International Labour Organization

PROSPECTS

REVIEW OF NATIONAL POLICY FRAMEWORKS AND PRACTICE



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

Baseline study on the right to work and rights at work for refugees

Kingdom of the Netherlands

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

Baseline study on the right to work and rights at work for refugees

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Foreword

Ethiopia has a long history of hosting refugees and asylum-seekers. As of April 2024, an estimated 1 million refugees and asylum-seekers were living in the country, many originating from South Sudan, Somalia, Eritrea and Sudan. Most of these refugees and asylum-seekers are hosted in 26 refugee camps located in the regional states, some in protracted situations. Host communities in Ethiopia that welcome refugee populations face economic, environmental and developmental challenges with which they require ongoing support. This also puts significant pressure on government service delivery. Equitable attention to the needs of both communities is essential to sustain peaceful coexistence and to mitigate shocks to the delivery of public services.

Against this background, PROSPECTS – the Partnership for improving prospects of forcibly displaced persons and host communities – was launched in 2019 with support from the Ministry of Foreign Affairs of the Kingdom of the Netherlands. The Partnership brings together the International Labour Organization (ILO), the United Nations International Children's Emergency Fund (UNICEF), the United Nations High Commissioner for Refugees (UNHCR), the International Finance Corporation (IFC) and the World Bank to collaboratively support government-led efforts to strengthen systems and develop and implement policies that promote inclusion and the socio-economic development of refugees and host communities.

Within this Partnership, the ILO plays a key role in the promotion of decent work and focuses on strengthening local economic development and improving employability by equipping refugees and host communities with better and more relevant skills to enter local labour markets and to access enterprise development opportunities. The ILO works closely with the government and employers' and workers' organizations to strengthen the policy, legislative and institutional environments for work-related protection and inclusion of refugees and host communities.

This study is undertaken as part of a global exercise and in conjunction with similar reviews conducted in Jordan, Lebanon, Sudan, Egypt, Iraq, Kenya and Uganda under PROSPECTS. It aims to provide an understanding of the current policy, legislative and regulatory frameworks and practice in Ethiopia in relation to refugees' access to the labour market, employment, livelihood and training opportunities, including self-employment, business development, and rights at work, including social protection and freedom of association. Thus, PROSPECTS will have a clear picture of the current status of these frameworks and whether and how they are being applied.

For this report, global frameworks, national legislation, national policy documents, data sets and grey literature were reviewed to establish the legal basis for refugees' access to work and their rights at work. Findings from the literature review were verified and triangulated with field work to establish how the laws are understood and implemented in practice. Key informant interviews and focus group discussions were conducted in Addis Ababa, Afar and Somali regions.

I would like to thank the Kingdom of the Netherlands for its generous support to this assessment and the production of this report, undertaken in the context of PROSPECTS. I also would like to express my deep appreciation to Refugees and Returnees Service for their valuable inputs on the various drafts. Finally, I would like to thank ILO and UNHCR for their excellent work in conducting this review and their continuing collaboration. We hope that this report will inform policy dialogue on refugees' access to the labour market in Ethiopia, and that its recommendations feed into the design of integrated interventions that promote decent work for refugees and host communities in the country.



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Abbreviations

ARRA	Agency for Refugee and Returnee Affairs
CRRF	Comprehensive Refugee Response Framework
DRC	Danish Refugee Council
EIC	Ethiopian Investment Commission
FDPs	Forcibly displaced persons
FDRE	Federal Democratic Republic of Ethiopia
FGDs	Focus group discussions
GCR	Global Compact on Refugees
GoE	Government of Ethiopia
GRF	Global Refugee Forum
ICS	Immigration and Citizenship Services
IDP	Internally displaced person
IFC	International Finance Corporation
IGAD	Intergovernmental Authority on Development
ILO	International Labour Organization
KII	Key informant interview
MFI	Microfinance institution
MSME	Micro, small and medium-sized enterprise
NCRRS	National Comprehensive Refugee Response Strategy
NGO	Non-government organization
OAU	Organisation of African Unity
OCP	Out-of-camp policy
ReDSS	Regional Durable Solutions Secretariat
RPL	Recognition of prior learning
RRS	Refugees and Returnees Service
RSD	Refugee status determination
TIN	Tax Identification Number
TVET	Technical and Vocational Education and Training
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund

Definition of terms

Asylum-seeker	Any person or group of persons who presents themselves at the border or frontier or within the territory of Ethiopia seeking refugee status and waits for a decision by the Refugees and Returnees Service (RRS).
Durable solutions	The means by which the situation of refugees can be satisfactorily and permanently resolved to enable them to live normal lives. This generally involves voluntary repatriation to the country of origin, local integration (including through naturalization) in the country of asylum, or resettlement to another country.
Identification document	Documents, issued by the RRS, to recognized refugees and asylum-seekers, which include identity paper, travel document, pass permit, proof of registration, birth certificate or similar documents that attest to the identity of the bearer.
Internally displaced persons (IDPs)	Persons or groups of persons who have been forced or obliged to flee or leave their homes or places of habitual residence, in particular as a result of, or in order to avoid the effects of, armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.
Joint project	An urban or rural development project designed with the support of the international community and the agreement of the Ethiopian government to economically benefit both recognized refugees and Ethiopian nationals.
Local integration	A durable solution for refugees that involves their permanent settlement in a host country. Local integration is a complex and gradual process, comprising three distinct but interrelated dimensions: legal, economic and socio-cultural. The process often concludes with the naturalization of the refugee.
Refugee	A person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of their nationality and is unable or, owing to such fear, unwilling to avail themselves of the protection of that country; or who, not having a nationality and being outside their former country of habitual residence as a result of such events, is unable or, owing to such fear, unwilling to return to it. The term "refugee" shall also apply to every person who, owing to external aggression, occupation, foreign domination, or events seriously disturbing public order in either part or the whole of their country of origin or nationality, is compelled to leave their place of habitual residence in order to seek refuge in another place outside their country of origin or nationality.

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This review has been produced in the context of the partnership programme on "Improving Prospects for Host Communities and Forcibly Displaced Persons (PROSPECTS)" funded by the Government of the Netherlands. The initial data collection was conducted by INCLUDOVATE Research. Analysis and reporting were completed by ILO and UNHCR teams. Fatma Kaya Ergani, Senior Programme Officer of the ILO PROSPECTS programme, and Ephrem Tadesse, Protection Officer at UNHCR Ethiopia, provided oversight during the development of this report. The report benefited from input and comments by the ILO PROSPECTS teams and technical specialists, Nicholas Grisewood, Jean-Yves Barba, Luladay Aragaw (former ILO), Gizeshwork Tadesse, Kylie Pearce (former ILO), Michael Mwasikakata, Albert Okal, Paul Mayanja and Simon Hills. And finally, the ILO expresses appreciation to RRS for providing substantial inputs and insights on various drafts of this report.

Executive summary

Ethiopia has a long history of hosting refugees with its "open-door policy". Currently, it is the third-largest refugee hosting country in Africa and one of the largest in the world. It hosts nearly 1 million refugees and asylum-seekers originating from 26 countries, mostly South Sudan, Somalia, Eritrea, Sudan and Yemen.[1] Ethiopia is a party to the 1951 Refugee Convention, the 1967 Protocol Relating to the Status of Refugees and the 1969 Organisation of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa. The Government of Ethiopia enacted a progressive Refugees Proclamation in January 2019 to create an enabling legal environment for the operationalization of the commitments it made during the Leaders' Summit on 20 September 2016 in New York and as part of the New York Declaration and the Global Compact on Refugees. The 2019 Proclamation contains substantive provisions covering a wide range of rights and access to services for refugees and asylum-seekers. The government also adopted three directives to implement the Refugees Proclamation on refugees' right to work, freedom of movement, and grievances- and appeals-handling mechanism.

PROSPECTS in Ethiopia targets areas affected by forced displacement in Somali Regional State, as well as urban refugees in Addis Ababa. Within the Partnership, the ILO plays a vital role towards improving the employability of forcibly displaced persons (FDPs) and host communities by equipping them with better and more relevant skills aligned with local labour market needs and knowledge on accessing enterprise development opportunities. This report provides an analysis of relevant policies, legislative and regulatory frameworks, and current practices for ensuring refugees' access to education and training, and to the labour market, as well as their right to work and rights at work. The report is part of an overall review that aims to build a baseline for ILO PROSPECTS to promote more contextualized and localized policy responses and interventions to the challenges of forced displacement.

The initial data collection, analysis and reporting, which began in August 2021, was conducted by INCLUDOVATE Research. The data collected was further updated to reflect developments in the refugee legal, policy and regulatory frameworks, as well as practices, as of 31 December 2022. Developments and practices in the refugee legal, policy and regulatory frameworks in Ethiopia after December 2022 are not reflected in this report.

The final research report was produced by the ILO with substantive input and review from UNHCR and RRS. A desk-based review was conducted mainly to analyse the relevant legal, policy and regulatory frameworks, and was complemented by key informant interviews (KIIs) and focus group discussions (FGDs) in Addis Ababa, Semera and Aysaita (Afar National Regional State) and Jijiga and Kebribeyah (Somali National Regional State). A qualitative research approach was used to obtain accurate and reliable data through KIIs and FGDs. Relevant legal, policy and regulatory frameworks relating to refugees' access to the labour market, right to work and rights at work were analysed and compared with the practice in order to identify key gaps and challenges in implementation and propose conclusions and points for consideration.

The report identified the following key findings and conclusions:

Access to the labour market and rights to work

- The backlog of refugee status determination (RSD) cases may limit asylum-seekers' access to their rights, as certain rights are reserved for recognized refugees. Expediting the RSD process will thus inevitably help asylum-seekers enjoy the rights and access the economic opportunities that come with refugee status, including participation in joint projects.
- Through a national registration exercise conducted in 2017, almost two thirds of refugees over the age of 14 received a refugee ID card and proof of registration, significantly enhancing their access to social services and economic opportunities. In the same year, a vital events registration service for

1 UNHCR, "Operational Data Portal for Ethiopia", accessed February 2024.

refugees was launched by the RRS. However, actual issuance of vital events certificates for refugees has been low, for various reasons, including awareness gaps, capacity limitations and prolonged suspension of documentation services due to the COVID-19 pandemic and associated declaration of a state of emergency.

- Despite progressive provisions in the Refugees Proclamation and the Freedom of Movement Directive, Ethiopia continues to apply a *de facto* encampment practice, limiting refugees' freedom of movement and choice of residence. In addition, out-of-camp (OCP) opportunities have not yet been fully extended to refugees from all nationalities in accordance with the pledges made by the Government of Ethiopia and the Freedom of Movement Directive. The restrictions on refugees' freedom of movement limit refugees' ability to enjoy their other rights, including access to education, wage-earning employment and self-employment.
- A considerable gap exists in the operationalization of the 2019 Refugees Proclamation due to the absence of a comprehensive regulation to harmonize the rights of refugees with other national laws and policies, and to clarify the mandates, roles and responsibilities of federal, regional and local government authorities in implementing refugee rights. Several provisions of the 2019 Refugees Proclamation including, but not limited to, right to work, right to education, access to banking and financial services, right to social security, right to property and freedom of movement, are not aligned with other national laws and policies, creating practical difficulties in their implementation.
- The standard of treatment applied to refugees' right to wage-earning employment and self-employment, which is "the most favourable treatment as accorded to foreign nationals", is not clear, because the group of foreign nationals to be used as a reference is not clearly defined in the law. Similarly, Right to Work Directive is not harmonized with the Refugees Proclamation regarding the standard of treatment applicable to refugees' access to wage-earning employment and self-employment.
- Full implementation of the 2019 Right to Work and Freedom of Movement Directives issued by the RRS has been delayed for various reasons, including lack of a collaborative framework with relevant line ministries, such as the Ministry of Labour and Skills (MoLS), Ministry of Trade and Industry (MoTI) and the Cooperatives Agency (and their regional counterparts), who are mandated, respectively, to issue work permits, business licences and cooperatives certificates to allow refugees to engage in wage-earning and self-employment. While a memorandum of understanding (MoU) was signed with the MoLS in November 2022 delegating the issuance of work permits for refugees to the RRS, similar cooperative frameworks with the other key government stakeholders remain outstanding.
- The education and livelihood working groups led by the RRS and attended by key stakeholders play a vital role in coordinating sectoral responses, information exchange, joint planning, joint fundraising, harmonizing services, etc. However, the lack of coordination regarding certain key aspects of refugee rights, as well as the gaps in cross-sectoral and multi-tier coordination among relevant actors at all levels, including the RRS, federal and regional authorities, international organizations, NGOs and other service providers, limit the effective implementation of policy frameworks.
- The limited awareness of refugee rights among government and other service providers, as well as among refugees themselves, hampers provision of services to refugees. For instance, while there are national laws pertaining to refugees' access to services such as social health insurance, banking and finance, microfinance, liberal professions, cooperatives, micro, small and medium-sized enterprises, telecom services, driving licences, etc., their access to these services is limited because of the lack of awareness of service providers.
- Prohibitive legal, administrative, financial, documentary and bureaucratic barriers to obtaining the required permits limit refugees' access to wage-earning and self-employment opportunities. Although the power delegated to the RRS by the MoLS to issue work permits for refugees has helped lower these barriers in relation to access to the labour market, this arrangement is due to expire on 30 June 2024, and whether or not it will continue remains to be seen. A similar MoU arrangement is yet to be put in place with the MoTRI and the Cooperatives Agency to facilitate issuance of business licences and cooperatives certificates to refugees.

- There is potential for the operation by refugees of small-scale businesses such as shops, cafés, restaurants, barbershops, etc., in and around refugee camps to be formalized by providing necessary support, including business development services, registration support, market linkages, access to credit facilities, etc.
- The legal framework governing liberal professions permits, other than in a few areas, foreign nationals, including refugees, to practise liberal professions as advocates, health professionals, certified public accountants, certified auditors, construction professionals, contractors, etc. Refugees' participation in these sectors is minimal, however, owing to a number of administrative, bureaucratic, financial and awareness-related barriers.
- Projects jointly designed by the international community and the Government of Ethiopia to economically benefit both refugees and host communities offer an opportunity, albeit a limited one, for refugees to access employment opportunities and self-employment options. The joint project approach could be used as an interim opportunity for refugees to access economic opportunities until a clear implementing legal framework, clarifying their access to wage-earning and self-employment opportunities through work permits, is put in place. However, the lack of clear implementation guidelines on the selection criteria and procedure for issuing residence permits to refugees to enable them to participate in joint projects is a major challenge.
- Having Ethiopian nationality is not a requirement to be a member of a Cooperatives Society, meaning refugees are not legally prohibited from establishing or being members of cooperative societies. In practice, refugees participate in cooperatives in different refugee-hosting areas, including Melkadida and Jijiga. While these cooperatives have potential in terms of addressing the livelihood of refugees and host communities, they are constrained by low membership, low level of capitalization, lack of business skills, lack of direct access to microfinance institutions, as well as weak coordination among relevant stakeholders.
- Ethiopian financial laws do not explicitly exclude refugees from accessing banking and financial services. However, several legal and practical barriers limit refugees' access to the financial services provided by banks and microfinance institutions. The main challenge emanates from the know-your-customer principle, whereby banks and financial service providers are required to identify their customers by requesting them to provide an identification document. The banking and financial laws do not, however, recognize refugee ID cards as an identification document.

Access to education and training

- The Government of Ethiopia has made a series of legislative and policy reforms to ensure inclusion of refugees in the national education system, in accordance with its commitments. In practice, however, refugees' access to education is constrained by gaps in the implementation of the Refugees Proclamation and the prevailing parallel education system for refugees. The "most favourable standard of treatment" in the Proclamation regarding access to education other than pre-primary and primary is not clearly defined. The gross enrolment rate of refugee children in pre-primary, primary and secondary education is significantly lower than the national gross enrolment rate. Support for refugees' access to tertiary education is limited by low resources, which means only a small number of refugees benefits. In addition, lack of awareness of the special needs of refugees, capacity constraints and low quality of education, among other factors, all impact the inclusion of refugees in the national education system.
- Technical and vocational training are provided for refugees and host communities either directly by international organizations and NGOs, or by these organizations jointly with regional TVET bureaux and TVET colleges. Most of the training programmes run by NGOs are not aligned with the curriculum and they are not certified by the competent authority. Nor are the certificates they give to the trainees recognized or linked with employment opportunities. This is further compounded by the low quality and supply-driven nature of the training offered, as well as challenges in obtaining work permits or business licences.
- The lack of flexible procedures to give special treatment to refugees in terms of recognizing their foreign educational credentials in accordance with their specific circumstances has been a challenge. Currently, the authentication service for refugees' foreign educational credentials is suspended, owing

to concerns about fraud. The Ministry of Foreign Affairs (MoFA) requires refugees to get confirmation of the authenticity of their educational credentials from the embassy or consulate of their country of origin, but this raises protection concerns. Refugees are also charged higher service fees than nationals for authentication of their documents, contrary to the Refugees Proclamation.

- While the recognition scheme for prior learning (RPL) is an important instrument to ensure refugees with no formal training can access employment opportunities, in practice, for the RPL system to be functional and accessible to refugees, it requires a functional legal framework, financial resources and qualified human resources. The recent suspension of the administration of placement exams for refugees who do not have certificates evidencing their prior learning has created additional challenges for refugees.

Rights at work

- While Ethiopian law provides for refugees' right to access justice on a par with Ethiopian nationals, practical challenges such as distance, restrictions on freedom of movement, limited legal aid services, lack of awareness, language barriers, etc., limit their access.
- Financial, logistical and training support is required to strengthen the existing mobile court systems in the Melkadida and Gambella refugee-hosting areas to ensure their availability, accessibility and quality of services. The mobile courts could be replicated in other refugee-hosting areas, particularly where the refugee camps are located in remote places.
- Foreign nationals formally employed in an organization in Ethiopia, including refugees and asylum-seekers, do enjoy the right to form and join trade unions in so far as they meet the membership criteria. Challenges in this regard include low awareness, limited resources and technical know-how for joining trade unions, and lack of procedures on how to form trade unions within the informal sector, where most refugees are employed. It is crucial, therefore, to make sure trade unions, including the Confederation of Ethiopian Trade Unions and the Ethiopian Employers' Federation, understand that they need to include refugee workers and empower refugees to exercise their rights to form and join trade unions.
- The Refugees Proclamation is not also clear regarding refugees' access to social security schemes, including pension coverage. Regarding social protection, refugees are currently included in the World Bank's Urban Productive Safety Net and Jobs Project at various locations across the country.
- Enrolment in the community-based health insurance scheme is open to anyone engaged in the informal sector, which means refugees are not excluded. This is aligned with the overall objectives of the scheme to ensure universal health coverage in the country, which cannot be achieved without including refugees. Nonetheless, it is important to ensure that the scheme covers refugees and asylum-seekers in practice, so that they can get sustained access to health services in the same manner as Ethiopian nationals.

Naturalization pathways open to refugees

- Refugees have, in principle, the right to acquire Ethiopian citizenship if they fulfil all the relevant requirements. However, owing to restrictions on their movement and limited access to labour markets, which would enable them to maximize their self-reliance, it is challenging for many refugees to fulfil the requirement of having a sufficient and lawful source of income to acquire Ethiopian citizenship through naturalization, as stipulated in the Nationality Proclamation.
- One of the viable options for ensuring local integration of refugees in Ethiopia is through voluntary naturalization. Refugees who have lived in Ethiopia for more than 20 years could be eligible for local integration in accordance with the 2016 pledges of the Government of Ethiopia. Local integration for this group could be achieved through application of the Nationality Proclamation *if* less stringent and expedited procedures were adopted and the costs and charges associated with such procedures were reduced as much as possible. In this regard, provision of free legal assistance to refugees who are in the process of naturalization is important.

1

Overview

1.1 Context and objectives

Today, forced displacement around the world has reached an unprecedented level, with more than 110 million people ousted from their homes owing to persecution, conflict, violence, human rights violations, or events seriously disturbing public order.[2] Low- and middle-income countries host 75 per cent of the world's refugees and least developed countries, including Ethiopia, host around 20 per cent of the total (at the end of June 2023).[3]

Ethiopia consistently maintains an "open-door" policy to refugees and asylum-seekers and has a long history of hosting refugees. Currently, it is the third-largest refugee-hosting country in Africa and one of the largest in the world, reflecting the ongoing fragility and conflict in the east and Horn of Africa regions. As of April 2024, Ethiopia was hosting around 1 million refugees and asylum-seekers originating from 26 countries, mainly South Sudan, Somalia, Eritrea, Sudan and Yemen.[4] Most of these refugees and asylum-seekers are hosted in 26 refugee camps located in the regional states, some in protracted situations. The main refugee-hosting regions are Gambella (37.5 per cent), Somali (32.9 per cent), Benishangul Gumuz (9.8 per cent), Addis Ababa (7.4 per cent), Afar (5.7 per cent), Amhara (4.1 per cent) while regions such as Oromia and Tigray also host a small population of refugees.[5]

Ethiopia also continues to face significant internal displacement challenges owing to conflict, insecurity and natural disasters. According to data collected by the International Organization for Migration's Displacement Tracking Matrix between November 2022 and January 2023, there were 3.14 million internally displaced persons (IDPs) and 1.89 million IDP returnees who continue to rely on humanitarian assistance (IOM Ethiopia 2023). Many of the refugee- and IDP-hosting regions face the challenges of poor infrastructure, high levels of poverty, adverse weather conditions and poor development indicators.

2 UNHCR, "2023 Mid-Year Trends".

3 UNHCR, "2023 Mid-Year Trends".

4 UNHCR, "Operational Data Portal for Ethiopia.

5 UNHCR, "Operational Data Portal for Ethiopia.

Notwithstanding these challenges, the regions continue to receive refugees and host IDPs, year after year. Further, the two years of bloody conflict between the Federal Government and Tigrayan forces since 4 November 2020 resulted in the destruction and/or closure of the refugee camps in Tigray and Afar regions and the displacement of Eritrean refugees to Amhara, Afar and Addis Ababa. According to UNHCR, an estimated 2,612,353 people were displaced as a result of the conflict in northern Ethiopia, including 97,421 Eritrean refugees (UNHCR 2022a).

Regardless of these challenges, the Government of Ethiopia (GoE) remains committed to hosting refugees and improving their situation in the country. On 19 September 2016, the United Nations General Assembly hosted a high-level Summit for Refugees and Migrants that aimed to improve the way in which the international community responds to large movements of refugees and migrants. This resulted in the adoption of the New York Declaration on Refugees and Migrants. The declaration proposed the piloting of a Comprehensive Refugee Response Framework (CRRF) that would be a basis for the adoption of a Global Compact on Refugees. (In February 2017, Ethiopia became one of the first countries to pilot the practical application of the CRRF.) As a side event to the summit, Ethiopia co-hosted the Leaders' Summit in New York on 20 September 2016, at which the GoE, in a spirit of global solidarity and in line with the fundamental principles of international refugee law, made nine highly significant pledges aimed at fostering the broader socio-economic inclusion of refugees in the country. The GoE also announced additional complementary pledges during the Global Refugee Forums held in December 2019 and 2023.

To translate these commitments into practice, the Government took important policy and legislative steps. These included the adoption of a Roadmap for the Implementation of the Pledges and the Practical Application of the CRRF by 2026. The Roadmap outlines the national implementation of the CRRF in Ethiopia, including the transition from the care and maintenance approach towards self-reliance and gradual inclusion of refugees into national systems. The GoE also drafted a ten-year National Comprehensive Refugee Response Strategy (NCRRS), which aims to provide guidance for the key activities to be undertaken to operationalize the nine pledges. The NCRRS is, at the time of writing, awaiting approval by the cabinet.

As part of the legislative steps to translate its commitments into action, the Ethiopian parliament adopted a new progressive refugee proclamation in 2019, repealing the 2004 Refugee Proclamation. The revised proclamation, Refugees Proclamation No.1110/2019, contains a wide range of rights and entitlements for refugees and asylum-seekers, including, *inter alia*, the right to access education and health services; the right to work, that is, engage in wage-earning employment, self-employment and the liberal professions; and the right to association. Further, the Proclamation facilitates refugees' right to organize themselves and form or join cooperatives, engage in business activities, and access financial and business development services.

With respect to internal displacement, the Government ratified the 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, better known as the "Kampala Convention", in February 2021. In doing so, the GoE assumed the obligations to adopt national laws, policies and strategies on protection of and assistance for IDPs and to put in place an institutional framework for the coordination of activities to protect and assist IDPs, in collaboration with relevant international organizations and civil society.

Against this backdrop, the National Policy, Legislative and Regulatory Frameworks and Practice Review being undertaken by the ILO aims to contribute to the goal of fostering broader socio-economic inclusion of FDPs in national systems by establishing a baseline of the relevant frameworks, and their application, that determine access of FDPs to the labour market, employment, livelihood and training opportunities, including self-employment and business development, as well as their rights at work. This review is being conducted along with similar exercises undertaken in the other PROSPECTS target countries. Specifically, the review aims to:

- identify, examine and analyse relevant legislation, policies and regulatory frameworks pertaining to refugees' access to labour markets, employment and self-employment (formal and informal), training, business development and other income-generating activities in light of international and national standards. These frameworks include policies, primary and secondary legislation, regulations, strategies, national development plans and other legal instruments;
- identify key gaps in relation to relevant legislation, policies and regulatory frameworks;

- assess the status of implementation of the relevant legislation, policies and regulatory frameworks, as well as the ability and capacity of relevant government ministries, institutions, social partners and non-governmental actors to implement them;
- suggest next steps for consideration.

1.2 Methodology

1.2.1 Scope

This report presents the findings of an analysis of GoE laws and policies, and of current practices to address refugees' access to education and training, their right to work and rights at work. The analysis focused predominantly on the rights of refugees as set out in the 2019 Refugees Proclamation and other national legal frameworks, and the implementation of these in Ethiopia. Although a comprehensive evaluation of policy implementation and results was beyond the scope of this review, the analysis does yield insight in these areas by referring to primary sources.

1.2.2 Methods of data collection and procedure

A qualitative research design was used to review the legal, policy and regulatory frameworks pertaining to access of refugees to the labour market, employment, livelihood and training opportunities, including self-employment and business development, as well as their rights at work. The review assessed relevant laws, policies and regulatory frameworks. In addition, key informant interviews (KIIs) and focus group discussions (FGDs) were conducted to collect and analyse data in order to assess the practical application of the laws, policies and regulatory frameworks.

The data collection process took place from August 2021 to January 2022. KIIs and FGDs were conducted in selected areas where refugees were being hosted. Fieldwork was conducted in Afar and Somali regional states and at the federal level (Addis Ababa) – all target areas for PROSPECTS Ethiopia. From the regions, two sites were selected from the ten camps in which refugees mainly from Eritrea and Somalia are hosted – respectively, Aysaita (Afar) and Kebribeyah (Somali).

A. Desk review

A review of international, regional and national legal and policy documents, data sets, literature and other published and unpublished secondary sources, such as discussion papers, analyses, reports, factsheets and transcripts of speeches, was conducted to establish the legal and policy bases for refugees' access to education and training, their right to work, including self-employment and business development, as well as their rights at work.

B. Key informant interviews

At the federal level, 20 KIIs were conducted with relevant senior experts from and officials of 14 government offices, six non-government organizations (NGOs) and UNHCR. At the regional level, KIIs were conducted with individuals from government and non-government offices working with and on the issue of refugees. Thus, in Afar, nine KIIs were conducted with six government offices and three refugee entrepreneurs, while, in Somali, 26 KIIs were conducted with relevant senior experts from 16 government offices and with four refugee entrepreneurs.

All interviews were conducted in the interviewees' native languages for the convenience and better understanding of the informants.

▶ **Table 1. Summary of data collection sources and methods**

Region	Key informants		Focus group discussions (number of groups)			Focus group discussions (number of people)	
	M	F	M	F	Mixed	M	F
Afar	7	2	2	2	1	22	18
Somali	21	5	2	2	1	21	19
Addis Ababa	17	3	-	-	-	-	-
Total	45	10				43	37

Note: M = male; F = female.

C. Focus group discussions

In each region, five FGDs (male only, female only, male youth, female youth and mixed gender) were conducted with refugees of different ages and with members of host communities. The respondents were purposely selected to reflect the experience of those who are engaged in economic activities and those who are not. The latter were included in the study in a bid to understand the barriers encountered by refugees in accessing economic opportunities.

1.2.3 Methods of data analysis

As qualitative data collection tools were used, so the analysis was qualitative. The data collected was analysed following the conceptual framework designed for this task. All interviews were recorded, with the interviewees' consent, and transcribed verbatim. Each transcript was then thematically coded, following a coding tree developed in alignment with the research objectives and questions that were addressed in the different research instruments. Coded transcripts were analysed to summarize the findings and identify themes emerging from the data.

1.2.4 Limitations

The conflict in northern Ethiopia and the subsequent declaration of a state of emergency meant in-person data collection stalled, mainly in Afar and Addis Ababa. This was because some of the relevant government offices in Afar were shut down and some key federal-level officials were not available. Even after some of these offices reopened, not all of the planned KIIs could be conducted. Moreover, some of the key resource persons for the review from international organizations and NGOs had left the country at the height of the conflict, which also affected data collection. As a result, interviews with some informants at federal level were conducted virtually. Efforts were made to ensure that all relevant stakeholders who were available were included in the data collection, and secondary sources were used to fill the gaps.

The other limitation relates to the objectivity of the responses obtained from KIIs and FGDs with refugees, host-community members, governmental, non-governmental and other sources. It should be noted that the responses may be subjective and reflective only of the opinions of the respondents. Some of the responses may also be inaccurate and influenced by the varying levels of understanding among the respondents of the rights of refugees and the legal, policy and regulatory frameworks and practice. In addition, given the diversity of the refugee population in Ethiopia and the disparity of the socio-economic and political contexts of the regions in which they are hosted, information obtained from refugee informants in the review may not be representative of the experiences of all refugees in the country. To address these limitations, efforts were made to triangulate the information using other available information sources. The data collected covers the period before 31 December 2022 and may not reflect recent developments and practices in the legal, policy and regulatory landscape as it pertains to refugees in Ethiopia. Overall, the findings obtained from the field data should be contextually understood in light of these limitations.

2

Main findings

2.1 Socio-economic context

Ethiopia is a large and diverse country that is undergoing considerable change politically, demographically and economically. The overall socio-economic context of the country is in turmoil, due to the conflict in the north and recurring security incidents in various parts of the country, which pose considerable challenges for citizens and refugees in accessing education, employment and protection services. Though a peace agreement has been recently signed between the federal government and Tigrayan authorities, the overall security situation in the country remains volatile.[6]

2.1.1 Labour market situation

Ethiopia is the second most populous country in sub-Saharan Africa and has shown consistently high economic growth,[7] averaging 9.8 per cent a year from 2007/08 to 2018/19, with the share of the population living below the national poverty line declining from 38 per cent to 24 per cent over the same period (World Bank 2020a). Ethiopia's per-capita income has increased by about 200 per cent since 1990, while life expectancy rose by about ten years in a decade (IMF 2020). Unemployment rates dropped from 18.45 per cent in 2010 to 14.55 per cent in 2015. The percentage of youth aged 15–24 not in employment, education, or training was estimated to be around 12.8 per cent in 2020. However, there has been a decline in the performance of the economy in recent years, creating macroeconomic challenges. Ethiopia's real Gross Domestic Product (GDP) growth decelerated to 7.7 per cent in 2017/18 (World Bank 2020a). Further, the COVID-19 pandemic, political instability, internal conflict – including the war in Tigray – as well as the effects of the war in Ukraine continued to slow down the country's economic growth, exacerbating inflation (World Bank 2020b). The war in Tigray alone has reportedly left nine million people in need of food aid, seriously challenging the economy.[8]

6 The Ethiopia-Tigray peace agreement, or Pretoria Agreement, was signed on 2 November 2022 by the Government of Ethiopia and the Tigray People's Liberation Front.

7 In 2022, Ethiopia's population was estimated to be 123,379,924 million, according to the World Bank DataBank.

8 UNHCR, "Ethiopia Humanitarian Crisis".



A trainee taking part in a woodworking course provided for persons with disabilities, Kebribeyah region. © ILO

Ethiopia's labour market has not demonstrated a similar expansion in terms of job creation (EDC 2018). According to the 2021 Labour Force and Migration Survey by the Central Statistics Agency, nearly 60 per cent of the total population in Ethiopia are in employment (CSA 2021). The differential by sex indicates that the rate among males (69 per cent) is higher than that among females (50 per cent). The majority (51.1 per cent) is employed in agriculture and fishery.[9] Women make up more than 40 per cent of the agricultural labour force, albeit with limited access to land (CSA and IOM 2021). In 2021, nearly half of employed persons (43.2 per cent of women and 54.4 per cent of men) were self-employed. Of the urban employed population, about one sixth (16.1 per cent) worked in the informal sector (CSA 2020, 4). Wages in Ethiopia have shown relative improvement in the past decade but are remarkably low nevertheless. Again, according to the 2021 Labour Force and Migration Survey, the gender wage gap was ten times wider in urban areas than in rural areas. This wide gender wage gap and fewer wage-earning employment opportunities mean women have to resort to self-employment, including in the informal sector.

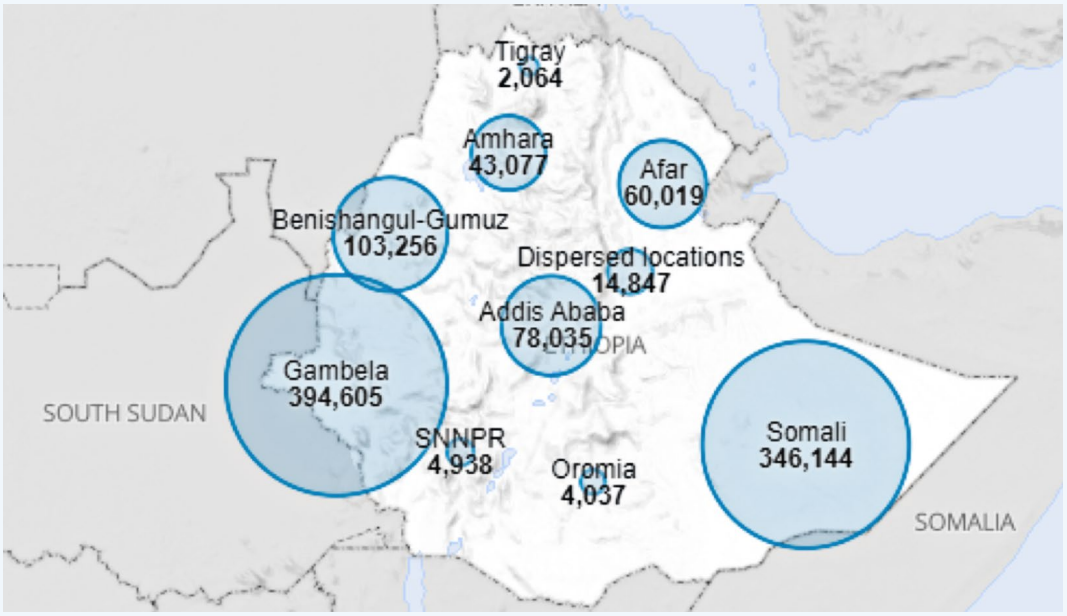
Agriculture is still the primary contributor to economic growth, despite the country's economic reorientation towards industrial manufacturing. Agriculture, forestry and fishing play a dominant role as sources of employment, absorbing 64.9 per cent of the working population (CSA and IOM 2021, 8). This is primarily due to the lack of technological development in its manufacturing sector, or to improve productivity gains and strategic linkages with other sectors (Oqubay 2019). The policy shift from agriculture to industry demands a highly skilled labour force and will create links both ways between the two sectors. The country's labour market has the potential to absorb larger numbers of low- and medium-skilled workers, as well as meet an apparent growing demand for high-skilled labour (ILO 2020a). This overall emerging increase in the demand for skilled workers across the construction, agriculture and manufacturing sectors in the post-agrarian Ethiopian economy demands proper synergy with education and skills training for locals and refugees (ILO 2020a).

According to a report by the World Bank, some refugees in Ethiopia are skilled in construction, electrical maintenance, plumbing and other similar occupations (Vemuru et al. 2020). Nevertheless, there is a mismatch between the skills and expertise of refugees and the demands of the labour market, with the majority of refugees having a background in agriculture (Miller and Graham 2021). As such, about a quarter of unemployed refugees lack the relevant skills to engage in the labour market. Market-oriented education and skills training thus play an important role in bridging this gap.

9 This category of occupation includes simple and routine tasks that require some physical labour and use of hand-held tools.

2.2 Refugee context

Figure 1. Refugee and asylum-seeker statistics in Ethiopia



Source: UNHCR Ethiopia – situation as of 30 April 2024.

As of 30 April 2024, the total number of refugees and asylum-seekers in Ethiopia was 1,051,022, making it the third-largest refugee-hosting country in Africa, after Uganda and Sudan. Most of the refugees originate from South Sudan (423,309), Somalia (347,250), Eritrea (178,815), Sudan (92,435) and other countries (9,213). Women account for more than half the total refugee population (53 per cent).[10] The largest cohort is of children aged 0–17 (58 per cent), followed by adults aged 18–59 (40 per cent), with just a small number of older persons aged 60+ (2 per cent). War and insecurity, political instability, military conscription, conflict, conflict-induced famine and drought are among the many reasons why an increasing number of refugees and asylum-seekers comes to Ethiopia (Carver 2020).

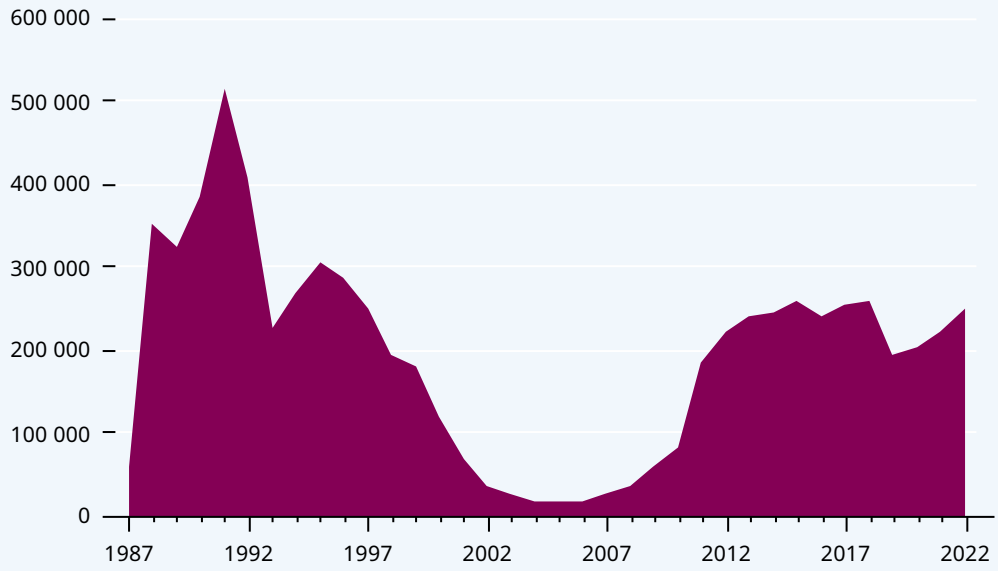
The country's open-door policy for refugees, along with its relative stability amid rising conflict and instability in the otherwise volatile Horn of Africa region, has led to a surge in the number of refugees over the past decade, from around 200,000 in 2011 to over a million a decade later. While the current population of refugees represents roughly 1 per cent of the total Ethiopian population, it is concentrated in different regions. Because of the country's encampment policy, the vast majority of refugees live in refugee camps, 26 in number, located in border areas across five regional states – namely, Afar, Benishangul-Gumuz, Gambella, Somali and Tigray (Carver et al. 2018). Alemwach refugee site located in Amhara Region, North Gondar Zone, Dabat Woreda was established in 2022 to accommodate more than 22,000 Eritrean refugees displaced from refugee camps in Tigray (UNHCR Ethiopia 2023b). In Afar, a new refugee camp at Serdo, near Semera, the capital of the Afar region, hosted Eritrean refugees of Afar ethnicity who were displaced from Berhale refugee camp following an attack (UNHCR Ethiopia 2022a). Moreover, according to UNHCR, more than 43,000 refugees have been spontaneously relocated from refugee camps in Tigray to Addis Ababa, owing to threats to their safety and security, and limited access to services (UNHCR Ethiopia 2022b).

10 Unless otherwise indicated, the statistics cited in this paragraph and the next are taken from UNHCR Ethiopia. 2024. *UNHCR Operational Data Portal as of 30 April 2024*.

Urban areas also host a considerable number of refugees in Ethiopia. By April 2024, UNHCR reported 78,035 registered urban refugees in Addis Ababa, mostly Eritreans and Yemenis (UNHCR Ethiopia 2024). Because of high mobility, avoidance of registration by refugees, COVID-19 and subsequent disruption of government activities, and suspension of registration and documentation services by the government since November 2021, it is difficult to know the exact number of refugees in the country, both in and out of the camps (WelCit 2020).

Ethiopia's Somali region hosts a significant number of refugees from Somalia. The regional state has received refugees since the early 1990s, owing to the conflict and instability in the region and consecutive situations of famine and drought, which have displaced many from their homes (Hammond 2014). The long-drawn-out conflict in Somalia is the main factor for people of Somali origin to seek refuge in the neighbouring Somali regional state in Ethiopia. Ethnic similarities, shared identity (Somali identity) and intermarriage have resulted in the integration of refugees into the local community and a preference on the part of some Somali refugees to settle in the regional state. This, along with the long history of mobility by locals (seasonal pastoralist movement) across the border, has also enabled refugees to easily cross into Somali regional state. As of April 2024, the region hosted 346,144 refugees and asylum-seekers. The following figure shows the trend of Somali refugees in Ethiopia, which has remained relatively stable (ILO 2020a).

Figure 2. Trend in Somali refugees in Ethiopia, 1987–2021



Source: UNHCR population statistics.

The Jijiga area has hosted refugees since the early 1990s, after the civil war in Somalia broke out (Ambroso 2002). Nine refugee camps were established back then to accommodate Somali refugees, of which Kebribeyah, Sheder and Aw-barre are still operational. There was another wave of refugees in 2008 and 2009, following the escalation of the conflict in Somalia (UNHCR 2009). In 2009, however, there was a shift in settlement of Somali refugees from the Jijiga area to Dollo Ado, which has made the camps in the Jijiga area the more static parts of the economic and social life of the region (Carver 2020,12). The refugee population in the Jijiga area includes a protracted caseload of individuals from Somaliland. The majority of refugees in Jijiga come from Mogadishu, Belet Weyne, south-central Somalia and Hargeisa. Since 2009, Jijiga has had no separate reception arrangements or screening centre for asylum-seekers. As of December 2016, there were an estimated 21,495 individuals in need of identification as refugees (UNHCR 2016).

Somali region is also host to a large number of IDPs and IDP returnees who have been displaced owing to conflict, violence and climate-induced shocks, including drought and seasonal flash floods. According to the IOM DTM report covering November 2022 to January 2023, the region had 1,263,155 IDPs and 2,973 IDP returnees (IOM 2023). Hosting communities in Somali region face pre-existing and precarious socio-economic situations exacerbated by food insecurity, limited access to basic social services and economic infrastructure, poor livelihood opportunities, shifting land ownership and access patterns, and a diminishing natural resource base (GoE and IOM 2017).

In Afar regional state, as of 30 April 2024, there were 60,019 refugees and asylum-seekers living in two refugee camps, Aysaita and Berhale (UNHCR 2024). There are also out-of-camp settlements in Dallol, Ayinadib, Erebti and Semera that, in 2019, accounted for 27.8 per cent of the total refugee population in the regional state (UNHCR 2019c). These refugees are mainly from Eritrea and of Afar ethnic background. The number of refugees living in the regional state could therefore be higher than the available statistics suggest.

The first wave of Eritrean refugees to the area was observed after the war between Ethiopia and Eritrea (1998–2000). Eritrean Afar – mainly from Assab, Massawa and Danakil areas – fled to Ethiopia, largely because of political persecution and military conscription, and were living out of camps but integrated in the community (Carver 2020). Ethnic and clan resemblance with host communities enabled refugees to live among the community until 2007, when the two refugee camps of Aysaita and Berhale were formally established (Dereje and Mohamed 2021). Even after that, a considerable number of refugees was living outside camps and reportedly registered in the camps in order to obtain government support, such as food rations (Carver 2020). Another wave of Eritrean refugees to Afar regional state came after 2018, following the peace deal between Ethiopia and Eritrea, which opened the borders between the two countries (Dereje and Mohamed 2021).

2.3 Relevant legal, policy and regulatory frameworks and practice

This section introduces the international, regional and national refugee-specific legal and policy frameworks applicable to Ethiopia. These frameworks are analysed in more depth in subsequent sections, in connection with specific thematic areas relevant to this review.

2.3.1 International frameworks

The sources of international refugee law include international human rights law, international humanitarian law, the 1951 Refugee Convention and its 1967 Protocol, customary international law and soft laws. Customary international law applies to all States, irrespective of whether they are a party to relevant treaties. For the purpose of this review, the focus is on the 1951 Convention and its 1967 Protocol. Other sources may, however, occasionally be referenced, where necessary.

2.3.1.1 The 1951 Convention Relating to the Status of Refugees with its 1967 Protocol and other complementary instruments

The United Nations 1951 Convention Relating to the Status of Refugees with its 1967 Protocol (hereinafter jointly referred to as the 1951 Convention) is the primary international legal instrument for the protection of refugees. With 149 States Parties, the 1951 Convention provides the definition and legal status of refugees, comprehensively codifies the rights of refugees, lays down the minimum standards of protection of refugees, including protection from forcible return to a country where they would face persecution (*non-refoulement*), and outlines State obligations. (Okello 2014).

Ethiopia ratified the 1951 Convention and the 1967 Protocol on 10 November 1969[11] with reservations on Articles 8 (exemption from exceptional measures), 9 (provisional measures), 17(2) (restrictive measures imposed on foreigners or the employment of foreigners for the protection of the national labour market) and 22(1) (elementary education), stating that these provisions are recognized only as recommendations and not as legally binding obligations.[12] Relevant to this analysis is Ethiopia's reservation on elementary education (Art. 22(1)) and with respect to exemption of refugees from restrictive measures taken to protect the national labour market (Art. 17(2)).

Ethiopia is also a signatory to various international instruments that complement the 1951 Convention. Relevant principles of customary international law and other international refugee protection standards, guidelines and recommendations are also appliable. These international instruments and guidelines ratified or adopted by Ethiopia are considered integral parts of the law of the land and their significance for the protection of human rights is also distinctly ordained in the Federal Democratic Republic of Ethiopia (FDRE) Constitution.[13]

2.3.1.2 The New York Declaration and the Global Compact on Refugees

On 19 September 2016, at the United Nations Summit on Addressing Large-scale Movements of Refugees and Migrants, 193 Member States, including Ethiopia, unanimously adopted the New York Declaration for Refugees and Migrants (hereinafter the New York Declaration) – a common plan for addressing large-scale movements of refugees and migrants. The New York Declaration includes a number of principled commitments to fully protect the human rights of all refugees and migrants as rights-holders, regardless of their status, and to devise responses to large-scale movements with full respect for international human rights law and other relevant standards.

The New York Declaration called for the development of a "Global Compact on Refugees" (GCR), based on the application of the CRRF. The main objectives of the CRRF would be to ease pressure on the host countries; enhance refugee self-reliance; expand access to third-country solutions; and support conditions in countries of origin for return in safety and dignity.[14] Departing from the traditional humanitarian refugee response, the CRRF adopts a holistic approach that seeks to strengthen the humanitarian-development nexus and follow a multi-stakeholder "whole of society" approach involving a broad range of actors and new partnerships. The outcomes of the practical application of the CRRF would thus inform the development of the GCR.

Within two years of the adoption of the New York Declaration, the CRRF was rolled out in more than a dozen countries around the world, including Ethiopia, and extensive consultations were conducted with stakeholders. This process culminated in the approval by the UN General Assembly of the GCR on 17 December 2018. The GCR also led to the birth of the Global Refugee Forum (GRF), in the context of which States and other actors come together every four years to share good practices, contribute resources and make policy commitments to help reach the goals of the GCR. The first forum was held in Geneva in December 2019.

11 UNHCR, "States Parties to the Convention Relating to the Status of Refugees and the 1967 Protocol", as of 17 April 2015.

12 UNHCR, "States Parties, Including Reservations and Declarations, to the 1951 Refugee Convention", accessed 5 November 2022.

13 Federal Democratic Republic of Ethiopia, Constitution, Proclamation No. 01/1995, Article 9(4).

14 UN General Assembly, New York Declaration for Refugees and Migrants, 71st Session, 19 September 2016, A/RES/71/1.

2.3.1.3 The Leaders' Summit

A day after the adoption of the New York Declaration, on 20 September 2016, the Leaders' Summit on the Global Refugee Crisis was hosted by the President of the United States, Barack Obama, jointly with the UN Secretary-General Ban Ki-Moon, as well as leaders from Canada, Ethiopia, Germany, Jordan, Mexico and Sweden, with the purpose of galvanizing the support of nations in response to the global refugee crisis. The main aims of the Summit were to: 1) increase funding to humanitarian appeals and international organizations; 2) admit more refugees through resettlement or other legal pathways; and 3) increase refugees' self-reliance and inclusion through such opportunities as education and legal work. In all, 52 countries and international organizations participated in the Summit, at which specific, actionable commitments towards enhanced responsibility-sharing were announced.

The Government of Ethiopia, for its part, in the spirit of global solidarity and in line with the fundamental principles of international refugee law, made nine highly significant pledges to strengthen support to refugees in the country. These pledges were generally in line with the objectives of the CRRF and can be grouped into six thematic areas: out of camp, education, work and livelihoods, documentation, social and basic services, and local integration (see FDRE ARRA 2018).

Box 1. Nine pledges of the Government of Ethiopia (FDRE 2018)

Out of Camp Pledge

- Expansion of the "Out-of-Camp" policy to benefit 10 per cent of current refugee population.

Education Pledge

- Increase of enrolment in primary, secondary and tertiary education to all qualified refugees without discrimination.

Social and Basic Services Pledge

- Enhance the provision of basic and essential social services.

Local Integration Pledge

- Allowing for local integration for those protracted refugees who have lived for 20 years or more in Ethiopia.

Work and Livelihoods Pledges

- Provision of work permits to refugees and to those with permanent residence ID, within the bounds of domestic law.
- Provision of work permits to refugees in the areas permitted for foreign workers, by giving priority to qualified refugees.
- Irrigable land for 100,000 people (refugees and local communities) for crop production.
- Building industrial parks where a percentage of jobs will be committed to refugees.

Documentation Pledge

- Provision of other benefi ts such as issuance of birth certificates to refugee children born in Ethiopia, possibility of opening bank accounts and obtaining driving licenses.

Ethiopia also made four additional pledges during the first Global Refugee Forum held in December 2019. These additional pledges are linked to the pre-existing commitments made in the original nine pledges and aligned with the purpose of the GRF. Through these additional pledges the GoE made commitments to:[15]

- create up to 90,000 socio-economic opportunities through agricultural and livestock value chains that benefit both refugees and host communities;
- provide quality and accredited skills training to 20,000 hosts and refugees on an equitable basis, considering the labour market demand and linkages with existing and new commitments in expanding socio-economic opportunities;
- provide market-based and sustainable household and facility-based energy solutions for 3 million hosts and refugees through promoting clean and renewable energy sources; and
- strengthen the GoE's asylum system and social protection capacity.

Building on its 2019 participation, the government scaled up its commitments at the 2023 GRF. Through its pledge to integrate 30,000 refugees and host communities into the TVET system, it contributed to the multistakeholder pledge to ensure access for 15 per cent of refugee youth to higher education by 2030. It also pledged to create new job opportunities; provide access to 10,000 hectares of irrigable land to refugees and host communities; and promote climate-smart agriculture. Furthermore, the government pledged to build an enabling environment for private sector engagement and investment to foster socio-economic development. At the 2023 GRF, the UNCT Ethiopia committed to advocate for the inclusion of refugees in relevant government plans, programmes, data collection and analysis, and to enhance the effective contribution of individual UN entities to support forcibly displaced communities to become self-reliant through sustainable economic and social re-integration.

2.3.2 Regional frameworks

2.3.2.1 The 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa

Ethiopia ratified the 1969 Organisation of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa (hereinafter the 1969 OAU Convention) on 15 October 1973. The 1969 OAU Convention is a regional complement to the 1951 Refugee Convention, with added focus on disruptive conditions in the country of origin or habitual residence, including external aggression, occupation, foreign domination, events seriously disturbing public order in either the whole or part of the country of origin, or nationality as a basis for refugee definition. This expansive definition of a refugee has been directly incorporated into the Ethiopian Refugees Proclamation No.1110/2019. The Refugees Proclamation 2019 thus includes both the individual persecution-based definition of a refugee provided in the 1951 Refugee Convention and the broad expansive definition adopted by the 1969 OAU Convention. To date, the 1969 OAU Convention has been ratified by 46 countries. It is also worth mentioning that the vast majority of refugees in Ethiopia were recognized under the 1969 OAU Convention on a *prima facie* basis. This affirms that the 1969 OAU Convention has become an integral part of the refugee legal framework of Ethiopia, in line with the stipulations of the FDRE Constitution.[16]

2.3.2.2 Djibouti Declaration

Ethiopia made additional commitments, at the regional level, by signing refugee-focused declarations adopted under the auspices of the Intergovernmental Authority on Development (IGAD), a regional block established in 1996 by eight East African countries, including Ethiopia. The declarations have the general objective of improving the overall situation of refugees, returnees and host communities in the IGAD region by making specific policy commitments on education, durable solutions and jobs, livelihoods and self-reliance.

15 For progress on fulfilling these pledges up to end-December 2021, see: UNHCR, *Ethiopia – GRF Update Report on Government Pledges – December 2021*. UNHCR Operational Data Portal.

16 Federal Democratic Republic of Ethiopia, Constitution, Proclamation No. 01/1995, Article 9(4).

The Djibouti Declaration on Quality Education for refugees, returnees and host communities (hereinafter the Djibouti Declaration) was signed by IGAD Member States in December 2017. The Djibouti Declaration aims to promote the collective responsibility of IGAD Member States, including Ethiopia, to ensure that every refugee, returnee and host-community member has access to quality education in a safe learning environment without discrimination (IGAD 2017a). It also aims to incorporate refugees into the Member States' national education policies, strategies, programmes and plans of action.

Through the Djibouti Declaration, IGAD Member States made several commitments relating to refugee education, including with regard to establishing regional education quality standards, providing skills development initiatives for refugees that also include matching skills training to job opportunities, and including refugees in national education systems by 2020. Furthermore, signatory States have agreed to recognize and validate the qualifications of refugees and returnees across all levels of education. To that end, the Djibouti Declaration urges them to ratify and implement into domestic law the Convention on Recognition of Studies, Certificates, Diplomas, Degrees, and Other Academic Qualifications in Higher Education in the African States (better known as the 1981 Arusha Convention).

2.3.2.3 Nairobi Declaration

Another regional legal framework at IGAD level signed by Ethiopia is the Nairobi Declaration on Durable Solutions for Somali Refugees and Reintegration of Returnees in Somalia (hereinafter the Nairobi Declaration) (IGAD 2017b). The Nairobi Declaration was signed at the Special Summit of the IGAD Assembly of Heads of State and Government, which was convened in Nairobi on 25 March 2017. Through the Nairobi Declaration and the accompanying Comprehensive Plan of Action for Durable Solutions for Somali Refugees, IGAD Member States made a commitment to pursue a comprehensive regional approach to deliver durable solutions for Somali refugees through regional cooperation and international responsibility-sharing. They also agreed to provide support to host communities with a view to enhancing protection and assistance for refugees. The Nairobi Declaration and action plan, together, form the backbone of CRRF implementation in Ethiopia, which, as one of the largest host nations of refugees from Somalia, could provide impetus to the search for durable solutions for these refugees.

2.3.2.4 Kampala Declaration

Member States of IGAD adopted the Kampala Declaration on Jobs, Livelihood and Self-reliance for Refugees, Returnees and Host Communities in the IGAD Region (hereinafter the Kampala Declaration) on 28 March 2019 (IGAD 2019). In the Kampala Declaration and its accompanying action plan, IGAD Member States expressed commitments that are highly relevant for the realization of the Global Compact on Refugees, particularly in relation to enhancing refugees' access to jobs and livelihoods, and ensuring their self-reliance. Ethiopia is one of the signatories to the Kampala Declaration. The Declaration and its accompanying action plan prioritize the following areas as important to ensuring refugees' access to jobs, livelihoods and self-reliance:

- creating a conducive legal and policy framework for livelihood and self-reliance, including by providing access to markets and financial services, or the right to work and freedom of movement;
- increasing the engagement of the private sector and civil society to create sustainable livelihoods and jobs;
- supporting sustainable return and reintegration;
- supporting natural resource management for livelihoods and self-reliance; and
- strengthening regional coordination, partnership and financing.

The Kampala Declaration, along with the Nairobi Declaration and the Djibouti Declaration, forms part of the regional refugee response framework adopted by IGAD to improve the livelihoods, education and self-reliance of refugees, and to pursue durable solutions for refugees. This approach is in line with policies adopted at international level, such as the New York Declaration and the Global Compact on Refugees. The realization of these regional commitments by the IGAD Member States will contribute considerably to creating a favourable national legal and policy landscape for socio-economic inclusion of refugees in national education systems and national labour markets, as well as the search for durable solutions.

2.3.3 National frameworks

2.3.3.1 FDRE Constitution

The Federal Democratic Republic of Ethiopia (FDRE) Constitution (hereinafter the Constitution), which is the supreme law of the land,[17] provides, under Article 9(4), that all international agreements ratified by Ethiopia are integral parts of the law of the land. Hence, the international instruments governing refugee rights that Ethiopia has ratified, including the 1951 Refugee Convention and its 1967 Protocol, as well as various international and regional human rights and refugee-specific instruments, are considered as part and parcel of the law of Ethiopia. Accordingly, rights and entitlements of refugees provided in these instruments that are not specifically listed in the national laws of the country, such as the Refugees Proclamation 2019, are equally enforceable. Moreover, as per Article 13(2) of the Constitution, human rights provisions contained in the human rights chapter of the Constitution shall be interpreted in a manner consistent with principles of the international instruments adopted by Ethiopia. The Constitution also has a whole chapter dedicated to fundamental rights of nationals and foreigners, many of which relate to refugees. Some of the rights of refugees listed in the Constitution that are of particular interest for this research include, *inter alia*, freedom of association (Article 31), freedom of movement (Article 32), naturalization (Article 33), access to justice (Article 37), right to property (Article 40), economic, social and cultural rights (Article 41) and rights of labour (Article 42). Unless some of their aspects are expressly reserved for nationals, these provisions are equally applicable to foreign nationals, including refugees.

2.3.3.2 The National Comprehensive Refugee Response Strategy and roadmap for implementation of the CRRF

Ethiopia became a CRRF roll-out country in February 2017. Given the alignment of the commitments made by the GoE with the elements of the CRRF, the Government decided to implement the nine pledges as a way of operationalizing the CRRF in the country (see FDRE ARRA 2018). To this end, the GoE took a series of steps, including a review of the legal and policy framework, drafting a roadmap detailing how each of the pledges was to be implemented, establishing a CRRF governance structure and drafting a National Comprehensive Refugee Response Strategy.[18]

The *Roadmap for the Implementation of the Federal Democratic Republic of Ethiopia Government Pledges and for the Practical Application of the CRRF in Ethiopia* outlines detailed activities for the implementation of each of the pledges. It was endorsed on 28 November 2017, along with the CRRF governance structure. On the same day, the CRRF was officially launched in Ethiopia. The *Roadmap*, with detailed plans, activities, outputs, resource requirements, timelines and coordination mechanisms for the roll-out of CRRF in Ethiopia, was developed with the aim of comprehensively responding to the multifaceted needs of refugees through the creation of strong linkages between humanitarian assistance, development interventions and peace-building initiatives. The *Roadmap* serves as a key component of Ethiopia's ten-year refugee response strategy, the development of which started at the same time.

The GoE developed a ten-year National Comprehensive Refugee Response Strategy 2018–2027 (NCRRS) that would serve as a guidance document for the overall refugee response in the country. The goal of the NCRRS is to ensure the self-reliance and socio-economic integration of refugees and host communities, and to gradually transition from the camp-based refugee response model towards development-oriented settlements over a period of time (FDRE 2018). The strategy is needed to enhance common perspectives by stakeholders on the strategic directions towards refugee response and host-community support; ensure collaboration and coordination mechanisms to enhance partnerships at different levels; and to guide the

17 Article 9(1) of the FDRE 1995 Constitution provides that "[t]he Constitution is the supreme law of the land. Any law, customary practice, or a decision of an organ of state or a public official which contravenes this Constitution shall be of no effect."

18 The CRRF governance structure that envisages the establishment of a Steering Committee, National Coordination Office and thematic Technical Committees, as outlined in the roadmap, has not been fully functional, for various reasons.

implementation of the CRRF in Ethiopia in line with the Growth and Transformation Plan, as well as various other initiatives and plans. Despite a series of consultation meetings with stakeholders and revisions of the draft NCRRS, the strategy was still awaiting endorsement by the Council of Ministers at the time of writing.

2.3.3.3 Refugees Proclamation No.1110/2019

The other important step taken by the GoE to create an enabling legal and policy environment for the application of the CRRF was the revision of the refugee legal framework in line with the CRRF and the commitments made by the GoE. The review of the legal framework was initiated in July 2016 and a bill was formally endorsed by the parliament on 17 January 2019. The drafting of the Proclamation followed a consultative process, whereby stakeholders at different levels, including donors, international organizations, NGOs, government stakeholders, refugees and the host community were engaged. The main government body responsible for initiating the drafting of the Refugees Proclamation and ensuring its implementation is the Refugees and Returnees Service (RRS), formerly known as the Agency for Refugee and Returnee Affairs (ARRA).

The new Refugees Proclamation No. 1110/2019 (hereinafter the Refugees Proclamation 2019) repealed and replaced Refugee Proclamation No.409/2004 – the first national refugee-specific legislation in the country, which had been in place for more than 15 years since its adoption in 2004. While the repealed Proclamation was generally aligned with the 1951 Refugee Convention, it only provided a general reference to the rights of refugees, without giving sufficient details on how they were to be upheld. The Refugees Proclamation 2019 was thus developed to address the gaps identified in the previous refugee law, to reflect recent developments and progress made in expanding the protection space for refugees in Ethiopia, and to provide an adequate legal framework for the practical application of the CRRF and the commitments made by the GoE. Considered one of the most progressive refugee laws in Africa, the Refugees Proclamation 2019 contains a comprehensive list of rights and entitlements of refugees and asylum-seekers that are aligned with international standards, as well as the CRRF and the Government's pledges. The realization of these rights would undoubtedly expand the protection space for refugees, enabling them to be more self-reliant and reduce their dependence on humanitarian assistance.

The Refugees Proclamation 2019 contains provisions governing a wide range of rights and obligations, as explained below.

Standards of treatment of refugees under the Refugees Proclamation 2019

Generally, two standards of treatment – "same treatment as Ethiopian nationals" and "the most favourable treatment as accorded to foreign nationals" – are applied in the Proclamation. The former is applied with respect to the rights of refugees and asylum-seekers to access primary education, health services, joint projects, intellectual property, justice, a driver's licence, banking and financial services, telecom services, rationing, and civil registration and fiscal charges. Adopting this standard, the Proclamation recognizes the right of refugees and asylum-seekers to enjoy these rights in the same manner as Ethiopian nationals, with the exception of requirements that, by their nature, a refugee is incapable of fulfilling.

The standard of the "most favourable treatment as accorded to foreign nationals" is applied regarding the right to wage-earning employment, self-employment, employment in the liberal professions, the right to acquisition and transfer of property (except intellectual property) and freedom of association. Though the "most favourable treatment" standard is not defined in the Proclamation, it can be generally inferred from the 1951 Refugee Convention as referring to a standard of treatment that a given country accords to refugees that is comparable to the best treatment accorded to nationals of a foreign country with respect to the particular right. Owing to the lack of clarity regarding which class of foreign nationals should be used as comparators to define the scope of the rights under the most favourable treatment standard, implementation could be difficult. The most liberal interpretation of the standard of most favourable treatment uses foreign nationals of Ethiopian origin as comparators, as they are the most favoured

foreign nationals in Ethiopia with respect to accessing a range of socio-economic rights and privileges, which they enjoy on a par with Ethiopian nationals by virtue of specific laws.[19] The rights and privileges of foreign nationals of Ethiopian origin include, among others:

- the right to work freely in Ethiopia without having to acquire a work permit in any sector, except in national defence, security, foreign affairs and other similar political establishments;
- exemption from the exclusion from pension schemes that applies to foreign nationals;
- exemption from the provisions of Articles 390–393 of the Civil Code, which restrict foreign nationals from owning immovable property in Ethiopia;
- the right to be considered as domestic investors; and
- the right to enjoy economic, social and administrative services.

There is, however, an argument that foreign nationals of Ethiopian origin should not constitute the reference group for the most favourable standard of treatment for refugees in Ethiopia. This is based on the fact that the main objective behind granting special rights to these foreigners is to allow them to play an active role in the development of their country of origin, to which they have strong links on account of their lineage or former citizenship. Refugees do not exhibit the strong social, economic and cultural attachment to Ethiopia that foreign nationals of Ethiopian origin do. Moreover, the benefits accorded to foreign nationals of Ethiopian origin are meant to counterbalance the prohibition on dual nationality in Ethiopia.

This interpretation is, however, contested for the following reasons. First, the most favourable standard of treatment in the Refugee Proclamation 2019 is not ambiguous or requiring of interpretation. Even if it is said to be ambiguous, the principle of positive interpretation requires that the Proclamation be interpreted in such a way as to make the rights provided therein effective and meaningful. The rights of refugees will not be effective and meaningful unless they are entitled to a wide range of rights in accordance with the objectives of the Proclamation. Second, the legislative intent of the lawmaker as manifested in the *exposé de motifs* is to implement the commitments made by the GoE by giving refugees preferential rights on a par with foreign nationals of Ethiopian origin. Third, "the most favourable standard of treatment" should be interpreted in line with the object and purpose of the Proclamation, which is to provide better protection to refugees and promote sustainable solutions. Moreover, the adoption of the Refugees Proclamation 2019 was driven by the need for a comprehensive framework for the protection of and assistance to refugees, as is manifested in its Preamble.

Moreover, the most favourable standard of treatment offers an opportunity for refugees to contribute to the development of their host country using their skills, labour and capital, in line with the objectives of the Proclamation. The objectives cannot be attained unless the term "the most favourable standard of treatment as accorded to foreign nationals" is understood as giving refugees opportunities to engage in the socio-economic development of the host country.

If the liberal interpretation of treating refugees the same as foreign nationals of Ethiopian origin is adopted, the Refugees Proclamation 2019 will need to be harmonized with other national laws for the rights provided in the Proclamation to be implemented. This may require additional legislative measures, including the adoption of secondary legislation. As a general rule, in case of contradiction between the Refugees Proclamation 2019 and other national laws, the legal maxim *lex specialis derogat legi generali*[20] could be invoked, that is, the refugee law, being a specific law regulating a specific matter, should prevail over other general laws. At any rate, it is apparent that these laws should be harmonized to give effect to the rights of refugees and asylum-seekers.

19 According to the Proclamation to Provide Ethiopian Nationals of Foreign Origin with Certain Rights to be Exercised in their Country-of-Origin, Proclamation No. 270/2002, a foreign national of Ethiopian origin is defined as a foreign national, other than a person who forfeited Ethiopian nationality and acquired Eritrean nationality, who had been an Ethiopian national before acquiring a foreign nationality; or someone with at least one parent, grandparent, or great-grandparent who is/was an Ethiopian national.

20 This maxim means, in short, a special law repeals general laws.

Directive to Determine the Conditions for Movement and Residence of Refugees Outside of Camps (Directive No. 01/2019)

Expanding the "out-of-camp policy" (OCP) is one of the nine pledges the GoE made at the Leader's Summit on Refugees held on 20 September 2016 in New York (see section 2.1.3 above). The Directive to Determine the Conditions for Movement and Residence of Refugees Outside of Camps, Directive No. 01/2019 (hereinafter the Freedom of Movement Directive) was issued by the RRS on 30 December 2019, to implement the OCP pledge, which aims to expand the pre-existing OCP opportunities[21] for more refugees, and to implement Article 28 of the Refugees Proclamation 2019 relating to freedom of movement. The Freedom of Movement Directive is intended to enable refugees "to rid themselves of dependency on aid and transform their lives by taking advantage of various employment opportunities in the country without the need to be confined to camps". The Freedom of Movement Directive comprehensively regulates all aspects of refugees' movement and residence outside camps and has three main components: regular residency outside of camps, inclusion in the urban assistance programme and temporary movement outside of camps. In this regard, the Freedom of Movement Directive codifies different guidelines and directives governing various aspects of refugees' movement and residence out of camps into a single legal document.

Directive to Determine the Procedure for Refugees' Right to Work (Directive No. 02/2019)

Another secondary law introduced by the RRS to implement the Refugees Proclamation 2019 is the Directive to Determine the Procedure for Refugees' Right to Work (hereinafter the Right to Work Directive). The Right to Work Directive sets out a detailed working procedure to implement Article 26 of the Refugees Proclamation 2019 relating to refugees' right to work in wage-earning employment, self-employment and the liberal professions. The Right to Work Directive also provides detailed procedures and criteria for refugees' participation in joint projects.

The Right to Work Directive adopts a different standard of treatment as regards wage-earning employment and self-employment. Refugees' right to work is comparable to that of ordinary foreigners, except in circumstances where they are engaged in joint projects[22] and where they benefit from an exemption owing to their Ethiopian linkages.[23] The "most favourable treatment" standard, under which refugees' right to work is comparable to that of foreigners of Ethiopian origin, with unrestricted access to the labour market and economic opportunities, is not applied in the Right to Work Directive. Instead, refugees are treated the same as ordinary foreigners, whose access to the labour market and self-employment opportunities are limited by applicable national laws, particularly labour and investment laws.

2.4 Access to labour markets

The right to work and access to labour markets are fundamental for enhancing the self-reliance of refugees and asylum-seekers, thereby reducing their dependence on humanitarian assistance and increasing their ability to live a dignified life. As all rights are interdependent, rights of access to asylum (refugee status determination), registration, documentation and freedom of movement, among others, are necessary for refugees and asylum-seekers to be able to enjoy their right to work and access the labour market.

21 The OCP was formally announced by the Administration of Refugee and Returnee Affairs (ARRA) in 2010 to benefit only Eritrean refugees, on account of their shared historical, linguistic and cultural linkages with Ethiopia.

22 According to the Refugee Proclamation 2019, joint projects are those jointly designed by the Government of Ethiopia and the international community to benefit both refugees and host communities. Refugees engaged in such projects would be issued with a residence permit that is renewable every five years.

23 See Articles 7(2), 16(3) and 19(3)(b) of the Directive to Determine the Procedure for Refugees Rights to Work, Directive No. 02/2019. According to these provisions of the Directive, refugees who are regarded as having Ethiopian links are those who are married to an Ethiopian national or who have one or more child in possession of Ethiopian nationality.

Conversely, restrictions on mobility, access to asylum, registration and documentation would inevitably limit the potential of refugees and asylum-seekers to access employment opportunities, creating economic insecurity and possibly leading to negative coping mechanisms (ILO 2016).

Against this backdrop, the following sections contain analyses of the relevant national policy, legal and regulatory frameworks, and their implementation in practice, that govern the access of refugees and asylum-seekers to labour markets and their right to work, with a particular focus on refugee status determination, registration and documentation, and freedom of movement.

2.4.1 Refugee status determination

Legal and policy framework

At the 2019 Global Refugee Forum, the Government of Ethiopia made a policy commitment to strengthen its national asylum system, including refugee status determination (RSD). The commitment is in line with provisions of Parts Two and Three of the Refugees Proclamation 2019, which sets out the principles, criteria and procedures for refugee status determination in Ethiopia. The Proclamation mandates the RRS with respect to RSD, while UNHCR has observer status (see Article 16).

In Ethiopia, there are two approaches to recognizing refugee status: individual refugee status determination and recognition of refugee status on a group or *prima facie* basis. Most of the cases in Ethiopia are recognized through a *prima facie* approach, while, in a small number of cases, individual RSD is undertaken. The *prima facie* or group-based approach recognizes refugee status "on the basis of readily apparent, objective circumstances in the country of origin or, in the case of stateless asylum-seekers, their country of former habitual residence" (UNHCR 2015, para. 1). An individual-based approach involves assessing the individual's well-founded fear of persecution.

Ethiopia has been granting group-based refugee recognition to asylum-seekers from South Sudan, Sudan (Blue Nile and South Kordofan regions), Somalia (Central and Southern Somalia), Eritrea and Yemen (those arriving after 1 January 2015), who make up the majority of the refugee population in the country. Asylum-seekers from all other nationalities must undergo individual RSD. Article 21(2) of the Refugees Proclamation 2019 mandates the RRS to declare any group of people as refugees, in consultation with UNHCR and through issuing a directive describing the events in the country of origin of the asylum-seekers underlying the declaration. Under Article 21(4), the RRS is also required to issue a directive when a decision is made to terminate group recognition. Eritrean nationals previously covered by a *prima facie* approach faced new circumstances from January 2020, when the GoE announced a change to the asylum policy. The details of the revised procedures for Eritreans were yet to be officially announced at the time of writing.

The RSD process starts with the initial reception and registration at the border entry points (see Article 15(1) and (2)). Asylum-seekers who wish to be recognized as a refugee in Ethiopia are required to make an application to the nearest RRS office, branch office, or police station within 30 days of arrival in the country. Delays may, however, be accepted if there are justifiable reasons. Once the application is made, under Article 16(1), the RRS is required to examine the case and take a decision within six months. If the RRS rejects the application for refugee status, the asylum-seeker has the right to appeal, within 60 days of the decision, to the Appeal Hearing Council established by virtue of Article 16(4) of the Refugees Proclamation 2019.[24] The decision of the Appeal Hearing Council is final, except on the grounds of fundamental error in law, in which case an appeal may be made to the Federal Supreme Court for a final decision. Due process guarantees are established by Articles 16(2) and 19(2) of the Refugees Proclamation 2019 throughout the RSD process, from application to appeal, to ensure procedure fairness and efficiency. Under Article 23, asylum-seekers awaiting a decision on their claim have the right to stay in the country until a final determination is made on their case and to enjoy largely the same rights as recognized refugees during the waiting period.

24 Although an Appeal Hearing Council was formally established by the Proclamation, it was not yet functional at the time of writing.



A trainee taking part in a short course provided for persons with disabilities, Kebribeyah region. © ILO

Practice and implementation challenges

In practice, individual RSD is conducted only in Addis Ababa and Assosa. Almost all refugees originating from neighbouring countries, which are where the majority of refugees in Ethiopia come from, are recognized on a *prima facie* basis. The other remaining refugee groups hosted in Assosa and Addis Ababa, mostly originating from the Great Lakes region and countries outside the East Africa region, are required to undergo individual RSD. A key informant from UNHCR mentioned that, despite the small number of refugees who are required to undergo individual RSD, there is a considerable backlog of individual RSD cases as a result of staffing constraints. According to the informant, the RRS has only four RSD staff covering the entire refugee operation in Ethiopia.

The asylum system in Ethiopia is also constrained by a number of other challenges. The first of these relates to the suspension of registration of new asylum-seekers from Eritrea and Somalia by the GoE. In January 2020, the GoE announced a change in policy away from granting refugee status to Eritrean nationals on a *prima facie* basis towards individual RSD (UNHCR 2022c). This sudden shift to individual RSD without first ensuring the required asylum-processing capacity may have the effect of undermining consistency and stability in the asylum system and increase the risk of *refoulement*. The informant further indicated that, following incursions by Al-Shabab into the adjacent Somali region of Ethiopia in June 2022, the GoE suspended registration of new asylum-seekers from Somalia. While ensuring national security is legitimate and necessary in and of itself, it should not happen at the cost of completely shutting down the asylum space, as the two are not necessarily mutually exclusive and can go hand in hand.

The other challenge stems from the absence of harmonized asylum procedures and guidelines across the various locations in the country, particularly in relation to application of the *prima facie* approach. Various field operations use different tools, procedures and forms to process *prima facie* cases.

2.4.2 Registration and documentation

Legal and policy framework

Refugee identification documents are vital protection tools that establish the identity of refugees and help ensure that they are treated in accordance with internationally accepted standards. They protect them from risks including restriction on their freedom of movement and *refoulement*. Identification documents are also a gateway to accessing a range of rights and socio-economic services, such as livelihoods, banking and finance, justice and education.

Articles 27 and 28 of the 1951 Refugee Convention, as well as Article 6 of the 1969 OAU Convention, recognize the importance of issuing identity papers and travel documents to refugees. This is further expounded by Conclusion No. 8 of the Executive Committee of the (UN) High Commissioner's Programme on the Determination of Refugee Status. The Conclusion recommends that refugee status determination procedures established by States should ensure that recognized refugees are issued with documentation certifying their refugee status (UNHCR Executive Committee 1977). States are also recommended to issue provisional documentation to asylum-seekers attesting to their identity and establishing their right to stay in the country pending determination of their refugee status. This is important to reduce the risk of expulsion or *refoulement,* which they may face until their status in the country is regularized (UNHCR 1984).

In 2020, the GoE initiated the development of a National Identity Programme and published its National Digital Strategy 2025, via which it aims to provide digital identity documents to all residents in Ethiopia by 2025 (FDRE 2020). While these initiatives do not explicitly refer to refugees, they are intended to strengthen the policy base to advance access to official identification and digital inclusion of all residents in Ethiopia, including refugees. In addition, one of the nine pledges made by the GoE relates to the issuance of documentation to refugees that would be instrumental in facilitating their access to legal and socio-economic services. With a view to realizing these commitments, the Refugees Proclamation 2019 contains a dedicated provision on refugees' identification documents with a sufficiently broad scope for what constitutes an identification document. Article 32 of the Refugees Proclamation 2019 clearly articulates that all recognized refugees or asylum-seekers shall be issued with identity papers that attest to their identity, as well as travel documents for purposes of travelling outside Ethiopia, upon a written application being made to the relevant authorities.

The understanding of "identification document" is also significantly broader in the Refugees Proclamation 2019 than that of the identity document and travel document that States are required to issue to refugees under the 1951 Convention and the 1969 OAU Convention.[25] The definition of "identification documents" in Article 2(11) of the Refugees Proclamation 2019 covers various types of documents, including identity papers, travel documents, pass permits, birth certificates and proof of registration, among others. By recognizing different types of documents, the Proclamation maximizes the possibility for refugees and asylum-seekers to enjoy their rights and access a wide range of available services. Moreover, as an additional safeguard, the Proclamation makes explicit reference in the provisions dealing with socio-economic rights to refugee identification documents such as drivers' licences (Article 31), banking and financial services (Article 33), and telecommunication services (Article 34).

Regarding civil registration, Article 36 of the Refugees Proclamation 2019 recognizes the right of refugees and asylum-seekers to the same access as nationals with respect to the registration and issuance of certificates of registration of vital events. Articles 24–29 of the Registration of Vital Events and National Identity Card Proclamation No. 760/2012, as amended by Vital Events Registration and Nationality Card (Amendment) Proclamation No.1049/2017, accords refugees and asylum-seekers the right to registration and certification of vital events, including birth, death, marriage, divorce and adoption. These Proclamations (under Article 7 and Article 4, respectively) delegate to the RRS functions including registering vital events and issuing registration certificates.

25 See Articles 27 and 28 of the 1951 Convention Relating to the Status of Refugees and Article 6 of the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.

Practice and implementation challenges

In July 2017, UNHCR and the RRS launched a nationwide comprehensive Level 3 Registration and Biometrics Identity Management System exercise, the aim of which was to improve the protection of, targeted assistance to and durable solutions for refugees in line with the CRRF and pledges made by the GoE (UNHCR 2019a). The exercise was implemented through a one-stop-shop registration model, whereby refugees had seamless access to registration, protection, vital-events registration and assistance services provided by all relevant partners in one physical location (UNHCR 2019a). In 2020, at the end of the registration exercise, 91 per cent of all eligible refugees and asylum-seekers over the age of 14 had received refugee ID cards and proof of registration documents (UNHCR 2020c). This achievement was confirmed by a report by the Hague Institute for Innovation of Law (HiiL), Justice Needs and Satisfaction Survey, commissioned by UNHCR, which established that 97 per cent of refugees surveyed had a refugee identity document (HiiL, UNHCR and ARRA 2020, 51). These concrete achievements are instrumental in ensuring that refugees and asylum-seekers in Ethiopia are able to access basic services and protection in line with the GCR and provisions of the Refugees Proclamation 2019.

The RRS launched a civil registration service for refugees on 27 October 2017, paving the way for refugees to access vital-events registration services within Ethiopia. Since the launch of the service, the RRS has been registering vital events (birth, marriage, divorce, death) for refugees in each of the 26 camps and urban areas where refugees reside. In 2019, the GoE, at the 2019 High-Level Segment on Statelessness (UNHCR 2019b) and the 2019 Global Refugee Forum, made additional policy commitments to simplify and improve access to birth registration and civil documentation.

Similarly, refugees have been included in the National Civil Registration and Vital Statistics Improvement Strategy, which was developed by the Immigration and Nationality Service in 2021 (see UNHCR 2022c). An exercise to clear the birth registrations backlog was launched by the Immigration and Citizenship Service in 2022 in Gambella, Afar, Assosa, Melkadida and Jijiga. Despite these positive advances, actual issuance of civil documentation, including birth certificates, for refugees and asylum-seekers has been low, owing to limited awareness, gaps in the law related to the requirement for both parents to be present for birth registration,[26] prolonged suspension of documentation services due to the COVID-19 pandemic and related state of emergency, technical and staffing constraints, and resource limitations (UNHCR 2020a, 203).

2.4.3 Freedom of movement

Article 26 of the 1951 Refugee Convention recognizes refugees' right to choose their residence and move freely within the territory of the host country. The right is not absolute but may be subject to regulations that are applicable to foreigners generally in the same circumstances. This means States may not impose or issue regulations or policies that specifically restrict the movement of refugees or require their confinement in the camp setting. States may, however, place necessary and temporary restrictions on movements of refugees and asylum-seekers on account of their unauthorized entry or presence in their territory.[27] The restrictions should last until such time as their status is regularized, or they obtain admission into another country. Moreover, Article 9 of the 1951 Convention allows States to take provisional measures during times of war or other grave and exceptional circumstances to restrict the freedom of movement of particular refugees, or the right to choose their residence, when such measures are considered essential to national security. However, Ethiopia has put a reservation on this article.[28]

26 According to the RRS, this challenge was resolved through a circular shared by the Immigration and Citizenship Service (ICS) in 2022.

27 Convention Relating to the Status of Refugees, 28 July 1951, Article 31.

28 Ethiopia, in its reservation to Article 9 of the 1951 Refugee Convention, stated that the provision is recognized only as a recommendation and not as a legally binding obligation. See: https://www.unhcr.org/protection/convention/5d9ed32b4/states-parties-including-reservations-declarations-1951-refugee-convention.html

At the regional level, the 1969 OAU Convention and the African Charter on Human and Peoples' Rights, to both of which Ethiopia is a party, directly refer to freedom of movement of refugees. Article 2(6) of the 1969 Convention, which relates to freedom of movement, requires Member States, for security reasons, to settle refugees at a reasonable distance from the frontier of their country of origin. This provision does not permit States to restrict freedom of movement of refugees but, as a regional complement to the 1951 Convention, it serves to regulate when restrictions are warranted as per the 1951 Convention to ensure that refugees are not exposed to security risks in settling close to frontiers of their country of origin.

While Ethiopia prides itself on its open-door policy and long tradition of hosting refugees, it strictly follows an encampment policy, only allowing refugees to live outside designated camps on an exceptional basis. The exceptions include Eritrean refugees who are eligible for the Out of Camp Policy (OCP) and refugees included in the urban assistance programme for protection, medical and humanitarian reasons. The OCP scheme was introduced by the RRS in 2010 to benefit self-reliant Eritrean refugees in recognition of the shared historic, linguistic and cultural ties between the two countries. The vast majority of refugees and asylum-seekers live in refugee camps located around border areas, where freedom of movement and access to livelihood opportunities are both limited. Movement out of the camps is strictly regulated by the RRS.

The Government of Ethiopia made a commitment, during the 2016 Leaders' Summit on Refugees, to gradually phase out encampment practices by expanding the existing OCP opportunities to benefit additional refugees, including those of other nationalities.[29] This pledge was reflected in the Refugees Proclamation 2019, under Article 28, which recognizes refugees' freedom of movement and choice of residence within the territory of the country, while the RRS retains the role of facilitating refugees' movement and designating places or areas for their residence. The RRS can, however, arrange residence for refugees "at a reasonable distance from the border of the country of origin or former habitual residence" to ensure their security – a requirement drawn from Article 2(6) of the 1969 OAU Convention. The "facilitation role" of the RRS indicated in Article 28 (2) of the Refugees Proclamation 2019, as well as the power given to it in the refugees Freedom of Movement Directive to strictly regulate the movement of refugees, may have the unintended practical effect of validating the existing encampment practices rather than reducing them. Consequently, a *de facto* encampment policy continues to be applied, limiting refugees' freedom of movement, despite the provisions of the Refugees Proclamation 2019 and the Freedom of Movement Directive.

As previously mentioned, the RRS issued the Freedom of Movement Directive in December 2019 to implement the OCP pledge and Article 28 of the Refugees Proclamation 2019. The Directive has three main components: Regular Residency Outside of Camps, Temporary Movement (pass permit) and Urban Assistance Programme. The criteria for each of these categories are discussed below.

Regular Residency Outside of Camps

Legal framework

The Out of Camp Policy (OCP) was introduced in 2010 only for Eritrean refugees who have the necessary means to financially support themselves or who can find a sponsor. The 2019 Freedom of Movement Directive expanded the OCP, renamed as Regular Residency Outside Camps, to refugees from all nationalities. The Directive introduced criteria to establish the self-reliance of refugees for inclusion in the OCP scheme, with a view to guaranteeing a decent quality of life outside of camps. These criteria to obtain an OCP permit include:

- living in camps for at least 30 days prior to application;
- evidence that the applicants can cover their living costs on their own; or
- evidence of a sponsor, who guarantees to cover their living costs; or
- a work permit that allows refugees to legally work in the country.[30]

29 See "Summary Overview Document, Leader's Summit on Refugees", 20 September 2016.

30 Directive to Determine Conditions of Movement and Residence of Refugees Outside of Camps, Directive No. 01/2019, Article 8(1).

The Directive's stance in recognizing a work permit as one of the criteria is commendable.

Refugees who seek to apply for OCP permits are required to present themselves at the camp where they are registered and fill out a form prepared for this purpose. They are required to provide evidence that they fulfil one of the criteria. In the case of refugees who have already moved outside of camps informally and established residence in different parts of the country, they can approach the nearest RRS location and submit a request to formalize their residency through an OCP permit after an assessment.[31]

The Directive requires the RRS to organize orientation sessions prior to issuing OCP permits, to ensure applicants can take fully informed decisions. Refugees with OCP permits are entitled to freely move and reside in various parts of the country and access protection and other basic services. Though the Directive is not clear, it can be assumed that they may continue to access protection services, such as registration, documentation, durable solutions and other basic services. The Directive lays down the framework for monitoring the situation of refugees with OCP permits across the country, at both regional and national levels. Hence, the RRS needs to work closely with relevant stakeholders at all levels to ensure OCP refugees have effective access to basic services in all regions. An OCP permit is valid for three years and must be renewed before expiry of this period. The permit may be revoked on various grounds, including, among others, voluntary return to the camp, lack of employment opportunities or cancellation of a work permit, when the sponsor is no longer in a position to support the refugee, and involvement in criminal activities.

Practice and implementation challenges

Refugees with an OCP permit are expected to be self-reliant. By obtaining the permit, they forfeit humanitarian assistance provided in the camps, including food rations, and free medical and educational support. Many refugees who obtain OCP permits receive remittances, while some work in the informal sector. The rising cost of living and limited livelihood opportunities due to restrictions on refugees' right to work, as well as other factors, such as language barriers, the requirement to have an Ethiopian guarantor in order to be hired, lack of market information and work experience, and food insecurity limit the ability of OCP refugees to access basic services and economic opportunities. A successful OCP programme requires that protection services and livelihood opportunities be available to refugees to enable them to build their self-reliance and to strengthen social cohesion among refugees and host communities. While protection services are generally available to OCP refugees in Addis Ababa, it is important to address the practical challenges they encounter.

Further, the OCP permit has not been uniformly applied throughout all refugee-hosting regions, even though the OCP system has, in principle, been expanded to all refugees and asylum-seekers from all nationalities, in accordance with GoE pledges and refugee laws. Eritrean refugees continue to be the main beneficiaries of the OCP permit. In June 2022, for instance, 92 per cent of the urban refugee population in Addis Ababa were Eritreans (UNHCR 2022d). The second-largest refugee group were Yemenis, who represented just 3 per cent of the urban refugee population. The self-sufficiency requirement attached to obtaining an OCP permit explains the disparity among the different nationalities in terms of accessing out-of-camp residency opportunities. This shows that there is still a long way to go in terms of expanding the OCP opportunities to other nationalities in accordance with the OCP pledges.

To conclude, while the OCP pledge, Refugees Proclamation 2019 and Freedom of Movement Directive all aim to expand and improve the OCP scheme, they remain largely unimplemented, and *de facto* encampment practices, as well as tight restrictions on refugees' freedom of movement, continue to be applied.

31 Freedom of Movement Directive 2019, Articles 7(5) and 13.

Temporary Movement (pass permit)

Legal framework

If refugees or asylum-seekers intend to move out of the refugee camps for a temporary period, they are required to obtain a pass permit. The pass permit system is used to facilitate refugees' access to essential protection services and their participation in social activities outside of the camps. A pass permit is not generally required for refugees travelling to adjacent areas in the vicinity of camps and nearby towns, while considering prevailing security conditions in those areas. However, refugees travelling to regional capital cities are required to be in possession of a pass permit.

A pass permit is issued following a voluntary application by a refugee and is only valid for temporary movements within the areas specified in the permit. Thus, as a general principle, refugees can only use pass permits to move freely around the areas covered by the permit, to fulfil the purpose for which the permit was provided during the course of their movement.

The RRS head office, its zonal coordination offices, or refugee camps may issue pass permits to enable refugees to exit camps for a temporary period. Acceptable reasons for obtaining a pass permit include processing applications for OCP and urban refugee status; job search, overseas trip; preparation for vocational or higher education; family visit; leisure; tourism; mourning; marriage; accompanying travelling relatives; and travelling for medical treatment not available in the refugee camps. Refugees may be required by the RRS, on a case-by-case basis, to present evidence, documentary or other, based on these grounds to support their request for a pass permit. Job search is included as one of the acceptable grounds on which to obtain a pass permit. This requirement is included to help refugees with certain skills and educational qualifications access the job market. A refugee requesting a pass permit on grounds of "job search" is required to have completed vocational training or higher education. The Directive does not, however, specify the types of documents that need to be presented as evidence of completion of vocational training or higher education.

A pass permit may be terminated when the refugee voluntarily returns the permit, or they have not fulfilled the requirements expected of them, or the pass permit expires. A pass permit may also be terminated if the refugee has lost their refugee status, or they have left the country, or it is proven that the pass permit was obtained through false evidence, deception, fraud, or other illegal means.[32] The RRS might also determine that the continued possession of the pass permit by the refugee poses a threat to national interests and security.

Practice and implementation challenges

Although refugees who have acceptable reasons for applying for pass permits are entitled to do so, in practice, bureaucracy causes delays. The authorities use a pen and paper system to document requests for pass permits. Some of these requests (especially when the ground for applying for the pass permit is an appointment with an embassy in Addis Ababa) will have to be verified by the RSS head office in Addis Ababa. This process causes substantial delays in individual cases. Generally, the pass permit request and issuance procedures can be cumbersome and take from days to months, depending on the case.

Urban Assistance Programme

Legal framework

The Urban Assistance Programme (UAP) is coordinated by UNHCR and designed for refugees whose protection needs cannot be fully addressed within the existing camp arrangements. The UAP allows certain categories of refugees to live outside of the camps (mostly in Addis Ababa), while receiving basic humanitarian assistance. These include refugees (and their designated carers) in need of special medical

32 Freedom of Movement Directive, 2019, Article 34.

assistance that is not available in refugee camps; refugees with serious protection or security concerns that prevent them from living in the camp and that cannot be otherwise addressed; refugees who are unable to stay in camps for humanitarian reasons owing to mental and physical (age, gender) factors; and refugees of certain nationalities (such as Yemeni, Iraqi, Syrian) who do not have specific camps designated for them or would have integration challenges owing to their small number.

Practice and implementation challenges

The RRS is responsible for medical referral of camp-based refugees through the network of secondary, tertiary and specialized health facilities in regional towns and Addis Ababa. The Ethiopian Orthodox Tewahdo Church-Development and Inter-Church Aid Commission[33] are responsible for providing medical services to refugees assisted under the UAP. The programme is highly resource-intensive, because it is expected to cover a comprehensive range of needs, including living allowance, medical assistance and education. The level of assistance provided to refugees included in the UAP is very low compared with their actual needs, putting them at an elevated level of vulnerability. This is exacerbated by the rising cost of living and limited livelihood opportunities (Betts et al. 2019, 9–10).

2.4.4 Right to wage-earning employment

The Refugees Proclamation 2019 guarantees the right of refugees and asylum-seekers to engage in wage-earning employment, self-employment and liberal professions in the same circumstances as "the most favourable treatment accorded to foreign nationals". The scope of the right is not clearly defined by the Proclamation, however, nor by the 2019 Right to Work Directive issued to implement Article 26 of the Proclamation. As discussed in section 2.3.3, the law is not clear regarding which foreign nationals should be used as a reference for the purpose of determining the equivalent treatment that should be accorded to refugees. This legal ambiguity, unless resolved through secondary laws or amendment of the laws, will continue to limit refugees' right to work in Ethiopia.

In addition, the Refugees Proclamation 2019 accords refugees the same treatment as Ethiopian nationals with respect to participation in wage-earning employment, self-employment and liberal professions as part of joint projects – economic projects designed by the international community and the GoE to benefit both refugees and host communities.[34]

The following sections contain analyses of the relevant policy, legal and regulatory frameworks governing refugees' exercise of their right to work by participating in wage-earning employment, self-employment, the liberal professions or joint projects. How refugees' right to work is upheld in practice is also analysed, with particular focus on the gaps and challenges in doing so.

Legal and policy framework

The first legal pathway through which refugees can exercise their right to work is wage-earning employment. Article 17 of the 1951 Refugee Convention provides that Contracting States shall accord refugees "the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment". The Refugees Proclamation 2019 contains similar stipulations under Article 26(1), which states that refugees and asylum-seekers shall have the right to engage in wage-earning employment in the same circumstances as the most favourable treatment accorded to foreign nationals pursuant to relevant laws. The 1951 Convention does not define "wage-earning employment," but it is understood in its broader sense to include all kinds of employment that cannot be regarded as self-employment or liberal professions, such as "factory workers, farmhands,

33 The Ethiopian Orthodox Tewahdo Church, the Development and Inter-Church Aid Commission (DICAC) is a UNHCR partner NGO implementing the urban program in Addis Ababa.

34 The 2019 Right to Work Directive, under Article 4(5), defines a joint project as "an urban or rural development project designed with the support of the international community and the agreement of the Ethiopian government to economically benefit both recognized refugees and Ethiopian nationals". Refugees who engage in joint projects are required to obtain a residence permit that is renewable every five years.

office workers, salesmen, domestics and any other work the remuneration for which is in the form of a salary as opposed to fees or profits" (UNHCR 1997). The term also applies to salaried professionals with qualifications, such as assistant dentists, assistant architects, law clerks, assistant attorneys, etc. (UNHCR 1997).

The 1951 Convention, under Article 17(2), exempts refugees from restrictive measures imposed by States on the employment of foreigners for the protection of the national labour market on condition that the refugees have a special tie with the country of asylum. Special ties in this case include completing three years of residence in the country of refuge or having a spouse or child holding the nationality of the country of refuge. It follows, thus, that restrictive measures imposed for reasons other than the protection of the national labour market – such as national security or political reasons, or reasons related to qualifications – are not covered under this provision. Such restrictions may apply to working in, for example, the defence industry, civil service and certain liberal professions. Moreover, according to Article 24 of the 1951 Convention, States are required to accord refugees lawfully staying in the territory the same treatment as that accorded to nationals, with respect to labour legislation and social security.

Ethiopia has entered reservations to Article 17(2) of the 1951 Convention, recognizing the provision only as a recommendation and not a legally binding obligation.[35] However, these reservations are partly offset by Article 26(9) of the Refugees Proclamation 2019, which provides that restrictive measures imposed on non-citizens for the protection of the national labour market are not applicable to recognized refugees or asylum-seekers who are married to Ethiopian nationals, or who have one or more children in possession of Ethiopian nationality.

Requirements to obtain a work permit

Generally, foreign nationals in Ethiopia have limited access to wage-earning employment. According to Article 176 of the 2019 Labour Proclamation, they can only be employed in any type of work in Ethiopia if they have a valid work permit issued by the MoLS for a specific type of work for a period of three years. The work permit must be renewed every year and may be revoked if the foreign national is no longer required for the work. The requirements for obtaining work permits are highly restrictive. As such, a work permit is granted only for temporary work in a specific organization and for a role that cannot be filled by an Ethiopian national and only until such time that an Ethiopian is trained to replace the foreigner.[36]

The documentary and procedural requirements for obtaining a work permit are also generally restrictive, further limiting refugees' access to the labour market. In terms of documentary requirements, the 2021 MoLS Directive, under Article 8, requires that applications for a work permit be accompanied by the foreign worker's CV, original versions and copies of authenticated educational credentials, valid passport, valid business visa, work visa, government visa or non-governmental visa, letter of support from a government body, contract of employment, business or investment licence of the sponsoring employer, or certificate of registration when the employer is an NGO. Some of the documentary requirements that were difficult for refugees to meet because of their refugee status, such as passport, visa or residence permit, were relaxed by Article 18(3) of the Right to Work Directive. According to the same Article, the refugee identification paper issued by the RRS would be accepted in lieu of a passport and refugees are exempt from visa and residence permit requirements. An employer who applies to obtain a work permit for a refugee or asylum-seeker is additionally required, under Article 18(1), to obtain a letter of support from the RRS that confirms, following verification with the competent sectoral government institution, that the job for which the work permit is requested cannot be covered by an Ethiopian.

In principle, the MoLS is mandated (under Article 176(1) of the Labour Proclamation 2019) to issue work permits for foreign nationals in Ethiopia. The MoLS, by virtue of the power vested in it by Articles 171 and 176 of the Labour Proclamation 2019 to issue directives to determine the types of work for which

35 See UNHCR, "States Parties, Including Reservations and Declarations, to the 1951 Refugee Convention", accessed 5 November 2022.

36 See Labour Proclamation No. 1156/2019 and MoLSA, Revised Directives on the Issuance of Work Permits for Expatriates in Ethiopia, No. 772/2021.

foreigners require work permits and, in general, the manner of giving work permits, issued the 2019 Revised Directive on the Issuance of Work Permits for Expatriates in Ethiopia. According to Article 4(1) of this Directive, a work permit is a mandatory requirement for a foreigner to be employed for any type of work in Ethiopia. The work permit is issued to the expatriate only for the purpose of the specific job position in a specific hiring organization. The hiring organization can apply to the MoLS or the Ethiopian Investment Commission (EIC) for a work permit on behalf of the foreign national it seeks to employ only in a circumstance where the job cannot be performed by an Ethiopian national (see Article 6(1) of the Directive). In that regard, the employer is required to attach a letter of support from the relevant government office confirming that there is no Ethiopian national with similar qualifications and experience for the specific job. The employer is also required, under Article 9(3) of the Directive, to provide evidence to ensure that a replacement Ethiopian national will take over the post of the foreign worker upon the expiry of the validity period of the work permit. The other criteria for foreigners to obtain work permits in Ethiopia are listed under Article 8 of the Directive.

The MoLS temporarily delegated its mandate to issue work permits for refugees to the RRS, as per the Memorandum of Understanding (MoU) signed between the two government authorities in November 2022 and the standard operating procedures (SOPs) drafted to implement the MoU in September 2023.[37] According to the MoU and the SOPs, the MoLS has delegated the issuance of work permits to refugees to the RRS until the end of the World Bank Economic Opportunities Program on 30 June 2024. The RRS is authorized to issue to refugees, at the request of employers, a renewable work permit valid for three years to work in a specific position. The requirements and procedures for issuance, renewal, cancellation and replacement of work permits are aligned with the RRS Right to Work Directive and the MoLS Revised Directive on the Issuance of Work Permits for Expatriates in Ethiopia. The SOPs allow the RRS to issue refugee work permits from its head office, as well as at zonal and camp level. Under this arrangement, the RRS started issuing work permits to refugees in 2023 and will continue to do so until 30 June 2024, with the possibility of its delegated mandate being renewed beyond this time frame.

The issuance of work permits in relation to investment was also delegated to the EIC by virtue of Article 22 of Investment Proclamation No.1180/2020. Accordingly, the EIC issued the Directive Regulating the Issuance of Work Permits to Expats Employed in Investments and the Implementation of Knowledge and Skill Transfer from Expats to Ethiopians, Directive No. 772/2021, which includes recognized refugees within its scope. The Directive covers expatriate employees working in investments (foreign and domestic) that are administered by the EIC. Unlike the Investment Proclamation, this Directive allows foreigners to be employed in either top management or non-managerial positions. The Directive allows an investor to employ foreigners in top management positions in either the construction or implementation phases of a given investment project without any restrictions and without the need to comply with preconditions set for other expats – particularly those in relation to filling positions with Ethiopians and duties pertaining to knowledge and skill transfer.

In relation to impermanent non-management positions, the new Directive sets out clear instructions that regulate the number of expats that can be employed and the duration of such employment during the investment project's construction, installation, commissioning, implementation and maintenance phases. In this respect, although a company is not expected to explore the availability of Ethiopians before hiring expats for management and impermanent non-management positions, it is expected to set up and provide on-the-job training for Ethiopians with a view to them eventually replacing the expats within a defined period of time.

A work permit is only issued (for management or other positions) on the basis of a request made by an enterprise to employ an expatriate. The Directive stipulates that recognized refugees who hold a valid identity document and are engaged in wage-earning employment outside the context of joint projects could be issued with work permits to take up employment in investments whose administration falls within the mandate of the Ethiopian Investment Commission. In line with the Right to Work Directive, the

37 The MoU on Refugee TVET, Job Creation, Self-reliance, Work Permit and Related Issues was signed by the MoLS and the RRS in November 2022, while the Standard Operating Procedures (SOPs) for Service Provision on Refugee TVET, Job Creation, Self-reliance, Work Permit and Related Issues were agreed in September 2023.

EIC Directive exempts eligible recognized refugees from the requirements to submit a passport and entry visa, and to pay a service charge. This Directive is unique in the sense that it explicitly recognizes the right of recognized refugees to engage in wage-earning employment by obtaining a work permit.

The type of work permit envisaged under the Revised Directive on the Issuance of Work Permits for Expatriates, the Investment Proclamation, the Right to Work Directive and the work-permit SOPs is a closed work permit, that is, tied to a specific job position in a specific organization. If a refugee finds another job, then the new employer must apply and obtain another closed work permit on behalf of the refugee. Besides, a work permit is issued for a period of up to three years, subject to renewal every year. It may be renewed only in situations where no Ethiopian national is available to replace the foreign worker, or the foreign worker is still considered to be required for the job. The MoLS has the discretion to refuse to renew the work permit on these grounds.[38]

Standards of treatment and procedures for refugees

As previously stated, the standard of treatment applied by the Refugees Proclamation 2019 to refugees and asylum-seekers when it comes to accessing wage-earning employment in Ethiopia is the same as the most favourable treatment accorded to foreign nationals, pursuant to relevant laws. It is therefore worthwhile unpacking who the most favoured foreign nationals in Ethiopia are with respect to wage-earning employment. By analysing pertinent laws it is possible to deduce that foreign nationals of Ethiopian origin receive preferential treatment with regard to wage-earning employment. This group of foreigners has the right to be employed without a work permit in both the private and public sectors, other than in national defence, security, foreign affairs and other similar political arenas.[39] Thus, one line of interpretation is that refugees should receive similar treatment to foreign nationals of Ethiopian origin regarding wage-earning employment, that is, they should have the right to be employed without a work permit in the private and public sectors, with the exception of the political arenas mentioned above. However, the Proclamation is not clear if the reference group used to compare the standard treatment for refugees with regard to wage-earning employment is foreign nationals of Ethiopian origin.

The Right to Work Directive, in its Article 16(2), adopted a different standard of treatment for refugees engaging in wage-earning employment. The Directive provides that "a recognized refugee or asylum-seeker may engage in wage-earning employment upon obtaining a work permit from the competent government body". By requiring them to have a work permit to engage in wage-earning employment, the Directive treats refugees and asylum-seekers in the same circumstances as ordinary foreign nationals. However, the prohibitive documentary and procedural requirements discussed previously would make it almost impossible for refugees to obtain a work permit in Ethiopia.

In terms of procedures for refugees and asylum-seekers to obtain a work permit, the Directive outlines the following:

- the employer requests a work permit for a recognized refugee or asylum-seeker;
- the RRS writes a letter of support to the MoLS or EIC, as applicable, confirming that the work in respect of which work permit is requested may not be covered by an Ethiopian;
- the MoLS/EIC issues the work permit; and
- the employer reports to the RRS any communication relating to the refugee/asylum-seeker.

38 See MoLSA, Revised Directives on the Issuance of Work Permits for Expatriates in Ethiopia, 2019, Article 17.

39 Providing Foreign Nationals of Ethiopian Origin with Certain Rights to be Exercised in their Country-of-Origin Proclamation No. 270/2002. See also Federal Civil Servants Proclamation No. 1064/2017, Article 15.

It is important to note that refugees who have obtained a residence permit to be employed in joint projects and refugees or asylum-seekers married to Ethiopian nationals, or who have one or more children in possession of Ethiopian nationality (subject to proof and confirmation by the RRS), are, under Article 16(2) and (3) of the Right to Work Directive, exempt from the mandatory work permits required to engage in wage-earning employment.

Practice and implementation challenges

As previously discussed, there is inconsistency and a lack of clarity in the standards of treatment applied to refugees in the Refugees Proclamation and the Right to Work Directive in terms of refugees' access to wage-earning employment. Furthermore, the refugee legal framework is not harmonized with other relevant national laws, such as labour law, investment law, and the civil servant proclamation, in relation to refugees' access to wage-earning employment. Another challenge is the lack of a mechanism through which the Right to Work Directive issued by the RRS could be implemented by other government agencies, such as the MoLS and the EIC. The Right to Work Directive, being at the bottom of the hierarchy of laws and issued by the RRS, may not be legally binding on the MoLS and EIC, unless there is a cooperation framework between these agencies that aims to give effect to the Directive. As discussed in the previous section, the EIC can issue refugees with work permits relating to investment, while the MoLS temporarily delegated its mandate to issue work permits to refugees to the RRS. Whether the RRS's temporary mandate will be extended after its expiry on 30 June 2024 remains to be seen. These legal and procedural barriers limit refugees' access to formal employment and thereby prompt them to engage in the informal labour market, with possible risks of precarious income, limited contractual rights and exploitative working conditions. Their refugee status could exacerbate their susceptibility to these risks.

Another major challenge is the lack of adequate job opportunities for refugees. According to a key informant from the RRS, there are very few employment opportunities for refugees, and creating additional ones has been a major challenge. Even though the RRS remains ready to issue residence permits for refugees to facilitate their access to wage-earning employment in accordance with the refugee laws, there are few opportunities for it to do so in practice. Consequently, meeting the number of residence permits it is expected to issue as a requirement for the Economic Opportunities Program has been quite difficult.

The difference in the wages earned by refugees and host-community members is another challenge. Refugees often receive relatively lower payment than residents for similar work. This was mentioned by a refugee informant during a focus group discussion in Afar, citing the example of refugee incentive workers working in refugee camps as teachers receiving a lower salary than teachers from the host community. It is, however, important to note that refugees working in camps and other locations as incentive workers are paid according to the Revised Inter-agency Guidelines on Refugee Incentive Pay and Other Allowances, which were issued in 2015, before the introduction of the revised Refugees Proclamation. The Guidelines were agreed by all organizations employing refugees for various jobs and responsibilities in refugee camps and settings. When determining the amount of pay and other allowances, the Guidelines consider the humanitarian assistance and services the refugees receive. As the work is regarded as voluntary and not salaried employment, incentive workers are not required to obtain a work permit. The incentive payment is not considered as salary but as compensation to the refugees in order to motivate them to volunteer. According to the Guidelines, the minimum incentive payment payable to a refugee per month is 500 Ethiopian birr and the maximum is 1,173 birr, depending on the grade level and steps.[40] However, since the Guidelines were issued in 2015, the cost of living has gone up considerably and the Refugees Proclamation 2019, recognizing refugees' right to wage-earning employment, has been adopted.

Another gap identified during KIIs is the distance between the refugee camps and the towns/cities where employment opportunities for refugees exist. Kebribeyah refugee camp, for instance, is located 70 kilometres from Jijiga, making it difficult for refugees to travel to the city for employment. This is exacerbated by the general restrictions on refugees' and asylum-seekers' freedom of movement. The

40 See the Revised Inter-Agency Guidelines on Refugee Incentive Pay and Other Allowances, 2015.

2019 Freedom of Movement Directive, under Article 28(1), attempted to address this issue by making the search for employment one of the grounds for issuance of pass permits to refugees and asylum-seekers. The Directive remains largely unimplemented, however.

The FGDs conducted in Somali region and Afar also reveal a general lack of awareness among employers, refugees and the host community about refugee rights, particularly in relation to wage-earning employment. Limited awareness of the Refugees Proclamation among employers sometimes creates procedural bottlenecks in refugees' access to jobs. The same generally applies in other refugee-hosting regions and at the federal level. As a result, refugees' access to formal employment is generally limited (Vemuru et al. 2020). There are also no known cases of refugees working in the public sector.

Finally, adequate attention has not been given to vulnerable groups among refugees in terms of creating and facilitating access to job opportunities. According to an informant from Danish Church Aid, female refugees and refugees with disabilities are at the bottom of the unemployment pyramid, with fewer opportunities targeting them and no framework for holding hiring institutions accountable for exclusionary employment policies. While the pattern is similar for host communities, the marginalization of these refugee groups is greater as a result of factors linked to their refugee status and their specific needs.

2.4.5 Right to self-employment

Legal and policy framework

The second legal pathway through which refugees can exercise their right to work is self-employment. Self-employment is regulated under Article 18 of the 1951 Refugee Convention, which provides that refugees lawfully staying in the territory of a State Party enjoy treatment that is "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. Note that the list of fields of activity that are open for self-employment under Article 18 of the 1951 Refugee Convention is not exhaustive and should be given the widest possible interpretation (UNHCR 1997). Similarly, in the Amharic version of Article 26(2) of the Refugees Proclamation 2019 and in the Right to Work Directive (Article 4(8)), the lists of sectors that fall within the definition of self-employment are not exhaustive. This means additional sectors could fall within the scope of self-employment, but neither the Proclamation nor the Directive provide further guidance on what these sectors might be.

So, States Parties to the 1951 Refugee Convention are required to accord refugees, at the minimum, the same treatment as that accorded to ordinary foreigners. Nevertheless, the term "as favourable as possible" under the provision entails a recommendation for States Parties to strive, to the extent possible, to provide more favourable treatment than that accorded to ordinary foreigners.

The Refugees Proclamation 2019 has a provision on self-employment of refugees that is very much aligned with the 1951 Convention. Article 26(2) of the Refugees Proclamation provides that: "Every recognized refugee and asylum-seeker shall have the right to engage, individually or in a group, in agriculture, industry, small and micro enterprise, handicrafts and commerce, in the same circumstance as the most favourable treatment accorded to foreign nationals pursuant to relevant laws." Though this provision is the counterpart of Article 18 of the 1951 Refugee Convention, it is not a *verbatim* copy. It entails some differences, particularly in terms of the applicable standard of treatment. Regarding self-employment, the Proclamation uses a standard of treatment that accords refugees the most favourable treatment accorded to foreign nationals. Foreign nationals in Ethiopia have a limited right to self-employment. Many business sectors are exclusively reserved for Ethiopian nationals or for the government. Several laws relating to investment, commercial registration and licensing also impose barriers on the self-employment of foreign nationals in Ethiopia.

Among the various categories of foreigners, foreign nationals of Ethiopian origin have better access to self-employment opportunities in Ethiopia. They are not restricted from engaging in areas reserved for Ethiopian nationals, as they are considered domestic investors who can freely engage in commercial and

business activities on a par with Ethiopian nationals.[41] Hence, one line of interpretation of the provision in the 2019 Proclamation is that by virtue of the most favourable treatment, refugees should be treated in the same manner as foreign nationals of Ethiopian origin with respect to self-employment. This interpretation would allow refugees to engage in any area of business, including those exclusively reserved for Ethiopian nationals, and would also save them from being hindered by legal and administrative barriers, such as investment permits and minimum capital requirements required by investment laws. However, the Refugees Proclamation 2019 is not clear whether the intended reference group for refugees in terms of access to self-employment is foreign nationals of Ethiopian origin.

On the other hand, the Directive to Determine the Procedure for Refugees Right to Work No. 02/2019 gives a restrictive definition of refugees' right to self-employment. The Directive, under Article 19(1), provides that "any recognized refugee or asylum-seeker may be self-employed, individually or in group, in areas open for foreign nationals upon obtaining the appropriate licence from the relevant licensing bodies in accordance with applicable national laws". The Directive further narrows down the definition of self-employment by introducing additional requirements of "obtaining the appropriate licence from the relevant licensing bodies" and engaging only "in areas open for foreign nationals". This prevents them from engaging in many areas of business or self-employment activities and subjects them to several legal and administrative requirements. By introducing such additional requirements, the Directive treats refugees seeking to engage in self-employment as ordinary foreigners, applying a different standard of treatment adopted by the Refugees Proclamation. These requirements are discussed in the following sections.

Investment areas open for foreign nationals

The first requirement for refugees when treated as ordinary foreign nationals with regard to self-employment is to engage only in investment areas open for foreign nationals. Ethiopian investment laws reserve a wide area of investment for Ethiopian nationals from which foreign nationals, including refugees, are excluded. As per Article 6(2) and (3) of the Investment Proclamation No. 1180/2020, foreign nationals can only engage in areas of investment that are not exclusively reserved for domestic investors, joint investment with the government, or joint investment with domestic investors. Foreigners are required to obtain investment permits to engage in any of the investment activities that are permitted (Article 10(1)). Investment may be carried out by any one of these four types of enterprise: sole proprietorship, enterprise established in Ethiopia or abroad, public enterprise and cooperative society. Investments made by any of these forms of enterprise must be registered as per the Commercial Code of Ethiopia or other applicable law.

The Investment Regulation No. 474/2020, under Article 4, provides a list of businesses exclusively reserved for domestic investors. It prohibits foreign investment in areas such as banking, insurance and microfinance, media services, custom clearance services and security services on grounds of national security. It also reserves the sectors of wholesale trade, hotels and export of coffee, khat, oil seeds, pulses, minerals and other products for domestic investors only, as a means of giving priority to local investors. Under the Regulation, nearly all areas of self-employment related to small-scale businesses, which require less start-up capital and are accessible for refugees, are reserved for domestic investors. These include retail outlets, tearooms, coffee shops, bars, restaurants, grain mills, barbershops, beauty salons, smithies, tailoring/sewing studios, etc. Small-scale businesses in the fields of construction, transport, maintenance and repair are also reserved under the Regulation for Ethiopian nationals.

The list of investment areas reserved for joint investment by domestic and foreign investors (see Article 5(1)) includes freight forwarding and shipping agency services; domestic air transport services; cross-country and urban mass transport services; advertisement and promotion services; etc. Refugees can partner with Ethiopian nationals to engage in these sectors, but the main challenge would then be the minimum investment capital requirement, discussed later.

41 Providing Foreign Nationals of Ethiopian Origin with Certain Rights to be Exercised in their Country-of-Origin Proclamation No. 270/2002, Article 3.

The liberal interpretation of the "most favourable treatment as accorded to foreign nationals" standard in Article 26(2) of the Refugees Proclamation 2019 would allow refugees to be treated as domestic investors. That is because foreign nationals of Ethiopian origin, who are used as the reference group to determine the standard of treatment for refugees, are considered domestic investors by the Investment Proclamation (Article 2(5)(f)). This interpretation would allow refugees to engage in small-scale businesses, which are more financially feasible for their situation, such as retail outlets, tearooms, bars, restaurants, beauty salons, etc. However, as discussed before, the Right to Work Directive followed a restrictive approach and limited the standard of treatment for refugees engaging in self-employment to that accorded to ordinary foreigners. This significantly reduces the scope of investment areas that refugees could conveniently access. If, indeed, the intended reference group for refugees' access to self-employment is foreign nationals of Ethiopian origin, the Right to Work Directive would be deemed contradictory to the Refugees Proclamation and thus rendered ineffective. This is because, in the hierarchy of laws, the Directive is a procedural document meant to implement the Proclamation and so cannot limit the exercise of a substantive right (self-employment in this case) provided in the Proclamation. Nevertheless, the standard of treatment needs to be clarified as it concerns engaging in self-employment for refugees.

Using the other interpretation, that is, comparing refugees to ordinary foreign nationals and considering them "foreign investors" for self-employment purposes, there are areas in which they can still engage if they fulfil the necessary administrative, capital and licensing requirements. For instance, agriculture is one area open to foreign investors, including refugees. However, bureaucratic and practical barriers to access to arable land, including the lease requirement, could hinder refugees from engaging in agriculture. The other areas open to foreign investors, including refugees, are industrial and commercial activities. Refugees can engage in these activities as sole proprietors or by forming cooperatives or business enterprises, including a share company, private limited company, general partnership, limited partnership, limited liability partnership, or joint venture.[42] Even if refugees can access these sectors, they are still required to comply with the mandatory requirement of obtaining a business licence – a cumbersome and prohibitive process. Some of these requirements include a certificate of commercial registration, valid *Kebele* ID cards[43] or passport, visa, investment licences and certificate of competence, where applicable. Refugees may also be required to register for a Tax Identification Number (TIN) and indicate the address of the head office of the business.[44] This may be difficult for them, however, owing to restrictions on their freedom of movement and issues pertaining to access to documentation.

Small and medium-sized manufacturing industries (SMMIs) and small and microenterprises could be other forms of self-employment in which refugees and asylum-seekers may engage, in accordance with Article 26(2) of the Refugees Proclamation 2019. Other than in terms of the minimum capital requirement and special support and attention from the government, these sectors are similar to other industrial and commercial activities (MoUDH 2016, 18–19). The requirements related to registration of industrial and commercial activities, including documentary requirements, TINs and investment permits, are also applicable to small and microenterprises and SMMIs.[45] Refugees are not explicitly excluded from engaging in SMMIs, but they may be restricted, because most of the business areas open to SMMIs are reserved for domestic investors and, even when they are not, refugees may not have the minimum investment capital required for foreign investors. As for small and microenterprises, Ethiopian nationality and a *Kebele* ID are required for these, thus excluding refugees and asylum-seekers.[46]

On the other hand, the Cooperative Societies Proclamation No. 985/2016 does not bar refugees from establishing cooperatives within the framework of the law (Article 7). Therefore, refugees are entitled to join cooperatives ranging from primary to federation level and engage in production and provision of services (Article 2(2)–(5)). (See section 3.4.5 for a discussion relating to refugees' participation in cooperatives.)

42 Investment Proclamation, Proclamation No. 1180/2020, Article 8. See also Commercial Code of the Federal Democratic Republic of Ethiopia, Proclamation No. 1243/2021, Article 174.

43 *Kebele* ID is an identity document, issued by a Kebele – the lower administrative unit in Ethiopia – to a resident over the age of 18, that serves virtually the same range of functions as an ID.

44 Commercial Registration and Licensing Council of Ministers Regulation 392/2016, as amended by Council of Ministers Commercial Registration and Licensing (Amendment) Regulation No. 461/2020, Articles 9, 10 and 11.

45 Federal Urban Job Creation and Food Security Agency Establishment Council of Ministers Regulation No. 374/2016. See also Commercial Registration, Licensing and Post-Licensing Inspection Directive No. 10/2016.

46 Federal Urban Job Creation and Food Security Agency, Urban Job Creation Implementation Guideline (May 2018), Article 6.

Investment permit

The other requirement for refugees to engage in self-employment if treated as ordinary foreigners is an investment permit, which requires minimum investment capital. Most of the business areas open to foreign nationals require significant investment capital, and the foreign investor is required to deposit minimum investment capital to obtain an investment permit, an amount that may be unattainable for most refugees and asylum-seekers. Following are the minimum investment capital requirements to obtain an investment permit, as stipulated under Article 9 of the Investment Proclamation:

1. For a single investment project – US$200,000 (two hundred thousand).
2. For a foreign investor jointly investing with a domestic investor – US$150,000 (one hundred and fifty thousand).
3. A foreign investor investing in architectural, or engineering works, or related technical consultancy services, technical testing and analysis, or in publishing works –
    a. US$100,000 (one hundred thousand) if the investment is made on their own;
    b. US$50,000 (fifty thousand) if the investment is made jointly with a domestic investor.

Procedures for refugees to engage in self-employment

A refugee or asylum-seeker who wishes to engage in self-employment, individually or in a group, outside the joint project context is required to make a request to the RRS. The RRS then writes a letter of support to the relevant licensing bodies mandated to issue business licences, cooperative certificates and MSME registrations on behalf of the applicant refugee or asylum-seeker. These relevant licensing bodies are the Ministry of Trade and Regional Integration, the Federal Cooperatives Agency, the Federal Urban Job Creation and Food Security Agency, the Ethiopian Investment Commission, and their respective structures at regional and *woreda* levels. The RRS has not, however, entered into any form of cooperative framework with these licensing bodies in relation to self-employment of refugees. Without such arrangements, the licensing bodies are not expected to be aware of the rights of refugees and may not have the mechanisms to issue the required licences to them. This has negatively affected the implementation of the right of refugees and asylum-seekers to access self-employment.

Conversely, under Article 19(3) of the Right to Work Directive, refugees and asylum-seekers who are given residence permits to participate in self-employment activities through a joint project scheme, as well as those who are married to an Ethiopian national, or have one or more children in possession of Ethiopian nationality, have the right to engage in self-employment in areas limited to Ethiopian nationals without being required to obtain an investment permit. Under the same Article, however, the RRS, in order to write a letter of support, needs to ascertain the validity of the marriage certificate or the proof of Ethiopian nationality of the minor child of the refugee.

Practice and implementation challenges

Generally, from the foregoing discussion, it is clear that Article 26 of the Refugees Proclamation 2019 and the Right to Work Directive are not consistent as regards self-employment. These two instruments are not fully aligned with other relevant national laws, either. The various laws discussed above that regulate economic activities do not consider the right to work of refugees. Legal, administrative and practical barriers effectively prevent refugees from exercising their right to access self-employment opportunities in Ethiopia.

The lack of a comprehensive refugee regulation that would harmonize the provisions of the Refugees Proclamation with other national laws has created a legal barrier to implementing Article 26(2) of the Refugees Proclamation. By issuing such a regulation, the myriad legal, administrative and bureaucratic impediments to refugees' access to self-employment opportunities could be eased to consider the special

conditions and needs of refugees. Such a regulation would also bring clarity to the standard of treatment that should be accorded to refugees as regards self-employment by defining what "the most favourable treatment accorded to foreign nationals" clause entails.

Moreover, the lack of a collaborative framework between the RRS and other pertinent authorities regulating various areas related to self-employment of refugees has made it difficult to facilitate administrative processes for refugees, including issuance of investment permits, business licences and cooperative certificates, and commercial and MSME registration. For instance, several initiatives designed by organizations like ILO, GIZ, ZOA, etc., to support refugee self-employment and entrepreneurship by providing training and business start-up support are challenged by the difficulties in obtaining the necessary business licences for the refugees. This is further compounded by the limited binding effect of the Right to Work Directive on other relevant government authorities and their limited awareness of the rights of refugees. As a result, both RRS and UNHCR informants confirmed that there have been no reported cases of refugees opening businesses in their own name since the adoption of the Refugees Proclamation and the Right to Work Directive.

2.4.6 Liberal professions

Legal and policy framework

The third pathway via which refugees can exercise their right to work in Ethiopia is practising liberal professions. The term "liberal professions" does not have a clear definition in any international or national legal instrument. The 1951 Refugee Convention does not define liberal professions, nor does it provide a list of professions that fall within its scope. Though the term is vague, liberal professions are traditionally understood to encompass lawyers, physicians, dentists, veterinarians, engineers, architects, accountants, authorized translators and interpreters (UNHCR 1997).[47] The term liberal profession combines two elements, "liberal and "profession". "Liberal" denotes that the person concerned acts on their own, independently, as opposed to being a salaried employee or a State agent. And "profession" indicates that the person concerned must possess certain qualifications confirmed by a diploma from a university or similar institution, or a licence from a State agency, a chartered society, or some other legally competent body allowing them to practise (UNHCR 1997). To this effect, certain holders of academic diplomas are excluded from the application of the term – for example, members of the clergy, judges, teachers and scientists, in so far as they are not practising a profession in addition to any such post (UNHCR 1997).

Article 19 of the 1951 Refugee Convention governing liberal professions provides that States "shall accord to refugees lawfully staying in their territory who hold diplomas recognized by the competent authorities of that State, and who are desirous of practicing a liberal profession, treatment as favorable as possible and, in any event, not less favorable than that accorded to aliens generally in the same circumstances". The minimum standard of treatment accorded to refugees regarding liberal professions under Article 19 of the Convention is "treatment as favorable as possible and, in any event, not less favorable than that accorded to aliens generally in the same circumstances", with the additional condition that a diploma may be required and, in which case, it must be recognized by the receiving State. Refugees may be given greater rights and facility in exercising their liberal professions than other aliens found in a State.

The term "diploma" used in the Convention should be widely interpreted to include a degree, examination, admission, authorization, or completion of a course that is required for the exercise of a profession. A diploma obtained outside the receiving country is to be considered recognized if the relevant authorities have made either a general ruling about diplomas from specific universities, or a special ruling recognizing the equivalency of a particular diploma for the exercise of that liberal profession in their country. Drawing from the explanations afforded in the commentary on the 1951 Refugee Convention, the scope of liberal

47 The source of the terms and explanations in this and the following paragraph is UNHCR, *Commentary on the Refugee Convention 1951* (Articles 2–11 and 13–37), October 1997.

professions is limited to professional acts performed independently but not as an agent of the State or as a salaried employee. Persons working as salaried assistants to lawyers, dentists, etc., are considered "wage-earning employees" in the sense of Article 17 of the 1951 Refugee Convention and not liberal professionals.

The Refugees Proclamation 2019 recognizes the right of refugees to practise liberal professions under Article 26(3), without explicitly using the term "liberal professions". The Article provides that "[e]very recognized refugee who has academic credentials authenticated by the competent government authority and who desires to practice his profession may be accorded the most favorable treatment accorded to foreign nationals in areas permitted to foreign nationals". The Proclamation accords refugees treatment above the minimum standard of treatment provided for in the 1951 Refugee Convention to practise liberal professions, by according them "the most favorable treatment accorded to foreign nationals in the areas permitted to foreign nationals". Similar to the other provisions, the Proclamation does not define what "most favourable treatment" would entail. Foreign nationals of Ethiopian origin, who are allowed to work without a work permit, are the most favoured foreign nationals with respect to practising liberal professions. Using the most favourable standard of treatment, whether refugees will have similar treatment as regards liberal professions is an issue that has not been solved by the law. Nor does the law list which types of professional practices fall within the scope of liberal professions for refugees to practise. In addition, the Proclamation has, as a condition for refugees to practise liberal professions, the requirement for their academic credentials to be authenticated by the competent government authority, which comes with its own challenges. For discussions relating to authentication of academic credentials, see section 4, "Access to education and training".

There is no national law that provides a complete list of liberal professions in Ethiopia. Rather, such regulations are found scattered throughout several pieces of legislation. Each of the different types of liberal profession is regulated both by specific laws and general regulations under investment and labour laws. Under Investment Regulation No. 474/2020, most of the liberal professions are regulated in the form of businesses and commercial activities, which, in the case of Refugees Proclamation, are considered self-employment activities. Also, as previously discussed, salaried professional practices fall within the category of wage-earning employment, for which foreign nationals are required, under Article 176 of the Labour Proclamation, to obtain a work permit.[48] However, there are specific laws that are applicable to certain professions, and some of these specific laws need to be examined to understand which liberal professions refugees are permitted to practise in Ethiopia.

Lawyers

Federal Advocacy Licensing and Administration Proclamation No. 1249/2021, under Article 8, allows foreign legal practitioners to be admitted as an advocate in Ethiopia in limited circumstances, that is, to handle cases that involve their country of origin, and they can only do so in partnership with local advocates. Even in such cases, they will be required to have a work permit or investment or business licence, depending on whether they are employed or running their own business, respectively. Thus, refugees with a foreign advocacy licence who wish to practise law in Ethiopia would face challenges in terms of obtaining, in particular, investment and business licences. The Proclamation also permits qualified foreign nationals of Ethiopian origin to practise law in Ethiopia (Article 6(1)). Again, if foreign nationals of Ethiopian origin are to be considered a reference group for determining the scope of "the most favourable treatment" to practise liberal professions in Ethiopia, refugees who fulfil the necessary educational, work experience and other requirements would be similarly allowed to practise law in Ethiopia.

Health professionals

The other liberal profession in Ethiopia is medical practice. Registration and licensing of health professionals, including doctors, surgeons and dentists, is governed by the Health Professionals Registration and Licensing Administration and Control Directive No. 20/2014 issued by the Ethiopian Food and Drug Authority. According to Article 8(1) of the Directive, nationality is not a precondition to practise as a health

48 See also MoLSA, Revised Directives on the Issuance of Work Permits for Expatriates in Ethiopia, No. 772/2019.

professional. Foreign nationals, including refugees, may be licensed to work as health professionals in Ethiopia provided that they meet the educational and English-language proficiency requirement required by the Directive (Article 6(6)). Again, refugees may be encumbered by challenges associated with obtaining an investment permit/business licence as a foreigner if they wish to establish a health facility in Ethiopia, such as a clinic or hospital.

Certified public accountants

Foreign nationals are permitted to practise as certified public accountants if they are in possession of a work permit or are permanent residents of Ethiopia.[49] This is in addition to other requirements, including being of good character; having no criminal convictions for offences involving fraud or dishonesty in any country; and completing assessment examinations. Authorized accountants are additionally required to satisfy the conditions set out in the directives covering the licensing of authorized auditors and accountants which may be difficult for refugees to fulfil.[50]

Certified auditors

Any certified public accountant who intends to practise as a certified auditor and who fulfils the necessary requirements may apply in writing to the Accounting and Auditing Board of Ethiopia. To be a certified auditor, foreign nationals, including refugees, require a valid work permit and/or permanent residency in Ethiopia, in addition to the other requirements relating to good conduct, successful completion of accountancy examinations, membership of a recognized accounting association and four years of work experience. If the applicant obtained their certificate to practise from abroad, they must produce evidence of at least three months' work experience in a recognized audit firm in Ethiopia, in addition to at least two years' work experience as an auditor abroad.[51] Again, requirements for work and residence permits and may prove daunting for refugees, preventing them from practising this profession.

Construction professionals and contractors

The right to engage in the construction sector as a construction professional or contractor is regulated by the amended Registration of Construction Professionals and Contractors Directive No. 23/2013. According to Article 18(1), construction professionals include civil engineers, architects, associate engineers and engineering assistants. Applicants can also apply to register for different categories of contractor, including general contractor, building contractor, road contractor and specialized contractor (Articles 26(3) and (4)), with different grades (Article 27). Generally, there is no nationality requirement to practise either as a construction professional or contractor, but there are requirements and conditions linked to each category, grade, or professional classification. However, refugees may find it difficult to practise these professions owing to other barriers, such as the need for an investment licence required by applicable investment laws and regulations.[52]

Practice and implementation challenges

Most of the federal legislation governing such liberal professions as architect, engineer, construction contractor, auditor and health professional are also applicable in regional states, including Somali and Afar. Except for the legislation governing the advocacy licence, no regional laws regulating liberal professions

49 Establishment and Determination of the Procedure of the Accounting and Auditing Board of Ethiopia, Council of Ministers Regulation No. 332/2014, Article 17.

50 Directive to Provide License for Accounting and Auditing Professions and Registration of Professional Accountancy Body, Directive No. AABE 805/2013.

51 Establishment and Determination of the Procedure of the Accounting and Auditing Board of Ethiopia, Council of Ministers Regulation No. 332/2014, Article 18(1) and (3). See also Accounting and Audit Board of Ethiopia, Directive to Provide License for Accounting and Auditing Professionals and Registration of Professional Accountancy Body Directive No.805/2021.

52 See Investment Regulation No. 474/2020.

are discussed in this section.[53] So far, despite the permissive legal framework regarding participation of foreigners, including refugees, in liberal professions, albeit with administrative, bureaucratic, financial and awareness-related barriers, there have been no reported cases of refugees practising a liberal profession in Ethiopia.

2.4.7 Participation in joint projects

Legal and policy framework

In addition to the three pathways to work for refugees discussed above, the Refugees Proclamation introduced a new concept of "joint projects". According to its Article 26(4), refugees and asylum-seekers have a right to engage in rural and urban projects jointly designed by the Ethiopian government and the international community to benefit refugees and Ethiopian nationals, including in the areas of environmental protection, industry, and small and microenterprises. Refugees engaged in such projects shall receive equal treatment as that accorded to Ethiopian nationals engaged in the same project. The RRS may issue residence permits to refugees, renewable every five years, to facilitate their participation in joint projects (Article 26(6)). However, a joint project that involves the use of agricultural and irrigable lands can only be implemented in accordance with national land-use laws, and in agreement with regional states. This arrangement requires conformity with the land lease system, through payment of a lease price, and the permit must be renewed every seven years (Article 26(5)). The details of how refugees could access land for joint projects should be further clarified through secondary laws, as the present stipulations do not give sufficient details.

The joint project scheme is further clarified, and the applicable processes and procedures defined, by the Right to Work Directive. Article 4(5) defines joint projects as "an urban or rural development project designed with the support of the international community and the agreement of the Ethiopian government to economically benefit both recognized refugees and Ethiopian nationals".[54] The following key elements of a joint project can be derived from the above definition, and Article 26(4), (5) and (6) of the Refugees Proclamation:

- To be called a joint project, the project should be jointly designed by the Government of Ethiopia and the international community. However, what constitutes the "international community" is not clear, nor is whether it includes international and local development and humanitarian actors working with refugees. The Right to Work Directive modifies this requirement by replacing the "joint" design element with "designed with the support of the international community and the agreement of the Ethiopian government". Either way, the definition is not sufficient regarding who determines whether a certain project is a "joint project", or the criteria and process to be used. It seems this is left to the discretion of the RRS.
- The purpose of the project should be to benefit both refugees and host communities economically. Neither the Proclamation nor the Directive give a clear parameter for determining the degree to which both refugees and Ethiopian nationals are deemed to have benefited from a "joint project".
- An illustrative list of areas to be covered by joint projects is provided and includes environmental protection, industry, and small and microenterprises. The Right to Work Directive does not list sectors to be included, but rather provides a broad definition.
- A joint project can cover the three pathways to employment – namely, wage-earning employment, self-employment and liberal professions – depending on the type of project agreed between the Government of Ethiopia and the respective international body. As such, some projects may hire refugees, while others allow refugees to start businesses.

53 See, for instance, the Tigray Regional State Advocates Licensing, Registration and Administration Proclamation No. 312/2019 (as amended by Proclamation No. 326/2019), Benishangul-Gumuz Regional State Attorney Licensing and Administration Proclamation No. 151/2018, Afar National Regional State Advocates Licensing and Registration Regulation No.6/2004, and Gambella National Regional State Attorney Licensing and Code of Conduct Proclamation (Proclamation No. 55/2007).

54 The source of the terms and references in the remainder of this subsection is the Right to Work Directive 2019.

- Joint projects could also be designed to engage refugees in areas that are not otherwise open to them as a result of the legal and other barriers discussed in relation to the three pathways. The standard of equal treatment with Ethiopian nationals would make it possible for refugees to engage in any sector within the purview of a joint project, provided that all the necessary requirements are met.
- Moreover, the Refugees Proclamation prohibits discrimination between refugees and Ethiopian nationals who are engaged in joint projects, further enhancing their right to work and rights at work in the context of joint projects. Hence, it can be said that a joint project is a practical and more favourable option for the situation of refugees in Ethiopia.

According to Articles 7 and 8 of the Directive, a recognized refugee may be allowed to work in a joint project by obtaining a residence permit. To obtain a residence permit, a refugee must:

- fulfil the criteria set out by the joint project and be selected to participate in it based on a procedure determined by the RRS (to ensure the objectivity of the process, the RRS should develop clear procedural guidelines on the selection of refugee beneficiaries of joint projects);[55]
- not be under investigation for or charged with a breach of security or crime;
- have lived in Ethiopia for at least three years after being granted refugee status (by making refugee status a precondition, this requirement excludes asylum-seekers from participating in joint projects. In that regard, the Directive is inconsistent with Article 26(4) of the Refugees Proclamation, which grants the right to asylum-seekers).

Refugees or asylum-seekers who have a letter of support from the RRS attesting that they are legally married to an Ethiopian national or have one or more child in possession of Ethiopian nationality are entitled to engage in joint projects without the need for a residence permit, if they meet the necessary licensing requirement, for which they will need a letter of support from the RRS.

A refugee who has been issued with a residence permit has the right to move from place to place without a pass permit and to work in a joint project in relation to which the residence permit was granted (Article 9). The residence permit would serve the same purpose as a work permit (Article 7(1)). The standard of equal treatment with Ethiopian nationals would also remove the requirement for an investment permit for refugees if they are engaged in self-employment activities within the purview of a joint project. They will still, however, be required to obtain other mandatory licences, such as a business licence, cooperative certificate or MSME registration certificate, depending on the type of self-employment activities in which they are engaged. To obtain the required licence, a refugee with a residence permit still needs to get a letter of support from the RRS addressed to the relevant licensing body. Note that the benefits of the residence discussed above do not extend to family members of refugees participating in a joint project (Article 9(2)).

Moreover, a residence permit issued to a refugee to participate in a joint project can only be used for that joint project (Article 10). It should be noted that the residence permit issued for joint projects is different in purpose from the residence permit issued to other foreigners by the Immigration and Citizenship Service. The former only aims to facilitate refugees' right to work by removing the requirements for a work permit or investment permit, within the context of a joint project. Indeed, by virtue of Article 23 of the Refugees Proclamation, refugees do not need a residence permit to stay in the country. Moreover, a refugee issued with a residence permit is duty bound to comply with the laws of the country and, as such, cannot use the residence permit for illegal activities or to engage in acts contrary to public morals (Article 10).

The Directive also outlines the procedures and conditions for residence permit replacement, renewal and cancellation. To obtain a new residence permit or to renew one, a completed application form, identification document, photographs and other documents are required to be presented (Articles 11 and 12). Refugees should also present an employment contract or a business licence, cooperative membership

55 According to an RRS informant, a manual on the selection of joint-project beneficiaries and the issuance of residence permits has been drafted by the RRS but had yet to be endorsed at the time of writing.

certificate or MSME certificate to renew their residence permit (Article 12). A refugee can replace a lost or damaged residence permit. Similarly, the RRS may cancel a residence permit on the following grounds (Article 14):

- wilful return of the residence permit by the refugee;
- termination of employment – both waged and self-employment;
- three months' absence from work without a valid reason;
- use of the residence permit for purposes other than the joint project, or for criminal activities;
- final departure from the country;
- when confirmed that the residence permit was obtained through false evidence, fraud, or other illegal means;
- if the residence permit is not renewed, without good reasons, within three months after its expiry; and
- where the RRS determines that the continued possession of the residence permit by the refugee poses a threat to the national interest and security.

Practice and implementation challenges

In terms of practice, there is evidence that the joint project approach has, unlike wage-earning employment and self-employment, been implemented in practice. Since the roll-out of the CRRF in Ethiopia, various development-focused joint projects have been designed and implemented in the country to benefit refugees and host communities. These include the World Bank Ethiopian Economic Opportunities Programme (EOP), the Building Self-Reliance Programme (BSP), Strengthening Host and Refugee Populations (SHARPE), the Regional Development and Protection Programme (RDPP), the Development Response to Displacement Impacts Project (DRDIP), the EU Emergency Trust Fund for Africa (EUTF), the Itang Water Supply Project and the WFP Livelihood Programmes in Somali and Gambella, among others (for details of these projects, see ReDSS 2020). Joint project initiatives implemented in refugee-hosting regions such as Gambella, Assosa and Somali have demonstrated potential to enhance the self-reliance of refugees and host-community members and foster peaceful co-existence by the two communities (UNHCR and RRS 2021).

According to the 2021 GRF Pledge Progress Report, jobs and livelihood projects in agriculture, livestock management, market-system development, financial inclusion and training that adopted a joint-project approach have directly benefited 17,526 refugee and host-community members and indirectly benefited 80,953. According to an informant from the RRS, more than 2,600 residence permits have been issued to refugees who were identified to participate in joint projects as part of the EOP signed between the World Bank and the Government of Ethiopia.

One of the flagship joint projects in Ethiopia is the IKEA Foundation livelihood project in Dollo Ado.[56] The project, which is one of the world's largest private sector investments in a refugee-hosting area, was initiated well before the launch of the CRRF in Ethiopia but has continued to benefit refugees and host communities to date. Between 2012 and 2018, the IKEA Foundation invested EUR 75 million in the five refugee camps in the Dollo Ado area, benefiting both refugees and host communities, mainly in terms of livelihoods and income-generating opportunities (Betts et al. 2019). In partnership with UNHCR, the Foundation used the investment to develop arable land through irrigation schemes, expand infrastructure, improve local education systems, create renewable energy sources, provide training opportunities, and more. Through this model, the project was able to bring about socio-economic outcomes for refugees and host communities, and promoted peaceful co-existence by the two communities (Betts et al. 2019). The innovative aspect of the project was the use of cooperatives, in which equal numbers of refugees and host-community members participated, engaging in various types of economic activities, including in the fields of agriculture, livestock, energy and the environment. These cooperatives were also supported with microfinance, infrastructure and training.

56 This initiative inspired the inclusion of a joint project provision under Article 26 of the Refugees Proclamation 2019.

The practical process through which refugees are identified to participate in joint projects is very much aligned with the provisions of the Right to Work Directive, discussed above. According to a key informant from the RRS, the process involves, first, checking whether the applicants meet the specific criteria set out by the project. The next step includes verifying whether the applicant is a refugee and lives in the camp where the project is being implemented, confirming for how long they have lived there, and checking that there are no factors that would restrict the applicant from working in the project, such as age. Next, the refugee's interest in working on the project and willingness to go through the required training, etc., will be checked, before a residence permit is issued to the applicant, allowing them to work on the project. A letter of support may, where necessary, be sent by the RRS to the project and other relevant government offices to facilitate the refugees' participation in the project.

However, participation by refugees in joint projects comes with its own challenges. Limited awareness among the refugees, host communities and service providers about the rights of refugees and about the criteria and processes for their participation in joint projects was identified as a key challenge by the various key informants across all stakeholder groups. Most refugee and host communities are not sufficiently aware of the economic opportunities available or of the criteria and documents that are required to access these opportunities. Their understanding of the conditions to start a business, such as registration of the business, obtaining a TIN and a business licence, is limited. This awareness gap is also apparent among stakeholders that provide services to refugees, such as financial institutions, government authorities, NGOs and the private sector.

Another major challenge is the lack of clear guidelines to implementing refugees' right to work, particularly in relation to joint projects. The lack of guidelines on selection of joint-project beneficiaries and on issuance of residence permits has created challenges for refugees. To mitigate these challenges, the RRS drafted a manual on the issuance of residence permits for refugees.[57] The manual outlines the detailed procedures, processes and safeguards that need to be followed during the issuance, renewal, replacement and cancellation of residence permits. It also contains forms to be used for each of the processes. This example demonstrates that guidelines covering various aspects of implementing refugees' right to work are needed to ensure they can fully exercise this right.

2.4.8 Right to form and join cooperatives

Legal and policy framework

The 2002 ILO Promotion of Cooperatives Recommendation, 2002 (No. 193) defines a cooperative as an "autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through jointly owned and democratically controlled enterprises". Similarly, the Ethiopian Cooperative Societies Proclamation No. 985/2016 (hereinafter the Cooperative Societies Proclamation) defines a "cooperative society" as "an autonomous association having legal personality and democratically controlled by persons united voluntarily to meet their common economic, social and cultural needs and other aspirations, which could not be addressed individually, through an enterprise jointly owned and operated on the basis of cooperative principles". The overall objectives of cooperative societies are to meet the socio-economic and cultural needs and aspirations of their members by solving their economic and social problems, enhancing their knowledge and skills, promoting their self-reliance, and ensuring their self-responsibility and solidarity. Generally, cooperative societies are regulated by their by-laws and the Cooperative Societies Proclamation and its secondary laws (where they are available), as well as the pertinent commercial, civil and labour laws.

Cooperative societies may be established to engage in production or provision of services, or both. Depending on their nature, they may be organized at different levels, ranging from primary up to federation level. A primary cooperative society can be established by individuals who live or work or are engaged in a specific profession within a given area. The minimum number of members of a primary cooperative society is 50. This can, however, be reduced to a minimum of 10 individuals by a directive or

57 At the time of writing, the manual was awaiting approval by RRS senior management.

decision of the appropriate authority, depending on the nature of the work in question and economic feasibility. Primary cooperative societies established at the federal level must consist of members from two or more regional states. A cooperative societies union may be established at the federal or regional level by two or more primary cooperative societies with similar objectives, depending on their social and economic feasibility. A cooperative societies federation may be established at federal or regional level by two or more cooperative societies unions with similar objectives, depending on their social and economic feasibility.

Membership of cooperative societies is open to anyone aged 18 or over who is able to pay the share capital and registration fee required by cooperatives by law, and who is willing to discharge the obligations attached to membership. Having Ethiopian nationality is not a membership requirement in the Cooperative Societies Proclamation. This Proclamation does require cooperative societies to be voluntary organizations open to all persons willing to use their services and to be able to accept the responsibilities of membership without discrimination on the basis of gender, social status, race, political ideology, disability, or religion. This suggests that there is no legal prohibition for refugees to establish or be members of cooperative societies. This is also supported by the Refugees Proclamation, which, under Article 26(2), implies recognition of the right of refugees and asylum-seekers to form and join cooperatives. Secondary laws are needed that clearly articulate the extent of the rights of refugees and asylum-seekers to form and join cooperatives, as well as define the roles and responsibilities of appropriate implementing government organs.

The Federal Cooperatives Agency at the federal level and the regional cooperatives agencies at the regional level are established by the Cooperative Societies Proclamation to promote, coordinate, organize, register, regulate and build the capacities of cooperative societies. In Somali Regional State, the Cooperatives Development Agency is the organ established to carry out this function, while, in Afar Regional State, it is the Cooperatives Organizing and Development Agency. Only the Southern Nations, Nationalities and Peoples' Region, Tigray and Amhara have enacted their own regional legislation relating to cooperative societies; the other regional states do not have a regional legal and regulatory framework, which means there are gaps in the promotion of cooperative societies.

Practice and implementation challenges

Currently, refugees are engaged in cooperative societies in Somali region, in the refugee camps in Jijiga area, as well as in Melkadida/Dollo. In Melkadida, livelihood projects supported by the IKEA Foundation in collaboration with UNHCR and the RRS focus on agriculture, livestock, energy, the environment and microfinance loans. They operate in five refugee camps, generally through a cooperative model involving refugees and the host community. These cooperatives have helped increase the income and consumption level of their members and contributed to an overall improvement in social cohesion between refugees and the host community. Some cooperatives have had to grapple with challenges to do with demand and supply, market linkages and entrepreneurial capacity.

In Jijiga, refugees are actively participating in cooperatives, mostly with the support of UNHCR, the RRS and partners. In Kebribeyah refugee camp alone, 14 registered cooperatives formed by refugees with 52 members are functional, focusing on livestock, entertainment, stationery, internet cafes and consumer goods. While these cooperatives have potential to address the livelihood of refugees and host communities, they are constrained by low membership, a low level of capitalization and lack of business skills. Generally, in Somali region, there are also gaps in terms of slow implementation of the refugee legal framework, limited awareness of the rights of refugees and weak coordination among relevant stakeholders. As a result, refugee-owned cooperatives are often serviced by UNHCR, the RRS and partners, and they are not licensed by the appropriate cooperatives registration body in the region. In addition, credit facilities to the cooperatives are indirectly channelled through NGOs, not provided directly by microfinance institutions. This is also true in other places, including Addis, where, for instance, NGOs like GIZ and JRS deliver business training and start-up capital to refugees and host communities by organizing them in groups.

In conclusion, refugees are *de facto* included in the cooperatives' ecosystem albeit with challenges, but they need to be formalized and supported within the framework of the new refugee law and the CRRF/GCR.

2.4.9 Access to finance and financial services

Legal and policy framework

At the 2016 Leaders' Summit, the GoE pledged to facilitate financial inclusion of refugees by allowing them to open bank accounts, like any foreigner with permanent legal residence, using the refugee identification document. In the draft NCRRS, the Government included promotion of financial inclusion of refugees, in line with its National Financial Inclusion Strategy (2021–2025),[58] as one of the action areas via which to achieve the goal of ensuring access to livelihood and jobs, as well as enhancing refugees' self-reliance.[59]

The Refugees Proclamation 2019, under Article 33, recognizes the right of refugees and asylum-seekers "to open a personal bank account, deposit, transfer or withdraw money and obtain other banking services in accordance with relevant Ethiopian financial laws using [an] identification document issued by the Agency [RRS]". According to this provision and in line with the general approach in the Refugees Proclamation, refugee identification documents constitute proof of identity to access banking and financial services in Ethiopia. Regarding standards of treatment, while the pledge made by the GoE explicitly states that refugees will be treated in the same manner as foreign nationals with permanent legal residence concerning access to financial services, the Refugees Proclamation does not indicate any standard of treatment. The only condition stated in the Proclamation is that access to financial services for refugees shall be within the limits of the financial laws of Ethiopia.

The types of formal financial institution recognized by Ethiopian law include insurance companies, banks, microfinance institutions, postal savings societies, capital goods financing companies, reinsurers, microinsurance providers, money transfer institutions, digital financial services providers or other such similar institutions as determined by the National Bank of Ethiopia (NBE).[60] The NBE is the entity mandated to regulate the financial sector in Ethiopia, including licensing and supervising financial institutions.[61] There are also semi-formal financial institutions, including savings and credit cooperatives (SACCOs),[62] which are not regulated by the NBE, as well as the informal financial sector, which consists of unregistered traditional institutions, such as *Iqub* (rotating savings and credit associations), *Idir* (death benefit associations) and money-lenders.

The financial laws do not, however, explicitly exclude refugees from accessing financial services provided by financial institutions if they fulfil the necessary requirements, including documentation. The identification document required as part of know-your-customer due diligence is addressed by the Refugees Proclamation, which clearly stipulates that refugee ID can be used for such a purpose. Accordingly, the lack of an explicit prohibition in financial laws on refugees accessing financial services, together with the right explicitly guaranteed under the Refugees Proclamation, could be understood as refugees having access to financial services on a par with nationals. However, more advocacy and awareness-raising is required among, in particular, financial service providers and regulatory bodies to promote clarity and consistency in interpretation and implementation of refugees' right to access financial services.

The legal framework governing banking and financial services begins with the Commercial Code of Ethiopia, Proclamation No. 166/1960, which governs banking services, including deposits, withdrawals and transfers (Article 986 *et seq.*). The provisions of the Code relating to insurance services were repealed by the new Commercial Code of Ethiopia, Proclamation 1243/2021, Article 2. In addition to the Code, which

58 National Financial Inclusion Strategy-II (2021–2025), 2021.

59 Draft National Comprehensive Refugee Response Strategy (NCRRS), 2020–2030, p. 28.

60 Banking Business Proclamation No. 592/2008 as amended by Proclamation No. 1159/2019, Article 2(9).

61 National Bank Establishment Proclamation, Proclamation No 591/2008, Articles 4 and 5.

62 SACCOs are coordinated by the Federal Cooperatives Agency and its regional counterpart. SACCOs lend money only to members of the cooperatives, and the amount of the loan depends on the amount the applicant has saved in deposits.

encompasses a wide range of commercial rights, there are specific proclamations governing banking and financial services. These include the National Bank Establishment Proclamation No. 591/2008; the Banking Business Proclamation No. 592/2008, as amended by Proclamation No. 1159/2019; and the Proclamation to Provide for National Payment System No. 718/2011. These laws outline the services provided to customers by financial institutions, including customary banking services (deposit, withdrawal and transfer of funds) and credit and loan services.[63] Various directives have also been issued by the NBE to facilitate provision of financial services in Ethiopia, which may have implications for the financial inclusion of refugees and asylum-seekers. These directives are discussed below.

Customer Due Diligence of Banks Directive No. SBB/46/2010

This Directive, issued by the NBE, aims to combat money-laundering and financial terrorism through the know-your-customer (KYC) and customer due diligence (CDD) standards, which require financial service providers, including banks, insurance companies and microfinance institutions, to verify the identity of their customers by asking for an identification document.[64] The Directive classifies non-resident customers, such as those staying in the country for less than one year or those on a short visit to or travelling within the country, as "high-risk" clients (Article 2(5)(d)). The Directive outlines minimum requirements in terms of the information to be included in identification documents that refugees may have difficulty satisfying, including a permanent address, occupation/public position/or name of employer and telephone/fax number, or email address, if available (Article 4(5)). Though refugees are not excluded from accessing financial services by virtue of their legal status, financial service providers may regard them as temporary and high-risk clients and therefore hesitate to provide them with services. The Refugees Proclamation, which came into effect long after this Directive, addresses this issue by providing that refugee ID would suffice as identification for refugees to access banking and financial services.

Financial Anti-Money Laundering and Countering the Financing of Terrorism Compliance Directive No. 1/2014

The Prevention and Suppression of Money Laundering and Financing of Terrorism Proclamation No. 780/2013, under Article 6(3), requires financial institutions to carry out customer due diligence measures while providing services. Customer due diligence measures include, among others, verifying the identity of the customer based on reliable independent sources, documents, data, or information (Article 6(5)). This is further explained by Article 16 of the Financial Anti-Money Laundering and Countering the Financing of Terrorism Compliance Directive No. 1/2014, which states that the identity of a customer should be verified and information concerning, among others, their permanent address, telephone number, date and place of birth, nationality and occupation needs to be established and independently verified. The Directive requires financial institutions to obtain copies of a customer's national ID or passport, or driving licence, etc. (Article 19(2)). Understandably, the Directive, which was also issued prior to the Refugees Proclamation, falls short of mentioning a refugee identification document. This was rectified by Article 33 of the Refugees Proclamation, which makes stipulations to that effect.

Regulation of Mobile and Agent Banking Services Directive No. 01/2012

This Directive aims to enhance the use of mobile money and agent banking services. It introduces, via Article 8(1), customer due diligence requirements into mobile money and agent banking services by requiring financial institutions to ensure that their agents fully comply with the requirements of the Prevention and Suppression of Money Laundering and the Financing of Terrorism Proclamation No. 657/2009 and the Customer Due Diligence of Banks Directive No. SBB/46/2010. Under Article 8(2), the Directive obliges financial institutions to train their agents on prevention of money laundering and financing of terrorism requirements and procedures. The Directive defines customers of mobile money and agent banking services as any "individual or entity who uses mobile and agent banking services of financial institutions

63 Banking Business Proclamation No.592/2008, Article 2.

64 See Microfinancing Business Proclamation, Proclamation 626/2009, Preamble and Licensing and Supervision of Banking Business; Customer Due Diligence of Banks Directive No. SBB/46/2010, Preamble; and Prevention and Suppression of Money Laundering and Financing of Terrorism Proclamation, Proclamation No. 780/2013.

offered through mobile devices". Like the other financial laws, it does not exclude refugees from accessing financial services. Further, refugees do have the right to access telecommunication services, including digital banking, by virtue of Article 34 of the Refugees Proclamation.

Directive to License and Authorize Interest-free Banking Business No.72/2019

The National Bank of Ethiopia has issued a directive on the formation of banks that will engage in interest-free banking business in accordance with Islamic law or Sharia principles to promote greater financial inclusion, particularly of Muslims (see Preamble and Article 2(2)). The Directive provides a great opportunity for enhancing the financial inclusion of Muslim refugees, particularly in the Afar and Somali regions, who would otherwise be excluded from accessing banking and credit services on the basis of adhering to tenets of their religion.

Microfinance institutions (hereinafter MFIs) can play a paramount role in facilitating refugees' access to economic opportunities by providing them with financial services. Access to MFIs is regulated by the Microfinancing Business Proclamation No. 629/2009. According to this Proclamation (see Preamble and Article 3), the main purpose of MFIs is to collect deposits and extend credit to rural and urban farmers and people engaged in similar activities, as well as micro- and small-scale rural and urban entrepreneurs. The services MFIs provide to their customers include facilitating voluntary and compulsory savings, as well as demand and time deposits; providing credit services; supporting income-generating projects through managerial, marketing, technical and administrative advice; managing funds for micro- and small-scale businesses; and providing local money-transfer services (Article 2). These services are important in helping refugees exercise their right to work, particularly by supporting their engagement in micro and small enterprises and similar businesses. Further, MFIs have the discretion to provide loans to their customers with or without collateral, or through group or individual guarantors (Article 16). This is a great opportunity for refugees, as their circumstances often make it difficult to furnish collateral to guarantee the payment of debts. MFIs are also allowed by law to extend microcredit services to people without identity cards in far-flung and remote areas, by establishing their identity through other appropriate means.[65] This flexibility accorded to MFIs can accommodate refugees, particularly those in camps, with no identification documents.

The Refugees Proclamation, while guaranteeing refugees access to banking and financial services in general, does not specifically regulate their access to MFIs. Their right to access services provided by MFIs can be inferred from this general provision, as well as from their right to engage in micro and small enterprises under Article 26(2) of the Proclamation. Further, the relevant financial law regulating MFIs does not explicitly exclude refugees from accessing financial services provided by MFIs.[66] However, the laws lack clarity on how refugees could be accommodated to access financial services provided by MFIs. In practice, refugees do not have access to services offered by MFIs. Furthermore, MFIs often provide services to job-creation initiatives designed to support Ethiopians, for which a national identification document is required, meaning refugees are effectively excluded (UNHCR 2020a, 164).

Practice and implementation challenges

Regarding the implementation of refugees' access to banking and financial services, urban refugees in Addis Ababa are able to open bank accounts in their name through the Commercial Bank of Ethiopia (CBE) and receive their monthly allowances from UNHCR. Similar cash-based interventions are being implemented in Jijiga, Melkadida and Assosa, where refugees are able to open a personal bank account and receive their assistance through direct deposit into their account (UNHCR Ethiopia 2022c, 10). This was made possible by the RRS, which wrote to the NBE requesting it to instruct commercial banks to enable refugees to use their refugee identification documents to access banking services.

According to UNHCR, following the increase in identification documents issued by the RRS in 2019 (see sections 3.1 and 3.2) and legal awareness campaigns, refugees' access to banking services has been on the rise, particularly to enable the delivery of cash-based interventions (CBI) (UNHCR Ethiopia 2022c, 10). In

65 Financial Anti-Money Laundering and Countering the Financing of Terrorism Compliance Directive No. 1/2014, Article 19(4).

66 Microfinancing Business Proclamation No. 626/2009.

the Jijiga area, as in Addis Ababa, refugees are able to directly obtain SIM cards and thus access mobile banking services (Vemuru et al. 2020, 148). In other remote refugee-hosting areas, however, limited financial infrastructure and a lack of awareness of refugee rights among financial service providers hinder refugees' access to banking and financial services, particularly loan services. Refugees who are not able to access formal credit services rely on informal sources to borrow money for their financial needs, exposing them to risks of extortion and entrapment (ILO 2020b, 90).

Generally, refugees face insurmountable challenges in accessing banking and financial services in Ethiopia, owing to a number of legal and practical barriers. These include (UNHCR 2020a, 164):

- limited rights to work or freedom of movement;
- lack of or inadequate identification documents;
- lack of collateral or savings to secure loans;
- high interest rates on loans and down payments;
- lack of Islamic financial services by some banks;
- limited awareness of banks, particularly private banks, about refugees' right to access financial services;
- lack of clear procedures and requirements regarding refugees' access to financial services; and
- limited credit facilities to refugees owing to them being considered as credit risks (Fiddian-Qasmiyeh et al. 2014, 107).

In conclusion, financial laws do not explicitly exclude refugees from accessing financial services in Ethiopia. However, a number of legal and practical barriers limits refugees' access to the financial services provided by banks and microfinance institutions. These barriers should be addressed by the Government in order to make good on its pledge to foster the financial inclusion of refugees, as well as to help refugees exercise their right to access banking and financial services provided in the Refugees Proclamation.

2.4.10 Access to employment services

Legal and policy framework

Ethiopia is a signatory to the ILO Employment Service Convention, 1948 (No. 88) and the Private Employment Agencies Convention, 1997 (No. 181). These two conventions governing employment services support the optimal functioning of the labour market by promoting protection of workers; placement and recruitment services; skills matching; responsible and fair recruitment practices; and reduction of informal employment. Ethiopia also has a national policy framework governing employment services. The 2016 National Employment Policy and Strategy aims, among other things, to create favourable conditions for the promotion of employment opportunities by improving labour market information and employment services.

The Labour Proclamation No.1156/2019 (hereinafter the Labour Proclamation) is the main instrument in Ethiopia regulating employment relations in the private sector. The Proclamation mandates the Ministry of Labour and Skills (MoLS) to issue a directive to govern conditions for private employment agencies to participate in local employment services (Article 17(1)(k)) and to put in place an integrated labour administration system that enhances employment services (Article 17(2)).

The Proclamation also contains a specific provision on employment services under Article 172, which defines employment services as including the following:

1. assisting persons who are capable and willing to work to obtain employment;
2. assisting employers in the recruitment of suitable workers for their job positions;
3. determining the manner in which foreign nationals are to be employed in Ethiopia;

4. cooperating with the relevant offices and organizations in the preparation of training programmes;
5. conducting studies pertaining to the labour market; and
6. in collaboration with the relevant offices, conducting studies relating to the manner of improving vocational training at country level and disseminating such training to beneficiaries and implementing the employment policy properly.

The Refugees Proclamation does not make explicit reference to employment services for refugees; it merely makes general reference to applicable national laws under Article 26. Therefore, it is not clear whether refugees are excluded from accessing employment services or not.

Practice and implementation challenges

It is difficult to talk about refugees' access to employment services when their right to wage-earning employment has not been fully implemented and their access to the formal labour market is limited in practice. As a result, to become involved in economic activities, refugees may only rely on access to informal means of obtaining labour information and support. This is particularly true of some refugees in the Jijiga area, who maintained informal access to employment services and the labour market (particularly where *Kebele* ID is not required) by disguising their identity as refugees and masquerading as locals, taking advantage of their shared ethnic and cultural background (ILO 2020b, 86). The same is also true of Somali and Eritrean urban refugees in Addis Ababa, where informal connections to the host community are the main way for them to access employment and self-employment opportunities (ILO 2020b, 86). At this time, when access to formal employment services is limited even for citizens, identifying and supporting the informal ways in which refugees and asylum-seekers obtain labour market information and support will be useful. However, strengthening the provision of formal employment services in general, for refugees as well as host communities, remains the only way to guarantee their access to formal employment.

2.5 Access to education and training opportunities

2.5.1 Access to skills development and TVET

Legal and policy framework

Education is an important tool for the promotion of self-reliance and the search for durable solutions for all. It promotes personal development and enhances the capacity of both refugees and host communities to contribute to the local economy through participation in the labour market. In this regard, education and skills training are key components of self-reliance strategies and enhancement of local economic activities. It is against this backdrop that Ethiopia made a pledge on refugee education, as part of the nine pledges made during the Leader's Summit in 2016. The education pledge aims to increase enrolment of refugee students at all levels of education (from pre-primary to tertiary education) without discrimination and within available resources.[67]

An additional pledge was made at the first Global Refugee Forum (GRF) in 2019, where the GoE committed to "expand [the] government TVET system and provide quality and accredited skills training to 20,000 host and refugee community members on [an] equitable basis" by "taking into account the labour market demand and linkages with existing and new commitments in expanding socio-economic opportunities". Building on its 2019 participation, the government scaled up its commitments at the 2023 GRF through its pledge to integrate 30,000 refugees and host communities into the TVET system and create job opportunities for 70 per cent of this target by 2027.

67 See "Summary Overview Document, Leader's Summit on Refugees", 20 September 2016.



A trainee taking part in a short course provided for persons with disabilities, Somali region. © ILO

At the regional level, Ethiopia made a specific commitment under paragraph 18 of the Djibouti Declaration on Refugee Education in the IGAD Member States to integrate refugees into its national education policies, strategies, programmes and plans, and to facilitate refugee children's access to national education services. These commitments by the GoE are also aligned with global and regional policy developments, including the 2030 Agenda for Sustainable Development and, under that, Sustainable Development Goal (SDG) 4 – Ensure inclusive and equitable quality education for all and promote lifelong learning opportunities.

To incorporate these international commitments into a national policy architecture, the draft NCRRS included a pillar dedicated to strengthening the human resource development of refugees and host communities by enhancing their access to quality social services, including education (FDRE 2018, 20). Some progress has been made in terms of fulfilling the commitment to include refugees in the national education system. Ethiopia's Education Sector Development Plan VI (ESDP 6, 2020–2025), unlike the previous plans, included refugee education. ESDP 6 aims to ensure equitable and quality education for all, including disadvantaged groups, by expanding education for refugees at all levels, including pre-primary, basic education, secondary education and vocational education programmes.

The inclusion of refugee data in the national and subnational Education Management Information System, to facilitate the generation of accessible, comprehensive and quality data regarding refugee education, particularly primary and secondary education, is another significant step towards refugee inclusion in education-sector planning (International Institute for Educational Planning and UNICEF 2020). This began in 2016 as a joint effort between UNHCR, the RRS and the Ministry of Education, which resulted in the inclusion of refugee data in the Annual Education Statistical Abstract for the first time in the 2016/2017 academic year (MoE 2022).

As inclusion is a gradual process, there are still some key policy and legal instruments that do not fully address the inclusion of refugees in the education sector. For instance, the Ethiopian Education Development Roadmap (2018–2030) and the Higher Education Proclamation No. 650/2019 do not make explicit reference to refugees. In addition, the 2020 TVET Policy did not have a provision for including refugees. The draft TVET Policy to replace the 2020 policy does feature provisions for refugee inclusion, however.

It is worth mentioning here that the 1951 Convention only guarantees public education and imposes varying obligations on States with respect to different levels of education. In the case of primary education, the Convention, under Article 22(1), obliges States to accord refugees the same treatment as that accorded to nationals. Ethiopia, however, has put a reservation on Article 22(1). In its reservation, Ethiopia states that "it recognized this provision as recommendation and not as a legally binding obligation".[68] This reservation has, however, been rendered practically obsolete by Article 24(2) of the Refugees Proclamation, which explicitly recognizes this right. In that regard, the Refugees Proclamation provides for access of refugees to primary and pre-primary education in the same circumstances as nationals. This is a positive step, not only because it goes beyond the reservation but also because it reflects the progress made in practice in terms of making access to primary education available to refugee children in Ethiopia.

With regard to education other than primary education, including secondary, tertiary, technical and vocational education, as well as adult and non-formal education, the 1951 Refugee Convention, under Article 22(2), imposes an obligation on States to treat refugees "as favorable as possible, and, in any event, not less favorable than … aliens generally in the same circumstances". The Refugees Proclamation does not, however, specify standards of treatment as regards access to these levels and types of education but puts the limits of availability of resources and the education policy of the country as conditions (see Article 24(2)).

As mentioned above, the Refugees Proclamation recognizes the right of refugees and asylum-seekers to access pre-primary and primary education in the same manner as Ethiopian nationals, and refugees also have the right to enrol in public education other than primary education, including secondary education, tertiary education, technical and vocational education, as well as adult and non-formal education, based on availability of resources and the education policy of Ethiopia. In other words, if resources permit, refugees in Ethiopia can claim access to these types of education, as the country's education policy is not averse to refugee inclusion.

In addition, as per the same provision, the treatment accorded to refugees must be "the most favourable treatment as accorded to foreign nationals" in respect of education other than primary education, in particular as regards recognition of foreign school certificates, diplomas and degrees, as well as remission of fees and charges, and the granting of scholarships. As discussed in other sections, the standard of "the most favourable treatment as accorded to foreign nationals" is not clearly defined anywhere in the Proclamation or the refugee directives.

Moreover, the scope of the term "education other than primary education" used in Article 24(3) of the Refugees Proclamation may include access to training, skills development, apprenticeship and career counselling that are necessary for the active participation of refugees in the economic life of the country. This is also strengthened by Article 26 (right to work) and other relevant national laws, including Articles 28 and 48–52 of the Labour Proclamation, which refer to education, training, skills development and apprenticeships.

68 See UNHCR, "States Parties, Including Reservations and Declarations, to the 1951 Refugee Convention", accessed 5 November 2022.

Practice and implementation challenges

According to a KII from the Ministry of Education (MoE), the national educational system of the country is now, thanks to a series of policy reforms, accessible to refugees in the same manner as nationals, and the MoE is working in coordination with the RRS to ensure that the policy commitments are met. Accordingly, federal educational institutions are expected to consider the needs of refugees in their budgeting, monitoring and implementation plans.

Refugee children in camps access schools set up inside the camps, while refugees living out of camps are enrolled in local schools, mostly public schools (UNHCR 2017). Refugee primary schools in the camps are operated by the RRS with UNHCR financing. The schools use curricula and standards aligned with those of the MoE/education boards, but their staff are employed by the RRS, including refugee teachers (World Bank 2021). Host-community children can also access refugee schools in the camps (World Bank 2021). As of the 2021/2022 academic year, the Education Management Information System indicates that the Gross Enrolment Rates (GERs) of refugees in pre-primary, primary (grades 1–8) and secondary education stand at 42.6 per cent, 50.8 per cent and 14 per cent, respectively (MoE 2022). Compared with the national GER, the figures for refugee primary and secondary education are quite low.[69] Despite a gradual increase in enrolment of refugees into the government and DAFI scholarship programmes (see below) and better performance compared with other refugee-hosting countries, refugees' overall access to tertiary education, including TVET, is low in light of the needs, attributable to resource limitations and limited implementation (UNHCR 2020b and DAFI 2023).[70]

Refugees' practical access to education and training is compromised by a number of other challenges. Those mentioned by KIIs at federal level include lack of awareness among education providers of the needs of refugees, lack of facilities that cater for the special needs of refugees and lack of resources within or outside camps to provide quality education not only to refugees but also host communities.

Most of the support and interventions designed by organizations and the government focus on refugee students at elementary- and secondary-school levels. Support to refugees' access to tertiary education is provided, but only to a limited extent. According to the UNHCR informant, there are currently two types of scholarship opportunities available to enable refugees in Ethiopia to access higher education. The first one is from the Government of Ethiopia, which is available to refugees who join higher-learning institutions and covers their tuition and living expenses through the cost-sharing arrangement. The other one is a UNHCR-financed scholarship programme called DAFI (Albert Einstein German Academic Refugee Initiative), which provides financial support in the form of a subsistence allowance for certain qualified refugees attending higher-education institutions. As of October 2022, there were 4,660 students enrolled in 44 public universities across Ethiopia under the government and DAFI scholarship programmes (UNHCR 2022e).

Technical and vocational training are provided for refugees and host communities either directly by international organizations and NGOs, or by these organizations jointly with regional TVET bureaux and colleges. Organizations such as the Afar Region Pastoral Development Association, the Ethiopian Evangelical Church Mekane Yesus – Development & Social Services Commissions and Goal Ethiopia provide skills development and training for refugees and host-community members related to specific jobs. On the other hand, NGOs like the Jesuit Refugee Service provide refugees with non-formal education services, like language training, music, sports and art training, and facilitate income-generating activities and access to employment for refugees. However, according to a UNHCR informant, most of the training programmes run by NGOs are not aligned with the curriculum, not certified by the competent authority, nor are the certificates they give to the trainees recognized or linked to employment opportunities. These initiatives being donor-driven, are not mainstreamed in government structures for sustainability.

69 According to the MoE ESAA for the 2021/22 academic year, the national GER over the same period is 44 per cent for pre-primary, 97.2 per cent for primary (grades 1–8) and 45.6 per cent for secondary education.

70 More refugee students in Ethiopia than in any other country in the world benefit from the Albert Einstein German Academic Refugee Initiative (DAFI) Scholarship Programme for refugees. In 2022, 1,264 students accessed the DAFI Programme. Furthermore, all refugees who passed the national matriculation exams are allowed to enrol in public universities benefiting from government-sponsored scholarship programmes.

Language barriers and distance, particularly in the context of Addis Ababa, where many refugees live on the outskirts of the city, far from the training centres, owing to the rising cost of living, pose additional challenges for refugees.

Some NGOs, such as Mercy Corps, Lutheran World Federation (LWF) and DRC, are attempting to address this challenge by working closely with the regional TVET colleges. This mostly takes the form of the NGOs providing the refugees with financial support, including covering their tuition fees. In this regard, a key informant from a TVET institute in Jijiga mentioned that they work closely with NGOs to train refugees from Sheder, Awbare, Kebribeyah and other areas. The NGOs provide financial support, while the training centres, which are set up at *Woreda* level, provide the training. There is even a training centre specifically for refugees in Sheder. Once trained, the refugees are either hired by the NGOs themselves or they engage in self-employment in Addis Ababa.

In many cases, the contribution of the training to enabling refugees' transitioning to formal employment is limited. According to the KIIs, this is because of limited awareness about the rights of refugees, poor quality of training, attributable to limited resources and a weak monitoring system which reduces the likelihood of graduates finding employment upon completion of their training. Ethiopian TVET graduates also face similar poor prospects of obtaining employment. For example, despite the expansion of the TVET system in the country, the unemployment rate of TVET graduates in 2018 was, at 23 per cent, the same as that in 2003 (ILO PROSPECTS 2021).

Refugee inclusion is also limited by the supply-driven nature of the TVET system due to the lack of a functional skills anticipation system in the country, as well as weak industry-TVET links. The bulk of TVET funding comes from the Government and TVET's share of the overall education budget remains low, at 5 per cent (ILO PROSPECTS 2021). Because refugees are not considered in the government's budgeting and monitoring plans, there is reluctance to include refugees in the national TVET system.

To address these challenges, GIZ and UNHCR, together with the RRS and the MoLS, initiated the development of a National Roadmap and Costed Action Plan in 2022 in order to implement innovative initiatives and projects that will benefit both refugees and host communities, with the ultimate goal of promoting the systematic inclusion of refugees in the Ethiopian TVET system.[71]

In conclusion, to ensure that refugees have full access to education and training opportunities in Ethiopia in light of the resources available and in line with the Government's policy commitments, as well as the international and national legal and policy framework, it is important to address the aforementioned barriers through a multi-stakeholder approach by taking further policy, legislative and administrative steps, as well as filling the capacity gaps.

2.5.2 Recognition of skills, prior learning and academic qualifications

Legal and policy framework

One of the challenges to refugees' access to labour markets in Ethiopia relates to recognition of their foreign academic credentials and qualifications. Refugee children may easily enrol into primary education, but older refugees may not have their academic qualifications from their place of origin with them, as they are usually forced to flee with no time to gather their belongings and documents. Even when they do have their documents, authenticating their credentials is often complicated and time-consuming.

71 The UNHCR informant confirmed that the development of the roadmap was initiated in 2022, in accordance with the recommendations of the GIZ gap assessment.

The 1951 Refugee Convention requires States Parties to treat refugees as favourable as possible, and, in any event, not less favourable than aliens generally in the same circumstances, as regards the recognition of foreign school certificates, diplomas and degrees. The 2014 Revised Convention on the Recognition of Studies, Certificates, Diplomas, Degrees, and Other Academic Qualifications in Higher Education in African States (Addis Convention), under Article 4(3), entitles applicants to fair recognition of their qualifications within a reasonable time limit, according to transparent, coherent and reliable procedures. Ethiopia is not, however, a signatory to the Addis Convention. As discussed before, Ethiopia, as a signatory to the 2017 Djibouti Declaration, agreed to recognize and validate the qualifications of refugees and returnees across all levels of education. To this end, the Declaration urges Signatory States to "ratify and domesticate the Addis Convention as a basis for recognition of refugee and returnees' qualifications". Ethiopia has not yet taken legislative steps to ratify the Addis Convention, nor does it have specific laws governing recognition of foreign school certificates, diplomas and degrees.

The Education and Training Authority, formerly the Higher Education Relevance and Quality Assurance Agency, is the government agency mandated to "authenticate legality and genuineness of academic credentials issued in the country; carry out equivalent evaluation to foreign academic credentials…".[72] The Authority's mandate also covers quality assurance at all levels of education (higher, technical and vocational education, and general education), which includes registration, accreditation, equivalence, authentication and licensing. It uses internal rules of procedure to process recognition of foreign school certificates, diplomas and degrees.[73] Generally, applicants are required to produce originals and photocopies of their degree, diploma or certificate, authenticated by the Ministry of Foreign Affairs of Ethiopia; evidence of presence in the country of training; and, in the case of Master's degrees and PhDs, a hard copy of their thesis. In addition, foreign applicants, including refugees, are required to pay a service fee (450 birr), which is higher than that required of Ethiopian nationals (225 birr).[74] This is not consistent with Article 37(1) of the Refugees Proclamation, which prohibits the imposition of fees on refugees that are higher than those imposed on Ethiopian nationals who are in the same circumstances.

Regarding recognition of prior learning (RPL), the 2020 TVET Policy, as well as the current draft TVET Policy, provide for recognition of vocational knowledge or skills gained on the job or as a result of other non-formal or informal learning experiences. The primary legal instrument regulating assessment and certification practices in TVET is the Technical and Vocational Education and Training Proclamation No. 954/2016.[75] The TVET Proclamation gives the power to coordinate occupational assessment to the Centres of Competency (COCs), which, in turn, can accredit assessment centres and assessors. The assessment centres conduct occupational assessments using prescribed assessment tools. Accordingly, the appropriate COCs are authorized to issue nationally recognized certificates for individuals who successfully complete the assessments.

Further, the 2014 Occupational Assessment and Certification Directive provides for recognition of both prior learning (RPL) and current competencies (RCC). Accordingly, any person who believes that they are competent at a specific level of an occupational qualification (either for the whole qualification or a set of competencies) as a result of work experience or relevant education and training may undertake an assessment (see Article 2(7)). The term "any person" in the Directive is indicative of the fact that refugees may take advantage of the RPL system. Hence, refugees with necessary competences and experience may gain recognition of their prior learning by completing a skills assessment based on the relevant set of prescribed assessment tools.

72 Under the Definition of the Organization, Power and Duties of education and Training Authority Regulation No. 515/2022, Article 6(6).

73 See the Education and Training Authority's website for the requirements for applications for recognition of foreign school certificates, diplomas, and degrees.

74 See the Education and Training Authority's website for details of fees.

75 Technical and Vocational Education and Training Proclamation No. 954/2016.

The Federal Technical and Vocational Training Institute, under the Ministry of Labour and Skills, is mandated to oversee the National Policy on Recognition of Prior Learning for TVET and overall coordination of RPL in the country. The Institute is responsible for advising the MoLS on all policy matters related to RPL, including the establishment, implementation and maintenance of the RPL policy. RPL assessment is conducted by an accredited RPL assessor appointed by the relevant COC. The COCs are also responsible for the appointment of the RPL assessors to undertake assessments. Finally, the COCs are responsible for ensuring that applicants who successfully complete an RPL assessment are issued with the nationally recognized certification on behalf of the Federal TVET Institute.

Practice and challenges

The lack of procedures to give special treatment to refugees in accordance with their specific circumstances has created challengrs for refugees to access the RPL system. For instance, refugees may not have taken their academic credentials with them when they fled their country of origin, or they may have lost contact with the academic institutions and so are unable to request evidence of their prior learning. This challenge was somewhat mitigated by a circular sent out by the Ministry of Education in September 2016 to all regional states' and city administrations' education bureaux advising them to accommodate refugees who cannot produce their transcripts by ascertaining their level of their education through placement exams.[76] Accordingly, a certain number of refugees every year was able to join universities and training centres by taking placement exams, but this good practice has been discontinued recently, owing to allegations of misuse of the system by refugees.[77]

Another challenge related to recognition of foreign credentials is the requirement to have academic documents authenticated by the Ministry of Foreign Affairs (MoFA). Refugees are likely to encounter difficulties in securing a letter of authentication of their credentials from the MoFA, because any document originating from a foreign country needs to be authenticated by the Ethiopian consular office in the country concerned, or the country's consular office in Ethiopia, before it is submitted for authentication by the MoFA.[78] This practice does not consider the specific circumstances of refugees and may create protection concerns for them.

While an RPL scheme is an important aspect of the Ethiopian Qualification Framework,[79] in practice, the recognition of prior learning is beset by challenges. One of these is that assessment of prior learning obtained in non-formal or informal settings is expensive (Molla 2010). Ensuring that the assessors are well trained and competent, and establishing a transparent RPL system with proper guidance and information, require a great many resources, including financial, expertise, technology and time (Molla 2010). As a result of this cost, the RPL process may involve payment of exorbitant fees, which refugees may not be able to afford. Moreover, institutionalization of RPL requires a great deal of commitment from a wide array of stakeholders, including government authorities, non-governmental agencies, educational institutions, trade unions and employers. This is because meaningful implementation of RPL requires, among other things, a functional legal framework, financial resources and qualified human resources to assess and validate informal and non-formal learning (Molla 2010, 18). Finally, individuals applying for RPL will need to gather evidence of their informal, non-formal and work experience. Such evidence may include work experience and certificates from non-formal courses. Refugees fleeing their country of origin without their documents may face challenges in presenting the required evidence to complete the assessment process.

76 MoE Circular No. 11/1-3456/1098/35.

77 According to a UNHCR education expert, interviewed on 29 October 2022.

78 See the section on documentation authentication on the MoFA website.

79 A qualifications framework governs the development and classification of qualifications set at national or sectoral level. In 2006, the Ethiopian Qualification Framework began to be developed as a mechanism for regulating the development, classification and comparison of national qualifications and their recognition in terms of agreed standards. The Framework is still awaiting implementation.

2.6 Rights at work

2.6.1 Access to justice and legal services

Legal and policy framework

Access to justice is recognized as a right in the FDRE Constitution and in international instruments ratified by Ethiopia.[80] The FDRE Constitution, under Article 37(1), states that "[e]veryone has the right to bring a justiciable matter to, and to obtain a decision or judgement by, a court of law or any other competent body with judicial power". This provision of the Constitution does not make a distinction based on nationality, as far as access to justice is concerned. Neither does the Constitution specifically address the right to legal assistance and legal aid, however. The Constitution, under Article 78, establishes formal courts and customary and religious courts, at both federal and regional levels. All the refugee-hosting regions, except Addis Ababa and Gambella, have Sharia courts at different levels. Customary dispute resolution mechanisms are also widely used across regions.

For refugees and asylum-seekers, ensuring their access justice has a wide impact on their substantive rights, including, among others, their rights to work, naturalization, protection from unlawful detention and *refoulement*. The 1951 Refugee Convention, under Article 16, accords refugees free access to courts of law on the territory of States Parties to the Convention. In matters pertaining to refugees' access to justice, including legal assistance, the standard of treatment adopted by the Convention is the same as that accorded to nationals. This implies that refugees are not exempt from requirements, such as payment of court fees, providing similar requirements are imposed on nationals.

Like the FDRE Constitution and the 1951 Refugee Convention, the Refugees Proclamation recognizes refugees' right to access justice. This right allows refugees and asylum-seekers to bring any justiciable matter to a court or other competent body with judicial power and to obtain legal counselling and assistance, in accordance with Ethiopian law. As per the Proclamation, there is no requirement to be an Ethiopian citizen in order to bring a legal action or defend against a legal action in federal or regional courts, or before other bodies with judicial power (see Article 30). Refugees receive the same treatment as Ethiopian nationals as regards access to courts and legal assistance. Therefore, refugees who are formally employed can also bring cases involving, for instance, labour disputes or abusive working conditions to the appropriate federal or regional courts with jurisdiction, alternative labour dispute mechanisms or labour relations boards, as per applicable national laws.

In addition to regular federal or regional courts, refugees have access to human rights mechanisms, such as the Ethiopian Human Rights Commission[81] and the Ethiopian Institution of the Ombudsman,[82] which has a mandate regarding a range of human rights and administrative issues, as per their respective establishment laws. In addition to these formal mechanisms, refugees can resort to camp-based alternative dispute resolution mechanisms, such as the Refugee Central Committee (which handles minor disputes among refugees) and the Peace Committee (which handles disputes between refugees and the host community), as well customary dispute resolution mechanisms (UNHCR 2020a). The RRS also plays a crucial role in resolving conflicts that arise among refugees and between refugees and the host communities, particularly in and around the camps.

80 These instruments include: the Charter of the United Nations, the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (CESCR), the International Covenant on Civil and Political Rights (ICCPR), the United Nations Convention on the Rights of the Child (UNCRC) and the African Charter on the Rights and Welfare of the Child (ACRWC).

81 The Ethiopian Human Rights Commission is established by Proclamation No. 1224/2020 with a mandate to ensure that human rights enshrined in the FDRE Constitution are respected.

82 The Ethiopian Institution of the Ombudsman is established by Proclamation No. 1142/2019 with a mandate to ensure good governance, address maladministration, and ensure the Executive Branch of the government respects citizens' rights and interests according to national law.

Practice and implementation challenges

In practice, refugees and asylum-seekers face myriad barriers in accessing justice. According to a recent Justice Needs and Satisfaction (JNS) survey conducted by the Hague Institute of Law (HiiL) in coordination with UNHCR and the RRS, there are many practical challenges that hinder the realization of refugees' access to justice in Ethiopia (HiiL, UNHCR and ARRA 2020). According to the survey, the justice institutions lack human and material capacities, which has often led to inconsistent decision-making and enforcement. The physical distance of the refugee camps from urban areas, where the formal justice providers are located, together with the cost involved, also present enormous barriers in accessing services. Moreover, even though mobile courts are operational in some refugee camps in Gambella and Melkadida, these courts do not have the resources or the ability to operate in circuits and therefore cannot effectively move closer to the refugee population (HiiL, UNHCR and ARRA 2020).

Owing to refugees' limited awareness of the justice and legal system, they often hesitate to bring cases in the formal justice system and, instead, opt to resolve them through customary dispute resolution mechanisms.[83] Informal justice providers play a significant role in resolving the legal challenges of refugees, mainly on account of their accessibility, but they lack capacity and are not harmonized with the formal justice system. Further, customary justice personnel in the refugee camps lack the necessary training in Ethiopian law and international human rights principles.

An additional challenge hindering refugees from accessing the formal justice system is the limited availability of legal aid services, particularly in and around refugee camps (UNHCR Ethiopia 2022c). Legal aid services in the country are provided by a variety of stakeholders, including governmental and non-governmental agencies. The Ministry of Justice, according to its establishment law, is responsible for representing victims of crimes who do not have the financial means to conduct litigation or negotiations for their compensation, reinstitution and protection of their civil interests arising from the damage sustained. Further, advocates are legally bound to provide 50 hours of *pro bono* legal service a year to the indigent as part of their professional duty. The *pro bono* lawyers mostly handle civil cases. The Advocates and Free Legal Aid Administration Directorate within the Ministry of Justice is responsible for facilitating the provision of *pro bono* legal service by licensed lawyers. The head of the Directorate assigns advocates to provide free legal services to the indigent on the order of courts. The Directorate also assigns advocates to those who can produce evidence of indigence from different government bodies if the defendant has a *Kebele* residents' identification card.

The Public Defence Office, organized under the Federal Supreme Court, also offers legal aid services for defendants in criminal cases, where the defendant cannot afford to hire a lawyer and there is concern that a miscarriage of justice could result if a defendant accused of committing a serious offence is not represented by a lawyer.[84] There are no clear criteria to determine whether a defendant is indigent for the purpose of eligibility to receive legal aid from the Public Defence Office. NGOs and professional organizations, including law schools in most universities in Ethiopia, have also been engaged in the provision of legal aid to the indigent.

UNHCR has partnership agreements with several universities across the country providing legal aid services to refugees, IDPs and stateless persons. Nevertheless, the availability of such services is limited because of budgetary constraints. Few NGOs and universities provide free legal aid to refugees and asylum-seekers. In Somali region, for instance, Jijiga University School of Law is engaged in the provision of free legal assistance to refugees and asylum-seekers in the area, in collaboration with the RRS and UNHCR.[85]

83 The HiiL JNS survey also indicated that nationals tend not to resort to the formal justice system to resolve their legal problems, either. Hence, only 18 per cent of Ethiopians go to one of the formal courts to attempt to resolve their legal problems, with an additional 5 per cent going to the social (*Kebele*) court. Most people try to resolve their legal problems out of court.

84 FDRE Constitution, Article 20(5).

85 In 2015, Jijiga University and UNHCR signed an MoU to facilitate, among other things, legal aid and rights advocacy for refugees.

Finally, the RRS issued the Refugees Grievances and Appeals Handling Directive No. 03/2019 in order to put in place a grievances and appeals mechanism to continuously improve its service delivery, including services related to the issuance of residence permits for refugees to engage in joint projects. The Directive requires the RRS to establish committees at all levels (from the camps to the head office) and within the main functional unit that receives and resolves grievances from refugees and asylum-seekers. According to an informant from the RRS, the Grievances and Appeals Committees have been formed at all levels, with additional activities remaining to make them fully operational and accessible to refugees and asylum-seekers.

2.6.2 Freedom of association

Legal and policy framework

Freedom of association is a fundamental human right guaranteed to everyone, regardless of their nationality or legal status under international human rights instruments, including the Universal Declaration of Human Rights (UDHR) (Article 20) and the International Covenant on Civil and Political Rights (ICCPR) (Article 22). It is also guaranteed under the ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) – both of which are ratified by Ethiopia. Similarly, the 1951 Refugee Convention, under Article 15, recognizes the right of refugees to form and join non-political and non-profit-making associations and trade unions in the same manner as any nationals of a foreign country, in the same country. In Ethiopia, the freedom of association is a right that is guaranteed under the Constitution which recognizes the right of association of every person for any cause or reason in so far as such organization is not formed in violation of appropriate laws or to subvert or promote subversion of the constitutional order.

The Refugees Proclamation, under Article 27, recognizes the right of refugees and asylum-seekers to establish and be a member of non-political and non-profit-making associations, such as NGOs, mass-based organizations – for example, women's associations and youth associations – professional associations and trade unions. The standard of treatment applied in the Proclamation with regard to freedom of association is the same as the most favourable treatment accorded to foreign nationals. Similar to other rights, such as the right to work, the exact scope and meaning of "the most favourable standard of treatment" applied with regard to freedom of association is not explained in either the Proclamation or in secondary laws. If foreign nationals of Ethiopian origin are used as a reference group, refugees would be able to enjoy their right to associate on a par with Ethiopian nationals. If ordinary foreigners are used as a reference, refugees would enjoy this right in the same circumstances as ordinary foreigners. The implementation of the right to association of refugees is governed by other applicable national laws, depending on the type of association.[86] In this section, the focus is on trade unions and employers' associations.

The Labour Proclamation regulates the right of workers to form and join a trade union to protect their interests. Article 13 of the Labour Proclamation states that "workers and employers shall have the right to establish and organize Trade Unions or employer's associations, respectively, and participate therein". The nationality of the workers or employers is not a consideration in the labour law, as far as forming and joining a trade union or employers' association is concerned, meaning that foreign nationals employed in an organization in Ethiopia, including refugees and asylum-seekers, are not restricted from enjoying the right in so far as they meet the membership criteria. Neither are they barred from forming or joining employers' associations, if they are employers. The labour law is not clear regarding the setting up of trade unions within the informal sector. It may be challenging in practice, however, in the absence of specific legal provisions regarding formation, registration and regulation of trade unions established within such settings. In terms of the institutional framework, the Ministry of Labour and Skills is mandated to register trade unions and employers' associations at national level and in the federal cities of Addis Ababa and Dire Dawa, while Bureaus of Labour and Skills have such a mandate at the regional level.[87]

86 For instance, civil society organizations are governed by the Charities and Societies Proclamation No. 1113/2019, while trade unions are regulated by applicable labour laws.

87 The Ministry of Labour and Skills (formerly the Ministry of Labour and Social Affairs) is re-established by virtue of Proclamation No.1263/2022 to oversee national job creation, skills development and labour concerns.

Practice and implementation challenges

Currently, information is not available regarding whether refugees are able, in practice, to participate in trade unions or employers' associations. From the KIIs, it seems the refugees' awareness of their right to association, particularly to form or join a trade union or employers' association, is limited. In addition, the absence of procedures to form trade unions within the informal sector, where most refugees are employed, is one of the challenges facing refugees in forming or joining trade unions in Ethiopia.

2.6.3 Social protection

Legal and policy framework

With respect to social security, Article 24 of the 1951 Refugee Convention requires States Parties to accord the same treatment to refugees as is accorded to nationals. Social security, as per this Article, covers "employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme".

In the FDRE Constitution, social security falls under the social objectives of the State, which should be provided "to the extent that resources permit" (see Article 90). As such, these social objectives are merely policy aspirations that are contingent upon the availability of resources. In addition, the article refers only to Ethiopian nationals. The Refugees Proclamation, on the other hand, accords equal treatment to refugees as that accorded to Ethiopian nationals with regard to enjoying other rights and benefits attached to their right to work. In that regard, it prohibits discrimination between refugees, asylum-seekers and Ethiopian nationals who are engaged in economic activities pursuant to Article 26(7) of the Refugees Proclamation. It is thus clear that, though the Refugees Proclamation does not explicitly mention social security and protection, Article 26(7) and (8) of the Proclamation impliedly refers to these rights.

In Ethiopia, there are two types of social security schemes relating to employment. These are the Public Servants' Pension scheme[88] – for those employed in the civil service – and the Private Employees' Pension scheme, for those employed in the private sector.[89] In principle, both schemes are applicable only to Ethiopian nationals, foreign nationals of Ethiopian origin and foreign nationals who are entitled to pension coverage in accordance with international agreements ratified by Ethiopia.[90] Refugees are given the most favourable treatment as regards wage-earning employment and related rights, which include social security, under Article 26(1), (7) and (8) of the Refugees Proclamation. If foreign nationals of Ethiopian origin are used as a reference group to determine the most favourable standard of treatment, then refugees will be entitled to pension coverage under both schemes. Moreover, it is also possible to argue that the 1951 Refugee Convention entitles employed refugees and asylum-seekers to social security and, as such, they should exceptionally be given pension coverage as per the laws governing both schemes (public and private). It is yet to be tested in practice whether refugees and asylum-seekers who are formally employed could get pension coverage in either or both pension schemes. The lack of clarity in the Refugees Proclamation as regards pension coverage of refugees and asylum-seekers should be addressed.

Regarding social protection, the Government's 2014 National Social Protection Policy (NSPP) and the 2016 National Social Protection Strategy focused on the provision of productive safety nets, livelihood and employment support, social insurance, access to health, education and other social services, and provision of legal protection and support to secure social justice and ensure security. The NSPP envisages basic levels of assistance to persons with specific needs, including those with disabilities or mental-health challenges, and older persons without care and support. The NSPP does not exclude refugees, but neither does it, nor the National Social Protection Strategy, explicitly address the needs of refugees and asylum-seekers.

88 Public Servants' Pension Proclamation No. 714/2011 as amended by Public Servants' Pension (amendment) Proclamation No. 907/2015.

89 Private Organization Employees' Pension Proclamation No. 715/2011.

90 See Article 3 of the Public Servants' Pension Proclamation and Article 3 of the Private Organization Employees' Pension Proclamation.

Practice and implementation challenges

Two main social protection programmes are implemented in Ethiopia – the rural Productive Safety Net Programme and the Urban Productive Safety Net Project. Their respective objectives are to enable the rural poor facing chronic food insecurity to resist shocks, create assets and become food self-sufficient; and to improve the income of targeted urban poor households and establish urban safety net mechanisms in designated cities (see ILO 2021). The programmes mainly target Ethiopian nationals based on eligibility criteria relating to food insecurity, vulnerability and low income. Refugees have not been benefiting from these programmes, however.

Recently, though, refugees have been included in the World Bank's Urban Productive Safety Net and Jobs Project under the IDA19 Scale-Up Window designed to provide additional financing for the likes of youth employment and inclusion of refugees and host communities. The Project aims to address urban poverty and unemployment and, as such, focuses on livelihoods and labour-market integration of young people, and protection of the most vulnerable sections of the population, including the elderly, disabled and homeless, as well as refugees and host communities. The Project aims to foster the integration of refugees and host communities in selected urban locations. According to an informant from the Urban Job Creation and Food Security Agency, more than 80,000 refugees will participate in the productive safety net programme. The informant further noted that the productive safety net facilitates self-employment and job opportunities in public works.

Regarding health insurance, there are two types of schemes currently being rolled out by the GOE: the Social Health Insurance scheme and Community-Based Health Insurance scheme. The Ethiopian Health Insurance Agency has been established to implement both schemes,[91] while the Ministry of Health has the mandate to lead the national health insurance system and monitor its implementation.[92] The Social Health Insurance scheme, regulated by Proclamation No. 690/2010, covers employees working in the civil service, private organizations, non-profit-making organizations and pensioners (see Article 5(1)). It does not explicitly exclude foreign nationals, including refugees, from its ambit in so far as they are formally employed, or they are pensioners. However, given the legal and regulatory framework discussed before, it may be challenging for refugees to obtain formal employment in these sectors.

The Community-based Health Insurance scheme, regulated by Proclamation No. 1273/2022, covers the community engaged in the informal sector and the public at large, both in urban and rural areas. As per the Proclamation, enrolment to the scheme is open to anyone engaged in the informal sector, indicating that refugees are not excluded. This is also in line with the overall objectives of the scheme to ensure universal health coverage in the country, which cannot be achieved without including refugees. Nonetheless, it is important to ensure in practice that the scheme covers camp-based as well as OCP/urban refugees and asylum-seekers, so that they have sustained access to health services in the same manner as Ethiopian nationals.

2.7 Pathways to naturalization

Legal and policy framework

The FDRE Constitution is the basis for the national legal framework on nationality in Ethiopia. The Constitution has provisions on the right to nationality, on the modes of acquisition of Ethiopian nationality, as well as basic guarantees to protect the right to nationality of individuals. It also dictates the *jus sanguinis* doctrine as the basis on which Ethiopian citizenship is acquired (see Article 6(1)). According to this doctrine, an individual shall be an Ethiopian national by descent where either parent or both are Ethiopian nationals.

91 Social Health Insurance Proclamation, Proclamation No. 690/2010.

92 Definition of Powers and Duties of the Executive Organs Proclamation, Proclamation No. 1263/2021, Article 35(1)(n).

The Constitution also affirms the right of foreign nationals, including refugees, to acquire Ethiopian nationality. In that regard, Article 33(4) states that "Ethiopian nationality may be conferred upon foreigners in accordance with law enacted and procedures established consistent with international agreements ratified by Ethiopia". The Constitution leaves details relating to nationality to be determined by secondary laws (see Articles 6(2), 6(3) and 33(4)). Accordingly, the Nationality Proclamation No. 378/2003 (hereinafter the Nationality Proclamation) was promulgated on 23 December 2003.

The Nationality Proclamation is the primary law governing nationality in Ethiopia. The Proclamation elaborates on the general framework instituted by the FDRE Constitution and provides for criteria and conditions for acquisition of citizenship through naturalization, marriage and adoption. It also expands other guarantees envisaged through the Constitution (see Article 3(1)).[93]

The Nationality Proclamation reiterates the Constitution's principle that stipulates descent as the principal mode of acquiring Ethiopian citizenship. It provides that any person shall be an Ethiopian national if at least one of their parents is Ethiopian (see Article 3). Nationality acquired through descent is a citizenship conferred on the basis of a person's parental linkage to a citizen of the country in question, usually based on their father's and/or mother's citizenship, with no regard to the actual place of birth. In this regard, Ethiopia follows the *jus sanguinis* principle. It also provides for ways in which foreign nationals, including refugees and asylum-seekers, could acquire Ethiopian citizenship by law.

One of the pledges made by the Government of Ethiopia during the Leaders' Summit in September 2016 relates to local integration and provides that the Government is committed to allowing local integration of refugees who have lived in Ethiopia for 20 years or more (FDRE ARRA 2018).[94] Naturalization being one of the legal pathways to local integration of refugees, it is not clear whether refugees would be required to prove 20 years of residence in Ethiopia to acquire Ethiopian nationality by law, as opposed to the four years of domicile required of foreigners in general, as will be discussed below.

According to Article 42 of the Refugees Proclamation 2019, recognized refugees and asylum-seekers could apply to acquire Ethiopian nationality by law, provided that they fulfil all the requirements stipulated under relevant provisions of the Ethiopian nationality laws which allow foreigners, including refugees and asylum-seekers, to be conferred with Ethiopian nationality on certain conditions. One of the ways in which refugees could acquire Ethiopian nationality is through marriage. A foreign national can acquire Ethiopian nationality if they are married to an Ethiopian national (Article 6) and:

- they had attained the age of majority and were legally capable under Ethiopian law;
- the marriage was conducted according to the laws of Ethiopia or any other country;
- two years have elapsed since the marriage occurred;
- they had lived in Ethiopia for at least one year prior to their application for nationality;
- they are able prove the possibility of being released from a previous nationality, or the possibility of obtaining such release after acquiring Ethiopian nationality, or that they are a stateless person; and
- they are able to take the oath of allegiance.

The other way for refugees to acquire Ethiopian citizenship by law is through naturalization (Article 5). To do so, they must:

- have attained the age of majority and be legally capable under Ethiopian law;
- prove domicile[95] of Ethiopia of a total of four years;
- be able to communicate in any of the languages of nations/nationalities in the country;

93 Unless otherwise indicated, all article numbers cited in the remainder of this section refer to the Ethiopian Nationality Proclamation No. 378/2003.

94 See also "Summary Overview Document, Leader's Summit on Refugees", 20 September 2016, p. 4.

95 Domicile is defined in Article 183 of the Civil Code of Ethiopia as "the place where such person has established the principal seat of his business and of his interests, with the intention of living there permanently".

- have a sufficient and lawful source of income;
- be a person of good character;
- be able to prove they do not have a criminal record;
- be able to prove the possibility of being released from a previous nationality, or the possibility of obtaining such release upon acquisition of Ethiopian nationality, or that they are a stateless person; and
- be able to take the oath of allegiance.

Children of a naturalized person could also acquire Ethiopian nationality upon application by and the agreement of both parents, where it is proved that the child is released, or there is the possibility of obtaining such release, from their previous nationality (Article 9).

A foreigner who has made an outstanding contribution in the interest of Ethiopia may also be conferred with Ethiopian nationality by law without the need to prove domicile of Ethiopia of a total of four years or being able to communicate in any of the Ethiopian languages (Article 8).

Acquisition of Ethiopian nationality through adoption, marriage or naturalization requires making an official application to the Immigration and Citizenship Service (hereinafter the ICS)).[96] This application must be examined by the Nationality Affairs Committee organized under the ICS (see Article 11(1)) and composed of representatives of the Ministry of Foreign Affairs, Federal Attorney-General and Federal Police, as well as two additional members from the ICS itself (see Article 23(1)). The Committee is mandated to examine applications to obtain Ethiopian nationality by law and submit its recommendation to the ICS (see Article 11(2).[97] Applications to obtain Ethiopian nationality must be supported by relevant documentary evidence (Article 11(1)).

Practice and implementation challenges

In practice, refugees face certain challenges in fulfilling some of the conditions for naturalization of foreigners under the Nationality Proclamation. One of the main challenges is earning a sufficient and lawful income. Ethiopia follows a strict encampment approach that limits refugees' movement and access to labour markets. Most refugees in Ethiopia reside in camps located in remote areas and relying on humanitarian assistance. Owing to restriction of their movement and limited access to labour markets, it would be difficult for many refugees to meet the requirement of a sufficient and lawful source of income to acquire naturalization, as stipulated in the Nationality Proclamation. In addition, refugees may be unable to obtain their release from their former nationality, as this would require them to approach the authorities of their country of origin, which may give rise to protection concerns. It may also be difficult for those who are stateless to provide evidence of their situation. The language requirements could also be barriers for refugees. These factors will have the effect of hampering refugees' naturalization prospects in Ethiopia as per the Nationality Proclamation. This is supported by the fact that there is scant information available on the number of refugees (even foreign nationals) who were able to successfully acquire Ethiopian citizenship through naturalization, suggesting limited implementation of the naturalization provisions of the Nationality Proclamation.[98]

96 Under Article 10(1) of the Nationality Proclamation, the relevant authority with a mandate to confer Ethiopian nationality by law was the Security Immigration and Refugee Affairs Authority (SIRAA). However, this Authority was re-established first, as the Immigration, Nationality and Vital Events Agency and then, as the Immigration and Citizenship Service (ICS) through the Definition of Powers and Duties of the Executive Organs Proclamation No. 1263/2021, Article 63.

97 It is not clear who, from the Immigration and Citizenship Service, will be responsible for approving the recommendations of the Committee. However, Article 7 of Regulation No. 449/2019 gives an indication that it is the director-general of the ICS who is responsible. There is no information to confirm that the Nationality Affairs Committee was ever functional.

98 Attempts to obtain information from the ICS on the actual number of naturalized refugees were not successful.

3

Conclusion and next steps

Conclusion

Analysis of the relevant Ethiopian laws, policies, strategies and practices relating to refugees, particularly in terms of the right to work, access to the labour market, access to education and training, and rights at work, reveals promising trends in terms of putting in place an overall refugee legal and policy framework. In addition to promulgating the Refugees Proclamation, the Government of Ethiopia took further legislative steps to implement its commitments by adopting directives on refugees' right to work, freedom of movement, and grievances and appeals handling. Be this as it may, the report also identified a number of gaps and challenges in terms of implementing the refugee legal and policy framework.

Most of the rights of refugees in the Refugees Proclamation are formulated in general and vague terms, making them difficult to implement without accompanying secondary laws and guidelines, the absence of which has limited the exercise of these rights by refugees and asylum-seekers.

Attempts made by the RRS to mitigate these challenges, such as issuing two directives in 2019 to implement refugees' right to work and freedom of movement, as well as employing ad hoc administrative mechanisms like concluding MoUs with relevant government offices and writing circulars to service providers, were not the most effective and sustainable approach to enabling refugees to exercise their rights, including their right to work. Rather, what is required are comprehensive secondary laws to guide the implementation of the rights of refugees provided for in the Refugees Proclamation; to address legal and administrative gaps hindering refugees' enjoyment of their rights; to clarify the "most favourable standard of treatment" in terms of refugees' access to socio-economic rights in the Refugees Proclamation; to harmonize the Refugees Proclamation with other national laws; and to define the roles and responsibilities of relevant government authorities (federal, regional and local) involved in the implementation of refugees' rights by creating links and coordinating among them.

The requirements and administrative processes to obtain the necessary permits to access the labour market and establish businesses, such as work permits, investment permits and business licences, are too cumbersome for refugees. The 2019 Right to Work Directive, which was issued to facilitate the implementation of the Refugees Proclamation in terms of refugees' access to economic opportunities,

remains largely unimplemented, owing to inconsistencies with other applicable laws and limited coordination between the RRS and other relevant government offices, including, among others, the MoLS, EIC, Ministry of Trade and Regional Integration, and their regional counterparts. As a result, refugees opt to work in the informal sector, while a small number of them is issued with a residence permit by the RRS to work on joint projects. Even those refugees who are issued with a residence permit have difficulties starting a business, because they are restricted from obtaining a business licence owing to a coordination problem between the RRS and the Ministry of Trade and Regional Integration, and its regional and local counterparts. Thus, relaxing the permit requirements for refugees to access the labour market and engage in business, considering their specific conditions, is very important.

In addition, from the interviews and FGDs conducted, it was understood that refugees and host communities, government authorities, the private sector and other stakeholders have limited awareness of the rights of refugees, particularly their right to work and access the labour market. Some of the practical barriers limiting refugees' access to their rights on the side of service providers are linked to the limited understanding of refugees' rights. Awareness-raising programmes and interventions could address these issues. More effort could also be made to empower refugees, so that they are able to exercise their rights and effectively participate in the labour market.

Next steps for consideration

This section outlines the next steps for consideration based on the review of the legal, policy and regulatory frameworks, and the gaps identified.

General

- Adoption of secondary laws: the findings of this study indicate that the challenges related to the implementation of refugees' right to work as guaranteed in the Refugees Proclamation could be addressed mostly through the adoption of secondary regulations and/or directives that comprehensively regulate implementation of the rights of refugees, with a view to clarifying applicable standards of treatment, defining roles and responsibilities of relevant government stakeholders, and harmonizing the refugee laws with other applicable national laws. International organizations could play a role in advocacy and technical support for the adoption of these secondary laws, particularly in the areas of rights to work, education and training, and rights at work.
- Implementation of laws: certain national laws pertaining to various aspects of refugees' right to work, such as access to social health insurance, banking and finance, liberal professions, cooperatives, MSMEs, telecom services, etc., do not exclude refugees, but the exercise of these rights in practice is limited because of low awareness and administrative barriers. By raising awareness among implementing institutions, most of these rights could be implemented without the need for enacting secondary legislation.
- Joint projects as a gateway for refugees to access work: owing to the lack of clarity in the Refugees Proclamation on the applicable standards of treatment for refugees in terms of accessing wage-earning employment, self-employment and the liberal professions, as well as the absence of secondary laws to give guidance, refugees are, in practice, unable to exercise their right to work effectively. The legal barriers, as well as cumbersome requirements, have made it difficult for them to obtain work permits and business licences to access economic opportunities. Joint projects – those designed to benefit both refugees and host communities economically – offer an opening, albeit a limited one, through which refugees could access employment opportunities and self-employment options by obtaining a residence permit from the RRS and receiving treatment on a par with that afforded to Ethiopian nationals. Though joint projects have their own challenges, stemming in particular from being dependent on international financing, they do provide opportunities for organizations like the ILO to design and implement projects that benefit refugees and host communities by enabling them to access employment opportunities, establish businesses and join cooperatives to pursue economic opportunities.

- Enhancing coordination between the RRS and other government authorities responsible for labour rights and rights to work: one of the reasons why refugees have been unable to exercise their right to work, particularly in wage-earning employment and self-employment, is the lack of coordination between the RRS and other relevant government institutions, including the MoLS, EIC, Ministry of Trade and Regional Integration, Federal Job Creation Commission, Federal Urban Job Creation and Food Security Agency, MoE, Federal Cooperatives Agency, Federal Technical and Vocational Training Institute and their respective regional/local counterparts. In the absence of such coordination, it is difficult to facilitate administrative processes for refugees, including those relating to work permits, commercial registration, investment permits, business licences, cooperative certificates, SME registration, etc. This is further compounded by the limited horizontal binding effect on these government authorities of the refugees' Right to Work Directive issued by the RRS, which is at the bottom of the hierarchy of laws. With no access to the formal labour market, refugees are forced to engage in the informal market and are therefore exposed to the associated risks, such as precarious income, absence of contractual rights and exploitative working conditions. Enhancing coordination among these government authorities would thus greatly enhance implementation of refugees' right to work and foster labour market inclusion by removing the legal, administrative and bureaucratic barriers discussed in this report. This can be achieved by creating a coordination platform for these government institutions that would allow them to come together to implement the Refugee Proclamation. As such, it is vital to put in place a bilateral or multilateral coordination framework, or other similar arrangement, for these government institutions, and establish an inter-agency coordination mechanism to facilitate refugees' access to wage-earning and self-employment.
- Awareness-raising: the review identified one of the biggest challenges to refugees' being able to exercise their right to work and access the labour market as limited awareness of their rights, particularly in relation to labour rights and self-employment, among federal, regional and local regulatory agencies, the judiciary, the private sector, including employers and employers' associations, trade unions, civil society, host communities and among refugees themselves. These stakeholders, if made aware of and trained in refugee rights, can play a constructive role in facilitating refugees' access to the labour market and decent employment, fighting discrimination and promoting workplace rights.
- System strengthening: including refugees in the national systems, policies, strategies and plans cannot be achieved in a vacuum. It is therefore important to strengthen national institutions and systems through capacity-building and technical assistance in education and skills training, livelihood, employment promotion, job creation, social protection, employment services, etc.

Access to the labour market and rights to work

- One of the indirect barriers hindering refugees' access to the labour market and right to work is the backlog of refugee status determination cases. Expediting the RSD process and recognizing refugees' status will inevitably help asylum-seekers enjoy the rights and access the economic opportunities that come with refugee status. For instance, by law, only recognized refugees can access joint projects in Ethiopia.
- Ethiopia continues to apply a *de facto* encampment practice, which limits refugees' freedom of movement. As freedom of movement is a condition for refugees to access their other rights, including education and employment, there needs to be strong advocacy by stakeholders for the government to take progressive steps to allow refugees to move freely and reside outside of camps. Moreover, the OCP opportunities should be expanded in practice to refugees from all nationalities, in accordance with the OCP pledges, the Refugees Proclamation and the OCP Directive.
- Actual issuance of civil documentation, including birth certificates, for refugees and asylum-seekers remains low, owing to limited awareness; gaps in the law; limited integration of the civil documentation service for refugees with that for nationals, creating a parallel system; technical and staffing constraints; and resource limitations. Strong advocacy is needed to fully align the civil documentation system for refugees with that for nationals by addressing the aforementioned challenges.

- The Refugees Proclamation is not harmonized with labour and investment laws regarding refugees' access to wage-earning employment and self-employment. In this regard, the standard of treatment applied to refugees' right to wage-earning employment and self-employment, which is "the most favourable treatment as accorded to foreign nationals", is not clear, because the law does not indicate which group of foreign nationals should be used as a reference. This needs to be clarified through secondary laws, therefore. Similarly, the Right to Work Directive should be harmonized with the Refugees Proclamation regarding the standard of treatment applicable to refugees' access to wage-earning employment and self-employment.
- The legal and administrative barriers that prevent refugees from accessing the labour market, such as the cumbersome requirements for work permits, should be relaxed for refugees. Advocacy and technical support are needed to review and amend the restrictive refugee, labour and investment laws, which unduly restrict the inclusion of refugees in the labour market.
- There should be awareness-raising interventions to increase the understanding of employers, companies, investors, entrepreneurs, government stakeholders, etc., of the rights of refugees. Governments and employers could support refugees by helping them enhance their employability through employment services, job search, linking them with internship and apprenticeship opportunities, training them in how to compile a CV, write job applications, etc.
- There should be effective awareness-raising for licensing bodies, so that they could recognize refugee identification documents in lieu of a passport or *Kebele* ID for the purpose of issuing business licences, TINs and similar.
- Small-scale businesses that require less start-up capital – such as retail outlets, restaurants, barbershops, tailoring services, etc., in which refugees are *de facto* engaged in and around refugee camps, as well as in urban areas, together with Ethiopian nationals – could be supported through the provision of training and start-up capital to qualify as joint projects. This joint project approach could be a pragmatic one only in the interim, until such time as the legal gaps in refugees' access to self-employment are adequately addressed through legal reform or adoption of secondary laws.
- The challenges with the joint project approach include limited awareness of the criteria and process to participate in joint projects; absence of clear implementation guidelines on the issuance of residence permits to refugees; and lack of guidance on how refugees could access land for joint projects. Accordingly, in addition to designing joint projects to benefit refugees and host communities, there needs to be awareness-raising on joint projects and support for the development of operational guidelines regulating the issuance of residence permits and refugees' access to land within the framework of joint projects.
- The legal framework governing liberal professions permits – except in certain areas – the participation of foreign nationals, including refugees. Programmes could be designed to raise awareness among refugees about their rights in relation to liberal professions and to promote their participation by removing legal, practical and administrative barriers through continued engagement with and advocacy of mandated government institutions.
- Having Ethiopian nationality is not a requirement in the Proclamation to be a member of a Cooperative Society, meaning there is no legal prohibition on refugees establishing or being members of such societies. In practice, refugees participate in cooperatives in different refugee-hosting areas. Relevant stakeholders, including international organizations such as the ILO, could play an important role in building the capacity of refugee cooperatives and supporting the formalization of refugees engaged in the informal sectors through cooperative development.
- Ethiopian financial laws do not explicitly exclude refugees from accessing banking and financial services. However, several legal and practical barriers limit refugees' access to the financial services provided by banks and microfinance institutions. The main challenge stems from the know-your-customer principle, whereby banks and financial service providers are required to identify their customers by requesting them to provide an identification document. The applicable banking and financial laws do not recognize the refugee ID card as an identification document. This inconsistency with the Refugees Proclamation should be addressed by harmonizing the laws through secondary laws. The other challenge is that refugees are, in practice, denied access to the services provided by MFIs. Advocacy is needed for federal and regional urban job creation and food security agencies to allow refugees to benefit from the services of MFIs using their refugee identification document.

Access to education and training

- Improved education, training and language/skills development are essential for enhancing refugees' access to labour markets. Stakeholders and training providers need to design innovative ways of promoting and delivering these, considering the specific situations of refugees.
- There is a need for coordinated collective action by several stakeholders to improve refugees' access to skills-development programmes by focusing on, among other things, infrastructure, service provision, addressing administrative barriers and awareness-raising.
- In accordance with its commitment under the Djibouti Declaration to include refugees in the national education system, the GoE is yet to take important steps, including integrating refugees into the National Education and Training Policy, the ESDP V and the Education Development Roadmap (2018–2030), and removing the parallel system in the refugee camps.
- Placement exams were used for refugees who were unable to produce evidence of prior learning, but these were discontinued recently, owing to allegations of misuse of the system. As placement exams were instrumental in supporting refugees with prior learning to continue their education in Ethiopia, stakeholders should advocate for their resumption by putting in place adequate safeguards to address the misuse.
- Providing refugees with career guidance and post-training support well as help with work-permit, residence-permit and business-licence processes, would support better transition to work.

Rights at work

- While refugees have the right to access justice on a par with Ethiopian nationals, practical challenges such as distance, restrictions on freedom of movement, lack of legal-aid services, lack of awareness, language barriers, etc., limit their access. Legal-aid service providers, such as public universities, NGOs and advocates should step up their efforts to make legal aid, legal representation and legal empowerment interventions accessible to refugees.
- The GoE and relevant stakeholders should make efforts to strengthen the capacity of alternative dispute resolution mechanisms, customary/religious courts, community structures and other informal mechanisms, while ensuring that they uphold minimum human rights guarantees.
- Financial, logistical and training support should be provided to the existing mobile court systems in the refugee-hosting areas to ensure their availability, accessibility and quality of services. In addition, their best practices should be replicated in other refugee-hosting areas, particularly where the refugee camps are in remote areas.
- Regular capacity-building training and awareness-raising should be organized for judges and law enforcement officials regarding the rights of refugees and asylum-seekers.
- The existing engagement of national human rights institutions, such as the Ethiopian Human Rights Commission, should be strengthened vis-à-vis promoting, providing training in and monitoring the rights of refugees and asylum-seekers, and the accountability of duty-bearers, including those involved in refugee protection.
- Advocacy of the RRS is needed to ensure that the Grievances and Appeals Committees at all levels are formed, trained and equipped with the necessary facilities, and that they are accessible to refugees and asylum-seekers to address their grievances. This is particularly relevant in relation to addressing issues arising from the issuance of residence permits, participation in joint projects, letters of support for obtaining work and investment permits, labour disputes arising in the context of joint projects, etc.
- The nationality of workers or employers is not a consideration in the labour law as far as forming and joining a trade union or employers' association is concerned, meaning that foreign nationals formally employed in an organization in Ethiopia, including refugees and asylum-seekers, are not restricted from enjoying the right, providing they meet the membership criteria. Indirect barriers, such as lack of resources, limited awareness, and informality are the biggest barriers for the refugees to exercise their rights. Advocacy by the Confederation of Ethiopian Trade Unions and the Ethiopian Employers' Federation is key for the inclusion of refugee workers.

- The Refugees Proclamation is not clear regarding the pension coverage of refugees and asylum-seekers. Refugees' right to social security should therefore be clarified through secondary legislation. Regarding social protection, refugees are included in the World Bank's Urban Productive Safety Net and Jobs Project, but its application in practice is yet to be tested.
- Enrolment to the community-based health insurance scheme is open to anyone engaged in the informal sector, which means that refugees are not excluded. This is aligned with the overall objectives of the scheme to ensure universal health coverage in the country. Nonetheless, it is important to ensure that the scheme covers refugees and asylum-seekers in practice, so that they can get sustained access to health services in the same manner as Ethiopian nationals. In that regard, practical barriers should be reviewed and addressed to ensure inclusion of refugees in the national health insurance system.

Naturalization pathways open to refugees

- According to the Refugees Proclamation, recognized refugees and asylum-seekers could apply to acquire Ethiopian nationality by law, provided that they fulfil all the requirements stipulated under relevant provisions of the Ethiopian nationality laws. However, owing to restriction of their movement and limited access to labour markets to maximize their self-reliance, it would be difficult for many refugees to fulfil the requirement of having a sufficient and lawful source of income to acquire citizenship, as stipulated in the Nationality Proclamation.
- Further, one of the pathways to ensuring local integration of refugees in Ethiopia is through voluntary naturalization. Refugees who have been in Ethiopia for more than 20 years could be eligible for local integration in accordance with the pledges made by the Government of Ethiopia in 2016 at the Leader's Summit. This could be achieved through the application of the Nationality Proclamation. In addition, provision of free legal assistance to refugees who are in the process of naturalization is crucial in this regard.

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