

AN ALTERNATIVE TO DURABLE SOLUTIONS FOR REFUGEES: THE EAST AFRICAN COMMUNITY PERMIT



Global Rights Defenders



Strathmore University

Forced Migration & Displacement Research Hub

ABOUT GLOBAL RIGHTS DEFENDERS



Migration
Governance



Self-Reliance



Capacity
Sharing

Global Rights Defenders (GRD) is a Canadian non-profit which advocates for refugee and human rights worldwide. We do so through research, policy analysis & advocacy and community engagement.

Our work consists of working with individuals with lived experience of forced displacement, to empower displaced populations to achieve socio-economic independence and self-reliance, and to build their capacities to ensure that their rights, freedoms and dignities are being upheld and valued.

Pillars:

Research: Primary, secondary, mixed methods

Policy & Advocacy: Migration Governance, Socio-economic Inclusion

Community Engagement: Capacity building, public fora, podcasts, amplify voices

- *'Nothing About Us, Without Us'*

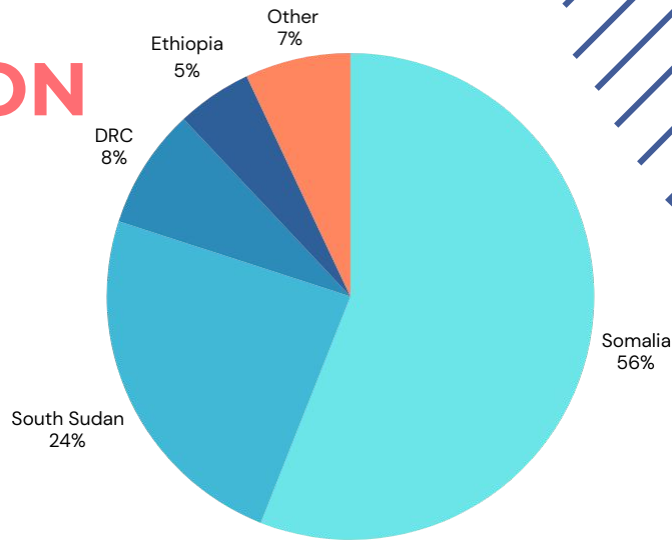


The background features several decorative geometric patterns. In the top-left corner, there are several parallel blue lines radiating from a point. In the top-right corner, there are overlapping semi-circles in orange, dark blue, and white. In the bottom-left corner, there are overlapping semi-circles in orange, white, and dark blue. In the bottom-right corner, there are several parallel blue lines radiating from a point, mirroring the top-left pattern.

INTRODUCTION





KENYA REFUGEE SITUATION

- Over 800,000 registered asylum-seekers/refugees in Kenya
- Encampment policy prohibits freedom of movement
- Protracted Refugee Situation - 30+ years in either Kakuma or Dadaab
- Currently no pathway for naturalization/citizenship for refugees in Kenya
- Children born to refugees are at risk of statelessness






Source: UNHCR August 2024 Kenya Statistics Package




- OTHER**
- Burundi
 - Sudan
 - Uganda
 - Eritrea
 - Rwanda


 People in need (PiN)	 IPC acute food insecurity classification
 Estimated PiN increase/decrease	 Years in protracted crisis
 High conflict risk	
 High socioeconomic fragility	Country or regional plan proportion of funding met
 High climate vulnerability	


Kenya


 **4.9m** people in need

P3   **(19)**

 **Estimated to increase in 2023**

CRP: 57% funded (of US\$289.6m total) 

RRP: 219% funded (of US\$115.2m total) 

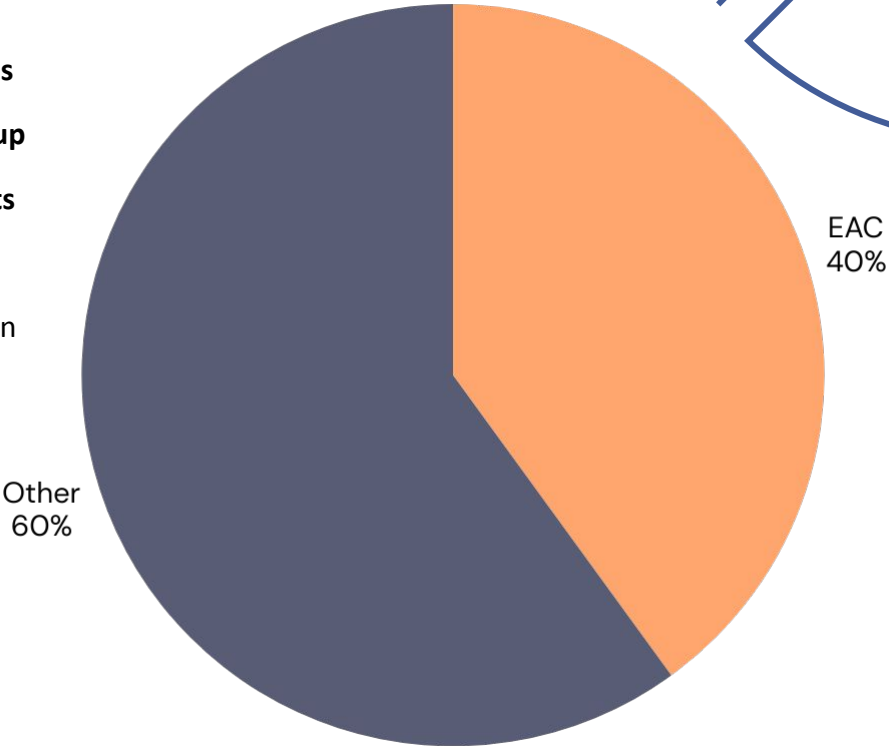
Source: Development Initiatives Global Humanitarian Assistance Report 2023

EAST AFRICAN COMMUNITY (EAC) PERMIT FOR REFUGEES

Article 28 (8) of the New Refugees Act:

“[a] person from a Partner State of the East African Community who has been recognised as a refugee under this Act may opt to voluntarily give up his or her refugee status for the purposes of enjoying any of the benefits due to him or her under the Treaty for the Establishment of the East African Community, the Protocol for the Establishment of the East African Community Common Market, and any other relevant written law”.

- 40% of Refugees in Kenya from EAC Partner State



REF % FROM EAC PARTNER STATE

- Somalia (56%)
- South Sudan (24%)
- DRC (8%)
- Burundi (4%)
- Uganda (0.5%)
- Rwanda (0.4%)

Source: UNHCR August 2024 Kenya Statistics Package

EAC TREATY



- Established in July 2000 to develop policies and programmes geared towards widening and deepening cooperation among partner states in their commercial affairs
 - To deepen economic, social and political cooperation
 - **Partner states** include Burundi, the Democratic Republic of the Congo (DRC), Kenya, Rwanda, Somalia, South Sudan, Uganda and Tanzania
- The Protocol on the Establishment of the East African Community Common Market (CMP) was signed 2010
- **Freedoms and Rights under EAC include:**
 - Free Movement of Goods
 - **Free Movement of Persons**
 - **Free Movement of Labour / Workers**
 - Right of Establishment
 - **Right of Residence**
 - Free Movement of Services
 - Free Movement of Capital

GAPS IN EAC FOR REFUGEES



- The EAC treaty and its protocols do not have an operational common mechanism to manage refugee affairs
- Current legal landscape for refugees in Kenya requires an individual to choose between having refugee status or obtaining an EAC permit - *New Ref Act 2021 28(8) "opt out"*
 - Individual must first opt out of ref status
 - Go back to country of origin
 - Acquire all identity documents - passport, birth certificate, etc
 - Then apply for EAC permit
 - EAC permit does not have same protections under int'l law such as non-refoulement

BENEFITS OF EAC PERMIT FOR REFUGEES



- Enables a new avenue for employment
 - Reduced spending on foregone aid
 - Economic inclusion & contribution to GDP
 - Less explored alternative to floundering durable solutions
 - Does not require pathway to naturalization
 - Enables self-reliance
-
- This proposed category of permit intends to consolidate all East African applicants together irrespective of their descriptions – investors, professionals, skilled employees, unskilled employees, traders, farmers and manufacturers. Permits will be issued without a fee.

FUNDING GAP/EFFECTIVENESS

\$32 B

FUNDING GAP AND SHORTFALL

2023 - Int'l Humanitarian Assistance remained high (USD 43 B), interagency appeals faced USD 32 B funding gap

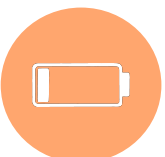
- Largest on record - lowest since 2019
- Millions did not receive support
- Tightly earmarked donor funds for specific projects



BUDGET CUTS

Key donors and organizations are making budget cuts across the sector

- Decrease in development initiatives



DONOR FATIGUE

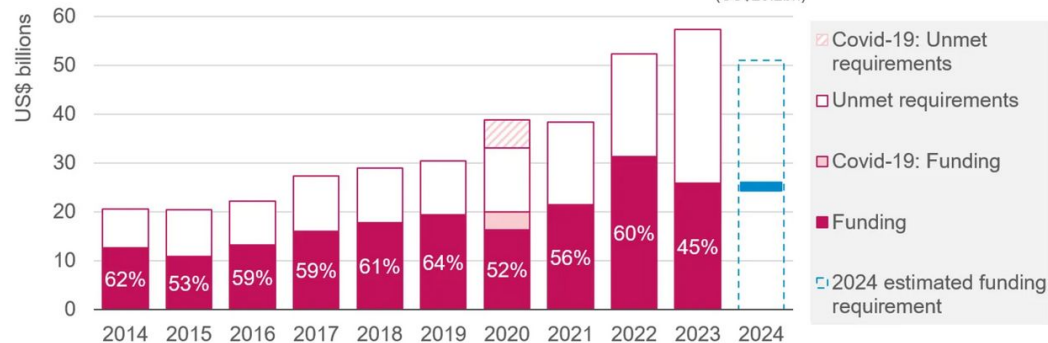
- Pressure on foreign aid budgets, changes in funding policy, over-reliance on single sources of funding, the increasing numbers of NGOs competing for funds for similar projects and overexposure on a particular issue
- Ran out of compassion for prolonged refugee situations



CRISES ARE LONGER + COMPLEX

- Prolonged conflict/instability, encampment policies, ineffective durable solutions, weak integration policies, uneven responsibility sharing

Central estimate:
49% met
(US\$25.2bn)



- Source: Development Initiatives based on UN OCHA FTS, data extracted 19 July 2024 – 2024



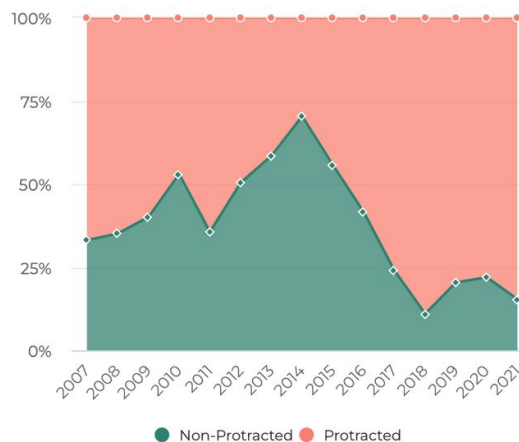
- Source: Development Initiatives based on UN OCHA FTS, UNHCR and Syria 3RP financial dashboard data

FINANCIAL BURDEN OF REFUGEE PROTRACTION SITUATION

- The graph on the left shows how the amount needed for non-protracted crises has declined from \$14bn in 2014, to \$6bn in 2021,
- But the amount needed for protracted crises has risen from \$6bn to \$32bn in the same period.
- Humanitarian crises are becoming longer and more protracted
- This drives up the accumulative cost of humanitarian assistance
- The protracted nature of crises has led to more long-term forms of assistance which are more costly and increasing

Protracted Crisis Share of Overall Funding Requirement

Years: 2007 to 2021



Source: FTS. Extracted 13th July 2022

Protracted Crisis Value of Overall Funding Requirement

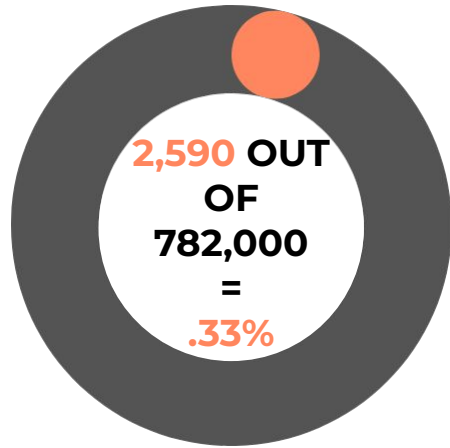
Years: 2007 to 2021



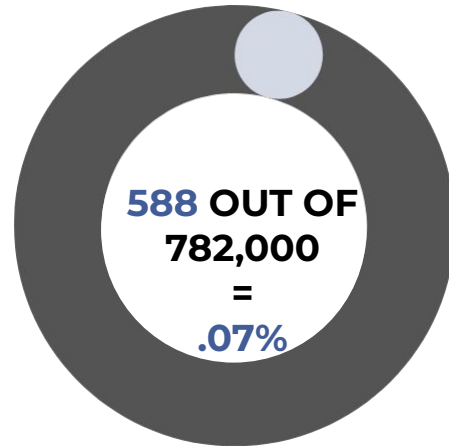
Source: FTS. Extracted 13th July 2022

Source: Lilly, D & Pearson M (4 August 2022) Why Does the Humanitarian System Need so Much Money? *Humanitarian Funding Forecast*

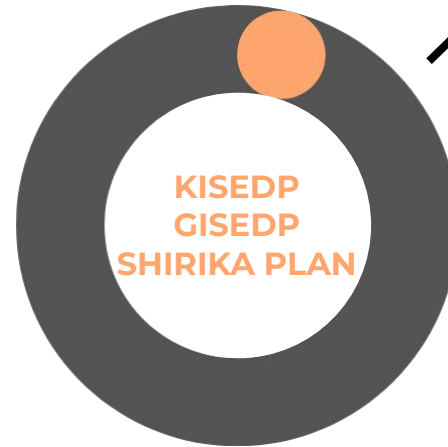
INEFFECTIVE DURABLE SOLUTIONS IN KENYA



RESETTLEMENT



VOLUNTARY REPATRIATION



LOCAL INTEGRATION

Inability to fully integrate (ID & Documentation)

Lack of Resources

Lack of Opportunities (Education, Employment)

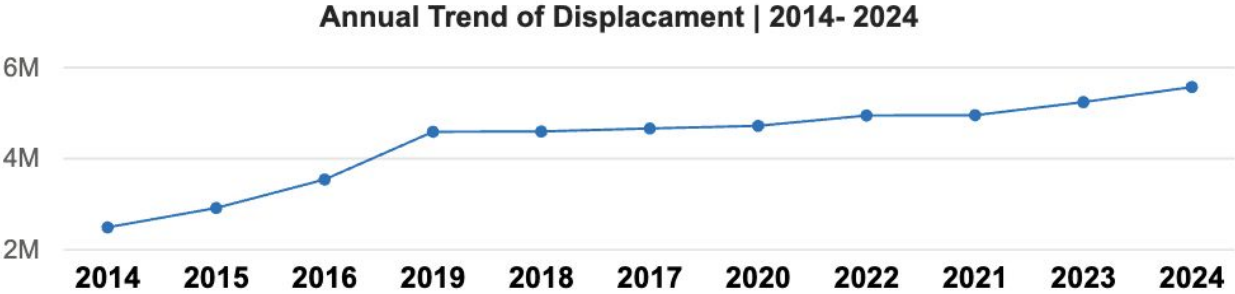
Limited services (private sector, gov, etc)

Confusing/conflicting policies

No clear pathway to naturalization/citizenship

Economic Benefits for Partner States

Trends in displacement across the East Horn of Africa and the Great Lakes (EHAGL) region is only increasing, whereas by 2024 the figures breached 5.5 million.

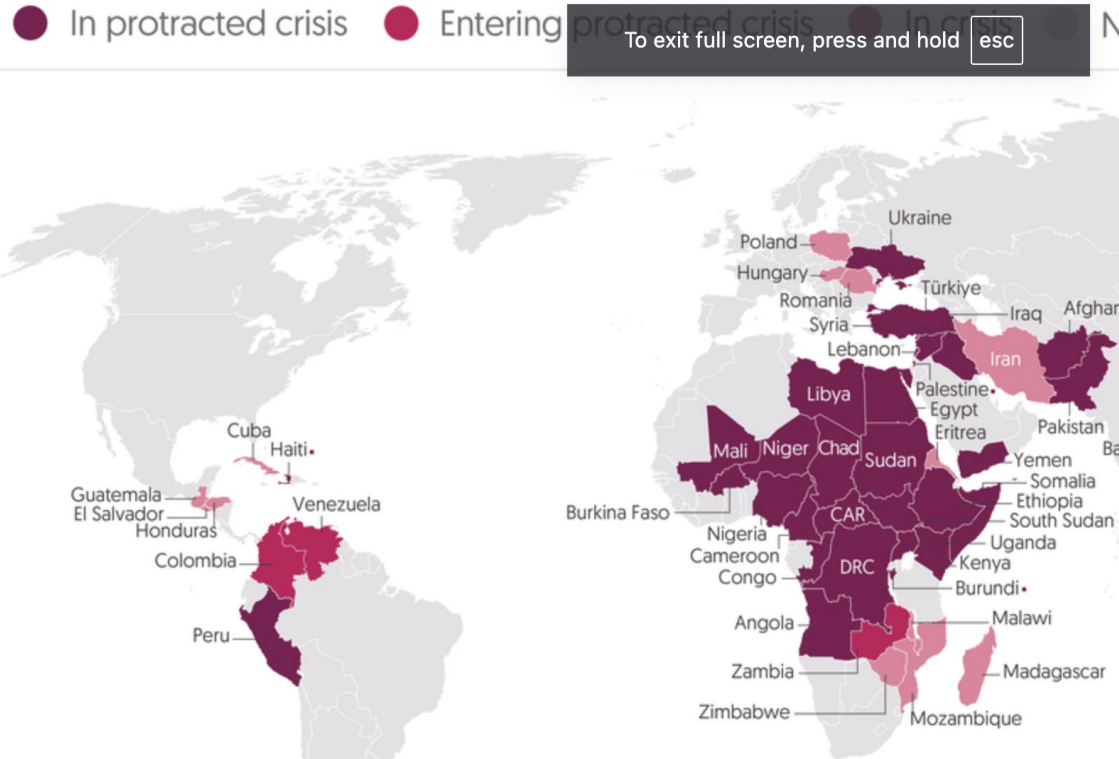


Source: Annual Trend of Displacement | 2014 - 2024. UNHCR (31 October 2024) Regional Bureau for East Horn of Africa and Great Lakes

Economic Benefits for Partner States

- EAC partner states both **produce the highest number** of refugees in the region and **receive the highest number** of refugees in the region

- **All EAC Member States are in protracted refugee situations**



The background features several decorative geometric patterns. In the top-left corner, there are blue diagonal lines forming a fan shape. In the top-right corner, there are overlapping semi-circles in orange, dark blue, and white. In the bottom-left corner, there are overlapping semi-circles in orange, white, and dark blue. In the bottom-right corner, there are blue diagonal lines forming a fan shape, similar to the top-left pattern.

GRD APPROACH

EAC PROJECT RECAP

DUAL STATUS

- Amendment to existing policies would improve balance of rights & protection
- Would enable status of EAC Refugees

REF STATUS

- Ref status ensures protection
- Limits access to rights & benefits within EAC treaty

EAC PERMIT

- Renounce ref status/access to EAC
- Removes protections in int'l HR law
- Vulnerable to refoulement

DILEMMA

Current policy environment =
'either' 'or'

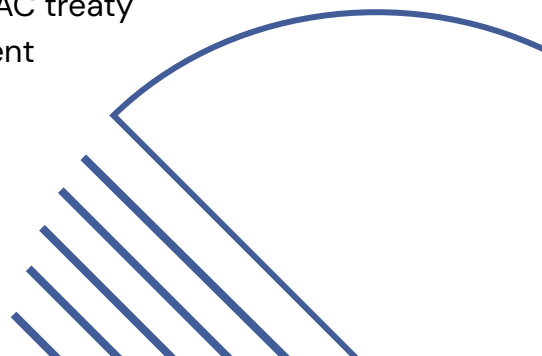
PROJECT GOALS

1) **Eliminate “either-or” issue**

- Article 124(4) in EAC Treaty & Article 10(2) EAC Protocol on Peace and Security both address & call on streamlined refugee management practices across Member States
 - Provisions have not been fully operationalised
 - This has resulted in lack of unified regional framework for addressing refugee issues

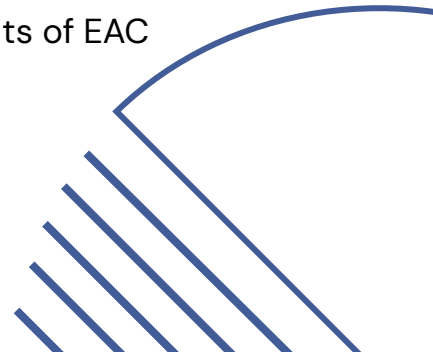
2) **Provide evidence-based** information to supplement the drafting/proposal of common mechanism to manage refugee affairs

3) Enable refugees to enjoy the **rights & benefits** of EAC treaty **without foregoing** their protections against refoulement



VALUE

- 1) Demonstrate process to renounce refugee status
- 2) Expand article 28(8) in New Ref Act 2021 to define an alternative pathway for EAC citizens who wish to maintain protections
- 3) Expand definition of Freedom of Movement within EAC treaty to include refugees
- 4) Consider aspect of stateless persons to enjoy EAC benefits
- 5) Provide information to refugees in Kenya about benefits of EAC & gain insights from their perspectives
 - EAC is an alternative to integration



The image features a light blue background with the word "METHODOLOGY" centered in a bold, dark blue, sans-serif font. The corners are decorated with abstract geometric patterns: the top-left has a series of parallel blue lines curving towards the center; the top-right and bottom-left feature clusters of overlapping semi-circles in orange, dark blue, and white; the bottom-right has a blue arc with parallel lines extending from it.

METHODOLOGY

METHODOLOGY

DESK REVIEW

- Analyze legal instruments & related to understand provisions, limitations, opportunities

POLICY ANALYSIS

- Compare frameworks in other countries with dual-status/complementary protection mechanisms

DRAFTING

- Draft policy brief to operationalize EAC Ref Status

INTERVIEWS

- Data collection/ mixed methods
- KII, FGD, Kobo Collect
- Gain insights on refugee vocations/EAC labour market shortages

INTERVIEWS

- Kakuma & Kalobeyei; Dadaab; Nairobi
- Mixed methods – Survey (Kobo Collect), Focus Group Discussions
- Interview working aged refugees from EAC partner states
 - Differentiate between persons born in the camp vs. new arrivals
 - Consider aspect of statelessness and examine access to documentation (ID, birth certificate, etc)
 - Process to acquire EAC permit may be different
 - Determine preferred vocation
 - Analyze if it fits within EAC criteria
- Interview persons from UNHCR administration regarding process to give up refugee status



**Working Age Refugees from
EAC**

OUTCOMES



THANK YOU

Contact: Rai Friedman, Founder & CEO GRD



Rai@globalrightsdefenders.org



+254-717-085-045



RESEARCH, POLICY & SELF-RELIANCE



Strathmore University

Forced Migration & Displacement Research Hub