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PROSPECTS

► REVIEW OF NATIONAL
POLICY FRAMEWORKS
AND PRACTICE



► Review of national policy, legislative and regulatory frameworks, and practice in Sudan

A baseline study on the right to work and rights at work for refugees and other forcibly displaced persons



Kingdom of the Netherlands

▶ **Review of national policy, legislative and regulatory frameworks, and practice in Sudan**

A baseline study on the right to work and rights at work for refugees and other forcibly displaced persons

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First published 2022

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ISBN: 9789220375204 (print)

9789220375211 (web pdf)

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► Foreword

Sudan has a long history of hosting refugees and asylum seekers. As of December 2021, an estimated 1.1 million refugees (78 per cent women and children) were living in the country, many originating from South Sudan. With the recent conflicts in the Tigray region of Ethiopia, a new wave of refugees has also sought safety in Sudan. In addition to refugees, Sudan also includes a large population of internally displaced persons (IDPs) because of the many protracted conflicts inside the country. Forcibly displaced persons (FDPs) are living in a mix of camp settings as well as being integrated into rural and urban communities.

In 2019, the Partnership for improving prospects for host communities and forcibly displaced persons (PROSPECTS) was launched with support of the Ministry of Foreign Affairs of the Kingdom of the Netherlands. PROSPECTS Partners have committed to adopting New Ways of Working so as to provide a more integrated approach by humanitarian and development partners to address protracted displacement. In Sudan, the Partnership is focusing its technical assistance on improving the quality of life for forcibly displaced and host communities from al Nimir camp and the nearby settlement of Assalaya in East Darfur, and Al Meiram and Kharasana Settlements in West Kordofan.

This report aims to provide an understanding of the current policy, legislative and regulatory frameworks and practice in relation to the access of refugees to the labour markets, employment, livelihood and training opportunities, including self-employment and business development, the rights at work, including social protection and freedom of association. This will provide ILO PROSPECTS a clear understanding of the current status of these frameworks and how they are being applied or not.

The analytical framework for this assessment was jointly developed by IMPACT Initiatives and ILO PROSPECTS through the contributions of a number of key technical specialists from various ILO technical departments. It is conducted in conjunction with similar baselines drawn up in Jordan, Lebanon, Iraq, Egypt, Kenya, Uganda and Ethiopia. Consilient Research has conducted this work in Sudan.

This report reviewed global frameworks, national legislature, national policy documents, datasets and grey literature to establish the legal basis for refugees' access to work and their rights at work. Findings from the literature review were verified and triangulated with field work to establish how the laws are understood and implemented in practice. Two states – East Darfur and West Kordofan – were chosen for field research based on their established PROSPECTS programming presence, and a third state – Gedaref – was selected as a point of comparison and to capture the experiences of non-South Sudanese refugee populations. Key informant interviews were conducted with authorities in Khartoum and the three states, while focus group discussions were held with refugees and IDPs in the three states.

I would like to thank the Kingdom of the Netherlands for their generous support to this assessment and the production of this report, undertaken in the context of the PROSPECTS Partnership. I would particularly like to thank Consilient Research for their excellent work in conducting the assessment, and the UNHCR and UNICEF and the IFC for their collaboration with the ILO.



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► Abbreviations

CAR	Central African Republic	NTC	National Telecommunications Corporation
COR	Commission of Refugees	PBF	Peacebuilding Fund
CRRF	Comprehensive Refugee Response Network	POC	Person of concern
DRC	Democratic Republic of Congo	PROSPECTS	Partnership for improving prospects for forcibly displaced persons and host communities
EMIS	Education Management Information System	RCS	Refugee Counselling Services
FDP	Forcibly displaced person	RSD	Refugee status determination
FFC	Forces of Freedom and Change	SCVTA	Supreme Council of Vocational Training Authority
FGD	Focus group discussion	SDG	Sudanese Pound
GDP	Gross domestic product	SWTUF	Sudan Workers' Trade Union Federation
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH	TGoS	Transitional Government of Sudan
GRF	Global Refugee Forum	TLC	Transitional Legislative Council
HC	Host community	TMC	Transitional Military Council
HH	Household	TVET	Technical and Vocational Education and Training
HLP	Housing, land and property	UN	United Nations
HRP	Humanitarian Response Plan	UNAMID	United Nations African Mission in Darfur
IASC	Inter-Agency Standing Committee	UNESCO	United Nations Educational, Scientific and Cultural Organization
IDP	Internally displaced person	UNHCR	United Nations Refugee Agency
IFC	International Financial Corporation	UNICEF	United Nations Children's Fund
IGAD	Intergovernmental Authority on Development	UNITAMS	United Nations Integrated Transition Assistance Mission in Sudan
ILO	International Labour Organization	US	United States
INGO	International non-governmental organization	USD	United States dollar
IOM	International Organization for Migration	VTC	Vocational training centre
JICA	Japan International Cooperation Agency	WB	World Bank
JIPS	Joint IDP Profiling Service	WFP	World Food Programme
JPA	Juba Peace Agreement		
KII	Key informant interview		
MFA	Ministry of Foreign Affairs		
NCTTE	National Council for Technical and Technological Education		
NHIF	National Health Insurance Fund		

► Definition of terms

Displacement: any movement of persons forced or compelled to leave or flee their homes or places of habitual residence and their situation before they can find a solution.

Displaced persons: all internally displaced persons (IDPs), returnees and refugees as defined below.

Durable solutions for internally displaced persons (IDPs) and returnees: their sustainable reintegration at the place of former habitual residence, or sustainable local integration or settlement elsewhere in the country where they can enjoy their rights as citizens without discrimination, in safety and dignity, and participate fully in the economic, social, political and cultural development of the country. Durable solutions are achieved when IDPs and returnees no longer have specific assistance and protection needs that are linked to their displacement and can enjoy their human rights without discrimination resulting from their displacement.

Internally displaced persons (IDPs): all persons who have been forced or compelled to flee or leave their homes or places of habitual residence as a result of the conflicts (or natural or man-made disasters) anywhere on the territory of the Republic of the Sudan, and who have not crossed an internationally recognized State border.

Nomads and herders: members of different Arab tribes, whether settled since the conflict or migrating.

Refugees: all persons of foreign nationality or origin who found refuge on the territory of the Republic of the Sudan and have been registered as refugees or otherwise qualify as such under the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees, or the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.

Returnees: all persons of Sudanese nationality or origin who were compelled to flee across an internationally recognized State border because of a well-founded fear of persecution or as a result of conflicts anywhere on the territory of the Republic of the Sudan and who returned or are returning to the Republic of the Sudan.

South Sudanese refugees: all persons of South Sudanese origin who found refuge on the territory of the Republic of the Sudan before or after the independence of the Republic of South Sudan and have been registered as refugees or otherwise qualify as such under the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees, or the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.

► Acknowledgements

This review was conducted on behalf of the ILO by Jane Alanna Sail and Eero Wahlstedt from Consilient Research between May 2021 and July 2022.

It benefitted from inputs and comments from ILO PROSPECTS team members including Sean Paterson, Helen Kirsch, Nicholas Grisewood, Fatma Kaya-Ergani, Fatima Sirelkhatim and Tomoki Watanabe. It further received contributions from Dave Curtis and Eric Kramak from Impact Initiatives and Abdelqader Hamed Bakir, Abdu El Hamid Jarma, Douglas Disalvo and Richmond Msowoya from UNHCR Sudan.

► Executive summary

Sudan has a long history of hosting refugees and asylum seekers. As of December 2021, an estimated 1.1 million refugees (78 per cent women and children) were living in the country, many originating from South Sudan. With the recent conflicts in the Tigray region of Ethiopia, a new wave of refugees has also sought safety in Sudan. In addition to refugees, Sudan also includes a large population of internally displaced persons (IDPs) because of the many protracted conflicts inside the country. Forcibly displaced persons (FDPs) are living in a mix of camp settings as well as being integrated into rural and urban communities.

PROSPECTS in Sudan, in partnership with the ILO, UNHCR, UNICEF and IFC, is aiming towards facilitating inclusive development that benefits FDPs and host communities in the targeted states of East Darfur and West Kordofan. This report aims to contribute to the goal of inclusive development by establishing a baseline of the relevant frameworks and their application that determine access of FDPs to the labour market and livelihood opportunities and their rights at work. It is conducted in conjunction with similar baselines drawn up in Jordan, Lebanon, Iraq, Egypt, Kenya, Uganda and Ethiopia. Consilient Research has conducted this work in Sudan, in close collaboration with and under the technical supervision of IMPACT Initiatives, which is synthesizing the findings from all eight baseline assessments into a comprehensive global overview.

This paper reviewed global frameworks, national legislature, national policy documents, datasets and grey literature from international organizations to establish the legal basis for refugee access to employment, training, social protection and the right to naturalization. Findings from the literature review were verified and triangulated with field work to establish how the laws are understood and implemented in practice. Two states – East Darfur and West Kordofan – were chosen for field research based on their established PROSPECTS programming presence, and a third state – Gedaref – was selected as a point of comparison and to capture the experiences of non-South Sudanese refugee populations. Key informant interviews were conducted with authorities in Khartoum and the three states, while focus group discussions were held with refugees and IDPs in the three states. Questions and lines of enquiry were based on a global framework developed by IMPACT Initiatives.

The findings of field research are localized, based on small qualitative samples which cannot be considered representative of refugee administration or refugee experiences across the country. The diversity of refugee contexts and nationalities in Sudan makes a comprehensive assessment of their access to the labour market highly challenging, and this should be considered when approaching accounts from individual respondents.

This study began in May 2021 with data collected during July and August and the first draft completed in mid-October. Soon afterwards, on 25 October 2021, the Sudanese military, led by General Abdel Fattah al-Burhan, arrested Prime Minister Hamdok and took control of the government in a military coup d'état. General Burhan announced the dissolution of the Transitional Government of Sudan and suspended key articles of the Transitional Constitution. For almost a month, there was political flux and uncertainty regarding the future of government and the political transition, with strong rejection of and resistance to the coup by the street and other civilian forces who met with armed and sometimes deadly responses from the Sudanese military.

On 21 November a deal brokered by Sudanese mediators was signed between the released Prime Minister Hamdok and General Burhan, recognizing Hamdok's role as PM and claiming to restore the transition to civilian rule based on the 2019 Transitional Constitutional Charter. The deal, while roundly rejected by civilian and professional bodies, nonetheless provides the basis of the current military transitional government. However, the deal also resulted in the resignation of ministers from the Forces of Freedom and Change (FFC) civilian coalition, who, along with the Transitional Military Council, were key components of the Transitional Constitution. Their absence from government calls into question the ongoing legitimacy and legality of the Constitutional Charter. The findings from this study were ascertained in the context before the coup, but the subsequent fragility of Sudan's transition and transitional mechanisms should be considered throughout.

Summary findings

In Sudan there are at least four levels to consider when assessing refugees' access to the labour market: firstly, legislative frameworks at the national level and the permissibility of Sudan's laws and policies regarding refugees; secondly, administrative interpretation and practice of the law at the Khartoum level; thirdly, knowledge and implementation of the law at the State level – almost exclusively relevant to State capital cities; and finally, the level of knowledge and practice across most of the country, including in refugee camps and settlements.

Access to the labour market

Apart from the 2014 Asylum Act, Sudanese legislation does not tend to specify whether refugees are included in or exempt from the rights and rules applicable to citizens. The Asylum Act either does not include or does not provide rigorous detail on the majority of the issues included within this study, and no accompanying frameworks or procedures were found to provide extra guidance on how to further interpret or implement the law. Therefore, in the absence of explicit prohibitions or definitive green lights, refugees inhabit a vast legal vacuum relating to the issues set out in this study's framework. This could, in theory, work in their favour, but in most cases conservative interpretations are practised that prevent refugees from enjoying rights or services.

The foundation of refugee legal access to the labour market is registration and acquisition of a refugee card. There are several barriers to achieving this first stage, not least the number of exceptions and categories of asylum seekers in Sudan and the differing extents to which they are legally defined. The evolution of South Sudanese refugee status and rights in Sudan is patchily documented without clear, publicly available definition. The provision of special freedoms for South Sudanese is commendable but operates without clear legal grounding. Not being registered or not having a refugee card doesn't significantly alter South Sudanese legal rights to reside or work in Sudan in the same way it does for other refugees. However, a refugee card is the only form of identification available to most South Sudanese in Sudan and therefore has immediate value for protection against harassment and as a legitimate form of ID for casual work within formal institutions. Its longer-term value is in providing the basis for durable solutions: as a legal proof of identification, it will confer eligibility for return assistance packages to South Sudan, and the tribal heritage recorded through the registration process should allow refugees to claim linkages to South Sudanese tribes and citizenship, or potentially to Sudanese citizenship if government discussions on this topic ever progress.

The fact that South Sudanese exceptional status is yet to be captured in law or formal policy makes it confusing for officials to manage their presence and opaque for international actors to develop targeted interventions.

For non-South Sudanese, even with registered refugee status the process of acquiring a work permit is arduous and opaque. A lack of consequences for employing or being employed without a permit, the lack of formal jobs available (especially in the locations around refugee settlements beyond Khartoum), limited refugee mobility to seek jobs in urban centres, and skills poorly matched to formal workplace needs all make the search for a work permit a low priority for many refugees outside Khartoum.

Setting up small businesses or engaging in agriculture are more feasible livelihood options for the majority of refugees in camps or camp-like settlements. Rules and regulations for setting up and registering small businesses are lacking for Sudan as a whole, and there is currently no clear guidance on how refugees could do this legally. Lack of access to capital, loans, financial services or business advice means that refugees can rarely afford to establish more than simple and informal kiosk- or irregular market-type initiatives selling food, clothes or basic goods.

Secure land tenure options for refugees are limited, and there is little in the way of legal guidance to help refugees lease registered land in a way that would offer them security and formal means of recourse in the case of disputes. Customary land management systems in the PROSPECTS target areas mean that most lease negotiations must take place with native administration systems in contexts of active conflict between tribes, pastoralists and farmers. This makes leaseholds entered into between refugees and customary landowners insecure, with refugees who farm the land vulnerable to financial exploitation and physical insecurity in the form of armed confrontations and sexual violence. Farming cooperatives do operate in Sudan and within the PROSPECTS target areas; however there is no legal clarity regarding refugee rights to join or establish them.

Access to training

There do not appear to be clearly defined legal barriers to refugees accessing work-based or educational institution-based training. However, the insufficient formal or skilled jobs available to refugees makes this option of limited reality. A scarcity of technical or vocational institutions within proximity of non-urban refugees in general, and of those in East Darfur and West Kordofan in particular, presents a forceful physical barrier to both competitive formal apprenticeships and less rigorous short courses. On-the-job informal training is most realistic for those who can access skilled employment (even informally) but there is no legal compulsion for employers to provide this.

Access to rights at work

Once again, refugee eligibility for social protection is not determined in current laws. Formal employment is low nationally but is especially rare among refugees, meaning that their potential access to contribution-based social protection benefits and regulated decent work conditions is particularly low. However, in terms of access to justice, Sudan offers refugees, even those working informally, generous rights to file complaints and take issues to court. This is a case where even without being specified as a refugee right, the openness of the Labour Law wording is being interpreted and practised in an inclusive manner.

Travel restrictions are in place, limiting refugees' mobility and ability to move and seek work. However, these did not seem to be rigorously enforced *for the refugees sampled* if they travel only short distances within proximity of their camp or settlement and within the state boundaries. More tangible barriers to local travel are transport costs and insecurity. Refugee rights to assemble and join trade unions fall within a familiar space of ambiguity, which are possible – if unlikely – to be further clarified in the upcoming Trade Union Law of 2021.

Citizenship as a means of integration to the host community is a legal but largely unfeasible option in practice. Formal means of gaining Sudanese passports have become much tighter under the Transitional Government, which has demonstrated a less welcoming policy towards refugees than their predecessors. In any case, this was not cited as a desired intention for the respondents of this study.

► Table 1. Overview of gaps

	Research area	Gaps within existing laws or policies		Missing laws or policies
		Law or policy	Gap	
Access to labour markets				
2.1a	Access of refugees to the labour market?	2014 Asylum Act	<p>No inclusion of refugee exceptions to the Asylum Act, i.e. for South Sudanese or brothers and sisters from Arab League countries</p> <p>No mention of refugees' rights relative to other laws and no specific details regarding their ability to:</p> <ul style="list-style-type: none"> • own or rent land • permission own or register business • permission to access finance or open a bank account • access business development services, employment services, counselling services • join or establish a cooperative • purchase a SIM card in own name 	<ul style="list-style-type: none"> • No standard policy or guidance regarding work permit application process • No additional gazettes or instructions for exceptions regarding permission to work • No formal policy regarding the Four Freedoms for South Sudanese • No actioning of Commitments to Global Refugee Forum (GRF) (2019) regarding refugee access to work into law or policies
		1997 Labour Code	Does not provide guidance on refugee inclusion or exclusion from the rights outlined to other workers	
		Draft Five Year National Strategy on Solutions for Internally Displaced Persons, Returnees, Refugees, and Host Communities 2021		<ul style="list-style-type: none"> • Highlights where action is needed to support refugee access to work.
2.1b	Permission to own or rent land	1970 Unregistered Land Act	No mention of refugee rights	Customary law has not yet been integrated into statutory law
		1984 Civil Transaction Act		
		Customary Laws (unwritten)		
2.1c	Permission to start, improve, register own business	2021 Investment Encouragement Act	No specific mention of refugees	No law for small or micro-businesses which could theoretically include guidance for refugee processes and access to business services
2.1d	Permission to access finance and financial services		Not mentioned in laws reviewed	<ul style="list-style-type: none"> • Decree from Central Bank of Sudan regarding acceptance of refugee cards to open bank accounts needs amplification

2.1e	Permission to access business development services		No mention in laws	<ul style="list-style-type: none"> • No law for small or micro-businesses which could theoretically guide refugee processes or access to business services • No other framework exists to provide guidance re refugee eligibility or exclusion / or guidance for practice
2.1f	Permission to join or establish a cooperative	1999 Cooperative Law	No mention of refugees	• A new Cooperative Act is reportedly under development
2.1g	Permission to access employment services	1997 Labour Code	No mention of refugees The Labour Law does not mention government employment services	• Not signatory to ILO's 1948 Employment Service Convention nor its 1997 Private Employment Agencies Convention
2.1h	Access SIM cards, open bank, access mobile money account	2018 Telecommunications and Postal Regulation Act	No specific mention of refugees in telecoms act	<ul style="list-style-type: none"> • No framework seems to exist guiding access to mobile money • National policy to recognize refugee cards as valid proof of identity is missing
Access to training				
2.2a	Access to work based training	1997 Labour Code 2013 TVET Policy	No specific mention of refugees	<ul style="list-style-type: none"> • Pledges to GRF (2019) regarding integration of refugees into the national education system have not been actioned in law or policy • Attention to refugees in formal education is neglected at secondary level within existing education plans • Protocol on Free Movement of Persons in the IGAD Region has not yet been ratified
2.2b	Access to formal education and training	2014 Asylum Act	No mention of refugees	
		Vocational Training and Apprenticeship Act 2001	No mention of refugees	
		25 Year Strategic Plan of Sudan 2007–2031	No specific mention of refugees	
		Sudan TVET Policy 2013	No mention of refugees or other vulnerable groups	
		SCVTA Strategic Plan 2018-2022	Missing specific indicators and metrics to measure progress of FDP access to education in the national plan	
	General Education Sector Strategic Plan 2018/19- 2022/23	No specific mention of refugees		
2.2c	Access to formal grants or allowances	Vocational Training Centre Operation and Management Guidelines 2021	Was not mentioned in the laws reviewed	
2.2d	Recognition of vocational, academic, professional qualifications from country of origin			

Access to protection of rights at work				
2.3a	Protection in the labour market	1997 Labour Code	No specific mention of refugees	
		2014 Asylum Act	No mention of refugees' protection rights within the labour market	
2.3b	Freedom of movement	2014 Asylum Act	Does not include details on refugees with exceptional status, i.e. for South Sudanese or brothers and sisters from Arab League countries.	
2.3c	Access to social security benefits	1990 Social Insurance Act	No mention of refugee eligibility or exemption	
		1997 Labour Code	No mention of refugee eligibility or exemption	
		2014 Asylum Act	Does not cover this issue	
2.3d	Right to form or join trade unions, participate in collective bargaining mechanisms	2010 Trade Union Act	No mention of refugee eligibility or exemption	2021 Trade Union Act still to be published
		2014 Asylum Act	States that refugees cannot join political parties but does not specify whether this includes mechanisms for collective bargaining	
Access to naturalization				
2.4a	Mechanisms to become a permanent resident or citizen	Sudanese Nationality Act (Amendment) 2011		Contradictory laws regarding South Sudanese access to citizenship Sudan.
		2019 Constitutional Charter for the Transitional Period		

Conclusions

Sudan has been a welcoming host for decades and has made significant efforts to accommodate its large populations of refugees. Integrating into their host communities in Sudan is a more viable option for many refugees, some of whom have grown up and lived there for decades, than assisted voluntary return or resettlement in a third country. To do so they will need options to thrive and positively contribute to their own and their communities' development. The existing laws, however, do not provide adequate guidance for refugee inclusion into the work force, and the opportunities for decent work are few. More needs to be done to ensure better coverage of the basic steps of refugee registration and documentation, after which efforts to integrate refugees into the work force will need to acknowledge the challenges of an increasingly punitive economic environment, sluggish national job creation efforts, and antagonistic relations between refugees and host communities.

Under the transitional government, the generous open-door policies practised by Sudan under President al Bashir are already showing signs of reversal. Discussions with high level officials indicate that tolerance for the openness shown to South Sudanese, Syrians and Yemenis through prima facie or prima facie-like asylum is waning, and that policy reversals may be on the cards. The economic reforms undertaken by the transitional government to address the decades of former financial mismanagement are hurting the pockets of middle-class Sudanese, let alone the large population already experiencing poverty. The conditions for refugee acceptance are growing harsher among host communities, and against the high-level political battle for the country's democratic transition and security sector reform, keeping refugee inclusion and durable solutions on the agenda will require coordinated and sustained efforts and advocacy.

Reading guide

Chapter 1 provides an overview of the report context and objectives, outlines the study's methodology and sampling approach, and provides contextual background on each of the three field sites.

Chapter 2, section 2.1 presents an initial overview of Sudan's socio-economic context and provides a grounding of national labour market trends and the refugee context, including the status of and prospects for durable solutions.

Section 2.2 presents the current legislation, policies and regulatory frameworks in place for refugees' access to the labour market, training, rights at work and naturalization. This section focuses on presenting the legal environment, such as it was possible to ascertain, and does not include comment on how the laws are understood or implemented in practice. Analysis of this nature will follow in a subsequent section.

Section 2.3 synthesizes the gaps identified relating to legislation, policies and regulatory frameworks for refugees' access to the labour market, training, rights at work and naturalization.

Section 2.4 presents the responses of authorities, subject matter experts, and refugees interviewed in Khartoum, East Darfur, West Kordofan and Gedaref in identifying how the laws are understood and being implemented in practice. This section reflects interpretations as described by respondents; these are sometimes inaccurate and contradictory. Such instances will be pointed out, and summary sections will help synthesize findings at the end of each sub-section.

Section 2.5 summarizes and synthesizes the findings.

▶ 1

Overview

▶ 1.1 Context and objectives

The world has seen the highest levels of displacement on record, increasing in recent years in both scale and complexity. According to the UN Refugee Agency (UNHCR), around 82.4 million people were forcibly displaced in 2020, up to 26.4 million of them refugees. With displacement becoming more protracted, durable solutions must be found through programming that is dignified, inclusive and comprehensive. The aim has to be on enhanced self-reliance, empowerment and social cohesion.

With these challenges in mind, the Partnership for improving prospects for forcibly displaced persons and host communities (PROSPECTS) was formed, spearheaded by the Government of the Netherlands and bringing together the International Finance Corporation (IFC), the International Labour Organization (ILO), the United Nations High Commissioner for Refugees (UNHCR), the UN Children's Fund (UNICEF) and the World Bank (WB).¹ PROSPECTS is active for four years (2019–2023) and targets eight countries in East and North Africa, including Egypt, Ethiopia, Iraq, Jordan, Kenya, Lebanon, Sudan and Uganda. It seeks specifically to transform the way that stakeholders respond to forced displacement crises by:

- ▶ fostering an enabling environment for socio-economic inclusion;
- ▶ improving access to education and protection for vulnerable children on the move;
- ▶ strengthening the resilience of host communities.

Sudan has a long history of hosting refugees and asylum seekers. As of October 2021, an estimated 1.1 million refugees (78 per cent women and children) were living in the country, most originating from South Sudan. With the recent conflicts in the Tigray region of Ethiopia, a new wave of refugees has also sought safety in Sudan. In addition to refugees, the Sudan also includes a large population of internally

¹ While the World Bank is part of the broader PROSPECTS partnership, it is not operational in Sudan under PROSPECTS.

displaced persons (IDPs) due to the many protracted conflicts inside the country. Forcibly displaced persons (FDPs) are living in a number of camp settings or have been integrated into rural and urban communities. Some of the key challenges facing FDPs and host communities include:

- ▶ a significant need to improve the quality and infrastructure of basic and secondary education, including vocational training;
- ▶ a lack of the most basic infrastructure and intermediaries on the labour market that could facilitate transition into employment with dignity and enforce fundamental rights at work;
- ▶ an underfunded response and a limited capacity to respond to protracted needs of millions of FDPs experiencing incidences of discrimination, abuse, exploitation and child labour, violence and sexual and gender-based violence.

PROSPECTS in Sudan, in partnership with the ILO, UNHCR, UNICEF and IFC, is aiming towards facilitating inclusive development that benefits FDPs and HCs in the targeted states of East Darfur and West Kordofan. The consultancy relating to the National Policy, Legislative and Regulatory Frameworks and Practice Review (“the Review”) that the ILO is undertaking aims to contribute to the goal of inclusive development by establishing a baseline of the relevant frameworks and their application that determine access of FDPs to the labour market and livelihood opportunities and their rights at work. It is conducted in conjunction with similar baselines established in Jordan, Lebanon, Iraq, Egypt, Kenya, Uganda and Ethiopia. Consilient Research is conducting this work in Sudan, Kenya and Uganda, in close collaboration with and under the technical supervision of IMPACT Initiatives, which is synthesizing the findings from all eight baseline assessments into a comprehensive global overview.

▶ 1.2 Methodology

Desk review

A review of global frameworks, national legislature, national policy documents, datasets and grey literature from international organizations was undertaken to establish the legal basis for refugee access to employment, training, social protection and the right to naturalization.

Key informant interviews

An initial series of key informant interviews (KII) was carried out in Khartoum to verify findings from the desk review and fill in gaps in knowledge. Interviews were conducted with representatives from the UNHCR, the Commission of Refugees (COR), the National Council for Technical and Technological Education (NCTTE), the Supreme Council for Vocational Training and Apprenticeships (SCVTA), a Sudanese refugee rights lawyer, a technical and vocational education and training (TVET) expert from GIZ, a refugee protection specialist from the Danish Refugee Council, and a Housing, Land and Property (HLP) legal specialist from the Norwegian Refugee Council.

These interviews helped shape the design of question guides for field-based research, and a secondary level of interviews was conducted in West Kordofan, East Darfur and Gedaref states. Key informants were selected purposively for their expert knowledge on target research areas and gaps in current understandings of the legal landscape and practice. Interviews were

conducted with informed consent, and no minors were part of the sample. COVID-19 precautions were taken by researchers, and interviews were conducted outdoors where possible.

► **Table 2. Interviews**

Field-based key informant interviews (per state)			
	Key informant	Area of expertise	# interviews
1.	State Commission of Refugees	Ground level refugee management and oversight	1
2.	UNHCR	Ground level livelihoods understanding	1
3.	State Ministry of Agriculture	Ground level knowledge of land rights and practice	1
4.	Vocational Training Centre (Gedaref)	Ground level knowledge of training access and rights	1
	Technical Secondary School/ Craft Institution (East Darfur/ West Kordofan)		
5.	State Labour Office	Understanding of labour rights and inspections	1
6.	State chambers of commerce	Understanding of employment structures, formal labour market	1
7.	Small business owner	Understanding of labour practices	2
8.	Refugee/IDP camp leaders or community leaders	Understanding of refugee situation	1
9.	Locality administrator	Understanding of local conditions	1
10.	Local registrar's office	Understanding of business registration practice	1

Focus group discussions

Respondents were purposively selected to capture the experiences of men and women refugees engaged in income-generating activities as well as those who are not undertaking income-generating activities. Income generation was considered to include self-employed work or daily labour. Respondents not engaged in income-generating activities were selected to offer valid information regarding the barriers to doing so. FGD groups were limited to 5 to 8 respondents; larger group sizes were considered as COVID-19 unsafe, as well as barriers to depth and utility of responses.

► **Table 3. Focus group discussions**

	Respondent groups	# interviews
1	Male income-generating refugees	1
2	Male income-generating IDPs	1
3	Female income-generating refugees	1
4	Female income-generating IDPs	1
5	Male non-income-generating refugees	1
6	Male non-income-generating IDPs	1
7	Female non-income-generating refugees	1
8	Female non-income-generating IDPs	1
	Total FGDs	8

Site selection

Three states were chosen for field research:

1. East Darfur: Ed Daein State capital, Nimir refugee camp and Neem IDP camp
2. West Kordofan: El Fula State capital and Kharasana settlements
3. Gedaref: Gedaref Town State capital and Um Gargour refugee camp

PROSPECTS has established a presence East Darfur and West Kordofan, and research findings from these areas will be contextually relevant to future programming. Refugees in these states are almost exclusively South Sudanese. Gedaref is not a PROSPECTS target area, but it was chosen as a point of comparison and in order to capture more diverse refugee populations, and to reflect the experiences of refugees other than South Sudanese. Gedaref State has welcomed several waves of refugees – historically Eritrean refugees who are the dominant inhabitants of Um Gargour camp, as well as contemporary refugees fleeing the Tigray crisis in Ethiopia. This new wave of refugees was not included in the sample; rather, the more established refugees of Um Gargour camp were selected as they were more likely to have had opportunities to engage in the labour market than the most immediate arrivals.

Limitations

The findings on practice and implementation of laws and policies in Section 2.3 present the responses of authorities, subject matter experts and refugees and include secondary research findings from relevant literature. Responses are subjective and sometimes inaccurate, contradictory or vague – all of which are indicative of patchy understanding of refugee rights among these respondent groups. Responses are also localized and should not be assumed as representative of authorities or refugees' practice and understanding across the country.

The findings of field research are contextual and cannot be considered representative of refugee administration or refugee experiences across the country. The diversity of refugee contexts and nationalities in Sudan makes a comprehensive assessment of their access to the labour market highly challenging.

South Sudanese refugees are so diverse that they evade generalization as a nationality, as well as in comparison with other refugees – they are substantial in number, have different cultural and legal status, can be roughly divided into those who were in Sudan at the time of South Sudan's independence and those who fled into Sudan as a result of conflict occurring in South Sudan post-independence, and are spread across camps, within host communities, and in urban areas such as Khartoum.

Syrians and Yemenis, too, have a different status, incomparable to South Sudanese: they are more likely to live in urban areas, have passports and access to finance. Long-term Eritrean and Ethiopian refugees in Khartoum or the eastern regions will have been able to integrate during the better economic years and benefit from less strict conditions than the newly arrived Ethiopian refugees from Tigray, who are being kept under tight scrutiny. Moreover, the situation for refugees in Khartoum is vastly different to that of refugees in other states.

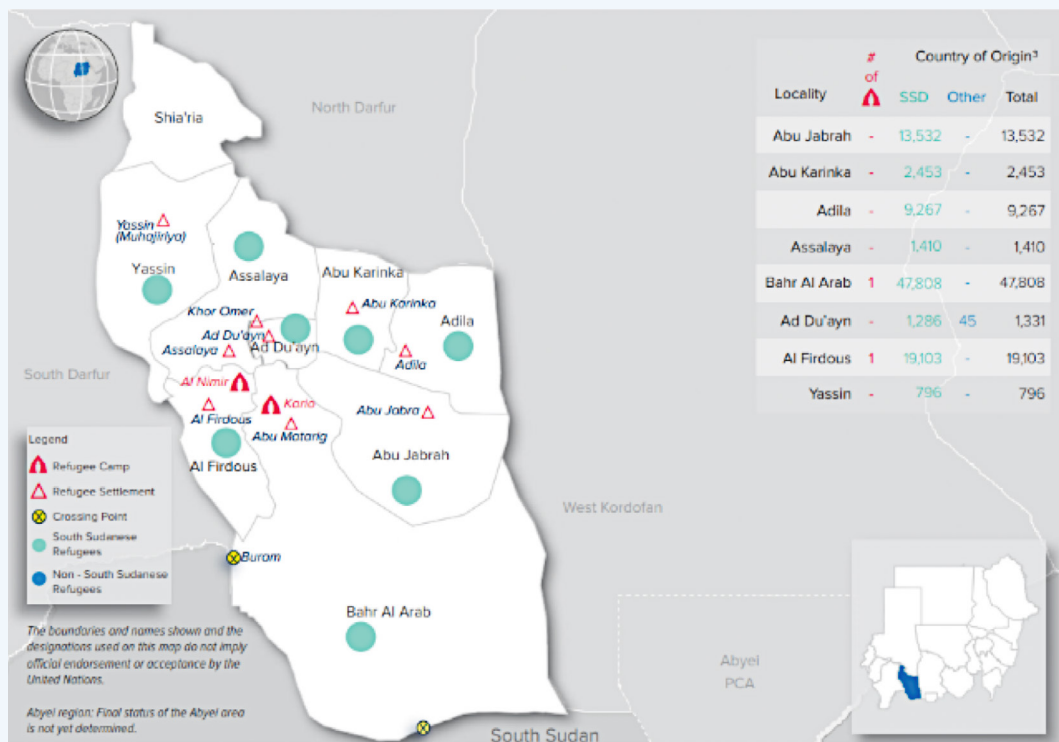
After presenting the legal provisions for refugees, this study demonstrates some of the ways that the laws and policies are understood and implemented in three states only, with a focus on camp-based South Sudanese refugees and camp-based, long-term Eritrean refugees. The understanding and experiences of urban-based refugees were not captured, and the findings from Gedaref should not be extended to new arrivals.

► 1.3 Site context

East Darfur

East Darfur is bordered by South Darfur, North Darfur and West Kordofan, and shares an international border with South Sudan. Originally part of South Darfur, it became a separate state in 2012 following agreements determined in the Doha Document for Peace in Darfur (2011).² The capital is Ed Daein. An estimated 95,700 refugees and asylum seekers live in East Darfur, 77 per cent of whom are registered. Roughly two thirds live in camps, with 40 per cent outside camps in self-settlements or among host communities. The two designated camps are Al Nimir and Kario, established in 2016. As of October 2021, an estimated 22,807 asylum seekers arrived in East Darfur, all of whom are South Sudanese. The gender balance of refugees is slightly tipped towards males, who make up 51 per cent of the registered population.³

► **Figure 1. Map of East Darfur State and refugee camps and settlements**



Source: UNHCR.

East Darfur is also host to around 99,697 IDPs,⁴ who fled from interethnic conflict within the state as well as in surrounding states. Conflicts occur between pastoralist Arab tribes and sedentary African tribes, here often meaning between pastoralist Southern Rizeigat Arabs⁵ and Zaghawa or Birgid farmers. However, intra-Arab tribal conflict is also prevalent within East Darfur between the Rizeigat (pastoralists)

2 "Doha Document for Peace in Darfur", May 2011.

3 "UNHCR Overview of Refugees and Asylum Seekers", 31 October 2021.

4 "UN Humanitarian Needs Overview", 31 July 2021.

5 Also referred to as "Baggara Arabs" because of their ownership of cattle, distinct from camel-owning Northern Rizeigat known as "Abala Arabs".

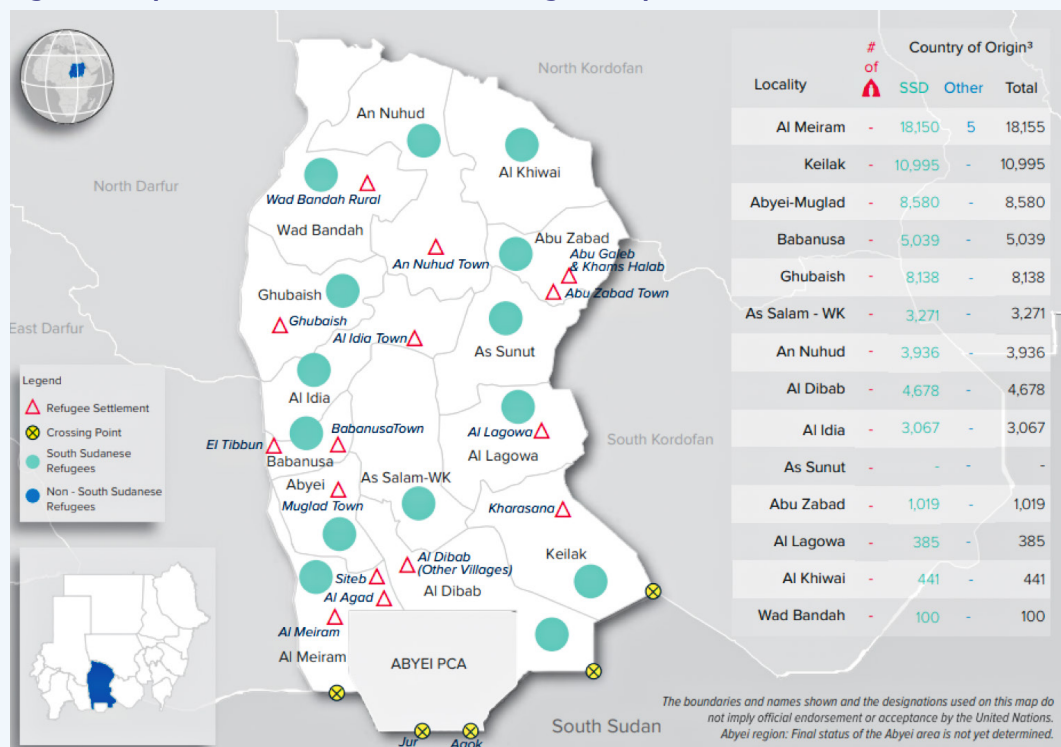
and Ma'aliya (sedentary farmers) and between the Rizeigat and Misseriya (both pastoralists). This study interviewed IDPs from Neem camp, located just north of Ed Daein town, within Ed Daein locality. It is the largest IDP camp in East Darfur with around 85,000 IDPs.⁶

Refugee-focused fieldwork was conducted in Al Nimir camp, which is estimated to host around 19,103 South Sudanese refugees, 80 per cent of whom are claimed by COR to be registered. The composition of the camp population includes South Sudanese Dinka, Fertit and Raja tribes who each maintain their own sheikhs and continue leadership structures from the south. Dinka inhabitants tend to engage in agriculture more than the Fertit and Raja, many of whom work as daily labourers and do not think favourably of farming. Tribal groups live together in mixed areas within the camp, but there are tensions and divisions between the Dinka and the Raja and Fertit, along power balances transposed from South Sudan where the Dinka are most powerful.

Nimir camp is located in Assalaya locality, but Ed Daein town, in Ed Daein locality, is closer and easier to reach than Assalaya town. Tuk-tuks run between the camp and Ed Daein, and the journey takes around an hour by car. Zain, Sudani and MTN networks are available from the camp but with weak signal. Rizeigat and Ma'aliya are the main tribal groups around the camp. Ma'aliya land is to the northwest and west, with Rizeigat owning the other surrounding areas. Many government officials in Ed Daein town were observed to be Rizeigat. Rizeigat members are considered to have more money and arms than the Ma'aliya, who, in turn, are perceived to be more educated than the Rizeigat.

West Kordofan

► **Figure 2. Map of West Kordofan State and refugee camps and settlements**



Source: UNHCR.

6 As of June 2018. https://www.unocha.org/sites/unocha/files/dms/OCHA_Sudan_Humanitarian_Bulletin_Issue_11_%2828_May_-_10_June_2018%29.pdf.



Forcibly displaced women from El Neem camp, East Darfur, interacting with the surveying team members © ILO/Hafiez

West Kordofan borders North Darfur, North Kordofan, East Darfur and South Kordofan; it borders the contested area of Abyei and shares an international border with South Sudan. West Kordofan State was dissolved in 2005 and split from a single state into North and South Kordofan, only to be re-established in 2013 as a separate state, albeit with different boundaries. The capital is El Fula. West Kordofan is home to around 67,804 refugees and asylum seekers, almost all of whom are South Sudanese, and 65,054 of whom are registered. West Kordofan has no designated refugee camps; rather, there are self-settlements located in remote, rural areas. The two key hosting localities are Al Meiram and Keilak. As of October 2021, around 1,867 new asylum seekers had entered West Kordofan during the year. The numbers of female and male registered refugees are balanced.⁷

West Kordofan also hosts around 91,343 IDPs⁸ who were displaced by conflicts over land and grazing rights, as well as by historic fighting in the Nuba Mountains–Southern Kordofan area during the North–South war that ended in 2005 with the signing of the Comprehensive Peace Agreement. After the war, many Nuba communities were unable to return to their homes in the Nuba Mountains–Southern Kordofan area as their land had been occupied by others. Tensions between the Nuba (Christian and Muslim) and Arab tribes, particularly the Misseriya, are long-standing, related to grazing right disputes and state boundary changes.⁹

Fieldwork for this study focused on the settlement of Kharasana in Keilak locality. The UNHCR estimates the refugee population in Keilak at 10,995, and COR records around 9,363 registered refugees in the Kharasana settlement, which also hosts a small number of Nuba IDPs (225). The majority of South Sudanese in this settlement are Nuer (while those in Al Meiram are predominantly Dinka) with some pockets of Zande.¹⁰

7 UNHCR, “[Overview of Refugees and Asylum Seekers](#)”, 31 October 2021.

8 As of 31 July 2021. UN “[Humanitarian Needs Overview](#)”.

9 For a more detailed overview of the conflict dynamics and politics between the Nuba and Misseriya post-CPA, refer to the International Crisis Group Africa Report No. 145, “[Sudan’s Southern Kordofan Problem: The Next Darfur?](#)”. 21 October 2008.

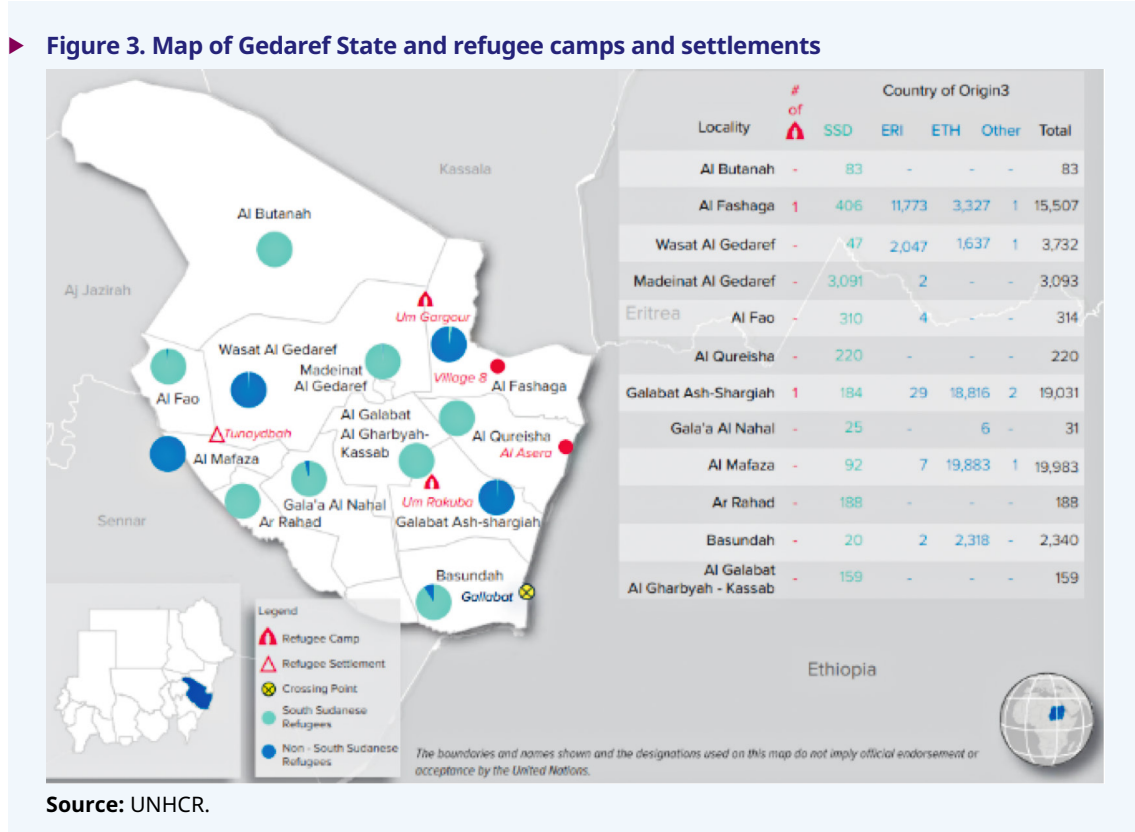
10 The Zande are a group based in Western Equatoria State in South Sudan, which borders the Democratic Republic of Congo and the Central African Republic, i.e., far from the border with Sudan and therefore not likely to be part of the more common displacement pattern of tribes closer to the North–South border fleeing into Sudan. It is possible that these Zande were stranded in the north after South Sudan’s independence and have been unable to return home since then. Unfortunately, researchers were unable to speak directly with these groups to ascertain the situation.

Kharasana settlement is situated close to Keilak town and relatively close to the border with South Kordofan. With El Fula far to the northeast, Kadugli, the capital of South Kordofan, is a much more accessible large town. The gender balance among the Kharasana refugee population is heavily skewed toward women and children, with the men reportedly still fighting in the south. Misseriya tribes own the land around the settlement, and the relationship between the Misseriya and refugees and IDPs is difficult, with particular tensions between the Misseriya and Nuba IDPs. Zain and Sudani mobile networks are available, but with very weak signal strength and poor 3G connectivity.

Gedaref

Gedaref State is bordered by Kassala, Khartoum, El Gezira and Sennar states to the north, west and south, and it shares an international border with Ethiopia to the east. The capital is Gedaref town, centrally located. Of the 64,681 refugees and asylum seekers in the State, 54,401 are registered. The registered refugee composition is predominated by Ethiopians (45,987 or 71 per cent), followed by Eritreans (13,864 or 21 per cent), South Sudanese (4,825 or 7 per cent), and a handful of other nationalities. Refugees from Central African Republic and Chad are reportedly present but have not been registered and are therefore not captured by UNHCR/COR statistics. A total of 3,949 new refugees were recorded as entering Gedaref State in 2021. The current gender balance is male-heavy, with men making up 58 per cent of registered refugees and women making up 42 per cent.¹¹ The key refugee camps are Um Gargour in the northeast and Um Rakuba in the west, with other settlements and camp-like settings scattered throughout the State.

Fieldwork focused on Um Gargour camp, which has been hosting Eritrean refugees and historic Ethiopian refugees since 1976. There were an estimated 11,348 Eritrean refugees in the camp in early 2021.¹² Um Gargour is located northwest of Gedaref town in the northern reach of Al Fashaga locality. The nearest town of significance is Shuwak, which is about an hour's drive from Gedaref town, and there are regular forms of transport from Um Gargour to Gedaref town. Zain and Sudani networks operate relatively well here.



11 UNHCR "Overview of Refugees and Asylum Seekers", 31 October 2021.

12 "Eritrean Refugees in Sudan Dashboard", 28 February 2021.

▶ 2

Main findings

▶ 2.1 Socio-economic context

2.1.1 Labour market trends

Establishing clear trends of Sudan's labour markets is challenging because of the lack of up-to-date data. The last Labour Force Survey was conducted in 2011 by the ILO, while the latest National Household Budget and Poverty Survey was in 2014. The WB presents more recent 2019/2020 figures in their online database, but these are based on projections from the ILO surveys. Trends from these data will not capture recent impacts to the market such as the 2019 revolution or COVID-19 but may still be indicative of some patterns, including those that have occurred since South Sudan's independence in 2011.

Employment

Sudan's population is young, with 42.5 per cent below the age of 15 and two thirds below the age of 25; only 4.2 per cent are older than 64.¹³ This points to a large labour force with a high number of working age adults.¹⁴ However, Sudan's labour market is characterized by low labour force participation, and only about half of the 15–64 year-olds are thought to be participating in the labour force.¹⁵

13 2014 National Household Budget and Poverty Survey (NHBPS).

14 Considering also that those under 15 in the 2014 survey will now have transitioned into cohorts of working-age adults.

15 Figures vary depending on data and interpretations of employment. WB analysis of employment includes both wage and non-wage employment. This differs from ILO definitions but was included to consider the high proportion of non-wage employment, beyond the formal labour market, so prevalent in Sudan.

The WB analysis of 2014 data shows a 53.5 per cent participation rate and 47.4 per cent employment rate among the working-age population.¹⁶ ILO projections for 2020 suggest a lowered labour force participation rate of 46.9 per cent.¹⁷ The broad unemployment rate from 2014, which included working-age individuals not actively seeking work, was 16.9 per cent,¹⁸ while ILO projections for 2020 suggest that the unemployment rate (of the total labour force) is at 17.7 per cent.¹⁹ This puts Sudan towards the bottom of the Sub-Saharan African employment rate rankings and below the lower middle-income country average.

As of 2014, unemployment was above the national average in Aj Jazirah (23 per cent), River Nile (17 per cent), Khartoum (17 per cent) and Northern States (15 per cent). The states with the lowest unemployment rates were Blue Nile (5 per cent); South Kordofan, Sennar and Kassala (6 per cent each) and North Kordofan (7 per cent).

Improvements in labour force participation rates since 2009 were recorded in 2014. These were largely due to more women entering the labour force. However, men are still more dominant, with an estimated participation rate of 76 per cent compared with 33 per cent of women,²⁰ translating as one in every three working-age women either employed or actively seeking employment, relative to three in four men. Particularly low female labour force participation of 25 per cent or less was noted in Khartoum and the Eastern Regions (including Gedaref) while in Darfur and Kordofan, more than 50 per cent were economically active.²¹ Cultural and legal obstacles prevent fuller female participation.

In 2014, youth unemployment was at 22.3 per cent²² and in 2019, ILO projections estimated this had risen to 32.1 per cent. Urban youth were experiencing the highest levels of unemployment, at around 40 per cent in 2014. Urban women were even more unlikely to be employed and women less likely to transition from education into employment.

The trends of high youth population against high youth unemployment and low female participation in the labour market are worrisome for Sudan's overall economy and inclusive growth. An active national employment policy is required.

Sector breakdown

Agriculture is a key national sector, and even during the oil boom years of the 1990s it remained a mainstay of the economy. However, shifts are occurring, and the service sector is now a dominant feature of the economy, with the ILO estimating that 44.8 per cent of the labour force is employed in the service sector, followed by 38.4 per cent in agriculture, and 16.8 per cent in industry.²³

Employment tends to have a gendered dimension, with agriculture most common among women (and the poor). This was exacerbated after the privatization of the 1990s and the shift to an oil-based economy, which tended to employ more men. In 2014 agriculture accounted for 60 per cent of employment among women, compared with 39 per cent among men. Agriculture is also correlated with workers with low levels of formal education. Data from 2014 show that agriculture workers are less educated than those in other sectors – two in three had no education, and only one in 50 had secondary or post-secondary

16 WB analysis of employment includes both wage and non-wage employment. This differs from ILO definitions but was included to consider the high proportion of non-wage employment, beyond the formal labour market, so prevalent in Sudan.

17 <https://data.worldbank.org/indicator/SL.TLF.CACT.ZS?locations=SD>.

18 WB analysis of 2014 NHBPS (2019) p. 8.

19 Total unemployment rate (as a % of total labour force) <https://data.worldbank.org/indicator/SL.UEM.TOTL.ZS?locations=SD>.

20 2014 National Household Budget and Poverty Survey.

21 Ibid.

22 Ibid.

23 WB Open Data, using ILO models from 2020 and 2019.

education. This gendered correlation to education attainment and employment is further demonstrated by the less than 4 per cent of women working in the service industry or market sales and an even lower percentage of women as technicians or senior officials.²⁴

There has been growth in the mining and quarrying sectors, predominantly due to the rise of artisanal gold mining. While there are a few formal gold companies, thousands more individuals work informally on unregulated artisanal mines. Between 2009 and 2014, the total number of individuals employed in professional, scientific and technical activities declined. Conversely, wholesale and retail, transportation, hospitality, electricity, air conditioning and the education sector increased their share of employment.²⁵

The informal economy is large and an important source of employment in Sudan. The ILO estimates that 65 per cent of prime age workers (those between the ages of 25 and 54 years) are working in the informal sector. Young people between the ages of 15 and 24 are thought to make up a fifth of the informal sector employment.²⁶ Informal work is predominantly in the form of subsistence agriculture, mining and services such as transportation, construction, trade and repairs.²⁷ Women are engaged in informal work such as tea shops, which alone are estimated to employ 13,000 women in Khartoum State.²⁸ The informal sector is thought to have expanded so much in Sudan, particularly in urban areas, thanks to the high influx of low-skilled rural migrants to cities. Overall, there is a lack of accurate or up-to-date data on workers in Sudan's informal economy,

2.1.2 Refugee context

Sudan hosts approximately 1.1 million refugees and asylum seekers from neighbouring countries, including the Central African Republic (CAR), Chad, the Democratic Republic of Congo (DRC), Eritrea, Ethiopia, Somalia, South Sudan, Syria and Yemen. Around 51 per cent of asylum seekers and refugees are female, and 53 per cent are children.²⁹ There are three main types of residence for refugees in Sudan: camps, rural out-of-camp settlements and urban areas. About 70 per cent live outside camps in more than 100 settlements across the country, including large collective self-settlements where thousands of refugees reside in "camp-like" areas adjacent to reception centres, as well as smaller dispersed settlements where refugees live integrated with host communities. Many out-of-camp settlements are in remote and underdeveloped areas, where resources, infrastructure and basic services are extremely limited. Some 30 per cent of refugees in Sudan live in 22 camps, and more than half of those living in camps were born there.³⁰

South Sudan

There were 793,833 South Sudanese estimated in Sudan as of October 2021. Characteristics of South Sudanese differ, with broad distinctions between those in Khartoum and those along the southern border. The UNHCR estimates that around a third of South Sudanese refugees in Sudan are unregistered.³¹

In 2011, South Sudan gained independence from Sudan, and while most of those with heritage from the south automatically became South Sudanese citizens, amendments to the Sudan nationality law resulted in South Sudanese likewise automatically losing their Sudanese citizenship and associated rights. Many South Sudanese were still in Khartoum post-independence and gathered at assembly points in order to be

24 WB, "The Labor Market and Poverty in Sudan" (2019), p. 21.

25 Ibid, p. 21.

26 ILO, "Roadmap to National Employment Plan" (2014), p. 35.

27 "Challenge Fund for Youth Employment", p. 7.

28 UNDP, "Trends in the Sudanese economy", 1st quarter 2014, newsletter, Khartoum.

29 UNHCR, "Country Refugee Response Plan", January–December 2021, p. 6.

30 UNHCR Country Response Plan 2021.

31 265,643 unregistered persons against a total of 772,918 according to UNHCR update on 31 March 2021.

relocated to South Sudan. However, delays in the relocation process and the outbreak of fighting in South Sudan in 2013 left many stranded at these assembly points, which have now become nine displacement sites where South Sudanese still live, in difficult conditions with continuing assistance needs.

Other waves of South Sudanese entered Sudan across the southern border, with spikes between 2013 and 2017 due to fighting and conflict in the south. There are at least 14 different entry points into Sudan across the border to White Nile, South Kordofan, West Kordofan, East Darfur and South Darfur States. Approximately 76 per cent of the current South Sudanese refugee population do not live in official camps, residing instead alongside host communities in more than 100 out-of-camp settlements in South Kordofan, West Kordofan, East Darfur, South Darfur and North Darfur. However, two camps in East Darfur house around 45,000 South Sudanese, and nine camps in White Nile State host around 175,000 refugees.³²

Ethiopia and Eritrea

In East Sudan, a new influx of more than 50,000 Ethiopian refugees, 40 per cent of whom are thought to be children, began in November 2020 as a result of conflict in Ethiopia's Tigray region. This new wave joins the more than 130,000 Eritrean and Ethiopian refugees and asylum seekers already living in protracted situations in camps and urban areas across Al Jazira, Gedaref, Kassala, Red Sea and Sennar states. East Sudan hosts one of the lengthiest refugee situations in the world, with the first influx of Eritrean refugees arriving in 1968. Over 40 per cent of refugees in East Sudan have been in asylum for more than 20 years, and approximately 50 per cent of refugees living in the camps were born there.

The latest Ethiopian arrivals are entering Sudan from the Hamdayet and Lugdi border points. Initially many were held at border transit centres, but many have been relocated to camps such as Um Rakuba and Tunaydhba in Gedaref State. Older Eritrean refugees who escaped from indefinite military conscription and human rights abuse are located in camps such as Um Gargour.

Central African Republic

Refugees from CAR have been entering South and Central Darfur since 2019, primarily due to inter-tribal violence in the northeast of the country. Around 37,000 refugees are expected within South and Central Darfur by the end of 2021, living in Um Dafoug (South Darfur) and Um Dukhun (Central Darfur). Sudan has been hosting around 3,500 Chadian refugees in Central Darfur since violence broke out in Chad between 2005 and 2007. In 2018, an organized return process for Chadian refugees began under the Tripartite Agreement on Voluntary Repatriation between Sudan, Chad and the UNHCR.³³

Khartoum

Some 300,000 refugees and asylum seekers live in Khartoum State, 95,000 of whom are Syrian and Yemeni, 190,000 South Sudanese, and the rest from Ethiopia, Eritrea, the DRC and Somalia. Urban refugees in Khartoum live within host community neighbourhoods and may seek assistance from the UNHCR or COR offices in Khartoum, or from temporary registration sites across Umdaba and Bahri localities. Recorded new arrivals to Khartoum are low because of movement restrictions on refugees arriving in the east and other parts of Sudan.

Syrians fleeing the conflict in Syria first started arriving in Sudan in 2014; it was the only regional country that did not require visas for Syrians. Under the Bashir era until late 2019, Syrians were treated as "guests" and were able to assimilate into education and business with relative ease. The current transitional government has shifted toward higher scrutiny of urban refugees, including Syrians, Yemenis, Eritreans and Ethiopians. New regulations have come into force requiring different bureaucratic procedures and undermining the security many had felt under the previous regime.

32 UNHCR Country Response Plan 2021, p. 10.

33 UNHCR Country Response Plan 2021, p. 16.

Transit or destination country

Sudan is an important destination and transit country for regular and irregular economic migrants as well as FDPs. For some asylum seekers and refugees, Sudan is intended as only a temporary refuge from conflict in their countries of origin, yet while limited numbers have found voluntary or assisted return possible, large populations have also remained in Khartoum (predominantly South Sudanese) or the east (predominantly Eritreans) for decades as refugees.

An International Organization for Migration (IOM) study from 2017 identified a strong trend of asylum seekers and prima facie refugees not registering with authorities in Sudan because they intended onward migration.³⁴ That study found that the majority (77 per cent) of respondents, including irregular migrants and those with refugee status, intended to migrate onward from Sudan for better job opportunities, with most expressing dissatisfaction with life in Sudan.³⁵ As many as 63 per cent of respondents said they came to Sudan as it was the first country they could reach, and 70 per cent had no intention of living in Sudan even at the time they left their country of origin.³⁶ Respondents reported that their circumstances in Khartoum had increased their desire to leave Sudan; however, according to the UNHCR, only one refugee in eight actually does move on, exposing them to serious protection risks.³⁷

The UNHCR also estimates that up to 50 per cent of new asylum seeker arrivals to the east of Sudan are migrating onwards,³⁸ indicating that Sudan is considered both a transit and destination country for asylum seekers. The desire to move onward, combined with restricted movement policies for refugees, is resulting in common cases of human trafficking and smuggling. The northwest border with Libya and Egypt and the Red Sea coast are notable routes for irregular migration and traffickers.

Other socio-economic factors affecting status of labour market

Oil dominated Sudan's economy from the 1990s to 2011, during which time it grew from US\$12 billion in 1999 to US\$65 billion in 2011, representing an average annual growth rate of 5.8 per cent (WB, 2019). Since South Sudan's independence and secession in 2011, however, the country lost three quarters of its oil reserves and, therefore, a major source of revenue. Corruption and mismanagement of the economy led to a national debt of between US\$60–70 billion. By the time former President Omer al Bashir was ousted in 2019, there was a desperate need to restructure and revitalize the economy, to reintegrate into international financial systems, and seek debt relief. This necessitated substantive economic reforms, including gradual removal of retail gasoline, diesel and wheat subsidies. These moves nudged Sudan's progress toward incremental debt relief but resulted in high inflation, of up to 340 per cent, and increased prices of basic commodities such as bread, gas, fuel and meat.

Daily hardships have increased for all sectors of the community, including businesses and industry, compounding the shock to the economy caused by COVID-19, which impacted market functionality and compromised local livelihoods and daily labour opportunities, including in the informal sector. COVID-19 added severe impacts on living conditions nationwide, with the number of poor increasing and the poverty rate expected to reach 60 per cent by WB estimates.³⁹

34 IOM, "Migrants in Sudan", 2017, p. 10.

35 Ibid.

36 Ibid.

37 KNOMAD, "Refugees' Right to Work and Access to Labor Markets – An Assessment" (2016), p. 159.

38 UNHCR Country Response Plan 2020, p. 39.

39 WB, "Country Engagement Note FY2021-22" (2020), p. 14.

With national extreme poverty levels estimated to have risen to 20 per cent⁴⁰ and already low rankings on the Human Development Index (170 out of 189 countries in 2020), Sudan's deteriorating economic conditions are compounding already adverse living conditions for Sudanese populations and shaping an increasingly hostile and discriminatory host environment towards refugees. Refugees in Khartoum report new acts of discrimination and rejection, unfelt in previous years, in their communities.⁴¹

Durable solutions

In protracted refugee situations, such as in Sudan, refugees often face restrictions that limit their opportunities to participate fully in the economy and society, and may be forced to rely on humanitarian assistance. Longer-term support in the country of asylum should therefore include development assistance and efforts to achieve durable solutions for refugees, such as voluntary repatriation to their country of origin, local integration within their country of asylum, or resettlement to a third country, in addition to humanitarian assistance.⁴²

As part of the Global Compact on Refugees, members of the UN adopted the New York Declaration for Refugees and Migrants as well as the Comprehensive Refugee Response Framework (CRRF). The Global Compact aims to ease pressures on host communities, enhance refugee self-reliance, expand access to third country solutions, and support conditions in countries of origin for safe and dignified return.⁴³ Sudan is not implementing the CRRF, but in 2019 the Transitional Government of Sudan did make nine pledges in support of durable solutions at the Global Refugee Forum, including to facilitate work for refugees, to facilitate movement, and to integrate refugee education into the national education system in a gradual manner. Efforts are underway to put these pledges into practice and a high level inter-ministerial joint mechanism to implement the pledges was established in July 2021 by the Minister of Cabinet Affairs. The committee's Terms of Reference appears to focus on further preparatory measures and as yet the means to enforce the pledges through legislation are still forthcoming.⁴⁴ According to the Inter-Agency Standing Committee (IASC) framework on durable solutions for IDPs, a durable solution for internal displacement is achieved when "the displaced no longer have any specific assistance or protection needs linked to their displacement" and where they can enjoy their human rights without discrimination due to their displacement. Durable solutions may be achieved through return of displaced people to their place of origin, local integration in the areas they have taken refuge, or resettlement in another part of the country.⁴⁵

Historic commitments to supporting durable solutions in Sudan include:

- ▶ An IGAD supported initiative between the Governments of Sudan and the Republic of South Sudan that started in December 2020 – The 'Solutions Initiative for Sudan and South Sudan';⁴⁶
- ▶ GRF Pledges made by the Government of Sudan at the Global Refugee Forum in December 2019;
- ▶ National Vision for Host Communities and Refugees 2021-2026 which has five strategic objectives including protection, WASH, education, health and livelihoods/self-reliance;

40 Extreme poverty rate is understood as the percentage of a population living below US\$1.90 a day. WB estimates, cited in Country Engagement Note FY2021-22, p. 12.

41 Anecdotal conversations with Ethiopian refugees in Khartoum and referenced in "No Longer a Guest: Permitting Syrians in Sudan" by Bergen: Chr. Michelsen Institute (Sudan Brief 2020:6).

42 UNHCR, "Framework for Durable Solutions for Refugees and Persons of Concern", May 2003. p. 5.

43 UN, "Global Compact on Refugees", 2018.

44 UNHCR, "Progress in implementation of the GRF Pledges", 1 November 2021.

45 IASC, "Framework for Durable Solutions for Internally Displaced Persons", April 2010, p. 5.

46 The initiative is developing a roadmap and strategy towards solutions for seven million forcibly displaced persons including IDPs and refugees originating from and hosted by the two host countries as well as returnees. Since December 2020, progress has been made and the Sudan National Strategy is close to be finalized and validated by the government.

- ▶ the Doha Document for Peace in Darfur from 2011, which committed the Government of Sudan to support durable solutions for IDPs and refugees in Darfur;
- ▶ the Darfur Development Strategy, which stemmed from the Doha Document and was a key policy document guiding the creation of conducive conditions of return for IDPs and refugees.⁴⁷

Since the 2019 revolution and the establishment of a transitional government, other contemporary frameworks have taken centre stage. In particular, the Juba Peace Agreement (JPA), signed in October 2020, strongly recognizes and advocates for IDP and refugee rights to return, attention to which is detailed in all agreement sections.⁴⁸

- ▶ The most detailed protocols for IDP response within the JPA are found within the Darfur and Two Area Tracks, which cover the geographic regions where the most significant cases of internal displacement have occurred.
- ▶ JPA signatories have agreed that the implementation of each track's plan for IDP and refugee return is a pre-condition for general elections to take place at the end of the 39-month transitional period.⁴⁹
- ▶ Political incentives to create conducive conditions for IDP return, to meet land reparation needs, and to integrate them within their home communities through trainings and livelihood support are therefore strong on paper. Political parties had some interest in IDP return and enfranchisement prior to elections, in anticipation of securing votes and parliamentary representation.

However, the 25 October 2021 coup will likely prove a major setback to these ambitions, which were already behind schedule without having established or implemented any of the mechanisms or commitments for refugee or IDP returns.

Most recently, a Draft Five Year National Strategy on Solutions for Internally Displaced Persons, Returnees, Refugees, and Host Communities was developed by the Transitional Government of Sudan for 2021-2026. This Strategy and accompanying Action Plan aim to create conditions that will allow IDPs, returnees and refugees to find solutions allowing them to rebuild their lives in safety and dignity without dependency, as well as in harmony with the communities hosting or receiving them and in full respect of the rights of their members, including those of nomads, herders, and farmers. The strategy includes 13 Strategic Objectives that focus on, inter alia, improving living conditions for refugees, voluntary return, freedom of movement and access to work, registration and documentation, and facilitating access to naturalization.

The UNHCR has emphasized the need to move beyond the provision of humanitarian assistance and to focus on longer-term, sustainable programming for displaced people and host communities.⁵⁰ However, current conditions and needs make continuation of humanitarian assistance essential.

Conditions for IDP return within Sudan are unstable. Indeed, the current peace conditions in Darfur are deteriorating. The drawdown of the UNAMID Darfur peacekeeping mission in 2021 was supposed to have been replaced by government forces, but they have yet to be deployed, and the replacement UNITAMS mission is focused on transitional support rather than peacekeeping.⁵¹ Within this vacuum, insecurity and local conflict have increased, with even further displacements incurred, and there is extremely little trust among the displaced communities about their safety and security if they were to return to their places of origin.

47 "Doha Document for Peace in Darfur", chapter IV – Compensation, Return of IDPs and Refugees (2011), p. 48.

48 The JPA consists of 10 key sections, most pertinent here are: Title 1: Agreement on National Issues; Titles 2–6: Agreements for the Darfur, Two Areas, Eastern, Northern, and Central Tracks; Title 7: Security Arrangements Agreement with the Third Front –Tamazuj.

49 Juba Peace Agreement, Title 1 Agreement on National Issues between the Transitional Government of Sudan and Signatory Parties to this Agreement, article 13 "Elections".

50 UNHCR Sudan Country Refugee Response Plan (Jan–Dec 2021) and UNHCR "South Sudan Regional Refugee Response Plan" (Jan 2020–Dec 2021; updated in March 2021).

51 For more detail refer to "Walking a Tightrope: The Transition from UNAMID to UNITAMS in Sudan" (February 2021).



Interaction with the forcibly displaced men in West Kordofan. © ILO

Owing to the protracted state of conflict and displacement in Sudan, there is also a generation of displaced people who have grown up in camps or displacement settlements in urban areas;⁵² these young people may be hesitant to want to return to their parents' rural homelands, providing another obstacle to the "return" option of durable solutions.

Voluntary and assisted return to refugee countries of origin is limited. South Sudanese are in an especially immovable position, whereby negotiations for legal pathways to naturalization in Sudan have been stymied at the highest level,⁵³ and there are few opportunities to return to South Sudan in conditions of safety and dignity.

Discrimination, antagonism and conflict between displaced people and host communities, limited access to most basic rights and services, as well as limited livelihood opportunities, make the option of local integration challenging. While longer-term development projects and assistance could be targeted toward this solution, the need for ongoing humanitarian support and efforts to improve conditions between host communities and displaced people are not likely to diminish.

Current actors working to support durable solutions in Sudan include the Inter-Ministerial Committee for Implementation of the GRF Pledges, the Government of Sudan's Joint Mechanism for Durable Solutions, the Durable Solutions Working Group, the Joint IDP Profiling Service (JIPS), the UN Country Team, and the UN Peacebuilding Fund (PBF).⁵⁴

52 A [durable solutions profiling exercise](#) carried out by the Government of Sudan's Joint Mechanism for Durable Solutions and UN Partners in El Fasher, North Darfur, found that more than half of the IDP population is under 18, thus making up an entire generation of IDPs born and raised in urban camp environs. Around half of all the respondents (youth and adults) surveyed stated a preference to remain in the camp rather than return home.

53 The issue was raised at a joint session of the Sovereign Council; however, an agreement could not be found, and this Naturalization for South Sudanese Act did not go any further. Concerns about setting a precedent for longstanding Eritrean refugees and opening up potential claims of land rights are reportedly proving strong political disincentives to proceed.

54 Although it should be noted that most of these efforts focus on IDP and returnee solutions.

► 2.2 Current relevant legislation, policies and regulatory frameworks and environment

2.2.1 Access to the labour market

Refugee status determination and registration

Being registered is the foundation of refugee access to formal employment, education and other rights or opportunities. The process of registration differs according to the nationality of the asylum seeker. The Commission of Refugees (COR), under the Ministry of Interior, is the authorizing agency for refugee registration and refugee status determination (RSD), as specified by the 2014 Asylum Act. In Khartoum, this is undertaken by COR's Refugee Counselling Services (RCS) Centre.

In order to begin the RSD process, article 7 of the Asylum Act requires individual asylum seekers to submit a written application to the nearest COR or other government authority office within 30 days of entry to Sudan. The COR has 30 days to assess the circumstances of the case. The asylum seeker will be issued a temporary asylum-seeker card (blue colour), valid for three months, while waiting for their application to be determined. This may be renewed by COR until the application process is completed, provided that the applicant can specify their place of residence.

COR is obliged by article 9 of this Act to determine the asylum application within three months. Once approved, the asylum seeker and their family members (who have subsidiary asylum status) will be registered in a national, central registry as refugees. In line with article 17, they will be issued with a refugee identity card (green colour) bearing an Alien Registration Identity Number, which is valid for one year and subject to renewal.

Asylum seekers who register at a camp are eligible to receive refugee services at that camp. They are not eligible for refugee services and may face arrest, detention and fines if they leave their camp and travel elsewhere, and they may not re-register elsewhere. For example, asylum seekers who register in Um Rakuba camp in Gedaref may receive UNHCR and other UN humanitarian services at that camp but would not be allowed to travel out of that camp. If they made their way to Khartoum or another camp illicitly, they would not be eligible for refugee assistance at their destination and would not be able to re-register with the COR or UNHCR in this new location. Exceptions to this rule may apply to special referral cases of victims of trafficking or gender-based violence, medical cases, unaccompanied minors or students enrolling at university.⁵⁵

The registration process entails making a record of a person's tribal lineage. This is important for people without any other form of identification to be able to prove they descend from a recognized tribe associated with a particular country. Having such a record provides them with a basis and facilitates access to nationality documentation in their country of origin.

⁵⁵ Interview with UNHCR protection staff, 27 July 2021 in Khartoum.

Exceptions to the refugee status determination process

Prima facie

Where large numbers of asylum seekers require processing and registration and there is great pressure on the COR, article 8 of the Asylum Act allows the COR to offer mass asylum without the refugee status determination application process. This type of prima facie refugee status is currently allowed for South Sudanese and for Ethiopians who entered Sudan from Tigray after 6 November 2020.⁵⁶

Prima facie status still requires refugees to be registered in a national database, and the COR uses the UNHCR registration system and database to do so. In some cases, UNHCR manages registration, such as in Gedaref and Kassala states for Ethiopian refugees from Tigray, and in White Nile State for South Sudanese entering from Kosti. In Khartoum, the UNHCR and COR have a joint registration team which shares registration management. The COR remains the responsible agency for registering other prima facie refugees, as well as individual applications for refugee status determination.

Brother and Sister status

Brother and Sister status is a special status based on the government's application of Arab or Islamic legal traditions for citizens of Arab League countries.⁵⁷ Under Sudanese law, this status remains legally ambiguous and is not provided for in any Sudanese legislation.⁵⁸ Currently, Syrians and Yemenis are the dominant nationalities that fall within this category, and with this status, they are not required to register with the COR. As such, they do not have formal refugee status, and they are not covered by the 2014 Asylum Act or any other piece of legislation. Brother and Sister status should confer the right to reside in Sudan and the right to work, open businesses and access health care in the same way as Sudanese. However, many within this category are still vulnerable and in need of assistance.⁵⁹ Considered to be "persons of concern" (POC), they can register with the COR under a separate system than asylum seekers and be issued with an Assistance Card with an individual identifying number from the COR,⁶⁰ with which the most vulnerable are eligible for access to refugee services.

South Sudanese and Four Freedoms

After 2011, people originating from areas within the newly created South Sudan who were in Sudan, lost their Sudanese citizenship as a result of changes to the Sudanese nationality law and the adoption of a new South Sudanese nationality law.

They were initially awarded prima facie refugee status but, exceptionally, without registering with COR. Indeed, South Sudanese refugee registration was not allowed until a Memorandum of Understanding was signed between the UNHCR, the COR, and the Directorate General of Passports and Immigration of the Ministry of Interior in December 2014. Implementation of this policy commenced on 1 February 2015 and registration centres were established to document, register and issue South Sudanese with ID

56 The rule for Ethiopians does not appear to be based on formal legislation, nor does it appear to have an end date. Prima facie status was also awarded to Chadians entering Darfur as a result of conflict between 2005-2007 (refer to [World Refugee Survey 2009 Sudan](#) report); it is unclear if this is still in place.

57 KNOMAD, "Refugees' Right to Work and Access to Labor Markets – An Assessment", p. 161, referencing the practice as related to forced migration as greatly influenced by the Islamic principle of hijrah, the humanitarian tradition of receiving foreigners and those in need of protection. K. Elmadmad, "Asylum in Islam and in Modern Refugee Law," *Refugee Survey Quarterly*, Vol. 27, No. 2 (1980); P. Nobel, *Refugee Law in The Sudan*, 1982.

58 Interviews with UNHCR (on 27 July 2021) and COR (11 August 2021) corroborate that this legal ambiguity is tabled for further discussion and due for reconsideration during the drafting of the new constitution. The 1994 Arab Convention on Regulating Status of Refugees in the Arab World produced by the Arab League, and which in any case was not ratified, does not provide further guidance on Brother and Sister legal status either.

59 Interview with land, property and housing rights legal expert, Khartoum, 5 December 2021. Also included in "No Longer a Guest: Permitting Syrians in Sudan" (2020).

60 Interview with UNHCR protection staff, 27 July 2021 in Khartoum.

cards that would be free of charge and valid for their entire period in Sudan. With these ID cards, South Sudanese were to be granted the right to stay, work, move freely, and access public services.⁶¹ It should be noted that although South Sudanese may now be registered, they are not legally compelled to do so.

Another unique system for South Sudanese refugees is the Four Freedoms agreement. On 27 September 2012, in Addis Ababa, the Sudanese government under President El Bashir and the Government of South Sudan signed a Framework Agreement on the Status of Nationals of the Other State and Related Matters between the Republic of Sudan and the Republic of South Sudan. This included an agreement establishing an intention to establish arrangements that would provide South Sudanese in Sudan (and Sudanese in South Sudan) with Four Freedoms: the right for nationals of each state to enjoy freedom of residence, movement, undertake economic activity, and acquire and dispose property.⁶²

However, the mechanism for the operationalization of the Four Freedoms detailed in the agreement was not established and implementation requires further action. As late as 2021 there were high-level calls from Sudan and South Sudan for the Four Freedoms to be 'revitalised' and 'reactivated'⁶³ and a UNHCR note from November 2021 tracking the progress of GRF pledges made by the Government of Sudan outlines that *operationalisation* of the Four Freedoms is a part of the Sudanese Government's strategy for durable solutions, suggesting that the policy requires further action in order to become legally effective.⁶⁴ This is a point of confusion as reference to the Four Freedoms is nonetheless already widespread and assumed by many to already be an existing right. As will be evidenced through fieldwork anecdotes in subsequent sections of this report, authorities, host communities, and refugees alike make reference to South Sudanese exceptions, especially regarding work permit needs, based on the assumption of Four Freedom applicability, even while there is not yet a finalised legal basis for them.

Legal experts in Khartoum understand that by registering and taking on formal refugee status, South Sudanese should still be eligible for their Four Freedoms and be exempt from the limitations on these related areas outlined in the 2014 Asylum Act. This exceptional situation was intended to be captured either as a provision within the Asylum Act or through a separate Gazette announcement, but to date neither has happened. Without being captured in any legal tool, practice has evolved inconsistently without clear guidance or shared understanding of rules.⁶⁵

Eritreans

In 2002, Sudan ceased registering and applying refugee status to those who had fled the Eritrean War for Independence and subsequent conflict between Ethiopia and Eritrea. In 2014, mass roundups of Eritreans were reported, and asylum seekers were convicted of illegal entry to Sudan despite not having had access to asylum procedures.⁶⁶

61 Citizenship Rights in Africa Initiative, "[UNHCR welcomes the registration of South Sudanese citizens in Khartoum](#)", 2 April 2015.

62 Government of the Republic of Sudan and Government of the Republic of South Sudan, "[Framework Agreement on the Status of Nationals of the Other State and Related Matters.](#)" 13 March 2012.

63 Calls were made by South Sudanese president Riek Machar and Sudanese General Mohamed Hamdan Daglo (Hemedti) in January 2021 for the, "four freedoms agreed upon with Sudan in 2012 to be revitalized". As cited on [Xinhuanet](#) (11 January 2021) and [Eye Radio](#) (12 January 2021).

64 UNHCR, "Progress in implementation of the GRF Pledges", 1 November 2021.

65 Interview with land, property and housing rights legal expert, Khartoum, 5 December 2021.

66 KNOMAD, p. 162 citing UN News Centre "[UN Refugee Agency Warns Sudan over Forced Return of Eritrean Asylum Seekers](#)".

► **Table 4. Overview by nationality**

Nationality	Refugee status determination required	Prima facie or prima-facie-like status	Refugee	Brother or sister	Covered by Asylum Act	Work permit required
Syrian		X		X		X
Yemeni		X		X		X
South Sudanese*		X	X		?	?
Chadian**		X	X		X	X
Ethiopian***		X	X		X	X
Eritrean [§]	X		X		X	X
CAR [§]	X		X		X	X
Congolese [§]	X		X		X	X

- * South Sudanese entering from Kosti are registered by the UNHCR. South Sudanese in Khartoum may be registered by joint UNHCR and COR teams.
- ** Chadians entering Darfur after fleeing violence between 2005-2007 were awarded prima facie status; however, it is uncertain if this status is still necessary or applicable.
- ** Ethiopians fleeing the Tigray crisis are being registered by UNHCR in the east. Those who entered prior to the conflict or who have special circumstances may be registered by the COR in Khartoum.
- § Khartoum-based registrations may be undertaken by UNHCR and COR joint teams. Otherwise, the COR should have prime responsibility for registration.

Access to labour market

Sudan is party to the 1951 Refugee Convention and the 1967 Protocol, which should allow lawful refugees the right to engage in wage-earning employment (article 17), the right to be self-employed, engaging in agriculture, industry, commerce and handicrafts, and the right to establish commercial enterprises (article 18). Sudan is also signatory to the Organization for African Unity Refugee Convention. The Transitional Government of Sudan reaffirmed their commitment to international agreements and laws relating to the human rights of refugees and displaced people in the 2019 Draft Constitutional Charter for the transitional period.⁶⁷

Chapter III of the 2014 Asylum Act outlines the Rights and Duties of the Refugee, under which article 13(2) grants refugees the same treatment as other non-refugee aliens with respect to the right to liberal work and liberal professions. The 1951 Refugee Convention considers such liberal work to be of a professional nature, requiring completion of higher education and evidence of qualifications. Article 18 of the Sudanese Asylum Act states that a refugee is allowed to work if they can obtain a work permit from the competent labour office, which is obliged to send a copy of the permit to the COR and the Ministry of Interior.

This is in line with the Regulation of Employment of Non-Sudanese Act (2000), which states that it is not possible for non-Sudanese to engage in work unless they have obtained permission from the Ministry of Labour, specifying further that work permits shall not be issued to non-Sudanese unless there is no Sudanese worker that is able to perform the work.⁶⁸ Under this law, work constitutes industrial, commercial, agricultural and any other profession or craft, including domestic service.

67 Chapter 15 (Comprehensive Peace Issues), article 67(h), "Facilitate the mission of the UN delegation of the High Commissioner of Human Rights to work in Sudan... to ensure and guarantee the human rights of displaced persons and refugees set forth in international agreements and national laws."

68 Regulation of Employment of Non-Sudanese Act (2000), article 5, "It is not permitted for non-Sudanese nationals to seek employment unless they have obtained a work permit from the Ministry of Labour." Ibid, article 5, "A work permit shall not be issued to non-Sudanese workers unless there is no Sudanese worker able to perform the work. However, in the absence of Sudanese workers, preference shall be given to nationals of African or Arab states."

According to the National Interim Constitution 2005,⁶⁹ all work permits should be issued by the Ministry of Labour. The COR supposedly has an agreement with the Ministry of Labour allowing refugees to work.⁷⁰ In Khartoum, any refugee with a COR-issued refugee card who wishes to obtain a work permit may contact the COR's RCS centre to seek a copy of the agreement letter between COR and MOLAR, which they may take to the Labour Office in Khartoum to apply for a work permit.⁷¹

Special cases

- ▶ Article 18(b) of the 2014 Asylum Act further clarifies that refugees may not be issued a work permit for posts or industries relating to the security of the country.
- ▶ Article 18(c) of the 2014 Asylum Act makes special provision for refugees to undertake work in agricultural projects subject to COR authorization and satisfactory arrangements for their transport. For example, refugees may be granted a three-month travel and work permit during the cotton-picking season.⁷²
- ▶ Article 6(a) of the Employment of Non-Sudanese Act (2000) states that nationals of Arab and African countries are to be given preference for work permits over other non-Sudanese, in the event that there are no Sudanese available for the task.
- ▶ Article 1 of the Employment of Non-Sudanese Act (2000) outlines specific categories that are exempt from the provisions of this law, including licensed non-Sudanese business owners and self-employed persons and “any other person whom the Minister decides to exempt”.
- ▶ The Four Freedoms offered to South Sudanese include the right to work without work permits (although as already highlighted, the Four Freedoms still require more substantive legal grounding).

Summary

- ▶ The 2014 Asylum Act allows refugees to apply for work permits if they are registered and in possession of a refugee card.
- ▶ This law requires asylum seekers to register with the Commission of Refugees (or the UNHCR) and begin the refugee status determination process. In some cases, the law allows for prima facie refugee status, which bypasses the RSD process. In both cases, refugees must register with the COR or UNHCR to receive a refugee card, after which they can apply for a work permit.
- ▶ Some asylum-seeking nationalities are eligible for prima-facie-like refugee status. These exceptions are not captured by the Asylum Act nor other legislation.
 - ▶ Brother and Sister status applies to asylum seekers from Arab League countries. They do not require RSD or registration and are allowed to work. But the rights afforded this status and the pathways required to work legally are not captured in written policy. This applies most significantly to Syrian and Yemeni refugees.
 - ▶ South Sudanese are not required to undergo RSD or registration with COR. Four Freedoms are intended for South Sudanese asylum seekers, including the right to work, although further attention is needed to establish this as policy and guidelines for the implementation and management of the Four Freedoms are not yet captured in any legal tool.

69 While the Draft Constitutional Charter for the Transitional Period (2019) repeals the Transitional Constitution of 2005, the laws issued thereunder remain in force unless repealed. (Article 2a of the 2019 Constitutional Charter).

70 This success was reportedly achieved through UNHCR advocacy in preparation of the 2013 Transitional Solutions Initiative, which was intended to provide work permits for 30,000 refugees in Kassala. In the course of the programme set up, this agreement was achieved, but the programme was ultimately unsuccessful, and no further progress was made in terms of setting clear policies for the application process.

71 Interview with UNHCR protection staff, 27 July 2021, in Khartoum.

72 IGAD, “Assessment of labour migration and mobility governance in the IGAD Region: Sudan”, p. 37.

Permission to own or rent land

Land governance in Sudan is complex, and it is important to distinguish between land types to understand whether customary or statutory laws are applicable. The two key types of statutory land tenure in Sudan are freehold and leasehold, which are governed by statutory laws – those laws that are written, passed by a body of legislature, and enforced by the judiciary. Customary land is managed by customary law – oral laws developed through long-established community standards and enforced by cultural leaders and systems rather than a national judiciary. The two systems in Sudan are often at odds with each other, as customary practice is not recognized by Sudanese statutory law, even while customary laws are applied by and hold higher relevance and legitimacy for large parts of the rural population.

Statutory land tenure

Freehold tenure is the most secure type of land right as it provides outright ownership and does not involve any rental payment to the government. Freehold tenure is rare as it requires land to have been registered prior to the 1970 Unregistered Land Act coming into force.⁷³ This Act stipulated that no land could be registered as freehold after 1970. Therefore, the only freehold land in Sudan is that whose owners managed to register it pre-1970; no new freehold land has been registered since 1970. Few people beyond River Nile provinces and Khartoum were in a position to have registered their land by 1970, and therefore most landowners in this study's focus areas of Darfur and Kordofan were excluded from being able to claim freehold rights.⁷⁴ The Registrar General offices at federal and state level hold land records for registered freehold land, yet these are reportedly difficult to access for officials, let alone citizens.⁷⁵ Disputes may be settled in court.

Leasehold land is the most common form of registered land throughout Sudan, and it is the only kind of registered land available today. The government is the owner of leasehold land and makes it available to the lessee for an annual rent or upon renewal of the lease. Leases vary between 20 to 50 years depending on the land-use zoning. According to the 1970 Unregistered Land Act, the government considers all land not registered by 1970, including customary land in Darfur, as government-owned and available for lease.⁷⁶ (However, local understanding rejects this claim, and the majority of Darfuri inhabitants consider that the land is owned by them – individually or collectively as a tribe – per customary law.) Land registered as leasehold is rare beyond the main cities. In small market towns, villages, or other rural areas, there are few opportunities and many challenges to register land in the statutory system, and in Darfur registered land (freehold and leasehold) covers less than 1 per cent of the total land area.⁷⁷ The statutory process for registering leasehold land seems to require the following steps.⁷⁸

1. A 13-member community committee issues a letter confirming the absence of conflict or contestation over the land.
2. They submit the letter to the locality administration who process and submit it to the State Ministry of Planning and Infrastructure.
3. The ministry assigns a surveyor to measure the land and provide a recommendation to proceed.
4. This goes back to the locality administration to record.
5. The Ministry of Planning and Infrastructure then draws up the land plan on a map for formal records.

73 Although the 1970 Unregistered Land Act was repealed by the 1984 Civil Transaction Act, the intentions of government ownership of unregistered land were maintained.

74 Exceptions to this rule are the larger Darfuri cities of Nyala and El Fasher, where some land registration was able to take place prior to 1970. UN-Habitat, "Darfur Land Administration Assessment – Analysis and Recommendations" (2020), p. 3.

75 Ibid.

76 Ibid.

77 Ibid, p. 23.

78 As outlined verbally in an interview with a land, property and housing rights legal expert, Khartoum, 18 July 2021.

The whole process is time-consuming, labour-intensive, and costs around US\$200 per site registration.⁷⁹ Records for registered leaseholds are held in Registrar General offices of the federal government in state capitals; as above, these are not easily accessible for citizens. Disputes can be settled in court.

Customary land tenure

Customary land is dominant in rural areas, including Darfur and Kordofan, whereby landowners consider their land as fully owned by them irrespective of whether it was registered prior to the 1970 Unregistered Land Act or not. (As noted above, mostly it was not registered.) This puts local landowners in these areas at odds with government laws, which do not recognize their customary claims to the land.

There are different types of customary landowners: tribes (*dar*), small groups (*hakura*), family (*housh*) and individuals. Land management is undertaken by the Native Administration rather than by government.⁸⁰ Oral history and witnesses take the place of paper-based records, and the system is easily accessible to people.⁸¹

Customary procedures for landownership depend on the tribe, their relative dominance, and tribal land (*dar*). A sheikh (local tribal chief or religious leader) from a landowning tribal group may assign a piece of land to an individual, family or group for a period of time. This land may be demarcated by the sheikh and recognized customarily, without accompanying documentation or registration with the locality administration.⁸² Oral records are kept by the sheikh, who also handles disputes according to local custom.

In theory, it is possible to transfer customary ownership into formal, statutory ownership and obtain leasehold tenure. The following steps are required⁸³ before proceeding with the formal stages outlined in the preceding paragraph on statutory procedures.

1. Signed written endorsement of approval from the sheikh.
2. Confirmation of non-competition for the land. This may involve public broadcasting to alert potential claimants.

However, this is time-consuming, would likely face challenges, and is not often done in practice.

Refugee rights to own or rent land

Refugee rights to own or lease land therefore depend on which type of land they are settled on, but overall, any rights appear quite theoretical. The 2014 Asylum Act permits refugees to acquire immovable property as per other aliens, providing they are registered and have obtained approval from the Council of Ministers (article 13, 2g) who sit at the federal level in Khartoum. In theory, this could provide refugees the ability to acquire land; however, there is currently no legal framework to guide how this could be done in practice, and the distance between a refugee claim and ministerial approval is great. Furthermore, based on existing law, it has not been possible to buy or own land outright (freehold tenure) for anyone in Sudan since 1970, and so the most a refugee could expect to secure formally would be registered leasehold land for a fixed term.⁸⁴

79 UN-Habitat, "Darfur Land Administration Assessment – Analysis and Recommendations" (2020), p. 23.

80 The Native Administration system was a longstanding structure to manage land allocation in rural communities but was formally abolished under the 1970 Unregistered Land Act. It was subsequently re-instated under the Native Administration Bill of 1987, albeit with more limited powers. Rural communities tend to recognize the Native Administration system over the statutory land system rules established by the government.

81 Ibid.

82 This is the practice for customary land in Darfur as outlined in the Darfur Land Administration Report, UN-Habitat (2020).

83 Durable Solutions Analysis and Baseline Report. Joint IDP Profiling Service (JIPS), funded by the UN Peacebuilding Fund (April 2021), p. 26.

84 Interview with land, property and housing rights legal expert, Khartoum, 18 July 2021.

In terms of refugees' rights to access and use land, the 1951 Refugee Convention and the 1967 Protocol allow refugees the right to be self-employed and engage in agriculture (article 18), and Sudanese legislature allows refugees to engage in agricultural projects with COR approval according to the Asylum Act 2014 (article 18c). The Civil Transactions Act guides how land may be cultivated and who has rights to the crops, as well as how land may be leased for private and agricultural purposes. The 2021 Investment Encouragement Act also outlines how land may be allocated for investment purposes. However, there is no provision for how any of this may be done in the case of a refugee, and the 2021 Act is mainly focused on larger-scale foreign investment projects.

The UNHCR's Country Refugee Response Plan (CRP) 2021 aims to advocate for improved refugee access to land and assets;⁸⁵ it is not clear how this could be done although state governors are able to allocate land for refugee response activities and refugee camps. The state governor assigns the State Ministry of Planning and Infrastructure to designate the plot of land for the site. After which, the governor provides the COR with the demarcated land details, and they provide this to UNHCR to set up.⁸⁶

Summary

- ▶ Laws regarding refugee land ownership are vague but assessed as being prohibitive.
- ▶ The 2014 Asylum Act permits refugees to own "immovable property". There are no supporting regulations to guide interpretation of this clause regarding land, but as freehold ownership has not been possible since 1970, it is unlikely that an exception would be made for refugees.
- ▶ Leasehold land is now the only form of statutorily recognized ownership. No specific framework exists to guide or prevent refugee leasehold ownership of land.
- ▶ Customary law, which is not written nor formally recognized by the Government of Sudan, is dominant in determining land ownership and usage in rural Darfur and Kordofan. Customary land is owned by tribes, and refugees are not able to own it.
- ▶ However, leasehold agreements between refugees and customary landowners from the tribe of that location are possible. Such agreements are brokered orally without government intervention and within the rules established by the native administration of that area.
- ▶ State governments appear to have the discretion to allocate land for special purposes such as for refugee camps. Such decisions and subsequent implementation are not based on a prescribed policy or process.

Permission to start, improve, and register own businesses

Article 19 of the 1951 Refugee Convention sets the basis for refugees' rights to be self-employed. Sudan's new Investment Encouragement Act of 2021 sets out principles that support opportunities for small investors and aim to remove obstacles for business. The act outlines investment privileges relating to tax and land allocation for non-Sudanese investors, but there are no direct provisions for refugees. Article 5(c, d) states that investment projects should support and develop entrepreneurship, innovation and growth of small and medium companies as well as provide business opportunities for youth and small investors. There are privileges accorded to foreign investors and a five-year business profit tax holiday is allowed.

An interview with a Sudanese lawyer indicates that there is no law to explicitly prohibit refugees from starting up and registering their own businesses or benefiting from the privileges outlined above; however, neither are there any frameworks to guide or support refugees or administrative bodies in doing so.⁸⁷ Under the previous regime, it was relatively easy for certain nationalities to obtain Sudanese citizenship and start businesses; this was especially the case for Syrians who were allowed to apply for

85 Sudan Country Refugee Response Plan 2021, p. 25.

86 Interview with land, property and housing rights legal expert, Khartoum, 18 July 2021.

87 Interview with Sudanese lawyer focusing on refugee support, Khartoum, 2 August 2021.

Sudanese passports after six months in-country and thereafter start businesses as a Sudanese. However, conditions under the Transitional Government have changed – a new work permit policy was imposed for Syrians in 2019 and the Ministry of Industry and Trade issued a decision in November 2019 banning naturalized Sudanese and foreigners from practising commercial activities for import or export except for those with special governmental agreements. The decision also prevented non-birth Sudanese from doing business in local markets.⁸⁸

Access to cooperatives

Cooperative organizations are legal in Sudan and have been operating officially since 1937.⁸⁹ They are regulated by the Cooperative Law of 1999, which designates the Ministry of Trade as the competent agency at the federal level and Ministries of Finance at the subnational level.⁹⁰

The law states that a cooperative society must have a minimum of 50 members in order to be registered. If there is a public interest in doing so, approval for a society with fewer than 50 members can be given by the Minister of Trade upon the recommendation of the General Registrar of Federal Cooperative Societies (article 15a and 15b).⁹¹ The cooperative principles outlined in the law are based on “open voluntary membership, democratic control, consultation, member economic participation, independence and self-reliance, education, training, information, cooperation between cooperative societies, and concern for society” (article 5). There are no guidelines specifying membership criteria nor any mention of excluding characteristics; the lack of refugee acknowledgement presents a legal ambiguity regarding their ability to form or join a cooperative society.

Access to finance and financial services

In terms of refugee access to such services, in February 2019 a decree was issued from the Central Bank stating that all refugees with COR-issued IDs and persons of concern should be allowed to open a bank account.⁹² This decree was circulated to all banks in addition to a separate agreement signed between the UNHCR and Blue Nile Mashreq bank to allow any person of concern to open a bank account.⁹³

As of July 2021, Sudan is on the International Bank Account Number (IBAN) Registry and recognized by IBAN's authority – the Society for Worldwide Interbank Financial Telecommunication (SWIFT). This development should facilitate the international transfer of money to and from Sudan and, in principle, allow refugees with bank accounts access to funds from overseas.⁹⁴

88 Anadolou Agency, “The decision to prevent foreigners from doing business in Sudan... A close look”, 15 November 2019. See also HKTDC, “[Sudan Market Profile](#)”, March 2021.

89 Cooperatives were initially supported by the Nimeiri government who established the national centre for cooperative training in 1976 and the Cooperative Development Bank in 1982. However, both were dismantled after the 1989 coup. Cooperative groups were able to continue during this period.

90 Ibid. Note that the Ministry of Trade has undergone several iterations. The law refers to the Minister of Foreign Trade, which evolved into the Ministry of Industry and Trade, and the current iteration, as of 2021, is the Ministry of Trade and Supply.

91 The Draft Cooperatives Act (2012), which is yet to be enacted, is more specific in who can be a member. It also raises the minimum number of members in a cooperative from 50 to 100.

92 Interview with UNHCR protection and cash-based intervention staff, 27 July 2021 in Khartoum, as well as further comment from UNHCR in March 2022.

93 Ibid.

94 Sudan Tribune, “[Sudan joins IBAN standards for cross-border money transfer](#)”, 7 July 2021.

Access to employment and career counselling services

Sudan is not signatory to the ILO's 1948 Employment Service Convention nor its 1997 Private Employment Agencies Convention. The 1997 Labour Law stipulates that private employment service agencies may operate, subject to ministerial approval, provided that these agencies do not charge the worker any commission or request any fee in return for employment.⁹⁵ The act does not mention government employment services.

The Vocational Training Centre (VTC) Operation and Management Guidelines issued by the Supreme Council for Vocational Training and Apprenticeships in 2021 state that vocational training should include employment services, job placement and career counselling. The guidelines further outline the importance of providing opportunities for vulnerable people and disadvantaged groups such as refugees or IDPs.⁹⁶ Career counselling centres attached to TVET institutions are available in Nyala, El Geneina and El Fasher and are, in theory, open to refugees and IDPs.

Access to SIM cards

Telecommunications in Sudan are guided by the 2018 Telecommunications and Postal Regulation Act and regulated by the National Telecommunications Corporation (NTC). Article 9 of the NTC's General Regulations (2012), based on the 2001 Communications Act, requires mobile companies to keep a complete record of their customers' data, and in 2017 mandatory SIM card registration was enforced.⁹⁷ To buy a SIM card in Sudan, therefore, it is necessary to register the phone number using a valid form of identification. The Telecommunication and Post Regulatory Authority (TPRA), in charge of registration of SIM cards, is apparently willing to authorize mobile SIM card ownership by refugees and may give reduced rates for refugees. However, official communication from COR and information including on Refugee ID cards is needed for this to be put into practice.⁹⁸

Summary

- ▶ Legal provision for the management of small businesses is lacking in Sudan as a whole; the lack of specific attention to refugees leaves a grey legal area for their rights to own and register businesses.
- ▶ There is no law in Sudan that guides small or micro-enterprises, and existing laws, including the 2021 Investment Encouragement Act, do not provide any specific guidance regarding refugees' ability to register private businesses.
- ▶ The 2014 Asylum Act does not touch upon refugee rights to own or register businesses.
- ▶ Although the 1951 Refugee Convention does provide some basis for refugees' right to self-employment, Sudan has no corresponding framework to guide how this would be done in practice or with respect to business start-up and ownership.
- ▶ While it was previously possible for naturalized Sudanese (that is, foreign nationals with Sudanese passports but who were not Sudanese at birth) to own businesses and operate as Sudanese, recent decisions have broadly rescinded this option.

95 Government of Sudan, Labour Code 1997, Article 9 (1).

96 Handbook of Vocational Training Systems in Sudan, 2021, p. 33 and Appendix 1 p. xiii.

97 These General Regulations could not be sourced, and this is cited from the "Freedom on the Net 2018 - Sudan" report published by Freedom House, 1 November 2018. Like the majority of African countries enforcing SIM registration, Sudan follows a "capture and store" model of SIM card user information, unlike "capture and share" (as practised by Tunisia or Nigeria, for example) or "capture and validate" (as practised by Egypt and Kenya). Sudan does not have a data privacy framework and was not known to be considering one as of 2020. GSMA, "Access to Mobile Services and Proof of Identity 2020", p. 23.

98 Information provided by UNHCR (March 2022).

- ▶ Cooperative organizations are legal in Sudan and are regulated by the Cooperative Law of 1999. There are no guidelines specifying membership criteria nor any mention of excluding characteristics; the lack of refugee acknowledgement presents a legal ambiguity regarding their ability to form or join a cooperative society.
- ▶ Legal provisions for refugee access to financial services, employment services or career counselling services are not well defined.
- ▶ To buy a SIM card in Sudan it is necessary to register the phone number using a valid form of identification.

2.2.2 Access to training

Governance of TVET in Sudan

The Vocational Training and Apprenticeship Act enacted in 2001 established the formation of the Supreme Council of Vocational Training and Apprenticeships (SCVTA), which is the relevant body governing vocational education in Sudan. State level branch SCVTAs may be established, according to the 2001 act and with further guidance issued in 2017 via Guidelines for Establishing State Councils for Vocational Training and Apprenticeships.

Technical education is governed by the NCTTE, which was created in 2011 and sits under the Ministry of Higher Education. There are three paths for technical and vocational training in Sudan, after the eight-year basic education.⁹⁹

▶ **Table 5. Governance of TVET**

Governing body	Training institution	Description
Ministry of Higher Education: NCTTE	Technical secondary school – four types: 1. Women 2. Commercial 3. Agricultural 4. Industrial	Students who completed and passed basic education may enter technical secondary schools. This lasts three years, after which students may sit for the Sudan secondary school certificate exam – technical course. Those who succeed are eligible for university.
Ministry of Higher Education: NCTTE	Craft Institution or Artisan School	Students who did not complete or pass basic education may enter this type of school. This is a two-year programme which offers students a completion certificate.
SCTVA	Vocational Training Centres – four types: 1. Federal 2. State 3. Other-government 4. Private	Students who passed basic education and are aged under 20 may enter VTCs. VTCs offer a three-year apprenticeship diploma course in 13 trades. Successful completion makes them eligible to enter technical colleges or universities. Some VTCs provide shorter courses (around three months) for those who did not pass the basic education exam. These are intended to lead to self-employment.

⁹⁹ Table adapted from the “Handbook of Vocational Training Systems in Sudan” (2021), p. 6.

Access to formal work-based learning

The 1997 Labour Law (article 16) allows employers to provide training to workers. In such cases, article 17 states that a written contract and a wage no less than the minimum standard wage should be provided by the employer.¹⁰⁰ There is no stated reason why a formally employed refugee would not be allowed the same rights.¹⁰¹

The 2013 TVET Policy encourages workplace learning and employer in-service training but does not specify any qualifying criteria regarding refugees.

The SCVTA issued guidelines for apprenticeship minimum standards in 2018. It does not mention specific conditions or exemptions for refugees or specify whether a work permit would be necessary to be accepted as an apprentice.¹⁰²

Access to formal education and training including vocational training

Sudan has committed to the 2018 Global Compact on Refugees, section 2.2 of which focuses on jobs and livelihoods, and article 71 commits to strengthening refugee skills and qualifications through specific training programmes, including language and vocational training.

National laws and policies include the following.

- ▶ **Vocational Training and Apprenticeship Act 2001.** This act repeals the Apprenticeship and Vocational Training Act of 1974. It defines the structure of vocational training and establishes the framework and duties of the SCVTA. There is no specific mention of excluding or inclusive factors for refugees.
- ▶ **25-Year Strategic Plan.** This plan, published in 2007, sets out the country's general strategic vision and includes objectives of capacity-building and skills development, seeking to expand public and private vocational training centres and upgrade the capacity of women.
- ▶ **TVET Policy 2013.** This policy identifies three target groups, the third of which ("the social dimension") includes those who have been displaced and are unemployed as well as people who are disadvantaged because of their geographical location.¹⁰³
- ▶ **SCTVA Strategic Plan 2018–2022.** This plan covers seven key areas. Refugees do not appear to be a specific focus. although intentions to improve access and admissions procedures may benefit refugees.¹⁰⁴
- ▶ **General Education Sector Strategic Plan 2018–2023.** This plan was developed in line with national strategy and sets out a strategic direction for education based on national legislation as well as international commitments and conventions. The plan recognizes the need to promote the inclusion of refugees and displaced people within basic, secondary and TVET education and includes refugees and vulnerable groups within certain policy priorities as outlined below. However, the plan does not provide for specific indicators or targets that would measure progress disaggregated by these group types.

100 The national minimum wage since 2013 has been 425 Sudanese pounds (SDG) per month. In April 2020, the Ministry of Finance gave a 700 per cent rise to civil servants, increasing the public sector minimum wage to 3,000 pounds per month. At the time, US\$1 = SDG 55.14, while the monthly cost of living for a family of five people was 15,218 pounds according to a 2020 study by the Sudanese Professionals Association, "Challenge Fund for Youth Employment, Sudan Scoping Report" (2021), p. 8.

101 An interview with UNHCR staff in Khartoum suggested that qualifying language discounts refugees from being covered by the Labour Law. However, this language was not identified and would need further verification.

102 *Handbook of Vocational Training Systems in Sudan*, 2021, appendix 1, p. ii.

103 *Sudan TVET Policy*, 2013, p. 6 (English translation).

104 JICA and SCTVA, *Handbook of Vocational Training System in Sudan*, 2021, p. ix.

Direct focus on refugees within this plan is mostly at the basic education level – section 4.1.2.3 states a policy priority to increase access to and equity within formal basic education, sub-section ii). This includes “supporting children with vulnerable backgrounds including refugees”.¹⁰⁵ The plan also seeks to increase enrolment of refugee children in refugee camps and host communities, particularly in the case of South Sudanese.¹⁰⁶ Within the accompanying Implementation Plan, this priority includes an intended programme to “support vulnerable groups including refugees and vulnerable girls” with a stated activity of “supporting registration of community schools among foreign nationals” (indicator: number of community schools registered).

The plan indirectly affects refugees at the secondary level. Section 4.1.3 on Secondary Education contains three policy priorities.¹⁰⁷ The first priority (section 4.1.3.1) seeks to increase access and equity in secondary education by expanding schools to allow for higher enrolment of secondary students, expanding technical and vocational programmes in secondary schools, and providing support to vulnerable students.¹⁰⁸ This includes an intention for the government to collaborate with development partners and capitalize on commitments to the Global Compact on Refugees.¹⁰⁹ Overall, the expected outcomes of the priority areas do not specify a focus on refugees or other displaced people in the same way as basic education policies.

- ▶ **VTC Operation and Management Guidelines 2021.** This guideline sets out the roles of VTCs and specifies that they should provide training for vulnerable groups as well as short courses (which typically have lower entry requirements and may not require completion of basic education).
- ▶ **Draft Five Year National Strategy on Solutions for Internally Displaced Persons, Returnees, Refugees, and Host Communities 2021.** This strategy was developed based on an assessment report of Durable Solutions in Sudan¹¹⁰ and seeks to provide an actionable plan for durable solutions in Sudan. Strategic Objective 6 of the draft strategy aims to “substantially improve living conditions of refugees and their hosts pending solutions ending refugee status through the provision of ... education services... in accordance with the National Vision for Host Communities and Refugees.” The relevant indicator is 6 (b) 50% of refugees and host communities are included in services provided by the national education system.¹¹¹

This will require the Ministry of Education to develop and implement a strategy and plan of action for the gradual inclusion of refugees in the national education system, including by upscaling and expanding schools and expanding school feeding programs in areas hosting refugees. Attention to vocational training and support for entrepreneurs among host and refugee communities is provided in the mid-long term (years 2–5) activity plan.¹¹²

105 Government of Sudan Federal Ministry of Education, “General Education Sector Strategic Plan”, 2018, p. 50.

106 Ibid, p. 69.

107 Ibid, p. 52.

108 Indicators for this include: number of schools or classrooms constructed, number of classrooms rehabilitated, a public private partnership for secondary TVET, enrolment in secondary TVET programmes, number of scholarship or bursary beneficiaries, number of dormitories constructed.

109 Ibid, p. 78. The second policy priority (section 4.1.3.2) aims to improve learning and skills development in secondary education, including a review of the curriculum with an eye to improving its market orientation. The third policy priority is to strengthen the system of delivery of secondary education programmes.

110 Dr. Saif El Din Daoud Abd El Rahman, *Toward National and Durable Solutions Strategy for Displacements in the Sudan: Context, Challenges, and Future Prospects* (June 2021). Referred to within the Draft Five Year National Strategy on Solutions for Internally Displaced Persons, Returnees, Refugees, and Host Communities. Pg. 3.

111 Draft Five Year National Strategy on Solutions for Internally Displaced Persons, Returnees, Refugees, and Host Communities 2021. Pg 23.

112 Ibid. Pg. 40.

► **Table 6. Legal and policy environment for vocational training**

Law or policy	Vocational training	Technical training	Relevant authority	Refugee focus
Vocational Training and Apprenticeship Act 2001	X		Supreme Council of Vocational Training and Apprenticeships (SCVTA)	No
25-Year Strategic Plan of Sudan 2007–2031	X	X	Government of Sudan	No
Sudan TVET Policy 2013	X		Ministry of Labour	Some targeting of displaced people
SCVTA Strategic Plan 2018–2022	X		SCVTA	No
General Education Sector Strategic Plan 2018/19–2022/23	X	X	Federal Ministry of Education	Some commitment to improving access to refugees, IDPs, and other vulnerable people
Vocational Training Centre Operation and Management Guidelines 2021	X		SCVTA	Mentions “vulnerable groups”
Draft Five Year National Strategy on Solutions for Internally Displaced Persons, Returnees, Refugees, and Host Communities 2021	X		Inter-ministerial committee for implementation of the GRF pledges reporting to the Minister of Cabinet Affairs.	Yes

Recognition and accreditation of vocational, academic, and professional qualifications or prior learning attained in the refugee’s country of origin

Sudan has been a signatory to the Revised Convention on the Recognition of Studies, Certificates, Diplomas, Degrees and Other Academic Qualifications in Higher Education in Africa (Addis Convention) since 2014.¹¹³ This convention came into force in 2019 and establishes a legal framework for the fair and transparent evaluation of higher education qualifications in the African region. Article III.2 (5) obliges Sudan to agree to establish procedures to assess whether the prior learning and qualifications of refugees and IDPs can be recognized for employability and integration.

In 2017, the Sudanese Education Minister signed the Djibouti Declaration on Refugee Education and declared a commitment to recognizing and validating the qualifications of refugees and returnees across all levels of education.¹¹⁴

In February 2020, the Protocol on Free Movement of Persons in the IGAD Region was endorsed by regional leaders, including the Prime Minister of Sudan, in Khartoum.¹¹⁵ Article 4 (1a) of the protocol outlines a commitment to mutually recognize the academic and professional qualifications, experiences, licences and certifications of member states, as well as to harmonize curricula, examinations, standards, certification and accreditation of educational and training institutions (1b). Article 15 specifies that the management of refugees will be regulated by a specific Memorandum of Understanding between member states. While these intentions have been agreed upon and endorsed, as yet no IGAD member states have ratified the protocol, and therefore there has been no implementation to date.

113 UNESCO, “Revised Convention on the Recognition of Studies, Certificates, Diplomas, Degrees and Other Academic Qualifications in Higher Education in African States”, 2014.

114 Djibouti Declaration, 2017, Section D (On Accreditation and Certification of Education Programmes), article 31.

115 IGAD, “Protocol on Free Movement of Persons Endorsed at Ministerial Meeting”, 26 February 2020.



A seller at a market in Ed Daein. © Caroline Knook

Community schools that cater for non-Sudanese children who cannot access formal education are not recognized by the mainstream education system, but the General Education Sector Strategic Plan 2018 supports the integration of refugees, IDPs, and asylum seekers into education, in addition to the establishment of equivalency methods for student placements where refugees have adequate understandings of Arabic (in line with the Djibouti Declaration).¹¹⁶

Summary

- ▶ There has been national level priority assigned to addressing vocational and technical training to meet job creation and employment needs. The national bodies entrusted to oversee technical and vocational training are the NCTTE and SCVTA, respectively.
- ▶ Refugee access to education is legal at basic, secondary and tertiary levels.
- ▶ Technical and vocational training policies do not exclude refugees, but neither do they provide specific guidance or intention to include them.
- ▶ The General Education Sector Strategic Plan offers more attention to the inclusion of refugees and other displaced groups in basic education than in secondary education but does not include targets or indicators specific to their needs.
- ▶ Of the laws and policies identified in the study, half did not mention refugees, and the other half included only passing references to “displaced people” or “vulnerable groups”, without accompanying frameworks or plans to guide admittance criteria or means to support them to enrol and stay in education.
- ▶ Sudan is signatory to regional agreements that commit to recognizing refugee educational qualifications from their home countries and to harmonize standards and accreditations of learning. However, these have yet to be ratified, or procedures to put them into practice still need to be developed.

¹¹⁶ General Education Sector Strategic Plan 2018, p. 70.

2.2.3 Refugee rights at work

Protection in the labour market and access to justice and legal systems

The 1997 Labour Code provides the legal framework for worker protection in the labour market. The code outlines the conditions of organization of employment; employment for women and young persons; contracts of employment; wages, advances and other allocations; hours of work and leave; termination of contract or employment; severance pay; industrial safety; labour disputes and stages of settlements; settlement of labour disputes.

Chapter XIII focuses on the settlement of labour disputes, which should begin by negotiation to settle the dispute amicably. Should the dispute continue, there are provisions for how the matter should be arbitrated by a committee. There is no stated reference to refugees, and they are not cited within the list of excluded categories of person to the provisions of the Code under article 3.

Freedom of movement

Sudan has a reservation against article 26 of the 1951 Refugee Convention, which restricts refugees' freedom of movement and is resulting in encampment policies. Within the 2014 Asylum Act, article 14 (2a) specifically prevents refugees from leaving their assigned residence without special authorization from the COR or other competent bodies. Article 31 (2) of this law outlines a penalty of up to five years imprisonment and/or a fine for any person who conveys a refugee or asylum seeker without a travel permit outside camps or between towns. A refugee caught travelling beyond their stated residence without permission may be punished and fined (article 31[3]).

To obtain a travel permit, a camp-based refugee must provide documentation to demonstrate just cause to leave the camp, which must be approved by the COR. Jobseeking is not considered a valid justification for leaving the camp in eastern Sudan.¹¹⁷

Strategic Objective 8 of the Draft National Strategy on Durable Solutions seeks to ensure that South Sudanese refugees are able to enjoy freedom of movement in line with the Four Freedoms Agreement as well as for other refugees to enjoy freedom of movement. The strategy advocates for the government to outline steps in order to put the Agreement into practice.¹¹⁸

Access to social security benefits

Sudanese laws and regulations relating to different social protection programmes include the following.

- ▶ The 1997 Labour Code, applying to all workers except civil servants, members of the armed forces, domestic servants, agricultural workers, family members of an employer, and casual workers, regulates employer liabilities, including paid maternity and sick leave, as well as severance pay. There is no specific reference to refugees' inclusion or exclusion from the law.
- ▶ The 2001 Zakat Act establishes the religious duty of Zakat as a national socio-economic institution charged with providing safety nets, and regulating Zakat contributions, as well as benefits and eligibility criteria. Muslim and non-Muslim people are eligible for Zakat if they meet poverty definitions, but refugees are not mentioned within the act.

¹¹⁷ Ibid p. 103–104 as cited by IGAD, "Assessment of labour migration and mobility governance in the IGAD Region: Sudan", p. 36.

¹¹⁸ Transitional Government of Sudan. Draft Five Year National Strategy on Solutions for Internally Displaced Persons, Returnees, Refugees, and Host Communities 2021. Pg 25-26.

- ▶ The 2016 Social Insurance and Pension Act established the Social Insurance and Pension Fund through a merger of the Social Insurance Fund (for the private and public sectors) and the National Pension Fund (for the government sector).¹¹⁹
- ▶ The 2016 Health Insurance Act establishes that every Sudanese citizen shall be covered by health insurance or have access to health care services without facing financial risk. It expands the right to access to health to all people, including non-nationals and refugees (article 5). To access national health insurance, refugees must have a work permit.

It should be noted that there are no legally binding documents for major social assistance programmes, apart from Zakat schemes. Furthermore, Sudan has not ratified any of the ILO conventions related to social security, such as the Social Security (Minimum Standards) Convention (No. 102, 1952), the Employment Injury Benefits Convention (No. 121, 1964 amended in 1980), the Invalidity, Old-Age and Survivors' Benefits Convention (No. 128, 1967) and the Medical Care and Sickness Benefits Convention (No. 130, 1969).

The Transitional Government has extended social protection to workers in the informal economy, in line with the ILO's global Social Protection Floors Recommendation, 2012 (No. 202) and the Transition from Informal to Formal Employment Recommendation, 2014 (No. 204). This could be of benefit to refugees.

The IGAD Free Movement Protocol (article 3.3f) entitles foreign workers the rights and benefits of social security as accorded to the workers of the host member.

Participation in representative organizations

Sudan's Draft Constitutional Charter for the 2019 Transitional Period grants every person the right to form and join associations, syndicates and professional unions to protect their interests (article 57a). Under the 2010 Trade Unions Act, migrants or refugees are not specified within the list of excluded categories under the provision of the act (article 4) and a lawyer representing refugee cases in Sudan states that there is no legal reason why a registered refugee should not be allowed to participate in a trade union.

The 2010 act specifies that each trade union or federation should have their own statute containing information on the requirements for membership (article 13c). Formal refugee workers are unlikely to be a substantial enough category to be specifically excluded from entry criteria, but requirements such as membership fees or property ownership may indirectly prevent refugees from being able to participate.

However, among other observations it was noted by the ILO's Committee on Freedom of Association that that the Trade Unions Act of 2010 contained provisions inconsistent with the principles of freedom of association.¹²⁰ A new Trade Unions Law was approved by the Cabinet in July 2021, and Sudan also ratified the Freedom of Association and Protection of the Right to Organise Convention (1948), in March 2021. This law is waiting to be enacted.¹²¹

Summary

- ▶ Legally enforceable rights at work are generally not applicable to the majority of refugees who work in the informal sector. Not only are Sudanese laws on labour rights, social protection, and the right to association geared toward workers in the formal labour market, they do not provide extra information on how applicable they are to refugees.

¹¹⁹ A copy of the 2016 act was not obtained during the course of this study, but the 1990 Social Insurance Act, article 4 (2) outlines a number of migrant categories excluded from the fund; refugees, however, were not included among them. Excluded categories of migrants include foreign nationals who are diplomats or work for an IO, and who entered the country for this purpose; agricultural, pastoral and forestry workers, except those working for employers normally employing 30 or more people; home workers; members of the employer's family; domestic workers who work in households; and workers undertaking an apprenticeship, who are learning an occupation and do not receive wages.

¹²⁰ Normlex, "[Comments on the Right to Organise and Collective Bargaining Convention: Sudan](#)".

¹²¹ On 27 October 2021, all trade unions and employers unions were dissolved. The Trade Unions Law is not operational at the time of publication of this report.

- ▶ An important exception is the right to justice, for which Sudan offers a liberal interpretation of the 1997 Labour Law and allows any worker, including refugees and those working in the informal sector, to seek justice for a work-based grievance.
- ▶ A new Trade Union law has been passed and should be published imminently. The 2019 Transitional Constitutional Charter guarantees the right to organize and join associations and professional unions but there is no specific guidance as to refugee rights to form or join one.
- ▶ Freedom of movement restrictions affect refugee nationalities and locations differently. South Sudanese should be allowed to move freely as part of the Four Freedoms; however, as mentioned, this is not captured in the 2014 Asylum Act or other legal tool.
- ▶ Legal clarity regarding the right of refugees with work permits to access social security benefits is unclear.

2.2.4 Naturalization pathways

The Asylum Act of 2014 states that refugees may apply for Sudanese nationality through naturalization in line with the current laws and regulations of Sudan (article 23). The Sudanese Nationality Act (Amendment) 2011 provides that naturalization may be granted to any alien who submits an application and can prove:¹²²

- ▶ they have attained the age of majority
- ▶ they are of complete capacity
- ▶ they have resided in Sudan lawfully and continuously for ten years or more
- ▶ they are of good morals and have not been previously convicted of a crime against honour or honesty
- ▶ they are of sound mind
- ▶ they have a lawful way of earning a living

This final criterion presents a conundrum for many long-term refugees who have been unable to secure a work permit or the permission to travel to gain lawful employment.

Refugee children may also acquire Sudanese nationality by naturalization if they are included in the application and the certificate is granted to their responsible father (article 7.5). Children born in Sudan to naturalized parents may be considered Sudanese at birth if their parents acquired nationality by naturalization before the birth (article 4.4).

Article 8 of the same law states that foreign women may be granted a certificate of Sudanese nationality¹²³ by naturalization if they apply and can prove:

- ▶ they are married to a Sudanese national according to the provisions of the law in Sudan
- ▶ they have resided in Sudan with their Sudanese husband for two years at least from the date of application, provided that the President of the Republic may, upon the recommendation of the Minister, exempt them from the provisions of this paragraph if they have resided in Sudan with their Sudanese husband for two years at least before the date of application.

For South Sudanese refugees, naturalization and sustainable integration with their host communities in Sudan is facilitated by article 45, paragraph 2 of the 2019 Transitional Charter for the Transitional Period which provides that “Anyone born to a Sudanese mother or father has an inalienable right to possess Sudanese nationality and citizenship”, a requirement met by any South Sudanese refugee born before 9 July 2011.

¹²² Article 7 (1994) and second Amendment (2010).

¹²³ According to the 2011 Civil Registry Act (article 27.8), nationality certificates should be replaced by identity cards.

No restrictions on dual citizenship are presented within Sudanese law, with the exception of article 10 of the Sudanese Nationality Act Amendment of 2011, which states that Sudanese nationality shall be automatically removed if a person acquires, *de jure* or *de facto*, the nationality of South Sudan. In effect, dual citizenship is permissible except for South Sudanese and there is an inherent contradiction to the aforementioned 'inalienable' right to Sudanese nationality for those with a parent born in Sudan.

► 2.3 Current gaps in relation to relevant legislation, policies and regulatory frameworks

Apart from the 2014 Asylum Act, Sudanese legislation does not tend to specify whether refugees are included in or exempt from the rights and rules applicable to citizens. The Asylum Act does not provide rigorous details on the majority of the issues included within this study, and no accompanying frameworks or procedures were found to provide extra guidance on how to further interpret or implement the law. Therefore, in the absence of explicit prohibitions or definitive green lights, refugees inhabit a vast legal vacuum. This could work in their favour, but in many cases conservative interpretations are put into practice.

A big opportunity to insert more refugee focus into Sudan's legal systems will be the development of a permanent constitution. This was due to be formed through a series of national and consultative governance conferences which have yet to take place, and which are likely to be even further delayed since the coup of 25 October 2021.

Another important legal consideration is the current lack of an independent legislative body. The 2019 Constitutional Charter set out provisions for the establishment of a Transitional Legislative Council (TLC), which was intended to be the country's independent legislative authority tasked with enacting laws and legislation during the transitional period (considered to be the 36 months following the signature of the Constitutional Charter in 2019). The TLC should comprise 300 members, composed of members of the Forces of Freedom and Change (FFC), signatories to the JPA, and members of the military. The TLC was set to be formed 90 days from the date of the Constitutional Charter but at the time of writing (January 2022), this has not been achieved.¹²⁴

In its absence, normal means of law-making have been suspended, and legislative powers reside with the 40 members of the Sovereign Council and Cabinet, who may make decisions by consensus in Joint Sessions chaired by the head of the Sovereign Council (currently General Burhan, Commander in Chief of the Sudanese Armed Forces).¹²⁵

Following the 25 October 2021 coup, all ministers from the FFC civilian coalition resigned, and the new Sovereign Council announced by General Burhan in November 2021 did not include any FFC members. The FFC, along with the Transitional Military Council, were integral to the Transitional Constitutional Charter and central to the composition of key national mechanisms; the FFC's absence from the transitional government calls into question the ongoing legitimacy and legality of the charter. As the supreme law of the land, if this foundational document is contested, the basis of all other subsidiary laws is also weakened.

This flux adds to the unlikelihood of the Transitional Legislative Council being formed at all. Instead, legislation will probably continue to be passed through the Joint Sessions – a body of 40 rather than the intended 300 representative members, with opaque systems for addressing or prioritizing prospective laws or other issues.

¹²⁴ See "Constitutional Charter for the Transitional Period of 2019", chapter 7.

¹²⁵ Ibid.

This leaves a significant gap in Sudan's democratic and legislative environment. In the event that a permanent constitution is drawn up before the TLC or a normal parliament is formed, passing it through a Joint Session would create a legally weak and contestable foundation. Therefore, it will be necessary to wait for elections and the democratic formation of a parliament before a legally solid permanent constitution can be established.

Legal gaps in access to labour markets

Overall, neither the 2014 Asylum Act nor any other piece of legislation reviewed forbids or gives clarity on the ability of or pathways for registered refugees to:

- ▶ register a business;
- ▶ own or lease land;
- ▶ establish or join a cooperative;
- ▶ access financial services or open a bank account;
- ▶ use a refugee ID card as valid means to purchase a SIM card;
- ▶ access business development services;
- ▶ access employment services.

The commitments made to facilitate work for refugees at the Global Refugee Forum in 2019 have not yet translated into legislation but a high-level committee to oversee pledge implementation was established in July 2021. A draft national strategy for durable solutions (2021) has also been developed to support the implementation of these pledges; this is a positive step, but it still requires the development of several processes that are currently missing. Overall, an active national employment policy that considers whether, and to what extent, refugees are to be included within the labour market is required but missing.

There are multiple types of asylum categories in Sudan, not all of which require registration. Brother and Sister status does not require registration, but its accompanying rights and details on the required pathways in order to work legally are not captured by formal policy. This applies most significantly to Syrian and Yemeni refugees.

While the Four Freedoms afforded to South Sudanese are based on a written agreement signed between the Sudan and South Sudan in September 2012, the exceptional status it provides South Sudanese refugees, with respect to exemptions from the standard limitations outlined in the 2014 Asylum Act, is still not captured in any legal document and is yet to be formally implemented.¹²⁶ Once actioned, it is unclear which articles of the 2014 Act would apply to South Sudanese and from which articles they would be exempt. The Draft Five Year National Strategy on Durable Solutions advocates for the government to set out actionable steps to put the Four Freedoms into practice.

The process for applying for a work permit does not appear to be presented as a written policy. The information on the documents and steps required as part of the application process do not appear to be published or made publicly available for potential applicants to follow.

There is no law in Sudan that guides small or micro-enterprises, and other existing business-related laws, including the 2021 Investment Encouragement Act, do not provide any specific guidance regarding refugees' ability to register private businesses.

Although the 1951 Refugee Convention does provide some basis for refugees' right to self-employment, Sudan has no corresponding framework to guide how this would be done in practice or with respect to business start-up and ownership.

¹²⁶ According to a document shared by UNHCR capturing points of progress against the GRF pledges dated 1 November 2021. It is uncertain when this reaffirmation was made, but it assumed to have been by President Hamdok of Sudan before the 25 October 2021 coup.

No framework exists to guide specifically against refugee ownership of land, but according to the 1970 Unregistered Land Act, which does not allow citizens to own freehold land outright, it is unlikely that refugees would be able to do so where citizens cannot. Neither are there any legal frameworks that guide how statutory leasehold procedures would or would not apply to refugees.

Attempts to integrate customary law into statutory law to eliminate the confusion and contradictions arising from the dual existence of both have not yet been successful. Some progress had been made toward this ambition under the 2005 Interim National Constitution, but its dissolution set back the process significantly.

The Cooperative Law of 1999 does not provide guidance for or against the inclusion of refugees in cooperatives, and accompanying procedures detailing criteria for membership were not identified. A new Cooperatives Act is supposed to be in production.

A senior COR representative recognized a number of these areas as requiring attention and outlined the following points as currently or imminently to be under review.

- ▶ Prima facie status offered to South Sudanese. The “emergency time” is considered to be over, based on reduced numbers coming into the country. The generous welcome policy was said to be due for reconsideration.
- ▶ Syrian and Yemeni asylum seeker status. COR has appealed to the Council of Ministers, through the Ministry of Interior, to reassess their legal status and get a clearer vision of how to classify them.
- ▶ Asylum Act 2014 to reassess its overall openness (rather than expand in detail or inclusiveness).

Legal gaps in access to training

The 2014 Asylum Act gives refugees the right to basic education and allows them to access post-basic education. Policies and laws on the areas outlined below are not well developed in general, but such as they exist, neither the Asylum Act nor other pieces of legislature reviewed specify refugees’ right to or their prohibition from:

- ▶ formal work-based training;
- ▶ grants or allowances for skills development;
- ▶ entrepreneurship or business start-up training

Although some vocational training laws and policies mention “displaced people” or “vulnerable groups”, they do not appear to target refugees for inclusion or exclusion. As refugees are included within the General Education Sector Strategic Plan, however, it is assumed that they are eligible to access basic, secondary and tertiary educational institutions, providing they can present the necessary entry requirements.

The commitment to integrating refugee education into the national education system at the Global Refugee Forum has yet to be translated into action.

The General Education Sector Strategic Plan offers more attention to the inclusion of refugees and other displaced groups in basic education than secondary education but does not include targets or indicators specific to their needs.

Of the laws and policies identified in the study, half did not mention refugees, and the other half included only passing references to “displaced people” or “vulnerable groups”, without accompanying frameworks or plans to guide admittance criteria or means to support them to enrol and stay in education.

Sudan is signatory to regional agreements that commit to recognizing refugee educational qualifications from their home countries and to harmonize standards and accreditations of learning. However, these have yet to be ratified (for instance, the Protocol on Free Movement of Persons in the IGAD Region) or the procedures to put them into practice have yet to be developed (for example, the Addis Convention on recognition of academic qualifications).

Legal gaps relating to rights at work

The 1997 Labour Act is the key document regulating the workplace, but, as with most laws, it does not specify refugee workers as being protected by the same rights as other employees. Neither the 2014 Asylum Act nor the 1990 Social Insurance Act specify whether a refugee would be eligible for access to social security benefits or not. The new Trade Union Law was approved by Cabinet in July 2021 but it is not operational at this time. The previous Act did not specify whether or not refugee workers were able to join trade unions.

Legal gaps relating to naturalization

This area is quite clearly covered within the 2014 Asylum Act and the Sudanese Nationality Act Amendment of 2011. However, difficulties regarding birth registration of refugee children are leading to cases of stateless children who do not have the necessary documentation to claim citizenship of either Sudan or the country of their parents.

For many refugees of South Sudanese heritage, their refugee cards are the only form of identification they possess. According to Sudan's laws, they cannot have dual nationality with South Sudan, but for the many who were born in the territory of the Republic of Sudan prior to 2011 and South Sudan's independence, they have the legal right to claim Sudanese citizenship if they wish. However, a national discussion on this point has been stalled for years, and refugees with heritage from the areas now in South Sudan have not been offered the choice of gaining citizenship to either country. There is little incentive on the part of Sudan to follow up on this as it opens up potential contentions over land and would set a precedent for the many Eritrean refugees also born in Sudan.

The Draft Five Year National Strategy on Durable Solutions (2021) recognises the contradiction of the 2019 Constitutional Charter for the Transitional Period's provision that "Anyone born to a Sudanese mother or father has an inalienable right to possess Sudanese nationality and citizenship" - a requirement met by any South Sudanese refugee born before 9 July 2011 - and the 2011 Nationality Act. It therefore advocates for South Sudanese access to naturalization under Strategic Objective 10 and identifies the need for laws and administrative procedures that facilitate the naturalisation of refugees, in particular South Sudanese refugees intending to stay in Sudan.¹²⁷

Upcoming laws or policies

1. A new study commissioned by IGAD should also be available soon –*Toward National and Durable Solutions Strategy for Displacements in the Sudan: Context, Challenges, and Future Prospects*.
2. A new, emergency strategic plan for the transitional period is due to be published by JICA and UNESCO, intending to respond to the government's call for job creation. It should focus on technical and vocational training policy, but it is not known whether there will be specific consideration of refugee inclusion.
3. A new Cooperatives Act is reported to be in production.
4. A new Trade Unions Act (2021) has been approved and is due to be passed into law.

¹²⁷ Transitional Government of Sudan. Draft Five Year National Strategy on Solutions for Internally Displaced Persons, Returnees, Refugees, and Host Communities 2021. Pg 22.



A small business set up by forcibly displaced women from El Neem camp in East Darfur. © ILO/Hafiez

► 2.4 Current practice regarding the implementation of relevant legislation, policies and regulatory frameworks

This section presents the responses of authorities, subject matter experts, and refugees interviewed in Khartoum, East Darfur, West Kordofan and Gedaref, and also includes secondary research findings from relevant literature. Responses are subjective and are sometimes inaccurate, contradictory or vague – all of which are indicative of the patchy understanding of refugee rights among these respondent groups. Responses are also highly localized to the sites of fieldwork and should not be assumed as representative of authorities' or refugees' practice and understanding across the country. Note that field teams were not able to identify any refugees working in the formal sector, and camp leaders and COR officials were all confident that camp-based refugees were only working informally.

2.4.1 Access to labour markets

Right to work

Registration

The foundation of the right to work comes from being registered and being issued with a refugee card and foreign number. This process is the responsibility of the COR with support from the UNHCR, who used to be the prime agent for registration, but in line with commitments to the Global Compact for Refugees, the UNHCR is in the process of transferring responsibility to the COR.

According to the UNHCR, the COR has prime responsibility in camps, in Khartoum, for prima facie refugees, and for individual asylum seekers. The UNHCR is providing support in Gedaref and Kassala for Ethiopian prima facie refugees, in White Nile for South Sudanese, and in Khartoum for some urban asylum seekers.

Registration rates

According to the UNHCR, registration is essential for those refugees residing in camps and receiving food aid and is therefore relatively thoroughly conducted within camp settings.

In West Kordofan, the COR and UNHCR are undertaking registration through separate mobile teams. They are based in Fula and spend two to three weeks in the camps to undertake registration. According to the COR respondent, they are able to process between 300 and 400 refugees per day, and all those in Kharasana settlement are registered.

In Nimir camp, East Darfur, the COR is undertaking registration. The COR official estimated that around 80 per cent are registered, with the remaining 20 per cent currently dispersed out of the camp for agricultural work. He estimated that between 150 and 300 people can be registered per day by the mobile registration units.

In Um Gargour camp, Gedaref, most refugees are registered and have been living there for decades. New arrivals from Ethiopia are entering other camps and are being registered by the UNHCR and COR, who claim they are able to process around 500 cases per day. Those refugees are residing in Um Rakuba and Tunaydbah camps under much stricter conditions than the settled populations in Um Gargour. Registration of South Sudanese left in Gedaref after South Sudan's independence has not yet begun, but COR states that they are preparing to begin this process.

Progress in the registration of South Sudanese in urban areas, particularly Khartoum, has been slowed by relatively low levels of South Sudanese presenting themselves for registration and low incentives on the COR's part to move faster. Less than 40 per cent of the total South Sudanese refugee population in Khartoum State reside in the Open Areas,¹²⁸ but it is still a substantial population that the government is reportedly reluctant to continue hosting.¹²⁹ Potential plans to move refugee settlements to White Nile State may be further dissuading them from ramping up registration in Khartoum.¹³⁰ On the other hand, the South Sudanese do not appear to feel an urgency to register, due perhaps to common assumptions of being entitled to the Four Freedoms (including the right to work); until recently, humanitarian access to the Open Areas and assistance to South Sudanese has been minimal, and so a lack of refugee cards has not caused them to miss out on much. Without the legal need to register, there have, therefore, been few compelling reasons to present themselves for registration.

However, there are longer-term benefits of registering that may be less well-known to South Sudanese. Registration provides an important foundational step for durable solution options, as the record of registration and refugee card acts as legal proof of identification, which is needed to be eligible for return assistance packages to South Sudan. The tribal heritage recorded through the registration process should also allow refugees to claim linkages to South Sudanese tribes, and therefore citizenship.

Non-registration among other refugee nationalities was ascribed by one international non-governmental organization (INGO) protection specialist to the fact that many asylum seekers do not consider Sudan as their destination country and so are waiting until they reach their final destination to register, aspiring for this to be in Europe where they may be covered by the Dublin Protocol.

Registration capacity

The UNHCR's objective in Sudan is to have individually registered the entire population of unregistered refugees and asylum seekers, including biometric verification of the registered population, by the end of 2022. In doing so they hope to attain a verified figure of refugees and asylum seekers.

¹²⁸ As estimated by UNHCR in March 2022.

¹²⁹ Interview with land, property and housing rights legal expert, Khartoum, 5 December 2021.

¹³⁰ Interview with land, property and housing rights legal expert, Khartoum, 5 December 2021.

The UNHCR is providing technical capacity support and hard equipment to the COR as part of a transition to hand over registration responsibilities to the government of Sudan. The UNHCR is providing technical capacity support and hard equipment to the COR as part of a transition to hand over registration responsibilities to the government of Sudan. In Khartoum, the UNCHR is providing training to COR staff in how to use the UNHCR registration database and undertaking most of the data cleaning and analysis. The handover of responsibility to the COR and the training required has slowed down the registration process and contributed to some of the backlog in registration (which has also reportedly been the case in other countries undergoing similar transitions of responsibility).

Findings from fieldwork suggest that the COR office in Gedaref has been overwhelmed by the influx of refugees from Tigray and feels understaffed, resulting in slower than ideal rates of registration. Other COR offices visited stated that they generally have sufficient resources to carry out registration, with access to equipment as well as surge capacity from the UNHCR to meet the needs of refugee spikes. However, despite their stated sufficient resources, observations from other sources found that there are clear logistical and material bottlenecks in reaching sites and making efficient registration progress.¹³¹

Arguably the biggest challenge for COR is in tackling the registration of non-camp South Sudanese.

Summary

- ▶ COR appear to understand their registration responsibilities and are being supported with technical resources to undertake their duties. None of the officials interviewed felt incapable of carrying out their mandates.
- ▶ The pace and scope of registration differs across the country. In established camps such as those visited during fieldwork, registration appears to be comprehensively covering refugees. Camps dealing with new arrivals, however, especially in the east from Ethiopia, have been under-capacitated to cope with the influx of asylum seekers.
- ▶ Registration by mobile units appears to be severely constrained by the lack of transportation and fuel for staff.
- ▶ The pace of registration overall has slowed since the process of transferring registration duties from UNHCR to COR began.
- ▶ Registration of South Sudanese is a relatively new policy and has been fairly slow-paced. There appears to be low motivation among COR to step up this process, accompanied by low motivation on the part of urban South Sudanese to get registered.
- ▶ Lack of registration or refugee cards doesn't affect the legal status of South Sudanese to reside or work in Sudan, as it would for other refugee nationalities (apart from Arab refugees with Brother and Sister status). However, refugee ID is the only form of identification available to most South Sudanese and it affords them some immediate protection from arbitrary harassment and offers longer-term options as a basis for South Sudanese citizenship or assisted return.
- ▶ Refugees interviewed expressed varying degrees of satisfaction with COR services and capacity.

Work permits

Opportunities for refugees to engage in the formal labour market are minimal, as is the case for most Sudanese outside Khartoum. Additionally, most of the refugees in West Kordofan and East Darfur are South Sudanese, for whom a different treatment applies. The practice of applying for and approving work permits for refugees was therefore not widespread outside Khartoum.¹³² The COR office in Khartoum estimates that it supports between two and ten applications per day; however, they do not keep records of work permits granted. These data are collected by the Ministry of Labour but are not publicly available.

¹³¹ ILO country team field trip observations.

¹³² Data on refugee work permit applications received and approved is held by the Ministry of Labour, and while not available through the National Statistics Bureau or other publicly available means, the rates are assumed to be low.

Labour offices and the COR should be the predominant responsible bodies in the work permit application and approval process. Following extensive advocacy by UNHCR in 2019, there is now a Memorandum of Understanding between the COR and the Ministry of Labour and Social Development for Labour Offices to process work permits for refugees, but this is not accompanied by a formal framework. Instead, the offices have developed an understanding of their respective responsibilities, which they seek to carry out.

The work permit application process for refugees was described by a lawyer based on his experience and requires the refugee to prepare a dossier with the following documentation.

1. Copy of refugee card with validity of at least one year.
2. Statement from the COR confirming the applicant's refugee registration.
3. Letter issued by the COR and addressed to the Labour Office supporting the applicant's request to work in this jurisdiction.
4. Certificate from the Ministry of Health via a public health facility declaring the applicant's good bill of health (costing around 600 pounds)¹³³. With copy of letter from the COR.
5. Letter from prospective employer stating that there is a job available, and that the applicant is acceptable in theory for the position. For a skilled job, the refugee may be tested at a training centre to confirm they have the requisite competencies for the role.
6. Filled in work permit application form.
7. Passport photo.

The refugee must present these items plus a fee of 2,100 pounds to one of the three labour offices in Khartoum. The Director of the Labour Office will assess the application and determine whether to grant a work permit or not. A successful applicant will receive a labour card valid for a year, which may be used for work beyond the position stated in the application process.

The COR staff interviewed in Khartoum (including the Deputy Commissioner and a labour specialist) confirmed the steps outlined by the lawyer, but neither could say what the work permit application process consisted of in other States.

Khartoum

Within Khartoum, refugees seeking assistance in navigating the process can hire brokers to act on their behalf and speed up the process through their informal contacts. A refugee rights lawyer cited the cost of hiring a broker (*simsar*) at around 10,000 pounds. Although employers have a risk of being inspected and arrested for hiring refugees without permits, the practice is anecdotally common and cited as one of the reasons that some refugees do not feel incentivized to go through the application process. In terms of hiring in general, South Sudanese are likely to be preferred over other nationalities thanks to feelings of kinship. By contrast, Ethiopians who have been living and working in Khartoum for a long time are reportedly feeling new levels of hostility and discrimination.

West Kordofan and East Darfur

In West Kordofan, the COR stated that, **"we do not have a form to request a work permit because the refugees work automatically in the markets and agriculture, and this is within the plan to integrate them into society – there is no work permit for a South Sudanese refugee."** This understanding is an example of widespread assumptions regarding South Sudanese exceptionality, even as the Four Freedoms allowed to South Sudanese have not yet been formalised. This may explain why authorities here did not provide extensive details of the work permit application process. They were able to outline the necessity of

¹³³ As stated by UNHCR, as of March 2022.

applying with a refugee ID card, a health certificate and details of the proposed employment, in addition to steps not outlined in Khartoum, such as obtaining approval from the State Ministry of Investment and locality administration. However, they were less able to detail the sequencing and timing of the process.

As a Sudanese brickmaking employer in Ed Daein, East Darfur, stated: **“There is no need for me to obtain a work permit for refugees to work here, and we as Sudanese don’t see those from South Sudan as refugees and have no laws to prevent their presence in the labour market.”** In any case, none of the South Sudanese refugees interviewed in West Kordofan and East Darfur had engaged in formal work and viewed the only employment or income-generating options available to them as through agriculture or informal daily labour.

Gedaref

In Gedaref, however, where the refugee composition includes Eritreans, Ethiopians, Chadians and other nationalities, the registrar office stated that **“the law prevents refugees from obtaining a work permit,”** demonstrating a profound misunderstanding of refugee rights. The COR office had better knowledge of the process and specified that a written application, with refugee card, needed to be submitted to the labour office with input from the passport authority, police and other security forces.

None of the refugees interviewed in Um Gargour camp in Gedaref had attempted to apply for a work permit, including three Eritrean women working in skilled positions. They were aware of the application process and which authorities to contact but stated that **“the permit is important but not applicable; people here don’t care about it.”** A refugee owner of a small café in Gedaref had heard of someone attempting to obtain a work permit but was prevented from doing so because the employer did not want to commit to the responsibilities involved in formally hiring him.

Eritrean refugees in Gedaref have benefited from their decades-long presence in the area, fluency in Arabic, shared ethnicity with some Eastern Sudanese through the Beni Amer tribe, and the ease under the Bashir era of obtaining Sudanese ID cards. The Gedaref Locality Executive Administrator outlined that many Eritreans are considered to be Sudanese: **“They are employed in government jobs and working as capitalists in trade. They obtained Sudanese IDs in Bashir’s time and so they can work in official jobs.”** Several refugees interviewed in Gedaref State reported that there was a lack of discrimination against refugees, **“so long as they don’t know you are a refugee,”** signifying high levels of integration but only a surface level tolerance of refugees. African refugees who speak Arabic, like Chadians, are also reported to assimilate easily into the informal labour market here, as they are taken at face value as being Sudanese. Ethiopian refugees are reported to have a less easy relationship with host communities.

Working without a permit

The consequences of employing a refugee without a work permit were understood by the relevant authorities. The COR official in East Darfur was broadly correct in stating that **“whoever hires a refugee without COR’s permission is punishable with two years’ imprisonment or a fine according to the 2014 law,”** while the official in Gedaref also acknowledged this as an illegal act. However, in all states the officials recognized that **“there is a problem in the application of these laws”** (COR official in Gedaref). Of the employers interviewed who hired refugees, none had ever assisted them to obtain a work permit, considering this unnecessary because of their South Sudanese status or as burdensome relative to the bureaucracy involved and lack of consequences. While one employer in Gedaref stated that not having full identification papers and a work permit would be a barrier to being hired, another countered that there were no consequences for doing so, **“because the law is not activated and there is need for workers.”** No-one interviewed could recall a case of an employer being held accountable for hiring a refugee without a work permit.

Summary

- ▶ Formal guidelines do not appear to have been developed or issued to assist the refugee work permit application process; the system has been agreed upon by the relevant government bodies but appears to function based on precedent rather than policy.
- ▶ Authorities outside Khartoum have some general knowledge of the work permit application process but appear to have little need to put this into practice.
- ▶ In the case of West Kordofan and East Darfur, this is likely because the refugee population is overwhelmingly South Sudanese, and it is commonly assumed that they may work without permits.
- ▶ In Gedaref, where refugee nationalities do require work permits, there is little evidence of refugees needing them to work in practice. This is especially the case for longstanding Eritrean refugees who have assimilated well into the community.
- ▶ Employers appear to accept refugee workers without work permits. In some cases, this is due to the informality of their own business, their preference to avoid formal responsibilities for the worker, or acceptance of refugees (because they have South Sudanese nationality or a longstanding presence in the community).
- ▶ Application of the 2014 Asylum Act regarding consequences of employing refugees without work permits does not appear to be enforced.
- ▶ Incentives among refugees to apply for a work permit are low. This is due to a limited supply of jobs requiring a work permit, lengthy and bureaucratic application process, and an apparent lack of consequences for working without a permit.

Available work

Field teams did not identify any refugee working in the formal sector, and camp leaders and COR officials were all confident that camp-based refugees were only working informally. Income-generating activities for camp refugees include farming, daily labour and small businesses. Daily labour for women and men includes agricultural work, brickmaking, construction, plumbing and carpentry. Small business endeavours for women include selling clothes next to the road, selling tea and coffee, and running kiosks (which also include men). In Gedaref, where Eritrean refugees require work permits, some professional jobs included teacher at a refugee school and health workers at a health centre – none of whom had attempted to attain work permits. Small-scale farming and agricultural daily labour were the most common types of income-generating activities recorded.

The PROSPECTS baseline survey found labour force participation rates (including refugees, IDPs and host communities) of 61 per cent in East Darfur and 51 per cent in West Kordofan. The survey also found low levels of youth participation in the labour force and attributed this to the lack of employment opportunities, the lack of financing opportunities for business start-ups, and an absence of training opportunities accessible to youth living in the surveyed locations. In both states, the overwhelming majority of employed individuals were employed in the informal sector with only 21 per cent in East Darfur and 15 per cent in West Kordofan recorded as being in formal employment.

Reflecting the trends found in this qualitative study, baseline results showed that most employment is in daily labour (51 per cent, n=238), often in the agricultural sector (which provides only seasonal employment opportunities), at the market (as porters or carriers), and in other sectors that demand low-skilled labour such as construction. Unemployment rates were similar among host communities (20 per cent) and refugees (22 per cent) but of these, higher proportions of women were unemployed than men.

Respondents from this study who were not engaged in income-earning activities cited a range of barriers. Women from Nimir and Kharasana had tried to find work in the nearest towns, as cleaners for example, but they could not find any openings and reported that host communities did not want to employ them as refugees. A few women had held informal, unskilled jobs which they eventually left after not being paid;

without formal contracts they could not complain to anyone. One woman from Al Nimir camp almost found a cleaning job but was turned away for not having a work permit, an excuse, she felt, that was not genuine.

Women felt their lack of skills to be another obstacle, accompanied by the difficulties of arranging childcare if they were to leave the camp regularly. Within the camps some had tried to start small businesses like selling dumplings or *kisra*, but they earned too little to make it worthwhile, and their neighbours couldn't afford to buy from them. Some of the women had even stopped working as daily labourers as they faced too much insecurity when leaving the camp to go to the fields, including cases of sexual violence perpetrated by members of the host community. A lack of accountability made them feel unheard and too unsafe to continue working on the fields.

Men cited the costs of leaving the camp to search for work in the nearby towns too high, and they could not afford to bring stock to the camp to start small businesses. Men and women agreed that there were more choices of work for men, but that as refugees it was hard to be accepted into employment. Discrimination against refugees was also captured in the PROSPECTS baseline survey, which found that 21 per cent of refugees in El Nimir reported facing discrimination based on ethnicity and migrant status.

No respondent had heard of employment services, and labour office respondents did not speak of offering employment advice or job-matching services. The ILO provided training on Public Employment Services to labour officers in 2011 in Khartoum, North Kordofan, South Kordofan and Blue Nile States, but not in this study's target areas.¹³⁴

Summary

- ▶ Opportunities for formal sector work are nominal in the areas sampled; all the respondents were either working informally or not engaged in any income-generating activities.
- ▶ Agricultural work and daily labour are the most common forms of income.
- ▶ In addition to low supply of jobs, other barriers to employment include a lack of relevant skills among refugees, childcare duties for women, insecurity and sexual violence targeted at women outside camps, financial costs of travel to work, and a discrimination among the host community towards employing refugees.

Owning and registering businesses

According to the COR Deputy Commissioner, refugees in Khartoum may register businesses with the Ministry of Trade and Supply, facilitated by the COR and with a legal basis in the 2014 Asylum Act; however, reference to this was not found within the act. The refugee lawyer interviewed clarified that while there is no legal basis to prohibit a refugee from registering a business, neither is there a framework to support it. None of the authorities interviewed were able to clearly articulate the process, but a UNHCR respondent thought that the Refugee Counselling Services might be able to support an application, pointing out that Sudanese citizens also face an opaque system. Validating this point is Sudan's rank of 157 out of 190 for ease of starting a business and 176 for access to credit according to the WB's "Doing Business 2020" report, which found costs of starting a business and the laborious procedures involved to be the most challenging aspects of doing business.¹³⁵

At the sub-national level, the Commercial Registrar Offices do not engage in business or market stall licences; they focus mainly on business name registration. The East Darfur office suggested that any kind of business licence application would have to be undertaken in Khartoum. The West Kordofan office suggested that this was the responsibility of the COR and UNHCR, but conceded that a Sudanese partner

¹³⁴ UN Joint Programme on "Creating Opportunities for Youth Employment in Sudan" (2011).

¹³⁵ WB, "Doing Business 2020: Economy Profile Sudan" (2020).

would be able to register a business in their name. The Gedaref office stated that it was against the law for a refugee to register a business independently or in partnership with a Sudanese. Evidently, this is an area with conflicting understanding and limited information.

Helpfully, previous research conducted by the ILO clarifies the registration process and confirms that registered refugees, including South Sudanese, are not able to register a business without a Sudanese passport-holding partner.¹³⁶ This study found that in some cases, the Ministry of Cabinet may directly provide refugees with business permits, but that this only happens on rare occasions, in cooperation with development partners who are planning a specific intervention in one of Sudan's priority business sectors, such as the agricultural sector.

A Sudanese business owner in El Fula, West Kordofan, said that he had navigated the process relatively easily through meeting authorities at the locality office, commercial registrar office, and the chambers of commerce. However, he was uncertain whether a refugee would be able to follow the same procedure. To set up a market stall in urban areas requires permission from the locality office but not a commercial licence; there were no reported differences between the requirements for male or female applicants.

Setting up small businesses such as kiosks, clothes stalls, tea shops, or food stalls within camps was common. These types of informal businesses had not sought access to business development services. COR staff and camp leaders across states concurred that it was not necessary to register to seek permission to set up such stalls.

Although the Asylum Law states that refugees may acquire moveable property, in reality, lawyers are not allowed to draw up contracts for refugees. This means that refugees cannot register property or assets in their own name. For example, refugees may have saved up enough to purchase a rickshaw with the intention of offering taxi services, but lawyers are not able to prepare the contracts for them to legally register and own that asset.¹³⁷

Access to finance

There are few means to access loans or capital to establish small businesses – formal or informal. The UNHCR in Khartoum stated that in February 2019, the Central Bank circulated a statement to all banks authorising the use of COR Refugee ID Cards as an acceptable form of Know Your Customer (KYC). However, banks in Khartoum and at the subnational level have been slow to adapt their procedures accordingly and the Blue Nile Mashreq Bank, with whom UNHCR has a direct relationship, appears to be the only bank putting this policy into operation, with an additional requirement of an accompanying referral letter from UNHCR. Overall, there is little public knowledge of this policy and all refugees interviewed believe that they need a national number in order to open an account. UNHCR representatives in Khartoum have also found that banks like the Bank of Sudan still require proof of residency to open an account, with refugee camp or informal accommodation not accepted.

The Chambers of Commerce representative in Gedaref stated that “loans are only available if you have a bank account,” while a businessman in El Fula understood that “a refugee cannot obtain loans of financing from banks, because the banking system requires guarantees of the value of loans, in addition to national and identity and documents – therefore they only deal with citizens.” This does not correlate with high level COR assertions that refugees can “easily open bank accounts” using the foreign number on their refugee ID cards.¹³⁸

¹³⁶ ILO, PROSPECTS Sudan Baseline Survey, p. 48.

¹³⁷ Interview with refugee rights lawyer, Khartoum, 29 July 2021.

¹³⁸ However, UNHCR points to a further complication in that refugees in Khartoum are currently being issued refugee cards that do not include a foreign number.

In Gedaref town all major banks, including Blue Nile Mashreq, were observed to be present; Khartoum Bank and the Export Bank were observed in Shuwak town which is closer to Um Gargour camp than Gedaref town. In Fula, only the Animal Resources Bank and Agricultural Banks are available, while none were observed in Kharasana town. In Ed Daein, there are branches of Blue Nile Mashreq, Bank of Khartoum and Bank el-Nil.

Micro-loans were unheard of, and only ZOA was mentioned as providing cash assistance for small business start-up over a year ago in Nimir camp. The Central Bank of Sudan established a microfinance unit in 2007 and, since 2009, has required all commercial banks operating in the country to establish microfinance offices and allocate 12 per cent of total loans to microfinance lending operations. However, neither host community nor refugee small business owners knew of financial services available in their communities; this echoes the findings of the PROSPECTS baseline survey which found that 81 per cent of surveyed business owners in West Kordofan and East Darfur did not know of any financial services in their area,¹³⁹ as well as interviews conducted in East Darfur by the UN Peace Building Fund in 2021, which further support the lack of micro-credit or small-loan schemes operating in the area.¹⁴⁰

Some refugees are able to access small loans from friends in host communities, but they can only borrow small amounts and feel pressure to pay back quickly. Most of their home networks are experiencing economic hardships too and are not in a position to send them money.

Mobile money and banking apps

Mobile money options are offered through the Sudani and MTN mobile networks. Sudani's Gorooshi service works in partnership with the Faisal Islamic Bank and allows customers to manage their money by opening a bank account with their mobile number, with which they can perform financial transactions and transfer money between Gorooshi subscribers. Setting up Gorooshi requires the user to attend a customer service centre and present a valid ID. MTN's MoMo Amwal mobile service partners with the Central Bank of Sudan and Nile Bank to allow customers to make payments and transfer money using any type of mobile phone without the need for internet connection or a bank account. Registration for the service can be done by phone. However, these options were not known by respondents and were not being used.

Refugee respondents were not able to purchase SIM cards in their own name. Mobile network providers outside Khartoum do not accept refugee cards as valid means to buy SIM cards. While the Telecommunications and Postal Regulation Act does not prohibit refugee cards as a valid form of ID, neither does it specifically allow it. UNHCR states that the Telecommunication and Post Regulatory Authority are willing to authorise refugee mobile SIM card ownership and even allow them lower rates;¹⁴¹ however, there has yet to be official communication from COR on this matter and there is little awareness among mobile providers of refugee cards, meaning, therefore they are not inclined to accept them as legitimate forms of ID.

However, many of the refugees interviewed do have mobile phones and all were able to purchase SIM cards through Sudanese friends. In Khartoum, the situation seems more permissive, and refugees with COR-issued refugee cards have reported being able to buy SIM cards in their own names and access mobile banking apps such as Bankak (operated by the Bank of Khartoum) and Fauri (operated by the Faisal Islamic Bank). Syrian and Yemeni refugees are also more likely than other refugee nationalities to have passports in Sudan, and therefore they have easier access to SIM card ownership and banking app options.¹⁴²

139 ILO, PROSPECTS Sudan Baseline Survey (2021), p. 54.

140 Durable Solutions Analysis and Baseline Report. Joint IDP Profiling Service (JIPS), funded by the UN Peacebuilding Fund (April 2021), p. 17.

141 Communication from UNHCR in March 2022.

142 Interview with UNHCR protection and cash-based intervention staff, 27 July 2021 in Khartoum.

Most refugees outside Khartoum do not own smart phones, which are needed to access Sudan's mobile banking apps. Network coverage in Kharasana, Nimir, and Um Gargour camps was reported as extremely poor.

► **Box 1. Mobile banking apps versus mobile money**

Mobile banking and mobile money both allow for cashless transactions and are easily confused and often interchangeably referenced. However, it is important to distinguish between their functions and user requirements.

Mobile banking apps are products owned and operated through banks. They allow bank account holders to manage their money – including money transfers and bill payments – through an internet-based app that can be accessed through a smart phone. Usage of this app requires the user to have a bank account, to have a smart phone, to have internet connection, and requires recipients of money transfers to have a bank account. Opening a bank account demands in-person registration in addition to proof of identification, most commonly in the form of a national ID card in Sudan.

Examples of internet banking apps in Sudan: Fauri app from the Faisal Islamic Bank and Bankak app (formerly mBok) from the Bank of Khartoum.

Mobile money services are operated through a provider company rather than a bank. They may involve partnerships between mobile network providers and banks or banking agents. It is a person-to-person service and allows users to perform financial transactions and transfer money through text messages or USSD codes that rely on phone network coverage rather than internet. Mobile money service providers have differing user requirements, but many are designed for customers who do not have bank accounts, do not have smart phones, and do not have access to the internet. Mobile money setup requires user registration – some services may allow for remote phone setup while others require in-person setup and presentation of ID.

Examples of mobile money services in Sudan include Gorooshi offered through the Sudani network in partnership with the Faisal Islamic Bank, and MoMo Amwal offered through the MTN network in partnership with the Central Bank of Sudan and Nile Bank.

Summary

- There was no coherent understanding among the business community or local authorities of what is required for a refugee to register a business or obtain a licence. Contradictory interpretations of who the responsible actors should be and whether or not a refugee could partner with a Sudanese indicates that refugee attempts to register businesses are rare.
- Opaque processes for setting up a business affect Sudanese citizens as well as refugees. The laws governing business registration are generally not well understood or implemented, and laws to support small and medium enterprises in general are missing.
- Most of the businesses being undertaken by camp-based refugees were small-scale and informal, requiring no permits from camp authorities.
- None of the respondents interviewed had attempted to register a business themselves, nor did they know of anyone else who had tried to do so.
- Obstacles in accessing finance and capital are a more immediate and tangible barrier than the lack of legal provision for business registration. For those who wanted to set up small businesses but had not done so yet, the key reason given was a lack of start-up capital. Access to formal bank loans was not deemed possible by respondents because of their refugee status.

- ▶ Although banks are supposed to accept refugee cards as valid ID to open an account, this does not appear to have been well tested, and most refugees do not seem to consider this as an option.
- ▶ Micro-credit schemes for refugees appear to be legal, with some precedent established by INGOs in refugee camps, but none were currently operating in the locations sampled, and no government-provided schemes were reported as available within the area.
- ▶ Khartoum-level understanding of refugee SIM card access differs from the reality beyond Khartoum, where mobile service providers do not accept refugee cards as valid ID to purchase and register SIMs.
- ▶ However, most refugees are circumventing this barrier by purchasing SIM cards through Sudanese acquaintances.
- ▶ They are limited from using mobile banking apps that operate only from smart phones, which refugees do not generally possess.
- ▶ Mobile money options through network providers (rather than the banks) are not known or used by refugees.

Right to work: Owning or renting land

Land in East Darfur and West Kordofan is customary, owned by local tribes, whereas the land in Gedaref is owned by the Government of Sudan. This differentiates how land may be bought, used and arbitrated. In all cases, however, there was consensus that refugees are not allowed to buy land, with some recognition that non-Sudanese may legally lease land.

Renting both customary and government land is possible, and in all research locations there are refugees managing to do so. In West Kordofan, the land around Kharasana settlement is owned by the Misseriya tribe, and in East Darfur the land around Nimir camp is owned by the Rizeigat tribe. As such, land is managed through the Native Administration system, and rental agreements are determined directly between the refugee and the landowner, with facilitation from the local sheikh. These agreements do not involve government administrative bodies like the Locality Office, COR, or Ministry of Agriculture. In the event of a dispute or complaint, a refugee could not call upon these offices for support or arbitration. Customary land management is traditionally orally based, and so written records of agreements and land demarcations are not kept by the land records office.

Land is usually rented by *mukhamis*, the equivalent of around 1 acre (0.40 ha). Rental costs are reported to range from 5,000 to 6,000 pounds for one season; a share of the season's produce is also accepted instead of cash in some cases, usually two bags of beans, sesame, groundnuts, charcoal or whatever is being grown.¹⁴³ Agreements rarely extend beyond one season, as landowners do not want renters to be able to lay claims on the land, while refugees fear that the contract will not be honoured and that they will lose their money. It appears to be permissible in customary law to use the land for livestock rearing in addition to agriculture, but few refugees do so, and some respondents stated that it was too risky to keep animals as they feared the host communities would steal them. Agricultural cooperatives were reported to exist in East Darfur, and the COR saw no reason why refugees would not be allowed to join them. Cooperatives were reported as non-existent among refugees in West Kordofan, although prior ILO research identified at least three agricultural cooperatives operating around Kharasana and Keilak.¹⁴⁴

Women's rights to rent land were not clearly articulated. The Ministry of Agriculture representative in East Darfur stated that "most of the land is rented by men, but this does not prevent women from benefiting from the leased land" while the representative from West Kordofan said that "women do not have the right to rent agricultural land, but they can work as a partner for men in it; women have al-jabraka [home gardens] instead of renting." This suggests that it is not impossible or traditionally prohibited, but it is certainly rare and potentially harder for women to rent land themselves. One woman interviewed was

¹⁴³ ILO field reports suggest that up to 10% of yields can be levied upon refugee renters.

¹⁴⁴ ILO, PROSPECTS Sudan Baseline Survey (2021), p. 49.

renting land – paying 6,000 pounds to rent one *mukhamis* for a single season to grow beans and millet. However, it is not clear if she or a male member of her household holds the agreement. Entering into partnerships with the host community is possible but not favoured. As a man from Nimir camp said:

“We cultivate in the lands near the camp which is owned by the host community. We rent one mukhamis for 6,000 pounds, pay in cash, and we do not enter into agricultural partnerships with the host community, because at the end of the season and by taking stock of the accounts, we will be in debt, so we pay the rent in cash and plant individually.”

While possible to rent and farm land from host communities, most respondents outlined several associated barriers and vulnerabilities that outweigh the benefits of renting. Costs for rent, seed purchase and farming tools are high and beyond reach for many refugees, including women household heads. Refugees are either very cautious or discouraged from renting land as they are powerless to stop armed groups or owners from grazing their animals on their crops, taking more than the agreed amounts of produce, hiking the rental price after the initial payment, or taking their tools. A man from Nimir outlined a problem reiterated by others:

“If the land is rented from a person who owns animals, if his animals eat your crops, you will not be able to question him because they say that this is basically our land even if you rented it. So when we rent the land we make sure that the owner of the land does not own animals.”

Such issues were commonly cited by refugees in both Kharasana and Nimir camp, but because of direct agreement between owner and refugee, there is no entry point for the COR or other authority to intervene. As a female respondent in Nimir camp said, “if you complain to the policeman, no one will do justice to you or enforce the law for a refugee.”

For these reasons, working as daily labourers is a preferred option. There is provision in the Asylum Act for landowners to engage refugees from camps for agricultural support. The COR confirmed that this is often put into practice, and terms of agreement and responsibility are determined to allow refugees to leave the camps under the landowner’s duty of care. This is particularly common during harvest time in the autumn. However, this type of work also has its insecurities. The same female respondent from Nimir explained that:

“Sometimes when there is a daily worker in agriculture and your wage is 2,000 pounds, he gives you only 500 pounds. If you refuse, he takes out his weapon and gives you the choice between the 500 pounds or the bullet. Then if you take the 500 pounds and go to the police to complain, he will put you in prison and when you leave, do not even think about asking about your rights.”

Another woman from Kharasana settlement stopped going out to work as a daily labourer stating that “they do not pay us for our work, and sometimes the employer takes us by car, and when we finish work, he leaves us there to go back on foot. Sometimes we did the work but did not get paid the wages. In addition, there were several cases of rape that happened to women in the open when they went to get the wood for charcoal.” Women heads of households, particularly those whose husbands died or are still fighting in South Sudan, also cited childcare duties as a barrier to being able to travel out of the camp for daily labour.

In Gedaref, the land is owned by the government, and in a special case during the Bashir era, 2,700 ha of were allocated to refugees in Um Gargour camp for agricultural usage. Families were provided with 5 *feddans* of land and are charged an annual rent of 2,000 pounds, which is paid to the COR. This was a special deal, available only to Eritrean refugees during the early 2000s; there is no more land available for new arrivals to the area although refugees in Um Gargour who did not receive a land allocation may rent



Market goods on display in East Darfur. © Caroline Knook

land from other refugee tenants. Seasonal daily farm labour is also common for refugees here, particularly during the autumn, and landowners can enter into agreements with the COR to arrange for temporary employment of refugees as agricultural workers. Agricultural cooperatives are operational around Um Gargour camp, and the COR official stated that there were no objections to refugees participating in them (however, none of the respondents mentioned doing so).

Respondents in Um Gargour reported that they experienced few issues with the police and did not raise land-related insecurities or disputes compared to the other target locations. The Ministry of Agriculture representative in Gedaref seemed to think that it was illegal to rent out land to non-Sudanese, but that it was “done in crooked ways” nonetheless. Newly arrived refugees, including those who have come from Ethiopia since 2020, do not have access to such land.

Summary

- ▶ There is consensus understanding that within customary and statutory law, refugees are not able to own land.
- ▶ Refugees are able to rent customary land from host communities and do so without government intervention. However, host community power dynamics leave refugees vulnerable to exploitation and with few recourses to arbitration.
- ▶ As a result, working as daily farm labourers is considered less problematic for many. Here too, though, refugees may be exploited, with wages withheld and threats of violence.
- ▶ Women do not appear to be prohibited by customary law to rent land, but the practice does not appear to be common.
- ▶ The case of refugee land allocation in Um Gargour is special, and refugees appear to experience relative security with this tenure at a much lower cost for longer period of time than in other target areas.
- ▶ Access to land and agriculture is undisputedly an essential livelihood option for camp-based refugees.

2.4.2 Access to training

National support for TVET

The SCVTA is responsible for VTCs across the country, while the Ministry of Higher Education is responsible for Technical Secondary Schools and Craft Institutions, intended to be overseen by the NCTTE.

The SCVTA includes experienced heads of department with reportedly solid understanding of what vocational training should look like, and their representative was able to provide a detailed overview of their mandate. The General Secretariat is meant to implement the policies set by the council, yet they are not reported to have met since around 2014, and there is little evidence of policy implementation being taken seriously.¹⁴⁵ The NCTTE includes a cross-section of ministers and representatives from the private sector; however, they are currently lacking a central decision-making body, thus stymying action.¹⁴⁶

Neither organization seemed aware of the National Education Sector Strategic Plan's intentions to be more inclusive of refugees, nor of the international conventions to which Sudan is signatory, such as the Djibouti Declaration that aims to facilitate refugee integration to host country education systems. Their own priorities have not focused on refugee inclusion, although the SCVTA does make their VTC programmes open to refugees, women, IDPs, people with disabilities and ex-combatants. Gaps in technical and vocational training are recognized, including a mismatch between training curricula and labour market needs, and there has been some impetus to better prepare youth for the labour market based on the priorities in the transitional period strategic plan. The Japan International Cooperation Agency (JICA) is leading the development of an Emergency Strategic Plan to energize this point, but it is uncertain whether inclusion of refugees or IDPs will be a priority. The NCTTE, who contributed to this plan, could not recall any focus on refugees.¹⁴⁷ The newly established VTC administrator in Gedaref stated that although there were currently no definitive policies to accommodate for or support refugees, there have been recommendations issued to increase refugee admissions in the future.

The SCVTA has a Department of Statistics and Research which is meant to collect data from the branch councils around the country; however, they recognize that this is not functioning effectively. The VTC in Gedaref stated that they were planning to start collecting data soon, which will be sent to Khartoum. NCTTE members stated that enrolment data was captured in Sudan's Education Management Information System (EMIS) but was not disaggregated to capture refugee enrolment or retention. The technical school in Ed Daein, however, stated that while they do keep records at the school and send copies to the Ministry of Education, they were not aware of the EMIS system. A UN Education Cluster update from October 2020 suggests that the EMIS has not been operational since the 2017–18 academic year and only covers basic education.¹⁴⁸

None of the vocational or training centres visited had any refugees or other displaced people currently enrolled (either for the full apprenticeship training or the short courses); the training commissioner from El Fula claimed that there have been no attempts by refugees to enrol in any course. Refugee access to vocational training and apprenticeships is influenced by the following conditions.

Location of school and training centres. These are situated in urban areas beyond the reach of interviewed camp-based refugees. Movement restrictions on non-South Sudanese refugees prohibit them from legally travelling out of the camps, while cost and safety concerns inhibit all from travelling out of the camps. This is a fundamental barrier to access.

145 Interview with TVET specialist in Khartoum, 4 July 2021.

146 Interview with NCTTE members, Khartoum. 12 August 2021.

147 As of July 2021, the report was due to be finalized imminently.

148 <https://reliefweb.int/report/sudan/assessment-working-group-terms-reference>. Published 13 October 2020 on reliefweb.

Entry requirements for apprenticeship training. Access to apprenticeship diplomas requires the completion of basic education in Sudan, followed by a three-year apprenticeship course. In addition to completing basic education, an applicant is required to pass a series of entrance exams, undertake an entrance interview and submit documentation including birth certificate, proof of identity (refugee registration card would be accepted) and school certificates. According to the SCVTA, if a refugee has completed their basic education from a curriculum equivalent to that of Sudan, such as those of South Sudan, Chad, Ethiopia or Somalia, they may be accepted onto the course. However, a TVET expert assessed that non-Sudanese qualifications are not recognized and pointed to ongoing efforts by GIZ and UNESCO to establish recognition of prior learning with authorities. A trade testing system exists, for which refugees are eligible, but which they are unlikely to pass, as assessed by a TVET expert in Khartoum. In the absence of standardized or credible training standards, examiners assess the length of time an applicant can prove they have been working in this trade; therefore refugees with informal or illegal experience may not be able to provide acceptable proof of employment, while others may have had their trade too disrupted by conflict or displacement to count.¹⁴⁹

To date, there has been little common ground established on this front between the Ministry of Education, Ministry of Higher Education and Ministry of Labour. The SCVTA does not consider competency-based entrance admissions to be on the cards for the apprenticeship diploma.

Most refugee children at the camps targeted were not receiving Sudanese basic education and will therefore be unlikely to fulfil the initial entrance criteria. There are some difficulties in registering refugee children, and therefore producing birth certificates will likely prove difficult for future applicants. However, these are largely theoretical barriers.

It is more likely for refugees, as for many Sudanese, to undergo informal apprenticeship-like training, using personal connections at nearby workshops to accompany male relatives or friends to gradually observe and apply their trade.

Entry requirements for other technical courses. There is recognition that the admission requirements for apprenticeship training excludes those without basic education – Sudanese and non-Sudanese. Short courses of three months, nine months, and one year are also available at VTCs and technical schools. These courses have lower entrance requirements and are more accessible, in theory, to refugees who have not completed basic education or who do not have their certificates with them (although in practice, no refugees or other displaced people were enrolled at any of the institutions interviewed). Competency-based tests are possible for these types of courses. The Director of the VTC in Gedaref stated that:

“Generally, certificates from other countries are accepted, and we do not differentiate in this regard. We also do competency tests such as the writing and reading test, physical ability, and the ability to hold some small equipment such as pliers. Persons with disabilities are accommodated for by designating them to a specialty that suits the specific disability. For example, we do not accept persons with hearing impairment in specialties that require listening, and we have a physical ability test for certain skills that require lifting.”

Cost of courses. These vary by institution. The apprenticeship diploma at VTCs was raised in 2021 from 400 pounds per year to 3,000 pounds.¹⁵⁰ NCTTE members stated that courses at government technical schools are free, even for non-Sudanese.¹⁵¹ However, the supervisor for technical education in East Darfur clarified that the fees for 2021 are 10,000 pounds for a year's course, not including subsistence costs.

¹⁴⁹ Interview with TVET expert, Khartoum, 4 July 2021.

¹⁵⁰ According to interview with SCVTA Secretary General. Khartoum, 12 August 2021.

¹⁵¹ According to interview with NCTTE. Khartoum, 12 August 2021.

Respondents from SCVTA, NCTTE, and training schools or centres were not aware of any scholarships or grants available for Sudanese or refugees to assist in their technical or vocational education. However, the VTC in Gedaref is apparently considering such an idea for refugees.

Types of training on offer. Short courses are available to male and female applicants. There is some training targeted at women, such as home appliance repairs, food processing and sewing, but women are not excluded from entering electrical, plumbing, mechanics or other types of courses on offer. The technical education supervisor from Ed Daein reported that “Women can apply for any course, there is no discrimination. They can enrol for electrical, mechanics, architecture, sanitary engineering, plumbing, refrigeration and air conditioning courses.”

Quality of training. This was not raised as a specific barrier, but it should be noted that training centres are broadly underfinanced. VTCs receive low government funding and depend on international agencies such as JICA, GIZ, UNESCO and United Nations Industrial Development Organization. Teachers and workshops are under-equipped, while curricula are acknowledged as mismatched to labour market needs. While the apprenticeship diplomas from the VTCs are widely respected, the shorter courses most accessible to refugees are less well known and offer only participation certificates rather than qualifications. These are therefore unlikely to offer significant advantages in the labour market. A secondary barrier to consider is the perceived value of refugees investing scarce resources to enrol in such training courses relative to the norm and comparable ease of entering informal income generating activities.

Informal on-the-job training was provided by one of the small brick business owners, but others were operating in areas that did not require much training. As a farmer from Gedaref stated, “[training provision] depends on the type of work, there are jobs that do not require training, such as harvesting and agricultural work, and often the refugees train each other. The main training required is for the driving of tractors, only. We consider there to be a period of being an assistant during which time the person is training and preparing to be a driver.” Other examples of informal training were not identified among this study’s respondents, but it is the most common form of apprenticeship in Sudan with more than three times as many youths receiving this type of training than formal vocational training.¹⁵² While this is a potentially important pathway to make young refugees more employable, discrimination against refugees, as detailed in this report, within an already scarce job market, presents a challenge to developing this option further.

International support to TVET

International organizations such as GIZ, JICA and UNESCO are providing technical and policy support to national strategies, as well as implementing programmes for employment promotion. GIZ is working on a specific project for refugees, IDPs and host communities in Darfur and plans to build a new TVET centre in El Fasher. This project will support business development service providers as well as job placement and career counselling services in Nyala, El Geneina, and El Fasher.

INGOs are reported to have provided training in camps, and the UNHCR Country Response Plan identifies livelihoods support as a current priority. Respondents could remember training provided by Rahma Worldwide in Kharasana settlement three years ago, as well as vehicle maintenance training provided by the Red Crescent in Um Gargour; however, no other organization names could be remembered. There appeared to have been more opportunities provided to women than men, such as sewing classes and sweets- and pastry-making sessions.

It was pointed out that UNHCR and INGO interpretations of “vocational training” differ from standard definitions, including those understood by the ILO and Sudanese law. UNHCR attempts to address vocational training were found to be developed separately from existing national structures and without consultation with them.¹⁵³

152 UNESCO, *TVET Sudan Policy Review* (2016), p. 26.

153 According to TVET expert interviewed in Khartoum, 4 July 2021.

The need for a Joint Education Needs Assessment was identified by the Education Cluster Assessment Working Group – this was planned at the time of writing.

Summary

- ▶ There has been public political priority assigned to addressing vocational and technical training to meet job creation and employment needs. However, the national bodies SCVTA and NCTTE lack political clout and are not well resourced or organized enough to respond effectively. The NCTTE, in particular, seems to lack vision, empowerment and capacity.
- ▶ Coordination between SCVTA and NCTTE on vocational and technical training, respectively, does not appear strong.
- ▶ Data collection methods at vocational centres and technical schools are not reported as effective or highly functional; disaggregation to identify refugees does not appear to be standard practice.
- ▶ National education policies and vocational training strategies, such as they are, do not provide definitive guidance on inclusion of refugees beyond basic education.
- ▶ Refugees in camps are not accessing formal technical or vocational training. Of the barriers faced, physical access is the most fundamental – refugee camps are located too far away from training centres and schools to be affordable for regular legal or illegal travel, while movement restrictions rule out boarding options. There were no reported training opportunities being provided in the camps at the time of research.
- ▶ Acceptance to apprenticeship programmes at vocational training centres – the most well-regarded vocational training option – are predicated on completion of basic education. Non-Sudanese basic education completion was stated to be accepted, but the overall requirement excludes refugees who have not had access to primary schools, which was the case for several of the camp-based respondents.
- ▶ Entrance requirements to training opportunities are, therefore, mainly theoretical barriers for camp-based refugees. The biggest barrier is to apprenticeship training, which requires completion of basic education and for which competency-based testing is not yet accepted.
- ▶ Refugees have more chance of accessing short courses, which have lower entrance requirements. However, there is lower recognition for such courses; combined with associated financial costs, under-resourced facilities, and relatively low value of course completion to employers, these may not prove compelling options for refugees.
- ▶ Women are not restricted from any courses in theory, and in practice, Sudanese female applicants are reported as enrolling for several traditionally male-centric courses. However, no refugee women were currently enrolled in any of the schools or training centres visited.
- ▶ There are few opportunities to access business development training or employment services in the areas covered by fieldwork.
- ▶ International agencies have differing levels of engagement with existing TVET policies and strategies – some are not developing strategies in line with national frameworks.
- ▶ On-the-job training is a more realistic option than the formal apprenticeship course. Employers are allowed but not bound to provide training to staff, and for the informal labour options most available to refugees, there is even less onus on employers to invest in structured training.

2.4.3 Rights at work

Access to justice and legal services including grievance mechanisms to protect rights at work

Sudan has generous laws relating to protection at work. The Labour Law is applicable to “labourers” without specifying whether they must be citizens, and rights are also extended to those working informally and without contract. The right of any worker, formally employed or not, to make a formal complaint against their employer and take their grievance to court was accepted and clearly stated by a refugee lawyer in Khartoum as well as by labour office officials in all three states sampled. The labour office representative from El Fula outlined that “a foreigner or refugee, if he is wronged by his employer, has the right to file a complaint and sue before the labour court or any judicial system.” The officer from Gedaref consolidated this point saying, “there are no barriers [to seeking justice], even if it is not official work, the labour office deals with it.” The lawyer in Khartoum had represented refugees employed informally for such cases and affirmed that this right is commonly put into practice, a finding further substantiated by UNHCR.

Freedom of association

The right of association, particularly for trade unions, is currently in a state of transition. Trade unions and the right to assemble have had a tumultuous history in Sudan, and although previously permitted under the 1998 Constitution, in reality only the government-controlled Sudan Workers’ Trade Union Federation (SWTUF) functioned legally, and collective bargaining was not possible. Trade unions are currently non-functional legally and awaiting the enactment of the new Trade Unions Act passed by Cabinet in July 2021.¹⁵⁴ Unions do exist, however, and the Sudanese Professionals’ Association, an umbrella group of 17 trade unions which formed formally in 2016,¹⁵⁵ has been an active force since the 2018 protests and revolution.

Understandably, there were mixed responses from Chambers of Commerce regarding the state of trade unions and the permissibility of refugees to join them. A labour office official from El Fula considered that “a refugee is not entitled to join a union from a legal point of view; they don’t work in the formal sector, they cannot join any kind of representative union or federation,” while the labour official from Gedaref pointed out more practical barriers, saying that “as refugees don’t have work contracts or permanent residences, they cannot be considered for membership.” This indicates that informal sector workers have no access to unions, which would affect informal Sudanese workers as well as refugees working informally; however, this should be verified once the new Trade Union Law is published.

The understanding of the Chambers of Commerce in Gedaref is that there is no legal reason why a refugee could not join a trade union, the biggest barrier being that trade unions are currently suspended while the new law is promulgated. A local businessman in Ed Daein had a similar understanding, stating that “if a trade union exists on the ground, then there is nothing to prevent a refugee from joining it, providing they are employed in an area under the jurisdiction of that union.”

Freedom of movement

The COR is responsible for managing refugee movement, and in the camps visited, they did not state any difficulties in implementing the laws. Applications to leave the camp are made to the camp manager who then liaises with COR to assess the request. All COR representatives interviewed stated that travel requests

¹⁵⁴ Copies of this law are not yet publicly available, and the act has not been reviewed as part of this study.

¹⁵⁵ The Sudanese Professionals Association is a continuation of the long history of Sudanese professionals’ attempts to form independent trade unions and bodies to defend their rights and seek to improve their working conditions. Several attempts to form such bodies were made in the past; most notably the attempts to form a professional alliance in 2012 and 2014. Both failed to achieve their goal because of the regime’s opposition, which led to the persecution and arrest of key founding members.

are almost always accepted within 24 hours, as long as there is a specified return date. The Gedaref official receives about 20 requests per day, while the West Kordofan and East Darfur officials have a lower request rate at only one or two per month. The key reason for travel is illness requiring a visit to hospital, which may involve a referral to Khartoum. Permits are not granted for the purposes of jobseeking, meaning non-South Sudanese camp-based refugees cannot legally leave the state to find work.

Authorities acknowledge that some refugees leave the camp without permission and travel with smugglers. If they are caught by the police, bribes can be paid, or the refugees get sent back to the camp rather than face more severe consequences. As the locality administrator from Shuwak said, “there are laws to regulate their movement, but they are not enforced and several move around illegally without a permit.” For South Sudanese, this would be relevant if they are not registered and could not prove they are allowed to move.

In the camps visited, the refugees appeared able to travel in and out of the camp for short distances or within the state with relative ease (although the situation is understood to be different in the camps for Ethiopian refugees in the east). Camp-based refugees from, Nimir and Um Gargour travel without permits or serious hassle between their camps and the nearest towns, as do those from Kharasana settlement. Kharasana town and Keilak are accessible for Kharasana residents, while Ed Daein is within an hour reach of Nimir residents by tuk tuk. Shuwak is the nearest town of substance to Um Gargour and much closer than Gedaref town.

For most, casual travel within the state appears manageable, and a refugee from Um Gargour claimed that “travel is possible within the state of Gedaref; for further than that we need a permit,” and another from Nimir claimed he could “move without permits in the markets of East Darfur State.” A camp leader for Nimir stated that “we can enter and exit without the need for permission from any quarters” but most people will travel within the vicinity of the camp. This allows some from Nimir camp to engage in daily work in the nearby town, where they also spend the night – either renting beds or staying with friends. Travel in and out of the camps to engage in agricultural work is also common and unrestricted. Although movement is possible without permits, the cost of transport to go further afield is still a barrier, and smugglers charge high prices and are reported to harass female travellers.

Refugees were all aware of how they could request travel permission, although they state that they would only do so for serious illnesses. They put the approval time for a request between three and 14 days.

Movement out of the Ethiopian refugee camps in the east is reported as much more restricted. There, only very special cases may be permitted to travel to Khartoum, such as people suffering from serious illnesses, victims of trafficking or unaccompanied minors. An individual who has registered in a camp will not be allowed to re-register or access refugee services with a card registered elsewhere if they move to Khartoum or any other new town.

Social security and protection

A number of initiatives have been set up in Sudan to offer social security to workers; however, in practice they are not sufficiently inclusive of refugees or other displaced people.¹⁵⁶

The National Health Insurance Fund (NHIF) was established through the National Insurance Corporation Act of 1994 and is regulated by the 2016 Health Insurance Act. Refugees are eligible to benefit from the fund but must hold a valid work permit in order to access health insurance. As noted previously, refugee work permit application is low, and so few refugees will be able to benefit from it in practice. Of those who do apply, preferential treatment has been given to Arab League refugees.¹⁵⁷

156 Former initiatives that are now inactive include the Strategic Cash Transfer Programme (SCTP) and the Shamel Programme. The SCTP excluded refugees and IDPs, while Shamel included both refugees and IDPs under its livelihoods pillar.

157 Cononge and Guérin (2018), pp. 7-8. Cited in “Extension of Social Protection Coverage to the Informal Economy in Sudan” (draft), ILO (2021).

The UNHCR and ILO started to pilot a scheme to allow refugees in Khartoum to participate in the NHIF in 2017. In 2019, the Joint Initiative for Migrant Protection and Reintegration of the European Union (EU) and the International Organization for Migration (IOM) signed an agreement with the NHIF for a pilot to subsidize NHIF contributions of up to 2,000 Sudanese refugees returning from Libya, Egypt, Niger and Chad.¹⁵⁸ However, these initiatives were not directly relevant to the areas sampled in this study.

The National Pension and Social Insurance Fund (NPSIF) was established under the 2016 Social Insurance and Pension Law to provide pensions to public and private sector workers. This fund is accessible to those who pay into it via formal employment. It is unclear whether refugees with work permits are able to benefit from this scheme in theory or in practice.

Zakat is the most comprehensive source of social protection in Sudan, although the value of cash transfers is low. Local Zakat committees target poor families to support without appearing to discriminate specifically on formal or informal employment status. However, it is unclear whether refugees or IDPs are included in their identification processes.

The Family Support Programme (Thamarat) is an internationally funded cash transfer programme intended to cushion the blow of economic reforms and related commodity price hikes on the Sudanese population. Payments are linked to national ID card numbers, thus excluding refugees and IDPs without identification. However, a provision to issue temporary programme IDs for those without a national ID is due.¹⁵⁹

Overall, of the programmes that continue to exist, coverage, adequacy of benefits and comprehensiveness of the systems are thin for citizens engaged in formal employment, even more so for informal workers, while refugee and IDP populations are further disadvantaged by lack of national ID numbers.

None of the refugees sampled in this study were employed formally and so were unable to access the health insurance or pension funds. The refugees sampled had not heard of the Thamarat programme and did not report receiving Zakat payments. The PROSPECTS baseline survey found that more households had access to social protection services from international NGOs and UN agencies than from the government, such as free or subsidized healthcare (12 per cent, n=137), livelihood support (5 per cent, n=59), and vouchers or in-kind distributions for food support (6 per cent, n=66).

Social security reliance was found to be low amongst host communities, and as a Sudanese employer from Gedaref stated, "There is no social security culture, even among Sudanese, and it rarely happens. We help refugees with good treatment and delivery of some services, but it is not social security; the employer gives some guarantees of protection to the refugee." The Gedaref chambers of commerce said that for everyone, not just refugees, "social security is inactive" – a perception supported by the PROSPECTS baseline survey, which found very limited social protection coverage in East Darfur and West Kordofan, in large part owing to the fact that most people are employed in the informal sector. The PROSPECTS baseline survey found that 77 per cent of sampled households in the programme target locations were not receiving benefits from any provider, with only 6 per cent receiving government provided benefits. These may refer to national health insurance, which is the most accessible national benefit, but even where households are covered the health centres available only offer a very limited range of services.

Conversations with Sudanese workers outside Khartoum suggest that even they struggle to access cash payments from schemes such as the Family Support Programme or to benefit from workplace insurance. As the Family Support Programme is enacted through the civil registration system, refugee access to this form of social protection is already precluded. Overall, there was ambiguity amongst employers and authorities as to whether a refugee would be entitled to social protection schemes and insurance even if they were working legally and with a formal contract.

158 For further details on these initiatives, refer to the upcoming ILO report, "Extension of Social Protection Coverage to the Informal Economy in Sudan".

159 According to findings from upcoming ILO report, "Extension of Social Protection Coverage to the Informal Economy", p. 31. Additionally, since the coup of 25 October 2021, this initiative has been put on hold.

Trust in informal social responsibility obligations is the reality for most refugees engaged in daily work. As a Sudanese with an unregistered business in Ed Daein outlined, "If one of the workers is injured while working, we treat him on the basis that he is a work colleague and there is no difference between us as an employer and workers. We are all workers. There is no medical insurance requirement here because there is basically no permanent work contract."

The PROSPECTS baseline survey found that none of the employed persons in the target locations meets the ILO decent work conditions. This is attributed to the fact that none of the employed persons had access to any of the measured social security options. In addition, most employed persons did not meet the standards for a safe working environment, and 57 per cent (n=264) of the individuals – including host communities, refugees and IDPs – were working under hazardous conditions.¹⁶⁰

Labour offices were clear on their responsibilities under the Labour Law, and some of their key stated responsibilities include undertaking workplace inspections, assessing occupational safety, solving individual and collective problems between employees and employers, and enforcing work injury laws and minimum wage laws. Inspection of informal workplaces was not reported, although they do deal with complaints from both formal and informally employed workers.

Summary

- ▶ Sudan offers liberal access to justice for grievances or work-based complaints, and there was corroborated agreement that informal refugee workers not only have the right to complaints to court but are also practising this right (at least in Khartoum).
- ▶ This is a moment of ambiguity regarding freedom of association and right to join trade unions as a new law is in the process of being promulgated and has not yet been made public. Yet refugee rights to access associations and unions were not clear even under the 2010 Trade Unions Law.
- ▶ Movement restrictions for the refugees sampled do not appear to be strictly enforced for travel around the camp or within the state. Bribing officials and paying smugglers are viable options for refugees; however, this comes at a financial and sometimes personal safety cost and those who reach Khartoum or other destinations will not have access to refugee services. South Sudanese are exempt from movement restrictions.
- ▶ Travel permissions are sought primarily for health reasons, although the associated costs are thought to be limiting some refugees from making these requests.
- ▶ Overall, refugees did not seem to have ambitious movement desires, with travel costs being a more significant barrier than legal repercussions.
- ▶ Social security access for refugees remains a grey area. Fieldwork could not ascertain how this works in practice as no formally employed refugees could be identified. Legal provision is not well defined by existing laws.
- ▶ Social security provision for Sudanese workers does not appear strong, and anecdotal evidence suggests that many are not receiving the insurance and cash transfers they are eligible for.
- ▶ Informal mechanisms of workplace protection exist but are not regulated or inspected and are dependent on the employer's sense of duty.

160 ILO PROSPECTS, *Sudan Baseline Survey* (2021).

2.4.4 Naturalization pathways open to refugees

Legal pathways to seeking citizenship are outlined in the Asylum Act; however, as suspected by a refugee rights lawyer, “although in theory you can apply, you will not succeed.” There is high scepticism in the feasibility of this option. Under the former regime, obtaining Sudanese passports and national numbers illegally was feasible, and several older-generation Eritrean refugees in Gedaref are reported to have done so. A study focusing on Syrian refugees in Sudan reiterates this and found that under al Bashir, an estimated 10,000 Syrians obtained Sudanese passports. However, the transitional government is enforcing a far less tolerant refugee policy, and passports are not easily obtained now, while those already issued to Syrians are reportedly being reviewed and revoked.¹⁶¹

The South Sudanese refugees interviewed almost universally wanted to return to South Sudan and had no ambitions of applying for Sudanese citizenship. None reported having ever tried and the general assumption was that it was not an option for them. For those in Gedaref, gaining legal Sudanese citizenship now was not on their agenda and they preferred to wait for third country resettlement through the UNHCR.

Also important to note is that access to birth registration is limited, placing refugee children born in Sudan at heightened risk of statelessness.

▶ 2.5 Concluding remarks

Sudan has been a welcoming host for decades, and has made significant efforts to accommodate its large populations of refugees. Special status has been offered to asylum seekers from Arab League countries as well as South Sudanese, in order to ease their access to employment, residency and services. Despite these efforts, life in Sudan remains arduous for many displaced people, and integration is often more viable than assisted voluntary return or resettlement. As such, they need options to thrive and contribute to their own and their communities’ development

This research found that the existing laws do not provide adequate guidance for refugee inclusion. The 2014 Asylum Act provides the most explicit direction for refugee rights and limitations in Sudan; however, it does not cover many of the issues explored by this study, including business licensing, land leasehold, access to finance or rights within the workplace. National laws that guide these matters do not reference refugees either, and supplementary regulations or gazettes to provide guidance on interpretation were not identified. Refugees, therefore, exist in an expansive space of legal uncertainty which is usually resulting in conservative and restrictive interpretations of the law that hinder refugees from legal and productive means of income generation.

The ambiguity of the law and a lack of policies outlining processes (such as work permit or business licence application) or exceptions to refugee limitations (such as for South Sudanese or Arab League nationalities), along with the general weakness of the central state, means that in practice, authorities on different levels and refugees themselves are unclear as to what is possible regarding business development, accessing finance, skilling up or working the land, in addition to being uncertain as to how to do so, and a large degree of variance in solutions and treatment can be observed between different states, localities, and communities.

¹⁶¹ “No Longer a Guest: Permitting Syrians in Sudan”. Bergen: Chr. Michelsen Institute (Sudan Brief 2020:6) p. 4.

There are some wider opportunities to influence the legal frameworks, though this is beyond the mandate of PROSPECTS. These include the discussions already underway to revisit the Asylum Act and current practices towards South Sudanese, Syrian, and Yemeni refugees, interactions between Sudan and IGAD policies. Specifically, Sudan has not yet ratified the 2020 Protocol on Free Movement of Persons in the IGAD Region, which could be a point of advocacy, including a focus on mutual recognition of skills that could facilitate those skilled refugees to access what limited formal jobs are available. Similarly, support or advocacy could be targeted towards helping Sudan action the pledges made at the Global Refugee Forum.

Topics could include definitions of “brother and sister” Arab League refugees and operationalisation of the Four Freedoms for South Sudanese, with details on which elements of the current Asylum Act apply to them, what their requirements are regarding their ability to work, do business, access training, be protected at work and gain citizenship, as well as the development of separate detailed provisions regarding refugee cards as legitimate forms of identification and the work permit application process.

Sudan's stated commitments to international and regional initiatives, including for durable solutions and access to education, are positive first steps. Support from international actors could be given to deepen existing commitments to international frameworks.

Significant gaps in the legal framework aside, opportunities for work in Sudan, especially in the formal labour market, are severely lacking. This is true nationally, but particularly for those living in rural camps or settlements in the PROSPECTS target areas. While more needs to be done to ensure fuller coverage of the basic steps of refugee registration and documentation, efforts to integrate refugees into the workforce will need to include a national impetus towards creating and enforcing a stronger legal and practical environment for business development. There should be more urgency for the government to revise its business development framework and consider stronger incentives for formalization. However, given the current political situation, this seems unlikely in the short term, and engagement at the local level on how rules are interpreted is likely to be the only avenue available.

Integration into host communities will likely continue to be challenged by competition caused by the increasingly punitive economic environment and the antagonism between refugees and host communities, exacerbated by the recent political developments. IDP returns according to the JPA timeframe are also unlikely to be met, especially in the current uncertainty post-coup. However, ILO and PROSPECTS partners may have a role to play in supporting ongoing work to develop national durable solution strategies, including advocacy for the re-instigation of discussion about South Sudanese citizenship options, as well as influencing at the local level to improve the conditions of displaced people. Coordination and communication with other actors are key – with the Joint Mechanism for Durable Solutions, the Durable Solutions Working Group, the Joint IDP Profiling Service (JIPS), the UN Country Team, and the UN Peacebuilding Fund (PBF), as well as with other involved INGOs such as the Norwegian Refugee Council (NRC).

Under the transitional government, the generous open-door policies practised by Sudan under President al Bashir already showed signs of reversal, and the future development is unclear. Discussions with high-level officials indicate that tolerance for the openness shown to South Sudanese, Syrians and Yemenis through prima facie or prima-facie-like asylum is waning, and that policy reversals may be on the cards. The economic reforms undertaken by the transitional government to address the decades of former financial mismanagement are hurting the pockets of middle-class Sudanese, let alone the large population already experiencing poverty. The conditions for refugee acceptance are growing harsher among host communities, and against the high-level political battle for the country's democratic transition and security sector reform, keeping refugee inclusion and durable solutions on the agenda will require coordinated and sustained efforts and advocacy.

► Annex I. Actionable areas for PROSPECTS

Refugee access to labour markets

1. Obstacles to refugee registration present the first theoretical barrier to getting a work permit. Registration of asylum seekers across Sudan is patchy, and those who are not registered and do not have a refugee card are not eligible to apply for work permits.

- There are varying degrees of material, logistical and human resources available to undertake registration. In some cases, the lack of sufficient COR resources is reducing the number of people that can be registered in a timely fashion.
- There is a particular registration backlog among non-camp-based South Sudanese. Incentives to register among urban South Sudanese appear low, while motivation and competence of COR to conduct their registration is also reportedly low.
- There are multiple types of asylum category in Sudan, not all of which require registration. Brother and Sister status does not require registration, but the rights afforded this status and the pathways required to work legally are not captured in written policy. This applies most significantly to Syrian and Yemeni refugees, and the issue is due to be reviewed by the Ministry of Interior.

2. Obstacles relating to the work permit application process are resulting in low levels of work permit application. Without a work permit, refugees may not enter the formal labour market.

- The process for applying for a work permit is not outlined in written policy.
- Information on the documents and steps required as part of the application process do not appear to be published or made publicly available for potential applicants to follow.
- This indicates that there is not a uniform, mandated process to follow on a nationwide level. Labour offices and COR staff beyond Khartoum do not share the same understandings of the work permit application process, and those in Khartoum are not aware of what takes place beyond the capital.
- There is a lack of shared understanding among officials at the sub-national level of refugees' right to work, as per the 2014 Asylum Act.

3. Incentives among refugees to apply for a work permit are low.

- Formal work opportunities that require work permits are rare outside Khartoum. Most opportunities for refugees in camps and small towns are informal daily labour and in agriculture.
- The lengthy process and bureaucracy involved in the application process disincentivize refugees from applying for work permits.
- To the extent that employers hire refugees, they are often willing to do so without their having work permits, further eroding the urgency or need to apply for them.
- There do not appear to be consequences or application of the law for hiring workers without permits, so there are few incentives for employers to insist on hiring refugees with work permits.
- None of the refugee respondents interviewed had attempted to apply for a work permit personally, and none of the officials interviewed outside Khartoum had processed a work permit application.

4. Legal provision for the management of small businesses is lacking in Sudan as a whole; the lack of specific attention to refugees leaves a grey legal area for their rights to own and register businesses.

- ▶ There is no law in Sudan that guides small or micro-enterprises, and existing laws, including the 2021 Investment Encouragement Act, do not provide any specific guidance regarding refugees' ability to register private businesses.
- ▶ The 2014 Asylum Act does not touch upon refugee rights to own or register businesses.
- ▶ Although the 1951 Refugee Convention does provide some basis for refugees' right to self-employment, Sudan has no corresponding framework to guide how this would be done in practice or with respect to business start-up and ownership.
- ▶ While it was previously possible for naturalized Sudanese (that is, foreign nationals with Sudanese passports but who were not Sudanese at birth) to own businesses and operate as Sudanese, recent decisions have broadly rescinded this option.
- ▶ Neither the COR nor the UNHCR were aware of a process for refugee business registration in Khartoum or in the target states. Labour offices and commercial registrar offices interviewed demonstrated conflicting interpretations and understanding of whether refugees can register businesses – an understandable consequence of the lack of legal clarity on the area.
- ▶ Some evidence suggests that a registered refugee may be able to enter into business with a Sudanese partner, under whose name the business would be registered. The legal basis of this was not identified.
- ▶ None of the respondents interviewed had attempted to register a business themselves, nor did they know of anyone else who had tried to do so.

5. Obstacles in accessing finance and capital are a more immediate and tangible barrier than the lack of legal provision for business registration.

- ▶ There appears to be a basis for registered refugees to legally open bank accounts using their COR-issued refugee cards as proof of identity, according to a decree issued by the Central Bank of Sudan.
 - ▶ However, this message had not reached the refugees interviewed, and this is likely replicated among the broader refugee population. None of those interviewed had tried to set up a bank account based on the understanding that to do so required proof of national identity.
 - ▶ There was a demonstrated gap between refugee understanding of their rights to open an account and the assumption of senior COR staff that to do is possible and easy.
- ▶ Apart from theoretical ambiguities, outside Khartoum and state capitals, there is a dearth of banks physically located near many rural refugee settlements.
- ▶ Micro-credit schemes for refugees appear to be legal, with some precedent established by INGOs in refugee camps, but none were currently operating in the locations sampled, and no government-provided schemes were reported as available within the area.
- ▶ Access to mobile money (as opposed to mobile banking) should be possible in theory, but there is little knowledge of this option. Related to this option:
 - ▶ Refugee ID cards are not accepted by shops as valid means of identification, and therefore refugees cannot buy SIM cards in their own name. This does not appear to be an explicit rule, but without being definitively stated as a legal form of ID, practice has evolved to not accept refugee cards. This barrier did not appear to be well understood at national COR level.
 - ▶ Refugees do, however, purchase SIM cards via Sudanese contacts.
 - ▶ There is evidence of relatively high mobile phone ownership in the areas sampled as well as in some of the surrounding localities. Phones tend to be analogue without internet connection capability.

- ▶ Even with access to bank accounts and mobile money options, it should not be forgotten that these populations have very little money to put into accounts or transfer, and that their home networks are in similarly constrained financial positions.

6. Lack of access to capital means that refugees are more likely to set up informal floor stalls or not attempt business at all.

- ▶ To set up a market stall in a town requires permission and payment of fees to the locality administrator but does not require a commercial licence. Most respondents claimed that the costs of setting up formal kiosks were too high for them.
- ▶ For those living outside main towns, the costs of routine travel into town to do business are prohibitive.
- ▶ Setting up small stalls to sell items like food and clothing within camps does not require a permit.

7. There is basic legal provision for support services such as career guidance or employment services to operate but no targeted policy toward refugees. In general, such services are lacking and under-developed across Sudan.

8. Land ownership is not possible for refugees; options for documented leases of land may be possible but appear untested; renting land through customary means is possible and common; the most accessible option for refugees is to work on others' land as daily labourers.

- ▶ According to Sudan's statutory laws, freehold ownership of land in Sudan has not been possible since 1970. There could be some interpretation of the 2014 Asylum Act to allow for refugees to own land as "immovable property", but the reality is that the 1970 Unregistered Land Act transferred most land into government ownership and it can now only be leased. No framework exists to guide specifically against refugee ownership of land, but it is unlikely that they would be able to do so where citizens cannot.
- ▶ Land may be formally leased with registration and documentation of the leasehold provided through a process involving the locality administration, Ministry of Planning and Infrastructure and Registrar General office. However, there are no legal frameworks that specifically guide how this would or would not apply to refugees, and this study did not find evidence of this happening in practice.
 - ▶ A special case is Um Gargour camp in Gedaref where the government allocated land to the camp area in the 1970s and allows refugees from that era to rent packages of land on a yearly basis. Land in Gedaref is not subject to the level of customary ownership and contestation as in Darfur or Kordofan and is generally recognized as belonging to the government.
- ▶ The most realistic means of land tenure for a large proportion of refugees is through customary systems, which are applicable in the PROSPECTS sites of West Kordofan and East Darfur. This form of land access is commonly practised and requires refugees to enter into direct agreements with the customary landowner from the tribe of that location. Such agreements are not recorded or registered on paper records; they are brokered orally without government intervention and within the rules established by the native administration of that area.
 - ▶ Such leases tend to last for one season only. This has advantages to both the owner (to avoid claims on the land on behalf of the lessee) and the renter (to avoid losing money if the agreement is not honoured by the lessor).
 - ▶ Leases of this nature are open to several insecurities on the part of the refugee, who may be easily exploited by the landowner, with arbitration available only through native administration systems, which may not favour the outsider.
- ▶ For refugees who cannot afford the seasonal rental fees or who wish to avoid the exploitation and potential financial losses of entering into customary lease agreements, they may work as daily labourers, earning a small wage without claim to the land or produce. Instead, they may grow small amounts for household use in home gardens.

- ▶ State governments appear to have the discretion to allocate land for special purposes such as for refugee camps. Such decisions and subsequent implementation do not follow a prescribed policy or process to determine the specifics of the allocated land or to engage in prior consultation.

Refugee access to training

1. There has been national level priority assigned to addressing vocational and technical training to meet job creation and employment needs.

- ▶ A new, emergency strategic plan for the transitional period is due to be published by JICA and UNESCO, intending to respond to the government's call for job creation. It should focus on technical and vocational training policy, but it is not known whether there will be specific consideration of refugee inclusion.
- ▶ The national bodies entrusted to oversee technical and vocational training, the NCTTE and SCVTA respectively, seem to require more political clout, empowerment and funding to revitalize the sector.

2. Refugee access to education is legal at basic, secondary and tertiary levels. Technical and vocational training policies do not exclude refugees, but neither do they provide specific guidance or intention to include them.

- ▶ The General Education Sector Strategic Plan offers more attention to the inclusion of refugees and other displaced groups in basic education than secondary education but does not include targets or indicators specific to their needs.
- ▶ Of the laws and policies identified in the study, half did not mention refugees, and the other half included only passing references to "displaced people" or "vulnerable groups" without accompanying frameworks or plans to guide admittance criteria or means to support them to enrol and stay in education.
- ▶ Education data collection systems are not strong and such as they exist, do not appear to disaggregate data to capture refugee or other displacement status by enrolment, retention or other metrics.
- ▶ Sudan is signatory to regional agreements that commit to recognizing refugee educational qualifications from their home countries and to harmonize standards and accreditations of learning. However, these have yet to be ratified, or the procedures to put them into practice have yet to be developed.

3. Obstacles to refugees accessing vocational and technical training are less to do with legal exclusions and more to do with physical access to education centres and schools.

- ▶ Technical secondary schools and vocational training centres are situated in urban areas beyond the routine reach of most camp-based refugees. There are only limited numbers of vocational training centres across the country, but they are most concentrated in the greater Khartoum area, and none were identified in East Darfur or West Kordofan.
- ▶ While movement restrictions were found to be relatively lax for movement within a state (with notable exceptions for recently arrived Ethiopian refugees in the east) boarding options in urban areas may prove too prolonged an option for out-of-camp travel, in addition to being too costly.
- ▶ Acceptance to apprenticeship programmes at vocational training centres - the most well-regarded vocational training option - are predicated on completion of basic education. Non-Sudanese basic education completion was stated to be accepted, but the overall requirement excludes refugees who have not had access to primary schools, which was the case for several of the camp-based respondents.
- ▶ Short courses provided by technical schools and VTCs have lower entry requirements but do not offer the same returns in terms of quality of teaching, qualification gained or workplace recognition.
- ▶ None of the technical or vocational institutes interviewed had any refugees enrolled in their current programmes.

4. On-the-job training is a more realistic option than the formal apprenticeship course. Employers are allowed but not bound to provide training to staff, and for the informal labour options most available to refugees, there is even less onus on employers to invest in structured training. More than three times as many young people have received informal apprenticeship training than formal vocational training, making this an important pathway for entrance to the labour market.

Refugee rights at work

1. Legally enforceable rights at work are generally not applicable to the majority of refugees who work in the informal sector. Not only are Sudanese laws on labour rights, social protection, and the right to association geared towards workers in the formal labour market, they do not provide extra information on how applicable they are to refugees.

- ▶ An important exception is the right to justice, for which Sudan offers a liberal interpretation of the 1997 Labour Law and allows any worker, including refugees and those working in the informal sector, to seek justice for a work-based grievance.

2. A new trade union law has been passed and should be published imminently. The 2019 Transitional Constitutional Charter guarantees the right to organize and join associations and professional unions, but there is no specific guidance as to refugee rights to form or join one.

- ▶ Respondents demonstrated conflicting understanding of refugees' ability to join a trade union or professional body, but this may be resolved with the publication of the new law.
- ▶ The difficulties for any informal sector workers to join a union means that many Sudanese workers also cannot join a trade union. Providing the basis for and supporting the development of informal worker unions could be a beneficial step.

3. Freedom of movement restrictions affect refugee nationalities and locations differently.

- ▶ Camp-based South Sudanese appear able, in practice, to travel without permission between the camp and nearby towns; however, permission is needed to go further afield out of the state, for which permission is normally only granted for medical reasons.
- ▶ For them, bigger barriers are the cost of travel and the insecurities faced while travelling.
- ▶ Implementation of the Four Freedoms would allow them formal freedom of movement. The transitional government's Draft National Strategy for Durable Solutions commits to pushing for implementation of these freedoms and aims to expand the right of movement to other refugees.
- ▶ The strict encampment policies for newly arrived Ethiopian refugees in the east do not seem to be enforced for the refugees in Um Gargour camp. While they should, in theory, have to apply for permission to leave, in practice it appears they are able to move within the state quite freely.

4. Assessing social protection to refugees was a theoretical exercise, as none were employed formally.

- ▶ Refugees work predominantly in the informal sector or informally within formal businesses making it hard to establish decent work. Other studies have found that none of the employed persons in the target locations meet the ILO decent work conditions.
- ▶ Legal clarity regarding the right of refugees with work permits to access social security benefits is unclear, while social security provision for Sudanese citizens is already insufficiently accessible or rolled out.

Naturalization pathways

Although there is a legal pathway to naturalization for refugees, there are few who believe that gaining citizenship legally is feasible. During the Bashir era, gaining Sudanese passports was relatively easily done, and several Syrian and Eritrean refugees, in particular, were able to do so and enjoy business rights and other freedoms afforded to Sudanese. However, since the 2019 transition, the government has tightened the regulations around illegal passport acquisition and has even entered into a campaign of rescinding passports issued during the previous regime.

The small sample of refugees interviewed had no intention of seeking permanent settlement in Sudan or gaining Sudanese citizenship. Most South Sudanese have hopes to return to their places of origin, while other studies found many refugees to consider Sudan a transit zone, preferring to end their journeys in a different country. This is not likely to be a feasible durable solution based on refugee and Sudanese government preferences.

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