

Asylum-seekers' and refugees' access to the labour market in Malawi

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FOREWORD

The Southern Africa Migration Management (SAMM) project represents a collaborative effort embodying the ONE-UN approach, uniting the expertise and resources of four prominent UN development and/or humanitarian agencies: the International Labour Organization (ILO), the International Organization for Migration (IOM), the United Nations Office on Drugs and Crime (UNODC), and the United Nations High Commissioner for Refugees (UNHCR).

The ILO has increasingly acknowledged the need to **strengthen the nexus between humanitarian assistance and the development dimensions** of the overall response to crisis situations with decent work strategically placed at this intersection. **Access to employment and livelihoods has emerged as the bridge between humanitarian action and development cooperation** and, in this context, the ILO continues to play its part in supporting critical response programmes, including through strengthening its own policy framework to be able to respond more rapidly and effectively to crisis situations.

While strengthening resilience and capacities in national labour markets, the ILO also supports efforts to enhance socio-economic inclusion of refugee populations in a manner that promotes full, productive, freely chosen employment and decent work and income-generation opportunities for all. At the same time, ILO encourages its Member States to foster self-reliance by expanding opportunities for refugees to access livelihood opportunities and labour markets, without discriminating among refugees and in a manner which also supports host communities. Access to employment and livelihoods for refugees in Southern African countries is still very mixed.

There is an increasing amount of research and studies which suggest, or aim to show, that impacts of refugees' access to labour markets and deeper socio-economic integration into host societies does not need to lead to negative outcomes for those host societies, and often find that an important determinant of the success of host and refugee communities depends on the particular policy approaches adopted by governments.

Not all countries adopt such progressive integration policy approaches. Accordingly, the ILO and UNHCR collaborated to undertake **5 national-level studies (Eswatini, Malawi, South Africa, Zambia and Zimbabwe)** and **a comparative report** of labour market access for refugees in Southern African countries. We extend our gratitude to UNHCR colleagues and national stakeholders for their unwavering support and commitment to this crucial endeavour.

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The authors take sole responsibility for the opinions expressed and arguments employed in this document. This report does not necessarily reflect the views of the ILO or the experts interviewed as part of the project. All errors belong to the authors.

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List of abbreviations and acronyms

CARD - Churches Action in Relief and Development
CoO - Country of Origin
CRRF - Comprehensive Refugee Response Framework
DRC – Democratic Republic of the Congo
GBV - gender-based violence
GCR - Global Compact on Refugees
ILO - International Labour Organisation
INGO – international non-governmental organisation
IOM – International Organisation for Migration
JRS - Jesuit Refugee Service
KI - key informant
MMC – Mixed Migration Centre
OECD - Organisation for Economic Cooperation and Development
RSD - refugee status determination
TBB - Talent Beyond Boundaries
TVET - Technical and Vocational Education and Training
UN – United Nations
UNESCO – United Nations Educational, Scientific and Cultural Organization
UNHCR - United Nations High Commissioner for Refugees
UNICORE - University Corridors for Refugees
WASH – water, sanitation and hygiene
WFP - World Food Programme

Introduction

Agenda 2030 promotes the humane treatment of refugees, while also emphasising the need to enhance the resilience of communities hosting refugees. The Global Compact on Refugees (GCR) promotes international cooperation and responsibility-sharing to provide sustainable solutions to refugee situations, ensuring that host communities are supported and refugees can lead productive lives. One of its four key objectives is to enhance the self-reliance of refugees, including through labour market access, which also promotes its objective to ease the pressure on host countries.¹ The ILO Guiding Principles on the access of refugees and other forcibly displaced persons to the labour market address the need for more equitable responsibility sharing with countries impacted and support states in considering access of these populations to their labour market, whilst balancing needs and expectations of their own citizens.

Asylum-seekers and refugees often face numerous challenges in accessing formal labour markets, due to, inter alia, legal restrictions; the reluctance of employers to hire foreigners and refugees; the lack of efficient skills and qualifications recognition systems and the pertaining costs, as well challenges in verifying the qualifications with the country of origin (CoO); and discrimination. The lack of opportunities in the formal labour market often results in asylum-seekers and refugees working in the informal labour market, where they may be more vulnerable to exploitation, poor working conditions, and more likely to earn low and unreliable wages. It also means that they may work below their skill level which can lead to deskilling and affect their long-term work prospects and socio-economic outlook. Access to decent work opportunities in the formal labour market fosters the self-reliance, resilience and integration of asylum-seekers and refugees, and can boost business development and fill skills gaps in their host countries that aid their socio-economic development. Thus, it is important to assess the legal, policy and social dimensions of their access to formal labour markets and craft recommendations to enhance their access, resilience, integration and socio-economic contribution to their host countries.

This Study assesses the labour market access of asylum-seekers and refugees in Malawi. A mixed-methods approach was employed to gather data for this Study. It commenced with a desk review of relevant laws, policy and practice in Malawi as well as reports, studies and news articles on the conditions, challenges and labour market access of asylum-seekers and refugees. A field mission was undertaken to Malawi from 16 to 22 April 2023, and meetings were convened with stakeholders and refugees in Lilongwe and Dzaleka refugee camp. Overall, data was gathered through 19 Key informant (KI) interviews with government agencies; United Nations (UN) agencies; non-governmental organisations (NGOs); a private sector company; a bank and a trade union. Moreover, one focus group discussion was convened with refugees in Dzaleka refugee camp. Interviews also took place with refugees, namely a woman refugee restaurant owner in Dzaleka refugee camp and two male refugees living in Lilongwe.

This Study has the following structure. Chapter 1 sets the context in which asylum-seekers and refugees find themselves in Malawi. It describes Malawi's socio-economic landscape; the restrictions imposed on asylum-seekers and refugees and key efforts that are made to support

¹ UNHCR (2021). *The Global Compact on Refugees*. Available at: <https://globalcompactrefugees.org/article/global-compact-refugees>

their needs. Chapter 2 focusses on Malawi's refugee regime, namely the legal framework and coordination of the refugee programme, the asylum system and support services for asylum-seekers and refugees.

Chapter 3 delves into asylum-seekers' and refugees' access to the labour market by assessing the implementation of key rights that affect their labour market access. It surveys the right to freedom of movement, wage-earning employment, and setting up a business, as well as access to finance and financial services and buying land and property. Chapter 4 addresses asylum-seekers' and refugees' access to training, higher education and the recognition of skills and qualifications. Chapter 5 deals with rights at work, namely access to justice and freedom of association. Chapter 6 captures asylum-seekers' and refugees' access to social security in Malawi. Chapter 7 provides an overview of durable solutions and complementary pathways available to refugees in Malawi. Chapter 8 forms the conclusion. Chapter 9 summarises the legal, policy and practice recommendations for enhancing asylum-seekers and refugees' access to the labour market and their self-reliance and resilience.

Executive summary

The right to work and access labour markets are fundamental to forcibly displaced persons' ability to be self-reliant, live their lives in safety and dignity and contribute to and integrate into their host communities. This Study assesses the labour market access of asylum-seekers and refugees in Malawi by analysing Malawi's refugee law, policy, and practice, and the socio-economic landscape in which they are implemented. It highlights the obstacles refugees face in accessing income opportunities and becoming self-reliant. This Study proposes legal, policy and practice recommendations for bolstering asylum-seekers' and refugees' labour market access, as well as their resilience and dignity.

Malawi is the world's poorest peaceful country, with a GDP per capita of USD 545 per person.²

Around 80 per cent of its population engage in subsistence farming,³ which is vulnerable to the impact of natural hazards. It has a youthful rapidly growing population (estimated at 20.41 million)⁴ in need of jobs, while the economy is plagued by debt distress, inflation, and low economic growth.⁵ Some 20 per cent of the population experience chronic food insecurity, with 35 per cent of children 6-59 months old affected by stunting.⁶

As of June 2023, Malawi hosted 51,483 asylum seekers and refugees, largely originating from the DRC, followed by Burundi, Rwanda, Somalia and Ethiopia.⁷ Malawi faces a growing caseload of refugees and a backlog of approximately 14,000 applications.

²The Economist (2022). *Malawi has saved its democracy but not its economy*, 22 September 2022.

³The Economist (2022). *Malawi has saved its democracy but not its economy*, 22 September 2022.

⁴The World Bank (2023) *Overview – the World Bank in Malawi*. Available at: <https://www.worldbank.org/en/country/malawi/overview>

⁵The Economist (2022). *Malawi has saved its democracy but not its economy*, 22 September 2022;

The World Bank (2023). *Powering Malawi's growth, Rapidly and Sustainably increasing energy access*, Malawi Economic Monitor 2023. Available at:

<https://documents1.worldbank.org/curated/en/099071423121539304/pdf/P179529071fbd40290899901e20929fd171.pdf>

⁶WFP (2023). *WFP Malawi Country Brief June 2023*.

⁷UNHCR (2023). *Malawi Factsheet June 2023*.

Asylum seekers may wait up to seven years to be granted refugee status.

Malawi registered several reservations to the 1951 Refugee Convention, that are implemented in practice but not explicitly captured in its refugee law. Refugees are required to live in a refugee camp and need exit permits to leave the camp. They do not have the right to work, and face shrinking income opportunities. While they were able to obtain work permits, business permits and urban residence permits in the past, this no longer appears to be possible. Sadly, refugee students have forfeited scholarships to study abroad as the Government has failed to provide them with Convention Travel Documents.

The Government of Malawi adopted the Comprehensive Refugee Response Framework (CRRF) approach, and made several pledges to implement the Global Compact on Refugees, but is yet to adopt its CRRF Roadmap. In recent times the political climate in Malawi appears to be increasingly anti refugees. The Government reinforced its encampment policy and in 2023 started the forced relocation of refugees to the overcrowded Dzaleka refugee camp. Refugees live in congested conditions in Dzaleka camp, which lacks sufficient livelihood activities, housing, and social and educational services for refugees. Nine out of every ten refugees surveyed in Dzaleka refugee camp are food insecure.⁸ The forced return of refugees to Dzaleka camp has undermined the self-reliance and resilience of refugees, and exacerbates poverty in Dzaleka camp.

1. Setting the context: asylum-seekers and refugees in Malawi's socio-economic landscape

Malawi is a landlocked country in south-eastern Africa, and borders Tanzania, Mozambique and Zambia. Malawi is the world's poorest peaceful country, with a GDP per capita of USD 545 per person.⁹ Its population of around 20.41 million people is expanding at 2.6 per cent per year.¹⁰ Malawi is a youthful country, with the youth (aged 15-29) making up a quarter of the population, and more than 46 per cent of the population below the age 15.¹¹ Around 80 per cent of its population engage in subsistence farming.¹² The population is extremely vulnerable to the impact of natural hazards, such as droughts and floods.¹³ In March 2023 tropical cyclone Freddy brought torrential rain to southern Malawi, which resulted in significant floods that affected 2,267,458 people, of which 659,278 people were displaced and 679 killed.¹⁴ The impact of tropical cyclone Freddy caused damages of USD 506.7 million, while the total cost of recovery and reconstruction is estimated at USD 680.4 million.¹⁵ Malawi is facing increasingly frequent and intensifying extreme

⁸WFP (2023). *Funding crunch forces WFP to halve food rations for refugees amidst worsening hunger in Malawi*, 24 July 2023.

Available at: <https://www.wfp.org/news/funding-crunch-forces-wfp-halve-food-rations-refugees-amidst-worsening-hunger-malawi>

⁹The Economist (2022). *Malawi has saved its democracy but not its economy*, 22 September 2022.

¹⁰The World Bank (2023) *Overview – the World Bank in Malawi*. Available at:

<https://www.worldbank.org/en/country/malawi/overview>

¹¹OECD Development Centre (2018), *Youth Well-being Policy Review of Malawi*, EU-OECD Youth Inclusion Project, Paris. Available at: <https://www.oecd.org/countries/malawi/Youth-well-being-policy-review-Malawi.pdf>

¹²The Economist (2022). *Malawi has saved its democracy but not its economy*, 22 September 2022.

¹³WFP (2023). *WFP Malawi Country Brief June 2023*.

¹⁴The Government of Malawi (2023). *Malawi 2023 Tropical Cyclone Freddy Post- Disaster Needs Assessment*. Available at: <https://reliefweb.int/report/malawi/malawi-2023-tropical-cyclone-freddy-post-disaster-needs-assessment-april-2023>

¹⁵The Government of Malawi (2023). *Malawi 2023 Tropical Cyclone Freddy Post- Disaster Needs Assessment*. Available at: <https://reliefweb.int/report/malawi/malawi-2023-tropical-cyclone-freddy-post-disaster-needs-assessment-april-2023>

weather events, and has since 1980 reported over 50 disasters related to hydrometeorological events, such as storms, floods, landslides, and droughts, that affected millions of people.¹⁶

Moreover, Malawi is resource-poor with high levels of debt distress and inflation, and low economic growth.¹⁷ The Covid-19 pandemic cut economic growth from 5.4 per cent in 2019 to 0.9 per cent in 2020.¹⁸ The economy grew by 0.9 per cent in 2022 and is expected to slightly improve in 2023.¹⁹ The industrial sector is curtailed by a shortfall in foreign exchange, fuel and electricity.²⁰ Malawi's reliance on subsistence, rainfed agriculture renders it vulnerable to weather events, curtails its prospects for growth, and leads to food insecurity.²¹ Some 20 per cent of the population experience chronic food insecurity, with 35 per cent of children 6-59 months old affected by stunting.²² Only 51 per cent of the population has completed primary school, and a high prevalence of the HIV/Aids infection (8.8 per cent) affects the population.²³

Malawi is a country of origin, transit and destination for migrants migrating to other southern African countries.²⁴ Malawi forms part of the Southern route for mixed movements from the East and the Horn of Africa and Great Lakes region to South Africa.²⁵ Mixed movements refer to people travelling together, in a regular and irregular manner, using the same routes and means of transport, but for different reasons, such as for economic opportunities or in search of safety. Migrants and refugees often travel in these flows to South Africa,²⁶ and some transit through Malawi en route to South Africa.

The Southern route from the East and Horn of Africa and the Great Lakes region is perilous. Migrants and refugees travel in harsh conditions, with little access to basic amenities and rely on brokers, intermediaries and smugglers to cross the various countries. Robberies, beatings and arrests have been reported on this route, which may also require refugees and migrants to travel partly on foot.²⁷ In October 2022 the bodies of 25 migrants were found in a mass

¹⁶The Government of Malawi (2023). *Malawi 2023 Tropical Cyclone Freddy Post- Disaster Needs Assessment*. Available at: <https://reliefweb.int/report/malawi/malawi-2023-tropical-cyclone-freddy-post-disaster-needs-assessment-april-2023>

¹⁷The Economist (2022). *Malawi has saved its democracy but not its economy*, 22 September 2022;

The World Bank (2023). *Powering Malawi's growth, Rapidly and Sustainably increasing energy access*, Malawi Economic Monitor 2023. Available at:

<https://documents1.worldbank.org/curated/en/099071423121539304/pdf/P179529071fbd40290899901e20929fd171.pdf>

¹⁸The Economist (2022). *Malawi has saved its democracy but not its economy*, 22 September 2022.

¹⁹The World Bank (2023). *Overview*, the World Bank in Malawi. Available at:

<https://www.worldbank.org/en/country/malawi/overview>

²⁰The World Bank (2023). *Powering Malawi's growth, Rapidly and Sustainably increasing energy access*, Malawi Economic Monitor 2023. Available at:

<https://documents1.worldbank.org/curated/en/099071423121539304/pdf/P179529071fbd40290899901e20929fd171.pdf>

²¹The World Bank (2023). *Overview*, the World Bank in Malawi. Available at:

<https://www.worldbank.org/en/country/malawi/overview>

²²WFP (2023). *WFP Malawi Country Brief June 2023*.

²³WFP (2023). *WFP Malawi Country Brief June 2023*.

²⁴IOM (2019). *Migration in Malawi – A country profile 2014*.

²⁵MMC (2023). *Southbound: Mixed migration routes, experiences and risks along the journey to South Africa*, MMC Research Report, May 2023.

²⁶IOM (2020). *Southern Africa Regional Strategy 2020-2024*.

²⁷MMC (2023). *Southbound: Mixed migration routes, experiences and risks along the journey to South Africa*, MMC Research Report, May 2023.

grave in Malawi.²⁸ The police suspected that they were Ethiopian migrants en route to South Africa.²⁹

Moreover, in 2022, the UN uncovered widespread human trafficking in Dzaleka refugee camp in Malawi. Traffickers recruited victims in Ethiopia, the DRC and Burundi by offering them work opportunities in South Africa, and arranged for them to cross the border into Malawi and enter the camp. At the camp they were told that they need to pay off debts incurred for being smuggled into Malawi. Women and girls were sexually exploited in the camp, or taken to other southern African countries for sexual exploitation. Men were subjected to forced labour in the camp, on farms in Malawi, as well as taken to other countries in southern African for forced labour.³⁰ The traffickers were not identified nor arrested.

As of June 2023, Malawi hosted 51,483 asylum seekers and refugees, largely originating from the DRC, followed by Burundi, Rwanda, Somalia and Ethiopia.³¹ Malawi maintains open borders for refugees, but implements a restrictive refugee policy anchored in the several reservations that it made when ceding to the 1951 Refugee Convention.³² In recent years it has reinforced its encampment policy. In 2021 the Government issued an order for refugees to return to Dzaleka refugee camp, its only refugee camp, which is located 47 kms from Lilongwe, the capital city. In 2023 the Government forcibly relocated refugees to Dzaleka camp. Dzaleka camp was designed to host 10,000 persons and in June 2023 hosted 40,000 asylum seekers and refugees who live in congested conditions in which infectious diseases, such as TB, Covid-19 and cholera easily spread.³³

Prior to the relocation exercise, around 8,000 refugees lived in rural and urban towns across the country.³⁴ They ran small businesses, such as restaurants, hair salons, car repairs, and retail shops, which allowed them to be economically self-reliant and to contribute to Malawi's economy.³⁵ By June 2023 2,074 refugees and asylum seekers had returned to the camp since the order was first issued in 2021.³⁶

Some refugees have been hosted by Malawi for over 20 years and are unable to return to their countries of origin due to the ongoing conflict in the Great Lakes Region.³⁷ Women refugees in Dzaleka try to make a living through engaging in petty trading, tailoring and craft making, while the livelihood activities of male refugees include running hardware stores, car repairs, mechanical work, welding and agriculture.³⁸ Refugees can apply for an exit permit to leave the camp, including to sell their goods outside of the camp. Some businesses visit the camp to

²⁸IOM (2022). *IOM Shocked by Discovery of at Least 25 People Believed to be Migrants in Mass Grave in Malawi*. Available at: <https://www.iom.int/news/iom-shocked-discovery-least-25-people-believed-be-migrants-mass-grave-malawi>

²⁹The Guardian (2022). *Malawi police discover mass grave of 25 Ethiopian migrants*, 19 October 2022. Available at: <https://www.theguardian.com/world/2022/oct/19/malawi-police-discover-mass-grave-of-25-ethiopian-migrants#:~:text=Authorities%20in%20Malawi%20have%20discovered,off%20and%20started%20exhuming%20today.>

³⁰UN (2022). *Refugees at risk: UN uncovers human trafficking at camp in Malawi*, in UN News, 12 June 2022. Available at: <https://news.un.org/en/story/2022/06/1119612>

³¹UNHCR (2023). *Malawi Factsheet June 2023*.

³²UNHCR (2023). *Briefing on Dzaleka refugee camp and general protection of refugees*.

³³UNHCR (2023). *Malawi Factsheet June 2023*.

³⁴UNHCR (2023). *Malawi Factsheet June 2023*.

³⁵UNHCR (2017). *Multi-year Livelihoods Strategy Dzaleka, Malawi*.

³⁶UNHCR (2023). *Malawi Factsheet June 2023*.

³⁷UNHCR (2023). *Malawi Factsheet June 2023*.

³⁸Interviews with key informants

buy agricultural produce, where the price is generally lower than outside the camp.³⁹ The length of the exit permit varies and depends on the purpose it was granted for. For example, it may be granted for a day to buy merchandise outside of the camp, or it may be granted for weeks or months for medical reasons.

Refugees live peacefully alongside host communities around the camp. Host communities have benefitted from the presence of refugees by learning from them how to farm and run small businesses, and these communities also trade with one another.⁴⁰ In other parts of Malawi the relationship between refugees and the host community varies. Consultations with stakeholders and media reports suggest that some Malawian small business owners have put pressure on the Government to send refugees back to the refugee camp, as they perceive them as an economic threat. Business owners have threatened to evict refugees from markets as they believe that they drive down the prices of goods by offering lower prices.⁴¹

Malawi faces a growing caseload of refugees. Approximately 200 – 300 asylum seekers are registered every month. 120 -150 new births are registered in Dzaleka refugee camp every month.⁴² There is incomplete data of the death rate of refugees, but the birth rate is believed to be much higher. Donor support does not meet the increasing needs of the growing refugee population. Most refugees cannot sustain themselves due to the encampment policy, and 96 per cent of refugees live below the poverty line.⁴³ According to food security assessments conducted by the World Food Programme (WFP) in January 2023, nine out of every ten refugees surveyed in Dzaleka refugee camp are food insecure.⁴⁴

Refugees do not have the right to work in Malawi, and their self-reliance and resilience are undermined by their forced return to Dzaleka camp and the destruction of their businesses outside of the camp by authorities. There is the perception that refugees compete with local businesses, and take away from Malawians the limited economic opportunities that exist, while the Government is under pressure to live up to campaign pledges and create 1 million jobs.⁴⁵

The Government of Malawi adopted the Comprehensive Refugee Response Framework (CRRF) approach, established an Inter-Ministerial CRRF Steering Committee and developed a CRRF roadmap.⁴⁶ Malawi has made the following pledges to implement the Global Compact on Refugees, which is captured in its CRRF Roadmap.

1. Inclusion of Refugees into the National Development Agenda

- i. *Include refugees in national systems and provide support to ongoing and immediate needs in Health, Education (Primary and Secondary) and Security.*

2. Legal and Policy Reform

³⁹ Interview with Asamala Investment.

⁴⁰ Interview with the Refugee Department staff.

⁴¹ Masina, L. (2023). *Malawi Sets Final Deadline for Refugee Return to Lone Authorized Camp*, 31 March 2023, in Voice of America. Available at: <https://www.voanews.com/a/malawi-sets-final-deadline-for-refugee-return-to-lone-authorized-camp-/7031042.html>

⁴² UNHCR (2023). *Malawi Factsheet June 2023*.

⁴³ UNHCR (2023). *Briefing on Dzaleka refugee camp and general protection of refugees*.

⁴⁴ WFP (2023). *Funding crunch forces WFP to halve food rations for refugees amidst worsening hunger in Malawi*, 24 July 2023.

Available at: <https://www.wfp.org/news/funding-crunch-forces-wfp-halve-food-rations-refugees-amidst-worsening-hunger-malawi>

⁴⁵ Kayira, J. (2023) *Malawi's Refugee Problem*, in African Arguments, 29 June 2023. Available at:

<https://africanarguments.org/2023/06/malawis-refugee-problem/>

⁴⁶ UNHCR (2023). *Briefing on Dzaleka refugee camp and general protection of refugees*.

- i. *Support finalization and adoption of the National Migration Policy and subsequent review of the Refugees Act*
- ii. *Revisit reservations on access to public education (Tertiary) and encampment policy.*

3. Registration and Documentation

- i. *Register refugees and asylum seekers through the National Identification (NID) system upon amendment of the National Registration Act (2010).*
- ii. *Issue documentation including identification cards to all refugees and asylum seekers aged 16 and above, birth certificates to all refugee children born in Malawi and machine-readable Conventional Travel Documents (CTDs) to refugees.*

4. Settlement Approach and Self-reliance

- i. *Introduction of the settlement approach in order to enhance integrated development of the refugees and local community and to serve as a conceptual and operational bridge for closing the dysfunctional gap between humanitarian response and development activities.*
- ii. *Decongest and upgrade refugee camp into a socio-economic hub/service centre for the M1- Dzaleka- Dowa Boma Settlement corridor in accordance with physical planning guidelines.*
- iii. *Create opportunities for more regular and predictable sources of income and economic inclusion for the refugees by allowing them access to financial institutions, encouraging self- employment/business.*
- iv. *Provide an enabling environment for refugees to register their businesses without incurring high fees and procedures as applied to international investors and conduct a skills profiling survey amongst the refugee population.*
- v. *Enhance livelihoods by promoting sports, arts and cultural activities amongst the youth.*

The Government made some initial efforts to implement its pledges, such as working towards a review of the Refugee Act. However, the CRRF Roadmap is yet to be adopted by the Government.⁴⁷ The Government's order for refugees to return to the refugee camp, seems to indicate that it is becoming more restrictive towards refugees and does not intend to lift the reservations and end the encampment policy.

2. Malawi's refugee regime

2.1. The legal framework and coordination of the refugee programme

The Refugee Department, which is led by the Commissioner for Refugees, falls within the Ministry of Homeland Security and manages refugee affairs, in coordination with the UNHCR. Malawi is party to the 1951 Convention relating to the Status of Refugees as well as its 1967 Protocol, and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa. Malawi's 1989 Refugees Act incorporates the refugee definitions of the 1951 Refugee Convention and the 1969 OAU Convention.⁴⁸ The Refugee Act is accompanied by the Refugee Regulations, 1990.

⁴⁷Interview with Refugee Department staff.

⁴⁸UNHCR (2010). *Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report - Universal Periodic Review - the Republic of Malawi.*

Malawi made reservations to the following Articles of the 1951 Convention:

Article 7	Exemption from Reciprocity,
Article 13	Movable and Immovable Property,
Article 15	Right of Association,
Article 19	Liberal Professions
Article 22	Public Education, and
Article 24	Labour Legislation and Social Security. ⁴⁹

The Government of Malawi indicated that it considers these articles as recommendations that are not binding for Malawi's management of refugees. It also reserved the right to limit wage-earning employment (Article 17); choice of place of residence and freedom of movement (Article 26) and naturalization (Article 34).⁵⁰ The Refugee Act, 1989 and the Refugee Regulations do not make reference to the reservations. Restrictions are implemented in practice and not explicitly mentioned in these legal documents.⁵¹ The legal reform part of the CRRF, which includes a review of the Refugee Act, is yet to be implemented.⁵² The National Migration Policy, which should lead to this review once adopted, is yet to be endorsed by the Cabinet.⁵³

2.2 The Asylum system

Upon arrival asylum seekers are registered by the Department of Immigration, which falls within the Ministry of Homeland Security, and provided with an asylum permit, which is valid for two years. Asylum seekers should then report to the transit shelter in Karonga in the north of Malawi and are from there transported Dzaleka refugee camp. Some asylum seekers also go directly to Dzaleka and report to the transit centre in the camp.⁵⁴

Refugee status determination (RSD) is undertaken by the staff of the Department of Refugees. An eligibility officer will interview an asylum seeker, and draft a recommendation regarding the asylum application, which is reviewed by the Department of Refugees and the UNHCR. The resulting decision is then reviewed by the Refugee Committee task force, which consists of mid-level officials from the Office of President; the Cabinet; police, Immigration, and the ministries and agencies responsible for justice, gender, national intelligence and defence. Following this review the Refugee Committee, which consists of the technical heads from the same government ministries and agencies, will take a decision on whether to grant an asylum-seeker refugee status. The UNHCR participates as an observer in these processes.

Available at: https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/session9/MW/UNHCR_UPR_MWI_S09_2010_United_nations_high_commissioner_for_refugees_revised.pdf

⁴⁹UNHCR (2019). *Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review: 3rd Cycle, 36th Session Malawi*.

Available at: <https://www.refworld.org/country,...MWI,,5e17493a2,0.html>

⁵⁰UNHCR (2019). *Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review: 3rd Cycle, 36th Session Malawi*.

Available at: <https://www.refworld.org/country,...MWI,,5e17493a2,0.html>

⁵¹Interview with Refugee Department staff.

⁵² Interview with UNHCR staff.

⁵³ Interview with Refugee Department staff.

⁵⁴Interview with Refugee Department staff.

Recognised refugees are provided with a letter confirming their status, which they can use to apply for a Refugee ID with the Camp Administrator. The Refugee Committee should meet every 30 days, but its meetings have been reduced to twice a year. The Refugee Department indicated that this is due to the Chairperson of the Refugee Committee also being the Secretary to the President and the Cabinet. S/he is therefore rarely available to chair the Refugee Committee. Consequently, there was an asylum backlog of approximately 14,000 applications in October 2023.⁵⁵ Asylum seekers are granted an RSD interview after one to two years, while it takes one to five years to be granted refugee status.⁵⁶ The UNHCR indicated that the delays in these processes are caused by various factors. This includes the availability of funding to organise meetings of the Refugee Committee, which are financially supported by the UNHCR. In addition, the Refugee Secretariat finds it challenging to convene the Refugee Committee and there is a high turnover of government officials that participate in these processes. The asylum applications of asylum seekers from eastern DRC, asylum seekers with serious protection concerns as well as unaccompanied children, the elderly, and persons living with disability are expedited.

If an asylum application is rejected, the asylum seeker has 14 days to appeal to the inter-ministerial appeals panel, whose members include representatives from the ministries of foreign affairs, justice, local government, gender, as well as the secretariat for Home Affairs. The panel will recommend to the minister whether to grant refugee status to the asylum seeker. The Refugee Department indicated that there was an appeals backlog as the appeals panel had not met for three to four years.⁵⁷

According to the Refugee Regulation, 1990, refugees may apply for a Convention Travel Document (CTD) to travel abroad with the Chief Immigration Officer, who consults the UNHCR on the application. However, discussions stakeholder indicated that the Government is not current issuing CTDs to refugees.

2.3 Support services for asylum-seekers and refugees

Support services are mostly provided to asylum seekers and refugees in Dzaleka refugee camp, where the Government provides the land and the UNHCR material for shelter.⁵⁸ Asylum seekers, refugees and the host community have access to education and health care facilities in Dzaleka refugee camp.⁵⁹ Dzaleka camp has two primary schools and one secondary school that offer free education, and is supported by the UNHCR and the Jesuit Refugee Service (JRS).⁶⁰ However, resources and facilities in the camp are over stretched, as the camp houses four times more people than it was designed for.⁶¹ Health services, water, shelter and sanitation facilities are insufficient to cater for the camp's population.⁶² The Government has reportedly stated that it acquired land for a new refugee resettlement in Chitipa district, in northern Malawi, to address the overcrowding challenges in Dzaleka camp.⁶³ In October 2023

⁵⁵Interview with Refugee Department staff.

⁵⁶Interview with Camp Manager.

⁵⁷Interview with Refugee Department staff.

⁵⁸Interview with UNHCR staff.

⁵⁹ UNHCR (2023). *Briefing on Dzaleka refugee camp and general protection of refugees*.

⁶⁰ Information provided by the UNHCR.

⁶¹ UNHCR (2023). *Briefing on Dzaleka refugee camp and general protection of refugees*.

⁶²UNHCR (2023). *UNHCR warns of human suffering due to Malawi's 'back to camp' refugee policy*, Press Release, 24 May 2023.

Available at: <https://www.unhcr.org/news/press-releases/unhcr-warns-human-suffering-due-malawi-s-back-camp-refugee-policy>

⁶³Masina, L. (2023). *UNHCR Pledges to Help Resettle Refugees in Malawi*, 16 June 2023.

Available at: <https://www.unhcr.org/news/press-releases/unhcr-warns-human-suffering-due-malawi-s-back-camp-refugee-policy>

the UNHCR indicated that the land has been identified and joint assessments are being conducted to determine the costs for establishing the new settlement.

In 2019 the WFP started providing cash instead of food assistance to refugees. Since May 2023 the WFP has provided cash assistance to all refugees registered with the UNHCR that are living in Dzaleka camp. In June 2023 the WFP made cash e-payments to 11,000 refugee households. Increasing food prices and a growing caseload of refugees, means that from July 2023 the WFP is only able to provide 50 per cent of the monthly food needs ration to refugees.⁶⁴ This is a further reduction, as in September 2020 the WFP reduced food assistance in the form of cash to 75 per cent of the food needs ration of refugees, due to funding constraints.⁶⁵ Asylum seekers and refugees are also provided with some non-food items, such as plastic sheeting, kitchen utensils, and sanitary kits for women.⁶⁶

Asylum seekers and refugees may engage in livelihood activities without requiring a work permit in the refugee camp.⁶⁷ Refugees work as volunteer teachers in the schools and receive a stipend from JRS.⁶⁸ They also receive stipends to work as volunteers in the health facilities, camp security and as interpreters for the UNHCR.⁶⁹ These livelihood activities are, however, not adequate to cater for the needs of refugees.

Demand for livelihood initiatives greatly outstrip supply.⁷⁰ Funding for livelihood initiatives in Dzaleka camp are limited and only support 1,100 asylum seekers, refugees, and members of the host community (800 are supported by the UNHCR and 300 by the WFP).⁷¹ Participants in the UNHCR's livelihoods initiatives receive 10,000 kwacha (USD 9.22⁷²) per month and a living allowance for a 12 month period.⁷³ Livelihood initiatives include agriculture production, crop production, livestock production, insect farming, soap making and IT services.^{74,75} JRS also supports refugee livelihoods, including through language courses, CV development, vocational training, and providing seeds and tools for agriculture.⁷⁶ Moreover, in 2022 and 2023 the University of the Arts London paid visits to Dzaleka refugee camp and provided refugees with technical advice on crafts and tailoring and plans to assist them with finding markets for their goods.⁷⁷

Some livelihood initiatives are specifically targeted at women. Women for Action, a refugee organisation, is funded by the UNHCR to facilitate training for 100 women on computer skills. These skills will enable women refugees to access information that will enhance their livelihood activities, such as information on how to produce or market certain products.

⁶⁴WFP (2023). *WFP Malawi Country Brief June 2023*.

⁶⁵ WFP (2023). *Refugee Situation in Malawi*, May 2023. Available at: <https://reliefweb.int/report/malawi/refugee-situation-malawi-may-2023>

⁶⁶Interview with UNHCR staff.

⁶⁷Interview with Refugee Department staff.

⁶⁸ Information provided by the UNHCR.

⁶⁹Interview with Refugee Department staff.

⁷⁰Interview with CARD staff.

⁷¹ UNHCR (2023). *Briefing on Dzaleka refugee camp and general protection of refugees*.

⁷² Exchange rate of 1 October 2023 on xe.com

⁷³Interview with UNHCR staff.

⁷⁴ UNHCR (2023). *Briefing on Dzaleka refugee camp and general protection of refugees*.

⁷⁵Interview with UNHCR staff.

⁷⁶JRS (date unknown). *Malawi Livelihoods*. Available at: <https://jrs.net/en/programme/livelihoods/>

⁷⁷Interview with UNHCR staff.

Churches Action in Relief and Development (CARD) is the UNHCR's Livelihoods partner in Dzaleka camp and targets vulnerable refugees for its livelihood activities. 60 per cent of participants in its livelihood activities are refugees and 40 per cent are from the host community. Their livelihood initiatives include training in agriculture, manure making, agroforestry, vegetable processing and soap making. They also provide refugees and host communities with inputs for their livelihood activities, such as seeds and other farming inputs. All beneficiaries also receive business and financial training, record training, and group dynamics training which teaches them how to work in a group.⁷⁸

Refugees engage in agriculture activities for consumption, as well as to sell commercially. CARD has an agreement with the host community, whereby they provide farming land to the refugees. In exchange they have been given seed packages and fertiliser, and the cost of constructing an irrigation scheme on their land has been paid for. Some refugees also rent land from the host community to engage in farming.⁷⁹ Refugees can apply for an exit permit to sell their goods outside the camp. The exit permit is not always respected by Immigration officials, who have at times treated refugees as migrants in an irregular status and detained and imprisoned them before sending them back to the refugee camp.⁸⁰ There is also a cooperative that buys produce from the refugees and sells it in markets in urban areas. In addition, vendors visit Dzaleka camp for market day on Thursdays and buy produce from the refugees.⁸¹

A number of stakeholders indicated that due to poverty in the camp women refugees engage in sex work to make a living, which may render them vulnerable to abuse and exploitation. Moreover, lack of income opportunities has led to an increase in domestic violence, and forms part of a cycle of poverty and violence that especially affect women refugees. To address the shortfall in income opportunities the UNHCR encourages women refugees to engage in livelihood activities, such as broiler chicken farming, trading second hand clothes, and running bakery businesses.

There are more than 100 community based refugees organisations in Dzaleka camp that work on social and environmental issues and many focus on activities to support women refugees. This includes raising awareness on women's rights and teaching women and girls skills such as tailoring and making charcoal. These organisations also provide a source of income to refugees as they apply for grants to implement their activities.

3. Asylum-seekers' and refugees' access to the labour market

3.1 Freedom of movement

Malawi registered a reservation to freedom of movement (Art. 26) of the 1951 Refugee Convention. In recent times it has intensified its implementation of the encampment policy. On 1 April 2021 the Ministry of Homeland Security ordered all refugees and asylum seekers who reside or engage in business outside of Dzaleka refugee camp to return to Dzaleka camp

⁷⁸Interview with CARD staff.

⁷⁹Interview with CARD staff.

⁸⁰Interview with the Refugee Department.

⁸¹Interview with CARD staff.

on or before 28 April 2021.⁸² This order is linked to security concerns in Mozambique.⁸³ Discussions with government agencies point at some stakeholders in the Government believing that refugees are involved in the conflict in Mozambique or could be recruited to fight in the conflict.

The Minister of Homeland Security stated that the law entitles the Government to enforce the encampment policy to ensure that refugees reside in a designated location where they can be provided with protection and their situation monitored.⁸⁴ On 12 August 2022, the High Court confirmed that the Government's order regarding the return of refugees and asylum seekers to the camp could take place.⁸⁵ On 27 March 2023 the Government issued a directive to all asylum seekers and refugees to return to Dzaleka refugee camp by 15 April 2023 or face forced relocation.⁸⁶ Following this deadline the Government has forcibly detained and returned refugees to Dzaleka refugee camp, including children.⁸⁷ By October 2023, 762 families of 2,293 refugees and asylum seekers have returned to Dzaleka camp since the government issued the order in 2021. A total of 206 families of 366 individuals are currently hosted at the partitioned Rubb halls and Tents provided by DoDMA in the Reception Centre.⁸⁸ Relocating self-sufficient and productive refugees and asylum-seekers to Dzaleka exacerbates problems of overcrowding in Dzaleka camp, and robs these refugees of the opportunity to live a dignified and self-sufficient life, through which they contribute to the economy.⁸⁹

Refugees need to apply for an exit permit with the Camp Manager, who is employed by the Government's Refugee Department, to temporarily leave the camp. The length of time the permit is issued for depends on the activity that it is issued for. Exit permits are only issued for Lilongwe and Dowa District and for reasons such as attending an educational institution, visiting a hospital and buying stock for a business. To travel beyond these areas a request needs to be made to the Refugee Department in Lilongwe. Asylum seekers and refugees that are found outside of the camp without an exit permit can be arrested and imprisoned.⁹⁰ Refugees may reportedly apply for an urban residence permit with the Immigration Department,⁹¹ but no information could be obtained on this process, and in the current political climate it seems unlikely that such permits would be issued.

3.2 Wage-earning employment

3.2.1 The right to wage-earning employment and its implementation

The Government of Malawi registered a reservation against the right to employment (Art. 17) of the 1951 Refugee Convention. Asylum seekers may not engage in formal wage earning employment. Refugees may engage in livelihood activities in Dzaleka refugee camp and work as volunteers in the camp, for which they receive a stipend. Refugees are not allowed to

⁸²UNHCR (2023). *Briefing on Dzaleka refugee camp and general protection of refugees*.

⁸³UNHCR (2023). *Briefing on Dzaleka refugee camp and general protection of refugees*.

⁸⁴UNHCR (2023). *Briefing on Dzaleka refugee camp and general protection of refugees*.

⁸⁵UNHCR (2023). *Briefing on Dzaleka refugee camp and general protection of refugees*.

⁸⁶Ministry of Homeland Security (2023). *Notice to all refugees and asylum seekers residing in the rural and urban areas in Malawi*, 27 March 2023.

⁸⁷Human Rights Watch (2023). *Malawi: Refugees, Including Children, Forcibly Relocated End Evictions, Confinement to Overcrowded Camp*, 5 June 2023. Available at: <https://www.hrw.org/news/2023/06/05/malawi-refugees-including-children-forcibly-relocated>

⁸⁸Information provided by the UNHCR.

⁸⁹UNHCR (2023). *UNHCR warns of human suffering due to Malawi's 'back to camp' refugee policy*, Press Release, 24 May 2023.

Available at: <https://www.unhcr.org/news/press-releases/unhcr-warns-human-suffering-due-malawi-s-back-camp-refugee-policy>

⁹⁰Interview with Camp Manager.

⁹¹Interview with Refugee Department staff.

engage in formal wage earning employment and cannot apply for work permits. According to the UNHCR, refugees were last able to obtain permission to work in 2017. Reportedly, some doctors, teachers and nurses have been granted a waiver to engage in regular employment, but no information on this process could be identified.

A meeting was convened with the Malawi Department of Immigration and Citizenship Service for this Study but the government representatives did not provide any information on whether refugees are currently allowed to apply for work permits or what this process entails. Key Informants interviewed for this study indicated that a passport is needed to obtain a work permit, as work permits need to be placed in a passport. Most refugees do not have passports and this limitation was seen as one of the reasons that they could not obtain work permits.

3.2.2 Obstacles to accessing wage-earning employment

- **Refugees are generally not allowed to engage in formal wage earning employment**
There appears to be no pathway to formal wage earning employment for refugees in Malawi currently. While some refugee medical professionals and teachers appear to have obtained permission to work regularly in the past, it is not clear that this pathway still exists or how permission to work can be obtained.
- **Refugees do not have information on how they can get access to the formal labour market**
Some refugees indicated that a passport is required to obtain a work permit. Others stated that they do not know how this process works and that they have no information on it. Lack of reliable information on how refugees can access formal employment is a significant obstacle to them to accessing the labour market.
- **Lack of certified training makes it more difficult for refugees to find employment.**
Some training provided to refugees in Dzaleka camp is not certified, such as the training provided by CARD. CARD indicated that refugees have requested to receive certified training. Recognition of their skills may improve their labour market access.

3.3 Setting up a business

3.3.1 The right to set up a business and its implementation

In the current political climate, it is not certain that refugees are able to obtain business permits to operate formal businesses. Following the directive of the Government for refugees to return to Dzaleka refugee camp, the Government shut down refugees' businesses in Lilongwe and other districts, detained them in prison, and left them without any resources in Dzaleka refugee camp.⁹² On 21 May 2023 the Malawi Parliament issued a press statement endorsing the Government's forced returns of refugees to the refugee camp and confirmed that refugees and asylum seekers residing and conducting business outside of the designated

⁹²Human Rights Watch (2023). *Malawi: Refugees, Including Children, Forcibly Relocated End Evictions, Confinement to Overcrowded Camp*, 5 June 2023. Available at: <https://www.hrw.org/news/2023/06/05/malawi-refugees-including-children-forcibly-relocated>

camp without permits contravene the law that regulates asylum seekers and refugees in Malawi.⁹³

The Department of Immigration and Citizenship Service, which issues business permits, would not provide any information on the process or whether refugees are eligible to apply for this permit. Discussions with refugees indicate that a passport is needed to obtain a business permit and that refugees who obtained such permits in the past had passports. Few refugees have passports and refugees are generally not able to apply for a passport from their country of origin from which they fled. Moreover, given the Government's order for refugees to return to Dzaleka camp, it seems unlikely that they would issue them with business permits which they would use to operate businesses outside the camp.

Many refugees run associations in Dzaleka camp, which work on social or environmental issues, such as women's rights. It is a way for refugees to contribute to their community and earn an income, as they can apply for grants from the UNHCR or other organisations to run their associations and implement activities. Refugees indicated that to register an association three Malawians need to be part of the association. They also need to pay 500 USD to register their association with the Ministry of Justice - this enables them to apply for funding for their association. This cost constitutes a significant obstacle for refugees and is generally shared by the members of the association.

3.3.2 Obstacles to setting up and growing a business

- **There is no clear pathway for refugees to set up and grow businesses.**

While refugees have obtained business permits in the past, they did not seem to be able to obtain permits to operate formal businesses in Malawi at the time this study was drafted. At the same time the Government considers refugee business that operate without permits illegal.⁹⁴

- **Growing businesses is hampered by lack of capital**

Refugees highlighted that lack of start-up capital is a significant obstacle to building a business in Malawi. Access to loans and finance is hard for refugees, as they do not have collateral, and there are very few loans that they are able to access. Moreover, many refugees cannot afford transport to Lilongwe to sell their goods.

- **Lack of financial management and marketing training**

Focus group discussions with refugees in Malawi pointed out the need for refugees to receive training on saving and managing finances, as well as how to market and sell their products.

- **Refugees products lack official certification from the Malawi Bureau of Standards, which limits the size of their market**

Refugees' products that are certified by the Malawi Bureau of Standards, such as peanut butter, can be sold outside of the camp, including to larger buyers, such as supermarkets.

⁹³Parliament of Malawi (2023). *Endorsement of Government's Action on enforcing the law on refugees*.

⁹⁴Parliament of Malawi (2023). *Endorsement of Government's Action on enforcing the law on refugees*.

Refugees' products that are not certified can only be sold in Dzaleka camp, and to a much smaller market, which limits the ability of these businesses to expand. CARD indicated that refugees' peanut butter was not certified by the Malawi Bureau of Standards, as processing facilities did not have running water and toilets.

- **Livelihood activities in Dzaleka camp is curtailed by lack of funding**

Informal businesses in Dzaleka camp is an important source of income for refugees. There is very little funding to support refugees with livelihood activities that can lead to the creation of small and medium size businesses.

- **The encampment policy caps the growth of refugees' businesses**

Due to the encampment policy refugees can only operate their informal businesses inside the camp, and need an exit permit to sell their goods outside of the camp. Women refugees stated that they do not always obtain permission to sell their goods outside of the camp. Moreover, at times the police confiscate their goods or they are attacked by bandits outside the camp.

- **Refugees need permission from market committees to sell their goods in markets outside the camp.**

Host communities in the vicinity of the camp may be accepting of refugees selling their goods there. In other parts of the country relations with host communities may not be as amicable and refugees may not be allowed to sell in their markets. These limitations impede the growth of refugees' informal businesses.

- **Women refugees identified domestic work, lack of time management skills, confidence, education and capital as obstacles to starting and growing a business**

During the focus group discussion in Dzaleka refugee camp women refugees pointed out that the burden to sustain the household falls on them. Consequently they have little time to pursue livelihood activities or start a business. They also struggle with time management skills, confidence and would benefit from having a better education and start-up capital with which they could start a business.

- **Refugees lack information on how the tax system works which renders them vulnerable to exploitation.**

During the focus group discussion in Dzaleka refugee camp, refugees stated that informal businesses in Dzaleka camp pay tax due to district laws, but that they do not know on what basis the tax is calculated. They requested to be informed of how it works. They stated that police come to collect tax and if do not pay the tax they are arrested for running an informal business.

- **Refugees need to pay a bribe to register associations**

Refugees indicated that they need to pay a bribe to the Ministry of Justice to register an association. This imposes an additional financial burden on refugees.

- **The growth of refugees' businesses is curtailed by the fact that they are cash operated**

As refugees' businesses are mostly informal, they operate in cash. Big businesses that want to buy bulk generally want to transact through the banking system, which means that they will not buy from refugees.

3.4 Access to finance and financial services

3.4.1 Access to bank accounts

Asylum seekers and refugees can respectively open personal or business bank accounts with an asylum seeker document, refugee ID or factsheet, which contains their bio data and photo. To open a bank account outside of Dzaleka camp, a confirmation letter is needed.⁹⁵

Centenary Bank, which was previously known as My Bucks, is the only bank that refugees can open bank accounts with. The WFP distributes cash to refugees in Dzaleka refugee camp through transfers to their bank accounts that they have with Centenary Bank. WFP identifies a member of the household to hold a bank account that they will transfer cash to. WFP will then deliver the cash transfers for all the members of the household to that bank account. The majority of bank accounts are held by women, as they tend to run the households. They collect the cash distribution once a month.⁹⁶ In total, 14,600 bank accounts are held by refugees and asylum seekers, which is 28 per cent of the total population.⁹⁷

3.4.2 Access to financial platforms for conducting business

Refugees generally run their businesses using cash, because they are not formally registered. Refugees also transact by giving agents cash in the market in Dzaleka, which they send with their phones to other persons. Refugees use different financial platforms and companies to receive remittances, including Western Union, Hallopaise, Mukuru and Mamma⁹⁸ Asylum seekers and refugees respectively use a factsheet or ID to register for mobile money or remittances services providers. An estimated 40 per cent of refugees and asylum seekers use mobile money.⁹⁹

3.4.3 Access to loans

As in other countries, refugees struggle to obtain loans, due to lack of collateral. My Bucks provided group loans to refugees. The members served as a guarantee for each other's repayment of their loans. To qualify groups had to have up to 10 members and run small and medium enterprises. 9 of the 15 groups that they gave group loans to had women members only, and the other six groups had male and female members. Their businesses were inspected by My Bucks prior to giving them the loan. Loans ranged between 50,000 to 500,000 kwacha (USD 46.21 to USD 461.47¹⁰⁰). My Bucks provided these groups with 3 weeks of training on budgeting, loan management, and how to repay loans. Groups were then evaluated on the training material and if they passed the evaluation they were given loans. All groups passed the training and also repaid their loans. The interest repayment was 15 per cent per year, and if repaid after 6 months the interest was halved. Most groups succeeded in repaying after 6 months. My Bucks monitored these businesses by checking in with them every two weeks.

⁹⁵Interview with Department of Refugees staff.

⁹⁶Interview with Centenary Bank staff.

⁹⁷Information provided by the UNHCR in October 2023.

⁹⁸Interview with Centenary Bank staff.

⁹⁹Information provided by the UNHCR in October 2023.

¹⁰⁰Exchange rate of 1 October 2023 on xe.com

These loans helped businesses to increase their capital base and most businesses doubled their output.¹⁰¹ In 2023 My Bucks became Centenary Bank, which then started giving loans to refugees.

Refugees working as volunteers for JRS can obtain payroll loans from JRS. Loans are given up to a maximum of half of their monthly stipend over a six months period, and repaid on a monthly basis. Staff that have a yearlong contract are given a loan once a year. Refugees generally use these loans for house improvements, medical bills, buying furniture and funding higher education. CARD and Plan Malawi also provide payroll loans to refugees¹⁰²

Refugees with officially registered businesses can obtain Itukuke business loans, which range between 5 million to 25 million kwacha (USD 4,621.76 to USD 23,073.7¹⁰³). These businesses need to have 80 per cent of the value of the loan in collateral, and pay 11 per cent interest on the loan over a 1 year period. Due to the lack of collateral refugees have not been able to access this loan to date.

3.4.4 The impact of limited financial inclusion on accessing the labour market

A number of organisations provide financial literacy or management training to refugees, however, this still only reaches a small number of refugees. This includes CARD – they provide financial literacy and budgeting training to the groups that they work with on livelihood activities.

Centenary Bank appears to be the only financial institution offering financial services to refugees, whose financial inclusion in Malawi is therefore limited. Limited access to banking and financial services impede asylum seekers' and refugees' access to employment and self-employment. This includes lacking access to finance for emergency needs; lacking seed money for a business; and lacking resources to invest in gaining new skills and recovering from economic shocks. It also means that businesses owned by asylum seekers and refugees' may have a smaller client base and less scope for growth, as some clients will only transact with formal businesses that have a business bank account. Access to financial services is vital for the economic inclusion of refugees. *Affordable access to financial services can help refugees cope with negative shocks, reduce exposure to risk, and stimulate economic activity at community and national levels.*¹⁰⁴

3.5 Buying land and property

Malawi registered a reservation to *Article 13 Movable and Immovable Property* of the 1951 Convention which deals with the right of refugees to own property. Refugees are not allowed to own land or property in Malawi.¹⁰⁵

Refugees farm on land that belong to the host community. There is an agreement between the refugees and the host community regarding this land usage, which is

¹⁰¹Interview with Centenary Bank staff.

¹⁰²Interview with Centenary Bank staff.

¹⁰³Exchange rate of 1 October 2023 on xe.com

¹⁰⁴UNHCR (2019). *Executive Summary of Inaugural Financial and Economic Inclusion Workshops for Refugees* by UNHCR and the Banking Association South Africa, September 2019.

¹⁰⁵Interview with Refugee Department staff.

facilitated by the UNHCR's implementing partner, CARD. During winter, from April to October, the land is cultivated by refugees (60 per cent) and host communities (40 per cent). The rest of the year the land is cultivated by the host community. Sometimes refugees also rent land from the host community during this time to cultivate.

4. Asylum-seekers' and refugees' access to training, higher education and the recognition of skills and qualifications

4.1. The right to study and its implementation

Malawi has registered a reservation to the right to education (Art. 22) of the 1951 Convention. Due to the encampment policy, refugees are provided with education in Dzaleka refugee camp, in parallel to the national system.¹⁰⁶ The camp provides primary, secondary and tertiary education to refugees and follows the same curricula and examination processes as the public schools in the rest of the country. The education infrastructure in the camp is overstretched and cannot accommodate all refugees¹⁰⁷ Refugees that cannot access the free schools in the camp attend private schools or stay out of school.

Refugees are not allowed to access education outside of Dzaleka camp as Malawians – they do not qualify for national scholarships and would need to pay the fees that foreigners pay.¹⁰⁸ While they do not need study permits to study outside of the camp they would need exceptional permission to reside outside of the camp. It is not clear whether the Government of Malawi currently offers a pathway for refugees to pursue education outside of the camp.

4.2 Access to training and higher education

There are several post-secondary education initiatives in the camp that are run by Jesuit Worldwide Learning.¹⁰⁹ This includes online learning degree programmes, English and computer literacy classes.¹¹⁰ ATE-Hub is a refugee- led organisation which provides refugees in the camp with academic support, such as English writing and computer skills. It is also collaborating with the Southern New Hampshire University to provide degrees programmes to refugees in the camp.¹¹¹ The UNHCR indicated that the main obstacle for refugees to accessing education and training is funding.

4.3 Access to the recognition of skills and qualifications

The National Council for Higher Education is working towards establishing a body that will recognize foreign qualifications and skills in Malawi. The Health Ministry, through the medical

¹⁰⁶UNICEF (2019). *Towards Integration of Dzaleka Camp Refugees' Policy Brief Education in National Systems in Malawi*, Policy Brief April 2019.

¹⁰⁷UNICEF (2019). *Towards Integration of Dzaleka Camp Refugees' Policy Brief Education in National Systems in Malawi*, Policy Brief April 2019.

¹⁰⁸Information provided by the UNHCR.

¹⁰⁹Information provided by the UNHCR.

¹¹⁰JRS (2023). *Refugee students helping other refugee students: Emmanuel's story*. Available at: <https://jrs.net/en/story/refugee-students-helping-other-refugee-students-emmanuel-story/>

¹¹¹JRS (2023). *Refugee students helping other refugee students: Emmanuel's story*. Available at: <https://jrs.net/en/story/refugee-students-helping-other-refugee-students-emmanuel-story/>

council, vets the medical qualifications of refugees if there is a need to employ them as medical professionals.¹¹²

5. Rights at work

Malawi has ratified 10 of the ILO Fundamental Conventions, three of the four governance conventions, and 19 of the 177 technical conventions.¹¹³

5.1 Access to justice

The Constitution of Malawi, 1994 (revised 2017) states that every person has the right to fair and safe labour practices; fair remuneration (article 31.1); and *equal remuneration for work of equal value without distinction or discrimination of any kind, in particular on basis of gender, disability or race* (article 31.3). The Ministry of Labour indicated that the labour laws of Malawi are being reviewed. And while the laws apply to all employees without discrimination on grounds of race, colour, sex, language, religion, political or other opinion, ethnic or social origin, disability, property, marital or family responsibilities, birth or other status, it remains to be seen whether these laws will apply to refugees. In principle all workers in Malawi can lodge a complaint with the Labour office – it is not clear whether refugees make use of this complaint mechanism.¹¹⁴

There are two types of labour inspection in Malawi, general inspections and occupational safety inspections. In principle all work places should be inspected, but a lack of human and financial resources results in a shortfall in labour inspection.¹¹⁵

5.2 Freedom of association

As refugees are generally not allowed to engage in regular employment, they do not appear to have the right to join trade unions¹¹⁶. The trade union interviewed for this Study confirmed that they do not have any members that are refugees.

The Constitution of Malawi, 1994 (revised 2017) states in article 31 (3) that all persons have the right to join and form trade unions. However, the Constitution also states that every person in Malawi has the right to freedom of movement and residence, and this right is not granted to refugees.

¹¹²Information provided by the UNHCR.

¹¹³ILO (2023). *Ratifications for Malawi*. Available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103101

¹¹⁴Interview with the Ministry of Labour.

¹¹⁵Interview with the Ministry of Labour.

¹¹⁶It has to be noted that if refugees are allowed to work then as workers they will have the right to join trade unions.

6. Asylum-seekers' and refugees' access to social security

All workers in Malawi, regardless of their status, are in principle protected by the Workers Compensation Act, 2000, the Employment Act, 2000, the Labour Relations Act, 1996 and the Occupational Safety, Health and Welfare Act, 1997.¹¹⁷ This should therefore also apply to refugees, but it is not clear whether they have benefitted from any protection under these acts.

The Labour Relations Act, 1996 protects and regulates freedom of association, collective bargaining, and dispute settlement in the workplace. The Occupational Safety, Health and Welfare Act, 1997 regulates the health and safety of work places in Malawi.. The Employment Act, 2000 regulates minimum standards of employment with the purpose of ensuring equity between workers. The Workers Compensation Act, 2000 provides for compensation for work related injuries, diseases contracted in the course of employment or for death resulting from such injuries or diseases, and also establishes a Workers' Compensation Fund. Malawi has a social protection programme, but refugees are not eligible.

7. Durable solutions for refugees

The right to work and access labour markets are fundamental to refugees' ability to be self-reliant, live their lives in safety and dignity and contribute to and integrate into their host communities.¹¹⁸ UNHCR promotes three durable solutions for refugees as part of its core mandate: voluntary repatriation, local integration or resettlement. These solutions also aim to promote the self-reliance, safety and dignity, and social and economic integration of refugees. Refugees' participation in the labour market in the context of these solutions are key to achieving the desired outcomes of these solutions.

Local integration

The UNHCR online Master Glossary of Terms defines local integration as a refugee's permanent settlement in its host country, which involves legal, economic, and socio-cultural aspects, and often concludes with the naturalisation of the refugee. In Malawi, local integration is hampered by the encampment policy and refugees' restricted access to the labour market. Moreover, naturalisation through citizenship is not possible for refugees.

Voluntary repatriation

¹¹⁷Interview with the Ministry of Labour.

¹¹⁸Zetter, R. and Ruadel, H. (2018). *Refugees' right to work and access to labour markets: constraints, challenges and ways forward* in Forced Migration Review "Economies, rights and access to work" Issue 58, June 2018. Available at: <https://www.fmreview.org/economies/zetter-ruadel>

Voluntary repatriation is the free and informed return of refugees to their CoO in safety and dignity.¹¹⁹ The voluntary repatriation of refugees may be organised, or it may be spontaneous and undertaken by refugees themselves. The UNHCR facilitates voluntary repatriation from Malawi. In 2023 the UNHCR plans to support the voluntary repatriation of 161 Burundians who have indicated that they wish to return to their country of origin. By October 2023 the UNHCR and the Government had supported the voluntary repatriation of 147 Burundian refugees.

200 refugees from the DRC have also expressed their wish to return, but as 90 per cent of them are from eastern DRC the UNHCR cannot support their return, as it is not considered safe. UNHCR has no statistics on spontaneous returns that may be taking place.¹²⁰

Resettlement

Resettlement is the selection and transfer of refugees to a country that agreed to provide them with permanent residence status and the opportunity to become a naturalised citizen.¹²¹ Resettlement caseloads are determined by Countries of Destination, who have their own criteria for resettlement, such as vulnerable women refugees that are survivors of torture and gender-based violence (GBV).

The UNHCR indicated that the 2023 resettlement quota is 2000 for the US, 300 for New Zealand, 200 for Australia, 100 for Canada. UNHCR explained that a protection panel from the protection office in Dzaleka camp identify vulnerable cases through home visits, such as women and girls who are survivors of torture; refugees that are at risk due to their sexual or gender orientation; and refugees that need medical care. They also have a database of vulnerable cases from which they select refugees for resettlement. The UNHCR Durable Solutions officer and registration team then work with them to generate a list of cases that fit the criteria of the resettlement countries such as refugees that have been in the camp for more than 5 years and refugees with disabilities and special needs. Once the resettlement cases have been accepted by the countries of destination, the International Organisation for Migration (IOM) organises the resettlement process, such as medical clearance, cultural orientation and travel.

Complementary pathways

¹¹⁹ UNHCR. (date unknown). *Master Glossary of Terms*. Available at: <https://www.unhcr.org/glossary>

¹²⁰ Interview with UNHCR staff.

¹²¹ UNHCR. (date unknown). *Master Glossary of Terms*. Available at: <https://www.unhcr.org/glossary>

In the absence of durable solutions, complementary pathways of admission can offer refugees protection and long-term solutions in third countries. Complementary pathways for admission include labour mobility schemes; education programmes; family reunification; humanitarian admission programmes and community sponsorship of refugees.¹²²

Labour mobility is a complementary pathway which refugees can pursue by themselves or through an organised programme. Talent Beyond Boundaries (TBB) connects refugees with international employment opportunities which offers them and their family members residency in stable countries where they can enjoy their rights. Refugees in Malawi register their skills and upload their qualifications onto the TBB talent catalogue. Refugees who do not have documents to prove their skills have their skills assessed through interviews with TBB.¹²³

Canada's Economic Migration Pilot Project commenced the registration of refugees in Malawi in February 2023. Through this programme employers in Canada can select candidates from the TBB Catalogue. Refugees need to have English or French language skills. UNHCR raised awareness on the programme through a radio show and refugees could use the tablets of the secondary school in Dzaleka camp or their phones to register on TBB. By the end of March 2023, 540 refugees from Dzaleka camp had registered on the TBB catalogue. The main skills that refugees in Malawi registered on the TBB Catalogue are: social workers (this entails mainly working as carers for the ill or elderly); teachers; IT specialists; plumbers; welders; brick layers; builders; interpreters; and truck drivers. TBB gave positive feedback regarding these registered profiles. The Canadian Government will provide refugees with travel documents to participate in this programme and once they arrive in Canada they can apply for permanent residency.¹²⁴

The University Corridors for Refugees (UNICORE) provides opportunities for refugees to pursue a master's degree in Italy and is supported by 32 Italian universities, the UNHCR, the Italian Ministry of Foreign Affairs and International Cooperation, Caritas Italiana, Diaconia Valdese, Centro Astalli and other partners.¹²⁵ Selected students enjoy free tuition at the universities participating in the programme and financial support for air travel, and visa-related expenses, and a study grant. In 2022, 6 refugees from Malawi received scholarships from UNICORE to study in Italy. Two of these students already had CTDs and could travel to Italy for their studies. The other four refugees who obtained the UNICORE scholarship could not obtain CTDs and received laissez-passers from the Italian embassy in Zambia, with which they travelled to Italy. The Malawian Government is no longer issuing CTDs to refugees, which severely hampers their ability to engage in complementary pathways. Consequently refugees in Malawi are no longer eligible for the UNICORE scholarships scheme.¹²⁶ 10 refugees in Malawi obtained the Master Card Foundation Scholarship for Kenya in 2022, but they could not take up this opportunity as they could not obtain CTDs to travel to Kenya.¹²⁷

¹²²UNHCR (date unknown). *Complementary pathways for admission to third countries*. Available at: <https://www.unhcr.org/complementary-pathways.html>

¹²³Interview with UNHCR staff.

¹²⁴Interview with UNHCR staff.

¹²⁵UNHCR (2023). *University Corridors for Refugees*. Available at: <https://universitycorridors.unhcr.it/>

¹²⁶Interview with the UNHCR.

¹²⁷Interview with the UNHCR.

A new education complementary pathway has recently opened up to refugees in Malawi, called *Couloir universitaire pour les réfugiés vers la France – Programme UNIV’R/ University corridor for refugees to France*. UNIV’R is open to refugees in a first country of asylum. Participants receive a study grant and living allowance to pursue a two year master’s degree in France.¹²⁸ Refugees are allowed to apply for asylum in France once they finish their studies. If their application is successful, they may stay in France and obtain permanent residence status.

Family reunification is another complementary pathway, whereby refugees in Malawi can join family members in third countries. Third countries all have their own selection criteria and rules for such a process. There are few opportunities for family reunification for refugees in Malawi. Moreover, a very small number of refugees benefit from private sponsorship, through which they can be resettled to third countries. Two requests had been made by private sponsors in New Zealand in the last year to resettle two families from Dzaleka camp in New Zealand. The Government of New Zealand approved these requests and contacted the UNHCR to facilitate this process.¹²⁹

8. Conclusion

While Malawi maintains open borders for refugees, it implements an increasingly restrictive refugee policy. In 2023 it commenced the forced relocation of refugees to Dzaleka refugee camp, which hosts four times more people than it was built for. Refugees that were self-reliant, resilient, and well-integrated into their host communities in semi-urban and urban areas, were uprooted, their businesses destroyed and made to live impoverished in the overcrowded refugee camp. In the current political climate there are no clear pathways for refugees to obtain access to the formal labour market through work and business permits, nor is there a means for refugees that have lived in the country for decades to locally integrate.

The CRRF roadmap contains promising pledges, but has not been adopted. The Government should stop the forced relocation of refugees to Dzaleka camp, lift the reservations to the 1951 Convention and implement the CRRF roadmap to ensure that refugees can live a self-reliant and dignified life in Malawi and contribute to its economy and society.

¹²⁸UNHCR (2023). *Couloir universitaire pour les réfugiés vers la France – Programme UNIV’R*. Available at: <https://services.unhcr.org/opportunities/education-opportunities/couloir-universitaire-pour-les-refugies-vers-la-france-programme-univr>

¹²⁹Interview with the UNHCR.

9. Legal, policy and practice recommendations

Legal Recommendations

- The Government of Malawi should lift all the reservations that it made with regard to the 1951 Convention.
- The Government of Malawi should provide refugees access to the labour market.
- The Government of Malawi should ensure that the labour laws that are being reviewed apply to all people in Malawi, including refugees.
- The Government of Malawi should provide refugees with pathways to local integration, including naturalisation.

Policy Recommendations

- The Government of Malawi should scrap the encampment policy and stop the forced relocation of refugees to Dzaleka refugee camp.
- As long as refugees do not have the right to work, the Government of Malawi should provide refugees with a pathway and clear information on labour market access, including work permits and business permits, and these permits should be made affordable for refugees.
- The Government of Malawi should allow refugees to access education outside of Dzaleka camp and without having to pay fees as foreigners.

Practice Recommendations

Bolstering the rights and protection of refugees

- The Refugee Committee should meet every 30 days and clear the backlog of asylum cases.
- The Government of Malawi should train police and immigration officials on the rights of refugees, including the exit permit which entitles refugees to leave Dzaleka camp (as long as the encampment policy exists).
- The Government of Malawi should adopt the CRRF roadmap and implement its pledges.
- The Government of Malawi should issue CTDs to refugees so that they can engage in education abroad and other complementary pathways.
- As long as the encampment policy is implemented, the Government of Malawi should provide refugees with clear information on accessing urban residence permits.
- The Government of Malawi should provide refugees with clear information on how the tax system works and protection, complaint and reporting mechanisms for if they are asked to pay bribes.
- The Government of Malawi should reinforce labour inspection, including of the work places of refugees.

Enhancing access to livelihood and employment opportunities:

- The UNHCR and partners should increase microfinance and start-up capital for refugees businesses.
- The UNHCR and partners should provide financial management and marketing training to refugees.
- The UNHCR and partners should increase livelihoods activities, for which there is a market demand, and certified training for refugees.
- Refugees should be provided with greater access to land for farming.
- The UNHCR and partners should support refugees to have their products certified by the Malawi Bureau of Standards to enlarge the size of the market that they can sell their products to.
- The Government of Malawi should establish an official body that recognizes foreign qualifications and skills in Malawi.

Strengthening the resilience of refugees:

- The UNHCR and partners should bolster infrastructure, social services and cash assistance for refugees in Dzaleka camp.
- The Government of Malawi should, as long as the encampment policy is implemented, accommodate refugees in settlements with adequate space, housing, infrastructure and social services.
- UNHCR and partners should design strategies to address the cycle of poverty and violence in the Dzaleka camp, and especially its impact on women and girls.

Annex I Key rights of asylum-seekers and refugees in Malawi's refugee legislation

The Refugees Act, 1989 and the Refugee Regulations, 1990
<u>Refugees have the right/duty to:</u> <ul style="list-style-type: none">• Refugees are subject to the laws of Malawi, to the jurisdiction of the courts and all measures to maintain public order.• Refugees will not be expelled or returned to a country where their life or freedom is threatened.• Refugees who wish to travel abroad may apply for a Convention Travel Document to the Chief Immigration Officer.
<u>Asylum-seekers have the right/duty to:</u> <ul style="list-style-type: none">• To apply for asylum and not to be penalised for entering the country irregularly.

Annex II – List of Key Informants

Focus group discussion with refugees

19 refugees in Dzaleka refugee camp

Interviews with refugees

2 urban refugees in Lilongwe

1 woman refugee restaurant owner in Dzaleka refugee camp

Asamala Investment

Mphatso Lungu, Production Manager

CARD

Chifundo Tembo Mphamvu, Sales and Marketing Officer

Centenary Bank

Carolyn Namandwa, Sale Supervisor

ILO

Ndamyo Kbuye, National Project Coordinator

IOM

Jacqueline Mpanyula, National Mixed Migration and Liaison Officer

Malawi Congress of Trade Unions

Madalitso Njolomole, Secretary General

Ministry of Economic Planning and Development

Esnart Phiri, Department of Economic Planning and Development, Principal Economist

Ministry of Homeland Security

Brig.Gen. C.D.E. Kalumo, Director General, Malawi Department of Immigration and Citizenship Service

Hilda Katema, Snr Administrator, Department of Refugees

General Ignacio Maulana, Commissioner for Refugees

Hilary Namakhwa, Camp Manager

Ministry of Labour

Lenius Daiton, Chief Labour Officer, Labour Services

UNHCR

Barbara Aboge, Associate Resettlement Officer and Complimentary Pathways Officer

Ahmed Bashir, Associate Protection Officer

Noel Kabanda, Associate Resettlement and Complementary Pathways Officer

Priscilla Kalumo, Associate Education Officer

Cyr Modeste Kouame, UNHCR Representative to Malawi

Sunduzwayo Mashunga, Livelihoods Officer

Rehema Miiro, Durable solutions officer

Sarah Nayeja, Assistant Field Officer

Esther Nyirenda, Insect Farming Expert

Miyuki Tamura, Associate Resettlement and Complementary Pathways Officer

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