



Review of national policy, legislative and regulatory frameworks and practice

A baseline study on the right to work and rights at work for refugees

Egypt, Ethiopia, Iraq, Jordan, Kenya, Lebanon, Uganda, Sudan

► Executive Summary

The world is currently witnessing record levels of displacement, increasing through the years in scale and complexity. The United Nations Refugee Agency (UNHCR) estimates that over 100 million people were forcibly displaced at mid-2022, with up to a third of them being refugees. As displacement becomes more protracted, the prospects for return become increasingly less tenable. As such, it is more important than ever for host countries and international partners to support the integration of forcibly displaced populations. This requires developing policies that address the specific needs of displaced people. One major avenue where countries can facilitate the further integration of refugee populations is via the labour market. This response, however, requires international support, national ownership and strong partnerships with hosting governments which develop a foundation of policymaking that foster inclusive environments for forcibly displaced populations and strengthen the resilience of host communities.

The PROSPECTS Partnership (“Partnership for improving prospects for forcibly displaced persons and host communities”), launched in 2018, aims to improve the hosting and protection of refugees in countries in their region of destination, and to strengthen the resilience of host communities in supporting these forcibly displaced populations. Operating across eight countries in the Middle East, North Africa, and East Africa, PROSPECTS brings together five multilateral organizations including the UNHCR, the United Nations Children’s Fund (UNICEF), the International Finance Corporation (IFC), the World Bank and the International Labour Organization (ILO) to support this approach.

As part of this programme, the ILO has undertaken a national policy, legislative and regulatory frameworks and practice review. This review includes an analysis of current legislation, policies and regulatory frameworks, and how their implementation works in practice across the eight PROSPECTS countries to support the governments in policy, legislation, regulatory development and/or reform as appropriate.

For an analysis of the current legislation and gaps, a desk review of global and regional frameworks, national legislation and policy documents was undertaken. To inform the way in which existing legislation (or lack thereof) operates in practice, key informant interviews (KIIs) with government institutions, workers’ and employers’ organizations, national legal experts, local administrators and other relevant stakeholders were conducted, alongside focus group discussions (FGDs) with refugees, internally displaced persons (IDPs) and host communities, where applicable. The following report is a synthesis of this country-level analysis.

The analysis focuses on the following key policy and sub-policy areas:



Key findings

Overall, as it currently stands, existing legislation does not fully govern the policy areas of interest that inform the access of refugees to labour markets. The absence of legislation or, in particular, refugee-specific legislation and exclusion of refugees in national legislation is observed across many key policy areas. This creates legal ambiguity, which can lead to uncertainty, and in many cases a de facto exclusion of refugees. In other cases where refugees are in practice participating in the labour market, the absence of a refugee-inclusive legal foundation opens up the possibility for expulsion, arbitrary exclusion or exploitation. Further, where present, the existence of refugee-specific legislation does not go far enough to guarantee that it is operating to the benefit of refugees in practice. As a result, refugees largely remain on the margins of the labour market.



Access to labour markets

Legal status

Globally, the determination of refugees' legal status is well legislated. However, in most countries, refugees face a backlog, lack of clarity, and inefficiency in the Refugee Status Determination (RSD) process. Common problems faced by refugees are administrative delays in the system, short duration in the validity of the status documents, and the inconvenience and cost of having to renew these documents on a regular basis. Overall, in practice, while status is the foundation of all future legal endeavours for refugees, the process of obtaining and continually renewing this status can be cumbersome, inefficient, and costly.

Freedom of movement

Legislation on the free movement of refugees exists in many countries, but it is often at odds with a full realisation of freedom. In countries where this right is legislated, encampment policies make it difficult for refugees to leave their place of residence, in turn making it difficult to seek employment outside the camp or to travel for other personal or professional reasons. In countries where there is an absence of legislation, this can mean either that they are as free as citizens to move around the country, or that their rights are entirely or arbitrarily restricted. In reality, this freedom depends on a number of factors, including the location of the camps, the ease of obtaining movement passes, the relations with the host community, the type of residency permit acquired and the ability to renew it continually, among other things.

Right to wage-earning employment

There is substantial variation in the laws governing refugees' right to work across the countries, and further, the ease of obtaining employment. Some countries clearly outline the right of refugees to work, which in theory sets the stage for the ability to gain employment devoid of legal burdens and a minimum standard of protection. Others do not have this right codified. In other countries, legislation exists for non-nationals, which, however, requires identity documents and permits, among others, which are difficult to obtain for refugees having fled their countries of origin. Whether the right of refugees to work is legislated or not, several factors make the practical reality difficult. The prevalence of discrimination against refugees, exclusion from certain professions, distance and language barriers, and an already difficult labour market situation with high rates of informality across all host countries, make the likelihood of securing decent employment minimal.

Mechanisms governing access to labour markets

A legal process for obtaining a work permit is legislated in all countries. However, the process is burdensome, bureaucratic and sometimes costly, and constitutes a key barrier to refugees accessing employment and for employers to tap into the skills and talents that refugees possess. As such, the practice of applying for work permits is rare. Compounded by discrimination and an overall scarcity of formal sector jobs for nationals and refugees alike, refugees resort to the informal sector as an immediate and sole source of livelihood generation, where remuneration is generally lower, employment is concentrated in low-skilled and unstable jobs, and risk of exploitation is more prevalent, in particular for female workers.

Access to employment services

Access to employment services for refugees is not often codified into law. Yet the legal gap goes beyond a simple absence of legislation. Given the predominance of refugees in the informal sector, the difficulty in securing work permits, and other additional administrative obstacles such as residency requirements, legislation on this topic alone would hardly be sufficient to facilitate refugee access further. Moreover, employment services in these countries are often weak and under-funded and are generally unavailable for citizens, let alone refugees. Thus, in practice, employment services are not accessible to or utilized by refugees as a method of job placement. Refugees rely instead on their social networks as a path to employment, as opposed to employment services or recruitment agencies.

Right to self-employment

Even if existing global or national legislation recognize the right of refugees to engage in self-employment, there is a lack of legal clarity on how refugees can start a business and what limitations they might face. The absence of the mention of refugees in existing national-level legislation on business registration presents a challenge for refugees wishing to do so. The practical implications of this legal environment, as well as the requirements which come with legally setting up a business (in terms of documentation and financial resources) are that most refugees wishing to start businesses do so informally, that is, without a formal legal status or business registration.

Access to finance and financial services

Legislation is largely insufficient to facilitate refugees' access to finance. It is codified in some but notably absent from others. Legal gaps can be observed first and foremost in the absence of legislation outlining this policy area, but additionally in the lack of clarity on refugee-specific procedures for going about the process. Where refugees lack legal documents, they are already excluded from accessing formal financial institutions. The absence of legislation leads financial institutions to be conservative in their interpretation, and in the case of refugee clients facing discrimination and the de facto inability to access finance from formal banking institutions. This in turn leads to impediments in registering businesses, obtaining loans or accessing any other financial services. Alternative methods, such as mobile money, Savings and Credit Cooperatives (SACCOs) and microfinance loans exist but are not universal, or widespread, or accessible to refugees across all countries.

Ability to form and join cooperatives

The ability of refugees to form and join cooperatives is not explicitly codified across the eight PROSPECTS countries. As a result, refugees occupy an ambiguous legal space where it is often assumed that they can participate. Yet the scant legal infrastructure provides little guidance on specific requirements or procedures. In practice, refugees in some countries are actively participating in cooperatives, whereas in other countries, refugee participation in cooperatives is minimal to non-existent.



Access to training opportunities

Access to Technical and Vocational Education and Training (TVET)

Generally, with few exceptions, the governance of TVET is a space where there is a noticeable absence of legislation defining the rights of refugees. Even in countries which have refugee-specific frameworks, TVET is not explicitly mentioned among the services from which refugees could benefit. In practice, there is variation across countries in refugees' participation in vocational training programmes. In some countries, TVET programmes are operating and inclusive of refugees. In others, refugee participation is less common because of barriers such as entry requirements, cost, distance and language.

Recognition of skills, qualifications and prior learning

While the legal infrastructure governing the validation and recognition of educational qualifications is largely in place across all countries, the recognition of skills or prior learning for which certification and proof of experience are absent is much less developed. In practice, recognition of skills, qualifications and prior learning is very difficult for refugees to achieve and remains a barrier to entry into the labour market. Standardized examinations to validate already existing educational qualifications are difficult to pass and a frustrating reality for those who already have qualifications. Other processes of equating qualifications are inefficient, long, difficult for refugees to complete, and often result in a validation and/or recognition of qualifications below the expected level. For refugees who do not have proof of prior learning or experience, few are hosted by countries with functioning Recognition of Prior Learning (RPL) systems that allow them to obtain a full or partial qualification and integrate into the labour market.



Rights at work

Right to access to justice

Refugees are not explicitly prohibited in any national legislation from accessing justice systems. Some countries clearly codify the right of refugees to access justice. However, the option for refugees and other categories of vulnerable people to access justice in the workplace is largely unavailable if they work informally, which many refugees choose or are forced to do. Many countries do not have legal mechanisms in place to address work-based violations that occur outside the formal sector, and therefore current legislation does not entirely set the stage for refugees' access to work-related justice. Further obstacles to accessing justice include the following: (i) refugees are often not aware of their rights and the legal mechanisms in place to defend them, and in some cases this may extend to judges and legal staff handling refugees' cases; (ii) practical barriers such as language, cost and distance from legal services act as disincentives for refugees; (iii) refugees are reluctant to take their cases to the courts even when their rights are being violated for fear of losing their job, deportation or other forms of retaliation; (iv) the services they do access are often inadequate and time-consuming, resulting in their cases rarely being heard or properly addressed. This contributes to a vicious circle in which refugees simply stop attempting to access justice.

Freedom of association

There is no clear global trend on whether refugees are mentioned in existing legislation on freedom of association or not. When they are mentioned, the legislation may ensure that their rights to organize are guaranteed and protected. However, this legislation may also restrict their rights. In countries where refugees have the right to join workers' and employers' organizations freely, either as explicitly stated in the law or implied via other existing legislation applying to non-nationals, it can also be the case that the rights of those working informally – as do many refugees – are not fully protected. In practice, refugees rarely exercise the right to organize. Besides high levels of informality, there is also a pervasive belief among refugees that their issues would not be prioritized. Furthermore, there is a lack of understanding of their rights to join organizations of their own choosing.

Right to social protection

Overall, the right of refugees to access social security benefits is not particularly well legislated, even in countries where social security schemes exist. There are legal gaps in refugees accessing social security on multiple levels. Firstly, refugees are never mentioned in social security legislation as a group that is entitled to benefits. Secondly, many social security schemes do not extend beyond the formal sector, where refugees are not often employed. Finally, with few exceptions, countries have not made attempts to fill the legislative gaps required in order to expand coverage to vulnerable groups and informal workers. Thus, refugees' access to social security benefits is low.



Naturalization pathways

In theory, legal pathways are in place for refugees to apply for and obtain citizenship. Middle East and North Africa (MENA) countries require connections via marriage or heritage, while East African countries mostly require the applicant to have resided lawfully and be employed legally in the country for several consecutive years, among other criteria. To the extent that legal gaps can be observed in this area, they stem from a lack of clarity on criteria that are ill-defined or so restrictive that they are often unattainable to refugees. Yet overall, the acquisition of citizenship is not a practical, viable route towards durable solutions for refugees. It almost never occurs in practice. The cases where refugees have been successful are mostly due to marriage, familial connections or heritage. Beyond these routes, practice has shown, and refugees understand, that acquiring citizenship is largely unattainable.



- ▶ This global synthesis report should be read in conjunction with the country-specific reports, which provide a more detailed overview of the policy, regulatory frameworks and practice across eight PROSPECTS countries.

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