



ACCESS TO MOVEMENT PASSES: A Roadmap To Self-reliance For Refugee Entrepreneurs In Dadaab



1.0 Background

Kenya hosts an estimated 539,766 refugees and asylum seekers Dadaab and Kakuma¹ who over the years have established markets and operated businesses in designated refugee camps contributing to the Kenyan economy. In Dadaab, the estimated number of refugees and asylum seekers stands at 234,040 (49.1%M: 50.9%F). A recent Refugee Employment and Skills Initiative (RESI II) Market Assessment² by the International Trade Center (ITC) and the Norwegian Refugee Council (NRC) established that only 17,000 (7.5%) refugees are economically active in Dadaab, which may be attributed to the many challenges faced by refugee businesses. The economic environment is marred with stringent security measures including restrictions to movement, limited access to documentation, limited awareness on business regulatory frameworks and a largely unregulated market environment.

In 2014, the government issued a directive that ordered all urban refugees to return to the camps, in enforcement of the persisting encampment policy. It further enacted the Security Laws (Amendment) Act which provides that refugees should not leave the camps without the permission of the Refugee Camp Officer, in the interest of public security. This unfortunately made it difficult for refugees to move freely consequently affecting those operating businesses in the camps.

Movement passes are issued by the Department Refugee Services (DRS) formerly known as Refugees Affairs Secretariat (RAS) to bestow upon refugees and asylum seekers the freedom to move outside the designated areas for various reasons including medical emergencies, education purposes, bamba chakula or any other reason as authorised by the DRS. However, information regarding the processes of accessing movement passes is not only scanty but the process of issuance of these documents is generally considered informal. There lacks clear guidelines and legal policies on the process of acquiring movement passes. The practices related to their issuance seems to be unpredictable, opaque, and unclear to refugees. We hope this will be clarified in the regulations for the 2021 Act.

Generally, applications for movement passes are dealt with on a case-to-case basis by DRS. DRS in practise is generous with the period of time they allow refugees to be away from the designated areas for medical or education purposes. According to UNHCR, an estimated 5,000 movement permits are issued every year, many of these, for refugees attending school outside of the camps.³ Unfortunately, the same is not extended to entrepreneurs and business owners. In 2019, NRC undertook a focus group discussion with business owners and entrepreneurs in Ifo, Dadaab, Dagahaley and Hagadera to understand barriers refugees and host community businesses face in the camps. The sentiments among participants were the same across the 3 camps, that they are not considered for application of movement passes and for the bamba chakula traders the period the period allocated by RAS is too short for the entrepreneurs and business owners to purchase quality goods while identifying new suppliers outside of the designated camps while avoiding the risk and cost of brokers.

This brief therefore, seeks to enlighten policy bearers and stakeholders on the need to consider including entrepreneurs and business owners in the priority bracket of persons who easily access movement passes as well as, review the period business owners and entrepreneurs can be away from the designated areas in search of products, raw materials and obtaining these items for the best price.

¹UNHCR Kenya Statistics based on UNHCR's Refugee Registration System, progress as at 31st January, 2022. The number comprises of 479,978 (89%), refugees and 59,788 (11%) asylum seekers.

²NRC/ITC, Garissa County Market Study for the Refugee Employment & Skills Initiative (RESI)- Kenya, 2019

³https://reliefweb.int/sites/reliefweb.int/files/resources/Doing-Business-in-Dadaab-April-2019_Final-Report.pdf

2.0 Legal and Policy Framework.

Article 26 of the 1951 Convention Relating to the Status of Refugees and the accompanying 1967 Protocol, ratified by Kenya, guarantees freedom of movement for refugees. This provision was not expressly echoed under the former Act and the subsequent Regulations enacted⁴. The Refugee Act 2021 however, sets out that refugees and asylum seekers are entitled to and subject to duties contained in the United Nations convention, its Protocol, the 1969 Organisation of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa and all laws in Kenya. In the same breath, the Commissioner for Refugee Affairs is mandated to issue movement passes to refugees and asylum seekers wishing to travel outside the designated areas within Kenya⁵. This essentially means the encampment policy still applies and therefore favourable regulations should be introduced to facilitate the refugee business community.

Section 25 (f) of the former Act stipulated that it is an offence for a refugee to leave the designated areas without permission. A violation of the provision, led to the imposition of a fine or imprisonment or both. In 2020, 52 (45M:7F)⁶ refugees were arrested and arraigned in Garissa and Dadaab courts for movement outside the designated area without permission. Additionally, section 35 of the former Regulations provided that refugees may apply for permission to travel outside the designated areas and set out a prescribed application form. The prescribed form specifies that a movement pass ceases to be valid after the allowed time lapses and consequently, establishes that an individual who overstays is liable under the law. Where an application for a movement pass has been made and consequently denied, the officer will provide reasons in writing for the denial; this however, does not disqualify one from applying again. These regulations are yet to be set for the Refugee Act 2021. We hope they will be more favourable than the former regulations

Generally, the laws relating to refugees and asylum seekers put in place by the government have been unfavourable and restricting. The Security Laws (Amendment) Act section 47 and the directive on the encampment policy all reinforce that refugees and asylum seekers should reside in the designated areas. The Refugee Act 2021 is progressive on refugee matters as provided for under section 28 (4) which provides that refugees shall be enabled to contribute to the economic and social development of Kenya by facilitating access to, and issuance of, the required documentation at both levels of Government, it however, does not necessarily guarantee freedom of movement. The Act only mentions movement/movement passes once in the whole Act.⁷

3.0 Movement passes; a situational analysis of Dadaab

3.1 Application

The Department of Refugee Services (DRS)⁸ formerly known as Refugee Affairs Secretariat (RAS) has established that refugees who apply for a movement pass have to undergo a mandatory vetting process. According to a 2019 NRC report on Business Registration in Dadaab, refugee traders, business owners and entrepreneurs, indicated that the vetting process is unpredictable, unreliable and often takes a long time. Where an application for a movement pass is declined for one reason or another, traders stated that they are forced to rely on brokers and third parties who are exclusive, ask for hefty brokerage fees and cannot guarantee the quality of products they buy. More often than not, the brokers are host community members as there is no limitation on movement for Kenyan citizens.

3.2 Documentation Requirements

To apply for a movement pass, one is required to produce a valid manifest or refugee identity card or waiting card where an identity card is yet to be issued. The applicant is also required to have a valid phone number and in the case of bamba chakula traders, a business permit.

3.3 Time frame

DRS exercises discretion in determining how long one is authorised to be away from the designated areas, which is usually, an average of seven to ten days for traders and business owners, while taking into consideration the number of refugees DRS can authorize to be away from the designated areas at any given time⁹. According to refugee business people, this time is hardly enough for them to travel to Garissa, Nairobi or elsewhere in Kenya to look for good quality goods, identify suppliers, verify the products, obtain goods at competitive prices and pursue wider markets. This is even more challenging considering that a round trip between Dadaab and Nairobi is a two-day journey essentially leaving traders with five days to realise their business-related needs, where a seven-day authorisation is granted.

3.4 Implications for businesses

The lack of prioritization of general traders to move outside of the camps has had a huge negative impact on traders and business owners who opt to use brokers to purchase goods. Traders are also forced to increase prices of products to recover monies spent to acquire them, making it difficult to be competitive against host community owned businesses. This was also captured in the Garissa Market Study conducted by ITC/NRC.¹⁰

⁴The Refugee Act 2006 and the Regulations enacted in 2009

⁵Section 8 (1)(O) of the Refugee Act 2021

⁶Refugee Consortium of Kenya/United Nations High Commissioner for Refugees.

⁷Ibid 6:

⁸The Refugee Affairs Secretariat is now referred as the Department of Refugee Services in the Refugee Act 2021

⁹NRC Business registration in Dadaab for refugee and host communities 2019

¹⁰Norwegian Refugee Council /International Trade Centre, Garissa County Market Study for the Refugee Employment & Skills Initiative (RESI)- Kenya, Jan 2019

Restrictions on movement negatively affects both refugees' ability to achieve economic self-reliance and their capacity to contribute to the local economy and society. While entrenching dependence on humanitarian aid, movement restriction reduces refugees' capacity for self-reliance, which also deprives the larger Garissa County of refugee skills, experience, diversification of products in the market, labour, and other forms of human capital.¹¹

Theoretically trader's movement permits also exist, and DRS evaluates whether the cost of travel, accommodation, and lodging according to their calculation is made up for by availability of cheaper goods. Often, they find that this is not the case, and traders' movement permits are rare. DRS does however recognize the need for bringing in necessary goods at reasonable prices to Dadaab. One way to address this is through a partnership with WFP, which has contracted six refugee traders to procure goods. These refugee traders are able to bypass the extensive vetting process thanks to these contracts, and DRS provides them with the necessary movement permits. This agreement was initiated by the government and could serve as a potential model for how future movement permissions and policies might be constructed, as the initiative to address movement and mobility limitations must come from government rather than other institutions.¹²

4.0 Conclusions and Recommendations

The United Nations High Commissioner for Refugees (UNHCR), the Norwegian Refugee Council (NRC) and stakeholders work to promote and enhance self-reliance in accordance with objective 2 of Comprehensive Refugee Response Framework (CRRF). It is vital to create an enabling environment to ensure that refugee businesses and the markets within the refugee camps thrive. This can only be achieved in close coordination with both the National and the County Governments. This brief therefore provides recommendations to the National and County government, National and International NGOs and other stakeholders in Dadaab and Garissa.

UN Agencies, Donors, National and International NGOs:

- Continue to advocate for and invest in actions that promote refugee self-reliance at both the national and county levels with relevant stakeholders including government and private sector; and
- Engage the DRS, the National and County governments to ease restrictions on movement passes for refugees in business, as this is very vital in realising self-reliance.

The National Government of Kenya through the Refugee Affairs Secretariat:

- Develop, through a consultative process, regulations including standard operating procedures and clear guidelines on the issuance and process of making an application for a refugee movement pass, the categories of reasons that could warrant the issuance of a movement pass, the list of required supporting documents, the duration of time allowed for every category, the role of different DRS officials in the process and/or other agencies such as the UNHCR, partners the Kenya police etc.
- Publicize the guidelines among stakeholders and create awareness among persons of concern on the processes.
- Operationalise the guidelines by putting in place the required resources to actualise these processes.
- Prioritize general refugee business owners and traders in application of movement passes to enhance self-reliance.

Garissa County Government should:

- Create and/or identify opportunities for refugee traders and business owners to access markets beyond Dadaab for the sale and acquisition of goods and products, especially the Garissa market as refugee businesses contribute to the Garissa economy: and
- Expressly include refugees' affairs in the County Integrated Development Plan and relevant county laws to enhance refugee self-reliance.

ADDITIONAL RESOURCES

[Remove this whole part: Let it start "for more..."](#)

Refuge Point: Supporting Refugee-Led Organizations

Xavier Project: Why RLOs are the best problem-solvers for their communities
RSC Research in Brief 10, Refugees as Providers of Protection and Assistance

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¹¹ NRC/IHRC, Supporting Kakuma's Refugees The Importance of Freedom of Movement, August 2018

¹² <https://reliefweb.int/report/kenya/doing-business-dadaab-market-systems-analysis-local-economic-development-dadaab-kenya>