



► Policy Brief

December 2022

Access of refugees to the labour market in Sudan

Review of national policy, legislative and regulatory frameworks, and practice

Key points

- Sudan has been a welcoming host to refugees for decades, but the protracted nature of their displacement requires significant and joint efforts to support their longer-term needs, including their transition to formal and decent work.
- Sudan's existing laws do not provide adequate guidance for refugee inclusion into the labour force, business registration, access to finance or training opportunities.
- Gaps within the 2014 Asylum Act and the absence of refugee reference in other laws or regulations leave refugees in an expansive space of legal uncertainty.
- Ambiguities in the law mean that authorities and refugees are unclear on correct procedures or practices, and there is a significant differential between knowledge of such in Khartoum and at the subnational level.
- The Transitional Government of Sudan, in power from July 2019 to October 2021, made positive steps towards developing a strategy for refugee inclusion and durable solutions; however, several national commitments and international agreements still need to be legislated for this to have tangible impact.

► Introduction¹

Sudan has a large potential labour force with a high number of working age adults in the population. However, Sudan's labour market is characterized by low labour force participation, and only about half of those aged 15 to 64 are thought to be in or looking for formal employment.² In 2014, youth unemployment was at 22.3 per cent,³ and in 2019, ILO projections estimated this had risen to 32.1 per cent.⁴

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) 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,⁵ but there is an overall lack of accurate or up-to-date data on workers in Sudan's informal economy.

1 The insights in this policy brief were generated from a review of national policy, legislative and regulatory frameworks and practice, and which formed a baseline of refugee rights to work, conducted by the ILO in 2021. Available at: https://www.ilo.org/global/programmes-and-projects/prospects/publications/WCMS_853749/lang-en/index.htm

2 World Bank open data based on ILO models. Those between 15 and 64 are considered as the working age population, while those between 25 and 54 are considered to be prime age workers.

3 2014 National Household Budget and Poverty Survey.

4 World Bank open data based on ILO models.

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

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Sudan also 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 47 per cent of asylum seekers and refugees are female, and 43 per cent are children (aged 0 to 17).⁶ There are three main types of residence for refugees in Sudan: camps, rural out-of-camp settlements and urban areas. About 62 per cent live outside camps in more than 100 settlements across the country,⁷ 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 38 per cent of refugees in Sudan live in 24 camps, and more than half of those living in camps were born there.⁸

Legislative environment

The protracted nature of displacement in Sudan makes it a point of importance to find durable solutions that allow refugees to be self-reliant, have a dignified life, and contribute within their host environments. The extent to which this is possible is partially shaped by the presence (or absence) and interpretation of national and international laws and policies.

South Sudanese refugees

South Sudanese make up the largest refugee population in Sudan, estimated by the UNHCR to be around 807,532 as of June 2022. 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 Act resulted in South Sudanese still in the north automatically losing their Sudanese citizenship and associated rights. This affected thousands of South Sudanese who were unable to relocate and return to South Sudan and resulted in highly urban, non-camp-based settlements around Khartoum. Other waves of South Sudanese refugees were created between 2013 and 2017 when conflict in South Sudan led thousands more to flee into Sudan across its southern border with South Sudan. These groups have tended to reside in camps or out-of-camp settlements in White Nile, South Kordofan, West Kordofan, East Darfur and South Darfur states.

Key laws, policies, framework

- **2014 Asylum Act** – repeals the 1974 Asylum Act and governs the conditions of asylum application and refugee rights in Sudan. This is the most comprehensive legal instrument relating to refugee rights.
- **2012 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** – outlines an intention to provide South Sudanese in Sudan (and Sudanese in South Sudan) with Four Freedoms: the right to enjoy freedom of residence; freedom of movement; the right to undertake economic activity; and the right to acquire and dispose of property. This has not yet been formalized into law.
- **2020 Juba Peace Agreement** – a national framework comprising seven separate tracks, each directed at different regions within Sudan and their specific concerns, and signed between Sudan’s Transitional Government and Parties to the Peace Process. Some tracks include provisions and commitments relevant to refugee and IDP needs (with particular detail provided under the Darfur Track).
- **2019 Constitutional Charter for the Transitional Period** – the supreme law of the land. The Bill of Rights and Freedoms and provisions of its Chapter 15 relate to comprehensive peace, and sustainable solutions for IDPs and returnees and Article 45 on citizenship and nationality.
- **(2021–2026) Draft Five Year National Strategy on Solutions for Internally Displaced Persons, Returnees, Refugees, and Host Communities** – drafted by the Transitional Government of Sudan. It 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.

6 UNHCR data from 31 July 2022. Available at: <https://data.unhcr.org/en/documents/details/94833>.

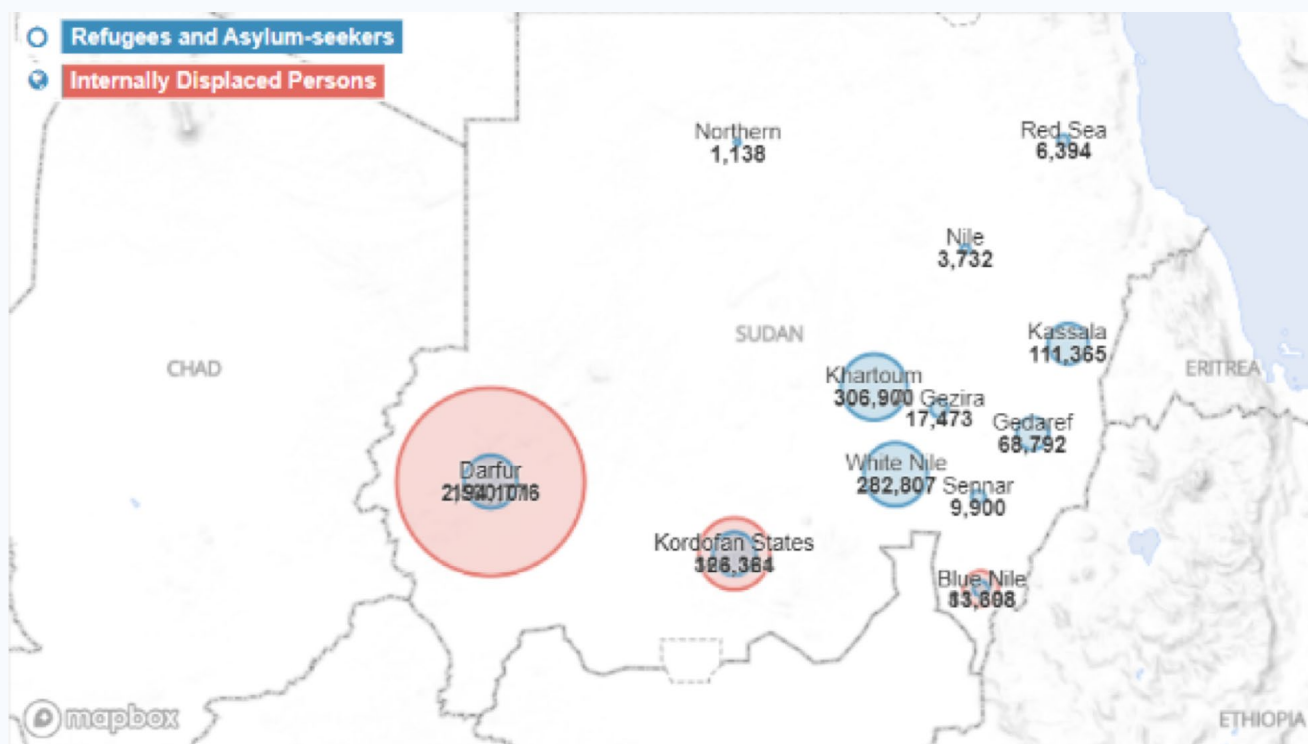
7 Ibid.

8 UNHCR data from 31 July 2022. Available at: <https://data.unhcr.org/en/documents/details/94833>.

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► Refugee access to the labour market

► Figure 1. Map presenting main locations of displaced populations in Sudan, by density and asylum type



Source: UNHCR, June 2022

Right to work

The 2014 Asylum Act allows refugees the right to work if they are registered and obtain a work permit. This law requires asylum seekers to register with the Commission of Refugees (COR) or the UNHCR to begin the refugee status determination process. If they are successful, and after registering with the COR and being issued with a refugee ID card, it is possible to apply for a work permit by engaging with both COR and local labour offices. However, there are challenges in registering and applying for work permits.

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.

- Varying degrees of material, logistical and human resources are available to undertake registration. The registration process is being transitioned from shared UNHCR to full COR responsibility, and the pace of this handover and training process is reducing the number of people that can be registered in a timely fashion. In some cases, such as in West Kordofan and East Darfur, refugees are not being issued with refugee ID cards (or foreigner numbers), and instead are being provided with “refugee photo slips” as their form of registration document.
- Non-camp-based South Sudanese face a particular registration backlog. Incentives to register among urban South Sudanese appear low, while COR capacity-building to conduct registration is an ongoing process.

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- The multiple types of asylum category in Sudan do not all require registration. Brother and Sister status is afforded to asylum seekers from Arab League countries; they do not require registration, but the rights granted by this status and the pathways required to work legally are not captured in written policy. This applies most significantly to Syrian and Yemeni refugees.⁹
- South Sudanese form another special category; they are not required to undergo refugee status determination or registration with the COR, but they are still eligible for prima facie refugee status. Their special status was meant to be captured legally after an agreement on Four Freedoms was signed between Sudan and South Sudan in 2012; however, this has not yet been put into law, and so the many South Sudanese who have not registered with the COR are not eligible for the rights outlined in the Asylum Act, nor are they covered yet by the anticipated Four Freedoms agreement.

The process to obtain a work permit is regulated by the Employment of Non-Sudanese Act of 2001. Obstacles relating to the work permit application process are contributing to low levels of work permit applications. Without a work permit, refugees may not enter the formal labour market.

- There is a Memorandum of Understanding (2019) between the COR and the Ministry of Labour and Administrative Reform for Labour Offices to process work permits for refugees, but this is not accompanied by a formal framework.
- 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 understanding of the work permit application process, and those in Khartoum have minimal awareness 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.

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

- There is no law in Sudan that guides small or micro enterprises. Other related existing laws, including the 2021 Investment Encouragement Act, do not provide any specific guidance regarding the ability of refugees to register private businesses. The 2014 Asylum Act does not touch upon refugee rights to own or register businesses, and although the 1951 Refugee Convention does provide some basis for the right of refugees 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, in 2019 the Transitional Government banned naturalized Sudanese and foreigners from practising commercial activities for import or export unless they had a special permit, and prevented naturalized Sudanese from doing business in local markets.¹⁰
- A process for refugee business registration in Khartoum or at the subnational level has not been identified. Labour offices and commercial registrar offices interviewed in a recent ILO study demonstrated conflicting interpretations and understanding of whether refugees can register businesses.
- 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.

 **The lack of specific attention to refugees leaves a legal grey area for their rights to own and register businesses**

⁹ The government policy towards Syrians and Yemenis shifted from treating them as brothers and sisters to treating them as foreigners. This is obvious from a series of procedures taken against them, including cancellation of the visa-free access to labour and business.

¹⁰ Anadolu 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.

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Access to cooperatives

- Cooperative organizations are legal in Sudan and have been operating officially since 1937. 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.
- 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.

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 if they have a COR-issued refugee card with a foreigner number, according to a decree issued by the Central Bank of Sudan in 2019. However, foreigner numbers have only been included in some ID cards in Khartoum, and most refugee ID cardholders do not have such a number. Banks have also been slow to put this decree into practice, apart from Blue Nile Mashreq Bank which has a relationship with the UNHCR, and there is little knowledge of the option among the refugee population. Even if foreigner numbers were made more available to refugees outside Khartoum, 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 these are not especially common (or sustainable, where they have operated) and neither non-governmental nor governmental schemes were operating in locations sampled by recent ILO studies.

- Access to mobile money (as opposed to mobile banking) should be possible in theory, but there is little practice of this option.
 - Refugee ID cards or refugee photo slips 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.
 - The Telecommunication and Post Regulatory Authority (TPRA), in charge of SIM card registration, is apparently willing to authorize mobile SIM card ownership by refugees and may give reduced rates for refugees. However, official and nationwide communication regarding the acceptability of refugee ID cards has not been issued.
 - There is evidence of relatively high mobile phone ownership among refugees, including outside Khartoum. 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.

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

► Refugee access to training

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

- The Draft Five Year National Strategy on Solutions for Internally Displaced Persons, Returnees, Refugees and Host Communities (2021–2026) seeks to improve living conditions of refugees and their hosts substantially, including through the provision of education services. This strategy aims to provide, in the medium to long term, vocational training and entrepreneurial support for areas with refugee communities.
- Other educational and vocational training policies do not tend to focus attention on refugees beyond basic education, nor do they provide specific frameworks or plans to guide more inclusive admittance criteria or means to support refugees 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 either yet to be ratified, or the procedures to put them into practice are yet to be developed.

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 located 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.
- Vocational training centre curricula are considered to be badly matched with labour market needs, while the centres themselves lack adequate equipment.
- 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.

Vocational training and formal apprenticeship programmes are open to refugees but do require fee payment. Entrance requirements vary depending on the course.

- Acceptance to apprenticeship programmes at vocational training centres – the most well-regarded vocational training option – is confirmed when the basic education is completed. Basic education completed by non-Sudanese is supposedly accepted, but the overall requirement excludes refugees who have not had continuous access to primary schools.
- Short courses provided by technical schools and vocational training centres have lower entry requirements but do not offer the same returns in terms of quality of teaching, qualification gained or workplace recognition.
- 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 mostly 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.

►► Technical and vocational training policies do not explicitly exclude refugees, but neither do they provide specific guidance or intention to include them

► Refugee rights at work

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. However, labour offices at the state level are often understaffed and lack the capacity to follow up on all cases, and the numbers of complaints filed or of favourable outcomes for claimants are reportedly low.


► Policy recommendations

Recognizing the high-level challenges in Sudan's political leadership and the absence of a legislative body to pass or approve new laws or amendments, the following policy recommendations are intentionally suggested as actionable steps, feasible within the short to medium term. Recommendations are directed at the Government of Sudan, international organizations, and the wider development community and Sudanese civil society. Broadly, one can differentiate between recommendations relating to changes that would improve the legal frameworks that guide the conditions of access to work, and to other changes that would enhance effective access to existing opportunities or mechanisms.

Legal access

- Continue to keep the Five-Year National Strategy for Durable Solutions (2021–2026) on the agenda as a cross-cutting national policy, and support the competent authorities to put the strategy into action. The strategy offers comprehensive entry points to support refugees to live self-sufficient and dignified lives. With regard to labour market access, specific focus should be given to achieving Objective 6, "Improving living conditions of refugees and their hosts", Objective 8, "Freedom of movement and access to work", Objective 9, "Registration and documentation", and Objective 12, "Capacity-building for local authorities". These objectives include steps to enforce the Four Freedoms for South Sudanese, allowing other refugees to enjoy freedom of movement in order to access work as provided by the law, increasing refugee registration, and increasing refugee access to vocational training, among other areas.

- Consider the development of a new law to guide small or micro enterprises which would benefit from consultations with refugee-focused organizations to ensure that their needs and rights are adequately included. Overall clarity and availability of information on business registration steps – for Sudanese, non-Sudanese, and refugees – would also be beneficial.
- Provide clarity on the definition and rights of Brother and Sister status and clarify the rights and exemptions of South Sudanese refugees if the Four Freedoms are formalized.
- Continue to support refugee access to training, such as by ratifying the Protocol on Free Movement of Persons in the IGAD Region and developing procedures to put in place the Addis Convention on recognition of prior academic qualifications. Ratifying and then enforcing this policy would be a tangible means to expanding access to refugees.

 Legally enforceable rights at work are generally not applicable to the majority of refugees who work in the informal sector

Effective access

- Prioritize harmonization of the registration processes between the Ministry of Labour, the COR and the UNHCR. Objectives could include issuance of refugee ID cards in all states rather than alternative documentation such as refugee photo slips, as well as the uniform inclusion of foreigner numbers to ID cards.
- Support concurrent ILO endeavours to expand financial inclusion in way that could support small business development. This could include policy dialogue with the Central Bank and other commercial banks on the financial inclusion of refugees using refugee identification documentation as acceptable forms of ID to open bank accounts, and which would also need to be communicated to refugees through the COR and UNHCR. Other strategies may focus on working with microfinance institutions to extend adequate financial products, including savings and micro-credit schemes to refugees, while identifying and mitigating risks associated with lending to refugees.
- Make the work permit application process more accessible to refugees. The current process requires several steps and documentation from multiple government departments. It would be helpful to set out the official steps clearly, and to ensure visibility of and access to this information through hard and soft means of communication, for example, posters that can be shared at the COR, labour offices, places of worship and other gathering places, as well as posts on social media. Processes for work permit application should be determined for the subnational level and clearly communicated to COR and labour office branches.
- Encourage the COR to work with the Telecommunication and Post Regulatory Authority to authorize refugee ID cards officially as acceptable proof of identity for the purchase of SIM cards. Ensure that any decisions made are communicated to the COR, telecoms organizations and SIM card vendors, especially to those at the subnational level.
- Strengthen access to and quality of skills development nationally. In addition to ratifying and implementing regional policies that expand refugee access to skills training, it will be important to ensure that people can access quality training opportunities that are in step with labour market demands. Medium- to long-term ambitions should address the scarcity of training centres beyond Khartoum and specific urban areas. Developing more vocational training centres is not likely to be a high priority, but organizations wishing to develop alternative training channels should do so in line with national frameworks and in coordination with the Supreme Council of Vocational Training Authority (SCVTA). Efforts to invest in youth preparation for the labour market, such as by matching training to labour market needs and improving the quality of existing centres, should also consider the Strategic Plan published by the SCVTA and JICA in October 2021.

PROSPECTS

The Partnership for Improving Prospects for Forcibly Displaced and Host Communities (PROSPECTS) in Sudan is a joint initiative of the United Nations International Children's Emergency Fund (UNICEF), the United Nations High Commissioner for Refugees (UNHCR) and the International Labour Organization (ILO) that is spearheaded and funded by the Kingdom of the Netherlands. It aims to achieve sustainable improvements in the wellbeing and independence of forcibly displaced persons and host communities across three pillars: education, livelihoods and protection.

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