

# HUMAN RIGHTS IN LIMBO:

## KAKUMA REFUGEE CAMP AND THE FREEDOM OF MOVEMENT IN KENYA



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## EXECUTIVE SUMMARY

Freedom of movement is a fundamental human right, enshrined in the Universal Declaration of Human Rights, the 1951 Refugee Convention, the International Covenant on Civil and Political Rights, and Kenya's own Constitution. Yet refugees in Kenya have long been confined to designated areas—principally the Kakuma and Dadaab camps—and may leave only with government authorization. As of December 31, 2025, Kenya hosted more than 835,000 refugees and asylum seekers, the overwhelming majority living in these camps. This report documents how the systems governing their movement deny refugees the ability to pursue education and livelihoods, obtain adequate health care, and advocate for their communities at home and abroad.

The moment is pivotal. The Refugees Act of 2021 decriminalized movement outside designated areas, and in March 2025 the government launched the Shirika Plan to transform the camps into integrated settlements. One year on, however, that promise remains only partially realized: most refugees still live in Kakuma and Dadaab, freedom of movement remains the conspicuous gap in implementation, and steep cuts to United States and other donor funding have deepened vulnerability and slowed the transition. The findings here—drawn from interviews conducted by the University of San Francisco School of Law's International Human Rights Clinic with refugees across Kakuma and the Kalobeyei settlement, in partnership with the refugee-led organizations—show why understanding the gaps that remain is urgent.

Two systems regulate refugee movement: the movement pass system, governing travel within Kenya, and the Convention Travel Document (CTD) system, governing travel abroad. Both lack clear, published criteria, leaving refugees to navigate processes that are opaque, inconsistent, and slow. Many waited weeks or months for documents that arrived too late—after a medical emergency had worsened, a scholarship had lapsed, or an opportunity had passed—while others had never heard of the CTD at all. Movement is restricted even inside the camp, where an unlawful taxation scheme charges refugees to cross between sectors.

Traveling without fully complying exposes refugees to harassment, bribery, detention, and at times violence—and compliance is no guarantee of safety, as those holding valid documents are still stopped and detained, with enforcement falling hardest on refugees profiled by skin color, height, or language as visibly non-Kenyan. A network of private bus companies now profits from these risks, charging premium fares that fold police bribes into the ticket price. The cumulative effect is the erosion of the rights movement makes possible: refugees described being unable to reach hospitals for cancer, epilepsy, and other conditions the camp cannot treat; losing businesses and scholarships; and forfeiting invitations to perform, compete, and advocate abroad. The rights to health, livelihood, education, and freedom of expression are each compromised by the way these systems currently operate.

Above all, this report urges the Kenyan government to move beyond encampment toward genuine integration under the Shirika Plan, consistent with Kenya's Constitution, its international commitments, and the 2017 Court of Appeals decision affirming refugees' right to move freely. Recognizing the present reality of designated areas, it also recommends near-term improvements that align with those of other organizations working on refugee rights in Kenya:

- **To the Kenyan Government:** publish clear, multilingual, free guidance on obtaining movement passes and CTDs and release regular data on applications and approvals; end the unlawful internal taxation of movement and develop affordable transport within the

camp; include refugees in community policing and oversight bodies; and pair each Shirika Plan goal with responsible actors, timelines, and accountability mechanisms.

- **To UNHCR:** support clear public information about movement, enforce safeguards against bribery and corruption, increase transparency around CTD issuance, and ensure access does not depend on personal connections.
- **To the U.S. Department of State Embassy in Nairobi:** train consular staff to recognize and process CTDs and prioritize student visas valid for the full duration of study.

These pages carry the words of refugees living in limbo because of how the movement pass and CTD systems are administered today. Their experiences make the case that the Kenyan government, together with UNHCR, can adopt changes that allow refugees in Kakuma—and across Kenya—to realize the rights to which they are entitled.

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# BACKGROUND

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Kenya is one of the world’s major host countries of refugees with two of the five largest refugee camps in the world and over 835,793 refugees and asylum seekers residing in the country, as of December 31, 2025.<sup>1</sup> Almost eighty-six percent of the total refugees living in Kenya reside in two “designated areas,” or refugee camps: Kakuma and Dadaab.<sup>2</sup> This report focuses on Kakuma, but many of the same findings would be evident for Dadaab residents. Kakuma Refugee Camp (hereinafter “Kakuma”), located in the North-Western region of Kenya, is one of the five largest refugee camps in the world.<sup>3</sup> Kakuma is located in the middle of the vast semi-arid terrain of Turkana County, Kenya, approximately 150 kilometers from the South Sudanese border. The landscape is sparsely forested with a few surrounding mountains. Although the climate is arid and hot, heavy rains are increasing due to climate change, and often cause flooding and destruction in the camp.<sup>4</sup> A small town, Kakuma, borders the entrance to the camp, and the next largest urban area, Lodwar, is 121 kilometers away.

As of December 2025, the Kakuma registered population stood at 310,755, with 225,701 in Kakuma Camp, 82,629 in Kalobeyei, and 2,425 in Eldoret<sup>5</sup> and estimates hundreds of new arrivals per month.<sup>6</sup> The majority of the refugee population is comprised of South Sudanese refugees, as well as large populations from Somalia, the Democratic Republic of Congo, Ethiopia, Burundi, and Sudan, and smaller numbers from Uganda, Eritrea, Rwanda, and Afghanistan.<sup>7</sup>

Established in 1992<sup>8</sup>, Kakuma formed in the wake of the Second Sudanese Civil War when an estimated 20,000 people fled southern Sudan (popularly known as the “Lost Boys,” but including girls and individuals in their twenties), and around half arrived at what is now Kakuma.<sup>9</sup> Since 1992, Kakuma has become a sprawling, protracted refugee camp where many refugees have lived for decades.<sup>10</sup>

Kakuma is divided into four sectors: Kakuma 1, 2, 3, and 4.<sup>11</sup> In 2015, Kalobeyei Integrated Settlement (hereinafter “Kalobeyei”), which lies twenty-five kilometers northwest of Kakuma, was created to address overcrowding within Kakuma. Kalobeyei is comprised of three settlements.<sup>12</sup> A tarmac road connects Kakuma town to Kakuma 1 and Kalobeyei, but all other roads within the sections of Kakuma and Kalobeyei are unpaved and contain large potholes filled with stagnant water, making them unsuitable for driving by most vehicles. Refugees must walk significant distances to access other parts of the camp or pay motorcycle drivers to take them. The camp has no sewage or waste management system and little

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<sup>1</sup> Kenyan Department of Refugee Services and UNHCR, *Kenya Registered Refugees and Asylum Seekers* (Dec. 31, 2025) <https://data.unhcr.org/en/documents/details/121996>; *Refugee and Asylum Seekers Population in Kenya*, MINISTRY OF INTERIOR AND NATIONAL ADMINISTRATION: DEPARTMENT OF REFUGEE SERVICES (Dec. 31, 2025) <https://refugee.go.ke/>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Alex Hunns, *Refugee Settlements Extremely Vulnerable to Climate Crises*, UN University (June 27, 2023); see also Gerawork Teferra, *Kakuma Refugee Camp: Pseudopermanence in Permanent Transience*, 69 *Africa Today* 162, 167 (2022) (citation omitted) (“[W]henver rain falls, rivers become full, places become muddy, movement becomes impossible, business and humanitarian services close, and houses collapse.”).

<sup>5</sup> *Kenya Registered Refugees and Asylum Seekers*, *supra* note 1.

<sup>6</sup> *Id.* (“Compared with March 2024, there is an [overall increase in Kenya] of 2,961 individuals in the total population, from 767,294 to 770,255 mainly because of the registration and new arrivals from South Sudan, Burundi, the Democratic Republic of the Congo, Somalia, and Ethiopia.”).

<sup>7</sup> UNHCR, *supra* note 2.

<sup>8</sup> UNHCR, *Kakuma Refugee Camp*, UNHCR Kenya <https://www.unhcr.org/ke/kakuma-refugee-camp>.

<sup>9</sup> International Rescue Committee [IRC], *The Lost Boys of Sudan*, (Oct. 3, 2014) <https://www.rescue.org/article/lost-boys-sudan>.

<sup>10</sup> “[P]eople are born, get married, and die as a refugee without setting roots, . . . always looking elsewhere” (Oka 2011 Teferra, *supra* note 4 at 164 (The desert landscape [from] the early 1990s has been transformed into an urbanlike area. This should not disguise the precarity of camp life, nor the consequences of instability borne by refugees struggling to live there in increasingly permanent fashion.”).

<sup>11</sup> UNHCR Kenya, *supra* note 8.

<sup>12</sup> *Id.*

formal infrastructure. Most of the structures in the camp are made of mud, sticks, and scrap sheet metal or old food ration containers. Overcrowding in the camp has strained resources – at times camp residents have protested a lack of adequate water,<sup>13</sup> insufficient food rations,<sup>14</sup> access to consistent electricity<sup>15</sup> and access to medical care remains challenging.<sup>16</sup>

Kakuma and Kalobeyei Integrated Settlement, initially managed by the United Nations High Commissioner for Refugees (UNHCR), is now managed by the Kenyan government's Department of Refugee Services<sup>17</sup> ("DRS") with support from the UNHCR, the County Government of Turkana, Kenyan police, and more than forty implementing and operational partners.<sup>18</sup> There are four field posts in the camp where people can engage with DRS staff, two hospitals, twenty-seven primary schools, and nine secondary schools. All visitors to the camp must be approved by the Kenyan government.<sup>19</sup>

Under the Kenya Refugees Act, No. 10 of 2021 and Refugees General regulations 2024, refugees are only permitted to leave Kakuma with a traveling document issued by the DRS, commonly referred to as a "movement pass." For travel within Kenya, the Commissioner for DRS is mandated to issue movement passes pursuant to Section 8 (2)(o) of the 2021 Refugees Act.<sup>20</sup> The Kenyan government issues movement passes for various purposes, including business, medical needs, education, training workshops, and family visits.<sup>21</sup> For travel outside of Kenya to another country, refugees must obtain a Convention Travel Document<sup>22</sup> ("CTD") to exit the camp.<sup>23</sup>

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<sup>13</sup> See Tolosa Asrat, *Dry Nozzles and the Plight of Women: Refugee Leaders Fear Water Crisis Will Provoke Communal Conflict*, KANERE (Sept. 30, 2021), <https://perma.cc/24RD-J4XX>; see also Zaabata Boru & Hassan Mahmud, *Kalobeyei Refugee Protest*, KANERE (Dec. 31, 2022), <https://perma.cc/56LS-BX7E>.

<sup>14</sup> Refugees in the camp rely on food rations, but lack of funding for the international agencies that provide them have led to increased food insecurity. See KENYA NATIONAL COMMISSION ON HUMAN RIGHTS (KNCHR), *TRANSFORMING REFUGEE POLICY: FROM ENCAMPMENT TO SOCIO-ECONOMIC INTEGRATION* (2024) [hereinafter "TRANSFORMING REFUGEE POLICY"]. In June 2024 the UN World Food Programme (WFP) cut food rations in Dadaab, Kakuma, and Kalobeyei refugee camps, giving each person only 40% of the recommended minimum caloric intake to stay healthy. See Obi Anyadike, *Dadaab Voices: Despair as refugee food rations in Kenya slashed by 60%*, The New Humanitarian (June 13, 2024), <https://perma.cc/6JFB-QS9X>. Conditions deteriorated further after the United States paused foreign aid funding in early 2025: by mid-2025, reduced contributions to the World Food Programme had forced rations in Kakuma to be cut to roughly one-third of the recommended caloric intake, with monthly cash transfers ending and each refugee receiving only three kilograms of rice per month against the nine kilograms the U.N. recommends. See Evelyne Musambi, *In One of Africa's Largest Refugee Camps, Food Rations Are Halved After U.S. Aid Cuts*, Associated Press (June 20, 2025), <https://perma.cc/KP2E-PWF2>.

<sup>15</sup> Only 1 per cent of over 200,000 refugees in the camp and the adjacent Kalobeyei settlement have access to electricity through the main power grid. The rest have to rely on expensive, unstable and unreliable alternative sources. See *Refugee-led business provides clean energy to camp residents*, UNHCR (June 5, 2022), <https://perma.cc/M2QQ-YVLA>.

<sup>16</sup> See *supra* note 1; see also TRANSFORMING REFUGEE POLICY, *supra* note 14 at 24 ("[h]ealth facilities in the camps are overstretched, and refugees often struggle to access adequate healthcare services.").

<sup>17</sup> UNHCR Kenya, *supra* note 8.

<sup>18</sup> UNHCR Help Kenya, *Documentation*, <https://perma.cc/WB7X-RL4V>.

<sup>19</sup> Department of Refugee Services, *Application Guidelines for Permit to Visit Refugee Camps*, <https://perma.cc/43HB-E72R>; see also UNHCR Kenya, *Kakuma Camp and Kalobeyei Settlement Visitor's Guide*, <https://perma.cc/7HKC-RBFD>; Kenya Refugee Act, No. 10 (2021) KENYA GAZETTE SUPPLEMENT No. 2010 § 33 (restricting the visitation to the designated areas to those approved by the Commissioner).

<sup>20</sup> Kenya Refugee Act, No. 10 (2021) KENYA GAZETTE SUPPLEMENT No. 2010 § 8.

<sup>21</sup> See UNHCR Help Kenya, *supra* note 18.

<sup>22</sup> The obligation for host states to facilitate travel for refugees is found in the 1951 Refugee Convention (see 1951 Convention relating to the Status of Refugees, *open for signature* July 28, 1951, 189 U.N.T.S. 137).

<sup>23</sup> It is important to note that in various contexts, obtaining a passport from a refugee's home country could put the refugee at risk of "re-availment" of the protection of the country of feared persecution. Note that if the refugee is still undergoing adjudication of their refugee status, it may also undermine their fear of persecution, particularly if the home government is implicated in the persecution. Certain countries, including Belgium and Germany, do require that refugees obtain a passport from the country of origin. The Kenyan Government's Department of Refugee Services advises refugees not to travel with a passport from their country of origin. See Tweet from @DRSKenya, TWITTER (Sept. 12, 2024, 1:12 AM) <https://perma.cc/TV4R-PBNE> (Sept. 12, 2024) ("To all refugees: Using passports from your country of origin puts your refugee status at risk of cancellation or your expulsion from Kenya. Kindly apply for a CTD & surrender your passport to the Department of Refugee Services during registration.").

# LEGAL FRAMEWORK ON FREEDOM OF MOVEMENT

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Freedom of movement is a human right that is widely recognized and enshrined in international law. In 1948, the United Nations (UN) created the Universal Declaration of Human Rights (UDHR), the first internationally recognized agreement that enshrined a non-exhaustive list of human rights, including the right to movement.<sup>24</sup> The right to movement states that everyone has the right to freedom of movement and residence within the borders of States.<sup>25</sup> This right, among others, was extended to refugees in the 1951 Convention and Protocol Relating to the Status of Refugees.<sup>26</sup> In 1966, the right to movement was then included in the International Covenant on Civil and Political Rights.<sup>27</sup>

Scholars, for decades, have recognized that restrictions on freedom of movement affects “the enjoyment of virtually all other human rights to which refugees [are] entitled...”<sup>28</sup> The freedom of movement is heavily intertwined with the universal fundamental right of physical liberty, and is often combined in state constitutions.<sup>29</sup> Article 39 of the Constitution of Kenya states that every person has the right to the freedom of movement and the right to leave Kenya.<sup>30</sup> In 2017, Kenya’s Court of Appeals affirmed a judgement of the High Court of Kenya which held that a 2013 policy to remove all urban refugees to refugee camps and seize processing of asylum seekers outside of designated areas (Kakuma and Dadaab) threatens the rights of refugees and violates the right to freedom of movement within the meaning of the Kenyan Constitution and international law.<sup>31</sup> Furthermore, the international community has “repeatedly called for ensuring freedom of movement for refugees and the protection of their basic rights,” including in 2015 when Argentina urged Kenya to grant exemptions for refugees with specific protection needs to reside outside of the camp and in urban centers.<sup>32</sup> The 2021 Refugees Act creates a process whereby exemptions may be sought.

The official reason for the creation of Kakuma was to house large groups of unaccompanied minors from the war in Sudan and large populations of Ethiopian refugees following the fall of the Ethiopian government.<sup>33</sup> However, the strategic location of Kakuma near the border combined with the remoteness of the camp, the difficult weather conditions and Kenya’s “exclusion and cessation” policies imply that Kenya never intended to house the refugees permanently.<sup>34</sup>

In 2018, the Harvard Law School’s International Human Rights Clinic and the Norwegian Refugee Council partnered to examine freedom of movement within Kenya for Kakuma refugee residents. The

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<sup>24</sup> G.A. Res. 217 (III) A, Universal Declaration of Human Rights [hereinafter UDHR] (Dec. 10, 1948); JUAN RUIZ RAMOS, THE FREEDOM OF MOVEMENT OF ASYLUM SEEKERS WITHIN THE STATE 31 (Edward Elgar Publishing, 1st ed. 2025).

<sup>25</sup> *Id.*

<sup>26</sup> 1951 Convention relating to the Status of Refugees [hereinafter “1951 Convention”] art.12, *open for signature* July 28, 1951, 189 U.N.T.S. 137 and Protocol relating to the Status of Refugees [hereinafter “Protocol”], *opened for signature* Jan. 31, 1967, 606 U.N.T.S. 171

<sup>27</sup> International Covenant on Civil and Political Rights [hereinafter “ICCPR”] art.12, *opened for signature* Dec. 16, 1966, 999 U.N.T.S. 171.

<sup>28</sup> Guglielmo Verdirame & Barbara Harrell-Bond (with Zachary Lomo and Hannah Garry), RIGHTS IN EXILE: JANUS-FACED HUMANITARIANISM, 7, 181 (2005) [hereinafter “RIGHTS IN EXILE”] (“The vast majority of officials from the government, UNHCR, and NGOs working for refugees ignored the fact that their policies violated freedom of movement.”).

<sup>29</sup> RAMOS, *supra* note 1, at 35.

<sup>30</sup> CONSTITUTION art.39 (2010) (Kenya).

<sup>31</sup> *See* Kituo cha Sheria v. Attorney General (2013) (H.C.K.) (Kenya); *see also* Attorney General v. Kituo cha Sheria, (2017) (C.A.K.) (Kenya).

<sup>32</sup> Fourth Cycle Universal Periodic Review of Kenya, *Joint Stakeholder’s Submission by Refugee Rights Cluster of Universal Period Review Kenya Coalition*, ¶16 (October 2024).

<sup>33</sup> *Kakuma Refugee Camp and Kalobeyei Integrated Settlement*, UNHCR (April 3, 2020).

<sup>34</sup> *See* Teferra, *supra* note 4 at 167.

Harvard report found that because of the restrictions on movement within Kenya, many refugees experienced significant reductions in livelihood opportunities, resulting in reliance on humanitarian assistance and increased hopelessness.<sup>35</sup> Existing systems restricting movement have not been examined following the COVID-19 pandemic or the passage and partial implementation of Kenya’s Refugee Act of 2021. This report also expands the scope of the Harvard report to examine freedom of movement more fully, in analyzing refugees’ ability to obtain Convention Travel Documents (“CTDs”) to travel outside of Kenya.

## Kenya’s International Commitments

All international treaties and conventions ratified by Kenya are incorporated into its constitution.<sup>36</sup> In 1966, Kenya acceded to the 1951 Convention Relating to the Status of Refugees and 1967 Protocol Relating to the Status of Refugees.<sup>37</sup> The Refugee Convention articulates protections and rights for refugees, including public education<sup>38</sup> and freedom of movement within the member state’s territory.<sup>39</sup> The Convention also codifies the requirement to issue travel documents to refugees for purposes of travel outside of the member state’s territory.<sup>40</sup> Furthermore, all state parties are to cooperate with the United Nations High Commissioner for Refugees (“UNHCR”) in applying this Convention and provide reports to the UN relating to the condition of refugees, the implementation of the Convention, and local laws, regulations, and decrees relating to refugees.<sup>41</sup>

In 1986, Kenya joined the Organization of African Unity, now known as the African Union (“AU”), in its African Charter on Human and Peoples’ Rights (“Banjul Charter”).<sup>42</sup> Similar to the UN conventions, the Banjul Charter recognized various human rights, including movement, economic development, and the enjoyment of the best attainable state of physical and mental health.<sup>43</sup> As a member of the AU, Kenya has also ratified the OAU Convention of 1969 which governs refugee related issues in Africa.<sup>44</sup> The OAU Convention recognizes the obligation of member states to issue travel documents to refugees.<sup>45</sup>

In 1990, Kenya signed on the UDHR.<sup>46</sup> Among the many rights enumerated in the UDHR, there is the human right to movement, health, and education.<sup>47</sup> Kenya became a State party to multiple UN treaties, including the International Covenant on Civil and Political Rights (“ICCPR”), the Convention on the Elimination of all forms of Racial Discrimination, and the International Covenant on Economic, Social and Cultural Rights (“ICESCR”).<sup>48</sup> Per the Constitution, each of these covenants receives the same constitutional backing as Kenyan domestic law.<sup>49</sup> By way of its incorporation, Kenya thereby recognizes

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<sup>35</sup> Norwegian Refugee Council & Harvard Law School International Human Rights Clinic, *Supporting Kakuma’s Refugees: The Importance of Freedom of Movement* (Aug. 2018) [Hereinafter “NRC & Harvard IHRC”].

<sup>36</sup> CONSTITUTION art.2(6) (2010) (Kenya).

<sup>37</sup> 1951 Convention and Protocol, *supra* note 25.

<sup>38</sup> *Id.* at art. 22.

<sup>39</sup> *Id.* at art. 26.

<sup>40</sup> *Id.* at art. 28.

<sup>41</sup> *Id.* at art. 35.

<sup>42</sup> [African Charter on Human and Peoples’ Rights](#), June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58.

<sup>43</sup> *Id.*

<sup>44</sup> Convention Governing the Specific Aspects of Refugee Problems in Africa (“OAU Convention”), Sept. 10, 1969, 1001 U.N.T.S. 45.

<sup>45</sup> *Id.* at art. VI

<sup>46</sup> UDHR, *supra* note 23.

<sup>47</sup> *Id.*

<sup>48</sup> [UN Treaty Body Database](#).

<sup>49</sup> CONSTITUTION art.2(5), 2(6) (2010) (Kenya)

the human right to education, movement, health, and self-determination, as stated within the UN Conventions.<sup>50</sup>

In 2016, Kenya adopted the New York Declaration for Refugees and Migrants.<sup>51</sup> The New York Declaration reaffirms UN member states' commitments to refugee protection and the collective responsibility of the international community to respond to this crisis. It also calls upon states and UNHCR to develop and apply a "Comprehensive Refugee Response Framework" (CRRF).<sup>52</sup> The objectives of the framework include easing pressure on countries that host large numbers of refugees, enhancing refugee self-reliance, expanding third-country solutions, and supporting conditions in countries of origin for return in safety and dignity.<sup>53</sup>

In 2017, Kenya entered into the Djibouti Declaration on Regional Refugee Education, which established an action plan to determine collective responsibility to ensure education for refugees. The Djibouti Declaration states the commitments to quality education and learning for refugees.<sup>54</sup>

In 2019, Kenya also signed onto the Kampala Declaration on Jobs, Livelihoods, and Self-Reliance for Refugees, Returnees, and Host Communities in the IGAD Region.<sup>55</sup> With this Declaration, Kenya committed to develop, review, and amend its policies to strengthen free movement of refugees and simplify related procedures, among other goals.<sup>56</sup>

In alignment with the objectives of the New York, Djibouti, Kampala, and other declarations, Kenya released its CRRF in 2020.<sup>57</sup> With respect to movement, Kenya's CRRF stated that it would "enhance refugees' freedoms and rights" by reviewing and amending any relevant policies and legislation.<sup>58</sup>

To modernize the refugee system and align with new international commitments, in 2021, Kenya repealed the Refugees Act of 2006 with the Refugee Act of 2021.<sup>59</sup> (Refugee Act). Although the modernized act represents a progressive policy shift towards integration of the refugee population and enhancement of the encampment policies, it is still vague, leaving gaps in the law and implementation.<sup>60</sup> Regulations for implementation, released in 2024, are discussed in this report under Key Findings for both movement passes and Convention Travel Documents.

As the 2024 report from the Kenyan Human Rights Commission and Refugees International summarizes, the Refugee Act of 2021 risks continuing to undermine freedom of movement for refugees.<sup>61</sup> The Report laments the lack of definition around what a "designated area" is:

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<sup>50</sup> ICCPR, *supra* note 25.

<sup>51</sup> G.A. Res. 71/1, U.N. Doc. A/RES/71/1, New York Declaration for Refugees and Migrants [hereinafter "New York Declaration"] at ¶7, (Sept. 19, 2016).

<sup>52</sup> *Id.* at ¶21

<sup>53</sup> *Id.*

<sup>54</sup> Ministry of National Education and Vocational Training, Djibouti Plan of Action on Education 2017, Kenya, Dec. 14, 2017.

<sup>55</sup> IGAD, [Kampala declaration on jobs, livelihoods and self-reliance for refugees, returnees and host communities in the IGAD region](#), 28 March 2019, Kampala, Uganda [Hereinafter "Kampala Decl."] The IGAD region covers an area of 5.2 million square kilometers and includes Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sudan and Uganda.

<sup>56</sup> *Id.* at 3

<sup>57</sup> Kenya Ministry of Interior and Coordination of National Government, [Kenya Comprehensive Refugee Programme 2019](#); *see also* Kenya's Comprehensive Refugee Response Framework titled "[Support for host community and refugee empowerment \(SHARE\)](#)" (Oct. 2020).

<sup>58</sup> *Id.* at 27

<sup>59</sup> Kenya Refugee Act, No. 10 (2021) KENYA GAZETTE SUPPLEMENT No. 2010 § 42.

<sup>60</sup> TRANSFORMING REFUGEE POLICY, *supra* note 14 at 24.

<sup>61</sup> *Id.* at 18.

[a] refugee livelihood expert interviewed by the Kenyan National Commission on Human Rights and Refugees said that the designated area left undefined could be the camp or the county where the camp is located; in effect, this means the law is not a transition from a camp to a settlement, but rather, the expansion of the refugee camp to include the Designated Area, in effect, just another giant refugee camp.

In 2023, the Kenyan government released the Socioeconomic Hubs for Integrated Refugee Inclusion in Kenya (the Shirika) Plan, which focuses on refugee management and transforming refugee camps into “integrated settlements” to support the socioeconomic inclusion of refugees and host communities, including Kakuma and Dadaab.<sup>62</sup> This plan was expected to go into effect in June 2024, then September 2024, and was officially launched at the end of March 2025.<sup>63</sup> Unlike traditional refugee settlements, integrated settlements are geared to promote better livelihoods by creating opportunities for refugees to participate in and contribute to Kenya’s socio-economy.<sup>64</sup> The Shirika Plan consists of the following pillars: (1) systems-building and enabling policy frameworks (strengthening national institutions to ensure equity, equality and inclusion of refugees), (2) integrated services (ensuring equitable access to education, health, shelter, water, sanitation, electricity, and social protection), (3) skills development (community-led market-driven development in the form of technical trainings, market development, and financial services), (4) natural resource management (aimed at sustainable environmental management), (5) sustainable economic development (focusing on rural and urban business’ development, economic infrastructure, and technological development), and (6) durable solutions and complementary pathways (focusing on the voluntary return, advocacy, coordinated assessments, and resettlement).<sup>65</sup> The Shirika plan has come under attack for not being “anchored in law” and also failing to include meaningful and adequate consultation with refugee communities.<sup>66</sup> One year after its launch, the Plan’s promise remains only partially realized: the great majority of refugees still reside in Kakuma and Dadaab, freedom of movement remains the conspicuous gap in implementation, and steep cuts to United States and other donor funding have deepened vulnerability and slowed the transition the Plan envisions.<sup>67</sup>

Despite Kenya’s international commitments and proposals to revise and implement refugee policies that support refugee independence, self-reliance, and the recognition of the right to movement, the interviews conducted in the camp indicate the Kenyan government may be failing to meet those standards. The existing systems, which refugees in Kakuma largely perceive as frustrating, inaccessible, and inconsistent, have restricted the movement of refugees attempting to leave the camp to travel within Kenya and beyond.

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<sup>62</sup> Socioeconomic Hubs for Integrated Refugee Inclusion Kenya (SHIRIKA) Plan [hereinafter “SHIRIKA Plan”] (2023) (Kenya); *see also* Government of Kenya and UNHCR, SHIRIKA Plan: An Update (July 2023); *see also* Government of Kenya, Department of Refugee Services, *Shirika Plan* (April 2023) [Hereinafter “SHIRIKA Plan”]. Advocates in Kenya have shared that the process of developing the SHIRIKA plan was not entirely transparent and did not involve rigorous input from stakeholders.

<sup>63</sup> TRANSFORMING REFUGEE POLICY, *supra* note 14 at 20; *see also* Stanley Nyale, *Government Launches Shirika Plan to Enhance Refugee and host communities Inclusion*, Department of Refugee Services (Mar. 28, 2025), <https://perma.cc/9JZ7-JRWM>

<sup>64</sup> UNHCR, *Kalobeyei Settlement*, UNHCR Kenya <https://www.unhcr.org/ke/kalobeyei-settlement>

<sup>65</sup> SHIRIKA Plan, *supra* note 61, at 4.

<sup>66</sup> TRANSFORMING REFUGEE POLICY, *supra* note 14 at 20.

<sup>67</sup> U.S. Comm. for Refugees & Immigrants, *Statement — One Year On: Advancing the Promise of Kenya’s Shirika Plan* (Mar. 27, 2026), <https://refugees.org/statement-one-year-on-advancing-the-promise-of-kenyas-shirika-plan/> (observing that, one year after the launch, the promise of the Shirika Plan remains only partially realized, with hundreds of thousands of refugees and host-community members still awaiting tangible improvements in livelihoods, education, and health care, and that United States and other donor aid cuts have deepened vulnerability and undermined progress envisioned under the Plan).

# METHODOLOGY

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University of San Francisco School of Law’s International Human Rights Clinic (IHRC), and refugee-led organizations, Elimisha Kakuma and Exile Key Films, collaborated to conduct research on the right to movement, education, and expression in Kakuma. The project began in August 2023 with research on the background of Kakuma Refugee Camp, as well as relevant international, regional, and domestic law and policy. Preliminary research also included ten interviews led by IHRC student attorneys with long-term Kakuma camp residents, who left Kakuma in recent years to attend higher education institutions in the United States, Canada, and Europe.

In March 2024, after requesting permission from DRS to travel to the camp and engage with residents, four student attorneys and one supervising attorney carried out fieldwork in Kakuma. During a one-week period, the team conducted twenty-nine interviews with a diverse range of refugees, including students, business owners, and artists. The interviews were conducted in multiple locations throughout Kakuma camp, including Kakuma 1, 2, 3 and Kalobeyi and interview participants represented all sectors of the camp. Interviewees were identified by community partners, with the intention of providing a representative cross-sample of the camp.

Beginning in January, 2025, three student attorneys and one supervising attorney carried out a series of remote interviews over zoom with five graduates of Elimisha Kakuma who were attending university in the United States at the time.

## Interview Demographics

Twenty-two interviewees identified as male and eighteen as female. The majority of the interviewees (over sixty-five percent) were between the age of eighteen to thirty years old. Ten of the interviewees were between age thirty to forty years old. While some of the younger interviewees were born in the camp or elsewhere as a part of the flight from their family’s country of origin, the “nationality” indicated below is as the individual indicated themselves during the interview.<sup>68</sup> Of the nineteen South Sudanese interviewees, seventeen identified as members of the Dinka tribe, while two others identified as Nuer and Bari tribes. One interviewee identified as Sudanese. Nine interviewees identified as nationals of the Democratic Republic of Congo, three interviewees identified as Burundian nationals, four interviewees identified as Somali nationals, and two interviewees identified as Rwandan.

## Purpose and Structure of Interviews

The aim of the interviews was to gain an understanding of a broad range of refugees’ experiences with movement passes and CTDs, to identify challenges around obtaining these documents, and to explore the consequences refugees faced if unable to obtain the documents.

Interviews were based on a common set of qualitative questions. Interviewees reviewed and signed an informed consent form before participating in the interview, describing the purpose of the research, the

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<sup>68</sup> Kenya does not recognize birthright citizenship. The child of two of refugees would be considered a refugee. *See* CONSTITUTION art.14 (2022) (Kenya).

voluntary nature and extent of their participation within the interview, confidentiality, payment for travel expenses and time, and the terms of consent. Interpreters were utilized when necessary, from Swahili to English. Interviews were recorded on digital voice recorders and later transcribed. Compensation of 3000 Kenyan Shillings (approximately \$21-22 USD per exchange rates at the time) was paid to interviewees and interpreters to cover their time and transportation costs, either in paper bills or through Sendwave, an online money transfer service used extensively in Kenya.

## Community Gathering

After each interview, the interviewer invited each interviewee to a gathering at the end of the week where the research team would present observations and trends regarding the freedom of movement in Kakuma based on the research and interviews conducted. This “community gathering” took place at a hotel adjacent to the camp within Kakuma town. All refugees are able to visit Kakuma town without applying for a movement pass.

Participants who attended the community gathering were reimbursed for their transportation costs which ranged from 100KSH to 400KSH per person. Approximately sixteen interview participants attended the gathering. Our partners gave brief introductory remarks and then the IHRC team presented on trends derived from the week of interviews, regarding the alleged taxation of internal movement along with the ways in which restrictions on movement passes and CTDs affect freedom of expression, right to health, right to education, and right to a sustainable livelihood. The team also discussed alleged bribery and corruption and the challenges within the systems for both types of documentation.

Community members shared their reactions and thoughts around implementing needed change. Community members agreed that a report summarizing the findings to present to both UNHCR and the Kenyan government was important. Strong community support was expressed for making both systems more transparent and more easily navigable by refugees through the provision of concise, clear information through multiple channels and formats. This input, along with other ideas, is incorporated within the recommendations section of this report. The following section shares the key findings based on this research.

## KEY FINDINGS

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The findings below are split into two main sections, movement passes and CTDs. These findings include legal background underlying each movement system and its implications on other human rights and individual identities, including race, nationality, and gender.

### MOVEMENT PASS SYSTEM

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Movement for refugees within Kenya is restricted by the movement pass system, established by law and regulation. This section first discusses the legal structure for movement passes, then analyzes related prominent issues discovered regarding the system, including corruption, stereotypes and bias, and other

implicated rights. One Burundian refugee explained that a movement pass is “the document that allows you to travel, and if you don’t have, you can’t go anywhere.”<sup>69</sup>

## *Legal Framework for the Right to Movement in Kenya*

Every person has the right to freedom of movement.<sup>70</sup> However, as required even by the most recent Refugee Act, refugees are required to reside and remain in designated areas.<sup>71</sup> Designated areas have historically included places colloquially known as “refugee camps,” including Kakuma and Dadaab, and earlier in time in Mombasa, Kitale, and Nairobi.<sup>72</sup> Under the latest Refugee Act, the Kenyan government can designate additional areas and advocates anticipate this happening under the Shirika Plan. The Act requires the Commissioner of Refugee Affairs to issue movement passes to refugees and asylum seekers seeking to travel outside designated areas and within Kenya.<sup>73</sup> However, this requirement to obtain a movement pass implicitly requires refugees and asylum seekers to remain within Kakuma, otherwise historically they risked detention as described through our interviews.<sup>74</sup> Unlike the Refugee Act of 2006, under the 2021 Refugee Act, travel outside of “designated areas” is no longer explicitly recognized as a crime, but implementation of the shift away from the criminalization of refugee movement remains a challenge.

The Department of Refugee Services internally issues the following guidelines regarding the duration of a movement pass to its officers:<sup>75</sup>

| NO  | MOVEMENT PASS REASON:              | DURATION       |
|-----|------------------------------------|----------------|
| 1.  | Back to location/Camp of residence | 21 Days        |
| 2.  | Registration                       | 30 Days        |
| 3.  | Verification                       | 7 Days         |
| 4.  | Education                          | 4 Months       |
| 5.  | Medical reasons                    | 2 Months       |
| 6.  | Workshop                           | 10 Days        |
| 7.  | Festivals or Games                 | 30 Days        |
| 8.  | Family Visit                       | 10 Days        |
| 9.  | Resettlement Interview             | 14 Days        |
| 10. | Family Re-unification              | 14 Days        |
| 11. | Relocation                         | 30 Days        |
| 12. | Business                           | 14 Days        |
| 13. | Others (Open for entry)            | Open for entry |

<sup>69</sup> Interview with Burundian refugee.

<sup>70</sup> CONSTITUTION art.39(1) (2022) (Kenya).

<sup>71</sup> Kenya Refugee Act, *supra* note 19, at § 31.

<sup>72</sup> *Id.* at § 2.

<sup>73</sup> *Id.* at § 8(2)(o).

<sup>74</sup> *Id.*; *see also* Interview with Congolese refugee (“I have been arrested in Nairobi a few times because of travel documents because I am a refugee. I have the ID and so why take me to prison? But they said no and took me ... the time I was arrested... 3 times... I went to Nairobi to do something for my career, like to attend a film festival or exhibition... but they [police] arrest you.”); *see also*, [Supporting Kakuma’s Refugees: The Importance of Freedom of Movement](#), *supra* note 35 at 17 (describing Refugee Consortium of Kenya’s statistics regarding refugee arrests and fines for residing outside of a designated area in 2017).

<sup>75</sup> Anonymous DRS Source.

However, this information does not appear to be available to the public. The most recent regulations, released in February 2024, include the movement pass form, but neglect to establish written procedures.<sup>76</sup> In practice, the burden is on the applicant to prove why they should be given the pass.

The Commissioner of Refugee Affairs may grant refugees and asylum seekers the opportunity to move and reside in different designated areas in accordance with international standards Kenya has signed regarding the right of refugees to freely move within a host state.<sup>77</sup> Currently, there is no clear process for granting refugees an exception to reside outside of designated areas, however, it is within the Commissioner's purview to grant such exemptions.<sup>78</sup> A DRS official has confirmed that an application for exemption can be made through an online platform.<sup>79</sup> However, information about an online application or portal does not appear to be publicly available. The information that the Kenyan government has published online regarding this exemption states that the application should be made in person, contradicting the internal DRS protocol.<sup>80</sup> With these requirements, refugees are largely restricted to the camps, dispossessing them of opportunities relating to business, education, health, and freedom of expression within Kenya.

The DRS has created a refugee handbook that explains the DRS's role in asylum in Kenya and refugee administration.<sup>81</sup> It also contains information about different types of documentation for asylees and refugees in Kenya to establish status or to be able to move within the country or internationally. It is unclear how widely distributed this handbook is among refugees.

### ***Lack of Transparency & Information about Movement Passes***

Information about how to apply for and receive a movement pass is inconsistent throughout the camp. Women who had not completed high school, in particular, reported to have very little information regarding how to request a pass to move outside the camp.

One Somali woman explained that she tried to apply for a movement pass to go buy wholesale goods for her business but was unsuccessful:

*I have never received one. I tried once to apply but I never got it. I never tried it again. When I went to the camp manager, I never had an opportunity to get in, I was just put outside...it was the same process the next day. I assume it's those who have money and pay who are getting the traveling documents. I never actually got to explain why I wanted to travel.*

Even high school graduates who traveled outside the camp repeatedly for education were at times unclear on the movement pass process. One South Sudanese college-bound refugee explained:

*Honestly, I don't know who you are supposed to approach, which office you're supposed to go to, I have asked people about it and they don't know. There are others who have been here for decades, and they don't know... I don't know where to get one from, I honestly don't know.<sup>82</sup>*

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<sup>76</sup> The Refugees (General) Regulations, No. 22 (2024) KENYA GAZETTE SUPPLEMENT No. 25, 313.

<sup>77</sup> *Id.* at § 46(1)(a–h).

<sup>78</sup> *Id.* at § 46(3). See also [UNHCR, Kenya Documentation](#), (“Starting from 22 March 2021, refugees can book appointments for Movement Passes at Field Posts 1, 2, 4 and Kalobeyei from Monday to Friday from 09:00 am to 03:00 pm”).

<sup>79</sup> Anonymous DRS Source.

<sup>80</sup> *Exemption*, DIRECTORATE OF IMMIGRATION SERVICES (2024), <https://perma.cc/YU5P-GXQH>

<sup>81</sup> *DRS Handbook*, *supra* note 177.

<sup>82</sup> Interview with South Sudanese refugee student 1.

In contrast, some of the male business owners we interviewed, along with some of the students who had studied outside the camp, found the movement pass system easy to navigate. They appeared to understand the process and also know who to pay in order to get quick access to the documentation they sought. One Congolese refugee man, a business owner, explained:

*The travel document here is not difficult at all to get, to move here in Kenya...we have a business permit and if you have a business purpose it is very easy to get travel documents.*

One student applied for a movement pass to go from Kakuma to Nairobi, describing the process as very “hectic and stressful,” and that “you never know if you will get one or not... there is no clarity as to how to qualify for the documentation.” It took this student several weeks to receive his movement pass to get from Kakuma to Nairobi. During those weeks, he continued to visit the field office to inquire about his application, and he was told each time that the officers were not working that day or that the printer was broken, but he was never given an update on his application.

Another student reported that his aunt was gravely ill and applied for a movement pass. Her condition was severe enough that the clinic on the camp could not treat her. She waited weeks to receive a movement pass, her condition advancing each day, and she died before she heard back from the DRS.

This disparity in access to information about the movement pass process was apparent at the community gathering we hosted, where individuals like the Congolese businessman quoted above emphasized that the travel document system was “fine,” but others still had no idea how to access it or had tried multiple times without success. Refugee service providers, consulted during the editing of this report, confirmed that the process for obtaining movement passes is not clear, even for advocates.

Advocates further suggest that the time limit for movement passes should be increased. A two-week time period is typically insufficient, given the time and resources it takes to receive a movement pass. In many cases, refugees that do successfully receive movement passes will later be unable to renew them after expiration. This process is flawed, because the movement pass is often required for ongoing travel, like education or business. When movement passes expire arbitrarily and a refugee is not able to renew it, they will be forced to decide whether to forfeit opportunities or health, or travel without a pass. This trend highlights a need for a widespread public information campaign on the camp focused on rights around movement.

## ***Allegations of Bribery and Corruption***

*“I have paid [the police] many times ... that’s the culture ... you cannot say anything about it”<sup>83</sup>*

*“As long as you have money it will be easy for you to travel outside the camp without a pass.”<sup>84</sup>*

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<sup>83</sup> Interview with Congolese refugee.

<sup>84</sup> Interview with South Sudanese refugee 2.

Bribery and corruption have been documented in Kenya for decades.<sup>85</sup> Our findings exposed that corruption and bribery remain entrenched in the movement pass system. Not only did interviewees share instances of bribing police to move throughout the country, but many people reported that they had to bribe camp officials to obtain a movement pass in the first place. Nearly all interviewees explained that they have at one point been asked to pay a bribe to obtain the documents they need and move freely, and nearly all explained that they have paid bribes. The range of bribes reported were generally between 200 KS and 3,000 KS (approximately \$1 USD to \$22 USD).

*“Here, in Kakuma, nothing is really for free. Like they are saying ‘oh services are for free,’ nothing is for free, cause you find that when you go there, for the security to let you in, you have to bribe them....”<sup>86</sup>*

All of the individuals we interviewed experienced corruption in some aspect of their refugee life in Kakuma. The presence of individuals acting as gatekeepers at the camp manager’s office and elsewhere in Kakuma is nothing new. Based on their study of Kakuma and elsewhere in Kenya and Uganda, Harrell-Bond and Verdirame explain: “[a]t every level of society there are also individuals who act as gatekeepers, empowered to control access to services. These individuals often behave in an arbitrary or discriminatory manner, even exhorting money from those requiring services.”<sup>87</sup>

**The following issues regarding bribery and corruption were repeatedly raised during interviews:**

1. To successfully obtain a movement pass, people often must bribe or have a personal connection at DRS;
2. To travel outside of Kakuma, refugees who do not have an official movement pass must bribe police at various checkpoints along the highway in order to continue their journey; and
3. Refugees who successfully obtained a pass still were coerced to bribe police or face delays in their travel, and at times placed in police custody due to police accusations of fraudulent movement passes.

In some instances, interviewees reported paying the camp manager to expedite the approval process of their movement pass for health reasons. Others have paid people closely connected with the application process who would guide them through the application process and ensure their movement pass was approved within a week. One Congolese refugee explained that he persisted in trying to obtain a movement pass to pursue a coaching opportunity outside the camp. He returned to the camp manager’s office on five occasions to try to get the pass. On his fifth attempt he interacted with someone he knew who helped him finally obtain the movement pass, thanks to the person’s connection to someone in the office.

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<sup>85</sup> Verdirame and Harrell-Bond refer to movement passes as “safe travel letters. They explain that their study in the late 90s revealed that refugees leaving the camps in Kenya took “great risks” to travel without these letters. They explain: “In Kenya, traveling without work permits basically meant that in budgeting for their travel, refugees had to include casual payments to policemen at the various roadblocks. In fact, the protection officer stationed at Kakuma complained that the movement of refugees out of the camps had become a business for the police who ‘never arrest a single refugee.’ He said that UNHCR had lodged a complaint with the district officer about police accepting bribes in lieu of a travel permit, a practice that did not allow UNHCR to control movement out of the camp as effectively as they would have wished.” *See RIGHTS IN EXILE, supra* note 27, at 180.

<sup>86</sup> Interview with South Sudanese refugee student 3.

<sup>87</sup> *See RIGHTS IN EXILE, supra* note 27, at 9.

Interviewees shared stories about police entering their bus, traveling to other parts of Kenya, identifying them as a refugee and asking for their documents. For those who possessed proper documents, upon presentation the police would question them and accuse them of having a forged movement pass and would demand they pay a bribe to continue on their journey. Those who refused to pay the bribe were asked to leave the bus and were delayed for hours while the police questioned them. For example, one South Sudanese refugee student traveling with her sister for school outside the camp, with valid travel documents, was pulled off a bus and held by the police throughout the day for seven hours. The police pointed guns at the sisters, accusing them of having forged movement passes.<sup>88</sup>

One interviewee shared that on one occasion, his movement pass had expired when he reached his destination. When returning to the camp, police officers at the roadblocks demanded bribes from him and threatened him with imprisonment if he did not pay. Under the Refugee Act of 2006, traveling outside a designated area without a movement pass was criminalized, but this is no longer the case under the Refugee Act of 2021.

Living day to day on the camp, one Burundian refugee and community leader explained:

*The police here, it's always us against them. When they come, we have to run...I always make sure I run. I am not going to police stations – jail cell is very small, people die inside, they can't breathe*<sup>89</sup>

A South Sudanese refugee explained, amongst several other interviewees, that paying a bribe will keep you out of jail: “[t]here was a time I gave [the police] 7000KSH. There was a time they told me I had to sleep in the cell tonight if I did not pay that amount.”<sup>90</sup>

*They took us, they told the driver to drive us to the police station, they took us to sit down there because we did not have the traveling document – ‘why are you here, you are refugee you are supposed to be in the camp.’ And no one else is supposed to be there legally, so anyone else in the city, is there illegal, so you’re arrested into custody. That time we had the pastor, we had us, and kids also.*<sup>91</sup>

One interviewee shared “*I feel like the police are allowed to take advantage of refugees.*”<sup>92</sup> Not only do the police engage in bribery and corruption, but interviewees shared deeply troubling instances of police violence. Just a few weeks before the interviews took place, three refugees were killed by police on Valentine’s Day, February 14, 2024, after the police broke up a celebration on the camp.<sup>93</sup> One interviewee shared that the celebration was a type of concert or performance. Verdirame and Harrell-Bond recount a long history of police brutality in Kakuma, recounting incidents of police violence against refugees in the 1990s.<sup>94</sup> More recently, in 2023, Amnesty International documented brutality in the camp<sup>95</sup> and there was violence in response to protests over food shortages in 2025.<sup>96</sup>

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<sup>88</sup> Interview with South Sudanese refugee student 4.

<sup>89</sup> Interview with Burundian refugee 5.

<sup>90</sup> Interview with South Sudanese refugee student 2.

<sup>91</sup> Interview with South Sudanese refugee student 3.

<sup>92</sup> Interview with South Sudanese refugee 25.

<sup>93</sup> Interview with South Sudanese refugee; Interview with Burundian refugee.

<sup>94</sup> See RIGHTS IN EXILE, *supra* note 27, at 137, 167–173 (2005) (documenting the practice of police arbitrary arrests, bribery, and corruption).

<sup>95</sup> Amnesty Int’l, *Kenya 2024* (reporting that in the Kakuma and Dadaab refugee camps, protests demanding the return of food aid led to clashes with security forces resulting in injuries and one fatality, and that security forces used unlawful and lethal force during demonstrations).

<sup>96</sup> U.S. Committee for Refugees and Immigrants, *Refugees Protest Inhumane Conditions in Kakuma* (Mar. 4, 2025).

Due to the obscure and inconsistent movement pass application process, many refugees decide to leave the camp without a movement pass. In order to pass the police roadblocks, refugees widely report paying bribes demanded by police officers. If refugees are unable to pay, they face delays to their travel, transportation back to the camp, and hours in police custody. One South Sudanese student was detained, alone, at age 18 and when she said she didn't have money to pay, a male police officer insisted on searching her and put his hands in her pockets until she cried so much that she stopped.<sup>97</sup>

When the above-mentioned student's aunt passed away, he attempted to enter Kakuma to attend his aunt's funeral. He was studying in the U.S. at the time of his aunt's death, and he flew back to Kenya to attend her funeral. When he arrived at Kakuma's entry point, the checkpoint guards seized him and detained him. He explains that the guards saw that he had a U.S. visa and knew that they could take advantage of him. Police detained and beat him for two days, accusing him of staying in Nairobi without documentation for months. They demanded that he pay them a bribe to be released. During his detention, his aunt's funeral happened and he was close by, in a jail cell, unable to grieve and bury his aunt with his loved ones.

An October 2024 stakeholder report in the Fourth Cycle Universal Periodic Review (UPR) of Kenya before the UN Human Rights Council highlights how issues around bribery and corruption persist and gives rise to the "arbitrary arrest and detention of asylum seekers and refugees in Kenya...due to restricted freedom of movement."<sup>98</sup> The report highlights how issues with police officer understanding of legal rights of refugees has led to hundreds of arrests.<sup>99</sup> United Nations human rights treaty bodies have likewise scrutinized Kenya's treatment of refugees and asylum seekers; in its most recent review of Kenya under the International Covenant on Civil and Political Rights, the Human Rights Committee expressed concern about their situation and called on Kenya to ensure their enjoyment of Covenant rights.<sup>100</sup>

The findings discussed above regarding police corruption are also corroborated in the UPR report including unlawful refugee arrests for refugees in transit, because officers fail to recognize movement passes, and at times "extort money or demand additional documents beyond what is legally required."<sup>101</sup>

Whether or not police officers demand bribes often depends on the appearance of the refugee – if the refugee is darker skinned or taller, not appearing to be stereotypically Kenyan, police are more likely to target those individuals for movement pass enforcement and bribery. The interplay between identity and movement is discussed below.

## ***Enforcement of Movement Based on Stereotypes, Bias, and Colorism***

Racial and national identity is implicated in every aspect of movement for refugees within Kakuma. Refugees face discrimination based on race when applying for movement passes and CTDs. They also

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<sup>97</sup> Interview with South Sudanese refugee student 6.

<sup>98</sup> Fourth Cycle Universal Periodic Review of Kenya, *Joint Stakeholder's Submission by Refugee Rights Cluster of Universal Period Review Kenya Coalition*, ¶ 12 (Oct. 2024).

<sup>99</sup> *Id.*

<sup>100</sup> U.N. Human Rights Comm., *Concluding Observations on the Fourth Periodic Report of Kenya*, U.N. Doc. CCPR/C/KEN/CO/4 (May 11, 2021) (expressing concern, in the Committee's most recent review of Kenya under the ICCPR, regarding the treatment of refugees and asylum seekers and urging Kenya to ensure their enjoyment of Covenant rights).

<sup>101</sup> *Id.* at 8.

face discrimination when traveling within the camp and outside of the camp. Discrimination is most overtly expressed when the refugee is profiled as South Sudanese – or any refugee that does not seem like they could identify as Kenyan, due to physical attributes including generally tall height and darker skin color compared to typical Kenyan physical attributes.

### ***Backdrop of Anti-Refugee Sentiment Informing Colorism***

Recognizing the harm caused by colorism and bias is crucial to understand the refugee right to movement. Interviewees reported with great frequency that police stop and bribe refugees. The police and Kenyan community members may have a perceived bias that refugees have wealth through “handouts” from the government or UNHCR.<sup>102</sup> One refugee interviewed explained: “[w]henver you are traveling outside of the camp, and they recognize you as Sudanese, you have to pay money...they believe we have money, but we don’t have money...”<sup>103</sup>

*[S]he asked my friend for his travelling documents and my friend did not have any so they removed him from the bus and were like you have to pay something, we will tell the bus to go if you don’t, they will threaten you and you just have to give them some cash. They know Sudanese are rich, in their mentality they are rich, so they tell you give me \$2000 KS (\$15 USD) and maybe you don’t have that and so at times it’s so difficult.*<sup>104</sup>

Refugees are forced to take drastic measures to hide their ethnic identity to avoid police bribes, such as learning and speaking new languages. One Burundian refugee explained that to avoid bribes at police checkpoints while traveling outside of the camp: “[o]ne time I pretended to be the bus conductor and the police never asked about my ID. I spoke in Sheng [a mix of Swahili-English slang, widely spoken in various versions throughout Kenya] and I can pass as a Kenyan– this is not possible for South Sudanese, or Somali, or Ethiopian.”<sup>105</sup>

Another Congolese refugee explained that the bribery amount may be influenced by the language of the detainee: “I have had to pay them, but how much depends on the language, sometimes you can be set free according how you explain to them, but other times you have to pay. The range may be \$2-\$20, but up to \$200—your language will affect the price.”<sup>106</sup> A South Sudanese student explained: “[w]hen I talk to [the police] in Swahili they know maybe this guy is a Kenyan, so they give back my document and go on.”<sup>107</sup> A Sudanese refugee shared:

*I used to have some classmates who are Turkana. They taught me some Turkana language, so when I spoke to the policeman, they would think that I’m not a refugee. So, I don’t pay that amount of money and I can travel without the movement pass.*<sup>108</sup>

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<sup>102</sup> See, e.g., *From Displacement to Development: How Kenya Can Create Shared Growth by Facilitating Economic Inclusion for Refugees*, Refugees International (Nov. 2021) (highlighting the perception among Kenyans that refugees get more services than Kenyan citizens).

<sup>103</sup> Interview with Sudanese refugee student 9.

<sup>104</sup> Interview with Sudanese refugee student 21.

<sup>105</sup> Interview with Burundian refugee 7.

<sup>106</sup> Interview with Congolese refugee 26.

<sup>107</sup> Interview with South Sudanese refugee student 8.

<sup>108</sup> Interview with Sudanese refugee student 9.

### ***Instances of Profiling Against South Sudanese Refugee Students***

Even when refugees have lawfully obtained their movement documentation, the police may still conduct illegal stops based on the color of their skin. One South Sudanese refugee student recounts an incident of discrimination by the police based on skin color:

*So, one time, on our bus back [to Kakuma], we had one of our South Sudanese friends with us. She wasn't a typical south Sudanese because she looked like a Kenyan, her physical appearance. She was lighter compared to us. So, all of us were ejected outside of the bus and they asked for our movement passes. However, she wasn't asked because she didn't look like a South Sudanese. No one else on the bus was asked besides us South Sudanese students.<sup>109</sup>*

Students attending school run the risk of missing days of school, or even being put into jail, when traveling with or without a movement pass.

Another issue reported repeatedly by refugee students was police asking for the movement pass and the “refugee ID.” Because individuals under age eighteen cannot obtain the refugee identification document, these children were often forced to pay police bribes to continue their journey to or from school outside the camp.

### ***Instances of Profiling Involving Police Arrest and Detention***

One Burundian refugee recounted an occasion where he was traveling with a valid movement pass, was stopped by police, and despite his document he was detained in the Kakuma town jail cell:

*A cell is the jail cell in Kakuma Town police department. The room – there are no windows, you have to go for do your business in that room, you urinate, it is smelly, it is hot, you can literally suffocate in that room. I was there for three hours. If you enter that place, there are people who have been there for months, so they will come with some beatings, some slaps and you can't respond... I really felt terrible because I'm in the cell. I have the document, I'm not supposed to be here, why am I here? I had a lot of questions, and I didn't have a lot of answer[s].<sup>110</sup>*

The stories shared by several refugees inform our recommendations for the Kenyan government and UNHCR to enforce policies against bribery and corruption that consider the context of colorism and racial profiling.

### ***Alternate Transportation System Emerges Due to Restrictions on Freedom of Movement***

*“Since the Tosha [bus system] came, people don't bother to pay for the movement pass. Some people don't like risking getting stopped.”<sup>111</sup>*

In the past few years, alternatives have arisen to the traditional bus system that refugees use to travel throughout Kenya. In 2021, a Somali company launched the “Tosha” bus system, where refugees pay a premium to avoid confronting the police directly and for a much faster ride that will not be stopped as

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<sup>109</sup> Interview with south Sudanese refugee student 10.

<sup>110</sup> Interview with Burundian refugee 7.

<sup>111</sup> Interview with Burundian refugee 5.

often by the police.<sup>112</sup> On the Tosha bus, the drivers pay the bribes to the police officers. However, refugees must pay a heightened price of 3500 KSH for their Tosha bus pass each trip whereas a normal bus ticket costs roughly 1600 KSH. Tosha now has a competitor, through the Takawal company,<sup>113</sup> and reduced their prices from 4000KSH to 3500 KSH to compete.

While the Tosha/Takawal bus system is an alternative to the traditional movement system, it is extremely expensive for refugees and also is not completely immune to police corruption if you are a refugee. A South Sudanese refugee describes his experience with the Tosha bus system:

*When we were traveling [to Nairobi to meet a group of college admissions counselors], we didn't want to use the bus system and we also didn't have the traveling documents, so we [had] to go pay extra cash for the [Tosha] bus system. But going there, the owners of the bus decided to sell our tickets, so we didn't have seats. So, we had to travel standing up to Kitale, and upon arriving to Kitale, these police men came into the bus and found us standing... and ask[ed] us for more money. Since we could not afford missing the session we had to pay that extra money.*<sup>114</sup>

Since the arrival of the Tosha/Takawal buses as an option for refugee movement, many interviewees reported that refugees do not even attempt to obtain a movement pass: “Most of the people I know they don't go with travelling document or the movement pass, just the Tosha.”<sup>115</sup>

However, relying on the Tosha buses is not a foolproof strategy. Two South Sudanese refugees shared about a friend who had an interview through the World University Service of Canada program (WUSC) to study in Canada<sup>116</sup> and attempted to travel to Nairobi for the interview on a Tosha bus. When no tickets were available, he took a different bus from a company which had not pre-negotiated bribes with the police. The police stopped his bus and detained him for 24 hours. He missed his interview and chance to secure a scholarship to a university overseas.

Taking a Tosha/Takawal bus protects refugees from being stopped by police en route to their destination, but after arrival, refugees are still subjected to racial profiling and enforcement of the movement pass system. One South Sudanese refugee student explained this in depth:

*I look South Sudanese because I am tall and dark, so they know you're South Sudanese. The moment you get where you're going...that is when the problem begins. Because anytime you travel, or even when just walking and minding your own business, then maybe the police come like “where is your ID?” You don't have it, because you're not in your country. “Where is your alien card?” When you produce the alien card, they're like, “you're a refugee you're supposed to be in the camp, why are you here? Where is your traveling document?” Maybe you say you're here for school. “Well, why are you not here in school? If you're supposed to be in school, then why are you not there?”*

*So, they will take you into jail and maybe...according to how they see you, you're not supposed to be there. So sometimes you find like you're walking around town and its maybe late, maybe around 9, 10....they think like every one of us is violent and maybe we're itching for a fight, so*

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<sup>112</sup> Tosha has had a Facebook presence since 2022 and a [TikTok](#) presence also since September 2022.

<sup>113</sup> See [Takawal Coaches, Kenya](#).

<sup>114</sup> Interview with Sudanese refugee student 10.

<sup>115</sup> Interview with Sudanese refugee student 21.

<sup>116</sup> See WORLD UNIVERSITY SERVICE OF CANADA, <https://wusc.ca>

*anytime they get people they just arrest them. And anytime you say maybe you're not a refugee, then "what are you doing in Kenya...you're not a refugee? So, you are here illegally..."*<sup>117</sup>

Traveling as a refugee with or without a valid movement pass outside of Kakuma subjects individuals to a risk of arrest, harassment, and bribery. Unfortunately, movement even within the camp is not free from bribery, as discussed in the following section.

### ***"Taxation" on Internal Movement within Kakuma***

Movement within Kakuma's four sectors and Kalobeyei is also restricted. Previous reports have documented the curfew imposed on refugees in Kakuma, with no clear legal basis.<sup>118</sup> Refugee interview participants recounted instances of police bribery and brutality in response to refugees being "caught" outside of their homes after curfew.

Another common issue reported in interviews was illegal and unsanctioned taxing by security services within the camp. One interviewee reported that the entity engaged in this taxing was the General Services Unit ("GSU"), a paramilitary wing of the Kenyan National Police Service, based on uniforms and vehicles.<sup>119</sup> According to almost every single refugee interviewed, security forces are present by what locals and refugees call the "laaga," a body of water (although most often a dry river bed) dividing several sectors of the camp, from 12-6pm and tax movement between camp sectors.

To pass between different sections of the camp by motorbike (known as "boda bodas" or "piki pikis"), motorcycle drivers must pay a fee of 50 KSH each way, or 100KSH a day. Reports around this system were universally consistent and as one refugee explained:

*They make movement even within Kakuma difficult. There is a part by the laga where you cannot pass so you pay 50 KSH to pass. they call it protecting you – the police make you. They are stationed where the boda boda (motorcycles) pass. You have to go for a number of reasons – for example I live in Kakuma 1, but I have to go to Kakuma 3 to get my food rations because that's where I was assigned... but for the boda boda to pass, I have to pay the 50 KSH to pass. This is almost everywhere. They have turned it into a business they are starting to position themselves in different places.*<sup>120</sup>

The internal bribery scheme is well known to Kakuma residents, and all thirty-nine interviewees were able to speak about their experience with remarkably consistent details. Interviewees also recounted that when UNHCR vehicles appeared, the GSU vehicles would disperse and stop charging the fee to pass across certain sections of the camp. The refugees are aware that this system is illegal but say, "They tell you to pay and that's the culture you cannot say anything about it."<sup>121</sup>

The original impetus for GSU presence was safety, given the prevalence of violent attacks or robberies of refugees crossing the "laaga," but most refugees explained that they perceived the officials not to be there at all to ensure refugee safety, but to accept bribes for passage from one area of the camp to another.

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<sup>117</sup> Interview with South Sudanese refugee student 3.

<sup>118</sup> See NRC & Harvard IHRC, *supra* note 32 at n.36.

<sup>119</sup> Interview with Burundian refugee 5; see also *Last Resort: Inside Kenya's General Service Unit*, AFRICAN CRIME & CONFLICT JOURNAL (Sept. 21, 2023).

<sup>120</sup> Interview with South Sudanese refugee student 1.

<sup>121</sup> Interview with Congolese refugee 17.

One interviewee explained a GSU official slapping a motorcycle driver and having to sell some of her food rations to pay the bribe:

*There was a time I was arrested by the police I was coming from the food distribution center... loading everything on the boda boda, the police officer ordered me to pay... I had no cash. The police officer took the keys. I had to sell a portion of the food I was carrying. They even slapped the guy – the boda boda driver – a back hand slap to the face. I pitied the guy; it was early in the morning. The Boda boda driver is a refugee who lives in Kakuma.<sup>122</sup>*

While the amount charged to pass from one sector of the camp to another may seem negligible at 50 or 100 KSH a day, this amount of money can be insurmountable for many in Kakuma who have no source of income other than what they receive through the UN World Food Programme's Bamba Chakula system.<sup>123</sup> One South Sudanese interviewee living in Kalobeyei explained that in the eight years she has lived in Kalobeyei, she has only been able to travel to Kakuma town three times, where goods are much more affordable, because of the cost of transportation to get from Kalobeyei to Kakuma town since individuals usually have to pay motorcyclists to drive them to and from the town, because it is too far to walk.

## Rights Harmed by the Current Movement Pass System

The inability to travel in and out of Kakuma implicates other human rights issues, including, but not limited to the right to health, freedom of expression, the right to sustainable livelihood and the right to education. The ways in which these rights are infringed upon by the dysfunctional movement pass system are discussed below.

### *Right to An Adequate Standard of Health*

The right to health is a widely understood human right enumerated in Article 25 of the UDHR.<sup>124</sup> The most comprehensive statement of the “right to health” can be found in the ICESCR, Article 12.<sup>125</sup> It explains “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”<sup>126</sup> The Committee on Economic, Social and Cultural Rights, the UN body monitoring compliance with the ICESCR, has also provided detailed guidance on implementing the right to health.<sup>127</sup> Like other economic, social, and cultural rights, ICESCR recognizes that state parties may need to use available resources to work towards the progressive realization of the right to health,<sup>128</sup> but the Kenyan Constitution also explicitly recognizes the right to health under Article 43.<sup>129</sup>

<sup>122</sup> Interview with South Sudanese refugee student 1.

<sup>123</sup> World Food Programme, *Bamba Chakula: Vouchers for Food Assistance in Kenya's Refugee Camps* (May 2015); see also *Dadaab Voices*, *supra* note 14 (explaining Bamba Chakula has been discontinued).

<sup>124</sup> “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.” UDHR, *supra* note 23, at art. 25.

<sup>125</sup> International Covenant on Economic, Social and Cultural Rights [hereinafter ICESCR], Dec. 16, 1966, 993 U.N.T.S. 3,

<sup>126</sup> See International Convention on the Elimination of All Forms of Racial Discrimination [hereinafter ICERD] art. 5(e)(iv), Dec. 21, 1965, 660 U.N.T.S. 195; and Convention on the Elimination of All Forms of Discrimination Against Women [hereinafter CEDAW] art. 11(f) and art. (12), Dec. 18, 1979, 1249 U.N.T.S. 13; and Convention on the Rights of the Child art. 24., Nov. 20, 1989, 1577 U.N.T.S. 3.

<sup>127</sup> U.N. Comm. on the Econ., Soc., and Cultural Rts. (CESCR), General Comment No. 14 (2000) *Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social, and Cultural Rights* (art. 1, para. 7), CRC /C/GC/14 (Aug 11, 2000).

<sup>128</sup> International Covenant on Economic, Social and Cultural Rights [hereinafter ICESCR], Dec. 16, 1966, 993 U.N.T.S. 3, art 2(1).

<sup>129</sup> CONSTITUTION art.43 (2010) (Kenya) (“Every person has the right-- (a) to the highest attainable standard of health, which includes the right to health care services, including reproductive health care...”).

The right to movement in Kakuma refugee camp is significantly restricted, causing numerous violations and implications for the right to health.<sup>130</sup> The lack of medical support and infrastructure inside the camp<sup>131</sup> is an additional burden on the right to health, often causing complications and worsening health conditions. Due to the overstretch of health facilities, refugees “often struggle to access adequate healthcare services”<sup>132</sup> which contributes to the need for refugees to seek medical care outside of the camp. Interviewees reported health issues including cancer, epilepsy, mental health and trauma related ailments, and albinism. Although interviewees indicated that they had received “referrals” from medical professionals on the camp to assist them in obtaining movement passes, the system around movement passes remained opaque and difficult to access.

Three of the twenty-nine people we interviewed on the camp report untreated cancer affecting themselves or a loved one, including how movement restrictions and camp conditions worsen symptoms or prove fatal for refugees. One Congolese interviewee reports that he suffered from early symptoms of prostate cancer when he first arrived in Kenya as a child. His illness went untreated despite severe symptoms and interfered with his education. He reports that although he received an operation inside Kakuma to treat prostate cancer in 2014, his cancer returned and continues to worsen. He was unable to receive treatment for the last nine years and was denied movement passes from DRS related to his search for medical attention. He says:

*I was operated on in 2014, by 2015 [the cancer] came back. Since then, I have never gotten any help, in nine years... Its nine years now trying to get a traveling document, but it's not really been working...I don't even go nowadays [to the clinic] because they only [give] you simple drugs: paracetamol, painkillers, these are drugs I can get at a nearby pharmacy. Even if I show them the situation they say “wait, keep waiting.”<sup>133</sup>*

The interviewee explained he no longer can work or engage in daily activities like lifting objects or riding on a motorcycle, and instead spends most of his time “inside the house, not doing anything” due to his severe and worsening symptoms.

A young interviewee from Burundi reported that she was denied a movement pass to help her mother receive treatment for uterine cancer. She explained:

*In 2022, in June, my mom was sick, very sick, and we went to [the] hospital where refugees go, and they didn't help. They said that maybe we'll have to come home and wait to see if she will die...[We] have to have travel documents to go to hospital outside the camp. It's very, very difficult to get the travel document.<sup>134</sup>*

The interviewee “begged” the camp manager for over two months for a movement pass to go to a hospital equipped to treat her, while her mother’s condition worsened. By the time the interviewee obtained a

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<sup>130</sup> Right to health problems and movement nothing new: “Restrictions on the freedom of movement and on the right to choose one’s place of residence generated violations of the right to health.” See RIGHTS IN EXILE, *supra* note 27, at 146.

<sup>131</sup> “Most of the complaints were regarding regular essential drugs stockouts, low quality generic drug supplies, low quality of care, poor service provider attitudes, lack of specialist diagnostic equipment and regular breakdown of essential medical equipment.” See Gender Assessment of Kakuma Refugee Camp and Town & Kalobeyei Settlement and Town, *Marketshare Assoc.* 57 (Dec. 2019).

<sup>132</sup> TRANSFORMING REFUGEE POLICY, *supra* note 14 at 24.

<sup>133</sup> Interview with Congolese refugee 11.

<sup>134</sup> Interview with Burundian refugee 19.

movement pass for her mother to go to a hospital in Eldoret, her mother was in worse health and died soon after reaching the hospital.

Two people interviewed suffer from epilepsy, which is often worsened by exposure to sun and extreme heat.<sup>135</sup> Restrictions on accessing medications or movement passes to receive medical help intensify symptoms.

One interviewee from Rwanda suffers from epileptic seizures which led to falls and related injuries. She also suffers from trauma related memory loss. A family member cares for her and reported on how difficult it was to obtain a movement pass to access treatment for her damaged teeth after suffering a seizure:

*The only way she could get treatment was for both of us to get travel documents. It wasn't easy to get but I paid the camp manager 3000KSH and then got it. This was in August 2023. This took two days. We went to Lodwar for a day – there was a bone cracked in her mouth, it was very expensive, and we couldn't afford the full treatment.*<sup>136</sup>

Additionally, the general medicine she receives on the camp for her condition leaves her “robotic” and unresponsive.<sup>137</sup> Refugees should not have to bribe camp authorities to receive movement passes for medical treatment unavailable in the camp. This individual is routinely ignored and disregarded by the current movement pass dynamics in the camp.

Movement in the camp also affects people with albinism.<sup>138</sup> The lack of shade and transportation inside of the camp creates an extreme burden for people with albinism to travel through the camp to pick up rations, schoolbooks, supplies, and medications.

One interviewee from Somalia reported how his albinism disables him from self-reliance in the camp and how difficult and inaccessible the movement pass system proves to be to him:

*Coming back from school to home, which is very far, it affected me because I could not walk in the sun for too long. I get burned...if I walk home for like an hour, when it is night later, my skin just aches all night. I really wanted to leave the camp and get proper treatment, with the environment here that is harsh, especially the heat and look at my skin color. But I could not access the travel document.*<sup>139</sup>

This individual shared that he did not fully understand how the movement pass system works, despite efforts to learn. He expressed sentiments of hopelessness and desperation related to his inability to access information, which is further encumbered by his lack of English proficiency. He also suffers from

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<sup>135</sup> “I happen to be epileptic, so I experienced quite a number of challenges. First, the weather...I don't do really well in extreme weather if it's too hot or too cold, sometimes it messed up with my old system.” South Sudanese Interview Participant 12. *See also* “Hyperthermia may occur as the result of exposure to extremely hot and humid environmental conditions, or exertional heatstroke, pharmacological interventions, or other pathological conditions. In adult rodents, hyperthermia aggravates both seizures and hippocampal damage provoked by either neurotoxic or non-neurotoxic doses of kainic acid following the elevation of core body temperature to 42 °C.” Gulcebi MI, Bartolini E, et al, *Epilepsy Climate Change Consortium*; Sisodiya SM. *Climate change and epilepsy: Insights from clinical and basic science studies*, *Epilepsy Behav.* (2021).

<sup>136</sup> Interview with Burundian refugee 7.

<sup>137</sup> *Id.*

<sup>138</sup> “Albinism is a rare, non-contagious, genetically inherited condition which commonly results in the lack of melanin pigment in the hair, skin and eyes, causing vulnerability to sun exposure. The physical appearance of persons with albinism is often the object of erroneous beliefs and myths influenced by superstition, which foster their marginalization and social exclusion.” *See UN [Independent Expert on the Rights of Persons with Albinism](#).*

<sup>139</sup> Interview with Somali refugee 25.

eyesight impairment, as an effect of albinism, which impacted his ability to learn English upon arriving in Kakuma and exacerbates his challenges related to navigating the movement pass system and his health condition.<sup>140</sup>

Even in emergency situations, police do not allow refugees to leave the camp. One interviewee from South Sudan arrived in Kakuma as a baby and suffers from epilepsy, worsened by the extreme heat in Kakuma:

*In 2020, I was really sick with my condition and the weather here in Kakuma and so I had to leave Kakuma. They didn't really care that much, the police officers, even with the evidence that my legs were swollen, my face, my hands. During that time, the offices for movement passes were closed, all of them, so there was no way I could get any proper documentation to leave the camp. Remember I am sick, I would do anything I can to get proper medication. I had to force my way out of the camp. The police stopped me along the way.<sup>141</sup>*

Another interviewee shared that a motorcycle hit their cousin, leaving him bleeding badly. Health professionals at the clinics on the camp advised that the injured person needed immediate medical attention from a hospital outside the camp. Family members managed to get a UN vehicle to try to leave the camp. At the border of the camp, however, Kenyan police stopped the vehicle and asked to see the movement pass. When no valid movement pass was produced, police did not allow the bleeding individual to leave the camp to receive medical treatment. They died later that night from their injuries.<sup>142</sup> These stories demonstrate how the way the movement pass system currently operates does not account for time sensitive or serious medical issues.

## ***Right to Sustainable Livelihood***

The refugee right to contribute to the Kenya economy is recognized in the Refugee Act of 2021.<sup>143</sup> This is further supported by the right to work within the UDHR<sup>144</sup> and the ICESCR.<sup>145</sup> Despite this legally established right, through curtailing freedom of movement, the Kenyan government undermines the rights of refugees in Kakuma to engage in work.<sup>146</sup> UNHCR has recognized the encampment policy and lack of freedom of movement as impediments to economic inclusion for refugees in Kenya.<sup>147</sup> These movement-based obstacles compound structural barriers to lawful work that other observers have documented, including the lack of interoperability between refugee registration systems and Kenya's national identification system and work-permit rules that treat refugees as expatriates.<sup>148</sup> During interviews, at least five individuals shared they struggled to start and maintain their businesses and their ability to support themselves was adversely impacted by restrictions on freedom of movement.

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<sup>140</sup> Kenya faces challenges with ensuring rights and access to health services for Kenyans living with albinism in general. See A/HRC/40/62/Add.3: *Visit to Kenya - Report of the Independent Expert on the enjoyment of human rights by persons with albinism* (Jan. 22, 2018).

<sup>141</sup> Interview with South Sudanese refugee 12.

<sup>142</sup> Interview with South Sudanese refugee 27.

<sup>143</sup> Kenya Refugee Act, *supra* note 19, at § 5(4)

<sup>144</sup> UDHR, *supra* note 23, at art. 23.

<sup>145</sup> ICESCR, *supra* note 124, at art. 6.

<sup>146</sup> See Teferra, *supra* note 4, at 183 (Restrictive and discriminatory policies—mainly related to travel, licensing, and access to finance and potential markets flowing from refugeeeness—limit the growth of camp businesses, discourage potential entrepreneurs, and sometimes cause losses and closures.”)

<sup>147</sup> UNHCR Kenya, *Multi-year Strategy 2023-2026: Livelihoods and Economic Inclusion*, 11–12 (June 2022).

<sup>148</sup> See Halakhe & Kara, *Removing Red Tape*, *supra* (explaining that the absence of data interoperability between the refugee registration systems maintained by the Department of Refugee Services and UNHCR and the national identification system, together with work-permit rules that treat refugees as expatriates, leaves many refugees effectively invisible to government services and unable to access lawful employment, and recommending a single unified identity document in place of the movement-pass arrangement).

### ***Experiences of Refugee Women Interviewed***

One woman explained that she wanted to start selling clothing and needed to go to Nairobi to showcase her products. However, she was denied a movement pass despite explaining her reasons and had to abandon her venture. Another woman was unable to maintain her cosmetics re-sale business because she could not get out of the camp to purchase wholesale goods: “*I started this in 2022, currently my business is closed because I failed to get a travel document and going to Nairobi without a travel document is very difficult.*”<sup>149</sup> She explained that “*lacking a travel document has really affected life negatively. I am a business person and I really have to travel outside. I would lose customers... I did not have enough goods for my customers, and I had to close down my business. It really affected my financial life.*”<sup>150</sup>

Another Somali woman had a similar experience:

*I have trouble getting the travel documents a lot and I am a business woman who sells groceries, so it's very hard for us as we get groceries from the outside, so sometimes we find that there is a delay because we don't have the traveling documents and we can't go and get them. So sometimes the customers are complaining that you are selling bad things. So, at this point, I closed my shop because I can't get the groceries, because I don't have the traveling documents... if my business fails, we go hungry.*<sup>151</sup>

### ***Experiences from Refugee Men Interviewed***

Although the men interviewed generally seemed able to more easily obtain movement passes, one male business owner expressed his frustration in obtaining spare parts for his motorcycle repair shop.

When obtaining a movement pass, the officials required one refugee to show his business certificate. Because he was unable to display his business certificate, he was then denied a movement pass and resorted to bribing the official.<sup>152</sup>

Another individual had to quit his coaching business because of complications with his movement pass. After obtaining his movement pass and arriving at the location outside the camp, he realized that the movement pass expired once he arrived. A Congolese refugee with filmmaking training and skills explained that he had applied for a movement pass on five occasions for work, but only received a pass once.<sup>153</sup> He explained that he often has jobs or productions that last three months and it's not possible to get a movement pass to last that long. His options are to forgo the work opportunity to support himself and his family, or to risk traveling without a document and getting caught by the police.

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<sup>149</sup> Interview with Somali refugee 22.

<sup>150</sup> *Id.*

<sup>151</sup> Interview with Somali refugee 22.

<sup>152</sup> For more on business licenses, see Foni Joyce Vuni & Buhendwa Iragi, *Refugees' Access to Work Permits and Business Licenses in Kenya*, Refugee Led Research Series Refugee Research Report No. 7, (June 2023).

<sup>153</sup> Interview with Congolese refugee 16.

## Right to Education

*“Since I came in Kakuma refugee camp, I have seen education as the only key for getting out of the camp.”*<sup>154</sup>

Access to high quality educational services within Kakuma are limited.<sup>155</sup> In 2017, the UNHCR reported that although the school-aged population in the camp was 87,098, only 50,902 of that group were attending school, equating to roughly 58 percent.<sup>156</sup> In 2023, 88 percent of secondary school-aged children were not enrolled.<sup>157</sup> We repeatedly heard from interviewees that classes were overcrowded with few resources; teachers are poorly paid.<sup>158</sup> Interviewees frequently reported that student to teacher ratios in primary grades and beyond were often 100 or even 150 students to 1 teacher with maybe 1-4 textbooks to share for the whole class. And yet, education is often reported as a key way to leave the camp and access opportunities for work or a higher standard of living.

One interviewee shared on the difficulties faced in the classrooms in Kakuma in the following quote, which is highly representative of all of our interviews:

*Being new here in the camp, in school it can be waiting the whole day you don't have a book or a place to write... and the heat inside, the very small class, you have 150 students, congestion was high, the teachers were not qualified, you had to struggle for you to work hard. There are no libraries around, there are no books for you to revise.*<sup>159</sup>

Consequently, it is quite common for Kakuma residents to seek educational opportunities outside of the camp. Students who travel to schools outside of the camp need a movement pass to travel. Education is one of the specifically enumerated reasons for obtaining a movement pass per the DRS Camp Manager's Office's guidelines.<sup>160</sup> Yet, our research highlights serious implications to the right to education for refugees connected to designated area system for refugees in Kenya and the movement pass requirement. The movement pass system impedes the right to education by preventing refugees from freely being able to seek better educational opportunities and/or higher education. The interviews conducted with Kakuma residents revealed systemic issues with education as the result of the movement pass system and the difficulty surrounding access to CTDs. Many people shared the importance of education for their futures, but all faced struggles with the process of accessing such education because of movement passes. Some of the interviewees even lost scholarship opportunities to access higher education because of the lack of structural protection to obtain a movement pass or a Convention Travel Document.

*Because me not getting a traveling document meant that I was not able to finish [high school] because I never got my traveling document, so I never traveled to the other side of the country to finish my education.*<sup>161</sup>

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<sup>154</sup> Interview with South Sudanese refugee student 2

<sup>155</sup> See Teferra, *supra* note 4, at 181.

<sup>156</sup> UNHCR Kenya Education Dashboard, 1-2 (May 2017)

<sup>157</sup> Elimisha Kakuma – Virginia Tech Research Group, BARRIERS TO EDUCATION IN KAKUMA REFUGEE CAMP 6 (2024).

<sup>158</sup> See Qaabata Boru & Baluu W. Makuach, *Kakuma Teacher's Strike*, Kanere (Sept. 30, 2021).

<sup>159</sup> Interview with Burundian refugee 5.

<sup>160</sup> “The Camp Manager (DRS) is mandated with the issuance of movement passes under Section 8 (o) of the 2021 Refugees Act. The movement pass is issued to travel for various purposes like business, medical attention, education, training workshop and family visits” Kenya Refugee Act, *supra* note 19

<sup>161</sup> Interview with Somali refugee 23.

## *Right to Freedom of Expression*

*“As a refugee you start to ask yourself “what am I doing here,” you know. It breaks hearts when you are a prisoner here. It’s like if you are a refugee you don’t get to go far.”<sup>162</sup>*

The dysfunctional movement pass system curtails freedom of expression for refugees.<sup>163</sup> A number of interviewees reported being unable to express creative, political, or advocacy opinions and ideas due to being unable to travel.

One interviewee from the DRC expresses himself through photography, and finds being trapped in Kakuma significantly stifles his creative expression, likening survival in the camp to a “prison.”<sup>164</sup>

A performer explained that in 2019 he won a local talent competition and that a producer in Nairobi wanted to bring him and other refugees from Kakuma to Nairobi to audition for a comedy show, one of the “biggest shows in Kenya.”<sup>165</sup> Unfortunately, the group was never able to attend because they couldn’t get the movement pass to meet with the recording staff and managers. Individuals like this have tried repeatedly to obtain a movement pass without success so have given up even trying to navigate the process.

Other stories we heard implicating the right to freedom of expression involved applications for CTDs and are explored below in that section.

## **CONVENTION TRAVEL DOCUMENT SYSTEM**

Internal movement within Kenya poses challenges for refugees in Kakuma, but beyond the freedom of movement within Kenya, our research revealed that the Convention Travel Document (CTD) system also poses serious challenges and undermines the human rights of refugees who seek opportunities outside of Kenya for work, education, and other pursuits. The CTD has been described as a “prerequisite for many people to the rebuilding of their social lives and re-establishing means of livelihood.”<sup>166</sup> This section will first discuss general issues with the issuance of CTDs and then focus on particular rights that are infringed on by this system.

### *Applying for a Convention Travel Document*

International law protects the right for refugees to travel within their host states. This right is an obligation for state parties to the Refugee Convention, such as Kenya, who are required under Article 28(1) to issue CTDs to “refugees lawfully staying in their territory travel documents for the purpose of

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<sup>162</sup> Interview with Congolese refugee 16.

<sup>163</sup> See UDHR, *supra* note 23, at art. 19 (“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers); see also ICCPR, *supra* note 25, at art. 12.

<sup>164</sup> Interview with Congolese refugee 16.

<sup>165</sup> Interview with Congolese refugee 17.

<sup>166</sup> See RIGHTS IN EXILE, *supra* note 28.

travel outside their territory, unless compelling reasons of national security or public order otherwise require.”<sup>167</sup> This is reiterated in the OAU Convention and the Kenya Refugee Act of 2021.<sup>168</sup>

In accordance with Article 28 of the Refugee Convention, the UNHCR created a set of guidelines for the distribution of Convention Travel Documents towards the refugees of Kakuma Camp.<sup>169</sup> The current CTD guidelines listed on the UNHCR website for Kenya state a number of requirements to apply for a CTD.<sup>170</sup> According to a DRS officer, CTDs are now available in machine-readable format, though this information could not be confirmed through open sources.<sup>171</sup> A refugee must fill out the passport application forms (unlisted on the website), then provide the following documentation: three copies of passport photos taken in front of a white background, a copy of the refugee ID or waiting slip, fingerprints rolled impressions for both hands taken on a government standard form, a copy of proof of registration,<sup>172</sup> a copy of the invitation or letter of offer, a copy of the ID for the recommender who is a Kenyan citizen.<sup>173</sup> Additionally, the refugee must also provide evidence for their reason of travel.<sup>174</sup> For example, a refugee seeking to attend a workshop outside of Kenya must provide clear information on dates and duration of travel, and who will finance the travel.<sup>175</sup>

As discussed above in the background section, Kenya has implemented domestic law in accordance with the Refugee Convention.<sup>176</sup> The Kenya Refugee Act’s last update in 2021, followed by General Regulations issued in 2024 to expand on the procedure refugees must undertake to apply for a CTD.<sup>177</sup>

Part IV, Section 31 of the recently issued regulations describes the current procedure required for refugees to apply for a CTD.<sup>178</sup> After obtaining an official refugee identity card, refugees must physically travel to the Passport Control Office in Nairobi with two copies of that card, two copies of their birth certificate, three copies of a full face photograph, any supporting documents for their reason of travel, and a completed application (on “form 12”).<sup>179</sup> Refugee applicants must also have a recommendation from the DRS or an employee of UNHCR.<sup>180</sup> Once granted, the DRS has publicly stated that a CTD is valid for five years,<sup>181</sup> though testimony of those who have gone through the CTD process show that CTDs are issued for irregular periods of time, between one and five years.<sup>182</sup> The requirement that a refugee travel outside of the camp to the passport office in Nairobi necessitates obtaining a movement pass, with all of the challenges described in the movement pass section above.

Although the CTD process may appear straightforward on paper, Kakuma camp residents still face many problems obtaining a CTD. The process is obscure and inaccessible to most refugees, there are

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<sup>167</sup> See 1951 Convention, *supra* note 20, at art.28(1).

<sup>168</sup> *Supra* note 41, OAU Convention; Kenya Refugee Act, *supra* note 19.

<sup>169</sup> *Supra* note 16.

<sup>170</sup> *Id.*

<sup>171</sup> Anonymous DRS Source.

<sup>172</sup> For a description of the registration process see Teferra, *supra* note 4, at 171–172.

<sup>173</sup> *Id.*

<sup>174</sup> *Id.*

<sup>175</sup> *Id.*

<sup>176</sup> Kenya Refugee Act, *supra* note 19, at § 28.

<sup>177</sup> *Supra* note 56.

<sup>178</sup> *Supra* note 67, The Refugees (General) Regulations, No. 22 (2024) Kenya Gazette Supplement No. 25 at §31.

<sup>179</sup> *Id.*

<sup>180</sup> *Id.*

<sup>181</sup> DRS Handbook, DEPARTMENT OF REFUGEE SERVICES: REPUBLIC OF KENYA (2024).

<sup>182</sup> USF International Human Rights Clinic Internal Records (on file with author).

extensive delays in each step of the procedure, and the entire process is predicated on the refugee having a connection with different government departments in Kenya.

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## *Inaccessibility*

Many refugees in Kakuma Camp have little to no knowledge of the existence of CTDs, let alone the process to apply for the documents. Refugees generally only become informed of their ability to procure a CTD when they encounter an obstacle or opportunity that drives them to travel outside of Kenya. As a result, the refugees that are exposed to CTDs are often students, artists, and businesspeople. In fact, many interviewees had not heard of or did not understand the term “Convention Travel Document.” Refugees often lack consistent access to the internet to access information and apply for a CTD. Service providers consulted during the editing phase of this report confirmed that the process around obtaining CTDs is very vague and difficult to navigate.

Students know that they must secure their CTDs quickly, so they bypass the camp’s field post entirely because they know it will take way too long and that they may never hear back. Some students have attempted to apply for a CTD through a Kakuma field post, but they were told that they had to apply in-person in Nairobi. This is not feasible for most people, and students who had a stipend to go to Nairobi once for the application have had to borrow and scramble to find money to go additional times to check on their applications in person because of the delays and because there is no way to do so from the camp.

## *Delays in Process*

Even when refugees manage to apply for a CTD, the first step is reaching out to the DRS, however they often face unreasonably long delays in the process and sometimes never hear back from the DRS. Refugees are kept waiting for months to hear back from the DRS, just to be denied for obscure reasons, often after the original opportunity or impetus for their travel is no longer relevant. For example, one Congolese refugee was invited to a Global Youth Summit in New York and his expenses were fully funded. He applied for a CTD but never received an answer on his application.<sup>183</sup> Another South Sudanese refugee was studying in Nairobi at a university and applied for a CTD to go on a university trip to Zanzibar.<sup>184</sup> Her application was denied, without explanation, after the trip had already occurred.<sup>185</sup> In 2022, a Congolese refugee student arrived two weeks late for the start of his university education in the United States because of delays printing his CTD due to a lack of ink in Nairobi.<sup>186</sup> The same year, another Sudanese student arrived the day classes started, having missed all of orientation.<sup>187</sup> In 2024, four students with full scholarships to various universities in the U.S. and the U.K. were forced to delay their studies for several months in one case and a year in the others after the lamination machine for the CTD was broken.<sup>188</sup>

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<sup>183</sup> Interview with Congolese refugee 17.

<sup>184</sup> Interview with South Sudanese refugee 12.

<sup>185</sup> *Id.*

<sup>186</sup> Interview with Congolese refugee student 13.

<sup>187</sup> Interview with Sudanese refugee student 14.

<sup>188</sup> Communication with Deidre Hand, Elimisha Kakuma, August 2024. On August 14, Commissioner John N. Burugu acknowledge the issue with the broken lamination machine in a tweet. See @burugu\_j, TWITTER (Aug. 14, 2024, 3:33 AM), [https://x.com/burugu\\_j/status/1823669339649708404](https://x.com/burugu_j/status/1823669339649708404)

Students report waiting between five and nine months from the date of their application to receive a response from the DRS that their CTD application has been processed and a decision has been reached. During this time, students must make the long and expensive trip to Nairobi just to inquire about the status of their CTD applications. When they go to the DRS office, they unanimously report that they are not given any information about their CTD applications, that they are turned away, and told to keep waiting, but are not told when they can expect a response. Further, many students were told that the reason that their CTDs were not being issued was because the laminator machine was broken, because the printer had no ink, or some other mechanical issue.

One student, after four months of waiting for his CTD, lost his scholarship and enrollment opportunity at a university in Rwanda. After another month of waiting and hearing no response from the DRS, this student decided to return to his family's country of origin to apply for a passport so that he could have some kind of documentation. Though he faced great risk to do so, it was the only viable option that he saw to seek a life outside of the refugee camp. After receiving his passport, he returned to Kakuma. He applied for Elimisha Kakuma and was accepted soon after. A month and a half after that, he finally received his CTD after nine months of waiting.

In a similar situation, another Sudanese student submitted an application for a CTD but received no information or documents regarding the subsequent steps or the timeline for processing. A staff member informed him that the document would be ready in 1-2 months, and that he would receive a call from the office. After three weeks, he followed up but was advised to wait until the following month. Even after the CTD was still not ready, he continued to visit the office, only to be told that the laminator was broken. The situation resulted in a delay in the student's process of obtaining a CTD, as he was unable to visit the US embassy without the required documentation. As a consequence of these delays and the challenges faced with the embassy, the student was forced to defer his enrollment to the spring semester, putting him at a disadvantage since he would begin later than his peers.

These delays and mishandling of the applications result in grave outcomes for refugees in their business, education, and other opportunities. DRS has recently announced that after clearing a backlog of 500 CTD applications they aim to process CTDs within two weeks of receipt of a complete application.<sup>189</sup>

### *Lack of Connections and Bribery*

*"I am not a big leader, that is why I did not get that CTD. Also, if you have friends there, they can facilitate you to get that CTD, but here, we have no friends there that can push our voice to get that document."*<sup>190</sup>

One common issue shared in interviews was those who were successful in obtaining a CTD, or knew of someone who obtained a CTD, had a personal connection with a UNHCR contact or employee who helped them with the application process or urged the office to review and approve their application in a timely manner. Those who faced the process alone shared that they felt that because they did not have

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(“CTD Update: DRS is addressing delays in the printing of Conventional Travel Documents due to a breakdown of the Passport Lamination Machine. The Govt is swiftly procuring a new machine to resume printing soon. We appreciate your patience.”) . On September 12, 2024, DRS and Commissioner John N. Burugu announced that the government would be resuming the issuance of CTDs. See @burugu\_j, TWITTER (Sept. 12, 2024, 1:05 AM), <https://perma.cc/V6B8-473Z>.

<sup>189</sup> Burugu Tweet, Sept. 12, 2024, *supra* note 144.

<sup>190</sup> Interview with Congolese refugee.

a connection, their applications were delayed or thrown out without being reviewed, even when they followed the proper steps given to them through UNHCR Kenya.<sup>191</sup>

For example, one interviewee lost their opportunity to leave the camp to access higher education opportunities outside of Kenya multiple times because of this system. The individual scored extremely high on standard examinations and was one of very few students across all of the African continent invited to a special program in another African country but lost their spot and never made it because they never obtained a CTD. They shared that they tried everything in their power to obtain the CTD, following all the proper instructions, and were still denied.<sup>192</sup> Another individual shared that they applied for a refugee travel document for their own purposes and never heard back on the application, but, they recounted that “[i]n 2021, I had another opportunity, UNHCR were contracted directly and I got the CTD within one week.”<sup>193</sup>

Another refugee community leader explained that he tried to get a CTD to travel to Thailand for a conference but was denied because the conference was funded by a friend, rather than an organization:

*There was a time I tried in 2022. It was hard for me. There was a time I applied for a conference in Bangkok. I applied...and I had someone who was willing to pay for it, but when I went to ask for a CTD, but if it's a conference and you're paying for yourself, we won't give you a CTD. I told them I'm not paying for it, it's a friend who got resettled. They denied it. I just came back, all those forms that I had... they refused and that's how it was.*<sup>194</sup>

This same refugee interviewee explained that, “You can’t go to UNCHR in that office without any appointment, if you have a chance to get someone’s number that’s how you can get that connection.”<sup>195</sup> This issue is not, of course, isolated to Kenya, but has been well-documented for decades in East Africa. For example, the Ugandan director of the Hugh Pilkington Trust, whose organization funded refugee studies overseas and often went through the process of obtaining CTDs said: “*I personally know people in the Department... who I can just ring, but for the individual on his own – it’s a nightmare.*”<sup>196</sup>

One of the most difficult obstacles refugees navigate is the recommendation requirement for their CTD application.<sup>197</sup> Interview participants who received CTDs successfully and on a fast timeline often had inside connections with UNHCR or an affiliated organization:

*A guy applied, he told them getting a CTD is hard – for World Economic Forum and he asked them to send an email – and he received a CTD in 2 days. Usually, it takes 3 months. Why is there a way to get it in 2 days? . . . You’ll be lucky to get it, it’s not a guarantee that you’ll get it, it’s not supposed to be like that, it’s supposed to be yours if you want to travel.*<sup>198</sup>

Overall, perceptions among refugees who had engaged with the CTD system believe that connections to UNHCR or Kenyan government officials are key to obtain the document. One interviewee explained,

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<sup>191</sup> The UNHCR Kenya Help website gives instructions for how to obtain a CTD. *See, supra* note 16.

<sup>192</sup> Interview with Congolese refugee 17.

<sup>193</sup> Interview with Burundian refugee 7.

<sup>194</sup> Interview from Burundian refugee 5.

<sup>195</sup> *Id.*

<sup>196</sup> *See* RIGHTS IN EXILE, *supra* note 27, at 181.

<sup>197</sup> *See, supra* note 16.

<sup>198</sup> Interview with Burundian refugee 5.

“[i]f you have a connection, you can get it the same day. Nowadays if you know someone inside you can get a travel document easily.”<sup>199</sup>

Finally, several refugees shared that obtaining a CTD required paying bribes. One Somali refugee explained: “[Y]ou must bribe people so that you get the CTD. It was because I lacked the money to bribe them that I never got the CTD.” One Congolese refugee explained:

*When you go [to the office to apply for a CTD you're not prepared with your cash, then nobody will give you nothing .... During that time when I was going for the [CTD] they told me, “whenever you are ready just call us.” But that means, cash. I never called them because I didn't have the money.*<sup>200</sup>

One student had been waiting five months to receive his CTD, and when it was finally issued, his name was printed out of order. This student had a friend who was attending Stanford University at the time who was well known in Kenya and had a semi-famous Twitter account with a large following. The student who received a faulty CTD asked his friend at Stanford to tweet about the mistake and the delays that he had experienced. After the tweet was posted, with the DRS tagged, the CTD was quickly re-issued with the student's name printed correctly. \_

## Human Rights Implicated by the Current CTD System

Below we discuss the ways in which other human rights are implicated by restrictions on the freedom of movement for refugees outside of Kenya. The inability to reliably access CTDs curtails refugee rights including the right to health, freedom of expression, right to sustainable livelihood, and the right to education.

### *Right to Health*

The right to health may not be implicated as clearly by frustrations with the CTD system. While the medical facilities on the camp are sorely lacking, generally within Kenya it should be possible to access medical care for most medical challenges, assuming that the individual can obtain a movement pass.

One interviewee shared about her sister needing to travel to Tanzania to treat extreme burns, and had to pay to receive a CTD:

*I heard about the traveling document from my sister who used to travel a lot and she used to pay money to the camp officials, but I never had money to pay. My sister was sick and that's why she had to travel outside of Kenya to Tanzania after she was burned by some hot water. For me, I don't really know the steps but what I've seen is you pay the money, and you get it. They would even bring the traveling document to [my sister] here [at her house]. She paid around 15,000 or 20,000KSH, sometimes, the money was sent from the U.S.*<sup>201</sup>

The above quote demonstrates not only the lack of transparency around the CTD system but also the problematic bribery involved in obtaining the document.

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<sup>199</sup> Interview with Congolese refugee 16.

<sup>200</sup> Interview with Congolese refugee 28.

<sup>201</sup> Interview with Somali refugee 15.

## *Right to Freedom of Expression*

As explored above in relation to movement passes, the CTD system also stifles refugees' right to freedom of expression. One interviewee from South Sudan reports being denied documents to travel after winning a local singing competition.

*We were to go and sing at Denmark Got Talent, and then there are also some dancers at Denmark Got Talent, but because they were denied their traveling document and issues to do with their passports, they never got to showcase their talents there.*<sup>202</sup>

Other interviewees report arbitrary or unexplained convention travel document denials after being invited and sponsored to attend global conventions or conferences as speakers. One interviewee from the DRC was invited to attend the December 2023 Conference of the Parties in Dubai for the United Nations Framework Convention for Climate Change. But he was unable to attend and speak on refugee issues and climate change due to no response on a CTD application.<sup>203</sup>

Other individuals in the camp, including one Congolese refugee we interviewed, were invited to speak at the Global Refugee Forum in Geneva in December 2023 and were unable to attend because they could not get permission to travel to Nairobi to initiate the process of applying for CTD and/or could not obtain the CTD.<sup>204</sup>

Another individual was admitted to a leadership academy, with a scholarship, in South Africa. He was never able to obtain the CTD to attend – he explained that although he had all of the required documentation, including a letter from the South African embassy, he could not pay for the CTD and heard that others were paying 30,000KSH to obtain one.<sup>205</sup>

Some individuals seeking CTDs for expressive or advocacy purposes were successful. One interviewee successfully obtained a CTD to attend the Annual Global Curatorship Community with the World Economic Forum (“WEF”).<sup>206</sup> He shared that WEF contacted UNHCR from Geneva and “within a week” obtained the CTD. Before that, he attempted to obtain a CTD but received no response after a year of waiting.

## *Right to Sustainable Livelihood*

Freedom of expression is closely tied to the right to a sustainable livelihood. Where the singer, as detailed above, is unable to travel to participate in a singing competition abroad, his prospects for career development and success are limited. We documented numerous similar stories. One individual was invited to be a sports coach in Turkey but was unable to obtain a CTD to take advantage of that opportunity.<sup>207</sup>

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<sup>202</sup> Interview with Somali refugee 23.

<sup>203</sup> Interview with Congolese refugee 18.

<sup>204</sup> Interview with Congolese refugee 29.

<sup>205</sup> Interview with Congolese refugee 17.

<sup>206</sup> Interview with Burundian refugee 5.

<sup>207</sup> Interview with Congolese refugee 28.

A filmmaker was invited to present his film at the Zimbabwean film festival but was unable to attend because he could not obtain a CTD. Likewise, a videographer was invited to Germany for a few months to edit and work on a project with German partners and was unable to obtain a CTD to take advantage of that paid work opportunity. They explained:

*I had an opportunity to go to Germany with film makers from Munich. I was [supposed to] shoot a feature film with them... I started to look for the traveling document and the CTD, but it was difficult because I did not have that connection to know someone in UNHCR.*

*As a refugee I feel like a prisoner. I feel limited. That's why many creatives are the same place many, many years ago but still the same person because there are no opportunities. Everyone faces these challenges. There are people who can get [a pass] but it requires a very, very big connection. Here it's about money, they say its free, but you pay.<sup>208</sup>*

An interview participant who has multiple degrees in sustainable development had been invited to several international events and conferences, where his participation was fully funded by an outside entity, but because it was not an organization with UN connections, he was unable to obtain the CTD to attend.<sup>209</sup> Interviewees also shared about other individuals denied opportunities overseas because they could not obtain a CTD. One Burundian refugee told us, “[t]here was a time when I met some South Sudanese girls who had gotten a contract to do modeling in France, a big opportunity for them, they never got [the CTDs].”<sup>210</sup>

## **Right to Education**

One of the more commonly reported issues among interview participants regarding CTDs were missed or delayed educational opportunities for students in Kakuma. Students who manage to overcome the challenges in accessing education on or outside the camp and have the opportunity to pursue higher education must obtain a CTD if they wish to attend universities outside Kenya. However, many shared that they themselves or others they know were at risk of losing scholarships entirely due to being unable to receive their CTD on time.

*I went [to apply for a CTD] and had everything. And it's like the money, [people] are paying 30,000 KS [in bribes] and for me I can't pay that because I am a refugee. . . I tried every way I could [to get it], but I ended up failing. So, the academy ended up emailing me and withdrawing my scholarship . . . It took 8 months for the process [and I didn't get it].<sup>211</sup>*

We interviewed several students who had successfully received CTDs to pursue education outside of Kenya. These students were all enrolled within a college preparatory program with connections to UNHCR. Although their connections with UNHCR helped their initial access to the CTD process, even these students, however, shared challenges they had endured with the CTD process, including frivolous delays that cost them months, or even years, of educational delay. In several situations, the delays caused the students to arrive late to their university and put them at risk of losing their place in a class and, in the very least, starting off their studies at a disadvantage. For example, one student was sent back and

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<sup>208</sup> Interview with Congolese refugee 16.

<sup>209</sup> Interview with Burundian refugee 7.

<sup>210</sup> Interview with Burundian refugee 7.

<sup>211</sup> Interview with Congolese refugee 17.

forth from Kakuma to Nairobi for months trying to get a CTD to travel to a university abroad.<sup>212</sup> During this process the student was told that the photo was too blurry, their application was missing, and they needed to start a new application after having all of the proper documents. This process took over five months and the delays caused the student to arrive late to the start of school in a foreign country.

## RECOMMENDATIONS

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Informed by the community gathering session at the end of our time in Kakuma, refugees living in Kakuma, and community stakeholders we engaged with afterward, the sections below outline recommendations for the Kenyan government and UNHCR.

### **To the Kenyan Government, including the Department of Refugee Services:**

Above all, the Kenyan government should abandon the encampment approach to refugee reception and should fully move towards integration under the Shirika plan. As Verdirame and Harrell-Bond concluded in 2005: “refugee rights cannot be protected in camps and settlements.”<sup>213</sup> This would be in line with the 2017 Kenyan Court of Appeals decision which found that based on the Kenyan Constitution and international law, restriction on the movement of refugees violates their right to freely move within a receiving state and right to residence within a country.<sup>214</sup> This report echoes the recent Kenyan Human Rights Commission and Refugees International Report – that a move towards integration beyond designated areas should involve full integration of refugees.<sup>215</sup> That said, the recommendations below consider the reality of encampment and designated areas and articulate improvements that can be made for the more complete realization of refugee rights within current constraints.

#### **1. Make processes accessible and transparent**

While encampment is still the mode of operation in Kenya, the DRS needs to make the process around obtaining movement passes accessible and transparent. Issuing a one page set of instructions for all refugees, in multiple languages, and distributing on the camp and through websites and social media channels would help to disseminate accurate information. In line with the Refugee Act’s prohibition against accepting or soliciting bribes,<sup>216</sup> this information would make clear that movement passes are free to obtain.

Furthermore, field offices to process applications for movement passes should be accessible in all sectors of Kakuma and Kalobeyei. This includes accessibility for people with disabilities or health conditions that require them to sit, rest, or avoid the sun while waiting. Currently Kalobeyei residents must travel to one of the four sectors of Kakuma to access any camp systems. This necessitates paying for travel with money the refugees simply do not have. The field offices are also typically in areas where no shade

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<sup>212</sup> Interview with Sudanese refugee student 14.

<sup>213</sup> See RIGHTS IN EXILE, *supra* note 27, at 15; see also *Id.* at 246 (“Encampment is as irreconcilable with economic, social, and cultural rights as it is with civil and political rights.”).

<sup>214</sup> Kituo Cha Sheria, (C.A.K) (2017).

<sup>215</sup> “Kenya’s refugee integration has two outstanding gaps: one, the Kenyan Government, UNHCR, and donors are pursuing a narrow definition of reintegration – just social and economic integration – and not a full integration that will include the refugees’ assimilation and naturalization. While social-economic integration is an improvement over existing discredited Kenya’s encampment policy... it still falls short of full integration.”

TRANSFORMING REFUGEE POLICY, *supra* note 14 at 11.

<sup>216</sup> *Supra* note 56.

is provided. Refugees recounted waiting all day in the hot sun, often for multiple days, to wait to try to get an appointment to apply for a movement pass. Refugees who live with disabilities and health conditions like albinism similarly cannot access field offices and their services. One Congolese refugee recounted:

*I think I can only say that getting these travel documents, refugees are being treated as animals, I tell you, because going to the appointment centers, you're making lines, and this police will be treating old people young people equally beating them. Sit straight on the line, make the line straight. People just sit out in the sun. There's no shade. You just wait. Wait, wait, wait!*<sup>217</sup>

Participants at the community gathering suggested that there should be a point person assigned with specific responsibility and oversight for movement passes and travel documents within the DRS.

There is conflicting and unclear information online about how to apply for an exemption from residence in a refugee camp. UNHCR has published an online application that seems to only be fillable once a refugee has already submitted an application to the Kenyan government.<sup>218</sup> The Kenyan government's website is unclear in its instructions as to how to apply for an exemption and how much the application costs.<sup>219</sup> It specifies that the application must be made in person, however, which directly contradicts the DRS's internal understanding that the application is to be made through an online portal.<sup>220</sup> There is no clear directive publicly available or easily accessible to refugees. A consensus must be reached within DRS as to the process of applying for an exemption. Then, the DRS must ensure that the publicly available information about the process does not contradict internal policies and that all sources describe the same process. Finally, the DRS must ensure that this information is easily accessible to refugees, by having physical copies of the instructions available at field offices, by publishing it online, or both.

The DRS Handbook contains helpful charts and procedural information for refugees explaining which procedures exist, and how to engage with them. However, it also uses a substantial amount of space to discuss the DRS's mission, achievements, goals, collaboration with other governments and humanitarian organizations, and the DRS's vision. This information is not particularly helpful to refugees. The Handbook could be edited to include more procedural information for refugees and asylees and less information about the DRS and the Kenyan government as a whole. This handbook, if widely distributed, could be greatly transformative in the efficacy of refugee processes. With a document that establishes the steps of each procedure and the operation of each document for DRS officials and refugees alike, applications would be quicker and more efficient and results would be more consistent and transparent. Simply editing this already-existing tool could have a significant impact.

To enhance transparency, the Kenyan government should, in line with the Access to Information Act, 2016 [hereinafter "2016 Act"], release quarterly reports to stakeholders, refugee led organizations, and advocacy groups regarding the number of movement passes both applied for and issued.<sup>221</sup> The 2016 Act provides that all citizens have the right to information held by the state and such access is not to be affected by the reason of request.<sup>222</sup> While there are permissible limitations on the information shared, like for national security concerns, the 2016 Act specifies that public entities may be required to disclose

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<sup>217</sup> Interview with Congolese refugee student 13.

<sup>218</sup> See *supra* note 79.

<sup>219</sup> *Id.*

<sup>220</sup> Anonymous DRS Source.

<sup>221</sup> The Access to Information Act, No. 31 (2016), KENYA GAZETTE SUPPLEMENT No. 152.

<sup>222</sup> *Id.*

information where the public interest in disclosure outweighs any harm which may be necessary to promote accountability of public entities.<sup>223</sup> In the case of movement passes, there is no security threat posed by releasing the numbers of refugee movement passes granted to access healthcare, education, advocacy, or career opportunities. This recommendation echoes calls by other organizations working on Kenyan refugee rights; Refugees International, for example, has likewise urged that the number of permits issued to refugees be published through the relevant government directorate as a transparency and accountability measure.<sup>224</sup>

Comprehensive and regular training for government officials must also be streamlined and accessible. A major issue facing refugees who follow instructions for receiving movement passes and CTDs is arbitrary rejection, often based on personal bias coupled with a lack of knowledge and understanding about these protocols. Officials must be familiar with how these documents look and what they mean, to avoid illegal confiscation of valid movement passes and CTDs, bribery, and application denials based on a misunderstanding or misapplication of traveling document laws and regulations.<sup>225</sup> Kenyan civil society advocates suggested that a more effective movement pass system may exist for students with a government scholarship under the Kenya Primary Education Equity in Learning Project (KPEEL), which may serve as a model for a more efficient way for students to obtain movement passes. Overall, the government should adequately fund organizations such as Kituo Cha Sheria, who engage in sensitization training for duty bearers, including Kenyan law enforcement, throughout the country.

Instituting an Ombudsman's office within DRS or a way in which refugees, refugee led organizations, and refugee advocates can submit complaints or raise concerns would also go a long way to enhancing oversight and transparency. An Ombudsman's office could also function as a semi-independent oversight mechanism analogous to the Independent Police Office Authority which provides civilian oversight over the Kenyan National Police Service.<sup>226</sup>

## 2. Improve Freedom of Movement and Transportation Within the Camp

According to our interviews, internal movement within the camp is currently subject to “taxation” by the security service members. To avoid camp residents paying unnecessary costs for transportation, and, in line with Kenya and the UN's own commitments to combatting climate change, the camp should move away from reliance on the “boda boda” system.

DRS should explore, in conjunction with other relevant government agencies and international partners, the possibility of establishing a free electric shuttle bus system throughout the camp, within and between sectors. The government could also explore other sustainable transportation options, including bicycles or electric scooters. Camp infrastructure, including adequate roads, would need to be improved for some of these options to become possible but with the move towards sustainable integration under the Shirika plan, this should be on the agenda regardless.

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<sup>223</sup> *Id.*

<sup>224</sup> Abdullahi Boru Halakhe & Andhira Yousif Kara, Refugees Int'l, *Removing Red Tape to Get Kenya's Refugee Act Right* (Mar. 13, 2025).

<sup>225</sup> Fourth Cycle Universal Periodic Review of Kenya, *Joint Stakeholder's Submission by Refugee Rights Cluster of Universal Period Review Kenya Coalition*, ¶ 17 (Oct. 2024); recommending that the Government of Kenya “sensitize duty bearers across the country on all provisions of the Refugees Act 2021 and relevant international instruments related to refugees ensuring they are well trained to handle asylum seekers and refugees in line with best practices for their protection.”

<sup>226</sup> *Id.* at ¶ 27; reflecting in a similar vein that the Government of Kenya should “coordinate the establishment of inclusive structures and mechanisms that promote meaningful participation for refugees and local communities for peaceful and harmonious co-existence” under the Refugee Act.

Improving access to movement within the camp will likely also assist with more full realization of other rights and will protect against discrimination based on race, gender, disability, and other factors.

### **3. Integrate Refugees within Camp Authority Structures**

Again, recognizing the protracted situation of the refugee population in Kenya and moving towards integration under the Shirika plan, Kenya should consider employing a cross-section of the refugee communities within not only the Department of Refugee Services, but also within law enforcement offices, particularly those enforcing laws and policing designated areas.

Kenya's National Police Service is obligated by the National Police Service Act of 2011 (NPS) to establish community policing committees on a county-wide basis.<sup>227</sup> According to the NPS, community policing is the approach to policing that recognizes “voluntary participation of the local community in the maintenance of peace and which recognizes that the police need to be responsive to the communities and their needs . . .”<sup>228</sup> A community policing committee is a committee elected by a community policing forum for the purposes of coordinating and representing the forum.<sup>229</sup> The purpose of a community policing committee is to ensure accountability and promote communication between the residents of a community and the police.<sup>230</sup> The Kenyan Constitution states, under Article 244, that the NPS must “foster and promote relationships with the broader society.”<sup>231</sup> Accordingly, Kenya should establish the community policing committee in Kakuma and ensure that refugee members are also allowed to be members on these forums. This would give refugees a platform to directly engage and have a voice regarding any alleged misconduct occurring between the refugee population and police.

### **4. Create Detailed Plans and Accountability Mechanisms for the Shirika Plan**

The Shirika Plan, in its current version, is an aspirational document that outlines a rough idea of the DRS's goals with regard to refugees and asylees. Goals such as “[p]rovision of adequate teaching and learning materials to all schools in refugee and host community schools,” and “[s]trengthen [s]anitation and [h]ygiene” are discussed, but there is no further information after the statement of the goal, no plan as to how to achieve it, who is responsible for achieving those goals, or accountability mechanisms if goals are not achieved. The Shirika Plan should be updated with detailed plans for each stated goal, and a government organization or NGO specifically listed as responsible for achieving the goal.

For example, after a stated goal like “[p]rovision of adequate teaching and learning materials to all schools in refugee and host community schools,” the Shirika Plan could assign the task to a government ministry, like the Ministry of Education, and state specific goals, such as raising the funds to purchase notebooks, pencils, books, etc. and distribute these materials by a certain date during Phase One of the Plan. Then, a date should be set to re-evaluate need, and to raise funds for and execute a second distribution.

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<sup>227</sup> National Police Service Act, No. 11A of 2011 (rev. 2012).

<sup>228</sup> *Id.*

<sup>229</sup> *Id.*

<sup>230</sup> *Id.*

<sup>231</sup> CONSTITUTION art.244 (Kenya)

## To The United Nations High Commissioner for Refugees’ UNHCR Kenya Office:

Beyond advocating for an end to the encampment policy, UNHCR Kenya should continue to work to support the Kenyan government in the day-to-day management of Kakuma and Dadaab and assist in the transition from designated areas to integrated settlements. Specifically, on freedom of movement UNHCR should assist in the development and dissemination of clear, concise information regarding movement inside and outside the camp – including movement passes and CTDs.

UNHCR should enforce policies against bribery and corruption and investigate systems to ensure transparency and fair access. This may include monitoring of refugee transit pathways between Kakuma, Dadaab, and major towns and cities to ensure that duty bearers are respecting movement passes and not violating refugee rights. UNHCR should work with the Kenyan government to increase transparency around the issuance of CTDs. Quarterly reports should be published regarding the number of CTD applications submitted, adjudicated, and approved, including the bases upon which the CTD is submitted.

UNHCR, in partnership with DRS, should focus on improving registration and documentation issues for refugees to ensure that refugees have the ability exercise their right to movement and the rights implicated by the inability to access proper identification.<sup>232</sup> UNHCR should also work to ensure that the Kenyan government is properly resourced to physically produce CTDs not only in Nairobi, but in Kakuma and Dadaab. Above all, UNHCR must ensure that access to the CTD process is available to all refugees equally and not only those with ties or connections to UNHCR or other UN/partner agencies. Additionally, in line with the 2024 recommendations set forth by Kenya National Commission on Human Rights, UNHCR should offer training to DRS officers and other authorities to ensure protections are compliant with Refugee Act.<sup>233</sup>

All of these recommendations are in line with UNHCR’s own recommendations and commitments, including the strategic plan for 2020—2024, which highlighted creating an “enabling” environment for economic inclusion of refugees in Kenya.<sup>234</sup>

## To The United States Department of State Embassy in Nairobi:

In light of the numerous challenges that students face with the U.S. embassy, it is essential for consular officers to be properly equipped and trained to recognize and process Convention Travel Documents issued to refugees. Embassies must have the necessary tools and knowledge to effectively navigate the unique circumstances encountered by refugees, who often face additional barriers in their pursuit of education and stability.

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<sup>232</sup> “Registration and documentation, closely aligned with the lack of freedom of movement under the encampment, limit refugees’ access to various services...the Department and UNHCR should clear the backlog of unregistered refugees as a priority to safeguard refugees’ dignity and ensures they can access protection and other services...” TRANSFORMING REFUGEE POLICY, *supra* note 14 at 16.

<sup>233</sup> *Id.* at 30.

<sup>234</sup> UNHCR Kenya: *Livelihoods and Economic Inclusion, Strategic Directions 2020-2024*, 7 (Nov. 2020); *see also* UNHCR Kenya, *Multi-year Strategy 2023-2026: Livelihoods and Economic Inclusion*, 18 (June 2022) (identifying as an advocacy priority for UNHCR Kenya increasing access to freedom of movement and including an implementation approach to partner with NGO, government, academic and research partners and other entities).

To better support refugees pursuing their studies, consular offices should prioritize the issuance of student visas that are valid for the full duration of their academic programs. Furthermore, it would be beneficial to provide these visas as multiple-entry permits. This flexibility would allow refugee students to travel freely for a variety of reasons—such as visiting family, attending important events, or managing personal matters—without the worry of complications or delays related to their visa status.

By implementing these measures, the U.S. embassy can not only alleviate some of the burdens faced by refugee students but also demonstrate a commitment to inclusivity and support for those seeking to enhance their education and rebuild their lives. This proactive approach will foster a more welcoming environment and empower refugees to achieve their academic and personal goals. It will also promote efficiency in processing these visa applications.

## CONCLUSION

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The protracted refugee situation in Kenya poses many challenges for the Kenyan government, in conjunction with UNHCR, to navigate. Although Kenya has committed to helping refugees in the country, there are still serious issues that must be addressed surrounding the encampment policy and regulation of refugees' movement. As refugee researcher Gerawork Teferra eloquently states:

*Encampment, in addition to suspending agency and alienating us from the world, makes us dependent on organizations that provide only temporary, entirely donation-dependent support. This has gone on for decades. Shortcomings are justified by incorrect assumptions of temporariness. The cost of these assumptions is the loss of individual sovereignty and opportunities to build permanent futures, as instead we wait indefinitely, holding out hope for resettlement that—for the vast majority—never comes.*<sup>235</sup>

Further studies regarding the mental health challenges of the restricted movement of refugees living in Kakuma and places like it should be undertaken. One refugee interviewee, when asked if there was anything else that made movement difficult for him explained:

*I normally say, I know that you are a refugee, they have removed everything from you, your sight, your speech, your working/moving. You're just there, someone is just controlling you. They tell you come here, don't go there, sleep here, don't go to the market at this time. You are just controlled. You can't say 'ah, today, I feel like going to Lodwar....' you have to go to them and get permission, and literally you're not doing anything wrong and you can't do that. So, that's what I see. We are just left here.*<sup>236</sup>

Another explained that “[a]s a refugee you start to ask yourself ‘what am I doing here’ you know. It breaks hearts when you are a prisoner here. It’s like if you are a refugee you don’t get to go far.”<sup>237</sup>

The right to freely move is paramount to refugees living a dignified life. This right is found not only in international law, but also within Kenyan law and the government’s commitments. The current encampment policy and the system in place for regulating the movement of refugees within Kenya

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<sup>235</sup> Teferra, *supra* note 4, at 185.

<sup>236</sup> Interview with Burundian refugee 5.

<sup>237</sup> Interview with Congolese refugee 16.

substantially hinders this right. The Kenyan government and UNHCR must work together to change the current system and enable refugees to build futures beyond their refugee status. We seek to extend a hand of partnership to the Kenyan government to make the aforementioned changes and work towards a brighter future for refugees in Kakuma and throughout Kenya.