

**NRC**

NORWEGIAN  
REFUGEE COUNCIL



# Supporting Kakuma's Refugee Traders

The Importance of Business Documentation  
in an Informal Economy

August 2018

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## In appreciation

The Norwegian Refugee Council (NRC) and the International Human Rights Clinic at Harvard Law School (IHRC) would like to thank the refugees in Kakuma who shared their experiences with us for this briefing paper. We would also like to thank partners who supported the research, including the UN Refugee Agency (UNHCR), the Refugee Consortium of Kenya (UNHCR's legal aid provider), and the Danish Refugee Council. Finally, we want to extend our gratitude to the NRC ICLA staff in Kakuma and IHRC students who supported the fieldwork and analysis.



Cover photo: Market in Kakuma I, January 2018. IHRC.

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# I. Executive Summary

One of the largest refugee camps in the world, Kakuma camp and the nearby Kalobeyei settlement are home to close to 186,000 refugees, nearly 40 per cent of the total number of registered refugees living in Kenya. Under Kenyan law, all refugees are required to live in and remain within designated refugee camps, of which there are two – Kakuma and Dadaab – both located in isolated and marginalised parts of the country. To leave a camp without permission is a criminal offence. Formal work and employment opportunities are largely inaccessible to Kakuma’s refugees, and most rely on humanitarian assistance as their primary form of support.

Nonetheless, Kakuma has a thriving informal economy. A sizeable number of refugees (estimated at between 12 to 18 per cent of Kakuma’s population) run informal businesses there, providing goods and services to other refugees, as well as the local host community. Kakuma lies within Turkana County. County law provides that all business owners, regardless of whether their businesses are formally registered (through a national government mechanism), must pay for and annually renew a “business permit” for each business they run. Large numbers of business owners within Kakuma hold business permits and the county government makes a considerable effort to ensure compliance.

This briefing paper explores the significance of business permits to Kakuma’s business owners and tradespeople and examines challenges experienced by refugees who seek to obtain business permits. It aims to contribute to discussions among humanitarian,

development, and local actors on how to ensure that business permit practices help refugees to safely run businesses that build refugee self-reliance, as well as support refugees to exercise their right to work, including through self-employment. The briefing paper complements “Supporting Kakuma’s Refugees: The Importance of Refugee Freedom of Movement,” which explores the impact of movement restrictions on Kakuma’s refugees.<sup>1</sup>

## Background

Kakuma refugee camp was established in 1992 on desert terrain with an average temperature of 35 degrees Celsius, limited access to water, and regular dust storms. Turkana County, which is home to the largely nomadic Turkana ethnic group, is one of the poorest and most remote parts of the country. In 2015, the Turkana County government set aside land for the creation of Kalobeyei, a refugee settlement intended to decrease overcrowding in Kakuma refugee camp. Kalobeyei lies 25 kilometres north-west of the camp and is designed to be an “urban centre” that will integrate the refugee and local Turkana populations. In this briefing paper, “Kakuma” refers to Kakuma refugee camp and Kalobeyei settlement. As of July 2018, more than half of Kakuma’s population hails from South Sudan, just under a fifth from Somalia, and most of the remainder from the Democratic Republic of the Congo, Ethiopia, Burundi, and Sudan. Around 20 per cent of Kakuma’s refugees live in Kalobeyei.



Market in Kakuma III, January 2018. IHRC.

Refugees in Kakuma run a range of businesses, from shops selling food and household goods to hairdressing salons and motorcycle repair businesses. They obtain business permits for their businesses either at a county government office located near the camp, or from county officials who come through the camp annually – accompanied by police – to issue business permits and collect fees. It is a county-level offence, punishable by a fine of up to 150,000 KSH (\$1,490 USD) and/or imprisonment not exceeding a year, to fail to have a business permit.

## Key findings

Research for this briefing paper was primarily conducted in Kakuma in January 2018 and involved interviews and focus groups with refugees, camp and local officials, the UN Refugee Agency (UNHCR), and representatives of non-governmental organisations (NGOs). This research was supplemented by a quantitative survey of 841 refugees carried out in May 2018. Several key themes emerged:

- Refugee business owners generally considered that it was important to have a business permit because it showed they were complying with the law, gave them access to loans, and offered a sense of security, as well as protection from business closure.
- While many refugee business owners knew that they needed a business permit, some lacked awareness about how to obtain one or the costs and fee structures involved, or were confused as to which document constituted a business permit.
- Many refugee business owners felt that business permit fees were too high relative to their income, limiting their ability to make a profit.
- Refugees running businesses were affected negatively by a lack of freedom of movement, due to the requirement to obtain a “movement pass” from camp officials to formally leave Kakuma and the challenges associated with doing so.
- While business permits provide one potential protection mechanism for refugee business

owners, on their own business permits cannot support broader refugee self-reliance. Further livelihoods programming that supports business incubation, enhances market-based opportunities, and helps refugees to access credit – alongside removing barriers refugees face running formal businesses and engaging in trade – has a significant role to play in building refugee self-reliance.

## Recommendations

To better protect refugees’ right to work and promote self-reliance, the briefing paper recommends that relevant actors should:

- Continue to promote refugees’ right to work, including through self-employment, particularly in light of international commitments Kenya has made as a pilot country for the Comprehensive Refugee Response Framework (an annex to the 2016 New York Declaration for Refugees and Migrants), and in regional settings.
- Raise awareness about business permits among refugees running business, including through providing clear and specific information about how to navigate and comply with rules around business permits and on the official fee structure.
- Allow refugees with valid business permits to receive movement passes upon request and explore options around expanding the duration and geographic scope of movement passes, such as:
  - Waiving the requirement for refugees to have a movement pass for travel within Turkana County; and
  - Providing multi-travel and/or one year movement passes for refugees who meet stated criteria.
- Work with actors operating in the camp to investigate ways to better support business development, business growth, and the formalisation of business opportunities within Kakuma.
- As refugees constitute an essential part of Turkana County, ensure that refugee voices and perspectives are heard in the development of County Integrated Development Plans and relevant county laws, as well as in national refugee policy.

## II. Methodology

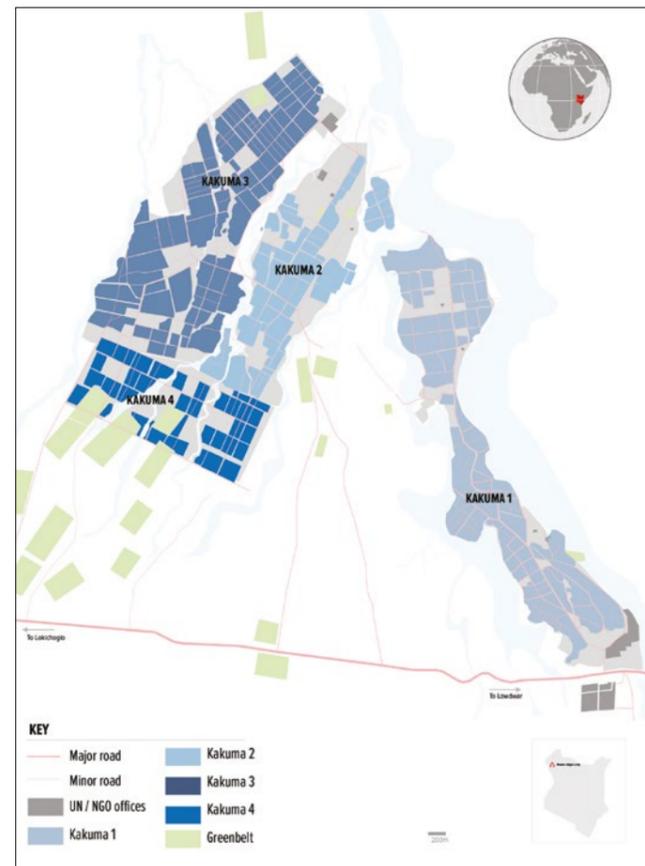
NRC Kenya and the International Human Rights Clinic at Harvard Law School (IHRC) collaborated to carry out research on refugee movement and livelihoods in Kakuma. The project began in September 2017 with desk research on relevant international, regional, and domestic law and policy. In November 2017, researchers carried out a preliminary field assessment in Kakuma. In January 2018, researchers travelled to Kakuma and conducted 40 one-on-one interviews with refugees, 12 focus group discussions with refugees, and 10 interviews with officials from county government, the Refugee Affairs Secretariat (RAS), UNHCR, and other bodies, as well as NGO representatives. In March 2018, an additional three focus group discussions with refugees were held. The aim of interviews and focus groups was to gain an understanding of a broad range of refugees' experiences with movement passes and business permits, to identify challenges around obtaining these two documents, and to explore the consequences refugees faced if they could not obtain them. Interviews and focus groups were based on a common set of questions, but were qualitative in nature. Unless otherwise noted, the stories and quotes in this briefing paper came from the January 2018 research.

To supplement the qualitative research, in May 2018 NRC Kakuma conducted a quantitative survey of 841 refugees. In this briefing paper, this survey is referred to as "NRC's survey." A mix of cluster, proportionate, and systematic random sampling was used to select survey respondents. The camp was divided into five clusters and further subdivided into 13 zones and 133 blocks from which a proportionate sample of four to six respondents were selected and interviewed by enumerators using a combination of open- and closed-ended questions.

In the survey, the majority of respondents were aged 18 to 30 (46 per cent) and 31 to 40 years (33 per cent) with an approximately even split of male (45 per cent) and female (55 per cent) respondents. South Sudanese comprised 36 per cent of respondents, followed by Somali (26 per cent) and Sudanese

(12 per cent). A large number of refugees had no formal education (32 per cent) but almost a third had completed secondary school (31 per cent) and a lower number had completed only primary school (23 per cent). Twenty-eight per cent of respondents had arrived in Kenya since 2016, and almost a quarter (24 per cent) indicated they had lived in or been relocated from Dadaab. The average family size was six people.

This briefing paper builds on NRC and IHRC's previous collaboration on "Recognising Nairobi's Refugees: The Challenges and Significance of Documentation Proving Identity and Status," a policy report published in November 2017.



Map of Kakuma refugee camp, June 2016. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations. © UNHCR.

## III. Background

### Kakuma refugee camp and Kalobeyei settlement

Kakuma refugee camp is adjacent to the town of Kakuma, inside Turkana County, close to the border with South Sudan, in the northwest corner of Kenya. Kenya's second-largest county, Turkana County is home to the Turkana, an ethnic group facing significant economic and livelihood challenges. Refugees comprise around a fifth of the county's population.<sup>2</sup> Kakuma's setting is remote: the closest town, Lodwar, is several hours' drive away; roads are often insecure and sometimes impassable; and transport costs are high. The area is also plagued by drought, with the authors of a 2016 World Bank and UNHCR study noting that "[c]ombined with the lack of public infrastructure and services, these droughts grow into famines with high mortality of both humans and livestock."<sup>3</sup>

Originally established in 1992 to house Sudanese refugees fleeing war, Kakuma refugee camp is divided into four sections, Kakuma I-IV. In 2012, the camp surpassed its capacity of 100,000.<sup>4</sup> As of July 2018, it has a population of nearly 148,000 refugees.<sup>5</sup> Fifty-four per cent are from South Sudan, 23 per cent from Somalia, and refugees from the Democratic Republic of the Congo, Sudan, and Burundi respectively each comprise around five to seven per cent of the rest of the population.<sup>6</sup> Approximately 56 per cent of the camp's inhabitants are aged under 18, and there are slightly more men than women.<sup>7</sup>

In June 2015, the Turkana County government handed over a 15-square-kilometre site for the creation of a new refugee settlement, intended to decrease overcrowding in Kakuma camp and ensure access to services as well as increase opportunities for self-reliance through a new "settlement" style approach.<sup>8</sup> In 2016, UNHCR began relocating refugees to this new settlement, Kalobeyei, located about 25 kilometres northwest of Kakuma town.<sup>9</sup> As of July 2018, of the 38,300 refugees living in Kalobeyei, more than 73 per cent are from South Sudan, 12 per cent from Ethiopia,



Shelters in Kalobeyei settlement, January 2018. IHRC.

and nearly eight per cent from Burundi.<sup>10</sup> UNHCR has refrained from describing Kalobeyei as a "refugee camp,"<sup>11</sup> instead emphasising its focus on integrating the refugee and local Turkana populations and on developing Kalobeyei "as an urban centre."<sup>12</sup>

As a settlement, Kalobeyei represents a different model of refugee assistance from a refugee camp. The settlement model is designed to promote refugee and host community self-reliance through better livelihood opportunities and enhanced service delivery, underpinned by the Kalobeyei Integrated Social and Economic Development Plan (KISEDIP), which is led by local authorities. UNHCR originally estimated that Kalobeyei would host a local population of 20,000 and a refugee population of 60,000, but now anticipates a total population of 45,000, with the host community mainly residing around the settlement.<sup>13</sup>

Kenyan law requires all refugees to live in designated refugee camps.<sup>14</sup> They are only permitted to leave a camp if they obtain a "movement pass," an official document that refugees can seek from RAS – the government body tasked with the administration of refugee affairs – that allow them to temporarily travel outside Kakuma for "valid reasons."<sup>15</sup> Despite being planned as a settlement, in practice refugees from Kalobeyei are subject to the same movement restrictions as refugees living in Kakuma refugee camp.

## Domestic and international law and policy on refugee work rights

Kenya's 2006 Refugees Act – the main piece of legislation governing refugee affairs – does not speak directly to refugee businesses, though it does specify that in respect of wage-earning employment, refugees “[shall] be subject to the same restrictions as are imposed on persons who are not citizens of Kenya.”<sup>16</sup> In practice, work permits, issued pursuant to different legislation, are largely inaccessible to refugees, requiring circuitous steps and documentation that is often out of reach of refugees.<sup>17</sup> Meanwhile, the national government system for business registration – formally registering a business's name and complying with other requirements according to the type of business (sole proprietorship, company, or other) – is likewise inaccessible to most refugees.<sup>18</sup> Few

refugees have obtained Kenya Revenue Authority (KRA) PINs, which require documentation and other conditions refugees would struggle to meet.<sup>19</sup> Like many Kenyans, refugees operate informal businesses that are nonetheless subject to local regulation.

In Turkana County, county law mandates that anyone running a business must have a permit for that business and renew that permit annually.<sup>20</sup> Fees for permits depend on the type of business and where in the county it operates: businesses in poorer parts of the county pay lower fees. Although every business must have a business permit, whether the business needs additional licences depends on the type of business. For instance, refugees handling food must obtain (and pay a fee for) a Food, Drug, and Chemical Substances Licence, and refugees selling alcoholic drinks, an Alcoholic Drink Licence. Licences must be renewed annually. Refugees with shops that handle food and beverages must also pay for and undergo



Shop in Kakuma II, January 2018. IHRC.

a medical examination at a health clinic. Refugees who pass the medical examination receive a Medical Examination Certificate. Running a business without a permit or relevant licences is subject to a fine of up to 150,000 KSH (\$1,490 USD) and/or imprisonment of no more than a year, according to county law.<sup>21</sup>

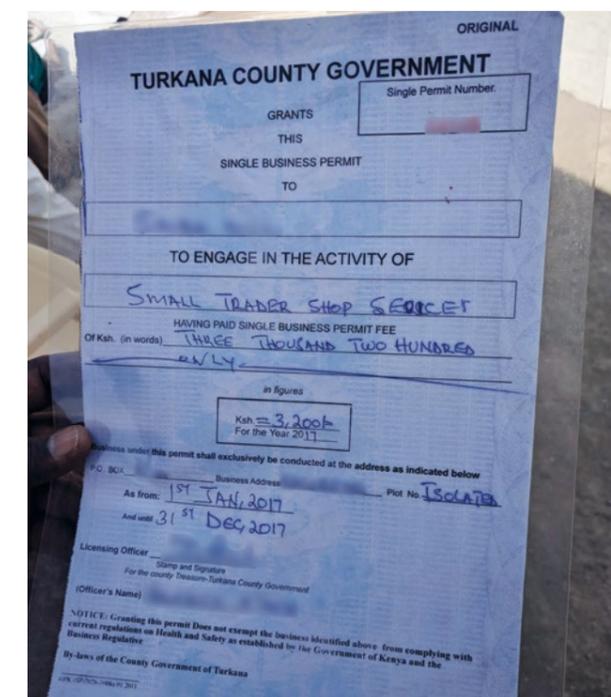
Kenya is party to treaties that enshrine a right to work, including through self-employment, for refugees. Significant treaties in this area include the International Covenant on Economic, Social and Cultural Rights, the 1951 United Nations Convention Relating to the Status of Refugees (the 1951 Refugee Convention) and – at the regional level – the 1986 African Charter on Human and Peoples' Rights. Kenya's international obligations – which the Kenyan Constitution directly incorporates into Kenyan domestic law<sup>22</sup> – require Kenya to progressively realise refugees' right to work, and allow refugees to engage in self-employment. An appendix to this briefing paper outlines these obligations.

At the policy level, Kenya has made commitments relating to refugee self-reliance. In September 2016, the UN General Assembly adopted the New York Declaration for Refugees and Migrants (New York Declaration), in which UN member states recognised that refugee camps “should be the exception,” and endorsed a range of measures to promote refugee self-reliance and increased access to “durable solutions” (local integration; resettlement in a third country; or repatriation to a refugee's country of origin).<sup>23</sup> The Declaration contains an annex – the Comprehensive Refugee Response Framework (CRRF) – which UNHCR anticipates will form part of the “Global Compact on Refugees,” an agreement (expected in late 2018) that states committed to working towards in the Declaration.<sup>24</sup> In October 2017, Kenya signed up to be a pilot country for the CRRF and committed to reviewing its refugee policy and practice, including assessing refugees' access to effective durable solutions.<sup>25</sup>

In March 2017, Kenya signed the Nairobi Declaration on Durable Solutions for Somali Refugees and Reintegration of Returnees in Somalia (the Nairobi Declaration), which was negotiated under the auspices of the IGAD (the Intergovernmental Authority on Development), comprising the four Horn of Africa

states – Djibouti, Ethiopia, Somalia, and Eritrea – as well as Sudan, South Sudan, Uganda, and Kenya.<sup>26</sup>

The Nairobi Declaration demonstrates signatory states' commitment to provide Somali refugees with economic opportunities in host states and calls on IGAD member states to enhance education, training, and skills development for refugees; align domestic laws and policies with the 1951 Refugee Convention; and advance alternative arrangements to refugee camps, facilitating the free movement of refugees.<sup>27</sup> As of July 2018, the Kenyan government is developing action plans to implement its CRRF and Nairobi Declaration commitments.



Example of a business permit, January 2018. IHRC.

## Running a business in Kakuma

Two-thirds of respondents to NRC's survey relied on humanitarian assistance as a primary form of support. Outside such assistance, one of the main ways that refugees try to earn a living is by running informal businesses. There are many different kinds of businesses in Kakuma. For example, refugees may sell food or other goods at a “kiosk” (a small storefront shop),

sell clothing at a stall, manage a “hotel” (in Kakuma, “hotel” refers to a restaurant or bar), or groom hair in a salon. Typically, refugees purchase inventory and equipment from Kakuma town, Lodwar, Lokichogio, Kitale or, in some cases, Nairobi. Refugees may hand down a business to a family member or relative, but many use money earned prior to arrival in Kakuma, wage income earned within the camp (usually as a UN agency or NGO “incentive” worker), or loans borrowed from NGOs or Equity Bank – the only commercial lender in Kakuma – as capital to start a business. To obtain a business permit, refugee business owners must travel to the county office in Kakuma or wait for county government officials to come through Kakuma issuing new business permits, an exercise that has typically taken place in the latter half of the year.

A 2018 study by the International Finance Corporation (IFC) found that there were more than 2,000 businesses in Kakuma.<sup>28</sup> In NRC’s survey, 18 per cent of respondents indicated that they operated a business in Kakuma (IFC’s study found a slightly lower number, 12 per cent, of self-identified business owners). A third (34 per cent) ran shops selling mostly or exclusively food, 23 per cent ran shops selling goods other than food, and 16 per cent ran a hotel, restaurant, or bar. Nearly two thirds (64 per cent) of businesses had been running for two years or less. Only eight per cent of business owners said they ran more than one business in Kakuma. Business owners were more likely to be male: 24 per cent of male respondents said they had a business, as against 14 per cent of female respondents.

In NRC’s survey, among the respondents who were not business owners or otherwise self-employed, nearly two-thirds (65 per cent) wanted to start a business, but identified barriers to that goal, such as lack of money (77 per cent), lack of access to loans (21 per cent), and the challenges and expense of obtaining goods to sell in Kakuma (17 per cent). Thirty per cent of those who wanted to start a business thought it would be “very hard” to do so, while 37 per cent thought it would be “somewhat hard” or “neither easy nor hard.” Notably, more residents of Kakuma IV (46 per cent) and Kalobeyei (42 per cent) thought it would be “very hard.”

### Lack of capital

Raising capital to start a business can be extremely difficult, even for refugees with jobs and some savings. A young Sudanese man who had been running a small shop for two months said that even though he was glad to have his own business, “the problem is [that it is] hard to start with not enough capital – it is very very hard and challenging.” He was supporting a large family and shared that “to start a business, with kids, and other families who need support, along with raising your brother’s kids, to manage with all of this is very hard.” He also noted that he “would be grateful” if there was financial support for young entrepreneurs who seek to start their own businesses.

Several refugees said they would have liked to receive financial support to be able to engage in business and earn a living through it. A 24-year-old Burundian mother with a young child said that if she received financial support she “would be the most happiest woman” because with the money “we [a group of women] could start a business of our own.” Some refugees suggested that since starting a business can require substantial resources, UNHCR and NGOs could go beyond employing the refugee community as “incentive workers” and directly provide loans for refugees to start businesses. A pilot programme, run by a consortium of NGOs operating in Kakuma called SPARK, began in 2017 with this goal in mind. While this consortium ended in 2018, the need for strategic livelihoods programming to support business incubation and access to credit and loans – as well as help for refugees to formalise their businesses – remains key in Kakuma.



Shop in Kakuma I market, January 2018. IHRC.

## IV. Significance of Business Permits for Refugees

Due to Kenya’s encampment policy, refugees face significant barriers to working formally outside Kakuma and employment opportunities within the camp are very limited. Less than eight per cent of respondents to NRC’s survey were employed as incentive workers or by other refugees. As a result, for many refugees, their most viable prospect of earning a living in Kakuma is to run a business in Kakuma’s informal economy.

Refugees with businesses expressed a number of reasons why they believed it was important to have business permits. Many said that they obtained business permits to comply with the law. Having a business permit also conferred potential economic benefits to refugees’ businesses. Refugees described how business permits could give them access to loans, supported applications to become World Food Programme (WFP) vendors (also known as “bamba chakula,” a digital cash food voucher system that is delivered through mobile phones in Kakuma), and were required to apply for movement passes sought for business reasons. They also said that business permits provided them with a sense of security and a feeling of protection against their stores being closed down, goods being confiscated, and harassment from the police.

In January 2018, county officials noted that one of the primary purposes of business permits is revenue collection for the county, as Kakuma comprises one of the largest marketplaces in Turkana County.<sup>29</sup>

Other purposes include overseeing the activities that business owners are engaged in and helping prevent the sale of fraudulent goods. Officials acknowledged, however, that an inspection regime was not yet in place, limiting their ability to connect the issuance of business permits with larger regulatory frameworks, such as those in place to promote environmental protection.

### Compliance with county law

Refugee business owners emphasised that holding a business permit was important because it showed they were complying with the law. In NRC’s survey, 37 per cent of business owners considered “compliance with the law” to be an important reason to hold a business permit. In interviews, a 33-year-old Somali refugee with a clothing shop said that having a business permit was “very important because it is the rule of the government” and “[y]ou have to follow the rule of the government.” Complying with the law was also a source of pride for refugees. A 24-year-old Congolese man who had lived in Kakuma since 2012 put it this way: “I personally think it’s important to start a business legally – to be known by the government – to identify you legally.” He stressed that “you will be proud to show [your business permit] . . . [b]ecause you know you started that business legally – you’ll have that pride.” Similarly, in NRC’s survey, a fifth of business owners considered that having a business permit meant customers would trust them more.



A WFP-accredited shop in Kalobeyei. November 2017. IHRC.

## Spotlight on women and business



Women business owners who participated in a March 2018 focus group discussion generally believed it was important for women to have their own businesses, and those who had acquired business permits said the document brought them a sense of security and feeling of protection. Focus group participants ran a wide range of businesses: one woman ran a butchery, several operated hotels, and another sold motorcycle spare parts.

Most women said it was empowering for them to run their own businesses. One South Sudanese woman who operated a hotel said having a business is “self-empower[ing] especially when one is divorced by the husband or when one is [in a] polygamous marriage.” A 49-year-old Sudanese woman with a retail kiosk likewise thought that “running [a] business is a self-empowerment to we women who are vulnerable in the camps.” Other women mentioned that running businesses brought them financial independence. Many discussed how they relied on their business to provide them with the money to pay for school and medical fees for their children. One South Sudanese shop owner recounted: “I am able to plan for my life and my children without relying on my husband.”

Several women in the focus group identified two main impediments to starting and maintaining a business: lack of capital and the expectation that they would provide significant unpaid domestic labour. The Sudanese woman with the retail kiosk said: “The cash we have as women is limited to

start any business especially when having a large family as children will want to be fed, [which] limits our chances to start a business.”

In addition to challenges starting businesses, some women spoke about problems obtaining business permits. A few mentioned concerns about scams. Some had used brokers to help them obtain business permits, a practice that NRC’s survey does not indicate is widespread.<sup>30</sup> A 29-year-old Ethiopian woman who sold cereals stated that there were always “unknown people . . . walking around taking money and promising to return with business permits . . . [but] we never see them after money is given.” A South Sudanese woman who was operating a hotel commented: “Some brokers walk around, cheat people . . . and demand payments for new permits which are then fake.” At least one woman added that, as a result of being scammed, she had trouble distinguishing between a “fake” and a “genuine” business permit.

Once acquired, most women said having business permits provided security and protection. Several women also talked about how business permit compliance made it easier to engage with the legal system. One woman said: “When issues arise and the matter has to be taken for legal action, the court will require proof of business permits.” Another woman stated that having a business permit meant that if someone stole from a shop, the police could investigate the matter properly.

## Access to loans and WFP accreditation

Some refugees noted that holding a business permit was important because business permits are necessary to be able to apply for loans. A 38-year-old Ethiopian man with a stationery shop explained that “loan providers will ask you if you have a [business permit]” and that a business permit would “maybe [be] helpful if looking for a loan.” However, he added that there was “a lot of bureaucracy and [you] might not get the loan anyway [even with a business permit].” NGO representatives confirmed that refugees were interested in receiving loans to start and grow their businesses, and that to be eligible for business loans from Equity Bank, refugees needed to have business permits.

In 2015, WFP Kenya introduced “bamba chakula” in Kakuma (“get your food” in Sheng, a Swahili-based slang), a digital food voucher system that is delivered through mobile phones.<sup>31</sup> Vouchers are distributed to refugees through WFP-issued SIM cards, and can be redeemed at any WFP vendor’s store. Refugees and members of the host community can become WFP vendors by application, and WFP requires that business owners must have a valid business permit and the appropriate health and safety licences to become a vendor. As of March 2018, Kakuma camp had 180 traders and Kalobeyei had 56 traders participating in the programme, including members of the host community.<sup>32</sup>

## Access to movement passes for business reasons

RAS’ practice has been to require refugees who apply for a movement pass to travel outside the camp for business reasons – such as to obtain goods or meet suppliers – to produce business permits (although a business permit may not be sufficient to secure a movement pass). RAS’ practice has not been consistent, and there have been periods during which RAS has ceased issuing movement passes for business reasons.<sup>33</sup> Without movement passes, business owners can pay middlemen to buy goods on their behalf outside Kakuma, buy goods themselves in Kakuma town, or take the risk of travelling informally.

In interviews, refugees emphasised the significance of being able to travel with a movement pass to buy goods and equipment outside Kakuma. A South Sudanese woman with six children who lived in Kalobeyei and ran a grocery shop with a business permit said she wanted a movement pass because she only had “small money,” and she would have preferred to “buy from wholesalers at a good price to sell” within the camp. The woman purchased all of her goods from Kakuma and had concerns about Kalobeyei customers’ complaints that her prices were high. She believed that a movement pass would allow her to buy cheaper goods so that she could “get a good profit,” which would help to pay her children’s school fees.

## Sense of security

Many refugee business owners identified holding a business permit as important because it offered them a sense of security and could help in their relations with police. Nearly half (48 per cent) of business owners surveyed by NRC thought “protection from authorities” was an important reason to have a business permit. In interviews, a Somali refugee who ran several different businesses said that having a business permit was important to him “because it used to protect me – when police came to ask me [for the permit], I could show it.” A South Sudanese woman with a kiosk stated that the police had come to her shop and asked to see her business permit on several occasions. She added that the police had “never disturbed me, because when they come, I show them this [business permit] and they know that I have paid money to the county.” However, other refugees reported that business permits did not necessarily offer this sense of security. Police corruption is a well-recognised issue in Kenya and international studies suggest that bribery is especially prevalent.<sup>34</sup>

In a January 2018 interview, a police representative stated that the role of the police with regard to refugees who lacked business permits is to enforce the law, which requires the payment of a fine. He noted that enforcing the payment of fines for running a business without a permit is a matter for the court

and confirmed that refugees would not need to pay money to police directly or at the police station.<sup>35</sup>

Nevertheless, without a business permit, refugees risked being taken to the police station and having to pay to be released. In NRC's survey, more than half (54 per cent) of business owners said that arrest or detention would be a consequence of running a business without a business permit, and a similar number (52 per cent) identified paying a fine at court as another consequence. In interviews, refugees emphasised these fears. A Congolese refugee who had been running his business for six years thought that "for those who don't pay [for a business permit], the police note them, and then if you don't have one [business permit], they will take you to the police [station] and ask you for a fine." A Somali man with a spare-parts shop said that if a refugee was arrested and taken to the police station for being unable to pay the business permit fee, "the first thing that happens . . . is you have to pay the [business permit fee]; then a fine, [and] it can be 5,000 KSH (\$50 USD) or even reach 10,000 KSH (\$100 USD)." He noted, "what happens normally is people don't have any other option because [their] business is closed, so they will pay all the amounts" to secure their release and restart their businesses, adding that he believed those who could not pay the business permit risked being sent to Lodwar jail.

Refugees also reported that business owners without business permits risked having their businesses closed by county officials, and in some cases, goods confiscated. In NRC's survey, over two thirds (67 per cent) of business owners considered "protection from being shut down" to be a reason why a business permit was important. Refugees described their experiences of business closures in interviews. A 33-year-old Somali refugee who had been selling clothing in Kakuma for five years recounted that on several occasions she had been unable to pay the business permit fee when county officials came to the camp and as a result they had "put a lock on the business." She noted that after a business had been closed the owner either needed to "search for help

from other business people, relatives, and family" to find "the payment amount to reopen the business," as well as an additional "punishment amount," or would be left without options. She emphasised that usually other business owners would help, as "neighbours will see what is going on [when county officers come to close the business]" and "help each other." Several refugees reported that police had confiscated the goods and equipment of refugees who had been unable to pay for business permits when county officials visited, and had to pay penalties to retrieve confiscated items.

### **Fees and detention**

A Rwandan father running a butchery and beverage shop explained that it had been difficult to pay the business permit fee of 3,200 KSH (\$32 USD) and a fee of 10,000 KSH (\$100 USD) for an Alcoholic Drink Licence while also covering school tuition fees for his children. His last business permit had been issued in September 2017, after a visit from county officials. At the time, he did not know he had to pay for an alcoholic drink licence for his business. He and his wife were taken to the police station, along with their four-month-old baby. He said that his wife and baby were placed in detention and released only after he paid the 10,000 KSH bribe he alleged police demanded. Police directed the family to go to the county office, where the father paid another 10,000 KSH to obtain the Alcoholic Drink Licence. He had to borrow money to pay these amounts.

He remarked: "We are refugees and this is the only place I have to earn a living. I had to pay that money . . . I have a large family here and I have children that have to go to school. And paying so much money, it hurts me." He also noted that upon the expiration of his business permit and licence in September 2018 he would again have to look for money and pay to keep running his business. He wished that the county government would reduce the cost of business permits and licences to help refugees earn a living and provide for their families.

## **V. Challenges around Business Permits**

While most refugees running businesses were familiar with the requirement to have a business permit, many lacked awareness about how to obtain one or did not know what the document looked like. Furthermore, many refugees described fees for business permits as unduly expensive relative to their income.

### **Awareness challenges**

In interviews, most refugees running businesses were aware of the requirement to have a business permit and said that they had learned about the requirement from other refugees or from organisations such as WFP, as well as through visits by county officials to their business premises. Nearly 70 per cent of business owners surveyed by NRC either had a business permit or knew what a business permit was. Overall, 42 per cent of business owners said they had business permits for their business or businesses, with a large majority (80 per cent) saying they had been told they needed a business permit by county officials. However, 20 per cent of all business owners – representing 38 per cent of those who did not have business permits – had not heard of business permits at all, with a further eight per cent unsure if they had heard of them.

Among those who had heard about business permits, some did not know how to obtain one. In interviews, a Ugandan man who had opened a hotel in January

2017 shortly after his arrival to Kakuma reported that he did not have a business permit because he did not know how to get one. He added that no one had ever come by his business requesting to see his business permit. Similarly, a hotel owner said she was worried about not having renewed her business permit but did not "even know where to go" to do so. One Sudanese shop owner thought that "all the shop owners should go to [RAS]" to get a business permit; however, RAS does not issue business permits.

Refugees said the two most common methods for obtaining business permits were travelling to the county office in Kakuma town or waiting for county officials to come through the camp, which took place once a year (generally in the second half). In NRC's survey, 55 per cent of those with business permits obtained them at the county office, and 37 per cent waited for county officials to visit. A small group of refugees reported that they had obtained their business permit from the previous owner of their business, or through other means. Nearly all (92 per cent) of business owners with business permits knew that the Turkana County government issued the document.

Despite a general awareness of the business permit requirement, some refugees were confused about what the document looked like. A South Sudanese woman running a business in Kalobeyei thought her licences and medical certificate comprised a business



Two refugees at their garage in Kakuma, 2018. © Chris Muturi, NRC.

permit. When shown a copy of a business permit, she reported that she had never seen the document before. Another South Sudanese woman who sold cooked food in Kalobeyei said she received a “business permit” after paying 1,000 KSH (\$10 USD) to county officials who came to her shop in November 2017. However, the document she showed researchers was not a business permit, but a “miscellaneous income receipt,” a document county officials issue to mark a bill as paid. A 25-year-old Sudanese hotel owner stated that an official in uniform came to her shop in August 2017 and gave her a “business permit,” but the document she showed researchers was likewise a “miscellaneous income receipt,” in this case with “S.B.P” hand-written on the front of it. She said that “S.B.P” stood for “Single Business Permit” and so thought that it was an official business permit, but she worried that the document did not list an expiration date.

## Cost issues

Many refugees with businesses said that the fees for business permits were too high, especially when they had to also obtain a licence and/or undergo a medical examination. In NRC’s survey, nearly a third (32 per cent) of business owners with permits said they had to obtain these additional documents to receive a business permit. In interviews, refugees reported paying fees ranging from 500 KSH (\$5 USD) to 6,200 KSH (\$62 USD) for a single business permit, significant sums of money in the context of Kakuma. In NRC’s survey, only around a fifth (19 per cent) of respondents indicated that they earned an income from working in Kakuma: just over half (51 per cent) earned less than 5,000 (\$50 USD) KSH a month, and a further 44 per cent earned between 5,000 and 10,000 KSH (\$100 KSH) a month. The median amount surveyed business owners reported



A Somali refugee shopping in one of Kakuma's markets, 2018. © Chris Muturi, NRC.

paying for a business permit was 2,500 KSH (\$25 USD); nearly two thirds (63 per cent) did not consider the fee they paid to be fair.

In interviews, several refugees stated that the cost of the business permit diminished or eliminated the possibility that the business would make a profit. “Th[e] price is too high. . . if you have a small shop like [me], then [they] should consider. . . reduc[ing] the [price],” stated a 28-year-old Burundian M-Pesa shop owner.

A number of refugees said they wanted to obtain business permits but lacked money to pay the fee. A 30-year-old Burundian woman running a bakery business out of her home said that she did not have a business permit because she did not have enough money: “My business is small, and I don’t have money to pay to get this document.” She noted, however, that she would try to get one if she opened a larger shop and had the money. An Ethiopian father with an infant child, who owned small coffee shop, reported that he did not have a business permit because he “[did] not have the capital,” but said that he would get one if it was cheaper or if he had more money. He expressed the wish to have a business permit so that he could stop “hiding” from county officials when they visited the camp.

Several refugees reported that when business permits had been unaffordable for them, they had attempted to negotiate with county officials. A young Sudanese hotel owner explained that in August 2017 county officials initially requested she pay 2,500 KSH (\$25 USD) for a business permit. She attempted to negotiate by telling them her business was new, not doing well, and not growing. After showing them the limited inventory available for sale in her shop, County officials agreed that the fee would be 500 KSH (\$5 USD). An alternative to negotiation included borrowing money from friends or relatives to pay for business permits. A South Sudanese woman who ran a small shop selling food said she thought her business permit fee would be 3,000 KSH (\$30 USD), but when she went to the county office, officials set the fee at 5,200 KSH (\$52 USD). To pay this fee, she had to borrow money from church friends.

Business owners believed that the size and type of business were the main factors county officials used in determining fees. In NRC’s survey, business owners with permits thought that the business permit fee depended on the size of the business (86 per cent) and the type of business being run (42 per cent). In interviews, refugees described how they thought county officials set fees. A young Burundian man running a small shop said: “The price depends on the products you have. . . I’m paying 2,200 KSH because of the goods I have.” A South Sudanese woman living in Kalobeyei said that a county official told her that they set fees according to shop size and that as she was a prospective WFP vendor, he considered her shop would not be a small one, so the fee would be 2,200 KSH (\$22 USD). She thought the fee was too high, but felt, “I cannot complain because this is the government.” Among some refugees, there was a belief that the fees charged at the county office were more consistent, but higher, than the fees officials charged on camp visits.

Other refugees did not think there were any set criteria. A man from Burundi who ran a small shop selling packaged food and vegetables said: “[The county officials] don’t have a fixed price. They can ask you [for] any amount.” He had paid 2,200 KSH (\$22 USD) for his most recent permit. Similarly, a Rwandan man who ran a butchery and beverage shop thought: “They come and see how far your business is and charge [you] however they want”

Several refugees noted that business permit fees usually increased each year and, in general, they did not know why. An Ethiopian hotel owner whose brother gave him the business in 2015 recalled that he had paid 6,200 KSH (\$62 USD) for his 2018 business permit, but in prior years he had “paid 3,000 KSH (\$30 USD) and even 2,000 KSH (\$20 USD) or 1,500 KSH (\$15 USD).” He said officials did not give him a reason why the fees had increased. Two other refugees – one running a tailor shop and another a small shop – reported that they had each paid 2,500 KSH (\$25 USD) for business permits in previous years, while their 2018 permits cost 3,200 KSH (\$32 USD) each, despite their businesses remaining the same size.

## VI. Recommendations

Kenya is a pilot country for the CRRF and has also made commitments through the IGAD Nairobi Declaration to review its refugee policies. Ongoing discussions led by UNHCR with Turkana authorities for Kakuma on how to implement these commitments are centred on creating opportunities for refugee socio-economic integration and supporting development outcomes for surrounding host communities. The Turkana County government has already taken an important first step by incorporating refugees in the 2018-2022 County Integrated Development Plan,<sup>36</sup> and improving refugees' access to business permits would align with and build on this approach. However, while business permits provide one potential protection mechanism for refugees running business, on their own business permits cannot support broader refugee self-reliance and livelihoods programming. Such programming needs to take a range of approaches to enhance livelihood opportunities, and should be coupled with changes to Kenya's encampment policy to allow refugees greater freedom to move to access employment and conduct business and trade.

To better protect refugees' human rights, particularly the right to work, and ensure refugees can engage in business and earn a living, IHRC and NRC make the following recommendations:

### The National Government of Kenya should:

- Continue to promote refugees' right to work, including through self-employment.

### The Turkana County Government should:

- Communicate information about business permits to refugees with clarity and specificity by:
  - Producing and widely disseminating clear, simplified, and accessible guidance on how to navigate and comply with the business permit regime;
  - Ensure that refugees and other stakeholders have information on the official fee structure;
  - Ensure that county officials are able and willing to answer refugees' questions about the business permit requirement, process, document, and fee; and

- Continuing to work with UNHCR and NGOs to allow them to provide clear and up-to-date information to refugees.
- Ensure county officials apply clear criteria when determining the fee to be applied to a particular business.
- Revisit business permit fees on an annual basis based on consultations with refugees, such as through regular forums with block leaders, to ensure fees are set at an appropriate level.
- Work towards developing a framework for exemption, or reduced fees, for cases in which full payment of the business permit fee would cause significant hardship to the business owner.
- Create a timetable for yearly business permit renewal that will allow refugees to have valid business permits for the entire year.
- Work with actors within the camp to explore ways to better support business development and business growth within Kakuma.
- As refugees constitute an essential part of Turkana County, work with local NGOs and the national government to ensure that refugee voices and perspectives are heard in the implementation of the 2018-2022 County Integrated Development Plan and relevant county laws, as well as in national refugee policy

### The National Police should:

- Continue to work towards ensuring that police abide by international human rights standards on arrest and detention.

### The Refugee Affairs Secretariat should:

- Continue to recognise business purposes – such as purchasing goods and supplies, looking for new customers, and selecting suppliers – as valid reasons for travel, and issue movement passes of sufficient duration to achieve business purposes.
- Allow refugees with valid business permits in the camps to receive movement passes upon request.

- Explore options around expanding the duration and geographic scope of movement passes, such as:
  - Waiving the requirement for refugees to have a movement pass for travel within Turkana County; and
  - Providing multi-travel and/or one year movement passes for refugees who meet stated criteria.
- Work with UNHCR, the county government, and NGOs to increase awareness among business owners that movement passes are available for business reasons and free of charge.

### UNHCR and NGOs working with refugees in Kakuma should:

- Continue to work together to support the Turkana County government to develop and disseminate

clear and up-to-date information to refugees on business permits.

- Urge the Turkana County government to lower business permit fees for refugees.
- Support refugees to exercise their right to work and earn a living through business opportunities, including through support to start up businesses.
- Explore ways to better assist refugees in securing capital and financial support to run their own businesses.

### The International Community should:

- Support the Government of Kenya, Turkana County government, RAS, UNHCR, and NGOs to carry out the above recommendations.



Two South Sudanese refugees in their fabrication shop in Kakuma, 2018. © Chris Muturi, NRC.

# Appendix

## The Right to Work for Refugees in International Law



Shop in Kakuma I, January 2018. IHRC.

Kenya is party to a number of treaties relevant to the right to work, in particular: the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol (the 1951 Refugee Convention); the International Covenant on Economic, Social and Cultural Rights (ICESCR); and the 1986 African Charter on Human and Peoples' Rights (the Banjul Charter).

- The 1951 Refugee Convention provides strong and specific protections for refugees' right to work in host countries. The Convention addresses the right to work primarily in Article 17 (wage-earning employment) and Article 18 (self-employment).<sup>37</sup>
  - Article 18 provides that refugees "lawfully in" a state party must receive "treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the right to engage on [their] own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies." "Lawfully in" refers to refugees who have left their country of origin and sought refuge in another country, having entered that country lawfully, or if regular entry was not possible, having presented themselves promptly to officials to regularise their entry.<sup>38</sup>

- In relation to wage-earning employment, Article 17(1) provides that states parties "accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances." "Lawfully staying" refers to refugees who have an "officially sanctioned, ongoing presence in a state party," usually (although not necessarily) evidenced through official recognition of their refugee status.<sup>39</sup>
- Article 17(2) exempts refugees from "restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market" where they been resident in the host country for three years or have a spouse or child who is a national of the host country. Article 17(3) also requires that states parties give "sympathetic consideration" to "assimilating the rights of all refugees with regard to wage-earning employment to those of nationals."
- ICESCR Articles 6, 7, and 8 embody Kenya's obligation to respect individuals' right to freely chosen or accepted work.
  - Each state party must take steps toward "achieving progressively the full realization of the rights [in the treaty]" within the bounds of its political and economic capacity. States parties cannot take retrogressive measures that would reverse ongoing progress toward full realisation of the right to work for all. Importantly, the right to work is not limited to nationals under the ICESCR, and so encompasses refugees.
- Article 15 of the Banjul Charter states: "Every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work."<sup>40</sup>
  - African Commission jurisprudence has acknowledged the right to work for non-nationals.<sup>41</sup> The Commission has also issued guidance on the interpretation of Article 15 that emphasises the obligation to promote the right to work not just for nationals, but also for refugees specifically.<sup>42</sup>

# Endnotes

- 1** In this briefing paper, the term "refugee" is used to refer to all persons in need of international protection in Kenya, regardless of whether the Government of Kenya or UNHCR – the United Nations Refugee Agency – has recognised their status as a refugee or asylum seeker.
- 2** World Bank and UNHCR, "Yes" In My Backyard? *The Economics of Refugees and Their Social Dynamics in Kakuma, Kenya*, 2016, p 46, available at <http://documents.worldbank.org/curated/en/308011482417763778/Yes-in-my-backyard-The-economics-of-refugees-and-their-social-dynamics-in-Kakuma-Kenya>.
- 3** *Ibid*, p 6.
- 4** Emmanuel Nyabera, UNHCR, "Kakuma camp in Kenya surpasses its 100,000 capacity," 6 August 2012, available at <http://www.unhcr.org/en-us/news/latest/2012/8/501fdb419/kakuma-camp-kenya-surpasses-its-100000-capacity.html>.
- 5** UNHCR, "Kakuma Camp Population Statistics," July 2018, available at <https://data2.unhcr.org/en/documents/download/64767>.
- 6** *Ibid*.
- 7** *Ibid*.
- 8** UNHCR, "Kalobeyei Settlement," available at <http://www.unhcr.org/ke/kalobeyei-settlement>.
- 9** *Ibid*.
- 10** UNHCR, "Kalobeyei Settlement Population Statistics," July 2018, available at <https://data2.unhcr.org/en/documents/download/64768>.
- 11** Sora Halake, "UNHCR, Refugees at Odds over Quality of Life at New Kenya Settlement," *VOA News*, 25 August 2017, available at <https://www.voanews.com/a/kenya-kalobeyei-refugee-settlement-living-conditions/4000462.html>.
- 12** UNHCR, "Kalobeyei Settlement."
- 13** *Ibid*.
- 14** Refugees Act 2006, sections 14(c) and 25(f); "The Refugees Act: Designation of Areas as Refugee Camps" (March 2014) *The Kenya Gazette*; Refugees (Reception, Registration and Adjudication) Regulations 2009, section 35A. See discussion in IHRC and NRC, *Supporting Kakuma's Refugees: The Importance of Freedom of Movement*, 2018.
- 15** Refugees Act 2006, section 17(f); Refugees (Reception, Registration and Adjudication) Regulations 2009, section 35.
- 16** Refugees Act 2006, section 16(4).
- 17** Citizenship and Immigration Act of 2011, Regulations, Seventh Schedule, "Classes of Permits, Class M: Refugees" (defining eligible Class M applicants as a person with refugee status granted "in accordance with the refugee law of Kenya and any spouse of such refugee who intends" to engage in dependent work or in "a specific occupation, trade, business or profession").
- 18** See KenInvest, "Starting a Business," available at <https://eregulations.invest.go.ke/menu/1?l=en>.
- 19** See Kenya Revenue Authority, "KRA Online," available at <http://www.kra.go.ke/index.php/kra-portal>.
- 20** See Turkana County Revenue Administration Act 2016 and Turkana County Finance Act 2016.
- 21** Article 2(6) of the Constitution states that "any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution."
- 22** Turkana County Revenue Administration Act 2016 (which provides for criminal liability for anyone who contravenes or fails to comply with the Act's provisions under section 17, including the requirement to pay for a business permit).
- 23** New York Declaration for Refugees and Migrants, A/RES/71/1, 3 October 2016, para 73, available at [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/71/1](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/71/1).
- 24** See UNHCR, "Comprehensive Refugee Response Framework," available at <http://www.unhcr.org/en-us/comprehensive-refugee-response-framework-crrf.html>.
- 25** NRC, *Putting Protection at the Heart of the Global Compact: Refugee Perspectives from Ethiopia, Kenya and Djibouti*, December 2017, available at <https://www.nrc.no/resources/reports/putting-protection-at-the-heart-of-the-new-global-compact/>.
- 26** Nairobi declaration on durable solutions for Somali refugees and reintegration of returnees in Somalia, March 2017, available at <https://data2.unhcr.org/en/documents/details/58248>.
- 27** *Ibid*. See also Alex Aleinikoff, "Nairobi Declaration on Somali Refugees," *Forced Migration Forum*, 30 March 2017, available at <https://forcedmigrationforum.com/2017/03/30/nairobi-declaration-on-somali-refugees/>.

**28** International Finance Corporation, *Kakuma as a Marketplace: A consumer and market study of a refugee camp and town in northwest Kenya*, 2018, p 14, available at [https://www.ifc.org/wps/wcm/connect/8fb8fab4-af24-4b09-bdff-2109d2c45974/20180427\\_Kakuma-as-a-Marketplace\\_v1.pdf?MOD=AJPERES](https://www.ifc.org/wps/wcm/connect/8fb8fab4-af24-4b09-bdff-2109d2c45974/20180427_Kakuma-as-a-Marketplace_v1.pdf?MOD=AJPERES).

**29** Interview with Turkana West Sub-County officials, Kakuma, January 2018; interview with Turkana County officials, Lodwar, January 2018. Officials in Lodwar, the seat of Turkana County, explained a new county bill regulating business permits would be enacted in 2018. The reason for the change was to “categorise businesses,” in order to help standardise the sale of goods and, ultimately, to promote fair trade throughout the county. The bill would provide a set fee structure for business permits.

**30** In NRC’s survey, none of the 65 business-owner respondents who had business permits said they acquired their business permit through a middleman or broker.

**31** Martin Karimi, “In Kenya, WFP Introduces Electronic Cash Transfers For Refugees In Kakuma Camps,” *WFP Stories*, 15 September 2015, available at <https://www.wfp.org/stories/kenya-wfp-introduces-electronic-cash-transfers-refugees-kakuma-camps>.

**32** Interviews with WFP Representatives, Kakuma, March and July 2018.

**33** See IHRC and NRC, *Supporting Kakuma’s Refugees: The Importance of Freedom of Movement*, August 2018.

**34** See Transparency International, *People and Corruption: Africa Survey 2015*, December 2015, pp 17, 35, and 39, available at [https://www.transparency.org/whatwedo/publication/people\\_and\\_corruption\\_africa\\_survey\\_2015](https://www.transparency.org/whatwedo/publication/people_and_corruption_africa_survey_2015). See also Samuel Karanja, “EACC survey ranks Interior ministry as ‘most corrupt,’” *The Daily Nation*, 15 March 2016, available at <http://www.nation.co.ke/news/EACC-survey-ranks-Interiorministry-as-most-corrupt/1056-3117500-411wb8/index.html>.

**35** Interview with Police representative, Turkana, January 2017.

**36** For a general description of County Integrated Development Plans, see the Council of Governors, “County Integrated Development Plans,” available at <http://cog.go.ke/about-us/20-the-council-of-governors/484-county-integrated-development-plans>.

**37** Article 19 also references refugees’ participation in the “liberal professions” a phrase referring to occupations for which persons must possess certain qualifications or a special licence – lawyers, doctors, engineers, and pharmacists – to practice such occupation in the host country.

**38** James Hathaway, *The Rights of Refugees under International Law* (2005).

**39** *Ibid.*

**40** For an interpretation of the right to work as it relates to nationals, see African Commission of Human and Peoples’ Rights, Communication 379/09 (March 2014); and African Commission of Human and Peoples’ Rights, Communication 284/03 (April 2009).

**41** See, for example Communication 292/04: *Institute for Human Rights and Development in Africa (IHRDA) v Angola*. The African Regional Human Rights system consists of the African Commission on Human and Peoples’ Rights and the African Court on Human and Peoples’ Rights, two bodies charged with interpreting a wide range of regional human rights treaties as well as non-treaty documents. The Commission has additionally established special mechanisms, including special rapporteurs, working groups, and committees. The African system operates under the auspices of the African Union (AU).

**42** African Commission on Human and Peoples’ Rights, “Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples’ Rights,” para 59(i); African Commission on Human and Peoples’ Rights, “Pretoria Declaration on Economic, Social and Cultural Rights” (2004), para 6.



A market in Kakuma I, January 2018. IHRC.

## **Norwegian Refugee Council (Kenya)**

The Norwegian Refugee Council (NRC) is an independent, humanitarian non-governmental organisation which provides assistance, protection, and durable solutions to refugees and internally displaced persons worldwide. In Kenya, NRC helps refugees and internally displaced people in Kenya's camps access clean water, food, education, and shelter, and helps them exercise their rights.

## **International Human Rights Clinic at Harvard Law School**

The International Human Rights Clinic (IHRC) at Harvard Law School seeks to protect and promote human rights and international humanitarian law through documentation; legal, factual, and strategic analysis; litigation before national, regional, and international bodies; treaty negotiations; and policy and advocacy initiatives.

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