify unaccompanied and separated minors.
- After registration with the DRA, all refugees are placed in a temporary shelter or with foster care families by respective agencies. If the child is under security threat, he/she is taken to a safe house.
- A social assessment is conducted to determine the child's needs.

**Step 2:** Recruitment of foster parents

- The refugee community is sensitised on the need to provide foster care for separated and unaccompanied children and requested to volunteer for the same.
- Those who volunteer are screened/vetted for sustainability
- Those who qualify are trained on the care and protection of separated and unaccompanied minors.

**Step 3:** Placement of children with foster parents

- A best interest assessment (BIA) is conducted on the child
- Matching of the child with a potential foster parent based on the child's need is carried out.
- The child is placed with a suitable foster parent within the shortest time possible.

**Step 4:** Support to foster families

- Immediately after the placement of the child, the DCS, UNHCR and relevant implementing agencies support the family depending on the needs identified during the assessment.

**Step 5:** Registration of the emergency foster care

- Depending on the situation of the refugees, foster care can be formal or informal. Whatever the case, all fostered children must be registered and monitored.

**If the foster care is informal**

- The UNHCR should work together with the DCS and implementing agencies to keep a foster care register of children in informal foster care.

**If the foster care is formal**

- The relevant agencies apply for formalisation of the process through the DCS (Refer to the Schedule 4 under the Children Act, 2001 and Chapter 9 of these guidelines for steps in formal foster care.)

## GUARDIANSHIP FOR CHILDREN IN REFUGEE SITUATIONS

After a period of not less than two years, a foster parent may apply for guardianship of the child to the Children's Court through the DCS or UNHCR. The two-year period is given to allow for time to exhaust tracing of the child's parent.

The value of guardianship to a refugee child includes i) getting a chance to benefit from the resettlement of their foster parent and ii) being in a more permanent family arrangement.

## STEPS FOR GUARDIANSHIP

**Step 1:** The DCS and/or UNHCR requests the implementing agency working with the child to conduct a best interests determination (BID) and a report is presented to the BID panel.

**Step 2:** After review, and if determined to be in the best interests of the child, the BID panel recommends to the children's court for guardianship orders to be issued to the foster parent.

**Step 3:** The DCS submits the application in court on behalf of the foster parent.

**Step 4:** If the court finds the foster parent fit for guardianship of the child, a guardianship order is granted.

A foster parent may also apply for guardianship orders through the DCS directly.

The DCS conducts a social inquiry/assessment and prepares a report. Then step 3 and 4 are followed.

### MONITORING AND FOLLOW-UP FOR REFUGEE CHILDREN IN FOSTER CARE AND GUARDIANSHIP

- As stated above, a record of all children in formal and informal foster care and guardianship should be maintained by the UNHCR/implementing agency and DCS.
- The register is used to i) keep track of refugee children who are separated and establish trends and monitor progress in tracing and reintegration efforts ii) monitor all children in foster families and guardianship continuously and iii) act as a basis for reaching decisions regarding separated children.

The monitoring should be on a case-by-case basis.

### SUPPORTED CHILD-HEADED HOUSEHOLDS AND INDEPENDENT LIVING

Most children in refugee situations, in particular those affected by armed conflict, migration and other trauma, are unable to live in a family environment. Other alternative arrangements therefore need to be explored. Before any alternative care arrangements are explored, a BID assessment should be conducted. If it is deemed in the best interest of the child, he/she should be placed in supported child-headed households or independent living arrangement.

## Rwanda: Aligning refugee child protection procedures with national alternative care standards

The Burundi refugee situation has resulted in a high number of unaccompanied refugee children seeking asylum in Rwanda, who are in need of alternative care.

The Government of Rwanda launched a Strategy for National Child Care Reform in 2012 which focussed on alternative care and de-institutionalization of children from shelters/orphanages into families. UNICEF and UNHCR identified the need to align refugee child protection procedures in Mahama Camp with national standards.

When UNHCR and UNICEF embarked on developing Inter-Agency Standard Operating Procedures (SOPs) for alternative care for Mahama Refugee Camp , thorough consultations with all stakeholders, including and the Government (Ministry of Disaster Management and Refugee Affairs (MIDIMAR) and the National Police) and child protection partners were held.

These SOPs represent a good means of ensuring that refugee child protection procedures (e.g. alternative care and best interests assessment/ determination procedures) are aligned with national legislation and policies on alternative care. By the end of 2016, the draft SOPs were shared with the National Commission for Children for endorsement, a process which should have, in hindsight, occurred from the onset of the drafting process to ensure government ownership and avoid delays in approval and implementation.

Although initially intended for Mahama Refugee Camp, the endorsement by the National Commission for Children has the broader intention of enhancing Government of Rwanda's engagement on refugee child protection.

## Concluding reflections

The two promising practices above demonstrate that it is possible to include refugee children in national child protection policies. In the Kenyan example, the child protection entry point was the national guidelines on alternative care which includes a

specific chapter on refugee children. In the case of Rwanda humanitarian response was used as an entry point to achieve broader government engagement on refugee child protection.

Both examples demonstrate that UNICEF is in a unique position to bridge the humanitarian and development divide on child protection by working towards inclusion of refugee child protection into 'mainstream' national child protection frameworks. The Guidelines for the Alternative Family Care of Children in Kenya can serve as a model for other countries in the region for similar national guidelines.

## ENTRY POINT 4: CHILD PROTECTION WORKFORCE ADDRESSING NEEDS OF REFUGEES

A social welfare workforce[27] is the backbone of a functional national child protection system in providing targeted services for any child, including asylum seeking and refugee children, unaccompanied and separated children, and children requiring foster care placements, or requiring support when suffering violence. The social welfare workforce is vital for the implementation of government child protection policies; strategies, action plans and guidelines etc.

This section explores promising practices regarding the engagement of government social welfare workforce in refugee child protection in Kenya and Tanzania. Rwanda boasts two promising practices in this section: professionalization of the social welfare workforce inclusive of refugee concerns and alignment of refugee settlement community mobilizers' work with national initiatives. Beyond the social welfare workforce, in several countries reviewed one-stop centres or specialised units which are inclusive of refugee children is an entry point worth pursuing and exploring in more detail.

Finally, the participation of local government officials (e.g. social workers in BID Panels) is also a potential entry point for further engagement on broader refugee child protection issues.

### Kenya: Government District Children's Officers engagement in protection

In Kenya, the County Child Protection System operates alongside and complements the National Child Protection System. In accordance with the County Child Protection Systems Guidelines, this operates in the 47 counties throughout the country and at five levels: county-level, sub-county level, location level, sub-location level, and village level.

The Guidelines do not currently include refugees, but are expected to do so in the next edition, which is currently being discussed/drafted.[28]

**Functions of District Children's' Officers in relation to refugees**

- Participation in case management of refugee children through the Best Interest Process
- Support for individual children e.g. in child labour, custody decisions
- Support alternative care, incl. referral and linkage with courts
- Child Protection Coordination
- Support for youth events
- Home visits to refugee families

Through the County Child Protection System, the government provides leadership and effective coordination between the different actors through a County Child Protection Working Group. District Children's Officers (DCOs) provide child protection

[27] 'Social welfare workforce' is defined broadly, to include a variety of workers – paid and unpaid, governmental and non-governmental – who staff the social service system and contribute to the care of vulnerable children and families, which include social workers, para-social workers, auxiliary social workers, welfare workers, child & youth care workers, home visitors, community child care workers, health & social welfare extension workers, child protection officers, child/family probation officers, community development officers.

[28] Interview with UNICEF Kenya Jeannette Wijnants, Chief Child Protection and Bernard Njue Kiura, Child Protection Specialist on 19 December 2016

services for refugee children on equal footing with Kenyan children in counties like Turkana and Garissa, where Kakuma and Dadaab Refugee Camps are respectively located.[29]

In Garissa and Turkana counties, the DCOs are leading child protection coordination covering both host and refugee community. In Turkana County, UNHCR co-chairs and acts as the secretariat to the DCO-chaired County Child Protection Working Group. The DCOs spearhead alternative care arrangements, provide support to children, and prepare legal and social welfare assessments through home visits.[30] Furthermore, they ensure referral and linkage to courts in the case of more permanent care arrangements which require judicial formalization, such as guardianship and official foster care.

The DCOs have also played an important role in clarification of custody issues, especially cases children considered for resettlement, which would otherwise have been kept 'on hold'. The DCOs have also been involved in the 'Best Interests Determination' procedure. In Turkana County, with the development of the Kalobeiyei settlement, the DCO assumed additional responsibilities beyond child protection, such as facilitating joint refugee-host community youth events.

Whilst DCOs in counties hosting refugee camps have engaged in refugee child protection, the involvement of DCOs in urban centres has been more inconsistent and limited, largely due to lack of resources. DCOs in Nairobi are already struggling to meet the needs of a considerable Kenyan caseload of vulnerable children.

Acknowledging the over-stretched and under-resourced reality of the social welfare workforce in Nairobi, only very severe cases of abuse or neglect or other emergency cases are referred to DCOs. Additional resources would be needed in order to ensure sufficient capacity to adequately respond to the needs of refugee children in addition to their current caseload.[31]

Finally, the personal interest and skill sets of DCOs have also an influence on the level of engagement with protection of refugee children.

This example from Kenya demonstrates how the government has exercised effective leadership for the care and protection of all children, including refugees at the county-level. The fact that UNHCR acted as co-chair and secretariat for the child protection working group rather than assuming sole leadership for protection of children was important in order to support the government's lead.

A good understanding by UNHCR staff of the national child protection system including roles and responsibilities of all actors involved, legal and policy framework was also important in order to make these inroads.[32] Sustained and targeted advocacy is needed to replicate this in other countries, as well as investment in capacity building to ensure national child protection officers are able to apply their skills and know-how in refugee settings. This direct engagement by the national child protection/social welfare workforce (DCOs) in the protection of refugee children, including individual cases, represents a good practice which could be considered by other countries in the region and beyond.

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[29] Interviews with Clarisse Ntampaka, former Protection Officer (Child) UNHCR Kakuma on 16 December 2016 and with UNICEF Kenya Jeannette Wijnants, Chief Child Protection and Bernard Njue Kiura, Child Protection Specialist on 19 December 2016.

[30] In Turkana County, the DCO conducted home visits to host community families that were informally fostering South Sudanese refugee children from the Toposa ethnic group. These refugees had fled their previous South Sudanese informal foster care family within Kakuma camp, as they found themselves more comfortable and culturally accepted with the host community which despite being Kenyan has closer cultural ties with the South Sudanese Toposa group.

[31] Interview with Sara Faust, Associate Protection Officer, UNHCR Nairobi (Urban Programme) on 6 December 2016 and email communication of 29 January 2017.

[32] Interview with Clarisse Ntampaka, former Protection Officer (Child) UNHCR Kakuma (16 December 2016) and with Jeannette Wijnants, UNICEF Chief Child Protection (20 December 2016).

## Tanzania: Government social workers engaged in refugee child protection response

In response to the influx of refugees from Burundi, between May 2015 and January 2017, the Department of Social Welfare deployed 100[33] Social Welfare Officers (SWOs) to provide case management services to refugee children in need of individualized child protection services.[34] The initiative was made possible by the fact that Tanzania, has a cadre of trained social welfare officers (unlike other countries in the region) combined with an admission that there was a shortage of trained and government-mandated social welfare officers to meet the demands of the Burundian refugee influx.

It was possible to swiftly screen SWOs for deployment to the camps, and thereby respond to the refugee emergency in Tanzania, thanks to ongoing and long-term collaboration between UNICEF and the Department of Social Welfare on strengthening the social welfare workforce.

The SWOs are knowledgeable about Tanzania's legal and policy frameworks on child protection and gender-based violence, and are simply in need of additional refugee-specific induction in order to be able to effectively carry out their functions for the benefit of refugee communities.

The initiative, initially spearheaded by UNICEF with funding from the Central Emergency Response Fund (CERF) and USAID, was to embed SWOs in the existing Case Management System in all three refugee camps in Northwest Tanzania: Nduta, Nyaragusu and Mtendeli.

This first involved embedding SWOs at border-crossing points and in the first camp of occupancy, Nyaragusu with support from the International Rescue Committee and then introducing SWOs into the two new camps of Nduta and Mtendeli under the auspices of Plan International.

Although the SWOs initially only worked with Burundian refugees, SWOs also contributed to individual case management for Congolese children (especially in Nyaragusu camp) through the best interests determination procedures. The SWOs also used the the Gender-Based Violence Information Management System.

UNICEF would like to see deployments of SWOs for six month periods; however, given that the number of SWOs in the country only meets 28% of the country's needs, the government is – at this time – only willing to release personnel for three month deployments so as to minimize the impact on the districts.

In practice, separating the caseload assigned to SWOs in terms of child protection and gender-based violence has not worked well, according to feedback from the SWOs themselves. In their normal role as civil servants, the SWOs have the statutory mandate for all child protection concerns and gender-based violence.

It is also worth noting that, thanks to their comprehensive training and with only brief further training needed, SWOs proved to be more knowledgeable of the national child protection system and at times even more capable of handling the refugee caseload, than child protection workers and psychologists hired by NGOs.

Due to their civil servant status and statutory mandate, they also enter the refugee case management realm with the authority to refer cases to other government services when required. More SWOs should be deployed to refugee camps for longer periods of time.

The innovative aspect of this initiative is that it provides a model for rapid deployment of national statutory child protection professionals in similar emergencies. It represents a 'paradigm' shift in terms of strengthening government capacity to rapidly deliver quality child protection services at a

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[33] UNICEF Tanzania confirms a total of 100 SWOs have been deployed between May 2015 through January 2017, as follows: first 30 by UNICEF through the Department of Social Welfare, then 30 by PACT, then 20 by UNICEF by the Department of Social Welfare, then 20 by UNICEF through the President's Office Regional Administration and Local Government – PORALG.

[34] UNICEF, Annual Report United Republic of Tanzania. Available at: https://goo.gl/PaMZPR [Accessed 8 December 2016]; Interviews with Stephanie Shanler, UNICEF Tanzania Child Protection Specialist on 16 December 2016 and 10 January 2017.

reasonable cost, rather than relying on NGO-based delivery.[35] The approximate cost for deploying 10 SWOs for six months amounted to 90,000 USD, which is substantially lower than the cost of hiring of 10 private individuals.

When exploring the adaptation of this model to other countries in the region, a necessary pre-condition for success is full government engagement and ownership, which is often missing. Unfortunately, governments may at times perceive that providing efficient services for refugee populations might be a pull factor to attract refugees, rather than a right that needs to be upheld by the government of host nations.

**Rwanda Strategy for National Child Care Reform**

Strategic Goals:

Transform Rwanda's current childcare and protection system into a family-based, family strengthening system whose resources (both human and financial) are primarily targeted at supporting vulnerable families to remain together. Promote positive social values that encourage all Rwandans and their communities to take responsibility for vulnerable children.

If this model is to become a routine course of action in refugee contexts, there is a need to overcome funding constraints for hiring case/social workers through government (i.e. rather than directly) or 'topping up' government social workers' salary by paying hardship and other allowances, to enable them to be deployed to refugee hosting areas for longer periods of time. Ideally, the number of SWOs in refugee hosting districts who serve host and refugee communities would be increased on a permanent basis, rather than through temporary deployments from other parts of the country.

This initiative shows that national disaster management institutions need to consider increased demand for social workers in emergencies when developing plans for disaster risk reduction, contingency and emergency.

## Rwanda: Professionalizing the Social Welfare Workforce

Strengthening the role of the country's social welfare workforce (para-social workers, social workers, and psychologists) is part of Rwanda's Strategy for National Child Care Reform (2012) and Child Care Reform Programme, 'Tumurere mu Muryagngo' ('Lets Raise Children in Families'), both designed and led by the Government of Rwanda in partnership with UNICEF, CHF International[36] and Hope and Homes for Children, and with financial support from USAID between 2013 and 2015.

The Strategy for National Child Care Reform details how children living in institutions should regain their right to live in a loving, safe, and supportive family environment. This strategy is aligned with the Constitution of the Republic of Rwanda and the Integrated Child Rights Policy (2011). UNICEF supported capacity-building and the deployment of a cadre of 68 social workers and psychologists, who now represent the first-ever Government of Rwanda-led social welfare workforce in the country.

The oversight of the training of the Rwanda social welfare workforce falls under the remit of the Rwanda National Commission for Children, and is being implemented through a partnership between the Tulane University School of Social Work's Disaster Resilience Leadership Academy, the University of Rwanda, and UNICEF. The training programme emphasizes indigenous knowledge and experience, collaborative and experiential learning, and learning transfer and measurement, and ensures that Rwanda is equipped to develop and sustain its social service workforce.

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[35] Interview with Yvonne Agengo, UNHCR Division of International Protection, Roving Child Protection Advisor on 21 November 2016 and interviews with Stephanie Shanler UNICEF Tanzania Child Protection Specialist on 16 December 2016 and 10 January 2017.

[36] CHF International, now called Global Communities, is a U.S.-based international development NGO founded in 1952 as the Cooperative Housing Foundation.

The program aims to enhance learning outcomes and job performance, building upon evidence-based practice, and will contribute to the strengthening of the national social work workforce. Through a phased approach, the training of trainers at district level aims to reach the goal of 29,674 certified volunteer para-social workers in the country (2 for each of Rwanda's 14,837 villages), in addition to professional social workers. An initial phase of pre-service training was completed in November 2016, and in 2017 the training manuals will be improved based on feedback from the pre-service trainees.

The national training curriculum will also include elements of child protection in refugee contexts, drawing on child protection training modules used for para-social workers in Mahama. Discussions are underway between UNICEF, UNHCR, Tulane University, and the National Commission for Children regarding the inclusion of Mahama camp para-social workers in the capacity building programme above.

### Rwanda: Child protection community mobilizers in camps in alignment with national 'Friends of the Family' initiative

In 2015, the Rwandan Ministry of Gender and Family Promotion and the National Commission for Children, with support from UNICEF, developed a national initiative called Inshuti z'Umuryango or 'Friends of the Family'.[37]

The initiative entailed creating a cadre of 29,700 community-based child and family protection volunteers (also called community-based para-professionals) tasked with the provision of child and family protection services at village level.[38]

In response to the influx of Burundian refugees in 2015, community-based child protection systems were established in Mahama Refugee Camp. These were equipped with three cadres of child protection workers: para-social workers, child protection community mobilizers and child-friendly space (CFS) community mobilizers.

The work of para-social workers relates mainly to supporting unaccompanied children in independent living, but the roles and responsibilities of child protection community mobilizers are aligned with the national initiative of Inshuti z'Umuryango or 'Friends of the Family'.

### Uganda: District Probation Officers engaging in protection of refugee children

In Uganda, District Probation Officers are providing child protection services to refugee children in refugee hosting districts. While there is some variation between settlements in various districts, Probation Officers cover a range of functions in relation to refugee children. They provide guidance on the applicable national child protection legislation and participate in child protection coordination groups covering the refugee response. The Probation Officers also undertake some individual case management especially in relation to refugee children in conflict with the law. In other instances this has included children subjected to sexual violence and children with unclear custody situations. Probation Officers also participate in Best Interest Determination (BID) panels which are assessing the situation of individual refugee children.

### Sudan: National Council of Child Welfare providing family tracing and reunification services

The National Council of Child Welfare has established a family tracing system for all children on Sudanese territory. The system consists of a national Family Tracing and Reunification (FTR) committee which coordinates other stakeholders including the respective State Councils for Child Welfare and state-level FTR committees, State Ministries of Social Welfare and community based working groups. The tracing system is available for all children, including refugee and migrant children. NCCW also chairs a national level FTR Task Force which also includes Commissioner for Refugees (COR) and UNHCR.

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[37] UNICEF Rwanda Humanitarian Situation Report, 30 October 2015. [online] Available at: https://goo.gl/brVtzH [Accessed 16 February 2017]; UNICEF Rwanda Humanitarian Situation Report of 29 February 2016. [online] Available at: https://goo.gl/VpXitB [Accessed 7 December 2016]

[38] Email update from Patricia Lim Ah Ken, UNICEF Rwanda, May 2017

## Various Countries: Engaging social/case workers in the Best Interests Procedure

The Best Interests Procedure was developed for refugee contexts to provide safeguards and standardise procedures for work with high-risk children, including children deprived of parental care. In line with the UNHCR Guidelines on Best Interest Determination (BID Guidelines), the procedure should be developed within the remit of national child protection system, as the responsibility to implement the best interests principle lies first and foremost with the State. States should develop procedures for the consideration of the child's best interests, in order to determine and assess the best option.[39]

While the best interest principle features in many national legal and policy frameworks in this region and beyond, the establishment of a formal mechanism is still a distant goal.

However, the best interest principle is applied to refugee children in the region through the formal UNHCR procedure, for certain decisions (prescribed in the BID Guidelines). As a rule, UNHCR invites competent state authorities to be part of the process, in collecting information or forming part of the BID panel. In addition to contributing valuable child protection and local expertise, the participation of child protection authorities in the BID process can be an entry point for increased engagement in the protection of refugee children.

**Best Interests Procedure: Background**

The first steps towards the development of a procedure to assess the best interest of children were taken in the 1990's when UNHCR was faced with a high number of in unaccompanied children fleeing from Vietnam. The procedure was further developed in the early 2000s in relation to the 'Lost Boys of South Sudan' and led to the UNHCR Guidelines on Determining the Best Interests of the Child ('BID Guidelines') in 2008. The Best Interest process is the case management procedure applicable to refugee children. It is also a procedure that is accepted by resettlement countries when accepting resettlement of unaccompanied or separated children.

UNHCR Handbook for the Implementation of the BID Guidelines, 2011.

In many of the countries reviewed for this study, government authorities, typically a local representative of the ministry of social welfare or national child protection committee, participate in BID panels. This gives government officials and case workers an opportunity to participate in assessments and to facilitate referrals to other government service providers.

This participation can be an entry point for increased engagement with governments on refugee child protection. In Kenya and Tanzania, for instance, the engagement of government authorities in best interests processes has led to increased engagement in broader child protection concerns benefiting both refugee children and children in host communities.

## Various Countries: One-Stop Centres and other specialised units/desks

In all countries reviewed, there are special police units/desks, child courts or benches, multi-sectoral 'One-Stop Centres' (bringing together police, prosecution, health and social work under one roof), or specialized units within the National Prosecuting Authorities.

[39] UN Committee on the Rights of the Child (CRC), General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), 29 May 2013, CRC /C/GC/14, available at: http://www.refworld.org/docid/51a84b5e4.html [accessed 29 March 2017]

The capacity, quality, access and national coverage varies substantially. While these services are generally not located within refugee camps or settlements, some have been intentionally placed close to camps in order that they are accessible to both host communities and refugees.

In most of the countries covered by this study, UNICEF is providing capacity-building for specialized police forces, and material support for the expansion of specialized police units/desks or multi-sectorial One-Stop Centres. UNHCR staff also provide training on refugee protection, including child protection and sexual and gender-based violence for law enforcement officials and staff at One-Stop Centres which operate in refugee hosting areas,

In Rwanda, 43 One-Stop Centres have been established country-wide to provide services to SGBV survivors and children subjected to abuse.[40] The establishment and support provided to the functioning of these specialised units has proven to be an area of close UNHCR-UNICEF cooperation, along with other UN agencies.

This study has not explored in detail the results of One-Stop Centres, nor the elements that are needed for these to function adequately. It is important to note that that in some countries, refugee populations are reluctant to use the centres as there is stigma attached to accessing these services. However, these initiatives provide an opportunity for linking refugee children with national protection services and referral networks, and have helped to support both nationals and refugee communities when established in vicinity of refugee settlements.

## Concluding reflections

Bilateral development partners (including United States of America (USAID),[41] United Kingdom (DFID) and Sweden (SIDA)) have invested in strengthening the social welfare workforce, given the need for a strong social welfare workforce with national coverage to implement social protection programmes.

These initiatives were initially focused on support to orphans and vulnerable children and survivors of domestic violence in high HIV-prevalence context, and these initiatives in the region often do not include child protection in emergencies.[42]

In Eastern and Southern Africa, the focus of social welfare workforce strengthening initiatives has been: family support; child protection with regard to abuse and neglect; and provision of alternative care for children separated from their families.

Despite acknowledgment by governments in the countries reviewed of the pivotal role the social welfare workforce plays for child protection, the reality is that governments are still not allocating sufficient resources to support the workforce. Not enough government social workers are hired and these few social workers are often concentrated in urban centres, lack expertise in refugee response, and lack the required resources to carry out their work, e.g. daily transport, cell phones and air time.[43]

As a result, the national child protection systems in all reviewed countries rely on a relatively small social welfare workforce which is not sufficiently qualified to deal with the myriad and complexity of protection

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[40] Government of Rwanda, presentation at EAC Regional Learning Workshop on Strengthening National Child Protection Systems in the EAC Region, Kigali 30-31 October 2017.

[41] Development partners who were previously investing in assistance programmes for Orphans and Vulnerable Children (OVC), providing in kind assistance in high-HIV prevalence countries, such as USAID President's Emergency Plan for AIDS Relief (PEPFAR/Emergency Plan) have shifted programming and funding to strengthening the social welfare workforce.

[42] Child protection in emergencies (CPiE) and refugee children were not discussed during the International Conference 'Investing in Those Who Care for Children: Social Welfare Workforce Strengthening' held in Cape Town, South Africa in November 2010. The Social Service Workforce Global Alliance, established as a result of the International Conference includes initiatives to support children and families following emergencies, but these seem to be limited to natural disasters and limited in geographic scope.

[43] All respondents of this study reported the same limitations, which is complemented by research, namely: National Child Protection Systems Mapping Assessments in Ethiopia (unpublished), Kenya (2010), United Republic of Tanzania (2015) and Uganda (2013); and assessments of the social welfare workforce in Ethiopia: Government of Ethiopia 'An assessment of the Public Sector Social Service Workforce in Ethiopia' and Kenya: USAID (2013) Situational Analysis: Kenya's Social Welfare Workforce.

issues faced by children, especially refugee children. Ultimately, this situation leaves the demand for services unmet.

However, it is also important to note that not all child protection cases need to be resolved through the formal system: the informal system – communities and community based child protection mechanisms (CBCPM) – plays an important, though under-recognized, role as a service provider.

The linkages between formal and informal child protection system should be strengthened, and the roles and responsibilities of each should be clarified, to avoid overwhelming the formal system with cases that could be resolved informally, but also to avoid the handling of cases which require the involvement of a statutory body being instead handled in an informal manner.

Given the low coverage of government social workers and the important role played by CBCPMs, governments need to regulate, certify, and coordinate community-based mechanisms, which are often de-facto dealing with the child protection caseload. Once these government-regulated and mandated community-based mechanisms are in place (outside refugee settlements), there is a need to ensure their linkage with existing community based child protection mechanisms (CBCPM) in refugee settlements. This linkage could also help support social cohesion between refugees and host community.

# ENTRY POINT 5: CONSIDERING REFUGEE COMMUNITIES IN NATIONAL SURVEYS AND RESEARCH

## National Child Protection Systems Mapping

After the adoption of the global UNICEF Child Protection Strategy (2008), UNICEF has invested in supporting governments in child protection systems mapping assessments, Mapping Toolkit[44] which aims to identify strengths, weaknesses, and bottlenecks, in order to improve each of the components of the National Child Protection System.

**CPS Mapping Tool: Refugee specific questions**

- Does the policy explicitly provide protection for displaced children, refugees, or children separated by conflict?
- Describe the strategy for delivering services to refugees and internally displaced children. Which ministry or agency is responsible for the strategy?
- Does the Ministry (responsible for delivering services to refugee and internally displaced children) set standards for the child protection services for which it has responsibility (including prevention programs, remediation programs that assist children in their communities or own homes, decision making processes to place children in out of home settings, and out of home placements including kinship, foster care, adoptions, and institutions)?
- Does this Ministry (responsible for delivering services to refugee and internally displaced children) respond to standards set by other ministries or organizations?

UNICEF Child Protection Systems Mapping and Assessment Toolkit (2010)

[44] UNICEF Child Protection Systems Mapping and Assessment Toolkit (2010) https://www.unicef.org/protection/files/Mapping_and_Assessment_users_guide_Toolkit_En.pdf

Amongst the countries reviewed for this study, Ethiopia (unpublished), Kenya (2010), United Republic of Tanzania (2015) and Uganda (2013) have undertaken Child Protection Systems mappings. While the UNICEF Child Protection Systems Mapping Toolkit included specific questions related to refugee children, in practice these questions were excluded from the mappings done in this region. As a result, refugee children are missing from final assessment reports.

This represents a missed opportunity for assessing the strengths or weaknesses of the child protection system in relation to refugee children. Consequently, this is also a missed opportunity for inclusion of refugee children into national child protection systems and programs: these assessments have led to either costed plans of action for children (Tanzania) or have fed directly into the drafting of national policies or frameworks for child protection (Kenya).

### Various Countries: Surveys regarding violence against children

Among the countries reviewed, 'Violence against Children Surveys', national household surveys funded by US Government Centre for Disease Control (CDC) in partnership with UNICEF, were conducted in Kenya (2010), Rwanda (unpublished) and the United Republic of Tanzania (2009).

As refugee camps were not included as survey sites in the sampling, refugee children are missing from the data collected and subsequent reports. This is a missed opportunity for obtaining data on violence against refugee children with regards to prevalence and nature of violence. It would have been a useful baseline to guide refugee child protection response, to create linkages with national campaigns and services, and an opportunity to advocate for increased allocation of funds to child protection response services accessible to all children.

Given the inclusion of violence against children in the Sustainable Development Goals (SDGs) and the ambition to 'leave no one behind' – the necessity to include refugee and other marginalized groups of children in violence prevention initiatives, assessments, action plans and campaigns has been further emphasized. This includes initiatives and strategies developed by the Global Partnership to End Violence against Children.

### Concluding reflections

Given the high number of refugee and displaced children and the increasing trend of child migration in the region, it is important to seize every opportunity to ensure national child protection research and child protection mapping initiatives reflect the concerns of all children, including non-nationals. Humanitarian information management systems such as proGres, CPIMS etc. can provide information for such studies or can be used for sampling for house hold surveys. Inclusion of refugee communities and children in national surveys and studies is an essential entry point, as these often result in national action plans, programmes and strategies. If marginalized groups of children are not included during the initial phase, it is more likely that their needs and concerns are overlooked during the implementation of these national programmes.

## ENTRY POINT 6: STRENGTHENING CAPACITY OF EXISTING CIVIL REGISTRATION SYSTEMS TO FACILITATE ACCESS FOR REFUGEE CHILDREN

Article 7 of the Convention on the Rights of the Child (CRC) and Article 24 of the International Covenant on Civil and Political Rights (ICCPR) enshrine children's right to birth registration.[45]

At national level, governments are solely responsible for registering children, a function that cannot be outsourced to NGOs or UN agencies. The reality is that many children in the countries reviewed are not registered at birth, even if they are nationals:

[45] The International Covenant on Civil and Political Rights (1966) was ratified by nearly all Eastern and Southern African countries, including the countries reviewed within the purview of this study, with the exception of South Sudan.

coverage rates are low in all countries reviewed, ranging from 7% in Ethiopia to 67% in Kenya and Sudan.[46]

This section explores promising practice in terms of including refugee children in birth registration laws (Ethiopia), including refugee children in civil registration and vital statistics assessments (Ethiopia and Rwanda) and increasing the capacity of the national civil registration systems using new technologies and strengthening the linkages with the health sector.

## Birth Registration Legislation

Civil registration legislation encompasses registration of births, marriages and deaths. With regards to birth registration, these laws typically:

- provide a detailed account of procedures for registering births;
- determine who is responsible for notification of births, registration of births and issuance of birth certificates;
- determine the period for registration after birth; and
- defines penalties in the case of late registration past the registration period.[47]

Specific legislation regarding civil registration has been adopted in nearly all countries of this research,[48] with the exception of South Sudan, which has a bill in Parliament pending approval.[49]

The civil registration laws of countries covered by this study do not include specific legal provisions for the birth registration of refugees, rendering it difficult to make a statement on whether birth registration legislation is restrictive or enabling.[50]

In practice, according to UNHCR respondents interviewed for this study, refugee children living in refugee settlements/camps in Kenya, Rwanda, Sudan, and Uganda are being registered by government authorities/registrars, often at higher rates than nationals.

At times, there are differences between camp-based and urban refugee populations: in Tanzania, urban refugees can access birth certificates, whereas refugee children living in camps are currently not registered at birth. During the UN Summit for Refugees and Migrants, held on 19 September 2016, the Government of Ethiopia pledged to provide refugee children with birth certificates.

On 25 November 2016, the Council of Ministers discussed the issue of civil registration for refugees and proposed an amendment to Proclamation 760/2012, to include the registration of refugees and foreigners, before endorsing the draft directive. The Ministry of Justice and the Vital Event Registration Agency (VERA) drafted the revised law, and are currently working on the justification for the amendment of the law. The draft law will be submitted to the Council of Ministers in 2017.[51]

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[46] This figure was reached using UNICEF State of the World's Children (2016) with data from UNICEF global databases, 2016, based on DHS, MICS, other national household surveys, censuses and vital registration systems. For the countries covered by this study the data sources are as follows: Ethiopia (7%, DHS 2005), Kenya (67%, DHS 2014), Rwanda (63%, DHS 2010), Sudan (67%, MICS 2014 KFR), Tanzania, United Republic of (12.9%, Census 2012), and Uganda (30%, DHS 2011). Birth registration data is not available for South Sudan.

[47] While this study is limited to six countries in East Africa, it should be noted that promising practice regarding refugees and birth registration do exist in other countries in the region, e.g. in Burundi refugees are registered at birth by national civil registration authorities and refugees have been exempted from late registration fees, alongside other 'vulnerable children' in Burundi.

[48] Ethiopia: Registration of Vital Events and National Identity Card Registration Proclamation No. 760/2012; Kenya: Births and Deaths Registration Act, Cap 149 (2012); Rwanda: Law governing persons and family (Law No.32/2016); Sudan: Civil Registry Act (2011); Tanzania: Births and Deaths Registration Act (1920, revised 2002); Uganda: Birth and Death Registration Act Cap 309 (2015)

[49] Interview with UNICEF South Sudan Vedasto Nsanzugwanko, Chief Child Protection, Solla Asea, Child Protection Specialist and Diana Surur, Child Protection in Emergency Specialist on 9 December 2016.

[50] UNHCR, Birth Registration Report (forthcoming)

[51] Email communication with Rana Milhem, Community Services Officer, UNHCR Ethiopia of 31 January 2017.

## Ethiopia and Rwanda: Inclusion of Refugee Children in Civil Registration and Vital Statistics Assessments

Comprehensive assessments of Civil Registration and Vital Statistics (CRVS) have taken place in all countries reviewed, within the framework of the African Program for Accelerated Improvement of CRVS. This has African Development Bank funding, and technical support from United Nations Economic Commission for Africa (UNECA) and UNICEF.

These assessments have typically led to the development of 5-year costed CRVS plans. Of the countries reviewed, only Rwanda, thanks to UNICEF/UNHCR coordination at country-level, has seized the opportunity of the CRVS comprehensive assessment to advocate for and successfully include refugee camps as sites/locations for their assessment, completed in November 2016.

This inclusion of refugee camps in the assessment is a unique opportunity for Rwanda to ensure that refugee children are included in the forthcoming 5-year costed national plan of action. Though funding streams are not guaranteed or directly linked to the completion of the CRVS assessment, in the cases of Kenya and Ethiopia, where in addition to the completion of the CRVS assessment a national costed CRVS plan was developed with Government commitment at highest level, World Bank has funded the implementation of a CRVS system.

In Ethiopia, Vital Event Registration Agency (VERA) and Administration of Refugees and Returnees Affairs (ARRA) conducted a joint assessment in late 2016 in places where camps are located, in order to consider how to register refugee children, and include them in the national registration system.[52]

## Kenya: Increasing the Capacity of the Civil Registration System

The capacity of the Kenyan Civil Registration System is limited, especially in remote areas where refugee settlements are located. Increasing the capacity of the system requires increasing the reach of civil registration services in counties where refugees are being hosted.

In order for the civil registration services to reach refugee children, UNHCR supported the establishment of civil registration services in Garissa County, where the Dadaab Refugee Camp is located. Though located outside the refugee camp, the service reaches refugee children through mobile civil registration teams and linking with health providers in the camp.

This has shown that, at times, strategic investment in government services in terms of capacity and resources are an important entry point to increase refugee children's access to national services.

## Uganda: Use of new technologies to improve birth registration for refugee children

Birth registration of refugee children requires increased capacity of civil registration systems (see above), but it is also important to note that this does not necessarily imply a need to establish registration offices, which is costly. Proximity of a service to the population is important, but use of modern technology for vital event notification can offer an alternative for example.[53]

In north-western Uganda, with UNICEF support, online birth registration started in Adjumani district, which hosts a significant number of South Sudanese refugees in settlements. In refugee settlements, birth notifiers (usually local leaders at village level working on a voluntary basis) were trained to use mobile phones to notify the district civil registry office of births.

As the next step, 'short' birth certificates are delivered to parents. The final step is the delivery of a 'long' birth certificate. Refugee children and nationals living in host communities in locations with limited direct access to civil registrars can benefit from the use of new technology. While this is a positive development in terms of technology, more advocacy and support to the government are needed to ensure that refugee children are issued the official birth certificate, the so called "long" birth certificate. It should however be noted that many Ugandan children only have the 'short' birth certificate.

[52] Ibid.

[53] UNICEF, A Passport to Protection: A Guide to Birth Registration Programming, 2013. Available at: https://goo.gl/kSQ5H9 [Accessed 30 November 2016]

## Kenya and Sudan: Mainstreaming birth registration within the health sector

The integration of birth registration within health services is globally-recognised as a major contributing factor to improving birth registration rates.[54] Midwives, doctors, and birth attendants play a major role in birth registration of children, as they issue the birth notification, which is the main document required.

In refugee response, the cost of establishing registration offices can be reduced if investment is made in the linking the health sector birth notification process within settlements with the civil registration office outside settlements (usually in the district capital). Mainstreaming birth registration within the health sector is an entry point for sustainable, host-government-led, birth registration of refugee children. This form of birth registration is less costly than investing in the establishment of civil registration offices within refugee settlements. Among the countries covered by this study, Kenya and Sudan have mainstreamed birth registration within the health sector.

In Kenya, at Dadaab camp, the health officer on duty records any birth in a health facility, and a birth notification is issued in 3 separate copies: to the mother, the hospital and UNHCR. Births at home have to be notified by medical staff to UNHCR within 72 hours. All birth notifications are then forwarded by UNHCR to the district civil registrars. The birth certificates are delivered to the families by the mobile civil registration teams. This cooperation between the health sector, UNHCR, and the civil registration system is essential for an efficient birth registration system: Dadaab camps have a birth registration rate of approximately 90%.

In Sudan, birth registration rates among refugee new-borns increased: from 40% in 2013, to 71% in 2014, in camps in Eastern Sudan. This is thanks to a UNHCR partnership with Ministry of Social Welfare, Ministry of Health, Ministry of Interior, the Judiciary and the Government of Sudan's Commission of Refugees (COR). This also demonstrates the importance and positive outcomes of inter-ministerial cooperation and engagement for refugees.

Joint activities in Sudan entailed maintaining existing birth registration systems and setting up new ones; mass awareness-raising campaigns; involving and training community leaders; and community volunteers. Civil registration authorities also designate and train health workers in the issuance of birth notifications. These health workers are entrusted with the management of birth registration, under the supervision of the statistics department of the Ministry of Health. They are responsible for submitting birth registration forms to the nearest civil registrar office on a monthly basis, and also for the subsequent delivery of birth certificates to refugee parents.

## Concluding Reflections

Strengthening the capacity of existing Civil Registration and Vital Statistics (CRVS) Systems is cost effective for increasing birth registration rates of refugee children sustainably and at scale, as well as being attractive to governments. Given the complexity of operational contexts and the remoteness of many refugee settlements, the establishment of mobile birth registration teams helps to build human resources and contributes to an improved civil registration system, not only for refugee and asylum-seeking children, but also national children living in remote rural areas.

Innovative use of technology and interoperability with the health sector can further expand the reach of civil registration services and thereby facilitate access for refugees and national children.[55]

The joint advocacy of UNICEF and UNHCR for inclusion of asylum-seeking and refugee children when revising national birth registration legislation, systems and policies, remains important.

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[54] Muzzi, M., UNICEF Good Practices in Integrating Birth Registration into Health Systems (2000–2009), 2010. [online] Available at: https://goo.gl/QHpYzm [Accessed 15 November 2016]

[55] World Bank & WHO, Global Civil Registration and Vital Statistics Scaling up Investment Plan 2015–2024, 2014. [online] Available at: http://goo.gl/vGaCct [Accessed 16 December 2016]

# ENTRY POINT 7:
# REGIONAL ENTRY POINTS

## East African Community

The East African Community (EAC) comprises Burundi, Kenya, Rwanda, South Sudan, the United Republic of Tanzania, and the Republic of Uganda. The community adopted the EAC Child Policy during the 2nd EAC Child Conference held in Nairobi, Kenya in August 2016, providing a regional framework to facilitate the development, coordination and strengthening of Partner States towards the realization of children's rights and wellbeing.

Although the 1969 OAU Convention, governing the specific aspects of refugee problems in Africa, is mentioned and refugee children's issues are highlighted in the introductory country-context section, the EAC Child Policy does not specifically mention refugees in the ten priority areas and accompanying strategies. However, priority areas include cross-border child rights violations (section 4.4) and protection of children in conflicts and emergency situations (4.7). [56]

The EAC Child Policy was a missed opportunity for the inclusion of refugee children in a regional policy document. Building on the Child Policy, the EAC adopted in May 2018 additional corresponding operational tools and frameworks to guide the implementation of the Child Policy. This included a Child Action Plan, Minimum Standards for Comprehensive Services for Children and Young people in the EAC and the Framework for Strengthening Child Protection Systems in the EAC. Thanks to concerted advocacy efforts these documents do include references to the needs and vulnerabilities of refugee children. These additional policy frameworks will help to ensure that the implementation of the Policy addresses the needs of refugee children. The EAC Child Policy and the subsequent minimum standards and guidance documents have implications for country-level child protection policies and programmes and guides national standard-setting. Uganda, for instance, is revising existing guidelines to align with the EAC Child Policy.

In April 2018, UNHCR, UNICEF and the African Child Policy Forum co-hosted with the East African Community a regional Roundtable on the Protection of Refugee Children. The Roundtable brought together approximately 45 technical experts from child protection, social welfare, and refugee departments from the six EAC Partner States (Burundi, Kenya, Rwanda, South Sudan, Tanzania and Uganda), and Ethiopia. The aim of the Regional Roundtable was to share learning, practices and experiences in facilitating the inclusion of refugee children into national child protection systems. The Regional Roundtable resulted in a Statement of Good Practice, which was informed by current good practice in the region, as well as the broader evidence base as to what successful inclusion and integration of refugee children should entail. This Statement of Good Practice will also inform and guide operationalisation of the EAC Child Policy Action Plan. See Annex 4.

The work and engagement with the East African Community shows the potential of working with regional entities to promote inclusion of refugee children and bridging humanitarian and development interventions to protect children. In the case of the EAC, this work was greatly facilitated by the solid child protection framework that already existed thanks to the EAC Child Policy adopted earlier. Engagement with relevant regional entities is an important complement to country level advocacy and interventions.

## Southern Africa

Southern African countries face a very different refugee context when compared to the countries reviewed for this study. A key difference is that the countries in Southern Africa host much smaller refugee populations than countries in Eastern Africa. Moreover, countries within Southern Africa are economically, geographically and politically diverse, and national policies and practice for refugee children vary significantly within this sub-region.

[56] EAC Child Policy (2016) available at https://bit.ly/2J2Eeu0

# UPSTREAM WORK IN SOUTH AFRICA, AND A MISSED OPPORTUNITY IN MALAWI

## SOUTH AFRICA: GOVERNMENT LEADERSHIP FOR COORDINATION ON CHILD PROTECTION

In 2014, a Child Protection Working Group of key South African Government institutions and developmental organisations was established following an UNHCR-led national refugee child protection conference.

This resulted in the Government of South Africa, through the Department of Social Development (DSD), taking the lead in creating the National Steering Committee (NSC) on Unaccompanied and Separated Children (UASC), tasked to address the protection risks faced by UASC and to strengthen their access to national child protection and welfare system/services. That same year the NSC carried out System Mapping of the child welfare and protection services with support from Save the Children.

The Department of Social Development (DSD) is working towards operationalizing recommendations into a Government-owned strategic plan in 2017. Key factors which prompted the success include: a dynamic steering committee; and the fact that UNHCR, UNICEF, IOM, and Save the Children took a step back after initiating the process, allowing the Government of South Africa, through the Department of Social Development (DSD), to take on full ownership.

When child protection actors step aside, it can allow the government to take the lead in ensuring that refugee children can access national child protection services and systems. The NCS caters for the needs of all children who may or may not have an asylum claim or qualify for refugee status.[57]

## SOUTH AFRICA: STRATEGIC LITIGATION FOR CHILDREN TO ACCESS SOCIAL PROTECTION

In South Africa, permanent residents and recognized refugees are eligible to access social grants, alongside citizens, through the South African Social Security Agency, which includes the child support grant, care dependency grant, and the foster child.[58]

Access to social security for refugees is the outcome of strategic litigation by UNHCR's partner Lawyers for Human Rights to ensure rights of refugee children equally with South African children and other risk groups, with regards to social protection. Asylum-seeking children do, however, not yet qualify for a social grant.[59]

## MALAWI: REFUGEE CHILDREN EXCLUDED FROM CHILD PROTECTION SYSTEM MAPPING NOT COVERING REFUGEES

The Government of Malawi, through the Ministry of Gender, Children and Community Development, with UNICEF support, conducted a comprehensive Child Protection Systems Mapping in 2010. The result of this was the 2012 Malawi Child Protection System Mapping and Assessment Report, and subsequent design phase of the Child Protection Case Management system.

For the design phase of the case management system there were extensive consultations and field visits throughout the country, but unfortunately the refugee camps were not included in this assessment. UNHCR and UNICEF need to work closer together to ensure that both organizations are kept abreast of relevant initiatives, especially in strategic review and evaluation work, such as assessments, which feed into national planning and policy design.[60]

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[57] UNCHR, Global Strategic Priority 8: UASC/Best Interests Process 2015 Analysis (internal document, Karen Whiting, Senior Advisor, Child Protection); Interview with Anna Leer, Senior Regional Community Services Officer, UNHCR Regional Office Pretoria on 16 December 2016.

[58] Legal Resources Centre et al, Guide 3: Rights and Duties Of Asylum Seekers And Refugees In South Africa, 2015, p3. Available at: http://goo.gl/FkGhYZ [Accessed 16 December 2016]

[59] Ibid.

[60] Ibid.

SECTION 4

# FINDINGS AND RECOMMENDATIONS

UNHCR and UNICEF are working closely for the protection of refugee children, but the focus tends to be on 'child protection in emergencies', i.e. a humanitarian approach. Less focus has been placed on joint upstream efforts to strengthen national child protection systems, which are accessible to all children, including refugees. Bearing in mind that refugees are predominantly hosted in low- and middle-income countries, which typically face a wide array of development challenges, including limited availability of services, development actors through their longer-term work still constitute a critical element of a refugee response.

For an effective refugee response to be achieved, greater engagement of development actors in refugee response is required. Creating links with national and local child protection systems is also important to promote greater integration between interventions which benefit refugees as well as host communities. It should be noted that progress has been made on inclusion of refugee children in other sectors, such as education (e.g. Uganda) or health (Djibouti, where a new 2017 Refugee Law grants refugees access to health services).

Recent global guidance and frameworks, applicable to both UNICEF and UNHCR, set out a clear agenda for promoting inclusion of refugee children in national child protection systems and discourage the development of parallel service delivery models, as this might duplicate and even undermine the capacity of government systems to deliver critical child protection services. This represents long-term work, as the strengths and capacities of national child protection systems vary in terms of their ability to respond to refugee situations, whether emergency or protracted.

System-strengthening efforts should therefore aim to build national child protection capacities, both in terms of resources and know-how. While investments are being made to strengthen the national system, in the immediate term, it might not be possible to entirely avoid parallel systems.

This review has outlined seven entry points for inclusion of refugees into national child protection systems and services, based on existing practice in this region, which allow for a gradual and step-by-step approach to inclusion. It is key to this approach to assess and harness existing opportunities to be found in a country; through engagement with relevant line Ministries in close cooperation between UNICEF and UNHCR i, but also the wider UN Country Team, including UNDP, the World Bank, UNFPA as well as non-governmental organizations and national civil society groups. While this study has focused on inclusion of refugee children in national child protection and social welfare systems, many lessons can be drawn from inclusion of refugee children in national health and education systems.

### Finding 1: Facilitate country level strategic discussion of opportunities for gradual inclusion of refugee children in national child protection systems, policies and plans.

Recommendations:

- UNICEF and UNHCR country teams should jointly facilitate country level discussions with relevant government counterparts. This should happen at national and sub-national level and should consider the longer-term perspectives of protection of refugee children, identifying opportunities and challenges, resource and capacity gaps etc., as well as opportunities for greater integration with host community child protection response.
- Possible risks involved in inclusion of refugee children in national child protection services should be considered.

### Finding 2: Inclusive national legal frameworks is an important gateway for inclusion of refugee children in wider national structures, policies, and planing.

Recommendations:

- Joint analysis by UNHCR and UNICEF of the existing legal framework to assess how the legal framework can be more enabling and protective of refugee children.
- This can entail: inclusion of a specific article pertaining to refugee children; inclusion of wording that explicitly states the government's obligations with regards to refugee children, including which services refugee children have the right to access; and which government entity is responsible for delivery of the service.
- Non-discrimination clauses are important, but ideally the legal framework should ensure refugee children have rights at par with nationals.

### Finding 3: Considering the situation of refugee children in longer term national plans of action, development plans and thematic programmes alongside national children, and can facilitate access to development funding for refugee hosting areas.

Recommendations:

- Advocacy with governments (social welfare, civil registration, planning, finance etc,), development actors, and financial institutions to include refugee children in national plans and expenditure frameworks should be continued.
- Effective advocacy efforts require familiarity with national development processes and current national multi-year planning and budgeting processes.
- Economic arguments around cost of inaction and cost-effectiveness will be useful and are more likely to resonate with respective ministries of planning and finance. Recent evidence regarding economic benefits of integrating refugees (i.e. spearheaded by the World Bank) will be useful but further context-specific data collection and analysis will also be beneficial.
- The possibilities and utility of inclusion of refugee children in national multi-year sectorial plans (e.g. justice, social welfare, civil registration, home affairs) should be assessed.
- Advocacy with government and development actors will be important, in order to influence development funding, including lending by financial institutions for the strengthening of basic services (health, education, social welfare and child protection), both for refugees and host communities.
- UNHCR and UNICEF should provide technical support to governments at national and district/ county level when they are preparing financing proposals to make to international financial institutions. This can ensure child protection services are included, i.e. increased number of social welfare workforce; strengthening district/ county level child protection coordination structures; strengthening the linkages between community child protection mechanisms with the more formal system; and strengthening the capacity of the civil registration system.
- Promote use of development funding for the expansion of child protection infrastructure in host communities (such as offices of social welfare workforce, birth registrars, one-stop centres, child-friendly justice benches,), and enhance the capacity of the government child protection workforce to take on the additional workload and coordination functions.

### Finding 4: Inclusion of refugee children in national child protection policy and standards ensures that these are centrally monitored and enforced by relevant government entities.

Recommendations:

- UNICEF and UNHCR should jointly support government, to include refugee-specific concerns in national child protection frameworks. This can include provision technical advice and support, in line with each organization's respective mandate and technical expertise, such as in the following areas:

(I) guidelines for child protection systems at national and sub-national levels;

(ii) specific child protection standards, such as alternative care;

(iii) development of training curricula of social welfare workforce;

(iv) advice regarding Government deployment plans for trained social workers at local/ county/district levels.

- UNHCR should ensure that refugee child protection is informed by and aligned with national child protection legislation, standards, and procedures.
- To the extent possible, UNHCR should discourage the creation of duplicate systems, though without jeopardizing protection of refugee children or faulting on UNHCR's legal responsibilities vis-à-vis refugees.
- Child protection actors in refugee operations should benefit from trainings on national policies and standards. Such trainings could be provided by national child protection authorities/commissions.

### Finding 5: Involvement of government child protection workers in refugee child protection response is a long-term investment for the the resilience and capacity of the national child protection system to withstand in emergencies.

Recommendations:

- UNICEF and UNHCR can jointly support Governments in strengthening the national child protection workforce. This can include social welfare officers, law enforcement professionals, immigration officers, justice sector and civil registration authorities.
- Workforce strengthening initiatives should involve both emergency preparedness and response, through:

(i) inclusion of child protection in emergencies and displacement situations in national capacity-building programmes for the social welfare workforce;

(ii) district level government child protection/ social workers engaging in child protection response in refugee settings and where needed/possible increase the number of such staff in order not to negatively affect services for host communities (ii) prioritisation of refugee hosting areas when planning for expansion of the child protection workforce; and

(iii) establishment of a rapid deployment scheme for national statutory child protection professionals to refugee settings in cases of a significant influx of refugees.

### Finding 6: Creating linkages between national statutory community-based child protection mechanisms and similar mechanisms in camps/settlements is a cost-effective way to include refugee children in national informal child protection systems and avoid the creation of duplicate systems.

Recommendations:

- UNICEF should continue its support for governments in the regulation, certification and scaling-up of national statutory community-based child protection mechanisms and networks, and promote linkages with similar structures in refugee settlements.
- In refugee-hosting areas, the creation of joint community based child protection mechanisms should be considered, which would include members of host and refugee communities, as host and refugee children face similar child protection risks.
- Government district social welfare/child protection staff should be capacitated to exercise a supervisory role over community-based mechanisms, in host as well as in refugee communities.

### Finding 7: Exclusion of refugee children from national surveys and research is a common missed opportunity.

Recommendations:

- UNHCR and UNICEF should jointly advocate for the design of child protection and social welfare surveys, assessments, and research which use sampling methodologies which can accommodate refugee communities. This includes, for example, National Child Protection Systems Mappings, Assessments of the Social Welfare Workforce, Civil Registration and Vital Statistics assessments, Violence against Children Surveys, National Household Surveys, Demographic and Health Surveys (DHS), and Multiple Indicator Cluster Surveys (MICS).
- Ways of bringing together Ministries of Social Welfare and Refugee Departments should be explored, with a view to facilitate inclusion of refugee children in national research initiatives, to ensure national data also reflect the situation of refugee children. This would support planning and can also measure progress on SDGs in relation to those that are easily 'left behind'. Strengthening the evidence base around refugee child protection through data collection and analysis is, alongside the legal framework, a fundamental gateway for further inclusion of refugee children in national systems and programs.

### Finding 8: National efforts to strengthen Civil Registration Systems provide an opportunity to ensure access to birth registration for refugee children.

Recommendations:

- Actors should seize the opportunity of national CRVS assessments, development of national CRVS costed action plans, and revision of birth registration procedures to include refugee children in CRVS systems.
- Given the specific vulnerabilities of refugee children who are undocumented, refugee-hosting areas should be prioritised when launching national programmes and initiatives to strengthen CRVS systems, including introduction of new birth registration technologies – which are often particularly efficient in remote areas.
- UN agencies (UNCHR, UNDP, UNICEF, and WHO) should invest efforts into leveraging funding from international financial institutions at global and regional levels and from other development partners to strengthen the capacity of existing Civil Registration and Vital Statistics (CRVS) systems including refugee children.

### Finding 9: Cooperation between Refugee Authorities and Child Protection Departments, is essential for inclusion of refugee children in national child protection systems and to reduce duplication and parallel structures.

Recommendation:

- Child protection initiatives that strengthen cooperation between national child protection/ social welfare authorities and refugee authorities which build on their respective areas of expertise. Inter-ministerial/departmental cooperation on refugee child protection has proven to be very beneficial for e.g. birth registration, capacity building, work with individual children, assessments, links with community-based mechanisms in host community and coordination.

### Finding 10: Regional processes and organizations can provide an opportunity to promote inclusion of refugee children in national systems.

Recommendations:

- Explore opportunities for inclusion of refugee children in child protection initiatives led by regional organizations, such as EAC, SADC, ECOWAS etc.
- Continued advocacy with the East African Community (EAC) to include refugee children in the regional action plan and other documents/ tools being developed based on the EAC Child Policy (2016).

**ANNEX 1:**

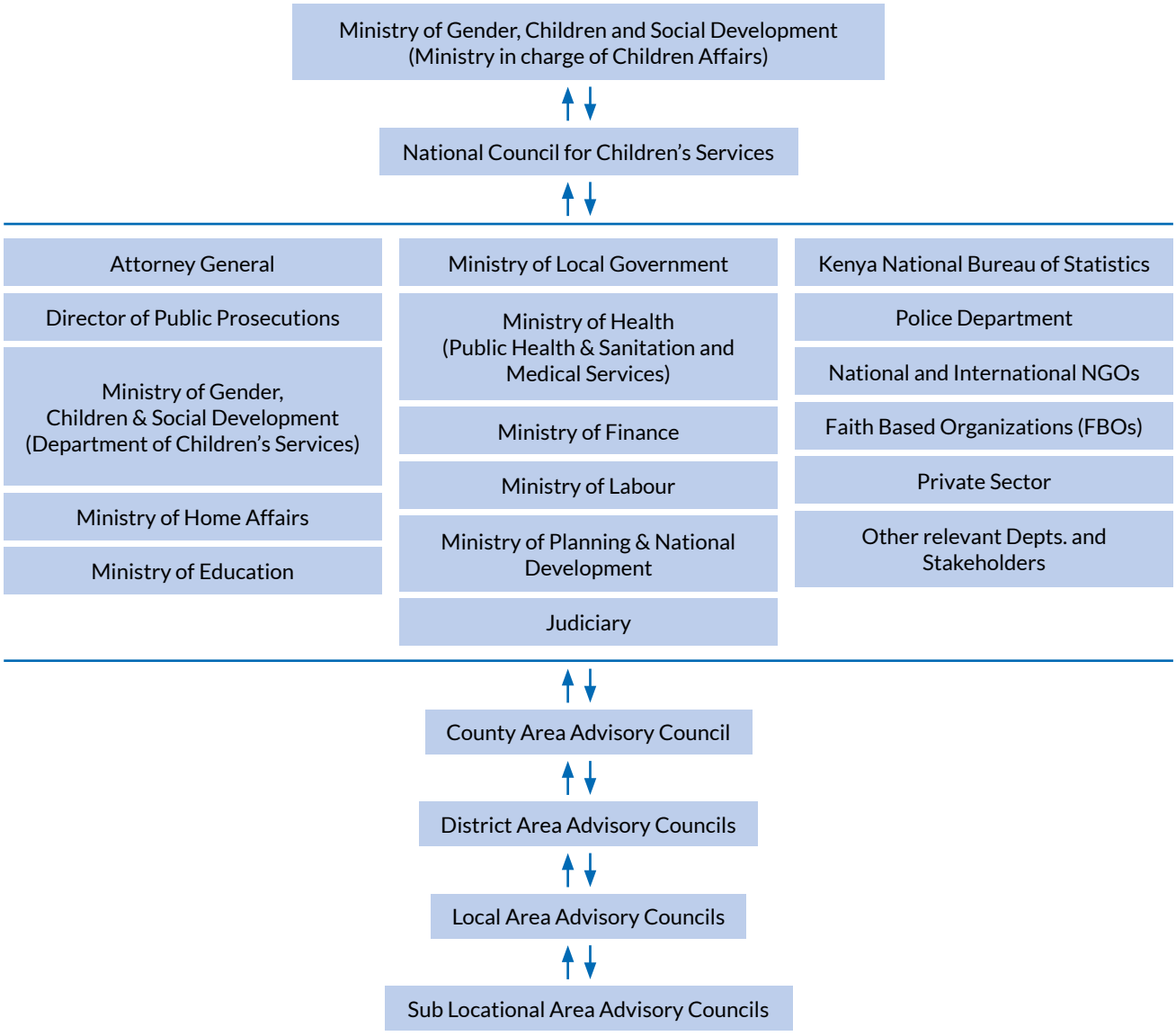
# CHILD PROTECTION COORDINATION STRUCTURES IN KENYA, TANZANIA AND UGANDA

The Child Protection Coordination structures in place in Kenya (at national and county levels), Tanzania, and Uganda included in this annex shed light upon the variety of models countries may use to coordinate the child protection 'sector', as well as the myriad actors involved at all levels.

It should be noted that Kenya and Tanzania are currently reviewing elements of their legal and policy frameworks relating to child protection. In Kenya, the revision of the Children's Act (2001) – underway since 2014, the Draft Children Act Amendment Bill (2016), and the revision of the Kenya County Child Protection Systems Guidelines will surely impact on these national and sub-national structures.

## Kenya Child Protection Coordination Structure

*Government of Kenya (2011) The Framework for The National Child Protection System for Kenya, p.12*



Likewise, Tanzania, with the approval of the National Plan of Action to Prevent Violence Against Women and Children (2016) will have a revised Child Protection Coordination Structure. For Uganda, the organograms/figures included in this study do not refer to the Child Protection Coordination Structure per se. Instead there are two organograms, one of the Ministry mandated to oversee the child protection 'sector', namely the Ministry of Labour, Gender and Social Development (MoLGSD) and one detailed organogram of the Youth and Children's Affairs Department within the MoLGSD.

## Kenya County-Level Child Protection Actors and Services

*Kenya County Child Protection Systems Guidelines (under revision), p. 16*

At present, the Kenya county child protection structure consists of five levels with the following actors and services per level:

| | |
|---|---|
| **County level:** | Area Advisory Council (AAC), County children's officer, children's ombudsman, children's legal protection centre, County children's assembly, referral hospital, tertiary education institutes. |
| **Sub-County level:** | Area Advisory Council (AAC), District children and social services officers, district hospital, police station with a Child Protection Unit, Children's Court, children councils/assemblies, social protection programmes, Non-Governmental Organisations, the private sector, secondary schools, parallel network, pro-bono advocates/lawyers, polytechnics |
| **Location level:** | Alternative Care Committee (ACC), Children's Officer, health facility, child friendly schools, police post, community police, Community Based Organisations (CBOs) offering prevention and response services, education officials, children clubs |
| **Sub-location level:** | Alternative Care Committee (ACC), Children's Officer, paralegals, parent educators, community health workers, trained teachers, child friendly schools, religious groups, social workers, basic counsellors, children clubs |
| **Village level:** | Children's Officer (frontline child protection service) and village elders |

## Tanzania Child Protection Structure

*Extract from: Government of Tanzania & UNICEF (2015) Building a holistic child protection system, step by step, in the United Republic of Tanzania*

The Department of Social Welfare (DSW) is mandated to ensure effective welfare systems, promote community-based care and support and protect vulnerable groups. It steers the most vulnerable children (MVC) response and is responsible for implementing the child protection system. Coordination of the MVC response is captured in the National Costed Plan of Action for Most Vulnerable Children 2013-2017 (NCPA II) (see Figure 1). It calls for establishment of a National Steering Committee, chaired by the Permanent Secretary of the Prime Minister's Office; a National Technical Committee, chaired by the Permanent Secretary of the Ministry of Health and Social Welfare (MoHSW); and a National Child Protection Advisory Committee. At the subnational level the emphasis is on MVCCs and child protection teams.

Tanzania's Multi-Sector Task Force on Violence against Children, led by the Ministry of Community Development, Gender and Children (MCDGC), is responsible for the implementation of the NCPA to Prevent and Respond to Violence against Children. This involves coordination with the police, justice system, health and social welfare services, HIV/AIDS and education sectors, and civil society.

The MCDGC also chairs a number of other multi-sectorial task forces, including the National Task Force for Street Children, and leads on gender-based violence. Each task force has representatives from Government ministries and other partners, including the police and justice sectors; social welfare, education and health care sectors; United Nations; and civil society. Each task force ensures national ownership and oversight in building support for a comprehensive child protection system.

In terms of justice reform, the Ministry of Constitutional and Legal Affairs have convened a Child Justice Forum. Set up as a consultative and policy development forum, it provides expert guidance on the development and implementation of the strategy for strengthening the child justice system. Its members include representatives of national and local Government agencies; multilateral agencies such as UNICEF; national associations and networks, such as the Tanzania Network of Legal Aid Providers and Tanzania Teachers Union.

The Prime Minister's Office-Regional and Local Government (PMORALG) oversees the National Inter-Sectorial Committee on Child Labour, which coordinates action to bring attention to child labour and strengthen local structures to eliminate it. Committee members represent Government ministries and NGOs. The Anti-Trafficking Secretariat and Committee is responsible for developing, promoting and coordinating policy to prevent trafficking, and it produced Tanzania's National Anti-Trafficking in Persons Action Plan. The Ministry of Home Affairs is responsible for enforcement of anti-trafficking laws. The Interpol Office of Transnational Crimes, within the police force, includes an officer responsible for trafficking. Focal points to handle child victims of trafficking are assigned in every police station.

With the expiration of the current NCPA-II in 2017 and approval in December 2016 of the National Plan of Action to Prevent Violence Against Women and Children, the current coordination structure will be revised. The Prime Minister's Office will coordinate the National Plan of Action and will convene all sectors involved in its implementation, with the support of the Ministry of Health, Community Development, Gender, the Elderly and Children as the secretariat of the Plan.[61]

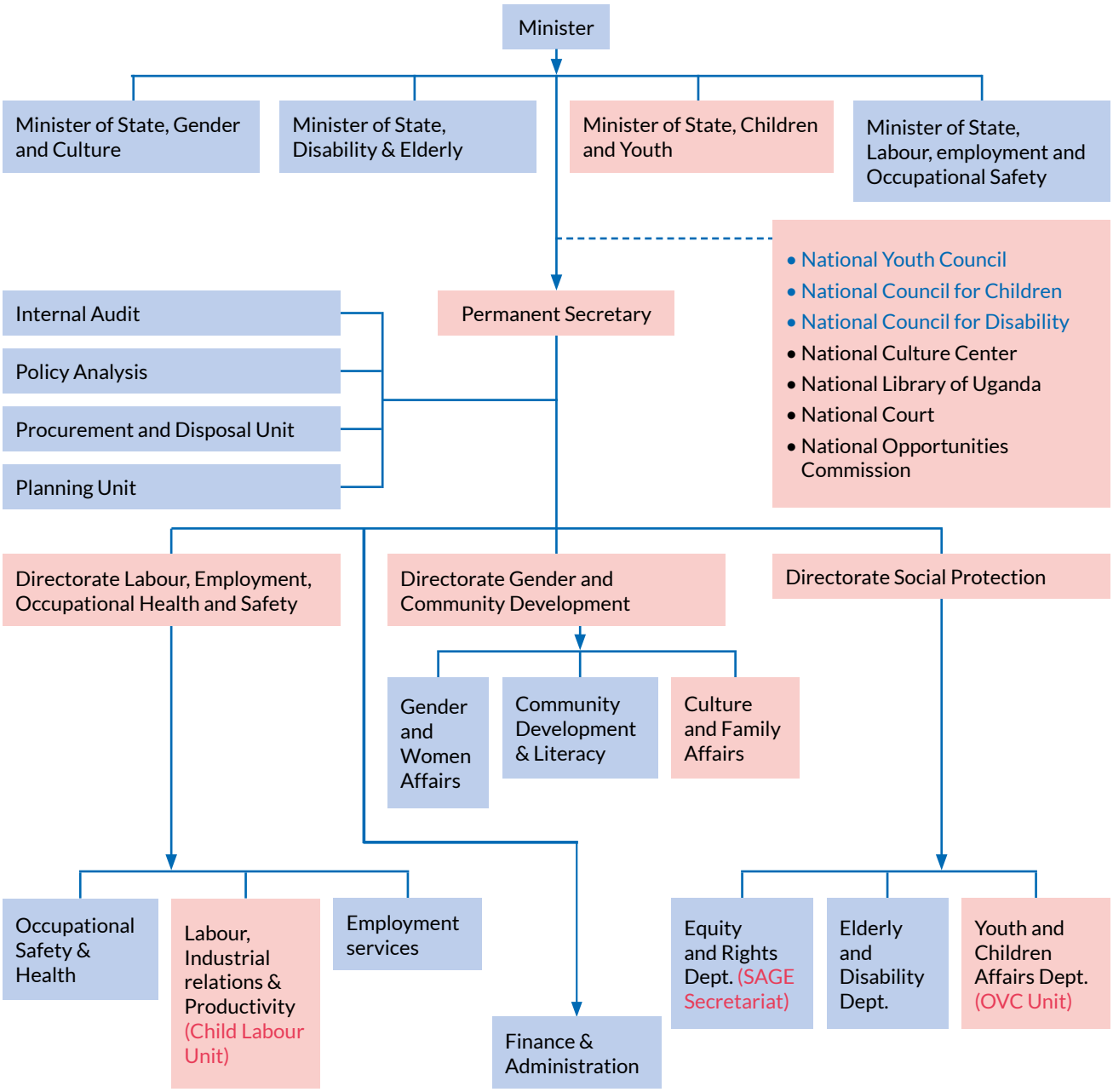
A coordination framework is being developed as part of the National Plan of Action to Prevent Violence Against Women and Children (2016) to clearly establish the coordination structure and sectorial leads. The objective is to centralize, to the Prime Minister's Office, the overall coordination of children's programmes, introducing a more streamlined approach. This approach would move away from issue-based coordination to a systems-based, cross-cutting approach, aligning coordination structures with monitoring and evaluation and resource systems.

It envisions an integrated national technical committee that draws together the two ministries with the primary child protection mandate (MoHSW and MCDGC). The structure is yet to be implemented: high-level government and donor support is needed for its further development.

[61] Interview with UNICEF Tanzania Child Protection Specialist, Stephanie Shanler on 16 December 2016

## Uganda Child Protection Coordination Structures

*Figure 1: Structure of the Ministry of Gender, Labour and Social Development*



**ANNEX 2:**

# LIST OF DESK REVIEW DOCUMENTS

## 1. INTERNATIONAL AND REGIONAL LEGAL & POLICY FRAMEWORK

### 1.1 International and Regional Conventions

INTERNATIONAL

- UN Convention on the Rights of the Child (1989)
- Convention relating to the Status of refugees (1951)
- Protocol Relating to the Status of Refugees (1967)
- Convention relating to the Status of Stateless Persons (1954)
- Convention on the Reduction of Statelessness (1961)
- International Covenant on Economic, Social and Cultural Rights (1966)
- International Covenant on Civil and Political Rights (1966)

AFRICAN

- OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (1969)
- African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) (2009)
- African Charter on the Rights and Welfare of the Child (1990), arts. 6, 23

### 1.2 Non-binding legal instruments & guidelines (e.g. CRC General Comments, UNHCR ExComs, General Recommendations, UN Guidelines)

- Child Protection Working Group (CPWG) Minimum Standards for Child Protection in Humanitarian Action – CPMS (2012)
- Committee on the Rights of the Child General Comment No. 13 (2011) – The right of the child to freedom from all forms of violence
- Committee on the Rights of the Child General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration
- Committee on the Rights of the Child General Comment No. 6 Treatment of Unaccompanied and Separated Children Outside Their Country of Origin (2005)
- IASC Guidelines for Gender-based Violence Interventions in Humanitarian Settings (2005)
- IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings (2007)
- IASC Guiding Principles on Unaccompanied and Separated Children (2004)
- UN Guidelines for the Alternative Care of Children (2010) [A/RES/64/142]
- UNHCR Executive Committee Conclusion No. 24 (XXXII) Family Reunification (1981)
- UNHCR Executive Committee Conclusion No. 47 (XXXVIII) Refugee Children (1987)
- UNHCR Executive Committee Conclusion No. 59 (XL) Refugee Children (1989)
- UNHCR Executive Committee Conclusion No. 84 (XLVIII) Conclusion on Refugee Children and Adolescents (1997)
- UNHCR Executive Committee Conclusion No. 85 (XLIX) – Conclusion on International Protection (1998)
- UNHCR Executive Committee Conclusion No. 104 (LVI) – Conclusion on Local Integration (2005)
- UNHCR Executive Committee Conclusion No. 107 (LVIII) – Conclusion on Children at Risk (2007)
- UNHCR Executive Committee Conclusion No. 111 (LXIV) – Conclusion on Civil Registration (2013)
- UNHCR Framework for the Protection of Children (2012)
- UNHCR Guidance for Field Offices: Protecting Children of Concern through a Systems Approach (2010)

- UNHCR Guidelines on Determining the Best Interests of the Child (2008)
- UNHCR Guidelines on Refugee Children (1988, revised in 1994)
- UNHCR Policy on Adoption of Refugee Children (1995)
- UNHCR Policy on Refugee Children (1993)
- UNHCR Policy on Refugee Protection and Solutions in Urban Areas (2009)
- UNICEF Child Protection Strategy (2008)

### 1.3 Concluding observations of following treaties to State-Party reports

- Convention on the Rights of the Child (1989)
- International Covenant on Economic, Social and Cultural Rights (1966)
- International Covenant on Civil and Political Rights (1966)

## 2. NATIONAL LEGISLATION, POLICIES, STRATEGIES AND ACTION PLANS

### 2.1 Constitution

- Ethiopia: Constitution of the Federal Democratic Republic of Ethiopia (1995)
- Kenya: The Constitution of Kenya (2010)
- Rwanda: The Constitution of the Republic of Rwanda (2003, revised in 2015)
- South Sudan: The Transitional Constitution of the Republic of South Sudan (2011)
- Sudan: The Interim National Constitution of the Republic of Sudan (2005)
- Tanzania: Constitution of the United Republic of Tanzania (1998)
- Uganda: Constitution of the Republic of Uganda (1995)

### 2.2 National Development Plans & Visions

- Ethiopia. Federal Democratic Republic of Ethiopia Growth and Transformation Plan II (GTP II) (2015/16-2019/20)
- Kenya Vision 2030 Second Medium Term Plan 2013-2017
- Rwanda Economic Development and Poverty Reduction Strategy 2013 – 2018 & Rwanda Vision 2020
- South Sudan Development Plan (SSDP) 2011-2016
- Sudan: not identified
- Tanzania Development Vision 2025
- Uganda Second National Development Plan (NDP II) 2015/16 – 2019/20

### 2.3 Refugee-specific legislation, policies, strategies & action plans

- Ethiopia: Refugee Proclamation (Proclamation No. 409/2004) (2004)
- Kenya: Refugees Act (revised in 2014)
- Rwanda: Law No. 13 ter/2014 of 21/05/2014 relating to refugees (2014)
- South Sudan: Refugee Act (2012)
- Sudan: The Regulation of Asylum Act (1974)
- Tanzania: National Refugee Policy (2003)
- Tanzania: Refugees Act (1998)
- Uganda: The Refugees Act (2006)

### 2.4 Child and Child Protection-specific legislation, policies, strategies & action plans

- Ethiopia: Children Policy & National Children Strategy (being developed under the Ministry of Women and Children Affairs). At present, Ethiopia's child and child protection-specific legal and policy framework is grounded on the following policies and strategies:
  - Ethiopia: Alternative Childcare Guidelines on Community-Based Child Care, Reunification and Reintegration Program, Foster Care, Adoption and Institutional Care Service (2009)
  - Ethiopia: Criminal Justice Administration Policy, section 6 (2009)
  - Ethiopia: National Strategy and Action Plan on Harmful Traditional Practices against Women and Children in Ethiopia (2013)
  - Ethiopia: Strategic Plan for an Integrated and Multi-Sectorial Response to VAWC and child justice in Ethiopia
  - Ethiopia: Revised Family Code, Proclamation No. 213/2000 (2000)

- Kenya: Children Act (2001) & Draft Children Act Amendment Bill (2016)
- Kenya: National Plan of Action for Children in Kenya 2015-2022
- Kenya: The Framework for The National Child Protection System for Kenya (2011)
- Kenya: County Child Protection Systems Guidelines (under revision)
- Kenya: Guidelines for the Alternative Family Care of Children in Kenya (2014)
- Rwanda: Law N°54/2011 of 14/12/2011 Relating to the Rights and the Protection of the Child
- Rwanda: The Integrated Child Rights Policy (2011), established the National Commission for Children (NCC) under the Ministry of Gender and Family Promotion
- Rwanda: Strategic Plan for the Integrated Child Rights Policy in Rwanda (2011)
- Rwanda: The National Strategy for Childcare Reform (2012)
- South Sudan: Child Act (2008)
- Sudan: The Child Act (2010)
- Tanzania: Law of the Child Act (2009)
- Tanzania: Anti-Trafficking in Persons Act (2008)
- Tanzania: National Anti-Trafficking in Persons Action Plan 2015-2017
- Tanzania: National Plan of Action to Prevent Violence Against Women and Children (2016)
- Tanzania: Multi Sector National Plan of Action to Prevent and Respond to Violence against Children 2013-2016
- Tanzania: National Costed Plan of Action for Most Vulnerable Children 2013-2017 (NCPA II)
- Uganda: The Children Act (2016)
- Uganda: National Action Plan on Elimination of the Worst Forms of Child Labour in Uganda (2012/13 – 2016/17)

### 2.5 Birth registration/civil registration legislation, strategies and policies

- Ethiopia: Registration of Vital Events and National Identity Card Registration Proclamation No. 760/2012
- Kenya: Births and Deaths Registration Act (2012)
- Rwanda: Law governing persons and family (Law No.32/2016)
- South Sudan: no legislation in place (Bill in Parliament, pending approval)
- Sudan: Civil Registry Act (2011)
- Tanzania: The Births and Deaths Registration Act (1920, revised 2002)
- Uganda: Birth and Death Registration Act Cap 309 (2015)
- Uganda: The Foreign Exchange Act (2004)

## 3. OTHER DOCUMENTS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- UNCHR (2014c) Global Strategic Priority 9: Access to National Services 2014 Analysis (internal document, Monika Sandvik, Senior Advisor, Child Protection)
- UNCHR (2015a) Global Strategic Priority 4: Birth Registration 2015 Analysis (internal document, Karen Whiting, Senior Advisor, Child Protection)
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**ANNEX 3:**

# LIST OF KEY INFORMANT INTERVIEWEES

## UNHCR & UNICEF staff in countries reviewed

### ETHIOPIA

1. Ephrem Belay, Child Protection Specialist, UNICEF Ethiopia (email communication of 19 December 2016)
2. Karin Heissler, Chief Child Protection, UNICEF Ethiopia (email communication of 19 December 2016)
3. Kidist Alemu, Child Protection Specialist, UNICEF Ethiopia (email communication of 19 December 2016)
4. Mini Bhaskar, Child Protection Specialist, UNICEF Ethiopia (email communication of 19 December 2016)
5. Nikodimos Alemayehu, Child Protection Specialist, UNICEF Ethiopia (email communication of 19 December 2016)
6. Rana Milhem, Community Services Officer, UNHCR Ethiopia (email communication of 31 January 2017)

### KENYA

7. Amin Afridi, Protection Officer, UNHCR Dadaab (interview held on 9 December 2016)
8. Bernard Njue Kiura, Child Protection Specialist, UNICEF Kenya (interview held on 19 December 2016)
9. Clarisse Ntampaka, former Protection Officer (Child) UNHCR Kakuma (interview held on 16 December 2016)
10. Jason Lee Bell, Associate Child Protection Officer, UNHCR Dadaab (interview held on 9 December 2016)
11. Jeannette Wijnants, Chief Child Protection, UNICEF Kenya (interview held on 19 December)
12. Nicholas Ondiro Midiwo, Documentation Officer, UNHCR Dadaab (interview held on 9 December 2016)
13. Sara Faust, Associate Protection Officer, UNHCR Nairobi (Urban Programme) (interview held on 6 December 2016 and email communication of 29 January 2017)

### RWANDA

14. Frank Mugisha, Programme Manager, Legal Aid Rwanda (met on 28-29 November 2016)
15. Mona Aika, Child Protection Specialist, OIC Chief Child Protection, UNICEF Rwanda (interview held on 7 December 2016)
16. Nathalie Bussien, Child Protection Officer, UNHCR Rwanda (interviews held on 7 December 2016 and 10 January 2017, email communication of 8 February 2017)

### SOUTH SUDAN

17. Diana Surur, (Child Protection in Emergency) Specialist, UNICEF South Sudan (interview held on 9 December 2016)
18. Mmone Moletsane, Protection Officer (Community Based), UNHCR South Sudan (interview held on 16 December 2016)
19. Solla Asea, Child Protection Specialist, UNICEF South Sudan (interview held on 9 December)
20. Vedasto Nsanzugwanko, Chief Child Protection, UNICEF South Sudan (interview held on 9 December 2016)

### SUDAN

21. Richelle Haines, Child Protection Officer, UNHCR Sudan (in Khartoum) (interview held on 29 November 2016)

### TANZANIA

22. Anne Triboule, UNHCR (interview held on 16 December 2016)
23. George Tibajuka, Assistant Community Service Officer, UNHCR Tanzania (met on 29 November 2016)

24. Ray Chikwanda, Community-based Protection Officer, UNHCR Tanzania (met on 29 November 2016)
25. Stephanie Shanler, Child Protection Specialist, UNICEF Tanzania (interviews held on 16 December 2016 and 10 January 2017)

### UGANDA

26. Daniel Okello, Child Protection Officer, UNICEF (in Western Central Uganda Zone Office) (interview held on 28 November 2016)
27. Kristin Riis Halvorsen, Protection Officer, UNHCR (in Kampala) (interview held on 28 November 2016)
28. Silvia Pasti, Chief Child Protection, UNICEF Uganda (in Kampala) (interview held on 8 December 2016)

## UNCHR and UNICEF global, regional and countries beyond the seven countries reviewed

### Global (UNCHR & UNICEF HQs)

1. Anna Leer, Senior Regional Community Services Officer; UNHCR Regional Office Pretoria – (interview held on 16 December)
2. Jackie Keegan, Head of Comprehensive Solutions Unit, UNHCR HQ (interview held on 10 January 2017)
3. Janis Ridsdel, Protection Officer (SGBV/CP) UNHCR HQ (interview held on 6 December 2016)
4. Sara Lim Bertrand, former Child Protection Officer, UNHCR Rwanda currently Child Protection AoR Help Desk, home-based (interview held on 29 November 2016)

### REGIONAL (UNHCR Regional Service Centre (RSC) East, Horn of Africa and Great Lakes Region & UNICEF Eastern and Southern Africa Regional Office (ESARO))

5. Alison Hutchinson, Senior Regional Registration Officer, UNHCR Regional Service Centre (RSC) East, Horn of Africa and Great Lakes Region (interview held on 02 December 2016)
6. Bettina Schunter, Child Protection Specialist (Alternative Care), UNICEF ESARO (interview held on 30 November 2016)
7. Elsa Laurin, Senior Protection Officer, Regional Refugee Coordination unit, UNHCR Regional Service Centre (RSC) East, Horn of Africa and Great Lakes Region (interview held on 01 December 2016)
8. Jonna Karlsson, Child Protection Specialist (Violence against Children), UNICEF ESARO (interview held on 29 November 2016)
9. Laura Swanson, Knowledge Management, UNHCR Regional Service Centre (RSC) East, Horn of Africa and Great Lakes Region (interview held on 02 December 2016)
10. Louisa Muithya, Regional Resettlement Officer, UNHCR Regional Service Centre (RSC) East, Horn of Africa and Great Lakes Region (interview held on 9 December)
11. Milen Kidane, Child Protection Specialist (Birth Registration), UNICEF ESARO (interview held on 30 November 2016)
12. Ricarda Hirsiger, Social Protection – Cash-based interventions, UNHCR Regional Service Centre (RSC) East, Horn of Africa and Great Lakes Region (interview held on 01 December 2016)
13. Yonatan Araya, Senior Solutions and Development Officer. Operational & Transition Section (OSTS) (interview held on 30 November 2016)
14. Yvonne Agengo, Division of International Protection, Roving Child Protection Advisor, UNHCR HQ (interview held on 21 November 2016)
15. Zahra Mirghani Mohamed, Senior Regional Protection Officer (SGBV), UNHCR Regional Service Centre (RSC) East, Horn of Africa and Great Lakes Region (interview held on 01 December 2016)

### Other global experts:

16. Isabel de Bruin Cardoso, Maestral International consultant (interview held on 01 December 2016)
17. Mark Canavera, consultant & researcher (interview held on 5 December 2016)
18. Sarah Meyer, consultant & researcher (interview held on 8 December 2016)

**ANNEX 4:**

# EAC STATEMENT OF GOOD PRACTICE


## East African Community

### Regional Roundtable on the Protection of Refugee Children

24-25 April, 2018
Arusha, Tanzania
Statement of Good Practice

We, the 40 participants at the Regional Roundtable on Refugee Children, came together at the East African Community (EAC) Secretariat in Arusha, Tanzania from 24-25 April, 2018 to take stock of lessons learned, emerging promising practices and overall progress made in including and integrating refugee children in national child protection systems.

The EAC's *Child Policy* underscores the need to strengthen national child protection systems, to include refugee children. It has identified the need to address child protection in conflict/emergency situations (Priority Area 4), the need to ensure an integrated approach to providing quality education, health and social protection to children (Priority 6), and the need to address cross border child rights violations (Priority Area 7). Upholding these elements of the EAC *Child Policy* supports States in meeting related targets identified in *Africa's Agenda for Children 2040,* which aspires to ensure that "every child is free from the impact of armed conflicts and other disasters or emergency situations" (Aspiration 9), and the *Sustainable Development Goals*, and in particular target 16.2 on ending all forms of violence against children, in particular as it relates to emergency settings.

We recognize that refugee children is a cross-border phenomenon that requires all of us to uphold the rights and protection of all children in our territories, regardless of children's citizenship or migrant status. This is in line with our responsibility to uphold the UN Convention on the Rights of the Child (Article 2(a)), the African Charter on the Rights and Welfare of the Child and the EAC Treaty.

All countries in this region are affected by refugee children; some countries host long-staying refugees, while others are in the midst of a refugee emergency. Between the six EAC Partner States (Burundi, Kenya, Rwanda, South Sudan, Tanzania, Uganda) and Ethiopia, 3.73 million refugees and asylum seekers are hosted, of which 60 percent are children.[1] The percentage of refugee children in this region is higher than the global average, where approximately 51 percent of the refugee population are children. Refugee children have been exposed to extreme violence and often have been separated from their families, increasing their risk to further vulnerabilities especially when education, child protection and social welfare services are fragmented and disjointed. Children should not be discriminated against due to their migration status, and they should enjoy the same level of protection and care as any other child residing in the country.

The New York Declaration on Refugees and Migrants, adopted by the UN General Assembly in 2016, lays out a vision for a more predictable and more comprehensive response to these crises and calls for greater

[1] UNHCR Statistics. March 2018.

support to refugees and the countries that host them. The New York Declaration and the Comprehensive Refugee Response Framework (CRRF) is based on a multi-stakeholder 'whole of society approach' that includes sub-national authorities, international organizations, civil society partners, the private sector, media and refugees themselves.

As technical experts from government ministries, departments and agencies responsible for refugees, child protection and social welfare from the East African Community Partner States and Ethiopia, the EAC Secretariat, the UN High Commissioner for Refugees, UNICEF Regional Office for East and Southern Africa, and the African Child Policy Forum we affirm the following statements as good practice.

1. **Using a systems approach allows for the identification of context specific entry points to most effectively integrate and harmonize refugee children into national systems and services.** Including and integrating refugee children into national child protection systems allows for such systems to better prevent and respond to shocks, as they are able to identify and respond to the needs and vulnerabilities of all children, including in times of crises to ensure that no child is left behind.

2. **Inclusive national legal and policy frameworks is an important gateway for inclusion of refugee children into wider plans, programmes, services and budgets for children.** These frameworks should be consistent and in line with international and regional instruments. Inclusive national and subnational level frameworks is a key step in bridging the humanitarian and development divide and avoids the creation of parallel systems and processes.

3. **A multisectoral approach involving child protection, social welfare, refugee authorities and refugee actors at national and subnational levels** is essential for an effective response to address child protection needs in displacement situations. Clear identification of roles and responsibilities of these sectors, according to their respective areas of expertise and mandates, can further streamline efforts around preparedness. The role of subnational administrative government structures is fundamental, including in coordination of relevant multisectoral initiatives.

4. **Ensuring education of refugee children through inclusion and integration of refugee children into national education systems.** Education is a key preventive measure that can build children's resilience as well as reduce the risk of refugee children's possible exclusion from future educational and work opportunities.

5. **It is a key duty of governments to ensure accessibility to functioning national Civil Registration and Vital Statistics (CRVS) systems, including in refugee settings.** Including refugee children into national Civil Registration and Vital Statistics (CRVS) systems is particularly important to facilitating family reunification, ensuring child-sensitive proceedings during asylum or judicial proceedings, and can also facilitate the return and reintegration into refugee children's home country. The same national procedures for birth registration should be applied in refugee settings. National CRVS assessments, development of national CRVS costed action plans and revision of birth registration procedures to include children in CRVS assessments can facilitate efforts to ensure access to birth registration for refugee children. Awareness raising on the importance of birth registration is essential in all settings.

6. **Involvement of government social workers in a refugee child protection response is essential from a child protection perspective but also a long-term investment for the national child protection system to function and be sustained through emergencies.** The social service workforce is the backbone for ensuring the national child protection system is functional. Strengthening the number and capacities of social workers to be involved in emergency preparedness and response is key, such as through ensuring access to relevant training opportunities.

7. **Community-based child protection mechanisms provide essential prevention and response services for refugee children, but linkages need to be created or enhanced with statutory child protection mechanisms.** Community-based child protection mechanisms are key to scaling up and providing wider and more sustained coverage of services, where their services may be inaccessible or unavailable, such as in emergency settings. Strengthening these linkages is an important way to include refugee children into national child protection systems.

8. **In the refugee status determination process, procedural safeguards and child friendly procedures, including children's participation, are fundamental to ensure children's best interests remain at the forefront, to minimise the child's any further risk to harm.** Additional safeguards are required for separated and unaccompanied children. These safeguards are fundamental to ensuring that refugee children can express their claim for refugee status in an enabling environment. The social welfare workforce, including professional, para professional and volunteers should be trained on such safeguards and procedures.

9. These statements will guide and inform the implementation of the EAC Child Policy Action Plan at both the regional and national levels to ensure the right to protection of refugee children is upheld.

Signed in Arusha, EAC HQ,

24 April 2018

UNHCR
The UN Refugee Agency

unicef | for every child