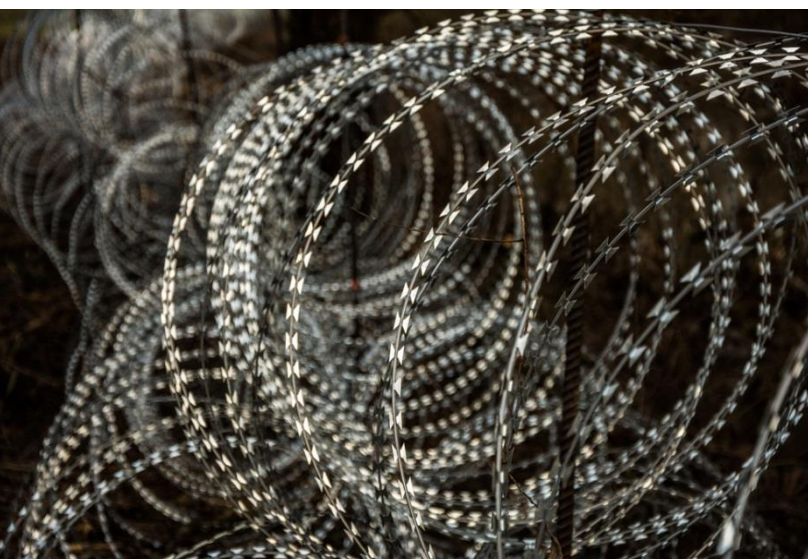




**Standing Committee
for Economic and Commercial Cooperation
of the Organization of Islamic Cooperation (COMCEC)**

Forced Migration in the OIC Member Countries: Policy Framework Adopted by Host Countries



**COMCEC COORDINATION OFFICE
October 2016**



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October 2016**

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List of Abbreviations

ABO	Accommodation Facility (Anlägnings-boende) [Sweden]
AFAD	Disaster and Emergency Management Presidency of Turkey
AHA	Africa Humanitarian Action
AMAPPE	Moroccan Association for the Promotion of Small and Medium-Sized Enterprises (Association Marocaine d'Appui à la Promotion de la Petite Entreprise)
ANAPEC	National Agency for Employment and Skills Promotion (L'Agence nationale de promotion de l'emploi et des compétences) [Morocco]
ASEAN	Association of Southeast Asian Nations
BRA	Office for Refugees and Stateless Persons (Bureau des Réfugiés et des Apatrides) [Morocco]
CARA	Control of Alien Refugees Act of 1969 [Uganda]
CAT	Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment
CEAS	Common European Asylum System
CJEU	Court of Justice of the European Union
CNDH	National Council for Human Rights (Conseil National des Droits de l'Homme) [Morocco]
DAR	Development Assistance for Refugees [Uganda]
DCFTA	Deep and Comprehensive Free Trade Agreement
DGMM	Directorate General for Migration Management [Turkey]
DRC	Democratic Republic of the Congo
EBO	Independent Living (Eget boende) [Turkey]
ECHR	European Convention on Human Rights
ECOWAS	Economic Community of West African States
ECtHR	European Court of Human Rights
EU	European Union
FIDH	International Federation for Human Rights (Fédération internationale des ligues des droits de l'homme)
FIN	Foreign Identification Number
FOO	East-West Foundation (Fondation Orient-Occident) [Morocco]
HLD	High-level Dialogue on International Migration and Development
HVB	Homes for Care or Residence (Hem för Vård eller Boende) [Sweden]
ICMPD	International Center for Migration Policy Development
IDMC	Internal Displacement Monitoring Centre
IDP	Internally Displaced Person
IGAD	Intergovernmental Authority on Development
İGAM	Research Center on Asylum and Migration (İltica ve Göç Araştırma Merkezi) [Turkey]
İKGV	Human Resources Development Foundation (İnsan Kaynagini Geliştirme Vakfı) [Turkey]
ILO	International Labor Organization
IMC	International Medical Corps
IMF	International Monetary Fund
INDH	National Initiative for Human Development (Initiative Nationale pour le Développement Humain) [Morocco]
INGO	International Non-Governmental Organization
IO	International Organization
JD	Jordanian Dinar
JHAS	Jordan Health Aid Society
JICA	Japan International Cooperation Agency
KRI	Kurdish Region of Iraq
LAS	League of Arab States

MAED	Migration and Arab Expatriates Department
MCMREAM	Ministry of Moroccans Residing Abroad and Migration Affairs (Ministère chargé des Marocains Résidant à l'Étranger et des Affaires de la Migration)
MDGs	Millennium Development Goals
MIDWA	Migration Dialogue for West Africa
MoNE	Ministry of National Education
MoU	Memorandum of Understanding
MSF	Médecins Sans Frontières
NGO	Non-Governmental Organization
OAU	Organization of African Unity [now the African Union]
OIC	Organisation of Islamic Cooperation
OPM	Office of the Prime Minister [Uganda]
PDMM	Provincial DGMM Directorate [Turkey]
PRS	Palestinian Refugees from Syria
RAMED	Medical Assistance Regime (Régime d'Assistance Médicale) [Morocco]
RCP	Regional Consultative Process
REC	Refugee Eligibility Committee [Uganda]
ReDAT	Refugee Doctor Adaptation Training
ReHoPE	Refugee and Host Population Empowerment
RIMS	Refugee Information Management System
RMMS	Regional Mixed Migration Secretariat
RSD	Refugee Status Determination
SDGs	Sustainable Development Goals
SEK	Swedish Krona
SGDD/ASAM	Association for Solidarity with Asylum Seekers and Migrants
SIVE	Integrated System of External Vigilance (Sistema Integrado de Vigilancia Exterior) [Spain]
SNIA	National Strategy on Immigration and Asylum (Stratégie Nationale d'Immigration et d'Asile) [Morocco]
SRAD	Syrian Directorate for Refugee Affairs
SSAR	Solutions Strategy for Afghan Refugees to Support Voluntary Repatriation, Sustainable Reintegration and Assistance to Host Countries
STA	Settlement Transformative Agenda [Uganda]
TEC	Temporary Education Center
TL	Turkish Lira
TOKİ	Turkish Housing Development Administration
UN	United Nations
UNHCR	United Nations Higher Commissioner for Refugees
UNICEF	United Nations Children's Emergency Fund
UNODC	United Nations Office of Drugs and Crime
UNRWA	United Nations Relief and Works Administration
USD	United States Dollars
WFP	World Food Programme
YOBIS	Education Management Information System for Foreigners (Yoğun Bakım İzleme Sistemi) [Turkey]

EXECUTIVE SUMMARY

The 57 countries that make up the Organisation for Islamic Cooperation (OIC), which stretch across Africa, Asia, South America, and the Middle East, play a central role in the global debate on forced migration. Nearly two thirds of the world's forced migrants *originate* from OIC Member States. At the same time, these states *host* over half of all refugees and asylum seekers in the world, with many serving simultaneously as countries of origin, transit, and destination. OIC countries therefore shoulder a disproportionate share of the global responsibility for protecting displaced people worldwide, even though their total GDP represents only 8.9 percent of the world's total.

Many OIC countries have experienced significant *new* flows of refugees and asylum seekers within the past year that have precipitated new challenges and policy responses. This has been true in the five case study countries analyzed in depth in this report—Turkey, Jordan, Morocco, Uganda, and Sweden (the latter being a major recipient of OIC migrants). While in some countries the absolute numbers are still comparatively small (like in Morocco or Uganda), in others the numbers have reached historic levels (such as in Turkey and Jordan). As the number of refugees worldwide reached a new high in 2015, even countries with the most advanced asylum systems in the world (such as Sweden) were overwhelmed by the scale and pace of flows.

While there is tremendous diversity in the legal structures, protection regimes, and poverty alleviation efforts developed for forced migrants across OIC countries, many of these countries share certain fundamental principles governing their treatment of refugees. For the most part, even countries that are not signatories to the Geneva Convention broadly respect the core principle of nonrefoulement on which the international humanitarian system is based. Nearly all OIC countries are signatories to the Convention Against Torture, which commits them to this principle -even if they do not formally recognize individuals seeking protection as refugees. At the same time, there are great differences in the extent to which countries have transposed their principles into their national legislation. The five case studies analyzed in this report illustrate the diversity of forced migration flows to and from OIC countries- and the equally diverse range of policy responses at the local, national, and regional levels developed in response to these flows.

Complex forced migration flows raise unique policy challenges

Forced migration flows often occur close to home, with conflicts, political instability, or persecution in neighboring countries driving refugees and asylum seekers to look for protection in the region—placing a disproportionate responsibility on states bordering conflict zones. Overall, 74 percent of OIC refugees and asylum seekers have sought protection in other OIC Member States. Pakistan, for example, hosts nearly two million refugees from neighboring Afghanistan. And Turkey—which now hosts more refugees than any other country in the world—has experienced most of its flows from neighboring Syria. Together, Turkey, Jordan, and Lebanon host nearly 90 percent of the over 5 million internationally displaced Syrians.

Although the 2011 civil war in Syria has had a massive impact on many OIC countries and garnered extraordinary international attention, it is only one of many drivers of forced migration in the Middle East and Africa. Conflict and violence continue to drive movements within and from other OIC countries including Iraq, Somalia, Yemen, and Afghanistan. Political oppression, discrimination, and persecution also drive refugee movements both from OIC

states as well as from non-OIC countries—such as Eritrea, Burundi, and Myanmar—to OIC members. Each of these drivers frequently overlaps and interacts with drivers not recognized under the 1951 Convention or other protection frameworks including environmental degradation and an acute lack of economic opportunity. Individual reasons for seeking protection, whether within or outside of one's home country, are thus complex and generally reflect a mix of motivations.

Data collection on forced migration remains a challenge both globally as well as throughout OIC countries. Accurate assessments of the actual numbers of forced migrants in a particular country as well as their demographic characteristics can be difficult to come by, particularly where refugees have chosen not to register with UNHCR. And detailed information on the living conditions or socioeconomic challenges of forced migrant communities can be even more difficult to obtain. Many countries lack robust national systems to gather such data even on their national populations, and where such systems do exist, they may not include displaced populations.

UNHCR statistics show that over half of refugees in the world today are children. In Uganda, almost eight out of ten refugees are women or children. There has also been a huge shift in the demographics of asylum seekers crossing the Mediterranean, with women and children coming to make up almost half of the flows (which had in 2014 and the first half of 2015 been predominantly young and male). An unprecedented number of unaccompanied minors has reached Europe, with schools and infrastructure overwhelmed even in wealthy countries like Sweden. And as refugee situations become protracted, the risk of generations of children born into displacement—many without access to education during their formative years—has been particularly pressing for countries like Turkey, and looms as one of the most critical issues for the international community to address.

A diversity of legal approaches to providing protection

While respect for nonrefoulement guarantees that refugees will not be sent back to a country where their lives are in danger, more nuanced forms of protection—as well as the rights, benefits, and level of autonomy available to forced migrants—depend on the specific provisions within the host country's national legal framework.

International conventions have deeply influenced the asylum laws and practices in most of the study countries examined in this report. All but five OIC members are signatories to the Convention Against Torture, which commits states to respecting the principle of nonrefoulement even for non-refugees. Yet fewer than two-thirds of OIC Member States have ratified the 1951 Convention, and only 29 OIC states have developed comprehensive asylum legislation to *implement* the Convention, limiting the obligations these states have taken on to provide assistance and rights to refugees beyond basic protection from refoulement. There is also a very wide range in terms of the extent to which national governments have the resources to fully implement their commitments. Without national implementation, international norms and commitments remain unfulfilled.

Of our case study countries, Sweden, Turkey, Morocco, and Uganda have all developed comprehensive national asylum or refugee legislation within the last decade, or are currently in the process of doing so. While Jordan has no national asylum policy, its memorandum of understanding with UNHCR commits it to the same principles of respect for nonrefoulement stipulated in the 1951 Convention. The close partnerships that many OIC countries (like Morocco and Jordan) have with UNHCR to manage refugee status determinations ensure a

certain level of harmonization with international standards and norms (at least within the asylum process itself), even in the absence of fully independent national asylum systems.

Regional conventions have also played an important role in setting protection standards in some countries affected by OIC forced migration, some of which serve to *expand* the protections available in the 1951 Convention. This is particularly important at a time when there is a growing mismatch between the static definition of a refugee in international law and the complex, overlapping motivations that drive individuals and families to move. Morocco and Uganda have signed the 1969 Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa, which expands upon the 1951 Convention's definition of a refugee. In the European Union, the EU Directives that make up the Common European Asylum System provide another set of standards to which Member States like Sweden must comply, and also expand the grounds for protection to cover situations of generalized violence. Perhaps of most importance, the EU court system provides individual migrants an opportunity to appeal should they feel their rights under EU law have been violated, a level of enforcement lacking from most other regional or international rights conventions.

None of the case study countries, with the exception of Sweden, provides refugees or forced migrants with access to long-term residency or citizenship. In Turkey, Syrians began receiving protected status in 2011 with the express condition that their status would not lead to permanent residency, although the government recently signaled that it may consider allowing Syrians to naturalize in the future. Jordan, similarly, explicitly refers to refugees as temporary and follows a policy of non-integration. And even in Sweden, a July 2016 policy change has temporarily limited the possibility for protection beneficiaries to receive permanent residence permits.

Limited access to legal residency status in many countries has been a major driver of poverty among forced migrant populations. Temporary permits, which must be renewed regularly (typically after one year, as is the case in Jordan and Morocco, and for beneficiaries of subsidiary protection under the current regime in Sweden) are inherently less stable. In Morocco, for example, NGOs have complained that certain migrants have been unable to renew their permits. Such policies also reflect an underlying belief that the conditions precipitating these flows are in fact temporary, and refugees will eventually be able to return home. Old rules prioritizing permanent residency in Sweden, for example, were predicated on a belief that keeping people on temporary status for prolonged periods of time proved a significant barrier to integration as well as an acknowledgement that most refugees would not have the opportunity to return home.

These examples illustrate that, despite the very different national contexts, in many ways the challenges experienced by the least developed countries have mirrored those experienced by wealthier countries with highly developed asylum systems.

Strategies to alleviate poverty among forced migrants

Forced migrants face particular vulnerabilities in host countries: many arrive with debt and scarce financial resources (as a result of expensive journeys and limited networks upon arrival) and have interrupted school and work trajectories—in addition to the psychosocial trauma they have faced. For these and other reasons, their risk of falling into poverty is greater than for other migrants.

The direct assistance available to forced migrants -either from national governments, local NGOs, or the international community- can vary widely. Most major refugee hosting countries lack sufficiently robust social assistance systems to serve even their own nationals. And even where such systems do exist and are accessible to protection beneficiaries, as in Sweden, they can be overwhelmed by a rapid influx of new arrivals. In most countries, humanitarian organizations and NGOs thus step in to fill gaps in services not provided by national governments.

In some countries, most refugees live in camps or settlements, while in other places the majority live in urban areas. In Uganda, most refugees live in settlements (with only 14 percent registered in the capital city), while in Turkey only a small percentage of refugees live in camps. Often it depends on the nationality of the displaced: In Jordan, Iraqis are highly urban and nearly 90 percent live in the capital city.

Humanitarian organizations like UNHCR play an indispensable role in providing shelter, food assistance, and even education in most refugee-hosting states. However, while these efforts are critical to emergency relief, many of these programs have fallen short in terms of developing long-term, sustainable livelihoods for displaced persons. Even with innovative practices in some countries -such as Uganda offering farmable plots of land to newly arrived refugees- few refugees achieve a high degree of self-sufficiency in the long run. This illustrates a larger problem, which is that many interventions are insufficiently targeted to the actual capabilities of refugees and to the local context in which they are implemented (particularly needs within local labor markets). In addition, the multiplicity of different actors (who are not coordinated in a systematic way) risks creating parallel service infrastructures—with danger of both duplication and service gaps.

The case studies show that implementation can lag behind policy design, sometimes leaving a gap between the reality for forced migrants on the ground and the rights guaranteed to them on paper. Access to work permits, for example, does not always translate to easy access to jobs. In Turkey, only a small fraction of Syrians have entered legal employment (despite gaining access to the labor market in January 2016); while in Uganda, employers' divergent interpretations of the 2006 Refugee Act have deterred many from hiring refugees. Meanwhile, practical barriers such as language differences and a mismatch between skill levels and the needs of the labor market can be another barrier, as seen in Sweden's highly advanced economy. The cost of obtaining documentation can also be an issue. Permit fees in Jordan prevented many refugees and employers from applying for legal authorization to work. Therefore, even in countries that offer a legal path to employment, many workers and employers alike choose to circumvent these systems and resort to informal or "black market" employment in practice. Better understanding the intersection between forced migration and the role of labor markets in socioeconomic development will be critically important for poverty alleviation strategies.

Practical barriers can also hamper access to critical services such as education and medical care, even when these are provided to refugees. Enrollment or service fees may be prohibitive for refugees without a reliable source of income, and service providers may lack the knowledge or capacity to serve a population with unique needs, such as diverse linguistic backgrounds or disrupted educational trajectories. A lack of access to education and medical care can be particularly problematic for the 50 percent of refugees who are children and at a critical stage in their physical and mental development.

Impacts

Forced displacement has serious consequences for all actors involved: the migrants themselves, countries of first asylum and destination, and countries of origin. Costs to host communities have become flashpoints of potential conflict, as dependent refugee populations place heavy demands on local infrastructure, natural resources, and public services—especially health and education—in countries of first asylum. Turkey, for example, estimates it has spent over USD\$10 billion on refugees. School capacity in Jordan has been exceeded by 13 percent, and the capacity of health clinics has been exceeded by 22 percent. Many refugee-hosting countries experience local tensions over competition for housing (as in Sweden), while land scarcity has become a problem in Uganda.

At the same time, forced migration can also bring potential benefits that should not be discounted. Refugees often bring significant skills and education (a significant proportion of Syrians, for example, are highly skilled), and can attract substantial investments of aid from the international community. The investments in additional services or new infrastructure that receiving large populations of newcomers require can also create jobs and stimulate the economy, as seen in Sweden. Finally, in some cases, refugees themselves may bring with them investment capital or business opportunities, or attract diaspora investments.

As the scale of displacement continues to test national and international protection regimes, countries will need to rethink both legal frameworks and poverty alleviation efforts in order to mitigate the costs of forced migration and take advantage of the potential opportunities.

INTRODUCTION

International migration has secured a top place in newspaper headlines worldwide and on the agenda of the highest levels of government over the past year. Images of migrants packed onto unstable boats on the high seas in search of a new life have refocused global public attention on the plight of the growing number of families and individuals forced from their homes because of conflict, political oppression, environmental disasters, and poverty. Many of those leaving are entitled to some form of protection under international law, whether as refugees or under other human rights instruments, obligating receiving countries -at a minimum- to provide them with a safe refuge from harm.

But policy responses to these flows are complicated by the fact that migration -whether forced or voluntary- does not happen in a vacuum. The global movement of people in fact has deep effects not only on the communities receiving migrants, but on the towns, regions, and countries they left -as well as on migrants themselves. Migrants provide labor to employers in their new homes and consume local goods, creating potential stimulus to the host economy. At the same time, they are active users of local services such as education and health care, increasing pressure on these critical public institutions and creating capacity challenges for host governments and service providers. Well-established migrant communities often send home financial remittances to family left behind, and if return eventually becomes possible, forced migrants can be a valuable source of human and financial capital to support the reconstruction of their home countries.

More often, however, forced migrants in exile are left in situations of poverty and vulnerability. Especially problematic, the process of migration, and particularly forced migration, often leaves migrants themselves in extremely risky situations. Without the protection of their own national government, forced migrants must rely on the generosity of the host government to provide them with rights to residency, work, education, health care, and housing. Having used much of their financial resources to reach safety, forced migrants often find themselves with little money left over to support themselves, yet without the right to work or reestablish a means to earn an income. Those who do work often do so illegally and may be subject to exploitation and abuse by unscrupulous employers. These vulnerabilities can be transmitted to the next generation as the children of forced migrants are compelled into child labor or denied access to schools and educational opportunities. As forced migration situations become protracted, host countries may find themselves caring for an increasingly vulnerable and dependent population.

Migration, particularly forced migration, thus has deep implications for development, particularly in host countries. Policymakers at both the national and international level have increasingly come to recognize the relevance of forced migration to development and efforts to alleviate poverty in the developing world. The UN's 2030 Sustainable Development Goals, for example, include a specific reference to the effects of forced migration on development as well as the potential of well-managed migration to facilitate development. Increasingly, international development institutions like the World Bank have expanded their involvement in humanitarian response and have sought to include migration in their development plans for host countries.

While no country is untouched by migration, the effects of migration and especially forced migration are in fact highly concentrated. Globally, 86 percent of refugees are hosted by

developing countries. Nearly 60 percent of refugees were hosted by just 10 countries,¹ all of which are classified as developing economies by the UN.² For member countries of the Organisation for Islamic Cooperation, these challenges are particularly acute. OIC Countries host over half of the global refugee population, and four of the top five host countries are OIC Member States.³

This report examines the situation of forced migrants in OIC Countries with specific attention to the implications of forced migration and protection policies for efforts to alleviate poverty in these countries. The analysis takes a case study approach, examining forced migrant populations and protection policies in five case study countries with a specific attention to policies with an impact on poverty alleviation including housing, employment, education, and health care.

The case study countries -Turkey, Jordan, Morocco, Uganda, and Sweden- are drawn from each of the three OIC regions and also represent countries with substantial OIC forced migrant populations. Together, these case studies offer a wealth of forced migration experiences and a range of differing approaches to providing protection. Two countries, Turkey and Morocco, are in the process of developing and implementing their first comprehensive asylum legislation and implementation regimes -changes sparked in part by these countries' transition from migration transit countries to asylum destinations in their own right. Other countries, including Jordan and Uganda, have long been host to substantial forced migrant populations, yet offer deeply contrasting approaches to legal status and rights they afford to forced migrants. Finally, Sweden, while not an OIC country, has recently received nearly three quarters of its asylum seekers from the OIC, and has long been hailed as possessing one of the most advanced asylum systems in the world. Yet the strain placed on the Swedish system by the large-scale migration flows across the Mediterranean in 2015 has raised questions about what level of stress even such a highly sophisticated protection regime can be expected to handle alone.

The report begins by exploring the concept and definition of forced migration as a phenomenon as well as international legal approaches to dealing with forced migration. The following chapter examines forced migration trends in and from OIC countries, and takes a broad look at policy response to forced migration in OIC countries at both the national and regional level. The report then turns to an in-depth analysis of policy responses in each of the case study countries as well as an evaluation of the effects of forced migration in each country. Finally, the report concludes by drawing comparative lessons regarding the challenges countries face in hosting forced migrants and promising practices for mitigating the costs of forced migration for host communities and forced migrants alike.

¹ UNHCR 2015 Global trends report

² <http://unstats.un.org/unsd/methods/m49/m49regin.htm#developed>

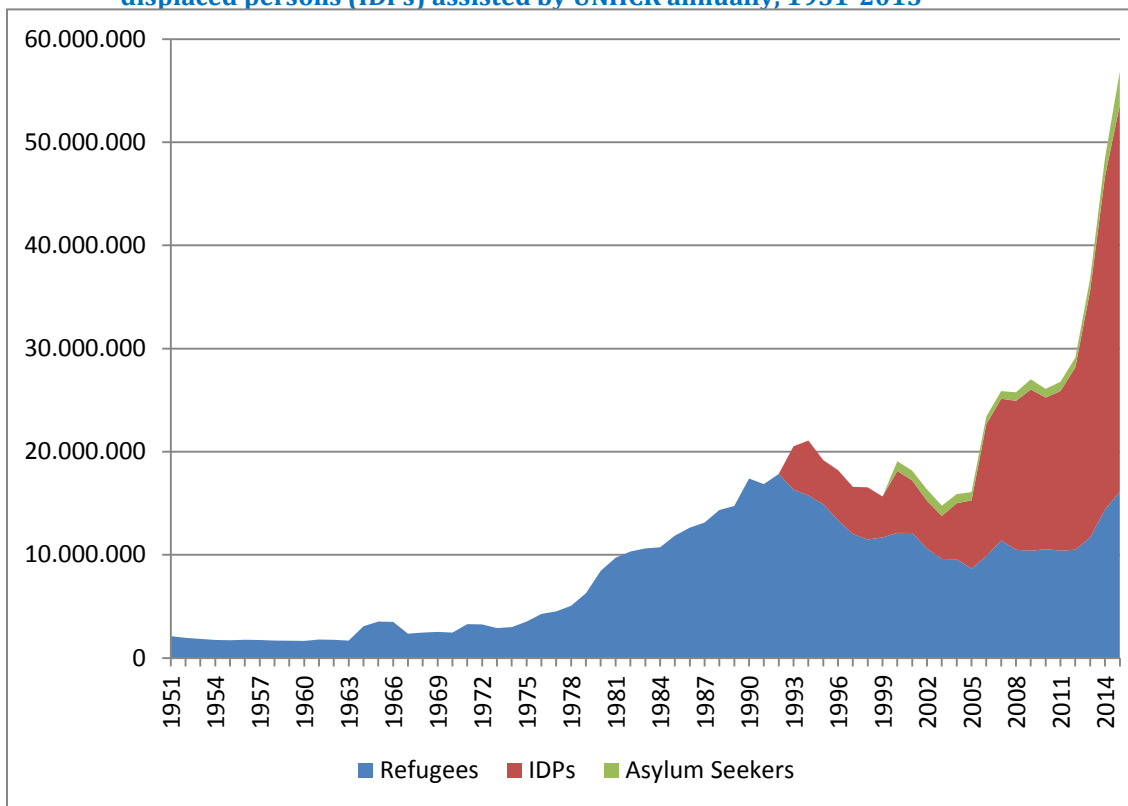
³ See Chapter 2: Forced Migration in and from OIC Countries

1. A GLOBAL PICTURE OF FORCED MIGRATION AND INTERNATIONAL PROTECTION

1.1. Global Forced Migration Trends and Drivers

The scale of forced displacement worldwide is higher than anything that has been seen since the end of the Second World War, and has tested the limits of the international protection regime built around the 1951 Refugee Convention. As of the end of 2015, UNHCR estimates that over 65 million people have been forcibly displaced from their homes, of whom 21.3 million are outside their countries of origin.¹ The largest share of the displaced have, however, remained inside their own countries. Over 40 million people were internally displaced in 2015, up by 8 million from the year before.

Figure 1: Stocks of refugees (excluding Palestinians), asylum seekers, and internally displaced persons (IDPs) assisted by UNHCR annually, 1951-2015



Source: United Nations High Commissioner for Refugees, UNHCR Population Database, accessed on August 26, 2016, <http://popstats.unhcr.org/en/overview>.

Notes: Since 2007, people in refugee-like situations are included in refugee estimates, and figures from 2007 are thus not fully comparable with previous year. Since 2007, people in IDP-like situations are included in the IDP estimates, and IDP figures since 2007 are thus not fully comparable with previous years. IDP numbers only include those assisted by UNHCR. Palestinians under the mandate of UNRWA are not included.

¹ Total annual displacement numbers provided by UNHCR include recognized refugees and those in refugee-like situations, asylum seekers, Palestinians assisted by UNRWA, and IDPs. UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2015* (Geneva: United Nations High Commissioner for Refugees, 2016), <http://www.unhcr.org/en-us/statistics/unhcrstats/576408cd7/unhcr-global-trends-2015.html>.

Whether within or outside their countries of origin, most forced migrants are unevenly distributed around the world. Just ten countries provided protection to 60 percent of the world's refugees (excluding Palestinians) as of mid-2015, half of which were in Africa.² As a region, Africa was host to the largest refugee population worldwide at over 4 million in 2015. Most refugees (86 percent) were hosted in developing countries as of the end of 2015.³ Similarly, three quarters of internally displaced persons (IDPs) were hosted by the ten top countries; three of the top five (Syria, Iraq, and Yemen) are located in the Middle East.⁴

Box 1. Defining a "forced migrant"

The following terms and definitions will be used in this report:

Forced migrant is a broad term used to include any person compelled by external factors to leave her home in search of safety. "Forced migrant" is not a legal term nor does it correspond to any specific set of rights in international or national law. Forced migrant is used inclusively to refer to refugees, IDPs, and asylum seekers, as well as those forced to move but whose grounds for flight are not recognized under international law.

Refugee is an individual who is outside his or her country of origin and meets the refugee definition laid out in the 1951 Convention, whether or not her status has been officially recognized. In this report, refugee is also used inclusively to refer to Palestinians outside the historical territory of Palestine and persons who fall under UNHCR's mandate because they are in "refugee-like situations."

Asylum seeker refers to an individual who has submitted a claim for international protection either to UNHCR or to a national authority, but who has not yet been granted protected status by that authority as a refugee or received another form of protection under national law.

Beneficiary of international protection is used inclusively to refer to individuals who have been granted either refugee status or another form of legal protection from refoulement by national authorities (such as subsidiary protection in the European Union).

Internally Displaced Person (IDP) is an individual who has been compelled to leave her home for any reason (including conflict, persecution, or environmental degradation, to name just a few possible reasons) and has sought safety elsewhere within her country of origin.

Forced migrants leave their homes for numerous reasons. Some major drivers -including human rights violations, ethnic violence or persecution, forced conscription, and political persecution- fall under the definition of the 1951 Convention Relating to the Status of Refugees,⁵ and people fleeing these situations are generally accorded refugee status in the countries where they seek asylum. Other circumstances such as economic collapse, natural

² The top ten refugee hosting countries in 2015 were Turkey, Pakistan, Lebanon, Iran, Ethiopia, Jordan, Kenya, Uganda, the Democratic Republic of the Congo, and Chad. UNHCR, *Global Trends: Forced Displacement in 2015*.

³ UNHCR, *Global Trends: Forced Displacement in 2015*

⁴ Internal Displacement Monitoring Centre (IDMC), *GRID 2016: Global Report on Internal Displacement* (Internal Displacement Monitoring Centre (IDMC), 2016), <http://www.internal-displacement.org/globalreport2016/#home>.

⁵ See Section II for a full definition of refugee status under the 1951 Convention.

disasters, environmental degradation, discrimination that does not rise to the level of persecution, poor governance, or wide-spread criminal violence also drive major forced migration movements but do not lead to refugee protection.

While the events and circumstances that generate these drivers are easy to identify, such as the war in Syria or ethnic violence against the Rohingya in Myanmar, individual decisions to leave home are inherently mixed and often much more difficult to align with legal definitions in practice. The flight of over 870,000 people from Mogadishu between 2007 and 2008 at the height of the Somali civil war provides an example of the nuanced nature of individual decision-making.⁶ Political violence and instability had been a structural feature of life in Mogadishu for decades, and residents had developed various coping mechanisms, such as avoiding certain areas of the city, that allowed them to maintain key elements of their lives and livelihoods. For many of those who fled, their decision to leave was precipitated by a serious disruption to these coping mechanisms -such as the destruction of a home or business in a military attack, the death of a supporting family member, or the disintegration of protective social networks- that left them unable to protect or support themselves. While the outbreak of an active military conflict tied to political, ethnic, and religious conflict -grounds for Convention protection- drove flight at a macro-level, individual decisions included economic, social, and basic personal safety factors that would not qualify for refugee status.

It is also important to note that displacement does not always occur immediately, but develops as conditions at home evolve over time.⁷ Most refugees begin their journeys as internally displaced persons, moving to seek safety within their city, region, or country before crossing an international border. Even the nature of cross-border displacement may evolve over time as conflicts shift or become protracted. Refugees may initially prefer to stay as close to home as possible, settling in the border region of a neighboring country and returning home periodically to check on property and businesses or family. An increase or shift in the geography of conflict or persecution may cause displacement to become more rooted and reduce circulation.

As displacement progresses, both geographically and temporally, the drivers and motivations of forced migrants are likely to evolve. Most displacement is protracted; nearly half of refugees under UNHCR's mandate have been displaced for five years or more.⁸ As hope of returning home diminishes, refugees may begin to search for a longer-term solution to their displacement. Given the limited status and economic and social rights afforded to refugees in many first asylum countries, some of the displaced may choose to seek protection in destination countries, many of which are located in Europe or North America, where more comprehensive and secure protection is provided. While the initial driver of these flights may have been Convention-related, the reasons behind individuals' onward movement can be economic or social factors, including a desire to reunify with family or friends who have already undertaken such journeys.

Moreover, the dangerous nature of onward journeys themselves can create new protection needs or drivers for migration. Migrants can be subject to exploitation or violence at the hands of smugglers and face various forms of deprivation along the way, including lack of access to

⁶ For a full discussion of forced migration from Mogadishu during this time period, see Anna Lindley, "Leaving Mogadishu: Towards a Sociology of Conflict-Related Mobility," *Journal of Refugee Studies* 23, no. 1 (2010): 2-19.

⁷ For a full discussion see Roger Zetter, *Protection in Crisis: Forced Migration and Protection in a Global Era* (Washington, DC: Migration Policy Institute, 2015), <http://www.migrationpolicy.org/sites/default/files/publications/TCM-Protection-Zetter.pdf>.

⁸ UNHCR, *World at War: UNHCR Global Trends: Forced Displacement in 2014*, 11.

food or medical care. In addition, the expense of such journeys may leave many migrants trapped for indefinite periods in transit countries without sufficient money to continue their journey or return home. Migrants may also feel compelled to continue their journeys to avoid losing the high investments of personal and financial capital they have made--or to pay off debt to smugglers--even after they desire to return home.⁹ Finally, as of 2015, over half of refugees globally were children for whom the dangers of such journeys are magnified. Children in displacement often lack the opportunity to attend school or receive needed pediatric medical care, disadvantages that compound the longer they are in situations of displacement. Many forced migrant children also travel alone and are at extremely high risk of exploitation and abuse. Whether for children or adults, the protection needs motivating forced migrants are thus highly complex and do not necessarily stem from the original circumstances of their displacement alone.

1.2. The Basics of International Protection: The Refugee Convention and Nonrefoulement

While forced migration is not a modern phenomenon, the concept of forced migration as something to be managed and addressed according to international standards and basic rights is a relatively recent development. The international frameworks that currently govern responses to forced migration emerged in the aftermath of the Second World War to resolve the situation of the more than 65 million people it left displaced in Europe alone. In 1951, an international conference adopted the UN Convention Relating to the Status of Refugees with the intention to provide a legal framework to address the situation of people who remained displaced after World War II.¹⁰ The 1951 Convention for the first time set out an individual definition of refugee status, rather than a collective definition based on nationality, and stipulated the rights attached to this status. Later, the 1967 Protocol Relating to the Status of Refugees expanded the scope of the Convention to include events after 1951 and outside of Europe.¹¹

Together, the 1951 Convention and 1967 Protocol have become the centerpiece of international refugee law and have informed the development of most national asylum legislation. The Convention and Protocol are among the most widely adopted instruments of international law: 148 states are parties to one or both instruments.¹² Countries on every continent and in every region of the world are parties to the Convention, although relatively fewer states in Southeast Asia and the Middle East are signatories.

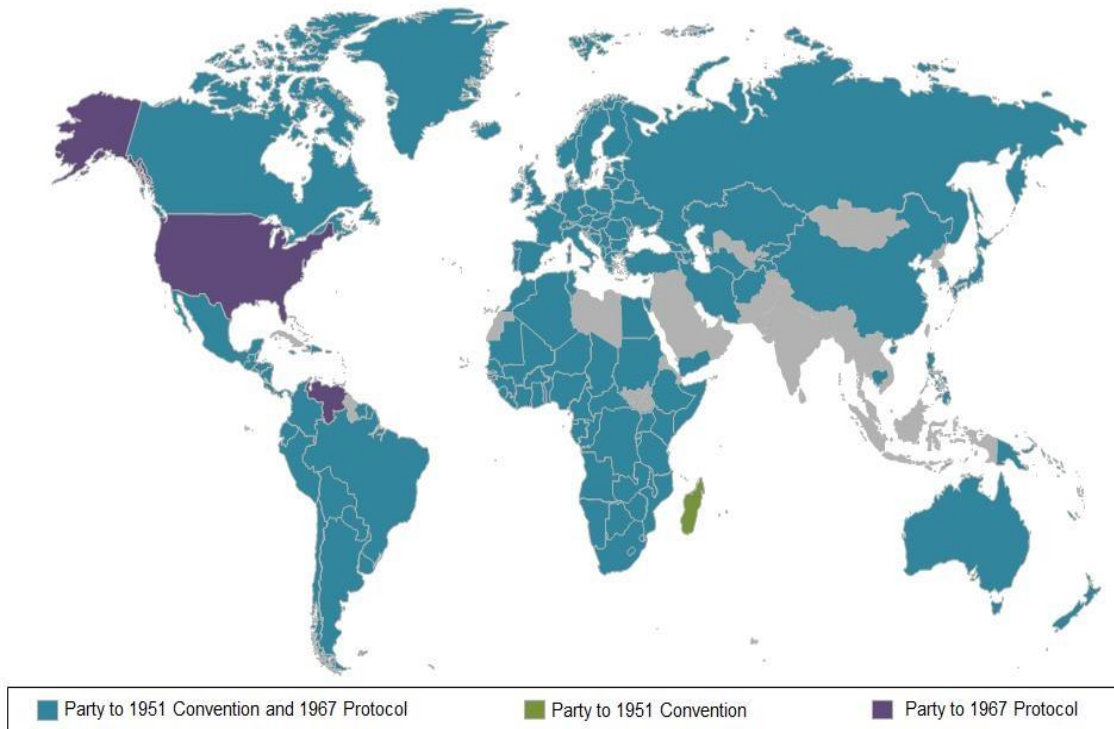
⁹ For example, see Michael Collyer, "Stranded Migrants and the Fragmented Journey," *Journal of Refugee Studies* 23, no. 3 (2010): 273-291.

¹⁰ The 1951 Convention applied only to individuals who had been displaced "as a result of events occurring before January 1951" (Article 1). Moreover, signatories were allowed to limit the Convention's scope to only those displaced due to events in Europe.

¹¹ However, not every signatory to the Convention adopted the Protocol without reservation. Turkey, for example, has maintained a reservation that limits its application of the Convention to refugees displaced from Europe. And Sweden has maintained reservations on its commitments to provide certain socioeconomic rights and benefits to refugees.

¹² UN High Commissioner for Refugees (UNHCR), *States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol* (United Nations High Commissioner for Refugees), <http://www.unhcr.org/protect/PROTECTION/3b73b0d63.pdf>.

Figure 2: Signatories of the 1951 Refugee Convention and/or 1967 Protocol



Source: UNHCR, "States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol," updated April 2015, <http://www.unhcr.org/en-us/protection/basic/3b73b0d63/states-parties-1951-convention-its-1967-protocol.html>.

1.2.1. Refugee protection under international law

Article 1 of the 1951 Convention defines a refugee as someone 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 nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or owing to such fear, is unwilling to return to it."¹³ This definition of "refugee" is highly specific, and the limitations and nuances written into the definition have had profound implications for its applicability to subsequent events and circumstances. Several points are worth exploring in greater depth:

- **Owing to a well-founded fear of persecution:** Flight must be driven by persecution, and other reasons for flight, whether voluntary or not, are thus not covered by the Convention. Notably, "persecution" is not specifically defined, leaving some room for national interpretation regarding what level of harm or specific acts constitute persecution.

¹³ UN General Assembly, "Convention relating to the Status of Refugees," United Nations, July 28, 1951, <http://www.refworld.org/docid/3be01b964.html>.

- **For reasons of race, religion, nationality, membership of a particular social group or political opinion:** Persecution must have occurred on account of one of these five specified grounds, and other reasons for persecution are often not recognized.
- **Outside the country of nationality or habitual residence:** Refugees must be outside their country of origin. The Convention is thus not applicable in situations where persons find themselves displaced or in fear of persecution *inside* their country.

The core protection of the Convention is the prohibition of expulsion or return of a refugee “in any manner whatsoever” to a territory where his or her “life or freedom would be threatened” for one of the five reasons spelled out in the definition.¹⁴ This provision is known as the principle of nonrefoulement. Other legal instruments have also emerged in the years since the convention that have further enforced the principle of nonrefoulement and expanded it to other vulnerable groups. The 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), a key example, stipulates that signatories may not “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.”¹⁵ Numerous regional protection instruments contain similar prohibitions on inhuman or degrading treatment that have been interpreted to imply protection against refoulement, as well as some that explicitly prohibit refoulement.¹⁶ The principle of nonrefoulement is also considered by many to have entered the body of customary international law, and would according to this interpretation be applicable even to states that have not signed on to any of the conventions or treaties which provide for it.

In addition to protection from refoulement, states assume other obligations under the 1951 Convention to accord refugees economic and social rights at least as favorable as those of other legally present aliens, or in the case of certain basic rights (such as freedom of religion, access to primary education, and intellectual property rights), treatment as favorable as those of their own nationals. Such provisions protect refugees’ ability to, in some degree, build a normal life. These include the right to acquire and hold property (Articles 13-14); the right to work (Articles 17-19); the right to access housing, secondary education and social assistance (Articles 21-23); and the right to primary level education on the same basis as their own nationals (Article 22). These rights, however, rely on implementation by national governments, and there are thus numerous barriers to refugees’ enjoyment of these rights in practice.¹⁷

Although the obligations states have to refugees are inherent in an individual’s situation (i.e. a person fleeing persecution on Convention grounds is fundamentally a refugee regardless of whether or not a state or other actor has actually granted them legal status as a refugee), it is up to states to recognize their obligations through a legal procedure. Refugee status under the Convention definition is typically granted on the basis of an individual assessment, although in situations where mass displacement has occurred refugees may be granted status or protection from refoulement collectively on a *prima facie* basis. The need for an individual

¹⁴ Article 33, 51 C, UN General Assembly, 1951 Convention.

¹⁵ Article 3, UN General Assembly “Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,” United Nations, December 10, 1984, <https://treaties.un.org/doc/Publication/UNTS/Volume%201465/volume-1465-I-24841-English.pdf>.

¹⁶ These include for example the European Convention on Human Rights, the American Convention on Human Rights, the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, and the African Charter on Human and Peoples’ Rights.

¹⁷ See Section III for a full discussion of the barriers refugees face in accessing these rights.

determination thus often results in a period between when a refugee requests asylum and when he or she is finally accorded status.

The Convention, however, only provides for the obligations of states to recognized refugees, and asylum seekers find themselves in a position of limbo while their claims are adjudicated. They generally do not have a recognized right to legal residence in the country of asylum, although their status as asylum seekers affords them protection from removal or deportation. The economic and social rights attached to status as an asylum seeker are usually much more restricted than those afforded to recognized refugees.¹⁸ As asylum processes in many countries have become prolonged—in the United States, for example, wait times for an initial asylum interview now exceed two years¹⁹—the limited rights provided leave asylum seekers at risk of falling into poverty or being excluded from the formal labor market, health care, education, and other benefits while they await status.

It is also worth noting that the 1951 Convention does not provide for a *right to be recognized* as a refugee, nor does the 1948 Universal Declaration on Human Rights, which simply grants the right for individuals to “seek and enjoy asylum.” Moreover, the Convention does not grant individuals legal permission to enter another country to file their asylum claims, restricting the legal migration options refugees have to seek safety. Rather, the only firm commitment of states is to refrain from refoulement of individuals to territories (not limited to the country of origin) where they would be at risk of persecution. States may choose not to grant refugee status for a number of reasons. The Convention allows states to withhold a grant of protection, for example, from those who have committed “a war crime, or a crime against humanity” as well as “serious non-political” crimes.²⁰ Some states also place limits on grants of refugee status for refugees who are deemed to already have found or had the opportunity to access protection in another “safe third country.”²¹

1.2.2. Non-refugee forced migrants: The mismatch between protection in law and needs in practice

The Convention does not cover all forms of forced migration or all situations in which forced migrants may find themselves. There is a notable mismatch between the highly complex reasons why people move with the legal definition of refugee status in international and most national law. Many people who are displaced do not fit the definition precisely. Often flight is driven by a combination of overlapping motivations, some of which may be recognized and some of which are not. Refugee rights advocates have also expressed concern that the Convention does not recognize some legitimate reasons for persecution that have come to be accepted or have developed since it was written including gender, sexual orientation, or violence inflicted by non-state actors such as criminal gangs.

While not in the Convention per se, other legal instruments and mechanisms have emerged to account to some extent for a more nuanced understanding of the drivers and dynamics of

¹⁸ In the United States, for example, asylum seekers must wait 180 days after filing their asylum claim before they may apply for work authorization, and in the United Kingdom, applicants must wait for a year to gain the right to work, and even then only in certain shortage occupations. In Sweden, children of asylum seekers were only granted the right to attend school by legislation in 2003, although

¹⁹ Human Rights First, *In the Balance: Backlogs Delay Protection in the U.S. Asylum and Immigration Court Systems* (Human Rights First, 2016), <http://www.humanrightsfirst.org/sites/default/files/HRF-In-The-Balance.pdf>.

²⁰ Article 1F, UN General Assembly, *1951 Convention*.

²¹ Council of the European Union, “Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status,” December 13, 2005, EUR-Lex, L 326/13, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32005L0085>.

flight. The broad acceptance of nonrefoulement has been the most comprehensive assurance of protection for those fleeing danger that does not fall under the 1951 Convention's five grounds. Some regional instruments have gone a step further and either expanded on the definition of refugee protection or created new categories of protected status to cover circumstances not foreseen by the Convention. The Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa stipulates that the definition of refugee also applies to individuals fleeing external aggression or disturbances of public order in their country of origin.²² Standards set out by the European Union (EU) for its Member States, for example, require authorities to offer a form of subsidiary protection, equal in many respects to refugee protection, for individuals fleeing generalized violence or torture.²³

At the national level, some countries have also expanded the definition of persecution. Uganda, South Africa, Germany, and Sweden, for example, include protection from persecution on the basis of gender, and Sweden further expands the definition to cover persecution on grounds of sexual orientation. Under Swedish and Finnish asylum law, it is also possible (although hardly ever granted in practice) to claim international protection, although not refugee status, due to environmental circumstances in the country of origin. Moreover, even in countries that have not adopted more expansive legal definitions of protection, the category of "particular social group" within the Convention definition has been interpreted increasingly broadly to encompass other drivers. In the United States, for example, a debate is ongoing on whether gender can define a particular social group.²⁴

The requirement for a refugee to be "outside the country of his nationality" means that individuals displaced within their own countries (IDPs) are similarly not protected under the 1951 Convention. As they have remained within the country of their nationality, IDPs are technically under the care and protection of their national government and thus not in need of international protection.²⁵ The obligations of the international community in situations where governments fail to protect their populations or indeed persecute them have, however, been a subject of debate.²⁶ International law grants IDPs the basic human rights afforded to all individuals, and UNHCR's Guiding Principles on Internal Displacement set out the relevant

²² UN High Commissioner for Refugees (UNHCR), "OAU Convention Governing the Specific Aspects of Refugee Problems in Africa," Assembly of Heads of State and Government at its Sixth Ordinary Session, September 10, 1969, <http://www.unhcr.org/about-us/background/45dc1a682/oau-convention-governing-specific-aspects-refugee-problems-africa-adopted.html>.

²³ Council of the European Union, "Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted." September 30, 2004, EUR-Lex, L 304/12, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:en:HTML>.

²⁴ United States Board of Immigration Appeals, *Matter of Acosta* In Deportation Proceedings A-24159781, Interim Decision #2986, March 1, 1985, <https://www.justice.gov/sites/default/files/eoir/legacy/2012/08/14/2986.pdf>.

²⁵ The UN Guiding Principles on Internal Displacement state that "National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction" and that "Internally displaced persons have the right to request and to receive protection and humanitarian assistance from these authorities." Principle 3, United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *Guiding Principles on Internal Displacement*, 2nd Edition (New York: United Nations, 2004), <http://www.unhcr.org/protection/idps/43ce1cff2/guiding-principles-internal-displacement.html>.

²⁶ The UN General Assembly, for example, has debated the relevance of a principle known as Responsibility to Protect (R2P), introduced at the 2005 World Summit. R2P affirms that every state "has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity." In situations where states fail to provide this protection, R2P commits the international community to take action via the UN to intervene to provide this protection. United Nations General Assembly, *Implementing the responsibility to protect: Report of the Secretary-General* (A/63/677, January 12, 2009), http://www.un.org/en/ga/search/view_doc.asp?symbol=A/63/677. States have, however, been reluctant to adopt R2P, and the 2011 NATO intervention in Libya remains the only example of its use.

provisions of international law²⁷ and serve as a tool for states and international organizations to deal with internal displacement, although they are not legally binding. At a regional level the African Union has made efforts to address the rights of the internally displaced through the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa (also known as the Kampala Convention). Even though IDPs are not part of the UN High Commissioner for Refugees' (UNHCR) original mandate, the agency has expanded the scope of its work over time, at the request of the UN, to include providing humanitarian assistance to the internally displaced who are in refugee-like situations.

Finally, Palestinians in the historic lands of Palestine (excluding Israel) and in neighboring countries who were displaced by the partitioning of the country between 1946 and 1948 also do not fall under the mandate of UNHCR or under the protections of the 1951 Convention—although Palestinians outside of UNRWA's geographic field of operations are able to access the protection of both.²⁸ The UN General Assembly created the UN Relief and Works Administration for Palestinian Refugees in the Near East (UNRWA) in 1949 to provide assistance and support to Palestinians in Lebanon, Syria, Jordan, the West Bank, and the Gaza Strip. UNRWA's mandate was specifically limited to providing maintenance and support to Palestinian refugees (and their descendants) displaced by the 1948 Arab-Israeli conflict. Unlike UNHCR, UNRWA's mandate does not include provisions regarding access to protection or solutions to displacement, so as not to jeopardize the right of Palestinians to govern themselves and to return to their home, a priority for Palestinians and others involved in negotiations following the conflict.²⁹

1.3. The International Protection Regime: Robust in Practice?

As the scale of international displacement has increased, concern has grown that the protection regime built around the 1951 Convention and UNHCR is under threat or is failing to meet its goals. The growing mismatch between the reasons why individuals are compelled to move and the grounds for protection as a refugee is an integral part of this challenge. Perhaps more troubling, however, is the increasingly protracted nature of displacement.³⁰ For many groups, displacement stretches across decades, and the affected refugees (and IDPs) are left without access to basic rights or services or, perhaps more important, hope of resuming something resembling their lives pre-displacement.

1.3.1. Gaps in protection at the national level

For many of the displaced, the most salient challenge is the growing gap between the full set of rights to which states that sign the 1951 Convention commit themselves and what is available in practice at the national level. Refugee protection, as originally set out under the 1951 Convention, encompasses a range of state commitments beyond basic nonrefoulement that protect a refugee's ability to exercise fundamental freedoms (of religion, free expression, and free association, for example), earn a living, access basic services, and move legally within their country of asylum and internationally.

²⁷ These include among others the Universal Declaration of Human Rights, the Convention of Civic and Political Rights, the Convention on Economic and Social rights, and the Convention on the Rights of the Child. UN OCHA, *Guiding Principles on Internal Displacement*.

²⁹ United Nations High Commissioner for Refugees (UNHCR), *State of the World's Refugees: Fifty Years of Humanitarian Action* (Oxford and New York: Oxford University Press and United Nations High Commissioner for Refugees, 2000).

³⁰ UNHCR reports that rates of return for refugees in 2015 were the lowest since 1983. UNHCR, *World at War: UNHCR Global Trends: Forced Displacement in 2014*, 20.

Implementation of the 1951 Convention relies inherently, however, on the actions of states and the commitment of governments to uphold its principles and to implement them in practice. Although the Convention has been widely adopted, and numerous states have enshrined some right to claim asylum in their legal codes, fewer countries have actually developed robust asylum systems at the national level that are able to perform complex individual adjudications of refugee status. Doing so requires the development of a detailed legal and regulatory framework to recognize the grounds for protection and to provide for the manner in which adjudications will be conducted (e.g. who will be responsible for taking asylum claims, who will adjudicate them), the supports afforded to applicants (e.g. access to interpretation and legal counsel), and the legal status and residency rights that successful claimants will be granted (e.g. what type of residency permit will be granted). For many countries, including Convention signatories such as Morocco and Turkey, UNHCR maintains an integral role in assessing claims and granting refugee status and documentation.³¹

Just as important, legal frameworks to govern the access of refugees to basic services and rights are often lacking, or countries have undertaken explicit limits on the ability of refugees to work, own property, or move freely within the country of asylum—although these commitments are also enshrined in the 1951 Convention. Refugees are thus often dependent on parallel systems run by the UN and international non-governmental organizations (see the situation of Somali refugees in Kenya, for example), which are subject to the generosity of international donors. This leaves refugees in a situation where they are safe from harm at a very basic level, but without the means to resume their lives—and puts them at increased risk of poverty and marginalization, which may be transmitted over generations as refugees remain displaced.

Perhaps even more problematic is the situation of non-Convention forced migrants, for whom international law does not afford any special guarantees of rights beyond those that apply to all persons under international human rights law. For those who are beneficiaries of a non-refugee form of protection, the rights and benefits afforded may not extend beyond minimal nonrefoulement.

1.3.2. Practical capacity to provide protection

The challenge for many states is not necessarily a lack of will to provide protection to those in need, although this can be an issue particularly in situations colored by complex domestic or international politics. The widespread acceptance of nonrefoulement as an element of international customary law, and the general respect accorded to the principle even by states who have not signed the Convention, signals a broad openness, at least in principle, among most countries to assisting at least some categories of displaced people. Thailand, for example, has been a generous host to refugees from Myanmar for decades, and both Jordan and Lebanon have taken in hundreds of thousands of refugees from Syria and Iraq even though they are not Convention signatories. For many states, the real challenge to implementing a robust protection regime is capacity.

Establishing a system to process and adjudicate refugee claims requires a functioning governance structure with recognized authority, a standard few countries are able to meet. Many countries of asylum are facing their own governance challenges and lack the administrative capacity to keep up with their own citizens' documentation needs. Moreover,

³¹ Efforts are, however, ongoing in Turkey to move the RSD function from UNHCR to the Directorate General for Migration Management in the Ministry of the Interior (see chapter 3), and in Morocco, the new migration and asylum strategy foresees the Office for Refugees and Stateless Persons (BRA) conducting all RSDs.

asylum countries may face transition or turmoil unrelated to refugee flows that makes prioritizing the development of protection infrastructure difficult at best.³² Some countries find themselves in the unenviable situation of being both a source and a destination of forced migrants, making the policy and political challenges of absorbing refugees even more complex. The significant Syrian population in northern Iraq, for example, is dwarfed by the population of IDPs.³³

To take a related challenge, the service and social support infrastructure in many asylum countries is underdeveloped and already suffering from a lack of capacity to meet the needs of nationals. Incorporating large numbers of refugees, or other forced migrants, into national education, health care, or social support mechanisms may risk stretching these systems to breaking point or simply prove impossible. National services may also not be equipped to serve refugees' often unique needs, including the need for language interpretation, different educational backgrounds, or medical concerns such as trauma or post-traumatic stress.

Just as significantly, economic capacity to absorb large numbers of refugees and provide them with the means to earn a living may simply not exist, at least in the short run, as many asylum countries face their own economic and labor market challenges. Refugee hosting countries that neighbor countries of conflict are often confronted with substantial economic disruption, unrelated to refugee populations, due to the broader impact of instability in their neighborhoods. Both Jordan and Lebanon, for example, have seen substantial negative economic effects due to the loss of Syria as a trading partner and regional trade route.³⁴ On the other hand, refugee populations may be a source of economic stimulus in the mid-to-long terms, bringing new skills, networks, and energies to hosting countries.

The manner in which flows occur, and the scale, mean that addressing them in a systematic manner is a significant challenge even for the most well-developed asylum system or robust economies (as events in Europe last year demonstrated). Comprehensive asylum and integration systems are resource-intensive to operate—although the investments are arguably very much worth the effort in the long-run—and in no country are they able to effectively deal with massive inflows over a prolonged period of time.

Capacity issues—or even perceived capacity issues—can give rise to barriers of political or public will that inhibit the provision of comprehensive rights to refugees and forced migrants. Fears about competition between a country's nationals and newcomers may create political liabilities for the government that make them hesitant to fully incorporate refugees in their economic and social systems. In Turkey, for example, the government has acknowledged the long-term nature of the situation and the need for the inclusion of people enjoying protection

³² In Tunisia, for example, the transition to a transit and destination country for migrants and refugees was in part driven and accompanied by the country's democratic transition. However, the delicate political situation in the aftermath of the Arab Spring has complicated the adoption of needed policy reforms. Anaïs Elbassil, *EU Cooperation with third countries – Case study Tunisia* (EPIM Project). Unpublished.

³³ UNHCR registration figures suggest there were almost 290,000 Syrian refugees in Iraq as of June 2015, compared with nearly 4 million Iraqi IDPs. UNHCR, "2015 UNHCR country operations profile – Iraq," accessed December 18, 2015, <http://www.unhcr.org/pages/49e486426.html>.

³⁴ The economic impact of the Syrian crisis on the region provides a prime example. Syria was the fifth largest importer of Lebanese goods prior to the conflict, and 20 percent of Lebanese exports (even those not destined for Syria) transited through the country. The loss of Syria as a trading partner and transport route has had an impact on the health of the Lebanese economy more broadly. World Bank, *Lebanon: Economic and Social Impact Assessment of the Syrian Conflict* (Washington, DC: World Bank, 2013), <http://documents.worldbank.org/curated/en/2013/09/18292074/lebanon-economic-social-impact-assessment-syrian-conflict>; and World Bank, *Jordan Economic Monitor: A Hiccup Amidst Sustained Resilience and Committed Reforms* (Washington, DC: The World Bank Group, 2015), http://www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2015/12/23/090224b083fe40be/1_0/Rendered/PDF/Main0report.pdf

in the education system and the labor market. Although legal frameworks and regulations to permit this have been issued, implementation has been slowed by concerns about competition with native-born workers, the need to set up new implementing agencies, the capacity of existing systems, and sensitivity to public opinion. Furthermore, in regions where protection infrastructure is thin, such as Southeast Asia, governments may fear that developing such infrastructure would make them a magnet for mixed migration flows.³⁵

It is worth noting, however, that the 1951 Convention recognizes that large scale refugee flows may place the capacity of asylum countries under strain. The preamble of the Convention notes that "considering that the grant of asylum may place unduly heavy burden 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." The international community has, however, not always provided assistance and support at the level needed, particularly for strained infrastructure in asylum countries. Without adequate support, many countries may simply be unwilling or unable to take on additional responsibilities. Moreover, asylum countries may fear that, in a time of limited and dwindling humanitarian and development aid, taking on protection responsibilities themselves may cause the small amount of international support they do receive to disappear. This need for a reliable global responsibility-sharing system has gained salience and captured international attention over the last year. Most notably, the UN General Assembly has called a high-level meeting for September 2016 to propose a Global Compact on forced migration that would commit states to pledging financial resources, technical assistance, or resettlement places in response to a refugee crisis.³⁶

1.4. Consequences of Forced Displacement and the Protection Regime

Despite the laudable success of the 1951 Convention and the associated refugee protection regime in securing safety for some of the world's most vulnerable, the system as it currently operates has left significant gaps both for the displaced and the communities hosting them. Most of the world's refugees lack "durable" solutions to displacement, as well as limited access to basic rights and services.³⁷ Moreover, the disconnect between the reasons why people move and the protection provisions of international law has resulted in a growing population of forced migrants who are unable to return home, but also have no legal status or access to protection.

For refugees, displacement, and particularly protracted displacement, often means a life in limbo. Without the right to work legally, own property, or access certain basic amenities and services (banking services, for example), refugees are often at risk of poverty or marginalization. In Jordan and Lebanon, for example, 9 in 10 Syrian refugees are considered to be living in poverty.³⁸ The protracted nature of displacement means that the disadvantages of poverty will likely be transmitted to the next generation. Children make up approximately half

³⁵ Marie McAuliffe, *Resolving the Policy Conundrums: Enhancing Cooperation on Protection in Southeast Asia. A case study of policy responses to the May 2015 humanitarian crisis involving Rohingya and Bengali migrants*. (Washington, DC: Migration Policy Institute, 2016 forthcoming).

³⁶ UN General Assembly, *In safety and dignity: addressing large movements of refugees and migrants: Report of the Secretary-General* (A/70/59, April 21, 2016), <http://reliefweb.int/report/world/safety-and-dignity-addressing-large-movements-refugees-and-migrants-report-secretary>.

³⁷ As defined by UNHCR, durable solutions for refugees include voluntary repatriation, local integration within the host community, or resettlement in another country.

³⁸ Paulo Verme, et al., *The Welfare of Syrian Refugees: Evidence from Jordan and Lebanon* (Washington, DC: International Bank for Reconstruction and Development and The World Bank, 2016), 14, <https://openknowledge.worldbank.org/bitstream/handle/10986/23228/9781464807701.pdf?sequence=21&isAllowed=y>.

of the global refugee population, and their unique vulnerabilities mean that the effects of displacement can be even more significant. Refugee children often have limited access to education, either because of limited capacity in schools or because financial circumstances compel them to work to help support their families.³⁹ As a result, children experience disrupted and curtailed education trajectories, with consequences for their future economic situation. Refugee children are also at heightened risk of being forced into early marriage.

Communities hosting forced migrants are also subject to strain, particularly on key services like education or health care. The sheer increase in the volume of people residing in particular areas may also put particular pressure on the housing system, leading to housing shortages or increased rents. For governments, fears among the public of labor and economic competition from forced migrant populations or of security risks can create political uncertainty.

Forced migration can, however, also bring potential advantages to host communities, some of which may be lost because of restrictive legal frameworks or limitations of refugees' activities. In certain circumstances, refugees can be an economic boon, bringing with them human and financial capital, as well as money from international donors. Somali refugees in Kenya have, for example, revitalized the Nairobi neighborhood of Eastleigh, transforming it into an economic hub.⁴⁰ The Malaysian economy has benefited from the cheap labor Rohingya and other refugees from Southeast Asia have provided, although the benefits to refugees who are often the victims of exploitation are more tenuous.⁴¹

For the international community, refugees left to languish in protracted displacement represent a waste of human capital and potential. To date, the little international assistance that is available has usually been limited to humanitarian "care and maintenance" support that simply meets refugees' immediate needs, but does not assist refugees to integrate or develop the means to support themselves longer term. Providing continued care and maintenance in the form of humanitarian assistance and support can become difficult to sustain as displacement stretches over decades.

It is thus in the interest of all concerned to ensure that refugees and other forced migrants are able to swiftly access not just safety from refoulement but protection that allows them the opportunity to resume something of a normal life, including opportunities to earn a living, secure housing, and obtain an education for their children. Doing so requires not only action on the part of states to provide the necessary legal mechanisms and implementing agencies, but also support from the international community to assist states in meeting their obligations both to provide protection and to find a sustainable place for refugees in their communities, labor markets, and societies longer term.

³⁹ Child labor is a significant concern in refugee situations. UNICEF has estimated that 10 percent of Syrian refugee children are working. UNHCR, "Children at Work" in *The Future of Syria: Refugee Children in Crisis* (UN High Commissioner for Refugees, 2013), 35-41, <https://s3-eu-west-1.amazonaws.com/unhcr-campaigns/childrensreport/Future-of-Syria-UNHCR-v13.pdf>.

⁴⁰ Sara Pavanello, Samir Elhawary and Sara Pantuliano, *Hidden and exposed: Urban refugees in Nairobi, Kenya* (working paper for Humanitarian Policy Group (HPG), March 2010), <https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/5858.pdf>.

⁴¹ *The Economist*, "The Long Wait – Malaysia's Rohingyas get little help from the government," June 15, 2015, <http://www.economist.com/news/asia/21654236-malysias-rohingyas-get-little-help-government-long-wait>.

2. FORCED MIGRATION IN AND FROM OIC COUNTRIES

Nearly two thirds of all forced migrants (including refugees, asylum seekers and IDPs) originate from OIC member states (36 million people),¹ and OIC countries are host to over half (55 percent) of refugees and asylum seekers worldwide.² The top four countries of asylum globally are OIC members (see Table 1), and alone host nearly one third of all refugees and asylum seekers. OIC countries thus play an especially crucial role in providing protection for refugees and asylum seekers. However, providing forced migrants with reliable protection and durable solutions has been difficult in practice. As the number of displaced persons globally has reached levels not seen in over 50 years, OIC countries are under pressure to develop stronger protection frameworks to meaningfully address this growing challenge.

This chapter outlines the general trends in forced migration from OIC countries and provides an overview of forced migrant populations residing in or travelling through OIC countries, with a focus on recent and ongoing displacement situations. The chapter also surveys the implementation of national, regional, and international legislation designed to address migration and protection issues in OIC member states, offering preliminary observations as to their effectiveness.

2.1. Forced Migration in OIC Countries: An Overview

OIC countries (spanning Africa, the Middle East, Asia, and South America) experience significant and diverse flows of refugees and asylum seekers, with many serving simultaneously as countries of origin, transit, and destination. Often these movements happen close to home, with conflicts or persecution driving refugees and asylum seekers to look for protection in neighboring OIC countries. In Turkey, Lebanon, and Jordan—all among the top ten refugee-hosting countries globally—refugees from neighboring Syria make up 71 percent of the total refugee population, excluding Palestinians.³ Likewise, Pakistan and Iran together host 2.5 million refugees who have fled instability in neighboring Afghanistan.⁴

¹ For the purposes of this project, forced migrants are defined as refugees, those found in ‘refugee-like’ situations, IDPs, and asylum seekers whose applications for refugee status are pending. It does not include the UN figures for stateless persons, returned refugees, or other persons of concern. As such, the total number of forced migrants worldwide referred to in this work stands at 56.8 million as of end-2015.

² Author’s calculation from UNHCR, “Population Statistics,” accessed July 25, 2016, popstats.unhcr.org/en/persons_of_concern.

³ Author’s calculation from UNHCR, “Population Statistics”

⁴ In both Pakistan and Iran, over 95 percent of forced migrants are Afghans. European Resettlement Network, “Afghan Refugees in Iran & Pakistan,” accessed June 8, 2016, <http://www.resettlement.eu/page/afghan-refugees-iran-pakistan-0>; Author’s calculation of UNHCR, “Population Statistics,” accessed August 29, 2016, popstats.unhcr.org/en/persons_of_concern.

Tables 1 and 2: Top hosting and origin countries for refugees and asylum seekers globally, end 2015

Host country	Refugee and asylum seeker population	Country of Origin	Refugee and asylum seeker population
Turkey	2,753,760	Syria	5,118,429
Pakistan	1,657,604	Afghanistan	2,925,146
South Africa	1,217,708	Somalia	1,179,824
Lebanon	1,082,993	South Sudan	782,934
Iran	979,479	Sudan	673,872
Ethiopia	705,338	Dem. Rep. of the Congo	617,917
Germany	736,740	Myanmar	512,466
Jordan	689,053	Iraq	501,273
Kenya	593,881	Central African Republic	481,772
United States of America	559,370	Eritrea	474,788

Source: UNHCR, Table 1, *Global Trends: Forced Displacement in 2015*, accessed on July 6, 2016, <https://s3.amazonaws.com/unhcrsharedmedia/2016/2016-06-20-global-trends/2016-06-14-Global-Trends-2015.pdf>

Notes: These figures represent population numbers as of December 31, 2015. OIC countries are highlighted. Persons in refugee-like situations are included in the calculation of refugee populations.

The top three refugee *producing* countries—Syria, Afghanistan, and Somalia—are also OIC members and together account for nearly half of worldwide flows of refugees and asylum seekers.⁵ The majority of refugees and asylum seekers from OIC member states reside in other OIC countries: 74 percent have registered as refugees in a fellow OIC country.⁶ For example, 86 percent of the 4.9 million Syrian refugees have sought protection in neighboring Turkey, Jordan, or Lebanon.⁷

These same countries may also sit along major transit routes for refugees and asylum seekers moving on to other destinations. In North Africa, for example, refugees from Somalia and Nigeria may transit through Sudan, Libya, or Morocco on their way to Europe. Forced migrants from throughout South Asia, including Afghans and Iranians, have used Malaysia and Indonesia as transit points to reach Australia by sea or other destinations by air.

Slightly over two thirds of forced migrants from OIC countries (24 million) have, however, remained within the borders of their home country, though some may eventually seek safety in another country.⁸ Six of the ten largest IDP populations are currently found in OIC Member

⁵ UNHCR, *2015 Mid-Year Trends*

⁶ UNHCR, "Population Statistics"

⁷ UNHCR, "Population Statistics"

⁸ UNHCR, *Global Trends: Forced Displacement in 2015* (Geneva: UNHCR, 2016), <http://www.unhcr.org/statistics/unhcrstats/576408cd7/unhcr-global-trends-2015.html>.

States (see Table 3), many of which are also major hosts to refugee populations (such as Pakistan and Iraq).

Table 3: Top ten internally displaced populations due to conflict, end 2015

Host country	Number of Internally Displaced Persons (IDPs)
Syrian Arab Republic	6,600,000
Colombia	6,270,000
Iraq	3,290,000
Sudan	3,182,000
Yemen	2,509,000
Nigeria	2,096,000
South Sudan	1,697,000
Ukraine	1,679,000
Dem. Rep. of the Congo	1,500,000
Pakistan	1,459,000

Source: Internal Displacement Monitoring Centre, Table 1: New displacement by country for disasters and conflict and total number of IDPs for conflict and violence, accessed on July 6, 2016, <http://www.internal-displacement.org/globalreport2016/>.

Forced migrants in the OIC flee their homes for a combination of different reasons, including violent conflict, political and ethnic oppression, state instability, and environmental factors. Of those who cross international borders, many are recognized as refugees by UNHCR or host country governments, while others have been granted alternative forms of protection.⁹ Some may lack legal status altogether, either because protection frameworks in the host country are limited or because forced migrants themselves may prefer to remain underground. Migration in OIC countries thus consists of “mixed migration flows,” where individuals move for a variety of humanitarian, economic, and other reasons—not all of which are considered grounds for protection under the 1951 UN Refugee Convention.

OIC countries have taken varying approaches to humanitarian protection, which depend widely on national interests and the regional context. In some OIC regions, notably the Middle East and Southeast Asia, few countries have adopted legal frameworks to provide protection to forced migrants. Less than two-thirds of OIC Member States (35 of 57) have ratified the 1951 Refugee Convention.¹⁰ Furthermore, only 29 OIC states have implemented comprehensive national asylum systems; such systems include a refugee status determination (RSD) mechanism, delineate the rights of refugees, and grant refugees with legal residency for

⁹ Several European countries, as well as Turkey, offer temporary protection (also known as “subsidiary protection”) to migrants who are in need of protection but might not qualify for refugee status under the 1951 Convention. Federal Office for Migration and Refugees, “Subsidiary Protection,” updated July 27, 2010, <http://www.bamf.de/EN/Migration/AsylFluechtlinge/Subsidiar/subsidiar-node.html>; Rebecca Kilberg, “Turkey’s Evolving Migration Identity,” *Migration Information Source*, July 24, 2014, <http://www.migrationpolicy.org/article/turkeys-evolving-migration-identity>

¹⁰ UNHCR, “States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol,” updated April 2015, <http://www.unhcr.org/3b73b0d63.html>. Of the 49 UN member states that have not ratified the 1951 Convention, 21 are OIC countries.



a set duration of time—including a procedure for renewal of this status. As a result, UNHCR often still takes on a large role in adjudicating asylum claims and providing services for refugees in these countries.¹¹ Even in the absence of a national asylum regime, OIC countries broadly respect the work of UNHCR and almost all uphold the principle of nonrefoulement—almost all OIC countries (52 of 57) have ratified the UN Convention against Torture.¹²

To further the implementation of the 1951 Convention and ensure that its principles are upheld, many states have joined regional initiatives aimed at addressing issues of protection. These initiatives vary in form—ranging from the legally binding 1969 Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa, which expanded the definition of “refugee” and reaffirmed the Africa’s commitment to implementing the 1951 Convention, to regional consultative processes, such as the Almaty Process, which aim to address issues of forced migration through intergovernmental collaboration. Though some have proven to be more effective than others, these initiatives can play important roles in developing and implementing a regional approach to humanitarian protection.

The following sections explore forced migration trends and protection frameworks in several key regions with a high proportion of OIC member countries, including the Middle East, Africa, and South Asia.

2.2. Forced Migration in the Middle East¹³

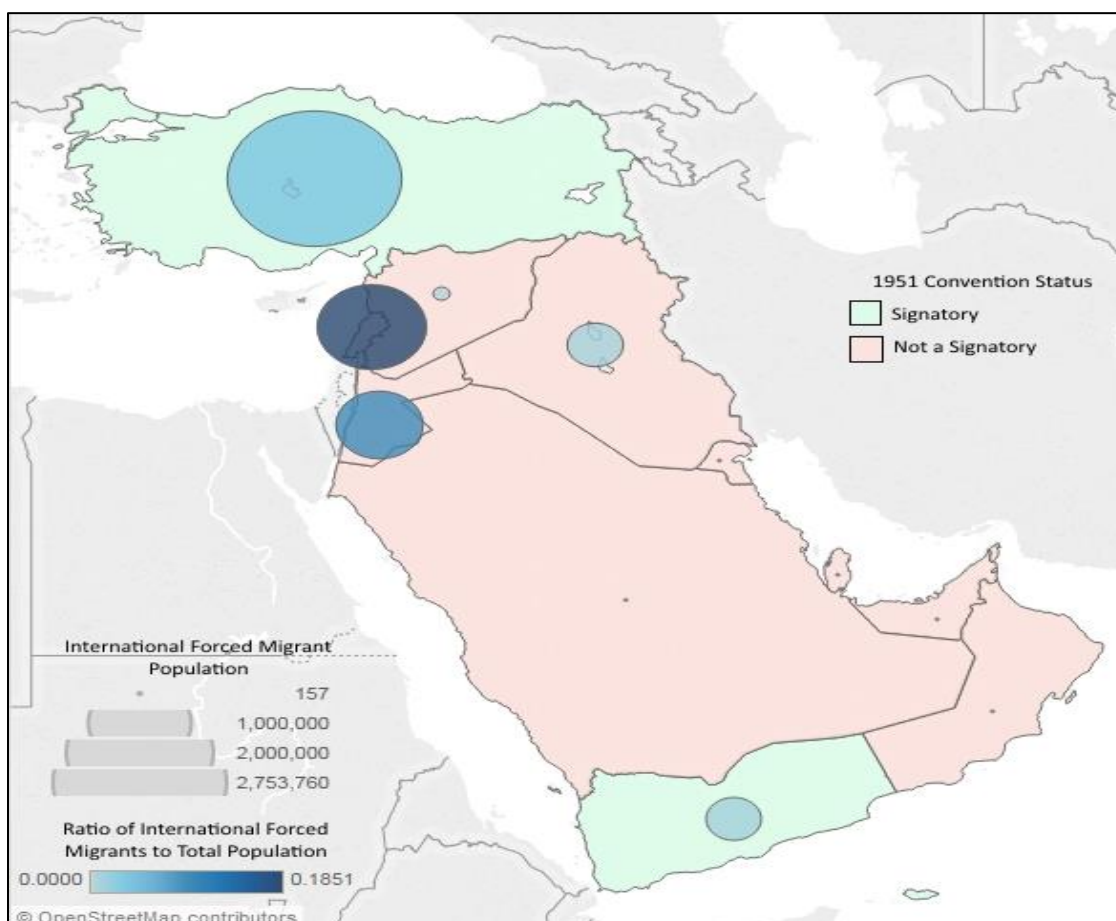
In the Middle East, large-scale and intense conflicts have produced mass forced migration. Many countries in the region have provided care and protection for large refugee populations, upholding the principle of nonrefoulement even though most are not signatories to the 1951 Convention. Even as the region’s response to these conflicts and protracted situations has evolved, most countries have not developed national asylum regimes, and regional cooperation to address protection needs has been limited. As a result, different populations have received differing treatments and rights depending on when they were displaced and from where, creating even greater predicaments for some who have been displaced multiple times and in different countries.

¹¹ Information about national asylum legislation is derived from U.S. Department of State, “Country Reports on Human Rights Practices for 2015,” accessed June 1, 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>.

¹² The OIC countries that have not ratified the UN Convention against Torture are Iran, Malaysia, Oman, Palestine, and Suriname.

¹³ This report considers the Middle East region to include the following OIC member states: Bahrain, Iraq, Jordan, Kuwait, Lebanon, Oman, Palestine, Qatar, Saudi Arabia, Syria, Turkey, the United Arab Emirates and Yemen.

Figure 3: Forced migrant populations in OIC countries in the Middle East



Source: UNHCR, "Population Statistics"

Note: The international forced migrant population is calculated to be the number of refugees, people in refugee-like situations, and asylum seekers residing in a country.

2.2.1. Migration Dynamics in the Middle East

The Middle East has seen large flows of forced migrants due to conflict, typified by the U.S.-led invasion of Iraq in 2003 and the Syrian Civil War since 2011. These two conflicts, and the continued sectarian violence in Iraq, have added to an already complex set of forced migrant populations in the region.

Conflict-driven migration

Forced migration in the Middle East has largely been driven by large-scale, intense conflicts and warfare. Currently the most prominent example is the Syrian civil war. In 2011, protests related to the Arab Spring descended into civil war as hundreds of protestors were killed and a rebel group of military defectors took up arms to overthrow the government.¹⁴ As civil war plunged the country into chaos, different groups sought to gain power, creating a complex multi-front war and drawing limited international attention to alleged human rights violations

¹⁴ Al Jazeera, "Syria's Civil War Explained," *Al Jazeera*, May 24, 2016, <http://www.aljazeera.com/news/2016/05/syria-civil-war-explained-160505084119966.html>.

and atrocities.¹⁵ Since the war began over half of the country's prewar population has been displaced: 6.6 million internally, and over 5 million across international borders, according to UNHCR.¹⁶

Civilians have fled atrocities committed by the government and rebel groups, including the use of chemical weapons, large-scale bombing campaigns, and sieges of cities. The complete absence of rule of law has obliged those who do not wish to join the war to flee, especially persecuted minority groups. Men in areas controlled by the Assad regime are forced into military service, and may be called into action until the age of 42.¹⁷ Those who refuse are imprisoned and/or tortured, and those who escape to rebel-held areas may face the same fate. This fear of conscription has pushed many young men to seek refuge in neighboring countries, often at the behest of their families.

Iraq has seen a long history of forced displacement, beginning well before the current phase of ethnic and religious conflict.¹⁸ At the time of the US invasion in 2003, 400,000 Iraqi refugees were recognized worldwide, with over half residing in Iran.¹⁹ By 2006 and 2007, at the height of what became a sectarian war, an estimated 5 million Iraqis had been displaced.²⁰ Even after the withdrawal of the Multi-National Forces from Iraq in 2011, continued sectarian violence and a weak economy, partially due to falling oil prices, have pushed an increasing number of Iraqis to flee the country. In September 2014, two-thirds of new arrivals to Jordan from Iraq had fled conflict areas, reporting fears of forced marriage, kidnapping, threats, and other forms of violence.²¹

Other populations have also been displaced by national and international conflicts. The Palestinians under the aegis of UNRWA were originally displaced during repeated wars between Israel and its neighboring Arab countries in 1948 and 1967. More recently in 2015, civil war broke out in Yemen between the government and Houthi rebels, a Shiite minority group based in the northeast of the country.²² As of April 2016, the Regional Mixed Migration Secretariat (RMMS) reported that 177,000 people had fled Yemen since the outbreak of hostilities—mostly to Oman, Saudi Arabia, and Djibouti.²³ If the situation does not improve, some fear that the Yemeni Civil War could provoke even larger mass flows of forced migration

¹⁵ BBC News, "Syria: The story of the conflict," *BBC News*, March 11, 2016, <http://www.bbc.com/news/world-middle-east-26116868>.

¹⁶ UNHCR, *Global Trends: Forced Displacement in 2015*; Internal Displacement Monitoring Centre, *Global Report on Internal Displacement 2016* (Geneva: IDMC, 2016), <http://www.internal-displacement.org/assets/publications/2016/2016-global-report-internal-displacement-IDMC.pdf>; Al Jazeera, "Syria's Civil War Explained."

¹⁷ Beginning in March 2012, men of military age have also not been allowed to leave the country legally. Rochelle Davis, Abbie Taylor and Emma Murphy, "Gender, conscription and protection, and the war in Syria," *Forced Migration Review* no. 47 (September 2014): 35-36, <http://www.fmreview.org/syria>.

¹⁸ Many Iraqis sought safety during the 1988 Iran-Iraq war. Others fled political repression under the Baathist regime of Saddam Hussein, especially the Arabization campaigns directed against the Kurdish minority.

¹⁹ UNHCR, "New Hope for Iraqi Refugees in Iran," updated April 23, 2003, <http://reliefweb.int/report/iraq/new-hope-iraqi-refugees-iran>.

²⁰ IRIN, "Iraq 10 years on: The forgotten displacement crisis," updated April 23, 2013, <http://www.irinnews.org/feature/2013/04/23/iraq-10-years-forgotten-displacement-crisis>.

²¹ Refugees have also reported fleeing ongoing violence in Baghdad and Basra. UNHCR, "Sharp increase in Iraqi refugees fleeing ISIS into Jordan and Turkey," updated September 23, 2014, <http://www.unhcr.org/54214cfe9.html>.

²² Hashem Ahelbarra, "Yemen crisis explained," *Al Jazeera*, January 20, 2015, <http://www.aljazeera.com/news/middleeast/2015/01/yemen-crisis-201512010294461878.html>; European Council on Foreign Relations, "Mapping the Yemen Conflict," accessed July 30, 2016, <http://www.ecfr.eu/mena/yemen>.

²³ Regional Mixed Migration Secretariat, "Yemen Country Profile," updated May 2016, <http://www.regionalmms.org/index.php/country-profiles/yemen>.

across international borders.²⁴ The Internal Displacement Monitoring Centre (IDMC) reports that 2.5 million people are currently displaced within the country.²⁵

Overlapping IDP and refugee flows

Refugees often start their journey as IDPs, moving within their home country in search of safety, greater economic opportunity, or respite from acute environmental factors.²⁶ In some cases, these internal flows overlap with international flows of refugees, as demonstrated by the current situation in Iraq. As of December 31, 2015, it was reported that there were about 3.3 million IDPs in Iraq, around 2.5 million of whom were newly displaced in 2014.²⁷ Since Iraq recognized the autonomy of the Kurdish Regional Government in 2005, the Kurdish Region of Iraq (KRI) has emerged as an area of comparative order and economic growth.²⁸ Many Iraqis, including Yazidis, Christians and Arabs, have sought safety from conflict in KRI.

Those forced to flee from the Syrian civil war have also added to those displaced within Iraq, even as many Iraqis continue to seek refuge in Turkey and Jordan from continued instability in their country.²⁹ An estimated 280,000 Syrian refugees have joined the 1.5 million Iraqi IDPs in KRI since 2011.³⁰ The largest Syrian population can be found in the Erbil governorate, where both the IDP and refugee populations tend to be young (60 percent of Syrians are under age 18,³¹ and 58 percent of Iraqis are below 25).³² Men comprise a larger share of the Syrian population (57 percent), however, than among the Iraqi IDPs, among whom the gender divide is evenly split.³³

Chain displacement

One characteristic of forced migration that is particularly pronounced in the Middle East is chain displacement. This refers to the multiple displacements of refugees whose countries of asylum are no longer able to offer security and protection due to conflict or other factors. Sometimes, this may take the form of return to one's country of origin despite ongoing security risks. For example, many Iraqi refugees who were formerly residing in Syria have returned to Iraq, and may continue to be internally displaced upon return.³⁴ Similarly, many

²⁴ Almgidat Mojalli and Joe Dyke, "Is Yemen Europe's next migration crisis?" *IRIN News*, September 18, 2015, <http://www.irinnews.org/analysis/2015/09/18>.

²⁵ IDMC, *Global Report on Internal Displacement 2016*.

²⁶ For example, it has been reported that most Syrian refugees began their journey as IDPs. Naomi Grimley, "Syria war: The plight of internally displaced people," *BBC News*, September 10, 2015, <http://www.bbc.com/news/world-middle-east-34189117>; Erin Mooney, "The inside story: internal displacement in Syria," *Forced Migration Review*, no. 47 (2014): 44-45.

²⁷ Internal Displacement Monitoring Centre, "Iraq IDP Figures Analysis," accessed June 8, 2016, <http://www.internal-displacement.org/middle-east-and-north-africa/iraq/figures-analysis>; Omer Karasapan and Sibel Kulaksiz, "Iraq's internally displaced populations and external refugees – a soft landing is a requisite for us all," *Brookings Institute*, updated April 2, 2015, <http://www.brookings.edu/blogs/future-development/posts/2015/04/02-iraq-refugees-kulaksiz-karasapan>.

²⁸ The Economist, "Peace, harmony and oil," *The Economist*, April 20, 2013, <http://www.economist.com/news/middle-east-and-africa/21576394-despite-assertions-contrary-iraqs-kurds-are-inching-towards-outright>.

²⁹ Melissa Fleming, "Sharp increase in Iraqi refugees fleeing ISIS into Jordan and Turkey," *UNHCR*, updated September 23, 2014, <http://www.unhcr.org/54214cfe9.html>.

³⁰ Lake, Eli. "Crisis Looms for Refugees Taken In by Iraq's Kurds," *Bloomberg*, updated September 30, 2015, <http://www.bloombergview.com/articles/2015-09-30/crisis-looms-for-refugees-taken-in-by-iraq-s-kurds>.

³¹ UNHCR, "Syria Regional Refugee Response – Erbil," updated April 30, 2016, <http://data.unhcr.org/syrianrefugees/region.php?id=65&country=103>.

³² IOM, "Iraq Mission – Displacement Tracking Matrix," accessed June 1, 2016, <http://iomiraq.net/dtm-page>.

³³ Ibid; UNHCR, Syria Regional Refugee Response: Erbil, updated June 30, 2016, <http://data.unhcr.org/syrianrefugees/region.php?id=65&country=103>.

³⁴ Dan McNorton, "Iraqi refugees flee war-torn Syria and seek safety back home," *UNHCR*, updated June 18, 2013 <http://www.unhcr.org/51c0399c9.html>

Somalis and Ethiopians have fled violence in Yemen to return to their country of origin or travel to third destinations (such as Djibouti).³⁵

The dynamic is very different when one does not have a country of origin to return to. Such is the case of the Palestinians. Of the 560,000 Palestinians registered with UNRWA in Syria, it is estimated that over 110,000 have fled the country and 280,000 are internally displaced.³⁶ Palestinians seeking refuge abroad have faced particular difficulties due to their uncertain citizenship status.³⁷ Jordan has closed its border to Palestinians from Syria, Lebanon prevents Palestinians from Syria from working in many professions and requires a lengthy work visa application procedure, and Egypt has barred Palestinians from registering with UNHCR, precluding them from the benefits of resettlement, health care, and other assistance.³⁸ Stranded in neighboring countries with little support or prospect of prompt return,³⁹ UNRWA estimates that at least 60,000 have fled the immediate region of Jordan, Lebanon, and Palestine, with many seeking refuge in Europe.⁴⁰

Highly urbanized refugee populations

Most refugees in the Middle East, especially Syrians, reside in urban areas instead of camps in their host country. Of 2.7 million⁴¹ Syrians currently being sheltered in Turkey (see Chapter 3), over 75 percent live outside of camps. Additionally, 80 percent of Syrian refugees in Jordan reside outside of camps, mostly in the northern governorates close to the Syrian border and Amman, the capital.⁴² Iraqi refugees in Jordan show similarly high levels of urbanization, with close to 90 percent living in Amman.⁴³

In Lebanon, the government has made a conscious choice to host refugees outside of camps. This policy decision resulted from the Lebanese authorities' belief that encampment policies encourage refugees to permanently settle in the country, stemming from their experience with Palestinian refugees. Therefore, the government has forbidden the creation of camps for Syrian refugees.⁴⁴ While this policy in theory provides refugees with greater mobility and access to livelihoods, it has also hampered refugees' access to basic services, which are highly privatized in the Lebanese system.⁴⁵

³⁵ Regional Mixed Migration Secretariat, *Regional Mixed Migration in the Horn of Africa and Yemen in 2015: End of year trend summary and analysis* (Nairobi: Regional Mixed Migration Secretariat, 2016), 2,

<http://www.regionalmms.org/fileadmin/content/monthly%20summaries/AnnualReport2015.pdf>.

³⁶ UNRWA, "Syria Crisis," accessed August 1, 2016, <http://www.unrwa.org/syria-crisis>.

³⁷ In Syria, children of Palestinian fathers or grandfathers are considered to be Palestinian. Even if the mother is Syrian, children only receive Syrian citizenship in very limited circumstances, such as the absence or statelessness of the father. Palestinians in Syria are provided with travel documents and maintain rights in Syria, but they do not hold a Syrian passport that could grant them visa-free travel and expedited asylum procedures in certain countries. Kait Bolongaro, "Palestinian Syrians: Twice refugees," *Al Jazeera*, March 23, 2016,

<http://www.aljazeera.com/indepth/features/2016/03/palestinian-syrians-refugees-160321055107834.html>.

³⁸ Leah Morrison, "The vulnerability of Palestinian refugees from Syria" *Forced Migration Review*, no. 47 (2014): 41-42, <http://www.fmreview.org/syria/morrison.html>.

³⁹ As of 2014, two thirds of Palestinian camps in Syria had been destroyed or were ravaged by conflict. Ibid.

⁴⁰ Bolongaro, "Palestinian Syrians: Twice refugees"

⁴¹ While the exact figure is uncertain, as many forced migrants have moved on to Europe without deregistering with the Turkish authorities, this is the UNHCR reported number as of July 28, 2016

⁴² UNHCR, "Jordan Factsheet: May 2016," accessed July 25, 2016, http://reliefweb.int/sites/reliefweb.int/files/resources/Jordan%20Fact%20Sheet%20May%202016_0.pdf

⁴³ UNHCR, "Registered Iraqis in Jordan," updated April 15, 2016, <http://data.unhcr.org/syrianrefugees/download.php?id=10736>.

⁴⁴ Venetia Rainey, "Lebanon: No formal refugee camps for Syrians," *Al Jazeera*, March 11, 2015, <http://www.aljazeera.com/news/2015/03/lebanon-formal-refugee-camps-syrians-150310073219002.html>.

⁴⁵ Olivier Beucher and Teresa de los Reyes Vazquez del Pino, "EU Cooperation with third countries in the area of migration, asylum and assistance to displaced persons (needs, challenges and opportunities) – the Lebanon case" (paper prepared for

2.2.2. Protection frameworks in the Middle East

Middle Eastern countries have largely taken an ad hoc approach to offering protection for refugees and asylum seekers. Most countries in the region have not ratified the 1951 Convention or created national asylum regimes, and regional cooperation is low. Instead, countries have crafted responses to humanitarian crises as they arise. While the principle of nonrefoulement has been respected for the most part, this lack of coordination represents other challenges in practice.

Limited ratification of the 1951 Convention

National asylum frameworks and implementation of international norms on refugees remain limited in the Middle East. Of 12 states in the region (excluding Palestine), only two have ratified the 1951 Convention: Turkey and Yemen. Furthermore, while Turkey has officially ratified the 1967 Protocol, it maintained the geographical limitation on the 1951 Convention, and therefore is only officially obligated to provide asylum to refugees fleeing from Europe. Other major refugee-hosting and destination countries for forced migration—such as Lebanon, Jordan and the states of the Gulf Cooperation Council⁴⁶—have not ratified the 1951 Convention.

Within the region, Oman, Syria, and Iraq have created national asylum regimes. But both Syria and Iraq seem to lack the capacity to implement such legislation at the moment due to instability and violence. There is some progress, however, as Turkey is in the process of implementing its national asylum legislation (see Chapter 3). Other states in the region have yet to create comprehensive national asylum regimes.

Even in the absence of directly applicable national or international legislation, most countries have tended to respect certain principles of refugee protection. Eleven of 12 states in the region have signed the UN Convention against Torture, which maintains the principle of nonrefoulement in cases of possible torture.⁴⁷ Lebanon and Jordan in particular have historically worked with UNCHR to provide support to a large number of forced migrants from Palestine, Iraq, and now Syria, despite not ratifying the 1951 Convention.

Other avenues to insure nonrefoulement

Without set national asylum systems, countries in the Middle East have taken varied approaches to preventing refoulement and offering protection to refugees. The response to the current Syrian refugee crisis has been defined by a number of ad hoc and bilateral measures, often reflecting the host country's particular interests and history. For example, Lebanon initially gave Syrians visa-free access to the country and free temporary residence permits under a 1994 bilateral agreement.⁴⁸ Similarly, Jordan allowed Syrians to enter without a visa, although it never fully clarified its border policy.⁴⁹ Both of these policies have, however, eroded under the pressure of massive migration flows. Lebanon suspended its open

the ECRE-MPI roundtable, Brussels, September 2015); Jeremy Loveless, "Crisis in Lebanon: camps for Syrian refugees?," *Forced Migration Review* no. 43 (May 2013): 66-68, <http://www.fmreview.org/fragilestates/loveless.html>.

⁴⁶ The GCC is composed of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates.

⁴⁷ The one Middle Eastern country that has not ratified the Convention Against Torture is Oman. Palestine has also not signed the Convention Against Torture.

⁴⁸ Bidinger et al., *Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing*, (Boston: Boston University School of law, 2015), 38, <http://www.bu.edu/law/files/2015/07/FINALFullReport.pdf>.

⁴⁹ Nicholas Seeley, "Jordan's 'open door' policy for Syrian refugees," *Foreign Policy*, updated March 1, 2012, <http://foreignpolicy.com/2012/03/01/jordans-open-door-policy-for-syrian-refugees/>.

access policy in December 2014 and humanitarian organizations have reported intermittent border closings at the Jordan-Syria border as well.⁵⁰

In the Arab Gulf countries (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates), official numbers of refugees and asylum seekers are very small. Despite their lack of an asylum regime, some Gulf States have contended that they offer support to forced migrants through other means, such as economic migration regimes which can sometimes draw from the same populations. Thousands of Palestinians were admitted into the Gulf States in the 1960's and 1970's as professionals, and Saudi Arabia quietly signed a Memorandum of Understanding with UNHCR to serve as a conduit for Iraqi refugees during the First Gulf War – with most later resettled or repatriated.⁵¹

More recently, Saudi Arabia claims to have taken in over 2.5 million Syrians as economic migrants since the outbreak of the civil war in that country, while the United Arab Emirates claims to have granted residency permits to 100,000 Syrians.⁵² Saudi Arabia also stopped deporting Yemeni migrant workers in March 2015 as violence in Yemen increased and later offered a six-month renewable visa allowing undocumented Yemenis to work and live legally in the country.⁵³ Such non-asylum measures have been criticized though for giving preference to refugees with valuable economic skills and putting refugees at risk of refoulement if their visas and residence permits are terminated.⁵⁴

A lack of regional cooperation to address humanitarian need

While efforts to provide asylum and prevent refoulement are admirable, most initiatives in the Middle East have been piecemeal and lack an overarching regional framework. Little work has been done at a regional level to improve the plight of forced migrants. The League of Arab States (LAS) includes a Migration and Arab Expatriates Department (MAED) that has sought to develop more effective migration policies to enhance regional integration.⁵⁵ But it remains to be seen how effective this initiative will be, and for the time being national policies towards forced migrants remain driven by particular interests that can change over time.

2.3. Forced Migration in North Africa⁵⁶

Located along the Mediterranean Sea across from the wealthy states of Europe, North Africa holds a strategic position between the two continents. For the latter half of the 20th Century, North Africa was largely viewed as an exporter of labor to Europe. Since the 1990's however,

⁵⁰ Beucher and de los Reyes Vazques del Pino, "EU Cooperation with third countries in the area of migration, asylum and assistance to displaced persons"; International Labour Organization, *Access to work for Syrian refugees in Jordan: A discussion paper on labour and refugee laws and policies*, (Beirut: International Labour Organization, 2015), 15; Rana Sweis, "Jordan's Open Door Is Now Only Cracked, Leaving Syrians Stranded," *The New York Times*, November 19, 2014, <http://www.nytimes.com/2014/11/20/world/middleeast/jordans-open-door-is-now-only-cracked-leaving-syrians-stranded.html>.

⁵¹ Karen E. Young, *Refugee Crisis and Economic Migration: Regional Economic Interdependence and the Arab Gulf States*, (Washington, DC: The Arab Gulf States Institute in Washington, 2015), 5 http://www.agsiw.org/wp-content/uploads/2015/10/Young_Refugee-Crisis.pdf.

⁵² Taylor Luck, "Syrian refugee crisis: Are wealthy Gulf states doing their part?," *The Christian Science Monitor*, updated September 16, 2015, <http://www.csmonitor.com/World/Middle-East/2015/0916/Syrian-refugee-crisis-Are-wealthy-Gulf-states-doing-their-part>.

⁵³ Human Rights Watch, "Saudi Arabia: Mass Expulsions of Migrant Workers," updated May 9, 2015, <https://www.hrw.org/news/2015/05/09/saudi-arabia-mass-expulsions-migrant-workers>.

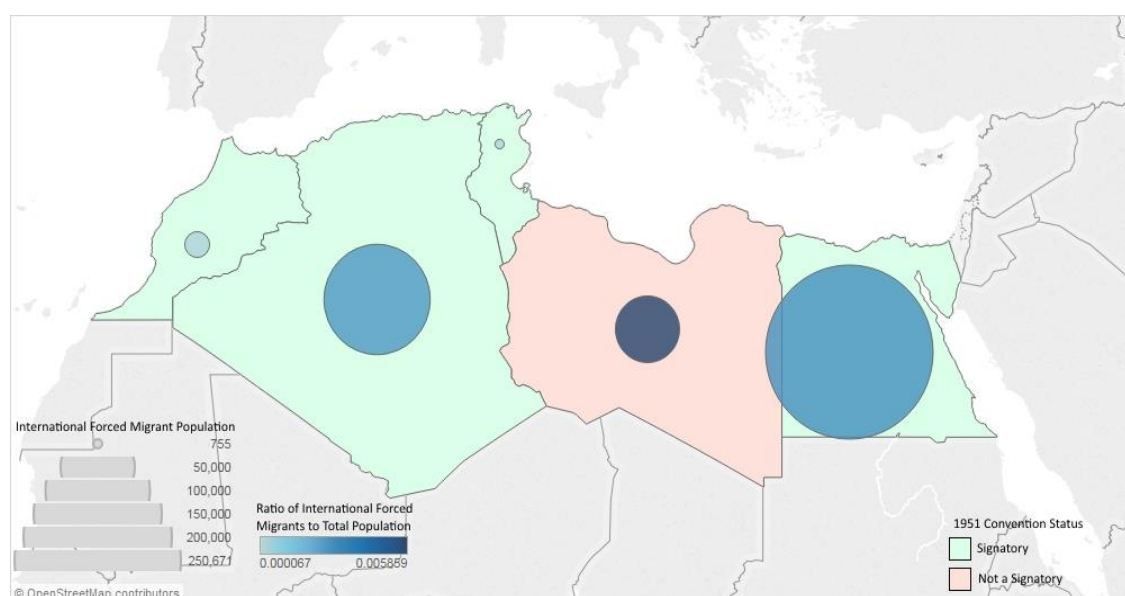
⁵⁴ Young, *Refugee Crisis and Economic Migration: Regional Economic Interdependence and the Arab Gulf States*, 5

⁵⁵ Examples include the Regional Consultative Meeting for the Arab Region in June 2013 and the launch of the Arab Regional Consultative Process (ARCP) in October 2015. Bram Frouws, *Responses to mixed migration in the Horn of Africa & Yemen: policies and assistance responses in a fast-changing context*, (Nairobi: The Regional Mixed Migration Secretariat, 2013), 19

⁵⁶ This report considers the North Africa region to include the following OIC member states: Algeria, Egypt, Libya, Morocco, and Tunisia.

the region has increasingly come to serve as an important transit point and destination for sub-Saharan forced and nonforced migrants. North African countries have consequently had to grapple with their newfound status as migrant-receiving countries, while coming under pressure from European countries to join regional agreements aimed at managing the mixed flows.

Figure 4: Forced migrant populations in OIC countries in North Africa



Source: UNHCR, "Population Statistics"

Note: The international forced migrant population is calculated to be the number of refugees, people in refugee-like situations, and asylum seekers residing in a country.

2.3.1. Migration dynamics in North Africa

Migration in North Africa is highly complex due to its location at the crossroads of Africa, the Middle East and Europe. Seen as a major path to reach the wealth and safety of Europe, the journey for many forced and nonforced migrants through North Africa is nonlinear in nature. North Africa continues to serve as a source of forced migration within the region, while its roles as a region of transit and destination have become increasingly blurred.

North Africa as a source of forced and voluntary migrants

Emigration to Europe particularly increased after decolonization, and North Africa is seen as a reserve of labor for European industry and agriculture.⁵⁷ This nonforced migration continues today. Young North African men in search of greater economic opportunity often travel along the same routes as asylum seekers and refugees and apply for humanitarian protection to improve their chances of being allowed to remain in the West.⁵⁸

⁵⁷ Susanne Schmid, "Migration Potential from North Africa to Europe," accessed July 25, 2016, 1, http://weltbevoelkerung.org/PDFs/Schmid_Migration_potential.pdf.

⁵⁸ For example, there are reports that many young Moroccan men flew to Turkey (where a visa is not needed for entry) and then travelled alongside the massive flows of asylum seekers travelling the Western Balkan Route. Some of these travelers may also claim to be Syrian or Iraqi in hopes of achieving asylum. Sakina Abushi and Hicham Arroud, "A Migration Bubble? Reading the New European Neighbourhood Policy in the Moroccan Context," *Heinrich Böll Stiftung*, June 15, 2016, 3, https://eu.boell.org/sites/default/files/uploads/2016/06/migration_bubble_enp_in_the_moroccan_context.pdf.

But some migrants from North Africa do hold legitimate claims to asylum. One recent example is the Coptic Christians of Egypt – who have sought asylum due to persecution amidst political instability.⁵⁹ Other instances of forced migration within North Africa have been driven by two political conflicts that remain unresolved today. The first is the Western Sahara conflict, which continues to be left in political limbo despite a 1991 ceasefire between Morocco and the Polisario Front. Thousands of Sahrawis fled the country, and many remain in exile as the region's future remains uncertain.⁶⁰ Government figures estimate that 165,000 Sahrawis reside in Algeria, mostly in camps in the western Tindouf region.⁶¹

The 2011 Libyan Civil War following the Arab Spring also forced many to flee the country. The period of acute violence immediately after the outbreak of hostilities forced one million people to seek refuge in Tunisia, including over 600,000 Libyan citizens and many migrants who were residing in Libya.⁶² Most of these forced migrants either returned home to their country of origin or back to Libya when the situation improved, though an unknown number remained in Tunisia.⁶³ While many may have returned, IDMC reports that 500,000 Libyans remain displaced internally due to continuing violence amidst political instability.⁶⁴

North Africa as a transit point and destination for forced migrants

The countries of North Africa have also served as both transit points and destinations for forced migrants from sub-Saharan Africa and the Middle East. While such flows have existed throughout history, trans-Saharan migration increased significantly during the 1990's due to Muammar Gaddafi's Pan-African migration policy, which allowed African nationals to enter Libya without a visa between 1998 and 2007.⁶⁵ Libya was seen as an attractive destination due to its high wages and demand for foreign labor.⁶⁶ Egypt has also served as an important destination for forced migrants, especially from the Middle East and the Horn of Africa.⁶⁷ In 2015 UNHCR reported that Egypt was host to 117,000 Syrians and 70,000 Palestinians.⁶⁸

For some forced migrants, North Africa is seen as the "gateway" to reach European shores.⁶⁹ The major launching sites for journeys to Europe have traditionally been Morocco (from

⁵⁹ Some Egyptian Copts have used legal migration pathways to travel to the U.S. and apply for asylum upon arrival. Michael Kaplan, "Why The Middle East's Largest Christian Community Is Fleeing Egypt," *International Business Times*, February 3, 2016, <http://www.ibtimes.com/why-middle-east-largest-christian-community-fleeing-egypt-2288395>; *The Economist*, "Egypt's Copts: The butt of angry Islamists," *The Economist*, August 24, 2013, <http://www.economist.com/news/middle-east-and-africa/21584053-muslim-brothers-and-their-friends-take-revenge-egypts-christians-butt>.

⁶⁰ A UN-brokered ceasefire stipulated that Morocco would hold a referendum in Western Sahara to decide whether it would remain under Moroccan rule or become independent. But this referendum has yet to be held. Whitney Shefte, "Western Sahara's stranded refugees consider renewal of Morocco conflict," *The Guardian*, January 6, 2015, <https://www.theguardian.com/world/2015/jan/06/morocco-western-sahara-referendum-delay>.

⁶¹ Zohra Bensemra, "Sahrawi refugee camps in Algeria's arid south," *Reuters*, March 4, 2016, <http://www.reuters.com/article/us-algeria-sahara-idUSKCN0W626J>.

⁶² Paul Dourgnon and Hassène Kassar, "Refugees in and out North Africa: a study of the Choucha refugee camp in Tunisia," *The European Journal of Public Health* 24, no. 1 (2014): 6-10, <http://dx.doi.org/10.1093/eurpub/cku098>.

⁶³ Ibid.

⁶⁴ IDMC, *Global Report on Internal Displacement 2016*

⁶⁵ Arezo Malakooti and Tahar Benattia, *Mixed Migration: Libya at the Crossroads* (Paris: Altai Consulting, 2013), 72, <http://www.refworld.org/pdfile/52b43f594.pdf>.

⁶⁶ Ibid.

⁶⁷ Egypt has traditionally been more connected to the Gulf migration system than the other countries of North Africa. This is reflected in both its emigration patterns, sending large numbers of workers to the oil-rich Gulf countries, and its intake of large numbers of Middle Eastern forced migrants.

⁶⁸ UNHCR, "Population Statistics"

⁶⁹ Tahar Benattia, Florence Armitano, and Holly Robinson, *Irregular Migration between West Africa, North Africa and the Mediterranean* (Paris: Altai Consulting, 2015), 23, <http://rodakar.iom.int/ojsenegal/sites/default/files/Altai%20Consulting-Free%20Movement%20and%20Migration%20in%20West%20Africa-Final%20Report....pdf>.

which migrants can also attempt to travel by land into the Spanish enclaves) and Libya, though all of the North African countries have been used as departure points.⁷⁰ Due to insecurity in Libya, for example, many smugglers are using Egypt as a transit point for forced and nonforced migrants.⁷¹

The perception of North Africa as a transit point or destination is often blurred by migrants' nonlinear journeys through the region. Many migrants may plan to spend varying amounts of time in a "transit" country so that they can earn money to pay for the next step of the journey.⁷² Others may end up "stuck" in a country of transit for a protracted period or semi-permanent due to the tightening of European border controls and the costliness of onward travel.⁷³ Finally, other migrants may still be pushed to travel farther afield because they do not find the anticipated livelihood opportunities or protection in their first destination. The most prominent example of this is Libya, where growing instability has placed migrants at risk of rape, abduction, detention, forced labor, torture, religious persecution, and even death.⁷⁴ Due to these abuses some migrants who began their journeys for economic reasons may become de facto forced migrants, resorting to onward movements for their own safety and wellbeing.

2.3.2. Protection frameworks in North Africa

The countries of North Africa have generally respected the principle of nonrefoulement and are parties to the 1951 Convention (with some exceptions). Overall, regional arrangements have tended to play a larger role in determining the approach towards refugee and migration issues in North Africa.

A growing dedication to asylum legislation

Algeria, Egypt, Morocco, and Tunisia have all signed and ratified the 1951 Convention, making Libya the sole North African country not to do so. Additionally, all five countries are parties to the 1969 OAU Convention.⁷⁵

However, no country in North Africa has yet developed a comprehensive national asylum system. Algeria, Egypt and Libya all guarantee the right to asylum in either their constitution or national law but have not created formal institutions through which asylum claims can be processed. There are signs this is changing as North Africa grows into a destination for migrants. Both Morocco and Tunisia are currently drafting legislation and building new institutions that purport to create national asylum regimes (see Chapter 3 for a discussion of this process in Morocco).

⁷⁰ See Section IX of this chapter for a more in depth discussion of these sea routes.

⁷¹ Francesco Guarascio, "Egypt migrant departures stir new concern in Europe," *Reuters*, February 28, 2016, <http://www.reuters.com/article/us-europe-migrants-egypt-idUSKCN0W108K>; Hazel Haddon, "For Eritreans, Egypt is the new route to Europe," *IRIN News*, June 6, 2016, <https://www.irinnews.org/feature/2016/06/06/eritreans-egypt-new-route-europe>; Al Jazeera America, "For refugees, the 'trip of death' begins on Egypt's beaches," January 17, 2015, <http://america.aljazeera.com/articles/2015/1/17/for-refugees-thetripofdeathbeginsonegyptbeaches.html>.

⁷² Malakooti and Benattia, *Mixed Migration: Libya at the Crossroads*, 73; Benattia, Armitano, and Robinson, *Irregular Migration between West Africa, North Africa and the Mediterranean*, 21

⁷³ This phenomenon has been especially observed in Morocco. Myriam Cherti and Peter Grant, *The Myth of Transit: Sub-Saharan Migration in Morocco* (London: Institute for Public Policy Research, 2013), 9, <http://www.ippr.org/publications/the-myth-of-transit-sub-saharan-migration-in-morocco>.

⁷⁴ Amnesty International, "Refugees and migrants fleeing sexual violence, abuse and exploitation in Libya," updated July 1, 2016, <https://www.amnesty.org/en/latest/news/2016/07/refugees-and-migrants-fleeing-sexual-violence-abuse-and-exploitation-in-libya/>; Amnesty International, "Libya: new testimonies reveal horrors inflicted on refugees and migrants by traffickers," (press release July 1, 2016), <https://www.amnesty.org.uk/press-releases/libya-new-testimonies-reveal-horrors-inflicted-refugees-and-migrants-traffickers>.

⁷⁵ Though Morocco withdrew from the OAU in 1984 for political reasons, it has never formally repudiated its commitment to the 1969 OAU Convention. See Chapter 3 for a discussion of migration legislation in Morocco.

Caught between Europe and Africa: The proliferation of regional initiatives

A number of regional initiatives to enhance cooperation between the European Union and North African states have been created to manage migration flows. One example is the Rabat Process, which was adopted in 2006. The process has continued semi-regular ministerial meetings to create and implement programs managing migratory movements between the continents.⁷⁶ The Rabat Process has not come without criticism though. Algeria has boycotted participating as a full partner due to accusations that the mechanism only serves European security and economic interests.⁷⁷

Based on the Rabat Process, the Khartoum Process was launched in November 2014 to harmonize existing African Union and EU efforts concerning migration. The Khartoum Process is notable in some regards as it includes not only North African states seen as traditional transit countries, but also East African countries of origin, such as Eritrea and Somalia. While the process has widely focused on the curtailment of irregular migration channels such as smuggling and human trafficking, it has also sought to alleviate the “root causes” of migration, through development aid targeting poverty, conflict and access to resources.⁷⁸ This focus on driving factors provides a more holistic approach towards alleviating forced migration. However, the absence of Libya and the divergent interests of the party-states call into question the process’s long-term viability as it exists now.⁷⁹

The EU has been criticized for trying to “externalize” its border through the Rabat Process, the Khartoum Process, and other bilateral agreements, providing programmatic support to bring about legislative reforms and capacity building on migration management in participating countries. However, this cooperation has had mixed results. For example, the European Union’s partnership with Tunisia has brought little progress towards creating a functioning protection regime in the country, and the EU’s focus on border management and security has widely been criticized for violating the rights of asylum seekers and refugees.⁸⁰

2.4. Forced Migration in West Africa⁸¹

Forced migration in West Africa tends to be driven by conflict and environmental factors, and often takes place on top of traditional circular migration flows for economic reasons. Humanitarian protection solutions for forcibly displaced populations have to some extent drawn upon the region’s nomadic culture, by embedding protection in a larger policy of regional economic integration. Through this experimental “protection through mobility” framework, some refugees and asylum seekers have been granted the rights of entry, residence, and establishment under the ECOWAS Free Movement Protocol. This framework

⁷⁶ One example of such an effort is the Seahorse Atlantic Network—a partnership between Spain, Portugal, and North African countries (such as OIC members Morocco and Mauritania) to exchange information and prevent irregular migration. Directorate-General of Migration and Home Affairs (European Commission), What we do: Africa, updated February 10, 2016, http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/international-affairs/africa/index_en.htm.

⁷⁷ Cherti and Grant, *The Myth of Transit: Sub-Saharan Migration in Morocco*, 63

⁷⁸ European Council on Refugees and Exiles, “Khartoum Process: EU and African Union launch Initiative against Smuggling of Migrants,” updated December 5, 2014, <http://www.ecre.org/khartoum-process-eu-and-african-union-launch-initiative-against-smuggling-of-migrants/>.

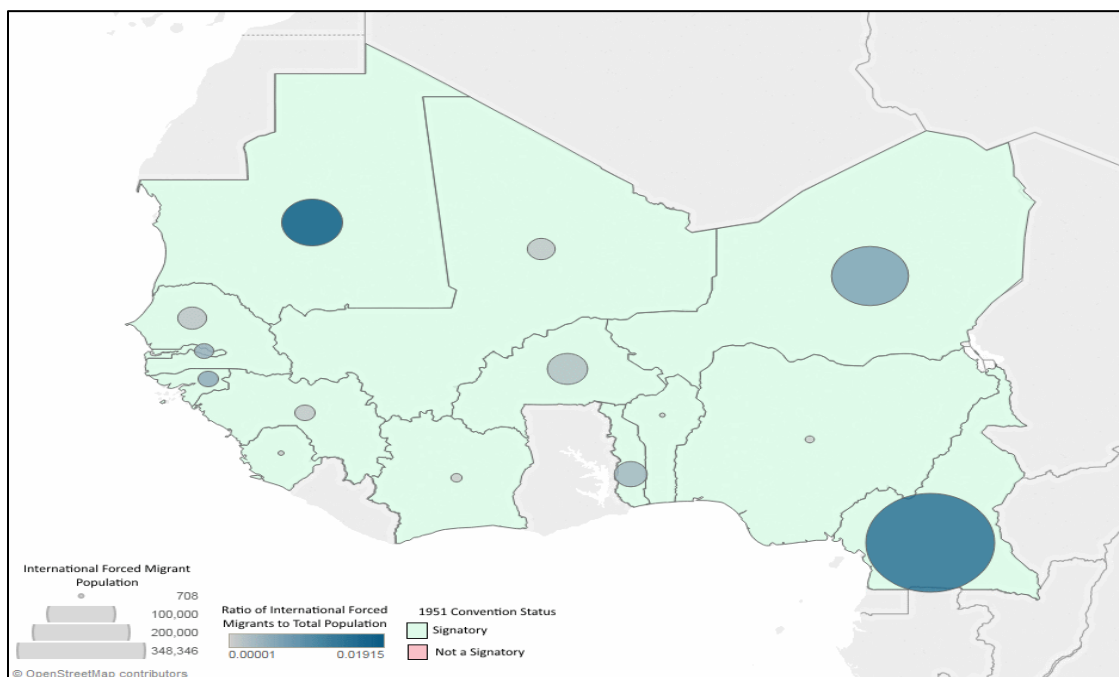
⁷⁹ Maximilian Stern, “The Khartoum Process: Critical Assessment and Policy Recommendations” (working paper 15, Istituto Affari Internazionali, Rome, December 2015), 12, <http://www.iai.it/sites/default/files/iajwp1549.pdf>.

⁸⁰ “EU Engagement with Third Countries: Pitfalls & Opportunities,” (paper prepared for EPIM Roundtable, Brussels, September 29, 2015), 2

⁸¹ This report considers the West Africa region to include the following OIC member states: Benin, Burkina Faso, Cameroon, Côte d’Ivoire, The Gambia, Guinea, Guinea-Bissau, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, and Togo. Non-OIC member states Ghana and Liberia are also included in the regional analysis.

has the potential to ensure refugees' access to social rights, benefits, and durable solutions, but implementation continues to be a challenge.

Figure 5: Forced migrant populations in OIC countries in West Africa



Source: UNHCR, "Population Statistics"

Note: The international forced migrant population is calculated to be the number of refugees, people in refugee-like situations, and asylum seekers residing in a country.

2.4.1. Migration dynamics in West Africa

West Africa holds a longstanding culture of mobility, in which short-term migration has long been used to adapt to recurring environmental events, such as seasonal droughts.⁸² Migration flows are mixed, driven by factors like political instability and low-level violence, environmental factors, and a lack of economic opportunity. This makes it difficult to discern which migrants may qualify for humanitarian protection - a large population of forced migrants do not meet the 1951 Convention criteria, yet are highly vulnerable for other reasons. Most of these flows are intra-regional, with Côte d'Ivoire and Ghana serving as primary destinations, though some migrants travel further afield to destinations in North Africa and Europe.

Circular migration in West Africa: A mix of forced and economic migration

West African migration flows are typically intra-regional, reflecting long-standing traditions of mobility between countries.⁸³ In the mid-2000s, UNHCR estimated that there were ten times

⁸² Benattia, Armitano, and Robinson, *Irregular Migration between West Africa, North Africa and the Mediterranean*, 20.

⁸³ An extreme example of this pan-West African migration would be the Tuareg, a nomadic pastoralist group who have traditionally travelled between lands now split amongst the territories of Mali, Burkina Faso, Niger, Algeria and Libya. Similarly, the Hawsa population is split between Niger, Nigeria, and other neighboring countries, leading to frequent movements to meet with family or other tribe members. Merise Jalali, "Tuareg Migration: A Critical Component of Crisis in the Sahel," *Migration Information Source*, May 30, 2013, <http://www.migrationpolicy.org/article/tuareg-migration-critical>.

more migratory movements, including forced and non-forced migration, within West Africa than towards European countries—despite an overwhelming focus on the latter in public narratives.⁸⁴ These cross-border movements between neighboring countries have become increasingly fluid, volatile, and circular amidst an uncertain political, economic and security environment.⁸⁵

While the distinction between “forced” and “economic” migration is tenuous in all cases, this is especially true in the West African region. Intertwined pressures at home—including political, economic, demographic, and environmental instability—can lead residents to look to migration as a solution. West Africa has a very young population coming of age in areas with limited opportunities, causing them to migrate in search of regular employment or better education.⁸⁶ This may be coupled with and exacerbated by the depletion of resources due to droughts, desertification, deforestation, coastal erosion, and flooding, all of which combine to limit the livelihood opportunities available in the region.

These environmental and economic factors often lead to conflict and political instability, triggering forced migration. In a 2013 survey of migrants arriving in Morocco from 13 (mostly West African) countries, 22 percent of respondents reported experiencing conflict or political persecution.⁸⁷ For example, less rainfall in Mali has led to drought and chronic food shortages, fraying social tensions.⁸⁸ In 2012, long-standing political tensions between the northern and southern regions of Mali descended into a separatist war between Tuareg rebels, joined by various groups, and the Malian government, forcing more than 140,000 Malians to flee the country and displacing 350,000 Malians internally at its peak.⁸⁹ As of July 2016, about 60,000 Malian refugees resided in Niger, 41,000 in Mauritania and 32,000 in Burkina Faso.⁹⁰

The end of open hostilities does not necessarily signify the end of displacement. Though the Algiers Accord signed in June 2015 formally ended the conflict in northern Mali, the number of Malian arrivals in Niger spiked in October and early November 2015. Migrants cited lawlessness, extortion, food shortages, inter-group rivalry and fighting, and the lack of a

[component-crisis-sahel](#); Florianne Charrière and Marion Frésia, *West Africa as a Migration and Protection area*, (Geneva: UNHCR, November 2008), 7, <http://www.unhcr.org/49e479c311.pdf>; Benattia, Armitano, and Robinson, *Irregular Migration between West Africa, North Africa and the Mediterranean*, 22

⁸⁴ Charrière and Frésia, *West Africa as a Migration and Protection area*, 2

⁸⁵ An UNHCR study based on field surveys conducted in Ghana and Senegal observed that migration journeys in the mid-2000s had become more “individualized” and complex than traditional patterns of mobility based on ethnic or village solidarity. This phenomenon was the result of many factors, such as increasingly common police round-ups of migrants, economic difficulties in the traditional migration poles (namely Cote d’Ivoire, Senegal, and Nigeria), and the outbreak of conflict in certain countries. Charrière and Frésia, *West Africa as a Migration and Protection area*, 11-12

⁸⁶ IOM, *IOM Response Plan for the Mediterranean and Beyond*, (Geneva: IOM, October 2015), 35

⁸⁷ Cherti and Grant, *The Myth of Transit: Sub-Saharan Migration in Morocco*, 3

⁸⁸ Average rainfall in Mali has dropped by 30 percent since 1998. Chris Arsenault, “Climate change, food shortages, and conflict in Mali,” *Al-Jazeera*, updated April 27, 2015, <http://www.aljazeera.com/indepth/features/2015/04/climate-change-food-shortages-conflict-mali-150426105617725.html>.

⁸⁹ Adam Nossiter, “Qaddafi’s Weapons, Taken by Old Allies, Reinvalidate an Insurgent Army in Mali,” *The New York Times*, February 5, 2012, http://www.nytimes.com/2012/02/06/world/africa/tuaregs-use-qaddafis-arms-for-rebellion-in-mali.html?_r=0; IOM, *The Mali Migration Crisis at a Glance* (Geneva: IOM, 2013),

[https://www.iom.int/files/live/sites/iom/files/Country/docs/Mali Migration Crisis 2013.pdf](https://www.iom.int/files/live/sites/iom/files/Country/docs/Mali%20Migration%20Crisis%202013.pdf); IDMC, “Mali IDP Figures Analysis,” accessed July 25, 2016, <http://www.internal-displacement.org/sub-saharan-africa/mali/figures-analysis>.

⁹⁰ Just over half of the refugees in Niger are female; nearly two thirds (62 percent) are under the age of 18. The vast majority live in official camps (55 percent) or refugee hosting areas (36 percent), a new concept designed by UNHCR that allows refugees to settle freely with their livestock in a large, defined pastoral area. UNHCR, “Sahel Operation: Information Sharing Portal,” accessed August 9, 2016, <http://data.unhcr.org/SahelSituation/country.php?id=501>; UNHCR, Synthèse Globale des données des réfugiés maliens au Niger, updated April 30 2016,

<http://data.unhcr.org/SahelSituation/region.php?id=67&country=501>; and UNHCR, “Intikane Hosting Area Camp Profile,” updated July 2014, <http://reliefweb.int/sites/reliefweb.int/files/resources/131025NGRIntikaneCampProfile.pdf>.

strong authority to impose control as reasons for fleeing.⁹¹ While open political violence may serve as a catalyst for displacement, other structural factors such as economic insecurity and the absence of rule of law continue to perpetuate insecurity that can also drive migration.

The “spillover” effect of conflict as a driver of forced migration

West African internal conflicts have often spilled across borders, precipitating new conflicts and displacement in neighboring countries. For example, the Liberian Civil War of 1989 later engulfed Sierra Leone, Guinea, and Cote d’Ivoire in what has been termed a “merry-go-round of violence.”⁹² Conflict originated in Liberia with an armed insurrection against the government following years of economic mismanagement, corruption and political repression.⁹³ This violence spread as rebel combatants carried out attacks in Sierra Leone and arms and mercenaries circulated through the region, resulting in an insurrection against the Sierra Leonean government led by a former soldier who had been fighting in Liberia.⁹⁴ In turn, Liberian and Sierra Leonean refugees seeking refuge in Cote d’Ivoire increased demographic pressure in that country, exacerbating existing social tensions in the midst of an economic crisis and ethno-political division.⁹⁵ As these civil conflicts proliferated, Cote d’Ivoire descended into civil war in 2002 and combatants from Liberia and Sierra Leone carried out attacks against refugees in Guinea.⁹⁶ Many refugees were forced to move onward towards Mali, Ghana, and Burkina Faso in search of protection.⁹⁷

More recently, a similar spillover effect has been created by conflict in Nigeria. Tensions within Nigeria between the northern and southern regions have fueled the rise of Boko Haram, a radical group.⁹⁸ Nigerians fleeing Boko Haram have sought refuge in other parts of Nigeria or in neighboring countries – with 138,300 in Niger, 61,000 in Cameroon and 14,100 in Chad.⁹⁹ But the Nigerian government’s counterinsurgency efforts have caused Boko Haram to resort to attacks in border regions of these neighboring states.¹⁰⁰ As a result, refugees who may have initially stayed close to the Nigerian border hoping for a quick return have been forced to move deeper into the host countries in search of safety.¹⁰¹

⁹¹ Leo Dobbs, “Number of Malian refugees in Niger reaches new high,” *UNHCR*, updated November 10, 2015, <http://www.unhcr.org/564200fd1e.html>.

⁹² Jeff Drumtra, “West Africa’s Refugee Crisis Spills Across Many Borders,” *Migration Information Source*, August 1, 2003, <http://www.migrationpolicy.org/article/west-africas-refugee-crisis-spills-across-many-borders>.

⁹³ Peace Direct, “Liberia: Conflict Profile,” *Insight on Conflict*, accessed July 25, 2016, <https://www.insightonconflict.org/conflicts/liberia/conflict-profile/>.

⁹⁴ Drumtra, “West Africa’s Refugee Crisis Spills Across Many Borders”; Lansana Gberie, “Bringing peace to West Africa: Liberia and Sierra Leone,” (paper presented at the Africa Mediator’s Retreat, Zanzibar, Tanzania, 2007), http://www.hdcentre.org/uploads/tx_news/107BringingpeaceToWestAfrica_LiberiaandSierraLeone.pdf.

⁹⁵ Aderanti Adepoju, “Migration in West Africa” (paper prepared for the Global Commission on International Migration, Geneva, September 2005),

http://iom.ch/jahia/webdav/site/myjahiasite/shared/shared/mainsite/policy_and_research/gcim/rs/RS8.pdf 12; Marion Fresia, “Forced Migration in West Africa,” in *The Oxford Handbook of Refugee and Forced Migration Studies*, ed Elena Fiddian Qasmiyeh, Gil Loescher, Katy Long and Nando Sigona (Oxford, United Kingdom: Oxford University Press, 2014), 544

⁹⁶ Drumtra, “West Africa’s Refugee Crisis Spills Across Many Borders”

⁹⁷ Adepoju, “Migration in West Africa” 12

⁹⁸ Some view the rise of Boko Haram as a reaction to the north-south divide in Nigeria and ethno-religious differences, have also been exacerbated by questions of government patronage. Andrew Walker, *What is Boko Haram?*, (Washington, DC: United States Institute of Peace, June 2012), <https://www.usip.org/sites/default/files/SR308.pdf>.

⁹⁹ Adrian Edwards, “UNHCR struggles to help tens of thousands newly displaced by Boko Haram in Niger,” updated January 19, 2016, <http://www.unhcr.org/569e2db36.html>.

¹⁰⁰ Mark Doyle, “Even the hills couldn’t save us’ – Escape From Nigeria,” *UNHCR*, updated August 14, 2015, <http://www.unhcr.org/55cd9f8c6.html>.

¹⁰¹ Mark Doyle and Helene Caux, “Nigerian refugees move from volatile border zone in Cameroon,” updated July 21, 2015, <http://www.unhcr.org/55ae61746.html>.

Extra-regional migration to North Africa often aided by smugglers

While many West African forced and non-forced migrants move within the region, some look further afield to countries in North Africa and even Europe.¹⁰² To migrate north, West Africans can take one of three main routes, often facilitated by smuggling networks.

The first of these routes travels the coast through Mauritania and the Western Sahara to Morocco. While this route is most popular with Senegalese refugees and asylum seekers (as Senegal borders on Mauritania), they are often joined by refugees and asylum seekers from Nigeria and the Cote d'Ivoire who can travel to Dakar without visas.¹⁰³ In Morocco, refugees and asylum seekers can either choose to stay in the country or attempt to cross into Europe. Another maritime route popular in the mid-2000's travelled from the Mauritanian or Senegalese coast to the Canary Islands of Spain, though increased patrolling has greatly decreased the use of this route.¹⁰⁴

The second is the central Saharan route through Algeria to its coast. This route often originates in the two smuggling hubs of Gao in Mali and Agadez in Niger, used primarily by Francophones and Anglophones respectively.¹⁰⁵ The routes through Niger and Mali typically meet in Tamanrasset, Algeria and then move towards the Algerian coast—where some will stay, while others cross the border into Morocco.¹⁰⁶ IOM data gathered between February and April 2016 suggests approximately 61,000 migrants travelled through the towns of Arlit and Séguédine in the Agadez region towards Algeria and Libya, of which almost all (over 85 percent) were male.¹⁰⁷ The main nationalities who transited through Agadez towards Algeria were Nigeriens (37 percent), Malians (13 percent), Cameroonians (10 percent) and Burkinabes (10 percent).¹⁰⁸

The final significant route northward travels northeast, often departing from Agadez and crossing the Libyan border to the transit hub of Sebha in southwest Libya, where most move north to Tripoli or cross into Tunisia. Between February and April 2016, about one third of those migrating towards Libya were Nigerians, followed by Nigeriens (21 percent) and Senegalese (16 percent).¹⁰⁹ Libya was a common destination for migrants until the recent decline in the country's stability and security situation, though it is still used by many as a transit point to cross the Mediterranean despite such concerns.

Both forced migrants and those travelling for greater economic opportunity abroad often use smugglers to facilitate their journeys. In recent years, smuggling has become a highly professionalized industry of networks spanning the West African coast all the way to

¹⁰² Some migrants have also traditionally travelled south to destinations such as Angola and South Africa, but Europe often remains the most accessible option due to wars in Central Africa. Charrière and Frésia, *West Africa as a Migration and Protection area*, 16

¹⁰³ Visa-free travel is assured through the ECOWAS Free Movement Protocol, discussed below. Arezo Malakooti, *Migration Trends Across the Mediterranean: Connecting the Dots*, (Cairo: IOM Regional Office for the Middle East and North Africa and Altai Consulting, June 2015), 37

¹⁰⁴ Benattia, Armitano, and Robinson, *Irregular Migration between West Africa, North Africa and the Mediterranean*, 41-43

¹⁰⁵ Malakooti, *Migration Trends Across the Mediterranean: Connecting the Dots*, 35

¹⁰⁶ While reports indicate that some migrants stay in Algeria to apply for asylum or work, the country currently lacks a national asylum policy and a functioning body to process asylum requests. UNHCR currently carries out this role of determining refugee status within the country. Ibid.

¹⁰⁷ IOM, "IOM Records Over 60,000 Migrants Passing Through Agadez, Niger between February and April 2016," (news release, May 27, 2016), <http://www.iom.int/news/iom-records-over-60000-migrants-passing-through-agadez-niger-between-february-and-april-2016>.

¹⁰⁸ IOM, "IOM Records Over 60,000 Migrants Passing Through Agadez, Niger"

¹⁰⁹ Malakooti, *Migration Trends Across the Mediterranean*; IOM, "IOM Records Over 60,000 Migrants Passing Through Agadez, Niger"

Europe.¹¹⁰ As in other parts of Africa, migrants often make their journey across West Africa in stages, stopping along the way to earn money to pay smugglers' fees for the next leg of their trip. Migrants tend to resort to smugglers only when the next stage of travel seems to be insurmountable on one's own.¹¹¹ As there is little to no patrolling or policing of large swathes of the desert, an unknown number of migrants die crossing the Sahara at the hands of unscrupulous smugglers and human traffickers.¹¹²

2.4.2. Protection frameworks in West Africa

The countries of West Africa have introduced robust frameworks for humanitarian protection at both the regional and national levels. These frameworks are rooted in the 1951 Convention and the 1969 OAU Convention, and have been bolstered by the principle of free movement instituted by the Economic Community of West African States (ECOWAS). The resulting combination of national legislation and regional frameworks has provided refugees with easier access to protection and better opportunities for durable solutions.

A regional dedication to the 1951 Convention and 1969 OAU Convention

All West African countries (15 of which are OIC members) are signatories to the 1951 Convention. In addition, the 1969 OAU Convention has had a significant influence on the approach to protection in the region. Most West African states drew upon the 1969 OAU Convention when drafting their refugee laws, and many countries thus apply the 1969 OAU Convention's expanded definition of a refugee that includes those escaping warfare or other serious disturbances of public order.¹¹³ While the 1969 OAU Convention does not explicitly introduce or promote the granting of refugee status on a prima facie basis, its expanded definition of "refugee" lends itself to such a determination.¹¹⁴ As a result, refugee status was often conferred on a prima facie basis during the major West African conflicts of the 1990s.¹¹⁵ Since the mid-2000s though, states have increasingly recognized refugees on an individual basis under the 1951 Convention.¹¹⁶

Compared to other regions, West Africa has shown an exceptionally high dedication to implementing national asylum regimes. Every state in the region except Togo has passed laws recognizing the right to asylum and creating systems through which asylum claims are processed. Despite the lack of asylum law in Togo, the government created the Office of National Coordination of Refugee Assistance to provide protection in conjunction with

¹¹⁰ Smugglers' activities have also become increasingly complex – for example, by engaging in visa and document fraud. BBC News, "Migrant crisis: Who are Africa's people smugglers?" April 23, 2015, <http://www.bbc.com/news/world-europe-32381101>.

¹¹¹ UNODC, *Transnational Organized Crime in West Africa: A Threat Assessment*, (Vienna: UNODC, 2013), 28, http://www.unodc.org/documents/data-and-analysis/tocta/West_Africa_TOCTA_2013_EN.pdf.

¹¹² The journey from Agadez to the Libyan border typically takes between three to six days in scorching heat and occasional sandstorms. In June 2016 the bodies of 34 migrants were found in the Sahara – apparently dying from thirst after having been stranded by smugglers. Conor Gaffey, "Why Niger is West Africa's People-Smuggling Hub," *Newsweek*, June 17, 2016, <http://www.newsweek.com/why-niger-west-africas-people-smuggling-hub-471600>.

¹¹³ Rainer Hofmann, "Refugee Law in the African Context," *Heidelberg Journal of International Law*, no. 52, (1992): 318-333 http://www.zaoerv.de/52_1992/52_1992_2_a_318_333.pdf.

¹¹⁴ The 1969 OAU Convention facilitates the granting of refugee status on a prima facie basis as it is somewhat easier to determine that a group of people are collectively fleeing from war or generalized violence than from persecution as defined in the 1951 Convention. Marina Sharpe, "The 1969 African Refugee Convention: Innovations, Misconceptions, and Omissions," *McGill Law Journal* 58, no. 1 (2012): 121, <http://lawjournal.mcgill.ca/userfiles/other/5818395-581art.Sharpe.pdf>.

¹¹⁵ Charrière and Frésia, *West Africa as a Migration and Protection area*

¹¹⁶ Ibid.

UNHCR.¹¹⁷ Even in countries where the authorities have a national asylum system in place though, UNHCR often plays a supporting role in providing assistance for refugees. Such is the case of Cameroon, where UNHCR helps document refugees, effectively manages the RSD process, and provides aid through targeted intervention and livelihoods programming.¹¹⁸ UNHCR has also taken responsibility for issuing refugee cards in Guinea-Bissau, where the government asylum system has been inactive in recent years.¹¹⁹

The ECOWAS approach: Humanitarian protection through free movement

The major platform for regional cooperation on migration and refugee issues in West Africa is the Economic Community of West African States (ECOWAS). ECOWAS is an intergovernmental organization of 15 countries dedicated to promoting greater regional economic integration and political cooperation.¹²⁰ While ECOWAS has not drafted legislation specifically addressing refugees and forced migrants, the community's Free Movement Protocol has been utilized to help give refugees and asylum seekers access to rights, protection, and durable solutions while maintaining their original citizenship.¹²¹ The Free Movement Protocol grants migrants the ability to move between ECOWAS states without visas and the right to residence and establishment—allowing forced migrants to swiftly flee persecution or warfare while maintaining a regular status.¹²² However, full implementation of the Free Movement Protocol remains hindered by barriers such as the solicitation of bribes and arbitrary detention at difficult border crossings, intolerant attitudes towards foreigners and migrants, and a lack of knowledge of such policies on the ground.¹²³ Additionally, the lack of regularization channels for unsuccessful asylum seekers who do not wish to return home continue to hamper the effectiveness of the ECOWAS mobility mechanisms as a protection tool in practice.¹²⁴

ECOWAS has also tried to bring member states together to develop a regional response to forced and nonforced migration through the Migration Dialogue for West Africa (MIDWA) and the Common Approach on Migration. MIDWA, inaugurated in 2000, is a regional consultative process (RCP) that seeks to address migration and regional integration issues through

¹¹⁷ U.S. Department of State, "Country Reports on Human Rights Practices for 2015: Togo," accessed June 1, 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252739>.

¹¹⁸ In 2011, Cameroon passed the Decree on the Organization and Functioning of Refugee Status Management Organs, which sought to establish the institutional organs to conduct the RSD procedure. As of the end of 2015 however, UNHCR still had not fully transferred management of the RSD procedure to this body. This left UNHCR as the primary processing agency for the 327,000 refugees currently residing in Cameroon – primarily from the Central African Republic and Nigeria. Matsinkou Tenefosso Sydoine Claire and Tinteu Yves Pauli, "Fairness in refugee status determination upon the transfer of competence to the national authorities of Cameroon," *International Journal of Innovation and Scientific Research* 13 (2), 2013, 6336-643; UNHCR, "Cameroon," accessed August 30, 2016,

http://reporting.unhcr.org/node/2525#_ga=1.179800548.1564101367.1465226960; U.S. Department of State, "Country Reports on Human Rights Practices for 2015: Cameroon," accessed August 30, 2016,

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252661>.

¹¹⁹ U.S. Department of State, "Country Reports on Human Rights Practices for 2015: Guinea-Bissau," accessed June 1, 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252691>.

¹²⁰ ECOWAS includes the OIC member states of Benin, Burkina Faso, Côte d'Ivoire, The Gambia, Guinea, Guinea-Bissau, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo, along with Cape Verde, Ghana, and Liberia. Mauritania withdrew from ECOWAS in 2000.

¹²¹ Solomon T. Ebobrah, "Sub-regional frameworks for the Protection of Asylum Seekers and refugees in Africa: Bringing Relief Closer to Trouble Zones." In *Regional Approaches to the Protection of Asylum Seekers*, ed. Ademola Abass and Francesca Ippolito, (Surrey, United Kingdom: Ashgate Publishing, 2014), 82; IOM and UNHCR, *Protecting Refugees and Other Persons on the Move in the ECOWAS Space* (Dakar: IOM and UNHCR, 2011), <http://publications.iom.int/system/files/pdf/iom-unhcrpublication.pdf>.

¹²² Only identity papers are necessary to move amongst the ECOWAS states.

¹²³ Charrière and Frésia, *West Africa as a Migration and Protection area*, 3

¹²⁴ Charrière and Frésia, *West Africa as a Migration and Protection area*, 3

seminars, conferences, and working groups.¹²⁵ The ECOWAS Common Approach on Migration is an agreement adopted in 2008 between ECOWAS member states to harmonize their policies regarding migration, while reaffirming their commitment to ensuring the protection of migrants, asylum seekers, and refugees.¹²⁶ The Common Approach on Migration also sought to create migration monitoring systems, create pilot support centers for migrants and operationalize a Regional Cross-border Cooperation Fund to finance initiatives designed to promote free movement and integration.¹²⁷

Regional cooperation has bolstered West African states' ability to find durable solutions for refugees, particularly local integration. The voluntary repatriation of refugees to their country of origin remains the most politically popular option, as it symbolizes a return to peace and the end of conflict.¹²⁸ However, states have also been willing to integrate refugees who cannot or would not like to repatriate, often drawing upon the Free Movement Protocol to facilitate this process.¹²⁹ For example, when UNHCR concluded its large-scale voluntary repatriation program for Liberian refugees in 2007, it then worked with surrounding countries to promote the local integration of the 80,000 refugees who remained outside of Liberia.¹³⁰ In Guinea, UNHCR launched a campaign to sensitize local authorities and the general public to the plight of refugees remaining in the country, and worked to develop legislation protecting refugee rights.¹³¹ Some have noted though that the real challenge to local integration is the refugees' willingness to do so amidst limited socioeconomic opportunity: resettlement to the West remains the most sought after solution as the poorer West African countries struggle to provide aid to refugees, especially support for livelihoods.¹³²

2.5. Forced Migration in East Africa¹³³

Forced migration in East Africa is driven by long-standing political instability, conflict, and lack of economic opportunity. As a region where many struggle with acute poverty and severe drought, economic reasoning often guides the movements of forced and nonforced migrants alike. In the Horn of Africa, protracted refugee situations with bleak outlooks for improvement have left little room for repatriation or the development of circular migration patterns. Forced

¹²⁵ IOM Mission with Regional Functions for West and Central Africa, "Migration Dialogue for West Africa (MIDWA) between the International Organization for Migration (IOM) and the Economic Community of West African States (ECOWAS)," accessed August 1, 2016,

https://www.iom.int/jahia/webdav/shared/shared/mainsite/policy_and_research/rcp/MIDWA/MIDWA_Overview_EN.pdf

¹²⁶ Global Forum on Migration & Development, "Migration Dialogue for West Africa," updated July 18, 2014, <http://www.gfmd.org/pfp/ppd/1902>; ECOWAS Commission, "Meeting of Ministers on ECOWAS Common Approach on Migration," paper prepared for meeting of ECOWAS ministers, Abuja, June 14, 2007), <http://www.oecd.org/swac/publications/41400366.pdf> pg. 5; Tony Luka Elumelu, "Promoting Labour Mobility through Regional Cooperation. The case of ECOWAS" (presentation at the Workshop on Strengthening the Collection and Use of International Migration Data for Development, Addis Ababa, Ethiopia, November 18-22, 2014), <http://www.un.org/esa/population/meetings/migworkshop/docs/Session%20VIII%20ECOWAS%20Free%20Movement.pdf>.

¹²⁷ ECOWAS Commission, *ECOWAS Common Approach on Migration*, (Ouagadougou: ECOWAS Commission, 2008), <http://www.unhcr.org/49e47c8f11.pdf>.

¹²⁸ Fresia, "Forced Migration in West Africa," 549

¹²⁹ Alistair Boulton, "Local Integration in West Africa," *Forced Migration Review*, no. 33 (2009): 33, <http://www.fmreview.org/sites/fmr/files/FMRdownloads/en/FMRpdfs/FMR33/32-34.pdf>.

¹³⁰ Faya Foko Millimouno, "UNHCR helps Guinea ease the local integration of Liberian refugees," *UNHCR*, August 16, 2007, <http://www.unhcr.org/en-us/news/latest/2007/8/46c474702/unhcr-helps-guinea-ease-local-integration-liberian-refugees.html>.

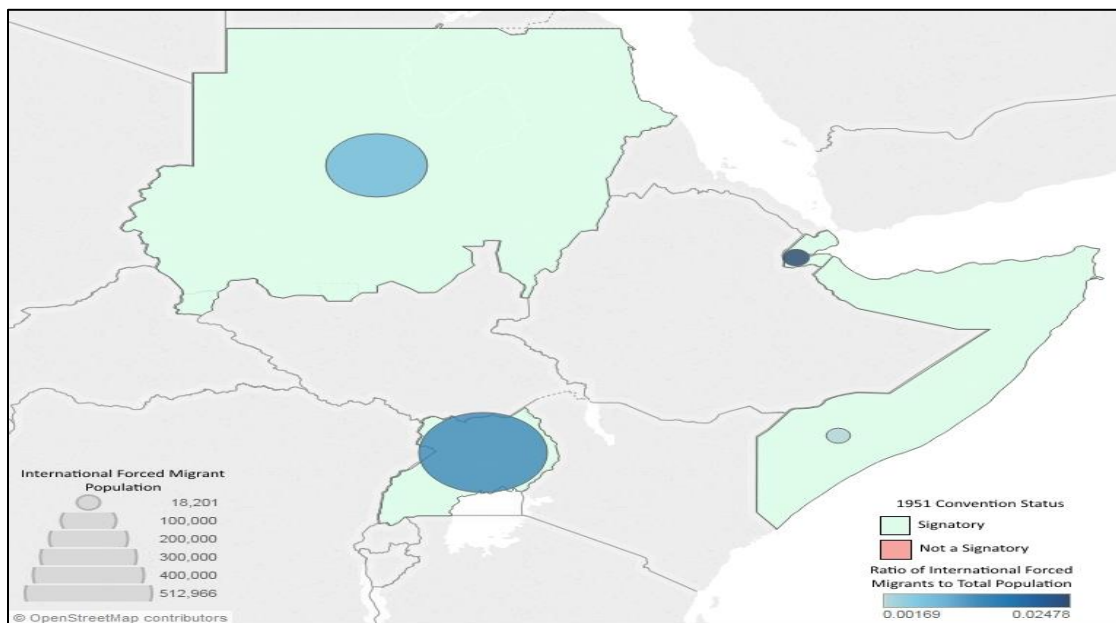
¹³¹ Ibid.

¹³² Boulton, "Local Integration in West Africa," 34

¹³³ This report considers the East Africa region to include the following OIC member states: Djibouti, Somalia, Sudan, and Uganda. The analysis here also considers the prominent role of the following non-OIC member states: Eritrea, Ethiopia, Kenya, and South Sudan.

migration in greater East Africa is often also protracted but sees more variation in scale and duration, as migrants return home for periods of time when violence subsides. Many refugees continue to rely upon these migration networks for livelihoods in times of peace, and to find safety when violence reignites. Some countries (namely Uganda, Ethiopia, and Kenya) have responded to protection needs through the implementation of national asylum legislation, offering protection with UNHCR assistance. However, the lack of a regional or international commitment to find durable solutions for refugees has left countries increasingly unwilling to host refugees ad infinitum.

Figure 6: Forced migrant populations in OIC countries in East Africa



Source: UNHCR, "Population Statistics"

Note: The international forced migrant population is calculated to be the number of refugees, people in refugee-like situations, and asylum seekers residing in a country.

2.5.1. Migration dynamics in East Africa

Migration in East Africa is driven by a broad mix of chronic factors, including intermittent but long-lasting conflicts, political persecution, drought, endemic poverty, and a young population left with weak economic prospects. Some conflicts and drivers have become particularly protracted, creating long-standing refugee situations, while others represent more short-term movements. While most refugees remain in camps in the region, limited livelihood opportunities compel some populations, such as Eritreans in particular, to move further afield towards North Africa, the Middle East, or even Europe.

The Horn of Africa: Protracted drivers of forced migration with little chance for return

Two of the most prominent refugee situations in the Horn of Africa, those of Somalis and Eritreans, are notable for their particularly protracted natures and the inability of migrants to use coping mechanisms seen in other regions, such as circular migration.¹³⁴ In both instances,

¹³⁴ In one survey by the Danish Refugee Council and the Norwegian Refugee Council, only 6 percent of Somali refugees interviewed in Kenyan and Ethiopian camps said that they had been back to Somalia since fleeing the country. Danish

migrants are guided by a multi-faceted set of drivers that do not all fall under the 1951 Convention criteria.¹³⁵ Some refugees may be able to adapt to conflict and political marginalization, but are finally pushed to flee due to drought and food insecurity, or vice versa.¹³⁶

A key example of protracted displacement is Somalia, where a typically pastoral society has been devastated by over 20 years of internal conflict, terrorism, governance failures, drought, and food insecurity.¹³⁷ Since the outbreak of civil war in 1988 and the resulting state collapse in 1991, Somalia has seen several waves of displacement as conflict intermittently spread and receded, sometimes exacerbated by drought.¹³⁸ Recently, endemic violence between clans vying for natural resources, as well as the activities of the terrorist group Al-Shabaab, have spawned large vulnerable populations in South Central Somalia who are forced to seek help elsewhere to ensure their survival.¹³⁹ The large agro-pastoral community in south-central Somalia has typically overcome economic shocks through internal migrations, but these traditional strategies have been hindered by persistent violence.¹⁴⁰ Moreover, humanitarian assistance to help recover from environmental shocks are unable to reach those most in need due to endemic violence.¹⁴¹ Thus, communities whose livelihoods were affected by climate change have no opportunity to move within the country, cannot receive humanitarian aid, and consequently look abroad to ensure their survival.

Another substantial push factor is political oppression, most prominently seen in Eritrea, where limited political freedoms and indefinite conscription, coupled with poverty and a lack of livelihood opportunities, have led as many as 5,000 people to flee the country of 5 million each month.¹⁴² Eritrea became a one-party state in 2001, leading to the suspension of the constitution and elections, and a crackdown on opposition and the independent media. In 2002, the compulsory national service for all Eritreans between 18 and 50 was extended indefinitely—conscripts report sexual assault, lack of food or pay, and dire living conditions.¹⁴³ Those who are caught fleeing or return after leaving the country risk prolonged detention, torture, or even death. With little prospect of regime change, it is likely that flows from Eritrea will continue; and faced with long-term displacement in neighboring countries with limited livelihood or educational opportunities, some Eritreans are migrating further afield to North Africa and Europe.¹⁴⁴

Refugee Council, *Durable Solutions: Perspectives of Somali Refugees* (Copenhagen: Danish Refugee Council, 2013), <https://drc.dk/media/1311894/durable-solutions-perspectives-of-somali-refugees-2013.pdf>.

¹³⁵ Christopher Horwood, *Irregular Migration Flows in the Horn of Africa: Challenges and implications for source, transit and destination countries*, (Belconnen, Australia: Department of Immigration and Border Protection, September 2015), 7, <https://www.border.gov.au/ReportsandPublications/Documents/research/horn-of-africa.pdf>

¹³⁶ Anna Lindley, "Questioning 'drought displacement': environment, politics and migration in Somalia," *Forced Migration Review* no. 45 (February 2014): 39-43 <http://www.fmreview.org/crisis/lindley>

¹³⁷ World Bank Group and UNHCR, *Forced Displacement and Mixed Migration in the Horn of Africa*, (Geneva and Washington: World Bank Group and UNHCR, 2015), 20, <http://pubdocs.worldbank.org/en/892801436371029880/forced-displacement-horn-of-africa-Report.pdf>.

¹³⁸ Hammond, History, overview, trends Somali displacement

¹³⁹ United Nations News Centre, "Forced displacement in Somalia shows 'no signs of easing,' UN agency warns," updated September 16, 2014, <http://www.un.org/apps/news/story.asp?NewsID=48731#VqFCcvkrK70>; Lindley, "Questioning 'drought displacement'"

¹⁴⁰ Lindley, "Questioning 'drought displacement'"

¹⁴¹ Lindley, "Questioning 'drought displacement'"

¹⁴² Christopher Horwood and Kate Hooper, *Protection on the Move: A Case Study of Policy Responses to Eritrean Refugee Flows in the Greater Horn of Africa* (Washington, DC: Migration Policy Institute, forthcoming 2016).

¹⁴³ Human Rights Watch, *World Report 2013 (Events of 2012)*, (New York: Human Rights Watch, 2013), 108 https://www.hrw.org/sites/default/files/wr2013_web.pdf.

¹⁴⁴ Horwood and Hooper, *Protection on the Move*

For both Somalis and Eritreans, the distinct circumstances of their forced migration have limited their options for return. This distinguishes their plight even from those of neighboring Ethiopia. While Ethiopians tend to migrate for similar reasons of drought, youth unemployment, and lack of political freedoms, they often only leave for a few years to earn and save money before returning home.¹⁴⁵

With few prospects for return, a desire to move onwards: The four major routes

Most forced migrants from the Horn of Africa remain in the immediate vicinity of their country of origin, with large numbers of refugees residing in camps in Kenya and Ethiopia.¹⁴⁶ Some forced migrants though choose to move onwards towards Europe, South Africa, or countries in North Africa (such as Libya and Egypt) in search of protection and better livelihood opportunities. Eritreans have been particularly inclined to travel onwards, with many young, single males and unaccompanied minors from the country travelling towards Europe.¹⁴⁷ The major routes of migration originating from the Horn of Africa with destinations outside the region follow four paths concurrent with the cardinal directions: a northern, western, eastern, and southern route.

The northern route leads from various origin countries, mostly Eritrea and Somalia, through Sudan to Egypt. This route was often used to travel through the Sinai Peninsula into Israel, but has dropped in popularity since Israel sealed off its border with Egypt.¹⁴⁸ Of those who move on, some head through Alexandria or other northern Egyptian and Libyan coastal cities to board boats for Italy.¹⁴⁹ The western route takes a similar trajectory, but instead of travelling through Egypt moves directly through Sudan or South Sudan into Libya.¹⁵⁰ Migrants have provided a lucrative business for smugglers and are targets for underutilized militia groups in Libya and criminal gangs in Sudan, plaguing the route with danger.¹⁵¹

The eastern route is complex as it has recently come to include flows in both directions due to the civil unrest in Yemen. Traditionally along this route, large numbers of Somali and Ethiopian migrants have crossed the Gulf of Aden or Red Sea to reach Yemen, often with the goal of reaching Saudi Arabia or other Gulf countries to work.¹⁵² These numbers have continued despite conflict between Yemeni government forces and rebel groups, resulting in a power vacuum and diminished rule of law.¹⁵³ In 2015, the number of migrants arriving in

¹⁴⁵ IRIN News, "Cautionary migration tales are no deterrent," November 22, 2011, <http://www.irinnews.org/report/94279/ethiopia-cautionary-migration-tales-are-no-deterrent>; Josh Wood, "Ethiopian migrants brave Yemen war for dream of Saudi jobs," *The National*, May 30, 2015, <http://www.thenational.ae/world/ethiopian-migrants-brave-yemen-war-for-dream-of-saudi-jobs>.

¹⁴⁶ As of 2015, Ethiopia is host to 736,086 refugees and Kenya is host to 553,912 refugees. UNHCR, *Global Trends: Forced Displacement in 2015*.

¹⁴⁷ In 2015 5,450 unaccompanied minors arrived in the EU from Eritrea, the third-largest number following Afghanistan and Syria. Eurostat, "Asylum applicants considered to be unaccompanied minors by citizenship, age and sex Annual data (rounded) [migr_asyunaa]," updated May 6, 2016, http://ec.europa.eu/eurostat/web/products-datasets/-/migr_asyunaa; Horwood and Hooper, *Protection on the Move*, 9.

¹⁴⁸ Horwood and Hooper, *Protection on the Move*, 7.

¹⁴⁹ Malakooti, *Migration Trends Across the Mediterranean: Connecting the Dots*, 85.

¹⁵⁰ Horwood and Hooper, *Protection on the Move*, 7.

¹⁵¹ Ibid; Mogos O Brhane, "Understanding why Eritreans go to Europe," *Forced Migration Review*, no. 51 (2016): 34-35, <http://www.fmreview.org/destination-europe/brhane.html>.

¹⁵² Ethiopians tend to be more likely to move onward from Yemen, as they are rarely recognized as refugees by Yemeni authorities and therefore decide to take their chances to work informally in Yemen or Saudi Arabia. Somalis are more content to stay in Yemen as they are granted prima facie refugee status there. RMMS, "Djibouti," updated July 2016, <http://www.regionalmms.org/index7429.html?id=15>; RMMS, "Kenya," updated April 2016, <http://www.regionalmms.org/indexa9bc.html?id=19>.

¹⁵³ While migrants' decision-making processes vary, these continued flows to Yemen (and Libya) show that instability and conflict does not deter migrants or smugglers from travelling through dangerous areas. Some migrants report that they

Yemen by sea increased from 91,592 to 92,466.¹⁵⁴ This is increasingly paired with high numbers of arrivals of Yemenis in the Horn of Africa – up to 86,740 in Djibouti, Ethiopia, Somalia and Sudan since the Yemeni conflict began in March 2015 from near negligible numbers in 2014.¹⁵⁵ Most Somalis have returned to Somalia, while Yemenis tend to seek safety in Djibouti.

Finally, the southern route has traditionally been less popular with Eritreans and Somalis than those above. However, some look to the Republic of South Africa, Kenya, or other southern African countries as a final destination.¹⁵⁶ As these migrants head south, they will typically join asylum seekers from the major conflicts of Central Africa such as the Democratic Republic of the Congo and Burundi. Along with high numbers of Somalis, these refugee flows have made Kenya and Uganda the second- and third-largest refugee-hosting countries in Africa as of the end of 2015, behind only Ethiopia.¹⁵⁷

Greater East Africa: A wide spectrum of the duration and scale of forced displacement

Long-term instability and conflict elsewhere in the region have produced both protracted and short-term forced displacement. Sudan has been plagued by intermittent civil war since the country's independence in 1956, and violence continues to this day in the regions of Darfur, South Kordofan, and the Blue Nile.¹⁵⁸ As of 2015, conflict in Sudan had displaced 3.2 million people internally, and forced over 600,000 refugees to flee the country—primarily to Chad and South Sudan.¹⁵⁹ Sudan also hosts close to 100,000 Eritrean refugees and 200,000 South Sudanese refugees, and serve as an important but dangerous transit country for migrants looking to reach North Africa.¹⁶⁰

Often, refugees may flee a conflict, return home when it seems that the situation has improved, and then once again be forced to migrate should hostilities resume. This phenomenon describes the plight of many refugees from the Democratic Republic of the Congo (DRC), Burundi, and South Sudan. After years of misrule and corruption under Mobutu Sese Seko, contagion from the Rwandan genocide plunged the DRC into years of civil war, in what has been termed “Africa’s Great War.”¹⁶¹ While the Second Congo War was officially declared over in 2003, violence remained as various armed forces and gangs continued to prey on

were unaware of the scale of the conflict, while others say that smugglers convinced them that the conflict had ended. Others, possibly a majority, are aware of the risks but move onwards anyways in the hopes of reaching Saudi Arabia for work. The chaotic situation can even aid the journeys of some, as migrants are less likely to be detected by authorities upon disembarkment in Yemen. IOM, “Irregular Migration in Horn of Africa Increases in 2015,” (news release, January 26, 2016), <https://www.iom.int/news/irregular-migration-horn-africa-increases-2015>; Regional Mixed Migration Secretariat, *Regional Mixed Migration in the Horn of Africa and Yemen in 2015*

¹⁵⁴ IOM, “Irregular Migration in Horn of Africa Increases in 2015.”

¹⁵⁵ IOM, “Irregular Migration in Horn of Africa Increases in 2015.”

¹⁵⁶ Horwood and Hooper, *Protection on the Move*, 7.

¹⁵⁷ Yaxley, “Uganda hosts record 500,000 refugees and asylum-seekers,” updated December 18, 2015, <http://www.unhcr.org/567414b26.html>.

¹⁵⁸ Peace Direct, “Sudan: Conflict profile,” *Insight on Conflict*, updated August 2009, <http://www.insightonconflict.org/conflicts/sudan/conflict-profile/>.

¹⁵⁹ UNHCR, “Population Statistics Database”

¹⁶⁰ As of December 31, 2015. UNHCR, “Population Statistics Database”

¹⁶¹ After a Tutsi government gained state control during the Rwandan Genocide, thousands of genocidaires fled to neighboring Zaire (now the Democratic Republic of the Congo), often living in UNHCR-run refugee camps. In 1996 Rwanda invaded Zaire to root out these genocidaires, and placed Congolese rebel Laurent Kabila as the country’s leader. However, Kabila in turn re-armed the genocidaires, causing Rwanda, with support from Uganda and Burundi, to invade DRC once again. This would turn into a protracted conflict including the foreign powers of Angola and Zimbabwe. After a peace agreement in 2002 the war officially ended, though instability remained. The Economist, “A Report from Congo: Africa’s Great War,” July 4, 2002, <http://www.economist.com/node/1213296>; Chris McGreal, “The roots of war in eastern Congo,” *The Guardian*, May 15, 2008, <https://www.theguardian.com/world/2008/may/16/congo>.

noncombatants.¹⁶² This created widely fluctuating levels of displacement, in which thousands of Congolese refugees would flee, and then return, based on their perception of the situation.¹⁶³ Today new instances of displacement and returns continue, with over 500,000 refugees residing in other African countries (including close to 200,000 in Uganda) and 1.5 million displaced internally.¹⁶⁴

Refugees from Burundi and South Sudan have exhibited similar dynamics of forced migration. Burundi has previously seen two massive outflows of forced migration during mass killings of Hutus by a Tutsi-led army in 1972, and again in 1993 after the assassination of President Melchior Ndadaye sparked a civil war that would last for 12 years.¹⁶⁵ While many refugees returned after these bouts of violence subsided, forced migration from Burundi was sparked anew in 2015 amidst a deteriorating security situation including violence and human rights abuses following the controversial election of President Pierre Nkurunziza to a third term.¹⁶⁶

In South Sudan, a peace agreement in 2005 led to the country's independence in 2011 after decades of conflict with the northern regions of Sudan. Many of the refugees who returned after the peace agreement continued to rely on cross-national ties and migration routes from their time of displacement, while some left siblings or children behind to continue their education.¹⁶⁷ In 2013, civil war broke out after a high-level dispute between the country's president and vice-president, which filtered down into ethnic conflict at local levels.¹⁶⁸ Thousands of South Sudanese once again fled the country, often returning to the networks and camps where they had taken up refuge in the past.¹⁶⁹ Despite a 2015 peace deal between the two factions, violence once again began to escalate in July 2016: as of August 1, 2016, 740,000 South Sudanese had fled the country since 2013.¹⁷⁰ Most take refuge in Sudan, Ethiopia or Uganda.¹⁷¹

2.5.2. Protection frameworks in East Africa

Most states in East Africa are signatories to the 1951 Convention and the 1969 OAU Convention, and major refugee-hosting countries such as Uganda, Ethiopia, and Kenya have adopted legislation to create national asylum systems. But while refugees can access

¹⁶² The Economist, "A Report from Congo: Africa's Great War"; IRIN News, "Fighting flares as civilians run in eastern Congo," October 10, 2008, <http://www.irinnews.org/report/80857/drc-rwanda-fighting-flares-civilians-run-eastern-congo>.

¹⁶³ IRIN News, "Congolese refugees flee to Uganda," October 21, 2008, <http://www.irinnews.org/report/81030/drc-uganda-congolese-refugees-flee-uganda>.

¹⁶⁴ UNHCR, "DR Congo Factsheet 31 May 2016," accessed August 5, 2016, <http://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20DRC%20Factsheet%20as%20of%2031%20May%202016.pdf>; IDMC, *Global Report on Internal Displacement 2016*.

¹⁶⁵ European Commission, "Burundi refugee crisis: May 2016," accessed August 8, 2016, http://ec.europa.eu/echo/files/aid/countries/factsheets/burundi_en.pdf; Tendai Marima, "Burundi refugees: A life of displacement and despair," *Al Jazeera*, November 25, 2015, <http://www.aljazeera.com/indepth/features/2015/11/burundi-refugees-life-displacement-despair-151125085630940.html>.

¹⁶⁶ European Commission, "Burundi refugee crisis: May 2016"

¹⁶⁷ International Refugee Rights Initiative (IRRI), *Conflict in South Sudan: Refugees seek protection in Uganda and a way home* (Kampala, Uganda: International Refugee Rights Initiative, 2014), 11-12, <http://www.refugee-rights.org/Publications/Papers/2014/14%2004%2001%20South%20Sudanese%20refugees%20FINAL.pdf>.

¹⁶⁸ BBC News, "South Sudan: What is the fighting about?" May 10, 2014, <http://www.bbc.com/news/world-africa-25427965>.

¹⁶⁹ IRRI, *Conflict in South Sudan*; Richard Nield, "South Sudan: Portrait of a civil war refugee," *Al Jazeera*, February 24, 2016, <http://www.aljazeera.com/indepth/features/2016/02/south-sudan-portrait-civil-war-refugee-160222104159961.html>.

¹⁷⁰ UNHCR, "South Sudan Situation: Information Sharing Portal," accessed August 8, 2016, <http://data.unhcr.org/SouthSudan/regional.php>.

¹⁷¹ UNHCR, "South Sudan Situation"

protection in these countries, they often encounter restrictions on their right to work or ability to move freely within the country.

General adherence to the 1951 Convention

All states in East Africa except Eritrea and South Sudan have signed and ratified the 1951 Convention. Of OIC member states in the region, Djibouti, Mozambique, Sudan, and Uganda have passed national legislation creating asylum systems, while Somalia has not.¹⁷² Uganda, Ethiopia, and Kenya, the three major refugee-hosting countries in East Africa, all draw on the 1969 OAU Convention's expanded definition of a refugee.¹⁷³ However, all three place certain restrictions on the rights set out by the 1951 Convention, specifically the freedom of movement.

Many regional initiatives, but little commitment or meaningful change

There have been several international and regional initiatives designed to serve as fora to discuss issues related to migration and humanitarian protection. One that appears promising is the Intergovernmental Authority on Development's (IGAD) Regional Consultative Process on Migration (RCP) and Regional Migration Policy Framework. The RCP brings together the six member states of IGAD (Kenya, Ethiopia, Uganda, Djibouti, Somalia and Sudan) in regional dialogue on migration issues, usually producing recommendations on protecting migrants and refugee rights. Additionally, the Regional Migration Policy Framework established in 2013 by IGAD provides strong policy guidelines on protecting migrants' rights and refugees and encouraging free movement within the region.¹⁷⁴ However, the implementation of such recommendations remains a challenge, and other regional initiatives have struggled due to various barriers, including a lack of resources and political will.¹⁷⁵

A lack of durable solutions

Though several East African countries host large numbers of refugees, most follow a "care and maintenance" approach to protection, providing refugees with a basic level of subsistence and security until they are able to return home. This process is often facilitated by return agreements between UNHCR and the countries of asylum and origin to ensure that returns are orderly and voluntary, such as the Tripartite Agreement Governing the Voluntary Repatriation of Somali Refugees Living in Kenya, signed in 2013.¹⁷⁶ At the moment however, the outlook for tackling the root causes of displacement (e.g. violence, insecurity, and a lack of livelihood opportunities) in places like South Sudan or Somalia—and thus facilitating any large-scale

¹⁷² The quality of some of these national asylum systems has been questioned, however. For example, the Sudanese government has recognized many Eritreans, Syrians, Somalis, and Ethiopians as refugees, but there have been reports of asylum seekers being detained for illegal entry. U.S. Department of State, "Country Reports on Human Rights Practices for 2015: Sudan," accessed June 1, 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252733>.

¹⁷³ In Kenya the two conventions technically provide different statuses, though UNHCR still typically performs refugee status determination and in practice the two are conflated with little, if any, distinction. Tamara Wood, "Expanding Protection in Africa? Case Studies of the Implementation of the 1969 African Refugee Convention's Expanded Refugee Definition," *International Journal of Refugee Law* 26, no. 4 (2016): 572.

¹⁷⁴ Horwood and Hooper, *Protection on the Move*, 16.

¹⁷⁵ The Regional Mixed Migration Committee for the Horn of Africa and Yemen held meetings on the topic in 2011 and 2013, but there has been minimal cooperation outside of these meetings. Furthermore, of six mixed migration task forces created by UNHCR and IOM, only two, those for Kenya and Yemen, have met with any regularity in recent years. Horwood and Hooper, *Protection on the Move*, 16.

¹⁷⁶ The text of this agreement can be found here: UNHCR, "Tripartite Agreement between the Government of the Republic of Kenya, the Government of the Federal Republic of Somalia and the United Nations High Commissioner for Refugees Governing the Voluntary Repatriation of Somali Refugees Living in Kenya, 2013," accessed August 29, 2016, <http://www.refworld.org/pdfid/5285e0294.pdf>.

voluntary repatriation—remains slim. In a 2013 survey of 360 Somali refugees in Kenyan and Ethiopian camps, less than a third (31 percent) responded that they intended to return to Somalia in the future.¹⁷⁷

The other two durable solutions, resettlement and local integration, each face their own obstacles. In the same survey referenced above, 49 percent of respondents hoped to be resettled to a third country. But this route is not an option for most refugees. Despite the status of Somali refugees in Kenya as a “priority situation” for resettlement, there were only 7,616 departures between 2012 and 2014 – far short of the actual need as over 400,000 Somali refugees remained in Kenya in 2015.¹⁷⁸ Local integration has been difficult due to reluctance from countries of asylum to grant refugees certain rights set out by the 1951 Convention, such as freedom of movement and the right to work.¹⁷⁹ This reluctance stems from many factors, namely strained resources that are already limited for hosting countries’ own populations.

But as refugee situations become protracted for longer periods of time, this “care and maintenance” model has proven problematic. Uganda stands out as a country that has taken concrete steps to provide more durable solutions for refugees, working to provide refugees with freedom of movement and livelihood opportunities.¹⁸⁰ In the region’s other major hosting countries though, protection frameworks tend to perpetuate the care and maintenance model. While national governments, international organizations, and NGOs have begun creating programs to address this issue by facilitating integration and access to livelihoods, these efforts remain small-scale.¹⁸¹ Meanwhile, national governments’ willingness to host large refugee populations ad infinitum has waned. In May 2016, Kenya sparked international concern when it announced that it would close Dadaab, the world’s largest refugee camp, due to concerns over Al Shabaab’s purported use of the camp to perpetrate terrorist plots, diminishing international aid, and the lack of present solutions to the

¹⁷⁷ Somali refugees cited many different pre-conditions for return, though the most common responses were long-lasting security and safety, access to education, and livelihood opportunities. Danish Refugee Council and Norwegian Refugee Council, *Durable Solutions: Perspectives of Somali Refugees Living in Kenyan and Ethiopian Camps and Selected Communities of Return* (Copenhagen: Danish Refugee Council, 2013), 35-36, <https://drc.dk/media/1311894/durable-solutions-perspectives-of-somali-refugees-2013.pdf>.

¹⁷⁸ This trend has continued in 2016. While the projected resettlement need for the East and Horn of Africa was 225,724 persons, UNHCR only planned to submit 26,098 for resettlement – of which an even smaller number will actually depart for third country destinations. UNHCR, *UNHCR Projected Global Resettlement Needs 2016* (Geneva: UNHCR, 2015), 24, 54, <http://www.unhcr.org/en-us/protection/resettlement/558019729/unhcr-projected-global-resettlement-needs-2016.html>.

¹⁷⁹ One exception to this is Eritrean refugees in Ethiopia, who have the right to live outside of refugee camps if they are self-sufficient or have other forms of support in the country. Durable Solutions: Perspectives of Somali Refugees Living in Kenyan and Ethiopian Camps and Selected Communities of Return, p. 25. UNHCR, *UNHCR Global Report 2010*, (Geneva: UNHCR, 2011), 85-90, <http://www.unhcr.org/4dfdbf494.pdf>.

¹⁸⁰ A discussion of the Ugandan case can be found in Chapter 3.

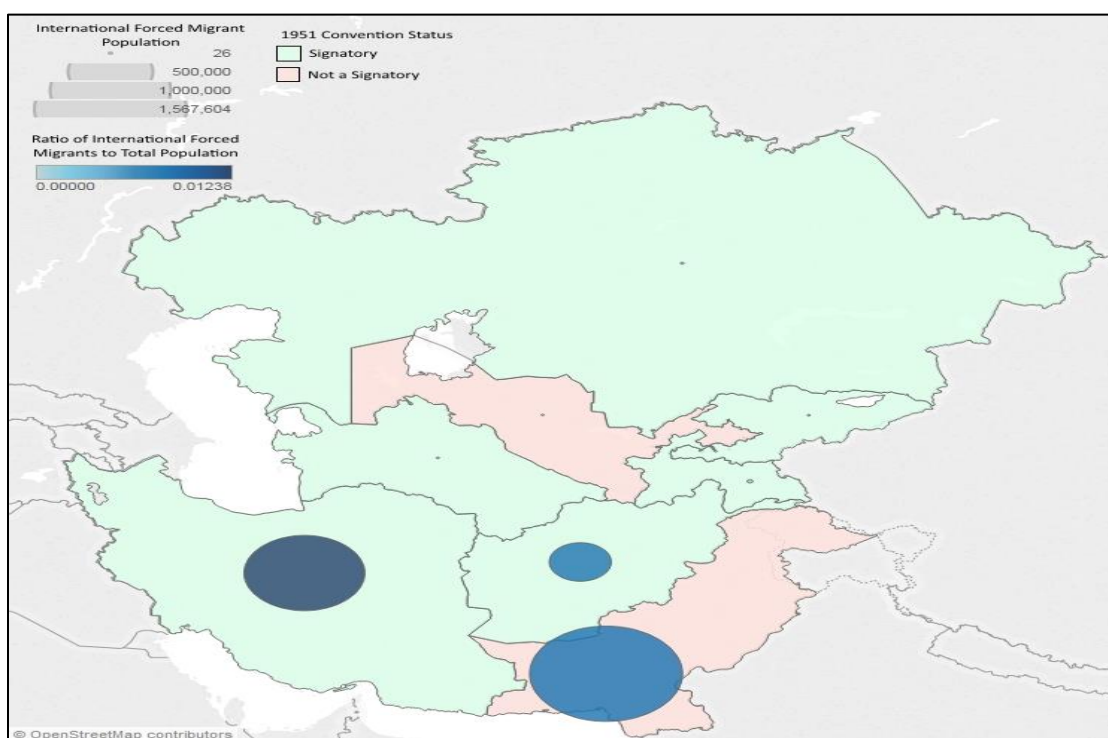
¹⁸¹ Further reviews of durable solutions initiatives in the Horn of Africa can be found in Samuel Hall, *Review of Durable Solutions Initiatives in East and Horn of Africa: Good practices, challenges and opportunities in the search of durable solution* (Nairobi: Regional Durable Solutions Secretariat and Danish Refugee Council, 2016), <http://reliefweb.int/sites/reliefweb.int/files/resources/ReDSS%20SH%20Report%20---Final.pdf>; and The World Bank and UNHCR, *Forced Displacement and Mixed Migration in the Horn of Africa* (Washington, DC: The World Bank, 2015), 41-49, <http://documents.worldbank.org/curated/en/8337351468189856365/pdf/ACS14361-ESW-P152459-Box391494B-PUBLIC-FINAL-HOA-Displacement-Report.pdf>.

humanitarian crisis.¹⁸² The Kenyan government has since softened its position, saying that the camp will remain open until the situation in Somalia improves.¹⁸³

2.6. Forced Migration in Central Asia¹⁸⁴

While choice of destination is almost always dictated by certain cultural affinities and historical ties, this tendency is particularly pronounced in Central Asia. In the south of the region, Pakistan and Iran have taken in large numbers of Afghan refugees throughout recent history, and multi-directional flows continue between all three countries. In the north, the former Soviet republics of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan have accepted limited numbers of refugees amongst themselves, while the largest number of forced and nonforced migrants travels towards Russia. However, the lack of willingness by governments in the region to meaningfully implement the 1951 Convention or create a strong regional framework for refugee protection continues to place refugees at risk of refoulement and the denial of basic rights and services.

Figure 7: Forced migrant populations in OIC countries in Central Asia



Source: UNHCR, "Population Statistics"

Note: The international forced migrant population is calculated to be the number of refugees, people in refugee-like situations, and asylum seekers residing in a country.

¹⁸² Republic of Kenya Ministry of Interior and Coordination of National Government, "Government Statement and Update on the Repatriation of Refugees and Scheduled Closure of Dadaab Refugee Camp," May 11, 2016, <http://www.interior.go.ke/?p=3113>.

¹⁸³ Elsa Buchanan, "Kenya softens its position on Dadaab refugee camp closures and refugees repatriation to Somalia," *International Business Times*, August 22, 2016, <http://www.ibtimes.co.uk/ngos-welcome-kenyas-decision-keep-dadaab-refugee-camp-open-1577383>.

¹⁸⁴ This report considers the Central Asia region to include the following OIC member states: Afghanistan, Iran, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkmenistan, Uzbekistan.

2.6.1. Migration dynamics in Central Asia

The bulk of forced migration flows has typically remained bounded by two somewhat culturally distinct sub-regions: Afghanistan, Pakistan, and Iran in South Central Asia and the former Soviet republics of North Central Asia. Forced migration in South Central Asia has been largely driven by protracted conflict, while the republics of North Central Asia have been more vulnerable to brief outbursts of ethnic violence.

Conflict as the primary driver of forced migration in South Central Asia

The largest driver of forced migration in South Central Asia remains ongoing ethnic, political, and religious violence in Afghanistan and Pakistan, which has flared on and off since the Soviet invasion of Afghanistan in 1978. Refugee levels from Afghanistan peaked at over six million in the late 1980's, and 3.6 million were still refugees when the U.S. invaded Afghanistan in 2001.¹⁸⁵ In both Afghanistan and Pakistan, communities in tribal areas have been displaced by clashes between the government and the Taliban or, more recently, some other local groups.

Despite the drawdown of international troops at the end of 2014, much of Afghanistan remains insecure: Afghanistan's minister for refugees and repatriation warned in April 2015 that 80 percent of the country was still unsafe for return.¹⁸⁶ In fact, more people were displaced within the country due to conflict in 2015 than in any year since 2002.¹⁸⁷ While the majority of flows within the region have originated from Afghanistan, conflict also continues to displace large numbers of Pakistanis. In 2014, a Pakistani military campaign against the Taliban in the border region of North Waziristan caused many to seek refuge in Afghanistan in the absence of relief coordination from the Pakistani authorities.¹⁸⁸

As Afghanistan recovers from the war and combats insurgent groups and some refugees have returned home, the state has experienced further difficulty in constructing and maintaining an economy that offers sufficient livelihood opportunities for its inhabitants. Afghanistan's economic woes were worsened further when most U.S. troops were withdrawn in 2015, taking away the stimulus of the war economy with them.¹⁸⁹ This bleak economic picture has pushed many to seek opportunities abroad, once again reaffirming the tenuous distinction between economic and forced migration.

Perpetual conflict and a weak economy have also weakened the resilience of Afghan communities to cope with drought and other environmental disasters. In Afghanistan, droughts, floods, landslides, earthquakes, and avalanches have displaced approximately 250,000 civilians each year and 2.2 million people are considered severely food insecure ¹⁹⁰

¹⁸⁵ Hiram Ruiz, "Afghanistan: conflict and displacement 1978 to 2001" *Forced Migration Review*, no. 13 (2002), 8-10, <http://www.fmreview.org/sites/fmr/files/FMRdownloads/en/FMRpdfs/FMR13/fmr13.3.pdf>.

¹⁸⁶ Alan Travis, "Judge blocks deportation flight for rejected Afghan asylum-seekers," *The Guardian*, April 22, 2015, <https://www.theguardian.com/world/2015/apr/22/judge-blocks-deportation-flight-for-rejected-afghan-asylum-seekers>.

¹⁸⁷ Human Rights Watch, "Afghanistan: Events of 2015," updated January 27, 2016, <http://reliefweb.int/report/afghanistan/afghanistan-events-2015-endaripashto>.

¹⁸⁸ IRIN, "Afghanistan becomes unlikely safe haven for Pakistani refugees," updated July 1, 2014, <http://www.irinnews.org/report/100288/afghanistan-becomes-unlikely-safe-haven-pakistani-refugees>.

¹⁸⁹ For example, it was estimated that Afghanistan's transportation sector, which accounted for about 22 percent of the country's GDP, lost 100,000 jobs. The construction and services sector were also hard hit by the drawdown of international troops. Special Inspector General for Afghanistan Reconstruction, *Quarterly Report to the United States Congress, January 30, 2016* (Arlington, Virginia: Special Inspector General for Afghanistan Reconstruction, 2016), 1-14, <https://www.sigar.mil/pdf/quarterlyreports/2016-01-30qr.pdf>.

¹⁹⁰ The total population of Afghanistan is about 32.5 million as of 2015, according to the World Bank. USAID, "Afghanistan - Complex Emergency Fact Sheet #2, Fiscal Year (FY) 2016", updated April 6, 2016, 4, https://www.usaid.gov/sites/default/files/documents/1866/afghanistan_ce_fs02_04-06-2016.pdf; UNOCHA, *Afghanistan: Mid-Year Review*

Furthermore, continued insecurity has made it difficult or dangerous for drought affected individuals to adapt by moving between provinces, forcing many to instead look for refuge abroad.¹⁹¹

Mixed flows of protracted displacement and seasonal migration

These multi-faceted push factors have also resulted in a diversity of migration flows in South Central Asia, including emigration in search of humanitarian protection, seasonal economic migration, and onward migration. The majority of the Afghan diaspora live in Pakistan and Iran,¹⁹² echoing long-existing cultural ties between the three countries. As of December 2015, 1.5 million Afghan refugees resided in Pakistan and nearly 1 million lived in Iran, a large majority of whom live in urban or semi-urban areas integrated with the local populations.¹⁹³ Many Afghans have grown up in displacement: in Pakistan, more than half of the Afghan refugee population is under the age of 15, while another 20 percent are between the ages of 15 and 24.¹⁹⁴

While some Afghan refugees have lived their entire lives in exile, others' migration experiences have been cyclical or temporary in nature.¹⁹⁵ In mid-2009, it was estimated that, on average, 40,000 people passed through official transit points between Afghanistan and Pakistan daily.¹⁹⁶ As security and economic conditions declined, Afghans and Pakistanis used traditional labor migration routes to look for work, receive medical care, seek out safety, or visit family.¹⁹⁷ Even as the region has seen increasing returns of Afghans from Iran and Pakistan, labor migration continues to play a vital role due to Afghanistan's persistent economic difficulties.¹⁹⁸ According to the 2011-2012 National Risk and Vulnerability Assessment, 77 percent of seasonal labor migrants from Afghanistan cited Iran as their destination, while 12 percent cited Pakistan and 8 percent cited countries in the Arabian Peninsula.¹⁹⁹

On the move for better protection and economic opportunities: Migration flows from South Central Asia beyond the region

While many refugees and asylum seekers in the region have sought protection in neighboring states, some have treated these countries of first asylum as transit points for destinations further abroad. Afghans have transited through Pakistan to reach Iran, as border controls

of Financing, Achievements and Response Challenges, (Geneva: UNOCHA, August 18, 2015), 4, https://docs.unocha.org/sites/dms/Afghanistan/afg_dashboard_quarter_two.pdf; The World Bank, "Afghanistan," accessed July 27, 2016, <http://data.worldbank.org/country/afghanistan>.

¹⁹¹ Human Rights Watch, "Afghanistan: Events of 2015"

¹⁹² Nassim Majidi, Vivianne van der Vorst, and Christopher Foulkes, "Seeking Safety, Jobs, and More: Afghanistan's Mixed Flows Test Migration Policies," *Migration Information Source*, February 25, 2016, <http://www.migrationpolicy.org/article/seeking-safety-jobs-and-more-afghanistans-mixed-flows-test-migration-policies>.

¹⁹³ 63 percent of Afghan refugees in Pakistan, and almost all refugees in Iran, live in urban areas. European Resettlement Network, "Afghan Refugees in Iran & Pakistan"; Saeed Kamali Denghan, "Afghan refugees in Iran being sent to fight and die for Assad in Syria," *The Guardian*, November 5, 2015, <http://www.theguardian.com/world/2015/nov/05/iran-recruits-afghan-refugees-fight-save-syrias-bashar-al-assad>; UNHCR, *Solutions Strategy for Afghan Refugees Regional Overview, 2015-2016 Update* (Geneva: UNHCR, 2015), 5-6.

¹⁹⁴ UNHCR, *Solutions Strategy for Afghan Refugees Regional Overview*, 5.

¹⁹⁵ Asia-Pacific RCM Thematic Working Group on International Migration including Human Trafficking, *Situation Report on Migration in South and South-west Asia*, (Asia-Pacific RCM Thematic Working Group on International Migration including Human Trafficking, 2012), 26.

¹⁹⁶ Majidi, van der Vorst, and Foulkes, "Seeking Safety, Jobs, and More"

¹⁹⁷ Ibid.

¹⁹⁸ Belquis Ahmadi and Sadaf Lakhani, "The Forced Return of Afghan Refugees and Implications for Stability," *United States Institute of Peace*, updated January 13, 2016 <http://www.usip.org/publications/2016/01/13/the-forced-return-of-afghan-refugees-and-implications-stability>; Majidi, van der Vorst, and Foulkes, "Seeking Safety, Jobs, and More."

¹⁹⁹ Ibid.

between Iran and Afghanistan are more strictly managed than those between Iran and Pakistan.²⁰⁰ Many forced migrants from the region have also used various countries, including Iran, Iraq, and Afghanistan (for Pakistanis) as transit countries to reach destinations further afield, such as the Gulf countries, Turkey, Europe, and the United States.²⁰¹

Motivations for onward movements can be mixed, just like the initial decision to migrate. Some Afghan refugees who migrated to Europe have cited deplorable conditions in Iran, including government harassment, lack of livelihood opportunities, and coercion into joining pro-government armed forces in Syria, as reasons for fleeing.²⁰² Human Rights Watch has reported similar harassment from Pakistani police due to uncertainty over the future of Afghan refugees' legal residency status.²⁰³ Afghans and Pakistanis both have travelled in significant numbers along the Mediterranean Route to seek safety and better economic or educational opportunities in the West.²⁰⁴

Some Afghan forced migrants have also travelled north for protection in Russia or the former Soviet republics. As transportation infrastructure has improved, cross-border movement between Tajikistan and Afghanistan has increased and is expected to continue – as of 2014, 1,975 Afghani refugees had been registered in Tajikistan.²⁰⁵ Cultural and linguistic similarities have helped Afghans assimilate to life in Tajikistan, and some migrants regard their situation there as better than those in Iran or Pakistan.²⁰⁶ Other Afghan asylum seekers have used Tajikistan and Uzbekistan as transit points to reach Russia, where they may attempt to reach Europe or join the large Afghan community centered in Moscow.²⁰⁷

Ethnic conflict and persecution driving forced migration in North Central Asia

Ethnic oppression and political conflict has often triggered forced migration in the North Central Asia region, with targeted groups finding refuge with co-ethnics in neighboring states. One example is the 1991 civil war in Tajikistan fought between opposing regional clans. The conflict forced almost all non-Tajik ethnic groups to flee the country alongside many Tajiks themselves—800,000 IDPs and 80,000 refugees were officially reported, though demographic

²⁰⁰ Asia-Pacific RCM Thematic Working Group, *Situation Report on Migration in South and South-west Asia*, 26

²⁰¹ Asia-Pacific RCM Thematic Working Group, *Situation Report on Migration in South and South-west Asia*.

²⁰² Patrick Strickland, "Why are Afghan refugees leaving Iran?" *Al Jazeera*, May 17, 2016, <http://www.aljazeera.com/indepth/features/2016/05/afghan-refugees-leaving-iran-160511103759873.html>.

²⁰³ Human Rights Watch, "What are you doing here?": Police Abuses Against Afghans in Pakistan, (New York: Human Rights Watch, 2015), <https://www.hrw.org/report/2015/11/18/what-are-you-doing-here/police-abuses-against-afghans-pakistan/>.

²⁰⁴ Frud Bezhan, "European Dream Unfulfilled for Afghan 'Economic Migrants,'" *Radio Free Europe*, March 9, 2016, <http://www.rferl.org/content/afghanistan-migrants-european-dream-unfulfilled/27600972.html>; Tan Cetin, "Pakistani Migrants Hope for Better Future in Europe, Too," *Voice of America*, September 22, 2015, <http://www.voanews.com/a/pakistani-migrants-hope-for-better-future-in-europe-too/2974430.html>; and Imtiaz Ahmad, "From Pakistan to Europe: A refugee's endless journey," *Deutsche Welle*, April 29, 2015, <http://www.dw.com/en/from-pakistan-to-europe-a-refugees-endless-journey/a-18416927>.

²⁰⁵ Data retrieved from UNHCR, "Population Statistics"

²⁰⁶ However, the legal framework for refugees in Tajikistan does not meet the standards of the 1951 Convention, and other informal barriers to integration such as discrimination continue to leave Afghans in a precarious position. Jeremie Berlioux, "Tajikistan: Afghan Refugees in Limbo, Adapt to Staying Put," *Eurasianet.org*, January 12, 2016, <http://www.eurasianet.org/node/76786>; IRIN News, "Focus on Afghan refugees," February 16, 2004, <http://www.irinnews.org/feature/2004/02/16/focus-afghan-refugees>.

²⁰⁷ In 2011, it was estimated that about 150,000 Afghans resided in Russia, mostly legally. Amie Ferris-Rotman, "Daunted Afghans find refuge in former foe Russia," *Reuters*, updated August 22, 2011, <http://www.reuters.com/article/us-russia-afghans-immigrants-idUSTRE77L1MR20110822>; Alina Cibeja et al., *Afghanistan: Migration Country Report*, (Vienna: International Centre for Migration Policy Development, 2013), 38; Vera Soboleva, "UNHCR struggles to find solutions for Afghan asylum seekers in Russia," *UNHCR*, April 17, 2007, <http://www.unhcr.org/en-us/news/latest/2007/4/4624cef64/unhcr-struggles-find-solutions-afghan-asylum-seekers-russia.html>.

data shows that the actual number of internationally displaced is most likely much higher.²⁰⁸ While a power-sharing agreement that helped end the conflict in 1997 included a “Protocol on Refugees” that helped repatriate ethnic Tajiks, other ethnic groups mostly stayed in their countries of refuge with their co-ethnics, where they were generally accepted and integrated into society.²⁰⁹

Though the former Soviet republics have been mostly willing to find solutions for members of the states’ respective majority ethnic groups, they can lack a general institutionalized approach to protection that leaves asylum seekers at risk of refoulement. After the Uzbek government violently repressed an anti-government demonstration in 2005, thousands of Uzbeks sought asylum in Kyrgyzstan. While some were recognized as refugees by UNHCR, the Uzbekistan has pressured the Kyrgyz authorities to return political dissidents deemed to be criminals.²¹⁰ More recently in 2010, conflicts between ethnic Uzbeks and Kyrgyz in Kyrgyzstan forced over 100,000 people to seek refuge in Uzbekistan. But even though the flows were majority Uzbek, the asylum seekers were sent back just a few weeks after the pogroms.²¹¹

Another population of particular concern is the Uighurs, a Turkic, predominantly Muslim group living in the northwestern Chinese province of Xinjiang. An increasing number of Han Chinese have immigrated to Xinjiang, seen by the Uighurs as their ancestral home, fueling ethnic tensions that escalated into violence in 2009.²¹² As Uighurs seek safety in the neighboring former Soviet republics, ethnic tensions have persisted: it was reported in 2010 that Uighurs in Kyrgyzstan were targeted by ethnic Kyrgyz mobs in the midst of political upheaval in 2010 and were threatened during the Kyrgyz-Uzbek conflict.²¹³ This has pushed Uighurs to look further outside the region – with Turkey and Saudi Arabia serving as main countries of asylum, while the United States, Canada, Australia, Germany, Scandinavian countries, and Thailand have also reported arrivals of Uyghurs.²¹⁴

²⁰⁸ Alessandro Monsutti and Bayram Balci, “Forced Migration in Broader Central Asia,” in *The Oxford Handbook of Refugee and Forced Migration Studies*, ed Elena Fiddian Qasmiyeh, Gil Loescher, Katy Long and Nando Sigona (Oxford, United Kingdom: Oxford University Press, 2014), 606; Aaron Erlich, “Tajikistan: From Refugee Sender to Labor Exporter,” *Migration Information Source*, July 1, 2006, <http://www.migrationpolicy.org/article/tajikistan-refugee-sender-labor-exporter>.

²⁰⁹ This trend could be observed in the 2000 Tajikistan census, in which the proportion of ethnic Tajiks in the population grew to 79.9 percent, compared to 62.3 percent in 1989. Monsutti and Balci, “Forced Migration in Broader Central Asia,” 607; Erlich, “Tajikistan.”

²¹⁰ Timur Toktonaliev, “Kyrgyzstan: Refugees From Uzbekistan Fear Tashkent’s Long Arm,” *Eurasianet.org*, December 11, 2014, <http://www.eurasianet.org/node/71306>; Monsutti and Balci, “Forced Migration in Broader Central Asia,” 607

²¹¹ Monsutti and Balci, “Forced Migration in Broader Central Asia,” 606-607

²¹² Anthony Howell and C. Cindy Fan, “Migration and Inequality in Xinjiang: A Survey of Han and Uyghur Migrants in Urumqi,” *Eurasian Geography and Economics* 52, no. 1 (2011), 119, <http://www.sscnet.ucla.edu/geog/downloads/597/403.pdf>.

²¹³ Research Directorate, Immigration and Refugee Board of Canada, “Kyrgyzstan: The Uyghur minority, including how they are treated by society and the authorities; government protection provided,” updated April 4, 2012, <https://www.justice.gov/sites/default/files/eoir/legacy/2013/11/07/KGZ104071.FE.pdf> pg. 2; Immigration and Refugee Board of Canada, “Kyrgyzstan: Treatment of the Uyghur [Uighur] minority by society and authorities, including state protection provided to victims of violence and discrimination; Uyghur minority political groups, including activities (2012-2015),” updated February 12, 2015, <http://www.refworld.org/docid/560b96564.html>.

²¹⁴ Valentine Guerif, “Making States, Displacing Peoples: A Comparative Perspective of Xinjiang and Tibet in the People’s Republic of China” (working paper no. 61, Refugee Studies Centre, Oxford University, May 2010), 10, <http://www.rsc.ox.ac.uk/files/publications/working-paper-series/wp61-making-states-displacing-peoples-2010.pdf>;

Edward Wong and Poypiti Amatatham, “Ignoring Protests, Thailand Departs About 100 Uighurs Back to China,” *The New York Times*, July 9, 2015, <http://www.nytimes.com/2015/07/10/world/asia/thailand-deports-uyghur-migrants-to-china.html>

2.6.2. Protection frameworks in Central Asia

Most countries in Central Asia have ratified the 1951 Convention and many have created national asylum systems, though there are concerns that these systems do not always follow basic humanitarian protection principles such as nonrefoulement in practice. The ability to find durable solutions also remains hindered by a “return bias” favoring repatriation over other options such as local integration or circular labor migration frameworks despite ongoing difficulties in refugees’ countries of origin, namely Afghanistan.

A lack of adherence to the 1951 Convention principles

All Central Asian countries except Pakistan and Uzbekistan have ratified the 1951 Convention; but incorporating the Convention into national law and practice remains problematic in most countries. Iran, Kazakhstan, Kyrgyzstan, Tajikistan, and Turkmenistan have all implemented national asylum legislation, but observers have cast doubt on the quality of these policies with the possibility of refoulement remaining a concern.²¹⁵ In Tajikistan, for example, the system for processing asylum claims remains unclear, judicial procedures do not comply with international standards, and asylum seekers are deported without due process if they did not hold a visa before entering the country.²¹⁶ In Iran, refugees are allowed access to medical and social services, but UNHCR does not have information regarding how refugee status determinations are made and there are reports that many refugees live in the shadows without legal residence or access to basic rights.²¹⁷

The Almaty Process: Upgrading and reinforcing national asylum systems

Regional cooperation on migration issues in Central Asia is limited, and there is no legally-binding regional framework to govern migration or humanitarian protection. Recently, the Almaty Process was created to serve as a regional consultative mechanism through which forced migration issues can be addressed.²¹⁸ Since the Process’s operationalization in 2013, senior officials have met annually to work on building states’ capacity to manage migration and a Support Unit has been created. The process has had some success to date in supporting the development of national protection policy. In Tajikistan, the Process supported the development of Standard Operating Procedures for the national Referral Mechanism of Asylum-Seekers,²¹⁹ and in Kyrgyzstan, the Process assisted in formulating standard instructions on the reception and referral of asylum-seekers.²²⁰ However, the Almaty Process faces serious obstacles to bringing about a large-scale upgrade of the region’s humanitarian

²¹⁵ Orchard, “The Almaty Process: Improving Compliance with International Refugee law in Central Asia,” 69

²¹⁶ U.S. Department of State, “Country Reports on Human Rights Practices for 2015: Tajikistan,” accessed June 1, 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252977>.

²¹⁷ Refugees are also officially banned from participating in political or union activities in Iran. *Regulations relating to Refugees 1963*, Iranian Council of Ministers, December 16, 1963 http://www.refworld.org/publisher/NATLEGBOD_IRN/3f4a23767.0.html; United States Committee for Refugees and Immigrants, *World Refugee Survey 2009 – Iran*, (Arlington, VA: United States Committee for Refugees and Immigrants, 2009) <http://www.refworld.org/docid/4a40d2a84a.html>; Patrick Strickland, “Why are Afghan refugees leaving Iran?,” *Al-Jazeera*, updated May 17, 2016, <http://www.aljazeera.com/indepth/features/2016/05/afghan-refugees-leaving-iran-160511103759873.html>.

²¹⁸ OIC countries Afghanistan, Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkey and Turkmenistan are members of the Almaty Process. Iran and Pakistan hold observer status.

²¹⁹ This mechanism refers asylum seekers who arrive at the Tajikistan border to the relevant agencies that process their claim.

²²⁰ UNHCR, “Almaty Process: Achievements and Way Forward,” updated July 16, 2015, <http://www.unhcr.kz/eng/news-of-the-region/news/2424/>.

framework and enforcement of international law, including limited funding, the non-binding nature of its recommendations, and the withdrawal of Russia from the group.²²¹

Afghans and the difficulties of voluntary repatriation as a durable solution

Finding durable solutions for Afghan refugees in Central Asia has proven to be especially difficult due to their lengthy displacement, the complexity of ongoing migration flows, and continued security and economic issues in Afghanistan. Many Afghans have been displaced for decades, and 50 percent were born in exile.²²² As a result, UNHCR's 2005 Comprehensive Solutions Strategy acknowledged that many Afghans may not repatriate, which was subsequently reflected in policies by the Iranian and Pakistani governments. In 2006 for example, Pakistan worked with UNHCR to enact a registration campaign classifying Afghan refugees as "Afghan citizens living in Pakistan."²²³ The "proof of registration" cards granted to Afghans provided them with the legal right to stay and work, and the information collected was used to inform future initiatives for durable solutions.²²⁴

After 2011 though, the UNHCR has begun to again favor repatriation as the preferred outcome for Afghan refugees,²²⁵ as represented through the 2012 Solutions Strategy for Afghan Refugees to Support Voluntary Repatriation, Sustainable Reintegration and Assistance to Host Countries (SSAR). The SSAR brings UNHCR and the governments of Afghanistan, Pakistan, and Iran together to support the reintegration of refugees in Afghanistan through livelihood opportunities and basic services, while also providing support for those who remain in Iran and Pakistan.²²⁶

But large-scale voluntary returns of Afghan refugees are complicated by continued insecurity, the state's weak absorptive capacity and uneven development.²²⁷ While the goal is often to return refugees to their area of origin, due to security and economic reasons they have overwhelmingly returned to urban areas such as the Kabul or Nangarhar provinces, straining resources and services.²²⁸ On a national level, corruption and a lack of coordination between relevant departments and agencies has prevented the creation of a comprehensive and coherent migration policy, leaving possible solutions, such as formalized circular labor migration channels, unimplemented.²²⁹ In an uncertain security and economic climate, the

²²¹ Orchard, "The Almaty Process: Improving Compliance with International Refugee law in Central Asia," 82

²²² Katy Long, *From Refugee to Migrant? Labor Mobility's Protection Potential* (Washington, DC: Migration Policy Institute, 2015), 11, <http://www.migrationpolicy.org/research/refugee-migrant-labor-mobilitys-protection-potential>.

²²³ Long, *From Refugee to Migrant?*, 11

²²⁴ Iran also created an initiative to provide Afghans with temporary work permits instead of their refugee cards (refugee card holders are only able to work in a predetermined set of menial professions). However, the true intentions of these plans have been questioned due to the significant bureaucratic obstacles and high costs involved. For many refugees, the long and costly process of obtaining a legal work permit makes irregular status a more appealing option, despite the risk of possible deportation. Long, *From Refugee to Migrant?*, 11; Ron Redmond, "Pakistan: Afghan registration starts," *UNHCR*, October 13, 2006, <http://www.unhcr.org/en-us/news/briefing/2006/10/452f6b124/pakistan-afghan-registration-starts.html>.

²²⁵ This may be partially attributable to the lack of political will to absorb large numbers of Afghan refugees in Pakistan and Iran, as both countries saw political unrest at the time. Long, *From Refugee to Migrant?*, 12.

²²⁶ An overview of the SSAR's work can be found in its 2014 Progress Report, found here: UNHCR, *Solutions Strategy for Afghan Refugees: Progress Report 2014* (Geneva: UNHCR, 2015), <http://www.unhcr.org/en-us/562a44639.pdf>.

²²⁷ Dan Tyler, "Reframing solutions for Afghan refugees" *Forced Migration Review*, no. 46 (2014), 19, <http://www.fmreview.org/sites/fmr/files/FMRdownloads/en/afghanistan/tyler.pdf>.

²²⁸ Ahmadi and Lakhani, "The Forced Return of Afghan Refugees and Implications for Stability"; John James, "Life at the end of the world's largest refugee repatriation," *IRIN*, updated January 31, 2014, <http://www.irinnews.org/report/99546/life-end-world%E2%80%99s-largest-refugee-repatriation>.

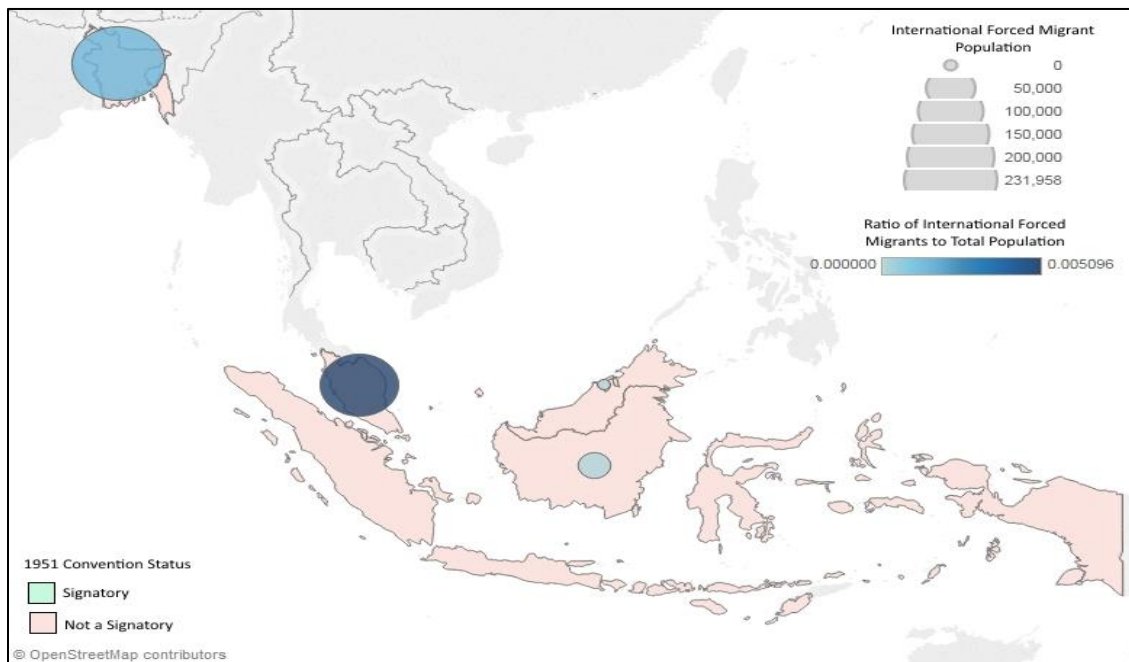
²²⁹ Majidi, van der Vorst, and Foulkes, "Seeking Safety, Jobs, and More"

difficulty for regional and national actors lies in bringing migration policy to terms with the complicated nature of mixed migration flows as they exist in reality.²³⁰

2.7. Forced Migration in Southeast Asia²³¹

Most Southeast Asian countries have yet to develop frameworks that meaningfully address the humanitarian protection needs of forced migrants. While flows of refugees and asylum seekers continue, particularly along maritime routes, countries such as Malaysia and Indonesia have been content to pass such responsibility on to the West through resettlement or other means. Instead, regional initiatives have focused on tackling irregular migration and promoting labor migration regimes while largely ignoring the dire situation of some forcibly displaced populations. This approach also fails to address the complex nature of migration flows in Southeast Asia, in which both voluntary and forced migrants use the same (often irregular) migration channels, that require countries to develop a nuanced approach to ensure protection is extended to those in need.

Figure 8: Forced migrant populations in OIC countries in Southeast Asia



Source: UNHCR, "Population Statistics"

Note: The international forced migrant population is calculated to be the number of refugees, people in refugee-like situations, and asylum seekers residing in a country.

2.7.1. Migration dynamics in Southeast Asia

As a region of porous borders and islands, Southeast Asia has long been marked by irregular migration over both land and maritime routes. This has been exacerbated by income disparities and poverty within the region. Levels of intra-regional labor migration exploded in the 1990s due to rapid economic growth that fueled a high demand for low-skilled workers in

²³⁰ Majidi, van der Vorst, and Foulkes, "Seeking Safety, Jobs, and More"

²³¹ This report considers the Southeast Asia region to include the following OIC member states: Bangladesh, Brunei Darussalam, Indonesia, and Malaysia. The region also includes the following countries who are not members of the OIC: Cambodia, East Timor, Laos, Myanmar, the Philippines, Singapore, Thailand, and Vietnam.

countries such as Malaysia.²³² Forced migration, often driven by conflict, ethnic persecution, and political oppression, has become intermingled with these more traditional economic migration flows along the same routes.²³³

The largest source of forced migrants in the region is Myanmar, where six decades of armed conflict and ethnic oppression continues to displace many communities.²³⁴ While displacement across international boundaries has slowed since the negotiation of ceasefires with the major armed ethnic groups since 2011, conflict, especially in northern Myanmar, and displacement continues. Most of these refugees are groups persecuted by the government, such as the Karen, Chin, and Rohingya peoples.²³⁵ Many fled to neighboring Thailand, where about 100,000 Myanmar nationals remain in camps with many others unregistered in urban areas.²³⁶ While the ceasefire and democratic elections in Myanmar have brought hope that these refugees may be able to return, some of whom have been displaced for over 25 years, many are reluctant to return home in case fighting breaks out again.²³⁷ Political violence has also displaced a sizeable number of Sri Lankan refugees, who continue to flee human rights abuses despite the official end of civil conflict in 2009.²³⁸

Southeast Asia also holds a long history of forced migration along maritime routes, of which the most prominent example is the Indochinese Boat People Crisis of the 1970s (see Box 2). Irregular migration routes are common across the Bay of Bengal and the Andaman Sea, through the Straits of Malacca to reach the archipelagos of Indonesia and Malaysia. Despite governments' increasing efforts to control their borders, irregular maritime migration has continued.²³⁹ One particularly vulnerable group who has recently used these maritime routes to seek protection and economic opportunity is the Rohingya of Myanmar.

The Rohingya, a Muslim minority group in Myanmar, are not considered citizens and many are legally banned from leaving impoverished ghettos in Rakhine state, restricting their access to education, health services, and stable livelihoods for their families or community.²⁴⁰ Many Rohingya have thus sought refuge in nearby countries, such as Bangladesh, Indonesia, and Malaysia. Malaysia in particular is seen as a desirable destination due to its predominantly Muslim culture and economic opportunities.²⁴¹ Despite the fact that Rohingya in Malaysia are severely exploited, denied healthcare and public education, and don't hold the right to work in

²³² Benjamin Harkins, "Review of labour migration policy in Malaysia," (Bangkok: International Labour Organization, 2016), 1, http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_447687.pdf; Stephen Castles and Mark J. Miller, "Migration in the Asia-Pacific Region," *Migration Information Source*, July 10, 2009, <http://www.migrationpolicy.org/article/migration-asia-pacific-region>.

²³³ Kathleen Newland, *Irregular Maritime Migration in the Bay of Bengal: The Challenges of Protection, Management and Cooperation*, (Bangkok: International Organization for Migration and Migration Policy Institute, July 2015), 3

²³⁴ Ashley South and Kim Jolliffe, *Forced Migration and the Myanmar Peace Process*, (Geneva: UNHCR, 2015), 4

²³⁵ Ibid.

²³⁶ Alisa Tang, "After 30 years in Thailand, a glimmer of hope for refugees from Myanmar," *Reuters*, May 11, 2016, <http://www.reuters.com/article/us-humanitarian-summit-thailand-refugees-idUSKCN0Y20DQ>.

²³⁷ Tang, "After 30 years in Thailand, a glimmer of hope for refugees from Myanmar"

²³⁸ Emily Howie, "Sri Lanka is a refugee-producing country. Here's why," *The Guardian*, July 7, 2014, <http://www.theguardian.com/commentisfree/2014/jul/08/sri-lanka-is-a-refugee-producing-country-heres-why>.

²³⁹ Newland, *Irregular Maritime Migration in the Bay of Bengal*, 2

²⁴⁰ Marie McAuliffe, *Resolving the Policy Conundrums: Enhancing Protection in Southeast Asia*, (Washington, DC: Migration Policy Institute, forthcoming 2016); Joshua Carroll, "Myanmar's Rohingya deprived of education," *Al Jazeera*, August 4, 2014, <http://www.aljazeera.com/indepth/features/2014/08/myanmar-rohingya-deprived-education-201484105134827695.html>.

²⁴¹ Newland, *Irregular Maritime Migration in the Bay of Bengal*, 2

the formal economy, many seek to join the clandestine community of 75,000 Rohingya in the country and work informally.²⁴²

For most Rohingya, the first step of the journey is crossing the border to escape Myanmar. To do so, Rohingya will pay smugglers to reach Bangladesh by boat, especially between November and April when calmer seas facilitate travel.²⁴³ In the past, some Rohingya travelled to Thailand, either by sea via Bangladesh or directly from Myanmar. However, the Royal Thai Government's campaign against irregular migration in 2015 caused smugglers to avoid Thailand, resulting in a sharp escalation of migrants in Malaysian and Indonesian waters. In 2015, approximately 33,600 migrants travelled across the Bay of Bengal, mostly Rohingya and Bangladeshis.²⁴⁴ Women and girls made up about 15 percent of these flows, a number which has gradually increased in recent years.²⁴⁵

Southeast Asia also hosts refugees and asylum seekers from other regions, including Afghans, Iranians, Iraqis and Pakistanis, who often use the region as a gateway to reach Australia or Europe (via airplane).²⁴⁶ While these migrants may have the initial goal of reaching a third destination, many end up stuck in countries such as Malaysia, Thailand or Indonesia due to a lack of resources to progress onward.²⁴⁷ In 2013 the Iranian refugee and asylum seeker population in Malaysia was estimated to be between 70,000-100,000, with the most recent surge arriving during the 2009-2010 protests.²⁴⁸

2.7.2. Protection frameworks in Southeast Asia

No OIC country in the region (Malaysia, Indonesia, Bangladesh, or Brunei Darussalam) has ratified the 1951 Convention, and none have enacted national asylum legislation.²⁴⁹ As a result, these countries often only provide minimal rescue, relief, and temporary shelter to those stranded at sea.²⁵⁰ The principle of "asylum for resettlement" established during the Indochinese Boat People Crisis (see Box 2) continues to guide regional policy.²⁵¹ In response to the large maritime flows of Rohingya and Bangladeshis in 2015, Malaysia, Indonesia, and Thailand agreed in a joint statement to offer temporary shelter to asylum seekers, on the condition that the international community would repatriate or resettle the population within

²⁴² Chris Buckley, "Even in Safety of Malaysia, Rohingya Migrants Face Bleak Prospects," *The New York Times*, June 3, 2015, www.nytimes.com/2015/06/04/world/asia/rohingya-migrants-malaysia.html?ref=world&r=0; McAuliffe, *Resolving the Policy Conundrums*, 18

²⁴³ UNODC, *Migrant Smuggling in Asia: Current Trends and Related Challenges*, (Geneva: UNODC, 2015), 65.

²⁴⁴ UNHCR, *Mixed Maritime Movements in South-East Asia in 2015*, (Bangkok: UNHCR Regional Office for South-East Asia, 2016),

<http://reporting.unhcr.org/sites/default/files/UNHCR%20-%20Mixed%20Maritime%20Movements%20in%20South-East%20Asia%20-%202015.pdf>.

²⁴⁵ Almost all of the women and girls travelling across the Bay of Bengal are reported to be Rohingya. UNHCR, *Mixed Maritime Movements in South-East Asia in 2015*,

²⁴⁶ Malaysia and Thailand, for example, are popular transit points for Iranian asylum seekers because the countries have adopted a loose visa policy towards Iranian nationals, and the cost of airfare is relatively inexpensive. From these points, migrants can attempt to fly to Europe or elsewhere. Adam Taylor, "How two Iranian guys apparently heading to Europe ended up on a Malaysian flight to China," *The Washington Post*, March 11, 2014, <https://www.washingtonpost.com/news/worldviews/wp/2014/03/11/how-two-iranian-guys-apparently-heading-to-europe-ended-up-on-a-malaysian-flight-to-china/>; UNODC, *Migrant Smuggling in Asia*, 68

²⁴⁷ Catherine A. Traywick, "For Illegal Migrants, Southeast Asia is the Means, not the End," *Foreign Policy*, updated March 13, 2014, http://foreignpolicy.com/2014/03/13/for-illegal-migrants-southeast-asia-is-the-means-not-the-end/?wp_login_redirect=0.

²⁴⁸ Navid Fozi, "The Iranian Diaspora in Malaysia: Emergent Pluralism," *Middle East Institute*, updated July 10, 2013, <http://www.mei.edu/content/iranian-diaspora-malaysia-emergent-pluralism>.

²⁴⁹ Within the region overall, only Cambodia and the Philippines are signatories to the 1951 Convention.

²⁵⁰ McAuliffe, *Resolving the Policy Conundrums*, 20.

²⁵¹ McConnachie, "Forced Migration in South-East Asia and East Asia," 632

one year.²⁵² In addition to this reliance on resettlement by third countries, the region has tended to view refugee flows through the lens of security and border control, leading states to focus on tackling transnational crime and irregular flows instead of expanding access to humanitarian protection.²⁵³

Arguably the most prominent initiative addressing irregular migration is the Bali Process, which was created in 2002 to tackle people smuggling, human trafficking, and related transnational crime. The process created a forum to bring together over 50 countries in Asia (including 13 OIC member states), along with UNHCR, IOM, and the United Nations Office of Drugs and Crime (UNODC). Though the scope of the process was widened in 2009 to include protection issues, almost all of the Process's initiatives continue to focus on security issues related to irregular migration, such as smuggling and human trafficking.²⁵⁴ Furthermore, the Bali Process is largely viewed as a "talking shop" that needs more long-term staff, infrastructure and accountability mechanisms to enact meaningful changes in the regional migration and protection framework.²⁵⁵

²⁵² Susan Kneebone, "Comparative regional protection frameworks for refugees: norms and norm entrepreneurs," *The International Journal of Human Rights* 20, no. 2 (2016): 161.

²⁵³ Kneebone, "Comparative regional protection frameworks for refugees," 159

²⁵⁴ In addition to semi-regular ministerial meetings, the Bali Process has established an Ad Hoc Group to develop practical measures to combat human trafficking, a Regional Cooperation Framework (RCF) to coordinate a regional response to irregular movement, and the Regional Support Office to improve implementation of the RCF. The Bali Process also helped create the Jakarta Declaration of 2013, a pledge to address irregular maritime migration in the region. While the Jakarta Declaration was hailed by UNHCR as another step towards combatting smuggling and human trafficking, the agency also noted that in the absence of a humanitarian protection framework such efforts can serve to further the criminal trade in the long run, making such ventures riskier but also more profitable. Vivian Tan, "UNHCR welcomes Jakarta Declaration to address irregular movements in Asia-Pacific," *UNHCR*, August 21, 2013, <http://www.unhcr.org/5214acff9.html>

²⁵⁵ Kathleen Newland, "Global Governance: Fear and Desire," in *Improving the Governance of International Migration* (Washington, DC: Migration Policy Institute, 2011), 62.

Box 2. The Indochinese Boat People Crisis and “Asylum for Resettlement”

In 1975 during the aftermath of the Vietnam War, Southeast Asia saw large outflows of “boat people” from Vietnam, Laos, and Cambodia. In 1979, the region was faced with a growing humanitarian crisis as countries in the region began to push Vietnamese boats back to sea, putting the migrants at greater risk of piracy, drowning, dehydration, and other threats.

In response, the UN Secretary-General held a conference in July 1979. The participants agreed to a formalized system, in which the countries of first asylum would accept migrants fleeing conflict and insecurity with the condition that they be resettled to donor countries of the West. As part of the agreement, Vietnam also pledged to crack down on departures to limit the scale of maritime flows. Between July 1979 and July 1982, over 600,000 refugees were resettled from the region, outpacing declining maritime arrivals in countries of first asylum.

While the program was successful at first, in 1987 maritime arrivals began to surge again, and the consensus of 1979 began to unravel. Additionally, Western countries no longer believed that Indochinese migrants should be deemed refugees on a prima facie basis. To resolve these issues, another conference was held in 1989, resulting in the Comprehensive Plan of Action (CPA). The CPA once again encompassed a set of commitments, including two elements added on top of those from 1979: regional screening to determine the refugee status of asylum seekers (performed by UNHCR), and the repatriation of migrants not deemed to be refugees.

The CPA concluded in 1996, and in many ways was deemed a success. The international community’s cooperative efforts effectively remedied the Indochinese refugee crisis and shored up confidence in the global asylum system. In the longer term though, many have criticized the regional norm created by this “asylum for resettlement” model. Southeast Asian governments continue to see refugees as an “international” or “UNHCR” problem, and maintain that developing countries should not have to be responsible for providing asylum. This pervasive regional perspective has placed forced migrants in countries such as Malaysia in precarious situations, and local integration is rarely considered an option by government officials.

Sources: Susan Kneebone, “Comparative regional protection frameworks for refugees: norms and norm entrepreneurs,” *The International Journal of Human Rights* 20, no. 2 (2016): 153-172; Kathleen Newland, *Irregular Maritime Migration in the Bay of Bengal: The Challenges of Protection, Management and Cooperation*, (Bangkok: International Organization for Migration and Migration Policy Institute, July 2015); Sriprapha Petcharamsee, “ASEAN and its approach to forced migration issues,” *The International Journal of Human Rights* 20, no. 2 (2016): 173-190; W. Courtland Robinson, “The Comprehensive Plan of Action for Indochinese Refugees, 1989-1997: Sharing the Burden and Passing the Buck” *Journal of Refugee Studies* 17, no. 3 (2004): 319-333; Alice Nah, “Networks and norm entrepreneurship amongst local civil society actors: advancing refugee protection in the Asia Pacific region,” *The International Journal of Human Rights* 20, no. 2 (2016): 223-240.

The Association of Southeast Asian Nations (ASEAN), the intergovernmental body designed to support regional cooperation and integration, has also started to address migration issues. But ASEAN remains hindered in its attempts to create binding human rights legislation due to the organization’s working principles of non-interference and respect for state sovereignty.²⁵⁶ States typically avoid discussions of strengthening the regional protection framework for forced migrants, instead preferring to issue non-binding declarations on less controversial issues, such as the 2004 ASEAN Declaration Against Trafficking in Persons Particularly Women and Children.²⁵⁷ Similarly, ASEAN has preferred to focus on ensuring the rights of legal economic migrants instead of those who travel irregularly, as exemplified by the

²⁵⁶ Sriprapha Petcharamsee, “ASEAN and its approach to forced migration issues,” *The International Journal of Human Rights* 20, no. 2 (2016): 173-190.

²⁵⁷ Centre for Non-Traditional Security Studies, *Managing cross-border movements of people in Southeast Asia: Promoting capacity and response for irregular migration in Southeast Asia*, (Singapore: RSIS Centre for Non-Traditional Security Studies, 2013), 4, https://www.rsis.edu.sg/wp-content/uploads/2014/07/ER130214_NTS_Issues_Brief_02.pdf.

Declaration on the Protection and Promotion of the Rights of Migrant Workers in 2007²⁵⁸ This unwillingness to tackle more difficult issues has left institutions such as ASEAN and the Bali Process slow to react in the face of pressing crises, such as the increase in flows of May 2015.²⁵⁹

2.8. Resettlement and Onward Flows: Forced Migration Beyond the Immediate Response Region

The overwhelming majority of forced migration flows occur either within the country of origin or to neighboring countries. However, a small share of refugees from OIC member countries have travelled onwards to third countries of asylum, especially in Europe, risking highly dangerous journeys to reach the security, livelihood opportunities, and social rights that strong asylum regimes provide.

2.8.1. Extensive formal protection frameworks in onward destinations

All Western countries with major refugee flows²⁶⁰ have ratified the 1951 Convention, and have implemented legislation that enshrines the Convention's principles in a national asylum regime. This includes not only the Convention's definition of a refugee,²⁶¹ but also the social rights and access to opportunity that the Convention was designed to ensure. Many Western countries also offer intermediary forms of protection that prevent refoulement even if an individual does not fall under the protection criteria of the 1951 Geneva Convention.²⁶²

Refugee or humanitarian protection status is typically performed on an individual basis through national adjudication systems, and large numbers of applicants do not receive recognition. In 2015, 53 percent of first instance decisions in the European Union were positive.²⁶³ Of these positive decisions, 74 percent received 1951 Convention status, 18 percent received humanitarian status, and 8 percent received subsidiary protection.²⁶⁴ Recognition rates vary widely by country of origin; Syria holds one of the highest (75 percent acceptance in 2015), while other OIC countries' rates fall below the average (e.g. just 5 percent acceptance for Malians).²⁶⁵

Those who are granted refugee status benefit from a number of different rights and services. Most Western countries offer refugees temporary residence permits for a set number of years, after which they are eligible for permanent residence if their protection needs still stand.²⁶⁶ Permanent residency often also offers a path to citizenship for refugees. Through permanent residence status, refugees obtain access to social services such as health care and education. Refugees also receive the right to work, although those waiting for decisions on asylum claims

²⁵⁸ Regional Thematic Working Group on International Migration including Human Trafficking, *Situation Report on International Migration in East and South-East Asia*, (Bangkok: IOM, Regional Office for Southeast Asia, 2009), 132, http://publications.iom.int/system/files/pdf/situation_report.pdf.

²⁵⁹ McAuliffe, *Resolving the Policy Conundrums*, 20

²⁶⁰ Namely, the United States, Canada, Australia, South Africa, and countries of the European Union.

²⁶¹ Full text of the 1951 Convention can be found here: <http://www.unhcr.org/3b66c2aa10.html>

²⁶² See Chapter 1 for a full discussion of the various forms of humanitarian protection in Western countries.

²⁶³ European Asylum Support Office, *Annual Report on the Situation of Asylum in the European Union 2015* (Valletta, Malta: European Asylum Support Office, 2016), 19-20, https://www.easo.europa.eu/sites/default/files/public/EN_%20Annual%20Report%202015_1.pdf.

²⁶⁴ Ibid.

²⁶⁵ Acceptance here is defined as all positive decisions, including 1951 Convention status, humanitarian status, and subsidiary protection.

²⁶⁶ Australia is one exception to this rule, as it grants refugees and humanitarian entrants permanent residence upon arrival. Kathleen Newland, *Refugee Resettlement in an Age of Large-Scale and Protracted Displacement*, (Washington, DC: Migration Policy Institute, forthcoming 2016), 14

must often wait to receive status before accessing this right.²⁶⁷ Finally, some countries grant refugee-specific benefits, such as cash assistance or language and cultural training.

2.8.2. Major migration pathways from OIC member countries towards third countries of asylum

To reach the safety and livelihood opportunities offered by developed countries, some refugees and asylum seekers from OIC member countries have been willing to undertake dangerous journeys by land and sea. As many of these Western countries seek to manage migration through increased border controls and restrictive visa policies, forced (and nonforced) migrants have undertaken clandestine and increasingly arduous journeys to reach their desired destination.

The migration paths across the Mediterranean Sea to Europe have attracted particular attention in the media of late, due to both the scale of flows and the soaring death toll. In 2015, more than 1 million people entered the European Union irregularly by sea—about 90 percent of whom were from OIC countries, according to UNHCR data.²⁶⁸ Migrant routes starting from the Middle East, Asia, and Africa have seen people arrive either on land or via sea at Europe's borders. There are three key maritime routes to Europe: the Eastern Mediterranean route from western Turkey to Greece; the Central Mediterranean route from the North African coast to Italy or Malta; and the Western Mediterranean route from Morocco into the Spanish enclaves of Melilla and Ceuta or across the Strait of Gibraltar. In 2015, UNHCR recorded 3,771 migrant fatalities in the Mediterranean Sea.²⁶⁹

Despite the overwhelming media attention given to the refugee and migration crisis in Europe, it is not the only destination of secondary forced and nonforced migration from OIC countries. Many migrants from Central Asia join the Rohingya and other Southeast Asian forced migrants in attempts to reach Australia by flying to Kuala Lumpur or Jakarta and moving south through Malaysia and Indonesia.²⁷⁰ Flows along this route have rapidly decreased since the enactment of Australia's Operation Sovereign Borders policy.²⁷¹ Under this controversial policy, migrants who travel by boat to Australia after January 1, 2014 cannot receive a visa, the boats of asylum seekers who are intercepted trying to reach Australia are turned back, and those who reach Australian soil are sent to offshore processing centers in Nauru and Papua New Guinea, where they remain even if deemed to be refugees.²⁷² However, some migrants continue to board

²⁶⁷ In Sweden asylum seekers are granted the right to work upon registration, and in Canada asylum seekers may apply for a work permit immediately. Those in France, Germany and the UK must wait a predetermined period of time to apply for a permit (one year in France and the UK, 3 months in Germany).

²⁶⁸ UNHCR, "Mediterranean Sea Arrivals - 2015 Data - by Location, Country of Arrival, Demographic and Country of Origin," updated December 31, 2015, <http://data.unhcr.org/mediterranean/documents.php?page=24&view=grid&Type%5B%5D=3>.

²⁶⁹ Some observers have feared that after the EU-Turkey Deal, designed to effectively shut down the Eastern Mediterranean Route, increased use of the Central Mediterranean Route will result in more casualties. As of August 27, 2016, UNHCR has reported 3,167 migrants as dead or missing in the Mediterranean – setting the casualty rate on track to outpace the total of 2015. For up-to-date statistics, see here: UNHCR, "Refugees/Migrants Emergency Response – Mediterranean," <http://data.unhcr.org/mediterranean/regional.php>.

²⁷⁰ UNODC, *Migrant Smuggling in Asia*, 68.

²⁷¹ Agence France-Presse, "Australia hails 600 days of no asylum seeker boat arrivals," *South China Morning Post*, updated March 25, 2016, <http://www.scmp.com/news/asia/australasia/article/1926410/australia-hails-600-days-no-asylum-seeker-boat-arrivals>; The University of Queensland, "Statistics relating to Migrant Smuggling in Australia," accessed July 15, 2016, <https://law.uq.edu.au/research/our-research/migrant-smuggling-working-group/statistics-relating-migrant-smuggling-australia>.

²⁷² The Australian government estimates that there are approximately 30,500 people in Australia who arrived illegally by boat before January 1, 2014, who are invited to apply for a protection visa. Recently, the use of offshore processing centers has come under renewed scrutiny after Papua New Guinea's Supreme Court deemed the detention center on Manus Island

boats along the southern edge of Indonesia headed for the Australian territories of Christmas Island or Ashmore and Cartier Islands.²⁷³ The journey from the southern coast of Java to Christmas Island is estimated to take about three days in favorable conditions, but often the vessels are not so lucky and sink due to stormy weather.²⁷⁴

For refugees and asylum seekers in Africa, South Africa has been a traditional destination country due to its relative stability, perceived economic opportunities, and strong rights for migrants.²⁷⁵ Between 2006 and 2012, South Africa hosted more asylum seekers than any other country in the world.²⁷⁶ While many refugees and asylum seekers in South Africa come from Central African states such as the Democratic Republic of the Congo and Burundi, there are smaller refugee and asylum seeker populations from OIC countries in Africa and beyond. In 2015 South Africa hosted 45,747 forced migrants from Somalia, 10,795 from Nigeria, 10,443 from Bangladesh, and 8,350 from Pakistan.²⁷⁷ The majority of southward migrants from Somalia and the Horn of Africa use Kenya, Malawi, Mozambique, Tanzania, Zambia, and Zimbabwe as transit countries.²⁷⁸

Some forced migrants from OIC countries also travel to North and South America.²⁷⁹ In the U.S., these asylum seekers may travel to the US to apply for asylum upon arrival, or may become refugees sur place – immigrating for economic or other reasons, and later acquiring a well-founded fear of persecution if they should return home.²⁸⁰ In FY2014, 23,533 persons were granted asylum in total – with Egypt (2,879 total asylees), Syria (932 asylees) and Iran (636 asylees) as the top OIC countries of origin.²⁸¹ While the U.S. government does not report total asylum applications per fiscal year, UNHCR reported that the United States saw 96,065 total asylum applications in calendar year 2014 and 135,866 applications in 2015.²⁸² In Canada, 13,423 persons made in-country claims for asylum in 2014 and Pakistan (774

to be illegal. The center has since been slated to close, though Australia has maintained that it will not settle any of the asylum seekers residing there. Australian Government Department of Immigration and Border Protection, “Illegal maritime arrivals,” accessed June 9, 2016, <http://www.ima.border.gov.au/>; BBC News, “Australia asylum: Why is it controversial?,” updated April 29, 2016, <http://www.bbc.com/news/world-asia-28189608>. Brett Cole, “Australia Will Close Detention Center on Manus Island, but Still Won’t Accept Asylum Seekers,” *The New York Times*, August 17, 2016, <http://www.nytimes.com/2016/08/18/world/australia/manus-detention-center-papua-new-guinea.html>.

²⁷³ UNODC, *Migrant Smuggling in Asia*, 67.

²⁷⁴ Luke Mogelson, “The Dream Boat,” *The New York Times Magazine*, November 15, 2013, <http://www.nytimes.com/2013/11/17/magazine/the-impossible-refugee-boat-lift-to-christmas-island.html?pagewanted=all>.

²⁷⁵ OCHA, *Humanitarian Bulletin: Southern Africa (Issue 13)*, (Geneva: OCHA, January 2014), 1, http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA_ROSA_Humanitarian_Bulletin_Jan_2014.pdf.

²⁷⁶ Elizabeth Iams Wellman and Loren B. Landau, “South Africa’s tough Lessons on Migrant Policy,” *Foreign Policy*, updated October 13, 2015, <http://foreignpolicy.com/2015/10/13/south-africas-tough-lessons-on-migrant-policy/>.

²⁷⁷ UNHCR, “Population Statistics”

²⁷⁸ OCHA, *Humanitarian Bulletin: Southern Africa (Issue 13)*, 1.

²⁷⁹ While the majority of OIC migrants travel by air to North and South America, it should be noted that many asylum seekers enter the United States through its southern border with Mexico. The majority of these asylum seekers are from Central America, but reports have indicated that some African and Middle Eastern migrants (including asylum seekers from OIC member countries such as Somalia and Syria) have sought entry to the U.S. by flying to South America and travelling to the southern border—often via Colombia, due to its strategic geographic position and the abundance of trafficking networks in the country. Sibylla Brodzinsky and Nina Lakhani, “Global refugees take long detours through Latin America to reach the US,” *The Guardian*, November 24, 2015, <https://www.theguardian.com/world/2015/nov/24/syrian-refugees-central-america-routes-cuban-migrants>.

²⁸⁰ UNHCR, “UNHCR, Refugee Protection and International Migration,” January 17, 2007, 5, <http://www.unhcr.org/4a24ef0ca2.pdf>.

²⁸¹ Nadwa Mossaad, *Annual Flow Report: Refugees and Asylees: 2014* (Washington, DC: U.S. Department of Homeland Security Office of Immigration Statistics, 2016), https://www.dhs.gov/sites/default/files/publications/Refugees%20%26%20Asylees%20Flow%20Report%202014_508.pdf.

²⁸² UNHCR, “Population Statistics”

claimants), Iraq (580 claimants), and Nigeria (579 claimants) were the top OIC countries of origin.²⁸³ However, due to the continent's geographic isolation, the most common route for forced migrants from OIC countries to North America is through resettlement.

2.8.3. Resettlement: Another path to the West

Resettlement procedures allow those selected to circumvent dangerous journeys to Western shores, providing a key route for forced migrants from OIC countries to reach safety. Through resettlement, refugees are relocated from a country of first asylum to a third country that volunteers to accept them for permanent or temporary residence. This can occur either through UNHCR, who works to identify particularly vulnerable refugees in countries of first asylum, or through individual national programs.²⁸⁴ The United States, Canada, and Australia together account for over 90 percent of global refugee resettlement.²⁸⁵

UNHCR seeks to refer refugees who are particularly vulnerable in countries of first asylum for resettlement, such as women and girls at risk or survivors of torture.²⁸⁶ Traditional countries of resettlement often also offer priority or reserved spots to refugees who meet specific criteria.²⁸⁷ In 2014, four OIC countries of first asylum (Turkey, Malaysia, Lebanon, and Jordan) saw the highest number of resettlement submissions. Syrians represented the largest share of UNHCR submissions for resettlement, and several countries have sought to open up additional temporary or permanent spots for Syrian refugees in addition to UNHCR referrals. As of July 31, 2016, 221,836 total places have been made available to Syrians since 2013.²⁸⁸

²⁸³ Citizenship and Immigration Canada, *Canada Facts and Figures: Immigrant Overview Temporary Residents 2014*, (Ottawa: Citizenship and Immigration Canada, 2015), 48, <http://www.cic.gc.ca/english/pdf/2014-Facts-Figures-Temporary.pdf>.

²⁸⁴ Newland, *Refugee Resettlement in an Age of Large-Scale and Protracted Displacement*, 5.

²⁸⁵ In Fiscal Year 2016, the U.S. set the refugee admission ceiling at 85,000, including a mandate of at least 10,000 refugees from Syria. Canada has also raised its acceptance of resettled refugees in light of the Syria crisis – as of August 21, 2016, 30,136 Syrian refugees had been resettled in Canada. U.S. Department of State, “Refugee Resettlement in the United States,” October 21, 2015, 1, <http://www.state.gov/documents/organization/249289.pdf>; U.S. Department of State, “FY15 Refugee Admissions Statistics,” updated December 31, 2015, <http://www.state.gov/j/prm/releases/statistics/251285.htm>; Citizenship and Immigration Canada, “#WelcomeRefugees: Key figures,” updated August 21, 2016, <http://www.cic.gc.ca/english/refugees/welcome/milestones.asp>.

²⁸⁶ In 2014, the top UNHCR resettlement departures by category were: Legal and/or Physical Protection Needs (36.2%), Lack of Foreseeable Alternative Durable Solutions (33.3%), Survivors of Violence and/or Torture (15.7%) and Women and Girls at risk (9.3%). Also of note, family reunification made up 1.6% of departures, while Children and Adolescents at Risk made up less than one percent.

²⁸⁷ For example, Norway offers priority to women refugees at risk, and reserves 20 spots for medical cases. Resettlement in the Netherlands gives priority to those who are active in defending human rights or promoting democracy, even if they are not identified by UNHCR as particularly vulnerable. Newland, *Refugee Resettlement in an Age of Large-Scale and Protracted Displacement*, 16-18.

²⁸⁸ UNHCR, “Resettlement and Other Admission Pathways for Syrian Refugees,” updated July 31, 2016, <http://www.unhcr.org/en-us/protection/resettlement/573dc82d4/resettlement-other-admission-pathways-syrian-refugees-updated-30-2016.html>.

Tables 4 and 5: Top UNHCR resettlement submissions from OIC countries in 2014

Country of Asylum	Persons	Country of Origin	Persons
Turkey	15,738	Syrian Arab Republic	21,154
Malaysia	11,361	Dem. Republic of Congo	18,828
Lebanon	9,188	Myanmar	15,170
Jordan	7,284	Iraq	11,778
Kenya	6,805	Somalia	9,388

Source: UNHCR, *UNHCR Global Resettlement Statistical Report 2014*, accessed on March 21, 2016, <http://www.unhcr.org/52693bd09.pdf>.

In theory, one possible benefit of resettlement is dissuading asylum seekers against taking dangerous journeys by providing a safe, sanctioned route to reach the developed countries of the West. However, the scale of resettlement as it stands now does not meet the actual need. In 2014, UNHCR estimated that 690,900 refugees were in need of resettlement, of which 103,890 were referred for resettlement and only 73,008 actually departed.²⁸⁹ This shortfall is attributable to many factors, such as the cost of resettlement procedures and public unwillingness to accept large numbers of refugees, partially due to concerns that terrorists and extremists could infiltrate the system. The lengthy process of the resettlement process—from submission to acceptance to departure—can also deter refugees and encourage them to seek alternative opportunities for themselves and their families.²⁹⁰

2.9. Conclusions

OIC member states play a central role in the global response to forced migration. Most of the world's major migration routes originate in, culminate at, or transit through OIC countries. Flows of refugees and asylum seekers mingle and overlap with existing migratory movements, and it is impossible to completely differentiate forced migration patterns from migration for other reasons. Forced and nonforced migrants often travel along the same routes and channels, as is best shown by flows in Southeast Asia and West Africa.

Any differentiation between forced and economic migration is made even more difficult by the multi-faceted drivers of displacement within OIC member countries. While discussion of forced displacement often focuses on acute violence, such as the Syrian civil war, these conflicts typically stem from and in turn breed other systemic issues. The cases of Afghanistan, Somalia, and Mali demonstrate how poverty, endemic violence, and environmental degradation all play a role in driving migration. Migration decisions thus are rarely dictated by one factor alone.

²⁸⁹ Newland, *Refugee Resettlement in an Age of Large-Scale and Protracted Displacement*, 7

²⁹⁰ On average, the resettlement process for Syrians seeking to reach the U.S. takes between 18 to 24 months. Alex Altman, "This Is How the Syrian Refugee Screening Process Works," *Time*, November 17, 2015, <http://time.com/4116619/syrian-refugees-screening-process/>.

Due to these complex challenges and the self-perpetuating nature of instability, there are currently few instances within the OIC where refugee situations have been quickly or fully resolved. As a result, new displacement often overlaps with existing refugee and IDP situations – as seen in the Middle East. Situations also arise in which forced migration flows travel in both directions along the same channels, such as the route between Yemen and the Horn of Africa. The complex nature of forced migration—and the dangerous journeys forced migrants often undertake—creates further protection gaps that require the development of strong and intricate asylum frameworks.

Over a third of OIC countries have yet to ratify the 1951 Convention, and even fewer have implemented national legislation in line with the 1951 Convention or created systems through which the claims of asylum seekers can be processed. West Africa stands out as a region that has made a strong effort to incorporate the 1951 Convention into national law, while none of the Gulf States have yet ratified the Convention. States that have not ratified the Convention may still accept refugees and follow key principles such as nonrefoulement, most notably Lebanon and Jordan. But without a legal framework to guide responses to forced migration, action is often taken in an ad hoc manner in response to individual situations, creating a lack of coherency that precludes comprehensive protection for those who need it (such as Syrians in Turkey or the Gulf States).

The framework created by the 1951 Convention also leaves substantial gaps, creating a key role for regional legislation in ensuring broad protection for the forcibly displaced. For example, the 1951 Convention does not acknowledge the many possible drivers of forced migration such as generalized violence or a lack of economic opportunity resulting from ongoing instability and conflict. The 1969 OAU Convention sought to address this issue by expanding the definition of a refugee to include those affected by war and the loss of public order, more closely matching the experience of African refugees. But such approaches have yet to be adopted in other regions with OIC countries.

More broadly, meaningful regional cooperation on forced migration has been limited outside of Africa. OIC countries have typically relied on collaboration driven by regional consultative processes and high-level meetings. Initiatives such as the Khartoum Process and the Almaty Process have served as forums through which regional partners can engage in dialogue on collaboration and capacity-building to address the complex nature of forced migration. However, these processes have mostly been unable to enact meaningful change in national protection frameworks. This leaves individual countries with a large degree of discretion and responsibility to create and implement asylum legislation.

3. COUNTRY CASE STUDIES

This chapter presents detailed insights into forced migration trends, protection policies, and poverty alleviation approaches in five case study countries: Turkey, Jordan, Morocco, Uganda, and Sweden. These countries represent each of the three OIC geographic regions as well as countries hosting a substantial number of forced migrants from OIC member states.¹ These case studies have been carefully chosen to provide a range of forced migration experiences and approaches to protection.

Turkey and Morocco represent emerging destinations for refugee and migration flows. Both countries have historically viewed themselves primarily as sources of or transit points for migration to Europe. Yet rising migration flows to both countries have called this narrative into question as migrants and refugees have increasingly sought protection in, rather than transiting through, Turkey and Morocco. In response, both countries are in the process of developing and implementing comprehensive legislation to manage migration and asylum flows. In Morocco, asylum legislation has yet to be passed, while in Turkey, government authorities are currently engaged in massive efforts to implement an asylum and migration law passed in 2013. Both case studies offer lessons on the practical challenges establishing an asylum regime can entail.

Turkey, with Jordan, is also a key host to what is now the largest refugee population globally, Syrians. Both have responded generously to the rapidly rising flows of refugees from the Syrian war, providing temporary protection and most recently access to employment. Yet their responses reflect marked contrasts in their differing legal approaches to refugee protection. While Turkey has made a distinct effort to incorporate Syrians into its emerging asylum legal regime, protection in Jordan continues to be governed by much more ad hoc policy decisions.

Jordan, together with Uganda, also provides a critical look at a country dealing with the challenge of protracted refugee situations. Jordan has afforded protection to millions of Palestinian refugees for nearly 70 years, while Uganda has long been home to refugees from neighboring Rwanda and the Democratic Republic of the Congo. In both cases, substantial new refugee flows—from Syrian to Jordan and from South Sudan to Uganda—have thus come on top of already significant and established refugee populations. In both Uganda and Jordan, experiences with these previous refugee flows have informed current approaches to protection.

Finally, Sweden, while not an OIC country, has been one of the largest destinations for forced migrants in Europe, a region that serves as a destination for onward migration of forced migrants from many OIC countries. Between 2011 and 2015, nearly three-quarters of asylum applications in Sweden came from OIC countries. Aside from its relevance as a destination for OIC forced migrants, Sweden also offers an example of a country with a highly developed and well-resourced asylum and social protection system. Yet large-scale flows of forced migrants into Europe in 2015 posed a significant challenge even for the Sweden system, offering a lesson about what even a country with a well-developed asylum system can be expected to handle alone.

¹ Together, the five case study countries are home to over 10 percent of OIC forced migrants (nearly 4 million individuals. Author's calculations from UNHCR, "Population Statistics," accessed August 8, 2016, http://popstats.unhcr.org/en/persons_of_concern.

Each section in the chapter begins with an overview of the current and historical forced migration trends in the case study country. The section then assesses the legal frameworks for providing refugee and other forms of protection in each country, as well as the systems that have been put into place to implement the asylum regime. The analysis then turns to the poverty alleviation efforts in the case study country that affect refugee and forced migrant populations, with particular attention to policies regarding housing, employment, education, and health care. Finally, the case study concludes by offering an evaluation of the impacts of forced migration on the case study country and the forced migrant population, as well as any protection gaps that have resulted from the country's asylum regime.

3.1. TURKEY²

A huge flow of people seeking protection made Turkey the world's largest host of international forced migrants in 2015. By mid-2016, the number of people under various forms of protection in Turkey was approaching 3 million. The overwhelming majority of them came originally from Syria, but a substantial minority of over 260,000 originated in other countries, chiefly Iraq and Afghanistan. With the exception of a tiny number of refugees from Europe, none have a clear path to permanent status in Turkey. Nonetheless, Turkey has made extraordinary efforts to provide basic services and a framework for a decent life for people under its protection. The incorporation of such great numbers of forced migrants poses huge challenges to Turkish communities, institutions, and budgets. Poverty alleviation is a primary concern in approaching the needs and potential contributions of the protected populations.

In order to meet the basic needs of the most impoverished protected populations, the Ministry of Family and Social Policy launched the *Yabancılarla Yönelik Sosyal Uyum Yardım Programı* (Emergency Social Safety Net - ESSN) in cooperation with the World Food Programme, the Disaster and Emergency Management Presidency, and the Turkish Red Cross. Approximately one million individuals are expected to benefit from monthly cash transfers of 100 Turkish Lira, set to begin in the first quarter of 2017. The program is funded by the European Union's Facility for Refugees in Turkey.³

Syrians began receiving protection in Turkey in 2011, as "guests," with the express condition that their status would not lead to permanent residence in Turkey. Their status since then has continually evolved: a law was passed in 2013 giving them formal "temporary protected status" and access to social benefits⁴; a regulation granting permission to apply for a work permit was adopted in January 2016. In July 2016, President Erdogan raised the possibility of Turkish citizenship for at least some Syrians under temporary protection.⁵ Still, in 2016, the

² This chapter was written by Kathleen Newland and Brian Salant, and informed by original fieldwork in Ankara and Istanbul in May 2016.

³ European Commission, "Questions and answers: Support for refugees in Turkey through the Emergency Social Safety Net (ESSN)," (news release, September 8, 2016), http://europa.eu/rapid/press-release_MEMO-16-2989_en.htm; *Cumhuriyet Gazetesi*, "Bir milyon Suriyeliye her ay 100'er lira yardım," *Cumhuriyet Gazetesi*, September 26, 2016, http://www.cumhuriyet.com.tr/haber/dunya/606275/Bir_milyon_Suriyeliye_her_ay_100_er_lira_yardim.html; *Haber Türk*, "Yabancılarla Yönelik Sosyal Uyum Yardım Programı," *Haber Türk*, September 26, 2016, <http://www.haberturk.com/yerel-haberler/haber/9559394-yabancilara-yonelik-sosyal-uyum-yardim-programi>.

⁴ Temporary protected status for Syrians is based on three principles: 1) Admission to the country based on open borders, 2) No return to the country of origin, 3) Meeting the basic and emerging needs of newcomers. See DGMM, "Geçici Korumanın Unsurları," 2015, http://www.goc.gov.tr/icerik3/gecici-korumanin-unsurlari_409_558_1095.

⁵ "Erdogan'dan Türkiye'deki Suriyelilere vatandaşlık açıklaması," *BBC Türkçe*, July 3, 2016, http://www.bbc.com/turkce/haberler/2016/07/160703_erdogan_suriyeliler

extraordinary challenges of incorporating 2.7 million people into Turkish social and economic institutions has left many Syrians subject to poverty and exploitation, even as prospects for return to Syria remain dim.

In order for Syrians to support themselves in Turkey, incorporation in the labor market and educational systems are the priorities. Roughly 36 percent of the Syrian population, or about 912,000, are of school age.⁶ The prospect of a “lost generation” without schooling is a concern of the greatest urgency.⁷ Further livelihood opportunities for Syrians can be strategically crafted so that their contributions strengthen Turkish society while alleviating the poverty of the protected populations. To formulate such opportunities will require upgrades in institutional capacity, more widespread understanding of legislation and institutional coordination at all levels of government, and a long-term strategy for how to integrate Syrians residing in Turkey while maintaining the overall objective of their return to Syria when that country is secure.

3.1.1. The Scale and Profile of Forced Migrants

Turkey hosts more refugees and asylum seekers than any other country in the world today.⁸ Although Turkey has experienced several migration waves in the decades since the collapse of the Soviet Union and first Gulf War, current migration from neighboring OIC countries is unprecedented. In 2007, roughly 12,000 asylum seekers and refugees were registered by UNHCR in Turkey.⁹ By May 2016, the number was approximately 250 times larger. According to UNHCR, Turkey hosted the world’s 47th largest number of refugees and asylum seekers at the end of 2011.¹⁰ In just three years, it became the largest recipient of refugees, and by the beginning of 2016 hosted more than 2.7 million registered Syrians and 266,000 registered non-Syrians benefitting from temporary protection.^{11,12,13}

http://www.bbc.com/turkce/haberler/2016/07/160703_erdogan_suriyeliler: Laura Pitel, Turkey plans to offer citizenship to Syrian refugees, Financial Times, July 2, 2016.

<http://www.ft.com/cms/s/0/01766166-409d-11e6-b22f-79eb4891c97d.html#axzz4EPwp516v>.

⁶ Turkish government figures report that there are 382,972 refugees in the country between the ages of 5 and 9, 287,361 aged 10-14, and 241,711 aged 15-18. Türkiye Cumhuriyeti İçişleri Bakanlığı Göç İdaresi Genel Müdürlüğü (DGMM), “Geçici Koruma,” updated August 16, 2016,

http://www.goc.gov.tr/icerik3/gecici-koruma_363_378_4713.

⁷ Human Rights Watch, ‘When I Picture My Future, I See Nothing’: Barriers to Education for Syrian Refugee Children in Turkey (Human Rights Watch, November 8, 2015),

<https://www.hrw.org/report/2015/11/08/when-i-picture-my-future-i-see-nothing/barriers-education-syrian-refugee-children>.

⁸ “Turkey largest refugee-hosting country as global numbers hit new record in 2015, UN says,” *Daily Sabah*, December 18, 2015,

<http://www.dailysabah.com/world/2015/12/18/turkey-largest-refugee-hosting-country-as-global-numbers-hit-new-record-in-2015-un-says>.

⁹ UN High Commissioner for Refugees (UNHCR), BM Mülteciler Yüksek Komiserliği (BMMYK), “Güncel İstatistikler,” accessed May 5, 2016,

<http://www.unhcr.org/turkey/home.php?page=12>.

¹⁰ UN High Commissioner for Refugees (UNHCR), *UNHCR Statistical Yearbook, 2011, 11th edition* (UN High Commissioner for Refugees, 2013),

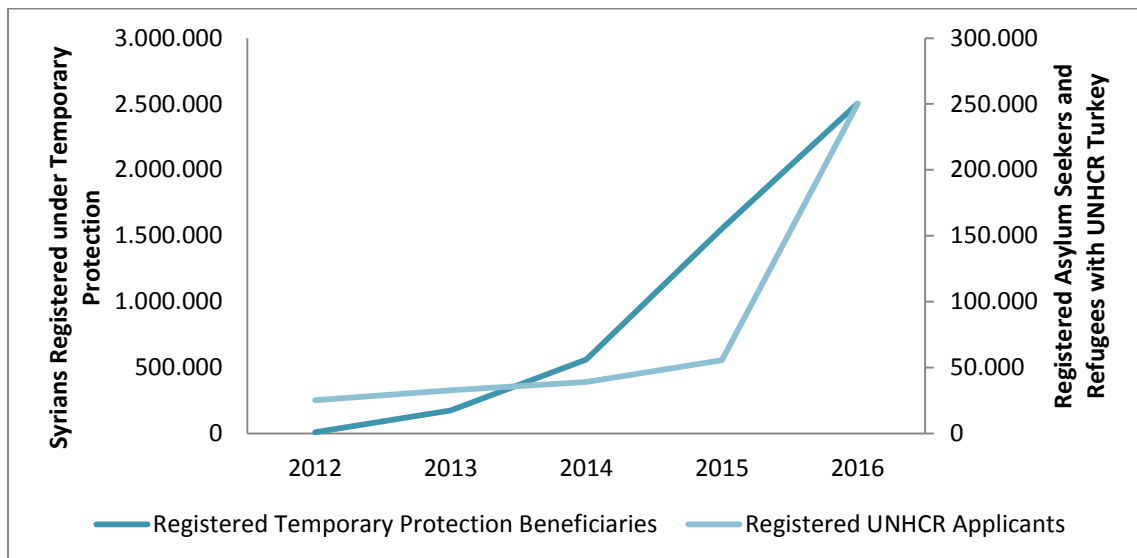
<http://www.unhcr.org/statistics/country/516282cf5/unhcr-statistical-yearbook-2011-11th-edition.html>.

¹¹ Kemal Kirişçi and Elizabeth Ferris, *Not Likely to Go Home: Syrian Refugees and the Challenges to Turkey—and the International Community* (Center on the United States and Europe at Brookings, Turkey Project Policy Paper No. 7, September 2015), 2,

<http://www.brookings.edu/~media/Research/Files/Papers/2015/09/syrian-refugee-international-challenges-ferris-kirischi/Turkey-Policy-Paper-web.pdf?la=en>.

¹² Türkiye Cumhuriyeti İçişleri Bakanlığı Göç İdaresi Genel Müdürlüğü (DGMM), “Geçici Koruma,” accessed May 5, 2016, http://www.goc.gov.tr/icerik3/gecici-koruma_363_378_4713 ; UN High Commissioner for Refugees (UNHCR), BM Mülteciler Yüksek Komiserliği (BMMYK), “2016 UNHCR Türkiye Aylık İstatistikleri,” accessed May 5, 2016, [http://www.unhcr.org/turkey/uploads/root/tr\(44\).pdf](http://www.unhcr.org/turkey/uploads/root/tr(44).pdf).

Figure 9: Registered Syrian and non-Syrian asylum seekers and refugees, 2012–2016



Source: UN High Commissioner for Refugees (UNHCR), BM Mülteciler Yüksek Komiserliği (BMMYK), "Güncel İstatistikler," accessed May 5, 2016, <http://www.unhcr.org/turkey/home.php?page=12>.

As Figure 9 illustrates, the numbers of registered Syrian and non-Syrian protected populations have spiked since January 2014. This rapid increase can be traced to several causes. The concerted efforts made by Turkish authorities to register the Syrian population residing outside refugee camps since 2013 have substantially increased the number of Syrians recorded by the government.¹⁴ Simultaneously, the war in Syria intensified as a result of bombing campaigns led by Syrian government and Russian forces; significant advances made by ISIS in northern Syria in 2014 and 2015 thus drove masses of people across the Turkish border.¹⁵ The same conflict pushing Syrians into Turkey has driven rising numbers of Iraqis across the border, particularly after ISIS captured Mosul in 2014.¹⁶ Finally, increasing numbers of Afghans joined flows into Turkey in 2015, as localized conflicts between the central government and the Taliban uprooted lives across the country, and the government of Iran put pressure on Afghans (some of whom had lived in Iran for decades) to leave.

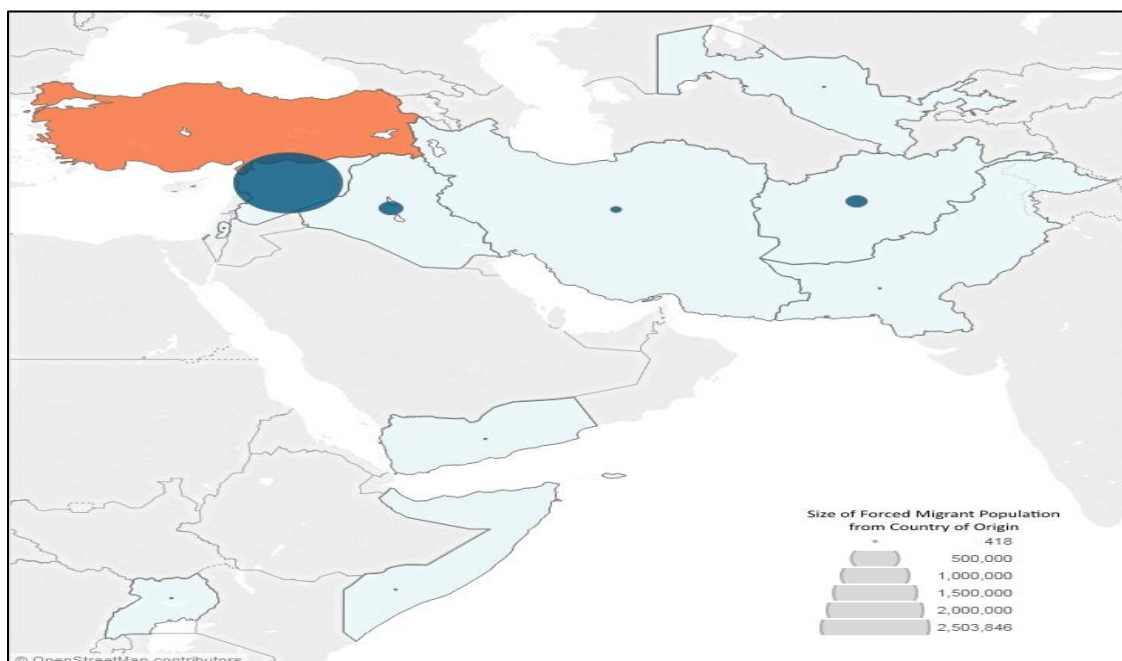
¹³ The total population under protection as of May 2016 was 3,014,746. In 2016, the total projected Turkish population is 78,965,645. Thus, protected populations at this time represent 3.7 percent of all people living in Turkey.

¹⁴ Kemal Kirişçi, *Syrian Refugees and Turkey's Challenges: Going Beyond Hospitality* (Washington, DC: Brookings, 2014), 17, <http://www.brookings.edu/~media/research/files/reports/2014/05/12-turkey-syrian-refugees-kirischi/syrian-refugees-and-turkeys-challenges-may-14-2014.pdf>; Disaster and Emergency Management Presidency (AFAD), *Population Influx from Syria to Turkey: Life in Turkey as a Syrian Guest* (Ankara: AFAD, 2014), 53, https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKewiEiaToyq_NAhXMPB4KHfVIC5QQFggcMAA&url=https%3A%2F%2Fwww.afad.gov.tr%2FDokuman%2FTR%2F148-20150202172457-11549547929971633783.pdf&usg=AF0iCNHxSvNxr_a2K_pwkld-3Y7zscCPsw&bvm=bv.124272578,d.dmo.

¹⁵ ISIS attacked Tel Abyad heavily in June 2015, ISIS began a large scale attack on Kobane in October 2014. See Kirişçi and Ferris, *Not Likely to Go Home*, 4.

¹⁶ Kirişçi and Ferris, *Not Likely to Go Home*.

Figure 10: Top ten countries of origin of forced migrants residing in Turkey, 2015



Source: UNHCR, "Population Statistics," accessed August 9, 2016,

http://popstats.unhcr.org/en/persons_of_concern.

Note: Forced migrants are defined as refugees and asylum seekers residing in Turkey as of 2015.

Tens of thousands of people from refugee-producing countries reside in Turkey on legal residence permits as students, business visitors, family members of residents, and so forth out of a total of 423,000 foreigners in total holding residence permits.¹⁷ (See Table 6.) As legal residents, they do not fall under the protection regime. These individuals enter, usually by air, with valid passports under visa liberalization regimes, and apply for residence permits in Turkey as legally residing foreigners. Syrians and others who hold residence permits do not benefit from temporary protection or any other protected status, but may change to this status if their permit expires. Table 6 refers to the top nationalities holding residence permits as of 2014.

Table 6: Top nationalities granted residence permits in Turkey, 2015

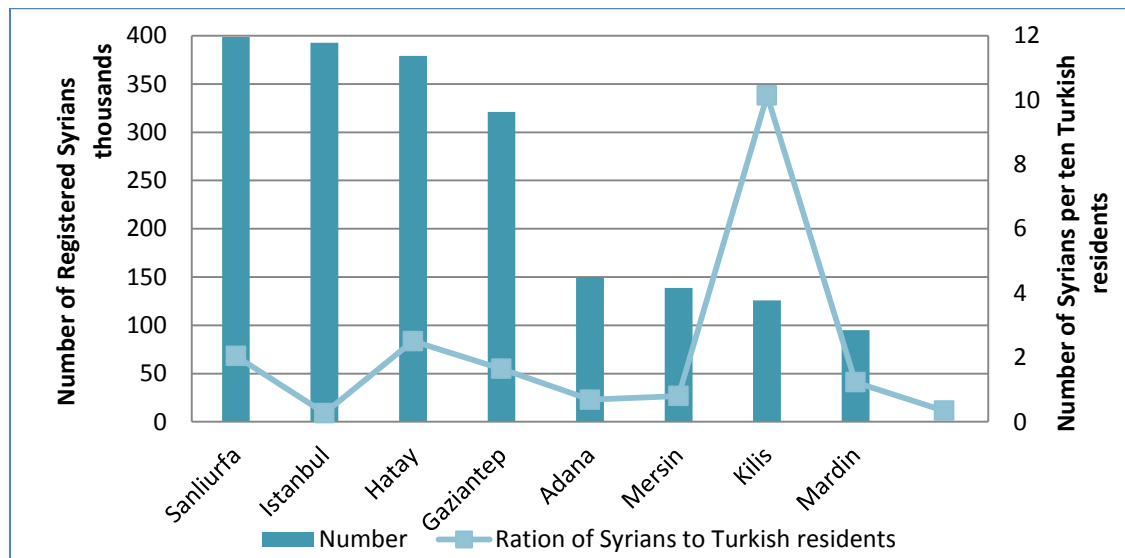
Country	Registered Residence Permits
Iraq	33,202
Syria	32,578
Azerbaijan	32,476
Turkmenistan	22,891
Russia	22,377
Total, all nationalities	422,895

Source: Türkiye Cumhuriyeti İçişleri Bakanlığı Göç İdaresi Genel Müdürlüğü (DGMM), "Residence Permits," accessed August 25, 2016, http://www.goc.gov.tr/icerik3/residence-permits_915_1024_4745.

¹⁷ IOM, "Mixed Migration Flows in the Mediterranean and Beyond: Compilation of Available Data and Information, Reporting Period 28 July – 10 August 2016," updated August 11, 2016, <http://migration.iom.int/docs/WEEKLY%20Flows%20Compilation%20No22%2011%20August%202016.pdf>.

Non-Syrians who register for protection in Turkey are assigned to one of 62 satellite cities.¹⁸ Syrians have the ability to register where they choose, and have registered mainly in cities near the southern border and in Istanbul. Given the large number of Syrian arrivals, the tremendous population growth in certain municipalities over the course of several years has strained public resources. Figure 11 illustrates the top Syrian-hosting provinces in Turkey both by number and relative to the Turkish population. With the exception of Istanbul, all provinces highlighted are in the Southeast and Mediterranean regions of the country.

Figure 11: Registered Syrians, by number and ratio relative to Turkish population in Turkish Host Cities with the largest Syrian populations, May 2016



Source: DGMM, "Geçici Koruma," data updated as of June 23, 2016 [accessed July 66, 2016], http://www.goc.gov.tr/icerik3/gecici-koruma_363_378_4713.

3.1.2. Legal Frameworks for Forced Migrants

Turkey is a signatory to the 1951 Refugee Convention, joining in 1962, but has long maintained the original geographic limitations of the Convention which restricted refugee status to people whose need for protection derives from events occurring in European countries.¹⁹ Despite its status as a Convention signatory, Turkey historically lacked a robust national asylum regime, and has long relied on UNHCR to process and adjudicate asylum claims. Extensive changes to the legal and institutional framework that guides policies on forced migrants in Turkey over the last three years have sought to address this deficit.

The most far-reaching of recent reforms was the adoption of a "Law on Foreigners and International Protection" (Law No. 6548). Preparation of the Law began in 2008 in the context of Turkey's application for membership in the European Union, with a draft presented to the Prime Ministry at the end of 2011. It was adopted in April 2013, and Part 5 of the Law, establishing the Directorate General of Migration Management (DGMM), came into force

¹⁸ Sığınmacılar ve Göçmenlerle Dayanışma Derneği (SGDD) / Association for Solidarity with Asylum Seekers and Migrants (ASAM), *Current Situation in Turkey: Asylum Seekers and Refugees*.

¹⁹ The Turkish government maintained this restriction even after becoming party to the 1967 Protocol which removed the Convention's geographic and temporal limitations.

immediately (although the agency became operational only one year later). The other four substantive sections came into force one year later.²⁰

Article I of the Law states:

“The purpose of this Law is to regulate the principles and procedures with regard to foreigners’ entry into, stay in and exit from Turkey, and the scope and implementation of the protection to be provided for foreigners who seek protection from Turkey, and the establishment, duties, mandate and responsibilities of the Directorate General of Migration Management under the Ministry of the Interior.”²¹

Crucially for forced migrants, Article 4 of the Law on nonrefoulement provides that “No one within the scope of this Law shall be returned to a place where he or she may be subjected to torture, inhuman or degrading punishment or treatment or, where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”²² In practice, Turkey respects the obligation of nonrefoulement and was providing protection to more than 2.7 million people by the end of 2015.²³

The Law on Foreigners and International Protection provides several different types of status which provide virtually everyone who has protection in Turkey with temporary protection.

While *refugee protection* is available under the Law—and Article 4 brings Turkey’s domestic law into conformity with both the 1951 Refugee Convention and the Convention against Torture—the Law contains one crucial caveat: full refugee status continues to be limited to those fleeing events in Europe (Article 61). Under the law, people whose fear derives from events outside of Europe may be granted *conditional refugee status*, which allows them to “reside in Turkey temporarily until they are resettled in a third country” (Article 62). A third status, *subsidiary protection*, applies to people who do not qualify as refugees or conditional refugees but who nonetheless would face threats from generalized violence, or be subject to torture or the death penalty, if they were returned to their countries of origin (Article 63).²⁴ Forced migrants from Iraq are the largest group with subsidiary protection. Article 91 of the Law on Foreigners and International Protection provides the basis for establishing a *temporary protection* regime for people who arrive in a mass influx seeking “immediate and temporary protection;” temporary protection is granted on a *prima facie* basis.

On October 22, 2014, the government signed a Temporary Protection Regulation that applies the temporary protection mechanism to Syrians in Turkey.²⁵ The Temporary Protection Regulation establishes the procedures, rights and benefits of people arriving in Turkey as part of a mass influx, which is declared by the Council of Ministers. People registered as Temporary Protection beneficiaries are not permitted to apply simultaneously for refugee status

²⁰ The other four sections of the Law deal with 1) Purpose, Scope, Definitions and Nonrefoulement; 2) Foreigners; 3) International Protection; and 4) Common Provisions Regarding Foreigners and International Protection. Turkey Migration, Republic of Turkey Ministry of Interior, Directorate General of Migration Management, Publishing No. 19, Ankara, September 2014.

²¹ Law on Foreigners and International Protection (unofficial translation), Republic of Turkey Ministry of Interior, Directorate General of Migration Management, Publishing No. 8, Ankara, May 2014, http://www.goc.gov.tr/files/files/eng_minikanun_5_son.pdf.

²² Ibid.

²³ UNHCR, *Global Trends: Forced Displacement in 2015*, (Geneva: UNHCR, 2016), <https://s3.amazonaws.com/unhcrsharedmedia/2016/2016-06-20-global-trends/2016-06-14-Global-Trends-2015.pdf>.

²⁴ The definition of Subsidiary Protection in the Law on Foreigners and International Protection aligns closely with that laid out under EU law. See EU Directive 2011/95/EU, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0095>.

²⁵ Provisional Article 1 states directly that Syrians fall under this regime.

according to the Regulation (Article 16). The Regulation reiterates the principle of nonrefoulement, while making clear that beneficiaries are excluded from the possibility of long-term legal integration in Turkey (Article 25). With the registration documents specified by the Regulation, temporary protection beneficiaries may access public education and health services, and apply for work permits.

Unlike Syrians under temporary protection, applicants for refugee, conditional refugee, and subsidiary protection statuses must go through an individual status determination procedure. Thus, Syrians and non-Syrians are processed using different procedures that lead to separate statuses and divergent possible outcomes of their protection requests. Non-Syrian asylum seekers enter the International Protection procedure, where they register with both UNHCR and DGMM, and undergo individual refugee status determination (RSD) with the ultimate outcomes being resettlement or return—although it may be many years before either one of these options is available. Currently, those registering under this procedure face waiting times of up to eight years for RSD interviews with UNHCR. During this time, they are permitted to stay in designated satellite cities in Turkey with basic rights and protections. The Law on Foreigners specifies that an application for international protection is to be concluded within six months of being filed; however, given the overwhelming number of people seeking protection in Turkey, and how recently the DGMM system was established, some applications take longer. Applicants are notified of a future date on which their case will be decided, and are protected in the meantime.

Non-Syrian asylum seekers generally register first with UNHCR or its contractor, SGDD/ASAM (Association for Solidarity with Asylum Seekers and Migrants), and are instructed to report to a designated province to register with the Provincial DGMM Directorate (PDMM). (The registration with and guidance provided by UNHCR are not legally binding under Turkish law although it is generally respected, and foreigners can register in the provinces without having registered with UNHCR.) It is often the case that asylum seekers register only with UNHCR, and do not report to the designated PDMM, thus making the numbers of registered asylum applicants with UNHCR significantly higher than the number of people under the DGMM international protection procedure. Table 7 below reflects the leading populations of non-Syrian asylum applicants registered with UNHCR. The four countries with the most nationals seeking asylum in Turkey are all OIC member countries.

Table 7: Non-Syrian asylum seekers and refugees registered with UNHCR, by nationality, April 2016

Country	Registered Asylum Seekers and Refugees
Iraq	123,075
Afghanistan	105,607
Iran	26,028
Somalia	3,889
Other	7,780
TOTAL	266,379

Source: UN High Commissioner for Refugees (UNHCR), BM Mülteciler Yüksek Komiserliği (BMMYK), "2016 UNHCR Türkiye Aylık İstatistikleri," accessed May 5, 2016, [http://www.unhcr.org/turkey/uploads/root/tr\(44\).pdf](http://www.unhcr.org/turkey/uploads/root/tr(44).pdf).

The creation of DGMM is, however, the key to Turkey's implementation of its policies toward foreigners, including those benefitting from international protection. The consolidation of all these functions in a single agency gives the government of Turkey the means to implement a

coherent migration policy. DGMM's broad authority is described in Articles 103 and 104 of the Law on Foreigners and International Protection: Its purpose is "to implement migration policies and strategies, ensure coordination among relevant agencies and organizations, and carry out functions and actions related to the entry, stay and exit of foreigners in Turkey as well as their removal, international protection, temporary protection, and the protection of cities of human trafficking." Unsurprisingly, at less than three years old and in the midst of an unprecedented migration crisis, DGMM has yet to fully develop the capacity to fulfill all of its many roles and has given priority to some, such as registration of the several categories of protected persons.

One example of the challenges facing DGMM is seen in its control of the movement of protection beneficiaries. All protection beneficiaries have their health and education benefits tied to residence in their province of registration. However, international protection applicants (non-Syrians) are required to report to the PDMM of their assigned province on a weekly basis, with failure to do so resulting in an "implicit withdrawal" of their application for protection.²⁶ Article 33 of the Temporary Protection Regulation similarly authorizes provincial governorates to introduce reporting requirements for temporary protection beneficiaries.²⁷ To date, however, no such requirements have been introduced due to the sheer number of Syrians under protection, and overburdening of DGMM Provincial Directorates with initial registration duties.²⁸ Similarly, shortages of trained staff contribute to processing backlogs.

Challenges to ensuring an efficient protection regime have also arisen in the judicial branch of government. This field is currently experiencing a severe lack of judges and lawyers familiar with refugee law, since it is not taught in any Turkish law school, and landmark international asylum decisions still await translation into Turkish.²⁹ Furthermore, local bar associations have been tasked with providing free legal aid (*Adli Yardım*) for protection applicants who cannot hire their own representation, but these associations often lack expertise, and funding for translators and court fees.³⁰

The Law on Foreigners and International Protection specifies that the Ministry of the Interior "may cooperate with the United Nations High Commissioner for Refugees, International Organization for Migration, and other international organizations and non-governmental organizations for issues related to the international protection procedures set out in this Part [of the Law]...." (Article 92). Prior to the Law, UNHCR long had assisted the Turkish National Police, Department of Foreigners by undertaking status determination for protection applicants, but is gradually handing this function over to DGMM and its provincial branches as capacity to take on the function is developed. UNHCR worked closely with the Turkish authorities to develop the Law and has continued to provide support for its implementation

²⁶ Refugee Rights Turkey, *Country Report: Turkey* (AIDA Asylum Information Database, December 2015), 82, http://www.asylumineurope.org/sites/default/files/report-download/aida_tr_update.i.pdf.

²⁷ Article 71 of the Law on Foreigners and International Protection specifies the reporting requirement; applicants who fail to fulfill it three times in a row, without being formally excused, will have their applications withdrawn. They are notified at every stage of the procedure and have access to the administrative review and judicial appeal. Communication from DGMM comment, received August 1, 2016.

²⁸ Refugee Rights Turkey, *Country Report: Turkey*, 129.

²⁹ Metin Çorabatır (President, İltica ve Göç Araştırmaları Merkezi, Ankara) in conversation with Kathleen Newland, May 2, 2016; Orçun Ulusoy, "Turkey as a Safe Third Country?" March 29, 2016, accessed May 5, 2016, <https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2016/03/turkey-safe-third>.

³⁰ Refugee Rights Turkey, *Country Report: Turkey*, 101, 121; Metin Çorabatır in conversation with Kathleen Newland, May 2, 2016.

across a wide range of protection issues. IOM also advises and supports the Government in drafting and implementing migration-related legislation. For example, it has analyzed the extent to which Turkish laws comply with international labor migration norms, and analyzed the demand for foreign labor in various sectors of the Turkish economy. Like IOM, the International Center for Migration Policy Development (ICMPD) is helping Turkey to build its capacity for migration management. In particular, it supports the institutional development and operational capacity of the DGMM.

With a few noteworthy exceptions, governmental cooperation with local and international NGOs has often been somewhat tense. In the early days of the Syrian refugee crisis, when the flows were expected to be temporary, the Turkish government was confident that it could manage the situation single-handedly, through its Disaster and Emergency Management Presidency (AFAD) in partnership with the Turkish Red Crescent (*Kızılay*). AFAD was designated as the national coordinating body for the crisis, which as noted, was expected to be short-lived. As the numbers seeking protection exceeded the capacity of the "temporary accommodation centers" (refugee camps) established and run by AFAD, NGOs filled many of the gaps in services, particularly at the local level.

Coordinating the activities of various government agencies is particularly challenging, both among central government agencies and between Ankara and the provincial governorates. Several different agencies in the central government have obligations toward forced migrants, which they are struggling to fulfill. In addition, policies providing for basic rights and benefits of protection (such as access to health care, education, and employment services) are formulated by national policymakers in Ankara. They are then implemented by the provincial directorates (*İl Müdürlükleri*) of national ministries across Turkey's 81 provinces, which in some cases reveal limited understanding of the relevant directives and operate with little oversight.³¹

Briefly, a special advisor to the Prime Minister held widely appreciated regular meetings with the line ministries with responsibilities toward forced migrants as well as with NGOs, but the position was abolished in April, 2016. The Deputy Prime Minister with responsibility for AFAD was then assigned broad responsibility for forced migrants, indicating that AFAD, the coordinating body for emergency response, would take on wider functions, but a cabinet reshuffle in May 2016 left that arrangement in doubt. DGMM, throughout, retains the legal mandate for immigration and protection, and the Law on foreigners identifies coordination as one of DGMM's responsibilities. However, some confusion persists because the Temporary Protection Regulation (Article 26/4) mentions that services provided by governmental bodies for foreigners under temporary protection are coordinated by AFAD. Lack of coordination is an obstacle to efficient and effective management of forced migration in Turkey.

3.1.3. Poverty Alleviation Efforts

Despite progressive legislation and generous provisions for access to social benefits, many Syrians under temporary protection in Turkey exhibit some of the most visible manifestations of poverty: informal work for substandard wages, child labor, crowded and substandard housing, limited access to health care and education, and early or forced marriages.

Although most Syrian families in Turkey have at least one member working, nearly all Syrians are underpaid for their labor due to the lack of formal employment, and the abundance of workers in the informal sector. Along with the high cost of living in Turkish cities, this

³¹ Mert Öcal (Türkiye İş Kurumu Genel Müdürlüğü) in conversation with Kathleen Newland, May 2, 2016.

phenomenon perpetuates the poverty of Syrian families, just as it affects poor, native-born Turkish citizens.

Child labor is a common survival strategy for Syrian families in Turkey.³² Child workers are often preferred to adults in textiles and agriculture because they can be paid lower wages.³³ The need for children to provide for their families has robbed many of the opportunity to attend school, thus raising the fear of a “lost generation” of uneducated Syrian children.³⁴

To alleviate the poverty of struggling forced migrant populations in Turkey, the most urgent needs are in the areas of housing, health, employment, and education.

Housing

Accommodation in a host country is a basic need of forced migrants, but in Turkey, the state provides housing for only those who stay in refugee camps, known as Temporary Accommodation Centers. For Syrian beneficiaries of temporary protection, 26 Temporary Accommodation Centers of a very high standard have been constructed, altogether housing 257,713 individuals as of June 2016.³⁵ The Temporary Accommodation Centers are funded and run by AFAD. Kızılay (The Turkish Red Crescent Society) and the World Food Programme provide food assistance of USD 17 per person each month to 150,000 residents in 11 camps. These camps provide shelter, food, primary health care, education, vocational training, and a monthly allowance as well as amenities such as playgrounds and laundry rooms.³⁶ However, the camps only accommodate 9.5 percent of the Syrian population, and AFAD has a long waiting list of people who want to move in but cannot do so owing to the lack of additional housing. Some Syrians perceive opportunities (for education, for example) to be better than those available outside the camps, while others reportedly choose not to live in camps due to crowding, restrictions on mobility, and a preference to seek work opportunities.³⁷ For non-Syrians, there are two Reception and Accommodation Centers: one in Yozgat with a capacity of 100, and another in Erzurum with capacity for 750.³⁸ Outside the camps, non-Syrian and Syrian forced migrants are expected to find and finance their own housing, and often end up with several families in small, squalid spaces on the outskirts of large cities.

In addition to housing, Turkey permits applicants for international protection to apply to the Social Solidarity and Assistance Foundations for financial aid, which may help to cover rent payments or other needs. Non-Syrians may also apply for assistance to DGMM. In practice, however, these organizations are overwhelmed by other tasks and lack of funds, and have

³² Human Rights Watch, *When I Picture My Future, I See Nothing*.

³³ Daryl Grisgraber and Ann Hollingsworth, *Planting the Seeds of Success? Turkey's New Refugee Work Permits*, (Refugees International Field Report, April 14, 2016), 5, <http://static1.squarespace.com/static/506c8ea1e4b01d9450dd53f5/t/570ebcf01bbee0bc27a2fdb5/1460583665950/20160414+Turkey.pdf>.

³⁴ Kirişçi and Ferris, *Not Likely to Go Home*. 11.

³⁵ As of 19 May 2016, the number of Syrian refugees in camps is 9.5 percent of the total Syrian population in Turkey. See Türkiye Cumhuriyeti Başbakanlık Afet ve Acil Durum Yönetimi Başkanlığı (AFAD), “Barınma Merkezlerinde Son Durum,” accessed May 24, 2016, <https://www.afad.gov.tr/tr/IcerikDetay1.aspx?ID=16&IcerikID=848>; DGMM, “Geçici Koruma,” accessed May 5, 2016.

³⁶ Osman Bahadır Dinçer et al., *Turkey and Syrian Refugees: The Limits of Hospitality* (Washington, DC: Brookings, 2013), 12, [http://www.brookings.edu/~media/research/files/reports/2013/11/18-syria-turkey-refugees/turkey-and-syrian-refugees-the-limits-of-hospitality-\(2014\).pdf](http://www.brookings.edu/~media/research/files/reports/2013/11/18-syria-turkey-refugees/turkey-and-syrian-refugees-the-limits-of-hospitality-(2014).pdf).

³⁷ Communication from COMCEC, July 1, 2016; Metin Çorabatır, *The Evolving Approach to Protection in Turkey: Assessing the Practical and Political Needs* (Washington, DC: Migration Policy Institute, 2016), 16. (forthcoming)

³⁸ Refugee Rights Turkey, *Country Report: Turkey*, 75.

provided financial assistance to few foreign beneficiaries.³⁹ NGOs have generally stayed away from housing issues since they lack funds and space to provide shelter en masse.

Employment

As of May 2016, nearly all Syrian employment was in the informal labor market in textile manufacture, construction, agriculture, and services where Syrians are subject to exploitation and sub-minimum wages that make it difficult for them to support their families.⁴⁰

According to the 2013 Law on Foreigners and International Protection and the 2014 Temporary Protection Regulation, beneficiaries of protection in Turkey have the right to apply for work permits.⁴¹ The Regulation on Work Permits of Foreigners Under Temporary Protection, published on 11 January 2016, serves as the implementing regulation for this stipulation, outlining the procedures and conditions for providing work permits to registered Syrians.⁴² The Fair Labor Association in Turkey estimates that up to 500,000 Syrians are eligible for work permits under the new Regulation, but no comprehensive information has been disseminated on the number of work permits granted.⁴³

The work permit directive stipulates that Syrians who have been registered Temporary Protection beneficiaries for more than six months may be granted work permits by the Ministry of Labor and Social Security (*Çalışma ve Sosyal Güvenlik Bakanlığı*) upon application by their employers or themselves. It is not applicable to refugees and asylum seekers who are not under the Temporary Protection regime. Workers in seasonal agriculture and animal husbandry are exempt from the need to obtain work permits. Those in education and medicine must have their qualifications vetted by the line ministry in their sector before applications are considered.⁴⁴ It is precisely in these professional sectors where the Turkish economy most needs legal workers—and yet unqualified people cannot be allowed to take on professional responsibilities. Additional investments may be needed to increase the pace of verification of qualifications.

While the work permit regulation is a significant step toward the formalization of Syrian workers there remain three key obstacles to widespread implementation of the law. First, temporary protection beneficiaries must have their applications submitted by their employer.⁴⁵ Employers in marginal enterprises have little incentive to apply, since they would have to pay formalized employees at least the minimum wage, and lack of regular monitoring

³⁹ Refugee Rights Turkey, *Country Report: Turkey*, 73-74.

⁴⁰ See ORSAM and TESEV, *Effects of the Syrian Refugees in Turkey*, ORSAM Report no. 195, (Ankara: ORSAM, 2015), <http://architecturalnetworks.research.mcgill.ca/assets/effects-of-the-syrian-refugees-on-turkey-min.pdf>; Daryl Grisgraber and Ann Hollingsworth, *Planting the Seeds of Success? Turkey's New Refugee Work Permits*, (Washington, DC: Refugees International, 2016, <http://static1.squarespace.com/static/506c8ea1e4b01d9450dd53f5/t/570ebcf01bbee0bc27a2fdb5/1460583665950/20160414+Turkey.pdf>.

⁴¹ Article 89-4, Law on Foreigners and International Protection (unofficial translation), Republic of Turkey Ministry of Interior, Directorate General of Migration Management; Article 29, Geçici Koruma Yönetmeliği (Temporary Protection Regulation), Government of Turkey, October 22, 2014, <http://www.resmigazete.gov.tr/eskiler/2014/10/20141022-15-1.pdf>.

⁴² Geçici Koruma Sağlanan Yabancıların Çalışma İzinlerine Dair Yönetmelik (Regulation regarding the Work Permits of Foreigners under Temporary Protection), Presidency of the Republic of Turkey, January 11, 2016, <http://www.resmigazete.gov.tr/eskiler/2016/01/20160115-23.pdf>.

⁴³ Alpay Çelikel (Regional Manager, EMEA, Fair Labor Association) and Burcu Kuğu Bolak (Project Manager for the USDOL Turkey Project, Fair Labor Association) in conversation with Kathleen Newland, May 5, 2016.

⁴⁴ Geçici Koruma Sağlanan Yabancıların Çalışma İzinlerine Dair Yönetmelik (Regulation regarding the Work Permits of Foreigners under Temporary Protection), Presidency of the Republic of Turkey, January 11, 2016.

⁴⁵ Grisgraber and Hollingsworth, *Planting the Seeds of Success? Turkey's New Refugee Work Permits*, 4.

of labor practices by authorities has meant employers feel little pressure to do so.⁴⁶ Second, the work permit directive includes a minimum quota of Turkish workers in all places of employment that employ Syrians, and further requires businesses to cap the share of temporary protection beneficiaries in their workforce at 10 percent.⁴⁷ (The regulation implementing the law requires has a lower cap, however, of five Turkish citizens per one foreign worker.⁴⁸) These quotas might force business owners to either fire Syrians or hire more Turks in order to keep the ratio within government stipulations. As of May 2016, however, sources did not believe that either the requirement to employ five Turks for every foreigner, or the 10 percent cap has been enforced.⁴⁹ Third, Syrians have little information about their rights and the benefits of applying for work permits.⁵⁰

The role of non-governmental actors in facilitating employment has been mostly confined to training and job placement, occurring at multi-service centers and local NGO offices in large cities near the border and in Istanbul. NGOs such as the Fair Labor Association and SGDD/ASAM have created and distributed guides to inform protection beneficiaries about their rights, and the Syrian Forum has organized three-day training courses to help individuals understand their opportunities in local labor markets.⁵¹ Despite the stated objective of the 3RP Syrian Regional Response Program, of which Turkey is a part, to involve the private sector in generating stable employment for Syrian refugees, there have been very few private sector partnerships to promote legal employment for Syrians.⁵²

As the Turkish labor market shifts with the flood of informal Syrian workers, related policies have had varying effects. In January 2016, the national government raised the minimum wage by 30 percent to USD 440, a move that was said to benefit 5 million workers, but is also thought to have resulted in the loss of 40,000 jobs in the textile industry and 30,000 in agriculture.⁵³ It is not hard to imagine that many of these jobs were phased out in favor of informal contracts for Syrian workers at far lower wages. On the other hand, establishing a new business is simple under Turkish law, which has created a new stream of employment and investment in the country.⁵⁴

Education

The Turkish government has recognized that whether temporary protection beneficiaries stay in Turkey for generations or return home in the next few years, the education of young people is critical to the creation of a sustainable future. The right of all children to obtain formal education is codified in Article 42 of the Turkish Constitution.⁵⁵ The Ministry of Education has

⁴⁶ Serhan Alemdar (MALUMAT Program Advisor, Mercy Corps) in conversation with Kathleen Newland, May 2, 2016; Dr. Ammar Kahf (Executive Director, OMRAN) in conversation with Kathleen Newland, May 5, 2016.

⁴⁷ Geçici Koruma Sağlanan Yabancıların Çalışma İzinlerine Dair Yönetmelik (Regulation regarding the Work Permits of Foreigners under Temporary Protection), Presidency of the Republic of Turkey, January 11, 2016.

⁴⁸ Item 13 of the regulation on Law 4817. Communication from Ministry of Economy, August 17, 2016.

⁴⁹ Dr. Ammar Kahf, in conversation with Kathleen Newland, May 5, 2016.

⁵⁰ Grisgraber and Hollingsworth, *Planting the Seeds of Success? Turkey's New Refugee Work Permits*.

⁵¹ Alpay Çelikel and Burcu Kuğu Bolak, in conversation with Kathleen Newland, May 5, 2016; İbrahim Vurgun Kavlak, in conversation with Kathleen Newland, May 5, 2016.

⁵² Alp Biricik, in conversation with Kathleen Newland, May 6, 2016.

⁵³ "Timing problem with Turkey's minimum wage hike," *Hürriyet Daily News*, January 8, 2016,

<http://www.hurriyetdailynews.com/timing-problem-with-turkeys-minimum-wage-hike.aspx?PageID=238&NID=93572&NewsCatID=540>; Alpay Çelikel and Burcu Kuğu Bolak, in conversation with Kathleen Newland, May 5, 2016.

⁵⁴ "FT: Suriyeliler yatırımlarıyla Türkiye ekonomisine katkı sağlıyor," *BBC Türkçe*, May 17, 2016,

http://www.bbc.com/turkce/haberler/2016/05/160517_ft_suriye_yatirimci_multeci; Dr. Ammar Kahf, in conversation with Kathleen Newland, May 5, 2016.

⁵⁵ Refugee Rights Turkey, *Country Report: Turkey*, 85.

committed to helping Syrians graduating from high school to attend university in Turkey by providing preparatory language courses, exempting them from taking university entrance exams, and providing 1,000 university scholarships per year through the Presidency of Turks Abroad and Related Communities.⁵⁶ Eight universities in south and southeast Turkey are participating in this initiative.⁵⁷

For the past several years, Syrian children have had the option of attending three types of schools: Turkish public schools, Temporary Education Centers (TECs), and community religious schools. Turkish public schools are free, but they are, naturally, conducted completely in Turkish. Few educators have training in bilingual education or know how to accommodate children who have been traumatized by war and displacement.⁵⁸ Under the Ministry of National Education (MoNE) Circular of Foreigners' Access to Education (2014/21), Temporary Education Centers are supervised by the MoNE's provincial directorates and are taught by Syrian teachers using adapted (usually Libyan) curricula. Many are supported by UNICEF, international donors, and other NGOs.⁵⁹ These schools suffer from a lack of funding, rely on teachers to volunteer their time, and their diplomas are not accredited by the Ministry of National Education.⁶⁰ Finally, community-based religious schools are unaccredited learning centers without supervision over content or quality.⁶¹ It has been estimated that during the 2014-2015 school year 36,655 Syrian students outside Temporary Accommodation Centers attended Turkish Public Schools and 101,257 attended TECs.⁶²

Due to increasing worries over the content and quality of Temporary Education Centers, the Ministry of National Education has decided to phase out these institutions, starting by mandating that all new kindergarten and first-grade students attend Turkish primary schools.⁶³ Doing away with TECs may have two critical consequences. Firstly, Syrian students will become more integrated in Turkish society, and might lose the Arabic language skills of their parents. This will perhaps make an eventual return to Syria more difficult, contravening the ultimate objective of the Temporary Protection Regulation. Secondly, the burden of integrating 700,000 new students into the public school system has been estimated to require 35,000 new teachers and 25,000 classrooms at a cost of at least USD 560 million.⁶⁴ This process is even more burdensome given the 2012 Education Reform Bill, which added more children to the public school system in border provinces by raising the length of compulsory education from eight to twelve years.⁶⁵

Turkish public schools will undoubtedly be strained by the phasing out of TECs, especially given that most Syrian families live in poor neighborhoods, with the lowest quality of

⁵⁶ Soner Cagaptay and Bilge Menekse, *The Impact of Syria's Refugees on Southern Turkey, Revised and Updated* (The Washington Institute for Near East Policy, Policy Focus 130, July 2014), 11, https://www.washingtoninstitute.org/uploads/Documents/pubs/PolicyFocus130_Cagaptay_Revised3s.pdf ; ORSAM and TESEV, *Effects of the Syrian Refugees on Turkey*, 35; Metin Çorabatur, in conversation with Kathleen Newland, May 25, 2016.

⁵⁷ Communication from the Ministry of the Economy, August 16, 2016.
⁵⁸ Human Rights Watch, *'When I Picture My Future, I See Nothing.'*

⁵⁹ MoNE 2014/21; World Bank, *Turkey's Response to the Syrian Refugee Crisis and the Road Ahead*, 7.

⁶⁰ Shelley Culbertson and Louay Constant, *Education of Syrian Children: Managing the Crisis in Turkey, Lebanon and Jordan* (Santa Monica, California: Rand Corporation, 2015), 32, http://www.rand.org/pubs/research_reports/RR859.html; Istanbul Multi-Service Center, in conversation with Kathleen Newland, May 6, 2016.

⁶¹ Shelley Culbertson and Louay Constant, *Education of Syrian Children*, 17.

⁶² Human Rights Watch, *'When I Picture My Future, I See Nothing.'*

⁶³ M. Murat Erdoğan (Associate Professor, Hacettepe University) in conversation with Kathleen Newland, May 3, 2016; World Bank, *Turkey's Response to the Syrian Refugee Crisis and the Road Ahead*, 7.

⁶⁴ M. Murat Erdoğan, in conversation with Kathleen Newland, May 3, 2016; Human Rights Watch, *'When I Picture My Future, I See Nothing.'*

⁶⁵ Human Rights Watch, *'When I Picture My Future, I See Nothing.'*

education even before they arrived.⁶⁶ One key positive of phasing out TECs is that the quality and content of education will be more easily monitored. However, it is uncertain how relevant the content of mainstream Turkish schools will be for Syrian students who ultimately return home under the provisions of the Temporary Protection Regulation. The capacity of Turkish teachers will also be tested by the influx of new students who must overcome initial language barriers and cultural differences.

A final key barrier to the provision of quality education to all Syrian children is that dropping out is a common phenomenon. Many Syrian children enroll in school, but do not attend regularly due to the lack of a stable home life, poor living conditions, constant movement from one accommodation to another, and the need to work.⁶⁷

International donors and NGOs continue to play a large role in the education and training of forced migrants in Turkey. With a total expenditure of nearly USD 57 million by the end of 2015, UNICEF made a significant financial and technical contribution to the construction and management of Temporary Education Centers by constructing of 31 schools (managed together with the Ministry of National Education), incentivizing Syrian volunteer teachers, and providing technical expertise to create the Education Management Information System for Foreigners (YOBIS).⁶⁸ The Human Resources Development Foundation (İKGV) and SGDD/ASAM Multi-Service Centers (*Çok Yönlü Destek Merkezleri*) provide vocational training courses and after-school activities to build on children's formal education.⁶⁹ The think tank İGAM (*İltica ve Göç Araştırma Merkezi*) is working on a project to create an integration tool based on that developed by the European Union for the integration of Bulgarian and Romanian students to EU education standards when their countries joined the EU.⁷⁰ Finally, the Yunus Emre Institute is responding to the extraordinary need for formal training in Turkish as a second language by developing a full course that can be taught in various teacher training institutions around the country.⁷¹

Health

Free healthcare is provided to all registered beneficiaries of protection in Turkey including medical consultations, procedures, and medicine prescribed by a licensed provider. (Turkish citizens have to pay for medicine.) As of June 2016, 16.7 million consultations, 1.7 million hospital treatments, 152,000 births, and 687,000 operations have been performed by Turkish medical practitioners for protected Syrians.⁷² Health care access for Syrians commenced with a 2013 AFAD Communique calling for free access to health services in 11 border provinces.⁷³ This was then expanded so that Syrians under temporary protection with a Foreigner Identification Number could benefit from healthcare in any province where they were registered.⁷⁴

⁶⁶ Kemal Kirişçi, *Syrian Refugees and Turkey's Challenges: Going Beyond Hospitality*.

⁶⁷ World Bank, *Turkey's Response to the Syrian Refugee Crisis and the Road Ahead*, 8; Metin Çorabatır, *The Evolving Approach to Protection in Turkey*, 20; Serhan Alemdar, in conversation with Kathleen Newland, May 2, 2016..

⁶⁸ UNICEF, *UNICEF Annual Report 2015: Turkey*,

http://www.unicef.org/about/annualreport/files/Turkey_2015_COAR.pdf. Shelley Culbertson and Louay Constant, *Education of Syrian Children*, 31.

⁶⁹ Interview with İKGV, İstanbul Çok Yönlü Destek Merkezi, Tarlabası

⁷⁰ Metin Çorabatır, in conversation with Kathleen Newland, May 2, 2016.

⁷¹ Interview with Turkish Development Ministry, 2 May 2016

⁷² AFAD, "Giris," accessed July 8, 2016, <https://www.afad.gov.tr/TR/IcerikDetay1.aspx?IcerikID=747&ID=16>

⁷³ Osman Bahadır Dinçer et al., *Turkey and Syrian Refugees: The Limits of Hospitality*, 18.

⁷⁴ Metin Çorabatır, *The Evolving Approach to Protection in Turkey*, 17.

All protection beneficiaries are allowed to access primary and secondary medical services spontaneously and free of charge, and tertiary services with a referral or in case of an emergency.⁷⁵

The mass influx of forced migrants has overburdened hospitals, leading some medical providers to seek transfers out of the region due to overwork.⁷⁶ The logical group to relieve the burden would be Syrian doctors, who have both medical training and Arabic language skills. However, they still face obstacles to accreditation in Turkey, especially given that many fled without their professional certification documents.⁷⁷ Beginning with a Ministry of Health Directive of November 2015, future policy will aim to create Migrant Health Centers staffed by Syrian doctors, in order to benefit from the skills of migrants themselves and overcome the language barrier between patient and provider, as well as to relieve the overburdening of hospitals in border provinces.⁷⁸ A major contribution toward the goal of establishing Migrant Health Centers has been made by the World Health Organization, which in partnership with the University of Gaziantep has conducted Refugee Doctor Adaptation Training (ReDAT) courses in which 200 Syrian doctors have been trained in Turkish medical procedures.⁷⁹

Both international and local NGOs have made contributions to health services for forced migrants in Turkey. NGOs currently run 16 health facilities providing care to Syrians, and medical kits provided through the WHO have covered 170,000 outpatient treatments.⁸⁰ Large international NGOs (INGOs) initially had difficulty establishing operations in Turkey, but after 2013 the government allowed for full registration of INGOs, which gave them the opportunity to provide first response services in the border regions.⁸¹ INGOs such as International Medical Corps and Mercy Corps, as well as the World Food Programme, currently assist in humanitarian response at the border and work with local partners to establish and manage health centers in border cities and in Istanbul.⁸² It has been noted that sometimes refugees prefer these to official government centers due to lack of trust in Turkish authorities.⁸³ NGOs such as the Danish Refugee Council also provide translation services for forced migrants wishing to navigate the Turkish medical system, and SGDD/ASAM has printed guides that explain how to access active medical facilities in towns where protection beneficiaries reside.⁸⁴

The provision of health services to forced migrants in Turkey faces a wide range of implementation barriers that have yet to be overcome. One critical barrier to successful implementation of policies in the health sector and beyond is the increased waiting time for

⁷⁵ Refugee Rights Turkey, *Country Report: Turkey*, 87, 130.

⁷⁶ Osman Bahadır Dinçer et al., *Turkey and Syrian Refugees: The Limits of Hospitality*, 18.

⁷⁷ Grisgraber and Hollingsworth, *Planting the Seeds of Success? Turkey's New Refugee Work Permits*, 7.

⁷⁸ Hospitals in southern provinces have seen workloads increase by 30-40 percent. See World Bank, *Turkey's Response to the Syrian Refugee Crisis and the Road Ahead*, 9, 11; Grisgraber and Hollingsworth, *Planting the Seeds of Success? Turkey's New Refugee Work Permits*, 7.

⁷⁹ World Bank, *Turkey's Response to the Syrian Refugee Crisis and the Road Ahead*, 9.

http://www.who.int/hac/crises/syr/syria_crisis_snapshot_turkey_june2015.pdf

⁸⁰ World Health Organization, "Country brief and funding request: January to June 2015"

http://www.who.int/hac/crises/syr/syria_crisis_snapshot_turkey_june2015.pdf

⁸¹ Sema Genel, "Turkey and humanitarian assistance" in *Perspectives: Political Analysis and Commentary – Turkey*, Issue 8, April 2014, 43, https://www.boell.de/sites/default/files/perspectives_turkey_8_eng.pdf.

⁸² Cihangir Karabıyık (Director of Turkish Legal Affairs, International Medical Corps - Turkey) in conversation with Kathleen Newland, May 3, 2016; Metin Çorabatur, *The Evolving Approach to Protection in Turkey*, 16; İltica ve Göç Araştırmaları Merkezi (İGAM), *Sivil Toplum Örgütlerinin Türkiye'deki Suriyeli Mülteciler İçin Yaptıkları Çalışmalar İle İlgili Raporu* (İGAM, 2013), 17, <http://www.igamder.org/wp-content/uploads/2012/06/Suriye-STK-Raporu.pdf>.

⁸³ Cihangir Karabıyık, in conversation with Kathleen Newland, May 3, 2016.

⁸⁴ İbrahim Vurgun Kavlak (General Coordinator, SGDD/ASAM) in conversation with Kathleen Newland, May 4, 2016; Refugee Rights Turkey, *Country Report: Turkey*. 131.

forced migrants to complete registration. As of March 2016, Syrians registering for temporary protection must pass through a two-step process of registration with the police and PDMM. Several sources noted that in some cases this process takes between seven and eight months to complete.⁸⁵ Without finishing their registration, temporary protection beneficiaries do not receive Foreigner Identification Numbers, and thus do not have access to non-emergency health care services.⁸⁶

The language barrier is another significant hindrance to efficient medical care. In Turkish public hospitals, the only way to make appointments is by telephone, and hardly any phone operators speak languages other than Turkish. When forced migrants eventually do see the doctor, communication troubles abound; hospitals rarely have the translation capacity to facilitate these visits.⁸⁷

Two other major implementation barriers concern access to and continuity of medical care. It has been reported in several provinces that Syrians are unable to access medical care, either due to overcrowding of hospitals, inattention to circulars on medical care, or an out-of-date Foreigners Identification Number (obtained at registration).⁸⁸ Furthermore, many forced migrants have chronic diseases, often developed or exacerbated by their journey and poor living conditions in Turkey.⁸⁹ Follow-up appointments are extremely important not only for chronic diseases but also for people requiring multi-dose vaccinations for communicable diseases.⁹⁰ Due to scarce housing and job insecurity, Syrians have become increasingly mobile, and there is no system to track who has missed part of their vaccination dosage.⁹¹

3.1.4. Conclusions and Assessment of Impacts of Forced Migration

Costs to Host Communities

When Syrians first arrived in Turkey in 2011, the Turkish government referred to protected Syrians as “guests.” This gave the impression that they would only be staying briefly. Five years later repatriation does not appear any closer. The section below will outline two impacts of the influx of Syrians on Turkish society, followed by several outcomes resulting from the combination of those impacts, negative perceptions, and miscalculation of the Syrians’ length of stay.

The most direct cost to Turkey has been the financial burden undertaken by the government to register and provide services for the nearly 3 million people currently receiving protection, without substantial external assistance. The fact that Syrian refugees went to other countries in the region that are smaller and poorer than Turkey in proportionally larger numbers put

⁸⁵ Alp Biricik (Project Coordinator, Human Resources Development Foundation (İKGV) – Esenler) in conversation with Kathleen Newland, May 6, 2016; Istanbul Multi-Service Center (İstanbul Çok Yönlü Destek Merkezi) in conversation with Kathleen Newland, May 6, 2016; Pascale Moreau, (UNHCR Representative in Turkey) in conversation with Kathleen Newland, May 3, 2016.

⁸⁶ Refugee Rights Turkey, *Country Report: Turkey*, 132.

⁸⁷ Refugee Rights Turkey, *Country Report: Turkey*, 131.

⁸⁸ Refugee Rights Turkey, *Country Report: Turkey*, 131; Osman Bahadır Dinçer et al., *Turkey and Syrian Refugees: The Limits of Hospitality*, 18.

⁸⁹ Kemal Kirişçi, *Syrian Refugees and Turkey's Challenges: Going Beyond Hospitality*.

⁹⁰ The Children's Hospital of Philadelphia, “Vaccine Safety: Dosing Safety,” accessed May 23, 2016, <http://www.chop.edu/centers-programs/vaccine-education-center/vaccine-safety/dosing-safety#.V0SzPISDFBc> ; Sarah Klein, “Why Some Vaccines Require More Than One Dose,” *The Huffington Post*, February 7, 2015, http://www.huffingtonpost.com/2015/02/07/more-than-one-dose-vaccines_n_6632776.html.

⁹¹ Ezra Özpınar, *How Does The Syrian Refugee Crisis Affect Public Health in Turkey?* (Economic Policy Research Foundation of Turkey (TEPAV), April 2016), <http://www.tepav.org.tr/upload/files/1461074810-2.How Does the Syrian Refugee Crisis Affect Public Health in Turkey.pdf>.

Turkey at a disadvantage in the competition for international humanitarian aid. The Turkish government has spent as much as USD 10 billion on humanitarian assistance and in the establishment of its protection regime.⁹² However, as of June 2016, it said it had received only USD 455 million from the international community.⁹³ Funds pledged under the EU-Turkey statement may change this calculus substantially if the statement is fully implemented, but as of June 2016 the flow of funds was as yet only a trickle.⁹⁴ In addition to Turkey-specific funding requirements, UNHCR programs affecting Turkey have also been underfunded. The 3RP Regional Refugee Resilience Plan was over 60 percent unfunded for 2015-2016.⁹⁵ Without funding, Turkey will have difficulty implementing and monitoring programs for poverty alleviation among protected populations.

The strains on local Turkish communities resulting from absorbing millions of refugees and asylum seekers have been especially acute. Newcomers are seen in many cities as culturally distinct, and expectations about the length of their stay have been wildly inaccurate.⁹⁶

The first evident impact of the mass influx of Syrian forced migrants in Turkey has been a rapid increase in competition in both the labor and housing markets. Several studies have suggested that the classic model of Syrians replacing Turks in low-skilled, informal work misses key parts of the story. A 2013 economic analysis for the World Bank acknowledged that Syrians do replace Turks in informal jobs, but found that more formal jobs, with better pay, have been created for Turks in the same sectors.⁹⁷ A more recent study in 2015 found that natives' employment rates are unaffected by refugee arrivals, with larger impacts felt through local inflation of prices.⁹⁸ Despite these results, perceptions of Syrians taking Turkish jobs resonate strongly. As part of a study conducted by ORSAM, 40 to 100 percent of laid-off Turkish workers surveyed believed Syrians were to blame for their dismissal.⁹⁹

In addition to competition in the labor force, it has been reported that Syrian small businesses sometimes engage in unfair competition with Turkish rivals, for example if they fail to register with the local chamber of commerce and thus avoid paying taxes.¹⁰⁰ Competition has also had an impact on the housing market, where Turkish tenants have reported being evicted so that landlords can install Syrian renters who they can charge more for less service.¹⁰¹

Increased competition with forced migrants might make life more difficult for locals, but it cannot be overlooked that some Turks have benefitted from this phenomenon. Turkish

⁹² Bas Haber, "Erdoğan: Suriyelilere 10 milyar dolar harcadık," May 17, 2016, <http://bas-haber.com/tr/news/14733/erdogan-suriyelilere-10-milyar-dolar-harcadik> (\$10 billion) ; Metin Çorabatır, *The Evolving Approach to Protection in Turkey*, 19 (\$10 billion) ; Grisgraber and Hollingsworth, *Planting the Seeds of Success? Turkey's New Refugee Work Permits* (\$8 billion) ; Kirişçi and Ferris, *Not Likely to Go Home*, 3 (\$5.6 billion).

⁹³ Kirişçi and Ferris, *Not Likely to Go Home*, 3.

⁹⁴ AFAD, "Giriş," accessed July 8, 2016, <https://www.afad.gov.tr/TR/IcerikDetay1.aspx?ID=16&IcerikID=747>

⁹⁵ Kirişçi and Ferris, *Not Likely to Go Home*, 2.

⁹⁶ M. Murat Erdoğan, *Syrians in Turkey: Social Acceptance and Integration Research* (Ankara: Hacettepe University Migration and Politics Research Center, November 2014); ORSAM and TESEV, *Effects of the Syrian Refugees on Turkey*.

⁹⁷ Ximena V. del Carpio and Mathis Wagner, *The Impact of Syrian Refugees on the Turkish Labor Market* (World Bank Policy Research Working Paper No. 7402, August 24, 2015), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2650218.

⁹⁸ Yusuf Emre Akgündüz, Marcel van den Berg and Wolter Hassink, *The Impact of Refugee Crises on Host Labor Markets: The Case of the Syrian Refugee Crisis in Turkey* (IZA Discussion Paper No. 8841, February 2015), <http://ftp.iza.org/dp8841.pdf>.

⁹⁹ ORSAM and TESEV, *Effects of the Syrian Refugees on Turkey*, 17.

¹⁰⁰ ORSAM and TESEV, *Effects of the Syrian Refugees on Turkey*, 8 ; Syria Research and Evaluation Organization (SREO), *The Socioeconomic Impact of Syrian Urban Refugees in Gaziantep: An Initial Assessment* (SREO, October 2013), 18, [http://www.alnap.org/pool/files/179848309-the-socioeconomic-impact-of-syrian-urban-refugees-in-gaziantep-an-initial-assessment-\(1\).pdf](http://www.alnap.org/pool/files/179848309-the-socioeconomic-impact-of-syrian-urban-refugees-in-gaziantep-an-initial-assessment-(1).pdf).

¹⁰¹ ORSAM and TESEV, *Effects of the Syrian Refugees on Turkey*, 17

employers' profits increase when they hire cheaper workers; Turkish landlords make more money by renting to Syrians; and Turks often engage in the construction of illegal additions to buildings in order to make money by renting to Syrians.¹⁰² The increase in food prices due to higher consumption strains the finances of many locals, but has pushed the demand curve outwards, benefitting Turks who sell consumer goods.¹⁰³ While many locals have felt the pinch of the increased population, other Turks benefit from the new reality, and some exploit both Syrians and fellow citizens.

A second major impact of the large forced migrant population has been the overburdening of municipal services. As seen in Figure 11, the southern provinces of Şanlıurfa, Hatay and Kilis have seen their populations increase substantially since the beginning of the mass influx. Each of these provinces has at least one Syrian for every five Turkish residents, with Kilis' near one-to-one ratio the most striking. A 2012 report by Türkofed categorized these provinces among the 27 poorest in the country before the arrival of Syrians.¹⁰⁴ The budgets for public services such as electricity, garbage collection, police, and hospitals have been established pre-crisis and have not increased proportionately for towns whose populations have increased significantly.¹⁰⁵ The central funding structures for provinces and municipalities have not funneled new money to the most affected areas since the influx, and so local services simply cannot continue to function efficiently in this new reality.¹⁰⁶

Two central outcomes have been influenced by a combination of negative perceptions of Syrians, initial miscalculation of their length of stay, increased competition, and exhaustion of municipal services.

Firstly, Syrians and Turks have self-segregated. This phenomenon is especially evident in Gaziantep, which due to its commercial success is often considered a model for Syrian integration.¹⁰⁷ It undoubtedly results in part by normal preferences of Syrians to settle near their own co-nationals in communities where they can speak Arabic and use commercial services that cater to their preferences and income levels. But the fact is that Syrians and Turks live apart, and attend either separate schools (with Syrians in the TECs) or the same schools during different shifts. A 2015 study by RAND found that only 7 percent of Syrian children share a classroom with Turkish children.¹⁰⁸ Syrians in larger communities have also started their own small businesses, such as bakeries and corner stores, which cater to their compatriots and further diminish interaction between groups.¹⁰⁹ The perpetuation of this reality may result in two grave consequences. Locals risk being overlooked by Syrian entrepreneurs who are bringing large investments and economic opportunities. Conversely, the mix of impoverishment, isolation, and a lack of hope for a better future among residents of Syrian communities may foment the spread of extremist ideologies.

Profound insecurity has also developed within both Turkish and Syrian communities across the country. This insecurity has been provoked through attacks by militant groups on Turkish civilians. Distrust of Syrians may also be fomented by Turkish media, who frequently report

¹⁰² ORSAM and TESEV, *Effects of the Syrian Refugees on Turkey*, 16.

¹⁰³ Ximena V. del Carpio and Mathis Wagner, *The Impact of Syrian Refugees on the Turkish Labor Market*.

¹⁰⁴ <http://www.hurriyetdailynews.com/report-reveals-regional-income-gaps-in-turkey.aspx?pageID=238&nID=36498&NewsCatID=347>

¹⁰⁵ ORSAM and TESEV, *Effects of the Syrian Refugees on Turkey*, 9, 24.

¹⁰⁶ Metin Çorabatır, in conversation with Kathleen Newland, May 25, 2016.

¹⁰⁷ Serhan Alemdar, in conversation with Kathleen Newland, May 2, 2016.

¹⁰⁸ Shelley Culbertson and Louay Constant, *Education of Syrian Children*, 17.

¹⁰⁹ ORSAM and TESEV, *Effects of the Syrian Refugees on Turkey*, 32-33.

on poverty and crime in this community.¹¹⁰ In July 2014, Kahramanmaraş and Gaziantep saw tensions boil over into violent attacks on Syrians.¹¹¹ Such violence has been reported again during May 2015 in Gaziantep, Hatay and İzmir.¹¹²

Benefits to Host Communities

Though Syrian forced migrants have burdened municipalities, increased competition with locals, and brought fears of insecurity, they have also made immediate positive contributions to Turkish society. The influx of Syrians has directly benefited sales of consumer goods by increasing consumption in border cities.¹¹³ The refugee influx has also been associated with increasing exports from border provinces to Syria, which increased by over 200 percent between 2011 and 2014, and reached USD 278 million in 2013.¹¹⁴ Syrians are also active as business owners. Between 2011 and 2014, registered Syrian businesses increased from 60 to 209 in Gaziantep. From 2009 to 2014 such businesses increased from 25 to 279 in Mersin.¹¹⁵ The arrival of Syrian migrants has also spawned large humanitarian projects, which bring financing and job opportunities for locals. Using the Facility for Refugees in Turkey, the European Union recently announced an initiative to provide USD 44 million in aid through the World Food Programme.¹¹⁶

In the longer term, the benefits of the forced migrant influx from Syria to Turkey may have a positive impact on the Turkish economy. Syrian business leaders have arrived in Turkey with contacts from home. Many goods and services are provided to populations inside Syria through the port city of Mersin, opening a window for Turkish companies to also take advantage of this route in future.¹¹⁷ Building on these connections, a significant portion of Middle East trade previously conducted in Syria has moved to Turkey.¹¹⁸ Not only Turkish entrepreneurs, but Syrians who establish themselves in Turkey may introduce Turkish goods into the Middle East, and increase Turkey's political and economic influence in the region.

Impacts on Migrants

The impacts of Syrians' temporary protection in Turkey can also be classified as immediate and long-term. Upon their arrival, most Syrians used their savings and assets from home to sustain their families, but experienced a rapid slide into poverty when these resources were exhausted.¹¹⁹ With poverty has come a desperate search for work. Syrians have often taken informal jobs in which they are exploited by employers who offer extremely low wages. One International Medical Corps survey suggests that average monthly income for Syrians in Gaziantep is less than half of the old Turkish minimum wage.¹²⁰ Syrians are thus trapped at

¹¹⁰ M. Murat Erdoğan, *Syrians in Turkey: Social Acceptance and Integration Research*; ORSAM and TESEV, *Effects of the Syrian Refugees on Turkey*, 31.

¹¹¹ ORSAM and TESEV, *Effects of the Syrian Refugees on Turkey*, 22, 31.

¹¹² <http://www.al-monitor.com/pulse/originals/2015/05/turkey-attack-on-syrians-in-country-on-the-rise.html#>

¹¹³ Ximena V. del Carpio and Mathis Wagner, *The Impact of Syrian Refugees on the Turkish Labor Market*.

¹¹⁴ Kirişci and Ferris, *Not Likely to Go Home*, 6; ORSAM and TESEV, *Effects of the Syrian Refugees on Turkey*, 18.

¹¹⁵ ORSAM and TESEV, *Effects of the Syrian Refugees on Turkey*, 8, 32.

¹¹⁶ Metin Çorabatır, *The Evolving Approach to Protection in Turkey*, 26;

http://europa.eu/rapid/press-release_IP-16-584_en.htm

¹¹⁷ ORSAM and TESEV, *Effects of the Syrian Refugees on Turkey*, 32.

¹¹⁸ Kathleen interview with Center for International Private Enterprise, Washington, DC.

¹¹⁹ World Bank, *Turkey's Response to the Syrian Refugee Crisis and the Road Ahead*, 6.

¹²⁰ <http://www.unhcr.org/569ca19c6.html>; World Bank, *Turkey's Response to the Syrian Refugee Crisis and the Road Ahead*, 7; Syrians earn on average 406 TL/month, for Turks, previous net minimum wage was 1000.54 TL/month.

the lowest socio-economic level of society where predictable social pathologies have developed, such as domestic violence and youth marriages.¹²¹

An overarching price of Syrians' temporary protection status is their uncertain position vis-à-vis the medium and long-term future. The longer Syrians stay without adapting to Turkish cultural norms and language, and the longer they remain marginalized and poverty-stricken, the more ethnic tensions will persist. The long-term costs to Syrians of forced migration and exploitation may prevent them from establishing stable lives in Turkey or successfully rebuilding Syria, once they are able to return. Most worryingly, as child labor has become widespread and hundreds of thousands of Syrian children remain out of school, the threat of a "lost generation" is very real.¹²² Such a generation would neither be able to climb out of poverty in Turkey, nor gain the skills to rebuild Syria. As the years pass and conditions in Syria do not improve, questions about the future of Syrians inside Turkey grow more urgent. How many Syrians will ultimately be integrated into Turkish society? Will the majority remain segregated in the hopes that they will return home in the medium-term?

Looking to the Future

Turkey is at a crossroads in its policies and practices toward forced migrants. Turkish policymakers seem to have recognized that the displaced people under their protection, the Syrians being most important in numerical terms, are in Turkey for the long term, and are adjusting their policies accordingly. The term "integration" is not used, but the shifts in law and policy such as mainstreaming Syrian students into the Turkish school system and allowing Syrians to apply for work permits demonstrate the shift from emergency response to what the Law on Foreigners and International Protection calls "harmonization." The concept of harmonization expressed in the law is to equip beneficiaries of international protection in Turkey "with the knowledge and skills to be independently active in all areas of social life without the assistance of third persons in Turkey or in the country to which they are resettled or in their own country" (Article 96). Turkish policies, including allowing most refugees (90 percent) to live outside of camps and making it easy to set up new businesses, give a head-start to harmonization. But daunting challenges lie ahead.

Developing a long-term strategy for the incorporation of the 3 million protected persons is important for several reasons. First, pathways for forced migrants to move on from Turkey to Europe have been drastically narrowed. After the agreement of the EU-Turkey statement on March 18, 2016, and —perhaps more importantly, the closure of the Balkan route from Greece to Germany and other Western European countries—arrivals from Turkey to Greece declined by more than 85 percent over the course of a single month. Second, widespread poverty has begun to create societal division, and may lead to mutual resentment between Turks and protected populations. Ostracizing Syrian communities may render them unable to contribute to the Turkish economy or to rebuild their own country. Years of poverty and isolation could open the door for social pathologies and even to violent reactions that would erode Turkey's security.

As Turkey's protected populations become more entrenched in society, it is essential that they develop the capacity to care for themselves. Strategic investments must be made in education, training, infrastructure and public services. Greater coordination among ministries, different

¹²¹ ORSAM and TESEV, *Effects of the Syrian Refugees on Turkey*, 16 ; Kirişçi and Ferris, *Not Likely to Go Home*, 5 ; M. Murat Erdoğan, *Syrians in Turkey: Social Acceptance and Integration Research*.

¹²² Grisgraber and Hollingsworth, *Planting the Seeds of Success? Turkey's New Refugee Work Permits*; Human Rights Watch, *'When I Picture My Future, I See Nothing.'*

levels of government, and with international organizations, the private sector and civil society can help make these investments more effective and efficient. As the institutions charged with managing policy toward the protected populations mature, they will show the way for forced migrants to escape poverty and for Turkey to benefit from their presence.

3.2. JORDAN¹²³

Jordan has long been one of the most significant—and generous—hosts of forced migrants globally. As of the end of 2015, the refugee population in Jordan was the sixth largest in the world (664,000), and Jordan hosted the second largest refugee population per capita with 87 refugees per 1,000 residents.¹²⁴ Most refugees have been driven to seek refuge in Jordan from conflicts in neighboring countries with which Jordan has long had close trade and migration ties such as Syria and Iraq. Recently Jordan has also experienced growing flows from countries further afield such as Yemen.

Most notable has been Jordan's experience as a long-term host to Palestinian refugees. A major recipient of the first Palestinian refugee flows in 1948, Jordan responded generously, eventually granting most Palestinians the right to reside in the country permanently by allowing them to obtain Jordanian citizenship. Nearly 70 years later, these first refugees and their descendants have become deeply rooted in Jordanian society, comprising over 20 percent of the Jordanian population according to figures from the UN Relief and Works Administration (UNRWA).¹²⁵

Jordan has broadly been exemplary in its commitment to upholding the principle of nonrefoulement, despite not being a signatory of the 1951 Refugee Convention. But the vivid (and ongoing) memory of the Palestinian refugee situation—and the changes it wrought to the composition of Jordanian society—has made the Jordanian state hesitant to take on such permanent protection commitments again. Jordan has thus remained reluctant to formalize its protection obligations by creating an official asylum law or by granting later waves of refugees, including Palestinians, more secure legal status in the country.

Instead, protection and social assistance policies for refugees in Jordan, while generous, have been driven to a large extent by the exigencies of the situation at the time. While initially welcoming to both Iraqi and Syrian refugees, Jordan has slowly scaled back the benefits and rights afforded to both groups as the refugee population in the country has swelled while international assistance has stagnated. The ad hoc approach to protection has created challenges in particular for smaller refugee populations who have not benefited from the special policy initiatives that have targeted Syrians and Iraqis. Moreover new visa restrictions and border controls have sought to deter the entry of new arrivals from significant refugee-producing countries.

The protection situation in Jordan is thus a constantly evolving one. This chapter will examine the current protection frameworks for refugees in Jordan and offer observations on positive practices as well as remaining gaps and vulnerabilities. The size of the refugee population and the strain that has been placed on Jordanian services means that international assistance is likely to remain critical for some time.

¹²³ Written by Susan Fratzke, with contributions from ARDD-Legal Aid

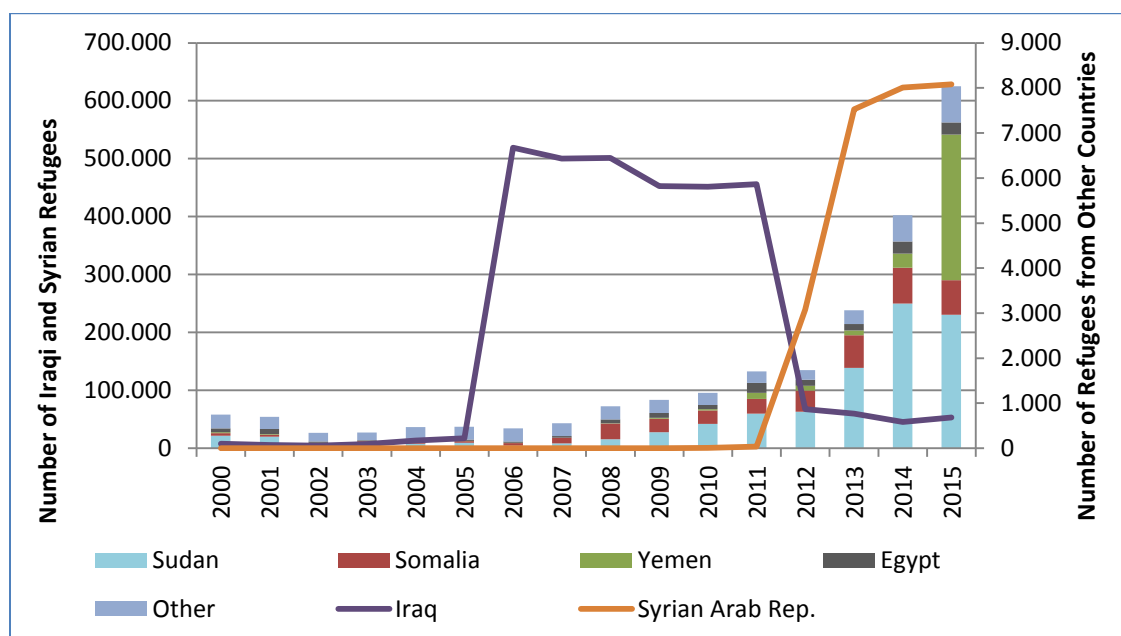
¹²⁴ UNHCR, *Global Trends: Forced Displacement in 2015* (Geneva: UNHCR, 2016), <http://reliefweb.int/sites/reliefweb.int/files/resources/576408cd7.pdf>.

¹²⁵ MPI calculations from UNRWA, "Where We Work," updated December 1, 2015, <http://www.unrwa.org/where-we-work/jordan>; and UNHCR, "Population Statistics Database," accessed July 22, 2016, http://popstats.unhcr.org/en/persons_of_concern.

3.2.1. The Scale and Profile of Forced Migrants

As of April 2016, nearly 2.8 million forced migrants (including Palestinians) are registered with international agencies in Jordan as in need of some form of protection.¹²⁶ Together with the Palestinian population, UNHCR-registered refugees and asylum seekers are estimated to comprise nearly 30 percent of the Jordanian population.¹²⁷

Figure 12: UNHCR registered refugees in Jordan, 2000-2015



Source: UNHCR, "Population Statistics," accessed July 27, 2016, http://popstats.unhcr.org/en/persons_of_concern

It is important to note, however, that figures for refugee populations in Jordan have been the subject of much debate, and obtaining a reliable estimate can be difficult. Not all refugees choose to register with UNHCR or UNRWA. In particular, refugees from countries like Syria, Iraq, or Yemen who arrived in Jordan, often for work, prior to the outbreak of conflict in their home countries may not feel a need to register with an international agency until they are in need of financial assistance or other support. For some nationalities, such as Iraqis, the Jordanian government has estimated that the unregistered refugee population is much larger than the number of registered refugees.

At present, forced migrants in Jordan include large communities of Syrians, Iraqis, and Palestinians, as well as a number of other nationalities on a smaller scale. The profiles, duration of stay, settlement patterns, and protection needs of these groups differ widely.

Syrians, 2011 – Present

Syrians comprise the largest group of forced migrants (excluding Palestinians) in Jordan at present. Syrians began to arrive in Jordan in small numbers in 2011, primarily from southern

¹²⁶ 701,092 refugees are registered with UNHCR. UNHCR, "Jordan UNHCR Operational Update, April 2016," published April 19, 2016, PDF. 2,117,361 Palestinians are registered with the UN Relief and Works Agency (UNRWA), "Where We Work."

¹²⁷ MPI calculations from UNRWA, "Where We Work"; UNICEF, "Jordan Population and Housing Census 2015," accessed July 22, 2016, http://www.unicef.org/jordan/media_10894.htm; and UNHCR, "Population Statistics Database."

Syria. Arrivals increased substantially in 2012 and 2013, with nearly 304,000 refugees arriving in 2013 alone.¹²⁸

The approximately 655,000 Syrians recognized as refugees in Jordan as of June 2016 amount to 91 percent of registrations with UNHCR.¹²⁹ The Jordanian government has, however, long suggested that the total Syrian population in Jordan is much larger than the number registered. The latest Jordanian census published in January 2016, by comparison, suggested that there are 1.3 million Syrians present in the country.¹³⁰

Little is known about the unregistered Syrian population. Cross border migration between Jordan and Syria for economic and social reasons was common before the war,¹³¹ and it is likely that some of the Syrians who have not registered with UNHCR arrived prior to the current refugee flows. Non-governmental organizations also report that some more recent Syrian arrivals have simply chosen not to register with UNHCR;¹³² in 2014, the government estimated that as many as 400,000 Syrians had arrived since the outbreak of conflict but remained unregistered.¹³³

The registered Syrian refugee population in Jordan is young. Over half are children age 17 or younger.¹³⁴ There are also slightly more women than men, and 52 percent of adult Syrians (18-59) are women.¹³⁵ Syrians in Jordan have relatively lower education levels than the Jordanian population at large; this may be due in part to their young average age as well as the disruptions many have experienced to their education due to the conflict. An ILO household survey conducted in 2014 found that just 15 percent of Syrian respondents in Jordan over the age of 15 had completed secondary education, while 42 percent of Jordanian respondents had finished secondary school.¹³⁶

Iraqis, 2006 – Present

Iraqis have a long history of seeking refuge in Jordan, and refugees from Iraq currently comprise the second largest refugee population in Jordan. Reports indicate that Iraqis have been arriving since 1958.¹³⁷ More recently, large flows of Iraqi refugees arrived beginning in 2006 as violence and instability in Iraq increased following the US-led invasion in 2003. Flows

¹²⁸ UNHCR, "Registered Syrians in Jordan"

¹²⁹ UNHCR, "Registered Syrians in Jordan," updated May 31, 2016,

<http://data.unhcr.org/syrianrefugees/download.php?id=11099>

¹³⁰ Department of Statistics, *Jordan 2015 Census*. (Amman: Department of Statistics, 2016), http://census.dos.gov.jo/wp-content/uploads/sites/2/2016/02/Census_results_2016.pdf

¹³¹ The 2004 census, the last census conducted in Jordan prior to the war, recorded nearly 27,000 Syrian citizens residing in Jordan. Syrians were the third largest foreign national group, after Palestinians and Egyptians. Department of Statistics, "Table 7.7 Distribution of Non-Jordanian Population Living in Jordan 15+ Years of Age by Economic Activity Status, nationality and Sex," updated 2004,

http://www.dos.gov.jo/dos_home_a/main/population/census2004/group7/table_7_7.pdf

¹³² CARE, *Five years into exile: the challenges faced by Syrian refugees outside camps in Jordan and how they and their host communities are coping*, (Amman: CARE International, 2015),

<http://reliefweb.int/sites/reliefweb.int/files/resources/care%20five%20years%20into%20exile%20exec%20summary%202015%20print%20final%20recut.pdf>, p6

¹³³ Denis Sullivan and Sarah Tobin, "Security and Resilience Among Syrian Refugees in Jordan," *Middle East Research and Information Portal*, updated October 14 2014, <http://www.merip.org/mero/mero101414>

¹³⁴ UNHCR, "Registered Syrians in Jordan"

¹³⁵ UNHCR, "Registered Syrians in Jordan"

¹³⁶ Svein Erik Stave and Solveig Hillesund, *Impact of Syrian refugees on the Jordanian labour market*, (Beirut: International Labour Organization, 2015),

http://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_364162.pdf

¹³⁷ Dallal Stevens, "Legal Status, Labelling, and Protection: the Case of Iraqi 'Refugees' in Jordan," *International Journal of Refugee Law* 25, no. 1 (2013).

rose again in 2014 as terrorist groups captured large areas of Iraq. As of April 2016, nearly 55,000 Iraqis are registered with UNHCR in Jordan.¹³⁸

As with Syrians, a large population of Iraqis in Jordan have not registered with UNHCR. The 2015 government census estimated the Iraqi population in Jordan to be nearly 131,000. Sizable migration flows between Iraq and Jordan were common even prior to the current refugee situation, and some unregistered Iraqis may thus have already been present in the country prior to the latest outbreak of violence or may have traveled to Jordan for other reasons.¹³⁹

Registered Iraqi refugees are highly urban—no camps have ever been established for Iraqi refugees—and nearly 90 percent live in Amman.¹⁴⁰ According to the 2015 census, most unregistered Iraqis have also settled in Amman.¹⁴¹

Iraqi refugees registered in Jordan are relatively older than the Syrian population, with just 34 percent age 17 or younger.¹⁴² Those who arrived in the late 2000s are thought to have been relatively well-educated. A 2007 survey found that 46 percent of adult Iraqi respondents (age 16 and older) had at least a Bachelor's degree.¹⁴³

Palestinians, 1947 – Present

Palestinians are the most established and largest forced migrant population in Jordan, and many have Jordanian citizenship. As of December 2015, 2.1 million Palestinians were registered with UNRWA in Jordan,¹⁴⁴ comprising over 22 percent of the population.¹⁴⁵ Refugees from Palestine are not eligible for assistance by UNHCR,¹⁴⁶ and are instead supported by UNRWA, which provides registration and social services.

Palestinians first fled to Jordan in 1948, following the partitioning of Palestine and Israel. A second wave of displaced Palestinians arrived in 1967 in the aftermath of the Six Day War, most from Gaza or the West Bank. Most Palestinian refugees currently residing in Jordan arrived as a part of these flows or are their children or grandchildren. More recently, Jordan has also received Palestinian refugees fleeing from Syria. As of 2016, UNRWA had registered approximately 18,000 Palestinians from Syria in Jordan; the real number is likely to be far larger, however, as not all Palestinians from Syria have registered with UNRWA. Since January 2013, Palestinians from Syria have not legally been allowed entry into Jordan, and many are thus reluctant to register their presence with UNRWA.¹⁴⁷

Other forced migration flows, primarily 2011-present

Jordan is also host to smaller numbers of other forced migrants, most notably Yemeni, Sudanese, and Somali refugees. The most recently arrived of these are the Yemenis. As of May

¹³⁸ UNHCR, "Registered Iraqis in Jordan," updated April 15, 2016, <http://data.unhcr.org/syrianrefugees/download.php?id=10736>

¹³⁹ Close to 27,000 Iraqis were in Jordan as of the 2004 census. Department of Statistics, "Table 7.7 Distribution of Non-Jordanian Population Living in Jordan 15+ Years of Age"

¹⁴⁰ UNHCR, "Registered Iraqis in Jordan"

¹⁴¹ Department of Statistics, *Jordan 2015 Census*.

¹⁴² UNHCR, "Registered Iraqis in Jordan"

¹⁴³ FAFO, "Iraqis in Jordan: Their Number and Characteristics," updated May 2007, <http://www.unhcr.org/47626a232.pdf>

¹⁴⁴ UNRWA, "Where We Work: Jordan," accessed June 9, 2016,

<http://www.unrwa.org/where-we-work/jordan>.

¹⁴⁵ MPI calculations from

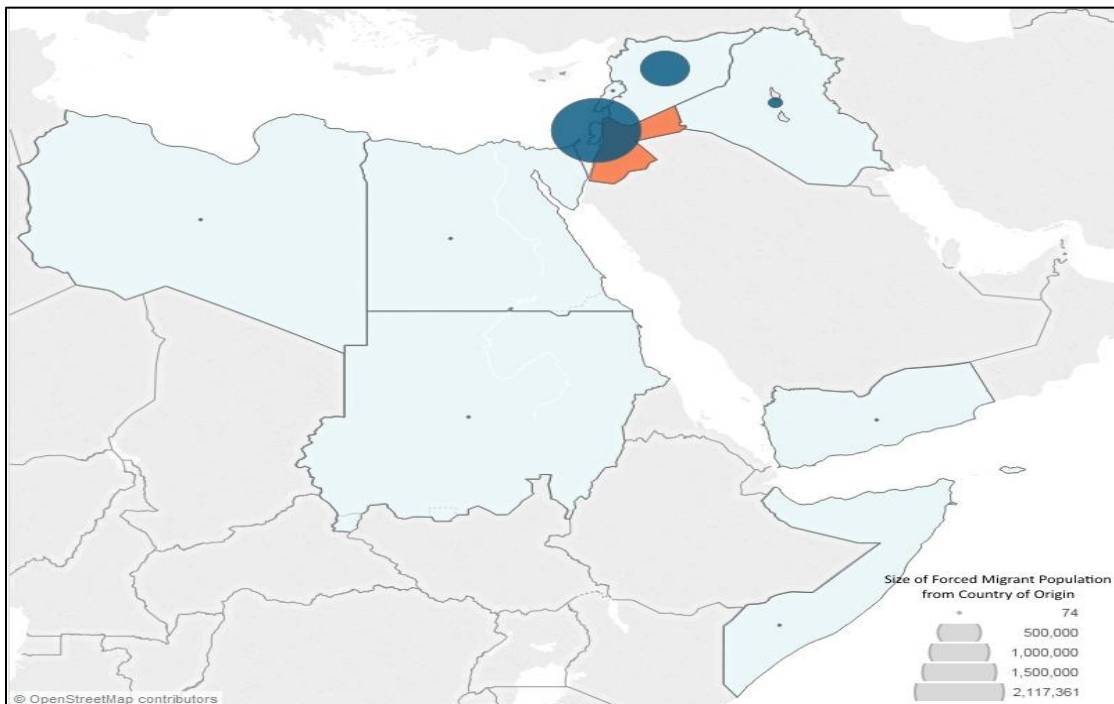
<http://www.unrwa.org/where-we-work/jordan> and http://popstats.unhcr.org/en/persons_of_concern.

¹⁴⁶ Palestinians were excluded from the 1951 Convention. See Chapter 1 for a more full discussion.

¹⁴⁷ UNRWA, "PRS in Jordan," accessed June 9, 2016, <http://www.unrwa.org/prs-jordan>

2016, over 4,000 Yemenis were registered with UNHCR in Jordan.¹⁴⁸ However, migration flows from Yemen to Jordan prior to the war mean that there is also a large population of Yemenis who have not registered with UNHCR and likely were already living in Jordan—although many would likely qualify as refugees should they register with UNHCR. The 2015 census found a total of 31,000 Yemeni nationals in Jordan, most in Amman.¹⁴⁹

Figure 13: Top ten countries of origin of forced migrants residing in Jordan, 2015



Source: UNHCR, "Population Statistics," accessed August 9, 2016,

http://popstats.unhcr.org/en/persons_of_concern; and UNRWA, "Where We Work: Jordan," accessed June 9, 2016, <http://www.unrwa.org/where-we-work/jordan>.

Note: Forced migrants is defined in this figure as refugees and asylum seekers residing in Jordan as of 2015. It should be noted that some forced migrants in Jordan were formerly stateless (301 total) and therefore do not have a country of origin.

The Sudanese and Somali refugee communities are much smaller. As of May 2016, 3,000 Sudanese refugees were registered with UNHCR.¹⁵⁰ Most Sudanese and Somali refugees have arrived within the last five years. As of May 2016, nearly 800 Somali nationals are registered with UNHCR in Jordan.¹⁵¹ Sudanese and Somali refugees are believed to primarily have taken up residence in Amman.¹⁵²

¹⁴⁸ UNHCR, "Jordan: UNHCR Operational Update May 2015," updated May 2016, <http://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20Jordan%20Operational%20Update%20May%202016%20-%20FINAL.pdf>

¹⁴⁹ Department of Statistics, *Jordan 2015 Census*.

¹⁵⁰ UNHCR, "Jordan: UNHCR Operational Update May 2015"

¹⁵¹ UNHCR, "Jordan: UNHCR Operational Update May 2015"

¹⁵² Arab Renaissance for Democracy and Development, *Putting Needs over Nationality: Meeting the Needs of Somalia and Sudanese Refugees During the Syrian Crisis*, (Amman: Arab Renaissance for Democracy and Development, 2015) http://aradd-jo.org/sites/default/files/resource-files/aradd-la_-putting_needs_over_nationality.pdf

3.2.2. Legal Frameworks for Forced Migrants

Like many other countries in the region, Jordan has no official asylum law or policy. Protection frameworks and legal status for forced migrants in Jordan are thus extremely varied and depend to a large extent on the nationality and time of arrival of the migrant population.

Jordan is not a signatory to the 1951 Convention or its 1967 Protocol. Refugees' status and recognition is instead governed by a 1998 Memorandum of Understanding (MoU) between UNHCR and the Jordanian government. The MoU sets out the definition of refugee status in accordance with the 1967 Protocol and commits Jordan to respect the principle of nonrefoulement.¹⁵³ Jordan is also a party to several other international conventions that reinforce its commitment to nonrefoulement, including the Convention against Torture and the Arab Charter on Human Rights. Both have been published in the Official Gazette, which gives them the same force as Jordanian law. The Jordanian Constitution also protects "political refugees" from extradition for criminal charges "on account of their political principles."¹⁵⁴ Generally, however, protection policies regarding refugees are not written into the law, and the Minister of the Interior maintains the power to enforce deportation decisions on a case by case basis against individuals who have entered the country without a visa.¹⁵⁵

The Law on Residence and Foreigners' Affairs governs conditions for entry to and residence in Jordan for non-nationals. The frequent overlap between regional migration flows to Jordan and refugee movements means that non-humanitarian migration policies also have particular salience for many refugee groups. Citizens of Arab countries have typically been exempt from the requirement to obtain a visa prior to traveling to Jordan, although the government has often made changes to this policy for specific countries in the face of rising refugee flows. The exemption was revoked for Iraqis in 2008¹⁵⁶ and for Yemenis in 2015, for example.¹⁵⁷ Those who are able to enter legally can obtain a one year residence permit, as some Iraqis have done, but only if the applicant can demonstrate they have the financial resources to maintain themselves independently, which has been impossible for all but the wealthiest refugees.

Normally, individuals who enter under a visa but overstay are subject to high fines; recognized refugees are, however, exempt from these fines as agreed under the MoU. Unregistered Iraqis have often struggled with fines imposed as a result of overstaying visas. During the Iraqi arrivals in the late 2000s, many Iraqi refugees entered Jordan on short-term visas which had to be renewed every several months. As the crisis continued, and Jordanian visa policies tightened, many Iraqis found it increasingly difficult to obtain renewed visas and became subject to mounting visa overstay fines.¹⁵⁸

¹⁵³ Articles 1 and 2.1. UNHCR and Ministry of Interior, *Memorandum of Understanding between the Government of Jordan and UNHCR*, Official Gazette No. 4277, May 3, 1998.

¹⁵⁴ *The Constitution of the Hashemite Kingdom of Jordan*, Article 21, (January 1, 1952). Available at: http://www.kinghussein.gov.jo/constitution_jo.html

¹⁵⁵ Article 31, *Jordan: Law No. 24 of 1973 on Residence and Foreigners' Affairs*, (January 1, 1973). Available at: <http://www.refworld.org/docid/3ae6b4ed4c.html>

¹⁵⁶ Stevens, "Legal Status, Labelling, and Protection"

¹⁵⁷ Khetam Malkawi, "Visa requirements re-imposed on Yemenis", *The Jordan Times*, December 7th 2015. <http://www.jordantimes.com/news/local/visa-requirement-re-imposed-yemenis>

¹⁵⁸ Dawn Chatty and Nisrine Mansour, "Displaced Iraqis: Predicaments and Perceptions in Exile in the Middle East," *Refugee* 28, no. 1 (2011): 97=107 <http://refuge.journals.yorku.ca/index.php/refuge/article/view/36092/32762>; International Crisis Group, *Failed Responsibility: Iraqi Refugees in Syria, Jordan and Lebanon*

This section examines in greater detail the procedures for granting protection status to refugees assisted by UNHCR and those under UNRWA's mandate. It also explores residency and other basic rights granted to those in protected status.

UNHCR-assisted refugees

Status determination procedures and associated rights

The MoU with UNHCR forms the basis on which non-Palestinian refugees may access protection and refugee status in Jordan. The MoU also defines the roles of UNHCR and the Jordanian government in receiving and recognizing refugee populations. Jordan does not currently have any national legislation or procedures for conducting Refugee Status Determinations (RSD) independently of UNHCR, although the 1998 MoU suggested the government would explore the possibility of creating such procedures. UNHCR thus handles asylum registrations and RSD. Exact procedures for status determination, however, vary for different nationalities and have evolved over time. Generally, upon registration refugees are provided with an asylum seeker registration card that acts as their UNHCR documentation while they are in Jordan. Because of requirements in the MoU that UNHCR find durable solutions for registered refugees, only those asylum seekers who may be considered for resettlement undergo a full status determination.

The large number of Syrians who have arrived in Jordan are not subject to an individual adjudication. Instead, they generally receive temporary protection as asylum seekers, usually granted the same day they submit their application.¹⁵⁹ After receiving a UNHCR asylum seeker card, Syrians must also register with the Jordanian Ministry of the Interior (this requirement does not extend to other refugee groups). The Jordanian registration card is required both to access services provided by the government and, more recently, can be used to verify one's status to obtain a work permit. In 2015, the Ministry of the Interior began a "reverification" process whereby refugees were required to obtain a new biometric identification card and submit a proof of address (e.g. a lease or landlord's contact details). In order to obtain the cards, Syrians were required to receive a health examination and submit a certificate of health, which cost JD 30 (USD 42).¹⁶⁰ The government has since lowered the fee to JD 5 (USD 7) once it became clear that the cost posed a barrier to some refugees.¹⁶¹

Between 2007 and 2012, during the height of Iraqi flows into Jordan, UNHCR-designated Iraqi refugees were eligible for prima facie refugee status.¹⁶² After objections from the Jordanian government, however, UNHCR reinstated an interview stage for Iraqi applicants, but continued to grant status on a prima facie basis in practice.¹⁶³ Currently, Iraqis must undergo a simplified two step RSD procedure: after initial registration with UNHCR as asylum seekers, Iraqi asylum applicants are provided with an interview date, and authorities usually make a status determination at the time of the interview. As of the spring of 2014, the wait time

¹⁵⁹ Syrians who are considered for resettlement, however, do go through a full RSD procedure. Alice Su, "Jordan's Other Refugees," *Pulitzer Center on Crisis Reporting*, published August 14, 2014 <http://pulitzercenter.org/reporting/middle-east-jordan-syrian-iraqi-refugees>

¹⁶⁰ Norwegian Refugee Council, *Registering Rights: Syrian refugees and the documentation of births, marriages, and deaths in Jordan*, (Geneva: Norwegian Refugee Council, 2015)

http://www.nrc.no/arch_img/9208964.pdf NRC, *Registering Rights*, October 2015

¹⁶¹ Amnesty International, *Living on the Margins: Syrian Refugees in Jordan Struggle to Access Health Care*, (London: Amnesty International, 2016), p14.

¹⁶² Su, "Jordan's Other Refugees"

¹⁶³ International Crisis Group, *Failed Responsibility: Iraqi Refugees in Syria, Jordan and Lebanon*, Middle East Report No. 77, (Brussels: International Crisis Group, 2008),

http://www.crisisgroup.org/~media/Files/Middle%20East%20North%20Africa/Iraq%20Syria%20Lebanon/Iraq/ailed_responsibility_iraqi_refugees_in_syria_jordan_and_lebanon.pdf

between registration and interview for Iraqi asylum seekers was estimated to be up to six weeks.¹⁶⁴

The procedure for registration as asylum seekers and status determination for other groups takes much longer. Reports suggest that even getting an asylum seeker registration card can take weeks in some cases. After the interview is completed, refugees may still wait up to two months to receive a decision on their asylum claim.¹⁶⁵

As is the case in other areas, freedom of movement depends largely on an individual's nationality and period of arrival, as well as location of residence in Jordan. Jordanian authorities have not placed any restrictions on movement within the country on non-Syrian refugees. Syrians in camps, however, must obtain permission before traveling outside the camp, although this policy has recently been loosened slightly. Reports suggest that the government has dropped a requirement at Zaatari camp for Syrians to have a Jordanian guarantor over the age of 35 (known as the "bail out" process).¹⁶⁶ Syrian refugees in urban areas are able to move freely throughout the country, although their residency is restricted to the district in which they are registered with the Ministry of the Interior.¹⁶⁷ Refugees who move to other districts may thus have difficulty accessing services, although the extent to which residency requirements are enforced appears to vary at the local authority level.¹⁶⁸

Durable solutions

Jordan has maintained a policy of non-integration for most forced migrants, with the notable exception of Palestinians who arrived in 1948. Jordan's MoU with UNHCR stipulates that refugees' stay in Jordan will be temporary, and identification cards provided to recognized refugees are valid for just one year.¹⁶⁹

Permanent residency is not generally possible for foreign nationals in Jordan, and non-Palestinian forced migrants in Jordan have very little chance to gain citizenship. According to the 1954 Nationality Law,¹⁷⁰ non-Jordanian Arabs who have been living in Jordan for at least 15 years may naturalize if they renounce their previous citizenship and demonstrate good conduct and a lawful means of livelihood. Naturalization must be approved by the Council of Ministers, although the King may also grant nationality. Non-Jordanian women may apply for citizenship after five years of marriage (or three years for Arabs).

The MoU also commits UNHCR to identify other durable solutions for refugees, specifically return or resettlement. Yet resettlement numbers remain low relative to the number of forced migrants hosted in Jordan. In 2014, UNHCR submitted 7,284 persons for resettlement, and only 3,319 actually departed during the year.¹⁷¹ The majority of those submitted for resettlement were Syrian (6,084) and Iraqi (1,078). While resettlement commitments for

¹⁶⁴ Alice Su, "Jordan's Other Refugees,"

¹⁶⁵ Su, "Jordan's Other Refugees"

¹⁶⁶ ARDD-Legal Aid. The practice may still be ongoing at Azraq camp. UNHCR, Summary Minutes of Camp Coordination Meeting: Azraq Refugee Camp, 2016.

¹⁶⁷ Norwegian Refugee Council, *No Place to Call Home: How Syria's Displaced Millions Struggle to Keep a Roof Over Their Heads*, (Norwegian Refugee Council: Oslo, 2015), <http://www.nrc.no/globalassets/pdf/reports/no-place-to-call-home.pdf>

¹⁶⁸ Communication from ARDD-Legal Aid, May 2016

¹⁶⁹ Previously, identification cards had to be renewed every 6 months. But an amendment to UNHCR's MoU in 2014 extended the validity of the cards to one year. Khetam Malkawi, "Gov't, UNHCR sign amendments to cooperation memo," updated March 31, 2014,

<http://www.jordantimes.com/news/local/gov%E2%80%99t-unhcr-sign-amendments-cooperation-memo>

¹⁷⁰ Law No. 6 of 1954 on Nationality, Kingdom of Jordan, amended 1987

<http://www.refworld.org/docid/3ae6b4ea13.html>

¹⁷¹ UNHCR, *UNHCR Global Resettlement Statistical Report 2014*, (Geneva: UNHCR, 2015), <http://www.unhcr.org/52693bd09.html> p51

Syrians have risen in the last year, only Canada has successfully delivered on resettlement pledges, and the pace of resettlement to other countries remains slow. As of mid-February 2016, for example, Australia had resettled just 26 of the 12,000 Iraqi and Syrian refugees it had committed to resettling in September 2015.¹⁷²

Palestinians and the role of the UN Relief and Works Association (UNRWA)

Palestinians in Jordan are subject to a unique residence and protection regime. Because of the political circumstances of their displacement, Palestinians are registered with and assisted by UNRWA rather than UNHCR.¹⁷³ To prove eligibility to receive status as a Palestine refugee with UNRWA, an individual must show: passport, birth certificate, marriage certificate, identity card, employment certificate, utility bill receipts or land registry documents issued in Palestine before May 15, 1948; documents showing close relatives who are registered with UNRWA; Red Cross registration cards issued between May 15, 1948 and May 1, 1950; or any other document endorsed by an official authority in Palestine before May 15, 1948.¹⁷⁴

Palestinians are also an exception to Jordan's general policy prohibiting local integration. A vast majority of the more than 2 million Palestinian refugees in the country have citizenship or some form of secure legal status in Jordan. As with other protection policies in Jordan, however, the specifics of the status and rights accorded to Palestinian refugees depends to a great extent on when they arrived in the country.

- **Palestinians displaced in 1948:** The Jordanian Nationality Law grants citizenship to Palestinians and their descendants who fled to Jordan in 1948.¹⁷⁵ Palestinians with Jordanian citizenship hold a Jordanian national ID number and have the same rights in practice as any other Jordanian citizen.
- **Ex-Gazans:** The second wave of Palestinians who arrived in Jordan in 1967, primarily from Egypt-controlled territory in Gaza, were not included in the citizenship provisions of the 1954 Jordanian Nationality Law. Ex-Gazans also do not technically fall under the mandate of UNRWA, which is restricted to those Palestinians who fled in 1948. Rather, the estimated 150,000 ex-Gazans in Jordan are classified as Arab foreigners temporarily residing in Jordan, and are granted some rights on this basis.¹⁷⁶ However, they are not allowed to hold positions in the public sector or to practice some regulated professions, such as dentistry or law, and their access to social support and health insurance is more limited.¹⁷⁷ In practice, ex-Gazans and their children are stateless, and as such they are entitled to hold a temporary Jordanian passport intended for individuals without nationality, usually valid for two years.¹⁷⁸

¹⁷² Nicole Hasham, (2016), "Canada has rescued 800 times more Syrian refugees than Australia, figures show," *The Sydney Morning Herald*, February 17, 2016.

<http://www.smh.com.au/federal-politics/political-news/canada-has-rescued-800-times-more-syrian-refugees-than-australia-figures-show-20160217-gmw7dz.html>

¹⁷³ Palestinian displacement and the creation of UNRWA to serve Palestinian refugees predated the creation of UNHCR and the 1951 Refugee Convention. Political debates around the future of the Palestinian territory resulted in Palestinian refugees being excluded from both when UNHCR and the Convention came into being at a later date.

¹⁷⁴ UNRWA, *Consolidated Eligibility and Registration Instructions (CERI)*, (UNRWA, 2009), http://www.unrwa.org/sites/default/files/ceri_24_may_2006_final.pdf, p5.

¹⁷⁵ Article 3(b), 1954 Nationality Law

¹⁷⁶ Oroub El Abed, "Immobile Palestinians: ongoing plight of Gazans in Jordan," *Forced Migration Review*, 2006, <http://www.fmreview.org/sites/fmr/files/FMRdownloads/en/FMRpdfs/FMR26/FMR2607.pdf>.

¹⁷⁷ Tiltne and Zhang, *Progress, challenges, diversity: Insights into the socio-economic conditions of Palestinian refugees in Jordan*

¹⁷⁸ Tiltne and Zhang, *Progress, challenges, diversity: Insights into the socio-economic conditions of Palestinian refugees in Jordan*

- **Palestinian refugees from Syria (PRS):** Most recently, Jordan has received a number of Palestinian refugees whose families originally sought refuge in Syria, and have now been displaced by fighting there. Although PRS who were registered with UNRWA in Syria also fall under UNRWA's mandate in Jordan, a prohibition on entry of Palestinians from Syria into Jordan since 2013 has made many reluctant to reregister. Any PRS who have arrived from Syria since this time are thus most likely entering on fraudulent documents and fear being caught and deported by Jordanian authorities. Some PRS who entered prior to 2013 have been held in Cyber City, a closed camp near the Syrian border. Residents are generally not permitted to leave Cyber City except to return to Syria, although some occasionally obtain permission to visit relatives outside the camp.¹⁷⁹

3.2.3. Policies with an Impact on Poverty Alleviation

The socioeconomic challenges facing refugees in Jordan have been well-documented. Estimates by UNHCR and the World Bank at the beginning of 2016 suggest that as much as 90 percent of the Syrian refugee population in Jordan live in poverty.¹⁸⁰ Refugees who arrive in Jordan to seek protection often arrive with few resources. Syrian refugees in particular are likely to have experienced internal displacement that may have disrupted their livelihoods and drained their resources prior to arriving in Jordan, making them even more vulnerable.¹⁸¹ As is the case in most refugee situations, refugees in Jordan may thus experience difficulty securing housing, maintaining sufficient income to provide for basic needs, and benefiting from key services like education and health care.

Jordanian law does not grant any rights to social or economic assistance or national services for refugees who have sought safety in Jordan, with the exception of those who hold Jordanian citizenship. The government has, however, allowed access to these services for certain groups on an ad hoc basis, depending again on nationality and when they arrived in the country. In practice, resource constraints on the part of service providers or financial limitations on the part of refugees often prohibit access to many services.

Jordan's MoU with UNHCR also commits the agency to providing assistance to refugees who are in need of financial or social support.¹⁸² As is the case in other major refugee situations worldwide, UNHCR and international NGOs thus often step in to fill gaps in services that are not provided by the government or that are only granted for certain groups. UNHCR and its implementing partners are responsible for delivering services inside the Syrian refugee camps, in coordination with the government's Syrian Directorate for Refugee Affairs (SRAD). Outside of camps, UNHCR provides cash assistance and transfers to support living expenses for refugees in need of assistance, including for Sudanese and Somali refugees.¹⁸³ In 2015, UNHCR provided cash support to over one-third of urban refugees in Jordan.¹⁸⁴ UNRWA

¹⁷⁹ Neil Sammonds, "A dog has more freedom' – Palestinians at Cyber City camp for refugees from Syria," *Amnesty International*, updated July 29, 2013, <https://www.amnesty.org/en/latest/campaigns/2013/07/a-dog-has-more-freedom-palestinians-at-cyber-city-camp-for-refugees-from-syria/>

¹⁸⁰ Paolo Verme et al., *The Welfare of Syrian Refugees: Evidence from Jordan and Lebanon* (Washington, DC: The World Bank, 2016),

<https://openknowledge.worldbank.org/bitstream/handle/10986/23228/9781464807701.pdf?sequence=21&isAllowed=y>

¹⁸¹ Verme et al., *The Welfare of Syrian Refugees*

¹⁸² Article 11 MoU with UNHCR.

¹⁸³ ARDD-Legal Aid, *Putting Needs Over Nationalities*

¹⁸⁴ Cairo Amman Bank, "UNHCR, Cairo Amman Bank and IrisGuard unveil ground breaking technology to enhance delivery of refugee assistance," updated January 17, 2016, <http://www.cab.io/news/unhcr-cairo-ammman-bank-and-irisguard-unveil-ground-breaking-technology-enhance-delivery-refugee>; UNHCR Innovation, "Biometric Cash Assistance," accessed June 9, 2016, http://innovation.unhcr.org/labs_post/cash-assistance/

provides all services inside Palestinian refugee settlements, and also offers some support to Palestinians in urban areas.

Identity and registration cards issued by UNHCR or the Jordanian Ministry of the Interior (for Syrians) are required to access almost all services in Jordan, whether provided by the government or through NGOs. Individuals who have not registered with UNHCR or who have not completed the Ministry of the Interior documentation process are thus likely to experience significant challenges accessing essential services. Recently, some Syrians have also reported difficulty using their old Ministry of the Interior identification cards, since the re-documentation process began.¹⁸⁵ PRS who have not registered with UNRWA face similar challenges.

Housing

Housing and shelter are both integral to accessing protection for refugees in Jordan and a source of additional vulnerability. While all refugees may choose to find their own housing in urban areas, Palestinians and Syrian refugees also have access to shelter provided through the UNRWA or UNHCR camp systems. No camps are available for Iraqis or refugees of other nationalities.

UNRWA operates 10 official camps for Palestinians in Jordan, four of which were established to accommodate the 1948 arrivals and have now come to resemble the surrounding urban areas. While tents were originally provided as shelter for refugees in UNRWA camps, most have now been converted to permanent concrete or prefabricated structures which refugees have expanded on over time, adding additional rooms or stories to the buildings. Ownership rights to these structures are somewhat tenuous, despite the fact that many have housed the same family for generations; refugees can lay claim to the buildings themselves but the land on which the structure sits is considered to be on loan from the Jordanian government.¹⁸⁶ Crowding is a problem in some settlements—approximately 17 percent of households lived in crowded conditions in 2011—although conditions have improved over time as family sizes have shrunk.¹⁸⁷ Sanitation and services in camps are broadly of acceptable quality and most housing has private toilet facilities and water.¹⁸⁸

Conditions in the three official refugee camps for Syrians are more limited and less developed. Shelters consist primarily of prefabricated structures, and water and sanitation facilities are usually shared.¹⁸⁹ Access to electricity is typically provided only at certain hours of the day or is rationed by household. Conditions in the camps can be difficult during harsh winter or summer weather conditions. In December of 2015, for example, two thirds of refugee families in Zaatari camp reported their shelters were not suitable for winter conditions.¹⁹⁰

¹⁸⁵ Amnesty International, *Living on the Margins: Syrian Refugees in Jordan Struggle to Access Health Care*, (Amnesty International: London, 2016), <http://www.refworld.org/docid/56f250204.html>.

¹⁸⁶ Åge A. Tiltne and Huafeng Zhang, *Progress, challenges, diversity: Insights into the socio-economic conditions of Palestinian refugees in Jordan*, (Oslo: FAFO, 2013), http://www.unrwa.org/sites/default/files/insights_into_the_socio-economic_conditions_of_palestinian_refugees_in_jordan.pdf

¹⁸⁷ Tiltne and Zhang, *Progress, challenges, diversity*.

¹⁸⁸ Tiltne and Zhang, *Progress, challenges, diversity*.

¹⁸⁹ UNHCR, *Zaatari Refugee Camp: Factsheet, April 2016*,

<http://data.unhcr.org/syrianrefugees/documents.php?page=2&view=grid&Language%5B%5D=1&Settlement%5B%5D=176#>; and UNHCR, *Azraq Camp: May 2016*,

<http://data.unhcr.org/syrianrefugees/settlement.php?id=251&country=107®ion=73>

¹⁹⁰ UNHCR, *Zaatari Refugee Camp: Winter Response, November 2015-February 2015*,

<http://data.unhcr.org/syrianrefugees/download.php?id=10045>

Perhaps unsurprisingly given the restrictions on refugees' movement and limited economic opportunities inside camps, most Syrians and Palestinians choose to live in urban areas, a trend that has been observed in other refugee populations around the world.¹⁹¹ Just 18 percent of Palestinians live in a camp.¹⁹² Refugees from Gaza who arrived during the 1967 flow are the most likely to be living in a camp, possibly because of their more tenuous legal status and limited access to national services.¹⁹³ Of those who live in urban areas, most live in Amman.¹⁹⁴ Similarly, most registered Syrians (81 percent) are settled in urban areas, predominately in Amman (27 percent), Irbid (21 percent), and Mafraq (12 percent). A smaller number live in the three official Syrian refugee camps, Zaatari (12 percent), Azraq (8 percent), and Emirati Jordanian Camp (1 percent).¹⁹⁵ The Jordanian census, which includes unregistered Syrians, also shows that urban areas, including Amman and Irbid, are most popular with Syrians.¹⁹⁶

While cities offer more freedom and economic opportunities, housing can be expensive and difficult to find, with broader consequences for refugees' vulnerability and protection needs. The influx of additional people to Jordan's cities has resulted in a housing shortage and placed increased pressure on the housing market. Government estimates indicated that rents may have increased as much as 14 percent between January 2013 and mid-2015.¹⁹⁷ For Syrians, UNHCR has estimated that rent may amount to more than 55 percent of their living expenses.¹⁹⁸ The difficulties posed by high rent costs are exacerbated by the fact that rent in Jordan is often paid in advance.¹⁹⁹ As few refugees have a legal right to work, families may resort to harmful coping mechanisms such as child labor in order to afford rent. Those who cannot generate sufficient income find themselves increasingly in debt; a 2014 NGO study found that up to a third of refugees in Jordan had outstanding debts with their landlords.²⁰⁰ Moreover, the shelter urban refugees are able to access is often crowded or in poor condition. An assessment by the Norwegian Refugee Council found that over half of families questioned were sharing accommodation, and one in five households live in shelter that is not fully enclosed from poor weather conditions.²⁰¹

Housing or a lack thereof, can also have implications for refugees' legal status in Jordan. Since new registration requirements came into place in 2015, Syrians are required to present a proof of residence, such as a lease agreement, in order to receive a Ministry of the Interior identification card. Those who are living in informal or precarious housing may thus find themselves unable to obtain the identification needed to access services and are at risk of being moved back to the refugee camps.²⁰²

¹⁹¹ UNHCR estimates that the majority of refugees, as many as 72 percent, live in urban areas rather than camps. <http://www.unhcr.org/en-us/5731adcc9>.

¹⁹² Calculations from UNRWA data, UNRWA, "Where we work."

¹⁹³ Tiltne and Zhang, *Progress, challenges, diversity*.

¹⁹⁴ Department of Statistics, (2016) Jordan 2015 Census. PDF (Arabic document)

¹⁹⁵ UNHCR, "Registered Syrians in Jordan"

¹⁹⁶ Department of Statistics, *Jordan 2015 Census*.

¹⁹⁷ NRC, *No Place to Call Home*, (Norwegian Refugee Council, 2015), <http://www.nrc.no/resources/reports/no-place-to-call-home---how-syrias-displaced-millions-struggle-to-keep-a-roof-over-their-heads/>

¹⁹⁸ NRC, *No Place to Call Home*.

¹⁹⁹ Verme et al., *The Welfare of Syrian Refugees*

²⁰⁰ NRC, *No Place to Call Home*.

²⁰¹ NRC, *No Place to Call Home*.

²⁰² NRC, *No Place to Call Home*.

Employment

The ability to earn a living is crucial to refugees' socioeconomic status in a host country. While the legal framework exists in Jordan to permit most refugees to work legally, few have successfully obtained permission to do so due to prohibitive costs, regulatory barriers, and hesitation by employers to sponsor refugees for permits. Instead, many refugees work informally—often in low-paid, low-skilled jobs—and remain vulnerable to poverty as well as exploitation by unscrupulous employers.

Under the MoU with UNHCR, the Jordanian government commits to provide access to work to refugees legally residing in Jordan "whenever the laws and regulations permit."²⁰³ The right to work for refugees is thus not unlimited and is subject to regulation by Jordanian authorities. Generally, foreign nationals in Jordan must obtain a permit to work legally, and employers of foreign nationals are required to pay an annual fee. Work permits are valid for one year and subject to additional fees upon renewal. Moreover, there are restrictions on the type of work non-nationals can perform.²⁰⁴ As of March 2015, the restricted jobs list specified at least 16 professions, including engineers, teachers, and service and clerical jobs that were closed to non-nationals.²⁰⁵

For refugees, actually obtaining a work permit is extremely difficult.²⁰⁶ The process to apply for and renew work permits is lengthy, complex, and expensive. Refugees must provide a copy of their passport, a certificate of health (which costs JD 20 or USD 28 to obtain), a vocational training certificate where relevant, and an annual employment contract. In conjunction, employers must submit their business registration, vocational license, a bank guarantee (to confirm the employer will be able to fulfill their payment obligations to the worker), and a form from the Ministry of Labor. Applications for a work permit cost between JD 170 (USD 240) and JD 370 (USD 521).²⁰⁷ Even if refugees are able to assemble the relevant documentation and obtain the support of an employer, a work permit is not guaranteed. Applications must be reviewed by both the Ministry of the Interior and the Ministry of Labor.

The costs of obtaining a work permit can be prohibitive for many refugees. Although permit fees should legally be paid by the employer, in practice businesses often require workers to cover the fee.²⁰⁸ Along with high costs, the documentation requirements may also prove to be a barrier, as refugees often travel without identity documents or on fraudulent documents, and may not have access to vocational certifications or diplomas. Employers also perceive the application process and documentation requirements to be cumbersome, particularly for the low-skilled jobs in which many refugees are employed.²⁰⁹

In practice, few refugees have obtained work permits: only 5,700 Syrians had permits as of June 2015, according to the Ministry of Labor.²¹⁰ Despite not having access to work permits, an estimated 52 percent of adult Syrian men are economically active, and as many as 200,000

²⁰³ Article 8, Jordan-UNHCR MoU.

²⁰⁴ Access to work for foreigners is regulated under the 1996 Labor Law, Article 12(b).

²⁰⁵ International Labour Organization, *Access to work for Syrian refugees in Jordan: A discussion paper on labour and refugee laws and policies*, (Beirut: ILO regional Office for Arab States, 2015), http://www.ilo.org/beirut/publications/WCMS_357950/lang-en/index.htm

²⁰⁶ ARDD-Legal Aid, *Refugees' Work Permits Situation in Jordan*, (Amman, Jordan: ARDD-Legal Aid, 2011).

²⁰⁷ ILO, *Access to work for Syrian refugees in Jordan*

²⁰⁸ ILO, *Access to work for Syrian refugees in Jordan*

²⁰⁹ ILO, *Access to work for Syrian refugees in Jordan*

²¹⁰ ILO, *Access to work for Syrian refugees in Jordan* ; ARDD-Legal Aid, *Putting Needs Over Nationalities*

are estimated to be working illegally.²¹¹ Without the legal right to work, refugees may find themselves at risk of deportation or detention. Sporadic police inspections of work places have been recorded, although large scale crackdowns or deportations do not appear to be common.²¹² Somalis and Sudanese are reportedly the most at risk of being caught for illegal work simply because their physical appearance may lead to additional scrutiny on the part of authorities.²¹³ More worrying is the vulnerable economic position in which many refugees find themselves as a result of their lack of a right to work. Wages in the informal sector are often much lower than those paid under normal conditions, and refugees lack significant bargaining power with employers. Reports indicate refugees experience high economic vulnerability and have had to resort to a number of concerning coping mechanisms to meet their basic needs, including child labor.²¹⁴ In a 2013 report, 47 percent of Syrian refugee households indicated that they rely partly or entirely on income generated by a child,²¹⁵ with children working long hours six or seven days a week.²¹⁶

For Syrians at least, the Jordanian government has sought to facilitate easier access to work. Early on in the crisis, the government granted priority to work permit applications from Syrians working in high-demand sectors.²¹⁷ More recently, the government announced in April 2016 that it would offer a three-month grace period during which Syrians would not be charged fees for work permits, and employers who wished to legalize the status of their Syrian workers would be immune from fines for employing workers illegally (which can range from USD 280 to USD 2100). Jordanian authorities have also waived the requirement for permit applicants to provide a copy of their passport, and now allow Syrians to apply with a copy of the UNHCR and Ministry of the Interior identity cards.²¹⁸ Similar efforts have not been undertaken for other refugee groups, who remain subject to regular fees and documentation requirements. The effects of these most recent efforts will be seen over the remainder of 2016 and beyond.

²¹¹ Hashemite Kingdom of Jordan, Ministry of Planning and International Cooperation, *Jordan Response Plan for the Syria Crisis: 2016-2018*, (Amman: Hashemite Kingdom of Jordan, 2016), Jordan Response Plan, (2016), <http://static1.squarespace.com/static/522c2552e4b0d3c39ccd1e00/t/56b9abe107eaa0afdc35f02/1455008783181/IRP%2B2016-2018%2BFull%2B160209.pdf>, p3; ILO, *Access to work for Syrian refugees in Jordan*, ; ARDD-Legal Aid, *Putting Needs Over Nationalities*

²¹² Reva Dhingra, "Syrian refugees and the Jordanian Economy," *Muftah*, August 21 2014, <http://muftah.org/syrian-refugees-jordanian-economy/#VwOAD4GSwSU>; Alice; Su, "Jordan's illegal labour puzzle: Let Syrian refugees work or just survive?," *Al-Jazeera America*, updated March 2, 2015, <http://america.aljazeera.com/articles/2015/3/2/jordans-illegal-labor-conundrum-let-syrians-work.html>; The Jordan Times, "Around 200,000 Syrians illegally work in Jordan – ministry," updated, June 20, 2015, <http://www.jordantimes.com/news/local/around-200000-syrians-illegally-work-jordan-%E2%80%9494-ministry>
²¹³ IRIN, "Jordan's other refugees feel forgotten," updated, February 5, 2014, <http://www.irinnews.org/report/99591/jordan%E2%80%99s-other-refugees-feel-forgotten>; Areej Abuqudairi, "Jordan's invisible refugees suffer in silence", *Al-Jazeera*, updated, June 20, 2014, <http://www.aljazeera.com/news/middleeast/2014/06/jordans-invisible-refugees-suffer-silence-2014619131422115902.html>; ARDD-Legal Aid, *Putting Needs Over Nationalities*

²¹⁴ UNHCR, *Living in the Shadows: Jordan Home Visits Report 2014*, (Amman: UNHCR Jordan, 2015) <http://www.unhcr.org/54b685079.pdf>

²¹⁵ UN Women, "Inter-Agency Assessment: Gender-Based Violence and Child Protection Among Syrian Refugees in Jordan, With a Focus on Early Marriage", (Amman: UN Women Marriage', 2013), <http://www.unwomen.org/en/digital-library/publications/2013/7/syrian-refugees> p. 352013, p. 35

²¹⁶ UNICEF & Save the Children, *Small hands, heavy burden: How the Syria conflict is driving more children into the workforce* (Amman: UNICEF & Save the Children, 2015), <http://www.refworld.org/pdfid/55966c574.pdf> p2

²¹⁷ ILO, *Access to work for Syrian refugees in Jordan*

²¹⁸ Ariane Rummery, "Access to jobs improving for Syrian refugees in Jordan," *UNHCR*, updated April 19, 2016, <http://www.unhcr.org/en-us/news/briefing/2016/4/5715ef866/access-jobs-improving-syrian-refugees-jordan.html>

Palestinian refugees with Jordanian citizenship have full access to the labor market. Ex-Gazans, however, experience restrictions on their right to work. They are, for example, barred from working in jobs on the closed professions list and are required to obtain work permits as non-nationals, although they are not charged the standard fees.²¹⁹ As a result, Gazans are three times more likely than other Palestinians in Jordan to be among the destitute poor, living on less than USD1.25 a day.²²⁰

Education

While Jordan maintains a relatively strong education policy framework that facilitates legal access to schooling for most refugee groups, practical barriers, including costs, often prevent refugee children from benefiting from these policies.

Education through the public school system is free in Jordan for Jordanian nationals, and 10 years of education are compulsory.²²¹ Refugees in Jordan may access education either through the mainstream school system or in schools run by UN agencies or international NGOs, for those in Palestinian or Syrian refugee camps.

Non-nationals are charged an annual fee of USD 56 to attend primary school and USD 85 for secondary school. For refugee families with few financial assets or sources of income, the fees can pose a barrier to accessing education. The Jordanian government has taken steps to address the issue of costs for some categories of refugees. The children of Iraqi refugees have had free access since 2007,²²² and Syrian children also benefit from free enrollment in public schools. Costs associated with textbooks, uniforms, and other supplies can still pose a barrier for refugee families, however.

²¹⁹ In early January 2016 the government made an announcement which suggested that Palestinians from 1967, including ex-Gazans, would be required to pay the fees associated with work permits to work in the Kingdom. Not two weeks after the decision was made, and clearly in response to the litany of objections, Jordanian Labor Minister announced that the decision was revoked. Although this decision was revoked, the initial decision and the potential impact it would have is clear evidence of the precarious position that stateless ex-Gazans have in Jordan. Adnan Abu Amer, "Palestinians in Jordan Outraged Over New Work Permit Requirements," updated February 2, 2016,

<http://www.al-monitor.com/pulse/originals/2016/02/jordan-work-permits-palestinian-refugees.html#>;

The Jordan Times, "Temporary passport holders exempted from work permit fees," updated January 11, 2016, <http://www.jordantimes.com/news/local/temporary-passport-holders-exempted-work-permit-fees>

²²⁰ Mona Christopherson, "Jordan: Seeking Progress in the Land of the Refugees," *IPI Global Observatory*, February 3, 2015, <http://theglobalobservatory.org/02/2015/jordan-progress-land-refugees/>

²²¹ After grade 10, students may continue on for a further two years of secondary vocational or academic courses. The Hashemite Kingdom of Jordan, "Human Resources: Education in Jordan: A commitment to Excellence," accessed June 6, 2016, <http://www.kinghussein.gov.jo/resources3.html> ; UNICEF, *Jordan's early childhood development initiative: Making Jordan fit for Children*. (New York: UNICEF, 2008),:

http://www.unicef.org/mena/Learning_Series_II_English.pdf, p22.

²²² Human Rights Watch, *World Report 2009: Events of 2008*, (New York: Human Rights Watch, 2008)

https://www.hrw.org/sites/default/files/reports/wr2009_web.pdf; Jason Hart and Anna Kvittingen, *Tested at the Margins: the Contingent Rights of Displaced Iraqi Children in Jordan*, (Geneva: UNHCR, 2015), <http://www.unhcr.org/en-us/research/working/54cf8de29/tested-margins-contingent-rights-displaced-iraqi-children-jordan-jason.html> (pg. 2-3).

Table 8: School access rights and fees for refugee children

Access to Education for Refugees by Nationality					
Palestinians			Syrians	Iraqis	Other
1948 Refugees	Ex-Gazans	Palestine Refugees from Syria (PRS)			
Free access to UNRWA schools Free access to Jordanian schools, as nationals	Free access to UNRWA schools Charged foreigners' fee (USD 56 for primary school and USD 85 for secondary school) to access Jordanian schools	Free access to UNRWA schools Charged foreigners' fee (USD 56 for primary school and USD 85 for secondary school) to access Jordanian schools	Enrollment fees waived by government	Enrollment fees waived by government	Charged foreigners' fee (USD 56 for primary school and USD 85 for secondary school) to access Jordanian schools. For Somalis and Sudanese, fees subsidized by UNHCR and NGOs

Documentation can be another challenge. To register for school, children are required to have a valid UNHCR asylum seeker card and Syrians must have registered with the Ministry of the Interior. In addition, children are generally required to supply documents from their previous school to attest to their education level, although the Ministry of Education has eased this requirement as refugee children were frequently unable to supply this documentation.²²³

Other policy and practical barriers may prevent students from enrolling in or attending school among both Syrian and Iraqi families.²²⁴ Perhaps most critically, children who have been out of school for more than three years are not allowed to enroll in the formal school system, potentially creating a barrier for refugee students who may have experienced lengthy disruptions to their education. Moreover, support for students with non-traditional education trajectories is limited in Jordanian schools, and few opportunities exist for children who are behind to catch up with their peers. This challenge is exacerbated by the fact that students are only allowed to enroll at the beginning of the school year, and as a result, children who arrive during the year must often wait until the following fall to begin school. Families have also reported that a lack of transportation and costs for schools supplies and uniforms can be prohibitive, particularly outside of camps.

In addition to efforts by the government to remove some formal obstacles to education like fees, international agencies and donors have stepped in to provide assistance. For example, the UN and international NGOs have undertaken outreach campaigns to inform children and families how to enroll in school, and have supported “catch up” programs for students who have been out of school for a prolonged period.²²⁵ Most such efforts have, however, focused on Syrians, and much less attention has been paid to the situation of smaller refugee communities in Jordan. UNHCR and NGOs offer assistance to cover schooling costs for Sudanese and Somali refugee children,²²⁶ but little is known about their access to education or enrollment and

²²³ Communication from ARDD-Legal Aid, May 2016.

²²⁴ Barriers here have been cited in surveys and assessments among both Syrian and Iraqi families in Jordan. See Hart and Kvittingen, *Tested at the Margins*, See and RAND Europe, “Evaluating UNICEF’s Emergency Education Response Programme” and

²²⁵ RAND Europe, “Evaluating UNICEF’s Emergency Education Response Programme”

²²⁶ ARDD-Legal Aid, *Putting Needs Over Nationalities*, p7; UNHCR, “Jordan: UNHCR Operational Update, October 2015,” updated October 31, 2015,

<http://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20Jordan%20Operational%20Update%20October%202015%20FINAL.pdf>

attendance in practice. No support policies have yet been developed for Yemeni children, who currently must pay the foreigners' fees to enroll in public schools.

Yet attendance and enrollment rates also remain low for Syrian and Iraqi children. Enrollment has reportedly been persistently low among Iraqi children.²²⁷ During the 2014-2015 school year, only an estimated 83 percent of Syrian school-aged children were enrolled in school, and school authorities believed actual attendance rates were much lower than enrollment.²²⁸ Attendance may be better in urban areas than in camps, according to a recent needs assessment; residents of the largest camp, Zaatari, reported that overcrowding in camp schools, transportation difficulties, and poor quality of teaching deterred attendance.²²⁹

The capacity of Jordanian schools has clearly been strained by the rapid growth in the student population, driven primarily by inflows of Syrian refugee children and youth.²³⁰ The Jordanian government has estimated that school capacity in Jordan has been exceeded by 13 percent, in large part due to the increase in Syrian students. In order to meet the additional demand, the Jordanian government estimates an additional 300 schools are needed.²³¹ To fill this gap, the government has cooperated with UNICEF to open double shifts in several schools to accommodate newcomers. UNICEF has also supported the government in expanding school buildings and classrooms, and has opened schools to serve Syrian students in the refugee camps. However, international support and assistance has not always been sufficient to cover the increased costs of meeting greater demand for educational services. In 2014, for example, while international donors provided assistance to cover schooling costs for Syrian children, no such support was available for Iraqis and local schools and the government has born these costs itself.²³²

In Palestinian refugee camps, UNRWA provides most basic education. As of 2013, UNRWA served 90 percent of Palestinian youth inside of the camps.²³³ Outside of the camps, Palestinians may attend Jordanian schools, although a small proportion (about 15 percent in 2013) use the UNRWA school system.²³⁴ While Palestinians with Jordanian citizenship may enroll in national schools free of charge, ex-Gazans and PRS must pay the foreigners' fee to attend Jordanian public schools.²³⁵

For many years, UNRWA schools had a reputation for providing high quality education, often better than the Jordanian public schools.²³⁶ As evidence of this, educational attainment has clearly improved over generations for Palestinians in Jordan; while nearly 60 percent of Palestinians between 60-65 years living in camps had not completed any school in 2011, just

²²⁷ Hart and Kvittingen, *Tested at the Margins*

²²⁸ RAND Europe, "Evaluating UNICEF's Emergency Education Response Programme"

²²⁹ Parents in Zaatari also were reportedly more reluctant to enroll their children in schools as they viewed their stay in the camp as temporary rather than a permanent move. RAND Europe, "Evaluating UNICEF's Emergency Education Response Programme"

²³⁰ RAND Europe, "Evaluating UNICEF's Emergency Education Response Programme," accessed June 9, 2016, <http://www.rand.org/randeurope/research/projects/unicef-emergency-education-response.html>

²³¹ Hashemite Kingdom of Jordan, Ministry of Planning and International Cooperation, *Jordan Response Plan for the Syria Crisis: 2016-2018*

²³² Hart and Kvittingen, *Tested at the Margins: the Contingent Rights of Displaced Iraqi Children in Jordan*

²³³ Tiltne and Zhang, *Progress, challenges, diversity: Insights into the socio-economic conditions of Palestinian refugees in Jordan*

²³⁴ Tiltne and Zhang, *Progress, challenges, diversity: Insights into the socio-economic conditions of Palestinian refugees in Jordan*

²³⁵ Sara Pavanello and Simone Haysom, "Sanctuary in the city? Urban displacement and vulnerability in Amman," (working paper, Humanitarian Policy Group, Overseas Development Institute, London, 2012), <https://www.odhpn.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/7605.pdf>

²³⁶ Pavanello and Haysom, "Sanctuary in the city? Urban displacement and vulnerability in Amman"

11 percent of 40 to 45 year olds had not completed basic school.²³⁷ More recently, however, decreased funding and financial shortfalls have significantly impacted UNRWA schools.²³⁸ Schools have become increasingly crowded, and in the fall of 2015, UNRWA was forced to consider delaying the start of the school year due to a significant funding shortfall.²³⁹ In recent years, there has also been a noticeable gap in outcomes for students in- and outside of camps. While 42 percent of 25 to 30 year olds living outside of camps completed some tertiary education in 2012, just 20 percent of the same age group inside the camps had done so as of 2011.²⁴⁰

Health

Health care in Jordan is provided through both public and private systems. Most Jordanians also carry some form of health insurance provided by their employers. Individuals without health insurance are able to access public health services at a subsidized rate, while foreigners must pay a higher fee. For refugees, as in other policy areas, access to health care in Jordan depends very much on an individual's nationality and circumstances of entry.

Currently, non-Palestinian refugee groups can access primary health care through clinics run by UNHCR partner organizations such as Caritas, the Jordan Health Aid Society (JHAS), and the International Medical Corps (IMC).²⁴¹ Iraqis can receive secondary care at government clinics via a referral from a UNHCR-sponsored clinic. All refugees must possess a valid UNHCR registration card in order to access the clinics. UNHCR covers costs for emergency visits and pregnancy services at government or UNHCR-affiliated hospitals. Tertiary treatment must be approved by UNHCR's Exceptional Care Committee.

Refugees are also allowed to use the national health care system, but must pay the higher foreigners' rate. While the government has made efforts to facilitate access for Syrians and Iraqis, both groups have seen their benefits reduced as their displacement has become prolonged. Initially, Syrians were granted free access to care at public health clinics, but beginning in November 2014, the government reduced coverage for Syrians to the same level as that provided to Jordanians without insurance (i.e. a nominal fee for services).²⁴² Syrians are required to have completed the Ministry of the Interior registration procedure to benefit from the lower fees. Until August 2015, Iraqis were also allowed to pay the same, lower fees as uninsured Jordanians due to financial support paid to the Jordanian government by UNHCR.²⁴³ But funding to support health care access for Iraqis has declined,²⁴⁴ particularly as Syrian health care needs have burgeoned, and at present Iraqis are no longer eligible to benefit from subsidized care.²⁴⁵

²³⁷ Tiltne and Zhang, *Progress, challenges, diversity: Insights into the socio-economic conditions of Palestinian refugees in Jordan*

²³⁸ <https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/7605.pdf>

²³⁹ UN News Centre, "Budget woes 'costly distraction,' Ban says, urging reliable funding for UN Palestine refugee agency," updated May 4, 2016, <http://www.un.org/apps/news/story.asp?NewsID=53852#.V1bedPkrK00>

²⁴⁰ Tiltne and Zhang, *Progress, challenges, diversity: Insights into the socio-economic conditions of Palestinian refugees in Jordan*

²⁴¹ UNHCR, "Guide to UNHCR Supported Health Care Services in Jordan," published 2013, <https://data.unhcr.org/syrianrefugees/download.php?id=2862>

²⁴² Amnesty International, *Living on the Margins*

²⁴³ UNHCR, *Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights' Compilation Report - Universal Periodic Review: Jordan*, March 2013, <http://www.refworld.org/pdfid/513d90172.pdf> ; UNHCR Health Unit, *Assessment of Health Access of New Arrival Iraqi Refugees in Jordan*, August 3, 2015, pg. 3.

²⁴⁴ Hart and Kvittengen, *Tested at the Margins*

²⁴⁵ UNHCR Health Unit, *Assessment of Health Access of New Arrival Iraqi Refugees in Jordan*, August 3, 2015, pg. 3.

Table 9: Health care rights and fees for refugees

Access to Healthcare for Refugees by Nationality					
Palestinians			Syrians	Iraqis	Other
1948 Refugees	Ex-Gazans	Palestine Refugees from Syria (PRS)			
Full access to Jordanian health care as citizens Free access to UNRWA health services	Free access to UNRWA health services Access to Jordanian healthcare but charged at foreigners' rate	Free access to UNRWA health services Access to Jordanian healthcare but charged at foreigners' rate	Free primary care at NGO-run clinics Jordanian health services - 2011 – Nov. 2014: Free primary care - Nov. 2014 – Present: Primary care charged at subsidized rate (same as uninsured Jordanians)	Free primary care at NGO-run clinics Jordanian health services - 2007 – Aug. 2015: Primary care charged at subsidized rate (same as uninsured Jordanians) - Aug. 2015 – Present: Primary care charged at foreigners' rate; secondary care subsidized by UNHCR	Free primary care at NGO-run clinics Jordanian health services - All care charged at foreigner's rate - Emergency and pregnancy services subsidized by UNHCR

Palestine refugees with Jordanian citizenship can access health care on the same level as other Jordanian citizens. Those without citizenship, including PRS and ex-Gazans, are charged at the foreigners' rate. UNRWA also operates 12 health clinics inside of camps and 11 clinics outside of camps in Jordan, as of 2014. Primary healthcare is provided for free at UNRWA clinics, and referrals are provided for secondary and tertiary treatment.²⁴⁶

The cost of services can be a major barrier for all refugee groups, particularly in using Jordanian health facilities. A UNHCR rapid survey conducted in May 2015 after fees were reintroduced for Syrians found that Syrian families reported more difficulty accessing health services, primarily due to costs, and that families had less knowledge about the cost of services or conditions under which they could be accessed.²⁴⁷ Syrians have also shifted their use patterns to rely more heavily on NGO-provided health services, which are free, rather than public clinics, placing more strain on NGOs already suffering from funding limitations.²⁴⁸ Moreover, although services provided at UNHCR clinics are broadly free, there is a fee of JD 2 (USD 3) to open a file, which can be a barrier for refugees with already limited resources.²⁴⁹

As in other service areas, public health care services in Jordan have been strained by the demands of the refugee population. The Jordanian government estimates additional demand by Syrians has contributed to exceeding the capacity of health clinics by 22 percent, and government reports have found a shortage of over 1000 doctors as a result of increased demand.²⁵⁰

²⁴⁶ UNRWA Department of Health, *Annual Report 2014*, (Amman: UNRWA, 2015),

http://www.unrwa.org/sites/default/files/health_department_annual_report_2014.pdf

²⁴⁷ UNHCR, *At a glance: Health access and utilization survey among non-camp refugees in Jordan*, (UNHCR: 2015),

<http://reliefweb.int/report/jordan/glance-health-access-and-utilization-survey-among-non-camp-refugees-jordan-may-2015>.

²⁴⁸ UNHCR, "Syria Regional Refugee Response, Inter-agency Information Sharing Portal," updated June 2, 2016,

<http://data.unhcr.org/syrianrefugees/download.php?id=9202>

²⁴⁹ ARDD-Legal Aid, *Putting Needs Over Nationality*, pg., 5.

²⁵⁰ Hashemite Kingdom of Jordan, Ministry of Planning and International Cooperation, *Jordan Response Plan for the Syria Crisis: 2016-2018*

3.2.4. Conclusions and Assessment of Impacts of Forced Migration

Despite Jordan's long history as a generous host to forced migrants, the country has yet to develop a formal or comprehensive legal or policy framework to provide protection to forced migrants or to govern their access to essential services. Rather, policies regarding forced migration differ substantially based on an individual's nationality and time of arrival in the country. UN agencies including UNHCR and UNRWA continue to play a central role in assessing forced migrants' protection needs and providing documentation of refugees' status. While Jordanian authorities have become involved in processing documentation for Syrians specifically, the country still lacks a broad policy on asylum and it has not signed the 1951 Convention.

Rules governing the provision of essential services are also made on a relatively ad hoc basis and differ substantially for Iraqis, Syrians, Palestinians, and other refugee populations. Policies have also evolved significantly over time as each situation has become protracted and refugees' duration of stay has lengthened. Broadly, Jordan is notable for its accommodation of refugees in mainstream public services and willingness to allow most refugees to settle in urban areas, with the exception to some extent of Syrians. The country remains reliant, however, on international support in order to preserve access to these services and to provide supplemental assistance when mainstream services are overwhelmed. Refugees' access to services is thus often subject to the availability of funding and assistance, and the space to provide support may dwindle over time as international aid declines. Moreover, service fees and regulatory barriers (such as the need to provide documentation of previous school attendance) often prevent refugees from accessing the services that are available.

Broadly, the ad hoc approach to protection and service provision has often resulted in some national groups, notably Syrian refugees, being granted more favorable conditions than others. Particularly in an environment where the availability of services is driven by international support, refugee crises that attract greater attention are subject to more supportive policies and environments. Syrians, for example, have enjoyed more favorable access to Jordanian health services since the start of the crisis, and most recently have been granted a waiver from work permit fees; but similar relief has not been provided to other refugee groups, in part because international donors have tied the issue of work permits for Syrians to their grants of support, successfully applying pressure on the government to change its policy.²⁵¹

Driven in part by fears of the financial, political, and social costs of integrating a very large forced migrant population—and the memory of its experiences with the 1948 Palestinians—Jordan has long maintained a policy of non-integration for recently arrived refugees. As a rule, refugees are not eligible for permanent residency or citizenship, unless via marriage or in some cases financial investment. Labor market access is also strictly limited, and the terms of Jordan's MoU with UNHCR stipulate that the agency will make every effort to identify durable solutions for refugees outside of Jordan.

Public concern about the costs of providing protection continues to be widespread, but the effects of the substantial refugee populations on the Jordanian service system, economy, and society are difficult to discern. The sheer number of people Jordan has added to its population is admittedly significant, and the additional strain that increased demand from growing refugee populations has placed on social services is clear, particularly in the education and

²⁵¹ Communication from ARDD-Legal Aid

health sectors. Many of the struggles with capacity and quality currently faced by Jordanian service systems were, however, present prior to the current crisis. The education system, for example, suffered from a neglected infrastructure, poor academic results, and inadequate training for teachers even prior to the Syrian crisis. In some ways, the refugee crisis has the potential to have a positive effect by directing new resources, including from international and humanitarian donors, toward addressing these longstanding challenges.

The economic impact of refugee flows in Jordan is even more difficult to judge. Many of the economic challenges experienced by Jordan and its neighbors since 2011 result, at least in part, from disruption to the regional economy caused by the war in Syria, rather than Syrian refugee flows. A large portion of the Jordanian economy relies on regional exports, which have dropped substantially. Moreover, prices on consumer goods have risen as imports from Syria and Egypt have fallen.²⁵² Disentangling the impact of Syrian refugees specifically from these other factors is extremely difficult, if not impossible.

It is possible to point to some fiscal and economic benefits from the crisis. The refugee population brought with it substantial commitments in the form of humanitarian and development aid and stimulus policies. The increased demand for services has brought with it new demand for labor, particularly as operations by international humanitarian organizations have proliferated in the country.²⁵³ As part of the February 2016 Jordan Compact, for example, the World Bank provided a \$100 million interest-free loan to Jordan²⁵⁴ and the European Union recently offered Jordan temporary trade concessions designed to facilitate an increase in imports of Jordanian goods to the European Union.²⁵⁵

Another point of contention has been the effects of refugees on the labor market. While concerns have risen among some segments of the public regarding competition for jobs between refugees and Jordanian workers,²⁵⁶ evidence of such competition has been relatively limited. An ILO review in 2015, for example, found that the impacts on the labor market had been modest, and that because Syrians are primarily employed in a few sectors and lower skilled jobs, competition with natives has been limited.²⁵⁷ Moreover, ongoing international efforts to expand international investment in Jordan's Special Economic Zones with the hope

²⁵² Bashar Al-Khatib and Katharina Lenner, "A Human gift" – The socio-economic dimension of the Syrian refugee crisis (interview with Yusuf Mansur, 14.8.2015)," in *Alternative Voices on the Syrian Refugee Crisis in Jordan: An Interview Collection*, (Ramallah, Palestine: Rosa Luxemburg Stiftung, Regional Office Palestine, 2015)

<http://www.rosaluxemburg.ps/wp-content/uploads/2015/11/Jordan-Book-ref-English.pdf> p26 Mansur, Y. (2015). 'A Human gift' p26

²⁵³ F. Adely "Not wasting my education": The internal skilled migration of Jordanian women. Public lecture at Sijal Institute, Amman, Jordan. 23 March, 2016.

²⁵⁴ World Bank, "World Bank approves \$100 million in financing to create 100,00 jobs for Jordanians, Syrian refugees," (press release, , March 26, 2016),

<http://www.worldbank.org/en/news/press-release/2016/03/27/exceptional-financing-jordan-jobs-syrian-refugees>

²⁵⁵ The Jordan Times, "King concludes Brussels visit with milestone deals with EU," March 18, 2016. Available

<http://www.jordantimes.com/news/local/king-concludes-brussels-visit-milestone-deals-eu>

²⁵⁶ REACH, *Evaluating the Effect of the Syrian Refugee Crisis on Stability and Resilience in Jordanian Host Communities: Preliminary Impact Assessment*, (Geneva: REACH, 2014), <http://www.reach-initiative.org/reach-evaluates-the-effect-of-the-syrian-refugee-crisis-on-stability-and-resilience-in-jordanian-host-communities-preliminary-impact-assessment>

²⁵⁷ Svein Erik Stave and Maha Kattaa, *Labour force and unemployment trends among Jordanians, Syrians and Egyptians in Jordan 2011-2014*, (Oslo: FAO & ILO, November 2015),

<http://reliefweb.int/sites/reliefweb.int/files/resources/LabourforceandunemploymenttrendsamongJordaniansSyriansandEgyptiansinJordan.pdf> , p22

of creating jobs for refugees are also likely to improve labor market prospects for native Jordanians.²⁵⁸

In the long-term, it is unclear how many refugees will eventually return home, or when. The size and protracted nature of the Syrian refugee crisis may require Jordan to rethink its reluctance to integrate refugees in order to avoid creating a population that is stuck in intergenerational poverty and dependency. Ensuring refugees are able to support themselves and their families, and access critical services like health care and education, will be crucial to maintaining social and economic stability both in Jordan and in the region. Help and support from the international community is critical to accomplishing this policy shift, particularly given the very real fears among Jordanian policymakers of repeating the Palestinian experience. Recent efforts by the Jordanian government to extend work authorization to Syrians—supported by the international community via the Jordan compact—are a meaningful step in this direction.

3.3. Morocco²⁵⁹

Seated at the top of Africa and separated from Europe by just nine miles, Morocco holds an important position in the West and North African migration networks. Long before mixed flows of refugees and migrants began to cross the Eastern Mediterranean Sea in large numbers in 2014 and 2015, the Spanish enclaves of Ceuta and Melilla in Morocco and the Strait of Gibraltar served as a major pathway to Europe. In 2000, over 47,000 unauthorized migrants were detected entering the Spanish African enclaves, and a further 13,000 were found crossing the Strait of Gibraltar to Spain.²⁶⁰ Increased Spanish border enforcement in these areas shifted migration flows to the south; in the mid-2000s, the route between Senegal, Mauritania, and Morocco and the Spanish Canary Islands was the most popular for irregular migrants, peaking at 32,000 migrants in 2006.²⁶¹

Through increased border control and cooperation between Morocco and Spain, flows from West Africa into Europe through Morocco have greatly decreased. But immigration into Morocco has continued, forcing the country to reconcile its role as a traditional country of emigration and transit with its newfound status as a destination country. As such, it has begun the process of developing a comprehensive immigration and asylum strategy—unique in the region. This was catalyzed in 2013 by increasing criticism from national and international observers about the country's treatment of migrants, refugees, and asylum seekers. In response, King Mohammed VI ordered that Morocco take steps to improve the condition of forced migrants, leading to the establishment of a “national legal and institutional framework of asylum,”²⁶² which has the potential to become the first comprehensive asylum law in the Arab World.

²⁵⁸ Alexander Betts and Paul Collier, “Jordan’s Refugee Experiment: A New Model for Helping the Displaced,” *Foreign Affairs*, April 28, 2016,

<https://www.foreignaffairs.com/articles/middle-east/2016-04-28/jordans-refugee-experiment>.

²⁵⁹ This chapter was written by Natalia Banulescu-Bogdan and Bart Bachman, with contributions from Wiam Khalifa.

²⁶⁰ United Nations Office on Drugs and Crime (UNODC). *Transnational Organized Crime in West Africa: A Threat Assessment*, (Vienna: UNODC, 2013), 26,

<https://www.unodc.org/documents/toc/Reports/TOCTAWestAfrica/West Africa TOC MIGRANTS.pdf>.

²⁶¹ UNODC, *Transnational Organized Crime in West Africa*, 27

²⁶² Conseil national des droits de l’homme (CNDH), *Conclusions et recommandations du rapport : « Etrangers et droits de l’Homme au Maroc: pour une politique d’asile et d’immigration radicalement nouvelle »*, (Rabat: CNDH, 2013), 4, http://www.ccdh.org.ma/sites/default/files/documents/Conclusions_et_recommandations_version_fr.pdf

3.3.1. The Scale and Profile of Forced Migrants

Morocco's increasingly prominent role as country of destination

Morocco, along with most other countries of the Maghreb, has long taken advantage of its proximity to the wealthier European continent through migration. In 2012, it was estimated that 4.5 million Moroccans lived abroad, a tenth of the country's total population.²⁶³ Eighty-five percent of the Moroccan diaspora live in Europe, with France and Spain serving as especially popular destinations.²⁶⁴ This migration flow was initially facilitated by "guest worker" labor recruitment agreements between Morocco and various European states in the 1960s,²⁶⁵ and has continued through today despite increasingly restrictive European immigration policies—due to family-related migration, irregular migration, and persistent labor migration.²⁶⁶

While the emigration of Moroccan nationals has continued, since the 1990s an increasing number of migrants trying to reach Europe via Morocco have been sub-Saharan migrants. There exists a long history of trans-Saharan migration, following the pattern of nomadic and trade routes used by populations before colonization. Sub-Saharan flows exhibit hallmarks of both forced and voluntary migration, and many individuals have mixed motivations for migration. Some groups in Morocco, such as the Congolese, may qualify as refugees under the 1951 Convention as they have fled conflicts or persecution. Many others may not meet the definition of "refugee" but are still compelled to migrate due to political instability, environmental degradation, poverty, or lack of economic opportunity.

Migrants' journeys across the Sahara vary widely, and are often taken in several stages as migrants temporarily settle in towns along the way to work and save money to move onward.²⁶⁷ Irregular migrants have traditionally crossed into Morocco from Algeria through the border town of Oujda, from where they may head to the coast to cross the Strait of Gibraltar into Spain, move toward the Spanish enclaves of Ceuta and Melilla to enter Spain by land, or seek work in Rabat or Casablanca, where they may settle either temporarily or permanently.²⁶⁸

²⁶³ Mryiam Cherti and Peter Grant, *The Myth of Transit: Sub-Saharan Migration in Morocco*, (London: IPPR, 2013), 9, http://www.ippr.org/files/images/media/files/publication/2013/07/myth-of-transit-morocco-ENG_June2013_11051.pdf?noredirect=1.

²⁶⁴ Cherti and Grant, *The Myth of Transit*, 9; Hein de Haas, "Morocco: Setting the Stage for Becoming a Migration Transition Country?," *Migration Information Source*, March 19, 2014, <http://www.migrationpolicy.org/article/morocco-setting-stage-becoming-migration-transition-country>.

²⁶⁵ As strong economic growth in Western Europe in the 1960s drove up demand for low-skilled labor, many European countries (most notably Germany) signed labor agreements with Mediterranean countries. During this period, Morocco signed labor recruitment agreements with West Germany, France, Belgium, and the Netherlands. Some of these agreements came with terms meant to restrict permanent immigration. For example, the Moroccan agreement with West Germany was limited to unmarried persons, whose sojourn was limited to two years with no subsequent family immigration. However, many Moroccan migrants in Western Europe ended up settling permanently due to an era of economic and political instability in Morocco during the 1970's. Hein de Haas, "Morocco: From Emigration Country to Africa's Migration Passage to Europe," *Migration Information Source*, October 1, 2005, <http://www.migrationpolicy.org/article/morocco-emigration-country-africas-migration-passage-europe/>; Goethe Institut, "Anwerbeabkommen (Recruitment agreements)," accessed June 16, 2016, <http://www.goethe.de/lhr/prj/daz/glo/gla/en8496073.htm>

²⁶⁶ Hein de Haas, "Morocco: From Emigration Country to Africa's Migration Passage to Europe"

²⁶⁷ Hein de Haas, *Irregular Migration from West Africa to the Maghreb and the European Union: An Overview of Recent Trends*, (Geneva: International Organization for Migration, 2008), 17, <http://www.unhcr.org/49e479ca0.pdf>

²⁶⁸ de Haas, *Irregular Migration from West Africa to the Maghreb and the European Union*, 17

By 2004, the number of sub-Saharan Africans apprehended by Spanish authorities seeking to cross the Strait of Gibraltar surpassed that of Moroccans.²⁶⁹ These migrants came from a diverse array of source countries, such as Nigeria, the Democratic Republic of the Congo, Cameroon, Côte d'Ivoire, other West African states, and even states farther afield, including Pakistan and Bangladesh.²⁷⁰ Though many of these migrants entered Morocco with the goal of reaching Spain and other parts of Western Europe, it would be insufficient to describe Morocco as a simple country of transit. Regular migration from many West African states, such as Senegal and Mali, has increased as students and workers seek opportunity in comparatively wealthy Morocco.²⁷¹ Other irregular and forced migrants have also sought to permanently settle in Morocco, or decide that the country is the “second-best” option should they be unable to reach European soil.²⁷²

The role of Morocco as an “accidental” destination, trapping migrants who may eventually have chosen to move onward, has increased as the European Union has sought to increase its border security. As Spain and Morocco are separated by only nine miles by sea at the Strait of Gibraltar’s narrowest point, and the enclaves of Ceuta and Melilla represent the only land borders between the two continents, Morocco has been especially courted by the EU as a partner in managing migration.²⁷³ In 1999, Spain created the Integrated System of External Vigilance (SIVE) to detect irregular migrant crossings and combat smuggling along the Strait of Gibraltar.²⁷⁴ This program was later expanded along the entire Andalusian coast and eventually to the Canary Islands, as migration flows shifted in response to increased controls.²⁷⁵ In 2006 32,000 migrants were detected attempting to reach the Canary Islands from departure points in Senegal, Mauritania, and Morocco.²⁷⁶ Morocco and Spain have since worked together to patrol coastal waters and facilitate the return of irregular migrants.²⁷⁷ This work has been supported and partially funded by Frontex (created in 2004), as the European Union focused on securing its external borders.²⁷⁸

This increase in border security has made the Western Mediterranean route from Morocco to Spain much less popular. As of June 29, there had been 2,476 maritime arrivals in Spain and 2,130 land arrivals in Ceuta and Melilla in 2016, piling in comparison to the over 200,000 arrivals seen in Greece and Italy in the same time period.²⁷⁹ Similarly, Frontex recorded only 874 irregular arrivals along the Western African route to the Canary Islands in 2015.²⁸⁰

²⁶⁹ Ann Kimball, “The Transit State: A Comparative Analysis of Mexican and Moroccan Immigration Policies,” (working paper 150, The Center for Comparative Immigration Studies, University of California, San Diego, June 2007), 110, <http://spot.pcc.edu/~sbentley/mexico.and.morocco.pdf>

²⁷⁰ Rebecca Dowd, “Trapped in transit: the plight and human rights of stranded migrants,” (Research paper No. 156, UNHCR, Geneva), 5, <http://www.unhcr.org/486c92d12.pdf>

²⁷¹ de Haas, “Morocco: Setting the Stage for Becoming a Migration Transition Country?”

²⁷² de Haas, “Morocco: Setting the Stage for Becoming a Migration Transition Country?”

²⁷³ de Haas, “Morocco: Setting the Stage for Becoming a Migration Transition Country?”

²⁷⁴ Jørgen Carling, “The Merits and Limitations of Spain’s High-Tech Border Control,” *Migration Information Source*, June 7, 2007, <http://www.migrationpolicy.org/article/merits-and-limitations-spains-high-tech-border-control>.

²⁷⁵ Ibid.

²⁷⁶ Frontex, “Western African Route,” accessed August 9, 2016, <http://frontex.europa.eu/trends-and-routes/western-african-route/>.

²⁷⁷ de Haas, “Morocco: From Emigration Country to Africa’s Migration Passage to Europe”

²⁷⁸ This focus on the European Union’s external border was largely driven by the dissolution of internal borders through the Schengen Accord. To allow for the free movement of people inside the bloc, many member states believed it was necessary to control who had access to this zone through stricter border controls on Europe’s periphery. Sergio Carrera, Jean-Pierre Cassarino, Nora El Qadim, Mehdi Lahlou, and Leonhard den Hertog, *EU-Morocco Cooperation on Readmission, Borders and Protection: A model to follow?*, (Brussels: Centre for European Policy Studies, 2016), 4, <https://www.ceps.eu/system/files/EU-Morocco%20Cooperation%20Liberty%20and%20Security%20in%20Europe.pdf>

²⁷⁹ UNHCR, “Refugees/Migrants Emergency Response – Mediterranean,” updated June 29, 2016,

The border of Melilla is now guarded by both Moroccan and Spanish authorities, three layers of security fencing, razor wire, motion sensors and CCTV.²⁸¹ In 2015, the Spanish parliament passed an amendment that legalized summary returns of migrants to Morocco, a practice that had been widely reported and condemned by human rights advocacy groups.²⁸² Some migrants have reported attempting to cross this border up to six times, sometimes experiencing abuse at the hands of security guards as they are turned back.²⁸³ Only the wealthiest migrants can afford a smuggler—prices are reportedly USD\$1,500 for a boat across the Strait of Gibraltar, and USD\$5,000 to cross into one of the enclaves in the boot of a car.²⁸⁴ This has left many migrants in a predicament: on one hand, they are faced with an increasingly difficult path to Europe, but on the other, they may not wish to return home due to poor economic prospects, familial pressure, or conflict and insecurity. As a result, an increasing number of migrants decide to stay in Morocco, either permanently or temporarily, including forced migrants who are unable to lodge asylum applications in Europe.

The Profile of Forced Migrants in Morocco Today

Lack of current data on immigration in Morocco continues to present a problem to understanding the situation of forced migrants in the country. While the government conducted a census in 2014, there remains very little information on new immigrant populations outside of those who register with UNHCR.²⁸⁵ In 2013, the Ministry of Interior estimated that there were a total of 25,000-40,000 irregular migrants in Morocco, with 15,000 of these migrants originating from sub-Saharan Africa.²⁸⁶ Some of these irregular migrants may qualify for protection status but were not able or willing to register with UNHCR, as migrants seeking to register must reach its office directly in Rabat, or be referred to the office by the organization's partners in Oujda (a popular border crossing point).

As of March 2016, UNHCR reported 6,187 persons of concern in Morocco: 4,277 refugees and persons in need of protection, and 1,910 asylum seekers. In 2015 and the first three months of 2016, the number of UNHCR-recognized refugees has grown by over 300 percent, an increase attributable mostly to a large increase in Syrians applying for protection.²⁸⁷ Today, Syrians

<http://data.unhcr.org/mediterranean/regional.php>

²⁸⁰ Frontex, "Western African Route."

²⁸¹ Obinna Anyadike, "Morocco: The Forgotten Frontline of the Migrant Crisis," *IRIN*, updated July 29, 2015,

<http://newirin.irinnews.org/extras/2015/7/28/morocco-the-forgotten-front-line-of-the-migrant-crisis>

²⁸² Amnesty International, "Spain: Two-pronged assault targets rights and freedoms of Spanish citizens, migrants and refugees," updated March 26, 2015,

<https://www.amnesty.org/en/latest/news/2015/03/spain-two-pronged-assault-targets-rights-and-freedoms-of-spanish-citizens-migrants-and-refugees/>; Human Rights Watch, "Spain: Halt Summary Pushbacks to Morocco," updated August 18, 2014,

<https://www.hrw.org/news/2014/08/18/spain-halt-summary-pushbacks-morocco>.

²⁸³ For the story of one such migrant, see: Obinna Anyadike, "From a Rock to a Hard Place: Nigeria to Morocco," *IRIN*, updated October 8, 2015,

<http://newirin.irinnews.org/from-a-rock-to-a-hard-place/>

²⁸⁴ Anyadike, "Morocco: The Forgotten Frontline of the Migrant Crisis"

²⁸⁵ Interview between Natalia Banulescu-Bogdan and Franziska Wilmar, GIZ Morocco, March 2016

²⁸⁶ This breakdown was partially deducted from the interception of irregular entries into Morocco. Emeline Modeste Nanga, "La regularization des migrants irreguliers au Maroc: Une decision historique ou un enjeu strategique?," (paper prepared for the Moroccan Migrations Workshop),

<https://www.imi.ox.ac.uk/events/moroccan-migrations/papers/nanga.pdf>

²⁸⁷ In December 2014, the number of UNHCR-recognized refugees in Morocco stood at 1,275. UNHCR, "Morocco Update: Information Note on Syrians Applying for Asylum in Morocco," updated September 2015,

<http://www.undp.org/content/dam/unct/morocco/docs/UNCT-MA-Information%20Note%20on%20Syrians%20Applying%20for%20Asylum%20Morocco-%20September%202015.pdf>

comprise over two-thirds of the total UNHCR-recognized population. The majority of the 1,279 individuals who approached UNHCR to claim asylum in the first three months of 2016, however, were from sub-Saharan African states.²⁸⁸ Most refugees under the purview of UNHCR are located in the cities of Rabat or Casablanca.²⁸⁹

Table 10: Persons of concern to UNHCR in Morocco, by nationality

Country	Number of Refugees / Persons in need of International Protection
Syria	2,927
Yemen	461
Ivory Coast	281
Dem. Republic of Congo	150
Iraq	131
Central African Republic	95
Others	232
TOTAL	4,277
Country	Number of Asylum seekers
Cameroon	410
Dem. Republic of Congo	318
Côte d'Ivoire	308
Guinea	215
Mali	126
Central African Republic	109
Others	424
TOTAL	1,910

Source: UNHCR, "Morocco Factsheet March 2015" (fact sheet, UNHCR, Rabat, March 2016), <http://www.unhcr.org/protection/operations/567162f79/morocco-fact-sheet.html>.

Morocco had served as a destination for Syrians long before the Civil War, attracting many migrants seeking job opportunities, especially in the sectors of agriculture and well drilling.²⁹⁰ As a result, a significant proportion of Syrian refugees in Morocco was already present legally in the country at the outbreak of the war, and therefore became refugees "sur place." It is estimated that this group has lived in Morocco for five to ten years and is relatively well integrated into society.²⁹¹ In contrast, after the outbreak of the war a large group travelled to Morocco specifically to seek asylum, either travelling by air directly with a visa or transiting through Algeria, where a visa was not required until 2015.²⁹² In 2015, Spanish authorities

²⁸⁸ UNHCR, "Morocco Factsheet: March 2016," accessed June 16, 2016,

<http://www.unhcr.org/en-us/protection/operations/567162f79/morocco-fact-sheet.html?query=morocco>

²⁸⁹ Of 4128 refugees and others in need of international protection who reported to UNHCR, 1504 (36 percent) resided in Rabat and 825 (20 percent) resided in Casablanca. 30 percent lived in Oujda, Tangier, Fes or Marrakech, leaving 14 percent who lived outside of these major cities or whose location was unknown. UNHCR, "Morocco: Refugee population and UNHCR implementing partners' presence," 2016, provided by UNHCR Morocco.

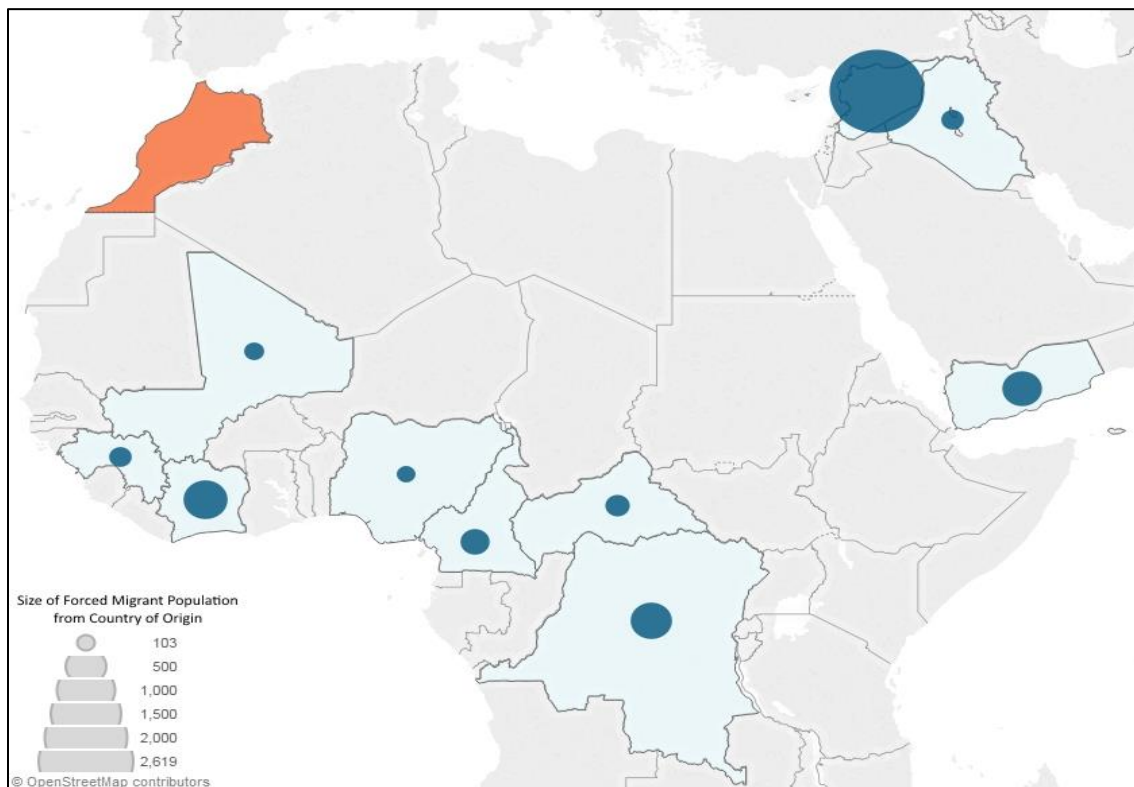
²⁹⁰ UNHCR, "Morocco Update: Information Note on Syrians Applying for Asylum in Morocco"

²⁹¹ Ibid.

²⁹² Ibid.

reported that over 7,000 Syrians sought asylum in the enclave of Melilla, either paying smugglers or using Moroccan passports to cross the Spanish border.²⁹³

Figure 14: Top ten countries of origin of forced migrants residing in Morocco, 2015



Source: UNHCR, "Population Statistics," accessed August 9, 2016, http://popstats.unhcr.org/en/persons_of_concern.

Note: Forced migrants are defined as refugees and asylum seekers residing in Morocco as of 2015.

The second largest nationality represented in the refugee population of Morocco is Yemenis. Almost all Yemeni refugees currently residing in Morocco are refugees "sur place." The majority are students who had come to Morocco on academic exchange, and then sought protection to remain in the country as violence erupted in Yemen in spring 2015.²⁹⁴ The remaining forced migrant population in Morocco is comprised mostly of Sub-Saharan Africans. The profile and experiences of this population are very different from those coming from Syria and Yemen, as most take long, protracted journeys over land to seek protection and greater economic opportunities in Morocco.²⁹⁵ West Africans travelling to Morocco typically take one of two routes: travelling along the western coast through Mauritania and the Western Sahara into Morocco, or through Algeria from the smuggling hubs of Gao or Agadez, crossing into Morocco at the border town of Oujda.²⁹⁶ Many of these forced migrants have mixed

²⁹³ Ibid.

²⁹⁴ Interview with UNHCR conducted by Wiam Khalifa, 2016

²⁹⁵ While this experience varies depending on a migrant's financial resources, social network, and prior knowledge, this statement largely holds true. Only the wealthiest who can afford a plane ticket and a visa (if applicable) to Morocco are able to fly. Cherti and Grant, *The Myth of Transit*, 24

²⁹⁶ Altai Consulting, *Migration Trends Across the Mediterranean: Connecting the Dots*, (Cairo: IOM Regional Office for the Middle East and North Africa and Altai Consulting, June 2015), 35-37

motivations for moving, including conflict, persecution, and poverty—and only some qualify for protection under existing international definitions of a refugee. The diverse experiences and characteristics of forced migrant populations in Morocco highlight the complex task of providing humanitarian protection.²⁹⁷

3.3.2. Legal Frameworks for Forced Migrants

In the absence of national asylum legislation, Moroccan migration law has been defined by Law n°02-03 of 11 November 2003 on the entry and stay of foreign nationals, emigration and irregular migration. Law 02-03 was enacted in response to Spanish pressure to curb irregular migration flows and terror attacks in Casablanca in May 2003, which were blamed on immigrants despite no evidence to support such a claim.²⁹⁸ The law included heavy sanctions against smuggling and irregular migration and facilitated the expulsion of irregular migrants while largely ignoring migrants' rights.²⁹⁹ For the next decade, Law 02-03 created a climate in which migration was harshly repressed and securitized.

In 2013, Doctors Without Borders published an alarming report documenting the ill treatment of migrants, including refugees, by security forces. The report claimed that the actions of Moroccan authorities violated the Moroccan constitution and international law, and violated fundamental human rights.³⁰⁰ After the release of the report, and Doctors Without Borders' subsequent departure from the country, the National Council for Human Rights (CNDH) issued a report with recommendations for the Moroccan government to recognize refugees as determined by UNHCR, create a national asylum system, and generally create a more favorable environment for asylum seekers in the country.³⁰¹

King Mohammed VI of Morocco supported CNDH's recommendations, and ordered their implementation by the government. Since 2013, Morocco has sought to reverse its tough stance on irregular migration and adapt a more open, humane position toward immigrants, under pressure from outside critics. This policy shift has led to new initiatives serving migrants and refugees and a commitment to create a national system for asylum.

Morocco's Asylum System Today

Morocco is a signatory to the 1951 Convention, the 1967 Protocol, and the 1969 OAU Convention.³⁰² While refugee status exists in Moroccan law and can be granted to individuals,

²⁹⁷ Other than the difficulty in making refugee status determinations when some cases more clearly fall under the purview of the 1951 Convention, these varying experiences also have a large impact on populations' needs. In a youth consultation by UNHCR and the Women's Refugee Commission for example, it was found that young Yemeni refugees were mostly concerned with their inability to choose an area of specialization at university, while the Sub-Saharan Africans were unable to access any education due to cost, language barriers and lack of documentation. UNHCR and Women's Refugee Commission. *Morocco: National Refugee Youth Consultation "Summary Report,"* (2016), http://www.unhcr.org/ngo-consultations/ngo-consultations-2016/Morocco_National_Consultation_Summary_Report.pdf

²⁹⁸ Gregory White, *Climate Change and Migration: Security and Borders in a Warming World* (Oxford: Oxford University Press, 2011), 114.

²⁹⁹ de Haas, "Morocco: From Emigration Country to Africa's Migration Passage to Europe"; Mehdi Lahlou, "Morocco's Experience of Migration as a Sending, Transit and Receiving Country" (Working Paper 15, Istituto Affari Internazionali, September 2015), <http://www.iai.it/sites/default/files/iajwp1530.pdf>.

³⁰⁰ Médecins Sans Frontières, *Violences, Vulnérabilité et Migration: Bloqués aux Portes de l'Europe*, (Geneva : Médecins Sans Frontières, March 2013), http://www2.ohchr.org/english/bodies/cmw/docs/ngos/MSF_Morocco18_fr.pdf

³⁰¹ CNDH, *Etrangers et Droits de l'Homme au Maroc : Pour une politique d'asile et d'Immigration radicalement nouvelle*, (Rabat: CNDH, 2013), <http://www.cndh.org.ma/fr/rapports-thematiques/conclusions-et-recommandations-du-rapport-ettrangers-et-droits-de-lhomme-au>

³⁰² Despite Morocco's withdrawal from the OAU in 1984, it never officially renounced its previous legal commitments as a member state. Therefore, the 1969 OAU Convention is still legally applicable in Morocco. Khadija Elmadmad, *Asile et réfugiés dans les pays afro-arabes* (Casablanca: A. Retnani Editions Eddif, 2002).

the country has not yet enacted a comprehensive asylum system.³⁰³ UNHCR has been the sole agency in charge of registration and status determination for asylum seekers since the 2004 suspension of the Office for Refugees and Stateless Persons (Bureau des Réfugiés et des Apatrides (BRA)). This arrangement was made official by a cooperation agreement signed with Morocco in July 2007.³⁰⁴ UNHCR still performs almost all of the refugee status determinations in the country while seeking to build Moroccan authorities' capacity to eventually oversee the process themselves.

In the current system, UNHCR takes the initial steps of registering asylum seekers and issuing an "asylum certificate" to individuals it deems to be in need of protection. UNHCR must then file a separate asylum application for these refugees with the Moroccan government, as only the government can officially grant refugee status. Refugees who are recognized by UNHCR are thus transferred to the Ad Hoc Commission on Regularization chaired by the reinstated BRA under the Ministry of Foreign Affairs. This commission includes representatives from other relative ministries (such as the Interior, Justice, and Labor ministries) along with the inter-ministerial delegation for human rights and UNHCR.³⁰⁵ The commission conducts reviews ("*auditions*") for UNHCR-referred refugees, which can be considered an additional security check but are not in depth. Officially, UNHCR's decision holds no official bearing for national authorities.³⁰⁶ In practice however, all UNHCR referrals who were interviewed received refugee status from the Moroccan authorities.³⁰⁷

Upon recognition from the national authorities, refugees receive a government-issued refugee card valid for one year, with the possibility to renew.³⁰⁸ This government-issued card comes with a wide range of rights and services, such as the right to work, access to public employment and training services, access to adult language education, and the provision of temporary residence.³⁰⁹ These services are provided by a mix of public actors and NGOs.

An exception to this process is the population of Syrian refugees, who are currently ineligible to receive government-issued refugee cards. The government has said that it wants to process Syrians "separately," and is still trying to discern the best way to deal with the group as a whole.³¹⁰ For now, the BRA gives Syrians a "receipt" that confirms their registration and protects them from refoulement. However, this status does not confer to Syrians any residence permit or access to the legal job market.³¹¹ While Syrian refugees may still access services provided by UNHCR and its NGO partners, UNHCR has noted that it is better for refugees to hold the government-issued card as it is more widely recognized.³¹² At the

³⁰³ U.S. Department of State, *Country Reports on Human Rights Practices for 2015: Morocco*, (Washington, DC: U.S. Department of State, 2016),

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252939>

³⁰⁴ Human Rights Watch, *Abused and Expelled: Ill Treatment of Sub-Saharan African Migrants in Morocco* (New York: Human Rights Watch, 2014), 47-48

³⁰⁵ Interview conducted by Natalia Banulescu-Bogdan with UNHCR Morocco, March 2016

³⁰⁶ Human Rights Watch, *Abused and Expelled*, 47-48.

³⁰⁷ Some UNHCR-recognized refugees apparently abscond or move onwards before reaching the interview, therefore rendering themselves ineligible to receive refugee status. UNHCR, "Morocco Update: Regularisation of Refugees by National Authorities," updated December 2015, provided by UNHCR

³⁰⁸ Interview conducted by Natalia Banulescu-Bogdan with UNHCR Morocco, March 2016

³⁰⁹ Interview conducted by Natalia Banulescu-Bogdan with UNHCR Morocco in March 2016; Euro-Mediterranean Human Rights Network (EMHRN), *Asylum and Migration in Maghreb, Country Fact Sheet: Morocco*, (Copenhagen: Euro-Mediterranean Human Rights Network, 2012), <http://www.refworld.org/publisher/EMHRN...514d77c22.0.html>

³¹⁰ Interviews conducted by Natalia Banulescu-Bogdan, Rabat, March 2016

³¹¹ UNHCR, "Morocco Update: Regularisation of Refugees by National Authorities," updated December 2015, <http://ma.one.un.org/content/dam/unct/morocco/docs/UNHCR/UNHCR%20Morocco%20Regularisation%20of%20Refugees%20Dec%202015.pdf>

³¹² Interview conducted by Natalia Banulescu-Bogdan, Rabat, March 2016

moment it is unclear when or how this issue of Syrian refugees will be resolved. Moroccan authorities have been hesitant to establish a set position on accepting and integrating Syrian refugees, with one explanation being that, as the only country in the region to do so, such a policy could serve as a strong pull factor.

The New Migration Strategy of 2013

As a result of King Mohammed VI's support for the CNDH's recommendations, Morocco reinstated the BRA, and created new inter-ministerial committees to examine the existing policy and establish a National Strategy on Immigration and Asylum (SNIA), which was adopted in December 2014. This push for a more humane approach toward migration and refugee protection consisted of two distinct, though interrelated, steps: the exceptional regularization of migrants in 2014 and the SNIA, which is meant to result in a new immigration and asylum legal framework.

Exceptional Regularization of Migrants in 2014

One of the first steps of the new initiative was an exceptional regularization campaign, launched for irregular migrants in January 2014. The Moroccan Ministry of the Interior estimated the population of irregular migrants in Morocco at the time to stand between 25,000 and 40,000.³¹³ Candidates for regularization had to fall into one of the six eligible categories as laid out by the Ministry of Moroccans Residing Abroad and Migration Affairs (MCMREAM):

1. Spouses of Moroccan nationals with at least two years' residence;
2. Foreign couples resident legally in Morocco for at least four years;
3. Children of the previous two categories;
4. Foreign nationals with work contracts for at least two years;
5. Foreign nationals who could demonstrate at least five years of continuous residence in Morocco; and
6. Seriously ill foreign nationals who arrived in Morocco before December 31, 2013.³¹⁴

Regularized migrants received legal residency for one year, including legal access to work, with the possibility of renewal.³¹⁵

Over 27,000 migrants from 116 different countries applied for regularization in 2014, primarily from Senegal (6,600 applications), Syria (5,520), Nigeria (2,380), and Côte d'Ivoire (2,281).³¹⁶ In total, 17,916 applications were accepted, and it was announced in February 2015 that those accepted would have their residency cards automatically renewed for another year.³¹⁷

The regularization campaign did not come without difficulties. Media coverage of the process did not always provide accurate information, leading many irregular migrants to believe that

³¹³ Human Rights Watch, *Abused and Expelled*

³¹⁴ Myriam Cherti and Michael Collyer, "Immigration and Pensée d'Etat: Moroccan migration policy changes as transformation of 'geopolitical culture,'" *The Journal of North African Studies* 20, no. 4 (2015): 590-604.

³¹⁵ Maggy Donaldson, "Morocco sets unlikely precedent in hosting sub-Saharan migrants," updated May 13, 2015, <http://america.aljazeera.com/articles/2015/5/13/morocco-sets-unlikely-precedent-in-hosting-sub-saharan-migrants.html>; Interview conducted by MPI, March 2016

³¹⁶ UNHCR, "Morocco Update: Regularisation of Refugees by National Authorities"

³¹⁷ FIDH and GADEM, *Maroc: Entre rafles et régularisations, Bilan d'une politique migratoire indécise*, (Rabat: FIDH and GADEM, 2015), <https://www.fidh.org/en/region/north-africa-middle-east/morocco/between-round-ups-and-regulations-morocco-s-vacillating-migration>.

all those who applied would be regularized and integrated. In reality, the eligibility criteria were much more restrictive than advertised, and the documentation needed to complete the procedure was often difficult for irregular migrants to acquire.³¹⁸ In the first half of 2014 especially, the process was marked by a low acceptance rate due to inconsistent procedures across implementing organizations and overly strict criteria.³¹⁹ The International Federation for Human Rights (FIDH) noted that this was vastly improved in June 2014 with the establishment of an appeals board and a tacit decision to grant all women and children regularized status.³²⁰

Another criticism relates to the categories of migrants who received regularized status. Many of those who were accepted through the program were students (who could have applied for a residency permit during their studies) and Syrians (who should qualify for refugee status).³²¹ In contrast, only 4 percent of those already on a work contract who applied for regularization received positive responses.³²² There is still no data on how many Syrians who were registered with UNHCR took advantage of the regularization program in order to receive residency permits and the right to work (which were not available to them through other means).³²³ However, international observers (including UNHCR) have expressed concern over the lack of official protection granted through the regularization program, and the lack of legal pathways for Syrians to obtain work permits now that the temporary regularization period ended as of December 31, 2014.³²⁴

Forthcoming National Asylum Law

After the exceptional regularization campaign, the SNIA was adapted by the Moroccan government in December 2014. The SNIA is based around six overarching principles³²⁵ and includes 11 programmatic areas.³²⁶ As part of these programmatic areas, three new laws are to be enacted tackling the issues of trafficking, asylum, and immigration. The laws have been worked on by three drafting committees under the aegis of the Inter-Ministerial Delegation for Human Rights, which all saw a large degree of support and training from international organizations such as UNHCR and the European Union, as well as from national development agencies like GIZ (which organized study tours for Moroccan officials to see how asylum procedures are implemented in Germany, for example).

Of these laws, the law on trafficking is currently the only one to have been completed; it was adopted by the Moroccan Parliament's House of Representatives in May 2016 after one year of deliberation, benefiting from strong championing by multiple actors, including international

³¹⁸ FIDH and GADEM, *Maroc: Entre rafles et régularisations*, 13

³¹⁹ FIDH and GADEM, *Maroc: Entre rafles et régularisations*

³²⁰ FIDH and GADEM, *Maroc: Entre rafles et régularisations*; Katharina Natter, "Almost Home? Morocco's Incomplete Migration Reforms," *World Politics Review*, updated May 5, 2015,

<http://www.worldpoliticsreview.com/articles/15691/almost-home-morocco-s-incomplete-migration-reforms>;

Julie Chaudier, "Migration : 27 332 étrangers originaires de 116 pays régularisés au Maroc," *Yabiladi*, February 10, 2015,

<http://www.yabiladi.com/articles/details/33331/migration-et-rangers-originaires-pays-regularises.html>.

³²¹ FIDH and GADEM, *Maroc: Entre rafles et régularisations*, *Bilan d'une politique migratoire indécise* (Paris: FIDH, 2015), 14, https://www.fidh.org/IMG/pdf/rapport_maroc_migration_fr.pdf.

³²² Natter, "Almost Home? Morocco's Incomplete Migration Reforms"

³²³ Interview conducted by Natalia Banulescu-Bogdan, Rabat, March 2016

³²⁴ Interview conducted by Natalia Banulescu-Bogdan, Rabat, March 2016

³²⁵ The six principles are: a humanist approach, a global approach, a human-rights based approach, conformity with international law, renewed cooperation, and shared responsibility.

³²⁶ The 11 programmatic areas are: Education and culture; youth and leisurely activities; health; housing; social and humanitarian assistance; vocational training; employment; management of migration flows and combating trafficking; cooperation and international partnerships; legal and policy framework; and governance and communication.

organizations active in Morocco.³²⁷ The law on general immigration, designed to replace the 02-03 law of 2003, is the least developed. The committee was not satisfied with the original text, and as a result the law is still in the drafting process.³²⁸ The law establishing a national asylum system, the most pertinent of the three for issues of forced migration, has theoretically been agreed upon, but does not yet have a scheduled time to be debated by Parliament.³²⁹ Officially, the draft is still pending review by the council of government as it has been deemed an important issue that requires more time for deliberation.³³⁰ Others fear that the law has been held up by political reasons, and that it may be further delayed by the upcoming elections in October 2016.³³¹

As of now, limited information about the draft asylum law is known. It is reported to comprise 60 articles, detailing the legal guarantees pertaining to refugees and asylum seekers and establishing a national asylum system with the status determination procedure at its core.³³² While the law sets out a foundation for the national asylum system, it is designed to evolve as the various public policies are enacted to implement it. Refugee status determinations and the accompanying legal and administrative refugee protection will be carried out by an autonomous public institution. This institution would also have local representations to avoid being overly centralized. Rejected asylum seekers will hold the ability to appeal the decision through the administrative court of Rabat.³³³

It is reported that three major categories of protection will be created under the draft law. The first is refugee status, using the definition of the 1951 Convention. The second form is subsidiary protection, a status similar to what is used in the European Union, which expands the criteria beyond the 1951 Convention, such as the Convention Against Torture's principle of nonrefoulement.³³⁴ Finally, the law also would create a status for temporary protection, to be provided in the case of massive flows of individuals fleeing situations of conflict or generalized violence.³³⁵

Pursuant to the 1951 Convention, persons who are granted asylum in Morocco will receive the right to work, a residence permit, and access to family reunification measures.³³⁶ Those who receive subsidiary protection will also receive the right to residency and work. Interestingly, the law also stipulates a number of rights that are guaranteed for asylum seekers before their

³²⁷ Before this, Morocco had not had any anti-human trafficking law on the books, and existing laws tended to conflate human trafficking with human smuggling. U.S. Department of State Office to Monitor and Combat Trafficking in Persons, "2014 Trafficking in Persons Report: Morocco," accessed August 8, 2016, <http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226782.htm>; HuffPost Maroc, "Le Maroc adopte le projet de loi relatif à la lutte contre la traite des êtres humains," June 2, 2016, http://www.huffpostmaghreb.com/2016/06/02/maroc-traite-des-etres-hu_n_10255290.html; Soumaya Bencherki, "Les députés adoptent le projet de loi sur la lutte contre le trafic des êtres humains," May 22, 2016, <http://lematin.ma/journal/2016/les-deputes-adoptent-le-projet-de-loi-sur-la-lutte-contre-le-traffic-des-etres-humains/247753.html>.

³²⁸ Interview conducted by Natalia Banulescu-Bogdan, Rabat, March 2016

³²⁹ Interview conducted by Natalia Banulescu-Bogdan, Rabat, March 2016

³³⁰ Based on a presentation by the Ministry of Justice on the new legal framework for immigration and asylum. Ministry of Justice, "La mise à niveau du cadre juridique et institutionnel relatif à l'asile, à l'immigration et à la traite des êtres humains," (presented March 2015).

³³¹ Ministry of Justice, "La mise à niveau du cadre juridique et institutionnel relatif à l'asile, à l'immigration et à la traite des êtres humains"; Reuters, "Morocco to hold parliamentary elections in 2015," *Al-Arabiya English*, updated January 28, 2016, <http://english.alarabiya.net/en/News/africa/2016/01/28/Morocco-to-hold-parliamentary-elections-on-Oct-7-government.html>.

³³² Ministry of Justice, "La mise à niveau du cadre juridique et institutionnel relatif à l'asile, à l'immigration et à la traite des êtres humains"

³³³ Ibid.

³³⁴ Ibid; For example, the Swedish asylum law (detailed in Section 5) includes such provisions.

³³⁵ Ibid.

³³⁶ Ibid.

status is determined—namely, the right to be informed on their rights throughout the procedure, the right to residency during the procedure, the right to have an interpreter, and the right to a lawyer.³³⁷

Regional Cooperation on Migration

Morocco holds a key strategic position in managing migration flows between Africa and Europe. Regional cooperation within North Africa remains minimal, however, and Morocco's relations with its neighbors have been strained over the question of Western Saharan independence.³³⁸ Though Morocco proposed the creation of an African Alliance for Migration and Development at the United Nations' High-level Dialogue on International Migration and Development (HLD) in 2013, the idea has failed to gain any traction.³³⁹ Some have expressed concern over this lack of North African solidarity, arguing that Morocco's proposed national legislation will not be effective if it stands alone and is not embedded in a larger regional migration strategy.³⁴⁰

Conversely, Morocco has developed a strong working relationship with the European Union in the field of migration. Two major platforms for this cooperation are the Rabat Process, created in 2006, and the EU-Africa Partnership on Migration, Mobility, and Employment, launched in 2007.³⁴¹ Both of these initiatives seek to facilitate a dialogue between the countries of the EU, North Africa, and sub-Saharan Africa on issues such as human trafficking, remittances, labor migration, irregular migration, and protection issues.³⁴² Partnership between the EU and Morocco has two dimensions: support and preferential treatment from the EU, and Moroccan cooperation in controlling unauthorized migration flows.

Recognizing Morocco's role as a major source and transit country of European immigrants, the EU has worked to cement its partnership with Morocco through a series of economic incentives that aim to boost the country's development. To this end in 1996, the European Union and Morocco signed a European Mediterranean Association Agreement with the intent of establishing a free trade zone in the future.³⁴³ Morocco has enjoyed tariff-free trade with the EU for many products since 2000, and negotiations for a Deep and Comprehensive Free Trade Agreement (DCFTA) were launched in 2013.³⁴⁴

These economic incentives for Morocco have been enacted in tandem with greater efforts to curb irregular migration to Europe. Morocco has signed bilateral readmission agreements for

³³⁷ Ibid.

³³⁸ The two major regional economic communities in North Africa, the Arab Maghreb Union and the Community of Sahel-Saharan States, both pale in comparison to other organizations such as ECOWAS or the EAC. The Arab Maghreb Union has not met since 2008, and neither organization has been able to enact tangible steps towards regional integration. This is partially due to long-standing political disputes between Algeria and Morocco, stemming from a territorial disagreement that led to the Sand War of 1963. This distrust was deepened by the conflict over Western Sahara: Morocco has claimed the territory as its own, while Algeria actively backed the Polisario Front that sought Western Saharan independence. Stratfor, "Bad Blood Still Flows Between Algeria and Morocco," updated May 3, 2016, <https://www.stratfor.com/analysis/bad-blood-still-flows-between-algeria-and-morocco>.

³³⁹ Interview conducted by Natalia Banulescu-Bogdan, Rabat, March 2016

³⁴⁰ Interview conducted by Natalia Banulescu-Bogdan, Rabat, March 2016

³⁴¹ European Commission, "The European Union's cooperation with Africa on migration," (press release April 22, 2015), [http://europa.eu/rapid/press-release MEMO-15-4832_en.htm](http://europa.eu/rapid/press-release_MEMO-15-4832_en.htm)

³⁴² European Commission, "The European Union's cooperation with Africa on migration."

³⁴³ Helmut Reifeld, *Emigration, Transit and Host Country: Migration in Morocco*, (Berlin: Konrad Adenauer Stiftung, 2015), 51, <http://www.kas.de/wf/en/33.40711/>

³⁴⁴ Such negotiations are important, as the European Union is Morocco's largest trading partner. Total trade between the two entities amounted to approximately €29.25 billion in 2014. de Haas, "Morocco: Setting the Stage for Becoming a Migration Transition Country?"; European Commission, "Trade: Morocco," updated April 29, 2016, <http://ec.europa.eu/trade/policy/countries-and-regions/countries/morocco/>.

Moroccan nationals with Germany, France, Portugal, Italy, and Spain.³⁴⁵ Morocco has also agreed to other measures aimed at restricting such irregular flows following pressure on the country (notably from Spain) to crack down on human smuggling and strengthen its border controls.³⁴⁶ For example, in 2006 the European Union provided Morocco with €67 million (USD\$75 million) to finance a new program meant to create a strengthened, comprehensive approach to border control.³⁴⁷ Additionally, one widely touted success of the Rabat Process has been the creation of the Seahorse Atlantic Network, which serves as a platform for information exchange between Spain, Portugal, and the countries of West Africa to prevent unauthorized migration and human trafficking.³⁴⁸

In 2013, Morocco was the first Arab country to sign a Mobility Partnership with the European Union.³⁴⁹ The plan established objectives for more efficient migration management, and largely utilizes a “donor-beneficiary logic,” through which economic aid and visa facilitation are offered on the condition that Morocco effectively control migration flows from the country.³⁵⁰ For example, visa liberalization has been tied to a readmission agreement long desired by the European Union that would return to Morocco third-country nationals who travel through the country to Europe.³⁵¹ This has proven to be a seemingly insurmountable barrier to the negotiations, as Morocco has long refused to sign such an agreement due to various domestic and foreign policy concerns.³⁵² As of August 2015, there were 25 ongoing projects in the field of migration financed by the European Union in Morocco for a total of over €20 million (USD\$22 million).³⁵³ Cooperation has recently included a strong focus on the integration of immigrants in Morocco, such as the Sharaka Project designed to scale up effective development projects, support the labor integration of regularized migrants, and other efforts to effectively mobilize Moroccans residing in Europe.³⁵⁴

³⁴⁵ Myriam Cherti, Brhmie Balaram, and Miklos Szilard, *Welcome Back Everyone: The Return and Reintegration of Irregular Migrants from Morocco*, (London: IPPR, 2013), 26, <http://www.ippr.org/publications/welcome-back-everyone-the-return-and-reintegration-of-irregular-migrants-from-morocco>.

³⁴⁶ Jørgen Carling, “Migration Control and Migrant Fatalities at the Spanish-African Borders,” *International Migration Review* 41, no. 2 (Summer 2007), 322

³⁴⁷ European Commission, “Commission staff working document accompanying the Communication from the Commission to the Council and the European Parliament on strengthening the European Neighbourhood Policy - ENP Progress Report on Morocco,” December 4, 2006, [http://aei.pitt.edu/38872/1/SEC_\(2006\)_1511.pdf](http://aei.pitt.edu/38872/1/SEC_(2006)_1511.pdf). These funds come in addition to a massive Spanish investment in controlling its national borders through reinforcing the land borders of Ceuta and Melilla, and creating the Integrated System of External Vigilance (SIVE) to intensify surveillance of the Strait of Gibraltar. Carling, “Migration Control and Migrant Fatalities at the Spanish-African Borders,” 324-325

³⁴⁸ Participants in the Seahorse Atlantic Network are Spain, Portugal, Senegal, Mauritania, Cape Verde, Morocco, Gambia and Guinea Bissau. European Commission, “The European Union’s cooperation with Africa on migration.”

³⁴⁹ The partnership is officially signed by Morocco, the European Union and nine member states (Belgium, France, Germany, Italy, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom.) Directorate-General for Internal Policies. *EU cooperation with third countries in the field of migration*, (Brussels: European Commission, 2015), 127, [http://www.europarl.europa.eu/RegData/etudes/STUD/2015/536469/IPOL_STU\(2015\)536469_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/536469/IPOL_STU(2015)536469_EN.pdf)

³⁵⁰ de Haas, “Morocco: Setting the Stage for Becoming a Migration Transition Country?,” Euro-Mediterranean Human Rights Network, *Analysis of the Mobility Partnership signed between the Kingdom of Morocco, the European Union and nine Member States on 7 June 2013*, (Copenhagen: Euro-Mediterranean Human Rights Network, 2014), 2, http://euromedrights.org/wp-content/uploads/2015/03/PM-Morocco_Final-Version-EN.pdf

³⁵¹ Negotiations for such an agreement have been held since 2003, and were re-launched in 2013. The readmission agreement between Spain and Morocco in 1992 includes such a provision, but Morocco has typically denied repatriation by arguing that there is insufficient proof that the migrants in question departed from Morocco. Carling, “Migration Control and Migrant Fatalities at the Spanish-African Borders,” 323; Cherti, Balaram and Szilard, *Welcome Back Everyone*, 26.

³⁵² Domestically, it is seen as an unfair burden placed on Morocco by the European Union. It also runs counter to Morocco’s recent *politique africaine*, which has sought to develop stronger political and economic ties to countries in West Africa. Carrera et al, *Eu-Morocco Cooperation on Readmission, Borders and Protection*.

³⁵³ Directorate-General for Internal Policies. *EU cooperation with third countries in the field of migration*, 130

³⁵⁴ The mobilization of Moroccans residing abroad is part of another goal of the Moroccan government to include expatriates in the country’s development process. Efforts include support for the reintegration of returning Moroccan

3.3.3. Policies with an Impact on Poverty Alleviation

Both government and non-governmental actors in Morocco provide social services to migrants (including to unauthorized migrants), often through public-private partnerships.³⁵⁵ Recognized refugees and regularized migrants receive permits that allow them to access the same entitlements as Moroccan citizens, including housing, employment, health care, and education. UNHCR in particular often plays a role in ensuring that refugees and asylum seekers have access to such poverty alleviation efforts. Unauthorized migrants do not receive access to all Moroccan social services, but do receive some aid in the education and health sectors.

While the array of social programs geared toward refugees and migrants is relatively robust, the lack of coordination and evaluation of programs at the national, regional, and international levels has caused such initiatives to fall short of their potential. Few civil society organizations are specialized in asylum or refugee rights; and while more and more actors are entering this field, they are not necessarily doing so in a coordinated way (with some potentially driven by the greater availability of funding vis a vis other fields). There is still more work to be done to develop a comprehensive, proactive approach to provide protection and meet migrants' needs in cases of mass displacement.³⁵⁶

Housing

Both refugees and regularized migrants are given resident cards that are valid for the duration of one year and are renewable upon expiration.³⁵⁷ The SNIA set out the right to housing for regular migrants and refugees as one of the plan's primary objectives. As a result, MCMREAM and the Ministry of Housing and City Policy have taken concrete measures to ensure access to state housing programs.³⁵⁸ This includes access to affordable social housing for the lower and middle classes, which is reserved for those who do not make above certain net income thresholds.³⁵⁹ Foreigners in Morocco also have access to the Damane Assakane Fund, which is designed to provide loans to certain targeted populations.³⁶⁰

However, many informal barriers exist to preclude refugees and migrants from the housing market. While regularized Syrian refugees are granted residence permits, the majority still rent accommodation without an official lease.³⁶¹ Landlords often discriminate against migrants and refugees, especially those from Sub-Saharan Africa. There are also recurring social tensions in neighborhoods with high numbers of migrants, as rumors have spread among host communities that migrants illegally squat in empty social housing apartments that

migrants and other methods for capitalizing on their skills. Directorate-General for Internal Policies. *EU cooperation with third countries in the field of migration*, 128; De Bel-Air, Françoise, *Migration Profile: Morocco*, (Firenze: European University Institute, Migration Policy Centre, 2016), 1, http://migration4development.org/sites/default/files/mp_morocco.pdf

³⁵⁵ Interview with MCMREAM, April 2016; Interview with UNHCR Morocco, April 2016; Interview with AMAPPE, April 2016

³⁵⁶ Interview with Camille Denis, Program Coordinator, GADEM, April 28, 2016

³⁵⁷ UNHCR Morocco Update: Regularization Of Refugees By National Authorities, December 2015

³⁵⁸ This initiative was stipulated in the Budget Bill of 2015. MCMREAM, *Practical Guide to facilitate your integration in Morocco* (Rabat: MCMREAM, 2015), 57,

<http://www.marocainsdumonde.gov.ma/sites/default/files/Fichiers/Pages/Practical%20Guide.pdf>.

³⁵⁹ MCMREAM, *Practical Guide to facilitate your integration in Morocco, 1st Edition*, (Rabat: MCMREAM, 2015), 57,

<http://www.marocainsdumonde.gov.ma/sites/default/files/Fichiers/Pages/Practical%20Guide.pdf>.

³⁶⁰ GADEM, *Situation des Migrants dans le Sud du Maroc: Mission d'observation conjointe*, (Rabat: GADEM, 2014),

http://www.gadem-asso.org/IMG/pdf/20141014_Rapport_mission_sud_VF.pdf. MCMREAM, *Practical Guide to facilitate your integration in Morocco*, 57

³⁶¹ UNHCR, "Morocco update: Information Note On Syrians Applying for Asylum In Morocco, December 2015"

actually belong to Moroccan immigrants residing abroad.³⁶² This discrimination renders migrants and refugees particularly vulnerable to informal market scams, and migrants have reported that lease agreements are particularly difficult to obtain in Morocco's major cities, such as Rabat.³⁶³ But when migrants are able to find housing, rent prices tend to be comparable to the amount paid by Moroccan citizens.³⁶⁴

Employment

In addition to their residence cards, government-recognized refugees and regularized migrants receive the right to work. Employers must typically give preference to Moroccan nationals when hiring (i.e. an employer must prove there is no equally qualified native before hiring a foreigner), though this requirement is waived for refugees and those regularized in the exceptional program of 2014.³⁶⁵ In reality, both irregular migrants and those with work permits tend to work in Morocco's underground economy, which is estimated to employ 30 percent of the Moroccan workforce overall.³⁶⁶ In low-skilled positions, such as domestic work and the agricultural sector, employers tend to abstain from providing contracts (for tax reasons and general ease), rendering it obsolete whether or not a migrant holds the legal right to work or not.³⁶⁷ As a result, migrants are often left without social insurance or timely remuneration.³⁶⁸

At the moment, refugees and other migrants do not have access to the National Initiative for Human Development (INDH), a nationwide poverty alleviation program,³⁶⁹ but other programs have been made available to authorized migrants. After the exceptional regularization campaign, the national job placement agency (ANAPEC) has also extended its

³⁶² Radio France Internationale (RFI), "Vive tension à Tanger entre marocains et migrants subsahariens," *RFI*, September 1, 2014, <http://www.rfi.fr/afrique/20140901-vive-tension-tanger-entre-marocains-migrants-subsahariens>; Rik Goverde, "Evicted migrants turn to the hills in Morocco," *Middle East Eye*, July 7, 2015, <http://www.middleeasteye.net/in-depth/features/evicted-migrants-turn-hills-morocco-1210285763>; Julie Chaudier, "Migrants subsahariens au Maroc : Que se passe-t-il à Boukhalef ?", *Yabiladi*, July 13, 2014, <http://www.yabiladi.com/articles/details/27649/migrants-subsahariens-maroc-passe-t-il-boukhalef.html>; BBC, "Migrants au Maroc : Arrestations musclées," *BBC Afrique*, July 6, 2015, http://www.bbc.com/afrique/region/2015/07/150706_morocco.

³⁶³ GADEM, *Situation des Migrants dans le Sud du Maroc*

³⁶⁴ GADEM, *Situation des Migrants dans le Sud du Maroc*, 23

³⁶⁵ Interview with UNHCR, March 2016; UNHCR, "Morocco Update: Regularisation of Refugees by National Authorities," updated December 2015, http://ma.one.un.org/content/dam/unct/morocco/docs/UNHCR/UNHCR%20Morocco_Regularisation%20of%20Refugees_Dec%202015.pdf.

³⁶⁶ Ibrahim Saif, "The Bloated Informal Economics in Arab Countries," *Carnegie Endowment for International Peace*, February 12, 2013, <http://carnegieendowment.org/2013/02/12/bloated-informal-economies-in-arab-countries-pub-50966>.

³⁶⁷ GADEM, *Situation des Migrants dans le Sud du Maroc: Mission d'observation conjointe*; Interview with UNHCR, March 2016

³⁶⁸ Association Lumière sur l'émigration Clandestine au Maroc (ALECMA), *Migration subsaharienne au Maroc : Mission d'observation dans les régions du Nord et Sud suite à la mise en place de la nouvelle politique migratoire*, (ALECMA, 2015), 12, http://www.gadem-asso.org/IMG/pdf/rapport_alecma_2.pdf.

³⁶⁹ The INDH was launched by the Moroccan government in May 2005 to reduce poverty and inequality. The massive, high-profile program was initially estimated to cost MAD 10 billion (USD \$1.2 billion) over five years, financed primarily by the central government with international aid. The four main components of the program were: reduction of rural poverty, reduction of social exclusion in urban areas, tackling "vulnerability," and strengthening governance and institutional capacity. These goals were promoted through various programs, including efforts to promote local development and improve access to social services. More information can be found here: INDH, "Initiative Nationale pour le Développement Humain," accessed June 16, 2016, <http://www.indh.ma/index.php/en/>. The World Bank Group, *Implementation Completion and Results Report (IBRD-74150) on a Loan in the Amount of EURO 78.9 Million (US\$100.0 Million Equivalent) to the Kingdom of Morocco for the National Initiative for Human Development Support Project ('INDH')*, (Report No. ICR1955, The World Bank Group, Maghreb Department, January 31, 2013), http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2012/06/25/000386194_20120625020004/Rendere/d/PDF/ICR19550P100020C0disclosed060210120.pdf

services to migrants and refugees.³⁷⁰ The Moroccan government also offers professional and vocational training that is open to legal immigrants, but has reported that few take advantage of the program.³⁷¹

The government and UNHCR have also formed several partnerships with civil society organizations to improve livelihood opportunities specifically for refugees. UNHCR has worked closely with AMAPPE, the Moroccan Association for the Promotion of Small and Medium-Sized Enterprises, to assist refugees with the establishment of income-generating activities, vocational training, and job placement.³⁷² Such programming may be extended to regularized migrants, pending increased funding from the European Union.³⁷³ AMAPPE is also collaborating with GIZ, the German Development Agency, to build capacity and expertise. Within its programming designed to generate income, UNHCR provides some micro-loans to finance refugee entrepreneurs.³⁷⁴ Another successful initiative was an effort by the East-West Foundation (FOO) to bring refugees and locals together in teams through a fair trade model catering to Moroccan and foreign customers.³⁷⁵

As the number of refugees and migrants residing in Morocco are still quite small, these initiatives have typically been limited in scope. Moving forward, AMAPPE has identified the need for a large-scale operational vision that facilitates the economic integration of migrants and refugees through cooperative action and greater awareness among employers of the importance of labor integration.³⁷⁶ Though educated Francophones are often available to earn a livable wage in customer call centers for French and Moroccan companies, job prospects for other groups (especially Anglophones) remain limited.³⁷⁷ More work also must be done to combat discrimination and racism to ensure that employers are open to hiring migrants and refugees, especially those from Sub-Saharan Africa.³⁷⁸

Education

The integration of migrant children into the Moroccan educational system has been identified as one of the most immediate needs in the reimagined migration strategy. The Ministry of National Education and Vocational Training's Decree n° 13-487 issued on October 9, 2013 and

³⁷⁰ Yabiladi, Maroc : Les services de l'ANAPEC à disposition des migrants régularisés, *Yabiladi*, December 16, 2015, <http://www.yabiladi.com/articles/details/41001/maroc-services-l-anapec-disposition-migrants.html>.

³⁷¹ Interview with Ahmed Skim, MCMREAM, March 2016

³⁷² For example, civil society associations will subsidize apprenticeships for migrants and refugees, and then facilitate job placement upon completion of the training. Interview with Ahmed Skim, MCMREAM, March 2016; Interview with Said Makohn, Program Officer, AMAPPE, April 16, 2016

³⁷³ AMAPPE is also seeking to collaborate directly with MCMREAM. MCMREAM and the Delegation of the European Union in Morocco, 'Communiqué de Presse du Ministère Chargé des Marocains Résidents à l'Étranger et des Affaires de la Migration et de la Délégation de l'Union Européenne,' (press release, April 17, 2015, Rabat),

³⁷⁴ Interview with Said Makohn, Program Officer, AMAPPE, April 16, 2016.

³⁷⁵ Migrants du Monde, "Qui sommes-nous?" accessed June 17, 2016,

<http://migrantsdumonde.com/qui-sommes-nous/>.

³⁷⁶ Interview with Said Makohn, Program Officer, AMAPPE, April 16, 2016.

³⁷⁷ Seydina Ousmane Mbaye, "Comment les jeunes subsahariens perçoivent l' 'Eldorado' des centres d'appel," *le Matin*, June 6, 2012, http://www.cmce.org.ma/images/documents/fr/2012/06/Le_Matin_6_juin.pdf; Imane Nigrou, "Quelle vie pour les domestiques subsahariennes au Maroc ?" *Aujourd'hui le Maroc*, April 2, 2016,

<http://aujourd'hui.ma/societe/quelle-vie-pour-les-domestiques-subsahariennes-au-maroc>.

³⁷⁸ CNDH is currently working on a law to counter discrimination against foreigners, and GADEM has also advocated for legal reform. One example of positive change is the Royal Air Maroc's use of sub-Saharan employees in advertising to showcase its acceptance of diversity. Aeronautique.ma, "Royal Air Maroc renforce son PNC par des recrues issues de l'Afrique subsaharienne," updated April 1, 2014,

http://www.aeronautique.ma/Royal-Air-Maroc-renforce-son-PNC-par-des-recrues-issues-de-l-Afrique-subsaharienne_a3472.html.

the decree n 5-2014 of January 21, 2014, mandated that all migrant children (regardless of legal status) have access to primary and secondary schools.³⁷⁹ MCMREAM also launched a pilot program in October 2015 designed to provide over 7,000 children of migrants with tutoring, language, and culture classes.³⁸⁰ Despite the attention given to this issue, UNHCR has reported that they must sometimes act as a mediator when certain schools claim they are not aware of the law providing migrant children with access to education, although most of the time no further problems are reported.³⁸¹

One of the largest barriers to the integration of migrant children into the education system is the bilingual nature of most Moroccan schools. Classes are often taught in both Arabic and French, providing a barrier to migrant populations who may only speak one or the other and creating even greater integration challenges for populations lacking experience in either language. While most parents opt to place their children in the public education system as it is free of charge, some (mainly West African) migrants choose to place their children in private schools due to the more prominent use of French in such institutions, allowing for easier integration in addition to the perceived greater safety and quality of private schools.³⁸² Parents also cite the Moroccan curriculum's inclusion of religion classes as an issue of concern, claiming that it presents a further barrier to their children's integration in schools.³⁸³

To facilitate integration, informal bridge classes are offered to migrant children before formal school begins. UNHCR works with FOO to provide such services, offering assistance through the school registration process, tutoring, and language classes in Arabic and French.³⁸⁴ UNHCR also provides school supplies to refugee children and covers their transportation costs. Through working with both children and teachers, organizations such as Caritas and FOO seek to instill an educational approach centered around intercultural coexistence, in order to create a welcoming environment for migrant and refugee children.³⁸⁵ For adolescents whose integration needs are more difficult to meet, some associations have begun creating limited programs to enroll them in non-formal education or vocational training programs.³⁸⁶

Despite these programs, integration is still hindered by greater structural problems in the Moroccan educational system. Public schools in particular tend to be overenrolled, with an average of 45 students per class.³⁸⁷ This makes it difficult for educators to provide children, especially those with specialized needs such as refugees, with the particular attention they require.³⁸⁸ Additionally, geographic disparities in the quality of education systems often place migrants who live outside of major cities at a disadvantage, as language classes and other

³⁷⁹ Conseil de la Communauté Marocaine à l'Étranger, "Circulaire: Le Maroc ouvre ses écoles aux migrants," November 4, 2013, <http://www.ccme.org.ma/fr/actualites/33109>.

³⁸⁰ Conseil de la Communauté Marocaine à l'Étranger, "Ouverture à Rabat des cours des classes du soutien éducatif et de l'enseignement des langues et de la culture marocaine au profit des enfants des migrants et réfugiés résidant au Royaume," October 12, 2015, <http://www.ccme.org.ma/fr/medias-et-migration/45876>.

³⁸¹ Interview conducted by Natalia Banulescu-Bogdan, Rabat, March 2016

³⁸² Some migrant associations have been able to lobby public schools so that migrant children will be offered free education at such institutions. Tamkine Migrants, *Les enfants migrants et l'école marocaine: Etat des lieux sur l'accès à l'éducation des enfants migrants subsahariens au Maroc*, (Agadir, Morocco: Association Oum El Banine, 2014), 23-24, <http://resourcecentre.savethechildren.se/sites/default/files/documents/rapport-les-enfants-migrants-et-lecole-marocaine-tamkine-migrants-v-finale.pdf>.

³⁸³ Tamkine Migrants, *Les enfants migrants et l'école marocaine*

³⁸⁴ The Centre d'Accueil de Caritas also offers a similar program. Tamkine Migrants, *Les enfants migrants et l'école marocaine*, 21-22

³⁸⁵ Ségolène Dargnies, "Aux côtés des migrants sur les bancs de l'école," *L'économiste*, April 8, 2016, <http://www.leconomiste.com/article/996272-aux-cotes-des-migrants-sur-les-bancs-de-l-ecole>.

³⁸⁶ Dargnies, "Aux côtés des migrants sur les bancs de l'école"

³⁸⁷ Tamkine Migrants, *Les enfants migrants et l'école marocaine*, 27

³⁸⁸ Tamkine Migrants, *Les enfants migrants et l'école marocaine*, 27

programs designed to meet integration needs may not exist. In this dimension, Rabat is the national leader of best practice in educational integration.³⁸⁹

Health

Officially, all migrants in Morocco (regardless of legal status) have access to emergency health services.³⁹⁰ In 2003, irregular migrants were also allowed free access to certain preventive and treatment services through a framework of programs against communicable diseases.³⁹¹ Only regularized migrants and government-recognized refugees, however, have access to medical specialists.³⁹² Regularized migrants and refugees also have access to the services of the *Régime d'Assistance Médicale* (RAMED), which grants basic medical insurance to impoverished or vulnerable social groups.³⁹³ UNHCR offers to reimburse the cost of private medical expenses for refugees and asylum seekers, and works with the association Action Urgence to provide this group with consultations and referrals to health care institutions.³⁹⁴ This accounts for the largest expense of UNCHR Morocco.³⁹⁵

As part of the SNIA, the Ministry of Health has created a national strategy designed to ensure the provision of sufficient health care to migrants and refugees. Objectives include guaranteeing migrants' access to health care services, enhancing the quality of such services, training health care professionals on care services specific to the needs of migrants (e.g. tropical diseases), and increased monitoring and evaluation of health care for migrant populations.³⁹⁶ MCMREAM has also signed a framework convention with the Moroccan Red Crescent to provide medical and social assistance for up to 13,000 migrants.³⁹⁷

Similar to efforts in providing educational services, such initiatives to ensure health care access for refugees and migrants continue to be hindered by practical and structural difficulties. One specifically identified area of need is the deficiency of psychosocial care in Morocco. Due to the general lack of sufficient psychosocial care, psychosocial support is typically provided in an ad hoc manner by UNHCR and its implementing partners (namely FOO), targeting populations of extreme need such as survivors of sexual and gender-based violence.³⁹⁸ A study by the Ministry of Health showed that while over 90 percent of sub-Saharan irregular migrants had access to health care, over 50 percent still suffered from a host of psychological, digestive and infectious issues.³⁹⁹

³⁸⁹ Tamkine Migrants, *Les enfants migrants et l'école marocaine*

³⁹⁰ Interview conducted by MPI, March 2016

³⁹¹ Secretary General of the Ministry of Health, "Allocution de Monsieur le Secrétaire Général à l'occasion de l'inauguration des travaux de l'Atelier de réflexion sur l'élaboration du Plan Stratégique National sur la Santé des Migrants," (presentation at l'Ecole Nationale de Santé Publique, Rabat, January 21-22, 2016), <http://www.sante.gov.ma/Documents/2016/01/Projet%20discours%20Monsieur%20le%20Secr%C3%A9taire%20G%C3%A9n%C3%A9ral.pdf>.

³⁹² Interview with UNHCR, March 2016

³⁹³ Secretary General of the Ministry of Health, "Allocution de Monsieur le Secrétaire Général"

³⁹⁴ Interview with UNHCR, March 2016; UNHCR, "Morocco Fact Sheet, March 2016" accessed August 9, 2016, http://ma.one.un.org/content/dam/unct/morocco/docs/UNHCR/UNHCR%20Morocco_Factsheet_March%202016%20EN_G.pdf; Association Action Urgence (AAU), "Qui sommes nous?" accessed August 9, 2016, <http://www.actionurgence.org/>.

³⁹⁵ Interview with UNHCR, March 2016

³⁹⁶ Secretary General of the Ministry of Health, "Allocution de Monsieur le Secrétaire Général"

³⁹⁷ MCMREAM, *Stratégie Nationale d'Immigration et d'Asile*, accessed August 9, 2016, <http://www.marocainsdumonde.gov.ma/fr/le-minist%C3%A8re/affaires-de-la-migration/strat%C3%A9gie-nationale-dimmigration-et-dasile>.

³⁹⁸ UNHCR Morocco: Fact sheet, March 2016

³⁹⁹ Secretary General of the Ministry of Health, "Allocution de Monsieur le Secrétaire Général"

3.3.4. Conclusions and Assessment of Impacts of Forced Migration

The efforts taken by the Moroccan government to create a national asylum law represent an important step toward ensuring sufficient protection for asylum seekers and refugees in the country—and a model for the region. Morocco is growing to accept its role as a country of origin, transit, and destination through a variety of programs designed to facilitate immigrant integration while curbing irregular migration. While the final form of the national asylum system is yet to be determined, it seems as of now that it will include strong provisions to ensure forced migrants' rights and protection. This marks a significant step in the region to address the humanitarian protection issues presented by the flow of migrants through North Africa.

Yet barriers to the SNIA's effective implementation remain. Despite the creation of many programs designed to improve the situation of migrants, asylum seekers, and refugees in Morocco, structural barriers prevent them from reaching their full potential. One problem has been program coordination, especially as projects are often driven by the varying interests of NGOs, foreign actors, and different government ministries. As a newly reestablished entity, MCMREAM remains small and has little experience with the challenges of immigrant integration it now oversees.

Another challenge is weak public support for immigration. While the public largely empathizes with forced migrants, especially fellow Arabs and Muslims such as Syrians, the sudden increase in news coverage has given many Moroccans the impression that the government is dedicating a large amount of resources to integrate them. MCMREAM has stressed the message of "equity rather than privilege," to ensure the public that migrants are not being prioritized over the Moroccan population.⁴⁰⁰ However, media scapegoating of migrants and incidents of tension in mixed neighborhoods continues to exacerbate negative stereotypes of the migrant and refugee communities.⁴⁰¹

In such a domestic climate, it is politically difficult for the Moroccan government to take a strong open stance toward receiving and integrating forced migrants. As shown even for the Syrians, who are viewed positively by the public, creating favorable policies risks attracting a level of migration beyond the government's limited capacity. This is especially true if Morocco remains the only country in the region to enact such open policies. Despite these difficulties, Morocco remains dedicated to creating a comprehensive asylum and migration regime based on international law and recognition of universal human rights. As these legal frameworks continue to be developed in accordance with the SNIA and are eventually implemented, it remains to be seen whether this commitment can withstand the internal and external pressures facing the country. If it can, the result would be significant. Morocco, which in 1957 was the first country in the region to sign the 1951 Convention, could once again lead the way on migration and asylum.

⁴⁰⁰ Interview with MCMREAM conducted by Wiam Khalifa, 2016

⁴⁰¹ Conclusion drawn from an analysis of reporting on public opinion through several events that stirred a debate on xenophobia and racism, namely the publication of a popular magazine with the title of "Black Danger" on its front cover.

3.4. UGANDA¹

Uganda has consistently hosted large refugee populations from neighboring countries such as the Democratic Republic of the Congo, Rwanda, Sudan, and most recently, South Sudan. Since the early 1960s, the number of refugees residing in Uganda has rarely dipped below 100,000, with the outbreak or cessation of conflict as a primary driver of refugee flows to and from Uganda.² Most recently, the outbreak of civil war in December 2013 has displaced more than 700,000 South Sudanese refugees; at the end of May 2016, 221,000 had sought shelter in Uganda.³ Uganda now hosts more than half a million registered refugees (of a total population of 39 million): the largest number in its history and, as of the end of 2015, the eighth-largest refugee population worldwide.⁴

Uganda has won praise for its progressive refugee policies, which allocate a plot of land to refugees for shelter and agricultural use, and afford refugees the right to work, establish their own businesses, access free primary and secondary education, and a broad degree of freedom of movement.⁵ Its Refugee Act of 2006, which set out these rights to work, move, and live outside of camps was heralded by UNHCR as “a model for Africa.”⁶ But implementing these policies and providing refugees with access to sustainable livelihoods remains a challenge, due in part to factors like the limited capacity of Uganda’s education, health, and social assistance systems, and the scale of recent refugee arrivals in northern Uganda.

3.4.1. Scale and Profile of Forced Migration

At the end of May 2016, there were half a million registered refugees in Uganda.⁷ Eighty percent were either Congolese or South Sudanese nationals; other major refugee populations included Somalis, Rwandans, and Burundians (see Table 11). An additional 35,000 asylum seekers resided in Uganda, constituting about 6 percent of the total forced migrant population.⁸

¹ Written by Kate Hooper, with contributions from the International Refugee Rights Initiative

² UNHCR, “Population Statistics: Time Series,” accessed May 16, 2016, http://popstats.unhcr.org/en/time_series.

³ UNHCR, “South Sudan Situation: Regional Overview,” last updated July 1, 2016,

<http://data.unhcr.org/SouthSudan/regional.php>.

⁴ Office of the Prime Minister (OPM), “Uganda – Monthly Refugee Statistics Update [31st May 2016],” Refugee Information Management System (RIMS), <https://data.unhcr.org/horn-of-africa/download.php?id=1902>; UNHCR, “Population Statistics: Time Series”; and World Bank, “Population, total,” accessed July 6, 2016, <http://databank.worldbank.org/>; UNHCR, *Global Trends: Forced Displacement in 2015* (Geneva: UNHCR, 2016), 16.

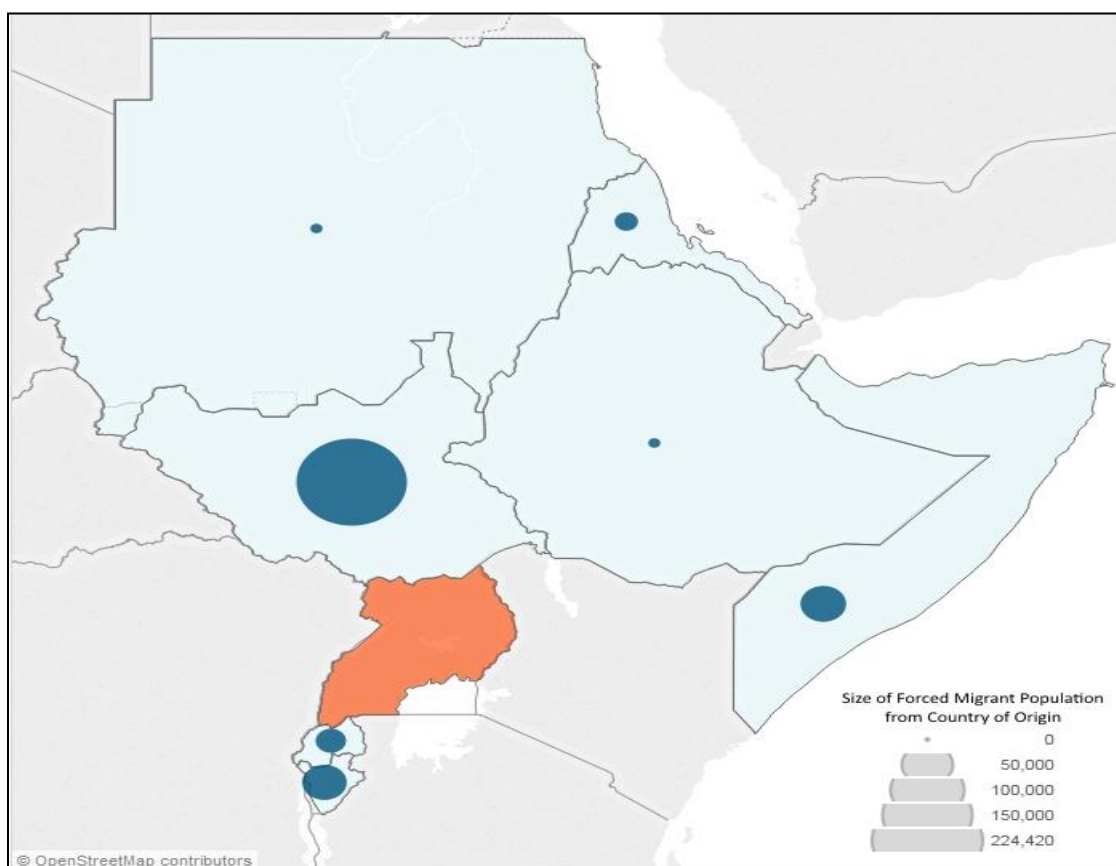
⁵ Charlie Yaxley, “Uganda hosts record 500,000 refugees and asylum-seekers,” UNHCR news update, December 18, 2015, <http://www.unhcr.org/uk/news/latest/2015/12/567414b26/uganda-hosts-record-500000-refugees-asylum-seekers.html>.

⁶ Vanessa Akello, “Uganda’s progressive Refugee Act becomes operational,” UNHCR news update, June 22, 2009, <http://www.unhcr.org/news/latest/2009/6/4a3f9e076/ugandas-progressive-refugee-act-becomes-operational.html>.

⁷ Office of the Prime Minister (OPM), “Uganda – Monthly Refugee Statistics Update [31st March 2016],” Refugee Information Management System (RIMS), <http://data.unhcr.org/drc/download.php?id=1221>; UNHCR, “Uganda,” accessed May 23, 2016, <http://reporting.unhcr.org/node/5129?v=2016#objectives>.

⁸ OPM’s monthly data on refugee populations often combines refugee and asylum seeker populations in breakdowns of data (e.g. population by settlement, age, gender).

Figure 15: Top countries of origin of forced migrants residing in Uganda, May 2016



Source: Office of the Prime Minister (OPM), "Uganda – Monthly Refugee Statistics Update [31st May 2016]," Refugee Information Management System (RIMS), <https://data.unhcr.org/horn-of-africa/download.php?id=1902>.

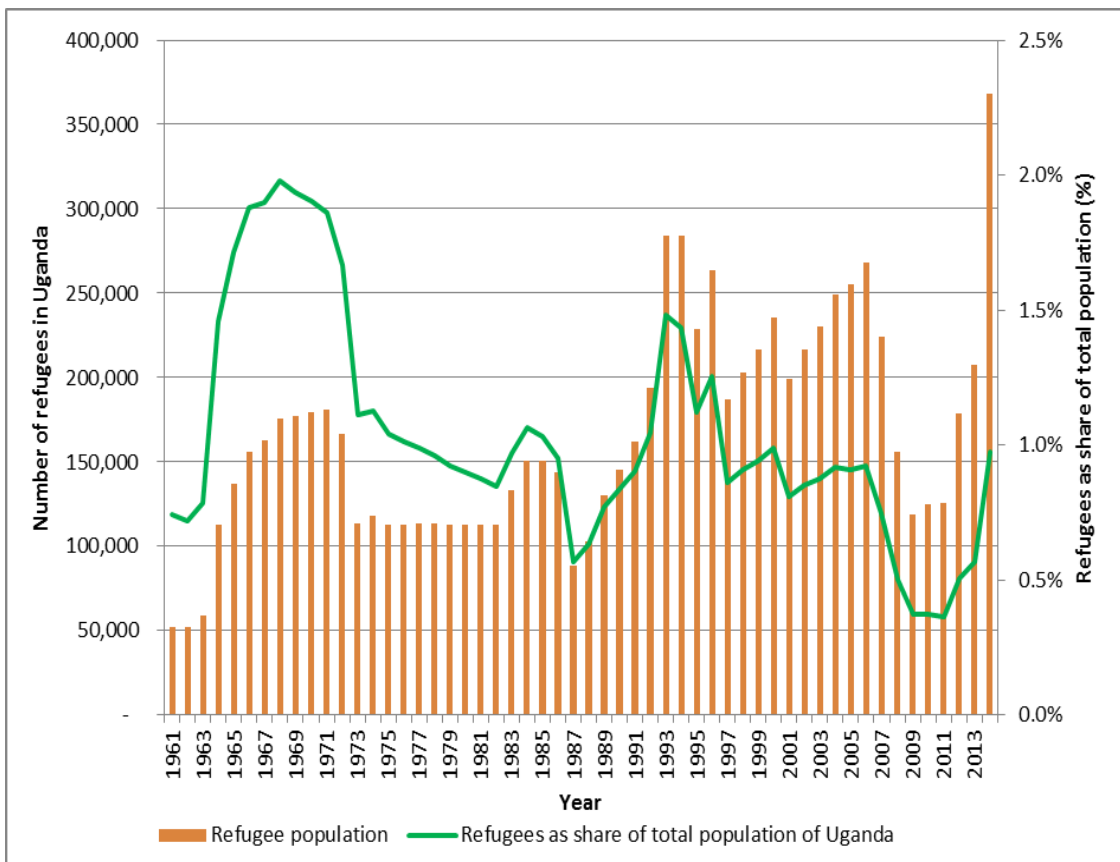
Table 11: Number of registered refugees and asylum seekers in Uganda, by country of nationality, end of May 2016

Country of nationality	Number of registered refugees and asylum seekers
South Sudan	224,420
Democratic Republic of the Congo	205,188
Somalia	38,395
Burundi	36,684
Rwanda	17,103
Eritrea	10,085
Sudan	2,756
Ethiopia	2,590
Other nationalities	1,031
TOTAL	538,252

Source: Office of the Prime Minister (OPM), "Uganda – Monthly Refugee Statistics Update [31st May 2016]," Refugee Information Management System (RIMS), <https://data.unhcr.org/horn-of-africa/download.php?id=1902>.

Conflict and insecurity in South Sudan, the Democratic Republic of the Congo, Burundi, and elsewhere have fueled refugee flows; Uganda received 54,000 refugees and asylum seekers in 2015, and an additional 65,000 between January and the end of May 2016.⁹ But even as more people seek protection in Uganda, rapid population growth means that the ratio of refugees to Ugandan nationals has fallen since the 1960s (see Figure 16).

Figure 16: Refugees in Uganda, and as share of total population



Sources: UNHCR, "Population Statistics: Time Series," accessed May 16, 2016, http://popstats.unhcr.org/en/time_series/; and World Bank, "Population, total," accessed July 6, 2016, <http://databank.worldbank.org/>.

While some refugee populations have lived in Uganda for a number of years, others are more recent arrivals. The civil war in South Sudan has displaced more than 2.3 million people since fighting began in December 2013, with 50,000-100,000 killed in the first year of fighting.¹⁰ UNHCR estimates there are more than 700,000 South Sudanese refugees in the region displaced by the fighting, with Uganda sheltering more than 200,000.¹¹ Meanwhile, other refugee populations, such as the Rwandans, are declining in number as they return to their countries of origin.

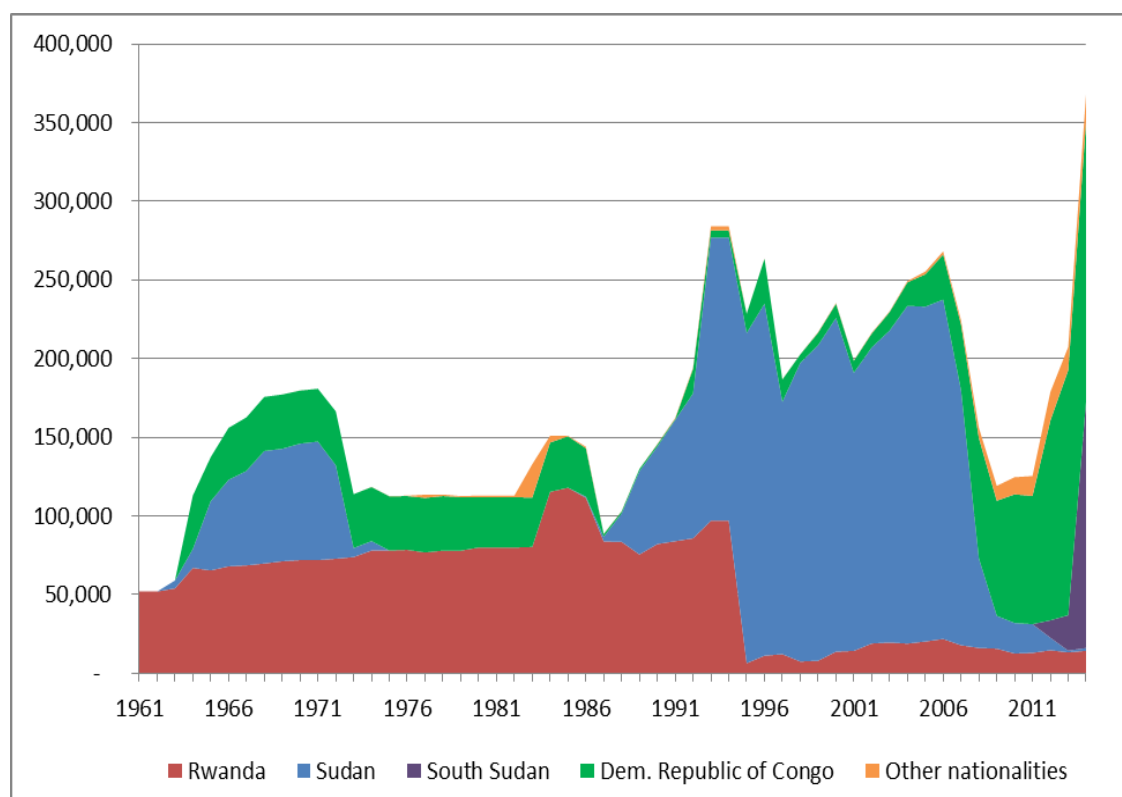
⁹ UNHCR, *Global Trends 2015*, 15; and OPM, "Uganda – Monthly Refugee Statistics Update [31st May 2016]."

¹⁰ UNOCHA, *2016 Humanitarian Needs Overview: South Sudan*, November 2015, http://reliefweb.int/sites/reliefweb.int/files/resources/2016_HNO_South%20Sudan.pdf.

¹¹ UNHCR, "South Sudan Situation: Regional Overview," last updated May 31, 2016, <http://data.unhcr.org/SouthSudan/regional.php>.

Figure 17 shows how the composition of refugee populations in Uganda has altered over time, with Rwandan nationals comprising a significant share from the early 1960s to the mid-1990s, and a substantial Sudanese refugee population displaced by the first and second Sudanese civil wars (before then returning home), and now the ongoing conflict in South Sudan.

Figure 17: Refugees in Uganda, by country of origin and year



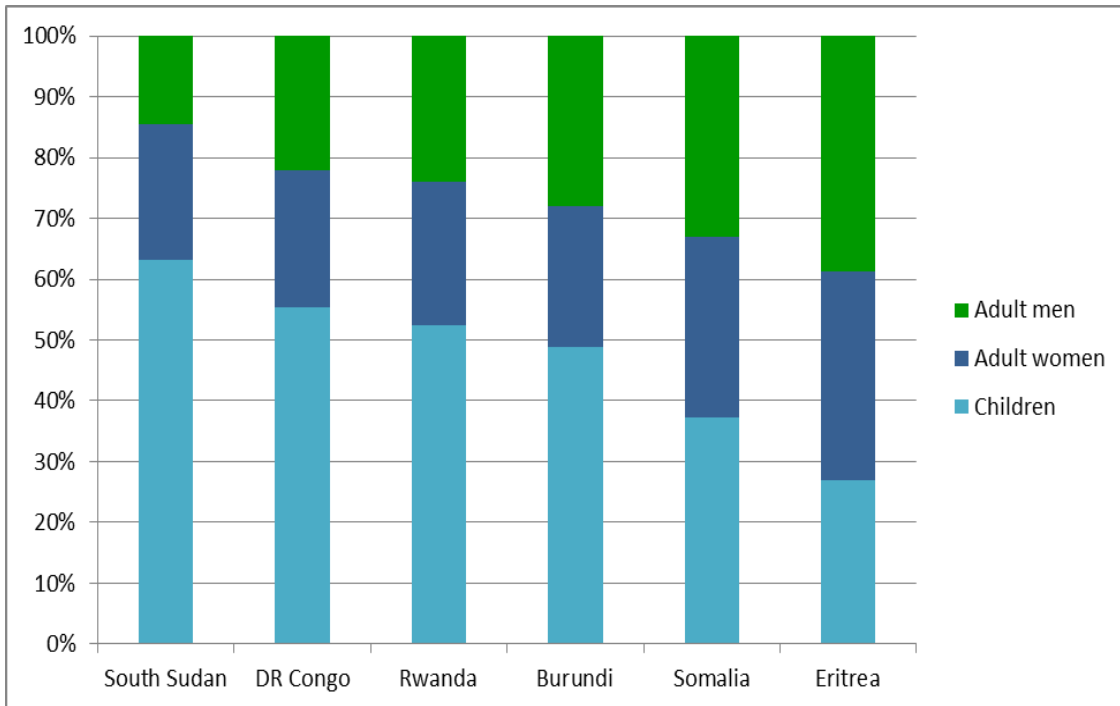
Source: UNHCR, "Population Statistics: Time Series," accessed May 16, 2016, http://popstats.unhcr.org/en/time_series.

Note: This covers refugees, including those in refugee-like situations. South Sudan gained independence from Sudan in July 2011.

Together, women and children comprise 79 percent of all refugees in Uganda. More than half of the refugees currently living in Uganda are children, and more than a third of the refugee population are ages 11 or younger.¹² This age distribution, and the share of women and children, varies among refugee groups, as illustrated in Figure 18. For example, two thirds of South Sudanese refugees and asylum seekers are children, compared with one quarter of Eritrean refugees and asylum seekers; and 15 percent of South Sudanese refugees and asylum seekers are adult men, compared to nearly 40 percent of Eritrean refugees and asylum seekers.

¹² OPM, "Uganda – Monthly Refugee Statistics Update [31st May 2016]."

Figure 18: Refugees and Asylum Seekers in Uganda, by Age, Gender, and Country of Origin, May 2016.



Source: UNHCR, "Statistical summary as of May 2016," <http://data.unhcr.org/drc/download.php?id=1230>.

Most refugees live in settlements in Uganda; at the end of May 2016, only 14 percent were recorded as living in Kampala, the nation's capital, though this number excludes those who do not register with local authorities.¹³ Many settle near the borders they originally crossed: for example, most Congolese refugees live in settlements in western Uganda, while most South Sudanese refugees live in settlements in northwestern Uganda, and most Burundian and Tanzanian refugees live in settlements in southern Uganda.¹⁴ The exception to this are Somalis, most of whom cross into Uganda from Kenya, and then re-apply for refugee status, living in Nakivale settlement in southern Uganda or Kampala. In addition, Kampala hosts refugees from all of the major national-origins groups in Uganda.¹⁵ At the end of May, 2016, there were 74,896 refugees recorded as living in Kampala. However, these data may not capture all those refugees who are "self-settled" (i.e. live outside the settlements with varying degrees of contact with the authorities).

A small number of refugees are also resettled from Uganda each year. Between 2011 and May 2016, 9,182 refugees were resettled to third countries; almost all were either Congolese (59 percent) or Somali (36 percent).¹⁶ In 2015, 2,440 refugees—89 percent of whom were Congolese, and 8 percent Somali—departed Uganda to be resettled in another country, while

¹³ OPM, "Uganda – Monthly Refugee Statistics Update [31st March 2016]."

¹⁴ UNHCR, "Uganda: Registered refugees and asylum-seekers, April 1, 2016," <http://data.unhcr.org/SouthSudan/download.php?id=2675>.

¹⁵ Gianluca Iazzolino, "A safe haven for Somalis in Uganda?" Rift Valley Institute Briefing Paper, August 2014, <http://riftvalley.net/publication/safe-haven-somalis-uganda>; and UNHCR, "Uganda: Registered refugees and asylum-seekers, April 1, 2016."

¹⁶ UNHCR, "Statistical summary as of May 2016," <http://data.unhcr.org/drc/download.php?id=1230>.

4,602 cases were submitted for consideration for resettlement. The United States has been the primary destination for refugees resettled from Uganda in recent years, accepting 80 percent of refugees between 2011 and 2016; Norway, Sweden, Canada, and Australia have accepted 3 to 5 percent of cases each.

3.4.2. Legal frameworks for forced migrants

Uganda is signatory to the 1951 Refugee Convention and the 1967 Protocol, and the 1969 Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa. Uganda's 2006 Refugees Act expands on the 1951 Convention's definition of a refugee by adding persecution on the grounds of sex or failing to conform to gender-discriminating practices, and incorporating the OAU Convention's additional grounds of fleeing external aggression, occupation, foreign domination, or events seriously disturbing public order.¹⁷ In turn, the Act also grants temporary protection, reviewed every two years, to a person who is part of a mass influx of asylum seekers instead of requiring individual status determination. The 2006 Refugees Act replaced the much-criticized Control of Alien Refugees Act of 1960 (CARA), which gave the Minister the ability to define which groups were categorized as refugees (see Box 2).¹⁸

Box 3. The Control of Alien Refugees Act of 1960

The Control of Alien Refugees Act (CARA) was signed in 1960 and enacted in 1964, in response to large inflows of refugees from its neighbors during the 1950s and 1960s. The Act defined a refugee as "any person being one of a class of aliens declared by the Minister by statutory instruments to be refugees." The Act did not specify refugees' rights, but instead focused on controlling refugee populations: limiting their freedom of movement outside camps, and setting out grounds for confiscation of property, arrest, detention, and return. Under CARA, the Minister had the power to define the class of people declared to be refugees—thus, allowing for prima facie status but not individual status determinations. Issuing a residence permit, however, was then at the discretion of the authorized officer (who could refuse without giving a reason). Any refugee found outside a refugee settlement without the authorization of the Director of Refugees was guilty of an offence and subject to up to three months imprisonment and possible deportation. The Director could order refugees to return to their country of nationality or first asylum at any time.

CARA directly contravened aspects of the 1951 Convention and Protocol (ratified by Uganda in 1976), the OAU Convention (signed in 1969 and ratified in 1987), the 1995 Constitution, and other national laws on criminal procedures. As a result, CARA was only selectively applied; but the limitations of the Act led to an ad-hoc system of determining refugee status and legal protections derived from treaties rather than national law.

Sources: Refugee Law Project (RLP), *Critique of the Refugees Act (2006)*, accessed May 17, 2016, http://www.refugeelawproject.org/files/legal_resources/RefugeesActRLPCritique.pdf; Zachary Lomo, Angela Naggaga, and Lucy Hovil, "The Phenomenon of Forced Migration in Uganda: An Overview of Policy and Practice in an Historical Context," Refugee Law Project Working Paper No. 1, June 2001, http://refugeelawproject.org/files/working_papers/RLP.WP01.pdf; and Uganda: Control of Alien Refugees Act, Cap.64

¹⁷ Article 1.2 of the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, <http://www.unhcr.org/45dc1a682.html>; and Article 4 of The Refugees Act 2006, Parliament of Uganda, <http://www.refworld.org/pdfid/4b7baba52.pdf>.

¹⁸ Uganda: Control of Alien Refugees Act, Cap.64 of 1960, July 13, 1960, <http://www.refworld.org/cgi-bin/telex/vtx/rwmain/opendocpdf.pdf?reldoc=v&docid=544e48d84>; and Refugee Law Project, *Critique of The Refugees Act (2006)*, accessed May 17, 2016, http://www.refugeelawproject.org/files/legal_resources/RefugeesActRLPCritique.pdf.

Uganda's 2006 Refugee Act sets out the legal framework for refugee protection, establishing processes for determining refugee status and related rights, in line with international legal standards. The Act also acknowledges that refugees are entitled to the rights and subject to the obligations set out in several international conventions to which Uganda is signatory, including the African Charter on the Rights and Welfare of the Child (1981), the Convention on the Rights of the Child (1989), the Convention on the Elimination of All Forms of Discrimination Against Women (1979), and the African Charter on Human and Peoples' Rights (1981).¹⁹

In turn, the 2004 National Policy for Internally Displaced Persons sets out the rights of internally displaced persons (IDPs), the identification and registration process, and the responsibilities of different national and local agencies to provide assistance. Uganda was among the first countries to introduce a national policy on IDPs, which drew from the Guiding Principles to cover conflict-, environmental-, and development-induced displacement.²⁰ Uganda was the first state to ratify the Kampala Convention (of 2009) and has also ratified the 2006 IDP Protocol, the former of which it played a key role in drafting and promoting.²¹

Institutional structure

In practice, many of the refugees currently residing in Uganda entered as part of a mass influx (e.g. from South Sudan or eastern DRC), and thus were recognized on a *prima facie* basis.²² Asylum seekers from other countries must have their protection claims individually assessed.

The 2006 Refugees Act assigns responsibility for assessing protection claims to the Refugee Eligibility Committee (REC), which is comprised of officials from ten government departments. Under the Act, anyone wishing to apply for refugee status must submit a written application to the REC (or via UNHCR or an authorized officer) within 30 days of arriving in Uganda; the REC is then required to return a decision on the application within 90 days.²³ If the REC rejects an application, they must state their reasons in writing, and the applicant can then appeal the decision within 30 days to the Refugee Appeals Board. The Appeals Board adjudicates the grounds of the appeal within 90 days, though it cannot itself grant refugee status to the applicant and must instead revert back to the REC. UNHCR plays no formal role in this adjudication process, though it can attend meetings of the REC and Appeals Board (and make submissions to the latter), and forward refugee applications on to the Commissioner for Refugees. Civil society has criticized aspects of this process, including the short time frame for

¹⁹ See Articles 28, 31, and 32 of the 2006 Refugee Act.

²⁰ Internal Displacement Monitoring Centre (IDMC) and Norwegian Refugee Council (NRC), "Uganda: Need to focus on returnees and remaining IDPs in transition to development," May 24, 2012, <http://www.internal-displacement.org/assets/library/Africa/Uganda/pdf/Uganda-May-2012.pdf>.

²¹ Ibid.

²² UNHCR, "Global Appeal 2015 Update: Uganda," accessed May 18, 2016, <http://reliefweb.int/sites/reliefweb.int/files/resources/5461e6020.pdf>; UNHCR, *Global Report 2011: Uganda*, <http://www.unhcr.org/4fc880a7b.pdf>.

²³ The 2006 Act does not deal with refugees *sur place*; however, Uganda has recognized refugees *sur place* by interpreting Article 1.2 of the OAU Convention as applying to those inside or outside their country of origin at the time of events disturbing public order. (Article 1.2 reads: The term "refugee" shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.) *OAU Convention Governing the Specific Aspects of Refugee Problems in Africa*; and Marina Sharpe, "The 1969 OAU Refugee Convention and the Protection of People fleeing Armed Conflict and Other Situations of Violence in the Context of Individual Refugee Status Determination," UNHCR Legal and Protection Policy Research Series, January 2013, 18, <http://www.unhcr.org/50f9652e9.pdf>.

lodging an application, the written requirement (which could disadvantage illiterate refugees), and the Appeals Board's lack of authority.²⁴

The Office of the Prime Minister (OPM)'s Department of Disaster Preparedness and Refugees, and its Commissioner of Refugees, are then responsible for issuing identity cards to refugees, administering refugee settlements, and coordinating humanitarian assistance and refugee programming, in consultation with UNHCR and other organizations. While OPM is responsible for the operation of the settlements (including security), UNHCR works with several partner organizations to deliver refugees with rations, basic services like healthcare and education, and livelihoods programming. Under Uganda's national IDP policy, OPM's Department of Disaster Preparedness and Refugees is also the lead agency for protecting and assisting IDPs.²⁵

Refugee rights and benefits

The 2006 Refugees Act sets out rights for refugees that include being issued an identity card and travel document for travel outside Uganda; freedom from discrimination; freedom of association (for non-political organizations); and receiving the same treatment as other non-citizens with regard to property rights, transferring assets, practicing a profession, accessing employment and trade, and secondary or tertiary education.²⁶ Refugee women are subject to protection from gender discrimination; and refugees are able to access healthcare services and education (including free elementary education) on the same terms as Ugandan nationals.

At the same time, Ugandan law imposes some constraints on refugee rights, including:

- **Freedom of movement.** The 2006 Act grants refugees freedom of movement "subject to reasonable restrictions" in Ugandan law or issued by the Commissioner on grounds like national security or public order or health.²⁷ This technically requires refugees to obtain permission from their settlement commandant before they move, though this is not strictly enforced, and refugees often move without permission in practice.²⁸ This process of asking for travel permission is slowly being phased out.²⁹
- **Political activities.** Refugees are also barred from participating in political activities in Uganda, or political activities against another country (including their country of origin).³⁰ This draws on Article 3 of the OAU Convention, which bars refugees from participating in any "subversive activity" against a member of the OAU, but is considerably more expansive in scope, and critics of the Act have warned this could impinge on refugees' rights to freedom of association and expression.³¹
- **Citizenship.** Under Ugandan law, refugees have limited access to Ugandan citizenship. Article 14 of the Uganda Citizenship and Immigration Control Act of 1999 bars people whose parents or grandparents were refugees from acquiring citizenship at birth (jus

²⁴ RLP, *Critique of the Refugees Act (2006)*.

²⁵ Until 2012, UNHCR supported the government in providing protection and supporting returns, but with falling numbers of IDPs closed its office in northern Uganda. Spindler, "UNHCR closes chapter on Uganda's internally displaced people."

²⁶ Articles 28-36, *The Refugees Act 2006*.

²⁷ Article 30, *The Refugees Act 2006*.

²⁸ IRRI, *South Sudanese refugees in Adjumani District, Uganda: Telling a new story?* July 2015, 4, <http://www.refugee-rights.org/Publications/Papers/2015/TellingADifferentStory.pdf>.

²⁹ IRRI interview with the Commissioner for Refugees, Kampala, April 2015.

³⁰ Article 35, *The Refugees Act 2006*. Andersson describes two official interpretations of "political activities" in this context: (1) barring refugees from voting or standing in elections, and (2) a broader ban on writing political articles alongside this bar on participating in elections—which, he notes, would contravene rights to freedom of expression set out in Uganda's Constitution, the ICCPR, and the African Charter. Erik Andersson, *Political Rights for Refugees in Uganda: A Balance Between Stability in the State and Respect for Human Rights* (master's thesis, Umea University, 2013), <https://www.diva-portal.org/smash/get/diva2:713765/FULLTEXT01.pdf>.

³¹ RLP, *Critique of the Refugees Act (2006)*, 18.

solis); only refugees who have been married to a Ugandan citizen for at least five years, or have resided in Uganda for at least 20 years (and speak one of the official languages of Uganda) can naturalize.³² But in practice, refugees who meet these conditions have encountered practical barriers to naturalization: for example, local officials who are unfamiliar with the law and procedures for refugees naturalizing.³³

Meanwhile, Uganda's national IDP policy's central objective is to ensure IDPs have the same rights, freedoms, and treatment under the law as other Ugandan citizens.³⁴ This includes ensuring there are no restrictions on their freedom of movement (for example, by allowing free movement in and out of camps, and improving security in the areas where IDPs live to allow movement); replacing lost or destroyed documents; providing IDPs with shelter, clothing, and food; and helping returnees access their land, or allocating them new land.³⁵ As well as guaranteeing equal access to education services, the policy also requires the government to create affirmative action schemes for IDPs to ensure they can attain the same educational standards, and providing IDPs with psychosocial services.³⁶

Table 12: The rights of refugees, asylum seekers, and IDPs under Ugandan law

	Refugees	Asylum-seekers	IDPs
Permission to work	Yes	No	Yes
Permission to establish a business	Yes	No	Yes
Own property	Yes	No	Yes
Freedom of movement	Some restrictions	Some restrictions	Yes
Access to public healthcare services	Yes	Yes	Yes
Access to public education	Yes	Yes	Yes
Political participation	No	No	Yes

Note: Refugees are technically required to ask for permission from their settlement commandant before moving, while asylum seekers can only access shelter and food in the settlements (though they can access these services for up to three months elsewhere during the initial registration process).

In practice, full implementation of these policies—and, therefore, full access to the rights they include—hinges on resources that are often lacking. Limited local government capacity and limited funds, coupled with a reliance on external resources, all served to inhibit the implementation of the national IDP policy.³⁷ Similarly, a lack of funding has hampered the implementation of the 2006 Refugee Act and the accompanying Refugee Regulations of 2010.

³² *The Uganda Citizenship and Immigration Control Act, 1999,*

http://refugeelawproject.org/files/legal_resources/CitizenshipImmigrationact.pdf.

³³ Sam Walker, "Can Refugees Become Citizens of Uganda?" Refugee Law Project Briefing Paper July 2008, http://www.refugeelawproject.org/files/briefing_papers/RLP.BP0803.pdf.

³⁴ Chapter 1, *The National Policy for Internally Displaced Persons*, 2004.

³⁵ Chapter 3, *The National Policy for Internally Displaced Persons*, 2004.

³⁶ Chapters 3.1.1 and 3.1.2, *The National Policy for Internally Displaced Persons*, 2004.

³⁷ Friedarika Santner, "Uganda's Policy for Internally Displaced Persons. A Comparison with the Colombian Regulations on Internal Displacement," *International Law: Revista Colombiana de Derecho Internacional* 22 (Jan/June 2013), http://www.scielo.org.co/scielo.php?script=sci_arttext&pid=S1692-81562013000100004.

3.4.3. Poverty Alleviation Efforts

As well as being able to access healthcare and education services on the same terms as nationals, refugees also receive various types of support from the Government of Uganda and humanitarian agencies such as land and basic supplies for shelter and cultivating crops, and food assistance. Refugees in Uganda's settlement receive food rations primarily from the World Food Programme (WFP) and other humanitarian agencies, with WFP offering the options of cash assistance or food rations to some refugees who have been in Uganda for a number of years. At the end of 2015, WFP's cash transfer program was available in six settlements, and about 35,000 refugees (approximately 10 percent of those receiving food assistance from WFP) had opted for cash transfers.³⁸ But while Ugandan refugee policy has sought to promote refugee self-reliance, very few achieve this goal in practice with most living in poverty.

Uganda has committed to several sets of development benchmarks such as the Sustainable Development Goals (SDGs), which include targets such as employment and decent work for all and equal access to quality education by 2030;³⁹ the preceding Millennium Development Goals (MDGs); and the Education for All Framework (2000), which set out benchmarks to achieve universal free primary education, expanded early childhood education, gender equality in education, and 50 percent improvement in adult literacy by 2015.⁴⁰

Uganda has also introduced several policies over the years that seek to integrate refugee services into government infrastructure and services, and thus avoid long-term parallel social service systems and uneven allocation of resources between refugees and host communities. One example is the government's requirement that donors invest 30 percent of all funds spent on refugee assistance to benefit host communities. Currently, the two key policies that pertain to refugee livelihoods and integrated service delivery are the Settlement Transformative Agenda and UNHCR's ReHoPE strategy, which focus on offering livelihoods assistance to both refugee and host communities, as part of Uganda's National Development Plan:

- **Settlement Transformative Agenda (STA).** The goals of Uganda's Settlement Transformative Agenda (STA) include providing refugees and host communities with sustainable livelihood opportunities; promoting effective land management practices and protecting the surrounding environment; fostering social cohesion and rule of law; and improving community infrastructure in line with local government plans.⁴¹
- **ReHoPE Strategy.** The UN's Refugee and Host Population Empowerment (ReHoPE) strategy aims to promote sustainable livelihoods (by focusing on modern agronomic

³⁸ This is offered in collaboration with OPM and UNHCR, and funded by Canada, the European Commission, France, Ireland, the United Kingdom, and the United States in 2015. Lydia Wamala, "In Uganda, WFP and Donors Give Refugees More Control And Choice," March 14, 2016, <https://www.wfp.org/stories/uganda-thanks-donors-wfp-food-assistance>; and WFP, "Uganda," accessed July 18, 2016, <http://www.wfp.org/countries/uganda>.

³⁹ See, for example, Goal 4 of the Sustainable Development Goals (SDGs)—"Ensure inclusive and quality education for all and promote lifelong learning,"—and Goal 8 – "Promote inclusive and sustainable economic growth, employment and decent work for all". United Nations, "Sustainable Development Goals," accessed May 23, 2016, <http://www.un.org/sustainabledevelopment/sustainable-development-goals/>.

⁴⁰ UNESCO, *The Dakar Framework for Action. Education for All: Meeting our Collective Commitments* (Paris: UNESCO, 2000), http://www.unesco.at/bildung/basisdokumente/dakar_aktionsplan.pdf

⁴¹ World Bank, "Combined Project Information Documents/Integrated Safeguards Data Sheets: AFCC2/RI-Regional Operation on Development Response to Displacement in the Horn (P152822)," June 17, 2015, http://www-wds.worldbank.org/external/default/WDSPContentServer/WDSP/AFR/2015/12/21/090224b083fb9d4/1_0/Rendered/PDF/Concept0Projec0n0the0Horn000P152822.pdf; and OPM, "Settlement Transformation Agenda," presentation delivered on September 22, 2015.

practices and skills training), integrated and sustainable social services (particularly in the health and education sectors), and social cohesion.⁴²

This builds on the Self-Reliance Strategy introduced by OPM and UNHCR in 1999, which had the overarching goals of (1) promoting self-reliance for refugees and host communities, and (2) integrating refugee services (e.g. education and health services, water and sanitation, agricultural production and livelihoods) with those of the host communities, partly by investing in local infrastructure.⁴³ While it did not achieve its goals of self-sufficiency (and thus, eliminating the need for food rations), a 2004 evaluation reported it improved access to education and health services for both refugees and nationals, and led to an upgrading of community infrastructure (e.g. water and roads).⁴⁴ The Self-Reliance Strategy (1999-2003) was followed by the Development Assistance for Refugees (DAR).

Housing

Like some other countries in the region, Uganda operates a local settlement policy that allocates land in rural areas to refugees to settle on with the expectation of becoming self-sufficient over time.⁴⁵ This policy dates back several decades, but is codified in the 2006 Act. This Act allows the Minister to designate land as transit centers or refugee settlements to temporarily shelter to asylum seekers waiting for a decision and to provide local settlement and integration for recognized refugees.⁴⁶

When refugees arrive in Uganda, many are transported to reception or transit centers, where they are registered and, in the case of individual status determination, await a decision on their application. Once granted refugee status, refugees are then allocated a plot of land for shelter and growing crops to supplement their food rations. However, refugees do not own this land, and so are not allowed to lease or sell the land they are allocated.⁴⁷ The length of stay at these reception or transit centers varies, and likely is related to factors like the processing of refugee claims and awarding of status, and finding a suitable plot of land—though in some cases, refugees without land are hosted by other refugees or are permitted to stay in an area within the settlement. This process can be further delayed during a mass influx of refugees. For example, in Adjumani District (which has taken in a significant number of South Sudanese refugees since December 2013), Nyumanzi transit center was reportedly at more than double its capacity as of June 2016, with refugees often staying for more than a month.⁴⁸

The settlements may be on government land (e.g. Nakivale) or on communal land following negotiations between the government and the host community (e.g. Adjumani District). These settlements are often positioned in remote, poor parts of Uganda, where host communities already struggle to access services and sustainable livelihoods. In addition, the settlements are

⁴² UNHCR, “ReHoPE Strategic Framework,” October 14, 2015,

https://d10k7k7mywg42z.cloudfront.net/assets/5667425fd4c96170fe082173/REHOPE_2_Page_Brief_141015.pdf.

⁴³ Government of Uganda and UNHCR, *Self-Reliance Strategy (1999 to 2003) For Refugee-Hosting Areas in Moyo, Arua and Adjumani Districts, Uganda*, March 2004, <http://www.unhcr.org/41c6a4fc4.pdf>.

⁴⁴ Issues included a continued reliance on (declining) UNHCR funds, a lack of ties to development activities, and a lack of sustained support for developing sustainable alternative livelihoods. Ibid.

⁴⁵ Examples have included Zambia and Tanzania. Emmanuel Bagenda, Angela Naggaga, and Elliott Smith, “Land Problems in Nakivale Settlement and the Implications for Refugee Protection in Uganda,” Refugee Law Project Working Paper No. 8, May 2003, http://www.refugeelawproject.org/files/working_papers/RLP.WP08.pdf.

⁴⁶ Article 44, *The Refugees Act 2006*; Tania Kaiser, “Between a camp and a hard place: rights, livelihood and experiences of the local settlement system for long-term refugees in Uganda,” *Journal of Modern African Studies* 44:4 (2006): 597-621.

⁴⁷ Uganda Refugee Regulations 2010, article 65, <http://www.refworld.org/pdfid/544e4f154.pdf>.

⁴⁸ Rajiv Golla, “Is a model refugee policy in Africa doomed?” *IRIN News*, June 13, 2016, <https://www.irinnews.org/analysis/2016/06/13/model-refugee-policy-africa-doomed>.

often located far from outside markets or employment opportunities. Together, these factors can undermine the goal of refugees eventually achieving self-sufficiency.⁴⁹

As more refugees arrive in Uganda, this has led to a decrease in the availability and quality of the land itself.⁵⁰ In Adjumani District, which has taken in a significant number of South Sudanese refugees from December 2013, there has been a shortage of land available for cultivation; refugees interviewed in 2015 described receiving plots of land 30 by 30 meters or smaller, rather than the 100 by 50 meters set out in government policy, which was already criticized by some as being inadequate for self-reliance.⁵¹ Land scarcity can create tensions between refugees and host communities—for example, if refugees are allocated land that host communities claim to have rights of access or ownership over, if land is deforested for firewood, or if continued cultivation leads to land degradation.⁵²

Situation of urban refugees

The degree of freedom of movement under the 2006 Act—and the lax enforcement of the registration requirement—coupled with greater livelihood opportunities means that there is also a sizeable population living outside the refugee settlements. Kampala is home to 75,000 registered refugees who live in low-income areas of the city, though location and concentration of refugee populations varies by nationality. Many Somali refugees live in the district of Kisenyi, while many Congolese refugees live in the districts of Katwe, Makindye, and Masajja; Burundian refugees are more scattered across the city.⁵³

When refugees opt to live outside Uganda's refugee settlements, they can freely access education and healthcare services throughout Uganda, but they have very limited access to targeted refugee services, and must cover their own costs of living (e.g. rent, food, utilities). In recent years, UNHCR's budget for providing support to refugees in urban areas has increased, but this assistance is targeted towards particularly vulnerable populations, such as single parent households or unaccompanied children. Asylum seekers are able to access shelter and food for up to three months while they register and await a decision on their application, but if they wish to continue receiving support beyond this period, they must then relocate to the rural settlements.⁵⁴

These high costs of living leave refugees in a precarious financial situation, and can deter refugees from leaving settlements for urban areas altogether.⁵⁵ Many arrive in urban areas with very little money and must rely on the generosity of other refugees or community churches or mosques, or risk sleeping on the streets—for example, around the Old Kampala

⁴⁹ Kaiser, 613; IRRI, *South Sudanese refugees in Adjumani District, Uganda*.

⁵⁰ UNHCR, OPM, and WFP, *Uganda Joint Assessment Mission 2014*, October 2014, 13, <http://documents.wfp.org/stellent/groups/public/documents/ena/wfp269958.pdf>.

⁵¹ IRRI, *South Sudanese refugees in Adjumani District, Uganda: Telling a new story?* July 2015, 14-15, <http://www.refugee-rights.org/Publications/Papers/2015/TellingADifferentStory.pdf>; Refugee Law Project, *Report on Rapid Assessment of South Sudanese Refugee Influx into Northern Uganda*, Refugee Law Project Rapid Assessment Briefing Paper 2, March 2015, http://www.refugeelawproject.org/files/briefing_papers/15_03_26_rapid_assessment_of_south_sudanese_refugees.pdf; Erik Svedberg, *Refugee Self-Reliance in Nakivale Refugee Settlement, Uganda*, Independent Study Project Collection, Paper 1778, Spring 2014, http://digitalcollections.sit.edu/isp_collection/1778.

⁵² See, for example, Bagenda, Naggaga, and Smith, "Land Problems in Nakivale Settlement"; and Kalyango Ronald Sebba, "Land conflicts and their impact on refugee women's livelihoods in southwestern Uganda," *New Issues in Refugee Research*, Research Paper No. 127, July 2006, <http://unhcr.org/44c882912.html>.

⁵³ Urban Refugees, "Kampala, Uganda," accessed May 20, 2016, <http://urban-refugees.org/kampala/>; and Dale Buscher, "New Approaches to Urban Refugee Livelihoods," *Refugee* 28, no.2 (2011): 17-29.

⁵⁴ Women's Refugee Commission (WRC), *The Living Ain't Easy: Urban Refugees in Kampala* (New York: Women's Refugee Commission, 2011), 20.

⁵⁵ IRRI, *South Sudanese refugees in Adjumani District, Uganda*.

Police Station, where new arrivals are registered.⁵⁶ Rent in urban areas like Kampala can be prohibitively high, with reports of landlords charging refugees rent at several times the market rate, and many refugees living in crowded, low-quality accommodation to save on costs.⁵⁷ Without a steady source of income, evictions are common; refugees interviewed in a 2011 report described strategies like selling assets, begging, cutting back on meals, taking children out of school, or engaging in survival sex to cover monthly expenses like rent.⁵⁸

Refugees are permitted to lease land outside of settlements, but their precarious financial situation and the complex and corrupt land tenure system means this is uncommon.⁵⁹ However, some groups of refugees have purchased land for communal use, for example to build community resources such as a church or school.⁶⁰

Livelihoods and labor markets

Uganda's refugee legislation grants refugees the right to work and to practice a regulated profession upon having their qualifications recognized, and they are exempt from fees charged for foreign nationals; they are also required to pay taxes if employed.⁶¹ Upon registration as a refugee, OPM issues them with a letter that sets out their status and rights, including permission to work.⁶² However, ambiguous phrasing surrounding refugees' access to employment in the 2006 Act⁶³ has led to divergent interpretations among local government and immigration officials as to whether refugees must hold work permits, deterring employers from hiring refugees.⁶⁴ Refugees are also permitted to establish businesses without a permit. However, these rights do not extend to asylum seekers, who are barred from working, establishing businesses, or owning property. But in practice, these restrictions can be circumvented by working in Uganda's vast informal sector; a 2001 estimate suggested that fewer than one in five jobs in Kampala were in the formal sector.⁶⁵

Barriers to livelihoods in refugee settlements

The allocation of land to refugees in settlements means that for many refugees, farming is a mainstay of their livelihood strategies. A survey in Rwamwanja settlement estimated that farming (whether on their own plot or on another plot for money) comprised 87 percent of refugees' primary livelihood activities.⁶⁶ When refugees first arrive in settlements and are allocated land, they are given seed and tools to enable them to grow crops and supplement their food rations, but the expectation is for refugees to move from subsistence farming to

⁵⁶ Human Rights Watch, *Hidden in Plain View: Refugees Living Without Protection in Nairobi and Kampala* (New York: Human Rights Watch, 2002).

⁵⁷ WRC, *The Living Ain't Easy*, 12-13.

⁵⁸ Ibid, 14-15.

⁵⁹ Ibid, 13.

⁶⁰ Ibid.

⁶¹ Ibid, 19.

⁶² United States Committee for Refugees and Immigrants (USCRI), *World Refugee Survey 2008*, June 19, 2008, <http://www.refworld.org/docid/485f50d88a.html>.

⁶³ Article 29 (e) reads that "[refugees shall] receive at least the same treatment accorded to aliens generally in similar circumstances relating to – (vi) the right to have access to employment opportunities and engage in gainful employment"; the ambiguity arises from the general work permit requirement for immigrants.

⁶⁴ WRC, *The Living Ain't Easy: Urban Refugees in Kampala*. 9; Naohiko Omata, *Refugee livelihoods and the private sector: Ugandan case study*, RSC Working Paper Series, No. 86, November 2012, 9, <http://www.rsc.ox.ac.uk/files/publications/working-paper-series/wp86-refugee-livelihoods-private-sector-uganda-2012.pdf>.

⁶⁵ Unpublished estimates by C. Chekwoti in a 2001 paper, cited in Michela Macchiavello, "Forced migrants as an under-utilized asset: refugee skills, livelihoods, and achievements in Kampala, Uganda," *New Issues in Refugee Research*, Working Paper No. 95, October 2003, 10-11, <http://www.unhcr.org/3f818aa04.pdf>.

⁶⁶ UNHCR, OPM, and WFP, *Uganda Joint Assessment Mission 2014*, 21.

generate enough food to sell and eventually, to no longer require humanitarian assistance or food rations (the latter of which are reduced after four or five years⁶⁷).

But in practice, very few refugees achieve this degree of self-sufficiency, and many still must rely on aid. Livelihoods strategies in rural settlements are constrained by a number of factors. The small land plots allocated to refugees place limits on the quantity of food they can cultivate, with refugees looking to expand their plots resorting to grouping their land together with other refugees, or informally renting or inheriting land from other refugees.⁶⁸ Recent cuts to the size of land plots place further pressure on refugees. In turn, the quality of the land may be low, with soil exhaustion arising from an inability to rotate crops on their small plots of land and environmental conditions like rainfall affecting productivity and food security.⁶⁹ Refugees may also lack the expertise or resources to successfully cultivate and sell crops: for example, many South Sudanese refugees are pastoralists, rather than crop farmers. This lack of expertise can manifest itself in lower crop yields, unsustainable use of land, worse grain quality, and lower grain prices.⁷⁰

In turn, there are limited opportunities for paid employment or establishing businesses in settlements or host communities, which prevent refugees from pursuing additional forms of income.⁷¹ This is compounded by both the remote location of rural settlements, and, at least in theory, the restrictions on freedom of movement. Refugee entrepreneurship in settlements is also constrained by factors like the limited expendable income of most refugees, and a lack of microcredit available to purchase land or equipment to establish businesses. For example, a 2014 study of Nakivale settlement in west Uganda found that while refugees could access livelihoods training in topics like tailoring or computer skills, they could rarely access or purchase the equipment that would enable them to pursue employment or entrepreneurship in these sectors.⁷²

Barriers to livelihoods in urban areas

While refugees report having more livelihood opportunities in urban areas than in settlements, they can nevertheless encounter a number of barriers to finding decent work.⁷³ Many refugees avoid the highly-regulated formal economy and instead work in low-paid, low-skilled jobs in Uganda's substantial informal sector.⁷⁴ One example of a barrier to formal employment is Kampala City Council's requirement that street vendors hold a license to sell goods or else risk their goods being confiscated, fines, or even imprisonment; many refugees cannot afford to register their business or rent a stall to comply with this law.⁷⁵ Refugees have limited access to capital; a 2016 study details how banks and micro-finance institutions can be reluctant to give loans to refugees, citing a number of factors such as discriminatory attitudes or unfamiliarity with refugee clients, and a lack of confidence arising from their lack of

⁶⁷ This is in line with the food ration schedule revised by OPM, UNHCR, and WFP after the 2011 Joint Assessment Mission recommendations, but funding cuts and influxes of new arrivals can result in cuts in rations. UNHCR, OPM, and WFP, *Uganda Joint Assessment Mission 2014*, October 2014, 8, <http://documents.wfp.org/stellent/groups/public/documents/ena/wfp269958.pdf>.

⁶⁸ Svedberg, *Refugee Self-Reliance in Nakivale Refugee Settlement, Uganda*, 30-31.

⁶⁹ Kaiser, 611-612.

⁷⁰ For example, a 2014 report details how refugees sold their maize and beans supplies within 30 days of the harvest, when prices are very low, as they lacked the knowledge or equipment to store the grain efficiently. UNHCR, OPM, and WFP, *Uganda Joint Assessment Mission 2014*, 21.

⁷¹ Ibid, 23.

⁷² Svedberg, *Refugee Self-Reliance in Nakivale Refugee Settlement, Uganda*, 37-39.

⁷³ WRC, *The Living Ain't Easy: Urban Refugees in Kampala*.

⁷⁴ Ibid.

⁷⁵ Evan Easton-Calabria, 'Refugees asked to fish for themselves': *The Role of Livelihoods Trainings for Kampala's Urban Refugees*, UNHCR New Issues in Refugee Research, No. 277, January 2016.

permanent legal status or collateral for their loan.⁷⁶ Thus, refugees must often rely on loan programs operated by NGOs or lending initiatives within their own communities to access sources of capital.⁷⁷ Refugees can also struggle to find childcare, and encounter discrimination and language barriers when seeking employment.⁷⁸ Refugee women also face gender-based violence and harassment when working—for example, numerous Congolese refugee women who sold fabric (*kitenge*) on the streets reported being victims of sexual assault.⁷⁹

Social networks appear to play an important role in both finding work, and providing refugees with a safety net. In Kampala, many Somali refugees live in Kisenyi, where wealthier Somalis and mosques help needy members of their community with access to jobs and financial support; but the Congolese and Burundian communities are more dispersed across Kampala, with correspondingly weaker support networks.⁸⁰

Livelihoods training

Promoting sustainable livelihoods for refugees and host communities forms an important component of Uganda's National Development Plan, with international organizations, donor agencies, and NGOs all offering different livelihood training opportunities. In rural areas, these often focus on agronomic practice and related business and marketing skills to boost the productivity of refugee agriculture. One example is UNHCR and WFP's pilot project in Rwamwanja and Kwangwali settlements, which began in October 2015, with the goal of boosting agricultural production and refugee income. This will provide 17,500 refugees and Ugandans with modern technologies, community infrastructure, land to use, and agricultural and business skills training.⁸¹ Another example is a project between UNHCR, the Japan International Cooperation Agency (JICA), and various national government agencies operating in three refugee settlements (2011-16), which trains South Sudanese and Congolese refugees and local communities to cultivate rice, a cash crop in Uganda, and provides them with seeds.⁸²

In urban areas like Kampala, international organizations (such as the Jesuit Refugee Service), donor agencies (such as the Finnish Refugee Service) and refugee-run organizations offer livelihoods trainings; these tend to focus on basic computer and business skills, financial literacy, and crafts and occupations like hairdressing.⁸³ A recent study flagged the importance of conducting market assessments to ensure that there are sufficient employment opportunities in these fields; while earlier work suggests that most refugees use the skills they acquire during these trainings when establishing businesses, three quarters of the refugees surveyed in the study described a lack of employment opportunities after these trainings.⁸⁴

⁷⁶ Ibid, 23-24.

⁷⁷ Ibid, 23-25.

⁷⁸ WRC, *The Living Ain't Easy*, 9.

⁷⁹ Ibid, 17.

⁸⁰ Ibid, 11; Buscher, 21-22.

⁸¹ World Food Programme, "Thousands Of Refugees And Host Community Farmers Set To Benefit As OPM, UNHCR And WFP Sign Landmark Self-Reliance Agreement," News release, August 12, 2015, <https://www.wfp.org/news/news-release/thousands-refugees-and-host-community-farmers-set-benefit-opm-unhcr-and-wfp-sign-l>

⁸² Ministry of Agriculture, Animal Industry, and Fisheries (MAAIF); National Agricultural Research Organization (NARO); National Agricultural Advisory Services (NAADS). NAADS, "Promotion of Rice Development – PRIDE," accessed June 10, 2016, <http://www.naads.or.ug/data/program/27/Promotion-of-Rice-Development---PRIDE>; and Japan International Cooperation Agency (JICA), "JICA and UNHCR Teach Refugees and Their Ugandan Hosts How to Grow Rice," News release, December 18, 2014, http://www.jica.go.jp/english/news/field/2014/141218_03.html.

⁸³ Easton-Calabria, *The Role of Livelihoods Trainings for Kampala's Urban Refugees*.

⁸⁴ Ibid, 17.

Education

Refugee children may attend primary schools within the refugee settlements, often also attended by local Ugandan children, or primary schools in host communities outside the settlements. Uganda abolished fees for primary education in 1997, enabling refugees to access free primary education at government schools across the country.⁸⁵ Fees for secondary education were formally abolished in 2006, though this policy is still being implemented.

As of 2012, refugees had access to 124 primary schools and 55 secondary schools in Uganda.⁸⁶ In most of the refugee settlements and Kampala, UNHCR partners with a NGO to work closely with the local government authority and deliver services.⁸⁷ UNHCR's support includes establishing, funding, and equipping educational infrastructure; recruiting teachers; and interventions to increase access to all forms of education, including early childhood, primary, secondary, and tertiary education, non-formal and vocational skills training programs, and adult education.⁸⁸ Alongside national and local government authorities and UNHCR, there are an array of Ugandan and international NGOs, development agencies, and international organizations (including other UN agencies, like UNICEF) who also support refugee education in Uganda. These organizations provide assistance such as funding for infrastructure and materials, covering additional schooling-related costs, vocational skills training, business skills training and mentoring, adult education classes, and English language training.

In 2012, three quarters of eligible refugee children were enrolled in primary school; this dropped to one third for early childhood education, and just 16 percent for secondary education.⁸⁹ Nationally, 94 percent were enrolled in primary education (95 percent for girls, 92 percent for boys) as of 2013; but while enrollment rates are high, completion rates are lower, particularly in rural areas and for poor children and girls.⁹⁰ Enrollment rates for secondary education remained much lower, at 21 percent in 2010, with very few going on to pursue tertiary education.⁹¹

Refugee girls were slightly less likely to be enrolled in school than boys; and enrollment rates varied by setting. For example, most children were enrolled in early childhood education in Oruchinga and Kiryandongo, but only about one in ten children were enrolled in Adjumani; similarly, while around half of children were enrolled in secondary schools in Kyangwali, hardly any children were enrolled in Arua.⁹² UNHCR also includes education indicators as part of its data collection on the South Sudanese refugee situation; across Adjumani, Arua/Rhino, and Kiryandongo, half of refugee children were enrolled in early childhood education, two

⁸⁵ This exempts up to four children in each family from paying primary school fees.

⁸⁶ UNHCR, *The UNHCR Uganda Strategy for Refugee Education 2013-16*, 10, <http://fenu.or.ug/wp-content/uploads/2013/02/The-UNHCR-Uganda-Strategy-for-Refugee-Education.pdf>.

⁸⁷ For example, UNHCR works with InterAid Uganda and Windle Trust Uganda (WTU) in Kampala, with Action Africa Help International (AAHI-I) in Kyangwali, and WTU in southwest Uganda.

⁸⁸ UNHCR, *The UNHCR Uganda Strategy for Refugee Education 2013-16*.

⁸⁹ Ibid, 10-12.

⁹⁰ The World Bank, "Adjusted net enrolment rate, primary," in "Education Statistics: Core Indicators," accessed May 23, 2016, <http://databank.worldbank.org/data/reports.aspx?source=Education-Statistics>; and B. Essama-Nssah, "Achieving Universal Primary Education through School Fee Abolition: Some Policy Lessons from Uganda," in *Yes Africa Can: Success Stories from a Dynamic Continent*, eds. Punam Chuhan-Pole and Manka Angwafo (Washington, DC: The World Bank, 2011).

⁹¹ The World Bank, "Adjusted net enrolment rate, lower secondary," in "Education Statistics: Core Indicators," accessed May 23, 2016, <http://databank.worldbank.org/data/reports.aspx?source=Education-Statistics>.

⁹² At the time of publishing this 2012 data, UNHCR noted that their data on enrollment, retention, performance, and completion remained incomplete. Enrollment data for primary education in Arua and Kiryandongo settlements exceeded 100 percent.

thirds were enrolled in primary education, and one in ten were enrolled in secondary education, as of March 2016.⁹³

Refugee children encounter an array of barriers to enrolling and completing their education.⁹⁴ Some relate to infrastructure and supply: for example, a limited number of schools (particularly secondary) or school places; limited number of qualified teachers; poor facilities and overcrowded classes; limited access for children with special needs; a lack of teaching materials; and a dangerous and/or lengthy journey to school. This is partly related to the circumstances of refugees' arrival, with an influx of refugees placing great strain on local infrastructure—for example, schools in northern Uganda have struggled to absorb new arrivals, necessitating the building of additional schools alongside investments in existing infrastructure.⁹⁵ But these capacity issues are also partly a product of the surge in enrollment nationally following the abolition of primary school fees. Cost of enrollment was a significant barrier for poor Ugandan families, particularly in rural parts of Uganda, and the abolition of primary school fees dramatically increased enrollment rates, particularly for the poor and girls: in 1999, a child was 60 percent more likely to be enrolled in primary school than in 1992.⁹⁶ But this sudden surge in enrollment placed great strain on Uganda's educational infrastructure, leading to overcrowding, and shortages of teachers and teaching materials.⁹⁷ Uganda's Ministry of Education and Sports provides capitation grants (to cover costs of tuition for schools) and school facilities grants for constructing amenities in the neediest communities, but these funds are often inadequate for meeting infrastructure needs.⁹⁸

Refugee families may be unable to afford schooling-related costs—such as uniform, learning materials, and admission fees—or may rely on children to work to support their family. A 2013 study found refugees spent a quarter of their expendable income on these schooling-related costs.⁹⁹ Language can be another important barrier. Uganda requires schools to instruct students in the dominant language of the local community, but English is often used when there are multiple common languages or schools cannot find teachers to instruct in the dominant language. Refugees may also lack the documentation to prove prior learning, or may need to repeat grades to fulfill gaps in their education.

Health

Refugees can access free primary healthcare services from local government-operated health centers or hospitals, or from health centers in refugee settlements. In refugee settlements, healthcare services are administered by health agencies and NGOs such as MSF, UNICEF, Care International, and AHA. While Uganda's public health system provides free healthcare services, it is underfunded and under-resourced, particularly in rural areas where the ratio of

⁹³ While rates of primary enrollment remained quite steady across the three districts, there was a greater range for early childhood education and secondary education. UNHCR, "South Sudan Refugee Situation – Post 15 Dec 2013 Caseload. Sector Indicators – Uganda, March 2016," <http://data.unhcr.org/SouthSudan/download.php?id=2704>.

⁹⁴ UNHCR, *The UNHCR Uganda Strategy for Refugee Education 2013-16*.

⁹⁵ Guido Ambroso, Gita Swamy Meier-Ewert, Julian Parker, and Leah Richardson, *Evaluation of UNHCR's Response to the L3 South Sudan Refugee Crisis in Uganda and Ethiopia*, UNHCR Policy Development and Evaluation Service (PDES), January 2016, 63, <http://www.unhcr.org/56b1d8df9.pdf>.

⁹⁶ B. Essama-Nssah, "Achieving Universal Primary Education through School Fee Abolition: Some Policy Lessons from Uganda," in *Yes Africa Can: Success Stories from a Dynamic Continent*, eds. Punam Chuhan-Pole and Manka Angwafo (Washington, DC: The World Bank, 2011).

⁹⁷ Essama-Nssah, "Achieving Universal Primary Education through School Fee Abolition."

⁹⁸ Essama-Nssah, "Achieving Universal Primary Education through School Fee Abolition"; and UNHCR, *The UNHCR Uganda Strategy for Refugee Education 2013-16*, 24-25.

⁹⁹ UNHCR, OPM, and WFP, *Uganda Joint Assessment Mission 2014*, 25.

facilities and doctors per person can be significantly below the national average.¹⁰⁰ In 2010, Uganda's health worker to population ratio was three times higher than the World Health Organization guidelines.¹⁰¹

Local healthcare systems can be placed under considerable pressure during a surge in refugee arrivals, particularly when these flows contain a significant share of refugees with complex health needs. Following the arrival of thousands of South Sudanese refugees in Adjumani district in December 2013, a rapid needs assessment reported outbreaks of diarrhea, malaria, and measles among refugee children; a lack of psychosocial support to help traumatized refugees; and shortages of drugs, and supplies for newborns.¹⁰²

Refugees can encounter barriers when trying to access government health facilities. For example, government health facilities do not usually have interpreters, which can prevent refugees who do not speak English or Luganda from accessing their services. In addition, refugees in urban areas may not be able to access or afford transportation to government-operated health centers or hospitals.¹⁰³

Host communities can also access healthcare services in refugee settlements, and a 2014 review estimated they constituted a third of consultations, on average.¹⁰⁴ This additional demand has led to shortages of medicine and other supplies. And while these health services are provided in emergency settings, there is a risk that these services will be discontinued once the emergency is perceived to have passed and funding dries up. The goal is to eventually mainstream refugee health services: this can require significant investment in host communities, for example constructing or upgrading health centers, but can improve coverage and quality of services for refugees and host communities alike.

3.4.4. Conclusions and Assessment of Impacts of Forced Migration

Uganda has received international acclaim for its liberal refugee policies that enable refugees to work and access education and health services across Uganda, which allocate land in rural settlements to refugees for purposes of shelter and cultivation. The 2006 Refugee Act replaced the much-criticized Control of Alien Refugees Act of 1960 (CARA), which focused on controlling refugee populations and contravened aspects of international refugee law, and instead closely follows international refugee and human rights legislation, setting out the rights and freedoms refugees and asylum seekers can expect in Uganda. However, aspects of the 2006 Act have proved quite challenging to implement, owing to factors like a lack of resources, government officials and employers being unfamiliar with the provisions of this Act, and ambiguity in the law itself (e.g. nominal restrictions on freedom of movement).

¹⁰⁰ Yuko Amizaki, Terry Hu, Shirley Li, and Jeongyeon Shim, "Country briefing: Uganda – health," September 1, 2010, <https://globalhealth.mit.edu/uganda-health/>; and IRIN News, "Patients go private as state sector crumbles," September 18, 2012, <http://www.irinnews.org/report/96332/uganda-patients-go-private-state-sector-crumbles>.

¹⁰¹ In 2010, Uganda's health worker-population ratio was 1:1,298, compared with the WHO guidelines of 1:439; the doctor-patient ratio was 1:24,725 and the nurse-patient ratio was 1:11,000. Ministry of Finance, Planning, and Economic Development, "Health workers' shortage in Uganda: Where should the government focus its efforts?" BMAU Briefing Paper [6/13], May 2013, 1, <http://www.finance.go.ug/dmdocuments/6-13%20Health%20Workers%20Shortage%20in%20Uganda%20May%202013.pdf>.

¹⁰³ Bureau of Population, Refugees, and Migration, "Report of a Joint UNHCR-PRM Mission to Review Urban Refugee Issues in Uganda and Ethiopia," August 28, 2012, <http://www.state.gov/j/prm/releases/releases/2012/208926.htm>.

¹⁰⁴ UNHCR, OPM, and WFP, *Uganda Joint Assessment Mission 2014*, 16.

While Uganda's local integration policies are intended to result in refugees becoming self-sufficient, most refugees remain dependent on food rations and live in precarious financial situations. This vulnerability can be exacerbated by cuts to food rations—as happened with the World Food Programme in early 2015—and the dwindling availability of land plots, as seen recently in Adjumani District.¹⁰⁵ Refugee settlements are often located in remote, poor parts of Uganda, and livelihoods may be impeded by scarce or poor-quality land, inexperience in agriculture, and distance from markets or alternative employment opportunities. As part of Uganda's National Development Plan, the Settlement Transformative Agenda and ReHoPE Strategy focus on investing in local infrastructure and promoting sustainable livelihood opportunities among refugee and host communities through skills training and teaching effective land management and agronomic practices.

Uganda has sought to integrate refugee services into government infrastructure and services, and avoid long-term disparities in assistance between refugees and impoverished host communities. This has taken the form of policies like requiring 30 percent of donor investments to be made in host communities, and other joint livelihoods projects. While large-scale arrivals of refugees can place strain on local health systems and schools, it can also result in much-needed investment in local education and health infrastructure and the increased availability of services. Consequently, host communities may offer their land for use by refugees in anticipation of these services and other benefits.

And as Uganda's refugee population grows, so too does the number of refugees opting to live outside settlements in areas with more employment or education opportunities. By living outside the settlements, refugees are assumed to be financially self-sufficient, and consequently receive little - or no - support. But the high costs of living in cities like Kampala, and barriers to accessing decent employment or sources of capital to start businesses, mean that urban refugees often also live in a precarious financial situation and resort to risky livelihood strategies. NGOs and community organizations offer limited access to financial support or livelihoods training in urban areas; but additional support could include providing greater access to sources of capital for renting stalls and establishing businesses or pursuing other livelihood or education opportunities.

¹⁰⁵ Golla, "Is a model refugee policy in Africa doomed?" and World Food Programme, "World Food Programme Forced To Cut Rations To Some 150,000 Refugees in Uganda," News update, January 27, 2015, <https://www.wfp.org/news/news-release/world-food-programme-forced-cut-rations-some-150000-refugees-uganda>.

3.5. SWEDEN¹⁰⁶

A substantial share of OIC migrants seeks protection in the asylum systems of non-OIC countries, including many countries in Europe. Sweden has long been a primary destination for OIC asylum seekers—who have comprised over 70 percent of asylum applications in Sweden over the last four years. The treatment of OIC asylum seekers and refugees in countries like Sweden has an impact both on the individual lives of those moving, as well as their origin countries and regions. Refugees who become well-established in an asylum country may remit earnings and may eventually return home if circumstances permit, bringing with them fresh human capital, ideas, and experiences that can be valuable in rebuilding their countries.

Sweden's experiences as a major host to OIC forced migrants may also offer policy and practical lessons to other countries as they seek to develop their asylum and protection systems. Sweden has long had one of the most efficient and generous asylum systems in the world, and has been lauded for the high quality of care it provides to recognized protection beneficiaries. Yet as Sweden found itself a primary destination for the nearly one million forced migrants and refugees who crossed the Mediterranean to Europe in 2015, its ability to live up to these high standards was forcefully called into question. Despite a highly advanced system for managing the flow of asylum cases, assessing claims, and providing shelter, the 160,000 asylum applications Sweden received in 2015 overwhelmed its capacity and, eventually, prompted significant changes to national legislation to reduce some of its expansive protection commitments.

Sweden's efforts to build a robust asylum system—and its struggles as that system was challenged by unprecedented refugee flows—provide valuable lessons on the key policy and operational components of a comprehensive protection regime, as well as the continued need for regional and international solidarity when that system is overwhelmed. This chapter explores the legal frameworks for granting protection and status to forced migrants in Sweden, as well as the policies that govern forced migrants' access to and enjoyment of the social and economic rights that accompany protection. It concludes with observations regarding the impact of these policies on forced migrants and their Swedish host communities, with particular attention to the effects of the rapid increase in flows of forced migrants in late 2015.

3.5.1. The Scale and Profile of Forced Migrants

Sweden has a long history of receiving and providing protection to forced migrants. Between 1980 and 2014, Swedish authorities granted residence permits to nearly 478,000 refugees and others in need of protection.¹⁰⁷ Most enter through the asylum system, which allows foreign nationals to submit a claim for protection with national migration authorities. Numbers of asylum claims submitted in Sweden have varied substantially over time, and tend to fluctuate in response to major events in neighboring regions. Asylum applications increased, for example, during the height of the Yugoslav civil war in 1992 and 1993, during

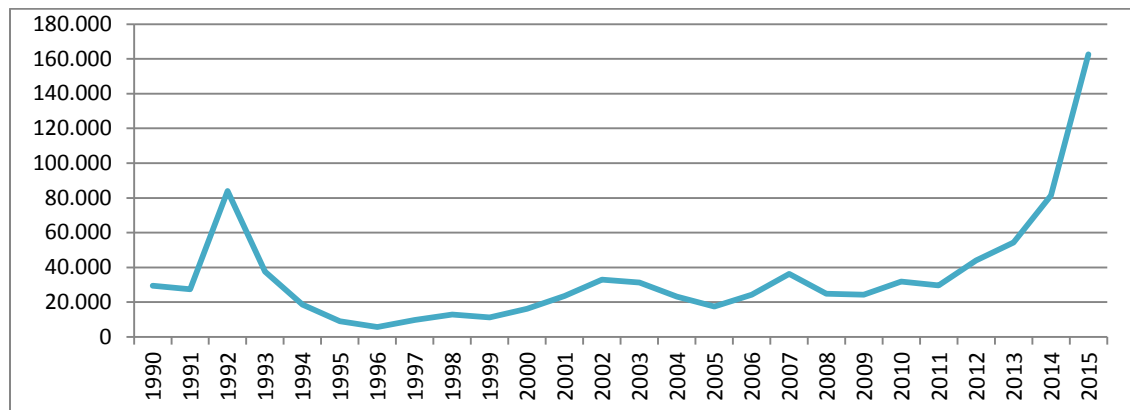
¹⁰⁶ Written by Susan Fratzke, informed by original fieldwork in Stockholm and Malmö in April 2016.

¹⁰⁷ Migrationsverket, "Residence permits granted 1980-2014 pursuant to the Geneva Convention, conscientious objectors, de facto refugees, persons in need of protection, humanitarian reasons, temporary permits, quota refugees, temporary legislation, previous temporary permits and impediments to enforcement," accessed May 24, 2016, <http://www.migrationsverket.se/English/About-the-Migration-Agency/Facts-and-statistics-/Statistics/Overview-and-time-series.html>

the partitioning of Serbia and Kosovo in the early 2000s, following an uptick in violence in Iraq in 2007, and most recently after the Arab Spring and outbreak of civil war in Syria (Figure 19).

The number of applications for protection received in Sweden in 2015 was, however, by far the highest on record. In total, authorities received nearly 163,000 applications for asylum before the end of the year (equivalent to approximately 1.7 percent of Sweden's population).¹⁰⁸ Most of the applications (114,000) came between September and December, concentrating the demand for services and placing added strain on authorities. At the peak of the flows in early November 2015, over 10,000 asylum seekers were arriving in Sweden per week,¹⁰⁹ primarily via Denmark. As of the end of 2015, recognized refugees and asylum seekers (those with outstanding asylum claims or with recognized protection status, but who have not naturalized) comprised more than 3 percent of the Swedish population.¹¹⁰

Figure 19: Asylum applications made in Sweden, by year, 1990-2015



Source: Eurostat, "Asylum applicants by citizenship till 2007 Annual data (rounded) [migr_asyctz]," updated May 8, 2015; Eurostat, "Asylum and first time asylum applicants by citizenship, age and sex Annual aggregated data (rounded) [migr_asyappctza]," updated March 18, 2016

In addition to spontaneous asylum seekers, Sweden resettles nearly 2,000 refugees each year from displacement situations around the world (selecting them in cooperation with UNHCR).¹¹¹ Refugees are transported from their first countries of asylum to Sweden, where they are given permanent residency.

National origins of asylum applicants

Whether they arrive through the asylum or resettlement systems, forced migrants in Sweden are highly diverse in national origins, and the primary countries of origin for asylum seekers shift, often substantially, from year to year. OIC countries have often made up a substantial share of forced migrants seeking protection in Sweden; from 2011 to 2015, over 70 percent of

¹⁰⁸ Migration Policy Institute, "Asylum Applications in the EU/EFTA by Country, 2008-2015," accessed June 7, 2016, <http://www.migrationpolicy.org/programs/data-hub/charts/asylum-applications-euefta-country-2008-2015>

¹⁰⁹ Migrationsverket, "Första gånger över 10 000 asylsökande de senaste sju dagarna," updated November 9, 2015, <http://www.migrationsverket.se/Om-Migrationsverket/Nyhetsarkiv/Nyhetsarkiv-2015/2015-11-09-Forsta-ganger-over-10-000-asylsokande-de-senaste-sju-dagarna.html>

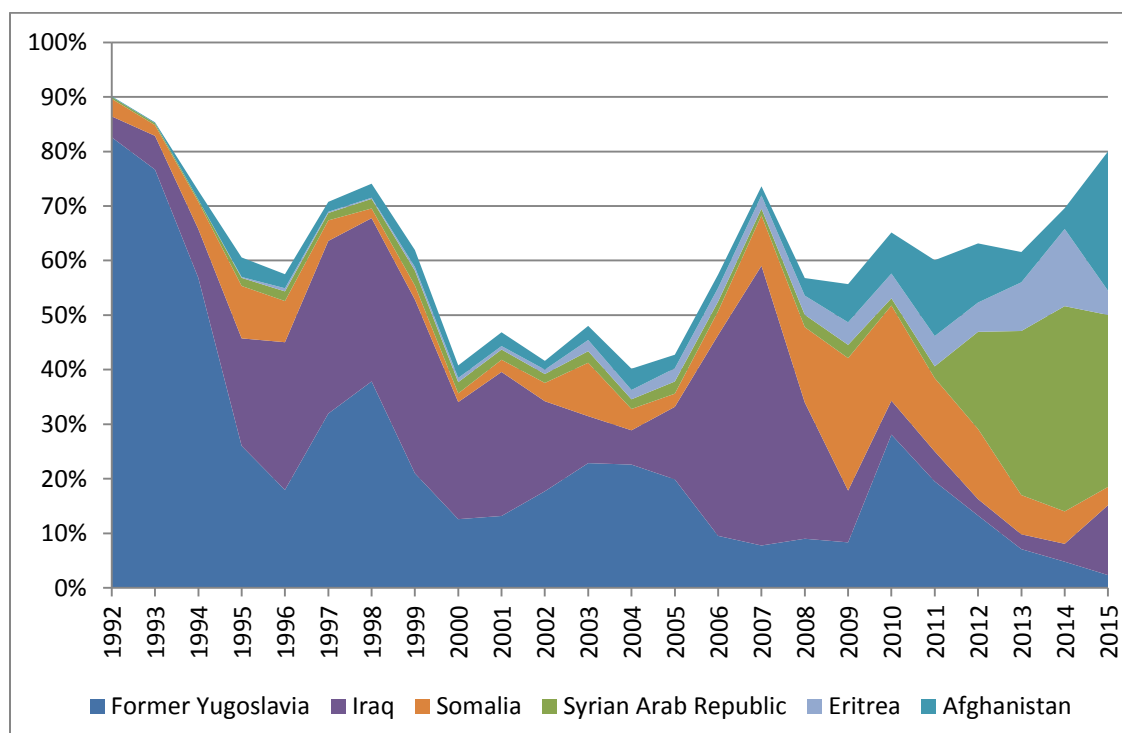
¹¹⁰ MPI calculations from Statistics Sweden, "Population and Population Changes 1749-2015," updated February 22, 2016, www.scb.se/en/Finding-statistics/Statistics-by-subject-area/Population/Population-composition/Population-statistics/Aktuell-Pong/25795/Yearly-statistics--The-whole-country/26046/;

UNHCR, "Population Statistics," accessed August 5, 2016, http://popstats.unhcr.org/en/persons_of_concern

¹¹¹ Eurostat, "Resettled persons by age, sex and citizenship Annual data (rounded) [migr_asyresa]," updated May 16, 2016, http://ec.europa.eu/eurostat/web/products-datasets/-/migr_asyresa

asylum applications in Sweden were filed by nationals of OIC countries.¹¹² Since 2013, Afghanistan, Somalia, and Syria—all OIC countries—have been among the top three countries of origin for resettled refugees.¹¹³

Figure 20: Nationality of asylum applicants, select nationalities, share of total, 1992-2015

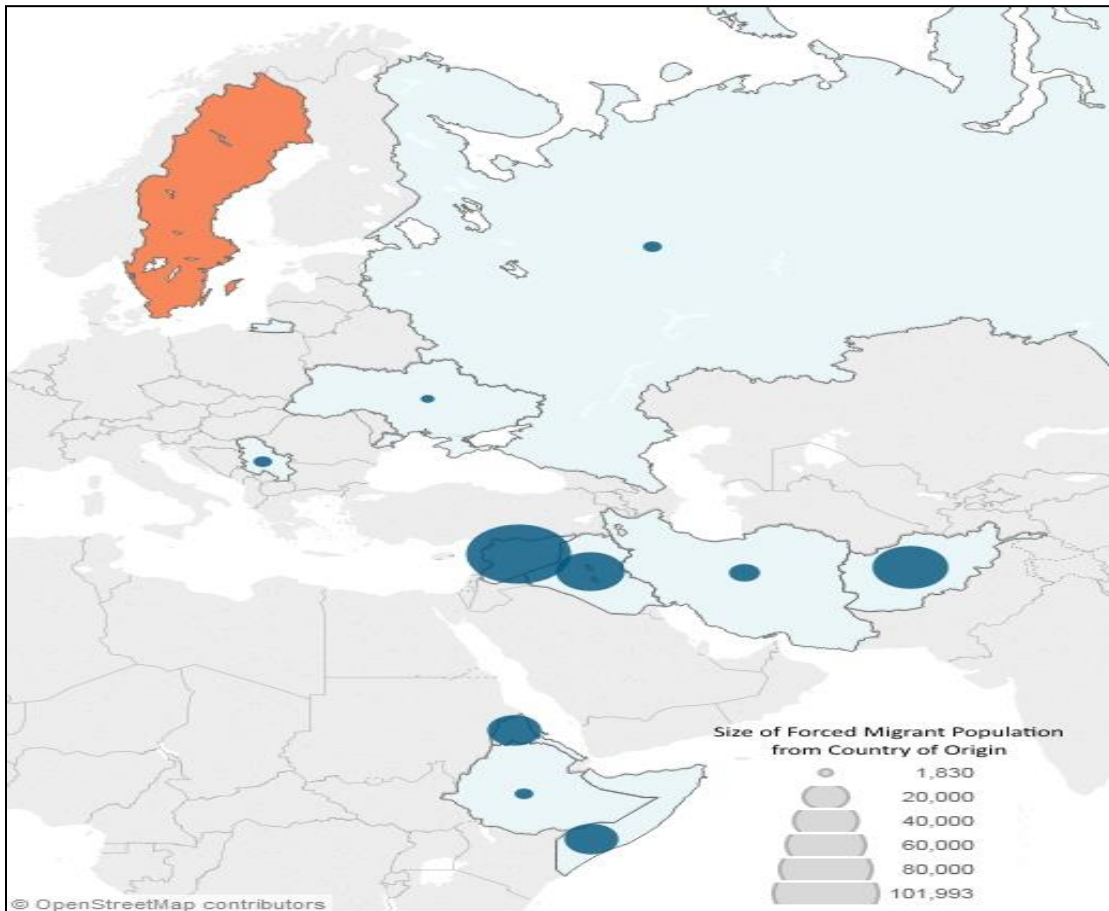


Source: Swedish Migration Agency, "Application for asylum received 1984-1999" and "Application for asylum received 2000-2015," accessed May 29, 2015, <http://www.migrationsverket.se/English/About-the-Migration-Agency/Facts-and-statistics-/Statistics/Overview-and-time-series.html>

¹¹² Eurostat, "Asylum and first time asylum applicants by citizenship, age and sex Annual aggregated data (rounded) [migr_asyappctza]," updated March 18, 2016, http://ec.europa.eu/eurostat/web/products-datasets/-/migr_asyappctza

¹¹³ Eurostat, "Resettled persons by age, sex and citizenship Annual data (rounded) [migr_asyresa]," updated May 16, 2016, http://ec.europa.eu/eurostat/web/products-datasets/-/migr_asyresa

Figure 21: Top ten countries of origin of forced migrants residing in Sweden, 2015



Note: Forced migrants is defined in this figure as refugees and asylum seekers residing in Sweden as of 2015. Forced migrants from Serbia are grouped together with those from Kosovo in these figures. Additionally, it should be noted that many forced migrants in Sweden were formerly stateless (24,275 total) or arrived from unknown countries of origin (2,196 total).

Source: UNHCR, "Population Statistics," accessed August 9, 2016, http://popstats.unhcr.org/en/persons_of_concern.

Demographic characteristics of forced migrants

Asylum applicants in Sweden are likely to be male. In each of the last five years, two thirds or more of asylum claims were filed by men.¹¹⁴ They also tend to be relatively young. Since 2008, three quarters or more have been below the age of 35 (see Figure 22). A growing number are children below the age of 18, many of whom have traveled to Sweden alone. In 2015, over 20 percent (35,250) of asylum claims were filed by unaccompanied children.¹¹⁵ While the factors compelling unaccompanied children to seek protection in Sweden are complex, a few particular factors may have contributed to this trend. First, over two thirds of unaccompanied

¹¹⁴ Eurostat, "Asylum and first time asylum applicants by citizenship, age and sex Annual aggregated data (rounded) [migr_asyappctza]," updated March 18, 2016, http://ec.europa.eu/eurostat/web/products-datasets/-/migr_asyappctza

¹¹⁵ Eurostat, "Asylum and first time asylum applicants by citizenship, age and sex Annual aggregated data (rounded) [migr_asyappctza]," updated March 18, 2016, http://ec.europa.eu/eurostat/web/products-datasets/-/migr_asyappctza

minors who arrived in 2015 were Afghan¹¹⁶ and may have been drawn to Sweden by friends or extended family among substantial existing Afghan communities. For Afghan children and families, officials in Sweden believe that migration has become something of a development strategy. Faced with ongoing violence and a lack of economic opportunities at home, families may choose to send an older child to find employment in Europe, and particularly Sweden, in hopes of supporting family at home with remittances.¹¹⁷ Strong protection frameworks for minors in Sweden mean that unaccompanied children are more likely to be allowed to stay in the country, making them a better investment for families choosing who to send abroad. The increase in violence in Afghanistan and other origin countries over the last year has made the choice to send a child abroad a more compelling one for many families and for the children themselves.

The large number of unaccompanied minors, and the substantial share of men among the most recent arrivals, has had a clear impact on Sweden's demographics, effects of which will continue to be felt for years to come. The increase in the youth population in Sweden has been the most noticeable effect. In 2015, the number of asylum applications from 14 to 17 year olds represented a nearly 9 percent increase in Sweden's population within the same age range. Most of the older youth arriving have been male, and the effects are thus even more pronounced among older boys (a 15 percent increase among male 14 to 17 year olds).¹¹⁸ Moreover, the Swedish statistics office reported in March that the country now has a majority male population for the first time since 1749; while changing birth and life expectancy patterns are the primary driver of this shift, the larger share of men among new arrivals has also played a role.¹¹⁹

This demographic change has had—and will continue to have—a noticeable impact on social services. Secondary schools in communities that took in a large number of unaccompanied minors have been particularly affected by the growing youth population. And in Malmö, for example, health authorities have reported that the influx of unaccompanied minors and children has unexpectedly increased the demand for pediatric services in the region at the same time as regional authorities were preparing to serve an aging population.¹²⁰ The result is a resource crunch where county authorities are facing growing needs at both ends of the age spectrum.

Acceptance rates for asylum applicants

Because asylum claims are adjudicated on an individual basis in Sweden, rather than accorded protection on a prima facie basis, a substantial share of arrivals each year in fact see their claims denied. Applications for protection in Sweden are adjudicated and granted on an individual basis. The likelihood of being granted protection varies substantially based on the nationality and other characteristics of the individual making the claim (if an individual is a member of a persecuted minority group, for example). On average, in the last two years

¹¹⁶ Eurostat, "Asylum applicants considered to be unaccompanied minors by citizenship, age and sex Annual data (rounded) [migr_asyunaa]," updated June 5, 2016, http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyunaa&lang=en

¹¹⁷ Interview with Eva Akerman-Borje, Swedish Ministry of Justice, April 11, 2016

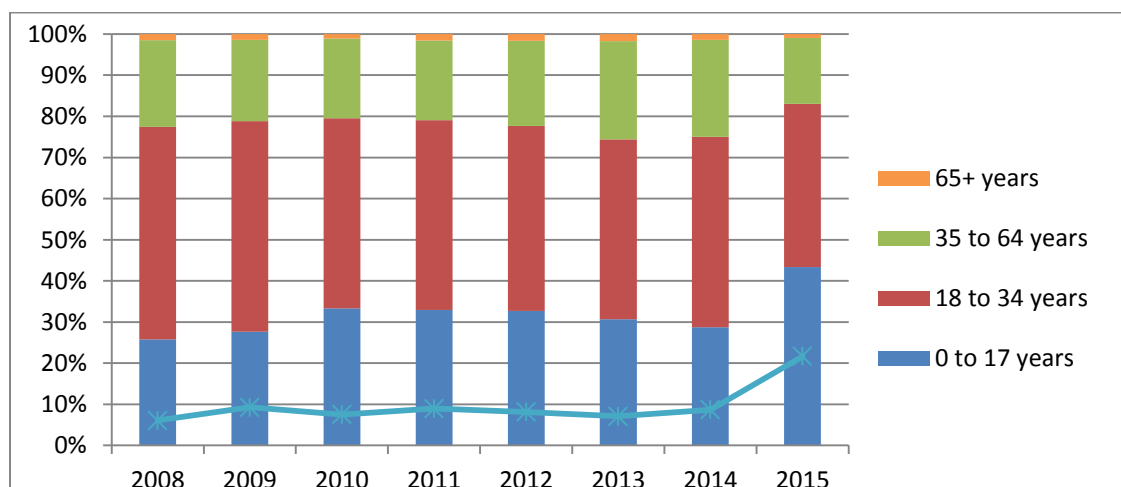
¹¹⁸ Eurostat, "Population on 1 January by age and sex [demo_pjan]," updated April 22, 2016, http://ec.europa.eu/eurostat/web/products-datasets/-/demo_pjan; and Eurostat, "Asylum and first time asylum applicants by citizenship, age and sex Annual aggregated data (rounded) [migr_asyappctza]," updated March 18, 2016, http://ec.europa.eu/eurostat/web/products-datasets/-/migr_asyappctza.

¹¹⁹ Statistics Sweden, "Men now outnumber women," updated March 27, 2015, <http://www.scb.se/en/About-us/News-and-press-releases/Container-for-news-and-press-releases/Men-now-outnumber-women1/>

¹²⁰ Interview with Christina Stahl, Director for Patient Questions, Department for Health, Region Skane, April 14, 2016

Swedish authorities have granted some form of protection in over 70 percent of decided cases.¹²¹ This marks a substantial increase from protection rates between 2008 and 2012 when just one third of decided applications were granted protection.¹²² The increased overall protection rate has almost certainly been driven by the growing numbers of nationals from countries like Syria and Iraq with high recognition rates.

Figure 22: Asylum applications, share by age group, 2008-2015



Source: Eurostat, "Asylum and first time asylum applicants by citizenship, age and sex Annual aggregated data (rounded) [migr_asyappctza]," updated March 18, 2016

Asylum applicants whose claims for protection have been rejected pose a growing concern for both national and local policymakers, as they generally have no legal status in Sweden once they are ordered to return to their country of origin. Some whom authorities are unable to return are granted a form of temporary leave to remain in the country, but will be required to leave as soon as conditions in the country of origin permit their return. Others choose to go underground and remain in Sweden without legal status. This population is likely to rise as authorities begin to adjudicate the large numbers of asylum claims that were made in the fall of 2015. In November 2015, Swedish authorities reported that they were unable to locate 14,000 individuals who had been given orders to leave Sweden since the beginning of the year.¹²³ Rights and assistance for individuals without formal legal status in Sweden are extremely limited, and many may find themselves in extremely vulnerable situations.

3.5.2. Legal Framework for Forced Migrants

Sweden's asylum system has long been lauded as one the most progressive and technically advanced in the world. Swedish asylum law has been heavily influenced by international and national legal principles, including those of the European Union and the European Convention on Human Rights, and set out broad protection standards that provide safety beyond minimal refugee protection. Asylum determinations are highly individualized and are driven by an in-

¹²¹ Eurostat, "First instance decisions on applications by citizenship, age and sex Annual aggregated data (rounded) [migr_asydcfstst]," updated May 4, 2016, http://ec.europa.eu/eurostat/web/products-datasets/-/migr_asydcfstst

¹²² Eurostat, "First instance decisions on applications by citizenship, age and sex Annual aggregated data (rounded) [migr_asydcfstst]," updated May 4, 2016, http://ec.europa.eu/eurostat/web/products-datasets/-/migr_asydcfstst

¹²³ The Local, "14,000 illegal immigrants disappear without trace," updated November 27, 2015, <http://www.thelocal.se/20151127/14000-illegal-immigrants-disappear-without-trace>

depth assessment of each asylum case. For those granted status, the rights and benefits attached to that status are usually quite high. Sweden has long emphasized permanent status as a part of its asylum system and historically has afforded those granted protection with permanent residency and the means to quickly acquire Swedish citizenship.

The asylum crisis of 2015 has, however, called many of these core commitments into question. Under pressure from the surge in new asylum claims, Swedish authorities have been forced to temporarily roll back or amend many key aspects of the asylum system. The long-term future of the unique Swedish asylum regime thus remains in question.

The role of EU, European, and international law

International and regional conventions play a central role in guiding Swedish policies and legal frameworks on international protection. Sweden is a signatory of both the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol.¹²⁴ Sweden has also acceded to a number of other international conventions on human rights that can also afford protection to forced migrants; these include the 1954 Convention relating to the Status of Stateless Persons,¹²⁵ the 1961 Convention on the Reduction of Statelessness,¹²⁶ the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment,¹²⁷ and the 1989 Convention on the Rights of the Child.¹²⁸ The norms and standards laid out in these conventions have broadly informed and guided the development and implementation of protection legislation and policies in Sweden, although asylum seekers cannot base their claims directly on international law in asylum proceedings which rely instead on national legal principles.¹²⁹

At a regional level, the European Convention on Human Rights (ECHR), and its enforcing body the European Court of Human Rights (ECtHR), also provides a key basis for protection in several areas. In particular, the ECHR's Article 3 regarding the prohibition of torture¹³⁰ and

¹²⁴ It has maintained reservations on its accession to the Convention with regard to access to work, pensions, and some social benefits for refugees (Articles 8, 12(1), 17(2), 24(1b), 24(3), and 25), although these reservations do not appear at present to have had an impact on the rights and benefits granted to refugees in Sweden in practice. See: United Nations Treaty Collection, "Convention relating to the Status of Refugees," updated June 7, 2016, https://treaties.un.org/Pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-2&chapter=5&Temp=mtdsg2&lang=en#EndDec.

¹²⁵ United Nations Treaty Collection, "Convention relating to the Status of Stateless Persons," updated June 7, 2016, https://treaties.un.org/Pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-3&chapter=5&Temp=mtdsg2&lang=en

¹²⁶ United Nations Treaty Collection, "Convention relating on the Reduction of Statelessness," updated June 7, 2016, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=V-4&chapter=5&lang=en

¹²⁷ United Nations Treaty Collection, "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment," updated June 7, 2016, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9&chapter=4&lang=en#EndDec

¹²⁸ United Nations Treaty Collection, "Convention on the Rights of the Child," updated June 7, 2016, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en

¹²⁹ 2010 Guy Goodwin-Gill

¹³⁰ Article 3 reads, "No one shall be subjected to torture or to inhuman or degrading treatment or punishment." This provision has been called upon in Sweden and other ECHR signatory countries to prevent the return of asylum applicants to countries of origin where they are would be at risk of torture or other mistreatment. See European Court of Human Rights, "European Convention on Human Rights," June 1, 2010, http://www.echr.coe.int/Documents/Convention_ENG.pdf. Article 3 has also been used to prevent the transfer of asylum applicants from Sweden to other EU countries under EU law where conditions for asylum seekers in these countries would amount to "degrading treatment." Most notably, the ECtHR found in the 2011 case of *M.S.S. v Belgium and Greece* that return of an asylum applicant from Belgium to Greece under the EU Dublin Regulation would constitute a violation of Article 3. The *M.S.S.* decision caused Sweden and most other EU Member States to halt transfers to Greece until asylum conditions in that country improved. See European Database of Asylum Law, "ECtHR - *M.S.S. v Belgium and Greece* [GC], Application No. 30696/09," accessed June 7, 2016, <http://www.asylumlawdatabase.eu/en/content/ecthr-mss-v-belgium-and-greece-gc-application-no-3069609>.

Article 8 on the right to family life¹³¹ have been used to prevent the return of forced migrants to countries where they are judged to be at risk of “inhuman or degrading treatment” (Article 3) or where return would separate family members (Article 8). Applicants for asylum in Sweden may appeal to the ECtHR on the basis of a violation of the ECHR once all appeal possibilities at the national level are exhausted. This additional level of appeal—and the opportunity for individuals to bring challenges directly—is unusual among similar regional or multilateral human rights instruments. Member governments, particularly those in the European Union, have broadly conformed to the court’s judgements, and as a result, the court has had a powerful role in shaping implementation of asylum law within ECHR members.¹³²

The EU directives and regulations that comprise the Common European Asylum System (CEAS) provide another set of standards with which Swedish protection policies must comply. The CEAS consists of a core set of directives that set out the legal basis upon which refugee and other forms of protection are granted (2011 Qualification Directive),¹³³ basic standards around asylum procedures (2013 Asylum Procedures Directive),¹³⁴ and the support and benefits afforded to asylum applicants while their claims are processed (2013 Reception Conditions Directive).¹³⁵ These directives lay out minimum standards which must then be transposed into national law. In most cases, national governments have some room to implement different, usually higher, standards if they choose. The Qualification Directive provides for two types of protection: (1) refugee status granted on the basis of the definition in the 1951 Convention, and (2) subsidiary protection for individuals who fear “serious harm” defined as “(a) the death penalty or execution; or (b) torture or inhuman or degrading treatment or punishment... or (c) serious and individual threat to a civilian’s life or person by reason of indiscriminate violence in situations of international or internal armed conflict.”¹³⁶ The Court of Justice of the European Union (CJEU) offers legal recourse to those who feel their rights under EU law have been violated, and serves as an EU court of last resort once all national appeals options have been exhausted. Again, the extra, supranational level of appeal is unique in regional protection instruments.

Protection in Sweden in law and in practice

The basic standards for providing refugee protection in Sweden are set out within the 2005 Aliens Act.¹³⁷ As per EU law, the Aliens Act provides for two primary forms of protection: (1)

¹³¹ Article 8(1) stipulates that “Everyone has the right to respect for his private and family life, his home and his correspondence.” The right to family unity under the ECHR has been called upon to prevent the enforcement of return decisions or EU transfer decisions for asylum applicants and protection beneficiaries that would result in the separation of family members. See European Court of Human Rights, “European Convention on Human Rights.”

¹³² Henri Labayle and Philippe de Bruycker, *The Influence of ECJ and ECtHR Case Law on Asylum and Immigration* (Brussels: European Parliament, 2012), [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/462438/IPOL-LIBE_ET\(2012\)462438\(SUM01\)_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/462438/IPOL-LIBE_ET(2012)462438(SUM01)_EN.pdf).

¹³³ European Parliament and the Council of the European Union, “Directive 2011/95/EU on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted,” December 13, 2011, EUR-LEX, L 337/9, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0095>

¹³⁴ European Parliament and the Council of the European Union, “Directive 2013/32/EU on common procedures for granting and withdrawing international protection,” June 26, 2013, EUR-LEX, L180/60, <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32013L0032>

¹³⁵ European Parliament and the Council of the European Union, “Directive 2013/33/EU laying down standards for the reception of applicants for international protection,” June 26, 2013, EUR-LEX, L180/96, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0033>

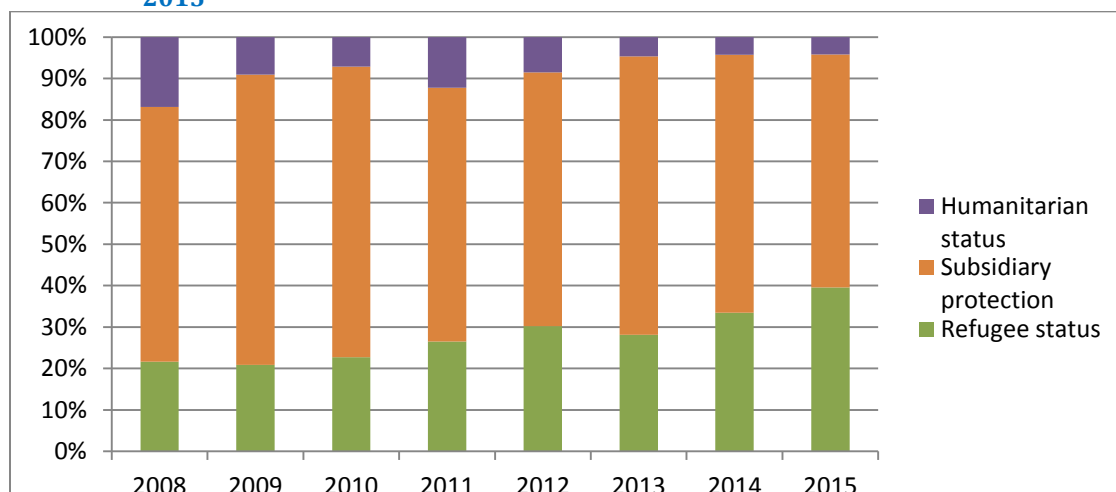
¹³⁶ European Parliament and the Council of the European Union, “Directive 2011/95/EU”

¹³⁷ *Aliens Act*, Swedish Law 2005:716, *Rättsnätet* (September 29, 2015) <http://www.notisum.se/rnp/sls/lag/20050716.htm>

refugee protection¹³⁸ in line with the 1951 Convention and EU Qualification Directive, with the addition of a provision for protection from persecution on the basis of an applicant's gender or sexual orientation; and (2) subsidiary protection based on the EU Qualification Directive, which also provides for the protection of individuals who are "unable to return to the country of origin because of an environmental disaster," although this provision has in fact never been used in Sweden.¹³⁹

Two additional forms of protection are available for forced migrants under the Aliens Act, beyond those stipulated under EU law. First, the Aliens Act provides for persons who otherwise would not qualify for protection under refugee or subsidiary protection to be granted residence permits if there are "exceptionally distressing circumstances," such as a serious health condition, that require him or her to stay in Sweden.¹⁴⁰ Temporary protection and residence can also be granted to individuals who are subject to a removal order but temporarily cannot be returned to their country of origin.¹⁴¹ This last status is most often used in the cases of unaccompanied children who cannot be returned to their home countries because their families cannot be identified or because arrangements in the home country to provide for a guardian would be insufficient to meet Swedish standards.¹⁴² Together these provisions, referred to as humanitarian protection, provide broad protection from refoulement for those who otherwise would not qualify for protected status.

Figure 23: First instance positive decisions on asylum applications, by status granted, 2008-2015



Note: Humanitarian status includes temporary status provided under Chapter 5 of the Aliens Act.

Source: Eurostat, "First instance decisions on applications by citizenship, age and sex Annual aggregated data (rounded) [migr_asydcfst]," updated May 4, 2016

¹³⁸ *Aliens Act*, Chapter 4(1)

¹³⁹ Interview with Helene Hedebris, Legal Affairs Expert, Region South, Migrationsverket, April 15, 2016.

¹⁴⁰ In cases involving children, authorities are required to apply the lower standard of "particularly distressing circumstances" instead. *Aliens Act*, Chapter 5(6). Interview with Helene Hedebris, Legal Affairs Expert, Region South, Migrationsverket, April 15, 2016.

¹⁴¹ *Aliens Act*, Chapter 5(11-12)

¹⁴² Interview with Helene Hedebris, Legal Affairs Expert, Region South, Migrationsverket, April 15, 2016.

Historically, subsidiary protection beneficiaries have comprised a large share of positive asylum decisions in Sweden (see Figure 23), and Sweden has tended to rely more on subsidiary status than has been the case in other EU countries (between 40 and 50 percent of positive decisions typically confer refugee status in the European Union, on average).¹⁴³ Swedish authorities attribute this trend in part to the fact that different statuses have, historically, afforded forced migrants with the same residency and other rights, and there is thus less of an incentive to investigate the more complex grounds that refugee status requires.¹⁴⁴ The share of protection beneficiaries granted refugee protection has, however, risen in recent years, both in Sweden and in the European Union as a whole. This is due primarily to the greater numbers of applicants from countries such as Syria, Eritrea, and Iraq who usually receive refugee status.

Procedures for granting status

All asylum determinations (whether for refugee, subsidiary, or other protection) are made on an individual basis by the Swedish Migration Agency, an independent authority. The Migration Agency falls under the responsibility of the Ministry of Justice, which establishes guidelines for and funds the Agency's activities but does not exercise any direct authority over its decisions or application of the asylum laws. Specially trained officers of the Migration Agency receive, process, and adjudicate asylum claims, and all decisions are subject to multiple levels of review before they are issued. Both the independence of the Migration Agency from political institutions and the specialized training of asylum officers are important safeguards for maintaining the quality and integrity of the asylum decision-making process.

Asylum applications are typically taken in a two-step process, and an applicants' eligibility for all forms of protection (refugee, subsidiary, and humanitarian) is considered at the same time. Asylum officers first register applicants with the Migration Agency, take their biometric information (including fingerprints and photos), and check their identification. Applicants are then usually given a date for a second, in-depth interview some months later where authorities gather information needed to make a substantive determination on the asylum case. As of mid-2015, the Migration Agency took approximately 8 months to process an asylum application. Since the surge in arrivals in the fall of 2015, processing times have risen (and are now estimated to be over a year), although the Migration Agency has stopped issuing official estimates.¹⁴⁵

Rights and status of forced migrants

The type of residence permit—temporary or permanent—granted to recipients of international protection in Sweden is determined by Migration Agency authorities on an individual basis and is not typically tied to nationality. In practice, recipients of international protection in Sweden (whether refugee or subsidiary protection) have normally been granted permanent residence status. This policy, guided by a belief among Swedish authorities that permanent residency facilitates integration of refugees into Swedish society,¹⁴⁶ has been in place since the 1970s.

¹⁴³ Eurostat, "First instance decisions on applications by citizenship, age and sex Annual aggregated data (rounded) [migr_asydcfst]."

¹⁴⁴ Interview with Helene Hedebris, Legal Affairs Expert, Region South, Migrationsverket, April 15, 2016.

¹⁴⁵ Interview with Andre Nilen, Head of Staff, Region South, and Asa Evrensel, Protection Process Specialist, Operational Department, Migrationsverket, April 14, 2016.

¹⁴⁶ Interview with Helene Hedebris, Legal Affairs Expert, Region South, Migrationsverket, April 15, 2016.

There are some exceptions to the permanent residency policy. In the 1990s the migration court of appeals (then known as the Aliens Board) ruled that temporary residency could be provided as an exception if Swedish authorities had reason to believe that the circumstances driving the individual's flight were likely to be temporary in nature.¹⁴⁷ Most recently, the first wave of Syrians, who arrived between 2011 and 2013, were granted temporary status.¹⁴⁸ In 2013, the Agency determined that as the conflict had become protracted in nature, all Syrians would be granted permanent residency.

Because recognized protection beneficiaries in Sweden are generally granted permanent residence status (regardless of whether they are given subsidiary, humanitarian, or refugee status), the social and economic rights afforded to them are the same as other permanent residents and very similar to those granted to Swedish citizens. Permanent residents who have registered with the social registry—a requirement—are granted access to mainstream social welfare services (including social benefits, employment services, education, housing, and healthcare).¹⁴⁹ Supplemental or alternative services intended to support integration are available for permanent residents who are also beneficiaries of international protection.¹⁵⁰ Permanent residents and some temporary residents are allowed to apply for Swedish citizenship after five years of residency in Sweden; individuals with refugee status may naturalize after four years.¹⁵¹ Swedish citizenship conveys some additional political rights, such as the right to vote in parliamentary elections.¹⁵² More significant differences exist between the rights and status of asylum applicants—who do not have a formal residence status in Sweden and are thus not registered in the social registry—and those of protection beneficiaries and other permanent residents.

An evolving legal framework

The asylum crisis of 2015 called some central tenets of the Swedish approach to protection into question and has driven substantial changes to certain core elements of the asylum system. At the end of October 2015, the government outlined a broad plan of legislative and regulatory changes intended both to help authorities cope with the rising flow of asylum seekers and to reduce asylum flows by lowering the benefits offered to protection beneficiaries. These changes mark a substantial departure from traditional Swedish policy approaches to asylum, which have typically emphasized the welfare and inclusion of asylum applicants and protection beneficiaries over migration management concerns.

In June 2016, the government adopted its most controversial measure, a law that suspends the Aliens Act with regard to asylum claims for three years from the date it enters into force. The

¹⁴⁷ Interview with Helene Hedebris, Legal Affairs Expert, Region South, Migrationsverket, April 15, 2016. In addition, persons allowed to remain in Sweden because of difficulties enforcing their removal are to be granted temporary rather than permanent residency. *Aliens Act*, Chapter 5(11-12)

¹⁴⁸ The Local, "Sweden offers residency to all Syrian refugees," updated September 3, 2013, <http://www.thelocal.se/20130903/50030>

¹⁴⁹ European Migration Network, *Integration of beneficiaries of international/humanitarian protection in the labour market: policies and good practices*, (Brussels: European Commission, 2015, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn-studies-27a_sweden_integration_beneficiaries_ip.pdf)

¹⁵⁰ See Section III below for a more detailed discussion of these services.

¹⁵¹ Migrationsverket, "Time in Sweden," updated November 10, 2015, <http://www.migrationsverket.se/English/Private-individuals/Becoming-a-Swedish-citizen/Citizenship-for-adults/Time-in-Sweden.html>

¹⁵² Migrationsverket, "What does Swedish citizenship mean?" updated June 16, 2015, <http://www.migrationsverket.se/English/Private-individuals/Becoming-a-Swedish-citizen/What-does-Swedish-citizenship-mean.html>

new policies took effect on July 20, 2016 and apply to asylum applicants who submitted claims in Sweden after November 24, 2015.

Two of the most significant changes in the June 2016 law are as follows:¹⁵³

- **Change from permanent to temporary residency for protection beneficiaries:** The temporary law suspended the current policy of granting permanent residency to all protection beneficiaries. Instead, recognized refugees receive a three-year residency permit and subsidiary protection beneficiaries a permit valid for 13 months.¹⁵⁴ Both permits are renewable, pending a review of conditions in the beneficiary's home country to ensure protection is still needed. In both cases, permit holders can convert to permanent residency once their permit expires *only if* they can prove they are self-supporting (i.e. employed).
- **Removal of status for persons "otherwise in need of protection" and on humanitarian grounds.** Protection on grounds other than refugee or subsidiary protection status will not be granted, except in exceptional circumstances or in cases that would violate Sweden's obligations under international law. The likely effects of this policy change in practice thus remain unclear. Currently, most of those benefiting from the "otherwise in need of protection" clause in the Aliens Act are unaccompanied minors. Returning these minors might still prove difficult despite the new law, if such returns would violate Sweden's commitments to act in the best interest of the child under international and EU law.

In addition, the new law reduces access to family reunification for recognized refugees and subsidiary protection beneficiaries by requiring the sponsoring family member to be self-sufficient (i.e. employed). Separately, the government has also removed access to housing and benefits for asylum applicants whose claims have been denied and who are under an order to leave the country.

Table 13: Status and rights granted to protection beneficiaries under revised 2016 protection law

	Refugee Status	Subsidiary Protection	Other Protection
Residence rights upon grant of status	3 year temporary residence permit	13 month temporary residence permit	N/A
Access to permanent residence	Contingent on self-sufficiency (employment)	Contingent on self-sufficiency (employment)	N/A
Family reunification	Have 3 month window to apply without meeting minimum support requirements	Cannot apply except under exceptional cases	Cannot apply

¹⁵³ Interview with Maria Westman-Clement, Deputy Director, Asylum and Migration Policy Unit, Swedish Ministry of Justice, April 11, 2016

¹⁵⁴ The proposed permit length for subsidiary protection beneficiaries was raised from one year to 13 months during the legislative review process after commentators pointed out that foreign nationals must hold a permit valid for longer than 12 months to be able to register in the social registry, which is required to access most social services.

The new law has been the subject of extensive criticism by service providers and civil society groups who are concerned the new policies will affect the ability of recognized refugees to integrate into Swedish society and become self-sufficient.¹⁵⁵ The switch to temporary status has been seen as a point of particular concern. Without the prospect of staying in Sweden permanently, some stakeholders fear that refugees may be less willing to invest in integrating into their new communities or learning Swedish, while employers might hesitate to hire protection beneficiaries who may be required to leave the country in a year. The requirement to demonstrate self-sufficiency to access permanent residency or reunify with family has also come under criticism. Refugee advocacy groups and local authorities have expressed concerns that refugees may feel pressure to take any job, rather than investing in learning Swedish or waiting for their credentials to be recognized (which currently can take more than a year). The self-sufficiency requirements also have the potential to increase the dependence of protection beneficiaries on employers, creating the risk of exploitation.

Separately, the new policies may affect the efficiency of the Swedish asylum system itself by increasing the processing and adjudication demands placed on asylum authorities. The switch to temporary residency for protection beneficiaries is particularly of concern. For subsidiary protection beneficiaries in particular, asylum authorities will now be required to reassess each claim every thirteen months, whereas under the permanent residency system, claims were only assessed once. The fact that the law only applies to applications after November 2015 also complicates procedures, as asylum authorities will now be required to assess claims according to two different standards, making it more difficult to streamline procedures. The Migration Agency has estimated that processing times for asylum applicants may rise further as a result of the new law, possibly reaching 1.5 to 2 years. For forced migrants, longer processing times can create hardship by exposing them to further uncertainty and delaying their integration into their new communities.

3.5.3. Policies with an Impact on Poverty Alleviation

Despite extensive rights and social supports offered to asylum seekers and recognized protection beneficiaries, many still find themselves at risk of poverty and social isolation and struggle find employment and become self-supporting. Incomes remain low. A recent review of data from the Swedish Tax Authority and the National Board of Health and Welfare found that among refugees who arrived in 2004 and had been in the country for 10 years, median income for adults was just SEK 13,000 (approximately USD 1600) per month.¹⁵⁶

The government has thus invested in an extensive range of policies and support programs in an effort to improve these outcomes. Refugees and other protection beneficiaries are given financial support, called an "introduction benefit," of SEK 308 (approximately USD 40) per day per person that is intended to cover basic living expenses during beneficiaries' first two years in Sweden. Beneficiaries are expected to learn Swedish and make an effort to find work while receiving the introduction benefit (assistance in doing so is part of an individualized "introduction plan"), and the benefit can be reduced if beneficiaries do not fulfill these

¹⁵⁵ The concerns discussed here draw on the following: Interview with Jennie Larsson, Integration Researcher, Swedish Employment Service, April 13, 2016; interview with Ewa Jonsson, Senior Advisor on Migration, and Alexandra Segenstedt, Expert on Family Reunification, Swedish Red Cross, April 12, 2016; and interview with George Joseph, Director for Migration, Caritas Sweden, April 13, 2016.

¹⁵⁶ Kristoffer Örstadius, "Ten Years Later and Every Other Person Earns Less than 13,000 SEK per Month," *Dagens Nyheter*, March 4, 2015, <http://www.dn.se/nyheter/ten-years-later-and-every-other-person-earns-less-than-13000-sek-per-month/>

requirements.¹⁵⁷ If protection beneficiaries are not self-sufficient after two years, they are eligible to receive mainstream social assistance.

Asylum applicants, however, are not allowed access to the social assistance system,¹⁵⁸ and are instead provided with a lower benefit payment that is administered by the Migration Agency. Asylum applicants receive free housing and modest cash payments (prorated based on family status and type of housing, as shown in Table 14). Benefits payments can be reduced for applicants with significant personal assets or who are in work, though this is rare as few applicants arrive with many assets.¹⁵⁹ Individuals who do not cooperate with efforts by asylum authorities to prove their identity can also have their benefits reduced.

The relatively low level of financial assistance provided has come under criticism from non-governmental organizations and others working with asylum seekers.¹⁶⁰ Benefits for asylum seekers living in private housing are just over half the level of social assistance provided to Swedish residents.¹⁶¹ Moreover, the Migration Agency has not increased payments for asylum applicants since 1994.¹⁶² Other supplemental assistance is available through specific grants to cover needs for particular items, such as health equipment, items for infants, or winter clothing.¹⁶³

Table 14: Maximum benefits paid to asylum applicants per day, by family status and type of housing provided

Type of housing	Single adult	Co-habiting adult	Child (0-3 years)	Child (4-10 years)	Child (11-17 years)
Managed reception facility (where food is provided)	SEK 24 (USD 2.80)	SEK 19 (USD 2.20)	SEK 12 (USD 1.40)	SEK 12 (USD 1.40)	SEK 12 (USD 1.40)
Apartment or private accommodation	SEK 71 (USD 8.30)	SEK 61 (USD 7.10)	SEK 37 (USD 4.30)	SEK 43 (USD 5.00)	SEK 50 (USD 5.80)

Source: Migrationsverket, "Financial support for asylum seekers," updated June 3, 2016, <http://www.migrationsverket.se/English/Private-individuals/Protection-and-asylum-in-Sweden/While-you-are-waiting-for-a-decision/Financial-Support.html>.

Notes: The benefits paid per child to residents of managed facilities is reduced by half for each additional child after the second child.

¹⁵⁷ Försäkringskassan, "Faktablad: Ertablerings-ersättning," updated January 25, 2016,

https://www.forsakringskassan.se/wps/wcm/connect/65cfd0e0-89d3-4589-bf08-7be0f0a942ef/4143_Ertableringsersattning_for_ny_i_Sverige.pdf?MOD=AJPERES

¹⁵⁸ Law on the Reception of Asylum Seekers and Others, Swedish Law 1994:137, Rättsnätet (March 30, 1994), Chapter 1(3). <http://www.notisum.se/rnp/sls/lag/19940137.htm>

¹⁵⁹ Interview with Marten Martensson, Operations Specialist, Reception Unit, Region South, Migrationsverket, April 15, 2016

¹⁶⁰ George Joseph, *Country Report: Sweden* (Brussels: Asylum Information Database, 2015), <http://www.refworld.org/pdfid/569c963b4.pdf>; Interview with Samarie Löfvendahl, Associate Legal Officer and Gisela Thater, Senior Legal Officer, UNHCR, April 11, 2016

¹⁶¹ For a single adult, asylum seekers' benefits amount to approximately SEK 2,130 (approximately USD 260) per month, while social payments to residents are SEK 3,880 (approximately USD 480) per month. Joseph, *Country Report: Sweden*. Currency conversions calculated using the XE Currency Converter, accessed June 7, 2016, <http://www.xe.com/>.

¹⁶² Interview with Samarie Löfvendahl, Associate Legal Officer and Gisela Thater, Senior Legal Officer, UNHCR, April 11, 2016

¹⁶³ Joseph, *Country Report: Sweden*.

Beyond financial assistance, Swedish authorities provide asylum applicants and protection beneficiaries with a broad range of other supports to assist them in finding housing and employment and in access educational and health services. Actors at the national, regional, and local levels hold responsibility for implementing social and economic inclusion policies for forced migrants. Broadly, the Migration Agency has responsibility for most policy areas, including housing and employment/labor market introduction, while asylum claims are adjudicated. Education and health services are provided by regular municipal and county authorities with financial support from the national government. Once protection beneficiaries receive status and residence permits, the Employment Service, municipal, and county governments become responsible for providing housing, social benefits, and labor market and cultural introduction activities.

Municipal authorities play a key role as the social welfare provider of last resort, meaning they are responsible for ensuring the well-being of all individuals resident in their territory regardless of status, to the best of their ability. Should an asylum applicant or protection beneficiary fall out of the other support systems for any reason, they have the right to turn to municipal social service offices for assistance.

This section details forced migrants’—including both asylum seekers and beneficiaries of protection—access to housing, education, health care, and employment in Sweden, the policy frameworks designed to deliver these services, and barriers to accessing them in practice. Access to most services has not been affected by the July 2016 temporary asylum law.

Housing

Obtaining secure housing in communities that offer economic opportunity and sufficient and accessible social services is crucial to the welfare and integration of forced migrants in Sweden. All asylum applicants and protection beneficiaries in Sweden are provided assistance securing housing, if they choose. Applicants and protection beneficiaries are not required to use the assisted housing system, and are free to live anywhere in Sweden, if they obtain their own accommodation—a key difference with many asylum systems elsewhere in Europe as well as globally. Those who choose take advantage of the assistance available are required to accept any housing arrangement that authorities offer, regardless of location. In principle, authorities make an effort to distribute assisted housing in communities throughout Sweden to avoid concentrating protection beneficiaries in particular neighborhoods—another divergence with settlement policies in many major host countries that instead often require or encourage refugees to reside in camps or particular neighborhoods and districts.

In practice, however, a severe housing shortage in Sweden has meant that finding safe and affordable housing has been one of the biggest challenges facing both asylum seekers and protection beneficiaries, as well as the authorities who assist them. Because housing shortages are more severe in large cities like Stockholm and Malmö, assisted housing offers tend to be in less desirable towns and rural communities.

Types of housing assistance provided

The type of assistance available to forced migrants in Sweden depends on where an applicant is in the asylum process as well as his or her age.

While an application is being processed, the Migration Agency has responsibility for providing housing for adults and families who require assistance. As of May 2016, just over half of

asylum applicants (88,200) were housed in assisted housing facilities (called ABO¹⁶⁴ accommodation), while nearly 30 percent had found their own accommodation (48,800).¹⁶⁵ Asylum applicants who find their own housing and become unable to house themselves at a later date can request placement in ABO housing throughout the application process.¹⁶⁶ Several different types of assisted accommodation are offered (see Figure 24). During the surge of arrivals in the fall of 2015, the Migration Agency also utilized emergency shelters and facilities provided by the municipalities (such as school gyms or unused buildings) to house between 10,000 and 20,000 additional people.¹⁶⁷

Once a residence permit is granted, the Employment Service coordinates the placement of protection beneficiaries who require housing assistance, with the aim of matching beneficiaries with housing in areas where they are likely to find jobs. In practice, however, this has been difficult to accomplish due to the severely limited housing stock in most municipalities, and the Migration Agency will be taking over the placement functions of the Employment Service in 2017.¹⁶⁸ Municipalities have the primary responsibility for making housing available to the Employment Service for those who require assistance. As of 2017, a formula negotiated by the Migration Agency, the Association of Communities and Regions (a national body representing municipal- and county-level governments), and the Employment Service will assign refugees to each of the 21 counties in Sweden, based on total population, the existing number of protection beneficiaries in the county, and labor market conditions. The process for settling unaccompanied minors differs substantially from that used for adults. Because most social services in Sweden are organized and provided at the municipal level, minors are the responsibility of the municipal social care units as soon as they come to the attention of the authorities.¹⁶⁹

Two types of shelter are provided for minors. First, municipalities offer emergency shelter immediately after minors express an intention to claim asylum until they receive a permanent housing assignment, usually just two or three days after entering the system.¹⁷⁰ Once unaccompanied minors are assigned to a municipality, they are typically housed in structured group homes (called HVB¹⁷¹ accommodation) with trained staff on hand to provide counseling and activities. Foster care with families is reserved for the youngest children.¹⁷² Some municipalities are also moving toward placing older children who require less supervision in what is known as “light accommodation,” centers that have less intensive staffing and service provision.¹⁷³

¹⁶⁴ Known in full as Anläggnings-boende (ABO).

¹⁶⁵ The remaining 20 percent, which primarily includes unaccompanied minors, were housed in other types of facilities. Migrationsverket, “Persons with accommodation in the Swedish Migration Agency’s Reception System,” updated May 1, 2016, <http://www.migrationsverket.se/English/About-the-Migration-Agency/Facts-and-statistics-/Statistics.html>.

¹⁶⁶ Migrationsverket, “Accommodation,” updated June 1, 2016, <http://www.migrationsverket.se/English/Private-individuals/Protection-and-asylum-in-Sweden/While-you-are-waiting-for-a-decision/Accommodation.html>.

¹⁶⁷ Interview with Fredrik Nilsson, Accommodation Unit, Operational Department, Migrationsverket, April 15, 2016.

¹⁶⁸ Interview with Jennie Larsson, Integration Researcher, Swedish Employment Service, April 13, 2016.

¹⁶⁹ According to *Law on the Reception of Asylum Seekers and Others*, Chapter 3.

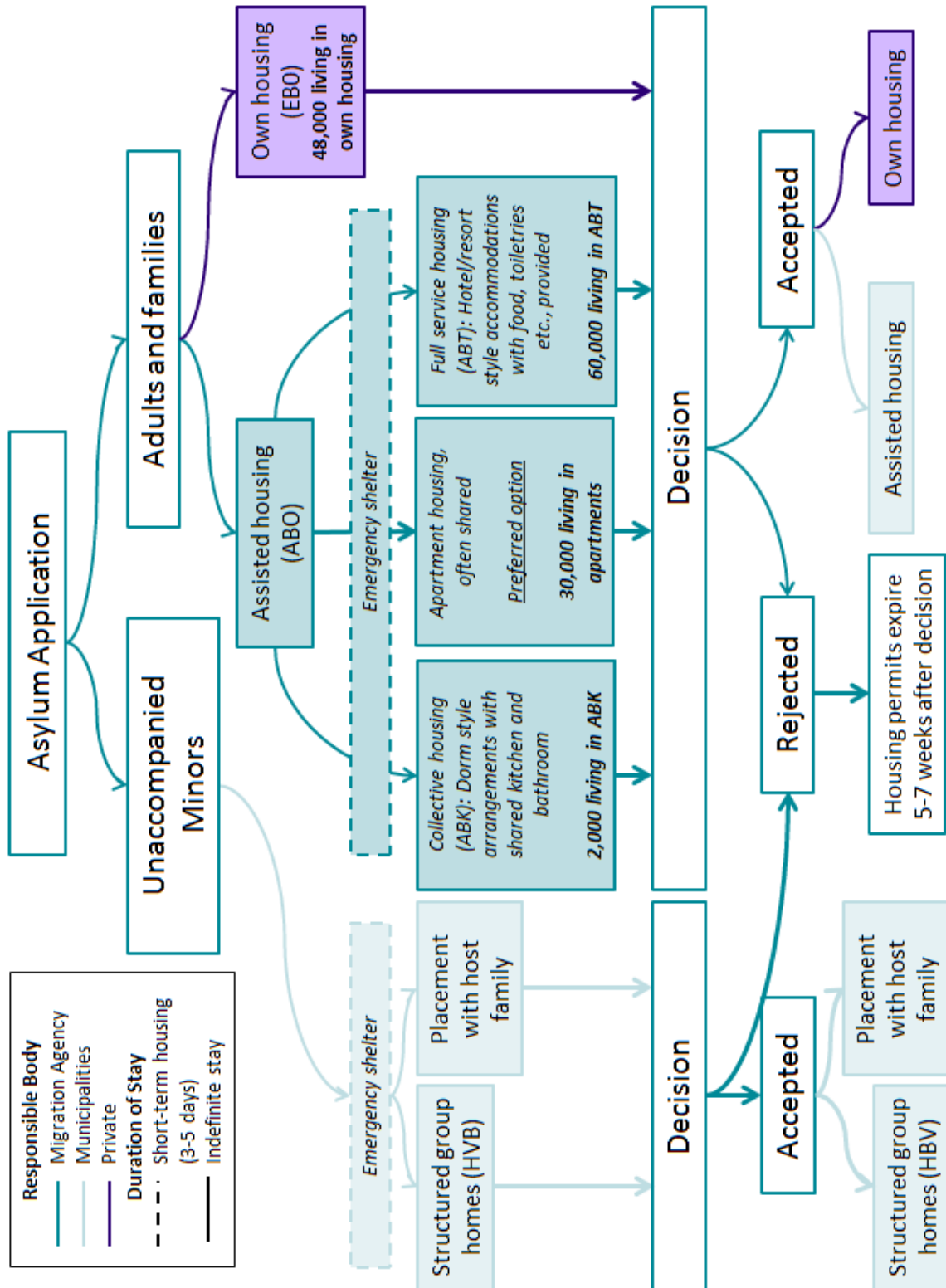
¹⁷⁰ Interview with Christina Grönberg, Social Development Unit, and Anna Mattsson, Stockholm Municipal Government, April 13, 2016; and interview with Ulrika Wickman, Head of the Social Welfare Department, Lene Cordes, Unit for Children and Families, Tarek Borg, Unit for Reception of Unaccompanied Minors, Malmö Municipal Government, April 14, 2016.

¹⁷¹ Known in full as Hem för Vård eller Boende (HVB).

¹⁷² European Migration Network, *Policies, practices and data on unaccompanied minors in 2014: Sweden* (Swedish Migration Agency and European Migration Network, 2014), http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/27a_sweden_uam_national_report_en.pdf.

¹⁷³ Interview with Ulrika Wickman, Head of the Social Welfare Department, Lene Cordes, Unit for Children and Families, Tarek Borg, Unit for Reception of Unaccompanied Minors, Malmö Municipal Government, April 14, 2016.

Figure 24: Housing assignment process for asylum applicants and beneficiaries



Notes: Figures given for numbers living in EBO, ABK, apartment, and ABT accommodation are as of May 2016.

Challenges to housing provision in practice

The most significant challenge facing the Swedish asylum system has simply been finding enough housing for all new arrivals, as well as locating permanent places for those who are granted refugee status. Even before asylum flows rose in 2015, a combination of low construction rates and strict rent regulations have resulted in limited availability of housing across Sweden, making it even more difficult to find places for new arrivals in municipalities. The national housing agency (Boverkert) estimated that in 2016, 94 percent of municipalities were facing a housing shortage for new arrivals,¹⁷⁴ and housing prices in the last quarter of 2015 were 14 percent higher than in quarter four of the preceding year.¹⁷⁵ In Stockholm, over 500,000 people were in the queue for public housing in April of 2015, and the wait was estimated to be over five years long.¹⁷⁶ Difficulties obtaining permanent housing also delay the transition of recognized protection beneficiaries out of asylum reception facilities; as of April 2016, the Migration Agency estimated up to 10,000 refugees with residence permits were waiting in the reception system for permanent housing.¹⁷⁷

In an effort to make more housing places available, all municipalities are required to settle a certain number of protection beneficiaries through the assisted housing system, beginning March 1, 2016.¹⁷⁸ This change represents a major departure from previous policy; under the old system, municipalities were able to elect to participate in the settlement system, and many municipalities chose not to, exacerbating the housing shortage.

The surge of arrivals in the fall of 2015 thus stretched an already overburdened system nearly to the breaking point. The reception accommodation system was particularly affected by the influx of new arrivals. While the Migration Agency's housing system is designed to be able to scale up quickly in response to growing needs or downsize if demand falls; in order to maintain this flexibility, the Agency obtains facilities through standing contracts with landlords and housing providers and public procurement calls when new housing is needed quickly. As a result, the Agency is dependent on local housing supply, which was already oversubscribed. In one high-profile incident in November 2015, the Migration Agency ran out of places for new arrivals, forcing many to sleep outdoors or find shelter with various community or religious groups that stepped up to provide housing.¹⁷⁹

Housing for unaccompanied minors was also affected. During the peak of the surge, limited placement options in municipalities meant that children could be in emergency shelter for as

¹⁷⁴ Boverket, "Housing market survey in 2016 in brief," accessed June 7, 2016, <http://www.boverket.se/sv/samhallsplanering/bostadsplanering/bostadsmarknaden/bostadsmarknadsenkaten-i-korthet/>

¹⁷⁵ Eurostat, "House Price Index – Quarterly and annual rates of change update," updated April 12, 2016, http://ec.europa.eu/eurostat/statistics-explained/index.php/File:House_Price_Index_-_Quarterly_and_annual_rates_of_change_update.png

¹⁷⁶ Interview with Fredrik Jurdell, CEO, SHIS Bostaeder, April 11, 2016

¹⁷⁷ Interview with Andre Nilen, Head of Staff, Region South, and Asa Evrensel, Protection Process Specialist, Operational Department, Migrationsverket, April 14, 2016

¹⁷⁸ The government put a new housing distribution scheme into place early in 2016 as a part of broader asylum reform efforts. Swedish Parliament, "Regulation (2016: 39) on the reception of certain newly arrived immigrants for settlement," accessed May 24, 2016, http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-201639-om-mottagande-av-vissa_sfs-2016-39

¹⁷⁹ The Local, "Sweden refugees sleep outside for second night," updated November 21, 2015, <http://www.thelocal.se/20151121/sweden-refugees-sleep-outside-for-second-night>

long as a month in some cities.¹⁸⁰ Services provided in the emergency shelters are generally very basic, often just food and a bed, and lengthy stays in emergency accommodation can thus be problematic. Moreover children were not enrolled in school due to the temporary nature of their stay, and few structured activities were available to occupy their time. In Malmö, officials found it necessary to house up to 150 or 200 children per building, nearly ten times as many as they might normally place in a single child care center.¹⁸¹

As flows have slowed, attention is now turning to the challenge of ensuring that those who receive protection find permanent housing that will facilitate, rather than hinder, their long-term integration in Sweden. Of particular concern is the fact that housing tends to be most difficult to find in the larger municipalities where strong economies mean refugees would have the best chances of finding employment. According to a report commissioned by the National Audit Office, 85 percent of employment growth in Sweden from 2010 to 2013 occurred in or near major cities.¹⁸² Yet urban areas are also more likely than suburban or rural municipalities to report housing shortages, and until 2015, few large municipalities opted to receive recognized refugees through the assigned settlement system.¹⁸³

There is thus a tension for migration authorities and refugees themselves between the need to find refugees housing quickly and the need to facilitate self-sufficiency. Anxious to move to locations with better economic prospects, many refugees opt to find their own housing rather than using the services of the Migration Agency and Employment service (55 percent of protection beneficiaries chose to settle without assistance in 2014).¹⁸⁴ The extremely tight rental market, however, most often forces those who settle on their own to enter the secondary housing market where they are vulnerable to exploitation by unscrupulous landlords (who may charge exorbitant rent prices) and are subjected to cramped or even dangerous living conditions.¹⁸⁵ Poor housing conditions can contribute to other problems, such as poor performance in school or training, additional mental and psychological stress, and in the worst cases could even have negative consequences for individuals' physical health. Moreover, protection beneficiaries who find their own housing often have difficulty obtaining long-term housing solutions, often living with friends and relatives; self-settlers thus tend to move more frequently and are at a higher risk of homeless, creating additional psychological stress and contributing to difficulties accessing services.¹⁸⁶

City authorities have also expressed concern that the self-settlement system contributes to residential segregation and social isolation, as refugees tend to move to neighborhoods and areas with large existing migrant-background populations.¹⁸⁷ Both Migration Agency officials and municipal authorities have suggested that asylum seekers and protection beneficiaries

¹⁸⁰ Interview with Christina Grönberg, Social Development Unit, and Anna Mattsson, Stockholm Municipal Government, April 13, 2016; and interview with Ulrika Wickman, Head of the Social Welfare Department, Lene Cordes, Unit for Children and Families, Tarek Borg, Unit for Reception of Unaccompanied Minors, Malmö Municipal Government, April 14, 2016.

¹⁸¹ Interview with Ulrika Wickman, Head of the Social Welfare Department, Lene Cordes, Unit for Children and Families, Tarek Borg, Unit for Reception of Unaccompanied Minors, Malmö Municipal Government, April 14, 2016.

¹⁸² Riksrevisionen, *Nyanländas etablering – är statens insatser effektiva?*

¹⁸³ Boverket, *Boendesituationen för nyanlända: Slutrapport*, Report No. 2015:40, (Karlskrona: Boverket, 2015), <http://www.boverket.se/globalassets/publikationer/dokument/2015/boendesituationen-for-nyanlanda.pdf>

¹⁸⁴ Boverket, *Boendesituationen för nyanlända: Slutrapport*

¹⁸⁵ Boverket, *Boendesituationen för nyanlända: Slutrapport* Riksrevisionen, *Nyanländas etablering – är statens insatser effektiva?*

¹⁸⁶ Boverket, *Boendesituationen för nyanlända: Slutrapport*

¹⁸⁷ Interview with Anne Öster and Annelie Rostedt, Work and Social Affairs Office, Stockholm County Administrative Board, April 12, 2016

outside of the assisted housing system can be difficult to reach with social services.¹⁸⁸ Asylum applicants in the EBO¹⁸⁹ system are somewhat less likely to attend information sessions in their reception unit and instead rely on information from family and friends. In surveys, protection beneficiaries themselves are also more likely to report contact with the Employment Service and introduction case workers if they are in municipality-arranged housing.¹⁹⁰ City authorities in Malmö and Stockholm have tried to address this by creating special contact points or mobile units to reach out to refugee populations and neighborhoods.¹⁹¹

Despite these difficulties, recognized refugees who settle themselves tend, on average, to have higher employment rates and incomes¹⁹² —although this does not account for differences in education levels or time in the country. The advantage experienced by self-settlers is likely due in large part to the better economic conditions in the large cities and municipalities where most settle. Social network effects from the substantial migrant-background communities in many larger cities may also play a role.

Livelihoods and access to the labor market

Concerns about the potential social and economic costs of dependency, as well as difficulties integrating earlier immigrant groups into the labor market, have made self-sufficiency and employment a major priority of the Swedish government in recent years. Both asylum seekers and protection beneficiaries have broad and unrestricted access to the labor market; neither are required to apply for work permits or subject to any conditions on their employment.¹⁹³ Policymakers have also invested substantial resources in initiatives designed to facilitate refugees' entry into the labor market. The most prominent of these was a 2010 reform that gave responsibility for integration and introduction activities to the Employment Service with the goal of making employment more central to integration efforts for new arrivals.

Access to work during the asylum application period

Asylum seekers in Sweden receive permission to work once their application has been filed and their identity has been confirmed.¹⁹⁴ The Migration Agency is responsible for, where possible, facilitating opportunities for asylum seekers to work or undertake training activities during the reception period.¹⁹⁵ During the reception interview (which normally occurs immediately after filing their asylum claim),¹⁹⁶ asylum seekers are given a briefing on their

¹⁸⁸ Interview with Christina Grönberg, Social Development Unit, and Anna Mattsson, Stockholm Municipal Government, April 13, 2016; Interview with Marten Martensson, Reception Unit, Region South, Migrationsverket, April 15, 2016

¹⁸⁹ Eget boende (EBO) in full.

¹⁹⁰ Boverket, *Boendesituationen för nyanlända: Slutrapport*

¹⁹¹ Interview with Ulrika Wickman, Head of the Social Welfare Department, Lene Cordes, Unit for Children and Families, and Tarek Borg, Unit for Reception of Unaccompanied Minors, Malmö Municipal Government, April 14, 2016; and interview with Christina Grönberg, Social Development Unit, and Anna Mattsson, Social Policy Department, Stockholm Municipal Government, April 13, 2016

¹⁹² Boverket, *Boendesituationen för nyanlända: Slutrapport*

¹⁹³ Permanent residents in Sweden are exempt from the requirement to hold a work permit under Chapter 2 (8) of the Aliens Act. The Aliens Ordinance also exempts asylum seekers from obtaining a work permit under Chapter 5(4). *Aliens Ordinance*, SFS 2006:97, *Government Offices of Sweden* (June 12, 2015) <http://www.government.se/government-policy/migration/aliens-ordinance/>

¹⁹⁴ Aliens Ordinance Chapter 5(4)

¹⁹⁵ According to Chapter 4, *Law on the Reception of Asylum Seekers and Others*.

¹⁹⁶ The substantial influx of new arrivals in the fall of 2015 exacerbated some of these difficulties. During the fall, the reception interview, which does an initial mapping of asylum seekers' backgrounds, had to be cut short in order to speed up the registration procedure. As a result, the Migration Agency has no data on these individuals (estimated to be about

right to access employment and opportunities for support activities, such as language classes or training.¹⁹⁷ Reception officers at the Migration Agency collect basic information on asylum seekers' educational and work backgrounds. This information is stored in a database at the Migration Agency, which reception officers can reference if opportunities arise to connect asylum seekers with employment or "work experience placements" (internships).

Once applicants are placed in housing, they become part of a "reception unit" that organizes group information sessions, training courses, and social activities in cooperation with non-profit groups.¹⁹⁸ In late 2015, the Migration Agency began working with Swedish "adult study associations" (civil society groups devoted to adult education) to organize study groups in the reception centers.¹⁹⁹ The study groups provide basic Swedish language education and general orientation course to Swedish culture and society.

Expanding introduction activities, including language training and work experience programs, while asylum claims are processed is currently a key priority of the government. The budget proposal for 2016 devoted substantial financial resources to expanding skills assessment, language, adult education, and guidance programs for asylum seekers.²⁰⁰ The Public Employment Service will also be required to undertake assessments of asylum seekers skills and qualifications as a part of its regular activities as of 2017.

Access to work after recognition

Recognized protection beneficiaries, like asylum seekers, have full work rights.²⁰¹ Once an asylum seeker's application for international protection is granted, the Employment Service is responsible for working with him or her to develop an individual "introduction plan" designed to facilitate entry into the labor market. The process begins with an introduction interview to map the individual's background and experience, and includes validation of his or her prior qualifications and education, if possible. Regulations specify that the introduction interview should happen within two months after a residence permit has been granted, but the Employment Service estimated that as of April 2016 the wait time for participants to begin their introduction plans was 115 days, in large part because of delays in connecting recognized refugees with permanent housing.²⁰²

100,000 people as of April 2015), and will find it difficult to match them with appropriate work experience placements or other opportunities. Interview with Marten Martensson, Operations Specialist, Reception Unit, Region South, Migrationsverket, April 15, 2016

¹⁹⁷ Interview with Marten Martensson, Operations Specialist, Reception Unit, Region South, Migrationsverket, April 15, 2016

¹⁹⁸ Very short processing times for asylum applications up until early 2015 (just 3 to 6 months in many cases), caused the Migration Agency to suspend most of their introductory programs in the reception unit. As application numbers, and processing times, rose in mid-2015, the Migration Agency began to reintroduce some activities. Interview with Marten Martensson, Operations Specialist, Reception Unit, Region South, Migrationsverket, April 15, 2016

¹⁹⁹ The adult study associations reported 73,000 participants in the study groups in 2015.

²⁰⁰ The new budget commits an additional SEK 10 million (approximately USD 1.2 million) to County Administrative Boards for introduction activities (in addition to SEK 72 million, or approximately USD 9 million, that is reallocated to the counties from the Migration Agency), and a further 10 million to invest in developing digital language learning platforms. The Employment Service is given an additional 90 million to develop skills assessment packages for asylum seekers. Another SEK 97 million (approximately USD 12 million) is given to adult educational institutions to improve offerings for asylum seekers. Government Offices of Sweden, "Initiatives in the spring budget for more efficient introduction and reduced unemployment," updated April 13, 2016, <http://www.government.se/press-releases/2016/04/initiatives-in-the-spring-budget-for-more-efficient-introduction-and-reduced-unemployment/>

²⁰¹ Permanent residents in Sweden are exempt from the requirement to hold a work permit under Chapter 2 (8) of the Aliens Act. The Aliens Ordinance also exempts asylum seekers from obtaining a work permit under Chapter 5(4).

²⁰² Data provided by the Swedish Employment Service upon request.

Protection beneficiaries are required to participate in Swedish and civic orientation courses, organized by the municipalities, as a part of their introduction plans. In addition, the Employment Service must also provide protection beneficiaries with activities that will prepare them to work in Sweden. These activities can include skills trainings, professional and workplace skills courses, internships, or adult education classes. Protection beneficiaries are also eligible for some subsidized job placements. Introduction plans last two years, and the activities included in the plan are designed to be undertaken full time.²⁰³

Challenges to accessing and succeeding in the labor market in practice

Despite the extensive work rights and assistance provided to protection beneficiaries and asylum seekers in Sweden, in practice, refugees often find it extremely difficult to establish themselves in the labor market. Few asylum seekers actually enter work during the processing and reception period. As of April 2016, the Migration Agency had registered just 530 of 169,000 asylum seekers as employed, and half of these were in Stockholm.²⁰⁴ Outcomes are only somewhat better for recognized refugees. In 2015, just 31 percent of adults who had completed a two-year refugee introduction program run by the Employment Service were in full-time work or education, and most of these were in subsidized jobs.²⁰⁵

The reasons why refugees struggle to enter the labor market in Sweden are numerous and complex.²⁰⁶ Chief among these may be the lower education levels of refugees on average relative to the skills requirements of the Swedish labor market, as well as the difficulties of obtaining sufficient proficiency in English. Of those enrolled in the Employment Service's introduction program in March 2016, 46 percent had a lower secondary education or less.²⁰⁷ By comparison, just 18 percent of Swedish adults had less than an upper secondary education in 2014,²⁰⁸ and employment rates in Sweden, as in other EU countries, are highest for those with at least an upper secondary diploma.²⁰⁹ Education levels thus have a noticeable impact on labor market outcomes for refugees. After two years in the introduction program, 42 percent of refugees with a post-secondary education were in work or further education, while just 25 percent of those with less than a secondary degree were employed or studying.²¹⁰

Providers in both the reception units and Employment Service have struggled to find ways to effectively connect the lowest skilled to the labor market.²¹¹ Resource constraints mean that

²⁰³ Interview with Jennie Larsson, Integration Researcher, Public Employment Service, April 13, 2016

²⁰⁴ Interview with Marten Martensson, Operations Specialist, Reception Unit, Region South, Migrationsverket, April 15, 2016

²⁰⁵ Data provided by the Swedish Employment Service upon request.

²⁰⁶ For an in-depth assessment of the barriers to labor market integration facing immigrants in Sweden see Pieter Bevelander and Nahikari Irastorza, *Catching Up: The Labor Market Outcomes of New Immigrants in Sweden*, (Washington, DC and Geneva: Migration Policy Institute and International Labor Office, 2014),

<http://www.migrationpolicy.org/research/catching-labor-market-outcomes-new-immigrants-sweden> and Henrik Emilsson, *No Quick Fix: Policies to Support the Labor Market Integration of New Arrivals in Sweden*, (Washington, DC and Geneva: Migration Policy Institute and International Labor Office, 2014), <http://www.migrationpolicy.org/research/no-quick-fix-policies-support-labor-market-integration-new-arrivals-sweden>

²⁰⁷ Data provided by the Swedish Employment Service upon request.

²⁰⁸ Includes adults from 25 to 64 years old. OECD Data, "Education attainment," accessed June 7, 2016,

<https://data.oecd.org/eduatt/adult-education-level.htm>

²⁰⁹ Eurostat, "Employment rate by highest level of education, age group 25–64, 2014 (%) YB16," updated August 11, 2015, [http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Employment_rate_by_highest_level_of_education_age_group_25%E2%80%9364_2014_\(%25\)_Y_B16.png](http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Employment_rate_by_highest_level_of_education_age_group_25%E2%80%9364_2014_(%25)_Y_B16.png)

²¹⁰ Data provided by the Swedish Employment Service upon request.

²¹¹ Interview with Marten Martensson, Operations Specialist, Reception Unit, Region South, Migrationsverket, April 15, 2016; and interview with Jennie Larsson, Integration Researcher, Public Employment Service, April 13, 2016

the Migration Agency has focused on offering the types of support most beneficial to asylum seekers who are closest to entering the labor market, generally the high-skilled and individuals with prior work experience.²¹² Similarly, the Employment Service has had limited success identifying strategies to effectively prepare low-skilled refugees, many of whom are women, to be self-sufficient. Often, low-skilled individuals may end up simply attending language courses throughout the course of their two year introduction program, as no education or employment programs are available that are suited to their needs.²¹³ The question of what to do with lower skilled refugees is only likely to become more urgent, however; according to the Employment Service, refugees with less than 9 years of formal education are the fastest growing participant group.²¹⁴

Education

Education in Sweden is organized and provided by municipalities with financial support and policy guidance from the national government. All children resident in Sweden (e.g. recognized protection beneficiaries with residence permits) have a right to access schools and are obligated to attend through grade 9.²¹⁵ Since 2002, asylum seeking children have had the right to enroll in school, but attendance is not mandatory.

In addition to the legal right to attend school, the Swedish school system has implemented a number of measures designed to ensure that refugee children benefit from and succeed in their classes.

Access to schools

Schools are required to make an effort to enroll newly arrived children within one month of their arrival. Reviews by the Swedish Schools Inspectorate (an independent agency tasked with evaluating schools), however, suggest that most municipalities do not have formal systems in place to seek out children who are not enrolled in schools—let alone identify them within one month of arrival.²¹⁶ As of April 2016, the Migration Agency estimated it could take between 30 and 70 days for children to start school, depending on the municipality.²¹⁷

Poor communication between the school systems and the Migration Agency can make the task of local authorities in placing asylum seeking children in schools even more difficult. Municipalities often receive little notice before a reception center is opened—in the fall of 2015 some cities received less than a week's notice²¹⁸—and the law is not clear on whose responsibility it is to inform families of the right to enroll their children in school.²¹⁹ While the Migration Agency says it provides this information to families,²²⁰ municipalities have complained this isn't always done.²²¹ Communication can breakdown further when families move (which has occurred with greater frequency as the Agency has been forced to use temporary accommodation). As a result, students' records may not be transferred between

²¹² Interview with Marten Martensson, Operations Specialist, Reception Unit, Region South, Migrationsverket, April 15, 2016

²¹³ Interview with Jennie Larsson, Integration Researcher, Public Employment Service, April 13, 2016

²¹⁴ Interview with Jennie Larsson, Integration Researcher, Public Employment Service, April 13, 2016

²¹⁵ 2010 Education Act, Chapter 7(2)

²¹⁶ Interview with Anna Sandell, Researcher, Swedish Schools Inspectorate, April 15, 2016

²¹⁷ Interview with Marten Martensson, Operations Specialist, Reception Unit, Region South, Migrationsverket, April 15, 2016

²¹⁸ Interview with Karin Perols, Association of Communities and Regions, April 12, 2016

²¹⁹ Interview with Anna Sandell, Researcher, Swedish Schools Inspectorate, April 15, 2016

²²⁰ Marten Martensson, Operations Specialist, Reception Unit, Region South, Swedish Migration Agency, April 15, 2016

²²¹ Interview with Anna Sandell, Researcher, Swedish Schools Inspectorate, April 15, 2016

schools, and school authorities may have to start from scratch in determining a student's educational background and needs.²²²

Quality of instruction and support for newly arrived students

Swedish law grants students several rights that are particularly pertinent to the situation of all newly arrived children.²²³ First, schools are required to provide all students with any instructional support needed to allow them to complete school. For refugee children, this includes the right to a tutor in their mother tongue to ensure they have sufficiently grasped their core coursework and material. In addition, since January 2016 schools are also required to formally assess a child's educational background when enrolling him/her in school.²²⁴ The Swedish Schools Agency (Skolverket) prepares standard guidelines and materials for school authorities to use to assess a child's general as well as subject specific knowledge.²²⁵ Prior to the new regulations, each school conducted its own assessment, leading to substantial variation in the quality of the assessments (i.e. some simply asked children or families how many years of school the child had attended).²²⁶

In order to deal with the large number of newly arrived students requiring "mother tongue instruction," some larger districts (including Stockholm and Malmö) have created "sprint" or "startup" schools that are designed to serve non-Swedish speaking students during the first year or two after they arrive.²²⁷ The schools generally offer intensive Swedish-language instruction alongside tutoring on core subjects in the student's mother tongue. In Stockholm, courses are taught in six week increments and students are assessed at each stage to adjust their course loads and assess whether they are ready to move to the mainstream schools. The new startup schools have, however, come into conflict with a second right of students in Sweden, the right for all students to receive instruction in the same core set of subjects, regardless of where they are enrolled. Altering the core curriculum is thus illegal, and startup schools were technically not allowed prior to January of this year, when the regulations were amended to allow for separate classes for newly arrived youth.²²⁸ Schools are now allowed to offer intensive Swedish in lieu of some core instruction for a limited period; students are expected to transition to the mainstream classroom after at most two years.

Some groups of refugee children have generally done fairly well in Swedish schools. According to the Swedish Schools Agency, educational outcomes for children who arrived before the age of 12 are typically good.²²⁹ The average age of students at arrival has, however, increased in recent years, and older arrivals have tended to struggle.²³⁰ Students who arrive after the end of lower secondary school are usually placed in a language introduction program until they

²²² Interview with Anna Sandell, Researcher, Swedish Schools Inspectorate, April 15, 2016

²²³ Interview with Anna Österlund, Head of Unit for Newly Arrived Pupils, Skolverket, May 12, 2016

²²⁴ Interview with Anna Österlund, Head of Unit for Newly Arrived Pupils, Skolverket, May 12, 2016

²²⁵ Interview with Anna Österlund, Head of Unit for Newly Arrived Pupils, Skolverket, May 12, 2016

²²⁶ Interview with Anna Sandell, Researcher, Swedish Schools Inspectorate, April 15, 2016

²²⁷ Interview with Tony Mufic, Director of Education, Education Directorate, Stockholm Municipal Government, April 11, 2016; and interview with Ulrika Wickman, Head of Social Welfare Department, Tarek Borg, Head of Unit for Unaccompanied Minors, and Lene Cordes, head of Unit for Children and Families, Social Welfare Department, Malmö Municipal Government, April 14, 2016

²²⁸ Interview with Anna Österlund, Head of Unit for Newly Arrived Pupils, Skolverket, May 12, 2016

²²⁹ Interview with Anna Österlund, Head of Unit for Newly Arrived Pupils, Swedish Schools Agency, May 12, 2016; Skolverket, *Skolverkets lägesbedömning 2015*, (Stockholm: Skolverket, 2015),

<http://www.skolverket.se/publikationer?id=3432>

²³⁰ Skolverket, *Invandringens betydelse för skolresultaten*, (Stockholm: Skolverket, 2016),

<http://www.skolverket.se/publikationer?id=3604>

can meet the qualification requirements for one of 18 nationally-recognized courses of upper secondary study.²³¹ Students may remain in the introduction programs until age 20, when they must transition into the adult education system. For refugee students who arrive at age 16 or 17, meeting the requirements to enter an upper secondary program before they turn 20 can be extremely difficult if not impossible. According to the Swedish Schools Agency, just 20 percent of late-arriving students were able to enter an upper secondary program in 2013, and this share has dropped further in recent years.²³² Having an upper secondary school certificate is critical to labor market success in Sweden, and refugee youth who leave school without a diploma are thus likely to be at a disadvantage when looking for employment.

Challenges and impact

The volume of refugee and asylum-seeking students entering the Swedish school system has been substantial in recent years, particularly since the fall of 2015, placing many schools under strain. As of November 2015, over 7 percent of the school population in Sweden was a refugee or asylum seeker, up from 4.5 percent two years before.²³³ The uneven distribution of asylum seekers and protection beneficiaries in Sweden means that some school systems are more affected than others. Nearly half of newly arrived children were received by just 10 percent of Sweden's municipalities in 2015, mostly small to mid-sized cities.²³⁴

The most pronounced effect on schools has been a teacher shortage, particularly in the smaller and more rural municipalities that have taken the largest share of newly arrived children. Finding qualified teachers to provide both Swedish language instruction and, especially, mother-tongue instruction has been particularly difficult.²³⁵ Finding qualified staff has also been a problem for social services. Child-protection authorities in Malmö, for example, usually require a minimum of two adults in each 20-child care center, and staff are generally required to have at least a bachelor's degree in social work or child development, limiting the pool of qualified staff. As flows of unaccompanied minors rose during the fall of 2015, authorities found it necessary to make compromises on many of these requirements—with the exception of a required criminal background check—in order to ensure sufficient numbers of staff.²³⁶

Health

Health care in Sweden is managed and provided by county authorities. County health boards operate health care facilities, and may also contract with private providers to provide health services. Fully private providers also operate in Sweden, although service fees for private providers are set independently. Health care is financed through a mix of local taxes, service

²³¹ Skolverket, *Språkintröduktion*, (Stockholm: Skolverket, 2016), <http://www.skolverket.se/publikationer?id=3622>

²³² Interview with Anna Österlund, Head of Unit for Newly Arrived Pupils, Skolverket, May 12, 2016

²³³ Skolverket, "Tio procent av skolorna har tagit emot hälften av de nyanlända eleverna," updated May 10, 2016, <http://www.skolverket.se/om-skolverket/press/pressmeddelanden/2016/pressmeddelanden-2016-1.244816/tio-procent-av-skolorna-har-tagit-emot-halften-av-de-nyanlanda-eleverna-1.250083>

²³⁴ Skolverket, "Tio procent av skolorna har tagit emot hälften av de nyanlända eleverna"

²³⁵ Interview with Anna Sandell, Researcher, Schools Inspectorate, April 15, 2016; interview with Tony Mufic, Director of Education, Education Directorate, Stockholm Municipal Government, April 11, 2016; interview with Anna Österlund, Head of Unit for Newly Arrived Pupils, Swedish Schools Agency, May 12; and interview with Ulrika Wickman, Head of the Social Welfare Department, Lene Cordes, Unit for Children and Families, and Tarek Borg, Unit for Reception of Unaccompanied Minors, Malmö Municipal Government, April 14, 2016; The Swedish Schools Agency estimates at least 44,000 teachers will be needed by 2020. Skolverket, *Skolverkets lägesbedömning 2015*.

²³⁶ Interview with Ulrika Wickman, Head of the Social Welfare Department, Lene Cordes, Unit for Children and Families, and Tarek Borg, Unit for Reception of Unaccompanied Minors, Malmö Municipal Government, April 14, 2016.

fees, and financial support from the national level. The national government also provides supplemental funding to cover services to asylum seekers.

Access to health care

All asylum applicants are entitled to a free, voluntary health check after they file their claims.²³⁷ The health checks are intended to help authorities identify any particular needs or health concerns that may require special treatment, but in practice it can be difficult to reach everyone who is eligible to receive a check. In 2014, the Association of Municipalities and Counties reported that 44 percent of new arrivals completed the health checks, although this rate varies by municipality.²³⁸ Urban areas tend to have better participation than rural regions; in Stockholm, for example, authorities estimated about half the asylum seekers in the county received health checks in 2015,²³⁹ and in Malmö, about 70 percent received checks.²⁴⁰

In addition to the health checks, adult asylum seekers have the right to emergency care and treatment for chronic conditions that “cannot wait,” and are charged a subsidized fee for such services.²⁴¹ As permanent residents in Sweden, recognized protection beneficiaries receive access to full care services, although they are no longer eligible for reduced fees. Children, regardless of their status, also receive full access to the healthcare system, including preventative care, and in most counties medical care for children is free.

Table 15: Health benefits provided to asylum seekers and protection beneficiaries

	Type of care available	Fees
Asylum Seekers	Voluntary health check	Free
	Emergency care and treatment for chronic conditions	50 SEK (USD 5)
Protection Beneficiaries	Full healthcare services	Same fee as Swedish residents
Unaccompanied Minors	Full healthcare services	Free

Practical barriers to service provision

While both asylum seekers and protection beneficiaries have broad rights to benefit from health services in Sweden, operational issues can pose challenges to enjoying these benefits in practice. Inaccurate or inadequate information may prevent or deter asylum seekers from participating in health checks. The Swedish Red Cross, for example, suggested asylum seekers may not always fully understand the purpose of the checks, or may fall victim to rumors that the results of the checks will influence asylum procedures.²⁴² Costs can also be an issue.

²³⁷ 1177 Vårdguiden, “Healthcare in Sweden for asylum-seekers, people with no papers and people in hiding,” updated November 23, 2015, <http://www.1177.se/Other-languages/Engelska/Regler-och-rattigheter/Vard-i-Sverige-om-man-ar-asylosokande-gomd-eller-papperslos/>

²³⁸ Olle Olsson and Jonas Eriksson, *Hälsa- och sjukvård åt asylsökande under år 2014*, (Stockholm: Sveriges Kommuner och Landsting, 2015) <http://skl.se/download/18.e79aa5215143dd034b46c84/1449741394836/SKL-asyluppfoljning-2015.pdf>

²³⁹ Interview with Anne Öster and Annelie Rostedt, Work and Social Affairs Office, Stockholm County Administrative Board, April 12, 2016

²⁴⁰ Interview with Christina Stahl, Director for Patient Questions, Department for Health, Region Skane, April 14, 2016; 1177 Vårdguiden, “Healthcare in Sweden for asylum-seekers, people with no papers and people in hiding”

²⁴¹ 1177 Vårdguiden, “Healthcare in Sweden for asylum-seekers, people with no papers and people in hiding”

²⁴² The Red Cross has encountered rumors that, for example, the checks are intended to weed out those with poor health, or conversely that the checks were mandatory, which caused a great deal of concern among those who had chosen not to

For health care providers, communicating with asylum seekers to notify them of their rights can be difficult. County authorities have complained that they are not always notified when new asylum seekers arrive in the county, particularly those who arrive through family reunification channels.²⁴³ According to the Association of Communities and Regions, prior to the fall of 2015, the Migration Agency would only provide counties with names and mailing addresses of new arrivals, which quickly became out of date if individuals moved during the reception process. In the last few months, the Migration Agency has begun to provide counties with email addresses and phone numbers of new arrivals as well.²⁴⁴

Authorities in some counties have also invested in efforts to better inform recognized protection beneficiaries of their rights. For example, Stockholm offers 12 hours of health care instruction as part of its civic introduction course for recognized refugees, and both Stockholm and Malmö employ health care communicators/coordinators who are responsible for visiting civics courses and reception centers and informing refugees and asylum seekers of their rights.²⁴⁵

Transportation can also pose challenges, particularly in rural areas; county authorities provide reimbursements for transportation costs, but some individuals may simply not have the money to pay up front.²⁴⁶ To counteract this barrier, Malmö has created mobile health units that travel to reception centers and rural towns to provide the health checks, although they are limited in the types of care they can provide and are often unable to deal with complicated conditions.²⁴⁷

Language can be another barrier. Patients who do not understand Swedish are to be provided with an interpreter free of charge,²⁴⁸ but maintaining a sufficient supply of qualified interpreters is a struggle for many municipalities.²⁴⁹ A lack of quality interpretation can be dangerous for patients who are unable to understand questions or instructions from care providers. Arabic interpreters are most in demand, but county authorities often report the most difficulties finding interpreters for more rare languages like Dari, Somali, and Tigrinya.²⁵⁰ Moreover, quality of interpretation can be highly varied as no common standards or certification requirements exist for interpreters.²⁵¹ Dental and emergency care are most affected by the shortage of interpreters, as are rural health services.²⁵²

complete a check. Interview with Ewa Jonsson, Senior Advisor on Migration, and Alexandra Segenstedt, Expert on Family Reunification, Swedish Red Cross, April 12, 2016

²⁴³ Interview with Anne Öster and Annelie Rostedt, Work and Social Affairs Office, Stockholm County Administrative Board, April 12, 2016

²⁴⁴ Interview with Karin Perols, Sveriges Kommuner och Landsting, April 12, 2016

²⁴⁵ Interview with Anne Öster and Annelie Rostedt, Work and Social Affairs Office, Stockholm County Administrative Board, April 12, 2016; and interview with Christina Stahl, Director for Patient Questions, Department for Health, Region Skane, April 14, 2016

²⁴⁶ Malmö authorities reported seeing cases where people don't show up because they cannot pay for transportation. Interview with Christina Stahl, Director for Patient Questions, Department for Health, Region Skane, April 14, 2016

²⁴⁷ Interview with Christina Stahl, Director for Patient Questions, Department for Health, Region Skane, April 14, 2016

²⁴⁸ While the right to an interpreter is not stipulated by law, health care regulations do require that information provided to patients takes into account an individual's age, maturity, and linguistic background. This provision has generally been interpreted to mean that patients should be provided with an interpreter when needed. Socialstyrelsen, *Tolkar för hälso- och sjukvården och tandvården: Kartläggning våren 2016*, Article No. 2016-5-7, (Stockholm: Socialstyrelsen, 2016), <http://www.socialstyrelsen.se/Lists/Artikelkatalog/Attachments/20184/2016-5-7.pdf>

²⁴⁹ Socialstyrelsen, *Tolkar för hälso- och sjukvården och tandvården*

²⁵⁰ Ibid.

²⁵¹ Ibid.

²⁵² Ibid.

Individual health care providers may also sometimes be hesitant to provide services to asylum seekers. Asylum applicants are entitled to visit either private or public providers; providers are then reimbursed for services by the county. But not all providers are aware of the provisions for reimbursement, and may be inclined to turn asylum seekers away if they are unfamiliar with the reimbursement system.²⁵³ There is also some disagreement between providers, the county, and the National Health Board regarding what qualifies as “care that cannot wait.” There is no standard definition regarding what conditions qualify, and it is up to the doctor to determine whether care is needed after consulting with the patient; in practice this means that care can vary between providers for the same condition.²⁵⁴

Impact of flows on the health care system

As in other service areas health care provision has been stretched by the surge in new arrivals over the last year, although county health officials report the effects have so far been manageable.²⁵⁵ While the high number of new arrivals has created capacity issues, more challenging for authorities has been the diverse and complex set of needs that asylum seekers bring with them.²⁵⁶ Some of the conditions or illnesses health care providers see among asylum seeking populations are unusual or occur in more advanced stages than is common in Sweden; reports of tuberculosis and antibiotic-resistant infections have increased, for example.²⁵⁷ Demand has been particularly acute for certain health services, such as dental and psychological care as well as obstetrics.²⁵⁸ Some counties have reported longer wait times for routine dental and gynecological treatment, although major impacts on wait times across health services have not been seen.²⁵⁹

3.5.4. Conclusions and Assessment of Impacts of Forced Migration

Sweden has, over the course of several decades, developed a highly complex, finely tuned, and liberal protection policy regime. The protections provided under Swedish asylum law are some of the most progressive in the world and extend well beyond Sweden's commitments as a signatory of the 1951 Convention. Some of these, such as protection from generalized violence under subsidiary protection status, are informed by EU standards and law, while others, including protection on the basis of environmental degradation, are unique to Sweden.

The rights and benefits that accompany refugee or other protected status in Sweden are robust and extensive, even by European Union standards—which are already relatively generous in international comparison. Permanent residency—and a path to citizenship—has long been a core component of refugee protection in Sweden, although this commitment has

²⁵³ Interview with Christina Stahl, Director for Patient Questions, Department for Health, Region Skane, April 14, 2016

²⁵⁴ Interview with Christina Stahl, Director for Patient Questions, Department for Health, Region Skane, April 14, 2016 and; Socialstyrelsen, *Vård för papperslösa – vård som inte kan anstå, dokumentation och identifiering vid vård till personer som vistas i landet utan tillstånd* (Stockholm: Socialstyrelsen, 2014), <http://www.socialstyrelsen.se/publikationer2014/2014-2-28>

²⁵⁵ Socialstyrelsen, *Hälso- och sjukvård och tandvård till asylsökande och nyanlända: Delrapport 2016*, Report No. 2016-5-1, (Stockholm: Socialstyrelsen, 2016), <http://www.socialstyrelsen.se/Lists/Artikelkatalog/Attachments/20148/2016-5-1.pdf>

²⁵⁶ Interview with Christina Stahl, Director for Patient Questions, Department for Health, Region Skane, April 14, 2016

²⁵⁷ An official from the Malmö county health board, for example, stated that providers there are facing conditions they haven't seen since the 1970s. High quality preventative care in Sweden generally catches many of these conditions before they become severe. Interview with Christina Stahl, Director for Patient Questions, Department for Health, Region Skane, April 14, 2016

²⁵⁸ Because many pregnant women arriving as asylum seekers have not had normal care during their pregnancies, babies born to women who are asylum seekers are more likely to be premature or to have a low birth weight, according to the National Health Board. Socialstyrelsen, *Hälso- och sjukvård och tandvård till asylsökande och nyanlända: Delrapport 2016*

²⁵⁹ Socialstyrelsen, *Hälso- och sjukvård och tandvård till asylsökande och nyanlända: Delrapport 2016*

lessened under the new asylum law. Recognized protection beneficiaries receive the same treatment under Swedish law and in Swedish social systems as other legal residents, and fully integrating protection beneficiaries into Swedish society, mainstream social services, and the labor market as quickly as possible is a top policy priority.

Effectively implementing both the high level of legal protection in the Swedish asylum system, as well as the deep commitments to the care and integration of recognized refugee populations, has required extensive investment in technical and regulatory infrastructure and a high level of sustained political commitment on the part of Swedish policy leaders. The financial, human, and physical resources and sophistication of the Swedish Migration Agency, the body responsible for implementing many aspects of asylum policy, are remarkable, and programs and initiatives implemented both by the Migration Agency and other key actors are continuously evaluated and adapted to meet changing needs and demands.

Yet the significant increase in asylum flows in the fall of 2015 may have called into question some of these investments and commitments. The scale of the flows and the rapidity with which they increased made living up to the high standards of the Swedish system nearly impossible in many areas. Social systems found their capacities strained not just by the increasing number of clients, but also by the diversity of the newly arrived population and their needs. In a system that centers on providing an individual assessment of each person's protection and support needs, complex or unusual cases multiply the demands on that system's capacity.

The short-term fiscal impacts are relatively clear: Expenditures by the state have increased dramatically as the growing demand on asylum and related services required additional financial support to step up services to meet new needs. The Swedish Audit office has estimated that direct expenditures by the government for migration and integration measures have more than doubled from SEK 15.1 billion in 2012 to 40.6 billion in 2016 (approximately USD 1.9 billion to 5 billion).²⁶⁰ Predictions by the IMF put expenditures on the asylum system at roughly 1 percent of GDP for 2016.²⁶¹

The effects have, however, been felt most concretely at the local level. Because asylum seekers and refugees have access to Swedish public services, the increased inflows have put acute pressure on some sectors, particularly education and health which are both managed at the local level. County health authorities, for example, have raised concerns regarding the costs of services provided to asylum seekers. While they do receive reimbursements from the national government,²⁶² these are paid at a fixed rate per asylum applicant and are not adjusted for actual needs or expenses. According to the Association of Counties and Municipalities,

²⁶⁰ Riksrevisionen, *Nyanländas etablering– är statens insatser effektiva?*, Report No. 2015:17, (Stockholm: Riksrevisionen, 2015), <http://www.riksrevisionen.se/sv/rapporter/Rapporter/EFF/2015/Nyanlandas-etablering-ar-statens-insatser-effektiva/>

²⁶¹ Shekhar Aiyar et al., "The Refugee Surge in Europe: Economic Challenges," (staff discussion note SDN/16/02, International Monetary Fund, January 2016), <https://www.imf.org/external/pubs/ft/sdn/2016/sdn1602.pdf>

²⁶² As of 2014, the Association of Counties and Municipalities reported county authorities were paid SEK 4215 (approximately USD 500) for each adult asylum seeker in the county (different rates applied to children and those over 61 years old), and an additional SEK 2070 (approximately USD 250) for each health check performed. Olsson and Eriksson, *Hälsa- och sjukvård åt asylsökande under år 2014*

expenses incurred by county authorities often exceed the amount of compensation they receive.²⁶³

Seen in a more positive light, however, the increase in spending may serve as an economic stimulus in the near term.²⁶⁴ Growing needs in the education, health, and social services has created a huge labor demand in these sectors. The pressure on the housing market also appears likely to spark a building boom. Residential construction, particularly of multi-family homes, increased nearly 50 percent in the first quarter of 2016 over the same quarter of 2015.²⁶⁵ And in April 2016, the government announced a further SEK 1.85 billion (approximately USD 225 million) in grants to municipalities designed to support the building of new homes in cities that have taken in refugees.²⁶⁶

Some counties have also begun to think creatively about other ways to provide services in order to relieve pressure on their systems. This points to another positive results of the recent increase in asylum flows: the pressure on public services has sparked a surge in innovation in many areas, and has created incentives to adjust regulations in other areas that have long been seen as unnecessary or counterproductive. Some schools, for example, have begun to experiment with distance learning or other tools that allow municipalities to share teachers or services.²⁶⁷ The government has also invested SEK 10 million (approximately USD 1.2 million) for 2016 in developing digital platforms to support language learning.²⁶⁸ Moreover, the influx of newcomers has prompted a long overdue conversation on how to address the severe housing shortage in Sweden, particularly in the public housing sector.

Some critical effects of the flows will not, however, emerge for several years. At the moment, most of those who arrived in late 2015 are still receiving support and housing from the Migration Agency. As their claims are assessed, responsibility for their care and integration will shift to the Employment Service and municipalities. The Employment Service has already predicted a dramatic increase in entrants to the introduction program in the coming years. They are currently enrolling over 2,000 new participants per month, and expect to have 120,000 participants (more than double their current caseload) by 2019.²⁶⁹ For its part, the Social Insurance Agency, which pays the introduction benefit as well as other supplementary benefits such as housing and child allowances, predicts its expenses will begin to rise starting in the fall of 2016 with the most significant impacts felt beginning in 2018. In total, they

²⁶³ The Association has thus called for reimbursements that are tied to actual expenses, rather than a fixed reimbursement rate. Olsson and Eriksson, *Hälsa- och sjukvård åt asylsökande under år 2014*

²⁶⁴ Aiyar et al., "The Refugee Surge in Europe: Economic Challenges"

²⁶⁵ Statistics Sweden, "New construction of residential buildings Started dwellings, 1st quarter 2016," updated May 19, 2016, <http://www.scb.se/en/Finding-statistics/Statistics-by-subject-area/Housing-construction-and-building/Housing-construction-and-conversion/New-construction-of-residential-buildings/Aktuell-Pong/5602/Behallare-for-Press/403291/>

²⁶⁶ Government Offices of Sweden, "Regeringen ger kommuner byggbonus för bostadsbyggande," updated April 21, 2016, <http://www.regeringen.se/pressmeddelanden/2016/04/regeringen-ger-kommuner-byggbonus-for-bostadsbyggande/>

²⁶⁷ Interview with Anne Öster and Annelie Rostedt, Work and Social Affairs Office, Stockholm County Administrative Board, April 12, 2016. This practice is, however, not permitted under current regulations, and the government is currently moving forward a proposal to make the sharing of such services legal. Government Offices of Sweden, "Fjärrundervisning och entreprenad – nya möjligheter för undervisning och studiehjälpling på modersmål," updated April 28, 2016, <http://www.regeringen.se/rattsdokument/proposition/2016/04/prop-201516173/>

²⁶⁸ Government Offices of Sweden, "Initiatives in the spring budget for more efficient introduction and reduced unemployment," updated April 13, 2016, <http://www.government.se/press-releases/2016/04/initiatives-in-the-spring-budget-for-more-efficient-introduction-and-reduced-unemployment/>

²⁶⁹ Interview with Jennie Larsson, Integration Researcher, Public Employment Service, April 13, 2016

predict a budget increase of SEK 80 million for 2018 and SEK 150 million for 2019 (approximately USD 9.8 million and 18.5 million, respectively).²⁷⁰

The long-term effects of the increased asylum flows will thus depend to a large extent on how well newcomers are integrated into the labor market and are able to become self-supporting.²⁷¹ There is the potential for positive economic and fiscal effects. The newly arrived asylum population has in recent years been very young (with over 80 percent below the age of 35 in 2015), and will have many working, and tax-paying, years ahead of them if they are successfully brought into the labor force. But protection beneficiaries have long struggled to integrate into the Swedish labor market, and economic outcomes for forced migrants are typically low. Concerns about economic exclusion among refugee populations have caused policymakers to invest heavily in programs and interventions designed to facilitate self-sufficiency. Time will tell whether these substantial investments will pay meaningful dividends.

Most critically, the challenges of the past year have drawn attention to an implicit tension within the Swedish system between the generosity of the protection policies and numbers of people who can effectively be provided with protection at such a high standard. Looking ahead, several factors are also likely to dictate the sustainability of Sweden's current approach to protection. First, while most authorities and stakeholders seem to view the current, reduced rate of arrivals as largely sustainable, many have expressed doubts that the system could withstand another surge in asylum flows like that seen in the fall of 2015. Should the pace of arrivals rise again, the capacity of the system will be rapidly exceeded. Second, in a system predicated on long-term acceptance of refugee populations, successful integration is critical. If the latest cohort of new arrivals is not rapidly and effectively integrated into Swedish society and institutions, and especially the labor market, it may call into question the sustainability of the system as a whole. The potential for the growth of a large unauthorized population of rejected asylum seekers that exists outside of the highly developed formal inclusion structures is a further risk. Finally, the consequences of the recent reforms for the functioning of the system itself remain to be seen. While the reforms purport to reduce demand for protection in Sweden, and thus provide some breathing room for the key elements of the protection system, key stakeholders have expressed concerns that the changes will in fact be detrimental by increasing the complexity of system (and making it more burdensome to implement) and by undermining the effectiveness of integration efforts.

²⁷⁰ Försäkringskassan, *Budgetunderlag 2017-2019*, (Stockholm: Försäkringskassan, 2016), https://www.forsakringskassan.se/wps/wcm/connect/924dbfea-6235-49da-8552-ac30e7a7819d/budgetunderlag_del_2_2016-02-19.pdf?MOD=AJPERES

²⁷¹ Aiyar et al., "The Refugee Surge in Europe: Economic Challenges"

CONCLUSIONS AND RECOMMENDATIONS

This report paints a picture of the incredible diversity of forced migration—from its scale, drivers, and legal frameworks—in and from the 57 countries that make up the Organisation for Islamic Cooperation (OIC). But despite key differences among countries and regions, there are several common challenges that have emerged, which are critical to a holistic understanding of the impact of and approach to managing forced migration in OIC and around the world.

Seven key trends in particular stand out:

1. Forced migration is a dynamic, complex, and **far from linear process**;
2. The international legal framework governing forced migration has remained static while the drivers have evolved significantly—placing an **ever greater burden on national and regional systems** to fill these gaps;
3. **National approaches to protection evolve over time**, based on both internal dynamics (changes to a country's identity or political dynamics) as well as external dynamics (involvement of regional bodies or donor countries);
4. Access to protection, legal status, and core rights thus **depends not just on where you are but also who you are**, even within the same country;
5. Protection in practice also depends as much on **implementation capacity** at the national and local level as on legal frameworks;
6. Beyond basic safety and respect for human rights, the most significant challenge for most forced migrants is the **ability to legally earn a living in displacement**—which requires a supportive policy framework from national governments, but can also benefit from significant investment and creativity from NGO and International Organization (IO) partners.
7. Finally, access to **safe and affordable housing** is deeply intertwined with other key poverty alleviation policy areas, including access to livelihoods, yet remains a major challenge in all of the case study countries.

This chapter will examine these trends in greater detail and draw a few lessons on how the case study countries, and OIC states more broadly, have tackled the challenges of forced migration. Finally, the chapter concludes with some initial recommendations on how to constructively manage forced migration.

I. Forced migration in OIC Countries

Migration is sometimes described in a linear way, with a single point of origin, transit, and destination. But the reality is much more complex. Forced migration, in particular, is an inherently dynamic process, through which individuals and families constantly acquire and adapt to new information about dangers and opportunities en route. In part, this is due to the fact that the drivers of forced migration are neither simple nor static. Issues such as civil war, political instability, and forced conscription often overlap with environmental degradation, mass poverty, and lack of livelihood opportunities—which can all become more or less salient over time. These may also coexist with persecution based on individual characteristics (religion, gender, sexual orientation, or ethnicity). Individuals may explore various resilience strategies to cope with these challenges before crossing an international border—so forced migration can occur months or years after triggering events (such as Syria's civil war). In some corridors, forced migration is circular, and can involve periods of return to the country of origin. Indeed, most refugees are first displaced within their own countries.

Further complicating matters, with nearly half of refugees in protracted situations of displacement, it has become much less meaningful to talk about “transit” as a temporary or short-lived stage of the journey. In fact, generations of children from OIC countries are being born into displacement or spending their formative years in countries of first asylum, and millions of adults spend years in limbo with interrupted work or training trajectories as a result. Life and livelihoods in transit can no longer be thought of as distinct from those in “destination,” and thus the legal protections and access to work and schooling opportunities in those places are more critical than ever.

OIC countries have been highly affected by these complex and shifting migration flows: OIC countries host over half of the world’s refugees.¹ For many, forced migration overlaps with already acute development challenges. Of the ten countries hosting the largest refugee populations—half of which are OIC countries—all are classified as developing economies by the UN. Many major hosts of refugee populations are thus already struggling to meet the needs of their own population. Uganda, for example, has long faced a shortage of school places even without the influx of additional refugee students.

Nevertheless, the protracted nature of most refugee situations means that most host countries have a vested interest in the success of their refugee populations. Unless forced migrants are given the opportunity to pursue stable socioeconomic lives, asylum countries may face the prospect of becoming long-term hosts to a dependent population that has become caught in the trap of multi-generational poverty. Measures to provide legal status to forced migrants, as well as access to basic rights and social services, are key to avoiding such a scenario.

II. Policy frameworks for providing legal status and access to protection

While not all OIC countries are signatories to the 1951 Convention,² most of them implicitly or unofficially respect the Convention’s core tenet: nonrefoulement. The fact that OIC countries host over half of the world’s refugees and asylum seekers³ testifies to this commitment. Furthermore, countries that have developed (or are in the process of developing) national asylum strategies, legislation, or institutions have clearly been influenced by the principles enshrined in the Convention, including the definition of who is a refugee.

Despite this broad agreement on the principles of protection, the manner in which protection frameworks and policies are implemented in practice varies widely. Both the 1951 Convention and related international protection legislation (such as the Convention Against Torture) require action by states at the national level to come into force. States thus have broad latitude in determining how forced migrants are treated within their own territory. The following takeaways have emerged from this research about how protection is accessed in practice:

1. Grounds for flight do not always match established asylum and refugee frameworks

The most obvious distinctions are between individuals who fulfill the refugee definition under the Convention⁴ and other groups of forced migrants. Individuals who are not at risk of persecution on account of one of the five recognized grounds will generally not be granted refugee status and its accordant rights, with just a few exceptions where countries such as Uganda and Sweden have chosen to broaden that definition.⁵ The lack of protection

¹ For a more detailed analysis of the effects of forced migration in the OIC, see Chapter 2

² OIC countries comprise half of the states globally who have not ratified the 1951 Convention.

³ Author’s calculation of UNHCR 2015 Mid-Year Trends annex tables, http://unhcr.org/myt15/#_ga=1.109208972.882962234.1454527865.

⁴ See Chapter 1

⁵ Both include protection on the basis of gender, and Sweden allows for refugee protection on the basis of sexual orientation as well. See Sweden and Uganda sections in Chapter 3.

frameworks for non-refugee forced migrants, such as those whose asylum claims have been rejected but are unable to return home, often leaves these individuals highly vulnerable without access to assistance or, at times, legal status.

While basic protection from refoulement is often available to non-refugee forced migrants via states' obligations under the Convention Against Torture or regional frameworks such as the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, the rights and benefits granted to those who receive other forms of status are usually lower than those for refugees. Asylum seekers who are waiting to have their claims to refugee protection recognized by the hosting state are also subject to different and often lesser legal frameworks and rights.

2. Access to protection, legal status, and core rights depends not just on where you are but also who you are, even within the same country.

Policies and legal frameworks can also vary for individuals *with the same protection needs* within one hosting country. The clearest example is the difference in assistance or recognition accorded to Internally Displaced Persons (IDPs) and recognized refugees, who at times co-exist in the same asylum country. IDPs who have been forced to relocate to another part of their home country may face many of the same challenges as refugees in accessing housing or the labor market, particularly where there are linguistic or cultural differences between those who have been displaced and the host community. Some countries, such as Uganda, have written specific protections and supports for IDPs into legislation—and some regional frameworks⁶ exist that grant certain rights to IDPs—but national practice and international assistance frameworks for IDPs are generally less well developed than those for refugees.

Perhaps more notably, differences in national protection practices can exist between *refugee* populations of different nationalities within the same country. With the exception of Sweden, asylum regimes in all of the case study countries have provisions that differ for certain nationalities. In some cases, such as Morocco, Turkey, or Uganda, deviations from the standard process were implemented specifically for particular flows.⁷ In Uganda, some nationalities have been granted refugee status on a *prima facie* basis because they entered as a part of a mass influx, while others were provided with individual status determinations. In Turkey and Morocco, the government has made a special process for Syrian refugees while normal procedures continue to apply to most other refugee groups.

In other countries, the differences in approach have rather been driven by a much more ad hoc approach to protection policy. Lacking a general asylum law, Jordan has instead granted slightly different rights and benefits to each new population that has sought refuge in the country. In many cases, these divergences in status among nationalities have been driven by historical, political, or cultural relationships between the country of origin and country of asylum that have predisposed governments to be more or less open to the population in question. Refugees from Syria and Iraq, countries with which Jordan has had long-standing trade and migration relationships, were initially welcomed generously and provided with support, such as subsidized access to education and health care, not available to other refugee groups. While such ties can benefit refugees fortunate enough to be of a preferred nationality, ad hoc policies will inevitably leave other refugee groups in a more vulnerable position.

⁶ For example, the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa.

⁷ See Turkey, Morocco, and Uganda sections in Chapter 3.

3. Protection in practice depends as much on institutional capacity to implement asylum policies as on legal frameworks themselves.

Even where comprehensive asylum legislation exists, the experiences of refugees and other forced migrants in practice will depend very much on the ability of asylum countries to carry out their commitments on the ground. Assessing refugee claims, providing documentation of status, and educating service providers about the rights of refugees and other forced migrants requires a certain level of capacity in terms of human resources, training, and physical infrastructure. In many countries, such as Morocco and Turkey, asylum regimes are still a “work in progress,” and full capacity to adjudicate claims and care for protection beneficiaries has yet to be realized. In all of the case study countries except Sweden, UNHCR continues to play a role in at least part, if not all, of the asylum adjudication and documentation process.

Beyond simply granting refugee status, providing access to other benefits and rights, like employment, generally requires accompanying regulation and legislation, which may not exist or may not be tailored to the unique circumstances of refugees and asylum seekers. In Turkey, a new regulation was required in order to provide work permits for Syrians, and in Jordan, although a regulation already exists that grants asylum seekers the ability to receive permission to work, the costs associated with the application are prohibitive for most asylum seekers and refugees.

Finally, beyond technical capacity to adjudicate protection claims, the scale and pace at which forced migration flows occur may overwhelm even the most developed governance system. The highly individualized asylum determinations usually demanded by a high-quality protection system are extremely time and resource intensive and may not be possible in an emergency situation. Even Sweden, with one of the most highly developed and well-resourced asylum systems in the world, found itself overwhelmed in the face of large-scale and rapidly increasing asylum flows in the fall of 2015.

4. Political shifts and internal dynamics can cause a country’s approach to protection to evolve over time.

Protection regimes, at both the national and international levels, are not static and can shift either gradually or abruptly based on the internal politics or other dynamics of the asylum country. Changes in public opinion driven by growing refugee numbers or political shifts may cause policies to move in a more restrictive direction, as has happened most recently in Sweden. In other cases, evolution in a country’s national identity—and a greater willingness to see itself as a “migration country”—can actually lead to more open protection policies. As a result, populations that arrived at different times may be subject to different legal standards and have access to different benefits and rights.

The perceived costs or “burdens” of forced migration have, for example, encouraged states to narrow or limit their grants of protection and associated benefits over time. Jordan has slowly withdrawn free or subsidized access to services for many refugee groups in the country out of concern over costs and potential competition between refugee and native-born populations for scarce public resources. In Sweden, the government has recently proposed large-scale reforms to the asylum system limiting the legal status and rights afforded to beneficiaries of protection due to public concerns that high standards were creating a “pull factor” drawing more asylum seekers to the country—a noticeable departure from the country’s stance just one year ago. Policies may also change as refugee situations become protracted. Kenya’s announcement in spring 2016 that it would be closing Dadaab camp—the largest refugee camp in the world—and repatriating Somali refugees is a prime example.

By contrast, changing conceptions of national identity, particularly with regard to migration, also matter. In Turkey and Morocco, a shifting self-understanding of each country as not only a transit point for migration flows to Europe, but also as host and destination countries in their own right has bolstered conversations around the creation of more comprehensive migration and asylum laws—and even small steps toward integration policies. Further afield, a multi-decade debate on whether or not Germany was an “immigration country” culminated in the summer of 2015 in a broad societal and political movement to welcome refugees arriving to Europe in large numbers.

5. Dynamics external to a country, including the involvement of regional bodies or donor countries, can also influence protection approaches

While regional bodies and protection frameworks are underutilized and ineffective in many contexts, there are some examples where they have successfully influenced national practice. In Uganda, the OAU Convention has resulted in a broadening of protection to include some categories of non-refugee forced migrants. Perhaps most notably, both the EU asylum legislation and the European Convention on Human Rights (ECHR), which are binding on their members, have had a substantial impact on asylum practice in Europe, including Sweden. Both bodies of legislation have a court of appeals which offers the opportunity for individuals to initiate legal challenges if they feel governments have violated their rights under the ECHR or EU law. Beyond shaping the drafting of protection legislation in Europe, the appeals courts have also had a direct impact on the practice of protection on the ground in European countries.

Outside of formal regional bodies, countries’ protection approaches may also be influenced by interested third countries, particularly those that are major donors of humanitarian assistance. At a practical level, funding from international donors may allow asylum countries to provide services, such as education in Turkey and Jordan, that might not otherwise be open to refugees. Politically, leverage from donors may convince asylum countries to alter policies on legal status or provide access to certain rights like the right to work. In Jordan, pressure from donor countries regarding the status of Syrians—as well as additional aid and trade concessions—persuaded the government to grant work permit fee waivers to Syrian refugees although other national groups that had not been the target of international debate were not accorded this same benefit. While in Morocco, domestic and international pressure following a poor human rights report on the treatment of migrants and refugees in the country helped to generate momentum for a whole-scale reform of the country’s migration regime.

III. The intersection of poverty and forced migration

Forced migrants’ circumstances outside their communities or countries of origin, as well as their often tenuous legal status, expose them to unique vulnerabilities and often put them at greater risk of social and economic marginalization.

The lack of a means to earn income and support themselves is a major vulnerability and risk factor for poverty for most forced migrants. In some cases, such as in Turkey and Jordan, practical or procedural barriers to obtaining work permits by refugees and asylum seekers (particularly non-Syrians) prevent these groups from earning a living in the formal labor market. In other countries, as in Sweden, Morocco, and Uganda, local labor market conditions may limit the opportunities for refugees to work or the quality of jobs available. Where refugees and asylum seekers do find work, they are often channeled into lower paid jobs or forced to take employment in the precarious informal labor market. Child labor is often reported as a coping mechanism among refugee communities, as has been seen among Syrian refugees in Jordan and Turkey. Without a steady source of income, refugees and asylum

seekers may also struggle to pay rent, as has been documented in Uganda, Sweden, and Jordan. Refugees and asylum seekers may thus find themselves forced to turn to poor quality or over crowded housing solutions, and are highly vulnerable to eviction and homelessness. This can magnify other vulnerabilities, such as health concerns, particularly for children.

Vulnerabilities can evolve or be exacerbated by the long-term nature of most displacement situations. Refugee households in Jordan and Turkey, for example, that borrowed money to cover their journeys or pay rent may find themselves in a situation of mounting debt as their costs accumulate and income remains non-existent or stagnant. For children, the costs of disrupted educational trajectories, limited access to school, or the poor quality of available education are compounded over time and can have long-term implications for their future ability to earn a living or integrate into society. Finally, protracted displacement and lengthy migration journeys may have a negative impact on the health of forced migrants, creating new vulnerabilities and protection needs. In Turkey and Sweden, for example, doctors have reported that refugees have developed chronic conditions over the course of their journeys due to the lack of adequate medical care, a problem that has particularly been documented with regard to pregnant refugee women who did not have access to prenatal care while traveling.⁸

Recognizing the manifest and compounding economic, social, and physical challenges faced by forced migrants, the 1951 Refugee Convention offers numerous protections for refugees with regard to access to work and social benefits and services—though these are unevenly applied in practice. For forced migrants who fall under other protection regimes, access to social support and services can be even more limited. What has emerged is a diverse patchwork of policies and practices implemented by national governments, often with help from international agencies and NGOs, aimed at reducing the vulnerability of forced migrant populations within their borders. Coverage of forced migrants under these policies is often uneven and insufficient to meet the scale of the need.

1. Strategies to mitigate the risks of poverty and vulnerability among forced migrant populations

The costs generally associated with forced migration journeys mean that most refugees and asylum seekers have few financial resources when they arrive in their asylum country. In some countries there are thus provisions to provide either in-kind or cash support to asylum seekers and refugees when they first arrive, although support varies substantially by country and often is subject to the availability of international assistance. Social assistance may also be available for families and individuals in extremely vulnerable circumstance even after they have spent time in the country, particularly if legal access to work is limited. Many countries rely on international agencies like UNHCR or the World Food Programme to provide support to vulnerable refugees. In Jordan, the World Food Programme, the International Rescue Committee, UNHCR, and other international organizations and NGOs provide cash or voucher assistance to vulnerable Syrian refugees. The challenge with assistance provided by international organizations, however, is that such assistance is highly dependent on the availability of funding and interest of donors, and support for assistance can thus disappear rapidly, even when the needs remain.⁹ Funding may also be more limited for some refugee populations than for other, more high-profile refugee situations, leading to disparities in the level of support provided to different populations. In countries with more robust social welfare systems, such support may be administered by the national government; Swedish

⁸ See Sweden and Turkey sections in Chapter 3.

⁹ The World Food Program, for example, has repeatedly been forced or has threatened to cut back food assistance for refugees in Jordan and Lebanon due to a lack of funding.

authorities, for example, provide supplemental cash assistance and housing to asylum seekers, and give two years of support (with conditions) to recognized protection beneficiaries.

Provisions also exist in most countries to provide refugees and asylum seekers with access to basic services such as education and health care. In all five case study countries, refugees had at least some access to services provided through mainstream national health and education systems. Practical barriers may, however, prevent their use. Fees can be a barrier to accessing health services, although some countries have waived fees for some or all refugee populations, and UNHCR and other organizations sometimes reimburse or cover fees.¹⁰ More importantly, many mainstream services lack the space to take in additional clients, particularly at the volume at which forced migration flows often occur. In most of the case study countries, with the exception of Sweden, international agencies and non-profits thus also provide either support or supplementary services that are open to refugees and asylum seekers in an effort to relieve the burden on national systems.

The most significant challenge for most forced migrant populations, however, remains the ability to earn a living in displacement. While reluctance to opening up labor markets remains high in many countries, some including Uganda and Sweden have made livelihoods development and employment a priority for refugee and asylum-seeking populations. Even in more reluctant countries, like Turkey and Jordan, some limited and ad hoc efforts are underway to assist refugees in finding opportunities to support themselves. Approaches to labor market entry and livelihoods development are, however, extremely varied and have met mixed success. In Uganda, all recognized refugees are granted a plot of land and tools to farm, with the expectation that they will be able to use these to become self-supporting. In Sweden, refugees are offered extensive language and work-skills training programs to support their entry into the labor market. In practice, however, both approaches have encountered obstacles, often stemming either from difficulties in the local economic context or the capacities of refugees themselves. Not all refugees in Uganda, for example, have a background in farming and many are in fact ill-suited to earn a living in this way. And in Sweden, the often low education levels of refugees make it difficult to match them with employment opportunities in the high-skilled Swedish economy in practice. Both cases speak to the need to utilize approaches to livelihoods development that are targeted to both the capabilities of refugees themselves and the local economic context.

Finally, outside of camps and settlements, housing remains a major gap. Where refugees live can have a dramatic influence on their access to livelihood and work opportunities. Cities provide the best economic prospects, and most refugees thus generally prefer the freedom and economic opportunities urban environments provide, even over the services, amenities, and security that may be more readily available camp environments. In Jordan, for example, 81 percent of Syrians are in urban areas.¹¹ Yet many countries with large refugee populations place restrictions on refugees' freedom of movement, either by limiting the availability of benefits outside of particular areas and camps or by restricting refugees' residence to certain regions. In Uganda, for example, social support is not generally available to refugees who choose to move off of the settlements, and Turkey and Jordan limit access to services for Syrians who move out of the region in which they are registered. Finding housing can be particularly challenging for refugees who choose to chart their own course. Some countries do have policies to provide assistance to refugees living in cities; in Morocco and Sweden, for example, refugees can access the mainstream social housing system. But such systems are often oversubscribed or simply do not exist even for natives in many asylum countries.

¹⁰ Jordan, for example, offered free medical care to Syrians, although this practice has recently been changed.

¹¹ UNHCR, "Registered Syrians in Jordan."

2. Challenges and lessons on implementing poverty alleviation strategies in policy and practice

Efforts to address vulnerabilities among refugee and asylum seeking populations have encountered numerous difficulties, not the least of which is the strain such flows often place on the services in asylum countries. The sheer scale of arrivals has been a challenge in many countries. While well-functioning systems can cope with a certain level of increase in demand,¹² flows that spike suddenly or reach an unmanageable scale can push services to the breaking point. Even before this occurs, forced migration flows have the potential to seriously exacerbate existing weaknesses. Access to education has been particularly difficult for refugees in Uganda, for example, in large part because school systems have long suffered from a shortage of capacity to meet the needs even of native-born students. And in Sweden, refugee flows have exacerbated an already acute housing shortage. More broadly, mainstream systems are also challenged by refugee and asylum seekers' unique needs. Interpretation services, for example, may not be available, and schools may struggle to deal with the needs of language learners or students with disrupted education backgrounds.

There is also a need for national policymakers to think about the sustainability of systems and investments, particularly where international organizations and agencies have set up parallel service systems to meet the additional needs of refugees. In the long term, investing in national systems, where possible, may be more sustainable, and the availability of international aid to assist with refugee crises may offer an opportunity to upgrade these systems more broadly (thus benefiting both natives and refugees). However, investments must be made in a sustainable way to ensure that services are able to function even after international support leaves. The situation of Palestinians and UNRWA, which cannot function without international donor support, offers a cautionary tale. Moreover, with the myriad of actors and agencies involved in service provision at the national, local, and international levels, coordination remains key to ensure that efforts aren't duplicating existing investments.

Finally, many programs and services, particularly in the area of livelihoods, suffer from poor evaluation and a broad lack of data. At the most basic level, data on the concrete numbers of refugees and other forced migrants residing in a country are often in dispute. More detailed demographic data on refugee populations—such as education levels or work histories—is nearly impossible to find, particularly at the country level. While international organizations have helped to fill some of these gaps with rapid needs assessments, particularly in emergency situations, such data is usually limited to the communities targeted for assessments and not comparable with assessments elsewhere in the country or in neighboring countries. Even less longitudinal data is available to track the socioeconomic outcomes of refugee populations over time, in part because refugees may not be included in national surveys (or such surveys may simply not be available in the host country), making it difficult to evaluate the effects of poverty alleviation efforts or protection policies over time. There is a need for more systematic data collection both on refugee populations and on the effects of forced migration on the communities where they live. Long-term evaluations that examine the actual effects of programs and investments, not just the number of beneficiaries they serve or their distribution goals, are essential to making smarter investments going forward.

¹² Health care services in Sweden, for example, have reported that while demand has risen markedly, it has not yet had an impact on their ability to provide timely and quality care.

IV. Recommendations

The following are a list of preliminary recommendations to national governments, as well as to the broader humanitarian and international community, which have emerged from this research:

- ***Legal status is crucial as a first step, but it isn't the whole story.*** Without legal status in an asylum country, refugees (and forced migrants more broadly) are by definition limited in their access to work and crucial services—and also lack the security and stability that a legal right to residence provides. In countries without asylum or protection frameworks, developing a system to determine protection needs and assign legal status is a crucial first step to dealing with forced migration. Even in countries that do have such legislation, there is a need to think harder about how to handle the situation of forced migrants whose protection needs do not match existing legal frameworks. Legislation alone is not enough, however. Without investments in regulations, staff, and infrastructure to implement protection laws, they will remain ineffective, and implementation must thus remain as much of a priority as legislation.
- ***Design policies to maximize the autonomy refugees have in their social and economic lives.*** The most successful strategies to alleviate poverty will provide refugees with some degree of autonomy and capitalize on, rather than fight against, their altogether natural desire for self-determination and control. Affording refugees with freedom of movement and residence, for example, will ensure they are able to take advantage of available livelihood opportunities no matter where they are located. Other measures, like providing social support in the form of cash grants rather than food rations, can also serve to increase refugees' autonomy.
- ***Utilize national service systems and poverty alleviation strategies to meet the needs of refugees as well as host communities.*** As asylum countries and the international community become increasingly aware that most displacement is now protracted, it has also become clear that maintaining separate service infrastructures for refugees and host communities is untenable in the long term. Moreover, the international assistance and financial support that refugees bring can be an opportunity to revitalize or expand struggling national systems. International donors should thus consider how they can work with national authorities and actors to open services to refugees, and national governments should consider how barriers to the use of services by refugees might be removed in a sustainable way. Such efforts will, however, need to be carefully thought through to ensure that service provision is sustainable, even after international financial assistance dwindles. Local service providers will also likely need additional support in order to cope with the more diverse needs of refugee populations.
- ***Provide sustained and holistic international support to enable asylum countries to meet their obligations.*** The scale and rapidity with which large-scale forced migration flows occur make it impossible for any country to handle registration, reception, and integration responsibilities alone. If asylum countries, particularly those in the developing world, are to undertake these responsibilities in a sustainable way, they will require support from the international community that goes beyond the traditional humanitarian "care and maintenance" approach or even the small-scale livelihoods and development approaches emerging most recently. Rather, financial and practical support will need to be provided at a systemic level both for migration and asylum management tasks (adjudicating claims and granting legal status) as well as support for the inclusion of refugees into basic support systems and local economies. Such large-scale support will require a high level of commitment from

donors, and it will thus be important for international donors as well as regional partner countries to internalize and communicate to publics the implications of allowing displaced populations to persist, sometimes for generations, in situations of poverty and vulnerability.

- ***Emphasize investments in livelihoods and labor market integration.*** The lack of a means to earn a living is one of the key challenges facing refugees and their families, and has implications for their vulnerability in other areas, including access to housing and education. Governments must thus think hard about how to provide opportunities for refugees to support themselves, whether through employment or self-driven economic activities. Again, providing the necessary legislation and regulations to allow for work—and educating employers and authorities about their provisions—will not be enough. In most situations, there will be a need for other supporting measures such as policies to help recognize refugees' credentials or skills, or to help them learn the local language or update their skills to better match local labor market needs. In whatever manner governments and service providers (including international agencies) choose to approach providing such assistance to refugees, it must be done in an informed and context-sensitive way that takes into account both refugees' existing capacities and local economic opportunities.
- ***Data collection on forced migration populations and evaluation of policies and interventions must be improved.*** Most national governments do not have authoritative statistics on the number or characteristics of refugees or IDPs in their countries, nor do they regularly carry out evaluations on the effects of forced migration. This is the first and most critical step to being able to design and implement better policies to serve both host and refugee populations. Moreover, interventions to assist refugees in accessing livelihoods or benefiting from national services can only be effective if they are informed by a thorough understanding of what works and what doesn't and the lessons of past experience. At a minimum, refugee and forced migrant population should be included in national labor force surveys and other assessments. In countries where such assessments do not exist or are not reliable, international agencies such as the World Bank or International Labor Organization may be able to assist host governments in developing and implementing these critical data collection tools.

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