



MIGRATION IN KENYA

Mainstreaming Devolution in Migration and Regional Integration

9-10 December, 2019

Temple Point Resort

Watamu, Kilifi County, Kenya

FINAL COMMUNIQUE

1. The County Assembly Forum (CAF) in partnership with the Kenya Human Rights Commission (KHRC) held a conference on Migration in Kenya at the Temple Point Resort in Watamu, Kilifi County, Kenya from 9-10 December, 2019. The theme of the conference was “Mainstreaming Devolution in Migration and Regional Integration”. The Conference commenced with welcoming remarks by Ms. Judy Oduma- the Chief Executive Officer, CAF, Mr. George Kegoro- the Executive Director, KHRC and Hon. Sammy Ruwa- Speaker, Kwale County Assembly. Hon. Florence Mwangangi- the Speaker of Machakos County Assembly and Deputy Chairperson, CAF made her remarks on 10 December 2019.
2. The objectives of the conference were: To engage select Members of County Assemblies on migration and emigration in Kenya; to link County Assemblies, National Government and other stakeholders working on aspects of migration; to analyse the role of devolved governments in migration governance; to analyse the draft National Migration Policy; and to develop a memorandum for submission to the Ministry of Interior and Coordination of National Government.

3. A total of 74 participants were present at the conference consisting of Members of various County Assemblies¹, Members of various County Executive Committees, the Ministry of Interior and Coordination of National Government (The National Coordinating Mechanism on Migration and the National Taskforce on Statelessness), representation from the United Nations High Commissioner for Refugees (UNHCR), representation from the International Organization for Migration (IOM) and representation from various civil society organizations.
4. The conference was organized into Four (4) core panels which discussed the following:
 - Overview of the draft Migration Policy
 - Statelessness, Long Term Migrants and Persons at Risk of Statelessness
 - Analysis of the draft Migration Policy
 - Presentation of the County Assembly Forum Memorandum
5. On the basis of extensive and highly interactive deliberations guided by moderators and thematic experts for each panel, the following emerged from the discussions:

On the draft National Migration Policy:

- i. Migration is a broad issue with considerations and imperatives for integration at the national, regional and global level. It is therefore timely and necessary to bring the National government, County leadership as well as international and continental stakeholders together as Kenya considers its National Migration Policy and addresses the related issue of stateless persons.
- ii. The CAF is well placed to provide input to the draft National Migration Policy since its membership occupies the legislative space in Kenya's devolved structure of governance and are therefore a critical stakeholder to facilitate the successful implementation of the policy upon adoption. To this end the CAF has prepared and adopted a memorandum on the form

¹ The Counties represented were Kilifi, West Pokot, Mandera, Machakos, Migori, Kwale, Nyamira, Narobi, Tana River, Nyeri and Kiambu.

and content of the draft National Migration Policy for consideration by the National Coordination Mechanism on Migration (NCM) as a matter of immediate priority.

- iii. Furthermore, while it is acknowledged that the Council of Governors is a member of the NCM, it is recommended that CAF as a representation of the legislative arm of Counties also be included as a key stakeholder especially in light of the ongoing outreach efforts being undertaken by the NCM in various Counties. This would be in line with the objects of the devolution of government as outlined in the Constitution of Kenya. A formal correspondence to this effect will be submitted to the NCM alongside the memorandum on the draft National Migration Policy.
- iv. As a pioneer policy document that aims to outline a comprehensive normative framework that will guide migration management and governance, it is recommended that a pedagogical approach to presenting the policy be considered; this would see the draft discuss the goals, objectives and available tools to implement it from thematic viewpoints such as historical migrants, skilled migrants, refugees and Kenyans in the diaspora but to name a few.
- v. Even as we remain alive to the perils of porous borders and illegal migration, the draft National Migration Policy should reflect a considered balance between security and development so as to holistically respond to the aspirations of economic, social, cultural and political integration. Indeed, a migration policy that is facilitative of development addresses key triggers of insecurity such as exclusion and marginalization.
- vi. It is essential for the eventual migration policy to include the process of periodic review to factor in the experience of implementation and Counties as the incidence points of implementation should play a critical role in such a review process.
- vii. The draft National Migration Policy should embody a rights-based approach that effectively addresses the violations that migrants face such as torture, arbitrary detention, discrimination, exploitation and marginalization. This also includes acknowledging the positive contributions made by migrants towards development and therefore eradicating barriers to their effective participation such as in the case of registering businesses.

On Statelessness, Long Term Migrants and Persons at Risk of Statelessness:

- viii. The National Taskforce on Stateless Persons is undertaking the critical mandate of identifying, mapping as well as developing vetting, verifying and eligibility criteria for stateless persons under the stringent timeline of concluding by 20 August 2020. The CAF through its political support can create an enabling environment and act as a resource for the successful achievement of this mandate by providing key information and thereafter enabling integration solutions such as availing employment opportunities and facilitating land acquisition for hitherto stateless persons. The success stories being witnessed in the case of the Makonde community in Kwale County and the Shona community in Kiambu County were highlighted and clearly demonstrate the key role played by County Assemblies in being the “voice of the voiceless” and inspire the appropriate measures from the National Government.
- ix. The double registration of persons as refugees and Kenyan citizens is also a critical issue that is being encountered and needs to be addressed comprehensively. A structured engagement with CAF can facilitate this process. While there is a cut-off date of 24 December 2019 to deal with double registration, there will be need to assess the outcome of this intervention by the National government to establish whether further undertakings are required.
- x. Stringent and extraordinary vetting procedures aimed at some of Kenya’s marginalized communities have contributed to discrimination with regard to acquisition of identity documents, birth certificates and ultimately access to education and employment opportunities. Despite the existence of constitutional and legal safeguards to prevent such discrimination, communities such as the Somali and other nomadic pastoralists continue to encounter procedural barriers to these documents that are introduced by the County officers they engage with. The National government is called upon to develop circulars on the process of acquiring these documents that can be used to sensitize the relevant County officers as well as the public. This will also enhance transparency of the process. County Assemblies are also seized of this matter and will be seeking clarification from the County officers where these instances occur.

On Key Cross-Cutting Issues with a Bearing on Migration Policy and Interventions on Statelessness:

- xi. Strategic partnerships between civil society, County leadership, international development partners and the National government can help address the historically negative perceptions and connotations that are attached to migration and statelessness; these include criminality, stigma and exclusion. These partnerships can enable sensitization of local communities to embrace the realities of a globally-integrated world and shed off the historic securitization of migration policy.
- xii. The CAF needs to provide input to the Refugees Bill, 2019 that is currently under review. This is in recognition of the fact that Counties are key to enabling the provision of services to refugees such as the provision of healthcare, the issuance of business permits and in the establishment of designate camps.
- xiii. The CAF needs to be considered as a key stakeholder in the implementation of programmes and policies on Internally Displaced Persons (IDPs) as Counties are the primary hosts of IDPs. To this end clarity is required as to the status and future of the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012.
- xiv. There is need to be alive to and address emerging challenges that are associated with migration such as: land acquisition where migrants purchase land from local communities who sell ancestral land on account of economic pressures but this then leads to the threat of communal conflicts; the question of tribalism that has accentuated with devolution and seen some residents treated as non-locals despite residing there for generations; and the issue of environmental degradation and conflict over key resources such as water sources that have been encountered in areas that host designated refugee camps.

Done in Kilifi County, Kenya on 10 December, 2019.