



Boosting Livelihoods

OCTOBER 2022

**AN ANALYSIS AND EVALUATION
OF REFUGEE-RELATED POLICIES
AND LEGISLATION**

UGANDA | KENYA

In Partnership with:



IKEA Foundation

In partnership with the IKEA Foundation, Re:Build brings together the International Rescue Committee (IRC), the Center for Global Development (CGD), Open Capital (OCA), Kampala Capital City Authority (KCCA) and Nairobi City County Government (NCCG). Re:Build is committed to generate and share evidence for innovative, sustainable livelihoods solutions that can be adopted to support refugees and host residents in other cities in East Africa and beyond.

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Acknowledgements

This report was produced for the Refugees in East Africa: Boosting Urban Innovation for Livelihood Development (Re:Build) program by Consilient Limited. The evaluation report relies on previous analyses of refugee legislations from the region and borrows from publications done by various institutions, more specifically from forthcoming International Labour Organization (ILO) studies¹ under the PROSPECTS Partnership analysing the current policy, legislative and regulatory frameworks and practices in Kenya and Uganda in relation to access of refugees to labour markets, employment, and livelihood and training opportunities, including self-employment and business development, rights at work, social protection, and freedom of association. Our gratitude goes to the team from the International Rescue Committee (IRC), Re:Build colleagues, International Labour Organization (ILO), partners, and various persons and organisations which participated in the interviews that formed the research and stakeholders who validated the report. Our sincere appreciation to you all.

¹ In reference to the two ILO studies, the terms of Kenya Review and Uganda Review will be used through the report.

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PART 1: OVERVIEW

1.1. Study Motivation

In recent years, the world has seen the highest levels of displacement on record, increasing both in scale and in complexity. According to the United Nations High Commission for Refugees (UNHCR), around 79.5 million people were forcibly displaced in 2019, up to 30.2 million of them refugees. With displacement becoming more protracted, durable solutions must be found through programming that is dignified, inclusive, and comprehensive. The aim must be on enhanced self-reliance, empowerment, and social cohesion. Globally, it is estimated that 60% of refugees live in urban areas; however, attention to refugee issues tends to focus on refugees living in camps.

In order to address the unique challenges facing urban refugees in East Africa, the International Rescue Committee (IRC), the Centre for Global Development (CGD), Open Capital (OC), Kampala Capital City Authority (KCCA), and the Nairobi City County Government (NCCG), with support from the IKEA Foundation, are implementing the *Refugees in East Africa: Boosting Urban Innovations for Livelihoods Development (Re:Build)* program. The Re:Build program seeks to 1) generate and share evidence for innovative, sustainable livelihoods solutions that can be adopted to support refugee and host residents in East Africa and elsewhere, 2) enable refugees and vulnerable host residents to achieve economic self-reliance and benefit from strengthened urban economic, regulatory, and social environments, 3) enable change at varying levels, from better access to livelihood opportunities and inclusive services within communities, to improved refugee-related policies and more targeted service delivery by national, regional, and global actors.

The Re:Build program rests on three pillars to achieve its objective of enabling positive change in the lives of urban refugees and generate evidence of what works in both Nairobi and Kampala cities. The pillars are:



E-Waste disposal, Nairobi, Kenya. Photo credit: Moses Odokonyero/IRC

- 1) Service Provision** – delivering livelihood services and community- and market-oriented interventions to 20,000 clients in low-income neighbourhoods in Nairobi and Kampala cities.
- 2) Evidence and Learning** – gathering evidence and learning through an iterative process of testing using pilots, randomized control trials, monitoring data, and other tailored methods that help build the picture of what works to improve urban refugee livelihoods.
- 3) Influence and Adoption** – establishing a bold influencing agenda aimed at changing policies, practices, and investments at national, regional, and global levels by encouraging adoption of program evidence and learning.

In service of Pillar 3: Influence and Adoption, this report provides an analysis of the legal frameworks, including policies and legislation, which regulate urban refugees' operating environment in Uganda and Kenya. Rather than focusing on a detailed account of each country's refugee frameworks and policies, this analysis focuses on identifying the key

challenges faced by urban refugees and then analysing the responsiveness, strengths, and gaps in refugee policy and policy implementation in relation to these key challenges. The report then offers recommendations on the areas that need strengthening within policy and legislation and describes best practices that can be amplified and replicated.

1.2. Aims and Objectives

The aim of this study is to provide policy makers and other key stakeholders focusing on refugee issues in Kenya and Uganda with an overview of each country's refugee-related frameworks and policies and to analyse the extent to which these policies—both in theory and practice—are responsive to, or adequately address, the areas of most concern to urban refugees living in Nairobi and Kampala. As a result of the analysis, we provide actionable recommendations tailored to the specific needs of the Re:Build programme, but which may also be useful to the wider development community. Specifically, this report provides:

- A brief overview of the refugee-related policies, legislation, and implementation frameworks in Kenya and Uganda.
- An overview of the key challenges facing urban refugees in Kenya and Uganda.
- An overview of the gaps in policies and/or implementation of policies related to these challenges.
- Recommendations for areas in which policy and policy implementation needs to be strengthened in order to support Re:Build and other policy makers, donors, and stakeholders.

1.3. Methodology

In order to meet these objectives, Consilient utilized a mixed-methods approach consisting of a literature review and qualitative data sources including Key Informant Interviews (KIIs) and Focus Group Discussions (FGDs).

Desk Review

The Consilient team conducted a desk review of relevant refugee policies and legislation and publicly available reports about urban refugees in Kenya and Uganda. Additional secondary literature and data sources on policy, legislation, and regulations were also reviewed. This comprehensive literature review formed the foundation of the analysis and informed the development of the data collection tools and sample of key informants. References to the literature can be found in footnotes throughout the document. Additionally, the team had access to and permission to use two ILO reviews in Kenya and Uganda currently in press. These reports provided both substantial content and insights to this report and the team is grateful to ILO for permission to draw upon them.²

Key Informant Interviews and Focus Group Discussions

Following the desk review, qualitative data collection was conducted in both Kenya and Uganda. Discussion guides were drafted based on the literature review, whereby gaps in understanding, legal points for validation, and triangulation points of lived experience informed the questions. Key informants were selected purposefully for their expert knowledge on target research areas and gaps in current understanding of the legal landscape and practice. A total of 18 KIIs were conducted in the Eastleigh neighbourhood of Nairobi and the Kisenyi neighbourhood of Kampala. Interviews were conducted with local government officials, lawyers, and the wider NGO community in each of these locations (see **Part 5** for a full list of participants). In addition, 2 FGDs with refugees/migrants in each country were conducted.

2 (1) Review of National Policy, Legislative and Regulatory Frameworks, and Practice in Kenya: A baseline study on the right to work and rights at work for refugees" (forthcoming); (2) Review of National Policy, Legislative and Regulatory Frameworks, and Practice in Uganda: A baseline study on the right to work and rights at work for refugees" (forthcoming).

2.1. Kenya Context

Kenya has been hosting refugees for many decades due to its open-door policy towards refugees and commitment to refugee conventions. As of February 2022, there were an estimated 539,766 refugees living in Kenya.³ While the majority of Kenya's refugees live in the Dadaab (44%) and Kakuma (40%) settlements (in Garissa and Turkana counties, respectively), approximately 16% (83,977) of the country's refugee population lives in Nairobi.⁴ The country of origin for most Kenyan refugees is Somalia (53.4%), with South Sudan (25.1%), the Democratic Republic of Congo (DRC) (8.9%), Ethiopia (5.6%), Burundi (3.5%), Sudan (1.8%), Uganda (0.6%), Eritrea (0.4%), Rwanda (0.4%), and other countries (0.2%) also represented.⁵

Kenyan refugee policies have shifted over time in response to increasing numbers of people seeking refugee status due to political and security concerns. Prior to 1991, when the number of refugees in Kenya was approximately 15,000, refugees were issued alien registration cards and were allowed to live and work freely throughout the country.⁶ With civil war erupting in Somalia and Ethiopia in the early 1990s, Kenya saw a large increase in its refugee population.⁷ In response to this increased pressure, the Kenyan government enacted camp-based policies restricting refugees to designated refugee settlements.⁸ In 2014, due to increased security concerns, it became a criminal offense for a refugee to reside outside of the settlements unless an official exemption was granted.⁹

Given the encampment policy and concentration of humanitarian support to refugees residing in the settlements, urban refugees face a myriad of challenges. Urban refugees have less access to government, humanitarian,

3 UNHCR Kenya, DIMA Unit, Refugee Registration System. <https://www.unhcr.org/ke/wpcontent/uploads/sites/2/2022/02/Kenya-Infographics-31-January-2022.pdf>.

4 Ibid.

5 Ibid.

6 Wagacha, John Burton and John Guiney, 2008, "The Plight of Urban Refugees in Nairobi, Kenya," *Refugee Rights: Ethics, Advocacy, and Africa*, Georgetown University, Washington, D.C., p. 91.

7 Ibid, p. 91-92.

8 Goitom, Hanibal. "Refugee Law and Policy: Kenya." *Refugee Law and Policy in Select Countries*, The Law Library of Congress, Washington, D.C., 2016, pp. 201-212. https://irp.fas.org/congress/2016_rpt/lloc-refugee.pdf.

9 Norwegian Refugee Council (NRC) and International Human Rights Clinic (IHRC), 2017, *Recognising Nairobi's Refugees: The Challenges and Significance of Documentation Proving Identity and Status*, <https://www.nrc.no/resources/reports/recognising-nairobis-refugees---the-challenges-and-significance-of-documentation-proving-identity-and-status/>.

and development support and risk being repatriated or forced to move into settlements.¹⁰ Urban refugees in Kenya also face many barriers to accessing documentation and basic services necessary for full integration into Kenyan society.

Given recent changes to Kenyan refugee frameworks, policies, and legislation, this study attempts to examine the traditional challenges facing urban refugees in light of the new refugee environment. Below, we present an overview of the current framework, policies, and legislation related to refugees in Kenya, and then examine each of the challenges for urban refugees in light of these frameworks, policies, and legislation to identify gaps in theory and in practice.

2.2. Legislation, Policies, and Regulatory Frameworks

Refugee law in Kenya has its foundation in a number of existing regional and international commitments, including the 1951 Convention Relating to the Status of Refugees and its subsequent 1967 Protocol (to which Kenya became a party in May 1966 and November 1981, respectively) and the Organisation of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969 (ratified by Kenya in **June 1992**).¹¹ These international commitments were incorporated into national legislation law through Kenya's Refugees Act, 2006, which was replaced on February 23, 2022 by the new Refugees Act, 2021.¹² This Act—relevant provisions of which will be discussed in substantial detail below—includes articles stipulating (1) administrative provisions for the management of refugee affairs, (2) processes by which individuals and families may apply for refugee status, (3) procedures for receiving refugees and asylum seekers, (4) the rights and duties of refugees in Kenya, and (5) control of designated areas for refugees, including aspects related to freedom of movement. Section 28 of the Refugees Act, 2021 also guarantees the right to legal documentation that will allow refugees to

10 Muindi, Kanyiva and Blessing Mberu, 2019, Urban Refugees in Nairobi: Tackling Barriers to Accessing Housing, Services, and Infrastructure, <https://pubs.iied.org/10882iied>.

11 ILO, n.d., Kenya Review.

12 Refugees Act, 2006, https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/CallEndingImmigrationDetentionChildren/CSOs/RefugeeConsortium_of_Kenya_Annex1.pdf; Refugees Act, 2021, <http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2010%20of%202022>. The Refugees Act, 2021 in Part VIII, Article 42 repeals the Refugees Act, 2006.

“engage individually or in a group in gainful employment or enterprise or to practice a profession or trade where he/she holds qualifications recognized by competent authorities in Kenya.”¹³

In addition to these sources of legislation specific to refugees, the Constitution of Kenya includes provisions relevant to the rights of refugees and asylum-seekers in Kenya. The 2010 Constitution states that general rules of international law, such as customary international law, form part of the laws of Kenya, as do ratified treaties or conventions (such as those applicable to refugees listed above).¹⁴ While the Constitution does not specifically mention refugees, multiple provisions in the Constitution and its Bill of Rights stipulate values of human rights and non-discrimination which apply to all persons, and thus apply to refugees too.

The Refugees Act, 2021 establishes three bodies for refugee affairs: the Department of Refugee Services (DRS), the Refugee Advisory Committee, and the Refugee Status Appeals Committee. The DRS is legally responsible for all administrative matters concerning asylum seekers and refugees in Kenya, the coordination of programmes related to refugees, and the handling of all operational aspects of protection for and assistance of refugees.¹⁵ The DRS has a wide range of responsibilities, including those related to refugee status determinations and identification, freedom of movement, protection, and durable solutions, as will be discussed further below.¹⁶ The Refugee Advisory Committee is also given responsibility for advising the Cabinet Secretary¹⁷ on refugee policy.¹⁸ Lastly, the Refugee Status Appeals Committee has responsibility for determining appeals against any decisions regarding applications for refugee status.¹⁹

While the previously discussed legislation and frameworks detail rights, regulations, and governing bodies and their role in overseeing refugee

13 Refugees Act, 2021, Section 28.

14 Specifically, Articles 2(5) and (6) provide that “the general rules of international law shall form part of the law of Kenya...Any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution.”

15 Refugees Act, 2021, Article 7(2a-c).

16 Refugees Act, 2021, Article 8(2a-x).

17 Within the Act, this is specified only as the “Cabinet Secretary responsible for matters relating to refugee affairs.”

18 Refugees Act, 2021, Article 10(a-d).

19 Refugees Act, 2021, Article 11(4a-b).

affairs, these documents alone do not fully capture Kenya's priorities and goals for guiding policy and implementation of these frameworks moving forward. Instead, the Kenya Comprehensive Refugee Response Framework (CRRF) builds on the existing legal frameworks, policies, strategies, and plans to detail a comprehensive refugee response for Kenya.²⁰ The CRRF incorporates all the international, national, and regional commitments made by the Kenyan government and outlines what these commitments mean for their ongoing implementation strategy. The CRRF rests on three pillars: (1) enhancing the protection space for asylum seekers and refugees, (2) supporting immediate and ongoing needs for asylum seekers, refugees, and host communities, and (3) promoting regional cooperation and international responsibility in the realization of durable solutions for refugees. Under each pillar, the CRRF outlines the policies, challenges, and strategic responses to pillars' priority areas.

Using these frameworks and policies, we look at some of the major challenges facing urban refugees in Kenya and examine how policies address these challenges, describe gaps in existing policies both in theory and practice, and examine areas of opportunity for the Re:Build program to continue improving the lives of urban refugees in Kenya.

2.3. Legal Identity

The Refugees Act, 2021 outlines the refugee status determination (RSD) process for refugees in the country in Part III of the Act.²¹ According to the Act, all applications are made to the Commissioner of Refugee Affairs or an authorized officer, with applicants for refugee status giving oral evidence to support their claim.²² After submission of evidence, applications are sent to the Refugee Status Eligibility Panel which determines whether the applicant is eligible for refugee status, with applicants receiving temporary passes enabling them to reside in Kenya in the interim.²³ A decision on eligibility

20 Kenya Comprehensive Refugee Response Framework. <https://refugee.go.ke/wp-content/uploads/2021/03/Kenya-Comprehensive-Refugee-Response-Framework-CRRF.pdf>.

21 Refugees Act, 2021, Part III.

22 Ibid.

23 ILO, n.d., Kenya Synthesis Report.

should be provided by the Panel within 90 days of receipt of application.²⁴

Article 28(6) of the Refugees Act, 2021 states that “a refugee and an asylum seeker shall have the right to identification and civil registration documents and such documents shall be sufficient to identify a refugee or asylum seeker for the purposes of access to rights and services under this Act and any other applicable law.” Article 28(4) similarly states that refugees “shall be enabled to contribute to the economic and social development of Kenya by facilitating access to, and issuance of, the required documentation”, while Article 28(7) states that the refugee identity card shall, at minimum, have “similar status” to the Foreign National Registration Certificate issued under the Kenya Citizenship and Immigration Act. As will be discussed below, conferment of this status is a pre-requisite for work permits and employment, and results in restrictions on access to learning institutions and, in some cases, freedom of movement.

Under the Refugees Act, 2021, in addition to responsibility for RSD, the Commissioner for Refugee Affairs is given responsibility to “issue refugee identification documents and facilitate issuance of civil registration and other relevant documentation by other government agencies.”²⁵ While the Refugees Act, 2021 invalidates the previous Refugees Act, 2006, provisions for obtaining refugee identification documents in the previous Act likely remain indicative. The 2006 Act states simply that identification cards are issued upon granting of refugee status, and that refugees and asylum seekers must comply with fingerprinting and photographing requirements upon application. Article 44(2) of the Act states that further regulations may be enacted regarding refugee identification and travel documents, including the method of issuance and the rights conferred by documents.

²⁴ Ibid.

²⁵ Refugees Act, 2021, Article 8 (2d).

Challenges and Gaps

By March 2021, almost 60,000 asylum seekers were awaiting RSD in Kenya due to a massive and growing backlog of existing cases within the Refugee Affairs Secretariat.²⁶ The time required for RSD in Kenya has been estimated as anywhere from three months to two to three years.^{27,28} This clearly exceeds the 90-day period stipulated by law.

The procedures for RSD completion and status renewal, moreover, are confusing and unclear, a problem exacerbated by the transition of RSD from UNHCR to the Refugee Affairs Secretariat.^{29,30} Local consultation services supporting RSD claims to the DRS also have insufficient capacity to meet the overwhelming numbers of refugees in the country applying for RSD.³¹

For refugees in Nairobi, the cost of travelling to offices to undergo the RSD process may be prohibitive. Additionally, since 2018, the government has intermittently made RSD unavailable to new asylum seekers living in Nairobi who are then required to reside in Kakuma refugee settlement to seek the service. Similarly, in Dadaab, new registrations were halted as of late 2015 with the exception of children born in camps.³² As a result, many new arrivals do not have documentation.

FGD respondents echoed that the RSD process is unclear, slow, and arduous, and felt that widespread corruption undermines RSD in practice. The respondents generally agreed that individuals who have personal connections or who use other corrupt practices can jump ahead in the process. This perceived corruption in the system has resulted in increased tensions among refugees and RSD officials. For example, during one FGD, a respondent said:

26 Graham, Jimmy and Sarah Miller, 2021, From Displacement to Development: How Kenya Can Create Shared Growth by Facilitating Economic Inclusion for Refugees, <https://www.cgdev.org/sites/default/files/Displacement-to-development-Kenya.pdf>.

27 Ibid.

28 Zetter, Roger and Héloïse Ruaudel, 2016, Refugees' Right to Work and Access to Labor Markets: An Assessment – Part II: Country Case Studies (Preliminary), <https://www.knomad.org/sites/default/files/2017-12/KNOMAD%20Study%201-%20Part%20II-%20Refugees%20Right%20to%20Work%20-%20An%20Assessment.pdf>.

29 ILO, n.d., Kenya Synthesis Report.

30 Graham and Miller, 2021.

31 ILO, n.d., Kenya Synthesis Report.

32 Ibid.

“There are cases where refugees turn violent and throw stones at officials and government officers who [engage] in acts of discrimination by allowing those who have connection to jump the queue and access services.”

– FGD, Eastleigh, Nairobi

Similarly, during an interview with a program manager at a Kenyan NGO, the respondent expressed that he/she had dealt with having to pay bribes to junior officers in order to get assistance with paperwork.

Respondents also indicated that authorities are quite strict about falsification of information on registration documents and that they will have their entire application rejected if anything is untrue or cannot be verified.

This can present a problem for refugees who may not remember specific details correctly or if verification of the information they provide cannot be completed for some reason. While we are unable to provide an estimate of how frequently refugees are rejected on these grounds, given the complicated process, low levels of education, and language barriers, a strict verification process may serve as a barrier to acquiring refugee status. An illustrative anecdote from one of the FGDs highlights this point:

“Some refugees have managed to get a refugee identity card. However, when they [people seeking a refugee identity card] are subjected to vetting, they sometimes fail the basic tests. Some of the tests include having to remember the name of the primary school they attended and the name of local villages.”

– FGD Eastleigh, Nairobi

Like refugees elsewhere, refugees in Kenya also often lack the necessary documentation to work and, as a consequence, experience predatory behaviour by police and government authorities.^{33,34} During FGDs with community members and KIIs with refugee stakeholders, there was a broad consensus that not having an identification card limited access to work in the

33 Ibid.

34 ILO, n.d., Kenya Review.

formal sector; however, there was also a sentiment that refugees primarily worked in the informal sector as hawkers and traders.

2.4. Socio-Economic Inclusion

The Employment Act, 2007 establishes the right to work in Kenya for all legal residents and prohibits discrimination based on race, language, religion, nationality, or ethnic or social origin, among other protected classes.³⁵ However, we note that Article 5(4c) of the Act also states that it is not discrimination to preferentially employ a citizen of Kenya in accordance with national employment policy. This policy—Sessional Paper No. 4 of 2013 on Employment Policy and Strategy for Kenya—makes no specific mention of refugees or to a national right to work but affirms that effective management of labour migration can contribute positively to the Kenyan labour market. The policy also notes somewhat indirectly, however, that migrant workers should not be hired where a skilled national would be qualified for the job stating “[i]nternally, immigrant workers are required to acquire work permits before taking up jobs in the country. However, in some cases, work permits are granted without due consideration of existence of the required skills in country.”³⁶

Article 28(6) of the Refugees Act, 2021 sets out refugees’ rights to work, stipulating that refugees rights are contingent on engaging in a “profession or trade *where he holds qualifications recognized by competent authorities in Kenya*” [emphasis added]; however, this right is somewhat contravened by Article 8(2v) of the Act which states refugee activities must also “not have a negative impact on host communities, natural resources or the local environment.”³⁷ The ILO notes, therefore, that while the Refugees Act implies that refugees have the right to “establish and run businesses, gain employment, and practice a trade or profession subject to Government of Kenya verification of any previously obtained...qualifications, or to

35 The Employment Act, 2007. https://www.health.go.ke/wp-content/uploads/2015/09/kenya_employment_act_2007.pdf.

36 Kenya Ministry of Labour, Social Security, and Services, Sessional Paper No. 4 of 2013 on Employment Policy and Strategy for Kenya, p. 23, https://edmsp1.ilo.org/edmsp1/groups/public/documents/6008/cdff/mtc0/~edisp/edmsp1_174609.pdf.

37 Refugees Act, 2021, Article 28(6) and Article 8(2v).

receive new qualifications,” these rights do not necessarily lead to refugees being able to freely work in the country if this work proves adverse or disadvantageous to the communities in which the refugees live.³⁸

This issue is exacerbated by the existing bottlenecks to refugees’ access to work permits, which are required under the Citizenship and Immigration Act and Sessional Paper No. 4 for all foreign nationals in Kenya, including refugees.³⁹ Article 40 of the Citizenship and Immigration Act guides the issuance of permits, and provides refugees access to Class M permits that enable permit holders to engage in any “occupation, trade, business, or profession.”⁴⁰ The DRS is meant to facilitate refugee access to Class M work permits through the Department of Immigration.⁴¹ Refugees, however, often lack the documentation necessary for a Class M work permit, such as a national passport.⁴² Additional documentation includes a cover letter from an employer, a valid Tax Compliance Certificate, and a recommendation from the DRS which the ILO points out requires an existing job offer prior to permit application and access to internet and phone services in order to apply for jobs or contact employers.⁴³ Once in possession of a Class M permit, moreover, a refugee is not permitted to change employers,⁴⁴ and then must renew his or her permit every two years.⁴⁵ The lengthiness and difficulty of the application process further serves as a disincentive to employers thinking about employing refugees.⁴⁶ For example, employers are obligated by the Citizenship and Immigration Act to submit a Form 25 for any foreign employee they wish to hire, including refugees. Form 25 requires evidence that the foreign worker has skills and qualifications not available

38 ILO, n.d., Kenya Review.

39 Ibid. Work permits are not necessary for participation in the informal labour market, as will be discussed throughout this section.

40 Citizenship and Immigration Act, 2011, Article 41(1c), <https://www.refworld.org/pdfid/5ebd10194.pdf>.

41 ILO, n.d., Kenya Review. Refugees may apply for other classes of work permits as well, such as the Class C permit for those in professions such as medicine, law, engineering, and accounting. The process for application, however, is similar or more restrictive as that for a Class M permit, and these permits are applicable to a small number of refugees, thus we do not discuss the process here.

42 Ibid.

43 Ibid. For more information on the process of applying for a Class M work permit, see: Class M: (Refugees) – Directorate of Immigration Services.

44 Article 41 of the Citizenship and Immigration Act states that, where a permit has been issued to a person, and that person engages in any employment other than the employment referred to in the permit, the permit shall cease to be valid and the presence of that person in Kenya shall be unlawful.

45 ILO, n.d., Kenya Review.

46 Ibid.

among the Kenyan workforce and that a Kenyan trainee will be engaged alongside the non-national worker, as well as proof of non-foreign workers' technical and academic qualifications and available capital.⁴⁷

Refugees are guaranteed the right to engage in private enterprise in Article 28(6) of the Refugees Act, 2021.⁴⁸ Refugees follow the same business registration processes as those of foreign nationals, in which businesses may be registered and receive permits as either limited liability companies or as single businesses once documentation is filed (including a passport/national identification, a Kenya Revenue Authority (KRA) PIN, passport photos, and partnership deeds).⁴⁹ Additionally, in order to receive a permit, the business must be further registered with the KRA, the National Hospital Insurance Fund (NHIF), and National Social Security Fund (NSSF). In order to register with these entities, permit applicants must navigate a number of online forms and have access to all the relevant documents and permissions.⁵⁰ Registration of micro- and small enterprises, meanwhile, is governed by the Micro and Small Enterprises Act No. 55 of 2012, which provides a simpler route to business registration, requiring applicants to send the Registrar of Micro and Small Enterprises copies of documentation to verify that the business qualifies as a micro or small enterprise under the Act (e.g., a copy of their business constitutive document) and a fee for registration as set out in the Micro and Small Enterprises (Association) Regulations, 2019.⁵¹ The ILO, however, points out many of the processes envisioned by this Act have not, as of 2020, been operationalized and, therefore, access to rights described within this regulatory framework may not exist in practice.⁵²

47 Ibid. While not technically a strict legal requirement, given the need for employers to justify that the desired skillset does not exist among Kenyan workers, it is highly unlikely that an applicant will qualify for a Class M permit without documented qualifications.

48 Refugees Act, 2021, Article 28(6).

49 See <https://eregulations.invest.go.ke/>.

50 ILO, n.d., Kenya Review.

51 Ibid. "Micro" enterprises are defined as those having an annual turnover not exceeding 500,000 shillings, less than 10 employees, and with total assets and financial investments not exceeding 10 million shillings (in manufacturing) or 5 million shillings (in agriculture or services). "Small" enterprises are defined as those having an annual turnover of between 500,000 shillings and 5 million shillings, between 10 and 50 employees, and with total assets and financial investments between 10 million shillings and 50 million shillings (in manufacturing) or between 5 million shillings and 20 million shillings (in agriculture or services).

52 Ibid.

Challenges and Gaps

The above regulations and procedures do not necessarily reflect the new policy environment's impact on refugees' right to "contribute to the economic and social development of Kenya by facilitating access to and issuance of the required documentation at both levels of government."⁵³

The Kenyan government has recognized the challenges associated with issuing work permits under the previous law and ostensibly will be moving to streamline the process of obtaining work permits and recognizing foreign professional qualifications. This commitment is echoed in the strategic responses on livelihoods and self-reliance in the Kenya CRRF.⁵⁴ However, in current practice, challenges remain. Respondents in the KIIs and FGDs generally stated that refugees are not prevented from working but faced restrictions. These restrictions are primarily related to documentation.⁵⁵ Refugees need documents such as identification cards and work permits which can be difficult to access.

While Kenyan legal frameworks formally guarantee the rights of refugees to participate fully in the labour market, KIIs and FGDs showed that refugees suffer from negative stereotypes, distrust, mistreatment, and resentment stemming from their perceived negative effect on the labour market for Kenyans. For example, during an interview with a representative from the Refugee Authority, the representative said:

"... however, the whole issue of allowing refugees to compete for the same scarce opportunities with Kenyans, considering that we are a third-world country, has not sat well with the [Kenyan] people. Acquiring the skills is good, yes, but the labour market will experience a flood of desperate job seekers both Kenyan and non-Kenyan!" - KII with a representative from the Refugee Authority

During KIIs and FGDs, respondents were all in agreement that refugees can start businesses if they obtain the necessary documents, registrations,

53 Refugee Act, 2021, Article 28(4).

54 See CRRF Section 4.5: Livelihoods and Self Reliance, <https://refugee.go.ke/wp-content/uploads/2021/03/Kenya-Comprehensive-Refugee-Response-Framework-CRRF.pdf>.

55 Mentioned, for example, in a KII with a labour lawyer in Nairobi.

and business PIN numbers. Still, other barriers remain. Refugees seeking to obtain a license must have a permanent address for their business and documentation of this address. They must pay fees⁵⁶ or, in some cases, bribes, which may be prohibitive. Requirements for business registration are also unclear to many refugees. Furthermore, it is difficult for refugees to use online systems for business licensing and refugees may have a more difficult time gaining access to and navigating an online system. Additionally, a labour lawyer in Nairobi indicated that, in order to register their business, refugees had to have a KRA PIN which can be difficult for them to obtain and, in its absence, serves as a barrier to the establishment of a formal business.⁵⁷ As a result, many refugee business owners bypass the formal sector and, instead, establish informal enterprises.⁵⁸

2.5. Education and Skills Development

Technical and Vocational Education and Training (TVET) documents in Kenya include: (1) Vision 2030, (2) Vision 2030 medium-term plans (currently in their third generation), (3) the TVET Act, 2013, (4) the Technical and Vocational Education and Training Authority Strategic Plan, 2018-2022, (5) the National Industrial Training and Attachment Policy, (6) the Kenya National Qualifications Framework Act No. 22 of 2014, and (7) the new TVET Policy, 2020 (which has been drafted and validated but not yet approved or tabled in Parliament). None of these documents specifically mention refugees, nor—as they are focused on institutions—do they describe how individuals might access or participate in TVET in Kenya.⁵⁹ There are, however, TVET and other skills development programs run by development partners.

The Government of Kenya also has a standing commitment made during the Regional Conference on Refugee Education in IGAD Member States in Djibouti in 2017 in which it pledged to “take collective responsibility to ensure that every refugee... [has] access to quality education,” to integrate

56 According to Graham and Miller (2021), this fee is approximately \$30. According to Manji and de Berry (2019), fees vary by type of business, location, and number of licenses needed (which also varies based on business type), and range from US\$5 to US\$62 for a single business permit.

57 KII with a labour lawyer in Nairobi.

58 FGD with refugees in Eastleigh, Nairobi. See also, ILO, n.d., Kenya Review.

59 ILO, n.d., Kenya Review.

refugees into national education policies and strategies, and to adopt and implement an Action Plan for refugee education.^{60,61} Kenya's subsequent Action Plan agrees to "(1) integrate refugees into education sector plans by 2020, (2) ensure the protection of refugees in national education systems, (3) recognise and respond to the distinct learning needs of refugees, (4) strengthen frameworks to promote inclusion and development of refugee teachers, (5) identify community college-type programmes for expansion and development, (6) support increased refugee access to secondary education, (7) develop minimum education standards for refugees, (8) determine demand for skills training of refugees, (9) form a TVET expert group to develop mechanisms for linking TVET institutions across IGAD countries and identify options to harmonise skills development programmes, (10) mobilise financing to implement refugee education plans."⁶²

Kenya is also a signatory to the Kampala Declaration on Jobs, Livelihoods, and Self-Reliance for Refugees, Returnees, and Host Communities in the IGAD Region. This Declaration declares that action shall be taken to provide refugees access to quality and continuous training and skills development programs.⁶³ The Kampala Declaration was meant to prevent a parallel system of refugee education for refugee learners and to enable refugees and host communities to learn side-by-side and share financial and non-financial resources, ensuring non-discriminatory, equitable access to education and training systems.⁶⁴

County governments also manage vocational education and training, as stipulated in the County Vocational Education and Training Act, 2020. This bill gives county governments responsibility for (1) putting in place systems for vocational education and training, (2) formulating and implementing county specific TVET programs, (3) providing funding for TVET centres, (4) ensuring availability and accessibility of vocational training, among other duties.

60 IGAD, 2017, Djibouti Plan of Action on Refugee Education in IGAD Member States, [https://globalcompactrefugees.org/sites/default/files/2019-12/IGAD%20Djibouti%20Plan%20of%20Action%20on%20Education%20\(2017\).pdf](https://globalcompactrefugees.org/sites/default/files/2019-12/IGAD%20Djibouti%20Plan%20of%20Action%20on%20Education%20(2017).pdf).

61 Ibid.

62 ILO, n.d., Kenya Review.

63 IGAD, 2019, Kampala Declaration on Jobs, Livelihoods and Self-Reliance for Refugees, Returnees and Host Communities in IGAD Region, <https://www.unhcr.org/afr/publications/legal/5c9dd6384/kampala-declaration-on-jobs-livelihoods-self-reliance-for-refugees-returnees.html>.

64 Ibid.

Challenges and Gaps

Kenya has fallen short of its commitments to both the Djibouti Declaration and the Kampala Declaration, as well as its own Action Plan. In particular, the ILO has emphasized that Kenya has not yet integrated refugees into education sector plans, nor has it strengthened frameworks to promote inclusion and development of refugee teachers, identified community college-type programmes for expansion and development, supported increased refugee access to secondary education, determined demand for skills training among refugees, and mobilised finance to implement refugee education plans.⁶⁵

Additionally, there is no framework for allowing refugees to access formal TVET institutions which require, to qualify for admission, certificates of completion from Kenyan primary or secondary schools or evidence of passing Kenyan exams. While under the Refugees Act, 2021, it is anticipated that recognition of professional qualifications obtained outside of Kenya will be more readily recognized, it remains to be seen if this will apply to admission into formal TVET institutions. It may be helpful to allow for alternative forms of admission for refugees or, alternatively, to establish a simple method for recognizing and certifying equivalency in refugees' education to allow for admission to formal TVET institutions. The absence of government grants available for refugees to access TVET services, however, may prevent refugees from accessing these institutions, given that TVET institutions are not legally free. Establishing policies by which refugees can access funding to attend TVET institutions may also help improve access. Additionally, respondents to the KIIs and FGDs pointed out that TVET courses are typically offered in English or Swahili and therefore refugees may have a difficult time participating.

2.6. Justice and Legal Services

The Kenyan Constitution states in Article 22(1) that every person has the right to institute court proceedings claiming that a right or fundamental

⁶⁵ ILO, n.d., Kenya Review.

freedom in the Bill of Rights has been violated or is threatened, including rights to protection in the labour market. The Constitution also stipulates that the State shall ensure access to justice for all persons at a reasonable cost. Additionally, the Employment Act, 2007, Part XII, 87(1) states that, in cases in which an employer or employee fails to fulfil their contract, a dispute arises regarding the rights or liability of either party, or any misconduct or injury occurs under contract of service, the aggrieved party may complain to the Labour Office or take the case to the Industrial Court (with the Employment and Labour Relations Court Act, Revised Edition 2014 [2012] replacing the Industrial Court with an Employment and Labour Relations Court).^{66,67} The Employment and Labour Relations Court has as its jurisdiction “exclusive original and appellate jurisdiction to hear and determine disputes related to employment and labour relations,” including those related to disputes between employers and employees and between employers and trade unions, among other categories.⁶⁸ Article 29 of the Act further states that the Court shall “ensure reasonable, equitable, and progressive access to judicial services in all counties.”⁶⁹

Challenges and Gaps

In practice, refugees face significant barriers to accessing justice and legal services. Many refugees cannot afford to hire a lawyer, are prohibited by law from self-representation, and—while they may access the Legal Aid Fund and National Legal Aid Service—these services do not offer court representation and have limited expertise in refugee issues.⁷⁰ Additionally, many refugees have limited experience with Kenyan law more generally, and labor law in particular; this inexperience is then compounded by the fact that many come from countries in which workers’ rights are already poorly protected and,

66 The Employment Act, 2007, Part XIII, 87(1). This Act was established originally in the Labour Institutions Act.

67 The Employment and Labour Relations Court Act, Revised Edition 2014 [2012], https://labourmarket.go.ke/media/resources/EMPLOYMENT_AND_LABOUR_RELATIONS_COURT_ACT.pdf

68 Ibid, Part III, 12(1).

69 Ibid, Part IV, 29.

70 ILO, n.d., Kenya Review; Imbosa, Eileen and Andrew Maina, 2020, “Limitations to Accessing Legal Representation in Kenya’s RSD Processes,” *Forced Migration Review*, 65, pp. 19-21. <https://www.fmreview.org/sites/fmr/files/FMRdownloads/en/recognising-refugees/imbosa-maina.pdf>.

thus, poorly understood (e.g., Somalia and South Sudan).⁷¹ As such, the ILO has emphasized that refugees in Kenya “may be unaware when their rights are violated, or may not know what legal options are available to them.”⁷²

2.7. Finance

Access to finance and financial services—whether formally through a bank or for services such as mobile money—is vital for refugees to obtain the capital needed to start or expand businesses and to conduct business in a mobile-money economy. While none of Kenya’s refugee policies and frameworks explicitly secure the right of refugees to access financial services, fulfilment of these policies’ promise to ensure refugees full access to economic opportunities requires equitable access to such services. Refugees are permitted to open a bank account, but Know Your Customer requirements, as stipulated in Article 45 of the Proceeds of Crime and Anti-Money Laundering Act, 2009 (“Obligation to verify customer identity”), require financial service providers in Kenya to verify the identity of customers. A refugee identification card is not one of the permitted identification documents and, as such, refugees are often effectively excluded from accessing many financial services.⁷³

Before a telecommunications company sells a SIM card, the Kenya Information and Communications Act, Revised Edition 2020 [1998], Article 27A states that the company must obtain the purchaser’s full name, identity card number, date of birth, gender, and address. The Supplementary Registration of SIM-Cards Regulations, 2015, states specifically that, for a foreign national, a national passport or “alien card” is required.⁷⁴ Given that alien cards are no longer issued, and many refugees may not have passports, these regulations may preclude refugees from accessing SIM cards. A similar study conducted by IRC that focused on financial services and digital inclusion in 2020 found that

71 ILO, n.d., Kenya Review.

72 Ibid.

73 Proceeds of Crime and Anti-Money Laundering Act, Revised Edition 2022 [2009], http://www.vertic.org/media/National%20LegislationKenya/KE_Proceeds_Crime_AML_Act.pdf. For example, in order for refugees to register with M-Pesa, an Alien ID card is required. These ID documents, however, are no longer issued.

74 Kenya Information and Communications Act, Revised Edition 2020 [1998], Article 27A, <https://www.ca.go.ke/wp-content/uploads/2021/02/Kenya-Information-and-Communication-Act-1998.pdf>. For East African residents, we note that the regulations require either a national identity card, a national passport, an East African passport, or other valid registration documents accepted as national identification in the country of domicile.

“government-issued refugee IDs introduced in 2006 are not accepted for SIM card registration” and that “[u]rban refugees are barred from access to the main mobile money system, M-PESA”.^{75,76}

Challenges and Gaps

Refugee-issued identification documents do not currently satisfy the documentation requirements for accessing many financial services in Kenya and, along with accessibility of banks, represent a substantial barrier for refugees’ access to formal financial services. Additionally, many documents may be expired and/or difficult to renew, thus impacting refugee access to banking, M-PESA services, or the KRA.⁷⁷ Meanwhile, when refugee identification documents are renewed, identification numbers sometimes change, leading to a divergence with the numbers on identity documents originally provided to financial institutions; both refugees and financial institutions may be unaware of the need to routinely update identification within financial systems leading to refugee accounts being flagged and blocked.⁷⁸

Some financial institutions, particularly those offering microfinance services, restrict access to Kenyan citizens. Furthermore, accessing loans requires collateral and guarantors. These represent significant hurdles for refugees needing to access loans as they often lack assets that can be used as collateral and the sorts of social networks in host communities required for securing guarantors.

In conversations with refugees, lack of access to finance was described as a major constraint on refugees’ ability to start and run businesses. When asked if they had attempted to start their own business, many refugees emphasized that lack of access to financing was due to refugees being considered “high risk” borrowers.⁷⁹

75 IRC, 2020, COVID-19 and Refugee’s Economic Opportunities, Financial Services, and Digital Inclusion, <http://eu.rescue.org/sites/default/files/2020-11/Improving%20Financial%20Health-R3.pdf>.

76 One common strategy for working around this barrier is for refugees to use a Kenyan’s ID card to register and use M-PESA.

77 ILO, n.d., Kenya Review.

78 Ibid; NRC and IHRC, 2017.

79 FGDs in Eastleigh, Nairobi.

2.8. Social Security and Protection

In the Constitution of Kenya, 2010's Bill of Rights (Chapter 4), social security is specified in Article 43(1) as a right of all citizens, stating that "the State shall provide appropriate social security to those who are unable to support themselves and their dependents."⁸⁰ The National Social Protection Policy, 2011, however, limits the dimensions of Kenya's national social security system to voluntary and contributory social assistance, social security, and health insurance schemes and, thus, makes no provision guaranteeing access to these schemes as a right.^{81,82}

Of most relevance to refugees participating in the labour market are Kenya's contributory social security and health insurance schemes: the National Social Security Fund (NSSF) and the National Hospital Insurance Fund (NHIF).⁸³ The National Social Security Fund Act, 2013, Section 19 states that "all employers with at least one employee shall register with and contribute to the Fund."⁸⁴ Section 23 also outlines how individuals may voluntarily contribute to the NSSF.⁸⁵ While refugees are not mentioned in the Act, Sections 19 and 23 suggest that those refugees employed in the formal labour market would qualify to voluntarily contribute to and receive social security and health insurance under both funds, and that NSSF and NHIF membership is not contingent on Kenyan citizenship.⁸⁶ In a KII, a source from the NSSF further confirmed that, in principle, refugees may participate in NSSF schemes. Social security for informal workers is provided by the NSSF's Haba Haba scheme, which only requires access to a mobile phone.⁸⁷

80 The Constitution of Kenya, 2010, https://www.constituteproject.org/constitution/Kenya_2010.pdf.

81 Republic of Kenya. 2011. Kenya National Social Protection Policy. June 2011. Nairobi: Ministry of Gender, Children, and Social Development, <https://www.socialprotection.or.ke/images/downloads/kenya-national-social-protection-policy.pdf>.

82 Kidd, Stephen et al., 2017, Kenya Social Protection Sector Review: 2017 – Executive Report, <https://www.developmentpathways.co.uk/wp-content/uploads/2019/10/Kenya-Social-Protection-Sector-Review-Summary-Report.pdf>.

83 ILO, n.d., Kenya Review. Social assistance schemes include (1) cash transfers for orphans and vulnerable children, persons with disabilities, and the elderly, (2) school feeding programs, and (3) cash and food assistance.

84 National Social Security Fund Act, 2013, Section 19, <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/97350/115470/F-463813696/KEN97350.pdf>. Both employer's and employee's contributions are set at 6% of the employee's monthly pensionable earnings. Employers may opt out of the Fund if they are registered with a private social security scheme.

85 Ibid, Section 23.

86 ILO, n.d., Kenya Review.

87 Haba Haba is an informal sector product by NSSF which aims to empower small and medium enterprises. Members in the targeted group are able to save upwards of Ksh 0.25 per day and withdraw 50% of their savings after consistently contributing for 5 years.

Nothing within the guidelines of the scheme indicate that refugees would be excluded from participation; however, access to a SIM card may serve as a barrier for some refugees.⁸⁸

The NHIF, created as a health insurance system for workers in the formal sector, meets the cost of healthcare treatment for contributing members with restrictions based on whether healthcare providers are in-scheme or out-of-scheme, and with cost limits. It is also accessible to individuals not in the formal sector through a contribution of 500 KSh per month (around US\$5). Refugees have access to the NHIF through a partnership with UNHCR. Currently, over 8,000 refugees residing in Nairobi are members of the fund with access subsidised by UNHCR, and expansion of NHIF access to refugee camps is planned, although stalled due to COVID-19.⁸⁹

Challenges and Gaps

Many refugees have a poor understanding of social protection outside of that provided by humanitarian aid agencies (e.g., refugee cash assistance programmes via UNHCR).⁹⁰ International agencies, including UNHCR, have helped to ensure inclusion of refugees in some government social protection programmes in Kenya, in particular the NHIF; however, many refugees still do not understand their full right of access to the range of social protection programs in the country.⁹¹

88 ILO, n.d., Kenya Review.

89 Maara, Juliet, 2022, Presentation - Kenya: Lessons from Refugee Inclusion in the National Hospital Insurance Fund (NHIF), <https://data2.unhcr.org/en/documents/details/91830>.

90 ILO, n.d., Kenya Review; UNHCR, 2022, Cash-Based Interventions (CBI), <https://help.unhcr.org/kenya/kakuma/cash-based-interventions-cbi/>.

91 ILO, n.d., Kenya Review.

PART 3: UGANDA

3.1. Uganda Context

Uganda presently hosts more than 1.5 million refugees, representing one of the largest refugee populations in the world.⁹² Almost 107,000 (or 27.9%) of Uganda's refugees reside in Kampala.⁹³ Refugee countries of origin are predominantly South Sudan (60.8%) and the Democratic Republic of Congo (29.0%), with smaller numbers of refugees from Somalia (3.5%), Burundi (3.1%), Rwanda (1.6%), Eritrea (1.4%), Ethiopia (0.3%), Sudan (0.2%), and other countries (<0.1%) also represented.⁹⁴ Youth make up the majority of refugees, including 850,000 children. Approximately 95% of Ugandan refugees live alongside host communities in designated settlements, within which Government of Uganda allows freedom of movement and provides shelter and land for agriculture.

With respect to Uganda's commendable refugee policies, the Foreign Minister of Uganda has stated:

*"For many, the term 'refugee camp' conjures images of fences and hopelessness, and of 'temporary' tent cities that everyone knows are near-permanent. This is not the case in Uganda. Here, refugees are given land to live on and farm; they are enabled to move freely, access social services such as education, start businesses, and find employment. Above all, they are treated with dignity. In other words, they are essentially Ugandan citizens, contributing to and strengthening our economy."*⁹⁵

92 Exact number, as per UNHCR, on 31 August 2021, was 1,503,601. Source : <https://data2.unhcr.org/en/country/uga>.

93 Ibid.

94 Ibid.

95 Odongo, Jeje 2021, "Uganda's doors will remain open to refugees," Al-Jazeera Online, 23 September 2021. <https://www.aljazeera.com/opinions/2021/9/23/ugandas-door-will-remain-open-to-refugees>.

Nevertheless, many refugees reside in some of the poorest and most underdeveloped areas of the country. Uganda's host communities struggle to accommodate these large refugee populations and face their own economic, environmental, and development challenges that require continued support. Equal attention to the needs of both communities is essential to sustain peaceful co-existence and mitigate shocks to existing basic services systems.

3.2. Legislation, Policies, and Regulatory Frameworks

Uganda has not only made a number of global and national commitments to refugees but has also enshrined its commitments into progressive domestic legislation in the form of the Refugees Act, 2006⁹⁶ and the Refugees Regulations, 2010.⁹⁷ Within the Refugees Act, 2006 is the ground-breaking Section 29—referred to informally as the “Refugee’s Bill of Rights”—which establishes that refugees in Uganda should be afforded the same rights and protections as Ugandan citizens.⁹⁸ The Refugees Regulations, 2010 supports the operationalization of the 2006 Act, in particular Part VII which describes the processes of registration, identification, and documentation of refugees (e.g., the details to be included on refugee identity cards, the establishment of a register of refugees (s. 45), and the process of notification for refugee travel beyond Uganda), as well as clarifications regarding refugees right to work and access land (s.64).⁹⁹ These legislations form the basis of all refugee-related decision making in the country.

Further policies include (1) the Comprehensive Refugee Response Framework (CRRF) in Uganda which coordinates humanitarian and development needs of refugees and host communities, (2) the Third National Development Plan 2020/21-2024/25 which commits to the integration of refugee planning into national, sectoral, and local government plans and to the strengthening of data collection and use for refugee planning, (3) the

96 Refugees Act, 2006, <https://www.refworld.org/pdfid/4b7baba52.pdf>.

97 Government of Uganda, 2010, Statutory Instruments No.9: The Refugees Regulations, <https://www.ecoi.net/en/document/1237978.html>.

98 Refugees Act, 2006, Section 29.

99 The Refugees Regulations, 2010, <https://www.refworld.org/pdfid/544e4f154.pdf>.

Jobs and Livelihoods Integrated Response Plan (JLIRP) for Refugees and Host Communities 2020/21-2024/25 which sets out to establish secure, self-reliant, resilient, and sustainable refugee and host communities in refugee-hosting districts.¹⁰⁰

3.3. Freedom of Movement

Unlike many other refugee-hosting countries, the Refugees Act, 2006, Article 30 states that refugees in Uganda are not confined to refugee settlements and have freedom of movement restricted only by government directives applicable to foreigners more generally and to “national security, public order, public health, public morals, or the protection of the rights and freedoms of others.”¹⁰¹ Section 44(2) of the Refugees Act, however, has sometimes been understood as contravening Article 30, as it mentions briefly that refugees have to apply for permission to reside outside of designated areas, with further clarification not forthcoming from authorities.¹⁰²

Challenges and Gaps

In practice, refugees can move freely around Uganda, as provided for in the Refugees Act, 2006, and settle wherever they want.¹⁰³ The lack of restrictions on movement and settlement in Uganda, however, is not as clear cut as it seems, especially for urban refugees. Refugees who live outside of designated camps do not qualify for protection and humanitarian assistance from the government or UNHCR.¹⁰⁴ Refugees in Kampala who are not listed on UNHCR’s urban caseload do not receive targeted assistance unless there is a medical emergency.¹⁰⁵ While these camp-based policies for the distribution of assistance reflect the need to prioritise refugees who are the least self-reliant (the presumption being that urban refugees are the

100 ILO, n.d., Uganda Review: Review of National Policy, Legislative and Regulatory Frameworks and Practice: A Baseline for Kenya in the PROSPECTS Programme.

101 Refugees Act, 2006, Article 30.

102 Sharpe, Marina and Salima Namusoby, 2012, “Refugee Status Determination and the Rights of Recognized Refugees under Uganda’s Refugees Act, 2006,” *International Journal of Refugee Law*, 24(3), pp. 561–578, <https://doi.org/10.1093/ijrl/ees036>; See also, ILO, n.d., Uganda Review.

103 This has been confirmed by multiple respondents during FGDs and KIIs.

104 Refugees Act, 2006.

105 Bernstein, Jesse and Moses Chrispus Okello, 2007, “To Be or Not to Be: Urban Refugees in Kampala,” *Refuge: Canada’s Journal on Refugees*, 24(1), pp. 46–56. <https://doi.org/10.25071/1920-7336.21367>.

most self-reliant), this can result in vulnerable urban refugees being excluded from the programming they need. In effect, Ugandan refugees who require assistance are either forced to move to settlement camps, make do without support or, in some cases, keep some of their family members in camps to continue receiving support.¹⁰⁶ In this sense, the current settlement policies in Uganda can function as a means of restricting freedom of movement for many refugees.

3.4. Socio-Economic Inclusion

Neither Uganda's Employment Act, 2006¹⁰⁷ nor its Labour Unions Act, 2006¹⁰⁸ mention refugees. However, the Refugees Act, 2006, states that refugees should "receive at least the same treatment accorded to aliens generally in similar circumstances," including (1) the right to work in agriculture, industry, handicrafts, and commerce and establish commercial and industrial companies, (2) the right to practice his or her profession, if the refugee holds qualifications recognized by Ugandan professional bodies, (3) the right to seek and hold gainful employment.^{109, 110} The Regulations also clarify that refugees with valid identity cards who are gainfully employed should be treated in a manner similar to foreign residents, with the exception that refugees are exempt from levied charges and fees prior to or during his or her employment.¹¹¹ This clarification is in reference to the work permit that foreign residents must hold in order to be employed in the country as stipulated in ss. 53-54 of the Uganda Citizenship and Immigration Control Act (Cap 66).¹¹² Refugees are exempt from payment of work permit fees due to regional commitments made by Uganda as a member state of the East African Community (EAC) (i.e., EAC citizens are more broadly exempt from the payment of fees for such permits, and this commitment is thus

106 O'Callaghan, Sorcha, 2018, Are Integrated Services a Step Toward Integration in Uganda, ReDSS, <https://regionaldss.org/wp-content/uploads/2019/03/ReDSS-Uganda-Report-FINAL-2019.pdf>.

107 Employment Act, 2006, <https://ulii.org/akn/ug/act/2006/6/eng@2006-06-08>.

108 Labour Unions Act, 2006, <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/74419/127310/F-1707366702/UGA74419.pdf>.

109 The Refugees Regulations, 2010.

110 Other defined rights include property rights and education, "(other than elementary education for which refugees must receive the same treatment as nationals), and in particular, regarding access to particular studies, the recognition of foreign certificates, diplomas and degrees and the remission of fees and charges." Refugees Act, 2006, Article 29 (1)(e)(iii).

111 The Refugees Regulations, 2010, Part XI, s. 64; See also, ILO, n.d., Uganda Review.

112 Uganda Citizenship and Immigration Control Act (Cap 66), ss. 53-54, <https://ulii.org/akn/ug/act/1999/3/eng%402015-03-26>.

necessarily extended to refugees, the majority of which come from EAC countries).¹¹³

Work permits require that a refugee be issued a travel document from the Government of Uganda into which the work permit is stamped, with the travel document standing in for the conventional passport into which permits are stamped for other foreign workers.¹¹⁴ Additional documents supporting economic inclusion that are provided to refugees in Uganda include family attestation letters, refugee identity cards, and asylum seeker certificates.¹¹⁵ Formal employment is restricted to specific requirements and qualifications depending on the employer. Refugees can compete favourably for formal jobs provided they possess the right qualifications since formal job opportunities are provided on merit.

Additionally, the most recent JLRIP further operationalizes refugees' legal right to employment via the plan's Pillar 4. Pillar 4 supports refugees' right to work in Uganda by seeking to increase refugees' access to market-relevant skills training via (1) promoting employment creation and generating, analysing, and disseminating labour market statistics, (2) increasing job placement opportunities for refugees and their host communities, and (3) linking trainees (in particular, those who finish TVET training programmes) to job placements.¹¹⁶

Under the Refugees Act, 2006, refugees also have the same right to establish, register, and pay taxes on companies as Ugandan citizens do, with these rights set forth in the Companies Act, 2012 and the Partnerships Act, 2010.^{117,118} The ILO notes, however, that the vast majority of business in Uganda, whether by refugees or citizens, is conducted in the informal

113 World Bank, UNHCR, and Government of Uganda, 2016, *An Assessment of Uganda's Progressive Approach to Refugee Management*, p. 13, <https://openknowledge.worldbank.org/bitstream/handle/10986/24736/An0assessment00o0refugee0management.pdf>.

114 ILO, n.d., *Uganda Synthesis Report*.

115 Ibid.

116 Government of Uganda. 2021. *Jobs and Livelihoods Integrated Response Plan for Refugees and Host Communities in Uganda: 2020/2021 -2024/2025*. Kampala: Ministry of Gender, Labour and Social Development. <https://data.unhcr.org/en/documents/details/86601#:~:text=The%20Jobs%20and%20Livelihoods%20Integrated,a%20sustainable%20manner%20in%20local>.

117 The Companies Act, 2012, <https://www.parliament.go.ug/cmris/views/2c4b7863-6df0-4372-b512-995402bfbe9d%253B1.0>; The Partnerships Act, 2010, <https://www.parliament.go.ug/cmris/views/b26ced41-aa9b-48cc-89d2-6088a601c6bc%253B1.0>.

118 Refugee Act 2006, s. 21(1)(e)(iv).

economy, without business registration.¹¹⁹ Thus, while refugees may have the right to establish formal businesses, many refugees do not exercise this right due to prevalence of informal economy.

Challenges and Gaps

Despite unambiguous protection for inclusion in the Ugandan economy, refugees face steep barriers to full inclusion. Jobs involving working in government or holding elected office, for example, are reserved for Ugandan citizens.¹²⁰ Additionally, the formal employment sector is extremely small in Uganda, with 89.2% of the working population in Uganda employed in the informal economy in 2017.¹²¹ In the formal economy, refugees are mainly employed by service providers, development and humanitarian partner organisations, or non-governmental organizations, working, for example, as interpreters or teachers.¹²² Informally, refugees work mainly in the transport sector as boda-boda riders and taxi drivers, as market or shop vendors both within and outside of refugee settlement areas, and in subsistence and commercial agriculture. Therefore, while refugees have the right to formal employment and to establish formal businesses, in practice, refugees work without work permits and suffer the same adversities that many informal workers around the world face (e.g., unemployment and underemployment, poor quality and unproductive jobs, unsafe work and insecure income, denial of labour rights, and gender inequality).¹²³

Discrimination at work in Uganda is prohibited by the country's Constitution¹²⁴ and its Employment Act, 2006.¹²⁵ Informality of labour relations makes it difficult to establish the real situation on the ground. For example, one study in 2015 found that Congolese women in Kampala reported risk of violence in addition to verbal abuse and threats while engaged in livelihood activities such

119 ILO, n.d., Uganda Review.

120 Ibid.

121 National Labour Force Survey, 2017, <https://ilostat.ilo.org/topics/informality/>.

122 The NGO Act, 2016 states, however, that NGOs should prioritise providing opportunities to Ugandan nationals within their areas of operation.

123 ILO, 2002, The General Conference of the International Labour Organization, Meeting in its 90th Session, Resolution Concerning Decent Work and the Informal Economy, <https://www.ilo.org/public/english/standards/relm/ilc/ilc90/pdf/pr-25res.pdf>.

124 ILO, n.d., Uganda Review.

125 Uganda Constitution, 1995, <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/44038/90491/F206329993/UGA44038.pdf>; Employment Act, 2006, s. 6.

as collecting cassava, selling jewellery, or engaging in domestic work and, as a result, perceived themselves as having less community protection and were less likely to report violence against them.¹²⁶ Urban refugees may be particularly vulnerable. What is certain, though, is that the harassment of women in the workplace remains widespread, as does the risk of sexual harassment and other forms of violence.¹²⁷

While refugees face understandable challenges in participating in the labour market immediately upon arrival, it is striking that the gap persists over time, suggesting that refugees struggle to eliminate their initial labour market disadvantage. Discrimination may potentially explain this persistent gap, as well as the limited recognition of foreign qualifications and refugees' imperfect proficiency in the host country's official languages.¹²⁸ Additional explanations include long periods of labour market inactivity resulting from conflict, displacement due to a lack of social networks, and disproportionate lack of information on labour markets.¹²⁹

Even if refugees are allowed to work in Uganda, unclear regulations and the extra burden to comply with them can disincentivize employers from hiring refugees. Research has shown that Ugandan firms are disinclined to hire refugees and seem to lack information about their legal status and, specifically, their right to work. A recent survey highlighted that just 21% of employers in Uganda reported knowing that refugees are allowed to move freely and 23% were aware that refugees have the right to work.¹³⁰

126 Women's Refugee Commission, 2015, Gender-Based Violence Prevention and Response: Key Risks Facing Urban Refugees in Kampala, <https://www.refworld.org/pdfid/56d68ea84.pdf>.

127 Varia, Nisha and Elizabeth Kemigisha, 2021, "Uganda Lagging on Protecting Women Workers Government Should Ratify Landmark Treaty on Workplace Violence." *New Vision*. <https://www.hrw.org/news/2021/06/25/uganda-lagging-protecting-women-workers>.

128 UNESCO and UNCHR, 2018, What a Waste: Ensure Migrants and Refugees' Qualifications and Prior Learning are Recognized, Policy Paper 37, <https://www.unhcr.org/5c3c6f1f14.pdf>.

129 Schuettler, Kirsten and Laura Caron, 2020, Jobs Interventions for Refugees and Internally Displaced Persons, Working Paper 47, World Bank, Washington, D.C., <https://openknowledge.worldbank.org/handle/10986/33953>.

130 Loiacono, Francesco and Mariajose Silva Vargas, 2019, Improving Access to Labour Markets for Refugees: Evidence from Uganda, https://www.theigc.org/wp-content/uploads/2019/10/Loiacono-and-Vargas-2019-final-paper_revision.pdf

3.5. Education and Skills Development

The Ugandan Education Act, 2008 states that “primary education shall be universal and compulsory for pupils aged six years, and above which shall last seven years,” while the Refugees Act, 2006, establishes that refugees have the same right to elementary education as Ugandan citizens.¹³¹ Taken together, this legislation has ensured that there are many primary schools in official refugee settlements across Uganda.¹³²

Additionally, the Refugees Act, Section 29(1)(e) also establishes that refugees are treated like other foreign nationals with respect to the recognition of foreign certificates, diplomas, and degrees, with equivalence of these documents established by the Uganda National Examinations Board (UNEB), although there are fees for this service and for translations of qualifications into English by Makerere University or the Norwegian Refugee Council.^{133,134}

Uganda’s Ministry of Education and Sport put in place an Education Response Plan for Refugees and Host Communities in Uganda (2018-2021), outlining support for the (1) provision of education infrastructure, (2) the provision of materials, (3) the expansion of scholarships for TVET, (4) the increased supply and quality of teachers, (5) the development of a refugee education policy.¹³⁵ Within Uganda’s Technical Vocational Education and Training (TVET) Policy, 2019¹³⁶ there are several objectives relevant to refugees including engaging private sector enterprises in TVET, ensuring that TVET training content corresponds to work needs, building an organization for managing skills development, and reforming how TVET is funded and managed.¹³⁷ Uganda’s Education and Sports Sector Strategic Plan, 2017-

131 Education Act, 2008, <https://old.ulii.org/ug/legislation/act/2015/13>; Refugees Act, 2006.

132 ILO, n.d., Uganda Review.

133 The Refugees Act, 2006

134 Norwegian Refugee Council, 2020, Local Integration of NRC’s Community-Based and Integrated Programming Approach, <https://data2.unhcr.org/en/documents/download/86995>

135 Government of Uganda, 2018, Education Response Plan for Refugees and Host Communities in Uganda, Kampala: Ministry of Education and Sports. https://planipolis.iiep.unesco.org/sites/default/files/ressources/uganda_education-response-plan-for-refugees-and-host-communities-in-uganda.pdf.

136 Government of Uganda, 2019, Technical Vocational Education and Training (TVET) Policy. Kampala: Ministry of Education and Sports. https://www.education.go.ug/wp-content/uploads/2020/05/FINAL-TVET-POLICY_IMPLEMENTATION-STANDARDS_IMPLEMENTATION-GUIDELINES_19TH_MAY_2020.pdf.

137 Ibid, p.3. See also, ILO, n.d., Uganda Review.



Baking in Kampala. Daniel Ssemongere/IRC

2020¹³⁸ also includes a commitment to improve access and participation of “disadvantaged persons,” including refugees, in primary, secondary, and TVET education.¹³⁹

Finally, the Jobs and Livelihoods Integrated Response Plan (JLIRP), 2020/21-2024/2025 includes a pillar on “[i]ncreasing access to market relevant skills training to enhance employability and job creation” for refugees and host communities,¹⁴⁰ with the objective that “[s]killed refugees and host communities [will be] capable of harnessing employment opportunities in the country by 2025.”¹⁴¹ The JLIRP seeks to strengthen the capacities of TVET institutions, increase enrolment in training, and link trainees with job placement. The plan requires the Uganda Business and Technical Examinations Board (UBTEB) and Ministry for Education and Sport to ensure equitable refugee and host community access to formal and non-formal TVET by (1) contracting financial institutions to provide vouchers for TVET training, (2) providing information and training on apprenticeship schemes,

138 Government of Uganda. 2016. Uganda’s Education and Sports Sector Strategic Plan 2017-2020. Kampala: Ministry of Education and Sports. <https://www.globalpartnership.org/content/education-and-sports-sector-strategic-plan-2017-2020-uganda/>

139 Ibid, p.20.

140 Jobs and Livelihoods Integrated Response Plan for Refugees and Host Communities in Uganda: 2020/2021-2024/2025, 2021, <https://reliefweb.int/report/uganda/jobs-and-livelihoods-integrated-response-plan-refugees-and-host-communities-uganda>, p.23.

141 Ibid, p. 26

employment services, and micro-financing, (3) translating TVET curricula into refugee languages, and (4) collecting, analysing, and disseminating labour market needs information to refugees and host communities.¹⁴²

Challenges and Gaps

Refugees have access to free primary education through the Universal Primary Education programme and many public primary schools exist within refugee settlements. Access to secondary education, however, involves numerous barriers. While the Universal Secondary Education programme guarantees refugees the same access to secondary education as Ugandan citizens—and while the Office of the Prime Minister (OPM) constructs no-cost secondary schools in refugee settlements—these schools are few in number, crowded, and lack adequate water and sanitation facilities. Non-settlement-based secondary schools are costly, must be paid for out-of-pocket by caregivers, and require refugees to compete with Ugandan nationals to obtain a place.¹⁴³

Additionally, the Ugandan education system is poorly linked to labour market needs.¹⁴⁴ While government TVET institutions follow either the National Curriculum Development Centre or a curriculum established by the Directorate of Industrial Training,¹⁴⁵ TVET curricula content in the country has many inadequacies that affect both refugees and host communities. The ILO Uganda Review found that review participants considered TVET training content to be outdated and the curriculum in need of improvement and revision towards market demand (e.g., motor vehicle mechanics training is presently focused only on manual transmission vehicles).¹⁴⁶

The same ILO study also found other bottlenecks to access to education and skills training, including cost and ability to pay, negative attitudes towards vocational training which is perceived as substandard to academic education,

142 Ibid, p. 29; See also, ILO, n.d., Uganda Review.

143 ILO, n.d., Uganda Review.

144 ILO, 2020, Global Employment Trends for Youth 2020: Technology and the Future of Jobs. https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_737648.pdf.

145 NCDC curricula is for students attending formal courses who have completed primary school and have a Uganda Certificate of Education (UCE) while DIT curricula are for those who never completed these prerequisites to enable them to be provided with modular-based training.

146 ILO, n.d., Uganda Review.

and language barriers.¹⁴⁷ Local authorities and partner organisations try to address these issues by engaging refugee communities in village meetings to deal with negative perceptions, as well as by recruiting refugees as teaching assistants to address language barriers.

Finally, while Uganda does ensure a process of recognizing foreign credentials, the process may be expensive. The Uganda National Examinations Board specifies that “[a] fee to be determined by UNEB from time to time shall be charged and paid for each academic document to be equated. Additional cost for postage may be levied.”¹⁴⁸ The process may also be difficult for refugees to follow through with. For example, refugees must be able to provide both the original qualification document to be equated, as well as a certified copy of the document.¹⁴⁹

3.6. Justice and Legal Services

For refugees in Uganda, barriers to accessing legal remedies to grievances in the justice system result from problems inherent to the justice system itself, as well as vulnerabilities unique to the refugee experience.¹⁵⁰

Challenges and Gaps

The Refugees Act, 2006 grants refugees free access to Ugandan courts of law and legal assistance.¹⁵¹ While these rights should theoretically encompass the right to address grievances at work, the size of the informal economy in Uganda means that many refugees’ relationships to employers are poorly defined which often inhibits refugees from seeking and achieving redress in court.¹⁵² Additionally, legal proceedings in Uganda are costly and require documentation, judicial institutions and legal aid providers are often far from where refugees reside, and many refugees do not have a basic understanding of either their rights or processes for engaging with the justice

147 Ibid.

148 For the full list of requirements, see UNEB, Equating of Foreign Results, <https://uneb.ac.ug/services/equating/>.

149 Munduga, Patrick, Daniel Bukenya, Akim Mukasa, and Naboth Mutaremwa, 2019, Enhancing Employability of Youth, Women, and Girls in West Nile Refugee Settings using Inclusive Vocational Education and Training: Skills Mapping Survey, https://www.academia.edu/77919589/Enhancing_Employability_of_Youth_Women_and_Girls_in_West_Nile_Refugee_Settings_using_Inclusive_Vocational_Education_and_Training.

150 Ibid.

151 Refugees Act, 2006, Article 29(1)(h).

152 ILO, n.d., Uganda Review.

system.¹⁵³ Many refugees also have had traumatic experiences in their home countries, including with state institutions, leading to distrust.

A number of programs seek to improve refugee access to courts of law and legal assistance. The Refugee Law Project's Access to Justice (A2J) Programme brings legal aid and advocacy services closer to refugees, and improves the refugee legal environment.¹⁵⁴ The Legal Aid Service Providers Network (LASPNET) implements the programme Supporting Legal Aid Service Providers (LASPs) to Enhance Access to Justice for the Poor, Vulnerable, and Marginalized in Uganda to strengthen legal aid service delivery to vulnerable populations including refugees.¹⁵⁵ Many other organisations offer either self-standing legal aid and support programmes or include this component in their refugee-focused programming.

3.7. Social Security and Protection

Uganda's long-term development strategy, Vision 2040, is implemented across consecutive National Development Plans and makes no mention of refugees.¹⁵⁶ The National Development Plans do prioritize health and social protection, including extending social security and social assistance to the informal economy and improving access to social care and support services, but it is unclear to what extent refugees are meant to access these protections.¹⁵⁷ The National Development Plan III (NDP III), 2020 is the latest 5-year plan to implement Uganda Vision 2040. It includes a commitment to increase access to social protection.¹⁵⁸ While NDP III does mention the need to "support refugee hosting communities to meet increasing service delivery demand," no specific reference is made to refugees and social protection. In addition, the Constitution of Uganda aspires to provide "pension and retirement benefits" for all Ugandans,¹⁵⁹ but no provision is made to ensure the same for refugees.

153 Ibid.

154 A2J Project, https://refugeelawproject.org/index.php?option=com_sppagebuilder&view=page&id=7&Itemid=171.

155 Supporting Legal Aid Service Providers (LASPs) to Enhance Access to Justice for the Poor, Vulnerable and Marginalized in Uganda, <https://www.idlo.int/sub-projects-awarded/uganda/supporting-legal-aid-service-providers-lasps-enhance-access-justice-poor>.

156 Uganda Vision 2040, <https://www.gou.go.ug/content/uganda-vision-2040#:~:text=Uganda%20Vision%202040%20provides%20development,approved%20by%20Cabinet%20in%202007.>

157 Ibid.

158 National Development Plan, 2020, http://www.npa.go.ug/wp-content/uploads/2020/08/NDPIII-Finale_Compressed.pdf

159 Constitution of Uganda, Title XIV.

Vision 2040 has also informed the Uganda National Social Protection Policy, 2015 which defines social protection as including the joint pillars of social security and social care and support services. Social security includes contributory social insurance targeting both the formal and informal sectors, and direct income transfers which are non-contributory transfers for vulnerable children, youth, women, people with disabilities, and the elderly. The Policy—the responsibility for which falls to the Ministry of Gender, Labour, and Social Development—also does not explicitly mention refugees. Refugees may benefit also from contributory pension schemes in operation in Uganda, of which the National Social Security Fund (NSSF) is the one most immediately relevant to refugees.¹⁶⁰ The scheme has traditionally covered only a small proportion of workers who work in the formal economy and is fragmented. The National Social Security Fund (Amendment) Act 2021 amends the National Social Security Fund Act (Cap. 222) to state that any person, including self-employed persons, may register and make voluntary contributions to the NSSF. The amendment also requires all employers, regardless of the number of employees, to register with the NSSF. While employees in the formal economy must make mandatory contributions, this expansion of eligibility allows for all workers—including in the informal economy—to make contributions to a pensions scheme, although the National Social Protection Policy notes that the NSSF “operate[s] like a savings scheme and not a [true] pension scheme,”¹⁶¹ with contributors entitled to a lump sum payment of accumulated savings on retirement or other qualifying event. The JLIRP provides for the creation of a roadmap for the development of a national, shock-responsive social protection system which includes refugees and host communities during the lifetime of the plan.¹⁶²

160 The other fund, the Public Service Pension Fund (PSPF), would not be applicable to refugees since, as described earlier in this paper, only Ugandan nationals are allowed to work in the civil service.

161 National Social Protection Policy (2015), p. 31.

162 JLIRP, p. 42.

Challenges and Gaps

There is little access by refugees to social security in Uganda. In practice, refugees working in the formal or informal economy may now make contributions to the National Social Security Fund (NSSF) but, again, the NSSF functions more as a savings scheme and it is still too early to evaluate the impact of the expansion of NSSF eligibility to refugees and unclear how many refugees will elect to take advantage of this option.

The Ugandan social protection system is currently limited both in terms of adequacy of benefits and population covered. Recent progress has been made with the roll out of a tax-funded universal pension scheme, the Senior Citizen Grant (SCG), which has been extended across the country to those over the age of 80 following successful pilot phases. Non-contributory social protection schemes like the SCG, however, do not currently apply to refugees. The National Social Protection Policy, 2015 refers to “citizens”¹⁶³ and a Government of Uganda 2019 review of social protection in the country states that “[s]upport to refugees and social protection programmes currently operate in separate silos.”¹⁶⁴

163 National Social Protection Policy, 2015, <https://mglsd.go.ug/wp-content/uploads/2021/05/National-Social-Protection-Policy-uganda.pdf>.

164 Ministry of Gender, Labour and Social Development, 2019, Uganda Social Protection Sector Review, https://includeplatform.net/wp-content/uploads/2020/12/Social-Protection-Review-2019_PRINT-small.pdf, p.110.

PART 4: RECOMMENDATIONS

Recommendations for NGOs

Kenya

Integrate information campaigns related to registration, work permits, and business licences into existing refugee programming. Refugees often cite confusion over how to navigate the bureaucratic processes associated with RSD, obtain work permits, and register a business. Providing information that can help refugees navigate the process, know the resources that are available to them, and know what protections they have under the new Refugee Act may help to overcome some of their confusion and apprehension.

Link refugees to private sector employers and support refugees in obtaining the appropriate documentation. Refugees can suffer from negative stereotypes and discrimination in the workplace and employers are disincentivized from hiring refugees. By working with employers to identify the most in-demand skills and helping to match these skills with the appropriate refugees, NGOs can support refugee self-reliance and help to increase perceptions of refugees as valuable members of the workforce.

Offer business registration services for refugees. Refugees may be confused or discouraged by the business registration process and may have difficulties using the digital platform for registering a business. By offering support services for registering their businesses and helping them navigate the online registration process (e.g., obtaining a PIN, managing tax registration, etc.) more refugees will be able to operate formal businesses.

Advocate for the development of legislation and policy that reflects the commitments of the Government of Kenya to integrate refugees into education systems. Commitments made under the Djibouti Declaration on Refugee Education and the Kampala Declaration on Jobs, Livelihoods

and Self-Reliance for Refugees, Returnees, and Host Communities in IGAD Region have not been enshrined in legislation. Commitments have been made to integrate refugees into education sector plans, strengthen frameworks to promote inclusion and development of refugee teachers, identify community college-type programmes for refugees for expansion and development, determine demand for skills training of refugees, and mobilise finance to implement refugee education plans. Given these commitments, and the general momentum for inclusion of refugees into Kenyan society, now is the time to continue to push for full access to education and training opportunities, including TVET.

Uganda

Continue efforts to expand access to humanitarian services by urban refugees. Refugees who live outside of designated settlements can be excluded from protection and humanitarian assistance from government or development actors. Refugees who are not able to establish self-sufficiency are encouraged to move back to designated settlements where they can receive assistance towards increasing their self-sufficiency. While urban refugee programming is included in the Uganda Refugee Response Plan and Jobs and Livelihoods Integrated Response Plan for Refugees, and while initiatives such as the Refugee Engagement Forum (REF) and the Kampala Working Group have worked to expand access to assistance by urban refugees, urban refugees are still excluded from much of the humanitarian assistance available in Uganda.

Expand legal aid services for refugees, particularly with respect to work-related matters. Accessing legal assistance is cost-prohibitive for many refugees. Further, a majority of refugees live far from institutions of justice and legal aid providers. Refugees also, for the most part, do not have the legal knowledge and financial capacity to effectively present their cases and demand their rights. While there are existing programs for providing legal aid, few programs are focused on labour issues. By expanding services (including awareness-raising), refugees will be more readily able to overcome barriers to their full and fair inclusion in the Ugandan labour market.

Recommendations for Donors

General

Advocate for full economic and financial inclusion of urban refugees in policy dialogue with host countries, addressing the gaps highlighted in this report. Donors should provide technical assistance to improve host governments' national laws and policies and use financing to incentivize progress towards specific policies.

Support access to financial services for refugees. Given that refugees often lack the assets to provide collateral for loans, and financial service providers often see refugees as risky borrowers, investments in refugee banking are necessary for helping refugees to start businesses or invest in education. Programs that provide incentives or mitigate risks to banks issuing loans to refugees may be necessary for ensuring that refugees have access to these financial services.

Kenya

Mobilize funding to support refugee education. While the Kenyan government has made commitments to better meet the educational needs of refugees, support is needed to help meet those commitments. Programming aimed at training refugee teachers and supporting refugee secondary education and skills training will go a long way towards helping to support these ambitions.

Uganda

Ensure that vulnerable urban refugees who have a low level of self-reliance are included in programming. Camp-based policies for the distribution of assistance reflect the need to prioritise refugees who are the least self-reliant but can also result in vulnerable urban refugees being excluded from the programming they need. Donors should earmark funds for programming aimed directly at urban refugees and ensure that vulnerable urban refugees are included in the beneficiary selection for refugee programming.

Recommendations for Government

Kenya

Make regulations and procedures for obtaining refugee identification documents clear. There is presently a lack of clarity about how to apply for and receive RSD and access relevant documentation, and processes are not fully spelled out in existing legislation.¹⁶⁵ While the updated Refugees Act, 2021 requires both national and county governments to facilitate access to and issuance of identification and civil registration documentation, it remains to be seen how effectively and efficiently they are providing these documents.

RSD processes should be redesigned, simplified, and expedited. The backlog of RSD applications has led to a lengthy delay—as much as three years—in refugees receiving both RSD and the necessary documentation required for participation in the labour market and other economic and educational opportunities.¹⁶⁶ Without RSD and subsequent documentation, refugees are unable to take advantage of their right to work, education, and vocational training, and are vulnerable to abuse of authority by both the police and government officials.¹⁶⁷

Make refugee identification sufficient for obtaining work. Under the Refugees Act, 2021, refugees are guaranteed the right to “contribute to the economic and social development of Kenya.” However, meeting the requirements for obtaining a work permit are onerous for both the refugees and potential employers and, in practice, serve as an unnecessary barrier to granting full economic rights to refugees.

Make refugee identification sufficient for accessing mobile money and SIM registration. The current Know Your Customer requirements under Article 45 of the Proceeds of Crime and Anti-Money Laundering Act, 2009 do not consider refugee identification cards as a valid form of identification

¹⁶⁵ Graham and Miller, 2021.

¹⁶⁶ Ibid; Zetter and Ruaudel, 2016.

¹⁶⁷ ILO, n.d., Kenya Review.

for satisfying the Act's requirements. As a result, refugees attempting to use such cards may be excluded from access to some financial services, such as M-PESA. Similarly, the Kenya Information and Communications Act, Revised Edition 2020 [1998], stipulates that an alien identification card is required but alien identification cards are no longer issued.

Further develop and clarify existing regulations and policies that give full effect to socio-economic rights contained in the Refugees Act, 2021.

While the Refugees Act, 2021 Article 28(4) states that "a refugee recognized under this Act shall have the right to engage individually or in a group in gainful employment or enterprise, or to practice a profession or trade where he holds qualifications recognized by competent authorities in Kenya," these provisions leave room for interpretation. For example, it could be argued that requirements for refugees to already have a job lined up, or for an employer to be able to prove that no suitable Kenyan employee is available in order to secure a refugee a work permit, violate a refugee's right to contribute economically. Similarly, it could be argued that requiring refugees to use a web-based application form to obtain a business license excludes some refugees and, therefore, the government's responsibility to facilitate access to and issuance of required documentation is not being met.

Develop proactive policies and legislation to help refugee's exercise their rights. While the Kenyan policy and legislative environment has moved towards full integration of refugees into the labour force, they still face discrimination in terms of lower wages, fewer benefits, and the pervasive public sentiment that refugees threaten the economic prospects of Kenyans. Adopting specific policies and legislation that prevent exploitation and discrimination and make it easier for refugees to seek legal recourse when they experience violations of their rights is a necessary step towards minimizing the gap between the law in theory and in practice.

Uganda

Mainstream refugees in national policies and support the drafting of the new Decent Work Country Programme. Many national policies do not specifically mention refugees. Government of Uganda should be encouraged to address this. One example, the Uganda Decent Work Country Programme, 2013-2017, built on activities such as HIV/AIDS, employment creation, women's entrepreneurship development, labour relations, youth entrepreneurship, and the elimination of the worst forms of child labour that were implemented under its predecessor, the Decent Work Country Programme, 2006-2011.¹⁶⁸ The priorities were in line with the National Development Plan (NDP) and the UN Development Assistance Framework (UNDAF).

Ensure that vulnerable urban refugees who have a low level of self-reliance are included in refugee response plans and activities. As the lockdowns during the COVID-19 pandemic showed, the presumption of self-reliance for urban refugees is not always accurate and urban refugees face unique risks and challenges relative to refugees living in refugee settlements. Ensure that urban refugees are accounted for explicitly in program design, delivery, and monitoring.

¹⁶⁸ Republic of Uganda, 2012, Decent Work Country Programme, 2013-2017, https://www.ilo.org/wcmsp5/groups/public/---ed_mas/--program/documents/genericdocument/wcms_561070.pdf.

PART 5: ANNEXES

Annex I: Qualitative Interview Respondents

Respondent	Location
Department of Immigration, Policy Analyst	Kenya
Department of Labour, Policy, Research, and Advocacy	Kenya
Refugee NGO, Economic Inclusion Program Manager	Kenya
City Executive Committee Officer	Kenya
Chamber of Commerce Representative	Kenya
Refugee Authority, Communications Assistant	Kenya
Labour Lawyer	Kenya
Refugee NGO Representative	Kenya
TVET Representative	Kenya
Local Government Representative	Kenya
FGD, Refugees/Migrants	Kenya
FGD, Refugees/Migrants	Kenya
Commissioner for Refugees	Uganda
Department of Immigration Representative	Uganda
City Executive Committee Representative	Uganda
Refugee Authority Representative	Uganda
FGD, Refugees/Migrants	Uganda
FGD, Refugees/Migrants	Uganda
Business Owner	Uganda
Refugee NGO Representative	Uganda
Lawyer	Uganda
Lawyer	Uganda

NAIROBI, KENYA

International Rescue Committee
Merchant Square, 4th Floor, Block C
Riverside Drive, Nairobi

KAMPALA, UGANDA

International Rescue Committee
Plot 7 Lower, Naguru East Road Kampala

The Re: Build program brings together the International Rescue Committee (IRC), the Center for Global Development (CGD), Open Capital (OCA), Kampala Capital City Authority (KCCA) and Nairobi City County Government (NCCG).



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