IRRI Submission to the UK Government's International Development Committee Inquiry into forced displacement and humanitarian responses in Central and East Africa.

1. The International Refugee Rights Initiative (IRRI) is responding to the call for information about humanitarian responses to forced displacement in Central and East Africa. Dedicated to promoting human rights in situations of conflict and displacement and enhancing the protection of vulnerable populations before, during and after conflict, IRRI works to challenge the exclusion and human rights violations that are the root causes of flight; enhancing the protection of the rights of the displaced; and promoting policy solutions enabling the conflict affected to rebuild sustainable lives and communities.

2. IRRI's submission[1] begins with a critique of two key failed policy responses to refugees in the region. First, the emphasis on encampment of refugees, especially in protracted situations of displacement; and second, the emphasis on repatriation as the favoured (and often only) durable solution. We believe that systemic implementation of UNHCR's *Alternatives to Camps* policy would help resolve the deficiencies in both these approaches.[2] We then specifically address the question of whether or not conditions for voluntary return for Somali refugees in Kenya are being met; and whether or not there are adequate arrangements for the closure of Dadaab camp. It concludes with some general statements.

A refugee crisis *and* a policy crisis

3. Conflict and displacement are inextricably linked in Central and East Africa. With the exception of Tanzania, all countries in the region have, since independence, generated large numbers of refugees and internally displaced persons (IDPs), and all have hosted or are currently hosting large numbers of refugees.

4. The existence of large numbers of displaced persons in the region is driven by the instability that leads to refugee outflows and the lack of viable solutions to displacement. With regards to the former, ongoing turmoil in eastern Democratic Republic of Congo and the Central African Republic, civil war in South Sudan and the crisis in Burundi, highlight the region's ongoing vulnerability to conflict – and, as a consequence, to displacement. Insufficient conflict mitigation mechanisms have failed to address

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[1] This submission draws heavily on eight years of policy research and analysis by IRRI available at http://www.refugee-rights.org/Programs/Rights%20in%20Exile/refugeelaw&policy.html and see Lucy Hovil, *Refugees, Conflict and the Search for Belonging.* Palgrave, 2016.

[2] UNHCR, "Alternatives to Camps: Making it Work," available at http://www.unhcr.org/55fff7026.pdf (accessed 23 January 2017)

historical drivers of conflict leading to multiple new crises. Thus, the optimism following the signing of the Comprehensive Peace Deal in Sudan, and the Arusha Peace Accords in Burundi, which led to wide-scale repatriation, has now been reversed, resulting in another dramatic increase in displacement.

5. At the same time, these "new" emergencies dovetail with the hundreds of thousands who have remained in protracted situations of exile. Current record levels of displacement, therefore, also lie in the failure in policy responses to deal with previous crises and find solutions to exile.

6. Two policies that have consistently failed but are still the "go to" policies are the emphasis on encampment during exile, and the emphasis on repatriation as the favoured (and often only) "durable solution" to end exile.

7. Based on the flawed assumption that refugees will be temporary, the refugee camp has been the centrepiece around which much decision-making and aid has revolved. This has created inefficient and parallel systems for the delivery of services that have failed to merge with the needs of the local population; has generated insecurity; and hampered self-reliance.[3] For example, almost 50% of DFID's assistance for refugees in Kenya is still being directed to food aid, even though most of the refugees are long staying populations.[4]

8. In 2014, UNHCR launched its *Alternatives to Camps* policy. One of its pilot projects is the development of the Kalobeyei "hybrid settlement" in Kenya. The site was designed to relieve congestion in Kakuma refugee camp and bring together an estimated 80,000 refugees with 23,000 members of the local population, to empower both communities to undertake economic activity and to link to existing services within the surrounding areas.[5] This project, which encourages integration, is welcome. However, implementation has proceeded slowly, and key infrastructure such as maternal health facilities and schools are still being built with only around 21% settled there as of 31 December 2016.[6]

9. In addition, it remains to be seen how this progressive plan for integration will function alongside Kenyan law, which, in contradiction to the 1951 Refugee Convention, restricts refugee movements (see Kenya's Refugee Act (Article 25(f)) and the Security Laws (Amendment) Act 2014 (Articles 46 & 47).[7]

10. While the Kalobeyei settlement represents an attempt by UNHCR to implement its *Alternatives to Camps* policy, the site remains essentially a camp. While IRRI would encourage the UK government to support this policy and progressive model, it is also important to ensure that its efficacy in practice is evaluated independently against its stated goals. Continued support for the initiative should be conditional on the findings of that evaluation.

11. Elsewhere, regional governments remain reluctant to implement alternatives to encampment. While some have paid lip-service (for instance Uganda and, more recently, Ethiopia) and some progress has been made, more often restrictions on free movement and failures to allow refugees to pursue avenues

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[3] See, for example, the Refugee Law Project Working Paper series available at http://www.refugeelawproject.org/resources/working-papers.html (accessed 17 January 2017)

[4] DFID Development Tracker, "Support for Protection and Assistance of Refugees in Kenya (SPARK)" , available at https://devtracker.dfid.gov.uk/projects/GB-1-205116 (accessed 23 January 2017)

[5] UNHCR, "Alternatives to Camps: Making it Work," available at http://www.unhcr.org/55fff7026.pdf (accessed 23 January 2017)

[6] Construction of two schools and a maternity health centre were underway as of 31 December 2016. UNHCR, "Kakuma Operational Update: 16 – 31 December 2016," available at http://www.unhcr.org/ke/wp-content/uploads/sites/2/2017/01/20170109_Kakuma-Operational-Update-16th-31st-December-2016-L.pdf (accessed 23 January 2017)

[7] IRRI Justice Matters "High Court Strikes down Cap on the Number of Refugees in Kenya; Other Damaging Provisions Remain", 26 February 2015, available at http://www.refugee-rights.org/blog/?p=765 (accessed 23 January 2017)

towards local integration have been blocked.[8] Local integration in the context of the "local settlement" (as the government of Uganda has argued) is not local integration at all: regardless of semantics, it is still encampment. Consequently, regionally, hundreds of thousands have been left in protracted exile, maintaining a never ending crisis that has merged with influxes of new refugees.

12. Apart from the many benefits with regards to respecting the rights of refugees to move freely, UNHCR's *Alternatives to Camp* policy enables refugees to, at least in part, support themselves through access to opportunities within local communities. With appropriate assistance, it also means their presence is seen as a benefit to local communities, who can also benefit from assistance provided to refugees. It also demonstrates some of the value of offering local integration as both a medium and long-term solution to exile and reduces pressure on governments to push for repatriation as the favoured durable solution.

13. Therefore IRRI encourages the UK government to support the implementation of UNHCR's *Alternatives to Camps* policy. However, as above at point 10, it is important that continued support for the initiative be conditional on thorough analysis of its implementation and efficacy.

14. At the same time, the emphasis on repatriation as the favoured durable solution to exile has meant that the premature return of refugees has contributed to the destabilisation of countries that are emerging from conflict, as our recent research in Burundi has shown.[9] Failure to reintegrate those returned from exile has been a key factor in the high levels and speed of displacement since April 2015. Thus the presence of refugees is not only a very tangible consequence of conflict, but their return can be a contributing factor in destabilisation if they are pushed back before there is sufficient stability; and if they are not given sufficient support.

15. None of this should overlook the fact that countries in the region have shown themselves to be incredibly generous in hosting refugees, not least when compared with other parts of the world. However, the extent to which political expediency continues to drive policy responses both nationally and internationally, ensures that responses continue to be inefficient at best and dangerous at worst. Until drivers of conflict are properly resolved and solutions are found for protracted situations of exile, the numbers of those displaced will remain high.

Are the conditions for voluntary return for Somali refugees in Kenya being met and are there adequate arrangements for the closure of Dadaab camp?

"We know Somalia is our country and we have to go back at some point but we need peace. And that means for now we need to stay."[10]

16. Experience has shown that over-emphasis on repatriation as the primary durable solution to exile encourages official repatriation programmes to be initiated before conditions are truly compatible with sustainable return. This is certainly the case in Kenya. The decision to close Dadaab was a *political* rather than humanitarian decision that did not include a sober assessment of the security situation in Somalia – and, therefore, adequate consideration for the protection of the returnees.

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[8] For more information on IRRI's publications on freedom of movement for refugees please see http://www.refugee-rights.org/Programs/Rights%20in%20Exile/irrifreedomofmovementcampaign.html

[9] See International Refugee Rights Initiative, "'I Know the Consequences of War': Understanding the dynamics of displacement in Burundi" available at http://www.refugee-rights.org/Publications/Papers/2016/Burundi%20FINAL.pdf (accessed 19 January 2017)

[10] IRRI, Justice Matters "Dadaab: Security is not only a concern for the Kenyan government" available at http://www.refugee-rights.org/blog/?p=1161 (accessed 23 January 2017)

17. UNHCR's proposed response to Dadaab's closure focuses on verification of the camp population and removal of Kenyans from the camp; resettlement of vulnerable and non-Somali populations to Kakuma; and increased incentives for resettlement.[11] However, IRRI has some significant concerns about the process and urges the UK government to engage with caution.

18. While repatriation to Somalia has been ongoing for some time (currently supported by the UK government[12]) and some Somalis wish to return, 86% of the refugees surveyed by Médecins Sans Frontières stated that neither they nor their family wanted to return to Somalia due to security concerns and the lack of health care and other services.[13] Thus, the very concept of "voluntary return" is called into question.

19. As with multiple other situations in the region in which "voluntary return" has not, in practice, been voluntary (including the push-back of Burundian refugees from Tanzania[14] and the ongoing pressure on Rwandan refugees across the region to return to Rwanda[15]), refugees are clearly coming under rhetorical and physical pressure to return to Somalia.

20. The financial incentives proposed by UNHCR to encourage return are also so high, raising additional questions. Refugees interviewed by IRRI in August 2016 reported they were told if they did not opt to return before 30 November 2016, they risked losing the financial support package on offer. This, combined with reports of the difficulty in accessing adequate amounts of food in Dadaab, has acted as a push factor when making the decision to return. In addition, Amnesty International's report[16] found that public statements made by the Kenyan government forced many Somalis to make the decision to repatriate. For example, Kenya's North Eastern regional coordinator (under the Ministry of Interior and Coordination of National Government) said, "Refugees have stayed with us for 25 years. That is enough. It was temporary…. Please go back to your country." This pressure was acknowledged by a UNHCR officer in Dadaab, who reportedly said "[f]amilies we have interviewed and many of those who filled the repatriation forms have shown that they are returning because of threatening rhetoric by Kenyan regional security officials who recently visited the camp."[17]

21. Furthermore, refugees have insufficient information to make informed decisions about the security situation in return areas in Somalia.[18] Most Somali refugees living in Dadaab left their country due to armed conflict. Even though there has been some improvement in the security situation in recent years,

[11] UNHCR, "UNHCR appeals for additional $115 million for voluntary return, reintegration of Somali refugees from Dadaab camp," 26 July 2016, available at http://www.unhcr.org/ke/1498-unhcr-appeals-for-additional-115-million-for-voluntary-return-reintegration-of-somali-refugees-from-dadaab-camp.html . (accessed 23 January 2017)

[12] DFID "UK increases support for voluntary returns of Somali refugees from Kenya" available at https://www.gov.uk/government/world-location-news/uk-increases-support-for-voluntary-returns-of-somali-refugees-from-kenya (accessed 23 January 2017)

[13] Médecins Sans Frontières "Dadaab to Somalia pushed back into peril" available at http://www.msf.org/sites/msf.org/files/dadaab_to_somalia_pushed_back_into_peril-0.pdf (accessed 23 January 2017)

[14] IRRI, "Two people can't wear the same pair of shoes" available at http://www.refugee-rights.org/Publications/Papers/2009/TwoPeopleCantWeartheSamePairofShoes.111009.pdf (accessed 23 January 2017)

[15] IRRI "A dangerous impasse" available at http://www.refugee-rights.org/Publications/Papers/2010/10_08_30_Dangerous_Impasse.pdf (accessed 23 January 2017)

[16] Amnesty International "Nowhere else to go: Forced returns of Somali refugees from Dadaab refugee camp Kenya" available at https://www.amnesty.org.nz/sites/default/files/Dadaab%20Report%20Final_11%20November%202016.pdf (accessed 23 January 2017)

[17] Voice of America, "UN: Somali Refugees Leaving Kenya Due to Threats, Pressure" available at http://www.voanews.com/a/somali-refugees-leaving-kenya-due-to-threats-and-pressure-un-says/3480706.html (accessed 23 January 2017) UNHCR subsequently released a statement disputing these allegations see The Nation, "UN defends Kenya over claim of forceful repatriation in Dadaab" available at http://www.nation.co.ke/news/UN-defends-Kenya-over-claim-forceful-repatriation-Dadaab/1056-3359452-883l8e/ (accessed 23 January 2017)

[18] Amnesty International "Nowhere else to go: Forced returns of Somali refugees from Dadaab refugee camp Kenya" available at https://www.amnesty.org.nz/sites/default/files/Dadaab%20Report%20Final_11%20November%202016.pdf (accessed 23 January 2017)

the armed conflict continues, and *Al Shabaab* remains a real threat. As one refugee who having repatriated was forced to flee again due to the insecurity stated "I regretted going to Somalia. There were people dying all the time. It is not safe. [AMISOM] whose job it is to fight *Al Shabaab* cannot prevent these attacks."[19]

22. An additional current concern is the risk of famine in Somalia. The Famine Early Warning Network warns that severe drought and limited access to affected populations could lead to famine in 2017.[20] Returning people in this context will only increase their vulnerability and that of nationwide coping mechanisms, leading to higher needs in terms of humanitarian assistance.

23. While UNHCR's efforts to relocate vulnerable Somalis to Kakuma are welcome, they also raise concerns. One issue is how these individuals will be selected. IRRI's experience shows that where screenings are not adequately explained to refugees, and where independent advice and assistance is unavailable, determinations can be skewed. If such mechanisms are employed, the UK government should consider providing assistance to efforts to provide independent support and monitoring of the procedure. For example, UNHCR indicates they will prioritise individuals who have already been selected for resettlement or non-Somalis. The non-Somali population in Dadaab includes individuals who were previously relocated from Kakuma due to security concerns. Therefore returning them to Kakuma does not represent a viable solution. In addition, concerns have been raised about the feasibility of resettlement to Kakuma given the existing large population and the continuing inflow of South Sudanese.[21] Other mechanisms for continuing protection are urgently needed.

24. Last, given Somalia's ongoing instability, it is crucial refugees are offered genuine alternatives. However, there appears to be no alternatives for refugees living in Dadaab who do not want to go to Somalia, and are not deemed "vulnerable".

25. The UK government should engage with the Kenyan government to encourage them to reconsider their plans to close Dadaab, or at least postpone their decision; offer support to alternatives such as resettlement to third countries and/or to other camps; and encourage options for local integration leading to naturalisation.

Are the UK Government and its partners doing enough to support countries experiencing high inflows of refugees in Central and East Africa?

26. The UK government has contributed significantly to addressing the refugee crisis in the region. It is the second largest donor to refugee operations in Kenya;[22] and has recently increased its refugee focussed humanitarian aid.[23] However, IRRI believes that this "new" funding is primarily aimed at keeping refugees in the region rather than representing a genuine attempt to share the burden. In addition, huge funding gaps remain. For example, UNHCR's calls for funding for Somalia and South Sudan

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[19] IRRI, Justice Matters "Dadaab: Security is not only a concern for the Kenyan government" available at http://www.refugee-rights.org/blog/?p=1161 (accessed 23 January 2017)

[20] Famine Early Warning System, "Severe drought, rising prices, continued access limitations, and dry forecasts suggest Famine is possible in 2017" available at http://www.fews.net/east-africa/somalia/alert/january-16-2017 (accessed 23 January 2017)

[21] UNHCR, "Kakuma Operational Update: 16-31 December 2016," available at http://www.unhcr.org/ke/wp-content/uploads/sites/2/2017/01/20170109_Kakuma-Operational-Update-16th-31st-December-2016-L.pdf (accessed 23 January 2017)

[22] DFID Development Tracker, "Support for Protection and Assistance of Refugees in Kenya (SPARK) – a new approach - Business Case" available at https://devtracker.dfid.gov.uk/projects/GB-1-205116 (accessed 23 January 2017)

[23] Ft.com, "South Sudan to receive £103m extra UK aid to fight refugee crisis" available at https://www.ft.com/content/13e9ea36-80d3-11e6-8e50-8ec15fb462f4 (accessed 23 January 2017)

refugees in Kenya remain only 15% and 14% funded, respectively.[24] Clearly more support needs to be given, and the UK should increase its contributions, make them more effective and encourage partners to do the same.

27. At the same time, despite the difficulty of doing so when immediate needs remain unaddressed, support must be found for programmes that will allow for longer term integration of refugees, which may reduce the long-term dependence on humanitarian assistance. Such actions could include prioritisation of support for, and evaluation of, efforts such as the development of Kalobeyei; and Tanzania's naturalisation of former Burundian refugees.

28. Furthermore, the UK government must evaluate the impact of its own refugee and migration policies. More needs to be done to address the fact that fragile countries are carrying the greatest burden of displacement. This is both a humanitarian and political issue. With regards to the former, huge demands are being put on countries, regionally, that are already struggling to provide basic services to their own populations. Regarding the latter, the lack of willingness of European states to genuinely share the burden of hosting refugees has given oxygen to regional governments who are looking for justification to push refugees out of their countries.

29. In practice, this could include ramping up support for initiatives that seek to implement the *Alternatives to Camps* policy, that provide support for "self-settled" refugees in urban areas and that provide alternatives for protection to vulnerable refugees in the context of camp closures and reduced access to asylum.

30. In addition, the UK should promote legal and policy change in refugee hosting countries. As noted above, efforts to promote refugee self-reliance and integration are stymied in contexts where legal frameworks are hostile to these efforts. Communicating a strong financial commitment to supporting refugees in non-camp environments and/or creating rights respecting mechanisms for addressing security issues may help to assuage host governments' concerns and encourage adoption of policies that respect refugee rights, encourage integration and reduce aid dependency in the long-term.

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[24] UNHCR, "Funding Update as of 3 January 2017", available at http://www.unhcr.org/ke/wp-content/uploads/sites/2/2017/01/Kenya-Funding-Update-03-January-2017.pdf (accessed 23 January 2017)