



The Syrian Refugee Crisis: Refugees, Conflict, and International Law

AL-MARSAD - Arab Human Rights Centre in Golan Heights

P.O. Box 9 Majdal Shams 12438 Golan Heights, Via Israel

972-4-687-0644 (phone)

972-4-687-0645 (fax)

Email: marsad@golan-marsad.org

Web: <http://www.golan-marsad.org>

Any quotation of up to 500 words may be used without permission provided that full attribution is given. Longer quotations or entire chapters or sections of the study may not be reproduced or transmitted in any form or by any means, electronic mechanical, photocopying, recording or otherwise, or stored in any retrieval system of any nature, without the express written permission of Al- Marsad. © All rights reserved to Al-Marsad.

Table of Contents

I. Foreword.....	3
II. Introduction	5
III. International Legal Refugee Protection.....	7
Historical Context.....	7
Burden Sharing.....	7
International Customary Law	10
<i>The Principle of Non-Refoulement</i>	10
<i>The Universal Declaration of Human Rights</i>	11
<i>International Treaty Law: the 1951 Convention Relating to the Status of Refugees and the 1967 Optional Protocol</i>	12
IV. Refugees and conflict.....	18
Refugees and Conflict: Risk Factors.....	19
Providing for the Safety and Security of Refugees to Reduce the Risk of Conflict.....	23
V. Syrian Refugees in Lebanon, Jordan, and Turkey.....	26
Overview of Refugee Rights and Protections in Lebanon, Jordan, and Turkey.....	26
Syrian Refugees in Jordan.....	28
Syrian Refugees in Lebanon.....	35
Syrian Refugees in Turkey.....	39
VI. Burden Sharing.....	44
Burden Sharing and the Syrian Refugee Crisis so far	44
<i>Migrations to Europe</i>	45
<i>Burden Sharing Globally</i>	46
<i>The EU-Turkey Agreement</i>	47
<i>Burden Sharing in the MENA region</i>	49
Ramifications of the Failure to Burden-share.....	52
The Rationale for Burden Sharing.....	53
VII. Conclusions.....	56

I. Foreword

DPI aims to foster an environment in which different parties share information, ideas, knowledge and concerns connected to the development of democratic outcomes and conflict resolution, focusing on providing expertise and practical frameworks to encourage stronger public debates and involvements in promoting peace and democracy building internationally. In order to achieve this, we regularly collaborating with other organisations with similar priorities to us with this goal in mind. This research paper is the result of one such collaboration with *Al Marsad*.

Al Marsad – Arab Centre for human Rights in Golan Heights is an independent not-for-profit national human rights organisation located in Majdal Shams, in the Occupied Syrian Golan seeking to establish a modern and efficient institution that struggles against war, colonialism and occupation and aim to develop a culture of respect for the principles enshrined in human rights and humanitarian law. We aim to achieve this by observing and documenting human rights and humanitarian law violations in the occupied Syrian Golan, educate the local indigenous community regarding their rights under international law through workshops and forums, increase awareness among the international community regarding Israel's illegal occupation of the Syrian Golan, bring impact litigations and other interventions before Israeli courts and state authorities and provide legal consultations to native Syrian residents, other individuals and institutions.

We see providing informed expertise on current issues related to conflict in the region as central to the achievement of our aims and objectives. The Syrian Refugee crisis is posing a particular challenge to peace and human rights in the region, and has sparked a debate surrounding two issues central to DPI's work: the prevention and resolution of conflict, and the provision and protection of human rights. Formulating responses which address both concerns is currently a vital issue for civil society and policy-makers, but this task is complicated by the scale and complexity of the refugee crisis and the differing ways in which it has affected states in the region. DPI is convinced that understanding and responding to the root causes of conflict, and the wider context in which conflict resolution is practiced, is integral to the search for sustainable solutions. *Al Marsad* invokes the principles of the rapidly evolving field of international refugee law in order to stimulate critical discussion on refugee protection in the

context of the Syrian refugee crisis. In order for truly sustainable solutions to be implemented the first step is to understand how refugees interact with a legal system both on national and international levels designed to offer them protection. For the refugee crisis to be addressed in the long-term responses beyond the current humanitarian approach must be put into effect. Al Marsad is convinced that any rational solution to the refugee crisis stemming from the on-going Syrian conflict must incorporate the principles of international law. The needs of those uprooted can only be met by ensuring that the basic human rights of refugees are vindicated through the protection of international law.

This paper seeks to provide readers with a comprehensive understanding of the crisis with a specific focus on conflict resolution, examining both the likelihood of conflict occurring, and outlining avenues in which this may be addressed. The relevant international legal frameworks, academic understandings of the relationship between refugees and conflict, and past historical precedents are provided, along with a clear overview of the refugee situation in Lebanon, Jordan, and Turkey, which draws directly from the testimonies of Syrian refugees themselves. In particular, this paper explores how the dual needs to secure security and the human rights of refugees can be met together. The unsustainability of the current situation will be examined in the light of international law commitments and more specifically refugee protection. The concept of burden-sharing is examined as a way of addressing identified human rights gaps resulting from the current imbalances.

With thanks Alexandra Dignan and Simoneta Bojinova for their invaluable assistance on this project, and to Ellie Bates and Johanna Puhakka for their support in sourcing refugee testimonies.

II. Introduction

The Syrian refugee crisis has been described as ‘the greatest humanitarian crisis in a generation’.¹ The devastating conflict that began in 2011 and spread to engulf much of the country in a protracted, complex, and multi-sided war, has to date been characterised by extreme brutality. Much of Syria’s infrastructure, economy, and national wealth has been entirely obliterated,² and as many as half a million people have been killed.³ Over 11 million people have been forced from their homes, 4.7 million outside of the country altogether. It is with these people, refugees from Syria, that this paper is concerned.⁴

Many Syrian refugees are in desperate need. Efforts to help them are under-resourced and under-funded;⁵ many are afflicted by extreme poverty and struggle to subsist daily.⁶ The burden of providing for Syrian refugees has fallen disproportionately on a few countries bordering Syria, namely Lebanon, Turkey, and Jordan, who together have received around three-quarters of Syrian refugees. A new deal which authorises the European Union to deport refugees back to Turkey has sparked desperation and riots in Greece⁷ and has come under sustained criticism from the United Nations.⁸ Given the current state of instability in the region, along with the much-discussed but little-understood potentiality for refugee crises to worsen regional conflict, this situation is especially concerning.

-
- 1 U.S. Permanent Representative to the United Nations Samantha Power in an address to the Third International Humanitarian Pledging Conference for Syria, 31 March 2015. See: <https://blogs.state.gov/stories/2015/03/31/syria-greatest-humanitarian-crisis-generation-demands-response-generation>
 - 2 UNRWA, *Syria: Alienation and Violence: Impact of the Syria Crisis Report 2014*
 - 3 This is the upper estimate from the Syrian Centre for Policy Research estimates 470,000 dead by February 2016; the United Nations estimate, as of March 2015, was 250,000 deaths (see United Nations, *Alarmed by Continuing Syria Crisis, Security Council Affirms Its Support for Special Envoy’s Approach in Moving Political Solution Forward*, March 2015)
 - 4 The definition of refugees used here will be that established by the 1951 Refugee Convention, those who ‘owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his [or her] nationality, and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country’. There is a distinction between being a refugee, where an individual meets the definition above, and receiving formal refugee status, where an individual is formally granted asylum by a state.
 - 5 See 3RP Progress Report, 2015; High Level Panel on Humanitarian Financing, *Too Important to Fail – addressing the humanitarian financing gap*, 16th January 2016
 - 6 See 3RP Regional Refugee and Resilience Plan 2016-7 in response the Syrian Refugee Crisis, Regional Strategic Overview , p.6-7; Also see Section IV, Country Case Studies, below
 - 7 Guardian, Greece on brink of chaos as refugees riot over forced return to Turkey, Sunday 3rd April 2016, Ref: <http://www.theguardian.com/world/2016/apr/02/greece-violence-refugees-riot-forced-return-to-turkey>
 - 8 See Reuters reporting, April 2016, *UN, rights groups say Turkey-EU deal may be illegal*, Ref: <http://www.reuters.com/article/us/europe-migrants-idUSKCN0WA1D4>

To shed light on the situation and consider possible solutions, this paper will examine the Syrian refugee crisis and its effect on Turkey, Lebanon, and Jordan to consider its implication for conflict resolution in the region. The testimonies of Syrian refugees, in particular, will be drawn upon.⁹ While acknowledging the present crisis is massive in scale and rooted in deeply complex issues, consideration of the issues reveals that a more thoughtful, collaborative approach, prioritising international co-operation could be developed, which would enable the international community to secure the interdependent goals of humanitarian provision for refugees and security in the region.

⁹ See *Appendix: Note on Refugee Testimonies*, below

II. International Legal Refugee Protection

Historical Context

People have been fleeing conflict for thousands of years; correspondingly, states have been granting protection to those escaping persecution for centuries. The modern legal refugee regime (the set of international laws and norms governing the treatment of refugees) is, however, relatively new, essentially a product of the second half of the twentieth century. The historical context of this still developing body of law is situated in the reaction of post-war Europe to the forced displacement of at least 40 million people in the aftermath of the Second World War. This put refugees high on the international agenda,¹ providing the impetus for the establishment of the modern refugee protection regime examined below.

It is well known that states have the primary responsibility of protecting the human rights of all persons within their territories.¹⁰ However, situations can arise where governments are either unable or unwilling to protect their citizens. Under such circumstances, individuals face human rights violations so grave that they are forced to leave their homes in order to seek safety. Since the governments of their home countries can no longer protect the basic rights of refugees, it is the international community which must step in in order to ensure that those basic rights are respected.¹¹ The existing body of international law aimed at protecting the rights of those displaced in situations of civil war and ethnic conflict (primarily referred to here as the 'international refugee protection regime') is composed of several key international norms.

Burden Sharing

One foundational principle of the international refugee regime, which will be considered in detail by this paper, is the concept of burden-sharing. As defined by the UNHCR, burden-sharing refers to a subset of international cooperation where States take on responsibility for refugees who would strictly fall under the protection of other states.¹² Burden-sharing has its documented

¹⁰ See International Law Commission, 53rd Session, *Articles on Responsibility of States for Internationally Wrongful Acts*, United Nations, 2001, Adopted by the International Law Commission and submitted to the UN General Assembly, 2001.); See also Office of the UN High Commissioner for Human Rights, *International Human Rights Law* (short commentary available online, ref: <http://www.ohchr.org/en/professionalinterest/Pages/InternationalLaw.aspx>)

¹¹ James C. Hathaway, *The Evolution of Refugee Status in International Law: 1920-1950*, 33 INT'L & COMP. L.Q. 348, 348-50 (1984)

¹² K. Newland, *Cooperative Arrangements to Share Burdens and Responsibilities in Refugee Situations short of Mass Influx*, in Discussion Paper prepared for a UNHCR Expert Meeting on International Cooperation to Share Burdens and Responsibilities, 2011

origins in the Preamble to the 1951 Refugee Convention,¹³ the foundational law of the international refugee protection regime discussed below, which stated that:

*The grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot therefore be achieved without international cooperation.*¹⁴

The Refugee Convention's preamble specifically requires the international community to cooperate, share burdens and aim to achieve durable solutions for refugees, who should be 'integrated in the economic system of the countries of asylum and will themselves provide for their own needs and for those of their families'.¹⁵ Specifically, burden-sharing addresses cases where large refugee flows (such as the current refugee crisis) place a very disproportionate and difficult burden on the countries of first asylum receiving the refugees. It recognizes that while the physical presence of refugees in a certain state certainly triggers the jurisdiction of that state, the distribution of refugee protection obligations is often unfair.¹⁶ Therefore, burden-sharing is the distribution of responsibilities among states in response to refugee flows. While the narrow meaning of the concept refers to specific arrangements regarding the physical distribution of refugees, (for example, one mechanism of burden-sharing is resettlement),¹⁷ the UNHCR has also elaborated that burden-sharing measures can take various forms, from financial assistance to extending physical protection.¹⁸ The concept has its roots in the common understanding that refugee issues are of concern to the entire international community; burden-sharing essentially entails an approach towards refugee obligations that is underpinned by international solidarity and shared responsibility.¹⁹

¹³ UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137 [herein after *The Refugee Convention*]

¹⁴ The Refugee Convention, Resolution 2198 (XXI) adopted by the United Nations General Assembly, Preamble, Paragraph Four

¹⁵ The Refugee Convention, Preamble, Paragraph 4

¹⁶ James L. Carlin, *Significant Refugee Crises Since World War II and the Response of the International Community*, 3 MICH. Y.B. INT'L LEGAL STUD. 3, 12–21

¹⁷ The UNHCR defines refugee resettlement as "the selection and transfer of refugees from a State in which they have sought protection to a third State which has agreed to admit them, as refugees, for permanent resettlement" (UNHCR 2011, 3)

¹⁸ UNHCR, *Burden Sharing*, Discussion paper submitted by UNHCR Fifth Annual Plenary Meeting of the APC, 2000

¹⁹ C. Boswell, *Burden-sharing in the New Age of Immigration*, *The Online Journal of the Migration Policy Institute*, 2013

Burden-sharing does not imply a lessening in the duties and obligations of countries in reception of refugees towards refugees; it simply requires that, where the volume of refugees clearly outstrips the capacity of a receiving state to fulfil their obligations towards refugees, the international community step in and “share the burden” of offering refugees asylum.²⁰

Many regard the principle of burden-sharing as constituting a legally-binding obligation on various states, although the extent of its binding power is subject to some debate.²¹ The concept of burden-sharing is by no means a new invention: the concept of solidarity and burden-sharing has been present since the inception of the international refugee regime, and indeed, the entire international refugee system was set up on the shared understanding that refugees are an international responsibility.²² The UNHCR has made continuous efforts, with little success in the case of the Syrian refugee crisis, to disseminate the norm of burden-sharing to various states.

It should be emphasised that within this paper burden-sharing will be referred to within its context of physical re-distribution of protection responsibilities towards refugees. The logic behind the call for international cooperation and its corresponding legal basis will be discussed in chapter VI.

IN BRIEF: WHAT IS BURDEN SHARING?

Burden-sharing is a form of international co-operation where states agree to implement measures sharing the responsibility of offering refugees protection and asylum.

Burden-sharing entails an approach towards refugee crises that is underpinned by international solidarity and shared responsibility.

This concept has its roots in the common understanding that refugee issues are essentially of concern to the entire international community, which has a common stake in issues of humanitarian need and of security.

20 Executive Committee of the High Commissioner's Programme [UNHCR's governing committee, herein after Excom], *Conclusion 22 (XXXII) of 1981 relating to the Protection of Asylum Seekers in Situations of Large-Scale Influx*

21 For example, B.S. Chimni has progressively argued that a firm link has been established between the principle of international burden-sharing and the obligations undertaken under the convention. Other scholars of refugee studies like Alexander Betts have argued that while existing ‘the norm of burden-sharing is weak and does not hold a particular binding power’

22 P.H. Schuck, *Refugee burden-sharing: a modest proposal*, 22 *Yale Journal of International Law* 243, 1997

International Customary Law

The Principle of Non-Refoulement

The principle of *non-refoulement* is the cornerstone of international law relating to refugees: any outline of refugee protection under international law has *non-refoulement* as a starting point. It is considered both an inviolable part of international customary law and a key provision of the 1951 Convention Relating to the Status of Refugees (discussed below). *Non-refoulement* means non-return: states cannot return foreign nationals to territories where they might be subjected to torture, inhumane or degrading treatment, or where their lives and freedoms might be at risk.²³

The principle of *non-refoulement* reflects the commitment of the international community to ensure the enjoyment of basic human rights including the right to life, to freedom from torture or cruel, inhuman or degrading treatment or punishment and to liberty and security of person.²⁴ The logic behind this principle is evident - these and many other rights are threatened when a refugee is returned to persecution or danger. Some of the most important international human rights instruments explicitly prohibit *refoulement*. Both the Geneva Convention relating to the Status of Refugees and the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment possess a prohibition of *refoulement*. Article 33 of the Refugee Convention stipulates that “No Contracting State shall expel or return (“*refouler*”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.” Similarly, Article 3 of the Convention Against Torture states that “No State Party shall expel, return (“*refouler*”), or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.”²⁵

23 Philip C.W. Chan, *The Protection of Refugees and Internally Placed Persons: Non Refoulement under Customary International Law*, 10 INT'L J. HUM. RIGHTS 231, 2006

24 J. Allain, *The Jus Cogens Nature of Non-Refoulement*, 13(4) International Journal of Refugee Law, 2001

25 United Nations, *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1984, 1465 U.N.T.S. 85, Art. 3

The Universal Declaration of Human Rights

Article 14 (I) of the Universal Declaration of Human Rights, considered the foundation of international human rights law and a key determiner of customary international law, states that 'everyone has the right to seek and enjoy in other countries asylum from persecution'. This means that all people fearful of persecution in one country – such as Syrians fleeing conflict – have the right to asylum in another. Asylum, understood as 'the protection that a State grants on its territory or in some other place under the control of certain of its organs to a person who comes to seek it', is a well-known institution²⁶ in international law with well-established historical roots in state practice.²⁷

It is important to note that the type of asylum or legal status accorded to refugees is crucial to their future and well-being, setting out the rights and obligations pertaining to people who have been forced to leave their country.²⁸ It essentially determines what type of basic rights they will be guaranteed. It governs access to essential services such as healthcare and education; the right of movement within a host country; rights to residency; and rights to legal employment.²⁹ While many of these rights – such as the right to healthcare and education – are considered to be fundamental human rights in and of themselves, the enjoyment of these vital rights *in practice* is almost entirely dependent on the level of recognition afforded to those seeking asylum in the relevant receiving country.³⁰ Often, the level of legal protection afforded within receiving countries falls well short of what is required or recommended by international law, with markedly negative ramifications for the degree to which refugees will be protected and assisted during their stay in a receiving country: there are a number of studies proving the direct link between a limited legal status and the high risk of abuse and exploitation.³¹

26 It is important to highlight that there exists a difference between the two concepts of asylum and refugee status. The term asylum effectively constitutes the institution for protection while refugee refers to one of the categories of individuals who benefit from that protection. See María-Teresa Gil-Bazo, *Asylum as a General Principle of International Law* Int J Refugee Law 27: 3-28, 2015

27 V Stoyanova, *The Principle of Non-Refoulement and the Right of Asylum- Seekers to Enter State Territory*, Interdisciplinary Journal of Human Rights Law, Vol 3:1, 2008

28 C Wouters, *International refugee and human rights law: partners in ensuring international protection and asylum*, in N. Rodley and S. Sheeran (eds.), *Handbook on International Human Rights Law*, Routledge, 2013

29 D J Whittaker, *Asylum Seekers and Refugees in the Contemporary World*, London: Routledge, 2008

30 Towle Richard, *Human Rights Standards: A paradigm for Refugee Protection?* In Bayesfsck and Fitzpatrick (ed), *Human Rights and Forced Displacement*, Martinez Publishers, Netherlands, 2000

31 For example, see: NRC Lebanon, *The Consequences of Limited Legal Status for Syrian Refugees in Lebanon*, 2014

International Treaty Law: the 1951 Convention Relating to the Status of Refugees and the 1967 Optional Protocol

The controlling international legal tools on refugee law are the 1951 Convention relating to the Status of Refugees (1951 Convention)⁷ and the 1967 Optional Protocol relating to the Status of Refugees (1967 Optional Protocol). While the scope of the 1951 Convention is limited solely to those Europeans who became significant refugees as a result of events occurring before January 1951, the 1967 Protocol required signatories to apply the substantive provisions of the 1951 Convention to all refugees falling under the definition of the latter but without any limitation of date, making the 1951 Refugee Convention applicable globally.³² In particular, the Convention establishes the definition of a refugee as well as reaffirming one of the principal pillars of this body of law, the principle of *non-refoulement*, previously discussed. It also established the Office of the United Nations High Commissioner for Refugees (the UNHCR). This body's main responsibilities are to provide "international protection" to refugees and, by assisting Governments, to seek "permanent solutions for the problem of refugees". Its protection functions specifically include "promoting the conclusion and ratification of international conventions for the protection of refugees, supervising their application and proposing amendments thereto";³³ signatories to the Convention are required to permit the UNCHR to operate within their borders to support refugees.³⁴ Even those countries which are not signatories usually co-operate with the UNHCR because of the humanitarian assistance it provides; it is the main international organisation assisting refugees in Lebanon, Jordan, and Turkey.³⁵

It should be emphasised that the Convention has a considerable legal, political and ethical significance beyond its specific terms.³⁶ From a legal perspective, it provides the basic guiding standards on which international refugee protection should be carried out. From a political one, it provides a truly universal framework which states can utilise in cooperating to share the burden resulting from forced displacement. Finally, it has ethical significance, in that it constitutes a unique declaration by the 140 signatories of their commitment to protect and

32 Rubio-Marín, R, (ed.), *Human Rights and Immigration*, Oxford University Press, 2014

33 *Statute of the Office of the High Commissioner for Refugees*, Para. 11

34 UN High Commissioner for Refugees (UNHCR), *Refugee Protection in International Law: UNHCR's Global Consultations on International Protection*, 2003

35 Loescher, G. and Milner, J, *UNHCR and Global Governance of Refugees* In Betts, A. (ed.) *Global Migration Governance*. Oxford: Oxford University Press, 2001

36 UN High Commissioner for Refugees (UNHCR), *Refugee Protection: A Guide to International Refugee Law*, 2001

uphold the rights of some of the world's most vulnerable people.³⁷ Together, this means that international legal obligations do not disappear simply because a refugee has not been able to reach the territory of a particular state.

In the case of the Syrian refugee crisis, most states today have in practice avoided many of their responsibilities under the international refugee protection regime by taking steps to stop refugees from crossing into their respective territories, and claiming that they do not have jurisdiction over or responsibility for refugees in the territories of others. Adopting the non-entree approach, whereby refugees are simply not allowed to enter and therefore trigger a particular state's jurisdiction, has allowed most states to formally stay within the realms of refugee law while simultaneously not practically fulfilling treaty obligations. This argument does not stand up under expert scrutiny.³⁸ Refugee responsibility and jurisdiction does not stem solely from geographic engagement of the refugee with the state's territory: the institution of asylum was simply not structured that way, and the normative obligation to protect is not conditional.³⁹

In addition, obligations of refugee protection stem not just from the humanitarian need to protect vulnerable individuals but also from the crucial need for global stability, as will be discussed in the following chapter. It can be argued that providing refugee protection offers benefits to all states; these benefits stem from the security that comes from reintegrating people into a state system and therefore avoiding conflict.⁴⁰ Burden-sharing is also a key way in which states can co-operate to work towards international stability, as will be outlined in Chapters III and IV.

Both the Convention and the 1967 Protocol are international treaty law; that is to say, they are strictly binding only to signatories. Yet many of their provisions relating to the treatment of refugees and asylum applications can be considered to have passed into international customary law, meaning that even those states which have not ratified the Convention or Protocol are still subject to the treaties to a certain extent, because they contain 'reference

37 *ibid*

38 See Thomas Gammeltoft-Hansen, *International Refugee Law and Refugee Policy: The Case of Deterrence Policies*, *Journal of Refugee Studies* 2014 27: 574-595

39 A. Hurwitz, *The Collective Responsibility of States to Protect Refugees*, Oxford University Press, 2009

40 Alexander Betts, *Protection by Persuasion: International Cooperation in the Refugee Regime* Ithaca: Cornell University Press, 2009

points for determining customary international law' and 'reflect an international consensus on minimum legal standards to be applied to nationality'.⁴¹

The key provisions of the Convention will be briefly outlined below.

Naturalisation and Assimilation

Under the terms of the 1951 Convention, States must as far as possible facilitate the naturalisation and assimilation of refugees. At a minimum, States are obligated to provide legal assistance, including the necessary documents, for refugees to secure asylum and official refugee status. Those seeking refugee status and those who have gained it must be granted freedom from penalties for illegal entry (Article 31) and freedom from expulsion (Article 32), and they must enjoy the same access to the Courts of law in the State as nationals of that state.

Access to Basic Services

The convention also requires that refugees are afforded with elementary education (if of the right age), and are given the same assistance in regards to public relief and assistance as is accorded to nationals of the receiving country. This means that states are obligated to provide public relief – encompassing basic food, water, shelter, and medicine – to asylum seekers.⁴² Given that the right of all people to those resources which are necessary to survive is fundamental, this obligation can be understood to be intrinsic to international human rights law. Special protection is also afforded to child refugees; the 1990 Convention on the Rights of the Child requires that States must take all appropriate measures to ensure that children either seeking refugee status or who have secured refugee status are accorded all of the rights set forward in the 1990 Convention. These include protection from abuse, child labour, and separation from the family.

Employment

Under the terms of the 1951 Convention, refugees are to be accorded at least as favourable treatment as that given to aliens resident in the receiving states in regards to

⁴¹ T Einarsen, *The 1951 Convention*, in Aimmerman (ed.), *The 1951 Convention Relating to the Status of Refugees and Its 1967 Protocol: A Commentary* (Oxford: Oxford University Press, 2011)

⁴² The Convention provides refugees with specific welfare-related rights in the areas of rationing, housing, public relief, the protection of labour laws, and social security. Refugee Convention, *supra* note 4, arts. 20, 21, 23, 24

employment law.⁴³ That is, if nationals of another state may secure legal employment within the state, refugees should be able to do so as well. In addition, the 1951 Convention states that refugees are subject to the same protections that nationals are provided with in regards to employment law and legal recourse if they are exploited or abused. It also recommends that states take action to facilitate the economic participation of refugees within the labour force.

In summation, the international refugee regime is grounded on four principles. Firstly, all people have a right to seek asylum from persecution. Those seeking and those who have gained asylum must be protected at all lengths from *refoulement*, or their return to a country where their fundamental rights will be threatened. Refugees – whether they have gained official refugee status or are in the process of seeking it – have the absolute right to basic public relief to secure those essentials (such as food, water, medicine, and shelter) necessary for survival. Finally, in regards to all other matters, in particular employment law, refugees have the right to receive at least as favourable treatment as other foreign nationals in the receiving country.

It is important to note that the international community is responsible for upholding the international refugee regime.⁴⁴ In general, the issue of refugees is by definition an international one.⁴⁵ The entire refugee regime is grounded in an inter-state agreement and attempting to exclude co-operation within this context is inconsistent with the rationale behind refugee law – namely, stepping in and filling a protection gap.⁴⁶ States commit to accepting refugees on their territory on the basis that other states will do the same; the right to asylum is essentially built upon international cooperation.⁴⁷ Like all international law, refugee law is a mechanism through which governments agree on certain compromises on their sovereign rights in order to manage complex situations of conflict and promote global order;⁴⁸ international refugee law was

43 Ibid. art. 17.

44 Eiko R. Thielemann & Torun Dewan, *Why States Don't Defect: Refugee Protection and Implicit Burden-Sharing*, London School of Economics, 2004

45 Hurwitz, Agnès G, *The Collective Responsibility of States to Protect Refugees*, Oxford University Press, 2009

46 James Milner, *Sharing the Security Burden: Towards the Convergence of Refugee Protection and State Security*, Refugee Studies Centre, Working Paper No. 4, 2000

47 Fonteyne J L, *Burden-Sharing: An Analysis of the Nature and Function of International Solidarity in Cases of Mass Influx of Refugees*, Australian Yearbook of International Law, Volume 8, 1983

48 Hathaway, J.C et al, *Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution-oriented Protection*, Harvard Human Rights Journal, 1997

established exactly because there was a need for a mechanism to manage forced migration.⁴⁹ Yet, as will be outlined by this paper, the mass forced displacement of people from Syria is currently being managed in a mostly ad hoc and inadequate manner.

⁴⁹ Gammeltoft-Hansen, T, *'Creative Legal Thinking' and the Evolution of International Refugee Law*, *Lakimies* (1): 99–105, 2014

IN BRIEF: INTERNATIONAL REFUGEE LAW

International Refugee Law is derived from two main sources: International Customary Law, and the Refugee Convention.

International Customary Law

- **Non-refoulement** is a principle of international law, first expressed in the 1933 Convention relating to the Status of Refugees, which forbids the return of a refugee to a state in which there is strong evidence to suggest that will be persecuted.
- **The Universal Declaration of Human Rights** enshrines the right to asylum of all people: 'everyone has the right to seek and enjoy in other countries asylum from persecution' (Article 14.1). This means that all people fleeing persecution have **the right to be recognized as refugees**.

The 1951 Refugee Convention and 1967 Optional Protocol

- Requires signatories to recognize those fleeing persecution as refugees
- Signatories must undertake measures to **naturalise** and **assimilate** refugees
- Signatories must provide refugees with basic services such as **sustenance, shelter, and medicine**
- In the provision of other services and rights (such as education) refugees must receive **at least as favourable treatment as foreign nationals**
- Signatories must make a particular effort to **help refugees participate in the workforce**

IV. Refugees and Conflict

The complexity of the relationship between refugees and conflict defies attempts at generalisation; that the Syrian refugee crisis is so extensive makes understanding how the crisis interlinks with the dynamics of conflict in the region even more difficult. It is clear that large populations of refugees are affected by, and in turn affect, conflict in diverse ways. One potential dynamic at play here is that refugee crises have the potential to exacerbate and even trigger conflict; it has been demonstrated that countries experiencing a marked influx of refugees fleeing neighbouring conflicts are themselves more likely to experience conflict.⁵⁰ This conclusion is borne out by several historical experiences; noted examples include the Indian invasion of East Pakistan in 1971,⁵¹ the Lebanese Civil War of 1975,⁵² and the Rwandan invasion of Zaire in 1996.⁵³ At the same time, it is equally clear that in most cases, the arrival of large populations of refugees, (who are invariably victims of persecution and who have often fled conflict themselves), had no discernible link with further conflict. Syrian refugees have fled an exceptionally brutal war and, for the majority who live in pronounced poverty, are preoccupied with their own day to day subsistence. The link between refugees and conflict is therefore contingent; it should not be presupposed, because it is dependent on the interaction of contextual factors which serve to increase or decrease the likelihood of conflict occurring.⁵⁴

50 Idean Salehyan and Kristian Skrede Gleditsch, *Refugees and the Spread of Civil War*, International Organization 60, 2016, pp 335 – 366

51 The Pakistani armed forces prompted the flight of around ten million refugees into India, severely straining the already beleaguered Indian economy. See Raghavan, Srinath 1971- *A global History of Creation of Bangladesh*, Harvard University Press, 2013

52 The operations of the PLO and PLPF from within Palestinian refugee populations caused tensions with Maronite Christians in the Lebanon, fracturing the already strained relationships between many of the country's different ethnic and cultural groupings. See William W Harris, *Faces of Lebanon: Sects, Wars, and Global Extensions*, Princeton, 1997

53 One of the reasons cited by Paul Kagame, the sixth and current President of Rwanda, for the invasion of Zaire was the operation of génocidaires from within refugee camps in eastern Zaire. See Gérard Prunier, *Africa's World War: Congo, the Rwandan Genocide, and the Making of a Continental Catastrophe*, Oxford University Press, 2009

54 *Dangerous Sanctuaries: Refugee Camps, Civil War, and the Dilemmas of Humanitarian Aid*, Sarah Kenyon Lischer, Cornell University Press, 2005

Refugees and Conflict: Risk Factors

When considering how likely a refugee crisis is to trigger conflict, there are in general three broad risk factors to survey.

Instability in the Receiving Country

The stability of the country or countries in reception of large refugee populations is a major risk factor in increasing or decreasing the likelihood of conflict. A country troubled by economic hardship, political strife, or some combination of the two, may experience the burden of providing for an unfeasibly large population of refugees as a significant negative externality. The economic impact of refugees on receiving communities is in general very unclear; while they are commonly perceived as a burden on the receiving country, scholars have challenged the assumption that refugees necessarily constitute a negative externality to the receiving country. Refugee crises do not necessarily entail economic costs to receiving governments, and may indeed provide economic opportunities to the receiving country.⁵⁵ Most refugee communities seek to engage in economic activity, including by trading with receiving communities within existing economic and regulatory frameworks.⁵⁶ Yet it is also clear that a disproportionately large number of refugees can easily outstrip the capacity of the receiving country to provide for them.

The perceived or real economic strain of refugees may also provoke antipathy within the native population, especially if refugees are perceived to be direct competition for resources. In several examples, this has provoked violent confrontation between refugees and native groups, who may or may not enjoy government support.⁵⁷ In addition to economic issues, the arrival of a large number of refugees may alter the ethnic or cultural balance of a receiving country in a way that exacerbates pre-existing

55 See, for example, Ing Brees, *Refugee Business: Strategies of Work on the Thai–Burma Border*, *Journal of Refugee Studies*, 21 (3), 2008, 380-397; Campbell, *Economic Globalization from Below: Transnational Refugee Trade Networks in Nairobi*, *Cities in Contemporary Africa*, Ed. Murray and Myers, Macmillan, 2006; Whitaker, *Refugees in Western Tanzania: The Distribution of Burdens and Benefits Among Local Hosts*, *Journal of Refugee Studies*, 15 (4), 2004, pp. 339-358

56 Betts et al, *Refugee Economics: Rethinking Popular Assumptions*, Refugee Studies Centre, University of Oxford, 2014

57 See *Assessing Economic Impact of Hosting Refugees: conceptual, methodological, and ethical gaps*, Refugee Study Centre, Oxford University, 2015

tensions.⁵⁸ The 2001 conflict in Macedonia, for example, has been linked to the influx of ethnic Albanian refugees fleeing the 1999 conflict in Kosovo. As the Macedonian economy struggled to cope, some Macedonians feared that their ethnic Albanian minority would use the changing demographics of the country to push for autonomy or succession. The situation was compounded by the presence of insurgents from the Kosovo Liberation Army who crossed the border and operated from within Albanian-populated territory. In this case, as in others, an already troubled domestic political landscape was unbalanced by neighbouring conflict and the limited capacity of the receiving state to handle a disproportionately large number of refugees.⁵⁹

Conflict within Refugee Communities

The risk of conflict may be increased or decreased depending on how likely a refugee population is to contain individuals willing to provide shelter and resources for armed groups. Refugees who have been afforded few rights and protections, and therefore been given little reason to hope that their precarious situation and living conditions are likely to improve, may sometimes prove particularly receptive to the ideologies of armed groups and may serve as a useful pool of recruits.⁶⁰ Militant networks may (for example) use bases in refugee camps to launch cross-border military operations or to take up arms against different groups, including government forces, in the receiving country. In this way, it is possible for a refugee crisis to contribute towards 'the transnational spread of arms, combatants, and ideologies conducive to conflict'.⁶¹

One key example of this occurring is during the Palestinian refugee crisis, which followed the mass exodus of approximately 700,000 Palestinian Arabs during the 1948 Palestinian war. Many settled in Jordan, where armed groups such as the Palestinian Liberation Organisation and Popular Front for the Liberation of Palestine engaged in cross-border armed operations against foreign states. These activities eventually led to war being fought in Jordan between the PLO and the Jordanian State when King Hussein moved to

58 Idean Salehyan and Kristian Skrede Gleditsch, *Refugees and the Spread of Civil War*, International Organization 60, 2006

59 See *Post-Conflict Macedonia: Peacebuilding With or Without Reconciliation*, Biljana Vankovska (2003)

60 Refugees and the Spread of Civil War, Idean Salehyan and Kristian Skrede Gleditsch, International Organization 60, April 2006, p 335

61 Refugees and the Spread of Civil War, Idean Salehyan and Kristian Skrede Gleditsch, International Organization 60, April 2006, p 335

expel Palestinian militant groups from the country.⁶² This precedent is serving to exacerbate Jordanian concerns over the presence of Syrian refugees in Jordan today.

Yet this outcome is far from inevitable; examples where groups of refugees proved conducive to the spread of militant groups operating within them are vastly outnumbered by those in which refugee populations remain entirely peaceable. The large majority of countries which receive refugees have not experienced conflict as a result; even where conflict has occurred, it should be noted that generally only a small minority of refugees take up arms.⁶³ When examining the link between refugees and conflict, it is therefore salient to remember that the overwhelming majority of refugees are peaceful non-combatants.

Third Party Agendas

A final risk factor that may work to inculcate conflict in the case of a refugee crisis comprises the agendas of receiving governments, foreign governments, and multinational agencies. In some cases, refugee crises have been used by different groups seeking to encourage the formation and operation of armed groups within refugee populations, to wield influence in the region.⁶⁴ One key example of this concerns Afghan refugees in the 1980s, when two very large groups headed to Pakistan and Iran respectively; while similar in size, ethnicity, and motivations for flight, only the population in Pakistan became involved in sustained cross-border fighting. The crucial difference between the two groups was the respective attitudes of their receiving countries; only the Pakistani government encouraged and supported the efforts of Afghan fighters.⁶⁵

The actions of multinational aid agencies can also inadvertently lead to conflict; providing a level of resources to refugees above that which the neighbouring receiving

62 For Black September and the Jordanian Civil War, see *The Arab-Israeli Wars*, Herzog (p.205-230), Lion of Jordan; *The Life of King Hussein in War and Peace*, Shlaim, Avi (2007)

63 Idean Salehyan and Kristian Skrede Gleditsch, *Refugees and the Spread of Civil War*, *International Organization* 60, April 2006, pp 339

64 Stephen John Stedman and Fred Tanner (eds), *Refugee Manipulation: war, politics, and the abuse of humanitarianism*, Washington DC, Brookings Institute Press (2004)

65 Lischer, *Dangerous Sanctuaries: Refugee Camps, Civil War, and the Dilemmas of Humanitarian Aid* Cornell University Press (2005)

population receives can foster resentment which in some cases has led to violent attacks on refugees and ensuing counter-reprisals. Conversely, good management of a refugee crisis by regional actors and the international community at large generally acts to prevent this from occurring, especially if programmes are introduced to foster communication between the receiving community and refugees.⁶⁶

Risk Factors: Conclusions

Several conclusions can be drawn from the risk factors surveyed above. Firstly, it is clear that the care, protection, and if necessary resettlement of refugees is of the utmost importance if conflict is to be avoided. It is clear that the provision of adequate care and protection to refugees is an important determiner of both peace and conflict.⁶⁷ Refugees who are not provided for may themselves be swayed to join militant networks, or harbour these networks within their midst; the presence of poor and in need refugees has the potential to exacerbate tensions in the receiving country over economic issues. In the worst case scenario, refugees may become subject to physical violence perpetrated by groups within the receiving country, and retaliate in a similar manner, triggering conflict. Finally, if refugees themselves are encouraged by the receiving government to take up arms, instead of being cared for and integrated peacefully into the receiving country, they may become instruments in conflict carried out between states. This means that in order to securely avoid conflict, any solutions to refugee a crises must involve the consent and active participation of governments co-operating internationally, as outlined in international refugee law.

A pressing priority from a security perspective during a refugee crisis, then, is to ensure that refugees are adequately protected, their needs met, and in the long term to institute measures which will enable either their repatriation to a third country, safe resettlement in their country of origin, or integration within the country they currently reside in.⁶⁸ As outlined earlier, this should not be seen as the sole responsibility of countries in reception of refugees, but can indeed be viewed as the shared obligation of the international community.

⁶⁶ Lischer 2005; Stedman and Tanner, 2005

⁶⁷ See Karen Jacobsen, *Livelihoods in Conflict: the Pursuit of Livelihoods by Refugees and the Impact on the Human Security of Host Communities*, International Migration 40, 2002

⁶⁸ Mogire, *Victims as Security Threats: Refugee Impact on Host State Security in Africa*, Routledge, 2016

It should also be noted that from the evidence considered so far, conflict in which large populations of refugees play a significant role is at risk of being “contagious”, likely to cross borders and affect neighbouring countries in the region, regardless of whether a country is currently in reception of refugees or undergoing conflict itself.⁶⁹ This makes the safe care and provision for refugees a truly international concern; even for states which have not received refugees. Contributing towards the international effort to effectively manage refugee crises is a matter of national security as well as international obligation.

Providing for the Safety and Security of Refugees to Reduce the Risk of Conflict

To summarise, research and evidence suggests that there is a potential link between conflict and refugees, but that this link is only sporadically active. Because the likelihood that conflict will ensue from a refugee crisis is to a large extent contingent on the degree to which refugees are cared for and protected, the behaviour of state actors – who bear primary responsibility for determining the legal and humanitarian situation in which refugees are accommodated – is of particular significance in either encouraging or discouraging conflict. Throughout, it should be stressed that refugees are victims of violence, persecution, and conflict, and are instigators of conflict in only a small minority of cases. The international community has a duty to protect them, as stated in the Refugee Convention.

Research and evidence demonstrates several key ways in which refugees can be provided for and the risk of conflict reduced. Where it is clear that refugees will not be able to return to their home country, refugees must be integrated into the receiving country or a third country able to accommodate them if the risk of conflict is to be substantially reduced. Treating refugees as illegal migrants, with few rights and scarce protection, or otherwise denying them legal refugee status, has been found to hinder the development of self-sufficiency on the part of refugees and compounds social seclusion.⁷⁰ As outlined previously, this is also illegal under international refugee law. Ways in which the integration of refugees within the receiving population can be encouraged, to the benefit of both groups, centre around three key areas: reducing restrictions

⁶⁹ Saleyhan and Gleiditsch, *Transnational Dimensions of Civil War*, Journal of Peace Research, Vol. 44, No. 3, 2007, pp. 293-309

⁷⁰ See Ikanda, *Deteriorating Conditions of Hosting Refugees: a Case Study of the Dadaab Complex in Kenya* African Study Monographs, 29(1): 29-49, 2008; UNHCR, Research Paper 32, *Refugee integration in Ghana: the host community's perspective*, Agblorti, 2011

on the movement of refugees, ensuring that property rights are available to them, and implementing measures to help refugees gain access to land and essential resources. Refugees have the potential to contribute to the economy of the state, and the removal of barriers on their economic participation is an important step in reducing the likelihood of conflict.⁷¹

Finally, research also suggests that where possible, donors and governments seeking to provide for refugees should channel aid money through local suppliers and services. Taking measures to ensure that the receiving population shares economic resources dedicated to assisting in the context of a refugee crisis reduces the risk of resentment towards and disaffection with refugees, and may serve to build co-operative ties between the local population and refugees. Where possible, aid should be delivered in collaboration with local organisations familiar with the local political and security context,⁷² especially as local participation in aid programmes may help to establish friendly connections between refugees and the receiving community, connections which will be of paramount importance if the refugee crisis is, like the ongoing Syrian refugee crisis, protracted in nature.⁷³

71 Phillimore, *Refugees, Acculturation Strategies, Stress and Integration*, *Journal of Social Policy* 40 Issue 03, 2011, pp 575-593

72 Jacobsen, *Livelihoods in Conflict: the Pursuit of Livelihoods by Refugees and the Impact on the Human Security of Host Communities*, *International Migration* 40, 2002

73 Werker, *Refugee Camp Economies*, *Journal of Refugee Studies* 20, no. 3, 2007, pp.461–480; See also Phillimore 2011, Jacobsen 2002

IN BRIEF: REFUGEES AND CONFLICT

There is a potential, but in most cases inactive, link between refugees and conflict. This link can be “activated” if some or a combination of the following conditions are present:

- Refugees are **unable to obtain legal employment**, which leads their dependency, marginalisation, and vulnerability to discrimination or abuse.
- There is a failure to facilitate communication between refugee and receiving communities, allowing **mistrust and alienation** to develop.
- The Government of the receiving country **attempts to use refugee groups** to further foreign and domestic policy agendas, for example by encouraging the formation of militant networks within refugee communities

Ways in which the risk of conflict ensuing from a refugee crisis can be reduced:

- Allowing refugees to **directly participate in the labour force**, meaning that they are able to provide for themselves and are less at risk of exploitation within the informal labour market.
- Allowing refugees **freedom of movement**, so that they may settle in the places where they can best secure housing, employment, and services.
- Aiding **communication and co-operation** between refugees and receiving communities; for example, through community events and local participation in aid

IV. Syrian Refugees in Lebanon, Jordan, and Turkey

So far, this paper has examined the international refugee regime and the relationship between refugees and conflict to place the current Syrian refugee crisis within its larger legal and political context. It has been established that the two central challenges of the crisis – the struggle to protect and provide for the rights of refugees, and the struggle to prevent conflict from spreading – are in fact twinned, and must be addressed together if durable answers are to be found. To consider the crisis in more detail, and examine how the burden-sharing approach may be best applied to the twin problems described, the specific situation of refugees in Lebanon, Jordan, and Turkey will be examined here.

Overview of Refugee Rights and Protections in Lebanon, Jordan, and Turkey

While at first glance the refugee protection regime – outlined in the first chapter of this paper – may appear comprehensive, a closer look shows that in practice the rights that Syrian refugees in Lebanon, Jordan, and Turkey are granted depend on fragmented national legal frameworks.⁷⁴ All three countries are, however, subject to international customary law, which sets out key obligations towards refugees, outlined previously. It is important to remember that non-signatories to the Refugee Convention still have a variety of other obligations under other human rights treaties to protect those within their territory. Outside the 1951 Convention international law also guarantees the right for everyone to seek and enjoy asylum under the Universal Declaration of Human Rights, in addition to the prohibition of *refoulement* which has reached the status of customary international law. Furthermore, all three countries under review are signatories to a number of other international treaties and human rights conventions.⁷⁵

Treatment of refugees will always depend on the ability of domestic legislation to properly incorporate the requirements of international treaties. Yet what makes the current refugee crisis even more complex is that out of the three main host countries with the highest numbers

⁷⁴ *The Syrian Displacement Crisis and a Regional Development and Protection Programme: Mapping and Meta analysis of existing studies of costs, impacts, and protection*, Oxford Refugee Studies Ctr. & Den. Ministry of Foreign Affairs, 2014

⁷⁵ All three countries are bound by the *Universal Declaration of Human Rights*, the *1984 UN Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment*, the *1979 UN Convention on the Elimination of Discrimination against Women*, and the *1989 UN Convention on the Rights of the Child*

of Syrian refugees examined; only Turkey has ratified the 1951 Convention and its 1967 Protocol. Both Jordan and Lebanon have chosen not to ratify these two legal instruments. Moreover, while Turkey has chosen to ratify the 1951 Convention and 1967 Protocol – it ratified the 1967 Protocol with a reservation that maintains a geographical limitation. In other words, Turkey only recognises refugees if they are from Europe. This means that *those displaced Syrians residing in Lebanon, Jordan, and Turkey have no legal right to be recognized as refugees under domestic legal framework*; despite the vast majority fulfilling the criteria of refugees as set out in the Refugee Convention.

This has meant that the large majority of those escaping Syria reside in countries where the international refugee protection regime, grounded on the 1951 Refugee Convention, does not fully reach them; and the physical, legal and material security of those fleeing the war in Syria is dependant entirely on the domestic response of each of those countries. Despite concern in Europe centring around the migration of Syrian refugees to the continent it should be remembered that Turkey, Lebanon and Jordan have essentially absorbed the brunt of the Syrian refugee crisis; all three countries must contend with the presence of hundreds of thousands – in Turkey’s case, millions – of Syrian refugees, while managing economic difficulties, varying degrees of negative public opinion, and a spectrum of pre-existing political and governmental issues.⁷⁶

Yet while it is important to recognize both the gravity of the situation and the considerable efforts taken by many of Syria’s neighbours to provide for refugees, both in the present day and historically, we should not ignore the fact that serious and systemic protection gaps exist within the domestic legal frameworks of Lebanon, Jordan, and Turkey. For these countries the pre-existing consensus that the legal status of asylum seekers and refugees is mostly governed by the countries’ national laws concerning foreign nationals rings especially true.⁷⁷ As a result, the response to the Syrian refugee crisis has been uncoordinated and unbalanced. Not only does the legal framework applicable to refugees differ significantly from state to state, but different laws apply to different groups of refugees. This is exemplified by the significant difference in protection levels offered to Syrians and Palestinian Refugees fleeing Syria. There is data showing

⁷⁶ See *Country Case Studies* for Jordan, Lebanon, and Turkey, below

⁷⁷ Syria Needs Analysis Project, *Legal Status of Individuals Fleeing Syria*, 2013, available online at Ref: http://reliefweb.int/sites/reliefweb.int/files/resources/legal_status_of_individuals_fleeing_syria.pdf

that the civil war has displaced approximately half of nearly 500,000 UNRWA-registered⁷⁸ Palestinian refugees in Syria. Half of the original 12 Palestinian camps in Syria have been turned into battlegrounds between the opposition and the regime. Throughout the three main host states, Palestinians are an example of a minority group struggling with tenuous legal status due to their protracted, multiple displacements.⁷⁹

To truly understand the levels of protection offered to individuals fleeing Syria, then, one must be familiar not only with the international refugee regime but also the applicable laws on a regional level. The notion of asylum is unavoidably dependant on the policies and measures practiced on the ground in each country. In regards to Syria, as well as other refugee crises worldwide, this is perhaps the biggest challenge facing the development of a uniform asylum and refugee protection legal regime.

Syrian Refugees in Jordan

Syrian refugees in Jordan now constitute 8 per cent of the country's entire population, with more than 640,000 refugees – the large majority of them Syrian – having sought sanctuary within Jordan since 2011.⁸⁰ The result is that Jordan is currently hosting the second-largest ratio of refugees to citizens of any country in the world, and the reception of so many has a 'substantial strain on national systems and infrastructure'.⁸¹ Exacerbating this complex situation is the fact that Jordan has no established refugee law or one single consistent policy stance towards refugees. Jordan's national legislation concerning people fleeing persecution in Syria administers them not as refugees, but as foreigners generally.⁸²

National Legal Frameworks for Refugee Protection: Jordan

According to the Memorandum of Understanding (MoU) UNHCR has the right to determine the refugee status of asylum-seekers in Jordan, and the obligation to ensure their protection.

78 United Nations Relief and Works Agency for Palestinian Refugees, the primary United Nations Agency providing for the welfare of people displaced from Palestine and their descendants

79 *Palestinian refugees from Syria: Ongoing Nakba, Ongoing Discrimination*, al-Majdal Issue 56, BADIL Resource Centre for Palestinian Residency and Refugee Rights, 2014

80 Syria Regional Refugee Response, UNHCR: Jordan, data last updated 3 March 2016

81 UNHCR, *2015 Country Operations Profile – Jordan*, 2015, 'Overview'

82 Jordanian Law No. 24 of 1973 on Residence and Foreigners' Affairs

According to the MoU asylum-seekers can remain in Jordan during the status determination process.⁸³ Those who have been recognised by the UNHCR as refugees are allowed to remain in the country six months after recognition.⁸⁴ Since Jordan avoids any official recognition of a refugee status those fleeing Syria are typically referred to as “visitors”, “irregular guests” or simply “guests”.⁸⁵ This has no real legal meaning under domestic laws; the legal status of a refugee is only obtained upon securing a resettlement space to a third country.

Those coming from Syria, whether they are registered with the UNHCR or not, are not granted residency. The Jordanian Government requires all those coming from Syria to register with the Ministry of Interior and receive Ministry of Interior (MoI) Service Card. This documentation is essential since it is mandatory for access to public healthcare and education. However this card is only valid if the person in question stays confined to the place where the card was obtained; those who decide to move from their initial living area are to be re-registered with the police at their new location.⁸⁶

Jordan’s official response to the Syrian influx and refugee rights has been described as “remarkably under-articulated”:⁸⁷ certainly, the current legal regime has had serious ramifications for the rights of people facing persecution in Syria, and may have serious security repercussions (discussed below). The gravity of the situation is further compounded by the measures taken by the Jordanian government to make it considerably more difficult for refugees from Syria to obtain a new MoI Service Card.⁸⁸ In 2014 it was announced that new MoI Service Cards would not be issued to those unable to prove they left the camps through the formal camp “bailout” process. To leave the camp through the official process, a person must be able to meet several requirements that are impossible for most refugees to meet in practice, including having a Jordanian sponsor over the age of 35 who is also a direct relative to the applicant.

83 Al-Kilani, K, *A duty and a burden on Jordan*, *Forced Migration Review*, 47, 2014. Available online at Ref: http://www.fmreview.org/syria/alkilani#_edn2

84 1988 *Memorandum of Understanding between the Government of Jordan and UNHCR*, translated by UNHCR

85 Integrated Regional Information Networks (IRIN), *Briefing: The mounting Syrian refugee crisis*, 2012

86 George Sadek, *Legal Status of Refugees: Egypt, Jordan, Lebanon, and Iraq*, Law Library of Congress, 2013, available online at Ref: <http://www.loc.gov/law/help/refugees/2014-010156%20RPT.pdf>

87 UNHCR, UNICEF, WFP, *Joint Assessment Review of the Syrian Refugee Response in Jordan*, 2014. Available online at Ref: <http://reliefweb.int/report/jordan/joint-assessment-review-syrian-refugee-response-jordan>

88 UNHCR, *Jordan Operational Update*, 2014

In 2014, the Jordanian authorities made it considerably difficult for people to update their registration status with UNHCR by announcing that the UN body would no longer be allowed to issue new cards to those who left the camps outside the official bailout system. Only 16 per cent of the total refugee population in Jordan live in camps; the 84 per cent who live outside of the camps are very likely to include many who have left without obtaining formal permission.⁸⁹ Without a valid document issued by the UNHCR, Syrian refugees are not able to access the basic aid provided by the organisation such as basic food and healthcare, meaning that these policies have not only dramatically restricted refugees' freedom of movement but led to a failure to provide for some refugees' most basic needs, a key requirement under international law.⁹⁰ In addition, there are reports stating that as of January 2015 the bailout process has been unofficially suspended in all camps.⁹¹

The gaps in the legal protection afforded to people fleeing persecution in Jordan is typified by the situation of Palestinian refugees, who continue to face particularly pronounced adversity.⁹² In the January of 2013, Jordan implemented a new border policy of non-admission of Palestinians, when the Prime Minister declared that Palestinians entering Jordan will have committed an immigration crime.⁹³ Palestinians who have managed to enter are being returned to Syria; among the returned are the most vulnerable groups, including the elderly and unaccompanied minors.⁹⁴ This is a clear violation of the principle of *non-refoulement* and illegal under international law.

The Welfare of Refugees from Syria in Jordan

As a result of their legal status in Jordan, the welfare of many refugees in Jordan is considerably threatened. Nine out of ten refugees are considered highly or severely vulnerable in terms of

⁸⁹ A Francis, *Jordan's Refugee Crisis*, Carnegie Endowment for International Peace, 2015

⁹⁰ UNHCR, UNICEF, WFP, *Joint Assessment Review of the Syrian Refugee Response in Jordan*, 2014. Available online at Ref: <http://reliefweb.int/report/jordan/joint-assessment-review-syrian-refugee-response-jordan>

⁹¹ International Human Rights Clinic and Norwegian Refugee Council, *Registering Rights :Syrian Refugees and the Documentation of Births, Marriages, and Deaths in Jordan*, 2015

⁹² Maha Al-Kahef, Marina Ferhatovic and Haneen Aweis, *Palestinians in Jordan: Same but Different*, Euro-Mediterranean Academy for Young Journalists, 2014

⁹³ Human Rights Watch, *Not Welcomed: Jordan's Treatment of Palestinians Escaping Syria*, 2014

⁹⁴ Human Rights Watch, *Jordan: Vulnerable Refugees Forcibly Returned to Syria*, 2014,

basic needs,⁹⁵ a direct result of the way in which most refugees find themselves on the fringes of Jordanian society without access to employment. Jordanian companies are not allowed to employ foreigners without a valid residence permit.⁹⁶ Since neither those who are registered as refugees with UNHCR, nor those who choose to remain unregistered with the UNHCR, are given residency, it is next to impossible for Syrians to seek lawful employment within Jordan. This is in effect a contradiction of the minimum standards required by the 1951 Geneva Convention, which provides that refugees and those seeking refugee status be given at least as favourable treatment as other foreign nationals.

This has meant that after years of living on the fringes of Jordanian society, either within or outside of camps, most families have now entered a cycle of asset depletion, with savings levels dropping and debt levels rising; stable and reliable income sources are rare, rent is high, and many families find themselves in debt.⁹⁷ Families living in informal tented settlements, in particular, are primarily dependant on aid.⁹⁸ Child refugees are increasingly vulnerable to exploitation; 97 per cent are at risk of not receiving education, and there are reports of substantial numbers being illegally employed in industry and agriculture because of the much lower wages they are often paid.⁹⁹ This may put Jordan in contravention of the Convention of the Rights of the Child, which requires that all reasonable measures be taken to ensure refugee children's safety and access to education.¹⁰⁰

The concerning situation of refugees from Syria in Jordan was emphasised by refugees we surveyed for the purposes of this paper. In particular, the Syrian refugees interviewed expressed anxiety over difficulties in finding employment. For Bana, 18, unemployment was her most serious concern; she described her financial situation as 'very difficult... there is no work for us'. Another major challenge highlighted by Syrian refugees in Lebanon was the education system. Among highlighted issues was the difficulty in finding a school, the bullying of Syrian children at school, and ill-treatment by teachers. Jodee, nine years old, explained that 'the teachers and the director they don't respect us because we are Syrians. I respect them and I

95 UNHCR, *Jordan Vulnerability Baseline Survey*, 2015, p.30

96 The Legislation governing this is the 1973 *Residence and Foreigners' Affairs Law*

97 CARE International, *Five Years into Exile: The Challenges Faced by Syrian Refugees Outside Camps in Jordan and How They and Their Host Communities are Coping*, 2015

98 UNHCR, *Informal Tented Settlements in Jordan: A Multisector Baseline Assessment*, 2014, p.9

99 Tamkeen, *Syrian Refugee Child Labour in Jordan and the Risk of Exploitation*, 2015

100 United Nations, *Conventions on the Rights of the Child*, 1990

don't reply to their bad words'. Jodee's family and friends voiced similar concerns, describing the school as 'bad' and the behaviour of teachers toward Syrian students as 'not appropriate'. They made multiple requests for female teachers. For Jodee, it is likely that the only choice regarding schooling, is between a school in which she is bullied by teachers, like many other Syrian refugee children, and no school at all.

The issue here highlights a deeper problem in terms of the situation of most Syrian refugees in Jordan. Because most are dependent on the help of the Jordanian government and of aid agencies, they are almost entirely powerless to seek justice for abuses perpetrated against them. The vulnerability of Syrian refugees to exploitation extends from schools and services to the fields of informal employment. The issue of abuse of foreign migrant workers in domestic service has been documented in Jordan; refugees from Syria, who have no domestic embassy to turn to for help in the country, are particularly vulnerable. Souzan, 31, emphasised that the widespread 'exploitation of home-workers by the house keepers' greatly concerned her. Jenan, also 31, expressed anxiety about the United Nations' ability 'To care for the poor families and provide them with services', including her own.

Amena, 46, stated that 'there is a lot of suffering'. She has found 'finding a house and finding a school for my children', as well as transportation, particularly difficult. Many young girls and women surveyed had their education interrupted when they fled Syria as teenagers or young adults and currently have no ability to complete either secondary or tertiary education, which may serve to disadvantage them in the labour market for years to come. This is the case for Rasha, 21, who fled from her home in fear of ISIS. Unable to continue her education, she lacks the skills and qualifications she could have otherwise gained in Syria; worried by the 'lack of jobs', she told us that the international community needed to do more 'to enable people to provide for themselves'.

All of the women and girls from Syria spoken in preparing this paper were grateful for the courses and care provided by non-governmental organisations, but expressed considerable anxiety about their present, deeply insecure situation. All were very unsure as to how they would be ever able to live normal lives again.

Potential Ramifications for Conflict: Jordan

Politically, the situation in Jordan has been described by experts as tense.¹⁰¹ There is considerable unease in Jordanian society relating to the economic impact of Syrian refugees, an especially sensitive subject given the persistence of economic difficulties, such as youth unemployment, over the past decade.¹⁰² Many Jordanians believe that refugees have raised unemployment, lowered wages, and increased rents. While the economic impact of refugees on the Jordanian economy remains unclear, a large section of public opinion in Jordan believes that Syrians are at least partially to blame for economic issues.¹⁰³ Memory of the Jordanian Civil War, in which the Palestinian refugee crisis played a prominent role, may also be influencing concern in Jordan over the Syrian refugee crisis, along with the widespread poverty of many Syrian refugees residing in the country.¹⁰⁴

The arrival of Syrian refugees has been a result of conflicts ongoing in neighbouring Egypt and Syria, and disagreement on how to respond to the issues these conflicts have provoked has caused tension between the Monarchy and Islamist parties, further complicated by splits within the Muslim Brotherhood's political party, the Islamic Action Front, over sectarian conflicts in Egypt and Syria. Extremism has gained some ground in Jordan; at least 1,500 Jordanians are estimated to have joined IS,¹⁰⁵ and a recent two week long security operation culminated in a firefight in the town of Irbid, in which seven suspected members of IS were killed.¹⁰⁶ This convergence of domestic issues with conflict in the region, and the strain felt by the arrival of large numbers of Syrian refugees, has led the Jordanian government to repeatedly voice concerns about the infiltration of the Syrian refugee population with militant groups involved in the conflict in Syria, and to request greater assistance with border surveillance and reconnaissance.

101 Council on Foreign Relations, *Political Instability in Jordan: Contingency Planning Memorandum No. 19, 2015*

102 See World Bank, unemployment, youth total (% of total labour force ages 15-24) (modelled ILO estimate)

103 Chatham House, *Syrian Refugees in Jordan: Confronting Difficult Truths*, September 2015

104 World Bank Research published in December 2015 found that based on the UNHCR's cash assistance threshold, seven in ten registered Syrian refugees living in Jordan and Lebanon could be considered poor: See World Bank, *The Welfare of Syrian Refugees: Evidence from Jordan and Lebanon*

105 ICSR Global Terrorism Index 2015

106 Al-Monitor Reporting, *Has IS Established a Foothold in Jordan?* (March 2 2016) Ref: <http://www.al-monitor.com/pulse/originals/2016/03/jordan-irbid-attacks-islamic-state-threat.html>

As outlined above, refugees from Syria in Jordan are not being afforded some of the basic requirements of international law. They are denied the ability to seek asylum in Jordan. In practice, existing legislation means that they are not permitted the same ability to seek legal employment in Jordan as other foreign nationals, and their freedom of movement is severely restricted. Because refugees in Jordan are denied these basic rights, they are reduced to a state of dependency on aid, and increasingly face destitution.¹⁰⁷¹⁰⁸

All of these factors have negative ramifications for the potentiality of conflict in Jordan. Unless refugees are allowed to integrate into Jordanian society, at the very least by gaining access to legal employment and freedom of movement, Jordan risks developing a marginalised periphery of Syrian refugees, which, as highlighted previously, is a key factor serving to increase the risk of conflict, already beginning to touch hitherto stable Jordan.¹⁰⁹ Strikingly, many of the refugees surveyed in Jordan expressed their desire for more initiatives to bring Jordanians and refugees from Syria together. Individual experiences of native Jordanians varied, testament both to the significant humanitarian efforts of many Jordanians to help refugees as well as the suspicion with which refugees are regarded by many others. Yara, 19, told us that ‘the people are very nice’; her positive experience was in contrast to the experience of her peer Leila, 18, who told us that ‘it is very difficult to mix with them [the Jordanians]’. Nooda, 23, stated that ‘some people will never accept us as Syrians’.

The experience of Sana, 25, appears to be typical of the experiences of many Syrian refugees in Jordan. Having survived fighting and the shelling of her neighbourhood, as well as fearing a number of atrocities perpetrated against her community, including ‘the kidnapping and raping of girls’ and the ‘siege and [ensuing] starvation’, Sana has encountered difficulty ‘mixing and integrating in the new community’. She is now certain that ‘there is a need to involve both societies in order to understand each other and accept each other’, an assertion which is reinforced by the evidence and historical experience outlined so far by this paper.

¹⁰⁷ Schindler, Mona Koehler and, Oehring, Dr. Otmar, *The Situation of Syrian Refugees in Jordan, Country Report October, 2015*

¹⁰⁸ UNHCR Jordan Vulnerability Baseline Survey 2015, p.30

¹⁰⁹ Chatham House, *Syrian Refugees in Jordan: Confronting Difficult Truths*, September 2015

Syrian Refugees in Lebanon

The situation of Syrian refugees in Lebanon has been flagged as a matter of particular urgency by numerous international organisations and aid agencies.¹¹⁰ Both refugees and the native population in Lebanon are experiencing strain as a result of the Syrian crisis; Lebanon has a population of 4 million, but has received between 1.1 and 1.5 million refugees,¹¹¹ giving it the highest ratio of refugees per capita in the world.

National Legal Frameworks for Refugee Protection: Lebanon

Lebanon is not a signatory to the 1951 Refugee Convention or the 1967 Protocol, and does not have a comprehensive domestic framework to address the treatment of refugees. While there is no specific status or protection offered to those fleeing Syria, limited protection from deportation is offered by prohibitions on forcible returns.¹¹² Similarly to Jordan, Lebanon also has a Memorandum of Understanding with the UNHCR.¹¹³ Signed in 2003, the MoU specifies that Lebanon is not a country of asylum and defines an asylum-seeker as “a person seeking asylum to a country other than Lebanon”.¹¹⁴ The Lebanese government does recognise that those who have registered with the UNHCR are not to be returned back to the countries they fled from, and allows those registered to obtain a temporary permit valid for one year, during which the UNHCR is meant to resettle the person in question.¹¹⁵

At the outbreak of conflict in Syria, Syrian nationals were originally allowed to enter Lebanon without a visa, under the terms of a pre-crisis bilateral agreement.¹¹⁶ The subsequent influx has changed this; the Lebanese government has explicitly expounded its intention to reduce the numbers of people fleeing from Syria to its territory in order to ensure security as well as ease the burden placed on its economy. As of January 2015, the government made it mandatory for all Syrian refugees wishing to enter Lebanon to justify the purpose of their visit: seeking refuge is

110 See e.g. United Nations, *Vulnerability Assessment of Syrian Refugees in Lebanon*, 2015; World Bank, *The Welfare of Syrian Refugees; Evidence from Jordan and Lebanon*, 2015

111 The UNCHR suspended registration of Syrian refugees at the request of the Lebanese government in March 2015; the figure stood at 1,070,189 but is likely to be considerably higher given the volume of unregistered Syrian refugees who have subsequently arrived.

112 The Controlling legislation is the 1962 *Law Regulating the Entry, Stay and Exit from Lebanon*

113 Akram et al, *Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing*, Boston University, 2014

114 UNHCR-Jordan, *Memorandum of Understanding*, 2003

115 Norwegian Refugee Council/Internal Displacement Monitoring Centre (NRC/IDMC), *Legal Status of Refugees from Syria: Challenges And Consequences Of Maintaining Legal Stay In Beirut And Mount Lebanon*, 2015

116 Dalia Aranki, *Birth Registration Update: The Challenges of Birth Registration in Lebanon for Refugees from Syria*, Norwegian Refugee Council, 2015

not an approved entry reason.¹¹⁷ As a result of this new policy, access to Lebanese territory has significantly decreased and the border is de-facto closed to people fleeing violence.¹¹⁸

The ability to be legally employed, to move freely, and to access public services for foreign nationals in Lebanon is dependant on holding a residency visa. The Lebanese government requires that those fleeing Syria gain a residency visa by providing a fee of \$200 US along with a certified copy of housing commitment (such as a lease agreement or real-estate deed).¹¹⁹ In 2015 an internal memo was issued from the department of General Security which stated that all refugees are to provide documentary evidence of their financial means such as bank statements.¹²⁰

The Welfare of Refugees in Lebanon

The ever-growing list of requirements has made regularizing residency status a near impossible task for most Syrian refugees in Lebanon. This means that hundreds of thousands of Syrian refugees are present in Lebanon with limited legal status that is in violation of key stipulations of the international refugee regime; they face the risk of detention and arrest simply by remaining in Lebanon.¹²¹ Without a regularised immigration status Syrian refugees face various barriers to accessing health and education services; even those Syrian refugees who currently do have valid legal stay documentation are at risk of losing this status as they might not be able to meet the stringent new requirements required by the Lebanese authorities.¹²² Among the refugees whose testimonies we gathered, uncertainty over their legal situation and their rights was very high, and they were generally forced to rely on friends and contacts to seek out information. Ibrahim, 29, told us that 'I do not know any of my rights'. Fadil, 21, said that he would not know anything were it not for the explanations of his friends.

The Lebanese government has not instituted formal camps; concentrated in the border regions, most refugees rent private accommodation with a minority clustering in informal tented

117 UNHCR, *Refugee Response in Lebanon: Briefing Documents*, March 2015

118 European Commission for Humanitarian Aid and Civil Protection [ECHO], *Factsheet – Lebanon: Syria crisis*, 2016

119 Amnesty International, *Pushed to the Edge: Syrian Refugees Face Increased Restrictions in Lebanon*, 2015

120 Amnesty International, *Pushed to the Edge: Syrian Refugees Face Increased Restrictions in Lebanon*, 2015

121 Norwegian Refugee Council, *Legal Status of Refugees from Syria – Overview of the new entry and renewal regulations*, Beirut: NRC Lebanon, 2015

122 UNHCR, *Refugees from Syria: Lebanon*, 2015,

settlements, of which there are over 1,400, which provide inadequate shelter from harsh climatic conditions and have proven conducive to the spread of disease. The 2015 UN Vulnerability Assessment of Syrian Refugees in Lebanon concluded that ‘each day represents a monumental struggle to meet the most basic needs’. Like its counterparts in Jordan and Turkey, the Lebanese legal framework does not allow the hiring of Syrian refugees, making them targets for economic exploitation, and given their precarious legal situation, encounters with the police are likely to be fearful experiences. Amir, 29, told us that that numerous police and army checkpoints combined with his existence as someone ‘almost completely stripped of all legal rights’, served to restrict his movement for fear of being ‘possibly apprehended at army checkpoints, an ugly experience which many have gone through’. Amir was also concerned about the consumption of drugs, such as cannabis, among the youthful population of Syrians in Lebanon, with young people turning to narcotics and illegal substances for multiple reasons, many related to self-medication for psychological problems. As a result, many of these young people are in legal difficulty.¹²³

Possible effects of the Crisis on Conflict: Lebanon

Like in Jordan, the isolation of refugee communities along with their obvious deprivation has exacerbated tensions with some elements and groups within the native population, with many believing that refugees have had a markedly negative economic impact. In addition, the delicate sectarian situation and political instability¹²⁴ in Lebanon means that the influx of refugees has political ramifications. There is evidence of widespread resentment within the Lebanese population for Syrians within Lebanon; the UNCHR reports a growing sense of insecurity and unease within refugee communities, worsened by the practice of some municipalities, independent from central government, of enforcing night-time curfews for refugees and in some cases enforcing these with private militias.¹²⁵ Amir described how knowledge of these curfews ‘affirmed a divide between the Lebanese population and the Syrian refugees’ and encouraged ‘reactionary politics and fear mongering’ among Syrian refugees.

¹²³ See also Reuters reporting, December 2015, Syrian refugees farm cannabis in Lebanon, Ref: <http://www.reuters.com/article/us-mideast-crisis-lebanon-bekaa-idUSKBN0U51BQ20151222>

¹²⁴ See, for example, International Crisis Group, *Lebanon's Self-Defeating Survival Strategies*, Middle East Report No.160, 2015

¹²⁵ Human Rights Watch, Lebanon: At least 45 Local Curfews Imposed on Syrian Refugees, 2014, available at Ref: www.hrw.org/news/2014/10/03/lebanon-least-45-local-curfews-imposed-syrian-refugees-

The proximity of Lebanon to the conflict in Syria, the presence of parties to the conflict in Syria within Lebanon, and pre-existing sectarian tension in Lebanon negatively impacted the safety and wellbeing of Syrian refugees. This was reflected in the testimonies of refugees we surveyed. Mahmoud, 22, described how he was 'beaten [by] Lebanese guys... in the Beirut suburbs just because I'm Syrian'. He told us that 'I don't feel like I'm safe as long as I'm here'. Sara, 23, who fled Syria because she was wanted by the Syrian Arab Republic security services, described a protest by an armed group party to the conflict in Syria in the neighbourhood where she was working: the mob 'standed [sic] in the street and were shouting, proud with their victory... and telling [us] about the number of people they killed'.

Feeling both unsafe and largely rejected in Lebanon was common to the Syrian refugees in Lebanon who we surveyed; Fadil described how 'we [Syrians] have been in Lebanon for years but society still does not accept Syrians... they [Lebanese society] abuse us because of the war'. Abdul told us that he knew some Lebanese people who he 'could really depend on and are really good friends', but that 'most of the community don't accept Syrians' adding that 'I don't feel safe'. He was certain that 'there must be a space for talk between Lebanese and Syrians to face these problems and find solutions, so we can live together'.

It is likely Lebanon's history of sectarianism and the persistence of conflict between different Lebanese sectarian groups has served to compound difficulties in reconciling the local population with refugees. While many Lebanese citizens have established aid organisations to aid refugees in the country, the root cause of the suffering of refugees in Lebanon remains the absence of an adequate legal framework in Lebanon allowing refugees access to the basic rights they are entitled to under international law. Refugees, existing in a grey area where the legality of their stay in Lebanon is constantly in question, cannot secure employment and face substantial difficulty integrating into Lebanese society, their lack of legal status exposing them to higher risks of abuse and exploitation, as well as impeding their ability to access justice.¹²⁶ Discrimination and abuse were mentioned repeatedly by the refugees we surveyed; Ibrahim, 29, stated plainly that 'they [people in Lebanon] don't accept Syrians and they discriminate against us'. The difficult situation – which encompasses sectarian tension, marginalisation, and economic adversity experienced by both refugees and Lebanese citizens living in poverty – is

¹²⁶ Human Rights Watch, *"I Just Wanted to be Treated like a Person" - How Lebanon's Residency Rules Facilitate Abuse of Syrian Refugees*, 2016

concerning from a security perspective. As in Jordan, if the peaceful integration of Syrian refugees is to be assured, expert analysis indicates that a wide range of reforms and support for refugees and impoverished Lebanese communities will need to be implemented, yet it is difficult to see how the political will and economic resources for these changes will ever be secured.¹²⁷ At present – and for the foreseeable future – the voices of Syrians are marginalised. As Nouda, 19, put it: ‘once they know I’m Syrian, they refuse to listen’.

Syrian Refugees in Turkey

Turkey has received the largest number of Syrian refugees to date.¹²⁸ Initially, it housed the relatively small number of Syrian refugees received in official camps which provided a relatively high standard of living; as the number of Syrian refugees grew rapidly, reaching well over two million in Turkey as of February 2016, most settled in urban areas where opportunities for informal (albeit often exploitative) employment, and passage out of Turkey, were more readily available.¹²⁹

National Legal Frameworks for Refugees Protection: Turkey

While Turkey ratified the 1951 Geneva Convention and 1967 Protocol, this has no practical effect on the rights of those fleeing the war in Syria, since Turkey ratified the 1967 Protocol with a reservation that maintains a geographical limitation. Unlike the other two host countries discussed, the registration of Syrian refugees is the responsibility of the Turkish authorities. Generally, the UNHCR's role has been limited to supporting the temporary protection regime through the provision of technical advice. At the outbreak of conflict in Syria, Turkey treated Syrian nationals as “guests”, granting temporary protection without formal refugee status, but the 2013 Law on Foreigners and International Protection (LFIP) later created a new framework for dealing with people fleeing conflict. The new framework encompasses the three main policy responses, providing for temporary protection, upholding, the principle of *non-refoulement*, and allowing for the provision of humanitarian assistance.¹³⁰ This provides a strong legal basis, much

127 International Labour Organisation, *Assessment of the Impact of Syrian refugees in Lebanon and their employment profile* 2013; Human Rights Watch, *World Report: Lebanon*, 2015

128 The UNHCR reports 2,715,789 persons of concern in Turkey (data accurate to 3rd March 2016)

129 Brookings Institute, *Not Likely to Go Home: Syrian Refugees and the Challenges to Turkey— and the International Community*, Kemal Kirişçi, Elizabeth Ferris, 2015.

130 European Council on Refugees and Exiles, *Asylum Information Database, National Country Report : Turkey*, 2015

stronger than those in Lebanon and Jordan outlined above, for emergency protection and assistance. Yet while Syrians are provided with many of the services required under international law - including shelter, food and healthcare in Turkey, those fleeing Syria are still not formally recognised as refugees. They are also legally prevented from travelling to different regions in Turkey to the one they registered in on arrival, placing severe restrictions on their freedom of movement.¹³¹

Turkey's compliance record with the principle of *non-refoulement*, as in Jordan and Lebanon, is under question. Amnesty International, a human rights monitoring and campaigning NGO, has reported that Turkish authorities had 'been rounding up and expelling groups of around 100 Syrian men, women and children to Syria on a near-daily basis' since mid-January, 2015.¹³² The NGO has also reported increased incidents of push-backs at the Syrian border, with unlawful deportations to Syria and Iraq.¹³³ If substantiated, these reports demonstrate a clear violation of the principle of *non-refoulement*; however, the Turkish government has stated that Amnesty's reports are false.¹³⁴

The Welfare of Refugees in Turkey

Turkey's response to the refugee crisis has been praised by the international community, and is generally judged to have managed to cope the best with Syrian refugees out of all other countries in reception of large numbers of Syrian refugees, something which was reflected in the responses of the refugees we surveyed. Amir, 29, who has lived in both Lebanon and Turkey, described feeling more safe in Turkey, and judged Syrians in Turkey to be more comfortable, and the Turkish population more welcoming to refugees.

Yet the ability of refugees to formally integrate into Turkish society is hindered by their inability to be legally recognised as refugees, not least because most are unable to obtain legal

131 Rebecca Kilberg, *Turkey's Evolving Migration Identity*, Migration Policy Institute, 2014

132 Amnesty International, Press Release, Turkey: Illegal Mass Returns of Syrian Refugees Expose Fatal Flaw in EU-Turkey Deal, 1 April 2016, Ref: <https://www.amnesty.org/en/press-releases/2016/04/turkey-illegal-mass-returns-of-syrian-refugees-expose-fatal-flaws-in-eu-turkey-deal/>

133 Amnesty International, Europe's Gatekeeper: Unlawful detention and deportation of Refugees from Turkey, 2015. See also reporting by the Independent, *Turkish guards 'attacking' Syrian refugees and 'pushing them into the arms of smugglers'*, 4 March 2016, Ref: <http://www.independent.co.uk/news/world/europe/refugee-crisis-turkish-guards-attacking-syrian-refugees-and-pushing-them-into-the-arms-of-smugglers-a6912991.html>

134 New York Times, *Merkel arrives in Turkey Amid Criticism of the Migrant Deal*, April 23 2016, ref: http://www.nytimes.com/aponline/2016/04/23/world/europe/ap-eu-europe-migrants-turkey.html?_r=0

employment. The High Commissioner for Refugees recently welcomed planned new legislation allowing work permits to be issued to Syrian refugees, yet it remains to be seen whether many will be issued in practice.¹³⁵ Most Syrians in Turkey are financially insecure and in some cases destitute;¹³⁶ Amira, 42, described herself as ‘lucky’ to have found a job. The considerable adversity many Syrians face in Turkey is a factor which has fed in to the Turkish Government’s efforts to seek further aid from the EU in dealing with the refugee crisis;¹³⁷ the UNHCR notes that while ‘Turkey has been maintaining a notable standard of protection and assistance to Syrians’, the ‘limited burden sharing’ provided by the international community has ‘limited support’.¹³⁸ Often, families find that only their children can receive employment, and as such children become the only sources of steady income for the family. More than 400,000 Syrian child refugees are not in school in Turkey.¹³⁹ As in Jordan and Lebanon, the inability of many Syrian refugees to work legally combined with under-regulation of the labour market has led to this marked growth in child labour, as Syrian refugee children find themselves the only member or members of their family to be able to secure employment, albeit for wages well under the national minimum.¹⁴⁰ Unlike in Jordan and Lebanon, however, Syrian refugees cannot use Arabic to communicate with the local population and must instead learn Turkish, constituting an additional difficulty mentioned by the refugees we sought opinions from.

The ambiguous and frequently changing legal status of Syrian refugees in Turkey has entailed significant difficulties for Syrians who have fled to Turkey. For Yara, 31, the lack of information about her rights and legal status is ‘the biggest problem’ she faces in Turkey; she knows that ‘every now and then they issue a law’, but has found it difficult to know what these changes entail for her or her family: ‘we do not know whether we are here as refugees or short term residency [sic]’. In addition, Syrian refugees in Turkey, as well as those elsewhere, often carry considerable psychological trauma which goes unaddressed. For Amira, 42, the impact of facing

135 See UNHCR, *High Commissioner welcomes Turkish work permits for Syrian refugees*, News Stories, 18 January 2016, Ref: <http://www.unhcr.org/569ca19c6.html>

136 UNHCR, Regional Refugee Resilience Plan (3RP) Report 2015-6: Turkey

137 Under an agreement negotiated in October 2015, Turkey will receive €3.3bn, the easing of visa restrictions for its citizens travelling within the EU, and progress to its application for EU membership, in return for its agreement to take back deported “irregular migrants” to the EU and to significantly upgrade its border security.

138 UNHCR, Regional Refugee Resilience Plan (3RP) Report 2015-6: Turkey, p.6

139 Afanasieva, Dasha & Umit Bektas, *No school for 400,000 Syrian refugee children in Turkey - official*, 2 October 2015, Reuters, Ref: <http://uk.reuters.com/article/uk-mideast-crisis-turkey-education-idUKKCN0RW1WK20151002>

140 Human Rights Watch, *When I Picture My Future, I See Nothing, Barriers to Education for Syrian Refugee Children in Turkey*, November 2015; Amnesty International, *Child Labour in Turkey*, 2015

'near-death experiences over and over again' has taken a psychological toll which is 'unforgettable'. Given the difficulties most face in securing the essentials for daily life throughout the region, it is extremely unlikely that the mental health needs of Syrian refugees are being met or indeed, will be met in the foreseeable future.

Possible Effects of the Crisis on Conflict: Turkey

The reaction of the Turkish population to the influx of refugees has varied by region. Tensions may be at their highest where refugees come from a different ethnic group to the majority of the population, but research also suggests that – in line with the testimonies we received from refugees in Turkey – the Turkish population has been generally accommodating of refugees.¹⁴¹ The economic impact of refugees on the Turkish economy is the subject of debate, with some experts citing a net positive or neutral contribution of refugees.¹⁴² However, the perception that refugees are having a negative impact is widespread.¹⁴³ There have been recent reports of clashes between refugees and state security services, including multiple instances of deportations of Syrian refugees back to Syria, a violation of *non-refoulement*.¹⁴⁴

It remains to be seen whether the influx of Kurdish refugees may heighten tensions in the South East of Turkey, which has seen large scale military operations over the past six months, leaving tensions between the Turkish state and Turkey's Kurdish minority at their highest point in at least a decade. So far, there is evidence that Syrian Kurdish refugees have preferred Kurdish-run camps, even unofficial ones, over high-standard official camps run by the Turkish state.¹⁴⁵ Turkey's long border with Syria is subject to extensive military operations of both armed groups operating within Syria and the Turkish security apparatus, and has seen conflict between the Turkish Military and the People's Protection Units (YPG) operating out of Rojova and Efrin, two predominantly Kurdish cantons in Northern Syria. Given that many of the Kurdish refugees in

141 ORSAM, *Effects of the Syrian Refugees on Turkey*, January 2015

142 Brookings Institute, *Much ado about nothing? The economic impact of refugee 'invasions'*, 16 September 2015; Washington Institute, *The Impact of Syria's Refugees on Southern Turkey: revised and updated*, July 2014

143 Brookings Institute, *Not Likely to Go Home: Syrian Refugees and the Challenges to Turkey — and the International Community*, September 2015

144 See BBC, *Turkey 'acting illegally' over Syria refugees deportations*, 15 January 2016, Ref: <http://www.bbc.co.uk/news/world-europe-35135810>

145 Al Monitor, *Kurdish Refugees Reject government-run camp in Turkey*, March 13 2015, Ref: <http://www.al-monitor.com/pulse/originals/2015/03/turkey-kobane-kurdish-refugees.html#>

Syria fled this region, their presence in Turkey may have the potential to be a difficult factor at a time when any prospects for peace appear to be particularly delicate.

People fleeing persecution have the right to seek asylum and, if return to their country of origin is not possible, to gain a new nationality and assimilate into a new community. Because Turkey – along with Lebanon and Jordan – does not provide refugees with official refugee status, this right is not being upheld. While the humanitarian situation, still a cause for concern, is in general markedly less severe than in Lebanon and Jordan, people fleeing Syria are unable to secure full asylum, establish sustainable livelihoods, or integrate into society due to legal barriers which, by denying them full refugee status, has left vulnerable people trapped in a state of perpetual uncertainty.¹⁴⁶

146 Amnesty International, *Struggling to Survive: Refugees from Syria in Turkey*, 2014

VI. Burden Sharing

Burden Sharing and the Syrian Refugee Crisis so far

Despite its significance, the implementation of burden sharing has been very limited in relation to the Syrian refugee crisis. The current approach of the international community has been almost exclusively focused on humanitarian assistance, which has meant that an effort to formulate sustainable, long-term solutions has been largely avoided. As the previous section has outlined, the existing legal frameworks in Lebanon, Jordan, and Turkey do not allow for several of the rights of people fleeing persecution and conflict to be recognised. In particular, with the exception of the limited numbers of refugees settled in third countries through the UNHCR, the legal frameworks in all three countries means that the vast majority of refugees have no hope of being afforded formal refugee status. They face severe limitations on the ability to seek employment, to move freely, and in some cases (particularly in Lebanon and to some extent in Jordan and Turkey) on their ability to access basic services. Moreover, the existing economic and political climate gives little hope that the law will be reformed. Instead, most refugees are trapped in a dependant state, reliant on depleting savings and the aid of family, friends, and NGOs.

Burden-sharing in response to the Syrian refugee crisis has been consistently offered as a viable and sustainable solution to the crisis by the UNHCR, which recognized as early as 2013 that ‘the burden of sheltering millions of Syrian refugees is far too heavy to be borne by only the neighbouring countries...the international community must put in place more – and more robust – measures of sharing that burden’. Despite the UNHCR’s early calls for ‘all countries, particularly in Europe and the extended Middle East, to allow people fleeing Syria to access asylum at their borders and to enjoy a sufficient quality of protection’,¹⁴⁷ the following years have seen little implementation of burden-sharing, (with the exception of several individual countries, most notably Germany). As the UN’s High Commissioner for Refugees recently stated, there is a need to shift the paradigm of the international community’s response from the focus on humanitarian aid to more sustainable and comprehensive solutions: ‘it is not only financial,

¹⁴⁷ UNHCR, Countries Hosting Refugees: Solidarity and Burden-Sharing Background papers for the High Level Segment, Provisional Release 2013

economic, and technical support to these States which is needed...It also includes...resettlement, humanitarian admission, family reunification or similar mechanisms for refugees who are today in the neighbouring countries but who cannot find a solution outside the region.’¹⁴⁸

Migrations to Europe

Given the challenges experienced by refugees in Lebanon, Jordan, and Turkey, it is unsurprising that the exodus resulting from the current crisis in Syria cannot be contained in the Middle East. This is evident by the thousands risking their lives to undertake perilous boat journeys in desperate attempts to reach Europe, and hundreds of thousands more undertaking arduous migration routes through the Balkans to reach Northern Europe. In 2015 at least 3,770 people drowned crossing the Mediterranean to Italy and Greece.¹⁴⁹ The death toll for 2016 has been at 418 at the time of writing,¹⁵⁰ and as the warmer summer months approach experts have predicted that the popularity of this migratory route will rise once again. In total, more than 935,000 Syrians have travelled to Europe and claimed asylum;¹⁵¹ 2016 is likely to see more Syrian refugees attempting to reach Europe.¹⁵²

This migration pattern has put Europe’s borders under severe strain, with many refugees trapped in make-shift camps in the Southern Balkans. Austria has introduced a daily cap on the number of people entering its borders; as a result four of the main countries on the Balkans route – Macedonia, Serbia, Croatia and Slovenia – have considerably tightened their borders. As a result of this the Balkans path is effectively closed, which has led to bottlenecks at the border between Greece and Macedonia, in which armed troops guard the border with tear gas and rubber-bullets.¹⁵³ Currently at the Greek-Macedonian border crossing there are some 7,000 asylum-seekers stranded in a make-shift camp with the capacity for 2,000, in which a lack of

148 UNHCR, *Finding Solutions for Syrian Refugees: Resettlement, Humanitarian Admission, and Family Reunification*, 1 (Oct. 18, 2013), available at <http://www.unhcr.org/5249282c6.pdf> (quoting António Guterres, UN High Commissioner for Refugees, Address at the 64th Session of the Executive Committee of UNHCR’s Programme, (Sept. 30, 2013).

149 International Organization for Migration, Press Release <http://www.iom.int/news/over-3770-migrants-have-died-trying-cross-mediterranean-europe-2015>

150 Refugee Studies Centre, *Destination: Europe*, Forced Migration Review Issue 51, 2016

151 UNHCR data, Syrian Asylum Applications in Europe, Accurate to January 2016. Data available at: <http://data.unhcr.org/syrianrefugees/regional.php>

152 UNHCR, 3RP Regional Strategic Overview 2016-2017, February 2016

153 Human Rights Watch, *EU/Balkans/Greece: Border Curbs Threaten Rights*, 1 March 2016,

basic services and violence between asylum-seekers and the authorities have been reported.¹⁵⁴ This has placed Greece, a country attempting to recover from near-economic collapse in 2015, in a difficult position, and over 100,000 asylum-seekers have been isolated in an already economically struggling country.

The scale of the challenge facing Europe, and the inadequacy of current responses, was recently attested to by a proposal of the German development minister, Gerd Müller. Speaking at the World Humanitarian Summit, the German development minister proposed that 10% of the European Union's annual budget be diverted towards dealing with the refugee crisis. At the time of writing, it remains unclear as to how his proposal will be received.¹⁵⁵

Burden Sharing Globally

The international community has not been able to develop a response that shares the obligation to give asylum to Syrian refugees equitably. On the contrary, so far the EU response to the Syrian refugee crisis has been mainly focused on strengthening national borders to reduce the number of refugees able to enter from non-EU member states. This has encompassed countering smuggler networks without ensuring safe passage, and several deals of which the legality is under question, such as one negotiated on the 18th of March 2016, which would repatriate refugees in Europe to Turkey. A country as large as Australia (population: 23.1 million) has offered to resettle a total of 5,800 people; the United States (population: 322 million) a mere 10,000. In Europe, Germany and Sweden have taken on a much larger share of refugees than their neighbours, at 162,500 and 87,900 asylum applications respectively. In total, five member states (Germany, Sweden, Austria, France, and Italy) account for more than 75 per cent of the asylum claims received. A report published by the UNHCR on the 10th of February 2016 documents that the total of resettlement spaces pledged by the wider international community is 170,911; 3.5 per cent of the 4,815,360 Syrian refugees registered by the UNCHR.¹⁵⁶

154 Amnesty International, *Greece: Chaos erupts at Idomeni border as Balkans routes shut down*, 29 February 2016

155 Guardian, *Divert 10% of EU funds to deal with Refugee Crisis, says German Minister*, 24 May 2016, Ref: <http://www.theguardian.com/global-development/2016/may/24/divert-10-of-eu-funds-refugee-crisis-germany-gerd-muller>

156 All data from the UNHCR, *Resettlement and Other Forms of Legal Admission for Syrian Refugees*, 18 March 2016 Available at : <http://www.unhcr.org/52b2febafc5.pdf>

The EU-Turkey Agreement

The majority of refugees arriving in Europe pass through Turkey; as such, co-operation with Turkey in reducing the number of refugees arriving has been a key component of the European Union's response to the refugee crisis. Under a new deal agreed on the 18th of March, by which the EU aims to ensure that 'the days of irregular migration to Europe are over', EU member states will be able to repatriate all refugees arriving in Greece to Turkey in exchange for six billion euros to aid refugees currently in Turkey and the reopening of accession talks between Turkey and the EU.¹⁵⁷ European Union member states also pledged to relocate an additional 6,000 refugees from Greece.

It is very unclear how this new agreement will address the major failures, outlined here, to provide for the rights of refugees. Increased financial support for basic relief does not alter the fact that a key obligation of the international community – especially those states which have signed and ratified the 1951 Geneva Convention and 1967 Additional Protocol – in regards to refugees is not being upheld; refugees in Turkey, Jordan, and Lebanon are not able to obtain full refugee status and asylum. In recognition of this, the EU negotiating bloc has set out a position requesting that Turkey provide a 'commitment that migrants returned to Turkey will be protected in accordance with the relevant international standards'; however, it is understood that Ankara is not willing to make formal changes to its legal system.

The European Union has attracted substantial criticism for the deal.¹⁵⁸ Filippo Grandi, the United Nations High Commissioner for Refugees, stated that he was 'deeply concerned about any arrangement that would involve the blanket return of anyone from one country to another without spelling out the refugee protection safeguards under international law'.¹⁵⁹ Peter Sutherland, the UN Secretary General's Special Representative for International Migration and

157 Financial Times, March 18 2016, *EU and Turkey agree deal to return migrants*, Ref: <http://www.ft.com/cms/s/0/94314ec0-eca7-11e5-9fca-fb0f946fd1f0.html#axzz43FfZZKuD>

158 Economist, 18 March 2016, *Europe's Migrant Crisis: A messy but necessary deal*: 'Every element of the arrangement is politically, legally or morally problematic', Ref: <http://www.economist.com/news/leaders/21694536-european-bargain-turkey-controversial-offers-best-hope-ending-migrant?force=scn/fb/te/pe/ed/amessybutnecessarydeal>

159 UNHCR, News Stories, 11 March 2016, *UNHCR expresses concern over EU-Turkey plan*, Ref: <http://www.unhcr.org/56dee1546.html>

Development, stated that the deal could 'absolutely' be considered illegal.¹⁶⁰ The deep reservations of the United Nations concerning the deal are based on two potential violations of international refugee law; firstly, that collective deportations deny the rights of individuals to seek asylum, and secondly, that there is insufficient guarantee that refugees returned to Turkey will be protected from return to Syria, constituting a violation of *non-refoulement*.¹⁶¹ David Milliband of the International Rescue Committee has stated that 'the proposed EU-Turkey deal won't work. A comprehensive resettlement programme is a humane, orderly and legal way to manage the refugee crisis.'¹⁶²

News of the deal has sparked desperation in refugee detention centres in Greece where refugees are due to be returned to Turkey, leading to widespread panic and rioting. The situation has also served to exacerbate ethnic tensions amongst refugees. In one incident, as many as 800 people broke out of a detention centre on the island of Chios; three were treated for stab wounds. A riot in Piraeus, Athen's port city, led to eight young refugee men being hospitalised. Giorgos Kyritsis, the Greek government's spokesperson for migration, described refugees in Greece as 'people in despair'.¹⁶³ Greek police commenced a large scale operation to dismantle Idomeni refugee camp, host to up to 8,000 people trapped along the Greece/Macedonia border, in late May.¹⁶⁴

At the time of writing, the impact of the deal is unclear. So far, European Union member states have neglected to uphold their pledge under the deal to reallocate refugees in Greece, in fact taking only a small handful of the number originally promised,¹⁶⁵ prompting President Erdoğan of Turkey to call on the leaders of European and other states internationally to do more to help with the refugee crisis.¹⁶⁶ Meanwhile, human rights groups and the UNHCR continue to voice concerns over the legality and ethicality of the deal, with concerns focusing, in particular, on

160 Peter Sutherland, Interview on Today Programme, Radio 4, Friday 1st April 2016. See Guardian Reporting, EU-Turkey refugee plan could be illegal, says UN official, 2nd April 2016, Ref: <http://www.theguardian.com/world/2016/apr/02/eu-turkey-refugee-plan-could-be-illegal-says-un-official>

161 Ibid

162 International Rescue Committee, *Resettlement Report*, 17 March 2016, Ref: <http://www.rescue-uk.org/resettlement-report>

163 Guardian, *Greece on brink of chaos as refugees riot over forced return to Turkey*, Sunday 3rd April 2016, Ref: <http://www.theguardian.com/world/2016/apr/02/greece-violence-refugees-riot-forced-return-to-turkey>

164 BBC, *Greece moved thousands of migrants from Idomeni camp*, 24 May 2016, Ref: <http://www.bbc.com/news/world-europe-36358891>

165 Guardian, *Only 177 Refugees Resettled in EU under deal with Turkey*, 15 April 2016, Ref:

<http://www.theguardian.com/world/2016/apr/15/eu-relocates-just-208-refugees-from-greece-after-deal-with-turkey>

166 Hurriyet, Erdoğan calls on states to help with refugee crisis, 23 May 2016, Ref: <http://www.hurriyetdailynews.com/erdogan-calls-on-states-to-help-with-refugee-crisis-.aspx?pageID=238&nID=99545&NewsCatID=338>

whether Turkey constitutes a safe place of return for refugees.¹⁶⁷ The recent decision by a Greek judge that an asylum seeker should not be returned to Turkey because he risked deportation to Syria would appear to constitute an answer in the negative, as do reports that refugees returned from Greece have been indefinitely detained in Turkey with no access to lawyers.¹⁶⁸

Burden Sharing in the MENA region

While this paper has so far focused on the response of European states to the refugee crisis, states within the MENA region have also failed to burden-share Syrian refugees, such as Saudi Arabia, the United Arab Emirates, Qatar, and Israel. Saudi Arabia, the UAE, and Israel have together not taken any Syrian refugees, despite being some of the wealthiest countries in the region.

Israel, for example, has like many European countries made efforts to fortifying its borders by building walls to keep any refugees out.¹⁶⁹ While calls have been made from within the Israeli society for Israel to begin accepting refugees, these have been rejected by the government.¹⁷⁰ It is worth noting that a small number of Syrians are being allowed in Israeli territory. However, they have not been crossing the border as formally-recognized refugees, but as medical patients. Reports have stated that an average of 100 Syrians per month who reach Israeli lines have been transferred into hospitals inside the country.¹⁷¹ After the medical treatment afforded, the patients in question are being repatriated to Syria. If the patients in question fear for their lives in Syria, this would constitute forcible return to a territory where the person's life would be in danger due to the ongoing armed conflict, which would place Israel in regular violation of the principle of *non-refoulement*.

167 New York Times, *Merkel arrives in Turkey Amid Criticism of the Migrant Deal*, April 23 2016, Ref: http://www.nytimes.com/aponline/2016/04/23/world/europe/ap-eu-europe-migrants-turkey.html?_r=0

168 Guardian, *Syrians Returned to Turkey 'have had no access to lawyers'*, 16 May 2016, Ref: <http://www.theguardian.com/world/2016/may/16/syrians-returned-to-turkey-after-eu-deal-complain-of-treatment>

169 Plotner, Crystal, *If Israel accepted Syrian refugees and IDPs in the Golan Heights*, *Forced Migration Review* 47 (2014): 32.

170 I. Kershner, *Netanyahu Rejects Calls for Israel to Accept Syrian Refugees*, September 2015, Ref: <http://www.nytimes.com/2015/09/07/world/middleeast/netanyahu-rejects-calls-to-accept-syrian-refugees.html>

171 C. Lynch, *Israel Is Tending to Wounded Syrian Rebels*, 6 November 2014, Ref: <http://foreignpolicy.com/2014/06/11/exclusive-israel-is-tending-to-wounded-syrian-rebels/>

Furthermore, Israel is signatory of the 1951 Refugee Convention, bound by both the 1951 Convention and the 1967 Protocol. As the only country in the region fully bound by both instruments, Israel has undertaken specific international legal obligations outlined earlier in this paper.¹⁷² Consequently, Israel is obligated by an extensive legal framework to protect refugees and aid their asylum applications. Yet none of those treated in Israeli hospitals have been allowed to apply for asylum, as is their right under the 1951 Convention. One complicating factor in the legal landscape for refugee protection in Israel is that between 300,000 to 400,000 Syrians can currently be considered internally displaced people (IDPs) from the Golan,¹⁷³ given that Israel's Golan Heights Law, which extended Israeli law and administration throughout the territory in 1981, is not internationally recognised,¹⁷⁴ and Israel's occupation of the Golan has been subject to sustained criticism concerning human rights abuses.¹⁷⁵

This means that there is a strong legal case for offering these Syrians sanctuary as IDPs rather than as refugees. As IDPs, people fleeing conflict in Syria would not require asylum but would instead enjoy the rights to protection, basic services, employment and freedom of movement that citizenship confers. However, given that Israel continues to request international recognition of the Golan as a part of Israel,¹⁷⁶ (which has so far been denied)¹⁷⁷ it appears unlikely that this will take place.

Egypt is an example of a state in the region which originally took in large numbers of Syrian refugees, but discontinued its policy of providing sanctuary in 2013, requiring that Syrians hold visas in order to enter, which can only be obtained with the co-operation of the Syrian Arab Republic.¹⁷⁸ At the time of writing, the UNHCR registers 120,491 Syrian refugees in Egypt.¹⁷⁹ Most refugees are living in poverty in Egypt. Human rights groups have raised serious concerns

172 See *Chapter II, International Treaty Law*, above

173 Internal Displacement Monitoring Centre, *Syria: Forty years on, people displaced from the Golan in waiting: a profile of the internal displacement situation*, 31 October 2007

174 United Nations Security Council Resolution 497, Adopted unanimously on 17 December 1981, declared that the Golan Heights Law was 'null and void and without international legal effect' and called on Israel to rescind it

175 See, for example, Al-Marsad reports, *Water is Life: A Consideration of the Legality and Consequences of Israeli Exploitation of the Water Resources of the Occupied Golan; From Settlement to Shelf: the Economic Occupation of the Syrian Golan*

176 New York Times reporting, Oct 2 2015, *As Syria Reels, Israel Looks to Expand Settlements in Golan Heights* Ref: http://www.nytimes.com/2015/10/03/world/middleeast/syria-civil-war-israel-golan-heights.html?_r=1

177 Daily Sabah, *EU: Golan Heights do not belong to Israel*, 21 April 2016, Ref: <http://www.dailysabah.com/mideast/2016/04/21/eu-golan-heights-do-not-belong-to-israel>

178 Time Magazine, *Egypt's Military-Backed Government Cracks down on Syrian Refugees*, 24 August 2013, Ref: <http://world.time.com/2013/08/24/egypts-military-backed-government-cracks-down-on-syrian-refugees/>

179 UNHCR, *Syrian Regional Refugee Response – Egypt*, data accurate as of 30 April 2016

for their welfare, including over reports of arbitrary arrests, detentions, and deportations back to Syria.¹⁸⁰

While Saudi Arabia has not disclosed information on Syrians in its country which has been independently verified. Criticised as having taken no refugees, Saudi Arabia has stated that she has given sanctuary to 2.5 million Syrian refugees.¹⁸¹ An expert assessment puts the number at around 420,000.¹⁸² However, these are believed to be mainly migrant workers and Syrians who were joining family in the country.¹⁸³ The United Arab Emirates states that it has also extended residency permits to more than 100,000 Syrians since 2011. Again, however, these are believed to be mostly migrant workers rather than people fleeing from the war, and the UAE is also believed to seek to take in mainly white collar professionals.¹⁸⁴ The number of Syrians who have fled the conflict to Qatar cannot be verified, but it is estimated to be no more than 40,000.¹⁸⁵

Overall, the policy of the gulf states towards Syrian refugees appears to have altered little since 2011. Gulf states continue to attract Syrian nationals as foreign workers, and appear to have accepted a limited number fleeing the conflict, too. Indeed, the relatively small numbers stand in contrast to both official statements of solidarity with the Syrian people, and the large amount of aid money donated by gulf states for the aid of Syrian refugees abroad and the internally displaced; Qatar alone has donated \$26.6m, and another \$20.9m coming from the private sector.¹⁸⁶

All of the gulf states surveyed here are not signatories to the Refugee Convention. Yet, like Israel, by failing to allow Syrian refugees attempting to flee Syria with access to an asylum-application procedure, they are allowing the burden of hosting refugees to fall disproportionately on states

180 Human Rights Watch, *World Report 2015 – Egypt*

181 Al Jazeera Reporting, *Saudi Arabia denies not giving Syrians Sanctuary*, 13 September 2015, Ref:

<http://www.aljazeera.com/news/2015/09/saudi-arabia-denies-giving-syrians-sanctuary-150912050746572.html>

182 Gulf Labour Markets and Migration Program, *A note on Syrian Refugees in the Gulf*, Ref GLMM - EN - No. 11/2015, p.8

183 Guardian reporting, *Saudi Arabia says criticism of Syria Refugee Response 'false and misleading'*, 12 September 2015, Ref:

<http://www.theguardian.com/world/2015/sep/12/saudi-arabia-says-reports-of-its-syrian-refugee-response-false-and-misleading>;

see also BBC reporting, *Migrant Crisis: Why Syrians do not flee to the Gulf States*, 2 September 2015,

Ref:<http://www.bbc.com/news/world-middle-east-34132308>

184 Gulf Labour Markets and Migration Program, *A note on Syrian Refugees in the Gulf*, p.9-10

185 *Ibid*, p.11

186 Financial Times, *Gulf States Under Pressure to Take More Syrian Migrants*, 4 September, 2015,

Ref:<http://www.ft.com/intl/cms/s/0/55f828a8-5216-11e5-8642-453585f2cfd.html#axzz3prAiEo38>

ill-equipped to deal with the numbers in question. As is the case for European donor states, the Gulf response has focused mainly on humanitarian aid rather than refugee resettlement, an approach which has left most Syrian refugees stranded in states incapable of meeting their needs.

Ramifications of the Failure to Burden-share

It has already been established here that burden-sharing is a core part of the international refugee regime; hence, that the international community is obligated to share the burden of asylum more equitably than at present.¹⁸⁷ The rationale for burden sharing does, however, extend beyond obligation and into the national self-interest of different members of the international community. Indeed, the situation surveyed in this paper has evidenced ways in which burden sharing is in the long-term self-interest of individual states.

It is clear that the Syrian refugee crisis is not a problem for the Middle East alone; neither is it the sole responsibility of states such as Greece and Turkey. The suffering of Syrian refugees across the region has become a humanitarian tragedy of such scale that should it continue to be ignored, it has the potential to threaten the peace and security of the broader international system. To some degree this is already being experienced in Europe, where thousands have died crossing the Mediterranean and have suffered arduous journeys on foot in an attempts to reach asylum; there are instances of refugees being shot at by EU members' border police.¹⁸⁸ The failure to implement burden sharing, then, has led to a failure to develop a sustainable solution to the humanitarian crisis in the region.¹⁸⁹ As discussed above, providing humanitarian aid without affording refugees basic rights to seek employment or move freely has forced refugees into dependency on aid and humanitarian assistance, and created a disturbing dynamic whereby refugees are increasingly marginalised and extremely vulnerable to abuse.

Jordan, Lebanon and Turkey are only several among many stakeholders in the Syrian refugee crisis; therefore, they cannot be left to deal with it alone. It is in the interest of the wider international community to share the burden of providing asylum to refugees fleeing conflict in

¹⁸⁷ UN High Commissioner for Refugees (UNHCR), *Syria conflict at 5 years: the biggest refugee and displacement crisis of our time demands a huge surge in solidarity*, 15 March 2016

¹⁸⁸ Amnesty International, *Amnesty International Report 2015/16 – Bulgaria*, February 2016

¹⁸⁹ UN High Commissioner for Refugees (UNHCR), *Beyond Humanitarian Assistance? UNHCR and the Response to Syrian Refugees in Jordan and Lebanon, January 2013 - April 2014*

Syria in order to avoid a further worsening of the situation. Indeed, the magnitude of the refugee-influx has been on such a scale that in comparison the international community's unresponsiveness has been striking.

The Rationale for Burden Sharing

As outlined earlier, the lack of a legal framework in accordance with the international refugee regime in Turkey, Lebanon, and Jordan has subjected people fleeing conflict in Syria to various ad hoc regulations issued prior or since the outbreak of the war. The legal situation examined in each country has shown that the domestic laws of the three countries do not incorporate the obligations of international refugee law. This, in turn, has severely curtailed the rights of those fleeing the conflict in Syria. While their lives may not be at immediate risk, many basic economic, social and psychological needs remain unmet. Essentially, this has led to a situation where millions of people's right to life is maintained but a number of their most fundamental rights – such as to work, to move freely, to receive asylum are suspended. To reiterate: many refugees are essentially unable to independently sustain themselves and are instead, trapped in legal systems which deny them the right to lead independent lives. This is in sharp contrast to the Refugee Convention, which itself rejects a charity-based model and opts for a refugee-empowerment approach.¹⁹⁰ Irrespective of how much donor aid is received by each country, the restrictive laws of the three main host countries make it impossible for all refugees' protection needs to be met.

This, in turn, threatens to have serious ramifications for security in the region. Refugees who are essentially trapped in receiving countries without any means to either return to their own country or seek asylum elsewhere constitute a disenfranchised periphery; they risk becoming targets for assault and abuse by members of the receiving population, being infiltrated by militant networks, and, in desperation, engaging in conflict themselves. A refugee crisis that persists long after conflict has officially ceased becomes a key way in which conflict persists, and a factor that may well help perpetuate cycles of violence into the future. As the Syrian conflict has served to demonstrate, conflict in one region of the world has the propensity to spread far

¹⁹⁰ James C. Hathaway, A global solution to a global refugee crisis, GlobalRights, *Debate on the future of refugee protection*, February 2016

beyond the geographical borders of the conflict zone, with global militant networks able to operate in a large number of countries worldwide. Protracted periods of conflict in particular areas of the world also destabilises the global economy.¹⁹¹ Finally, renewed conflict will serve to cause more people to flee their homes, facilitating a negative spiral in which the failure to adequately provide for refugees serves to create even more refugees. The right to seek asylum was put in place partly as a mechanism to minimise conflict; the failure to allow people fleeing Syria to seek asylum, then, risks resulting in the opposite dynamic occurring.

Based on the assessment given above of Turkey, Lebanon, and Jordan's economic and political status, it is unreasonable, and unfeasible, to expect any of these countries to bear the overwhelming burden of giving asylum to approximately four million refugees from Syria, in addition to their pre-existing refugee populations. Currently the burden of refugee protection has been allocated to three states that are not even full signatories to the main instrument of the international legal regime relating to refugees; while a comprehensive review of existing national legal frameworks is technically possible, realistically it is pragmatic to accept that this occurrence is very unlikely to take place.

The response to the Syrian refugee crisis has been dramatically complicated by this fragmented access to protection in the region. Given the reluctance of governments to act in accordance with international law voluntarily, the lack of binding international law in the region has essentially offered a legal basis for the limited protection Jordan, Lebanon and Turkey are providing. This makes the effective implementation of burden sharing a vital way in which to ensure that the rights of refugees may be met, and the risk of the refugee crisis protracting and entrenching the current conflict may be avoided.

In all, it is clear that political willingness to assist refugees in some limited manner is not commensurate with the scale of the current crisis. So far, the response to the Syrian refugee crisis has been characterised by an absence of long-term solutions, with political discretion utilised by states to avoid duties beyond the provision of humanitarian aid to the forcefully displaced. This avoidance of international legal responsibilities has been at the centre of the current fragmented response to mass migration. Yet as this chapter has outlined, it is clear that

191 DIW Berlin, *Global Economic Costs of Conflict* (GECC), German Foundation for Peace Research, 2010

the pre-existing international apparatus relating to the rights of refugees must be utilised in order to find sustainable solutions to the Syrian refugee crisis.

VII. Conclusion

It has been argued here that burden-sharing, as an inherent component of a functioning refugee protection system, is central to finding an effective solution to the Syrian refugee crisis. It encompasses a shift away from current approaches, which have dealt with people fleeing violence and destruction in Syria dealt with under disparate national frameworks inconsistent with international refugee law, towards an international administration of refugee protection that would allow for the rights of refugees fleeing conflict in Syria to be addressed with clarity, predictability, and stability.

The key problem preventing the effective addressing of the Syrian refugee crisis, identified by this paper, is the fact that the existing national legal frameworks in those countries in reception of the overwhelming majority of Syrian refugees do not incorporate many of the basic obligations of international law in regards to refugees, in part because neither Turkey, Lebanon, or Jordan have ratified both the 1951 Refugee Convention and the 1967 Additional Protocol (in Turkey's case, it has ratified these instruments, but retains a geographic limitation). In short, people fleeing conflict and persecution in Syria have the right to asylum, yet they are unable to obtain it in any of the three countries surveyed here. This has reduced refugees to a state of dependency, forcing the large majority into reliance on aid and irregular employment (including the growing problem of child labour) to sustain themselves, and has meant that refugee communities still exist as marginalised minorities as yet unintegrated into their receiving countries. The situation is concerning both because it perpetuates the human rights abuses of refugees and because it perpetuates and increases the risk of conflict.

Those fleeing the war in Syria are currently facing a legal paradox. While they satisfy the definition of the 1951 Refugee Convention, they are not recognised as refugees in the context of the international legal framework for refugee protection because the current main host countries are not part of that legal regime. Instead, the response of the international community has been characterised as 'limited burden-sharing', and has focused more on aid money than on offers of asylum. Yet as has been demonstrated by the poverty and dependency of the majority of refugees in Lebanon, Jordan, and Turkey, humanitarian aid on its own is not capable of acting as a long term development tool. Having examined relevant policy and laws it has become clear that irrespective of how much donor aid is allocated to each country, the restrictive laws of the three

main receiving countries make opportunities for refugees to become self-reliant and integrate into the local population very hard to come by. The inability of refugees to obtain formal refugee status, in particular, means that not all of their protection needs can be met. This means that Turkey, Lebanon, and Jordan are unlikely to be able to provide sustainable solutions to the crisis without significant international help. Moreover, the crisis is unlikely to end soon, and the possibility of safe repatriation of refugees to Syria appears to be distant; the ceasefire negotiated in March 2016 is temporary and does not apply to a range of armed groups. This makes confining refugees to these countries entirely counter-productive, allowing for the Syrian refugee crisis to continue growing and posing significant risks to regional and consequently international stability. Instead, the burden-sharing of asylum-seekers has been offered as a way in which a durable solution to the problem may be developed.

Some 65 years ago, when the Refugee Convention was first introduced, the new international refugee regime was understood to have ushered in a new phase “characterised by the fact that the refugees will lead an independent life in the countries which have given them shelter.... they will provide for their own needs and for those of their families.” Yet while the underlying rationale of the Refugee Convention has been to avoid the creation of long-term dependency, the international community’s response to the Syrian refugee crisis has constituted almost entirely the inverse of this principle. As the UNHCR has warned, the ‘greatest challenge to refugee protection is certainly not the 1951 Convention itself, but rather ensuring that states comply with it, in ‘a spirit of international co-operation and responsibility-sharing’.¹⁹² As the refugees we surveyed constantly reminded us, people fleeing conflict in Syria, many of whom are marginalised and desperate on the fringes of society, are seeking to live normal lives and establish a place for themselves in new communities. Looking ahead to a future where she may continue to exist in a vulnerable and isolated position on the margins of Jordanian society, Rasha, 21, was clear on what was needed from international stakeholders: efforts ‘to enable people to provide for themselves’. As this paper has demonstrated, it is a matter of legal obligation, and practical necessity, that the international community heed her words.

192 UNHCR, News Stories, 16 March 2016, ‘Refugees’ and ‘Migrants’- Frequently Asked Questions (FAQs), Ref: <http://www.unhcr.org/56e95c676.html>

Appendix: Note on Refugee Testimonies

This paper used the testimonies of people who fled Syria and sought sanctuary in Lebanon, Jordan, and Turkey, in order to illustrate the experiences of refugees under discussion. It was also felt that it was important to give refugees, the primary subject of this paper, a direct voice to explain their experiences directly.

Testimonies from refugees were gathered using a short survey, in English and Arabic versions, that was distributed to refugees in Turkey, Lebanon, and Jordan. Respondents were asked to give their age and gender; no other identifying details were asked for or recorded to preserve the anonymity of respondents. The names used in the paper are pseudonyms given to respondents after the testimonies were collected.

In total, 45 refugees from Syria were surveyed; 30 in Jordan, 8 in Turkey, and 7 in Lebanon. The youngest age of the refugees surveyed was 9; the oldest, 46. In total 11 were male and 34 were female.

The questions asked were as follows (English language version):

1. Please tell us about what led you to take the decision to flee Syria?
2. Please tell us about your experiences in the new country you are residing in. We are particularly interested in understanding:
 - your experiences with people native to the country you are living in
 - the challenges you face in your new community
 - whether or not you feel safe in the country you are currently living in
3. Have you received sufficient information about your legal rights and obligations upon arrival in the country you are currently residing in?
4. Please tell us about any other experiences you have had that you would like us to know about?

The Arabic language version of the survey was as follows:

1. ما هي الأسباب التي أرغمتك على الفرار من سورية؟
2. أخبرنا من فضلك عن الظروف التي تعيشها في البلد الجديد الذي تتواجد نحن مهتمون على نحو خاص الاطلاع على –
تجربتك مع مواطني الدولة التي تقيم فيها؛
- التحديات التي تواجهها في المجتمع الجديد؛
هل تشعر بالأمان في الدولة التي تقيم فيها أم لا؟
3. هل تم أطلاعك على حقوقك وواجباتك بالشكل الكافي في الدولة التي تقيم فيها
4. أخبرنا من فضلك بخصوص تجارب أخرى ترى بأنه من المفيد أن نطلع عليها.

AL-MARSAD

AL-Marsad - Arab Human Rights Center in Golan Heights is an independent non-profit legal human rights organization, located in Majdal Shams, in the Occupied Syrian Golan. The center was founded in October 2003 by a group of lawyers and professionals in the fields of health, education, journalism and engineering - mostly town-planners - as well as human rights defenders and other interested community members.

We commenced our work on voluntary basis but as time has passed we have been able to successfully attract funding from local and international resources, which has been used to support many of our projects.

General Objectives:

The Israeli military and subsequent civilian rule has committed many human rights abuses and violations of international human rights and humanitarian law. These violations, while taking new forms, persist to the present. The lack of international intervention and the absence of recognized local civil society forums helped to hide the harsh realities of occupation. It also helped to create a free space for abuse and misadministration in most arenas of social life (including education, health, economic policy, and regional and municipal planning).

AL-MARSAD`s main goals are to:

5. Monitor and document violations of both international human rights and humanitarian law committed in the occupied Golan, both past and present;
6. Educate the local indigenous community regarding their rights under international law through workshops and forums;
7. Increase awareness amongst the international community regarding Israel's illegal occupation of the Syrian Golan;
8. Bring impact litigation and other legal interventions before Israeli courts and state authorities;
9. Provide legal consultation to native Syrian residents, other individuals and institutions.

AL-MARSAD - The Arab Center for Human Rights in the Golan Heights

P.O. Box 9

Majdal Shams 12438

Golan Heights, Via Israel

972-4-687-0644 (phone)

972-4-687-0645 (fax)

marsad@golan-marsad.org

<http://www.golan-marsad.org>