REFUGEES' ACCESS TO WORK PERMITS AND BUSINESS LICENCES IN KENYA

Foni Joyce Vuni and Buhendwa Iragi

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UNIVERSITY OF OXFORD REFUGEE STUDIES CENTRE

REFUGEE-LED RESEARCH HUB

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About the study

This study was supported by Mastercard Foundation and WUSC (World University Service of Canada). The report was prepared by Foni Joyce Vuni (Research Lead, RLRH) and Buhendwa Iragi (Research Assistant, RLRH), with support from Pauline Vidal (Research Facilitator, RLRH). It was published in June 2023.

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The Refugee-Led Research Hub (RLRH) is an initiative of the Refugee Studies Centre (RSC) at the University of Oxford. RLRH supports individuals with lived experience of displacement to become leaders in the field of Refugee and Forced Migration Studies. It does so by creating opportunities for researchers with displacement backgrounds to lead primary and secondary research studies, from start to finish. The main research interests relate to 1) livelihoods and self-reliance; and 2) leadership and participation of displaced populations in humanitarian response and policy. RLRH also offers academic programming to a global cohort of students who have been affected by displacement, supporting access to graduate degrees and professional development opportunities. The mission of RLRH is embodied in its leadership structure: the majority of the team have lived experiences of displacement. RLRH has offices in Oxford and in Nairobi at the British Institute in Eastern Africa (BIEA). For more information on RLRH, please visit: www.refugeeledresearch.org.

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Acronyms

DRS	Department of Refugee Services (previously RAS)
EAC	East African Community
FGD	Focus group discussion
HIAS	Hebrew Immigrant Aid Society
ICLA	Information, counselling, and legal assistance
ID	Identity document
IDI	In-depth interview
INGO	International non-governmental organisation
IT	Information Technology
KII	Key informant interview
KRA	Kenya Revenue Authority
NGO	Non-governmental organisation
NRB	National Registration Bureau
RAS	Refugee Affairs Secretariat
RCK	Refugee Consortium of Kenya
RLO	Refugee-led organisation
RLRH	Refugee-Led Research Hub
UNHCR	United Nations High Commissioner for Refugees
WUSC	World University Service of Canada

Glossary

Proof of registration document: "A document issued by the government that lists the members of a family registered in an urban setting."[1]

Asylum seeker: "A person who has left their country and is seeking protection from persecution and serious human rights violations in another country, but who hasn't yet been legally recognized as a refugee and is waiting to receive a decision on their asylum claim."[2]

Asylum seeker certificate: "A document issued by UNHCR noting that those listed on it (usually a family) are recognised as asylum seekers by UNHCR. It is valid until the appointment date listed on it for an interview at UNHCR's offices."[3]

Asylum seeker pass: "A document issued by the government that indicates the holder has been recognised as an asylum seeker by the government. It is valid for six months or one year."[4]

Class M work permit: A permit issued to someone who has been granted refugee status in Kenya, or to the spouse of such a person who intends to take up employment or engage in a specific occupation, trade, business, or profession.[5]

Displaced person: "A person who has been forced or obliged to leave their home or place of habitual residence as a result of armed conflict, situations of generalised violence, violations of human rights, or natural or human-made disasters. This definition covers both internal and cross-border displacement."[6]

Host community: The local community that hosts refugees (whether in camps, integrated households, or independently).[7]

Refugee Act 2021: A Parliamentary act that provides for the recognition, protection, and management of refugees (in accordance with the 1951 United Nations Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa).[8]

Refugee: "Someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion."[9]

Refugee ID: "A government-issued identity card that includes a notation (either in the card's title or elsewhere) to indicate the holder is a refugee."[10]

Refugee camp: A facility built to provide housing and assistance to refugees. Refugee camps are generally intended to be temporary settlements.

Urban refugee: "A refugee who decides or is compelled to establish permanent residence in a city as opposed to a camp setting."[11]

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[1] Recognising Nairobi's Refugees: The Challenges and Significance of Documentation Proving Identity and Status: https://www.nrc.no/globalassets/pdf/reports/refugees-in-nairobi/recognising-nairobis-refugees.pdf

[2] Refugees, Asylum Seekers and Migrants: https://www.amnesty.org/en/what-we-do/refugees-asylum-seekers-and-migrants/; UNHCR definition: An asylum-seeker is someone whose request for sanctuary has yet to be processed: https://www.unhcr.org/asylum-seekers

[3] Recognising Nairobi's Refugees (n 1)

[4] Recognising Nairobi's Refugees (n 1)

[5] Application for Permit Class M: (Refugees (KEP/M).)

[6] "About internally displaced persons | OHCHR." https://www.ohchr.org/en/special-procedures/sr-internally-displaced-persons/about-internally-displaced-persons

[7] "UNHCR Master Glossary of Terms." https://www.unhcr.org/glossary/

[8] "Refugees Act, No. 10 of 2021 - KENYA GAZETTE SUPPLEMENT." 23 Nov. 2021, http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/2021/TheRefugeesAct_No10of2021.pdf

[9] Convention and Protocol Relating to the Status of Refugees: https://www.unhcr.org/media/28185

[10] Recognising Nairobi's Refugees (n 1)

[11] Urban Refugee: https://www.unhcr.org/about-unhcr/who-we-protect/refugees/urban-refugees

Executive summary

In Kenya, many refugees, in both urban and camp settings, engage in employment and run businesses to cover their basic needs. Kenyan legislation allows refugees to engage in gainful employment and set up businesses: refugees can apply for Class M work permits with Immigration Services and business licences with county authorities to regularise their activities. In practice, access to work permits and business licences is complicated by several barriers. This study explores the gaps that exist between policy and practice of refugee access to Class M work permits and business licences in Kenya, and identifies what support is needed to improve access to sustainable livelihoods for urban and camp refugees.

A team of refugee researchers led the study from start to finish between May and December 2022 in Nairobi, Mombasa, Nakuru, Eldoret, the Kakuma camp, and the Kalobeyei settlement in Kenya. Findings are based on 11 key informant interviews (KIIs) with refugee-supporting organisations and members of the private sector, 81 in-depth interviews with refugees who have applied (successfully and unsuccessfully) for work permits and business licences in Kenya, and 11 focus group discussions with 73 individuals from the refugee community. The research design and results were discussed with refugees and refugee-supporting organisations during three consultations.

Experiences with applications

Overall, work permit applicants reported significantly more negative experiences compared to business licence applicants. At every step of the process, work permit applicants faced more challenges than business licence applicants.

- **Step 1: Getting information.** Business licence applicants said that the information was clear and that they had received clear guidelines from officials of the county government during community awareness programmes or when engaging with these representatives individually. On the other hand, work permit applicants said they struggled to access and understand the information, and that officials from the Department of Refugee Services (DRS) and the Immigration Services did not provide helpful support, unlike country government officials.
- **Step 2: Gathering documents.** Both business licence and work permit applicants need to submit their refugee identity document (ID) and a Kenya Revenue Authority (KRA) Personal Identification Number (PIN). Obtaining a valid refugee ID is a structural challenge faced by both work permit and business licence applicants. Refugee IDs need to be renewed every five years, and refugees in Kenya continuously experience significant delays during renewals, forcing them to work or operate businesses illegally until they get a new ID. Getting a PIN from the KRA is also a key challenge for applicants; for example, if an applicant's ID number has not been integrated into the database of the National Registration Bureau (NRB) at the time of application, the online platform might not accept their ID number. Work permit applicants reported struggling with accessing the recommendation letter from DRS outside of Nairobi and Kakuma. They also found it difficult to acquire letters from their employers: many employers struggle to articulate why they want to hire a refugee over a Kenyan and are not willing to provide tax compliance certificates. There was also ambiguity around the need to submit a national passport: while passports are listed as a requirement to obtain the work permit, refugees have successfully applied without holding one.

- **Step 3: Application.** Refugees can apply in-person or online with county authorities for business licences. Applicants in Kakuma and Kalobeyei generally apply in person, while applicants in urban centres generally apply online. Work permit applicants can only apply online. Applicants highlighted that the online platform is not easy to use and requires significant support to navigate, and many questions are difficult to answer without prior explanation. Refugees who are not able to access in-person support from officials or aid organisations sometimes get stuck and are unable to apply. While the Class M work permit is free, refugees pay to obtain a business licence. Fees for business licences vary depending on the nature and size of the business (from 20 USD for a hawker's stall to 2,000 USD for a large hotel). The licence is valid for a year, making it a recurring cost, which may be a challenge for smaller businesses. There are hidden costs associated with both work permits and business licences. Applicants have to go to the office to follow up with their applications in case of delays, or to organisations that support them. Applicants face trade-offs when following up: they might have to leave their businesses or occupations, which may result in a loss of income. Some refugees reported they had to pay bribes to officials for both processes.
- **Step 4: Waiting for feedback.** Business licence applicants generally received feedback quickly and within expected deadlines. As business licences are processed by the county, applicants could easily follow up on their applications locally. On average, work permit applicants waited about three months for feedback. However, some waited up to 6 months and others never received feedback. In the meantime, applicants are not given updates on the progress of their application. Refugees in Nairobi and Kakuma can follow up at the DRS office, but refugees in Kalobeyei, Nakuru, and Mombasa need to travel to Kakuma or Nairobi to follow up on their application. This process is often described as confusing and creates anxiety and frustration among applicants, who feel like they are stuck in limbo. Because of the sheer length of the process and the uncertainty over its outcome, many respondents give up on the process, do not reapply in case of rejection, or do not apply for renewals. Refugees often lose their employment offers because of the processing time. Employers are more reluctant to hire refugees because of the uncertainty of the process and waiting time.
- **Step 5: Outcome of applications.** All refugees we interviewed who had submitted all the requested documents had received the business licence, either online or when they visited county offices. On the other hand, very few refugees in Kenya have been successful in getting a work permit. While the team has not identified all refugee work permit holders, successful applicants are outliers based in Nairobi who received significant support or followed up directly with Immigration Services. Most interviewed applicants were rejected and received a 'no-merit' notice on the online platform: refugees do not know why their application failed and are unable to take steps to re-apply successfully.

Factors of success

As all business licence applicants were successful, compared with very few work permit applicants, we cannot make conclusions on the factors that influence the outcome of applications. However, several factors affect the decision and ability to apply for both work permits and business licences.

- **Location** influenced the nature of the information that refugees had. Refugees in Kakuma and Kalobeyei had accurate information about business licences because the process is regular, structured, and controlled, but they had little information about work permits. In urban settings, refugees in Nakuru and Mombasa had less information about business licences than refugees in Nairobi as county authorities had done more sensitisation campaigns. Work permits are only issued from Nairobi, so refugees outside the city have to travel to follow up with relevant offices.
- **Networks with the host community** played a key role in facilitating the business licence acquisition process because the process is similar for nationals. Refugees in urban settings often run businesses alongside host community members who have helped them with registration. Because the work permit process is unique to refugees and foreigners, host community members did not play a role in facilitating the process for applicants.
- It is unclear to what extent **nationality** affects the outcome of applications: a few respondents felt that the perceived legitimacy of their asylum in Kenya might lead to more discrimination. This was perceived particularly by those from South Sudan and Rwanda.
- **Level of education** significantly affects refugees' decision and ability to apply for work permits. Most applicants had some tertiary level qualification (diploma, post-graduate). As the process is complex, good literacy is required.
- Most applicants for both work permits and business licences in the sample were **men**. Women who participated in focus group discussions (FGD) appeared to have less information than men because they generally were less educated. Women also appeared to be more likely to disqualify themselves because they felt they were not skilled enough to apply. Some of them were also fearful of being exposed if they engaged with officials.

Effects of receiving documentation

According to most refugee respondents, receiving a work permit or business licence had a largely positive impact on their lives.

Most business licence holders said that they were now able to contribute to the local economy and operate their businesses legally and more freely, without fear of harassment from local authorities. Some respondents also stated that receiving a business licence enabled them to access bank loans and expand their businesses and incomes. A few business licence holders expressed that they experienced negative effects after receiving the licence, the main one being the burden of paying taxes, regardless of their financial situation.

The few successful work permit applicants felt that they had more dignity and freedom, and received better salaries than incentive compensation. This has a positive impact on their mental health and their sense of security. However, limitations around work permits do not allow for sustainable effects. A work permit is only valid for two years and is linked to the employer who supported the application. As a result, refugees need to re-launch the process if they change employers.

Recommendations

- The **Government of Kenya** should establish a feedback channel for applicants to communicate the processing time for work permits. This can be communicated on the platform, or through the existing UNHCR hotline. Moreover, Immigration Services should provide clear feedback on why applications were rejected so refugees can adapt and re-apply. The government should also make the portal easier to navigate and consider options for offline applications for refugees with limited IT skills.
- **DRS** should create a desk position in Nairobi and Kakuma to support work permit applicants. Outside of Nairobi and camps, DRS should train liaison officers to make it accessible. DRS should also raise awareness on refugee documentation and rights in different institutions. To do so, DRS could provide regular training to staff at all levels (including security personnel) on the different types of documents refugees may hold and the refugee identity card's role as standard documentation. DRS could also lobby the NRB to make sure that refugee IDs are integrated in a timely manner.
- **UNHCR** should play the main role in disseminating information. For employers, UNHCR should set up an online resource to help them access a clear explanation of how to address requirements. For refugees, UNHCR should improve the accessibility of information in more marginalised locations such as Nakuru and Mombasa.
- **Employers** should ensure that they coordinate internally to support refugees' application processes and be flexible with refugee applicants so they do not miss out on opportunities.
- **Refugee-led organisations (RLOs)** should play a key role in providing information to refugees on social media and through peer-counselling.

Introduction

Rationale and objectives

As of 2022, Kenya was hosting 568,325 registered refugees and asylum seekers.[12] Many refugees in Kenya engage in employment and run businesses to cover their basic needs, both in urban and camp settings.[13]

The Kenyan Refugee Act of 2006, and the newly enacted Refugees Act of 2021 provides refugees the right to engage in gainful employment and run a business, subject to applicable laws.[14] The Class M work permit was introduced for refugees who intend to take up employment or engage in a specific occupation, trade, business, or profession. Refugees can also register their own businesses with local authorities.

However, these policies often do not work in practice, as the application processes and bureaucracies involved make it difficult for refugees to get work permits or business licences.[15] In addition, these policies have many gaps that make the implementation of refugee rights difficult. For example, the lack of coherent regulations to support the implementation of the Refugee Acts has created confusion over the legal status of refugees, their documentation, and their associated rights. This gap between policy and practice exacerbates the vulnerabilities of refugees and limits their potential to become self-reliant and thus contributes to the socio-economic development of their host communities.[16]

This study explores the gaps that exist between policy and practice of refugee access to Class M work permits and business licences in Kenya, and what further support is needed to improve access to sustainable livelihoods for urban and camp refugees. It asks the following questions:

1. What policies and legal frameworks govern refugees' access to Class M work permits and business licences in Kenya at the national and county levels?
2. What have been refugees' experiences in applying for the Class M work permit and business licences in Kenya?
3. What factors have enabled or hindered the lodging of applications?
4. What support is available to refugees seeking work permits? What are the perspectives of refugees and stakeholders on how support can be improved?
5. How do successful applicants perceive the impact of having received a Class M permit or a business licence, in terms of access to livelihood opportunities and self-reliance?

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[12] UNHCR (2022). "Kenya: Registered refugees and asylum-seekers as of 31 October 2022." 31 October 2022. Available from: https://www.unhcr.org/ke/857-statistics.html. Accessed 10 Nov. 2022.

[13] Manji, F., Noorali, M., and J. Peace De Berry (2019). Desk Review on Livelihoods and Self-reliance for Refugees and Host Communities in Kenya. No. 135485. The World Bank, 2019. Available from: https://documents1.worldbank.org/curated/en/685581553241680189/pdf/135485-WP-P169281-PUBLIC-Livelihoods.pdf.

[14] Kenyan Refugees Act of 2021, S. 28 (5);http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2010%20of%202021#part_V; Refugee Act 2006, S. 16 (4) http://kenyalaw.org/kl/fileadmin/pdfdownloads/RepealedStatutes/RefugeesActNo.13of2006.pdf.

[15] Freudenthaler, E. (2012). Refugee Rights in Kenya, between Theory and Practice. Diplomarbeit, University of Vienna. DOI: 10.25365/thesis.17268.

[16] Betts, A., Chaara, I., Omata, N., & Sterck, O. (2019). Refugee economies in Uganda: what difference does the self-reliance model make?. Available from: https://www.rsc.ox.ac.uk/publications/refugee-economies-in-uganda-what-difference-does-the-self-reliance-model-make

6. What is the urban refugee community's perception of access to Class M work permits and business licences? What information does the community have about the work permit and business licence application process?

Research methods

The study was implemented by a team of refugee researchers in three urban and two camp settlement sites across Kenya: Nairobi, Mombasa, Nakuru/Eldoret, the Kakuma camp, and the Kalobeyei settlement. The study used a range of **qualitative tools** to answer the research questions in those locations:

- **Desk review.** The team analysed 20 sources to better understand the Kenyan context and triangulate findings from interviews.
- **Three consultations.** The team conducted three consultations at the design phase and implementation phase with refugees and stakeholders to gather their inputs and perspectives on the study design, findings, and dissemination plans. A total of 18 refugees and 7 representatives from refugee-supporting organisations, including DRS, participated in consultations. Profiles included: refugee women from Rwanda and Sudan, a Congolese community worker, business owners from the Somali and Ethiopian communities, a refugee youth entrepreneur, and a refugee from the Ugandan community.
- **11 key informant interviews (KII)** with seven NGOs and INGOs that have lobbied for the right to work for refugees or provided legal aid or business support, and three private sector organisations. One of the key limitations of the study is that the research team was unable to interview representatives from the United Nations High Commissioner for Refugees (UNHCR), the DRS, and the Immigration Services.
- **81 in-depth interviews (IDIs)** with refugees who have applied (successfully and unsuccessfully) for work permits and business licences in Kenya. While we reached out to a diverse group of refugees, there are inherent biases to our qualitative sample. Some work permit holders are absent from our sample, including a doctor, an economist, and an Information Technology (IT) worker who were not available and/or willing to participate in interviews. 9 respondents applied for both documents.
- **11 focus group discussions (FGDs)** with 73 refugee individuals from the refugee community in urban and camp locations. Some FGD participants had previously applied, while others had not previously applied to Class M permits or business licences.

Profiles	Nairobi	Nakuru	Eldoret	Mombasa	Kakuma	Kalobeyei
Successful work permit applicants	4	0	0	0	0	0
Unsuccessful work permit applicants	16	1	1	1	4	2
Successful business licence applicants	6	3	0	7	8	8
Unsuccessful business licence applicants	5	3	1	7	7	6

Overall, the team ensured diversity in the sample in terms of work experience, gender, age, and nationality. In total, we interviewed 25 women in IDIs and 37 women in FGDs, and refugees from a total of nine nationalities (South Sudanese, Sudanese, Ethiopian, Somali, Rwandese, Congolese, Burundian, Ugandan, and Eritrean).

Positionality

The study was conducted by a team led by refugee researchers based in Kenya from beginning to end. Our positionality brings significant benefits to the research. The refugees we interviewed were excited to see this issue being investigated by a team of refugee researchers, and our familiarity with our communities helped us better understand nuanced experiences and interactions.

Our identities as refugee researchers in Kenya also raised several challenges. In many instances, being a refugee researcher makes it more difficult to secure key informant interviews. Requests for interviews with the UNHCR and the government did not receive a response, and we hypothesise that it is because we are perceived as less legitimate than Kenyan or international researchers. We also faced several challenges when applying for research permits. While we were able to secure ethical approval from the University of Oxford and a research permit from the National Commission for Science, Technology and Innovation (NACOSTI), we were not provided with travel authorisation to access Kakuma and Kalobeyei from DRS. DRS also requested that all team members provide work permits, despite long waiting times and current practices whereby local enumerators hired by international researchers are not scrutinised. This demonstrates the glass ceiling that we face when going beyond enumeration work and taking leadership roles in conducting research.

Our positions as researchers also affected our interactions with other refugees. We have information, skills, and opportunities that other refugees might not be able to access. As a result, community members often expected that we could provide direct support to them, and we had to actively mitigate their expectations. We also put together a list of humanitarian organisations that provide different services to share with the respondents on a need's basis.

Throughout the data collection and analysis phases, we took steps to mitigate personal biases. We triangulated our findings through multiple sources and stakeholders. We developed a codebook and coded all transcripts using the open-source software Taguette. The report was also reviewed by a group of academics and donors, and we shared preliminary findings with refugees and aid organisations through the consultations we organised.

Landscape

Kenya is the second biggest refugee-hosting country in Africa.[17] Kenya hosts refugees mainly from the Great Lakes and the Horn of Africa region[18] The refugees and asylum seekers residing in Kenya today are mainly from Somalia, South Sudan, Democratic Republic of Congo (DRC), Ethiopia, Burundi, Sudan, Uganda, Eritrea, and Rwanda.[19] Most refugees (84%) in Kenya live in camps, due to the encampment policy.

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[17] UNHCR Kenya webpage: https://www.unhcr.org/ke/who-we-help/refugees
[18] UNHCR (2022). "Kenya: Registered refugees and asylum-seekers as of 31 October 2022." 31 October 2022. Available from: https://www.unhcr.org/ke/857-statistics.html. Accessed 10 Nov. 2022.
[19] UNHCR (2022). "Kenya: Registered refugees and asylum-seekers as of 31 October 2022." 31 October 2022. Available from: https://www.unhcr.org/ke/857-statistics.html. Accessed 10 Nov. 2022.

There is no publicly available information about the number of successful and unsuccessful applicants to Class M permits and business licences in Nairobi. The team was unable to access government databases and found no evidence that such databases exist. In our sample, we see that both men and women refugees from all major nationalities have applied for work permits and business licences. Our sample reflects the landscape analysis, to the extent possible.

Nairobi: There are over 80,000 registered refugees[20] and many unregistered refugees in Nairobi. Refugees in Nairobi have very limited access to assistance, and have to rely on income-generating sources. There is a high diversity of profiles, and income, among professionals and business owners in Nairobi. Some refugees have accessed tertiary educational opportunities and work as professionals in research or humanitarian organisations.[21] Others work as community workers for organisations and receive incentive compensation. Many refugees engage in business and own shops or hotels of different sizes in a variety of neighbourhoods such as Eastleigh, Kawangware and Umoja/Kayole.[22]

Mombasa: There are about 15,600 urban refugees in Mombasa, mostly from the Congolese, Somali, Rwandese, Ethiopian, and Burundian communities.[23] Many refugee men and women in Mombasa engage in business such as running shops and small eateries, and selling fabrics and clothes. We encountered few professionals: the team was only able to identify one refugee who applied for a work permit, and most respondents were not aware of the Class M permit.

Nakuru and Eldoret: There are about 3,000 urban refugees in Eldoret. There is no publicly available estimation of the number of refugees in Nakuru.[24] Most urban refugees in those sites are from the Sudanese, South Sudanese, and Somali communities. Like in Mombasa, most refugees relied on businesses (selling fabric, small shops, hotels) for livelihoods and rarely pursued formal employment. As a result, many are aware of, and have applied for, business licences.

Kakuma camp: Kakuma hosts 193,776 refugees, the majority of whom are from South Sudan, Somalia, and the DRC (others are from Ethiopia, Burundi, Sudan, Eritrea, and Rwanda).[25] Kakuma camp was established in 1992, making it a protracted camp.[26] Kakuma camp's informal economy is thriving, with more than 2,000 businesses, including 14 wholesalers. Businesses tend to meet the daily needs of Kakuma's residents, providing food, cosmetics, mobile phones, and other sundries.[27] Most business owners have applied for

[20] UNHCR (2022). "Kenya: Registered refugees and asylum-seekers as of 31 October 2022." 31 October 2022. Available from: https://www.unhcr.org/ke/857-statistics.html. Accessed 10 Nov. 2022.
[21] There is no publicly available data on refugees' access to higher education in Kenya by location. UNHCR reports that "less than one-sixth have access to tertiary education, including technical and vocational education and training." See: https://www.unhcr.org/ke/education
[22] Betts, A., Omata, N., Sterck, O. (2018), Refugee Economies in Kenya, Oxford: RSC. Available from: https://www.rsc.ox.ac.uk/files/files-1/refugee-economies-in-kenya
[23] Adan, A. and Duncan, E. (2022) "How Refugees Take Control of Who "Belongs": A Case Study of Refugees in Towns - Mombasa, Kenya." Available from: https://reliefweb.int/report/kenya/how-refugees-take-control-who-belongs-case-study-refugees-towns-mombasa-kenya
[24] UNHCR (2022). "Kenya: Registered refugees and asylum-seekers as of 31 October 2022." 31 October 2022. Available from: https://www.unhcr.org/ke/857-statistics.html. Accessed 10 Nov. 2022.
[25] Ibid
[26] UNHCR (undated). "Kakuma Refugee Camp and Kalobeyei Integrated Settlement." https://www.unhcr.org/ke/kakuma-refugee-camp. Accessed 13 Dec. 2022.
[27] International Finance Corporation. (2018). Kakuma as a marketplace: a consumer and market study of a refugee camp and town in northwest Kenya. World Bank. Available from: https://elibrary.worldbank.org/doi/abs/10.1596/34645

business licences. Professionals work as incentive workers within the camp, as researchers or enumerators, or engage in freelance opportunities online (e.g. translation).[28]

Kalobeyei settlement: Kalobeyei settlement is home to 47,702 refugees.[29] The settlement is situated 3.5 kilometres from the Kakuma refugee camp and is mostly home to refugees from South Sudan (71%).[30] It was set up in 2016 to promote the integration of services between refugees and host community members.[31] Rates of economic activity in Kalobeyei are low, in part due to the young age of the population: only 39% of refugees are of working age (15–64 years), and more than half of them are inactive (e.g. caring for household members or studying).[32] Most refugees are dependent on food support, and sell their rations to make ends meet.[33]

Image 1: Focus group discussion.
© Pascal Zigashane

[28] Around 5000 refugees work for UNHCR and its partner agencies as informal, non-contractual workers. Betts, A., Omata, N., Sterck, O. (2018), Refugee Economies in Kenya, Oxford: RSC. Available from: https://www.rsc.ox.ac.uk/files/files-1/refugee-economies-in-kenya

[29] UNHCR (2022). "Kenya: Registered refugees and asylum-seekers as of 31 October 2022." 31 October 2022. Available from: https://www.unhcr.org/ke/857-statistics.html. Accessed 10 Nov. 2022.

[30] Betts, A., Omata, N., & Sterck, O. (2020). The Kalobeyei settlement: a self-reliance model for refugees?. Journal of Refugee Studies, 33(1), 189-223. Available from : https://www.jointdatacenter.org/literature_review/the-kalobeyei-settlement-a-self-reliance-model-for-refugees/. Accessed 9 Dec. 2022.

[31] UNHCR. 'Kakuma Refugee Camp and Kalobeyei Integrated Settlement'. See: https://www.unhcr.org/ke/kakumarefugee-camp

[32] UNHCR and the World Bank (2020). " Understanding the Socioeconomic Conditions of Refugees in Kalobeyei, Kenya: Results from the 2018 Kalobeyei Socioeconomic Profiling Survey" Available from: https://www.jointdatacenter.org/literature_review/understanding-the-socioeconomic-conditions-of-refugees-in-kalobeyei-kenya-results-from-the-2018-kalobeyei-socioeconomic-profiling-survey/. Accessed 13 Dec. 2022.

[33] Betts, A., Omata, N., & Sterck, O. (2020). The Kalobeyei settlement: a self-reliance model for refugees?. Journal of Refugee Studies, 33(1), 189-223. Available from: https://www.jointdatacenter.org/literature_review/the-kalobeyei-settlement-a-self-reliance-model-for-refugees/. Accessed 9 Dec. 2022.

Policies and legal framework

Overview

In Kenya, policy frameworks regulate and highlight procedures for refugees' engagement in business activities and access to gainful employment. These policies are implemented at the national and local levels.

Kenya is a signatory to the 1951 Refugee Convention. Kenya ratified the convention and its 1967 Protocol on 16 May 1966, which provides refugees' the right to work and engage in gainful employment, among other rights.

The right to move and earn a living was enshrined in Kenya's first refugee law, the Refugee Act of 2006. Section 16(4) says that refugees should be subjected to the same restrictions as those imposed on foreigners. Both the Kenya Citizenship and Immigration Act, 2011 and the Kenya Citizens and Foreign Nationals Management Service Act, 2011 note that refugees should be subjected to the same restrictions as imposed on other foreigners. This means that refugees, like any other foreigners, must get a work permit or business licence in order to acquire a job or start a business in Kenya. Incentive workers in Kenya are allowed to work for UNHCR and its partner agencies without a work permit, but they receive a much lower pay than Kenyan staff for equivalent work.

Even in the newly enacted the Refugees Act (2021), refugees have the right to engage in gainful employment, subject to applicable laws and taking into consideration the special circumstances of refugees. It says that "*a recognized refugee shall have the right to engage individually or in a group, in gainful employment or enterprise or to practise a profession or trade where he holds qualifications recognized by the authorities in Kenya*,"[34] and also adds 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 at the national and county governments*".

The Refugees Act (2021) is considered to be an important step towards greater inclusion into the labour market because it promotes mechanisms for swift refugee registration. It is unclear when and how this Act will be implemented.

Work permits

The regulations of the Kenya Citizenship and Immigration Act 2011/2012 require refugees who intend to take up employment or engage in a specific occupation, trade, business or profession, to apply for a Class M work permit.[35]

Under the Class M permit, employers are expected to justify why refugees were being considered for work opportunities over Kenyan nationals, and explain the specific skills they have, highlighting why those skills are not available among Kenyans. In addition, they are expected to explain how a Kenyan will work alongside the refugee, so the skill can be

[34] Section 28 (5) Refugees Act, 2021

[35] Department of Immigration Services: Permits Information Pack https://fns.immigration.go.ke/infopack/permits/; The Kenya Citizenship and Immigration Regulations: http://www.kenyaembassyireland.net/wp-content/uploads/Kenya-Citizenship-Regulations-2012.pdf

transferred, and the Kenyan can take over the position eventually. This process is similar to what is requested of expatriate workers.[36]

Documents required to apply for a Class M permit[37]

A completed and signed 'Form 25'[38]

A signed cover letter from the applicant's employer or self-addressed to the Director General of the Immigration Services

Copies of national passport

Two recent coloured passport-size photos

Current immigration status, if in the country

A valid organisation tax compliance certificate for new cases plus individual tax compliance certificate for renewal cases (referred to throughout the report as 'KRA PIN')

A recommendation letter from the DRS

Refugees from Burundi, the Democratic Republic of Congo, Rwanda, South Sudan, Tanzania, and Uganda are not eligible to work under the East African Community (EAC)'s regional right to work policies as they would have to renounce their refugee status and obtain documentation from their country of origin.[39] The team did not come across any refugees who had renounced their status to access the right to work through the EAC.

Business licences

The Business Registration Services Act 2015 lays down the regulations on registration of all businesses within Kenya at the national level.[40] Refugees can apply for business licences with the county authorities. To apply, an applicant requires a valid refugee ID, a KRA PIN, and the registration payment. The county then issues a business licence, which needs to be renewed on an annual basis.

There is a variation in fees to get the business licence depending on the nature and size of the business (from 20 USD for a hawker's stall to 2,000 USD for a large hotel). These rates

[36] On Form 25, employers are asked the following questions: "What steps have you taken to confirm that the skills/qualifications sought are not available locally, If you have a Kenyan citizen who you are training for this post, please indicate the following (attach employment contract). If you do not have a Kenya citizen who you are training for this post, give reasons. State the steps you are going to take during the validity of the permit to engage a Kenya trainee" (question 18); and "If the application is approved will the proposed employee be instrumental in training Kenya citizens" (question 19).

[37] Class M for Refugees:https://immigration.go.ke/work-permits-passes/class-m-refugees/

[38] The form is available can be accessed at this link: https://www.yumpu.com/en/document/read/38798592/form-25-application-for-entry-permit

[39] The Refugees Act (2021) states that "A person from a Partner State of the East African Community who has been recognised as a refugee under this Act may opt to voluntarily give up his or her refugee status for the purposes of enjoying any of the benefits due to him or her under the Treaty for the Establishment of the East African Community, the Protocol for the Establishment of the East African Community Common Market, and any other relevant written law." In Kenya, free movement of workers within the EAC applies to Managers, Professionals, Technicians and Associate Professionals, and Craft and Related Trades Workers. There is no publicly available data on the number of EAC nationals who received work permits in Kenya. See more at: https://www.eac.int/working-in-east-africa

[40] Business Registration Service Act 2015: http://kenyalaw.org:8181/exist/rest//db/kenyalex/Kenya/Legislation/English/Acts%20and%20Regulations/B/Business%20Registration%20Act%20No.%2015%20of%202015/docs/BusinessRegistrationServiceAct15of2015.pdf

apply to all applicants in Kenya and are not specific to refugees. Each county has its catalogue of rates, but they do not differ significantly.[41]

Some business licence applicants also have to obtain a food handlers certificate.[42] To do so, they must visit a government health facility to be tested and collect the certificate. This costs between Ksh 700-1500 (about 5-13 USD). The process is described by respondents as straightforward and simple.

There are some ambiguities around the obtainment of business licences in existing policies, but they have not impacted the experiences of refugees who hold business licences. First, the Business Registration Services Act 2015 requires that business owners, in addition to county registration, also apply at the Business Registration Services to get a business tax PIN, which is distinct from the KRA PIN. However, none of the respondents were aware of this policy, and none of them were asked to show their business tax PIN. Second, it is unclear whether refugees operating businesses are also required to have work permits alongside the business licence, which appears to be the procedure indicated in the Citizenship and Immigration Act 2012 regulation. Again, none of the respondents mentioned this challenge.

Experiences with applications

Overall, work permit applicants reported significantly more negative experiences, compared to the business licence applicants. At every step of the process, work permit applicants faced more challenges than business licence applicants.

Step	Work permit	Business licence
1: Getting information	Unavailable and unclear	Available and clear
2: Gathering documents	7 documents Additional documents requested as follow-up	3 documents No additional document requested
3: Application	Difficult to access platform No alternative to the online platform Free High hidden costs	Simple platform Alternatives to the online platform Recurring cost Low hidden costs
4: Waiting for feedback	Long Difficult to get updates	Short Easy to get feedback
5: Outcome	Generally negative (or no feedback)	Generally positive

[41] For instance, in Nairobi, a small shop with less than 4 employees is expected to pay 30 USD, whereas a medium trader shop with five to 20 employees is expected to pay 121 USD. All rates for each county are accessible at this link: https://eregulations.invest.go.ke/procedure/159/100?l=en

[42] "County Laws." https://nairobi.go.ke/county-laws/. Accessed 13 Dec. 2022.

Step 1: Getting information

The availability and clarity of information differed between the work permit and business licence processes.

Business licence applicants said that the information was clear, and that they had received clear guidelines from county authority officials during community awareness programmes or when engaging with these representatives individually. They also said they had received advice from friends who had previously applied for a business licence from both the refugee and host communities. Among non-applicants, information about business licences was generally accurate, although some respondents were not familiar with the full catalogue of business types.

On the other hand, work permit applicants said they struggled to access and understand the information, and that officials from DRS and the Immigration Services did not provide helpful support, unlike country government officials. Non-applicants often had inaccurate or incomplete knowledge about work permits. When asked about these permits, several refugees would instead describe the process to get a business licence, and/or did not know about the online platform. Common misconceptions included the cost of the work permit and the work conditions. Respondents often thought they had to pay for a Class M permit. This leaves room for exploitation: for instance, two applicants were told at a Citizen Service Center that they had to pay 1 million Ksh (over 8,000 USD) to apply. Only a few non-applicants understood that the work permit is tied to working for a specific organisation.

> *'If you have information it's not very difficult. When I tried to get it first, it was difficult because I didn't know how the Kenyan government would allow us to get the document. Now, I know where I can go to get it and I know the office. The first time, I asked my neighbour and he told me how and where to get it.'*
>
> – Business licence holder (Burundian woman, Kakuma)
>
> *'The challenge is that we don't have people that can tell us on how to move forward.'*
>
> – Unsuccessful work permit applicant (South Sudanese man, Kalobeyei)

Step 2: Gathering documents

Both business licence and work permit applicants need to submit their **refugee ID** and a **KRA PIN**. In addition, work permit applicants need to submit several other documents that require them to visit multiple government offices. In these offices (such as Immigration Services and tax authorities), officials, who do not always understand the legal status and rights of refugees, were unable and/or unwilling to deliver the required documents.

While business licence applicants reported that they were not asked for additional documentation, work permit applicants were often asked to submit additional documents. Such documents included a certificate of good conduct from the local police (which sometimes also required a letter from an employer) and a letter from the employer to get fingerprints taken. These documents required further engagement with employers, the DRS, and other government departments, which in turn led to further delays.

At this stage, many work permit applicants get discouraged from applying because of the multiple hurdles they face, and the short two-year validity period of the work permit.

> *'There was a scenario where we wanted to go and do fingerprint but we were supposed to make an appointment. When we went there but because we didn't have a letter asking to do a fingerprint from our manager, we had to go and get it first. That's one of the challenges that we had.'*
>
> - Work permit applicant (Burundian man, Kakuma)

Refugee ID

Obtaining a valid refugee ID is the serious challenge faced by both work permit and business licence applicants.

Access and recognition of the refugee ID is a key structural issue in Kenya. In 2016, UNHCR handed over registration and documentation activities to the Government of Kenya, represented by the Refugee Affairs Secretariat (RAS), now known as the Department of Refugee Affairs (DRS).[43] In Nairobi and Kakuma, registration activities have been unified, harmonised in one data management system, combined with a biometrics system, and are being conducted by DRS personnel with the technical support of UNHCR in DRS premises.[44]

Refugee IDs need to be renewed every five years, and refugees in Kenya continuously experience significant delays when renewing their IDs. Respondents reported waiting periods lasting from six months to a year, during which they hold no legal ID document. When refugees receive their renewed IDs late, they are unable to renew their business licence, or apply for business licences and work permits, forcing them to work or operate businesses illegally until they get a new ID.

Moreover, refugees get a new ID number at the time of renewal, which makes it difficult to renew the business licence, the new ID number being different from that used in their initial licence application. The new ID does not generate a KRA PIN and their documents cannot be verified.

> *'There was a scenario where we wanted to go and do fingerprint but we were supposed to make an appointment. When we went there but because we didn't have a letter asking to do a fingerprint from our manager, we had to go and get it first. That's one of the challenges that we had.'*
>
> - Work permit applicant (Burundian man, Kakuma)

KRA PIN

The KRA PIN is a requirement for all Kenyans to carry out transactions and engage with revenue authorities. To obtain a KRA PIN, applicants can apply online. The main requirement for residents is to submit an ID, as well as the employers' PIN details for those who are employed and a business registration certificate for those in business.[45] Refugees generally obtain individual KRA PINs rather than business KRA PINs to file their taxes.

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[43] Julisha Info (2022). "Frequently asked questions about the new refugee laws in Kenya." Available from : https://www.julisha.info/hc/en-us/articles/4928346429591-Frequently-asked-questions-about-the-new-refugee-laws-in-Kenya-Refugee-Act-2021. Accessed 8 Dec. 2022.

[44] See Registration and Documentation in Kenya: https://www.unhcr.org/ke/registration. Accessed 20 November. 2022.

[45] See KRA pin Registration: https://www.kra.go.ke/individual/individual-pin-registration/learn-about-pin/requirements-for-kra-pin-registration Accessed 12 Dec. 2022

Getting a pin from the Kenya Revenue Authority (KRA) is also a key challenge for applicants. The online application platform might not accept a refugee's ID number, even if currently valid. Their IDs need to be integrated into the database of the National Registration Bureau (NRB). As a consequence, some refugees with valid IDs are not able to apply because their ID is not yet recognised by the NRB. In some cases, refugees can apply with expired IDs that are already in the NRB database.

> *'The reason I cannot proceed is because I do not have a KRA PIN and the reason I could not get it is because of my refugee ID. I wrote an email for the KRA office and they asked me to send a pic of my ID, they told me my ID is not updated in the national registry bureau. They only recognise IDs with 6 digits, but it has not gone up to 8 digits.'*
>
> – Businessman (Congolese man, Kakuma)

Work permit documents

Work permit applicants reported that they struggled to access a recommendation letter from DRS, and a letter from their employer.

Letter of recommendation (DRS). Respondents generally said that DRS was supportive in providing a letter of recommendation. However, getting the letter of recommendation was significantly easier for refugees based in Nairobi and Kakuma, where they could easily access the DRS office and follow-up on progress. Refugees in Kalobeyei, Mombasa, and Nakuru said they had a harder time following up with DRS. They mentioned that although they could get the letters, they experienced longer wait times as they could not physically visit the office for support. One respondent, however, indicated that the location of their case also played a role in getting the letter. '*Here in Eldoret it's difficult because [officials] think that the refugees have money and don't need help.*' (South Sudanese refugee woman in Eldoret who applied for a work permit)

Letter from employer. Acquiring a letter from their employer is one of the most significant challenges that refugees face when applying for a work permit. Employers are required to justify the specific skills that refugees have, and to prove that a Kenyan does not have those skills. Many employers struggle to articulate why they want to hire a refugee over a Kenyan. Employers are also asked to provide tax compliance certificates. Faced with these hurdles, many employers are not willing to provide a letter. In some cases, refugees applied with a cover letter instead of requesting a letter from their employer. Only one refugee in our sample was able to get a work permit by submitting their own letter.

There was also ambiguity around the need to submit a foreign national passport: while the passport is listed as a requirement to obtain the work permit, refugees have successfully applied without holding a passport.

Step 3: Application

Work permit documents

The online application is optional for business licences; refugees can apply in-person directly with officials at their office, or when officials come to visit. Applicants in Kakuma and Kalobeyei generally apply in person: officials come to visit businesses in the camp and settlement once a year. During their visits, they assess the business nature and size, and ask

for the fees. They then give refugees a paybill number, and notify applicants of the outcome of the application once they receive the funds. If business owners miss this window, they have to wait another year to apply.

Refugees in urban centres generally apply for business licences and work permits online, except for those who are not tech savvy. However, those who apply online often face challenges when using the online platform. For example, they reported that there was no option to select 'refugee ID' in the ID options. Most refugees select 'alien ID' then attach their refugee ID. However, for those who are not aware that this is possible, this might pose a barrier. Having an alternative option to apply in person makes it easier for refugees who have limited IT skills and/or funds to access the internet.

All work permit applicants said that the online platform is not easy to use and requires significant support to navigate. There is no guidance to answer questions outlined in the work permit application form (Form 25). Refugees who are not able to access in-person support from officials or aid organisations sometimes get stuck and are unable to apply. Moreover, applicants are unable to attach additional documents to strengthen their case, beyond required documents.

> *'The most challenging part of the process was doing it myself, like I could not even manage to send the application or get a rejection or not getting any response because the system was not straightforward. You are told to attach this thing and it's not able to attach, you are told to apply through this way and the system is hanging after a few days, you are told come again we are doing some maintenance and it is not working at all.'*
>
> - Successful work permit applicant (Congolese woman in Nairobi)

Costs

While the Class M work permit is free, refugees must pay to obtain a business licence. There is a variation in fees to get the business licence depending on the nature and size of the business (20 to 2000 USD). Some respondents indicated paying as low as Ksh 2500 to 5000 (about 20 to 40 USD), particularly in Kalobeyei and Kakuma depending on their business size,while others (in Mombasa, Nairobi, and Nakuru) mentioned that they paid between Ksh 5000 to 15000 (about 40 to 120 USD). The licence is only valid for a year, which makes it a recurring cost. This may be a challenge for smaller businesses.

There are hidden costs associated with both the work permits and business licences. Applicants often have to go to the office to follow up with their applications, or to organisations who are able to provide support, in case of delays. Hidden costs are associated with transportation. This can be expensive, particularly for work permit applicants outside of Nairobi. These applicants choose to follow up directly out of fear they will lose their employment opportunity otherwise. Applicants face trade-offs when following up: they might have to leave their business or occupation, which may result in a loss of income. Likewise, refugees with family responsibilities might be unable to take time off; this is particularly true for women.

> *"It is not easy to access UNHCR and get the right person at the DRS. The only easy thing was to access the e-Citizen, it only requires you have data bundles. The application process took me two months."*
>
> - Work permit applicant (Congolese man in Kalobeyei)

Respondents have reported cases where officials asked them to pay bribes. This was particularly the case for business licence applicants who went to apply in person. Requests for bribes generally occurred at the initial stage when submitting their application. A young Somali businesswoman in Mombasa explained: *'12 people from my community wanted to apply for the business licence. We had tried before but we were not successful. I reached out to an official working at the office and he said he would help. I needed to collect the information from my community then share this with him. He also asked us to each give Ksh 3000. We have not heard from him and don't have the licence.'*

Work permit applicants were also asked to give a bribe at the initial stages, when they were gathering their documents and getting ready to submit. They were extorted either by people working within the work permit office or individuals they met through their network who said they could guarantee that a permit would be received. One work permit respondent mentioned that he was advised by an official to ensure he has money to push the process further: *'I was connected to one person at the office and he asked me to ensure I have some money to push further the process to get the work permit. I needed to have about Ksh 50,000 [about 400 USD], but I didn't manage to get it.'* While another IDI respondent, a Somali 51 year old refugee man in Eldoret, said that *'I thought the process was free but after trying to apply alone I failed. I asked a lawyer to help and he would call every two weeks asking for more money. I have spent so much and still don't have the work permit.'*

Step 4: Waiting for feedback

Overall, business licence applicants received feedback quickly and within expected deadlines. Most waited between a day to two weeks maximum. As business licences are processed by the county, applicants could easily follow up on their applications and did not have to travel to Nairobi.

Work permit applicants had a significantly different experience. While most respondents waited about three months for feedback, many waited longer (up to eight months). Some never received feedback. Respondents were also given inconsistent information about the waiting time: some had been told to wait two months, while others were told to wait up to three months. In the meantime, applicants are not given updates on the progress of their applications. Refugees in Nairobi and Kakuma are able to follow up at the DRS office, but refugees in Kalobeyei, Nakuru, and Mombasa need to travel to Kakuma or Nairobi to follow up on their application. This process is often described as confusing, and creates anxiety and frustration among applicants, who feel like they are stuck in limbo.

The waiting time and lack of feedback is a massive challenge for refugees and their employers. Because of the length and complexity of the process and the uncertainty of its outcome, many respondents give up, do not reapply in case of rejection, or do not apply for renewals. Refugees often lose their employment offer because of the processing time. For instance, a South Sudanese man from Kakuma explained: *'Yes, I have applied for a work permit. Last year, I got an opportunity to work as a Sales Manager for an international organisation.*

They requested me to have a legal document in order to sign the contract. I had to apply for a work permit though I did not succeed and lost the job.' Employers may be reluctant to hire refugees because of the uncertainty surrounding the process and waiting time.

Step 5: Outcome of applications

Business licence applicants are much more likely to be successful in getting their licence compared to work permit applicants. Overall, all refugees we interviewed who had submitted the requested documents received their business licence, either online or when they visited county offices. The main challenges they faced were having a valid ID already in the system and getting a KRA PIN.

On the other hand, very few refugees in Kenya have been successful in getting a work permit. The team confirmed that two refugees, based in Nairobi, had valid work permits at the time of the study. An additional three refugees were reported as having work permits in FGDs. In our sample, successful applicants were outliers, and discussions with refugees suggested that this finding is generalizable to the wider population. The large majority of interviewed applicants were rejected. In one case, a refugee in Nairobi was told by the Immigration Office that their work permit was already sent to the employer and that he is able to work, even though he did not receive the document.

Case 1: Congolese professional in Nairobi

A Congolese young professional woman registered in Kakuma but authorised to live in Nairobi received a work permit in 2021, thanks to extensive support from her employer. She was hired by the Amahoro Foundation to work in a support role. Amohoro hired a lawyer to navigate the application process. The woman attributes the success of her application to the articulation of the letter from the employer, which was enabled by the lawyer's intervention. She received a notice for resettlement and will not be renewing her permit.

Case 2: Rwandese community mobiliser in Nairobi

A young Rwandese refugee who works as a community mobiliser and translator received her permit in 2022. She applied three times between 2017 and 2022. First she applied with her employer's letter but received a 'no merit' notice. She then applied again with her own cover letter in 2021, but did not receive feedback. She went to Nyayo House (Immigration Services) in person and met a supportive official who told her to make edits to her cover letter. She then re-applied in 2022 with the new cover letter and followed up continuously. She also submitted a printed email from her employer. After two weeks, she was invited to meet with the committee of Immigration Services, where she was asked to explain why she is not planning to return to Rwanda. Her experience is unique in many ways: she did not submit an employer's letter, she followed up in person with Immigration Services, and she was the only respondent to be invited to speak with the committee to make her case.

The team also identified three respondents who had received work permits between the 1990s and 2019, but who do not currently have a valid work permit. These respondents either did not renew their application because the validity is too short and the process too tedious, or were not successful in renewing their permit. Their profiles are diverse, including skilled and unskilled professionals from a range of nationalities (e.g. Ugandan, Ethiopian, and Burundian). A Ugandan refugee man explained that getting a permit was easier previously: while most current work permit holders are highly skilled, he was a delivery person who received work permits between 1987 and 2005. He last tried to apply in 2015, but he was unsuccessful and subsequently was laid off.

All those who were rejected received a 'no-merit' notice on the online platform. A few respondents never received feedback. The 'no-merit' notice is a major hurdle: refugees do not know why their applications failed and they are unable to take steps to reapply successfully. This outcome is political: for example, a group of community workers applied between 2016 and 2018, but were told informally that the Ministry of Interior and National Administration was not willing to give work permits to refugees, which is why their applications failed. Another unsuccessful applicant was told informally by officials in 2022 that his application was rejected because of the change of government in Kenya. This is, however, around the same time that another refugee we spoke with received a work permit. While it appears that refugees can appeal in cases of rejection, none of the interviewed applicants tried to, because there was no basis to appeal with a 'no-merit' notice.

Image 2: Refugee businessman showing his business permit.
© Pascal Zigashane

Factors of success

The previous section demonstrated that most of the business applicants in the sample were successful, compared to very few work permit applicants. As a result, we cannot make conclusions on the factors that influence the outcome of applications. However, it is clear that several factors affect the decision and ability to apply for both work permits and business licences. The table shows how factors differ for the decision and ability to apply for business licences and work permits.

Business licence	Work permit
Nationality	Location
Networks with the host community	Gender
Gender	Level of education
	Profession
	Age

Location

Location influenced the nature of information that refugees had about application processes. Refugees in Kakuma and Kalobeyei had accurate information about the business licences because the process is regular, structured, and controlled, but they had little information about work permits. Those living in urban settings had even less information: in Nairobi, the county authorities did more sensitisation campaigns on business licences compared to in Nakuru and Mombasa.

Location has a significant influence on refugees' ability to apply for work permits. Work permits are only issued from Nairobi, so refugees have to travel to Nairobi to follow up with relevant offices. In terms of location, refugees were more likely to apply for work permits in Nairobi and Kakuma, compared to more marginalised locations with fewer opportunities, such as Nakuru.

As business licence applicants can apply in their local area, location is a less relevant variable in the application process. More generally, the availability of services has an influence on the business environment for refugees. For instance, in urban locations, refugees found it easier to work with M-Pesa agents who understood their situation and agreed to conduct transactions.

Networks with the host community

Networks with the host community played a key role in facilitating the business licence acquisition process, as the process is similar for them. Refugees in urban settings often run businesses alongside host community members, who have helped them in getting support for registration. For instance, an Ethiopian businesswoman in Nairobi explained: *'When I started my tea business we registered the licence with a Kenyan lady. The business ran well. She got another job but she still helped me to renew, but she moved to a different place now.'*

Support often goes beyond registration: there are several instances where Kenyans helped refugees through joint bank accounts or M-Pesa numbers. Refugees without an M-Pesa

number are also able to register their SIM cards through the host community or directly use the host community's M-Pesa number for business transactions. However, this collaboration also created risks of extortion. Some refugees in Nairobi and Mombasa were asked to give money to other businessmen who had given them advice or supported their business registration process.

Depending on nationality, there appears to be a higher degree of interconnectedness between refugees and host communities because of co-owned businesses, mixed marriages, and similar religious backgrounds. In Nakuru, communities were more separate along nationality lines. For instance, it was easier for the Somali community (with both refugee and host backgrounds) to open businesses because of shared names and networks. The South Sudanese community did not have those pre-existing networks with the host community.

In light of the role played by networks, there were more difficulties for recent arrivals in terms of education, language, and networks compared to people who have been in Kenya longer, or who were born and educated in Kenya.

Because the work permit process is unique to refugees and foreigners, host community members did not play a role in facilitating the process for applicants.

Nationality

Refugees from all nationality groups present in Kenya have applied for work permits and business licences. There is no strong evidence that their nationality affects the outcome of their applications. However, the perceived legitimacy of a national group registered as refugees may affect applications. One respondent from Rwanda reported that they faced more discrimination in accessing documents compared to other refugees, because their displacement status is questioned by authorities, who do not consider them "legitimate refugees". This sentiment was shared by a few respondents from South Sudan. However, it is worth noting that one of the current work permit holders is a Rwandese refugee.

The nationality of applicants is a relevant variable because it affects the strength and nature of refugee networks. It is easier for refugees to reach out to people within the national group for advice and information. For instance, many refugees from Somalia and the Great Lakes have experience with businesses and can support other refugees in their networks. National networks were particularly relevant to business applicants, but not work to permit applicants.

Level of education

Individual levels of education significantly affect refugees' decision and ability to apply for work permits. Most of the work permit applicants had some tertiary level qualification (e.g. diploma, post-graduate). This is because the process is complex and requires a good level of understanding and literacy to navigate. Educated refugees are more agile in responding to requirements and questions from officials. Educated refugees also tend to have stronger networks with the host community and/or other refugees and are able to obtain information about the process. They are also more likely to be in networks with other educated refugees across nationalities (e.g. if they received the same scholarships, are invited to similar meetings, or are part of the same RLOs).

Gender

In our sample, women were more likely to receive work permits than men, but it is difficult to draw conclusions from this given that there is no publicly available data on successful applicants. One hypothesis could be that refugee women are perceived more positively than refugee men and thus more deserving of support, as exemplified in the government's priorities to support women and girls.

However, the majority of applicants for both work permits and business licences in the sample were men. Women FGD participants appeared to have less information than men, because they generally were less educated. For instance, in Nakuru, women with only a primary level of education lacked information compared to those who had secondary education.

This can be explained by structural factors: refugee men generally have more access to educational and professional opportunities. Moreover, men are generally expected to provide for their families. On the other hand, women also appear more likely to censor themselves, and disqualify themselves because they do not feel like legitimate applicants. Some of them were also fearful of being exposed if they engaged with officials. Single, younger women were more likely to plan applications compared to older married women. In some cases in Kakuma, men applied for business licences on behalf of their wives who ran the business day-to-day.

Profession

It is unclear whether the profession of work permit applicants affects the success of applications. The team encountered work permit applicants who were highly skilled such as lawyers, psychologists, IT professionals, doctors, and teachers. However, translators and community mobilisers were also successful in getting work permits because they were able to justify that their language skills and ties to refugee communities were unique skills that Kenyans did not have.

Refugees who work with organisations that support refugees appear to be more likely to apply for work permits compared to those employed in the private sector, because of their networks and access to relevant information. Respondents who had applied for work permits often worked as incentive workers with humanitarian organisations.

There is some evidence that DRS and UNHCR have facilitated access to work permits for their joint translators and community monitors. However, even UNHCR incentive workers have received the 'no merit' notice after application, which highlights the difficulty of getting such a permit.

The type of business did not appear to influence the ability to apply for business licences, although it did impact the cost and requirements for applications, depending on the nature and size of the business. There is a high diversity of business type (e.g. food, barber, music, fishing, art).

Age

Age mostly influenced the motivations behind applying for business licences and work permits, and the ability to navigate online platforms. Older refugees wanted work permits as a way of accessing citizenship and more stability, while recent graduates were motivated to apply to advance their professional skills.

Most of the young graduates had good IT and language skills. Older applicants appeared to struggle more with applications (e.g. difficulties with IT and procedures). Middle-aged business owners in Mombasa and Nakuru also mentioned procedural difficulties with the KRA PIN.

Image 3: A refugee tailor.
© Pascal Zigashane

Support available

Support is critical to every step of the application process for both business licence and work permit applicants.

Business licence applicants often rely on county officials, other refugees, the host community, humanitarian support, and refugee-led organisations. Work permit applicants mostly rely on their employer, as well as additional support from other refugees.

Ecosystem of support: business licence

According to many business owners, the county government is active in disseminating information on business licences across all locations. Generally, random visits by county officers in Nairobi, Mombasa, and Nakuru have created general awareness. For example, one woman in Nairobi reported that she applied and paid after an official came to visit and explained the process to her. In Kakuma and Kalobeyei, refugees also talked about county officials visiting business owners. They visit once a year, upon which business licences are provided on the spot to those who have their annual renewal payments ready. Those not able to pay have to wait until the following year.

Humanitarian organisations play a key role, particularly in sensitising the refugee community on business licence application information. Respondents mentioned that aid organisations mobilise refugee leaders and hold sensitisation meetings where leaders spread the information to the wider refugee community. However, except for in Nairobi, few respondents in the other locations were aware of the application process for work permits, because most of the sensitisation generally focuses on business licences across all locations.

Many respondents indicated that humanitarian organisations provided direct support for business licence applications, especially if they had received capital, business loans or in-kind support from an organisation. Humanitarian organisations also helped refugees acquire the KRA PIN. In some rare cases, humanitarian organisations have acted as intermediaries. DRC in Mombasa applied for business licences on behalf of refugees but they no longer do this due to project adaptations.

Support from other refugees also played an important role. In some cases, refugees came together informally to apply as a team so they could support each other throughout the process (e.g. they work in the same business, have shops next to each other). In Mombasa, refugees often apply through self-help groups. The group uses savings to help other refugees establish businesses and help new business owners get licences. In other cases, refugee-led organisations help access loans and information. This is for instance the case of the South Wings Link RLO in Nakuru, and Haki CBO in Mombasa.

Ecosystem of support: work permits

Individual employers' support appears to be critical for work permit applicants. Several respondents confirmed receiving employment offers and support letters from their potential employer to facilitate the work permit application. Successful work permit applicants indicated that support from the employer aided their application processes. The employment offer letter also makes it possible to get a DRS recommendation letter, which further strengthens the application lodged. Still, support from employers tends to be limited to employment offer letters.

In a few cases, the employer takes up the entire application process on behalf of the refugee, or takes extra steps to support applicants. For example, one employer gave a month of paid leave to an incentive worker to follow up on his application in Nairobi. Another employer hired a lawyer to help them navigate through the application process.

However, because the application process is complex, employer support might be faulty. In one case, a Rwandan refugee living in Nairobi explained that they had received an opportunity but the employer applied for a Class D work permit instead of a Class M permit, despite his explanations. He explained: *'I got an opportunity with a private sector enterprise and they requested me to provide documents. I shared everything but after a month they got back and said the application was rejected. On following up with them I realised they had applied for a Class D work permit because they assumed I would work as a foreigner. This was very frustrating because I had told them I am a refugee, but they didn't get it; I was rejected.'* Some employers might be reluctant to engage with authorities to hire refugees, especially if they are a private sector organisation that does not have the stated mission of supporting refugees. In some cases, employers have to pay fines if they employ refugees who are waiting for their work permits or have had their applications rejected.

For work permit applications across all the locations, applicants reported getting a letter of recommendation from DRS, which is a requirement during the application. DRS has been supportive in facilitating police clearance for the applicants, an additional requirement in the application process.

There is more targeted legal support for work permit applications from Kituo Cha Sheria and the Refugee Consortium of Kenya (RCK) for some individuals on an ad-hoc basis. RCK supports the application process and provides guidance on the documents and the application procedures. Applicants reach out to RCK to follow up on their application, and some refugees approach them to make a legal case. In Kakuma and Kalobeyei, some respondents did not know who they could approach for support with work permits.

Finally, peers, friends and colleagues are leading sources of information on work permits. Inherent in this may be a risk that people make the same mistakes and write similar cover letters, given the opacity of the process.

Image 4: Interview with research participant.
© Joelle Hangi

The effects of successful applications

According to most refugee respondents, receiving a work permit or business licence had a largely positive impact on their lives.

Effects on business owners

Most business licence holders said that they were now able to contribute to the local economy and operate their businesses legally and more freely, without fear of harassment from local authorities. Some respondents also stated that receiving the business licence enabled them to access bank loans and expand their business and income.

For others, in the camp, the licence enabled them to access movement passes and purchase goods from nearby towns at a cheaper price than within the camp, thus increasing their profits. There is contradictory information on the ability to get movement passes if you have a business licence: some respondents said that the process remains exhaustive, while others say getting a licence expedited the process of accessing movement passes. It is likely that the former are not aware that they can use business licences to help process the movement pass faster.

> *'The business licence is helping because there are organisations such as Inkomoko which are giving loans and they require a business licence. So with a business licence, they are able to get loans. He got a loan from Handicap International because he had a business permit. A business licence defends him from police harassment. It has relieved him from unwanted costs.'*
>
> - Somali businessman in Kakuma.'
>
> *'It protects our business and the government recognises the business so when the police/ authorities come they know we are doing it legally. It also helps us to engage with others like partners who just need us to be recognised by the government. It also facilitates in getting services from the gov, like getting a travel doc, because they authorise us to move and conduct activities for our business outside the camps.'*
>
> - Congolese businessman in Kakuma.

A few business licence holders said that they experienced negative effects after receiving the licence. Financially, there is the burden of paying taxes, regardless of their financial situation. Some refugees said that they had to renew the licence regardless of their financial situation, which was difficult to keep up with. The COVID-19 pandemic made it more difficult for licence holders to pay the licence renewal fee and taxes because they incurred debt. For example, a South Sudanese refugee man from Nakuru said that he had paid Ksh 30,000 (about 240 USD) for a licence to open his business and he was unable to make profits because of COVID-19, so he closed the shop. While those who were not licensed also lost income, they may have been more agile in moving their businesses online and adapting without the burden of rent.

Others said that having a licence may expose them further to harassment from the host community, especially if their businesses grow and compete with host community businesses. In some cases, refugees are said to reduce prices unfairly, leading to conflict with host community business owners in the same sector. In one case, a refugee business owner had to bring in the chief's office and community police to settle the issue.

Effects on work permit holders

The few successful work permit applicants felt that they had more dignity and freedom and received better salaries than incentive compensation. Some respondents also mentioned that they were able to plan their lives, expand their networks, and feel more accepted in the work space. This had a positive impact on their mental health and sense of security. This perspective was shared by FGD participants, who said that accessing a work permit would ensure better wages, as well as the opportunity to negotiate for higher pay. This also meant more stability for their lives as they had less risk of losing their jobs.

However, limitations around work permits make this stability difficult to maintain. Work permits are valid for two years and are linked to the employer who supported the application.

Image 5: A refugee-owned shop.
© Pascal Zigashane

Alternatives to work permits and business licences

Many refugees choose not to apply for business licences or work permits. This choice stems from several different rationales.

Most refugee business owners are reluctant to apply because of the financial strain, the fear of negative consequences, and the lack of information. They argue that the cost ofbusiness licences is too high, and paying taxes might become difficult if they face hardship. They are also concerned that they might have to pay bribes. Some thought they had to have a national ID to apply. Finally, some feared that approaching authorities would lead to unnecessary exposure if their refugee ID was not currently valid (this was particularly true for women in Nakuru who expressed concerns over dealing with authorities who might probe further into their status).

Refugees may resist applying for work permits because they are aware that the failure rate is high and the application process is tedious. One refugee in Mombasa said: *'I have never seen nor heard about anyone getting it. Why should I apply?'* A minority of refugees surveyed in our study also were concerned that applying for the work permit would deny them resettlement and/or hinder their resettlement process. This is a misconception as one of the current work permit holders in Kenya received a resettlement notice. Finally, some refugees said they were concerned that they would over-expose their employers if they tried to apply. There is no evidence that there is scrutiny of organisations and enterprises that employ refugees. However, Immigration Services might visit organisations and enterprises if they receive a tip that refugees work there without permits. Those refugees may be asked to pay a fine and/or bribes.

Some refugees who are unwilling or unable to get proper documentation are actively seeking alternative pathways such as integration, return, and resettlement. Some were considering re-entering the country with a passport to discard their refugee status, and apply for a business licence or expatriate status.

Businesses

Some refugees continue operating their businesses without licence. A common strategy is to close shop to avoid county officials who come for unplanned visits. Refugees in camps who do not have a licence cannot get movement passes and have to pay higher prices for goods in the camp.

Others found alternatives that may be less profitable or unsafe. Some partner with host community members and use their business licence to operate. This option has been advised by officials from the county government for refugees who do not have a valid ID. This leaves room for exploitation as refugees without licences lack bargaining power. One Ugandan respondent in Mombasa was unable to submit his own business licence application because his ID was not in the system, so instead, he opened a business with a Kenyan. The consequence was that he did not have the legal backing when the Kenyan took over the business.

There were instances when some refugees from Nakuru, Mombasa, and Nairobi had to run their businesses from home or online because they lacked business licences. For example, a woman from Rwanda in Nairobi started selling her products online instead of opening a

bakery because she did not have the KRA PIN and could not apply. This impacted the growth and profits of her business.

Others have closed their shops and started to hawk without licences. Some women, especially in Nakuru and Mombasa, had small businesses (e.g. ground nuts or ice cream), and they paid a small daily fee of about Ksh 30 (about 0.20 USD) to county officials. Those women chose to pay informal daily fees instead of the business licence of Ksh 2000-3000 (about 25 USD). Some of these women reported that they were sometimes asked to pay twice a day.

Professionals

Many refugees lost job offers when they were unable to secure a work permit. In some cases, refugees continued working as incentive workers, but were unable to receive promotions. Losing opportunities was described as negatively impacting the self-reliance and mental health of refugees, as the two quotations below illustrate.

> *'So, you can imagine that most employers take advantage of you not having the right papers. And the advantage they mostly take focus on payment, like how much they pay you, they can even give you 10% of the amount you are supposed to get.'*
>
> - Rwandese refugee woman in Nairobi
>
> *'I gave up on some of the opportunities, I gave up on even trying again and again because I have tried several times and it has never worked. I find myself framing myself in a way that draws a line on what I can try and what I can't try. Because I don't want to waste my energy on something that will never work.'*
>
> - Congolese refugee man in Nairobi

Some highly qualified refugees continue working informally as trainees, teachers, assistants in law firms, consultants, and for businesses. Working outside of a legal contract makes it difficult to receive benefits such as health insurance. In such instances, refugees rely on their employers and have little to no room for negotiation, which causes stress and anxiety.

Some change career paths and set up unrelated businesses to continue providing for their families. This is the case of a doctor from the DRC who established a shop that sells phones, phone accessories, and airtime, as he could not legally practise medicine.

Finally, some refugees create businesses as a way to consult for organisations and schools. For instance, in Kakuma, a group of refugees set up a social media business and use their business licence to consult with other organisations.

Recommendations

This report demonstrates that obtaining official documentation related to employment can have positive effects on the lives of refugees in Kenya. There is a general sense of optimism from respondents that the new Refugee Bill can improve the work permit process. FGD respondents said they would be willing to apply or reapply if the process was simplified. However, significant barriers remain to obtaining work permits, and they must be tackled in order to support refugee livelihoods and contributions to the host community.

To the Government of Kenya

- **Establish a channel for applicants to provide feedback on the processing time for work permits.** Many of the applicants shared that the waiting time creates uncertainty and anxiety, making it difficult to plan for the future. Refugees may lose their offered positions if the process is too long. Immigration Services should improve communications so refugees can anticipate when they are going to receive their application decision and update the employer. This can be communicated using the platform, or through the existing UNHCR hotline. Moreover, Immigration Services should provide clear feedback on why applications were rejected so refugees can adapt and re-apply accordingly.
- **Make the portal easier to navigate.** Most respondents reported that the work permit portal is difficult to use: they struggle with attaching documents, and the platform is often undergoing maintenance. Some refugees also have limited IT skills, which can prevent them from applying. The platform should have a section on FAQs and also add guiding prompts that walk the applicant through each step of the process. An option for offline applications could also be included to accommodate those who lack digital literacy or a network connection.
- **Simplify the application process.** The work permit application requires many documents. There is also ambiguity around the need to submit a national passport. The government should remove the passport requirement, as it is not required in practice and may stop many from applying. Another key recommendation is to remove the need to justify that there is no Kenyan national available for the position, as it poses a significant barrier for employers and applicants.

To DRS

- **Create a desk position at DRS and/or Immigration Services overseeing work permits.** The process of applying for a work permit requires reaching out to many institutions, which can be confusing, particularly for refugees outside Nairobi. Refugees might also not be able to navigate or access IT, leaving many unable to apply. DRS should create a desk position that will play a key role in providing support to refugees. Outside of Nairobi and camps, DRS should train liaison officers to make the process accessible. This desk position could also play a role in liaising with the community and taking note of their challenges.
- **Raise awareness on refugee documentation and rights in different institutions.** One of the major challenges highlighted in this report is the lack of recognition of the documents provided by refugees. Respondents have highlighted different experiences and the contradictory information they get from different institutions when gathering their documents. It is critical to ensure that key institutions and people who interact

with refugees for applications are able to give feedback adapted to their situation. DRS could provide regular training to staff at all levels (including security personnel) on the different types of documents refugees may hold and the refugee identity card's role as standard documentation. DRS could also lobby the NRB to make sure that refugee IDs are integrated in a timely manner. UNHCR could support those efforts.

- **Provide clear guidance on how applicants can appeal in case of rejection.** The work permit applicants in the report highlighted the lack of clear feedback on their applications. Refugees do not have information on whether they can appeal and, if they can, how to do so. DRS should provide a clear timeline and requirements for appeals.

To UNHCR

- **Provide clear information to employers.** Employers experience challenges when it comes to hiring refugees, and supporting refugees is time-consuming and resource intensive. UNHCR could establish a platform that potential employers can refer to so as to build understandings of relevant requirements when employing refugees.
- **Improve accessibility of information in more marginalised locations such as Nakuru and Mombasa.** Many of the respondents from Nakuru and Mombasa reported that the lack of organisations in their locations led them to miss out on important information. UNHCR can play a role in disseminating information on organisations and the services they provide in those urban centres.
- **Provide mental health and psychosocial support.** Both work permit and business licence applicants in the report shared that the feeling of being stuck had negative impacts on their mental health. The application process can create stress and anxiety. UNHCR should ensure refugees have access to mental health and psychosocial support as they take steps to become self-reliant.

To aid organisations

- **Help refugees improve their IT skills to access application platforms.** Most work permit applicants said that using the online platform is a key challenge. Aid organisations should provide digital literacy training to refugees, or provide direct targeted support to applicants, in partnership with DRS.
- **Work with RLOs to disseminate information to refugees and employers.** This must be done in accessible language that both refugees and employers can understand. There is a need to decentralise information outside of key hubs, i.e. Nairobi and Kakuma. Aid organisations could partner with RLOs to ensure that information is disseminated across all locations in Kenya.
- **Support incentive workers in acquiring work permits, and document the process.** Aid organisations are both employers and supporters of refugees. They can play a key role in supporting their staff in getting work permits, and subsequently accessing higher salaries. They should take the lead in supporting the initial application process, and share best practices and tips in publicly available documents.

To employers

- **Coordinate internally to provide effective support to refugee employees.** Information about the work permit is opaque, and the application process requires many steps that draw from multiple departments within the employing organisation. Employers should ensure that they have processes in place to support the work permit procedure and that the administrative department has the appropriate information to support the applicant.
- **Be flexible with refugee applicants.** Waiting times can be longer than expected and many refugees lose job opportunities as a result. Employers should provide unconditional employment offers to refugees without deadlines to obtain the work permit. They should review and update their employment policies to accommodate the unique circumstances of refugees.

To RLOs

- **Support refugees in accessing information.** This report has highlighted the important role that RLOs play in providing information. RLOs that focus on digital literacy, skills training, education, language, businesses, advocacy, student networks can help disseminate information on social media or through peer-counselling.
- **Advocate for easier access to work permits.** Relatively few refugees are able to access work permits, and many face significant barriers with their IDs. RLOs can play a key role in advocating in favour of refugees' access to work opportunities, and simplified processes.

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