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Refugees' Right to Work and Access to Labor Markets – An Assessment

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Refugees' Right to Work and Access to Labor Markets – An Assessment*

Roger Zetter and Héloïse Ruaudel†

Abstract

For refugees, the right to work is vital for reducing vulnerability, enhancing resilience, and securing dignity. Harnessing refugees' skills can also benefit local economic activity and national development. But there are many obstacles. Based on a sample of 20 countries hosting 70 percent of the world's refugees, this study investigates the role and impact of legal and normative provisions providing and protecting refugees' right to work within the 1951 Refugee Convention as well as from the perspective of non-signatory states. Three metrics analyze the principle determinants of the right to work and labor market access: refugee and employment law, policies and practices that facilitate or constrain the right to work, and mediating socioeconomic conditions.

Overall the study finds remarkable diversity in legal provisions and constraints on refugees' right to work. A restrictive approach to the right to work prevails, and most states are reluctant to ease these restrictions. The majority of refugees work in the informal sector, but under much less satisfactory and more exploitative conditions compared with nationals. Informal labor markets are also constrained in countries with fragile economies which often host large numbers of refugees. Based on its findings, the study concludes that more national and international coordination is required, multiple actors should share in the responsibility to deliver decent work, labor market policies as well as training and education should be harnessed to support sustainable livelihoods, and refugee social capital should be more effectively engaged.

Key words: Refugees, right to work, labor market access, refugee law, sustainable livelihoods

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Bangladesh

PROFILE

- **Not party to either the 1951 Convention relating to the Status of Refugees or its 1967 Protocol; no national legislation to deal with refugee issues.**
 - **31,958 refugees and approximately 200,000 people in refugee-like situations³ totaling 231,958 = 0.14 percent of total estimated population of 170 million.**
 - **The great majority of the protracted refugee population are Rohingyas, from North Rakhine State of Myanmar.**
 - **Refugees registered before 1992 are living in two camps in southern Bangladesh while the other 90 percent are nonregistered Rohingyas and live in settlements (makeshift sites outside the camps) and slums in the districts of Cox's Bazar, Chittagong, and Chittagong Hill Tracts.**
- **Human development rank and index: 142nd and 0.570**
 - **GDP: Growth 6.6 percent; Per capita US\$1,211.7**
 - **Lower-middle-income economy**
 - **Unemployment rate: 4.3 percent**

CONTEXT

The vast majority of refugees in Bangladesh are Rohingyas from Myanmar. Under Myanmar's nationality law, the Rohingyas are not considered citizens of Myanmar. About 30,000 Rohingya refugees who were registered by the United Nations High Commissioner for Refugees (UNHCR) before 1992 have been given temporary asylum by the government of Bangladesh and receive assistance in camps, pending a durable solution. The vast majority of Rohingyas who arrived subsequently were not registered as refugees and are treated as illegal migrants and do not receive assistance.⁴ They live in informal settlements near the camps or in towns and cities. Many of them are among the 230,000 who repatriated between 1993 and 2005 but have since returned to Bangladesh.⁵ After the outbreak of renewed violence against Rohingyas

³ The government categorizes the 300,000–500,000 unregistered Rohingyas as “illegal economic migrants.”

⁴ IRIN Analysis (2013) “How Bangladesh Aid Restrictions Impact Rohingyas,” www.irinnews.org/report/99157/analysis-how-bangladesh-aid-restrictions-impact-rohingyas.

⁵ Many of the registered Rohingyas have relatives living outside the camps, which results in a close network between some of the camp residents and those outside. Danish Immigration Services (2011), “Rohingya Refugees in Bangladesh and Thailand, Fact Finding Mission to Bangladesh and Thailand,” www.nyidanmark.dk/NR/rdonlyres/B08D8B44-5322-4C2F-9604-44F6C340167A/0/FactfindingrapportRohingya180411.pdf.

in Myanmar beginning in June 2012, many fled their homeland again, but Bangladesh did not allow them in.⁶ The situation of the undocumented Rohingyas in Bangladesh needs to be seen in the broader context of statelessness.⁷

There is virtually no prospect that the refugee situation in Bangladesh will be resolved by a durable solution, and since 1992 the government of Bangladesh considers repatriation to be the only solution. It continues to reject local integration and has put restrictions on mixed marriages between Rohingya refugees and Bangladeshi citizens through government orders and letters to the administrative authorities, allegedly to prevent Rohingyas from using marriage certificates to acquire citizenship and passports.⁸ Repatriation is still not a feasible and viable option given the volatile situation in Rakhine State and lack of political will of the government of Myanmar. Under the assumption that the resettlement program would attract an influx of people from Myanmar, in 2010 the government of Bangladesh suspended all resettlement activities.⁹ As of now, the resettlement door is closed in Bangladesh.¹⁰

Because of the living conditions in Bangladesh, thousands of Rohingyas travel by sea through irregular means toward Australia, Malaysia, and Thailand. Smugglers and traffickers have also sent Rohingyas to India, Pakistan, Saudi Arabia, and the United Arab Emirates.¹¹ Often traveling without proper documentation, they are at high risk of extortion, exploitation, and of being trafficked, and many have perished at sea.

⁶ Ashraful, A., and J. Fareha (2013) "Durable Solutions to the Protracted Refugee Situation: The Case of Rohingyas in Bangladesh," *Journal of Indian Research* Vol. 1, No. 4, www.academia.edu/5886047/Durable_Solutions_to_the_Protracted_Refugee_Situation_the_Case_of_Rohingyas_in_Bangladesh.

⁷ Apart from the Rohingyas, the Urdu-speaking community (known as Biharis) was in a de facto stateless situation, excluded from the body of citizens upon creation of the independent State of Bangladesh in 1971. In 2008 a High Court decision (Khan v. Election Commissioner) reaffirmed their nationality as Bangladeshi citizens and they were allowed to vote. At present, almost all members of the community possess Bangladesh nationality cards. UNHCR (2015) "Resolving Existing Major Situations of Statelessness, Good Practices Paper," www.refworld.org/pdfid/54e75a244.pdf.

⁸ In 2014, a government order issued by the Inspector General of the Registration of Marriages not only banned union between Bangladeshi nationals and Rohingyas but also, retrospectively, marriage between Rohingyas themselves, meaning registered marriages stand void; the UNHCR is closely following the issue and considers these restrictions to be a violation of universal rights to marry and form a family as enshrined in major international instruments that Bangladesh has ratified.

⁹ Resettlement was not available for Rohingya refugees in Bangladesh until 2006 and stopped in 2010, and thus only operational for five years. In 2013 the government of Bangladesh indicated the possibility of reviewing its position on resettlement, but no changes have occurred through the present day.

¹⁰ In 2015 the government of Bangladesh signaled that it might issue a refugee an exit permit to join his wife in Europe; however, the exit permit has not been issued to the concerned individual and no more developments have taken place. The UNHCR is closely following up with the concerned ministry.

¹¹ Lewa, C. (2008) "Asia's New Boat People." In "Burma's Displaced People," *Forced Migration Review* 30, www.fmreview.org/sites/fmr/files/FMRdownloads/en/FMRpdfs/FMR30/40-41.pdf.

1. LAW

Refugee Law

National legislation. Bangladesh is not party to either the 1951 Refugee Convention or its 1967 Protocol.¹² Bangladesh is, however, party to several of the international instruments, including the International Covenant on Civil and Political Rights, the Convention against Torture, and the Convention on the Rights of the Child, and, since 2014, the Convention on the Rights of Migrant Workers and Their Families, which all include rights against discrimination and for protection from persecution.¹³ The Constitution is silent on the rights of refugees and stateless people,¹⁴ and there is no domestic law to regulate the administration of refugee affairs or to guarantee refugee rights.¹⁵ In the absence of national legislation with specific provisions for refugees, the government relies on the Foreigners Act (1946) for all refugee-related matters. Although the Constitution in its Article 31 provides for the “protection of all persons on its territory,”¹⁶ in reality registered and unregistered refugees are two population types having different status. The protection of registered refugees relies on constitutional provisions and some domestic laws that are applicable to any person in the territory and not limited to citizens; for example, registered refugees in the camps have access to the court for extreme violations of their rights. The rights granted to them are, however, limited and do not always comply with international standards. On the other hand, unregistered or undocumented refugees have no access to protection at all given that the government of Bangladesh does not recognize them as refugees and treats them as illegal immigrants under the Foreigners Act (1946). Because of this illegal immigrant status, these people are always in fear of being arrested and detained for up to five years for illegal entry into Bangladesh; this situation bars them from seeking redress from any legal authority when any heinous crime is committed against them. Therefore, this population is de facto deprived of its rights.¹⁷

Institutions. The Office of the Refugee Relief and Repatriation Commissioner (RRRC), under the Ministry of Food and Disaster Management, oversees camp administration.¹⁸ Specifically, a resident Camp-in-

¹² Foreigners Act (1946) http://bdlaws.minlaw.gov.bd/pdf/216____.pdf.

¹³ Some of these conventions have been domesticated. For example, in line with the Convention on the Rights of the Child, Bangladesh enacted the Children Act 2013. In line with the Convention on the Elimination of all forms of Discrimination Against Women, there is also a domestic law on Prevention of Women and Children Repression Act 2000. In practice, some domestic laws are applicable to any person in the territory, whereas others are limited to citizens. For the protection of refugees, the UNHCR largely relies on the constitutional provisions that allow protection for all and a few other domestic laws that are not limited to citizens (information provided by the UNHCR).

¹⁴ Azad, A., and A. J. Tazrin (2013) “Employment and Integration of the Stateless: The Case of Rohingyas in Cox’s Bazar,” *The Chittagong University Journal of Social Sciences*, Vol. XXVIII, www.academia.edu/5847821/Employment_and_Integration_of_the_Stateless_the_Case_of_Rohingyas_in_Coxs_Bazar.

¹⁵ Phiri, P. (2008) “Rohingyas and Refugee Status in Bangladesh.” In “Burma’s Displaced People,” *Forced Migration Review* 30, www.fmreview.org/FMRpdfs/FMR30/34-35.pdf.

¹⁶ The 1972 Constitution of the People’s Republic of Bangladesh, www1.umn.edu/humanrts/research/bangladesh-constitution.pdf.

¹⁷ Information provided by the UNHCR.

¹⁸ United States Committee for Refugees and Immigrants (2009) “World Refugee Survey–Bangladesh,” www.refworld.org/docid/4a40d29f7f.html.

Charge of each camp works under the RRRC while, in practice, refugees are represented by elected Camp Management Committee/Block Management Committee members.¹⁹

Access to protection. The UNHCR’s legal status in the country is based solely on a Memorandum of Understanding concluded in 1993 and extended on an annual basis since that time.²⁰ The UNHCR provides protection and life-sustaining assistance to refugees residing in the two official camps, pending the identification of durable solutions.²¹ It also conducts refugee status determination on non-Rohingya asylum applicants and as of 2015 it provided support to some 96 refugees of various nationalities.²² While the UNHCR considers the larger group of undocumented Rohingyas to be of concern to the Office on the basis of their need for international protection and refugee-like situation, it has, however, not been permitted to register newly arriving Rohingyas since 1992 and is not allowed to support them with material assistance.²³ Despite their international protection needs as refugees based on the global mandate of the UNHCR, the government of Bangladesh has mandated the International Organization for Migration to implement some of the activities in the “National Strategy on Myanmar Refugees and Undocumented Myanmar Nationals in Bangladesh,” on the basis that the 300,000–500,000 undocumented Rohingyas are all economic migrants.²⁴

While the strategy places an emphasis on border security and its ultimate objective is to “facilitate their voluntary repatriation to Myanmar,” it also aims to ensure “enhanced coordination in the work of the Government, NGOs [nongovernmental organizations] and international organisations in addressing this protracted situation.” The government also acknowledges the importance of addressing in relevant

¹⁹ The CMC/BMC, elected in 2013, replace the Mahjees (unelected refugee leaders) that have exerted an authoritative and coercive form of camp leadership, UNHCR (2007) “Bangladesh: Analysis of Gaps in the Protection of Rohingya Refugees,” www.unhcr.org/46fa1af32.pdf.

²⁰ United Nations High Commissioner for Refugees (2012) “Submission for the Office of the High Commissioner for Human Rights’ Compilation Report—Universal Periodic Review for Bangladesh,” www.refworld.org/pdfid/508640242.pdf.

²¹ The government of Bangladesh is primarily responsible for ensuring the basic security of the refugees. However, the UNHCR’s protection activities include a broad area of work starting from registration, child protection, sexual and other forms of gender-based violence identification and response, legal protection, and basic services (education, health, livelihood, and so on). UNHCR (2015) “Global Focus Operations—South-East Asia-Bangladesh,” www.unhcr.org/pages/49e487546.html.

²² UNHCR “Bangladesh fact Sheet 2015,” www.unhcr.org/50001ae09.html.

²³ The UNHCR, however, advocates for the prevention of statelessness, more self-reliance opportunities, and durable solutions for these undocumented Rohingyas. UNHCR (2015) “Global Focus Operations—South-East Asia-Bangladesh,” www.unhcr.org/pages/49e487546.html.

²⁴ In 2013 the Bangladesh cabinet approved the National Strategy Paper on addressing the issue of Myanmar Refugees and undocumented Myanmar Nationals in Bangladesh. This strategy paper deals with four key elements: (1) listing of the undocumented Myanmar nationals, (2) meeting the basic needs of the listed individuals, (3) strengthening Bangladesh-Myanmar border management, and (4) sustaining diplomatic engagement with the government of Myanmar at bilateral and multilateral levels. Ministry of Foreign Affairs, Government of the People’s Republic of Bangladesh (2014) “National Strategy Paper on Myanmar Refugees and Undocumented Myanmar Nationals in Bangladesh,” <https://assets.documentcloud.org/documents/1363897/un-hr-bangladesh.pdf>.

international forums “the need for undocumented Myanmar nationals to receive basic humanitarian relief in Bangladesh pending their repatriation.”²⁵

Although many Rohingyas enter Bangladesh, every year there are reports that the Bangladeshi authorities are turning them back at the border, in violation of the entrenched *non-refoulement* principle of customary international law.²⁶

Freedom of movement. Registered refugees are living in the two government camps of Kutupalong and Nayapara. Although there is no law, regulation, or formal policy, registered refugees are arbitrarily confined to camps and must seek permission before leaving the camps;²⁷ only movement between camps is tolerated.²⁸ The Foreigners Act (1946) allows for the arrest and detention of foreigners, without exception for refugees, for security reasons and based on national immigration considerations.

Right to work – refugee and labor and employment law

Refugees registered before 1992 and undocumented Rohingya have no formal right to work in Bangladesh and are not covered by any Bangladeshi labor protection law; they are denied access to local markets and to credit from Bangladesh’s micro-finance institutions.²⁹ Refugees and foreigners are also not allowed to be self-employed, engage in trade, or own property.

2. POLICY AND PRACTICE

Constraining factors

The government’s policy, driven by concerns about the risk of new mass arrivals from Myanmar, has been to deter refugees’ access to labor markets.³⁰

Although registered refugees have been provided with training opportunities to start up small businesses in the camps, this training has offered limited prospects. In an attempt to promote self-reliance, in 2009 the UNHCR and the International Labour Organization conducted a joint livelihood assessment of refugees in the Kutupalong and Nayapara refugee camps, which led to the development of a detailed self-reliance

²⁵ Ministry of Foreign Affairs, Government of the People’s Republic of Bangladesh (2014) “National Strategy Paper on Myanmar Refugees and Undocumented Myanmar Nationals in Bangladesh,” <https://assets.documentcloud.org/documents/1363897/un-hr-bangladesh.pdf>.

²⁶ The Equal Rights Trust (2012) “Burning Homes, Sinking Lives, A Situation Report on Violence against Stateless Rohingyas in Myanmar and Their *Refoulement* from Bangladesh,” www.equalrightstrust.org/ertdocumentbank/The%20Equal%20Rights%20Trust%20-%20Burning%20Homes%20Sinking%20Lives.pdf.

²⁷ Kiragu, E., A. Li Rosi, and T. Morris (2011) “States of Denial, A Review of UNHCR’s Response to the Protracted Situation of Stateless Rohingya Refugees in Bangladesh.” United Nations High Commissioner for Refugees Policy Development and Evaluation Service, www.unhcr.org/4ee754c19.pdf.

²⁸ United States Committee for Refugees and Immigrants (2009) “World Refugee Survey–Bangladesh,” www.refworld.org/docid/4a40d29f7f.html.

²⁹ UNHCR and WFP (2013) “The Contribution of Food Assistance to Durable Solutions in Protracted Refugee Situations; Its Impact and Role in Bangladesh: A Mixed Method Impact Evaluation,” www.unhcr.org/510fceb9.pdf.

³⁰ UNHCR and WFP (2013) “The Contribution of Food Assistance to Durable Solutions in Protracted Refugee Situations; Its Impact and Role in Bangladesh: A Mixed Method Impact Evaluation,” www.unhcr.org/510fceb9.pdf.

road map.³¹ This strategy was, however, never effectively implemented because the authorities halted or suspended projects and activities that could enable the refugees to earn an income and acquire skills. By 2011, with the exception of rickshaw repair, income-generating activities within the camps were banned; the authorities also closed the majority of small shops run by the refugees and allowed only limited skills-development and training opportunities to continue.³² In 2012, no new training subjects were allowed despite advocacy by the UNHCR and partners, and in 2013 the government refused permission for grants to be provided to support refugees' small businesses.³³ These policies, combined with insufficient levels of assistance, have caused malnutrition in camps.³⁴

Movement restrictions and prohibitions on taking up work outside the camps put registered refugees who work illegally in danger of abuse and arrest.³⁵ As reported by a Rohingya employee of an international nongovernmental organization (NGO), "whenever we leave our homes to seek work, there are now two check posts even before we reach the first town. If we get caught, the police ask us for money or send us to jail."³⁶ Rohingyas are only able to get casual jobs for which they are generally underpaid, receiving approximately half the amount a Bangladeshi would earn for a similar job.³⁷

Refugee women face serious protection issues in Bangladesh, and undocumented refugee women and girls are particularly vulnerable to sexual and physical attacks. Many women-headed households are forced to engage in begging and sex work to survive. Refugee children and young girls are also often used and sometimes trafficked for domestic work. Refugee women are often reluctant to report sexual violence, and their lack of access to the police or justice system increases the risk of abuse.³⁸

³¹ Titled "Self Reliance Strategy for Rohingya Refugees and the Host Community, Cox's Bazar District, Bangladesh, 2010–2013."

³² In Kutupalong camp, some 75 refugee hawkers (micro-vendors) were forced to abandon their businesses while several training courses were suspended. Kiragu, E., A. Li Rosi, T. Morris (2011) "States of Denial, A Review of UNHCR's Response to the Protracted Situation of Stateless Rohingya Refugees in Bangladesh." United Nations High Commissioner for Refugees Policy Development and Evaluation Service, www.refworld.org/docid/4a40d29f7f.html.

³³ European Commission, "Protection, Essential Services and Durable Solutions for Refugees in Bangladesh, Action Document," https://ec.europa.eu/europeaid/protection-essential-services-and-durable-solutions-refugees-bangladesh-phase-iv-action-document_en.

³⁴ IRIN Analysis (2013) "How Bangladesh Aid Restrictions Impact Rohingyas," www.irinnews.org/report/99157/analysis-how-bangladesh-aid-restrictions-impact-rohingyas.

³⁵ United States Committee for Refugees and Immigrants (2009) "World Refugee Survey—Bangladesh," www.refworld.org/docid/4a40d29f7f.html.

³⁶ IRIN Analysis (2013) "How Bangladesh Aid Restrictions Impact Rohingyas," www.irinnews.org/report/99157/analysis-how-bangladesh-aid-restrictions-impact-rohingyas.

³⁷ IRIN Analysis (2013) "How Bangladesh Aid Restrictions Impact Rohingyas," www.irinnews.org/report/99157/analysis-how-bangladesh-aid-restrictions-impact-rohingyas.

³⁸ Refugees International (2011) "Bangladesh: The Silent Crisis, Field Report," http://static1.squarespace.com/static/506c8ea1e4b01d9450dd53f5/t/569e68cc89a60a34ab7edebf/1453222093514/041911_Bangladesh_The_Silent.pdf.

Facilitating factors

Some NGOs have provided assistance to undocumented Rohingyas, and their programs included the local Bangladeshi population as well as the Rohingyas.³⁹ However, in July 2012, the government of Bangladesh issued an order barring NGOs from assisting unregistered refugees.⁴⁰

Refugees' access to primary school education was informally allowed in the camps in 1999 and formalized in 2008. As of 2013, the government has permitted the first year of secondary education (Grade 6) to be offered in both refugee camps and has also given informal approval for Grade 7. Although a small improvement, it is of limited impact because refugees have no right to work and no right to further education. Rohingyas who are outside the camps do not have access to education.

3. MEDIATING CONDITIONS

Socioeconomic conditions

Refugees' access to the labor market is limited by strong competition for work, living space, and resources. Despite sustained economic growth, more than 30 percent of the population of Bangladesh still lives under the poverty line. The majority of Rohingyas have taken refuge in Cox's Bazar, one of the most remote and impoverished areas of Bangladesh, which has not benefited from the economic growth that has recently taken place in some other parts of the country.⁴¹

Hostility toward the refugees affects the unregistered population in particular. During 2010 a wave of intensifying violence and discrimination against Rohingya refugees drove refugees out of communities and into makeshift camps at the outskirts of the official camps. These anti-Rohingya sentiments have reportedly been growing over the past couple of years among the local population in Cox's Bazar. "Anti-Rohingya committees" have been formed, with Rohingyas being discriminated against for supposedly causing law and order problems, taking jobs that local people should be doing, and adversely affecting the environment.⁴²

Refugee profiles

In addition to the legal situation, illiteracy and lack of skills make it difficult for Rohingyas to find jobs.⁴³ Rohingyas suffer from social isolation within Bangladeshi society and as a result they have concentrated

³⁹ The International Organization for Migration has been coordinating support to the undocumented population, <https://www.iom.int/news/iom-provide-humanitarian-assistance-undocumented-myanmar-nationals-bangladesh>.

⁴⁰ Refugees International (2012) "Rohingya in Bangladesh: Maintaining the Status Quo; Squandering a Rare Opportunity," http://static1.squarespace.com/static/506c8ea1e4b01d9450dd53f5/t/56ab848ea12f44cab8e9cca/1454081167142/103012_Rohingya_In_Bangladesh+letterhead.pdf.

⁴¹ Ashraful, A., and J. Fareha (2013) "Durable Solutions to the Protracted Refugee Situation: The Case of Rohingyas in Bangladesh," *Journal of Indian Research* Vol. 1, No. 4.

⁴² Danish Immigration Services (2011), "Rohingya Refugees in Bangladesh and Thailand, Fact Finding Mission to Bangladesh and Thailand."

⁴³ Imtiaz, A. (2010) "The Plight of the Stateless Rohingyas: Responses of the State, Society & the International Community." University Press Limited.

in the Cox's Bazar area where their language is spoken. A small number of wealthier Rohingyas have settled in Chittagong city and reportedly hire other Rohingyas.⁴⁴

In spite of opposition from the government and local host community, some Rohingyas are being integrated into Bangladeshi society, mainly in two ways. First, those who have lived in Bangladesh for many years have made various efforts to blend into the population, so as not to stand out and to avoid discrimination and the stigma of being a Rohingya. They have, for instance, tried to assimilate their language to Chittagonian Bangla proper, and despite legal restrictions, some children also manage to go to secondary Bangla schools outside the camps. Some Rohingyas' efforts to disappear into the host community include passing themselves as Bangladeshis by fraudulently obtaining Bangladeshi national ID cards, birth or school certificates, and passports to buy land or travel abroad,⁴⁵ or through intermarriage with local Bangladeshis.

Employment is the second major integration process; many Rohingyas involved in informal jobs gradually become economically self-reliant.

4. OUTCOMES

Participation in the labor market

In practice, Rohingyas often receive tacit approval from local community leaders and authorities to access livelihood activities.⁴⁶ A 2012 UNHCR and WFP assessment found that "both registered and non-registered refugees were economically active to some extent and that food assistance and other external interventions, such as remittances, did not reduce the need for registered refugees to seek supplementary income, while unregistered Rohingyas who are largely without assistance had to work to meet their basic needs, despite the legal restrictions, and their implications, for both groups."⁴⁷

The 2012 assessment found that, compared with their undocumented Rohingya counterparts, registered refugees engaged in higher-skilled and less risky employment for overall higher wage rates. Floor mat making, soap production, carpentry, and mobile phone and rickshaw repairs are among the various activities found inside the refugee camps. According to the UNHCR there are also small shops in the camps selling various commodities and offering repair services. However, because opportunities are limited, refugees migrate for work outside the camps, especially to Cox's Bazar, while some travel to Chittagong.⁴⁸

⁴⁴ Imtiaz, A. (2010) "The Plight of the Stateless Rohingyas: Responses of the State, Society & the International Community." University Press Limited.

⁴⁵ There is a market for Bangladeshi documents for Rohingyas in the Cox's Bazar area, where passports can be fraudulently obtained for about US\$100; illegally obtaining Bangladeshi nationality documents became more difficult in 2008 when the government set up a nationwide database of citizens.

⁴⁶ UNHCR and WFP (2013) "The Contribution of Food Assistance to Durable Solutions in Protracted Refugee Situations; Its Impact and Role in Bangladesh: A Mixed Method Impact Evaluation," www.unhcr.org/510fceb9.pdf.

⁴⁷ UNHCR and WFP (2013) "The Contribution of Food Assistance to Durable Solutions in Protracted Refugee Situations; Its Impact and Role in Bangladesh: A Mixed Method Impact Evaluation," www.unhcr.org/510fceb9.pdf.

⁴⁸ Danish Immigration Services (2011), "Rohingya Refugees in Bangladesh and Thailand, Fact Finding Mission to Bangladesh and Thailand," www.nyidanmark.dk/NR/rdonlyres/B08D8B44-5322-4C2F-9604-44F6C340167A/0/FactfindingrapportRohingya180411.pdf.

The 2012 assessment highlighted that undocumented Rohingyas generally found informal jobs considered to be of far higher risk, such as high-sea fishing and unloading of ships, or labor intensive, such as work in salt factories, agriculture, or construction sites in urban areas.

These jobs were also found to be the least favored by host communities and registered refugees. Unregistered Rohingyas began working at a younger age than registered refugees with reported cases of child labor; they were also more economically active for longer periods.⁴⁹

It is reportedly still easier for Rohingyas to get jobs in Bangladesh than in Myanmar, and the female-headed households among undocumented Rohingyas have, on average, a higher employment rate than the local women.⁵⁰

SUMMARY AND CONCLUSION

Registered refugees and undocumented Rohingyas are officially denied the right to work, while refugees' unofficial employment inside and outside the camps has been tolerated.

However, refugees' engagement in the informal economy makes them vulnerable to very low wages and unethical employment practices, leaving them without recourse to legal protection if abused. Restrictions on the freedom of movement and access to education further compromise the possibility of self-reliance although limited positive change has taken place in 2013 in relation to education. Furthermore, various initiatives to facilitate their access to work have been suppressed or replaced by restrictive measures.

Nevertheless, both registered refugee and unregistered Rohingya groups are reliant on economic activity to support their livelihoods. Some Rohingyas have somewhat integrated into the labor market in the Cox's Bazar area and reportedly play a vital role in the construction and fishing industries, providing a source of cheap (and in many cases exploitable) labor, often engaging in work involving physical risks and hardship.

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⁴⁹ UNHCR and WFP (2013) "The Contribution of Food Assistance to Durable Solutions in Protracted Refugee Situations; Its Impact and Role in Bangladesh: A Mixed Method Impact Evaluation," www.unhcr.org/510fcefb9.pdf.

⁵⁰ Danish Immigration Services (2011), "Rohingya Refugees in Bangladesh and Thailand, Fact Finding Mission to Bangladesh and Thailand."

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Chad⁵¹

PROFILE

- **Party to the 1951 Convention relating to the Status of Refugees, the 1967 Protocol, and the Organization of African Unity Convention.**
 - **369,540 refugees and 2,898 asylum seekers totaling 372,438 = 2.65 percent of a total estimated population of 14 million.**
 - **Refugees in Chad are mainly from Sudan, the Central African Republic (CAR), and more recently Nigeria.**
 - **Various settlement options exist for refugees in camps, within communities, in sites within villages, and in urban areas.**
- **Human development rank and index: 185th and 0.392**
 - **GDP: Growth 1.8 percent; Per capita: US\$775.7**
 - **Low-income economy**
 - **Unemployment rate: 5.8 percent**

CONTEXT

Chad is a landlocked country that has been in a state of almost constant turmoil since its independence in 1960. It is located in a volatile region and some of its neighbors—Libya to the north, Sudan to the east, Central African Republic (CAR) to the south, and Nigeria to the west—have all generated large numbers of refugees.

Chad has a large population of Sudanese refugees, mostly displaced in 2003 and 2004 from the Darfur region; war between Chad and Sudan was officially declared in 2005 when both governments accused the other of harboring armed opposition groups. Newly arrived refugee populations are from CAR, which, beginning with the inception of the crisis in 2013, brought more than 100,000 individuals seeking refuge in the Chadian capital, Ndjamená, as well as in camps and villages in southern Chad. The Chadian government's decision to close the borders with Niger, Nigeria, and CAR because of military activities around the Lake Chad region has had significant economic consequences for Chad and made access more complicated, while the humanitarian corridors subsequently created were far away from populated areas.⁵² Other refugees are from West Darfur State and Nigeria, where thousands of people have fled

51. This case study has been revised to include developments through December 2016. Although their input was requested, UNHCR did not review this entry.

52. Among them were some "Chadian returnees" who had lived in CAR for several generations, Lesueur, T. (2014) "CAR: The Fate of Refugees in Southern Chad," International Crisis Group Blog, <http://blog.crisisgroup.org/africa/central-african-republic/2014/11/10/car-the-fate-of-refugees-in-southern-chad/>;

violence by the Islamic group Boko Haram. The spread of Boko Haram's violent attacks in northern Cameroon has forced some of the hosting Cameroonian population and Nigerian refugees to flee into Chad and caused a wave of internal displacement in Chad.⁵³

Refugees in Chad have limited prospects of achieving durable solutions. The ongoing intracommunity clashes in Darfur and the conflicts in CAR and northern Nigeria make voluntary repatriation unlikely for the majority of refugees. In 2015, the Chadian and Sudanese governments and the United Nations High Commissioner for Refugees (UNHCR) nevertheless revived a 2011 plan to facilitate the possibility of voluntary repatriation of Sudanese refugees in Chad and Chadian refugees in Sudan, through cross-border exchanges, visits of Sudanese and Chadians authorities to both refugees and returnees, as well as "go-and-see visits" for the refugees.⁵⁴ Resettlement is a solution limited to the most vulnerable cases despite attempts to implement group resettlement.⁵⁵ A 2015 Refugee International report indicates that "bureaucratic roadblocks prevent interested refugees from gaining Chadian citizenship."⁵⁶ Local integration is therefore limited to socioeconomic integration in the informal sector given that there is little scope for formal labor market integration; however, limited resources reduce the prospects for even that level of integration.

1. LAW

Refugee Law

National legislation. Chad's 1996 Constitution provides for asylum and forbids the extradition of "political refugees."⁵⁷ Adoption of a draft national refugee law has been stalled since 2007.⁵⁸

Institutions. Issues related to asylum seekers and refugees are handled by the government through the Commission Nationale d'Accueil, de Réinsertion des Réfugiés et des Rapatriés (CNARR) under the Ministry of the Interior, and Chad provides protection and assistance to refugees through the Détachement pour

UNHCR (2016) "2017 Planning Summary—Operation: Chad,"

<http://reporting.unhcr.org/sites/default/files/pdfsummaries/GA2017-Chad-eng.pdf>.

53. As of 2015, more than 2.5 million people have been displaced internally by the Boko Haram-linked crisis across the four nations of the Lake Chad region: more than 2 million in Nigeria, 50,000 in Niger, more than 81,000 in Cameroon, and more than 68,000 in Chad. The total number of refugees in Niger, Cameroon, and Chad is 172,690;

UNHCR News Stories (2015) "Lake Chad – New Violence, New Displacement," www.unhcr.org/560405546.html;

UNHCR (2015) "Nigerian Refugees in the Lake Region," UNHCR Chad Update,

<http://reliefweb.int/sites/reliefweb.int/files/resources/UNHCRChad-Nigeriasituation-March.pdf>.

54. There are nonetheless reports of some spontaneous returns in all directions (Sudan, CAR, and Nigeria) that are being monitored, UNHCR (2016) "Fact Sheet," www.unhcr.org/524d81849.pdf.

55. UNHCR (2009) "UNHCR Launches Resettlement of Refugees in Chad to the United States,"

www.unhcr.org/news/latest/2009/6/4a40f81b9/unhcr-launches-resettlement-refugees-chad-united-states.html.

56. Boyce, M., and A. Hollingsworth (2015) "Sudanese Refugees in Chad: Passing the Baton to No One," Refugee International Field Report,

https://static1.squarespace.com/static/506c8ea1e4b01d9450dd53f5/t/560b2d8de4b0a1d8c243a70b/1443573133844/150709_chad.pdf, 4.

57. Article 46, [www.icrc.org/applic/ihl/ihl-nat.nsf/0/f53b3f1871db6a6cc125707b004c77e8/\\$FILE/Constitution%20-%20Chad%20-%20FR.pdf](http://www.icrc.org/applic/ihl/ihl-nat.nsf/0/f53b3f1871db6a6cc125707b004c77e8/$FILE/Constitution%20-%20Chad%20-%20FR.pdf).

58. The national refugee bill was endorsed by the government and the UNHCR in 2013 but has not yet been enacted into law, Journal du Tchad (2013) "Tchad: Adoption d'un Projet de Loi sur l'Asile,"

www.journaldutchad.com/article.php?aid=4423.

la Protection des Humanitaires et des Réfugiés under the Ministry of Territorial Administration and Public Security.⁵⁹

Access to protection. The majority of refugees—arriving from CAR in the south and from Sudan in the east—are admitted on a *prima facie* basis and are thus automatically accepted as refugees by the government of Chad and enjoy the right to access health and educational services. Urban refugees are subjected to the refugee status determination process through CNARR and are granted the same rights as *prima facie* refugees once approved.⁶⁰

According to the UNHCR, the government of Chad has an open door policy toward refugees, and there have been no reported cases of *refoulement* to date.⁶¹

Freedom of movement. Although Chad is a member of the Community of Sahel-Saharan States, which calls for the “free movement of persons, capitals and interests of nationals of member States,” in actual fact, the entry of persons is subject to the receiving state’s discretion.⁶² Although not mentioned in any legislation, refugees have been required to obtain safe-conduct passes from CNARR before leaving camps, and authorities have effectively restricted movement in times of conflict and have also arbitrarily denied or refused to renew passes.⁶³

Right to work – refugee and labor and employment law

Chad’s labor law makes no specific reference to refugees’ right to work, only provisions related to foreigners at large.⁶⁴ According to Chadian labor law, employment of a foreign worker involves an application by the employer, which must include a copy of the person’s passport and entry visa and requires authorization from the Director of the Office National pour la Promotion de l’Emploi.⁶⁵ The reference to an entry visa implies that this requirement applies to foreigners other than refugees, and that refugees have access to the labor market under the same conditions as nationals. Furthermore, despite these specific conditions, and with the exception of employment in the domains of defense and security, nationality should not act as a deterrent for recruitment, the conduct and distribution of work,

59. UNHCR Global Appeal 2014–2015—Chad, www.unhcr.org/528a0a22b.html.

60. The Henry M. Jackson School of International Studies Task Force (2014) “Pathways to Security, Closing Gaps in Protection for Forced Migrants,” University of Washington, <https://digital.lib.washington.edu/researchworks/bitstream/handle/1773/25316/Task%20Force%20F%202014.pdf?sequence=1>.

61. Chad has a Memorandum of Understanding with the UNHCR, reiterating the government’s commitment to protecting asylum seekers against *refoulement*, United States Committee for Refugees and Immigrants (2009) “World Refugee Survey—Chad,” www.refworld.org/docid/4a40d2a271.html.

62. www.au.int/en/recs/censad.

63. United States Committee for Refugees and Immigrants (2009) “World Refugee Survey—Chad,” www.refworld.org/docid/4a40d2a271.html.

64. Loi no 38/PR/96 du 11 décembre 1996 portant Code du Travail, www.ilo.org/dyn/natlex/docs/WEBTEXT/47297/65070/F96TCD01.htm.

65. Décret N°191/PR/MFT/96 du 15/04/96 réglementant les conditions d’embauche, http://onapetchad.com/5/texte_et_reglement.

vocational training, promotion and remuneration, the granting of benefits, discipline, or termination of the employment contract.⁶⁶

According to the U.S. Committee for Refugees and Immigrants, “labor legislation applies equally to refugees and nationals” and as such refugees are allowed to work and enjoy the benefits of labor legislation.⁶⁷ Given that no provision has been found in the labor code dealing with refugees, the assumption is that refugees have the right to work based on the 1951 Convention relating to the Status of Refugees to which Chad is a party. Like nationals, refugees can own businesses provided that they obtain the requisite licenses, which usually requires UNHCR intervention.⁶⁸ The labor code explicitly protects all workers, including foreign and illegal workers, and Chad has ratified the International Labor Organization’s (ILO’s) Employment Policy Convention, 1964 (No. 122), which promotes full, decent, productive, and freely chosen employment and the ILO’s Social Security (Minimum Standards) Convention, 1952 (No. 102), which establishes the minimum standard for the level of social security benefits and the conditions under which they are granted, as well as the principle of equality of treatment between nonnational and national residents.

2. POLICY AND PRACTICE

Constraining factors

In theory the Chadian government allows refugees to work, but in practice protections under refugee and labor laws are not always respected and discrimination persists.

For more than a decade, refugees in camps have received assistance in the form of food rations, shelter, nonfood items, water, health care, education, and protection, which, over time, has reinforced their dependence on aid. However, in 2014 food rations were cut by up to 60 percent in some areas because of a funding shortfall, and although some support was provided through self-reliance programs (see below) many refugees were forced to work to eat.⁶⁹ The need to make refugees more self-sufficient is, however, facing two major obstacles. The first is that only limited livelihood opportunities are available in eastern Chad,⁷⁰ an area that remains underdeveloped, with the result that “the communities that refugees are meant to join are some of the poorest in the world, with extremely weak institutions, markets, and social services.”⁷¹ The second related obstacle is that even though this

66. Article 6 de la Loi no 38/PR/96 du 11 décembre 1996 portant Code du Travail, www.ilo.org/dyn/natlex/docs/WEBTEXT/47297/65070/F96TCD01.htm.

67. United States Committee for Refugees and Immigrants (2009) “World Refugee Survey—Chad,” www.refworld.org/docid/4a40d2a271.html.

68. United States Committee for Refugees and Immigrants (2009) “World Refugee Survey—Chad,” www.refworld.org/docid/4a40d2a271.html; and United States Committee for Refugees and Immigrants (2008) “World Refugee Survey—Chad,” www.refworld.org/publisher,USCRI,,TCD,485f50c98a,0.html.

69. The reduction of food aid has affected the most vulnerable refugees, manifested in critical levels of acute malnutrition.

70. Non-agricultural livelihood options are especially limited.

71. Eastern Chad, especially the refugee-hosting areas, has not been prioritized in the National Development Plan, Boyce, M., and A. Hollingsworth (2015) “Sudanese Refugees in Chad: Passing the Baton to No One,” Refugee International Field Report, https://static1.squarespace.com/static/506c8ea1e4b01d9450dd53f5/t/560b2d8de4b0a1d8c243a70b/1443573133844/150709_chad.pdf, 6.

transition to self-reliance for refugees in Chad is commendable, aid and development agencies have only recently begun to support it, and it is hampered by the lack of development actors working in eastern Chad.⁷²

For refugees who may be seeking employment in the formal sector, anecdotal evidence suggests delays in the recognition of foreign qualifications. These delays have been reported in the health sector, where the accreditation of foreign-trained health care workers by the Chadian Ministry of Health had stalled, creating a large backlog of potentially qualified doctors and nurses. Shortages of health personnel are most notable in refugee-hosting areas, and this gap is reportedly currently being filled by humanitarian workers, a situation that is not sustainable in the long term.⁷³

Because employment opportunities inside the camps are either nonexistent or very limited, refugees are seeking employment in towns or cities, mainly working in the informal economy.⁷⁴ Although Chad has ratified the ILO's Minimum Age Convention (No. 138) and the Worst Forms of Child Labor Convention (No. 182), and while prohibited under national law, in practice, child labor remains a major problem because of the lack of enforcement and insufficient labor inspection.⁷⁵ Many refugee children end up working for Chadian families to help their own families survive. For example, in Iridimi camp in eastern Chad, a teacher reported that "only 26 out of 59 children are coming to school, the others are working at the market of Iriba, the nearby town."⁷⁶

Sudanese refugee women and girls suffer from low social status, with limited rights and economic power. Women's disempowerment contributes to gender-based violence.⁷⁷ The UNHCR reported that a large group of women and girls left Iridimi camp to stay in the nearby town of Iriba, seeking work opportunities during the day such as brick making, building walls, carrying water, cutting wood, or carrying out other domestic chores. There have also been reports of abuse and exploitation at the hands of local inhabitants, and some women have not received their wages. A number of these refugee girls have become prostitutes and engaged in "survival sex."⁷⁸ Although Chad has ratified the UN Optional Protocol to the Convention

72. Boyce, M., and A. Hollingsworth (2015) "Sudanese Refugees in Chad: Passing the Baton to No One," Refugee International Field Report, https://static1.squarespace.com/static/506c8ea1e4b01d9450dd53f5/t/560b2d8de4b0a1d8c243a70b/1443573133844/150709_chad.pdf.

73. Boyce, M., and A. Hollingsworth (2015) "Sudanese Refugees in Chad: Passing the Baton to No One," Refugee International Field Report, https://static1.squarespace.com/static/506c8ea1e4b01d9450dd53f5/t/560b2d8de4b0a1d8c243a70b/1443573133844/150709_chad.pdf.

74. United States Committee for Refugees and Immigrants (2009) "World Refugee Survey—Chad," www.refworld.org/docid/4a40d2a271.html and United States Committee for Refugees and Immigrants (2008) "World Refugee Survey—Chad," www.refworld.org/publisher,USCRI,,TCD,485f50c98a,0.html.

75. United States Department of Labor (2015) "2015 Finding on the Worst Forms of Child Labor—Chad," Bureau of International Labor Affairs, <https://www.dol.gov/sites/default/files/images/ilab/child-labor/Chad.pdf>

76. UNHCR news (2014) "La faim, et des Choix Difficiles, Pour les Réfugiés Luttant Pour Leur Survie en Afrique," www.unhcr.fr/53b2cadcfe.html.

77. Boyce, M., and A. Hollingsworth (2015) "Sudanese Refugees in Chad: Passing the Baton to No One," Refugee International Field Report, https://static1.squarespace.com/static/506c8ea1e4b01d9450dd53f5/t/560b2d8de4b0a1d8c243a70b/1443573133844/150709_chad.pdf.

78. UNHCR Tracks (2014) "A Risky Quest for Food," <http://tracks.unhcr.org/2014/07/a-risky-quest-for-food/>.

on the Rights of the Child on the sale of children, child prostitution, and child pornography, enforcement is largely absent.

Facilitating factors

The protracted situation for the majority of refugees in Chad, combined with the reduction of available resources, has led the UNHCR to advocate for the greater autonomy of refugee populations (self-reliance) by enhancing livelihood opportunities, including through the promotion of agricultural production, income-generating activities, freedom of movement, capacity building, provision of land, and vocational training.⁷⁹ The Chadian government has adopted this self-reliance approach and has granted refugees and returnees access to arable land for agricultural production and provided broader support for agriculture in refugee-hosting areas and developed social and economic integration strategies.⁸⁰ Through the project Seeds for Solutions, launched in 2014 by the UNHCR and implemented by the Lutheran World Federation, more than 37,000 families, both refugees and host population, have been allocated more than 26,000 hectares of arable land and hundreds of tons of seeds, and thousands of agricultural toolkits have been distributed. Connecting humanitarian and development work, the project also provided professional training and entrepreneurship to refugees and host population youth between the ages of 17 and 35 willing to learn a trade in construction, carpentry, mechanics, building, masonry, electricity, sewing, and hair styling.⁸¹

Chad has agreed to seek alternatives to camps, allowing refugees to settle in host communities and access basic community services.⁸² The UNHCR is supporting the government in this endeavor and has focused on promoting peaceful coexistence of the local population and the refugees who work alongside one another. The refugee agency is also encouraging efforts to facilitate refugees' freedom of movement.⁸³ In the south, although the majority of refugees live in six camps and in N'Djamena, some 6,500 refugees live in 16 Chadian villages with access to farmland and are benefiting from assistance similar to that received by refugees in camps, including nonfood items, food rations, and livelihood and self-reliance projects. In the east, however, the strategy faces difficulties because of lack of resources and limited access to arable land.⁸⁴

3. MEDIATING CONDITIONS

Socioeconomic conditions

Chad is one of the poorest countries in the world, ranking 185th out of 188 countries in the UN's Human Development Index, with 64 percent of its population living in poverty. The country's agricultural

79. UNHCR (2014) "Encouraging Self-Reliance," UNHCR Global Report 2014, www.unhcr.org/5575a7888.pdf.

80. Agriculture accounts for about half of Chad's GDP and employs 83 percent of the population.

81. The Seeds for Solution project focused on farming, animal health, and professional training; it emphasized rain-fed farming and vegetable production through small-scale irrigation schemes in Eastern Chad and in Southern Chad, UNHCR (2016) "Chad Farming Project Empowers Sudanese Refugees and Locals," www.unhcr.org/news/stories/2016/8/57b2e6264/chad-farming-project-empowers-sudanese-refugees-locals.html; the project ended in December 2016, The Lutheran World Federation (2016) "Together in Hope," Annual Report, <https://www.lutheranworld.org/sites/default/files/lwf-annual-report-2016.pdf>.

82. UNHCR 2015 Global Appeal Update, www.unhcr.org/5461e5ff0.pdf.

83. UNHCR (2015) Global Appeal, Country Operation Profile—Chad, www.unhcr.org/pages/49e45c226.html.

84. UNHCR Fact Sheet (2015) www.unhcr.org/524d81849.html.

production is insufficient to meet the needs of Chad's growing population, and the refugees' presence weighs heavily on the country's limited resources, putting pressure on local communities. Living conditions for refugees and host communities alike are very difficult, with food insecurity and a lack of livelihood opportunities being just a few of the challenges they face. Furthermore, the mass repatriation of some 150,000 Chadians triggered by the Libyan conflict caused the labor market to become saturated, largely in the informal, low-skilled sectors, and affected trade between Chad and Libya.⁸⁵ And in 2013 and 2014, the country was faced with some 110,000 Chadian migrants returning from CAR.

Some 200,000 Sudanese refugees arrived during 2003–04 in eastern Chad, a severely underdeveloped region. Their numbers increased, and in 2013 alone the UNHCR registered 36,000 new arrivals and reported the birth of some 70,000 Sudanese in exile. In some departments they make up half of the population.⁸⁶ The great majority of these refugees live in the Sahel, a wide region south of the Sahara Desert, where they face recurrent food crises as a result of "climate change, environmental degradation, drought, floods, poorly functioning markets, low agricultural productivity, poverty and conflict [which] have seriously eroded the ability of households to withstand repeated and increasingly frequent shocks."⁸⁷ Local populations share pasture land with the refugees, and the presence of nomadic herders who graze animals on the land refugees are farming often leads to violence between the two groups.⁸⁸

In comparison, refugees living in the south, mostly from CAR, have more possibilities to sustain themselves because more arable land is available for them to farm.⁸⁹ They are able to feed their families, generate income to pay for their children's education, and offset the ration cuts.⁹⁰

Refugee profiles

Along the border with Sudan many refugees share history, culture, resources, and even family ties with Chadians. For instance, many of the Sudanese Zaghawah refugees who have fled from Darfur are actually Chadians who initially fled to Sudan to escape Chad's incessant civil wars and insurrections since independence in 1960.⁹¹

85. UNHCR (2014) "Submission for the Office of the High Commissioner for Human Rights' Compilation Report— Universal Periodic Review for Chad," www.refworld.org/pdfid/514ac48c2.pdf.

86. Boyce, M., and A. Hollingsworth (2015) "Sudanese Refugees in Chad: Passing the Baton to No One," Refugee International Field Report, https://static1.squarespace.com/static/506c8ea1e4b01d9450dd53f5/t/560b2d8de4b0a1d8c243a70b/1443573133844/150709_chad.pdf.

87. The Sahel stretches from Mauritania to Eritrea, including Burkina Faso, Chad, Mali, Niger, Nigeria, Senegal, and Sudan, a belt dividing the Sahara desert and the savannahs to the south, United Nations (2013) "Report of the Secretary-General on the Situation in the Sahel Region," www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2013_354.pdf, 3.

88. The problem is not specifically related to the refugee-host relationship; within the national population, conflict between settled farming communities and nomadic herders is common, Rural Poverty in Chad, Rural Poverty Portal, www.ruralpovertyportal.org/country/home/tags/chad.

89. IRIN (2014) "New Thinking Needed on Food Aid for Refugees in Africa," www.irinnews.org/fr/report/100314/new-thinking-needed-on-food-aid-for-refugees-in-africa.

90. UNHCR Tracks (2014) "A Risky Quest for Food," <http://tracks.unhcr.org/2014/07/a-risky-quest-for-food/>.

91. IRIN (2004) "Special Report II: Chad and the Darfur Conflict," IRIN In-Depth on the prospects of peace in Sudan, www.irinnews.org/fr/node/216422.

Refugees and host populations, especially in southern and southeastern Chad, rely on common activities, namely agriculture, along with livestock farming, fishing, hunting, and gathering wild foods.⁹² Though many of the refugees and locals share ethnicity and language, resource scarcity has pushed them into conflict.

4. OUTCOMES

Participation in the labor market

Most Sudanese refugees were involved in agriculture before their exile, and it has remained their primary livelihood in Chad. During the planting and harvest seasons, half of the refugees commonly leave the camps in search of farm work, often for several months at a time, and, in return for access to land, they typically pay Chadian landowners either half of their harvest or the equivalent in cash.⁹³

Urban refugees are generally well integrated within the host communities and are involved in various income-generating activities such as catering, hairdressing, music, and small-scale trading.⁹⁴

SUMMARY AND CONCLUSION

In Chad, refugees and asylum seekers are permitted to work, although this right is not enshrined in national legislation on refugees. Most refugees are working in the informal sector where they are vulnerable to abuse and exploitation.

Proactive efforts to promote refugees' self-reliance and strengthen their resilience, and that of their host communities, including government policies on land allocation and alternatives to camps, supported by the UNHCR, indicate a shifting agenda. However, several factors limit refugees' ability to become self-reliant, including Chad's harsh socioeconomic realities and the scarcity of water, firewood, and arable land, which intensifies competition and conflict between refugees, returnees, internally displaced persons, and their host communities. As a result, the majority of refugees in Chad continue to depend almost entirely on humanitarian assistance for their basic needs.

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92. WFP (World Food Programme) and UNHCR (2012) "Contribution de l'Assistance Alimentaire aux Solutions Durables dans les Contextes de Refugiés de Longue Durée : Impact et Rôle au Tchad," Evaluation d'impact-Méthodes mixtes. Vol. I. Rapport d'Evaluation.
<http://documents.wfp.org/stellent/groups/public/documents/reports/wfp254482.pdf>.

93. Boyce, M., and A. Hollingsworth (2015) "Sudanese Refugees in Chad: Passing the Baton to No One," Refugee International Field Report,
https://static1.squarespace.com/static/506c8ea1e4b01d9450dd53f5/t/560b2d8de4b0a1d8c243a70b/1443573133844/150709_chad.pdf.

94. UNHCR (2005) "Global Appeal 2005," www.unhcr.org/41ab28e40.pdf.

https://static1.squarespace.com/static/506c8ea1e4b01d9450dd53f5/t/560b2d8de4b0a1d8c243a70b/1443573133844/150709_chad.pdf.

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Ecuador

PROFILE

- **Party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol, and party to the Cartagena Declaration on Refugees 1984.**
- **53,191 refugees, 68,344 people in refugee-like situation, and 11,583 asylum seekers totalling 133,118⁹⁵ = 0.82 percent of a total estimated population of 16 million.**
- **Flow of Colombian asylum seekers remains high although access to asylum has become more difficult since changes in the Refugee Law in 2012.**
- **Refugees spontaneously and widely settled across the country.**

- **Human development rank and index: 88th and 0.732**
- **GDP: Growth 0.3 percent; Per capita US\$6,248.1**
- **Upper-middle-income economy**
- **Unemployment rate: 4.6 percent**

CONTEXT

Ecuador hosts the largest refugee population in Latin America, according to one estimate 250,000 people—almost double the official figures noted above.⁹⁶ Following the international trend, some 60 percent of the refugees are estimated to live in urban areas.⁹⁷ Underscoring the size of the refugee population is the fact that, at US\$22.5 million in 2015, Ecuador accounts for the second-highest UNHCR budget for Latin America, after Colombia.⁹⁸

⁹⁵ Data on refugee populations for end 2014, not mid-2015 as per other case studies.

⁹⁶ Asylum Access (2014) Ecuador, http://asylumaccess.org/wp-content/uploads/2014/09/FINAL_Global-Refugee-Work-Rights-Report-2014_Interactive.pdf. The same source in another report indicates a smaller number with only 88,000 in refugee-like situations in addition to registered refugees, “Global Refugees Work Rights Report,” (2014), Asylum Access and the Refugee Work Rights Coalition, p. 25, <http://reliefweb.int/report/world/global-refugee-work-rights-report-2014-taking-movement-theory-practice>.

⁹⁷ Feinstein International Center (2012) “Refugee Livelihoods in Urban Areas: Identifying Program Opportunities. Case Study Ecuador,” Feinstein International Center, Friedman School of Nutrition Science and Policy, Tufts University, Somerville, MA, http://fic.tufts.edu/assets/PRM_report_Ecuador_resized.pdf.

⁹⁸ Colombia accounts for almost one-third of the Latin American total, US\$31.5 million out of US\$95.3 million, 2015 UNHCR Regional Operations Profile – Americas, <http://www.unhcr.org/pages/4a02da6e6.html>.

The vast majority, 98 percent, of registered refugees come from Colombia⁹⁹ and enter Ecuador across its northern border, a situation that accentuates the country's security concerns. However, despite the easing of tension between the two countries over cross-border movements, in recent years Ecuador has increased its military presence along the border. This increase has been in response to the insecurity created by the spillover effects of the Colombian conflict, the activity of armed groups, and the illegal cross-border activity caused by differences in the currency exchange rates (peso-dollar). In the past five years the asylum and protection space for Colombian refugees in Ecuador has deteriorated. A more restrictive Refugee Decree, No. 1182 adopted in 2012, followed by partial derogation of some Articles of this Decree in 2014, is symptomatic of the heightened national security concerns of the government of Ecuador, which, combined with negative perceptions of the impact of the refugees, render the search for asylum and protection more difficult.

1. LAW

Refugee Law

National legislation. Ecuador is a party to the 1951 Refugee Convention and the 1967 Protocol, without reservations, and a party to the 1984 Cartagena Declaration on Refugees. The 1951 Refugee Convention is incorporated into domestic legislation through the Refugee Decree (No. 1182).

Advocacy groups have drawn attention to concerns that the regulatory framework relating to refugee status in Ecuador (and Colombia) is controlled through executive decrees.¹⁰⁰ The Asylum Access report recommends that the refugee determination process be regulated by domestic laws passed by the legislature since this is the proper locus for regulating fundamental constitutional rights such as the right to asylum. The National Assembly, Ecuador's legislative branch, is currently debating a Human Mobility Law that would regulate the right to asylum.

Institutions. Refugee affairs are the responsibility of the central government. The Refugee Directorate is an administrative entity within the Ministry of Foreign Affairs and Human Mobility (MFA). The Refugee Commission, which determines refugee status, is regulated by Decree No. 1182 and is jointly coordinated by the MFA, the Ministry of Justice, and the Ministry of Interior.

Access to protection. The Ecuadoran Constitution of 2008 includes recognition of the right to asylum, provides for group recognition of refugee status, includes the principle of *non-refoulement*, and does not apply sanctions for illegal entry.¹⁰¹

The introduction of Decree 1182 of 2012 marked a severe tightening of the process of accessing asylum. The Decree instituted strict limitations for asylum applications—within 15 days of arrival in the country, an impossible time period given the remote border areas and distances to designated reporting centers.

⁹⁹ UNHCR (2013) "Global Appeal 2013 Update," <http://www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=50a9f8320&query=ecuador%202013>.

¹⁰⁰ Asylum Access Ecuador and the US Committee for Refugees and Immigrants (2014) "Refugee Status Determination in Latin America: Regional Challenges and Opportunities - The National Systems of Brazil, Colombia, Costa Rica, Ecuador, and Mexico." p. 35, <http://asylumaccess.org/wp-content/uploads/2014/08/refugeestatus.pdf>.

¹⁰¹ United States Committee for Refugees and Immigrants (2009) "World Refugee Survey—Ecuador," www.refworld.org/docid/4a40d2a444.html.

The decree also required that those seeking refugee status prove they had been subjected to individual persecution, which is in line with the 1951 Refugee Convention but a significant departure from the broader definition of refugees set out in the 1984 Cartagena Declaration and deployed in Ecuador up to that point.¹⁰² The effect of the decree was to reduce the refugee recognition rate to a record low of 16 percent, compared with more than 70 percent in 2009,¹⁰³ rendering as irregular migrants the large number of those denied refugee status.

Advocacy groups successfully challenged Decree 1182 in Constitutional Court in 2014, which thus extended the registration period to three months and reinstated the refugee definition of the Cartagena Declaration. Counter to its restrictive conditions, the Decree 1182 did clarify the ambiguous position of asylum seekers with respect to the right to work, explicitly permitting them to work before their status has been determined.

Likewise, in the context of Decree 1182, several reports such as the Cartagena +30 Initiative,¹⁰⁴ a 2013 report by Asylum Access Ecuador and the US Committee for Refugees,¹⁰⁵ and a legal disposition by Human Rights Watch¹⁰⁶ all draw attention to the limited rights of protection of asylum claimants during the admissibility process. Particular concern has been expressed about the accelerated procedures for those claims deemed manifestly unfounded, abusive, or illegitimate and the lack of effective *non-refoulement* safeguards. For example, an applicant for refugee status determination may be declared inadmissible without recourse to an interview or due process consideration of the application.

Asylum seekers with applications pending for refugee status recognition face a protracted wait, often several years, for a status decision. This long wait occurs because another consequence of the tightening of asylum access procedures was the creation of a large backlog. Many asylum seekers that initiated the process under the previous Refugee Decree (3301) and before the entry into force of Decree 1182 are now in legal limbo regarding their application to the preceding Commission and have not received a final response to their asylum requests. The lengthy process creates protection gaps and slows the scope for local integration because asylum seekers cannot fully access their rights or settle in until they have been granted asylum or their refugee status has been recognized.¹⁰⁷

¹⁰² Georgetown Public Policy Review (2012) "Challenges to Refugee Protection in Ecuador: Reflections from World Refugee Day," <http://gppreview.com/2012/06/26/challenges-to-refugee-protection-in-ecuador-reflections-from-world-refugee-day/>.

¹⁰³ Human Rights Watch (2014) "Amicus Brief on Refugee Rights in Ecuador," <http://www.hrw.org/news/2014/06/16/amicus-brief-refugee-rights-ecuador>.

¹⁰⁴ Cartagena +30 Initiative (2014) "International Protection and Effective Integration: Recommendations from Civil Society for the Current State of Asylum and Statelessness in Latin America and the Caribbean," pp. 34–35, http://refugees.org/wp-content/uploads/2015/12/cartagena_INGLES_2803.pdf.

¹⁰⁵ Asylum Access Ecuador and the US Committee for Refugees and Immigrants (2014) "Refugee Status Determination in Latin America: Regional Challenges and Opportunities - The National Systems of Brazil, Colombia, Costa Rica, Ecuador, and Mexico." p. 35, <http://asylumaccess.org/wp-content/uploads/2014/08/refugeestatus.pdf>.

¹⁰⁶ Human Rights Watch (2014) "Amicus Brief on Refugee Rights in Ecuador," <http://www.hrw.org/news/2014/06/16/amicus-brief-refugee-rights-ecuador>.

¹⁰⁷ Feinstein International Center (2012) "Refugee Livelihoods in Urban Areas: Identifying Program Opportunities. Case Study Ecuador," Feinstein International Center, Friedman School of Nutrition Science and Policy, Tufts University, Somerville, MA, http://fic.tufts.edu/assets/PRM_report_Ecuador_resized.pdf.

Recognized refugees have the right to apply for Ecuadoran citizenship after three consecutive years of residence. The attraction of this notably short time compared with many countries is partly offset by the cost and bureaucratic complexity of the process. A pilot project carried out by the UNHCR in 2014 revealed that the approximate naturalization cost is US\$1,400 per principal applicant and US\$350 per children or adolescent.

Ecuador is among a number of Latin American countries—such as the Dominican Republic, El Salvador, Mexico, and Panama—that have adopted the practice of administrative detention of undocumented migrants.

Freedom of movement. Refugees and asylum seekers enjoy freedom of movement, but the undocumented majority are at risk of detention and deportation. However, they still have access to alternative migratory status such as the MERCOSUR visa, which confers similar rights as refugee status, although its long-term protection guarantees have yet to be tested. The MERCOSUR visa does not, however, protect refugees from refoulement.

Right to work – refugee and labor and employment law¹⁰⁸

The Ecuadoran Constitution and Decree 1182 recognize refugees’ and asylum seekers’ right to work, although there is no specific reference to the right to work for refugees in Ecuadoran labor law, only provisions related to foreigners within Ecuadoran territory. Articles 9 and 11 of the 2008 Constitution implicitly recognize refugees and asylum seekers as having the same rights as nationals to work, to start and own businesses, and to access the labor market.¹⁰⁹

More specifically, however, Regulations of the Immigration Law (Reglamento a la Ley de Extranjería) codify the right to work for recognized refugees, stating that “The Ministry of Foreign Affairs authorizes the holder of a 12-IV [Refugee] visa to engage in paid employment, without any other requirements.” These provisions also appear on Refugee Identity Cards issued by the Directorate General of Refugees and the web page of the Ministry of Labor. Moreover, since 2012, refugees have not been required to have work permits, further easing access to labor markets.

Other rights have to be considered when dealing with refugees’ right to work. Refugees enjoy benefits equal to those of nationals in relation to labor codes and social security protection under domestic and relevant international law. These codes, for example, protect the right to “decent work”—an ambitious policy initiative of the Ecuadoran government—including minimum working conditions, regulated hours of work, minimum remuneration, and holiday provision. Refugees have access to the Labor Inspectorate and the Ecuadoran courts to protect their rights. However, as discussed below, despite the explicit

¹⁰⁸ This section draws heavily on Asylum Access (2011) “‘To Have Work Is to Have Life’: Refugees’ Experience with the Right to Work in Ecuador,” <https://rtwasylumaccess.files.wordpress.com/2011/03/asylum-access-right-to-work-in-ecuador.pdf>. Using updated information supplied by the UNHCR, this section takes account of changes that have taken place since that report in 2011.

¹⁰⁹ This interpretation of refugees’ right to work derives from Article 9 of the Constitution, which states that “Foreigners in Ecuadorian territory shall have the same rights and responsibilities as Ecuadorians” and from Article 11 that “no one shall be discriminated against for reasons of ethnicity, *place of birth, ... migratory status*” (emphasis added).

protection of all workers, including refugees, rights and protection are not respected in practice, and discrimination is persistent.

In practice, until 2012 asylum seekers' right to work has been unclear but restrictive because of the private sector's lack of awareness of procedures. Following Decree 1182, asylum seekers have been granted the right to work in Ecuador— similar to other Latin American countries such as Argentina, Brazil, Costa Rica, and Uruguay—according to recent sources.¹¹⁰

Refugees without status are not allowed to work, but may apply for work permits as foreign workers; however, the prohibitive price of the permit as well as the lengthy application procedure makes this an unrealistic proposition.¹¹¹

2. POLICY AND PRACTICE

Constraining factors

Although recognized refugees and asylum seekers have an unrestricted right to work in Ecuador, in practice there are various detailed legal and socioeconomic obstacles and gaps in implementation that prevent their access to employment. As in many Latin American countries, “access to the labor market and employment conditions remain a challenge implicit in being an asylum seeker or a refugee.”¹¹² In practice, Ecuador's generous legal framework does not guarantee access to employment and sustainable livelihoods for refugees.

In Ecuador, recognized refugees face discrimination from private employers in the labor market and the workplace on the basis of their country of origin and, to a lesser extent, on their migratory status. A range of challenges, predominantly informal barriers, are encountered, as follows.^{113,114}

Several constraints apply to gaining access to labor markets.¹¹⁵ Recognized refugees may be stigmatized as economic migrants and considered untrustworthy as a result of particular stereotypes surrounding Colombians. Ignorance or unfamiliarity with the law and misunderstanding of refugee status leaves

¹¹⁰ Cartagena +30 Initiative (2014) “International Protection and Effective Integration: Recommendations from Civil Society for the Current State of Asylum and Statelessness in Latin America and the Caribbean,” p. 48, http://refugees.org/wp-content/uploads/2015/12/cartagena_INGLES_2803.pdf.

¹¹¹ In 2009 the price of a work permit in Ecuador was US\$1000, United States Committee for Refugees and Immigrants(2009) “World Refugee Survey—Ecuador,” <http://www.refworld.org/publisher,USCRI,ANNUALREPORT,ECU,4a40d2a444,0.html>.

¹¹² Cartagena +30 Initiative (2014) “International Protection and Effective Integration: Recommendations from Civil Society for the Current State of Asylum and Statelessness in Latin America and the Caribbean,” p. 48, http://refugees.org/wp-content/uploads/2015/12/cartagena_INGLES_2803.pdf.

¹¹³ See Asylum Access (2011) “‘To Have Work Is to Have Life’ Refugees’ Experience with the Right to Work in Ecuador,” pp. 13–19, <https://rtwasylumaccess.files.wordpress.com/2011/03/asylum-access-right-to-work-in-ecuador.pdf>, and Cartagena +30 Initiative (2014) “International Protection and Effective Integration: Recommendations from Civil Society for the Current State of Asylum and Statelessness in Latin America and the Caribbean,” pp. 48–50, http://refugees.org/wp-content/uploads/2015/12/cartagena_INGLES_2803.pdf, and Colombian Refugee project (nd) “The Issue,” <https://colombianrefugeeproject.wordpress.com/the-issue/>.

¹¹⁴ Feinstein International Center (2012) “Refugee Livelihoods in Urban Areas: Identifying Program Opportunities. Case Study Ecuador,” Feinstein International Center, Friedman School of Nutrition Science and Policy, Tufts University, Somerville, MA, http://fic.tufts.edu/assets/PRM_report_Ecuador_resized.pdf.

¹¹⁵ The following paragraphs benefit from observations from the UNHCR.

employers unwilling to accept or recognize the documentation that refugees require, often precipitating the demand for a work permit that is not required for recognized refugees but is required of other nonrefugee foreign nationals.

Another constraint to the actual implementation of the right to work and access to employment is the gap between the refugee identification numbering scheme and that of the National Civil Registry—the number on the refugee ID is not included in the National Civil Registry—which makes it difficult for refugees to register at the National Social Security Institute (IESS), a prerequisite for formal employment. Many, if not most, employers and service providers do not recognize the refugee ID; therefore, formal employment becomes too complicated a process for many potential employers, and employees are not able to claim eventual entitlements.

Employers that do not comply with this requirement for official identification can face criminal prosecution. Some refugees have been able to register at the IESS, creating fictitious ID numbers, but after months or years of contributions they face problems accessing IESS's services such as loans, retirement pensions, and so forth because of the unregistered numbering of the fictitious IDs.

The UNHCR started discussions in 2015 with the Vice-Ministry of Human Mobility, which oversees the Refugee Directorate, and the National Registry so that agreement can be reached between the two institutions to allow persons of concern to register in the National Civil Registry.

Difficulties meeting professional certification requirements have also been a problem, although there is a clear path toward certification based on the criteria of the National Department for Higher Education, Science, Technology and Innovation (SENESCYT). Many professionally qualified and semiskilled refugees are unable to find work to match their experience, especially professionals in the health sector and those who are middle-aged.

The regulations used by banks, under authorization of the decentralized Ministry, Instituto de Economía Popular y Solidaria (IEPS), often impede access to loans and thus condemn to the informal sector those refugees who either want to be self-employed or want to start up businesses as entrepreneurs. Although the refugee visa should suffice, the banks require an Ecuadoran identity card for which refugee visa holders are ineligible, in spite of repeated interventions with the banks by the banks' central supervisory body at the behest of the UNHCR. In 2014 the UNHCR reached an agreement with one of Ecuador's largest banks (Banco de Pichincha) that allows refugees to access the bank's financial services and cooperative banks.¹¹⁶

The same constraint often acts as a bar to formal employment because many employers require employees to receive salaries and wages through direct credit transfer to a bank account.¹¹⁷

A potentially greater obstacle to loans may be that in practice many refugees lack collateral, just like many poor Ecuadorans, to support bank loans.

¹¹⁶ Information supplied by the UNHCR.

¹¹⁷ United States Committee for Refugees and Immigrants (2009) "World Refugee Survey—Ecuador," <http://www.refworld.org/publisher,USCRI,ANNUALREPORT,ECU,4a40d2a444,0.html>.

In employment, working conditions often do not comply with Ecuadoran law, although it is unclear whether refugees face more adverse conditions than their Ecuadoran counterparts. Evidence indicates that refugees find themselves exploited by long (and often poorly remunerated) working hours, wages below the legal minimum, and lack of employment contracts that results in no access to social welfare benefits. According to a 2009 CEPAR study, 39 percent of registered refugees indicated that they received lower remuneration than Ecuadorans doing similar work. Additionally, 35 percent of registered refugees indicated that they did not receive the same social security benefits as nationals.¹¹⁸

Given the difficulties asylum seekers face in obtaining recognized status and the lack of clarity on required documentation, they are in particularly weak negotiating positions and face more acute pressure to accept substandard and exploitative working conditions and low-paying work in the informal economy. Hence, most refugees end up taking jobs as merchants in public spaces.¹¹⁹ These jobs often come with limitations such as difficulties in obtaining the right municipal authorizations, and issues when dealing with controls exercised by municipal authorities. In some cities, control operations by the authorities often end in violent confrontations, and merchandise as well as working tools are often confiscated by the authorities. Although this treatment is often meted out to national citizens as well, these discriminatory practices seem to apply especially to refugees.

In addition, negative national stereotypes, gender-based social discrimination, and violence against refugee women is widespread,¹²⁰ which resonates with the particular challenges that refugee women face in accessing safe employment and income-generating opportunities. There is a stereotypical assumption that Colombian women are willing to engage in sex work. Anecdotal evidence suggests that, as a result, the employment opportunities are often mismatched to skills that women have and that they may be subject to abuse and sexual harassment in the workplace.

These barriers to employment, combined with constraints on access to education and health and welfare services and more general social discrimination, accentuate the marginalization of recognized refugees and deter the larger number of asylum seekers from seeking full refugee status.

Facilitating factors

Set against these constraints, five policy and administrative factors positively mediate refugees' right to work.

First, Ecuador does not encamp refugees. Instead, refugees have freedom of movement in the country and are thus quite widely dispersed in local communities but also in the capital, Quito—some 60 percent of refugees live in urban areas in Ecuador. Secondary movement enables refugees to diversify their search for prospects for work and thereby eases access to local labor markets.

Second, the government has made significant progress in underlining refugees' and asylum seekers' employment rights. The Ministry of Labor has initiated training for its staff, for private companies, and for

¹¹⁸ Centro de Estudios de Población y Desarrollo Social (CEPAR) study of 2008, cited in <http://www.refworld.org/pdfid/4f0e9d832.pdf>.

¹¹⁹ This section is based on information supplied by the UNHCR.

¹²⁰ European Resettlement Network (2013) "The Colombian Refugee Situation," <http://www.resettlement.eu/page/colombian-refugee-situation>.

refugees on refugees' employment rights. The elimination of work permits for access to employment in 2012, and guarantees of free access to vocational training programs to help refugees meet the demands of the job market have also been substantial initiatives to help refugees overcome barriers to labor market access.¹²¹ However, these provisions have now been rescinded.

Third, SENESCYT has established procedures to recognize and validate degrees and diplomas granted in other countries, thus authorizing asylum seekers and refugees to practice professionally in Ecuador.¹²² Moreover, since 2009, refugees and other legal migrants are no longer required to show valid immigration visas to enroll in public schools.¹²³ This enables the children of refugees to gain education and thus increase prospects of access to formal employment or further education and training at the end of their schooling.

Fourth, the UNHCR together with a number of state and partner organizations and the private sector launched a pilot livelihoods program in the urban zone in Santo Domingo, a refugee-hosting city 200 kilometers from Quito.¹²⁴ The aims are to support up to 200 households with self-employment, formal wage earning, and microfinance opportunities (savings, asset transfer, and skills training) that will create a self-sustaining safety net to improve conditions and more stable livelihoods for refugees. The pilot is targeted to empower the refugees with legal assistance, financial education, and vocational training.¹²⁵

Fifth, as noted above, the 2014 UNHCR agreement with Banco de Pichincha allows refugees to access the bank's financial services. Cooperative banks also provide banking services to refugees.

Although overcoming neither the economic and labor market constraints, nor the wider discrimination that exists in accessing employment, these five factors do at least reduce some of the procedural and administrative friction that prevents refugees from working in other countries.

3. MEDIATING FACTORS

Socioeconomic factors

Refugees, like native Ecuadorans, face very tight labor market conditions combined with the insecurity of Ecuador's economic situation.¹²⁶ The abundance of low-skilled workers competing to access the labor market combined with high poverty levels renders livelihoods precarious.

¹²¹ Cartagena +30 Initiative (2014) "International Protection and Effective Integration: Recommendations from Civil Society for the Current State of Asylum and Statelessness in Latin America and the Caribbean," p. 48, http://refugees.org/wp-content/uploads/2015/12/cartagena_INGLES_2803.pdf.

¹²² Cartagena +30 Initiative (2014) "International Protection and Effective Integration: Recommendations from Civil Society for the Current State of Asylum and Statelessness in Latin America and the Caribbean," p. 50, http://refugees.org/wp-content/uploads/2015/12/cartagena_INGLES_2803.pdf.

¹²³ United States Committee for Refugees and Immigrants (2009) "World Refugee Survey—Ecuador," www.refworld.org/docid/4a40d2a444.html.

¹²⁴ Information supplied by the UNHCR.

¹²⁵ UNHCR (2015) "Giving Refugees from Colombia a Stable Life in Ecuador," News Stories, April 8, 2015, <http://www.unhcr.org/55254e399.html>; and Sánchez Piñero, O. M., and R. Saavedra (2016) "Doing Business in Ecuador," <http://www.fmreview.org/solutions/sanchez-saavedra.html>.

¹²⁶ The EIU Report for 2015 notes that with "a steep drop in oil export revenue, the Ecuadorean economy faces constraints to growth and recovery from a low level of competitiveness...GDP growth will expand modestly in 2016 (0.7%) following a contraction in 2015 whilst public sector expenditure is projected to be cut by 13% in 2016..."

Even without administrative barriers to employment, the socioeconomic conditions of the country militate against access to labor markets and sustainable livelihoods for refugees.

Many refugees and asylum seekers, especially those that are in irregular situations, live in inaccessible jungle settings in the border areas, remaining vulnerable to armed conflict between Colombian factions.¹²⁷ This inhibits their access to work and protection. These conditions deter the undocumented from identifying themselves as refugees and thus improving their rights to protection. Equally, there is evidence that Colombian refugees, in general, fear association with other Colombians because of the risk of running into members of opposing factions,¹²⁸ which affects their work prospects as they leave their jobs and localities to seek safety elsewhere.

Xenophobia and negative stereotypes about Colombians—the overwhelming majority of refugees in Ecuador—as much as their refugee status, leads to some discrimination. Together with gender-based discrimination, the impacts of these stereotypes on access to employment are discussed above. More specifically, evidence suggests that Colombians face discrimination in Ecuadoran society because they are perceived to have strong sales and customer service skills, and are thus seen as unfair competition in the labor market, a situation compounded by the country's economic fragility.¹²⁹

Refugee profiles

Many Colombian refugees in Ecuador lack effective social networks (family, other nationals, religious support groups) and resources. These conditions make it more difficult to find sustainable employment while underscoring their vulnerability. Conversely, evidence suggests that refugees with access to networks in Ecuador, either established before they arrived in Ecuador or afterward, are able to avoid some of the obstacles to accessing employment and other services, such as discrimination, reference requirements, small loans, and housing.¹³⁰ For urban-based refugees (the majority), those from urban areas in their country of origin secure better livelihoods than those from rural areas because they are more likely to have transferrable livelihood skills.

Looking to facilitate their entry into the labor market, some refugees and asylum seekers have opted to renounce their status to obtain other types of visas as foreign nationals.

Refugees who have undergone professional training or licensing in Ecuador are likely to have an advantage over those who do not have such local credentials.

public debt will rise to an estimated 32.7% of GDP in 2015." *Economist Intelligence Unit, Country Report: Ecuador*, December 8, 2015.

¹²⁷ European Resettlement Network (2013) "The Colombian Refugee Situation,"

<http://www.resettlement.eu/page/colombian-refugee-situation>.

¹²⁸ Colombian Refugee project (nd) "The Issue," <https://colombianrefugeeproject.wordpress.com/the-issue/>.

¹²⁹ Feinstein International Center (2012) "Refugee Livelihoods in Urban Areas: Identifying Program Opportunities. Case Study Ecuador," Feinstein International Center, Friedman School of Nutrition Science and Policy, Tufts University, Somerville, MA, http://fic.tufts.edu/assets/PRM_report_Ecuador_resized.pdf.

¹³⁰ Feinstein International Center (2012) "Refugee Livelihoods in Urban Areas: Identifying Program Opportunities. Case Study Ecuador," Feinstein International Center, Friedman School of Nutrition Science and Policy, Tufts University, Somerville, MA, http://fic.tufts.edu/assets/PRM_report_Ecuador_resized.pdf.

4. OUTCOMES

Participation in the labor market

The majority of refugees and asylum seekers employed in Ecuador are engaged in low-skilled activities, predominantly in the informal sector and self-employed, as indeed are the majority of Ecuadoran nationals. Access to formal-sector and corporate-sector employment remains extremely limited, not least because their skills profile often does not fit the requirements of the labor market.

Moreover, even without administrative barriers to employment, the country's prevailing weak socioeconomic conditions militate against access to labor markets and sustainable livelihoods for recognized refugees. According to a 2014 UNHCR baseline study,¹³¹ 62 percent of refugees are not adequately employed (meaning they earn less than the minimum wage of US\$350/month and work less than eight hours per day), compared with 46.7 percent of Ecuadorans. According to the same study, 25 percent of refugees live in poverty and 14 percent in extreme poverty, compared with 22.5 percent and 7.6 percent of Ecuadorans.

From a socioeconomic perspective, despite a relatively low unemployment rate and one of the highest minimum wage rates in the region, refugees experience the same conditions as the local population: underemployment rates are high;¹³² there is a very large informal economy, estimated to be over 40 percent; and more than a third of the population lives below the poverty line.

Overall, these socioeconomic conditions incline refugees to self-employment and diversification of livelihood activities to maintain steady incomes and ensure resilience against economic shocks that might affect particular sectors or activities.¹³³

SUMMARY AND CONCLUSIONS

Even though Ecuador's laws and policies on refugees' right to work are closely aligned with the best international standards, there are significant shortfalls in practice. Moreover, for refugees, the lack of secure employment and the limited needs of the labor market curb opportunities for sustainable livelihoods in a fragile economic environment. Though local integration through social and cultural factors is better than in many countries, the process of integration is still very limited; yet the prospect for return to Colombia also remains highly uncertain. Of potentially greater concern is the very large number of undocumented refugees who live invisible lives and who are often viewed with suspicion and resentment by local Ecuadorans.

Recent changes in the law, though moderated by the courts, indicate that the government and Ecuadoran society as a whole are adopting a harder stance on refugees.

¹³¹ Yet to be published.

¹³² Underemployment ran at about 14 percent of the labor force throughout 2015, *Economist Intelligence Unit, Country Report: Ecuador*, December 8, 2015.

¹³³ Feinstein International Center (2012) "Refugee Livelihoods in Urban Areas: Identifying Program Opportunities. Case Study Ecuador," Feinstein International Center, Friedman School of Nutrition Science and Policy, Tufts University, Somerville, MA, http://fic.tufts.edu/assets/PRM_report_Ecuador_resized.pdf.

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Ethiopia

PROFILE

- Party to the 1951 Convention relating to the Status of Refugees (but with reservations), the 1967 Protocol, and the 1969 Organization of African Unity Convention.
- 736,086 refugees and 2,131 asylum seekers totaling 738,217 = 0.74 percent of a total estimated population of 97 million.
- The largest refugee populations are South Sudanese with mass arrivals since the inception of the conflict in 2013, followed by Somali and Eritrean refugees in situations of protracted displacement.
- The majority of refugees are accommodated in the 24 government-managed camps across the country, but there are also refugees in Addis Ababa and other urban areas.¹³⁴
- Human development rank and index: 174th and 0.442
- GDP: Growth 9.6 percent; Per capita US\$619.1
- Low-income economy
- Unemployment rate: 5.2 percent

CONTEXT

Ethiopia hosts the largest refugee population in Africa. Conflicts, political unrest, human rights violations, and drought and famine in neighboring countries have caused the displacement of thousands of people to Ethiopia.¹³⁵ Since 2010, with the influx of refugees from Somalia, Sudan, and later from South Sudan, the number of refugees in Ethiopia has increased dramatically. Between January and August 2014 alone, the country received about 200,000 new arrivals, mostly women and children fleeing the conflict in South

¹³⁴ There are also large numbers of undocumented refugees, mainly Somalis, living in the capital city; Moret, J., S. Baglioni, and D. Efonayi-Mäder (2006) "The Path of Somali Refugees into Exile: A Comparative Analysis of Secondary Movements and Policy Responses." Swiss Forum for Migration and Population Studies (SFM 46), www.unhcr.org/50aa0d6f9.pdf. A 2012 UNHCR PRM mission estimated their numbers to be between 180,000 and 200,000, and most of them were residing in an area predictably known as "Little Mogadishu," US Department of State (2012) "Report of a Joint UNHCR-PRM Mission to Review Urban Refugee Issues in Uganda and Ethiopia," www.state.gov/j/prm/releases/releases/2012/208926.htm.

¹³⁵ World Bank Group and UNHCR (2015) "Forced Displacement and Mixed Migration in the Horn of Africa," <http://hdl.handle.net/10986/22286>.

Sudan.¹³⁶ Large numbers of Eritreans, including unaccompanied minors, are also continually arriving in Ethiopia.¹³⁷

Although Ethiopia maintains an open-door policy toward refugees, their prospects for durable solutions remain stalled. Ongoing conflict and instability in several countries of origin effectively preclude voluntary repatriation, and Ethiopia's refugee policy does not provide for the possibility of local integration. While the Proclamation on Ethiopian Nationality (Proclamation No. 378 of 2003) allows for the naturalization of any "foreigner" (non-Ethiopian) married to an Ethiopian national, with certain conditions attached (renunciation of current nationality, residence in Ethiopia for one year, and others), in practice only a limited number of refugees married to Ethiopian nationals have been naturalized.¹³⁸ Resettlement remains the only viable durable solution, but only a small number of refugees benefit from it. Many refugees, young Eritrean males especially, attempt to move on from Ethiopia to a third country. Some try to cross the Mediterranean to Europe expecting to find better assistance and work opportunities, while others move to Sudan or Egypt.

1. LAW

Refugee Law

National legislation. Ethiopia's national legal framework related to refugees and asylum was established by Refugee Proclamation No. 409 of 2004.¹³⁹ The proclamation prohibits the government from refusing entry to refugees or asylum seekers and returning them to any country where they would be at risk of persecution.¹⁴⁰ It grants refugees some rights but with restrictions on the rights of movement, work, and education.

Institutions. Refugee and asylum policies are the responsibility of the National Intelligence and Security Service (NISS), under the Ministry of Federal Affairs.¹⁴¹ In practice, however, this responsibility falls to the Administration for Refugees and Returnee Affairs (ARRA), established as a semi-autonomous body with institutional responsibility for the implementation of all policies relating to refugees and returnees.¹⁴²

¹³⁶ They have arrived in often alarming nutritional conditions in the Gambella Regional State in western Ethiopia, where infrastructure and services are limited; UNHCR 2015 Global Appeal Update, www.unhcr.org/5461e6000.html.

¹³⁷ After Sudan, Ethiopia is the second-largest country of asylum for Eritreans, with more than 106,000 Eritrean refugees. UNHCR Briefing Notes (2014) "Sharp Increase in Number of Eritrean Refugees and Asylum-Seekers in Europe, Ethiopia and Sudan." www.unhcr.org/news/briefing/2014/11/5465fea1381/sharp-increase-number-eritrean-refugees-asylum-seekers-europe-ethiopia.html.

¹³⁸ UNHCR (2013) "Submission for the Office of the High Commissioner for Human Rights' Compilation Report – Universal Periodic Review for Ethiopia," www.refworld.org/pdfid/5283488c4.pdf.

¹³⁹ Refugee Proclamation No. 409, 2004, www.refworld.org/docid/44e04ed14.html.

¹⁴⁰ With no reports of deportation of refugees, Ethiopia seems to have respected the principle of *non-refoulement*.

¹⁴¹ It was first established as the Security, Immigration and Refugee Affairs Authority before it received its current name in 2006. (See also NISS Re-establishment Proclamation 2013, <https://chilot.files.wordpress.com/2013/10/national-intelligence-and-security-service-re-establishment-proclamation-english.pdf>.)

¹⁴² In 2014, Ethiopia reported that "the NISS issued a manual and detailed procedure on the provision of different services addressing the needs of refugees and asylum seekers" and announced the setup of a "Refugee Rehabilitation and Protection Committee to protect the rights of refugees and facilitate the procedures for receiving refugees and asylum seekers on the basis of Standard Operating Procedure." Human Rights Council

Access to protection. Asylum seekers must apply directly to the NISS or in any police station within 15 days of arrival. The proclamation gives the right to the head of NISS to designate a group of persons as prima facie refugees under the African Union Convention definition.¹⁴³ Most asylum seekers from neighboring countries are, in effect, being granted refugee status on a prima facie basis while individual refugee status determination is undertaken for all others through a government Eligibility Committee, on which the United Nations High Commissioner for Refugees (UNHCR) sits as an observer.¹⁴⁴

Freedom of movement. Refugee Proclamation No. 409 provides for restrictions on movement and residence, allowing authorities to designate areas where refugees and asylum seekers must live.¹⁴⁵ In this regard, the Refugee Proclamation No. 409 appears to conflict with Article 32 of the Ethiopian Constitution, which stipulates that “any Ethiopian or foreign national lawfully in Ethiopia has the right to liberty of movement and freedom to choose his residence.”¹⁴⁶ Because the Constitution makes no explicit reference to refugees or asylum seekers, the reference to “foreign nationals” presumes inclusion of refugees and asylum seekers within that category.¹⁴⁷ Furthermore, Article 9 of the Constitution highlights its supremacy over other laws and the integration of ratified international instruments.

In practice, until 2009, Ethiopia enforced a strict policy of encampment for all refugees. Exemptions were granted to those who demonstrated reasons for staying out of camps on medical, protection, or humanitarian grounds, with the government and the UNHCR jointly determining eligibility for the urban refugee program and the forms of assistance received by its beneficiaries.¹⁴⁸

In 2010 the implementation of an out-of-camp policy began, allowing refugees to live outside camps provided they are able to support themselves financially or with the support of relatives already living in such areas.¹⁴⁹ Originally applicable only to refugees from Eritrea, this policy was extended to refugees of other nationalities.¹⁵⁰

(2014), National Report Submitted in accordance with paragraph 5 of the annex to HRC Resolution 16*21-Ethiopia,

https://view.officeapps.live.com/op/view.aspx?src=http%3A%2F%2Flib.ohchr.org%2FHRBodies%2FUPR%2FDocuments%2FSession19%2FET%2FA_HRC_WG.6_19_ETH_1_Ethiopia_E.doc.

¹⁴³ United States Committee for Refugees and Immigrants (2009) “World Refugee Survey—Ethiopia,”

www.refworld.org/publisher,USCRI,ANNUALREPORT,ETH,4a40d2a594,0.html.

¹⁴⁴ UNHCR (2015) “Ethiopia FactSheet,” www.unhcr.org/524d82ce9.html.

¹⁴⁵ Article 21.2 of Refugee Proclamation No. 409 of 2004.

¹⁴⁶ Constitution of the Federal Democratic Republic of Ethiopia, www1.umn.edu/humanrts/research/Proclamation%20no.1-1995.pdf.

¹⁴⁷ Jemal, L. (2014) “The Compatibility of Ethiopian Refugee Law with International Refugee Laws.” Ambo University,

www.academia.edu/16512212/The_Compatibility_of_Ethiopian_refugee_law_with_international_refugee_Laws.

¹⁴⁸ UNHCR (2013) “Submission for the Office of the High Commissioner for Human Rights’ Compilation Report – Universal Periodic Review for Ethiopia.” www.refworld.org/pdfid/5283488c4.pdf.

¹⁴⁹ Other conditions included having lived in a camp for at least six months, having a sponsor who could assume responsibility for covering their expenses, and being without a criminal record.

¹⁵⁰ Moses Okello, J. O. (2014) “The 1969 OAU Convention and the Continuing Challenge for the African Union,” *Forced Migration Review* 48, www.fmreview.org/en/faith/okello.pdf.

Right to work – refugee and labor and employment law

The 1995 Constitution offers the right to work and other labor-related rights only to citizens. The country maintains reservations to the 1951 Refugee Convention, notably to Article 17.2, and there are no provisions under Ethiopia’s law for local integration of refugees.¹⁵¹

Refugees in Ethiopia are only allowed to work and access education insofar as Ethiopia’s laws allow other foreign nationals in Ethiopia to do so.¹⁵² Ethiopia’s Ministry of Labour and Social Affairs only grants work permits to foreigners when there are no qualified nationals available and in practice does not grant work permits to refugees.¹⁵³

2. POLICY AND PRACTICE

Constraining factors

The Ethiopian government does not grant work permits to refugees and asylum seekers, thus preventing their access to the formal labor market. Even to enter the informal labor market, Ethiopian employers may ask for a work permit or an Ethiopian guarantor to hire refugees, which many cannot provide.¹⁵⁴

Furthermore, because of restrictions on their movement and because they cannot obtain business licenses, it is almost impossible for refugees to establish their own enterprises.¹⁵⁵ Although the government has shown some signs of cooperation with the UNHCR in getting refugees into skills development and agricultural schemes with the understanding that it is for the purpose of improving their reintegration when they are sent home, efforts to ensure the viability and sustainability of refugee enterprises are at odds with Ethiopia’s legal restriction on the right to work.

Many refugees, Eritreans in particular, also complain that they are subject to discrimination in the informal labor market, making it difficult for them to find jobs or to earn a living wage. A survey commissioned by the Norwegian Refugee Council (NRC) in 2014 pointed out that some employers are reluctant to hire refugees because of their alleged links with Somali and Sudanese terrorist groups.¹⁵⁶

¹⁵¹ The provisions of Articles 8, 9, 17 (2), and 22 (1) of the Convention are recognized only as recommendations and not as legally binding obligations by the government of Ethiopia, “Reservations and Declarations to the 1951 Refugee Convention,” www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=3d9abe177&query=1951%20Refugee%20Convention.

¹⁵² Article 21(3) of Refugee Proclamation No. 409.

¹⁵³ These restrictions are allowed under Article 21(3) of Refugee Proclamation No. 409.

¹⁵⁴ Samuel Hall Consulting (2014) “Living Out of Camp, Alternative to Camp-Based Assistance for Eritrean Refugees in Ethiopia,” <http://samuelhall.org/wp-content/uploads/2014/05/Living-Out-of-Camp-Alternative-to-Camp-based-Assistance-in-Ethiopia.pdf>.

¹⁵⁵ Samuel Hall Consulting (2014) “Living Out of Camp, Alternative to Camp-Based Assistance for Eritrean Refugees in Ethiopia,” <http://samuelhall.org/wp-content/uploads/2014/05/Living-Out-of-Camp-Alternative-to-Camp-based-Assistance-in-Ethiopia.pdf>.

¹⁵⁶ Samuel Hall Consulting (2014) “Living Out of Camp, Alternative to Camp-Based Assistance for Eritrean Refugees in Ethiopia,” <http://samuelhall.org/wp-content/uploads/2014/05/Living-Out-of-Camp-Alternative-to-Camp-based-Assistance-in-Ethiopia.pdf>.

Facilitating factors

Despite legislative restrictions, the government has begun to allow programs permitting greater self-reliance for refugees. Several recent initiatives have been undertaken by international organizations and nongovernmental organizations to enable refugees to find income-generating activities in the informal sector and to reduce their dependency on aid. Between 2012 and 2014, the International Labour Organization (ILO) partnered with the UNHCR and ARRA to implement a project promoting wage employment and self-employment within the refugee camps and the surrounding host communities in the Dollo Ado area of southeastern Ethiopia. By facilitating economic exchanges and collaboration between hosts and refugees, the project contributed to improving social cohesion in the area.¹⁵⁷ The project increased household income including through the ownership of animals and other agricultural activities.¹⁵⁸ In the same area, the World Bank reported labor exchanges and market access between the refugee and host community for riverine-irrigated agriculture.¹⁵⁹

In the Jijiga area, where there are three camps hosting nearly 40,000 Somali refugees, the UNHCR also engages refugees and host communities in self-reliance activities under its Development Assistance for Refugees project. Refugees and members of the host communities around the camps continue to produce agricultural outputs both for domestic consumption and for the local market.¹⁶⁰

With regard to the education sector, the government supports access for refugee children and youth to primary, secondary, and tertiary national education programs; children who arrive without documentation of school attendance are offered the opportunity to sit for a placement test, and all children in the camps are also able to sit for the national exams.¹⁶¹

3. MEDIATING CONDITIONS

Socioeconomic conditions

Ethiopia is a low-income country and still ranks 174th on the Human Development Index. Since 2007, Ethiopia has registered rapid economic growth, making it one of the highest performing economies in Sub-Saharan Africa, but despite a decade (2001–11) of progress related to poverty reduction, about 30 percent of the population still lives below the poverty line.¹⁶² The country has ambitions to become a middle-income country by 2025. Given the large number of refugees, it is logical for the government to explore their potential to contribute to economic growth.

¹⁵⁷ ILO (2014) "Promoting Livelihood and Durable Solution in Dolo Ado, Ethiopia,"

www.ilo.org/global/docs/WCMS_239683/lang--en/index.htm.

¹⁵⁸ UNHCR (2015) "Ethiopia FactSheet," www.unhcr.org/524d82ce9.html.

¹⁵⁹ World Bank Group and UNHCR (2015) "Forced Displacement and Mixed Migration in the Horn of Africa."

¹⁶⁰ UNHCR (2015) "Ethiopia FactSheet," www.unhcr.org/524d82ce9.html.

¹⁶¹ In 2010 the government of Ethiopia stipulated that refugee children would be granted access to national schools on par with the host community.

¹⁶² World Bank Group (2015) "Ethiopia Poverty Assessment 2014," <https://openknowledge.worldbank.org/handle/10986/21323>.

With 97 million inhabitants, Ethiopia is the second most populous country in Sub-Saharan Africa, and its very rapid population growth puts pressure on Ethiopia's economy, which remains predominantly based on agriculture, and increases the country's vulnerability to climate change, in particular droughts. The high population concentration in urban areas, which also absorb an important proportion of Ethiopia's migrant population, thereby straining social services, also presents a challenge for employment opportunities.

The proportion of the working population in the informal sector also showed a significant decline, yet by 2010 a third of the working population remained involved in the informal economy.¹⁶³ Women are still highly represented in the informal sector, comprising more than 60 percent of those so engaged.¹⁶⁴

In addition to refugees, there are also some 397,200 internally displaced persons (IDPs) in Ethiopia as a result of intercommunal and cross-border violence, most of them living in protracted displacement situations.¹⁶⁵ The presence of IDPs and refugees is imposing substantial environmental, social, and economic impacts on Ethiopia.¹⁶⁶

The isolation of refugees living in camps "prevents the development of livelihood mechanisms (...) leading to a very low level of self-reliance and to negative coping mechanisms."¹⁶⁷ In addition to difficult living conditions in camps and security issues, lack of opportunity for employment is one of the main reasons given by refugees for leaving or avoiding camp life. However, the urban refugee population in Ethiopia remains small compared with other East African countries, and only a few refugees have applied for out-of-camp status. In addition to the fact that out-of-camp refugees do not receive direct forms of assistance and are only allowed to work in the informal sector, they face difficult urban living conditions, rising prices, scarce work opportunities, and little access to affordable housing.¹⁶⁸ Refugees remaining in the camps reportedly do so because of lack of alternative resources and coping mechanisms to enable them to move to the city.¹⁶⁹

¹⁶³ The proportion of the working population in the informal sector showed a significant decline from 72.8 percent in 1999 to 33.3 percent in 2010. The Federal Democratic Republic of Ethiopia Ministry of Labour and Social Affairs (2013) "Labour Market Dynamics in Ethiopia, Analysis of Seven Key Indicators of the Labour Market," www.molsa.gov.et/English/EPro/Documents/Ethiopia%20KILM.pdf.

¹⁶⁴ UNDAF 2012–2015, ILO (2014) "Decent Work Country Programme 2014–15 for Ethiopia," www.ilo.org/public/english/bureau/program/dwcp/download/ethiopia.pdf.

¹⁶⁵ IDMC (2015) "The Global Overview 2015: People Internally Displaced by Conflict and Violence," www.internal-displacement.org/assets/library/Media/201505-Global-Overview-2015/20150506-global-overview-2015-en.pdf.

¹⁶⁶ Rising food and fuel prices have led to soaring inflation of 39.2 percent. Kamau, A. (2011) "An Economic Perspective on the Refugee Crisis in Africa's Horn," Brookings Institution, www.brookings.edu/research/opinions/2011/09/12-refugee-crisis-kamau.

¹⁶⁷ Samuel Hall Consulting (2014) "Living Out of Camp, Alternative to Camp-Based Assistance for Eritrean Refugees in Ethiopia," p. 5, <http://samuelhall.org/wp-content/uploads/2014/05/Living-Out-of-Camp-Alternative-to-Camp-based-Assistance-in-Ethiopia.pdf>. p. 5.

¹⁶⁸ Kamau, A. (2011) "An Economic Perspective on the Refugee Crisis in Africa's Horn." Brookings Institution, www.brookings.edu/research/opinions/2011/09/12-refugee-crisis-kamau.

¹⁶⁹ Some also believe that remaining in the camps will enhance their prospects of resettlement. US Department of State (2012) "Report of a Joint UNHCR-PRM Mission to Review Urban Refugee Issues in Uganda and Ethiopia," www.state.gov/j/prm/releases/releases/2012/208926.htm.

Refugee profiles

Many refugees in Ethiopia, whether in camps or in urban areas, receive remittances from abroad. Although the probability of finding a job in urban areas is higher than in the camps, many refugees lack information related to the labor market. Refugees from minority ethnic groups voiced concerns about their limited ability to access the out-of-camp scheme because of linguistic barriers and lack of relatives or friends able to support them in Ethiopia. For some refugees, not speaking the local language constitutes a barrier to accessing the labor market. Compared with other Eritrean refugees, those from the Tigrinya ethnic group, who share language and culture with the population in northern Ethiopia, have a strong advantage for employment opportunities.¹⁷⁰

To gain access to legal residence and employment, some refugees resort to purchasing Ethiopian ID cards illegally.¹⁷¹

4. OUTCOMES

Participation in the labor market

Refugees in Ethiopia have great difficulty accessing livelihoods and are overall very dependent on UNHCR assistance to survive. There are no formal employment opportunities for refugees in Ethiopia. With the exception of those employed by nongovernmental organizations and ARRA, very few refugees living in the camps are finding stable employment.¹⁷² The 2014 survey conducted by NRC confirmed low access to work as one of the main obstacles for camp-based refugees, especially for youth and women. Most only find underpaid casual daily labor in the construction-related sector, while some are self-employed and engage in petty trade.¹⁷³ Girls are often sent by their families to work as domestic servants, thus exposing them to risks of sexual harassment and other types of abuse from their employers.¹⁷⁴

¹⁷⁰ United States Committee for Refugees and Immigrants (2010) "Ethiopia Mission Briefing: Implementation of the Out of Camp Scheme for Eritrean Refugees,"

<https://www.yumpu.com/en/document/view/28979216/implementation-of-the-out-of-camp-scheme-for-eritrean-refugees>.

¹⁷¹ Moret, J., S. Baglioni, and D. Efiionayi-Mäder (2006) "The Path of Somali Refugees into Exile: A Comparative Analysis of Secondary Movements and Policy Responses." Swiss Forum for Migration and Population Studies (SFM 46), www.unhcr.org/50aa0d6f9.pdf.

¹⁷² Refugees receive incentive payment, not salaries. In 2010 UNHCR Ethiopia issued interagency guidelines on incentive payment that provide three levels of incentive, ranging from US\$25 to US\$50 monthly, UNHCR (2014) "Which Side Are You On?" PDES Discussion paper on UNHCR's policy and practice of incentive payments to refugees, www.unhcr.org/research/evalreports/5491577c9/whos-side-discussion-paper-unhcrs-policy-practice-incentive-payments-refugees.html.

¹⁷³ Samuel Hall Consulting (2014) "Living Out of Camp, Alternative to Camp-Based Assistance for Eritrean Refugees in Ethiopia," <http://samuelhall.org/wp-content/uploads/2014/05/Living-Out-of-Camp-Alternative-to-Camp-based-Assistance-in-Ethiopia.pdf>.

¹⁷⁴ Krause-Vilmar, J. (2010) "Struggling to Make a Living in Ethiopia: Surviving in the Informal Economy," Women's Refugee Commission blog, <https://womensrefugeecommission.org/blog/1002-struggling-to-make-a-living-in-ethiopia-surviving-in-the-informal-economy>.

The main sectors of informal employment for refugees in urban areas are related to mechanics, wood work, metal work, and construction. Women reportedly find employment in jobs related to personal services, such as hairdressing and domestic work.¹⁷⁵

SUMMARY AND CONCLUSION

Despite having an open-door policy and welcoming refugees, those in exile in Ethiopia have found their rights restrained. With no access to the formal employment market, many refugees, whether in camps or urban areas, are restricted to informal jobs with no legal protection.

Notwithstanding the introduction of an out-of-camp policy, which enables refugees to reside outside of camps under certain conditions, the reservations with respect to employment continue to limit local integration prospects for refugees and have prevented them from becoming self-sufficient. Since 2010, a number of livelihoods operations have provided limited support to safe, sustainable economic activity in the informal economy in the form of market-driven and participatory livelihood programs such as microfinance, enterprise development, and agrarian interventions to leverage the skills of refugees and the potential found in the informal sector.

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¹⁷⁵ Samuel Hall Consulting (2014) "Living Out of Camp, Alternative to Camp-Based Assistance for Eritrean Refugees in Ethiopia," <http://samuelhall.org/wp-content/uploads/2014/05/Living-Out-of-Camp-Alternative-to-Camp-based-Assistance-in-Ethiopia.pdf>.

Germany

PROFILE

- **Party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol.**
 - **316,115 refugees and 420,625 asylum seekers totaling 736,740= 0.9 percent of a total estimated population of 81.4 million.**
 - **The main countries of origin of asylum seekers in 2015 were Eritrea, Serbia, and Syria.**
 - **The majority of asylum seekers live in mass accommodations in urban locations widely distributed throughout the country.**
- **Human development rank and index: 6th and 0.916**
 - **GDP: Growth 1.7 percent; Per capita US\$41,219**
 - **High-income economy**
 - **Unemployment rate: 5.0 percent**

CONTEXT

During the past 30 years Germany has consistently been a main destination for asylum seekers arriving in Europe. After peaking during the Balkan wars at the beginning of the 1990s, the number of asylum seekers in Germany noticeably declined. The strong downward trend bottomed out in 2007 with slightly more than 19,000 first-time applications. However, since 2010, Germany has again experienced a significantly increased influx of asylum seekers.¹⁷⁶ About 27 percent of asylum seekers in 2015 came from Balkan

¹⁷⁶ This case study was co-authored by Kirsten Schuettler. It draws heavily on four valuable detailed sources:
i) Schneider, J. (2012) "The Organisation of Asylum and Migration Policies in Germany: Study of the German National Contact Point for the European Migration Network (EMN)" (2. revised and updated edition 2012), http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/migration-policies/10a._germany_national_report_organisation_of_asylum_and_migration_policies_en.pdf.
ii) Federal Office of Migration and Refugees, <http://www.bamf.de/EN/Migration/AsylFluechtlinge/Fluechtlingsschutz/fluechtlingsschutz-node.html>.
iii) Thraenhardt, D. (2015) "Die Arbeitsintegration von Fluechtlingen in Deutschland: Humanitaet, Effektivitaet, Selbstbestimmung," Bertelsmann Stiftung.
iv) Federal Office of Migration and Refugees (BAMF) 2015. "Aktuelle Zahlen zu Asyl. Tabellen, Diagramme, Erlaeuterungen, Ausgabe: Oktober 2015," http://www.bamf.de/SharedDocs/Anlagen/DE/Downloads/Infothek/Statistik/Asyl/statistik-anlage-teil-4-aktuelle-zahlen-zu-asyl.pdf?__blob=publicationFile.

countries but they have a small chance of being recognized as refugees. However, the number of asylum seekers from Syria increased 12-fold from 2013 to 2015.

Normally, the need for a visa limits the possibility of refugees reaching Germany. However, these conditions were, at least temporarily, set aside for the more than 1 million arrivals in 2015 under an open-door policy. Constitutional exclusion of the entitlement to asylum for those who entered Germany via a safe third country does not impinge on the granting of refugee protection to those asylum seekers. They are granted equivalent status.

Although national laws since the late 1970s and early 1980s have prevented the integration of asylum seekers (restrictions on movement, interdiction to work, and so forth), these laws have been gradually changed since 2005 when the Immigration Act entered into force, and even more so since 2013.

The arrival and approval of refugee status for the 1 million asylum seekers in 2015, even though they arrived via a safe third country, have fundamentally changed the dynamics of refugee settlement and labor market integration in Germany, as well as the political discourse surrounding refugees. How these changes will affect the progressive liberalization of Germany's refugee laws and policy remains to be seen. Some restrictive legislation has been adopted already.

1. LAW

Refugee Law

National legislation. As well as being a State Party to the Geneva Convention, the right to asylum for victims of political persecution is also anchored in the German constitution as a fundamental right (Art. 16a of the *Grundgesetz* – Basic law). The procedure for the asylum process is regulated by the Asylum Procedure Act 1993 (*AsylVfG*) (since 2015 superseded by the Asylum Act), and Section 3, subsection 1 of the Asylum Procedure Act sets the grounds for application.¹⁷⁷

Germany also provides entitlement to subsidiary protection under certain conditions for those who cannot be protected through refugee status or the right to asylum.

Germany is party to the Common European Asylum System (2013), which sets out common standards and establishes cooperation between European Union member states (EUMSs) on the treatment of asylum claims. It is bound by EU law and the Dublin Regulation III (Regulation No. 604/2013) for determining the state responsible for processing an asylum claim. It is also bound by the Schengen agreement.¹⁷⁸

Refugee law and policy is set against the backdrop of changing political discourse on immigration in Germany since reunification in 1990, in which Germany became increasingly recognized as a country of immigration with consequential impacts on citizenship and integration as benchmarked in the Citizenship Law of 2000¹⁷⁹ and the Immigration Act of 2005.

¹⁷⁷ Federal Office of Migration and Refugees,

<http://www.bamf.de/EN/Migration/AsylFluechtlinge/Fluechtlingsschutz/fluechtlingsschutz-node.html>.

¹⁷⁸ Dublin III allows an EUMS to return an asylum seeker to the European state where she or he first landed. The Schengen agreement abolished all types of border control at the common borders of EUMSs.

¹⁷⁹ Winter, E. (2010) "Trajectories of Multiculturalism in Germany, the Netherlands and Canada: In Search of Common Patterns," *Government and Opposition* Vol. 45, No. 2, pp. 166–86.

Institutions. The complex intertwining and balance of powers, responsibilities, and collaborative arrangements between the Federal Government and the 16 Federal States in Germany is replicated in the structure and implementation of Germany's refugee and asylum system.¹⁸⁰

The Federal Office for Migration and Refugees (Bundesamt fuer Migration und Fluechtlinge, or BAMF), an office reporting to the Federal Ministry of the Interior (BMI), is responsible for policy and decision making with respect to asylum applications. The BAMF has both executive and operational responsibilities and is headed by a President. For the asylum procedure, the BAMF collaborates with the local aliens' offices, the Federal Office of Administration, the Federal Police, federal and regional security authorities, and the United Nations High Commissioner for Refugees.

While the Federal Government is responsible for receiving asylum applications (either through the BAMF or branch offices throughout the country) and for the refugee status determination process, the Federal States have the main responsibility for implementing all the processes from reception of asylum seekers through integration of refugees.

Access to protection. Asylum seekers obtain a temporary residence permit (*Aufenthaltsgestattung*) once they have registered. Applications for asylum are adjudicated at a hearing carried out by experienced and specially trained case officers within the BAMF, usually with knowledge of the country of origin of the applicant.¹⁸¹ Technically, the independence of individual BAMF decision makers (case officers) was repealed by the Immigration Act 2005, so that decision makers act under the instruction of superiors within the BAMF. However, appeals against an asylum case officer's decision can be made to the administrative court. This court's ruling is usually final, marking the end of the asylum procedure except where fundamental legal or procedural questions arise, in which case appeal to higher courts remains possible.

If the asylum application is accepted, persons granted asylum status and those granted refugee status receive temporary residence permits for three years and enjoy nearly the same rights as German citizens. The limited residence permit can be converted into a permanent residence permit after three years¹⁸² if the reasons for flight and asylum are still present. The regulations for issuing residence permits to asylum seekers, persons granted refugee status, and persons granted subsidiary protection are outlined in Section 25 of the Residence Act, which was adopted as part of a fundamental legislative revision of alien law in

¹⁸⁰ Schneider, J. (2012) "The Organisation of Asylum and Migration Policies in Germany: Study of the German National Contact Point for the European Migration Network (EMN)" (2. revised and updated edition 2012), http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/migration-policies/10a_germany_national_report_organisation_of_asylum_and_migration_policies_en.pdf.

¹⁸¹ Schneider, J. (2012) "The Organisation of Asylum and Migration Policies in Germany Study of the German National Contact Point for the European Migration Network (EMN)" (2. revised and updated edition 2012), pp. 36–39, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/migration-policies/10a_germany_national_report_organisation_of_asylum_and_migration_policies_en.pdf.

¹⁸² Currently under revision; final adoption of legislation foreseen later in 2016.

the Immigration Act of 2005.¹⁸³ The legislation adopted as part of this act has undergone significant modification, for example, to include the provisions of the EU Qualification and Procedures Directives in Federal German Law.

If neither asylum nor refugee protection is granted, the BAMF examines subsidiary protection under Section 4 of the Asylum Act. If this fails as well, the BAMF reviews whether there are grounds for a prohibition of deportation in accordance with Section 60 subsections 5 or 7 of the Residence Act 2005 (*Duldung* status¹⁸⁴). On this basis, a residence permit may be granted.

In 2015, asylum seekers had to wait 5.2 months, on average, for a decision on their asylum cases.¹⁸⁵ For countries such as Pakistan, the average wait time is 15 months. This is because applicants from such countries may not be granted refugee status (but still may be granted a residence permit if the prohibition of deportation applies to the specific circumstances). The number of pending asylum applications increased to 364,664 as of December 2015, according to BAMF, but this, of course, is in the context of the massive increase in asylum claims that year.

With regard to residency, the establishment of reception centers and the accommodation of asylum applicants are the responsibilities of each Federal State. Once an application for asylum has been lodged, the applicant receives a temporary residence permit, which restricts the holder to the location of the initial reception facility, although this restriction has now been withdrawn in some of the Federal States. Asylum seekers are assigned to a specific city or district through a federal system that manages the distribution of asylum seekers to each Federal State throughout Germany according to quotas that define the percentage of asylum applicants each Federal State is obliged to take.

With regard to welfare support, the Asylum Seekers' Benefits Act 1993 forms the legal basis for assisting asylum seekers and other migrants with certain temporary residence permits or with *Duldung* status.¹⁸⁶ Asylum seekers and members of other eligible categories receive mostly noncash benefits in the form of basic provision of food, consumables and accommodation, medical assistance, additional benefits in special circumstances, and a small financial allowance. This provision varies if the asylum seeker is housed

¹⁸³ The Residency Act is part of the Act to Control and Restrict Immigration and to Regulate the Residence and Integration of EU Citizens and Foreigners (for short, the Immigration Act), most parts of which were enacted January 1, 2005.

¹⁸⁴ A *Duldung* certificate is a temporary stay of deportation that prevents the holder (foreign nationals, not just asylum seekers) from being compelled to leave or from being deported from Germany. It is granted in circumstances in which the holder may be ill, or because conflict in the country of origin makes return impossible. It compares with the "exceptional leave to remain" provision in other countries.

¹⁸⁵ Deutscher Bundestag – 18. Wahlperiode, Drucksache 18/7625, p. 14.

¹⁸⁶ Schneider, J. (2012) "The Organisation of Asylum and Migration Policies in Germany Study of the German National Contact Point for the European Migration Network (EMN)" (2. revised and updated edition 2012), p. 23, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/migration-policies/10a._germany_national_report_organisation_of_asylum_and_migration_policies_en.pdf.

in a reception facility or in private accommodation. The individual details of the scheme are controlled by the Federal States.¹⁸⁷

Under a new act in 2015 to speed up asylum procedures (*Asylverfahrensbeschleunigungsgesetz*), the provisions for welfare assistance have undergone various changes recently, notably switching from cash benefits to noncash benefits as much as possible, in an attempt to cut the incentives to come to Germany. Special provisions for resettlement and humanitarian admission programs have pertained to Syrian refugees since 2014.¹⁸⁸

Freedom of movement. Recognized refugees and other foreigners with subsidiary and humanitarian protection status have freedom of movement within the Federal Republic, but not always free choice of residence. However, asylum seekers whose status has yet to be determined are restricted to the location of their initial reception facility in a number of Federal States.

Right to work – refugee and labor and employment law

Under the Residence Act 2005, the Federal Employment Agency is the ultimate responsible authority for approving the granting of a residence permit for the purpose of gaining employment for third-country nationals, including asylum seekers and refugees. The residence permit is, in practice, granted by the aliens' authorities that seek approval of the local branch of the Federal Employment Agency.

The regulations on refugees' access to the labor market have undergone many changes in recent decades. Until 2000, access to employment for refugees and recognized asylum seekers was generally tightened to protect labor markets and the requirements of the German economy (largely perceived to have been unsuccessful).¹⁸⁹ But that trend has now been reversed by efforts to improve employment opportunities for immigrants in line with changing attitudes toward migration and citizenship. Specifically, the Labour Migration Control Act of 2009 has improved access to the labor market for distinct migrant groups, including refugees and asylum seekers.¹⁹⁰

Once refugees are recognized and issued a residence permit, there are no limitations on their access to the labor market, self-employment, training, and education. The residence permit includes a work permit

¹⁸⁷ The Asylum Seekers' Benefits Act,

<http://www.bamf.de/EN/Migration/AsylFluechtlinge/Asylverfahren/Asylbewerberleistungen/asylbewerberleistung-en-node.html>.

¹⁸⁸ BAMF (2014) "The Reception Procedure for Syrian Refugees,"

<http://www.bamf.de/EN/Migration/AufnahmeSyrien/aufnahmeverfahren-syrien-node.html>.

¹⁸⁹ Schneider, J. (2012) "The Organisation of Asylum and Migration Policies in Germany Study of the German National Contact Point for the European Migration Network (EMN)" (2. revised and updated edition 2012), p. 50, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/migration-policies/10a_germany_national_report_organisation_of_asylum_and_migration_policies_en.pdf.

¹⁹⁰ Schneider, J. (2012) "The Organisation of Asylum and Migration Policies in Germany Study of the German National Contact Point for the European Migration Network (EMN)" (2. revised and updated edition 2012), p. 24, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/migration-policies/10a_germany_national_report_organisation_of_asylum_and_migration_policies_en.pdf.

for an unrestricted and indefinite period under Section 25(1) and (2) of the Residence Act 2005. These provisions also apply to those with subsidiary protection.

Access to employment is more restricted for those who are registered as asylum seekers, and for those granted residence permits on the grounds of humanitarian protection. For these groups, a “subordinate” work permit is provided, which usually limits the duration of employment to three years in the first instance and, as a general rule, employment authorization expires if the specific employment for which it was issued is terminated.¹⁹¹

Since November 2014, the government of Germany has allowed asylum seekers authorized to reside in Germany but awaiting a decision on their status to take up employment three months after their arrival,¹⁹² unless there is a qualified applicant for the job from an EU member state, in which case the job is reserved for a 15-month period for EU citizens to apply. Before this change, asylum seekers were obliged to wait for a much longer period (before this ruling for up to five years) before they were allowed to work and could only take jobs if no German national or person with equal rights was available—the so-called *Vorrangprüfung*, or priority check. The priority check is now limited to the first 15 months and only concerns equal treatment with nationals in salary and labor conditions for the first four years. No *Vorrangprüfung* is necessary for internships, voluntary work, vocational training, and highly skilled jobs. Asylum seekers are not allowed to be self-employed.

Those whose deportation is suspended (*Duldung*) are also entitled to work; they can also be self-employed after three months with a priority review and after 15 months without such review. This is an improvement to their situation since *Duldung* status is often repeatedly extended, but until 2014 those with this status were still not entitled to access the labor market. Recently, a number of exceptions have been noted.¹⁹³

Before accepting a job offer, all asylum seekers and those in *Duldung* status must obtain approval from the municipal immigration office.

Persons granted refugee or asylum status are given the same rights as German nationals within the social insurance system. They are entitled to social welfare and child benefits, among other benefits.¹⁹⁴

¹⁹¹ Schneider, J. (2012) “The Organisation of Asylum and Migration Policies in Germany Study of the German National Contact Point for the European Migration Network (EMN)” (2. revised and updated edition 2012), p. 45, [http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/migration-](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/migration-policies/10a._germany_national_report_organisation_of_asylum_and_migration_policies_en.pdf)

[policies/10a._germany_national_report_organisation_of_asylum_and_migration_policies_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/migration-policies/10a._germany_national_report_organisation_of_asylum_and_migration_policies_en.pdf).

¹⁹² Exempt from this are those obliged to reside in mass accommodation for up to six months. This includes those whose countries of origin have been declared safe and who made their asylum request after the end of August 2015, https://www.bamf.de/SharedDocs/Anlagen/DE/Downloads/Infothek/Asyl/faq-arbeitsmarktzugang-gefluechtete-menschen.pdf?__blob=publicationFile.

¹⁹³ Zugang zum Arbeitsmarkt für geflüchtete Menschen (Labor market access for forcibly displaced people), https://www.bamf.de/SharedDocs/Anlagen/DE/Downloads/Infothek/Asyl/faq-arbeitsmarktzugang-gefluechtete-menschen.pdf?__blob=publicationFile.

¹⁹⁴ Asylum and Refugee Policy in Germany, http://www.bmi.bund.de/EN/Topics/Migration-Integration/Asylum-Refugee-Protection/Asylum-Refugee-Protection_Germany/asylum-refugee-policy-germany_node.html.

2. POLICY AND PRACTICE

Constraining factors

A number of factors constrain access to employment for refugees in Germany, including lengthy periods of stay but without clear rights of residency and work; residence in mass accommodation for asylum seekers, which limits contacts with networks that could facilitate access to employment; some evidence of slow recognition of skills and qualifications; some lack of feeling welcomed into Germany society, although there has been a quite remarkable movement for welcoming refugees, in particular since the arrival of Syrian refugees in mid-2015 onward.¹⁹⁵

Facilitating factors

Despite constraints on access to employment, Germany has developed a range of positive policies and specific initiatives that have been instrumental in promoting employment for refugees and asylum seekers.¹⁹⁶

Germany offers language and integration training to refugees, as well as vocational training and education for which there are no limitations to access; financial support for these efforts is available. Since October 2015, those without fully recognized refugee status have also been able to participate in integration and language training, based on the 2015 act, *Asylbeschleunigungsgesetz*.¹⁹⁷ Asylum seekers with a high likelihood of successful asylum procedures wishing to participate in vocational training no longer have to prove that no German national or person with equal rights required the training place. Moreover, since 2013 those with Duldung status are no longer prohibited from starting vocational training. After 15 months they are eligible for financial support for vocational training and study.

Start-up finance is also available for refugees.

A number of projects seek to promote the training and labor market integration of refugees, which, like the other facilitating factors discussed above, take place against the background of Germany's National Integration Action Plan, introduced in 2012. Building on the Immigration Act 2005, this is a Federal Government program, also covering the fields of language, education, and social integration as well as labor integration, aimed at shaping Germany's integration policy with respect to economic, cultural, and social factors in a more systematic and proactive way.¹⁹⁸

¹⁹⁵ Roddewig-Oudnia, C. (2013) "Integration of Refugees in Work—A Benefit for All," *Webinar Agenda - Access to Employment: Connecting Refugees to the Labour Market*, <http://citiesofmigration.ca/wp-content/uploads/2013/11/Access-to-Employment-Webinar-Slides-Nov-132013.pdf>.

¹⁹⁶ This section draws extensively on Zimmermann, S., (Zwickau), J. Krellmann, J. Korte, und der Fraktion Die Linke Antwort der Bundesregierungm (2015) "Erfahrungen beim Arbeitsmarktzugang und der Arbeitsförderung von Asylsuchenden und Flüchtlingen – Qualifikation und Beschäftigung," Deutscher Bundestag, 18. Wahlperiode, 19.10.2015, Drucksache 18/640, <http://dip21.bundestag.de/dip21/btd/18/064/1806420.pdf>.

¹⁹⁷ https://www.bamf.de/SharedDocs/Anlagen/DE/Downloads/Infothek/Asyl/faq-arbeitsmarktzugang-gefluechtete-menschen.pdf?__blob=publicationFile.

¹⁹⁸ Schneider, J. (2012) "The Organisation of Asylum and Migration Policies in Germany Study of the German National Contact Point for the European Migration Network (EMN)" (2. revised and updated edition 2012), p. 20, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/migration-policies/10a._germany_national_report_organisation_of_asylum_and_migration_policies_en.pdf.

The National Integration Action Plan also enhances refugees' access to information about their legal entitlements. Because employers often lack information about changes in the law regarding asylum seekers and those under prohibition from deportation (Duldung status), an array of advocacy counseling, information, and support organizations are available to offer assistance to refugees and asylum seekers.

Although the Federal Government has only recently taken a major role in laying the foundations for a national integration program, in keeping with the balance of powers between the Federal Government and the Federal States, the policy frameworks for integration are much more developed at the level of the Federal States than at the national level. Differences in legal status become irrelevant at the local level where the concerns are to build relationships and community belonging, activities in which local units of government have been more proactive and for far longer.¹⁹⁹

It is worth noting that since September 2015 the Director of the Federal Employment Agency is the BAMF Commissioner. This is to some extent indicative of Germany's whole-of-government approach to the refugee crisis, and of the authorities' view that labor market integration will be important.

3. MEDIATING CONDITIONS

Socioeconomic factors

Compared with other European countries, Germany's demographic deficit and sustained economic growth, combined with consistently low levels of unemployment, have created favorable conditions for the labor market integration of refugees (and other migrants). Even in the recession of 2008–11 (albeit more limited in Germany than elsewhere in Europe) the economic crisis had a relatively subdued effect, overall, on the foreign migrant population, including refugees, although this may have been a matter of chance rather than the outcome of specific policies for labor market integration or the attributes of the refugees and asylum seekers themselves.²⁰⁰ Nevertheless, the evidence suggests that the impact of the recession on migrant labor was greater in the manufacturing than in the service sectors.²⁰¹

With regard to public perceptions, although the German public is divided over the question of how many refugees the country can and should host—a discourse rapidly amplified in 2015 with the arrival of a million asylum seekers, with Syria being the most important country of origin—the government's strategy that refugees should be allowed access to the labor market as quickly as possible is broadly supported.

Refugee profiles

There is little current information or research in Germany on refugee networks, their social capital, and other attributes that mediate access to labor markets. Although it is known that two-thirds of asylum seekers are of working age and that language barriers make access to the labor market difficult, there are

¹⁹⁹ Losi, N., and A. Strang (2008) "Local Communities and Refugees: Fostering Social Integration," Final Report, Integrraref, p. 25, http://eresearch.qmu.ac.uk/1240/1/eResearch_1240.pdf.

²⁰⁰ Kim, A. M. (2010) "Foreign Labour Migration and the Economic Crisis in the EU: Ongoing and Remaining Issues of the Migrant Workforce in Germany," IZA DP No. 5134, August 2010, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1663174.

²⁰¹ Kim, A. M. (2010) "Foreign Labour Migration and the Economic Crisis in the EU: Ongoing and Remaining Issues of the Migrant Workforce in Germany," IZA DP No. 5134, August 2010, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1663174.

no overall, representative data on the qualification of refugees and asylum seekers as of now.²⁰² Limited experience of work in Germany and thus the lack of formal and informal knowledge of the labor markets, together with limited previous professional education and skills training for younger members of refugee communities, also contribute to some of the challenges of labor market uptake.

Only recently have a number of new studies of refugees' access to labor markets commenced.²⁰³ However, based on a nonrepresentative survey among newly arriving asylum seekers in 2015, the Federal Labour Office estimates that about half of this sample population have not acquired any vocational training or academic education or are not able to provide proof of their qualifications. First results of a study of those granted refugee status or asylum between 2008 and 2012 from six main countries of origin showed that two-thirds were male and a majority were between 18 and 34 years old.²⁰⁴ About 16 percent had not attended any school, 7 percent only four years or less. About 60 percent had no vocational training or university degree. About 10 percent of those between 25 and 65 years old were considered highly qualified and 13 percent had no qualifications. Women were less qualified than men.

Even though there are no representative data yet, refugees' qualifications seem to be lower than the average among nationals as well as other foreigners and migrants.²⁰⁵

4. OUTCOMES

Participation in the labor market

Despite the proactive policies of the Federal Government as well as the Federal States in recent years to promote labor market access and integration for refugees, there is a surprising lack of information or data on the effectiveness of these policies. However, new results published by the Institute for Employment Research of the German Federal Employment Agency show that in the past, when the framework conditions were less favorable, 50 percent of refugees between 15 and 64 years old in Germany were employed five years after their arrival, 60 percent after 10 years, and 70 percent after 15 years.²⁰⁶ During the first 10 years this percentage is lower than among other migrant groups. Even after 15 years their average income per month is still 300 euro less than for other migrant groups. A study of those granted refugee status or asylum between 2008 and 2012 from six main countries of origin showed that 36.5 percent worked and 9 percent were in training. The labor market participation of women (11.5 percent) was much lower than of men (49.8 percent). Women mainly worked in a small number of sectors and rarely had high-skilled jobs. However, 87.6 percent said that they would like to work, or continue to work.

²⁰² Bruecker, H. (2015) "Zur Integration von Fluechtlingen," IAB Stellungnahme 5/2015, <http://doku.iab.de/stellungnahme/2015/sn0515.pdf>.

²⁰³ Among others, in 2016 the first round of a representative panel study covering 2,000 refugees who arrived in Germany after 2013 is being conducted by Institut für Arbeitsmarkt-und Berufsforschung (Institute for Employment Research) IAB, BAMF, and Das Sozio-oekonomische Panel SOEP (German Socio-economic Panel).

²⁰⁴ Worbs, S., and E. Bund (2016) "Asylberechtigte und anerkannte Fluechtlinge in Deutschland: Qualifikationsstruktur, Arbeitsmarktbeteiligung und Zukunftsorientierungen." BAMF-Kurzanalyse 01/2016.

²⁰⁵ Institut für Arbeitsmarkt und Berufsforschung (IAB) (2015) "Fluechtlinge und andere Migranten am deutschen Arbeitsmarkt: Der Stand im September 2015." Aktuelle Berichte 14/2015, http://doku.iab.de/aktuell/2015/aktueller_bericht_1514.pdf.

²⁰⁶ IAB (2015) "Fluechtlinge und andere Migranten am deutschen Arbeitsmarkt: Der Stand im September 2015." Aktuelle Berichte 14/2015.

Random evidence also suggests that asylum seekers seek and find jobs, even though they are often low-paid.²⁰⁷ As in many other countries, both high income and developing, work in the informal sector is also a feature of refugee employment in Germany.²⁰⁸

SUMMARY AND CONCLUSIONS

Germany's legal and policy framework with respect to the right to work for refugees and others with recognized status has many positive features. Germany allows and promotes refugees' access to the labor market, training, and education. Moreover, the country made important changes in 2014 to improve the labor market integration of asylum seekers. However, the waiting time for approval of asylum requests still remains a constraining factor in obtaining unconditional right to work. The influx of an estimated 1 million asylum seekers in a very short time in 2015, and the prospect of a further large number of Syrian refugees arriving in 2016, is undoubtedly having a significant effect on the labor market structure on the one hand and access to employment (type of work, volume of vacancies, skills match, and so on) on the other. These dynamics have yet to be fully assessed and will undoubtedly further affect law, policy, and practice with regard to access to the labor market. Indeed, the coalition government agreed on a new legislative package and regulations on January 28, 2016, entitled *Asyl-Paket II*.

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²⁰⁷ Thraenhardt, D. (2015) "Die Arbeitsintegration von Fluechtlingen in Deutschland: Humanitaet, Effektivitaet, Selbstbestimmung," Bertelsmann Stiftung, p. 37, <https://www.bertelsmann-stiftung.de/de/publikationen/publikation/did/die-arbeitsintegration-von-fluechtlingen-in-deutschland-1/>.

²⁰⁸ Losi, N., and A. Strang (2008) "Local Communities and Refugees: Fostering Social Integration," Final Report, Integrarref, p. 25, http://eresearch.qmu.ac.uk/1240/1/eResearch_1240.pdf.

India

PROFILE

- Not party to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol but has positive administrative frameworks and judicial decisions to support refugee protection in practice.
 - 201,381 refugees and 6,480 asylum seekers²⁰⁹ totaling 207,861 = 0.01 percent of a total estimated population of 1,311 billion.
 - Majority of refugees assisted by the government of India are Tibetans²¹⁰ and Sri Lankans; India also hosts a significant number of refugees from Afghanistan and Myanmar, especially Rohingyas who fled violence from Rakhine state and Chin refugees who have crossed into Mizoram state.²¹¹
 - Tibetans live in official settlements or outside of these settlements in scattered communities. Sri Lankan refugees are mostly hosted in government-run camps located across the Indian state of Tamil Nadu, others live outside the official camps in the surrounding area. About 10 percent of the refugee population, mainly UNHCR-mandated refugees from Afghanistan and Myanmar, live in Delhi.
- Human development rank and index: 135th and 0.586
 - GDP: Growth 7.6 percent; Per capita US\$1,581.6
 - Lower-middle-income economy
 - Unemployment rate: 3.6 percent

CONTEXT

India is second to Bangladesh as the largest refugee-receiving country in South Asia. Since gaining independence in 1947, India has received significant numbers of refugees fleeing conflict or persecution,

²⁰⁹ Some 24,000 refugees, the majority Afghans and Rohingyas, are registered with the UNHCR and most of them stay in Delhi.

²¹⁰ India is also hosting the Tibetan government-in-exile, the Central Tibetan Administration (CTA).

²¹¹ An estimated 100,000 Chins may be present in India, but only about 6,000 are registered with the UNHCR as asylum seekers and refugees.

not only from some of its neighboring countries, including Afghanistan, Myanmar, Sri Lanka, and Tibet, but also distant countries like the Islamic Republic of Iran, Iraq, Somalia, Sudan, and Uganda.²¹² Despite no provision in domestic law for refugees, the government of India has nevertheless put in place positive administrative frameworks and judicial decisions supporting refugee protection practice.

As to durable solutions, a significant number of refugees from Sri Lanka and Afghanistan have chosen to repatriate. With limited prospects of being offered resettlement, local integration is de facto the most common solution for a majority of refugees. Residency and employment rights have been conferred on a small number, and citizenship on an even smaller percentage.

1. LAW

Refugee Law

National legislation. India is not a signatory to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol and has no refugee law.²¹³ The legal status of refugees in India is governed mainly by the 1946 Foreigners Act, the 1948 Foreigners Order implementing that act, and the 1955 Citizenship Act.²¹⁴ These acts do not distinguish refugees fleeing persecution from other foreigners; they apply to all noncitizens equally.

Institutions. In the absence of a specific government body in charge of refugee affairs, these issues are dealt with by the Foreigners Regional Registration Office under the jurisdiction of the Foreigners Division of the Ministry of Home Affairs.

Access to protection. Under the 1946 Foreigners Act, illegal entry into the country is a criminal offense punishable by up to five years in prison, with no exception for refugees or asylum seekers,²¹⁵ while India's 2003 Citizenship Amendment Act defines all noncitizens who enter without visas as "illegal migrants."²¹⁶ In practice, however, most asylum seekers and refugees are not penalized for breach of these laws.

The government of India has put in place positive administrative frameworks and judicial decisions²¹⁷ to deal with refugees and asylum seekers, while the United Nations High Commissioner for Refugees (UNHCR) has established procedures for registering and interviewing asylum seekers for refugee status

²¹² Ananthachari, T. (2001) "Refugees In India: Legal Framework, Law Enforcement And Security," ISIL Year Book of International Humanitarian and Refugee Law, www.worldlii.org/int/journals/ISILYBIHRL/2001/7.html.

²¹³ India is, however, a signatory to various other international and regional treaties and conventions relating to universal human rights and refugees, such as the UN Declaration on Territorial Asylum (1967), the Universal Declaration of Human Rights, and the International Convention on Civil and Political Rights.

²¹⁴ Human Rights Law Network (2007) "Report of Refugee Populations in India,"

www.hrln.org/admin/issue/subpdf/Refugee_populations_in_India.pdf.

²¹⁵ Foreigners Order 1948, order under the Foreigners Act 1946,

<http://artassam.nic.in/Passport%20Deptt/Foreigners%20Orders%201948%20Order%20Under%20The%20ForeignersAct,%201946.pdf>.

²¹⁶ Citizenship Amendment Act 2003, Citizenship Rules 1956, www.refworld.org/docid/410520784.html

²¹⁷ For instance, in the landmark Chakma refugees case, the Supreme Court clearly held that the state was under a constitutional obligation to protect refugees (National Human Rights Commission v State of Arunachal Pradesh, AIR 1996 SC 1234).

determination.²¹⁸ Some groups, such as Sri Lankan Tamils and Tibetans, have been granted asylum under the government of India's executive policies, and have been given certain rights and support.²¹⁹ In particular, Tibetans have been given more rights than most other refugee groups in India.²²⁰ The first wave of Tibetans arriving in 1959 with the Dalai Lama were regarded as refugees and granted legal asylum. They were allotted land and housing—a privilege not afforded to other foreigners and one that would later be denied to newly arriving Tibetans. These refugees were automatically given registration certificates that serve as identity documents valid for two years, granting them employment, residency, and travel rights.²²¹ However, in 1963, the Indian government ceased to legally recognize arriving Tibetans as refugees, and the process for acquiring a registration certificate became more arduous. The Indian government issued residence permits to Tibetans who arrived subsequently; these permits are to be renewed annually. Under the 1955 Citizenship Act, Indian-born Tibetans may be eligible for Indian citizenship, although fewer than 3 percent actually apply.²²²

Ethnic Nepalese Bhutanese and Nepalese are not recognized as refugees who were forced to flee but are nevertheless allowed to live and work in India under friendship treaties.²²³ Because the government of India is providing them with a set of rights, they do not receive assistance from the UNHCR.

The estimated 115,000 Hindu Pakistani refugees, who are mainly found in Rajasthan and Gujarat states, are not granted residence permits and were not considered refugees, a perception that is now changing as the government of India started issuing stay permits (long-term visas) for Hindus from Bangladesh and Pakistan. The Constitution of India and the Indian Citizenship Act 1955, also make specific provision for those who were born or whose parents were born in undivided India to apply for Indian citizenship, and

²¹⁸ The UNHCR's operations focus on individual refugees and asylum seekers from nonneighboring countries, as well as Myanmar, while the government assumes responsibility for the Tibetan and Sri Lankan refugee caseloads as well as other groups from neighboring countries, Women's Refugee Commission (2011) *Bright Lights, Big City: Urban Refugees Struggle to Make a Living in New Delhi*, <https://www.womensrefugeecommission.org/resources/document//733-bright-lights-big-city-urban-refugees-struggle-to-make-a-living-in-new-delhi>.

²¹⁹ REUTERS (2014) "Myanmar's Rohingya stuck in refugee limbo in India," www.reuters.com/article/2014/09/15/us-foundation-stateless-india-rohingya-idUSKBN0HA07F20140915.

²²⁰ Human Rights Law Network (2007) "Report of Refugee Populations in India," www.hrln.org/admin/issue/subpdf/Refugee_populations_in_India.pdf.

²²¹ Artiles, C. (undated), "Tibetan Refugees' Rights and Services in India," *Topical Research Digest: Minority Rights, Human Rights & Human Welfare*, University of Denver, www.du.edu/korbel/hrhw/researchdigest/minority/Tibetan.pdf.

²²² Tibetans born in India between 1950 and 1987 can become citizens; those born between 1987 and 2004 are eligible if one of their parents was Indian at the time of their birth, while those born in India after 2004 can become Indian citizens only if both parents are Indians or if one is a citizen and the other is not illegal; United States Committee for Refugees and Immigrants (2009) "World Refugee Survey—India," www.refworld.org/docid/4a40d2a75d.html.

²²³ Article 7 of the Indo-Nepal Peace and Friendship Treaty of 1950 stipulates that "The Governments of India and Nepal agree to grant, on a reciprocal basis, to the nationals of one country in the territories of the other the same privileges in the matter of residence, ownership of property, participation in trade and commerce, movement and other privileges of a similar nature," <http://mea.gov.in/bilateral-documents.htm?dtl/6295/Treaty+of+Peace+and+Friendship>. No such reference is made under the 2007 Indo-Bhutan Friendship Treaty, which replaces the 1949 Treaty, http://carnegieendowment.org/newsletters/SAP/pdf/march07/india_bhutan_treaty.pdf.

the 2004 Citizenship Amendment Rules specifically provide for Pakistanis to apply for citizenship in Gujarat and Rajasthan.²²⁴

Afghans and Myanmarese are recognized as refugees and protected under the UNHCR mandate. The documents issued by the UNHCR to all mandated asylum seekers and refugees are recognized by the government of India and serve as a de facto form of protection. Furthermore, mandated refugees may apply for long-term visas (which are government documents), and India has also issued residence permits to some Afghans and Myanmarese mandated refugees.

In addition, India is host to as many as 100,000 Chin who fled from Western Myanmar. Only a small percentage have approached the UNHCR for refugee status because the bulk of this largely undocumented population lives in Mizoram, in India's remote northeastern frontier, with little access to the UNHCR or nongovernmental organizations.

The Constitution, which prohibits discrimination based on race, religion, place of birth, and other grounds, extends equality before the law to all person and provides for the equal protection of the law, grants protection of life and liberty, and protects against unlawful detention. India respect the principle of *non-refoulement* and recognizes the UNHCR's mandate status determination as the basis for granting long-term visas for refugees.²²⁵ Recognized refugees receive a micro-chipped identity card, a "smart card," that is valid for three to five years.²²⁶

Freedom of movement. The Constitution reserves the right to freedom of movement and choice of residence to its citizens. The 1946 Foreigner Act and the 1948 Foreigners Order give the government the power to oblige foreigners to "reside in a particular place" and to "[impose] any restrictions on [their] movements." The Foreigners Order also prohibits refugees and asylum seekers from leaving India without permission. However, in practice, mandated refugees are settling in different parts of the country and freely moving between locations.

Because of the ban on the Liberation Tigers of Tamil Eelam, after 1991 Sri Lankan refugees became subject to movement restrictions and camp confinement and were only allowed to move within the camps. Police collected intelligence within camps, and if outside the camps, Sri Lankan refugees were reportedly under

²²⁴ Conditions for citizenship are that the individual must have been continuously resident in India for 5 years, rather than for 12 years as is the case with other foreigners applying for citizenship, and intends to settle permanently in India. Once Pakistani refugees have attained citizenship they are afforded the same rights as Indian citizens, although for the poorest Pakistanis the fee for citizenship application, which was increased under an amendment to the Citizenship Act in 2005 is prohibitive; Human Rights Law Network (2007) "Report of Refugee Populations in India," www.hrln.org/admin/issue/subpdf/Refugee_populations_in_India.pdf.

²²⁵In 1996 the Supreme Court ruled that guarantees of life and personal liberties in the 1950 Constitution protect refugees from *refoulement* and, in 2007, the Court affirmed this in the case of an ethnic Armenian Christian resisting return to the Islamic Republic of Iran after his visa had expired; United States Committee for Refugees and Immigrants (2009) "World Refugee Survey—India," www.refworld.org/docid/4a40d2a75d.html.

²²⁶ These photo ID smart cards are similar to identity cards issued by the government of India and include standard refugee status description text in English and Hindi on the back of the card; UNHCR is able to read refugee information by scanning the smart card, Morand, M., and J. Crisp (2013) "Destination Delhi: A Review of the Implementation of UNHCR's Urban Refugee Policy in India's Capital City," UNHCR Policy Development and Evaluation Service, www.unhcr.org/51f66e7d9.pdf.

police surveillance and expected to return to their camps for periodic roll calls. Since 2012 Sri Lankan refugees have been allowed to go outside the camps with written permission.²²⁷

Right to work – refugee and labor and employment law

The Constitution reserves to citizens the rights to work, practice professions, join unions, and operate businesses.²²⁸ The 1946 Foreigners Act and the 1948 Foreigners Order allow the government to limit employment opportunities, and the combination of the 1946 Act and the 2003 Citizenship Act makes it challenging for refugees, except for those benefiting from specific arrangements as listed below, to secure employment.²²⁹

There was initially no concept of work permits in India. Tibetan refugees possessing a registration card are allowed to work. Refugees provided with residence permits may seek formal employment, while Nepalese and Bhutanese refugees can work under the friendship treaties.

Refugees (like all foreigners) cannot legally own land. The Indian government at first provided land to Tibetan refugees, but stopped doing so after 1963. Refugees and migrants can open bank accounts if they can provide proof of residence or an electricity bill and have a long-term visa.

2. POLICY AND PRACTICE

Constraining factors

The government of India has a restrictive policy on the issuance of work permits for all foreigners, including refugees. As a result, it is difficult for refugees to obtain formal work permits from the government, but this situation is evolving given that the government issues long-term visas to refugees, which allows them access to work in the private sector.²³⁰

Many of the refugees who find low-paid employment in the informal job market do not possess financial literacy and broader business development skills, such as entrepreneurship, marketing, and pricing, that would enhance their capacity to operate their small businesses and to manage their budgets and plan for anticipated expenses, such as rent. Furthermore, most grants given in the existing grants program are too small to help refugees establish their own businesses and cover equipment and start-up needs. In addition, refugees lack access to savings and micro-insurance.²³¹ Lack of formal documentation such as education and professional qualification certificates or a refugee identity card may restrict their access to the labor market.

Although Tibetans possessing registration certificates can legally work in preapproved segments of the economy, many employers discriminate against them in favor of Indian nationals. This resentment originates from the belief that Tibetan refugees are adversely affecting job opportunities and that they

²²⁷ Information provided by the UNHCR.

²²⁸ Article 16.1 of the Constitution of India (as modified up to December 1, 2007), <http://lawmin.nic.in/coi/coiason29july08.pdf>.

²²⁹ Article 10 of the order highlights sectors of employment not available to foreigners, unless the foreigner obtains special government approval. In addition, the order gives India the power to create new restrictions on employment as it believes necessary.

²³⁰ Information provided by the UNHCR.

²³¹ Information provided by the UNHCR.

benefit from services not afforded to Indian nationals.²³² Even Pakistani Hindus, despite their gradual acquisition of Indian citizenship, report experiencing exploitation in the workplace and low wages.²³³

Myanmarese and Somali refugees, who have weak relations with the Indian host population, also experience discrimination and exploitation at the workplace.²³⁴ Somalis, mainly unaccompanied minors and young adults, have reportedly been discriminated against because of their color and have great difficulty finding work even in the informal sector.²³⁵ The high degree of discrimination faced by Somalis could, in part, explain why most prefer to avoid the job market.²³⁶

Employers in Mizoram state are also reportedly exploiting the lack of legal status of Chin people from Western Myanmar by, for instance, withholding payment.²³⁷

In the past, Sri Lankan camp refugees seeking work, mainly in the informal economy, to supplement their incomes could receive an exemption to exit or enter by informing camp-in-charge. They were only allowed to work between 6 am and 6 pm; camps were subject to daily evening curfews.²³⁸ If they were able to produce letters from employers, they were occasionally allowed to leave the camps for a few days. Since 2012 Sri Lankan refugees have been allowed, with written permission, to stay and work outside the camps in formal sectors such as textiles, business process outsourcing and call centers, and the hospitality industry on the condition that they report to camps periodically.²³⁹

Refugee women, especially Myanmarese, working in the informal sector are sometimes overworked, underpaid, and harassed at work, and refugee women and girls are more vulnerable to gender-based violence in India. Some refugee women in the Burmese community have reported being afraid to work outside of their homes.²⁴⁰ Reported incidents of gender-based violence have, however, declined during the past few years due to increased awareness and advocacy.

²³² Artiles, C. (undated) "Tibetan Refugees' Rights and Services in India," Topical Research Digest: Minority Rights, Human Rights and Human Welfare, University of Denver, www.du.edu/korbel/hrhw/researchdigest/minority/Tibetan.pdf.

²³³ Artiles, C. (undated) "Tibetan Refugees' Rights and Services in India," Topical Research Digest: Minority Rights, Human Rights and Human Welfare, University of Denver, www.du.edu/korbel/hrhw/researchdigest/minority/Tibetan.pdf.

²³⁴ Somali and Myanmarese children also often faced discrimination at school, Joint IDP Profiling Service (2013) "Urban Profiling of Refugees in Delhi, Refugees from Myanmar, Afghanistan and Somalia and Their Indian Neighbours," www.jips.org/system/cms/attachments/817/original_Urban_Profiling_of_Refugee_Situations_in_Delhi.pdf.

²³⁵ Human Rights Law Network (2007) "Report of Refugee Populations in India," www.hrln.org/admin/issue/subpdf/Refugee_populations_in_India.pdf.

²³⁶ Joint IDP Profiling Service (2013) "Urban Profiling of Refugees in Delhi, Refugees from Myanmar, Afghanistan and Somalia and Their Indian Neighbours," www.jips.org/system/cms/attachments/817/original_Urban_Profiling_of_Refugee_Situations_in_Delhi.pdf.

²³⁷ Human Rights Law Network (2007) "Report of Refugee Populations in India," www.hrln.org/admin/issue/subpdf/Refugee_populations_in_India.pdf.

²³⁸ Human Rights Law Network (2007) "Report of Refugee Populations in India," www.hrln.org/admin/issue/subpdf/Refugee_populations_in_India.pdf.

²³⁹ Information provided by the International Labor Organization and the UNHCR.

²⁴⁰ Women's Refugee Commission (2011) "Bright Lights, Big City: Urban Refugees Struggle to Make a Living in New Delhi," <https://www.womensrefugeecommission.org/resources/document//733-bright-lights-big-city-urban-refugees-struggle-to-make-a-living-in-new-delhi>.

Child labor among refugee and asylum-seeking children is not uncommon, and is a protection concern.²⁴¹ Refugee children's access to primary education has gradually improved since India's 86th amendment to the Constitution in 2002 and the 2010 Right to Education Act, with the state now providing "free and compulsory education to all children of the age of 6 to 14" and through advocacy and education projects run by the UNHCR and implementing partners. However, when applying to the Indian university system, refugees are treated as foreigners and are required to pay higher tuition rates, an impediment that precludes a majority of refugee youth from accessing higher education.²⁴² Individual refugees have, however, obtained waivers from Indian universities so that they can enroll at par with Indian citizens, but a larger policy dent has not been made yet in this regard.²⁴³

Facilitating factors

Most refugees who are granted long-term visas or residence permits do find employment in the informal sector, without facing any objection from the government. Refugees without residence permits find it difficult to gain employment, but for those who do, employers who illegally hire them are rarely punished.

Tibetan refugees have been granted loans and other facilities for self-employment by the Indian government. Sri Lankan Tamils have also been encouraged to engage in casual labor, including through self-help structures, such as the Organisation for Eelam Refugees Rehabilitation, which supported youth labor cooperatives, tailoring training centers, female income-generation projects, and initiatives to transfer skills.²⁴⁴

Since 2012, the government of India has allowed UNHCR-mandated refugees to apply for residence permits²⁴⁵ or long-term visas, giving them permission to work in the private sector, and in 2014, the practice of issuing long-term visas expanded. Skilled refugees have been able to find better employment in the private sector, while the benefit of these long-term visas is expected to gradually provide opportunities to lesser skilled refugees.²⁴⁶ Among Myanmar urban refugees, micro-entrepreneurs were able to start businesses after getting grants from the UNHCR or loans from churches or a rotating saving

²⁴¹ UNHCR Global Appeal "India 2011 Update," www.unhcr.org/4cd96e919.pdf.

²⁴² Women's Refugee Commission (2011) "Bright Lights, Big City: Urban Refugees Struggle to Make a Living in New Delhi," <https://www.womensrefugeecommission.org/resources/document//733-bright-lights-big-city-urban-refugees-struggle-to-make-a-living-in-new-delhi>.

²⁴³ Information provided by the UNHCR.

²⁴⁴ Saha, K. C. (2004) "Learning from Empowerment of Sri Lankan Refugees in India," *Forced Migration Review 20*, www.fmreview.org/FMRpdfs/FMR20/FMR2014.pdf.

²⁴⁵ "In case of refugees, the procedure of acquiring Residence Permits (issued under Rule 6 of the Registration of Foreigners Rules, 1992) involves application to the Foreigners Regional Registration Office on the basis of a letter issued by the Ministry of Home Affairs together with submission of identity documents such as Residence Proof, Identity Proof and a Police Clearance Certificate." Refugee Watch (2009), "Residence Permits for Refugees in India: Ad-Hocism, Confusion and Lack of Clarity within the Government," <http://refugeewatchonline.blogspot.fr/2009/08/residence-permits-for-refugees-in-india.html>.

²⁴⁶ Thus far, it is mainly the Myanmar refugees that have obtained long-term visas, and the government of India has agreed to waive the associated fees; UNHCR News Stories (2012) "Refugees in India Share Daily Struggles with UNHCR Chief," www.unhcr.org/50d47f056.html.

and credit association.²⁴⁷ More than 4,000 refugees from various nationalities have been granted long-term visas and some have already opened bank accounts.²⁴⁸

In addition, the UNHCR and its implementing partners are also supporting refugees' access to livelihood activities, including vocational training and income-generating activities such as the livelihood project managed by the nonprofit organization ACCESS, which has taught weaving techniques to Rohingya women, encouraging self-employment, and enabled them to sell jute products such as bags in local markets.²⁴⁹

3. MEDIATING CONDITIONS

Socioeconomic conditions

Cities like New Delhi represent dynamic, expanding markets where the informal sector offers plentiful opportunities, including for refugees, to earn a living.²⁵⁰ Refugees, however, find themselves in competition with poor urban workers who migrate en masse to the capital from poorer Indian states and a great number of foreign migrants. Accessible urban jobs are low skilled, while better paid, high-skilled jobs require Hindi language skills and documentation beyond the UNHCR-issued identity card. The competition between workers has resulted in suppressed wages and exploitative labor practices with employers able to find employees who will work for longer hours and lower wages than refugees will accept.²⁵¹ Poverty is thus a key concern for refugees as it is for a majority of the population—despite rapid economic growth, a third of the Indian population lives below the poverty line.²⁵² Against the broader background of difficult socioeconomic conditions for large segments of India's population, a rise in racism and xenophobia have undermined the tradition of tolerance toward refugees.²⁵³

The inflation and low wages in New Delhi have reportedly compelled some women to take potentially exploitative jobs as, for instance, domestic workers, a sector fraught with abuse, or to risk sexual gender-based violence by working late at night. Some refugee families have also enlisted their adolescents in the

²⁴⁷ These small businesses were, however, often not full-time activities and thus unlikely to provide secure livelihoods, Joint IDP Profiling Service (2013) "Urban Profiling of Refugees in Delhi, Refugees from Myanmar, Afghanistan and Somalia and Their Indian Neighbours," www.jips.org/system/cms/attachments/817/original_Urban_Profiling_of_Refugee_Situations_in_Delhi.pdf.

²⁴⁸ Information provided by the UNHCR.

²⁴⁹ United Nations Information Centre for India and Bhutan (2016) "UNHCR: Livelihood Programme Empowers Rohingya Refugee Women," www.unic.org.in/display.php?E=14365&K=.

²⁵⁰ Sanderson, M. (2015) "The Role of International Law in Defining the Protection of Refugees in India," *Wisconsin International Law Journal*, Vol. 33 Issue 1, <https://ore.exeter.ac.uk/repository/bitstream/handle/10871/17244/Sanderson%20India%20Paper.pdf?sequence=3>.

²⁵¹ Women's Refugee Commission (2011) "Bright Lights, Big City: Urban Refugees Struggle to Make a Living in New Delhi," <https://www.womensrefugeecommission.org/resources/document//733-bright-lights-big-city-urban-refugees-struggle-to-make-a-living-in-new-delhi>.

²⁵² Morand, M., and J. Crisp (2013) "Destination Delhi: A Review of the Implementation of UNHCR's Urban Refugee Policy in India's Capital City," UNHCR Policy Development and Evaluation Service, www.unhcr.org/51f66e7d9.pdf.

²⁵³ UNHCR Global Appeal "India 2011 Update," www.unhcr.org/4cd96e919.pdf.

workforce to supplement the family income, but of late, child protection and education programs have been scaled up to address issues surrounding out-of-school children and child labor.²⁵⁴

For more highly educated and highly skilled refugees, entry into the workforce is even more challenging. While tolerated in the informal economy, before 2012 refugees did not have the right to work in the formal sector and thus were unable to practice their professions.²⁵⁵

Refugee profiles

Refugees' education levels, skills, and previous occupations differ significantly by nationality. Many of the Somalis and Afghans are highly educated and come from urban backgrounds, while the Burmese come from less educated, agricultural backgrounds and, as such, have the biggest adjustments to make and the fewest transferable skills for the urban environment.²⁵⁶

Among the factors that push many refugees into the low-wage segment of the labor market is that they do not speak English or Hindi to allow them to compete with Indian citizens to secure jobs.²⁵⁷ Somali women are, for instance, less likely than their male counterparts to learn English or Hindi and thus remain isolated from the local community, although the trend is slowly changing as more and more Somali women come forward to join livelihood and vocational training programs that include language classes.

Although the 2013 profile of urban refugees indicates that different refugee communities have diverse perceptions of what constitutes "social capital," it was clearly identified as a facilitating factor given that "more than 70% of Afghan and Myanmarese employees said they found their job through the community, friends or relatives."²⁵⁸ Other researchers confirm that social capital is a key determinant of refugees' successful integration and access to income, and that refugees "lead each other to jobs" as much as they "also compete against each other in the job market."²⁵⁹

²⁵⁴ Morand, M., and J. Crisp (2013) "Destination Delhi: A Review of the Implementation of UNHCR's Urban Refugee Policy in India's Capital City," UNHCR Policy Development and Evaluation Service, www.unhcr.org/51f66e7d9.pdf.

²⁵⁵ Women's Refugee Commission (2011) "Bright Lights, Big City: Urban Refugees Struggle to Make a Living in New Delhi," <https://www.womensrefugeecommission.org/resources/document//733-bright-lights-big-city-urban-refugees-struggle-to-make-a-living-in-new-delhi>.

²⁵⁶ Women's Refugee Commission (2011) "Bright Lights, Big City: Urban Refugees Struggle to Make a Living in New Delhi," <https://www.womensrefugeecommission.org/resources/document//733-bright-lights-big-city-urban-refugees-struggle-to-make-a-living-in-new-delhi>.

²⁵⁷ For instance, refugees from Myanmar reported how limited Hindi skills often led to misunderstandings with employers and at times resulted in receiving reduced salaries, Joint IDP Profiling Service (2013) "Urban Profiling of Refugees in Delhi, Refugees from Myanmar, Afghanistan and Somalia and Their Indian Neighbours," www.jips.org/system/cms/attachments/817/original_Urban_Profiling_of_Refugee_Situations_in_Delhi.pdf.

²⁵⁸ Joint IDP Profiling Service (2013) "Urban Profiling of Refugees in Delhi, Refugees from Myanmar, Afghanistan and Somalia and Their Indian Neighbours," p. 51, www.jips.org/system/cms/attachments/817/original_Urban_Profiling_of_Refugee_Situations_in_Delhi.pdf.

²⁵⁹ Women's Refugee Commission (2011) "Bright Lights, Big City: Urban Refugees Struggle to Make a Living in New Delhi," p. 2, <https://www.womensrefugeecommission.org/resources/document//733-bright-lights-big-city-urban-refugees-struggle-to-make-a-living-in-new-delhi>.

Community-based networks play an important role in the lives of refugee women, for instance, by providing interpretation services, conducting workshops and training in the fields of women's rights and female empowerment and refugee rights, and addressing legal and employment concerns.²⁶⁰

Hindu Sikh Afghans, with their religious ties to India, access to naturalization, and community-based self-help groups already in place, are the most integrated of the refugee groups and tend to be better off economically than the other groups. They have greater access to jobs, and most find employment within their own community.²⁶¹

Despite their precarious legal status, members of the Chin community in Mizoram belong to the same ethnic group as locals, a factor that has facilitated their integration and provided employment opportunities.

The dispersal of Sri Lankan refugees around Tamil Nadu and their common language have eased their integration into local communities and some have married and established local links.

4. OUTCOMES

Participation in the labor market

The majority of refugees work in the informal sector and few have work contracts. The profile of urban refugees conducted by the Joint IDP Profiling Service in 2013 showed that among the UNHCR-registered refugees in Delhi, Myanmarese refugees had a higher proportion of income earners. They are mainly salaried employees, rather than self-employed and work in a limited number of professions, especially in factories where no Hindi is required; others work in shops, restaurants, beauty salons, or call centers. Their employment conditions are, however, reportedly unstable and sometimes hazardous.²⁶² They are also more likely than other groups to engage in exploitative labor and to work in "unregulated" factories.

Afghan household heads reported better working conditions and access to a greater variety of jobs although they had higher unemployment levels, mainly because they lacked documentation in the form of a valid visa, a situation that is expected to evolve now that Afghans and Somalis are being granted long-term visas by the government.²⁶³ Afghans' salaried occupations include translation and interpretation and employment in shops and restaurants and UNHCR's livelihood programs. Entrepreneurship is more

²⁶⁰ Kumari, S. (2012) "Burmese Refugee Women in India: Victims and Agents of Empowerment," *Peace Prints: South Asian Journal of Peacebuilding*, Vol. 4, No. 1, <http://wiscomp.org/pubn/wiscomp-peace-prints/4-1/SHEENA.pdf>.

²⁶¹ Women's Refugee Commission (2011) "Bright Lights, Big City Urban Refugees Struggle to Make a Living in New Delhi."

²⁶² Myanmarese interviewed as part of the profile reported being paid less than Indians for the same work, some were not paid at all, while others had been fired. The profile also showed that with lower levels of education and skills, Myanmarese accepted more insecure employment, Joint IDP Profiling Service (2013) "Urban Profiling of Refugees in Delhi, Refugees from Myanmar, Afghanistan and Somalia and Their Indian Neighbours," www.jips.org/system/cms/attachments/817/original_Urban_Profiling_of_Refugee_Situations_in_Delhi.pdf.

²⁶³ The other explanation provide by the profile for the fact that Afghan households had a low number of income earners is "that their higher human capital allows more selective approaches to employment," Joint IDP Profiling Service (2013) "Urban Profiling of Refugees in Delhi, Refugees from Myanmar, Afghanistan and Somalia and Their Indian Neighbours," p. 49, www.jips.org/system/cms/attachments/817/original_Urban_Profiling_of_Refugee_Situations_in_Delhi.pdf.

widespread and self-employed Afghans usually work as interpreters or engage in service activities that do not require initial capital. Somali household heads have the highest level of unemployment given their restricted access to the job market.

In Tamil Nadu, Sri Lankan refugees have reportedly worked to modernize the local railway; others have been involved in bricklaying, laying cable, basket making, and painting.

Pakistani Hindus generally work in the informal sector taking jobs as manual laborers²⁶⁴ while Chin refugees only work in the informal sector as day laborers, domestic workers, weavers, or tenant farmers.²⁶⁵

Because farming is important to a Tibetan's income but Indian law prohibits foreigners from purchasing land, Tibetan refugees often acquire land with Indians acting as proxies.²⁶⁶

SUMMARY AND CONCLUSION

India's treatment of refugees differs by country of origin and period of arrival. As a result, each refugee community faces different challenges in access to services and employment. Although certain rights and privileges have been conferred on some selected groups, most refugees have no legal right to work and are forced to take up low-paying casual work in the informal sector, where they are sometimes exposed to exploitation. These inconsistent and ad hoc policies and practices have pushed some refugees, including the highly skilled, into the informal, unregulated employment sector. As a result, refugee doctors, nurses, engineers, and teachers are not able to contribute their skills to address needs within their own communities and within the larger host community.

In an effort to harmonize its approach and treat refugees more equally, the government of India has gradually granted long-term visas to UNHCR-mandated refugees. These visas should enable refugees to access jobs in the private sector, thereby providing them a higher degree of income security. It will, however, take time for this policy to be fully implemented and its full impact felt.

Recognition of diplomas, opportunities for recertification of credentials, and the granting of work permits for the highly skilled would expand employment opportunities for the highly educated and allow them to use their skills to contribute to the local economy.

²⁶⁴ Human Rights Law Network (2007) "Report of Refugee Populations in India," www.hrln.org/admin/issue/subpdf/Refugee_populations_in_India.pdf.

²⁶⁵ United States Committee for Refugees and Immigrants (2009) "World Refugee Survey—India," www.refworld.org/docid/4a40d2a75d.html.

²⁶⁶ Artiles, C. (undated) "Tibetan Refugees' Rights and Services in India," *Topical Research Digest: Minority Rights, Human Rights & Human Welfare*, University of Denver, www.du.edu/korbel/hrhw/researchdigest/minority/Tibetan.pdf.

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Italy²⁶⁷

PROFILE²⁶⁸

- **Party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol.**
 - **147,370 refugees and 99,921 asylum seekers totaling 247,291 = 0.41 percent of a total estimated population of 60,601,000.**
 - **Main countries of origin (2017) are Nigeria, Guinea, Bangladesh, Côte d'Ivoire.**
 - **Refugees are widely settled across the country, predominantly in urban areas.**
- **Human development rank and value: 26th and 0.887**
 - **GDP: growth 0.9 percent; Per capita US\$ 30,527**
 - **High-income economy**
 - **Unemployment rate: 11.5 percent**

CONTEXT²⁶⁹

Although Italy has been a country of large-scale emigration since the mid-nineteenth century, in recent decades it has rapidly become a country of large scale-immigration. This profound change has placed enormous strains on the political and social fabric of the country, which is still adapting to the impacts and consequences of this transformation in its identity.²⁷⁰

Estimates suggest that more than 29 million Italians emigrated between 1861 and 1985 (55 percent of this total before 1914). Although as much as a third of the total returned at some stage, the vast majority settled in the countries to which they emigrated, forming a diasporic population of tens of millions of Italian descendants.²⁷¹ Even today Italy remains a country of emigration: in 2015, 102,000 Italian citizens left Italy (formally cancelling their residence).²⁷²

²⁶⁷. This case study has been revised to include developments through mid-2017. Although their input was requested, the UNHCR has not reviewed this entry.

²⁶⁸. All data updated to 2016.

²⁶⁹. Thanks are given to Dr. Nando Sigona, Institute for Research into Superdiversity, University of Birmingham, for assistance in preparing this case study.

²⁷⁰. Bertozzi, A. (2002) "Italy's Recent Change from an Emigration Country to an Immigration Country and Its Impact on Italy's Refugee and Migration Policy," http://www.cicerofoundation.org/lectures/bertozzi_nov02.html.

²⁷¹. "Italian Immigration: Why So Many Italians Live Outside Italy," <http://www.italianlegacy.com/italian-immigration.html>.

²⁷². ISTAT, <http://www.istat.it/it/archivio/193771>.

By contrast, toward the end of the twentieth century Italy experienced large-scale immigration, registering positive net migration for the first time in the 1970s.²⁷³ In the 1990s, Italy took in nearly three million immigrants and, between 2000 and 2013, inflows reached five million.²⁷⁴ There are two principal sources.

First, alongside Germany, France, and the United Kingdom, Italy is one of the main destinations for foreign workers in Europe, comprising both European Union (EU) citizens and non-EU foreign nationals arriving by regular means. However, second, and the main concern of this country profile, is the entry of irregular migrants—refugees, asylum seekers, and mixed migration flows—principally from Sub-Saharan Africa and the Middle East. Often arriving by dangerous boat journeys across the Mediterranean Sea, usually via Libya and to a lesser extent the Arab Republic of Egypt and Tunisia, Italy was the main European country exposed to cross-Mediterranean immigration until 2014, when it was superseded by Greece.^{275, 276} However, with the virtual closure of the eastern land and sea route via Turkey to Greece and the Balkan states, Italy is again at the forefront of irregular migration to Europe²⁷⁷ and the principal entry route with more than 106,000 of the total of slightly less than 140,000 arrivals reported by the International Organization for Migration in 2017 (up to October 6).²⁷⁸ Nevertheless, overall arrivals have declined from slightly more than 130,000 in the same period for 2016 and 132,000 in total for 2015. There is a changing pattern of countries of origin, which, although relatively diverse, are predominantly West African. In 2017, the origin countries were Nigeria (16 percent), Guinea (9 percent), Bangladesh (8 percent), Côte d'Ivoire (8 percent), Mali (6 percent), Senegal (5 percent), The Gambia (5 percent), and Eritrea (5 percent); by contrast, in 2015 the main countries of origin were Eritrea (26 percent), Nigeria (14 percent), Somalia (8 percent), Sudan (6 percent), and the Syrian Arab Republic (5 percent).^{279, 280}

²⁷³. Triandafyllidou, A. (2013) "Migration Policy in Southern Europe: Challenges, Constraints and Prospects," <https://gmdac.iom.int/research-database/migration-policy-southern-europe-challenges-constraints-and-prospects>, 54.

²⁷⁴. Triandafyllidou, A. (2013) "Migration Policy in Southern Europe: Challenges, Constraints and Prospects," <https://gmdac.iom.int/research-database/migration-policy-southern-europe-challenges-constraints-and-prospects>, 55.

²⁷⁵. Italy has been in the forefront of "search and rescue" policies to protect the lives of irregular migrants crossing the Mediterranean, epitomized in the 2013 Operation Mare Nostrum, whereas other EU member states have argued for a stronger role for Frontex, tighter border controls, and "push back."

²⁷⁶. In 2015, of the 972,551 arrivals by sea to Europe, 150,200 reached the coast of Italy (UNHCR Refugees/Migrants Emergency Response-Mediterranean, <http://bit.ly/1W059nR>).

²⁷⁷. Ambrosini, M. (2018) *Irregular Immigration in Southern Europe. Actors, Dynamics and Governance*. Basingstoke: Palgrave Macmillan.

²⁷⁸. UNHCR Italy Sea Arrivals Dashboard (2017) <https://reliefweb.int/report/italy/italy-sea-arrivals-dashboard-january-september-2017>, and IOM (2017) <https://reliefweb.int/report/italy/mediterranean-migrant-arrivals-reach-139763-2017-deaths-reach-2726>.

²⁷⁹. AIDA (Asylum Information Data Base) (2016) <http://www.asylumineurope.org/reports/country/Italy/overview-main-changes-previous-report-update>.

²⁸⁰. However, according to ISTAT (<http://www.istat.it/it/archivio/193771>) on the basis of data on registered residence, in 2015 the main countries of origin of newcomers were Romania (46,000), Morocco (15,000), China (15,000), and Bangladesh (12,000). And in comparison with 2014, there has been an increase from Sub-Saharan Africa—The Gambia 5,000, up 209 percent; Mali 5,000, up 135 percent; Nigeria 9,000, up 68 percent.

Although the majority of irregular migrants are in transit through Italy to northern and northwestern European countries,²⁸¹ Italy has still been overwhelmed by the presence of both transit migrants and the increasing numbers who remain in the country.²⁸² As a result Italy has gradually been moving from an emergency policy frame to a more structured and systematic approach to the short- and long-term impacts and needs of irregular migrants.²⁸³

Some indication of the complex political and logistical pressures these trends have placed on Italy and the protection needs of the irregular migrants is given in a 2013 United Nations High Commissioner for Refugees (UNHCR) policy document²⁸⁴ and more recent research.²⁸⁵

Although the number of arrivals and asylum applications has fluctuated in the past few years,^{286, 287} Italy has struggled to provide effective reception facilities and registration procedures. At the same time the scale of irregular immigration has placed strains on Italian-EU relationships concerning reception and processing, burden sharing, and responsibilities under the Dublin Convention.²⁸⁸

²⁸¹. For example, although Italy was the main point of entry to the EU for Eritrean and Somali nationals, less than 1 percent of Eritrean and 3 percent of Somali asylum applications to the European Economic Area were made in Italy, EMN “Policy Brief on Migrants’ Movements through the Mediterranean,” [Full report accompanying the Inform on migrants’ movements through the Mediterranean], Brussels: EC Migration and Home Affairs, December 2015, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-informs/xemn_policybrief_movementsmediterranean_final.pdf.

²⁸². Crawley, H., F. Duvell, K. Jones, S. McMahon, and N. Sigona (2017) *Unravelling Europe’s “Migration Crisis.”* Bristol: Policy Press.

²⁸³. Bertelsmann Stiftung/Robert Schuman Centre for Advanced Studies of the European University Institute in Florence (2016) *From Refugees to Workers: Mapping Labour-Market Integration Support Measures for Asylum Seekers and Refugees in EU Member States*, Volume II: Literature Review and Country Case Studies, <http://www.bertelsmann-stiftung.de/en/publications/publication/did/from-refugees-to-workers-mapping-labour-market-integration-support-measures-for-asylum-seekers-and-3/>, 90.

²⁸⁴. UNHCR (2013) “Recommendations on Important Aspects of Refugee Protection in Italy,” UNHCR, Geneva, July, <http://www.unhcr.org/uk/protection/operations/500950b29/unhcr-recommendations-important-aspects-refugee-protection-italy.html?query=refugees%20right%20to%20work%20italy>.

²⁸⁵. Ambrosini, M. (2018) *Irregular Immigration in Southern Europe. Actors, Dynamics and Governance.* Basingstoke: Palgrave Macmillan.

²⁸⁶. UNHCR (2013) “Recommendations on Important Aspects of Refugee Protection in Italy,” UNHCR, Geneva, July, <http://www.unhcr.org/uk/protection/operations/500950b29/unhcr-recommendations-important-aspects-refugee-protection-italy.html?query=refugees%20right%20to%20work%20italy>, 11–14. Whereas irregular entry to Italy increased threefold between 2013 (45,000 detections) and 2014 (171,000), it receded to 132,000 in 2015, compared with 401,000 detections in the Eastern Mediterranean. Italy was the fifth highest EU member state for asylum applications in the first nine months of 2015, receiving 59,000 applications, or 7 percent of the total.

²⁸⁷. Total asylum applications for 2013: 26,620; 2014: 63,456; 2015: 83,970; 2016: 123,380, based on Ministero dell’Interno monthly updates, http://www.interno.gov.it/sites/default/files/modulistica/riepilogo_dati_2014_2015.pdf.

²⁸⁸. The Dublin Convention is a European law with the two principle interlinked aims of establishing a common framework for determining which country in the European Union decides the outcome of an asylum seeker’s application and to ensure that only one member state makes such a determination—deemed to be where the asylum seeker first landed. In effect this means that although the vast majority of asylum seekers transit through Italy (and Greece and Spain) to northern European countries, when an application is eventually made for asylum then the asylum seeker is returned to the country of first arrival. Such a procedure obviously puts inordinate pressure on the European countries bordering the Mediterranean.

A controversial and somewhat contradictory aspect of Italy's response to the mass migration across the Mediterranean has been bilateral repatriation arrangements with Libya—the principal departure point of 94 percent of 2017 arrivals (up to September 30).²⁸⁹ The securing of the border with Libya has persistently raised concerns about the human rights of those returned to, or detained in, that country.^{290,291} The latest stage in Italy's controversial relationship with Libya was the mid-2017 compact between the Italian government and militias controlling the region from which most of the smuggling departures for Italy originate; the compact was entered into to step up prevention measures and reinforce the push back by the Libyan coast guard of migrants who have embarked for Italy. At the same time, paradoxically, Italy has been the most proactive of EU member states in undertaking search and rescue initiatives such as Operation Mare Nostrum.

1. LAW

*Refugee Law*²⁹²

Italy is a signatory to the 1951 Geneva Convention relating to the Status of Refugees²⁹³ and the 1967 Protocol, and the right of victims of political persecution to claim asylum is anchored in various legislative articles and decrees, which have been refined at different times.²⁹⁴ The most recent legislative amendments (including EU Asylum Procedures and the Reception Conditions Directives) are contained in Legislative Decree No. 142/2015.²⁹⁵

²⁸⁹. UNHCR Sea arrivals dashboard 2017, <https://reliefweb.int/sites/reliefweb.int/files/resources/60516.pdf>.

²⁹⁰. IRIN (2017) "The Libyan Migrant 'Prisons' of Europe's Making," IRIN Special Report, November 2017, <https://www.irinnews.org/special-report/2017/11/01/libyan-migrant-prisons-europe-s-making>.

²⁹¹. Paoletti, E. (2012) "Migration Agreements between Italy and North Africa: Domestic Imperatives versus International Norms," Middle East Institute, <http://www.mei.edu/content/migration-agreements-between-italy-and-north-africa-domestic-imperatives-versus>.

²⁹². This section draws extensively on ECRE (European Council on Refugees and Exiles), the Asylum Information Database – Italy (2017) <http://www.asylumineurope.org/reports/country/italy>.

²⁹³. Legge 24 luglio 1954, N° 772 'ratifica ed esecuzione della Convenzione relative allo status dei rifugiati fermata a Ginevra il 28 luglio 1951' (Ratification and adoption of the Convention relating to the status of refugees agreed in Geneva 28 July 1951).

²⁹⁴. See, for example, Decreto-legge 30 dicembre 1989, n. 416, Convertito, con modificazioni, dalla legge 28 febbraio 1990, n. 39, Recante norme urgenti in materia di asilo politico, di ingresso e soggiorno dei cittadini extracomunitari e di regolarizzazione dei cittadini extracomunitari ed apolidi già presenti nel territorio dello Stato (Decree-Law of 20 December 1989, No. 416, converted, with modifications by the law 28 February 1990, No. 39, providing emergency standards related to political asylum, the entry and stay of non-European citizens and for the regularization of non-European citizens and stateless persons who apply in-country).

²⁹⁵. Decreto Legislativo, 18 agosto 2015, N° 142, Attuazione della direttiva 2013/33/UE recante norme relative all'accoglienza dei richiedenti protezione internazionale, nonché della direttiva 2013/32/UE, recante procedure comuni ai fini del riconoscimento e della revoca dello status di protezione internazionale, (OJ n.214, 15/9/2015). (Legislative Decree, 18, August, 2015, No. 142, giving effect to Directive 2013/33/EU providing standards relating to the support for those seeking international protection, and to Directive 2013/32/EU providing common standards for the recognition and the revocation of the status of international protection [OJ No. 214, 15/9/2015]).

Italian law also provides for temporary humanitarian,²⁹⁶ indefinite leave to remain,²⁹⁷ and family reunification.²⁹⁸ Those who cannot be protected by refugee status or the right to asylum are entitled to subsidiary protection.

The changing political discourse on immigration in Italy provides the backdrop for recent developments in refugee law, which, in general, have sought to impose more restrictions on immigrants, especially those entering the country by irregular means. The Bossi-Fini Law No. 189 of 2002 (now partly rescinded), for example, made it a criminal offense for people to enter Italy by irregular means (that is, without a visa) or to return after being expelled. Entry was strictly linked to a residence permit for immigrants (with a ceiling on the number) and to a work contract.²⁹⁹ Forced detention was introduced, and migrants found in international waters could be sent back to their countries of origin.

Presidential Decree No. 21/2015—Regulation on the procedures for the recognition and revocation of international protection—updated and clarified the different stages of the asylum process and clarified the functioning of the Territorial Commissions (see below). Legislative Decree No. 142/2015 provides the overall updated framework for Italy's asylum system.

Italy is party to the Common European Asylum System (adopted by member states in 2013), which sets out common standards and establishes cooperation between EU member states on the treatment of asylum claims.³⁰⁰ It is a signatory to the Dublin III Regulation (Regulation No. 604/2013) for determining the EU member state responsible for processing an asylum claim, as well as the Schengen Agreement.³⁰¹ Implementation of the Dublin Convention has been a point of contention between Italy and the northern European destination countries, which argue that the failure of Italian authorities, as some EU member states see it, to properly register asylum claimants has made the convention unenforceable.

Institutions. The Ministry of Interior (Department of Civil Liberties and Immigration) is the overall responsible authority for refugee and immigration affairs. In practice the reception, application, and status determination processes are decentralized.

The first stage of an application is handled by the *questura*, provincial-level police responsible for, among others, all matters concerning foreign nationals, such as residence permits and asylum procedures.

²⁹⁶. Decreto protezione temporanea 85/2003 (Temporary protection decree).

²⁹⁷. Decreto lungo soggiornanti - DLgs 3/2007 (Decree related to long stay residence).

²⁹⁸. Decreto Ricongiungimento familiare - DLgs 5/2007 (Decree related to family reunion).

²⁹⁹. "Immigration Policies in Italy," Struggles in Italy, <https://strugglesinitaly.wordpress.com/equality/en-immigration-policies-in-italy/#martelli>.

³⁰⁰. Decreto Legislativo 3 ottobre 2008, N° 159 "Modifiche ed integrazioni al decreto legislativo 28 gennaio 2008, N° 25, recante attuazione della direttiva 2005/85/CE relativa alle norme minime per le procedure applicate negli Stati membri ai fini del riconoscimento e della revoca dello status di rifugiato," <http://www.camera.it/parlam/leggi/deleghe/08159dl.htm>. (Legislative Decree 3 October 2008, No. 159, Modification and integration of Legislative Decree 28 January, 2008, No. 25, giving effect to Directive 2005/85/EU, relating to the minimum standards for the application procedures to [European] member states for recognition and the revocation of refugee status).

³⁰¹. Dublin III allows an EU member state to return an asylum seeker to the European state where she or he first landed. The Schengen Agreement abolished all types of border control at the common borders of EU member states.

The determination of asylum applications is conducted by a Territorial Commission for the Recognition of International Protection (Commissioni territoriali per il riconoscimento della protezione internazianale, CTRPI).³⁰² There are 10 such commissions distributed across Italy³⁰³ and, although a constituent part of the Ministry of Interior, they are independent decision-making bodies with respect to status determination.

Also under the auspices of the same ministry and department is the Central System for the Protection of Asylum Seekers and Refugees (Servizio Centrale del Sistema di protezione per richiedenti asilo e rifugiati, SPRAR), a national agency created under Law No. 189/2002.³⁰⁴ SPRAR is responsible for the coordination and integration of all aspects of Italy's protection and reception system, working in partnership with local authorities and civil society organizations that provide reception centers. As well as this principal role, SPRAR is also responsible for monitoring, protection, data collection, and technical support to service providers.

Access to protection. There is no formal timeframe for making an asylum request in Italy. Application for asylum can be made at the border, although this is not an obligatory requirement, or at territorial state police offices—the *questura*. Normally, irregular migrants are taken to a Center for First Assistance (Centri di primo soccorso e accoglienza, CPSA), which are reception centers, all located in southern Italy, where initial identification takes place. Migrants may then be transferred to Accommodation Centers for Asylum Seekers (Centri di accoglienza per richiedenti asilo, CARAs), which are identification and reception centers for those asking for refugee status. Although found all over Italy, most of these centers are in the south.

The application process is handled by the *questura*, which conducts initial identity and nationality verification checks before formal registration of the asylum seeker can commence. All relevant personal information and EURODAC fingerprint checks are recorded to verify, under Dublin III, whether Italy is the responsible country. This procedure is termed *fotosegnalazionemento* (photographic identification).

The next stage is the formal “verbalization” stage (*verbalizzazione*), an interview recording details of the claim for asylum, confirming the first registration details and an official notification confirming the applicant's status as an asylum seeker claimant. This is the formal commencement of the asylum procedure, and the applicant has the right to be accommodated and receive assistance. Legislative Decree No. 142/2015 provides for an initial six-month recognition of the asylum seeker, which can be renewed until a decision on status is made.³⁰⁵

³⁰². The Territorial Commissions are in charge of the formal processing of asylum applications; they were established in 2008 as part of a decentralization initiative for asylum processing. Each commission comprises a prefecture representative (from the province) who presides over the commission, a local municipality representative, a senior state police officer, and a UNHCR delegate.

³⁰³. Legislative Decree No. 19/2014 establishes the possibility of extending the number of CTRPIs to 20 and creating subcommissions.

³⁰⁴. See SPRAR, <http://www.sprar.it/>.

³⁰⁵. Bertelsmann Stiftung/Robert Schuman Centre for Advanced Studies of the European University Institute in Florence (2016) *From Refugees to Workers: Mapping Labour-Market Integration Support Measures for Asylum Seekers and Refugees in EU Member States*, Volume II: Literature Review and Country Case Studies, <http://www.bertelsmann-stiftung.de/en/publications/publication/did/from-refugees-to-workers-mapping-labour-market-integration-support-measures-for-asylum-seekers-and-3/>, 80.

The application for status determination is passed to the relevant CTRPI responsible for the provincial questura to which the application has been submitted. Three types of status are possible: refugee recognition, the granting of subsidiary protection, or permission to remain on humanitarian grounds. There are provisions for accelerated procedures for refugee status determination.

Recognized refugees receive a residence permit valid for five years. The permit for subsidiary protection status was extended from three to five years under the 2015 legislative decree, and also, like refugee status, can be transformed into a work permit as well as include entitlement to family reunification and entitle the holder to welfare benefits on the same basis as nationals.³⁰⁶ The permit on humanitarian grounds is valid for two years, with access to the same rights as those with subsidiary protection except for greater restrictions on family reunification.³⁰⁷ All three permits are renewable at the questura, subject to certain conditions such as presentation of the original permit and verification of circumstances in the country of origin.

Citizenship can be acquired after five years for refugees and after ten years for those who have subsidiary protection.

Appeals against the rejection of a claim for asylum must be presented within 30 days, or 15 days if the applicant is in CARA accommodation. Appeals are considered by the Civil Court and then, if refused, successively by the Court of Appeal and ultimately the Supreme Court of Cassation (Corte di Cassazione).

A recent development in access to protection has been the installation of the EU “hotspots” processing mechanism in 2015.³⁰⁸ Four hotspots are currently operating in Italy with five more projected; these act as channels for mixed migration flows where preidentification, registration, photo, and finger printing are carried out. Fast-track rejection and expulsion is invoked for manifestly unfounded claims while those claiming asylum are channelled to reception centers.

A recurring problem is that the registration process and submission of applications (that is, from the initial check through to verbalization and formal hearing at the CTRPI) is often protracted because of bureaucratic procedures and the lack of capacity to deal with the large number of applicants. This means that migrants who have applied in country via the questura can be left destitute, without any means of support, and reliant on charitable organizations.

The protracted nature of the decision-making process is often exacerbated by asylum seekers’ lack of passports or identification papers. In addition, access to the questura offices may be difficult and applicants may have been directed from point of arrival (in the south) to other more distant questura.³⁰⁹

³⁰⁶. Bertelsmann Stiftung/Robert Schuman Centre for Advanced Studies of the European University Institute in Florence (2016) *From Refugees to Workers: Mapping Labour-Market Integration Support Measures for Asylum Seekers and Refugees in EU Member States*, Volume II: Literature Review and Country Case Studies, <http://www.bertelsmann-stiftung.de/en/publications/publication/did/from-refugees-to-workers-mapping-labour-market-integration-support-measures-for-asylum-seekers-and-3/>, 84.

³⁰⁷. Until 2015 a humanitarian visa was valid for one year.

³⁰⁸. ECRE (European Council on Refugees and Exiles), the Asylum Information Database – Italy (2017), <http://www.asylumineurope.org/reports/country/italy>.

³⁰⁹. Juss-Buss and Swiss Refugee Council (2011) “Asylum Procedure and Reception Conditions in Italy,” <https://www.fluechtlingshilfe.ch/assets/asylrecht/rechtsgrundlagen/asylum-procedure-and-reception-conditions-in-italy.pdf>, 18.

The whole process may take from a few weeks to as long as six months for the initial stages, depending on the capacity of the questura. The average time for a decision after the Territorial Commission hearing is two months.

There was no uniform reception system for irregular migrants in Italy until the 2015 law streamlined the process by setting up a National Coordinating Working Group³¹⁰ in the Ministry of Interior and clarified the roles of and distinction between the two main categories of reception centers discussed below. Until that point, assistance was provided by a proliferation of different emergency centers, often administered by nongovernmental organizations (NGOs)³¹¹; this situation obviously had an impact on access to employment.

Now, the first phase of assistance for newly arriving migrants and asylum seekers comprises (1) regional hubs, essentially emergency CPSA/CAS, managed by the Ministry of Interior and prefectures, and (2) CARAs for temporary accommodation during the initial stages of application, which are accessible at the verbalization stage, the application for international protection.³¹² More than 127,000 persons were residing in CAS and CARA centers as of late 2016.³¹³

The second phase comprises the network of SPRAR-funded centers for long-term accommodation of destitute refugees and registered asylum seekers. SPRAR is a network of local authorities and civil society organizations providing integrated reception—accommodation, legal and social assistance, and support for socioeconomic integration—which is administered by the Local Municipality Association (Associazione Nazionale Comuni Italiani). More than 400 projects are assisting almost 23,000 asylum seekers, approximately 21 percent of supported asylum seekers in Italy in 2015.³¹⁴ In principle at least, asylum seekers are guaranteed accommodation, but at present the amount of available accommodation for asylum seekers falls far short of demand and many are left fending for themselves.

Recognizing that Italy was not just a transit country but also a hosting country—not least because European member states returned asylum seekers to Italy by invoking the Dublin Convention rules of

³¹⁰. Poptcheva, E.-M., and A. Stuchlik, with contributions from P. Bakowski, A. Gatto, D. Ivanov, I. Odink, and I. Peñas Dendariena (2015) “Work and Social Welfare for Asylum-Seekers and Refugees,” European Parliamentary Research Service, 17–18.

³¹¹. Bertelsmann Stiftung/Robert Schuman Centre for Advanced Studies of the European University Institute in Florence (2016) *From Refugees to Workers: Mapping Labour-Market Integration Support Measures for Asylum Seekers and Refugees in EU Member States*, Volume II: Literature Review and Country Case Studies, <http://www.bertelsmann-stiftung.de/en/publications/publication/did/from-refugees-to-workers-mapping-labour-market-integration-support-measures-for-asylum-seekers-and-3/>, 80.

³¹². Legislative Decree No. 142/2015 eased the conditions of access to the first phase centers.

³¹³. Asylum Information Database (2016) “Italy Plans for a Uniform Reception System through SpRAR Expansion,” <http://www.asylumineurope.org/news/19-10-2016/italy-plans-uniform-reception-system-through-sprar-expansion>.

³¹⁴. Bertelsmann Stiftung/Robert Schuman Centre for Advanced Studies of the European University Institute in Florence (2016) *From Refugees to Workers: Mapping Labour-Market Integration Support Measures for Asylum Seekers and Refugees in EU Member States*, Volume II: Literature Review and Country Case Studies, <http://www.bertelsmann-stiftung.de/en/publications/publication/did/from-refugees-to-workers-mapping-labour-market-integration-support-measures-for-asylum-seekers-and-3/>, 81, and ECRE (European Council on Refugees and Exiles), the Asylum Information Database – Italy (2017) <http://www.asylumineurope.org/reports/country/italy>, 70.

status determination in (European) country of first asylum—a broader approach began to be taken along two axes. In October 2016 a further major reform of the reception system took place in which the CARA centers were to be phased out and consolidated into a uniform national system with the expansion of SPRAR. The objective is to achieve a more even distribution of asylum seekers throughout Italy's 8,000 municipalities. However, this places an obligation on municipalities to engage with the new system, which they have not yet agreed to do. In parallel, and more significantly in recognition of Italy's situation as a hosting country, the Ministry of Labour and Social Policy drafted a multiyear programming document for 2015–20 on labor and integration policies. This aims to benefit the nearly 75,000 people currently within the CARA/SPRAR system who hold refugee and other forms of protected status.³¹⁵

Freedom of movement. Asylum seekers and refugees have freedom of movement in Italy and there are no encampment or forced dispersal policies, all conditions that should facilitate access to the labor market. In principle a prefect may limit movement, but in practice this does not happen. Asylum seekers in the different types of government reception centers require authorization to temporarily leave the centers. Those leaving without permission may not be readmitted.

Right to work – refugee and labor and employment law

Those who have been granted refugee status have the right to work. Asylum seekers can also work within 60 days of having filed their application, while they are awaiting a decision on their status and providing any delay in determining status cannot be attributed to the asylum seeker.³¹⁶ This was a significant change in the law in favor of asylum seekers although this temporary right to work cannot be transformed into a work permit. However, in practice, asylum seekers face difficulties in obtaining a residence permit (which allows them to work) because of the slow registration of their asylum claims.³¹⁷ Moreover, employers may be reluctant to employ asylum seekers because the residence permit (*permesso di soggiorno*) does not include a statement on the right to work. This right can be inserted by the questura, but the process is bureaucratic.

Under Legislative Decree No. 154/2014, refugees are entitled to the same conditions of paid employment, self-employment, inclusion on professional registries, vocational training, and on-the-job training as nationals.³¹⁸

³¹⁵. Ministero Dell'Interno Dipartimento per le Libertà Civili e l'Immigrazione (2017) Piano Nazionale d'integrazione dei Titolari di Protezione Internazionale, <http://www.interno.gov.it/sites/default/files/piano-nazionale-integrazione.pdf>.

³¹⁶. Legislative Decree No. 142/2015, prior to this decree the minimum time was six months before an asylum seeker still awaiting a decision could work. See also Bertelsmann Stiftung/Robert Schuman Centre for Advanced Studies of the European University Institute in Florence (2016) *From Refugees to Workers: Mapping Labour-Market Integration Support Measures for Asylum Seekers and Refugees in EU Member States*, Volume II: Literature Review and Country Case Studies, <http://www.bertelsmann-stiftung.de/en/publications/publication/did/from-refugees-to-workers-mapping-labour-market-integration-support-measures-for-asylum-seekers-and-3/>, 84, and ECRE (European Council on Refugees and Exiles), the Asylum Information Database – Italy (2017) <http://www.asylumineurope.org/reports/country/italy>, 77.

³¹⁷. ECRE (European Council on Refugees and Exiles), the Asylum Information Database – Italy (2017) <http://www.asylumineurope.org/reports/country/italy>, 77.

³¹⁸. Bertelsmann Stiftung/Robert Schuman Centre for Advanced Studies of the European University Institute in Florence (2016) *From Refugees to Workers: Mapping Labour-Market Integration Support Measures for Asylum*

Refugees are entitled to the same social security rights and treatment as Italian citizen, for example, welfare assistance related to labor accidents, illnesses, maternity leave, and unemployment benefits.

2. POLICY AND PRACTICE

Constraining factors

Many factors constrain labor market access and employment take-up for refugees in Italy.³¹⁹ These are succinctly summed up as “the current financial crisis affecting Italy, language barriers, the remote location of the accommodation and the lack of specific support founded on their [that is, refugee and asylum seeker] needs.”³²⁰ To this list must be added the frequently cited procedural complexity of Italian legal and administrative processes and the lack of coordination among the authorities and organizations, at different levels of local, subregional, and national responsibility, dealing with the labor market integration of refugees and asylum seekers.³²¹

Even though asylum seekers can enroll at provincial employment centers (*centri per l'impiego*), and have the right to access employment, in practice they face difficulties and delays in obtaining residence permits—after registration of their asylum claim—which would allow them to work.³²² Some questure do not automatically issue residence permits.

Language barriers are also a constraint despite provisions of Law No. 148/2002. Provision of language training exemplifies the more general problems of coordination with a myriad of different stakeholders, funding providers, and services that partially overlap.³²³ Only 60 percent of refugees in Italy report having

Seekers and Refugees in EU Member States, Volume II: Literature Review and Country Case Studies, <http://www.bertelsmann-stiftung.de/en/publications/publication/did/from-refugees-to-workers-mapping-labour-market-integration-support-measures-for-asylum-seekers-and-3/>, 84.

³¹⁹. Ciccarone, G. (2016) “Labour Market Integration of Asylum Seekers and Refugees: Italy,” April 2016, EC Directorate-General for Employment, Social Affairs and Inclusion, European Employment Policy Observatory, http://www.integrazionemigranti.gov.it/Documenti-e-ricerche/Italy-AHR_LMIntegrationOfAsylumSeekers_RefugeesMay2016_Final.pdf, 6–7; ECRE (European Council on Refugees and Exiles), the Asylum Information Database – Italy (2017) <http://www.asylumineurope.org/reports/country/italy,18>; Crawley, H., F. Duvell, K. Jones, S. McMahon, and N. Sigona (2017) *Unravelling Europe’s “Migration Crisis.”* Bristol: Policy Press.

³²⁰. ECRE (European Council on Refugees and Exiles), the Asylum Information Database – Italy (2017) <http://www.asylumineurope.org/reports/country/italy>, 78.

³²¹. Ciccarone, G. (2016) “Labour Market Integration of Asylum Seekers and Refugees: Italy,” April 2016, EC Directorate-General for Employment, Social Affairs and Inclusion, European Employment Policy Observatory, http://www.integrazionemigranti.gov.it/Documenti-e-ricerche/Italy-AHR_LMIntegrationOfAsylumSeekers_RefugeesMay2016_Final.pdf, 5–7.

³²². Ciccarone, G. (2016) “Labour Market Integration of Asylum Seekers and Refugees: Italy,” April 2016, EC Directorate-General for Employment, Social Affairs and Inclusion, European Employment Policy Observatory, http://www.integrazionemigranti.gov.it/Documenti-e-ricerche/Italy-AHR_LMIntegrationOfAsylumSeekers_RefugeesMay2016_Final.pdf, 5.

³²³. Ciccarone, G. (2016) “Labour Market Integration of Asylum Seekers and Refugees: Italy,” April 2016, EC Directorate-General for Employment, Social Affairs and Inclusion, European Employment Policy Observatory, http://www.integrazionemigranti.gov.it/Documenti-e-ricerche/Italy-AHR_LMIntegrationOfAsylumSeekers_RefugeesMay2016_Final.pdf, 5.

at least advanced knowledge of the host-country language, a proportion that nevertheless compares favorably with the 45 percent of refugees in the EU as a whole.³²⁴

The remote location of some SPRAR accommodation makes physical access to employment more difficult.³²⁵ Moreover, the quality of, and access to, support and integration programs vary greatly between reception centers.³²⁶ The quality of social and other support, notably for accessing employment that refugees and asylum seekers receive from SPRAR projects differs significantly based on region. The overall complexity, diversity, and variability in standards of provision also mean that refugees and asylum seekers encounter very different conditions and opportunities for employment and training.³²⁷ Alongside the need for improved coordination between all the services for refugees and asylum seekers, there is also the need for better coordination of employment services and authorities.

Facilitating factors

These many constraints need to be set against a generally inclusive set of policies and practices facilitating the right to work. Refugees and those with humanitarian or subsidiary protection enjoy the same rights as Italian citizens—rights as employees or self-employed, and access to search and recruitment services as well as vocational and work-related training together with skills mapping.³²⁸

Refugees and asylum seekers with residence permits may freely register with public employment service offices (*centri per l'impiego*), which also facilitate access to some additional services and welfare benefits.³²⁹ In some of the larger cities, there is a dedicated service (Workplace Orientation Office, Sportelli di orientamento al lavoro) for migrants to inform them about job opportunities and mediate language and cultural matters.³³⁰

³²⁴. Organisation for Economic Co-operation and Development and European Commission (2015) *How Are Refugees Faring on the Labour Market in Europe? A First Evaluation Based on the 2014 EU Labour Force Survey ad hoc Module*, Working Paper 1/2016, <https://publications.europa.eu/en/publication-detail/-/publication/87a8f92d-9aa8-11e6-868c-01aa75ed71a1/language-en, 17>. In this study only 25 EU member states were surveyed.

³²⁵. ECRE (European Council on Refugees and Exiles), the Asylum Information Database – Italy (2017) <http://www.asylumineurope.org/reports/country/italy>, 78.

³²⁶. ECRE (European Council on Refugees and Exiles), the Asylum Information Database – Italy (2017) <http://www.asylumineurope.org/reports/country/italy>, 7.

³²⁷. Ciccarone, G. (2016) “Labour Market Integration of Asylum Seekers and Refugees: Italy,” April 2016, EC Directorate-General for Employment, Social Affairs and Inclusion, European Employment Policy Observatory, http://www.integrazionemigranti.gov.it/Documenti-e-ricerche/Italy-AHR_LMIntegrationOfAsylumSeekers_RefugeesMay2016_Final.pdf, 5–7.

³²⁸. ECRE (European Council on Refugees and Exiles), the Asylum Information Database – Italy (2017) <http://www.asylumineurope.org/reports/country/italy>, 111.

³²⁹. Ciccarone, G. (2016) “Labour Market Integration of Asylum Seekers and Refugees: Italy,” April 2016, EC Directorate-General for Employment, Social Affairs and Inclusion, European Employment Policy Observatory, http://www.integrazionemigranti.gov.it/Documenti-e-ricerche/Italy-AHR_LMIntegrationOfAsylumSeekers_RefugeesMay2016_Final.pdf, 2.

³³⁰. Bertelsmann Stiftung/Robert Schuman Centre for Advanced Studies of the European University Institute in Florence (2016) *From Refugees to Workers: Mapping Labour-Market Integration Support Measures for Asylum Seekers and Refugees in EU Member States*, Volume II: Literature Review and Country Case Studies, <http://www.bertelsmann-stiftung.de/en/publications/publication/did/from-refugees-to-workers-mapping-labour-market-integration-support-measures-for-asylum-seekers-and-3/> 88; ECRE (European Council on Refugees and

The provincial employment centers also have the authority to finance vocational training, traineeships, and specific employment bursaries (*borse lavoro*) for refugees and those with other forms of protection using a combination of national and European Social Fund financial support although provision is very limited in practice.³³¹

Under Legislative Decree No. 142/2015, SPRAR implements a standard integration program for all asylum seekers that comprises individualized projects that also include a variety of vocational training programs and the possibility for internships.^{332,333}

Recognized refugees are also able to work in the public sector subject to passing certain language tests.^{334,335} Refugees can access, free of charge, Italian language courses that are locally organized by Regional Directorates for Education and funded by the Asylum, Migration and Integration Fund (AMIF).³³⁶ The AMIF is also a source of funding for vocational training and social inclusion and integration projects whereby the Ministry of Interior finances specific NGO projects. However, AMIF involvement is extremely limited in scale with a minimal number of beneficiaries.³³⁷

Law No. 148/2002 covers recognition of prior qualifications and access to higher education as the means of facilitating access to employment.³³⁸ The law provides for procedures for recognition of professional

Exiles), the Asylum Information Database – Italy (2017) <http://www.asylumineurope.org/reports/country/italy>, 2–3.

³³¹. Ciccarone, G. (2016) “Labour Market Integration of Asylum Seekers and Refugees: Italy,” April 2016, EC Directorate-General for Employment, Social Affairs and Inclusion, European Employment Policy Observatory, http://www.integrazionemigranti.gov.it/Documenti-e-ricerche/Italy-AHR_LMIntegrationOfAsylumSeekers_RefugeesMay2016_Final.pdf, 4.

³³². Ciccarone, G. (2016) “Labour Market Integration of Asylum Seekers and Refugees: Italy,” April 2016, EC Directorate-General for Employment, Social Affairs and Inclusion, European Employment Policy Observatory, http://www.integrazionemigranti.gov.it/Documenti-e-ricerche/Italy-AHR_LMIntegrationOfAsylumSeekers_RefugeesMay2016_Final.pdf, 4.

³³³. ECRE (European Council on Refugees and Exiles), the Asylum Information Database – Italy (2017) <http://www.asylumineurope.org/reports/country/italy>, 77.

³³⁴. Poptcheva, E.-M., and A. Stuchlik, with contributions from P. Bakowski, A. Gatto, D. Ivanov, I. Odink, and I. Peñas Dendariena (2015) “Work and Social Welfare for Asylum-Seekers and Refugees,” European Parliamentary Research Service, 18.

³³⁵. Bertelsmann Stiftung/Robert Schuman Centre for Advanced Studies of the European University Institute in Florence (2016) *From Refugees to Workers: Mapping Labour-Market Integration Support Measures for Asylum Seekers and Refugees in EU Member States*, Volume II: Literature Review and Country Case Studies, <http://www.bertelsmann-stiftung.de/en/publications/publication/did/from-refugees-to-workers-mapping-labour-market-integration-support-measures-for-asylum-seekers-and-3/>, 89.

³³⁶. Bertelsmann Stiftung/Robert Schuman Centre for Advanced Studies of the European University Institute in Florence (2016) *From Refugees to Workers: Mapping Labour-Market Integration Support Measures for Asylum Seekers and Refugees in EU Member States*, Volume II: Literature Review and Country Case Studies, <http://www.bertelsmann-stiftung.de/en/publications/publication/did/from-refugees-to-workers-mapping-labour-market-integration-support-measures-for-asylum-seekers-and-3/>, 89.

³³⁷. Ciccarone, G. (2016) “Labour Market Integration of Asylum Seekers and Refugees: Italy,” April 2016, EC Directorate-General for Employment, Social Affairs and Inclusion, European Employment Policy Observatory, http://www.integrazionemigranti.gov.it/Documenti-e-ricerche/Italy-AHR_LMIntegrationOfAsylumSeekers_RefugeesMay2016_Final.pdf, 4.

³³⁸. Legge 11 luglio 2002, N° 148, Ratifica ed esecuzione della Convenzione sul riconoscimento dei titoli di studio relativi all'insegnamento superiore nella Regione europea, fatta a Lisbona l'11 aprile 1997, e norme di

qualifications obtained in countries outside the EU, through submission of an application for approval by the relevant ministry and for accreditation by the relevant professional association. In practice, obtaining recognition is not easy because the Ministry of Education requires the original certificate, which is rarely available.³³⁹

Law No. 148/2002 also contains procedures for assessing whether refugees meet requirements for access to higher education and for vocational and labor market training.

In addition, as noted above, asylum seekers are permitted to work 60 days after filing a formal application. Moreover, although limited in coverage, SPRAR-led projects provide relevant information to asylum seekers about employment and also guide and facilitate them in searching for and accessing employment. The services also include support for self-employment and entrepreneurial activities. Asylum seekers can register with provincial employment centers, and they are also entitled to attend vocational training courses if such courses are available in the locality where they are accommodated.³⁴⁰

Facilitating factors vary significantly depending on local provision. For example, in Rome the Italian Refugee Council (Consiglio Italiano per i Rifugiati) collaborates with the Municipality of Rome's Centre for Work Orientation (Centro di Orientamento al Lavoro) to help provide refugees and asylum seekers with vocational training opportunities tailored to their needs, qualifications, and experience as well as notifications of job vacancies. This is in addition to the SPRAR programs noted above.

Some recent legal and policy changes in Italy may help ease access to labor markets for refugees and asylum seekers, particularly by unlocking some of the bureaucratic constraints noted above and improving coordination. To this end, a recently introduced migrant integration portal (Living and Working in Italy, *Vivere e Lavorare in Italia*) has been introduced to provide an integrated national reference point for integration policies.³⁴¹ In addition, under Legislative Decree No. 150/2015, the new National Agency for Active Labour Policies (l'Agenzia Nazionale per le Politiche Attive del Lavoro) may help enhance the role of the labor components of integration policies.³⁴²

Important changes in Italian policies for refugee integration were introduced in September 2017, which may further ease many of the wider constraints that currently limit this population's access to the labor

adeguamento dell'ordinamento interno, (Ratification and adoption of the Convention relating to the recognition of Higher Education Qualifications in the European Region, adopted in Lisbon 11 April 1997, and the procedures related to internal regulations); OJ n. 173 of 25/7/ 2002.

³³⁹. ECRE (European Council on Refugees and Exiles), the Asylum Information Database – Italy (2017) <http://www.asylumineurope.org/reports/country/italy>, 88.

³⁴⁰. ECRE (European Council on Refugees and Exiles), the Asylum Information Database – Italy (2017) <http://www.asylumineurope.org/reports/country/italy>, 77.

³⁴¹. Bertelsmann Stiftung/Robert Schuman Centre for Advanced Studies of the European University Institute in Florence (2016) *From Refugees to Workers: Mapping Labour-Market Integration Support Measures for Asylum Seekers and Refugees in EU Member States*, Volume II: Literature Review and Country Case Studies, <http://www.bertelsmann-stiftung.de/en/publications/publication/did/from-refugees-to-workers-mapping-labour-market-integration-support-measures-for-asylum-seekers-and-3/>, 88.

³⁴². Ciccarone, G. (2016) "Labour Market Integration of Asylum Seekers and Refugees: Italy," April 2016, EC Directorate-General for Employment, Social Affairs and Inclusion, European Employment Policy Observatory, http://www.integrazionemigranti.gov.it/Documenti-e-ricerche/Italy-AHR_LMIntegrationOfAsylumSeekers_RefugeesMay2016_Final.pdf, 7.

market.³⁴³ Supported by EU funds, the first official integration plan in Italy specifically targeted to refugees and those with subsidiary status, some 75,000 people, is in place. As well as easing access to housing and employment, the plan aims to improve coordination and collaboration between various government ministries, local authorities, and NGOs, which, as noted above, has been an endemic problem in Italy.

3. MEDIATING CONDITIONS

Socioeconomic conditions

The high unemployment rate in Italy, especially among young people (up to 45 percent), combined with the weak situation of the Italian economy and the substantial numbers of young male refugees and asylum seekers seeking work, militates against easy access to labor markets^{344, 345} although data are not categorical and there is significant variation depending on data sources, different terminology, and dates. The unemployment rate for all migrants is 18 percent compared with 11.5 percent overall;³⁴⁶ yet analysis from the European labor market survey of 2014 reveals that about 60 percent of refugees were in employment, a marginally higher proportion than for refugees in the EU as a whole and for other non-EU-born migrants in Italy.³⁴⁷

Nevertheless, the prevailing economic conditions have two major consequences. First, many refugees and asylum seekers can only find employment in unskilled manual sectors and often only on a temporary basis, for example, in seasonal summer work in the agriculture sector. Second, employment in the informal economy is widespread in Italy, leading to the extensive informal sector employment of refugees and asylum seekers. Although in the short run informal sector employment provides positive opportunities, in the long run it militates against successful integration.³⁴⁸ Moreover, some indications suggest that

³⁴³. Asylum Information Database (2016) "Italy Plans for a Uniform Reception System through SpRAR Expansion," <http://www.asylumineurope.org/news/19-10-2016/italy-plans-uniform-reception-system-through-sprar-expansion>.

³⁴⁴. Poptcheva, E.-M., and A. Stuchlik, with contributions from P. Bakowski, A. Gatto, D. Ivanov, I. Odink, and I. Peñas Dendariana (2015) "Work and Social Welfare for Asylum-Seekers and Refugees," European Parliamentary Research Service, 18; Bertelsmann Stiftung/Robert Schuman Centre for Advanced Studies of the European University Institute in Florence (2016) *From Refugees to Workers: Mapping Labour-Market Integration Support Measures for Asylum Seekers and Refugees in EU Member States*, Volume II: Literature Review and Country Case Studies, <http://www.bertelsmann-stiftung.de/en/publications/publication/did/from-refugees-to-workers-mapping-labour-market-integration-support-measures-for-asylum-seekers-and-3/>, 87.

³⁴⁵. Ortensi, L. E. (2015) "The Integration of Forced Migrants into the Italian Labor Market." *Journal of Immigrant and Refugee Studies* 13 (2): 179–99.

³⁴⁶. Bertelsmann Stiftung/Robert Schuman Centre for Advanced Studies of the European University Institute in Florence (2016) *From Refugees to Workers: Mapping Labour-Market Integration Support Measures for Asylum Seekers and Refugees in EU Member States*, Volume II: Literature Review and Country Case Studies, <http://www.bertelsmann-stiftung.de/en/publications/publication/did/from-refugees-to-workers-mapping-labour-market-integration-support-measures-for-asylum-seekers-and-3/>, 87.

³⁴⁷. Organisation for Economic Co-operation and Development and European Commission (2015) *How Are Refugees Faring on the Labour Market in Europe? A First Evaluation Based on the 2014 EU Labour Force Survey ad hoc Module*, Working Paper 1/2016. https://publications.europa.eu/en/publication-detail/-/publication/87a8f92d-9aa8-11e6-868c-01aa75ed71a1/language-en_19. In this study only 25 EU member states were surveyed.

³⁴⁸. Bertelsmann Stiftung/Robert Schuman Centre for Advanced Studies of the European University Institute in Florence (2016) *From Refugees to Workers: Mapping Labour-Market Integration Support Measures for Asylum Seekers and Refugees in EU Member States*, Volume II: Literature Review and Country Case Studies,

refugees, asylum seekers, and irregular migrants are exploited in the workplace, but there is little empirical evidence to estimate the scale.

The seasonal nature of employment compounds accommodation problems since many of those employed in the south in the summer months return in the winter to northern cities where accommodation is in shorter supply. In general, the substantial differences in economic activity between the wealthier north and the poorer south of Italy are reflected in the overall opportunities for employment and the type of work that refugees and asylum seekers can access. The social conditions in which refugees and asylum seekers find themselves in Italy vary significantly, contributing both positively and negatively to access to employment. For example, recent anecdotal evidence from Rome suggests that in the larger cities asylum seekers and refugees are rendered homeless either because of violence, eviction, and discriminatory landlords or because rent levels are unaffordable. Therefore, despite having been recognized as refugees, without legal residence they are unable to renew their permits to stay in Italy and thus retain their work permits.³⁴⁹

Conversely, away from the cities, especially in southern Italy, evidence is emerging of small local communities encouraging refugees and asylum seekers to take up residence and local employment as a way of rejuvenating their villages, which are impoverished by aging and dwindling populations. The policy of integrated welcome (*accoglienza integrate*) aims to encourage this younger refugee population to stay and integrate locally rather than transit through to the north of Italy or northern Europe.³⁵⁰

Refugee profiles

Little evidence is available on the social capital of refugees and asylum seekers in Italy and the extent to which social capital facilitates access to labor markets and employment. A recent study has, however, suggested that the lack of assistance and financial security has indirectly had the effect of enhancing refugees' personal agency and bridging social capital.³⁵¹

Likewise, although inadequate, the evidence suggests that the skill match of refugees with labor market needs is very limited, an outcome that may be compounded by the lack of advanced language capacity, as observed earlier. Also of possible relevance is the very low proportion of refugees who have completed tertiary education among refugees in Italy; at less than 15 percent, this is one of the lowest proportions in the EU and below the EU average of slightly more than 20 percent.³⁵² The high propensity for refugees

<http://www.bertelsmann-stiftung.de/en/publications/publication/did/from-refugees-to-workers-mapping-labour-market-integration-support-measures-for-asylum-seekers-and-3/>, 87.

³⁴⁹. IRIN (2017) "No Home for Refugees in Rome," November, <https://www.irinnews.org/special-report/2017/11/10/no-home-refugees-rome>.

³⁵⁰. The Local (2015) "Italian Town Looks to Refugees for Revival," November 9,

<https://www.thelocal.it/20151109/italian-town-looks-to-refugees-for-revival>;

The Local (2016) "How This Tiny Italian Town Opened Its Homes to Refugees," February 12,

<https://www.thelocal.it/20160212/how-this-small-italian-town-has-opened-its-homes-to-refugees>.

³⁵¹. Ortensi, L. E. (2015) "The Integration of Forced Migrants into the Italian Labor Market." *Journal of Immigrant and Refugee Studies* 13 (2): 180.

³⁵². Organisation for Economic Co-operation and Development and European Commission (2015) *How Are Refugees Faring on the Labour Market in Europe? A First Evaluation Based on the 2014 EU Labour Force Survey ad hoc Module*, Working Paper 1/2016,

and asylum seekers to work in the informal sector would appear to confirm these observations. Conversely, partly in response to the difficulty of accessing the labor market, migrants and refugees appear to be more entrepreneurial than Italians—according to evidence on new business start-up.³⁵³

No quantitative data have been found on the participation of refugee women in Italy's labor market. However, across Europe a recent survey notes that “bringing refugee women into employment is a particular challenge,” attributing the gender gap to low education and low labor market participation.³⁵⁴

4. OUTCOMES

Participation in the labor market

Information on the actual access of refugees and asylum seekers to, and participation in, the Italian labor market is constrained by the lack of official data. However, research data shed some light on the outcomes. Refugees and asylum seekers, compared with other non-EU third-country nationals in Italy, may have similar employment levels in the informal sector (10 percent compared with 12 percent), but they have much lower housing security (3.7 percent vs. 0.6 percent), sharply higher levels of unemployment (59 percent vs. 13 percent) and long-term unemployment (82 percent vs. 56 percent), as well as lower income levels (€800 vs. €1,000 per month).³⁵⁵ Indeed, compared with other non-EU third-country nationals, including undocumented migrants, refugees were “eight times more likely to be jobless and five times more likely to be out of the primary job market.”³⁵⁶ Overall, the conclusion is that refugees and asylum seekers “experience greater difficulties than all other groups in finding any form of job... [and] that this gap is related particularly to the first phase of entry into the job market.”³⁵⁷ An important caveat is that data are drawn from a 2012 European labor market survey; conceivably, labor market access is now far more challenging given the changing dynamics of refugee and irregular migrant arrivals in Italy since the 2015 crisis.

Anecdotal evidence suggests that most employment is found in the informal sector, either through self-employment or in enterprises, and is predominantly low skilled. There is no evidence of the effectiveness of government employment policies or training and vocational programs in enabling access to employment. Especially for those under temporary and subsidiary protection, the standard

<https://publications.europa.eu/en/publication-detail/-/publication/87a8f92d-9aa8-11e6-868c-01aa75ed71a1/language-en, 14>. In this study only 25 EU member states were surveyed,

³⁵³. See http://dossierimmigrazione.it/docnews/file/2015_Rapporto%20Imprenditoria_Scheda%20EN.pdf.

³⁵⁴. Organisation for Economic Co-operation and Development and European Commission (2015) *How Are Refugees Faring on the Labour Market in Europe? A First Evaluation Based on the 2014 EU Labour Force Survey ad hoc Module*, Working Paper 1/2016,

<https://publications.europa.eu/en/publication-detail/-/publication/87a8f92d-9aa8-11e6-868c-01aa75ed71a1/language-en, 20>. In this study only 25 EU member states were surveyed.

³⁵⁵. ORIM (Regional Observatory for Integration and Multi-ethnicity survey on immigrants), cited in Ortensi, L. E. (2015) “The Integration of Forced Migrants into the Italian Labor Market.” *Journal of Immigrant and Refugee Studies* 13 (2): 187.

³⁵⁶. Ortensi, L. E. (2015) “The Integration of Forced Migrants into the Italian Labor Market.” *Journal of Immigrant and Refugee Studies* 13 (2): 188.

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recommendation from NGOs in Italy is to, as soon as possible, apply for a residence permit for work (*permesso di soggiorno per lavoro*); this is partly why successful refugees disappear from the system.

SUMMARY AND CONCLUSION

Although conditions for refugees to access employment in Italy are relatively benign, the economy's sluggish growth and high unemployment rates and the restricted scope of settlement and integration programs limit employment opportunities for refugees and asylum seekers.

Italy has functioned more as a country of transit rather than a country of settlement for refugees and asylum seekers, leading to a lack of government proactivity and coherent employment and labor market integration policies – at least until very recently.

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Jordan³⁵⁸

PROFILE

- **Not party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol.**
 - **664,118 refugees and 24,935 asylum seekers totaling 689,053 = 10.4 percent of a total population estimated at 6.6 million.³⁵⁹**
 - **Great majority (90 percent) are Syrian refugees;³⁶⁰ Palestinian and Iraqi refugees are still an important presence.³⁶¹**
 - **Vast majority of refugees live dispersed in host communities in cities and towns while an estimated 18 percent of the registered refugee population reside in camps.**
- **Human development rank and value: 80th and 0.748**
 - **GDP: growth 2 percent; Per capita US\$ 4,087**
 - **Upper-middle-income economy**
 - **Unemployment rate: 13.2 percent**

358. Although their input was requested, the United Nations High Commissioner for Refugees (UNHCR) did not review this entry. The authors would like to thank Meriem Ait Ali Slimane from the World Bank for reviewing this country study. This study has been revised to include developments through October 2017.

359. The overall number was slightly higher in 2016, with 685,197 refugees and 35,615 asylum seekers totaling 720,812, UNHCR (2017) "Global Trends, Forced Displacement in 2016," www.unhcr.org/globaltrends2016/. According to the 2016 government of Jordan census, 1.3 million Syrian refugees live in Jordan, International Labour Organization Regional Office for the Arab States (2017) "Work Permits and Employment of Syrian Refugees in Jordan, Towards Formalising the Work of Syrian Refugees," [www.ilo.org/beirut/publications/WCMS_559151/lang--en/index.htm](http://www.ilo.org/beirut/publications/WCMS_559151/lang-en/index.htm).

360. Statistics show that the number of Syrians registered with the UNHCR in Jordan increased dramatically in the first quarter of 2013 and stabilized in mid-2016. Among UNHCR-registered refugees, about half are of working age. The government of Jordan's census puts the number of Syrians at 1,265,000—about twice the number registered with the UNHCR.

361. As of June 2017, slightly fewer than 8,000 Yemenis were registered with the UNHCR, UNHCR (2017) Factsheet Jordan, <http://reliefweb.int/sites/reliefweb.int/files/resources/Jordan%20Fact%20Sheet%20June%202017-%20FINAL.pdf>. There are, however, more than 31,000 Yemenis in Jordan according to a February 2016 government census; while Yemenis initially benefited from an open door policy, since "April 2015 new security measures were introduced for Yemenis and in December 2015 the Jordanian government announced that Yemenis would now require visas to enter the Kingdom." While not all Yemenis are in need of assistance, there are issues that arise on account of lack of residency or registration with the UNHCR, including the fact that many Yemeni children do not have access to schools, ARDD-Legal Aid (2016) "Hidden Guests: Yemeni Exiles in Jordan, Protection Issues Report in Jordan n. 1", 3, https://ardd-jo.org/sites/default/files/resource-files/hidden_guests_yemeni_exiles_in_jordan.pdf.

CONTEXT

Historically one of the main destination countries for refugees from the Middle East, Jordan currently hosts, after Turkey and Lebanon, the third-largest number of Syrian refugees, in addition to 1.9 million Palestinian refugees³⁶² and some 33,200 Iraqi refugees registered with the UNHCR.³⁶³

In the first years of the Syria conflict Jordan kept its borders open, but beginning in 2013 gradually applied stricter controls and increased border restrictions. As of June 14, 2016, in response to a suicide attack at Ruqban, Jordan closed its border with Syria and Iraq.³⁶⁴

Although tolerating their prolonged stay, Jordan has always rejected local integration for refugees, leaving repatriation or resettlement as the only possible durable solutions. Yet given the ongoing conflict in Syria, repatriation is not a viable option, and even though a number of countries, including Canada, the United Kingdom, and Germany,³⁶⁵ have accepted refugees from Jordan, the scale of those benefiting from resettlement remains limited. In early 2016 there was a significant shift in the country's policy toward refugees as the government proposed the Jordan Compact, a strategy for refugees to contribute to the economy and become self-reliant.³⁶⁶

1. LAW

Refugee Law

National legislation. Jordan is not party to the 1951 Convention relating to the Status of Refugees and has no refugee law. However, its 1952 Constitution prohibits the extradition of political refugees “on account of their political beliefs or for their defence of liberty.”³⁶⁷ In the absence of any specific legislation, Jordan currently receives all foreigners, including Syrians, within the framework of its alien law, the 1973 Law on Residence and Foreigners' Affairs.³⁶⁸

362. Jordan hosts the largest number of Palestinian refugees worldwide, United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), <https://www.unrwa.org/where-we-work/jordan>.

363. The government of Jordan estimated the number of Iraqis at 400,000 individuals at the end of March 2015, a figure that includes refugees and other categories of Iraqis, UNHCR (2016) “Global Trends, Forced Displacement in 2015,” www.unhcr.org/576408cd7; in 2016, 33,100 Iraqi refugees were registered with the UNHCR, UNHCR (2017) “Global Trends, Forced Displacement in 2016,” www.unhcr.org/globaltrends2016/.

364. Al-Monitor (2016) “Why Jordan Is Unlikely to Reconsider Decision to Close Border,” www.al-monitor.com/pulse/originals/2016/06/jordan-close-syria-border-economic-crisis.html.

365. Some Syrian refugees in Germany come from Jordan, but mainly through Turkey.

366. The Jordan Compact is accessible at <https://www.supportingsyria2016.com>. The government pledged to create up to 200,000 opportunities over several years for Syrian refugees, in return for international loans, trade benefits, and investment by the international community that would also benefit the local Jordanian population. Jordan became the first country in the Arab region to ease the provision of work permits for Syrian refugees, International Labour Organization (2017) *A Challenging Market Becomes More Challenging, Jordanian Workers, Migrant Workers and Refugees in the Jordanian Labour Market*, Beirut, 24, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_556931.pdf.

367. Article 21(i) of the Constitution of the Hashemite Kingdom of Jordan, January 1, 1952, www.refworld.org/docid/3ae6b53310.html.

368. ACAPS (2013) “Legal Status of Individuals Fleeing Syria, Syria Needs Analysis Project,” http://reliefweb.int/sites/reliefweb.int/files/resources/legal_status_of_individuals_fleeing_syria.pdf.

Institutions. The Ministry of Interior is responsible for refugee affairs, and the Syrian refugee crisis has led to the creation of a Syrian Refugees Affairs Directorate with responsibility for the coordination of the country's three refugee camps and of Syrian refugees living outside camps.³⁶⁹

Access to protection. Jordan's 1973 Law on Residence and Foreigners' Affairs requires those entering the country as political asylum seekers to present themselves to a police station within 48 hours of arrival.³⁷⁰ This law grants the Minister of Interior the authority to determine on a case-by-case basis whether persons who enter illegally will be deported, but it does not impose sanctions against asylum seekers who enter the country illegally.

In 1998, Jordan signed a memorandum of understanding (MoU) with the UNHCR to enhance cooperation on refugees.³⁷¹ The MoU was amended in 2014 to deal with the large number of refugees from Syria. According to the MoU, which outlines the major principles on international protection, the UNHCR has 90 days to determine the refugee status of asylum seekers in Jordan.³⁷² Asylum seekers can remain in Jordan pending status determination, and UNHCR-recognized refugees can remain one year after recognition, during which time the UNHCR needs to identify resettlement countries for them.³⁷³ Jordan does not enforce this provision, and in practice, refugees, especially Iraqis, have remained in Jordan for much longer, sometimes for years. To remain in the country legally, refugees need to obtain an annual residence permit, which can be obtained upon proof of a secure and legal source of income, or a work permit based on an employment contract certified by the Ministry of Labor. Students admitted to educational institutions or disabled persons or minor children whose only provider legally resides in Jordan are also entitled to residence permits.³⁷⁴

Since 2008, Iraqis have been required to have visas before entering the country, a policy that increased the number of Iraqis who have been denied access to Jordan.³⁷⁵ In contrast, since the beginning of the Syrian crisis, Jordan has allowed Syrians entry without requiring a visa or residency permit, provided they

369. Syrian Refugee Response: Jordan Inter-Agency Update (2014) www.data.unhcr.org/syrianrefugees/download.php?id=4981.

370. Article 6 of Law No. 24 of 1973 on Residence and Foreigners' Affairs, www.refworld.org/docid/3ae6b4ed4c.html.

371. The MoU provides the parameters for cooperation between the UNHCR and the government of Jordan; however, it does not constitute a legal obligation, Memorandum of Understanding between the Government of Jordan and UNHCR, April 5, 1998 (renewed in 2003), http://carim-south.eu/databases/legal/Jordan/Bilateral%20Agreements/LE2JOR002_AREN.pdf.

372. Under the 1998 MoU, the UNHCR had between 21 and 30 days to process refugee applications; the MoU has reportedly extended that period to 90 days, Jordanian Times (2014) "Government, UNHCR Sign Amendments to Cooperation Memo," www.jordantimes.com/news/local/gov%E2%80%99t-unhcr-sign-amendments-cooperation-memo. According to a 2015 report by the International Human Rights Clinic (IHRC) and the Norwegian Refugee Council (NRC), the 2014 amendment has not yet been made publicly available, IHRC and NRC (2015) "Registering Rights, Syrian Refugees and the Documentation of Births, Marriages, and Deaths in Jordan," <https://www.nrc.no/resources/reports/registraring-rights/>.

373. Refugee identification cards were initially valid for six months; the amended MoU extended the validity of the document to one year.

374. Human Rights Watch (2006) "The Silent Treatment: Fleeing Iraq, Surviving in Jordan," Volume 18, No. 10(E), www.hrw.org/reports/2006/jordan1106/.

375. United States Committee for Refugees and Immigrants (2009) "World Refugee Survey 2009-Jordan," www.refworld.org/docid/4a40d2aac.html.

hold a passport. However, Jordan has gradually limited the number of Syrians allowed in; in addition to denying entry to Palestinians or Iraqi refugees living in Syria, single men of military age and anyone without documents are also denied entry.³⁷⁶ In mid-2013, several border crossings were closed to Syrians, with a few exceptions made for the war-wounded and the most vulnerable by Jordan's own criteria, some of whom are treated and then sent back to Syria, in contravention of Jordan's customary international obligations. In 2014 Jordan began stopping Syrians arriving at its international airport from entering unless they had a Jordanian residency permit or met a limited number of special exceptions, including having a residency permit in one of the Gulf countries, and further restricted access through the country's northeastern crossings, leaving many stranded at the borders. The Jordanian authorities' capacity to respond to Syria's refugees had been exceeded.³⁷⁷ Following the deadly suicide attack by the Islamic State on June 14, 2016, against a border post in the Ruqban border area with Syria, Jordan made the decision to close its borders with Syria and Iraq. Although humanitarian cases are being assessed by the armed forces at the crossing, the situation has resulted in some 60,000 to 70,000 Syrians, mainly women and children, being stranded at the border and deprived of humanitarian aid.³⁷⁸

Although the Jordanian Constitution recognizes the principle of *non-refoulement* by prohibiting extradition of "political refugees," there have been instances of expulsion of Syrians and Iraqis, including of undocumented workers.³⁷⁹

Freedom of movement. In principle, Jordan's participation in the International Covenant on Civil and Political Rights offers the possibility, under its Article 12, for "everyone lawfully within the territory of a State (...) to have the right to liberty of movement and freedom to choose his residence." In relation to refugees, the Jordanian government did not regularly enforce official refugee camp "bailout" policies, according to which refugees are required to obtain sponsorship from a Jordanian citizen and pay a fee to leave the camps. This effectively enabled Syrians to move between urban areas and camps with few restrictions.³⁸⁰ Since the second half of 2014, the authorities had, however, progressively restrained Syrian refugees' freedom of movement in urban areas, forcibly returning Syrians to refugee camps from urban areas while making it more complicated for camp refugees to leave the camps.³⁸¹ However, some

376. Zetter, R., and H. Ruauzel (2014) "The Syrian Displacement Crisis and a Regional Development and Protection Programme: Mapping and Meta-Analysis of Existing Studies of Costs, Impacts and Protection," Ministry of Foreign Affairs of Denmark, www.alnap.org/resource/10679.

377. Amnesty International (2015) "Syrian Refugees Stranded at Border Crossing," <https://www.amnesty.org/en/documents/mde16/3059/2015/en/>.

378. REUTERS (2016) "Plight of Stranded Syrian Refugees Worsens as Jordan Blocks Aid: Aid Workers," www.reuters.com/article/us-mideast-crisis-jordan-border-idUSKCN0ZD25R.

379. UNHCR (2013) "Submission for the Office of the High Commissioner for Human Rights' Compilation Report – Universal Periodic Review for Jordan," www.refworld.org/docid/513d90172.html.

380. Francis, A. (2015) "Jordan's Refugee Crisis," Carnegie Endowment for International Peace, <http://carnegieendowment.org/2015/09/21/jordan-s-refugee-crisis/ii3t>.

381. Achilli, L. (2015), "Syrian Refugees in Jordan: A Reality Check," Migration Policy Centre, http://cadmus.eui.eu/bitstream/handle/1814/34904/MPC_2015-02_PB.pdf?sequence=1&isAllowed=y. Since 2017, Syrians who reside in camps have been able to use their work permits as leave permits to exit the camps. The duration of this exit (daily, for a few days) is still being determined (information provided by the World Bank).

flexibility was reintroduced in 2016 as employment centers were being set up at camps to match recruiters with Syrian refugees.³⁸² Once they have a work permit refugees are able to exit the camps to go to work.³⁸³

Right to work – refugee and labor and employment law

The 1952 Constitution clearly reserves the right to work to Jordan’s citizens.³⁸⁴ The 1973 Law on Residence and Foreigners’ Affairs instructs Jordanian nationals and companies not to employ foreigners without valid residence permits, although in principle it allows the Minister of Internal Affairs to exempt (from having a residence permit) persons connected with humanitarian concerns or those seeking political asylum.³⁸⁵

The 1998 MoU with the UNHCR further states that a legal resident refugee may “work for his own account whenever the laws and regulations permit,” while “refugees holding degrees recognized by the competent Jordanian authorities could practice liberal professions if the laws and regulations permit.”³⁸⁶

The Labour Code of 1996, implemented by the Ministry of Labor, defines the rights, protections, and responsibilities for all workers and employers.³⁸⁷ The law specifically assigns the minister the responsibility for determining the industries and jobs that are prohibited from engaging women and the times of day during which women are not permitted to work. “Refugees” or “asylum seekers” are not mentioned anywhere in the Labour Code. Nevertheless, with the exception of refugees who have entered Jordan through unofficial borders or who are residents of refugee camps, refugees are entitled to acquire work permits in Jordan, under similar requirements applicable to other non-Jordanian workers.³⁸⁸ The Labour

382. Information provided by the World Bank.

383. UNHCR (2017) “New Deal on Work Permits Helps Syrian Refugees in Jordan,”

www.unhcr.org/news/latest/2017/10/59df254b4/new-deal-work-permits-helps-syrian-refugees-jordan.html.

384. Article 23 of the Constitution of Jordan with amendments, <http://www.refworld.org/pdfid/3ae6b53310.pdf>.

385. Article 16 (a) and Article 29 of the 1973 Law on Residence and Foreigners’ Affairs.

386. Articles 8 and 9 of the MoU between the government of Jordan and the UNHCR, April 5, 1998, http://carim-south.eu/databases/legal/Jordan/Bilateral%20Agreements/LE2JOR002_AREN.pdf.

387. Labour Code, Law Number 8 of 1996, www.ilo.org/dyn/natlex/docs/WBTEXT/45676/65048/E96JOR01.htm.

The Labour Code does not cover domestic and agricultural workers, who are covered by special purpose regulations.

As per amendments adopted on August 28, 2002, workers in the domestic and agricultural sectors fall under coverage of the Labour Code; they also have special bylaws, ILO National Labor Law Profile, www.ilo.org/ifpdial/information-resources/national-labour-law-profiles/WCMS_158905/lang--en/index.htm. The Labour Code assigns the Ministry of Labor the responsibility for enforcing the law. To enforce the law, the Ministry of Labor has established two structures: the Inspection Unit and the Complaints Hotline. The construction sector is relatively well covered by the inspection system, while others are excluded (notably agriculture and domestic work), and the capacity of the Inspection Unit is limited by their numbers (256 inspectors across the country as of 2016) as well as by the lack of training opportunities and technology. Moreover, the ability of inspectors to monitor working conditions is hampered by additional responsibilities for catching non-Jordanians who may be working without proper work permit documentation, International Labour Organization (2017) *A Challenging Market Becomes More Challenging, Jordanian Workers, Migrant Workers and Refugees in the Jordanian Labour Market*, Beirut, 24, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_556931.pdf.

388. International Labour Organization Regional Office for the Arab States (2015) “Work Permits for Syrian Refugees in Jordan,” www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_422478.pdf.

Code refers to a minimum wage (determined by regulation); the minimum wages are set separately for Jordanians and non-Jordanians. The law also calls for penalties on employers who pay less than the minimum wage.

To obtain work permits, the employer and future worker must provide their local Labor Directorate with a range of documents, including a copy of a valid Ministry of Interior service card, a copy of the work contract, a valid occupational licensure certificate, and proof from the Social Security Corporation of the worker's registration.³⁸⁹ The procedure involves showing that the job requires experience or skills unavailable among Jordanians; and if the worker is applying for the first time, the application is referred to a committee at the ministry for approval. Yet even in open sectors, there are quotas for foreign workers' as well as specific quotas for Syrian investors employing Syrian refugees.³⁹⁰ In addition, all bearers of temporary passports, including Palestinians displaced from Gaza since 1967, have to obtain permits to work legally.³⁹¹ Jordan's Labour Code requires employers to apply for a worker's permit. The fees are of varying amounts and are subject to increase. The permits are usually valid for one year and are renewable. Violators are subject to cumulative fines, and expulsion of the foreign worker is at the employer's expense.³⁹² For Syrians, however, work permits have been free since 2016.

In addition to work permits, foreigners wishing to practice professions have to obtain certification from Jordanian professional societies; certification is granted based on reciprocal privileges in the foreigners' home countries. The same principle of reciprocity applies for accessing social security benefits, rendering stateless Palestinians ineligible. Since a 2010 amendment to the Labour Code, non-Jordanians have had the right to join trade unions, but they are not allowed to be a founding member of a trade union.³⁹³

2. POLICY AND PRACTICE

Constraining factors

Before 2016, Syrians entering the country as asylum seekers or who were registered as refugees with the UNHCR were not given residency—unlike Iraqis who entered after the 1998 MoU—seriously limiting their ability to seek lawful employment.³⁹⁴

389. UNHCR (2016) "Frequently Asked Questions, Work Permits for Syrian Refugees in the Urban Environment in Jordan," data.unhcr.org/syrianrefugees/download.php?id=11611.

390. International Labour Organization Regional Office for the Arab States (2015) "Work Permits for Syrian Refugees in Jordan," www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_422478.pdf.

391. Palestinian refugees holding temporary Jordanian passports can work for the government only on a contractual basis.

392. Jordan's Labour Code also authorizes the Ministry of Labor to deport foreigners working without permission.

393. Interim Act No. 26 of 2010, amending the Labour Code, July 21, 2010, www.ilo.org/dyn/travail/docs/635/Interim%20Act%20No.%2026,%20Labour%20Law%20Amendment%20of%2021%20July%202010%20.pdf.

394. Iraqi refugees who had residency permits (30 percent in 2010) had easier access to work permits, Kattaa, M. (2015) "Social Protection and Employment for Syrian Refugees in Jordan," Fourth Conference of the Regulating for Decent Work Network, www.rdw2015.org/uploads/submission/full_paper/20/Social_protection_and_employment__the_case_of_Syrian_refugees_in_Jordan.pdf.

Although under the Labour Code the employer is required to pay for a worker's work permit,³⁹⁵ in practice the worker often ends up paying for it, at times for amounts above the official fee as well as the social security contribution. These costs are prohibitive for most refugees.³⁹⁶ In 2015, the International Labour Organization (ILO) reported that only 10 percent of Syrian refugees in Zaatari camp and elsewhere in the country had obtained work permits for their current jobs, while the majority of those who applied for permits were denied. Among workers who did not apply, the main reasons cited were that permits were too expensive or too difficult to get.³⁹⁷

Although Jordan has asserted that it has given Syrian refugees priority over other non-Jordanians in obtaining work permits, it is also implementing the protectionist National Employment Strategy 2010–2020, which is geared toward gradually increasing Jordanians' participation in the labor market by replacing foreign workers with Jordanian nationals.³⁹⁸

The work permit system presents many challenges, especially since permits are tied to a single job and employer and are only valid for one year. This approach is not suitable for certain types of short-term or seasonal work, especially in the construction and agriculture sectors where employers are unable to offer one-year contracts for full-time employment. Moreover, the time limitation obliges those who wish to keep the same job for longer than one year to repeat the cumbersome work permit process.³⁹⁹

Refugees have also been excluded from certain professions: although not part of any law or policy document, the Ministry of Labor published a list of professions and industries in which only Jordanian citizens are allowed to work.⁴⁰⁰ However, refugees have not been deterred from engaging in such

395. Article 12 of the Jordanian Labour Code.

396. International Labour Organization Regional Office for the Arab States (2015) "Work Permits for Syrian Refugees in Jordan," www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_422478.pdf; International Labour Organization (2017) *A Challenging Market Becomes More Challenging, Jordanian Workers, Migrant Workers and Refugees in the Jordanian Labour Market*, Beirut, 24, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_556931.pdf.

397. This percentage relates to the survey's sample in three governorates, Stave, S. E., and S. Hillesund (2015) *Impact of Syrian Refugees on the Jordanian Labour Market: Findings from the Governorates of Amman, Irbid and Magraq*, International Labour Organization and Fafo Institute for Applied International Studies, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_364162.pdf.

398. The strategy is aimed at "creating a labor market environment in which foreign workers complement the Jordanian workforce rather than substitute for it," Jordan's National Employment Strategy 2011–2020, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/meetingdocument/wcms_313611.pdf.

399. International Rescue Committee (2017) "Solving the Refugee Employment Problem in Jordan: A Survey of Syrian Refugees," <https://www.rescue.org/sites/default/files/document/1527/irc-syrianrefugeeemployment-72dpi-041117.pdf>. The IRC report *In Search of Work* further recommended to "delink work permits from one job/ employer and expand the number of sectors and professions open to refugees, en route to a general right to work for refugees" 17, International Rescue Committee (2017) *In Search of Work, Creating Jobs for Syrian Refugees: A Case Study of Jordan Compact*, <https://www.rescue.org/report/search-work-creating-jobs-syrian-refugees>.

400. These include medical, engineering, administrative, accounting, and clerical professions; telephone and warehouse employment; sales; education; hairdressing; electrical and mechanical occupations; guards; drivers; and construction workers. For the full list, see International Labour Organization Regional Office for the Arab States (2015) "Work Permits for Syrian Refugees in Jordan," www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_422478.pdf. A 2017 ILO report indicated that as of January 2017, there were 17 professions closed to foreign workers in Jordan and confirmed the lack of established criteria under which

preempted professions. For instance, many Iraqi doctors work without the approval of the Jordanian Medical Association at lower wages than Jordanian doctors.⁴⁰¹

According to a 2015 ILO study, 99 percent of a sample of Syrian refugee workers were working outside Jordan's labor regulations in the informal economy, compared with 50 percent of Jordanian workers in the sample. In the informal sector, refugees without work permits are more vulnerable to exploitation by unscrupulous employers, and are forced to accept lower wages and harsh working conditions or to take positions for which they are overqualified.⁴⁰² Earlier research on Iraqi refugees shows that some single women, particularly members of religious minorities, reported underpayment and sexual harassment by their employers.⁴⁰³ The deterioration of labor standards puts pressure on the ability of Jordanian authorities to enforce existing labor standards such as the minimum wage, working hours, and safety at work.⁴⁰⁴

Refugees willing to set up new businesses also face several difficulties, including the prohibitive amount of 50,000 Jordanian dinar required as a minimum deposit in a Jordanian bank, the requirement to demonstrate legal residency status, and the need for a Jordanian business partner.⁴⁰⁵ Although the compact also aimed to help refugees formalize their existing businesses and set up new ones, there has been no clear progress in support of this process.⁴⁰⁶

Facilitating factors

Since 2009, the government of Jordan has allowed Iraqi refugees to work in professions not occupied by Jordanians and has approved some vocational training programs. More work sectors were opened in

the government could define these closed occupations, International Labour Organization Regional Office for the Arab States (2017) "Work Permits and Employment of Syrian Refugees in Jordan, Towards Formalising the Work of Syrian Refugees," www.ilo.org/beirut/publications/WCMS_559151/lang--en/index.htm.

401. United States Committee for Refugees and Immigrants (2009) "World Refugee Survey 2009—Jordan," www.refworld.org/docid/4a40d2aac.html.

402. Stave, S. E., and S. Hillesund (2015) *Impact of Syrian Refugees on the Jordanian Labour Market: Findings from the Governorates of Amman, Irbid and Magraq*, International Labour Organization and Fafo Institute for Applied International Studies, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_364162.pdf.

403. Human Rights Watch (2006) "The Silent Treatment: Fleeing Iraq, Surviving in Jordan," Volume 18, No. 10(E), www.hrw.org/reports/2006/jordan1106/.

404. Stave, S. E., and S. Hillesund (2015) *Impact of Syrian Refugees on the Jordanian Labour Market: Findings from the Governorates of Amman, Irbid and Magraq*, International Labour Organization and Fafo Institute for Applied International Studies, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_364162.pdf.

405. Jordan Economic & Commerce Bureau (2017) "Company Registration," www.jordanecb.org/Public/English.aspx?Site_ID=1&Page_ID=449&menu_id=38; International Rescue Committee (2017) *In Search of Work, Creating Jobs for Syrian Refugees: A Case Study of Jordan Compact*, <https://www.rescue.org/report/search-work-creating-jobs-syrian-refugees>.

406. A 2017 IRC report indicated that "supporting self-employment through business start-up or expansion via cash grants is strongly supported by the evidence base of what works to generate employment opportunities and incomes. The option to be self-employed can also provide individuals with the flexibility to work from home, thereby addressing some of the security concerns especially felt by women," International Rescue Committee (2017) "Solving the Refugee Employment Problem in Jordan: A Survey of Syrian Refugees," 15, <https://www.rescue.org/sites/default/files/document/1527/irc-syrianrefugeeemployment-72dpi-041117.pdf>.

2011.⁴⁰⁷ Syrians have historically been able to participate in the labor market as migrant workers on the basis of reciprocity under a bilateral workforce cooperation agreement between Jordan and Syria, signed in 2001.⁴⁰⁸ At the inception of the Syrian refugee crisis, the Ministry of Labor reportedly gave priority to Syrians applying for work permits, provided the positions they were applying for did not compete with Jordanians. As of 2013, only 2,600 Syrians had applied for and received permits.⁴⁰⁹ The rate increased gradually, and “according to the Ministry of Labor’s annual report for 2014, of the 324,410 workers who obtained work permits, 5,700 were Syrians, mostly in the food service sector, such as restaurants and the manufacturing companies.”⁴¹⁰ The percentage of work permits held by women remains low because they continue to face practical and cultural barriers that prevent many from working outside the home.⁴¹¹

In early 2016, the country engaged in labor market reform with respect to refugees’ access to its labor markets through a pioneering strategy, the Jordan Compact, aiming to convert the burden of hosting refugees into a development opportunity.⁴¹² More specifically, the objectives are both to help regularize the situation of refugees working in the informal economy and to create new work opportunities for these refugees and for Jordanians in special economic zones.

In February 2016, the international community pledged grant and concessional financing at a conference held in London to support the compact, and the European Union committed to accelerate plans to give Jordan enhanced access to the European market as well as to increased investment and soft loans.⁴¹³ The

407. Decision of the Deputy Prime Minister/Minister of Interior of January 11, 2011 which followed the General Pardon Law No. 15, issued on June 1, 2011, which waived, among other things, overstay fees—thereby allowing Iraqis to regularize their stay, secure residency, and apply for work permits—and led to a new opportunity for Iraqi and non-Iraqi refugees to work in a wide range of sectors, UNHCR (2013) “Submission for the Office of the High Commissioner for Human Rights’ Compilation Report – Universal Periodic Review for Jordan,” www.refworld.org/docid/513d90172.html.

408. “Agreement on Workforce Cooperation Between the Government of the Hashemite Kingdom of Jordan and the Government of the Syrian Arab Republic,” October 8, 2001, <http://carim-south.eu/database/legal-module/agreement-on-workforce-cooperation-between-the-government-of-the-hashemite-kingdom-of-jordan-and-the-government-of-the-syrian-arab-republic/>.

409. International Labor Organization Regional Office for the Arab States (2015) “Access to Work for Syrian Refugees in Jordan: A Discussion Paper on Labour and Refugee Laws and Policies,” www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_357950.pdf.

410. Ministry of Labor’s annual report 2014, cited in ILO Regional Office for the Arab States (2015) “Work Permits for Syrian Refugees in Jordan,” www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_422478.pdf, 2.

411. International Rescue Committee (2017) *In Search of Work, Creating Jobs for Syrian Refugees: A Case Study of the Jordan Compact*, <https://www.rescue.org/report/search-work-creating-jobs-syrian-refugees>.

412. A 2017 IRC/CGD report provided an overview of the progress on implementing the Jordan Compact. It indicates that “while some components of the compact were implemented, such as new trade concessions with the European Union, components more immediately relevant to refugees, such as simplified work permitting and business formalization processes, have yet to be completed.” International Rescue Committee and Centre for Global Development (2017) “Refugee Compacts, Addressing the Crisis of Protracted Displacement, Final Report of the Forced Displacement and Development Study Group,” 19, <https://www.cgdev.org/sites/default/files/Refugee-Compacts-Report.pdf>.

413. Supporting Syria & The Region, London Conference (2016) “The Jordan Compact, A New Holistic Approach between the Hashemite Kingdom of Jordan and the International Community to Deal with the Syrian Refugee Crisis,” [www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DCD/DAC/RD\(2016\)7/RD1&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DCD/DAC/RD(2016)7/RD1&docLanguage=En).

government committed to make changes necessary to providing work permits to Syrian refugees, with a target of 50,000 work permits by the end of 2016, rising to 200,000 in the coming years, including provision of 2,000 jobs in the garment industry.⁴¹⁴ In April 2016, the Ministry of Labor issued a directive to all Labor Directorates in the country to waive the application fees for obtaining annual work permits, allowing Syrian workers to use their Jordanian Ministry of Interior identity cards instead of passports. It also introduced a three-month grace period for Syrian refugees to legalize their status and apply for work permits; this grace period has since been renewed multiple times.⁴¹⁵ Other inclusive policies adopted by the government toward Syrian refugees include temporarily restricting the recruitment of new migrant workers from outside Jordan to encourage businesses to hire from the pool of labor already inside the country and temporarily suspending the practice of “deporting” Syrians caught without a work permit to the Azraq camp. In June 2016 a new mechanism was introduced through which agriculture workers can obtain work permits using cooperatives of farmers as a sponsor, to allow workers freedom to shift among a variety of short-term jobs.⁴¹⁶ The entry of Syrian investors was also facilitated, and they have been issued identification cards by the Jordan Investment Board. The government also granted permission to skilled Syrian workers to make up as much as 30 percent of an investor’s workforce in big cities and up to 60

“The Compact outlined a strategy for refugees to contribute to the economy, become self-reliant, and maintain skills that will allow them to eventually return and rebuild Syria and argued that this approach was necessary to avoid a lost generation and social conflict. The Compact also recognized Jordan’s role vis-à-vis the international community: by hosting refugees Jordan is providing a global public good and will need support of the international community to achieve the goals of the strategy,” International Labour Organization (2017) *A Challenging Market Becomes More Challenging, Jordanian Workers, Migrant Workers and Refugees in the Jordanian Labour Market*, Beirut, 24, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_556931.pdf.

414. Nearly 35,000 work permits were issued to Syrian refugees between March and December 2016, and the goal for 2016, set at 50,000 work permits by late 2016, was extended to June 2017 at the end of 2016, Kelberer, V. (2017) *The Work Permit Initiative for Syrian Refugees in Jordan: Implications for Policy and Practice*, Boston Consortium for Arab Region Studies and the United Nations High Commissioner for Refugees, 11, <https://www.bu.edu/ioc/files/2017/02/Work-Permit-Initiative-for-Syrian-Refugees-in-Jordan-1.pdf>.

415. This initiative also included the dissemination of clear instructions to local Ministry of Labor authorities to enable them to issue work permits in a timely manner to a greater number of Syrian workers but also information campaigns within refugee communities on application procedures as well as on their rights and entitlements under labor law, ILO News (2016) “Helping Syrian Refugees Formalize Their Work Status through Cooperatives,” www.ilo.org/beirut/media-centre/fs/WCMS_493964/lang--en/index.htm. The grace period was renewed in July and October 2016 and further extended to April 2017 and to December 2017, and it should continue to April 2018 as agreed on in the World Bank’s Program for Results in Jordan (information provided by the World Bank).

416. Under this arrangement, workers are not restricted to working for a single farmer but are able to work for various employers in a manner more conducive to the business needs of farmers, and allowing workers to avoid potentially exploitative relationships with sponsors. The ILO has supported this experiment by assisting the Ministry of Labor in the design of the mechanism as well as by providing the technical and financial support for Jordanian and Syrian focal points for each cooperative to facilitate coordination between the cooperatives, Syrians, and the Ministry of Labor. From the start of the experiment until the end of 2016, almost 12,000 work permits were issued to Syrians through cooperatives, accounting for a large share (36 percent) of all work permits issued to Syrians. “Additional policies are under discussion including expanding the mechanism of flexible work permits beyond the agriculture sector to also include construction sector (which is similarly based on short term work arrangements) and operationalizing a mechanism to allow residents of refugee camp permission to leave the camp for purposes of employment,” International Labour Organization (2017) *A Challenging Market Becomes More Challenging, Jordanian Workers, Migrant Workers and Refugees in the Jordanian Labour Market*, Beirut, 38, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_556931.pdf.

percent in remote areas and industrial cities outside the provincial centers, according to the development needs of the provinces. These measures resulted in a significant increase in work permits being provided to Syrian refugees.⁴¹⁷ Syrian investments also accelerated industrial activity in the economy and created jobs and employment opportunities for both Syrians and Jordanians.⁴¹⁸

In 2015, the UNHCR and UNDP released the Regional Refugee & Resilience Plan in Response to the Syria Crisis, which represents an emerging paradigm of integrating humanitarian aid with development resources to address the needs of both displaced populations and host communities.⁴¹⁹ Among other initiatives by the international community to enhance the economic situation of both refugees and local communities is an ILO project, conducted in close partnership with UNDP, called Enhancing Access to Employment Opportunities and Livelihoods in Host Communities, which provides technical support for the design of local economic development initiatives and employment-creation interventions.⁴²⁰ In Irbid and Mafraq the ILO is partnering with agricultural cooperatives, allowing them to apply for work permits rather than specific employers doing so.⁴²¹ The ILO, in collaboration with the UNHCR, is piloting its Better Work program to create up to 2,000 jobs for Syrian refugees in the garment manufacturing sector; the program particularly targets women refugees, including through skills training.⁴²²

3. MEDIATING CONDITIONS

Socioeconomic conditions

Jordan is an upper-middle-income country that ranks 80th on the Human Development Index. The effects of the 2008 global financial crisis, which led to a significant reduction in foreign direct investment and private capital flows to Jordan, combined with the Arab uprisings that triggered a regional economic downturn destabilized Jordan's economy. Consequently, Jordan's gross domestic product (GDP) growth rate shrank from 7.9 percent in 2008 to 2.3 percent in 2010. Since 2011, Jordan has dealt with spillovers from the Syrian crisis, including closure of trade routes with Iraq and Syria and the large presence of

417. As of June 2017, more than 40,000 Syrian refugees hold active work permits (information provided by the World Bank).

418. International Labor Organization Regional Office for the Arab States (2015) "Access to Work for Syrian Refugees in Jordan: A Discussion Paper on Labour and Refugee Laws and Policies," www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_357950.pdf.

419. Also see *Jordan Response Plan for the Syria Crisis 2016-2018*, <http://static1.squarespace.com/static/522c2552e4b0d3c39ccd1e00/t/56b9abe107eaa0afdcb35f02/1455008783181/JRP%2B2016-2018%2BFull%2B160209.pdf>.

420. "Enhanced Access to Employment Opportunities and Livelihoods in Jordanian Host Communities," ILO Response to the Syrian Refugee Crisis in Jordan 2014–2016 project, www.ilo.org/beirut/projects/WCMS_226940/lang--en/index.htm.

421. ILO News (2016) "Helping Syrian Refugees Formalize Their Work Status through Cooperatives," www.ilo.org/beirut/media-centre/fs/WCMS_493964/lang--en/index.htm.

422. In 2016, the UNHCR joined forces with Better Work Jordan—an ILO flagship program specializing in the garment sector and jointly run by the International Finance Corporation, a member of the World Bank Group—to conduct a pilot project to match refugees with formal jobs in the garment sector. Under the work agreement, the UNHCR will cover the cost of work permits for the first year to encourage employment of refugees. The ILO is assessing expansion of the Better Work model to other potential sectors, ILO News (2016) "Buyers' Forum Discusses Challenges and Opportunities in Light of Syria Refugee Crisis," www.ilo.org/beirut/media-centre/news/WCMS_470671/lang--en/index.htm.

refugees.⁴²³ Jordan has also struggled with massive water scarcity, climbing youth unemployment, rural marginalization, and development deficits in sectors like health care and education.⁴²⁴

The sharp population increase caused by the refugees' arrival revealed long-present and deepening fissures in Jordan's political, economic, and social infrastructure and stressed host-community capacity, with Syrians being concentrated in Jordan's most vulnerable communities.⁴²⁵ In February 2016, the World Bank estimated the influx of more than 630,000 Syrian refugees to have cost Jordan US\$2.5 billion a year.⁴²⁶ The labor market comprises three distinct groups—Jordanians, migrant workers, and refugees. The very large influx of Syrian refugees has reportedly put pressure on the labor market on top of a number of labor market challenges existing before the crisis, such as high national unemployment, particularly among women and youth, indicating a difficult school-to-work transition, and dependency on low wage and foreign labor, which has left the country unable to meet its nationals' economic opportunity needs.⁴²⁷ Refugees, especially Syrians, are seen as an economic threat in direct competition with Jordanian workers, leading to discrimination and xenophobia. The sentiment that Syrians "take jobs" and are given generous humanitarian aid, exacerbated by hostile media reports, has led to rising tension

423. World Bank (2016) "Jordan Economic Monitor, Fall 2016: Reviving a Slowing Economy," www.worldbank.org/en/country/jordan/publication/jordan-economic-monitor-fall-2016; BetterWork (2017) "UN Agencies Join Forces to Help Syrians Work in Jordan's Manufacturing Sector," <https://betterwork.org/blog/2017/10/02/un-agencies-join-forces-to-help-syrians-work-in-jordans-manufacturing-sector>.

424. Francis, A. (2015) "Jordan's Refugee Crisis," Carnegie Endowment for International Peace, <http://carnegieendowment.org/2015/09/21/jordan-s-refugee-crisis/ii3t>. A 2017 ILO study pointed out that "a significant proportion of available jobs have poor working conditions and are poorly paid and are therefore unattractive to a large segment of Jordanian workers, particularly given their relatively high levels of education and the high cost of living in Jordan. This mismatch is part of a vicious cycle in which many of the most-educated Jordanians emigrate for work in the Gulf countries, while large numbers of less-educated migrant workers immigrate for work inside Jordan. Ministry of Labour estimates that there are about 425,000 Jordanians working in the Gulf countries and that these migrants are disproportionately among the best educated Jordanians... The emigration of educated workers combined with the immigration of less educated workers, changes the composition of the labour force reducing incentives of entrepreneurs to adopt modern production methods that offer higher wages... [and] as certain types of jobs become dominated by migrant workers, who generally accept poorer working conditions, there is less pressure for improved conditions." International Labour Organization (2017) *A Challenging Market Becomes More Challenging, Jordanian Workers, Migrant Workers and Refugees in the Jordanian Labour Market*, Beirut, 24, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_556931.pdf.

425. The influx of refugees has mostly affected Jordan's housing sector as well as the education, sanitation, food, energy, and water sectors.

426. World Bank Middle East and North Africa Region (2016) "The Economic Effects of War and Peace," MENA Quarterly Brief Issue 6, www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2016/02/10/090224b0841636e1/3_0/Rendere d/PDF/The0economic0effects0of0war0and0peace.pdf.

427. ILO Regional Office for the Arab States (2015) "Work Permits for Syrian Refugees in Jordan," www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_422478.pdf. The 2017 ILO report indicates that although precise numbers are not available, the Ministry of Labor suggested that there may be as many as 1.4 million non-Jordanians working—about the same as the number of Jordanians, International Labour Organization (2017) *A Challenging Market Becomes More Challenging, Jordanian Workers, Migrant Workers and Refugees in the Jordanian Labour Market*, Beirut, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_556931.pdf.

between the host population and refugees and increasing crackdowns on refugee workers.⁴²⁸ However, in reality, given the generally low skill sets of Syrian workers, they mainly compete with lower-skilled Jordanian workers.⁴²⁹ The ILO and the IMF see no obvious correlation between unemployment rates of nationals and areas of large influx of Syrian refugees⁴³⁰ because the majority of Syrian refugees are mainly working in jobs in the informal sector that are commonly performed by non-Jordanian migrant workers, such as Egyptians,⁴³¹ for example, in agriculture,⁴³² construction, food service, and retail.⁴³³ Some of these sectors actually experienced Jordanian employment growth over the period 2010–13.

Although unemployment remains the main problem in the economy and in the Jordanian labor market, disaggregated data show that declines in Jordanian employment during the period 2010–13 took place in job markets that did not employ substantial numbers of Syrian refugees, including in transport and storage, administrative services, utilities production, arts and entertainment, foreign organizations, and water supply and waste management.⁴³⁴

428. The 2017 ILO study indicates that many Jordanian workers' have only a limited understanding of the situation of Syrian refugees—while they may be aware of support to incorporate Syrians in the labor market, they are often unaware of existing policies, such as closed occupations and quotas, intended to protect Jordanian workers, International Labour Organization (2017) *A Challenging Market Becomes More Challenging, Jordanian Workers, Migrant Workers and Refugees in the Jordanian Labour Market*, Beirut, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_556931.pdf.

429. The 2017 ILO report confirms that “competition exists between Jordanians and non-Jordanians and poor working conditions for non-Jordanians has spurred a ‘race-to-the-bottom’ that impacts Jordanians as well.” Employers are, for instance, able to hire migrant workers—who can be available 24 hours a day, 7 days a week, and whose wages can be paid late without consequence—over Jordanian workers. In the same way, a lower minimum wage for non-Jordanians provides a business incentive for hiring them over Jordanians,” International Labour Organization (2017) *A Challenging Market Becomes More Challenging, Jordanian Workers, Migrant Workers and Refugees in the Jordanian Labour Market*, Beirut, 10, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_556931.pdf.

430. Evidence from a recent World Bank–UNHCR report finds that the Syrian influx had no discernible impact on job loss among Jordanians, but that the increase in the size of the available labor force has resulted in a decrease in informal sector wages, Verme, P., C. Gigliarano, C. Wieser, K. Hedlund, M. Petzoldt, and M. Santacroce (2016) *The Welfare of Syrian Refugees, Evidence from Jordan and Lebanon*, World Bank Group and UNHCR, <https://openknowledge.worldbank.org/bitstream/handle/10986/23228/9781464807701.pdf?sequence=21>.

431. As of 2015, Egyptians (mainly males) accounted for about two-thirds of migrant workers, and their number more than doubled between 2000 and 2015; yet, according to data related to work permit holders collated in the 2016 “Migrant Workers Study Report” by Leading Point, the largest increases in migrant workers have come from Bangladesh, China, and the Philippines. International Labour Organization (2017) *A Challenging Market Becomes More Challenging, Jordanian Workers, Migrant Workers and Refugees in the Jordanian Labour Market*, Beirut, 26, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_556931.pdf.

432. For instance, 62 percent of agricultural labor is non-Jordanian, mainly Egyptian, and to a lesser extent Syrians and Iraqis, FAO (2013) “Agricultural Livelihoods and Food Security Impact Assessment and Response Plan for the Syria Crisis in the Neighboring Countries of Egypt, Iraq, Jordan, Lebanon and Turkey,” www.fao.org/fileadmin/user_upload/emergencies/docs/FAO-Syria-Crisis-Assessment-Response%20Plan_Neighbouring%20Countries-en.pdf.

433. International Labour Organization Regional Office for the Arab States (2014) “The Impact of the Syrian Refugee Crisis on the Labour Market in Jordan: A Preliminary Analysis,” www.ilo.org/wcmsp5/groups/public/@arabstates/@ro-beirut/documents/publication/wcms_242021.pdf.

434. Francis, A. (2015) “Jordan’s Refugee Crisis,” Carnegie Endowment for International Peace, <http://carnegieendowment.org/2015/09/21/jordan-s-refugee-crisis/ii3t>.

The expanded informal employment sector induced by the surge of refugees is, however, characterized by low and declining wages, longer working days, poor working conditions and regulations, and increased labor exploitation.⁴³⁵ Informal work has also encouraged negative coping mechanisms, such as child labor, to the point that gains made in addressing the phenomenon among the national population has been reversed and poverty among the most vulnerable Jordanian communities has intensified.⁴³⁶ In 2014, an estimated 30,000 Syrian children were working in the informal sector.⁴³⁷

Even while the country's most vulnerable populations are most affected by the downward pressure on wages and increasing unemployment, Jordanian businesses benefit from increased Syrian demand and a larger workforce.⁴³⁸ On top of increases in Jordanian consumption, the Syrian refugees' consumption contributes to GDP expansion despite significant trade border closure with Syria and Iraq. Linking the construction and agriculture sectors (where many Syrians now work informally) to GDP growth in 2014, the IMF also suggested a positive impact of refugee presence on Jordan's growth performance.⁴³⁹

Refugee profiles

Although most originated in rural areas of Syria, the Syrian refugees residing in Jordan are now a largely urban and relatively young population, and have a considerably lower education level than Jordanians.

435. Stave, S. E., and S. Hillesund (2015) *Impact of Syrian Refugees on the Jordanian Labour Market: Findings from the Governorates of Amman, Irbid and Magraq*, International Labor Organization and Fafo Institute for Applied International Studies, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_364162.pdf. Many refugees and migrants also end up having "black-market-sponsorship work permits" whereby workers pay Jordanian individuals to act as sponsors for the purpose of the work permit without having a true employment relationship. The bulk of the income generated by these work permits goes into the pockets of the sponsors rather than into government revenue, International Labour Organization (2017) *A Challenging Market Becomes More Challenging, Jordanian Workers, Migrant Workers and Refugees in the Jordanian Labour Market*, Beirut, 10, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_556931.pdf.

436. "Draft Final Report: Rapid Assessment (RA) on Child Labour, Agricultural Sector in Jordan / Mafrq & Jordan Valley (Ghor), Jordanians and Syrian Working Children," ILO, June 2014, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/genericdocument/wcms_246206.pdf.

"Report of the Rapid Assessment on Child Labour in the Urban Informal Sector in Three Governorates of Jordan (Amman, Mafrq and Irbid)," ILO, June 2014, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/genericdocument/wcms_246207.pdf.

437. Al Wazani, K. (2014) "The Socio-Economic Implications of Syrian Refugees on Jordan," Konrad Adenauer Stiftung, www.kas.de/wf/doc/kas_37808-544-2-30.pdf?140522145513.

438. Francis, A. (2015) "Jordan's Refugee Crisis," Carnegie Endowment for International Peace, <http://carnegieendowment.org/2015/09/21/jordan-s-refugee-crisis/ii3t>. A 2017 ILO study indicated that most worker interviewees recommended realigning migration and work permit regulations, shifting from a "system that is employment-based rather than employer-based," including "by making the work permit the responsibility of the non-Jordanian workers," International Labour Organization (2017) *A Challenging Market Becomes More Challenging, Jordanian Workers, Migrant Workers and Refugees in the Jordanian Labour Market*, Beirut, 17, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_556931.pdf.

439. Data on real GDP growth rate estimates and projections for 2012–16 come from IMF (2014) "Jordan, Fifth Review Under the Stand-By Arrangement, Request for Waivers of Nonobservance of Performance Criterion and Applicability of Performance Criterion, Modification of Performance Criterion, and Rephasing of Access," Country Report No. 14/324, <https://www.imf.org/external/pubs/ft/scr/2014/cr14324.pdf>.

About 60 percent of Syrians older than age 15 never completed basic schooling, and only about 15 percent of refugees have completed secondary education.⁴⁴⁰

The fact that most refugees speak Arabic is, however, a factor that helps their integration into the informal labor market. Notwithstanding the cultural and historical ties between Jordanians and Syrians, the massive arrival of refugees and their geographical clustering in vulnerable communities has affected social cohesion and led to tensions and security challenges.⁴⁴¹

4. OUTCOMES

Participation in the labor market

A study published in 2015 by the ILO and Fafo indicates that about 51 percent of Syrian men and 7 percent of women living outside camps participate in the Jordanian labor market.⁴⁴² Refugees are mostly employed in agriculture, construction,⁴⁴³ wholesale and retail commerce, manufacturing, and accommodation and food service.⁴⁴⁴ Non-Jordanian workers often shift among multiple employers.

440. Identity Centre (2015) "The Socio-Economic Impact of Syrian Refugees on Jordan, Turning Challenges into Opportunities," <http://identity-center.org/sites/default/files/The%20Socio-Economic%20impact%20of%20Syrian%20Refugees%20-%20Turning%20Challenges%20into%20Opportunities%20.pdf>. A 2017 ILO study confirms that Syrians have less formal education than Jordanians or migrant workers on average, with only 9 percent having more than high school education and 46 percent having elementary or less, whereas 26 percent of Jordanians have more than a high school education (the migrant worker education level is between that of Jordanians and Syrians). Despite generally low levels of education, many Syrians have strong entrepreneurial skills as well as marketable technical skills (particularly in construction and services), International Labour Organization (2017) *A Challenging Market Becomes More Challenging, Jordanian Workers, Migrant Workers and Refugees in the Jordanian Labour Market*, Beirut, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_556931.pdf.

441. REACH (2014) "Evaluating the Effect of the Syrian Refugee Crisis on Stability and Resilience in Jordanian Host Communities, Preliminary Impact Assessment," www.reach-initiative.org/wp-content/uploads/2014/02/jeffrey.frankens-10022014-093154-REACH-FCO_Syrian-Refugees-in-Host-Communities_Preliminary-Impact-Assessment.pdf.

442. The unemployment rate stands at 57 percent for men and as high as 88 percent for women, while the unemployment rate in Zaatar camp stands at approximately 80 percent, Stave, S. E., and A. Hillesund (2015) *Impact of Syrian Refugees on the Jordanian Labour Market: Findings from the Governorates of Amman, Irbid and Magraq*, International Labor Organization and Fafo Institute for Applied International Studies, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_364162.pdf.

443. Although both Jordanian and non-Jordanian workers are active in the construction sector, contractors identify clear hiring preferences, linking nationalities of workers to tasks. With slight variations, all of the contractors hire Jordanians into supervisory, administrative, and highly technical work and Egyptians into work that requires physical labor. (To the extent Syrians have entered the sector, they have a reputation of working in specialty trades that require detail work.) The construction sector in Jordan is highly segmented based on nationality and task. While Jordanians are eager to work in jobs that are full time and involve supervisory, technical, and mechanized tasks, they are more reluctant when the job is short term, the tasks are based on demanding manual labor, and they are expected to be available for very long hours. Egyptians, on the other hand, are valued for willingness to perform any kind of work and to be available 24 hours a day. International Labour Organization (2017) *A Challenging Market Becomes More Challenging, Jordanian Workers, Migrant Workers and Refugees in the Jordanian Labour Market*, Beirut, 63, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_556931.pdf.

444. Stave, S. E., and S. Hillesund (2015) *Impact of Syrian Refugees on the Jordanian Labour Market: Findings from the Governorates of Amman, Irbid and Magraq*, International Labor Organization and Fafo Institute for Applied

Although most refugees live and work outside camps, a thriving informal economy has also developed in the camps. For instance, in Zaatari camp, some 2,000 small, mainly market stall enterprises have been set up in partnership with Jordanians, providing all sorts of services, including money exchange, beauty salons, bakeries, restaurants, and fuel selling points.⁴⁴⁵

Because the great majority of refugees still do not apply for work permits, they work in the informal economy.⁴⁴⁶ According to a welfare assessment conducted by the World Bank and the UNHCR, “returns to informal work are so low that we do not observe any welfare difference between those [Syrian refugees] who work and those who do not work.”⁴⁴⁷ Even the income of Syrian refugees with work permits does not stand out as poverty reducing. Because of their status and the lack of economic opportunities, returns to education and skills for refugees are also almost nonexistent.⁴⁴⁸

According to the 2015 Vulnerability Assessment Framework Baseline Survey for Jordan, some 86 percent of Syrian refugees are living below the Jordanian poverty line while a further 10 percent are living below the abject poverty line.⁴⁴⁹ The 2014 World Food Programme–REACH Comprehensive Food Security Monitoring Exercise found that the majority of Syrian refugees are using emergency and negative coping strategies, including decreasing their food intake; resorting to high-risk, informal, or socially degrading

International Studies, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_364162.pdf. A significant portion of agricultural workers are non-Jordanian—even if no accurate data or precise numbers exist. While most workers in this sector are Egyptians, Syrians and Jordanians are increasingly active, International Labour Organization (2017) *A Challenging Market Becomes More Challenging, Jordanian Workers, Migrant Workers and Refugees in the Jordanian Labour Market*, Beirut, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_556931.pdf.

445. Almost all workers (99 percent) in Zaatari camp are in informal employment, and despite the lively business activity, only 1.5 percent of Syrian refugees own a business.

446. According to Ministry of Labour statistics of 2014, only 2 percent of Syrian refugees are working with work permits, while some 324,410 foreigners had work permits: 65.3 percent Egyptians, 3.3 percent other Arab nationalities, and 26.2 percent others (mainly Asians); Ministry of Labour cited in Kattaa, M. (2015) “Social Protection and Employment for Syrian Refugees in Jordan,” Fourth Conference of the Regulating for Decent Work Network,

www.rdw2015.org/uploads/submission/full_paper/20/Social_protection_and_employment_the_case_of_Syrian_refugees_in_Jordan.pdf. According to another set of statistics, as of 2015, as few as 17 percent of non-Jordanians were estimated to hold work permits that match their actual employer and occupation; this figure is based on the Ministry of Labor’s issuance of 315,045 work permits in 2015, NCHRD and Al Manar, 2016, mentioned in International Labour Organization (2017) *A Challenging Market Becomes More Challenging, Jordanian Workers, Migrant Workers and Refugees in the Jordanian Labour Market*, Beirut, www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_556931.pdf.

447. Verme, P., C. Gigliarano, C. Wieser, K. Hedlund, M. Petzoldt, and M. Santacroce (2016) *The Welfare of Syrian Refugees, Evidence from Jordan and Lebanon*, World Bank Group and UNHCR, 12, <https://openknowledge.worldbank.org/bitstream/handle/10986/23228/9781464807701.pdf?sequence=21>.

448. Verme, P., C. Gigliarano, C. Wieser, K. Hedlund, M. Petzoldt, and M. Santacroce (2016) *The Welfare of Syrian Refugees, Evidence from Jordan and Lebanon*, World Bank Group and UNHCR, <https://openknowledge.worldbank.org/bitstream/handle/10986/23228/9781464807701.pdf?sequence=21>.

449. UNHCR (2015) “Jordan Refugee Response, Vulnerability Assessment Framework, Jordan Response Plan Key Findings 2015,” www.alnap.org/resource/20534.

jobs; incurring debt;⁴⁵⁰ taking children out of school, sending them to work or to beg; and forcing girls into early marriage.⁴⁵¹

SUMMARY AND CONCLUSION

Despite being a major country of refuge, Jordan is not party to the 1951 Convention relating to the Status of Refugees and has no domestic refugee legislation. The country also lacks a coherent policy framework for its refugee population who are essentially treated as foreigners. Jordan has strict employment regulations for foreigners, intrinsically linked to obtaining residency and work permits, and it lacks national legislation that extends the right to work to refugees.

In practice, refugees have generally not benefited from preferential treatment, and initially very small numbers of refugees were granted residency and work permits. With the unfolding of the Syria crisis and large-scale arrivals, the Jordanian government tacitly allowed Syrians to work in the informal market, increasing their economic vulnerability and exposing them to abuse.

The international community has acknowledged that the presence of refugees on a massive scale is a challenge for labor market governance, but if managed carefully it also holds potential opportunities for economic development. In 2016, the government of Jordan introduced greater administrative flexibility as part of the Jordan Compact to ease refugees' access to work, including a renewable grace period for applying for work permits and free work permits that also allow them to leave the camps for up to a month. These measures have helped alleviate the financial burden placed on employers and Syrian workers who gradually are granted easier access to the labor market. However, given the generally low skill sets of Syrian workers, the vast majority remain involved in the informal labor market and many end up competing with other non-Jordanians and lower-skilled Jordanian workers. While the compact is moving toward more pro-refugee policies, the public perception of Syrian refugees is negative because they are seen as stealing Jordanian jobs, even if regional instability is the main source of Jordan's economic hardship. The Jordan Compact is a promising endeavor for redressing these current imbalances through job creation and reestablishing social cohesion between refugees and host communities, but provides the government with little incentive to offer formal opportunities for refugee employment. The issuance of work permits also does not ensure that refugees have jobs that are safe and decent nor guarantee stable or increasing incomes.

450. Indebtedness is both widespread and increasing, according to a number of studies; in 2013 some 72 percent of urban refugee households in Jordan were in debt, WFP and REACH (2014) "Comprehensive Food Security Monitoring Exercise," http://reliefweb.int/sites/reliefweb.int/files/resources/WFPCFSMEJuly2014_0.pdf.

451. An ILO study reports that close to half of the families have one working child, while a 2013 UN Women assessment reveals that in 47 percent of households that reported paid employment, a child contributed to all or part of this income, UN Women (2013) *Gender-Based Violence and Child Protection among Syrian Refugees in Jordan, With a Focus on Early Marriage*, www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2013/7/report-web%20pdf.pdf?vs=1458.

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Kenya⁴⁵²

PROFILE

- **Party to the 1951 Convention relating to the Status of Refugees, the 1967 Protocol, and the 1969 Organization of African Unity Convention.**
 - **553,912 refugees and 39,969 asylum seekers totaling 593,881 = 1.2 percent of a total estimated population of 46 million.⁴⁵³**
 - **Majority of refugees are from Somalia, followed by a growing population of South Sudanese who have fled the 2013 conflict and Ethiopian refugees in situations of protracted displacement.**
 - **Most refugees are hosted in Dadaab and Kakuma refugee camps, established by the government of Kenya,⁴⁵⁴ but a significant urban refugee population lives in Nairobi and other urban areas in the country.⁴⁵⁵**
- **Human development rank and index: 145th and 0.548**
 - **GDP: Growth 5.6 percent; Per capita US\$1,376.7**
 - **Lower-middle-income economy**
 - **Unemployment rate: 11 percent**

CONTEXT

On the African continent in 2015, Kenya hosted the second-largest number of refugees, just after Ethiopia.⁴⁵⁶ Kenya's refugee experience dates back to the early 1970s, when it hosted many Ugandans

⁴⁵². This case study has been revised to include developments through March 2017.

⁴⁵³. According to the UNHCR's statistics, as of March 31, 2017, some 486,037 refugees and asylum seekers were registered. The slight drop in the numbers between 2015 and 2017 coincide mainly with the return of some refugees to Somalia following the announcement of the closure of Dadaab camp and the relatively limited number of new refugees from South Sudan, UNHCR (2017) "Statistical Summary as of 31st March 2017, Refugees and Asylum seekers in Kenya," <http://reliefweb.int/sites/reliefweb.int/files/resources/Kenyastatisticspackage-March2017.pdf>.

⁴⁵⁴. Both camps were established in the early 1990s; Dadaab is one of the largest, oldest, and most congested refugee camps in the world.

⁴⁵⁵. According to the UNHCR's estimates, there are currently more than 63,200 registered refugees living in Kenya's capital, Nairobi, UNHCR (2016) "Refugees and Asylum-Seekers in Kenya," www.unhcr.org/ke/wp-content/uploads/sites/2/2016/11/Infographics-Refugees-in-Kenya.pdf.

⁴⁵⁶. Because of the crisis in South Sudan, Uganda and Ethiopia have received much larger numbers of refugees than Kenya, which is, as of March 2017, the third-largest refugee-hosting country on the continent.

displaced by the political coups of the time. Influxes of refugees into Kenya resumed in the early 1990s, triggered by conflict and insecurity in Somalia, Ethiopia, and the Great Lakes region. Among the current refugee population are large numbers of refugees in situations of protracted displacement, hosted by Kenya for more than 20 years, and refugee children who have been born and raised in Kenya.

Even though the government of Kenya closed its borders with Somalia in 2007, in the aftermath of the outburst of conflict in Somalia and because of security concerns posed by the fleeing Islamic Courts Union militia, Somali refugees have continued to access the country through unofficial routes, often resorting to smugglers. Between 2010 and 2011 many new Somalis arrived in Kenya, following the combination of increasing insecurity and severe drought. In addition, since the conflict in Sudan erupted in December 2013, many South Sudanese have fled to Kenya, where the government has granted them refugee status on a *prima facie* basis on humanitarian grounds; with no foreseen sustainable peace deal, their numbers are likely to grow.⁴⁵⁷ However, between 2013 and 2016 more refugees from South Sudan arrived in Ethiopia and Uganda than in Kenya.⁴⁵⁸

Refugees in Kenya have limited prospects for repatriating, integrating locally, or being resettled. Conditions in Somalia are not currently conducive to large-scale sustainable repatriation, and, after decades in exile, a significant proportion of refugees are likely to have limited reintegration prospects, even if conditions for return improve. Although a 2013 tripartite agreement governs the voluntary repatriation of Somali refugees in Dadaab, and despite the government's claim that south and central Somalia are now safe and "liberated," Kenya was still accepting refugees from Somalia on a *prima facie* basis.⁴⁵⁹ However, citing national security, Kenya has recently taken a harder stance toward Somali refugees: in April 2016 it revoked the *prima facie* refugee status for Somalis, it decided to disband the Department of Refugee Affairs (DRA), and in May 2016 it set up a National Task Force on the Repatriation of Refugees to come up with the method, time line, and budget for closure of Dadaab refugee camp.⁴⁶⁰ Resettlement is offered to only a small proportion of refugees (some 55,500 refugees in Kenya resettled to a third country between 1995 and 2010) and is mainly considered for refugees who arrived in Kenya in 1991–92 and as a protection intervention for those with specific needs.⁴⁶¹ Despite the prolonged stay of the majority of refugees in Kenya, especially those who are Somali, for politico-historical reasons formal local integration through citizenship remains virtually impossible.⁴⁶²

⁴⁵⁷. UNHCR (2005) "UNHCR Global Appeal 2015 for Kenya," www.unhcr.org/5461e600b.html.

⁴⁵⁸. International Rescue Committee and Regional Durable Solutions Secretariat (2016) "Early Solutions Planning in Displacement, What Can Be Done to Promote, Support and Facilitate Solutions Processes in the Early Stages of Displacement?" www.regionaldss.org/sites/default/files/Early%20Solution%20Planning%20Report%20December%202016.pdf.

⁴⁵⁹. Somalis still represent nearly 70 percent of people of concern to the UNHCR in Kenya, UNHCR (2014) "Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report - Universal Periodic Review, Kenya," www.refworld.org/docid/54c0f47f4.html.

⁴⁶⁰. IRIN (2016) "Will Kenya Really Close Dadaab?" <https://www.irinnews.org/analysis/2016/05/19/will-kenya-really-close-dadaab>.

⁴⁶¹. Danish Refugee Council and Norwegian Refugee Council (2013) "Durable Solutions, Perspectives of Somali Refugees Living in Kenyan and Ethiopian Camps and Selected Communities of Return," <https://drc.dk/media/1311894/durable-solutions-perspectives-of-somali-refugees-2013.pdf>.

⁴⁶². The 2010 Constitution (Art. 15–18) places no barriers on access to citizenship for refugees; it stipulates that Kenyan citizenship is conferred by the Constitution and is acquired by birth or registration. The following persons

In addition to refugees, there are an estimated 300,000 internally displaced persons (IDPs) in Kenya. This figure does not include an additional 300,000 people who fled post-election violence in 2007–08 and found shelter with host communities or in rented accommodation in urban areas, those displaced by natural disasters and development projects, and pastoralist IDPs.⁴⁶³

1. LAW

Refugee Law

National legislation. Kenya is party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol as well as the 1969 Organization of African Unity Convention. Although it does not make specific provisions with regard to refugees and asylum seekers, the 2010 Kenya Constitution and its progressive Bill of Rights provide a clear foundation in national legislation for general rights enjoyed by all.⁴⁶⁴ The Constitution builds on and complements the specific provisions of the 2006 Refugees Act that outline the treatment of and procedures related to refugees and asylum seekers in Kenya and reaffirms the government’s commitment to international refugee conventions.⁴⁶⁵ Under the act, refugees are to be provided with a refugee identity card and protected from arbitrary arrest, detention, or expulsion.⁴⁶⁶ The act has been amended to conform to the 2010 Constitution and, most controversially, to the Security Laws (Amendment) Act of 2014.⁴⁶⁷ A 2015 High Court judgment nullified eight clauses of the Security Act, including the provision establishing a ceiling of 150,000 refugees, but it upheld as constitutional the provisions on encampment, arguing that “they do not violate freedom of movement as envisaged under the Constitution.”⁴⁶⁸

are entitled to or eligible for registration as citizens of Kenya: spouses, widows of Kenyan citizens, lawful residents, children and persons with disabilities, stateless and migrant persons (applications under this category are made by persons who voluntarily migrated to Kenya before December 12, 1962, and/or have continuously lived in Kenya; proof must be provided of continuous residence in Kenya since that date). The Refugee Act 2006, however, contains no explicit right to naturalize as a Kenyan citizen; the Citizenship Act No. 12 (section 15) adopted in 2011 sets as conditions that the applicant has been a resident under the authority of a valid permit (difficult to obtain for asylum seekers) and has been determined through an objective criteria, and the justification made, in writing that he or she made or is capable of making a substantive contribution to the progress or advancement in any area of national development within Kenya, Mandy, B. (2016) “Citizenship Law in Africa, A Comparative Study,” Open Society Foundation, <https://www.opensocietyfoundations.org/sites/default/files/citizenship-law-africa-third-edition-20160129.pdf>.

⁴⁶³. IDMC (2015) “The Global Overview 2015: People Internally Displaced by Conflict and Violence,” www.internal-displacement.org/assets/library/Media/201505-Global-Overview-2015/20150506-global-overview-2015-en.pdf.

⁴⁶⁴. The Bill of Rights, The Constitution of Kenya, www.kenyaembassy.com/pdfs/The%20Constitution%20of%20Kenya.pdf.

⁴⁶⁵. Section 16(1)(a) of the Refugees Act 2006, www.refworld.org/docid/467654c52.html; UNHCR (2014) “Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights’ Compilation Report - Universal Periodic Review, Kenya,” www.refworld.org/docid/54c0f47f4.html.

⁴⁶⁶. The Refugee Act 2006, www.refworld.org/docid/467654c52.html.

⁴⁶⁷. The Security Laws (Amendment) Act, December 22, 2014, http://kenyalaw.org/kl/fileadmin/pdfdownloads/AmendmentActs/2014/SecurityLaws_Amendment_Act_2014.pdf.

⁴⁶⁸. Under the act, “anyone who has applied for refugee status has to remain in designated refugee camps until the processing of their status is concluded,” UNHCR (2015) “Kenya Factsheet,” www.unhcr.org/524d84b99.html.

In 2011, the government drafted a new refugee bill that included restrictive provisions aimed at limiting access to asylum and strengthening the encampment policy. The 2011 Bill has since been withdrawn and a 2016 bill is currently in Parliament.⁴⁶⁹

Institutions. The Ministry of Interior and Coordination of National Government and its Department of Refugee Affairs (DRA) are responsible for managing refugee-related matters.⁴⁷⁰

Access to protection. Refugee status determination (RSD) is based on the Refugees Act 2006, and there are three procedures in Kenyan law—full, simplified, and prima facie RSD (group recognition).⁴⁷¹ Since 2014, a gradual handover of RSD to the Kenyan authorities has been under way, together with harmonized RSD case management approaches aimed at eradicating RSD backlogs.⁴⁷² At the moment, DRA and the UNHCR still each carry out registration, and there are people who are included in only one of the systems. The system also still lacks an appeal structure. Furthermore, since 2012 there has been no registration in urban centers (following the first encampment policy), while registration in Nairobi is only available for the most vulnerable persons, for whom an exemption is granted. If refugees cannot register and get access to the asylum process in Nairobi, they are required to move to Kakuma or Dadaab camps and are being given movement passes to do so; yet most people remain in Nairobi and continue to be undocumented and thus more vulnerable.⁴⁷³

Recognized refugees are issued a UNHCR Mandated Refugee Certificate valid for two years, after which the DRA provides refugees with a five-year Alien Refugee Certificate.⁴⁷⁴ Refugees in Kenya have a number of legal entitlements enshrined in the 1951 Convention; however, these rights are often not fully applied in practice. Furthermore, authorities' lack of knowledge of refugee rights and principles of international protection, or deliberate policies implemented by the government of Kenya (see discussion of Operation Usalama Watch below), can result in violations, including police harassment, detention, or forceful return and relocation of refugees and asylum seekers.⁴⁷⁵

⁴⁶⁹. Information provided by the UNHCR and the Refugee Consortium of Kenya.

⁴⁷⁰. DRA's move into the Ministry of Interior means that there is a more direct security framework for refugee management. Furthermore, DRA is to be renamed the Refugee Affairs Secretariat according to a new law to be passed in March 2017.

⁴⁷¹. Sections 3 and 11 of the Refugees Act 2006 (2009 Regulations provide the detail).

⁴⁷². UNHCR (2014) "Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report - Universal Periodic Review, Kenya," www.refworld.org/docid/54c0f47f4.html.

⁴⁷³. This has also been fueling a false documents industry, UNHCR (2014) "Formative Evaluation of RSD Transition Process in Kenya, Summary of Selected Points Discussed at Meetings of the Steering Committee," www.unhcr.org/research/evalreports/5655c8409/formative-evaluation-refugee-status-determination-rsd-transition-process.html.

⁴⁷⁴. UNHCR and DRC (2012) "Living on the Edge, A Livelihood Status Report on Urban Refugees Living in Nairobi, Kenya," www.refworld.org/pdfid/52401e8f4.pdf.

⁴⁷⁵. International Organization for Migration (2015) "Migration in Kenya, A Country Profile," https://publications.iom.int/system/files/pdf/migration_profile_kenya.pdf.

Freedom of movement. The 2010 Constitution provides for the right to free movement and guarantees freedom to all to enter, remain, and reside anywhere in the country.⁴⁷⁶ However, Kenya's policy of encampment prohibits registered refugees in the camps from traveling to other parts of Kenya unless they are in possession of special permission for reasons such as medical appointments or education.⁴⁷⁷ Encampment was legitimized by law in 2014.⁴⁷⁸ Furthermore, freedom of movement of urban refugees was significantly restricted by a relocation directive in December 2012 and an encampment order issued in March 2014. Although the High Court of Kenya issued a reprieve against the 2012 directive in July 2013, concluding that it was in violation of several constitutional and international rights,⁴⁷⁹ since April 2014, the government has been relocating refugees and asylum seekers from urban areas, including by forced relocation, to either Dadaab or Kakuma refugee camp.⁴⁸⁰

In April 2014, as part of its antiterrorism measures, Kenya rolled out Operation Usalama Watch, which led to a series of arrests, detentions, and subsequent removals from Nairobi and other towns, seeking out illegal immigrants and terrorists. This initiative has negatively affected refugees and asylum seekers, with many reporting being victims of harassment and extortion by the police, arbitrary detention, and destruction of identification documents.⁴⁸¹ Following the deadly attack by al-Shabaab on Garissa University College, government officials, including Kenya's vice president, have increased calls to close Dadaab camp, which is seen as a "breeding ground for al-Shabaab," and to forcibly repatriate Somali refugees. The date for closure is currently set for May 30, 2017.^{482,483}

⁴⁷⁶. Art. 39 (1) and 39 (3), Chap. 4, The Bill of Rights, The Constitution of Kenya.

⁴⁷⁷. Konzolo, S. (2010) "An Overview of Refugee Status Determination and the Rights of Refugees in Kenya, The Protection Envisaged Under the 2006 Refugees Act," Paper Prepared for Refugee Studies Centre Workshop on Refugee Status Determination and Rights in Southern and East Africa, Refugee Consortium of Kenya, www.rsc.ox.ac.uk/files/publications/other/dp-rsd-kenya-2010.pdf.

⁴⁷⁸. The Kenya Gazette Notice No. 1927, dated March 28, 2014, kenyalaw.org/kenya_gazette/gazette/download/VolCXVINO39.pdf.

⁴⁷⁹. Wirth, A. (2014) "Reflections from the Encampment Decision in the High Court of Kenya," *Forced Migration Review* 48, www.fmreview.org/sites/fmr/files/FMRdownloads/en/faith/wirth.pdf.

⁴⁸⁰. UNHCR (2014) "Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report - Universal Periodic Review, Kenya," www.refworld.org/docid/54c0f47f4.html.

⁴⁸¹. Kagari, Michelle (2015) "Op-ed: Cornered Refugees Pay for Failed National and Regional Policies," Amnesty International, <https://www.amnesty.org/en/latest/news/2015/06/cornered-refugees-pay-for-failed-national-and-regional-policies/>.

⁴⁸². The Star (2016) "Dadaab Refugee Camp Will Be Closed by May 2017-Kibicho," www.the-star.co.ke/news/2016/05/11/dadaab-refugee-camp-will-be-closed-by-may-2017-kibicho_c1348618.

⁴⁸³. In February 2017, the Constitutional and Human Rights Division of the High Court of Kenya at Nairobi declared the repatriation of refugees to be unconstitutional and discriminatory. It also found the government's plan to repatriate all refugees in the camp to Somalia a violation of the principle of *non-refoulement* stipulated under Article 33 of the 1951 Convention relating to the Status of Refugees and Section 18 of the 2006 Kenyan Refugee Act. The government intends to appeal the ruling. The Law Library of Congress Global Legal Monitor (2017) "Kenya: Government's Attempt to Close Refugee Camps Found Unconstitutional," www.loc.gov/law/foreign-news/article/kenya-governments-attempt-to-close-refugee-camps-found-unconstitutional/. *Financial Times* (2017) "Kenya Court Rules against Decision to Shut Refugee Camp," <https://www.ft.com/content/1a7c8494-eec9-11e6-930f-061b01e23655>.

Right to work – refugee and labor and employment law

Refugees in Kenya have the same right to employment and are subject to the same restrictions as all other aliens.⁴⁸⁴ However, refugees' documents, whether the Mandated Refugee Certificate or the Alien Refugee Certificate, do not confer upon them the right to work. The right to work is acquired under a separate process because the Kenya Citizenship and Immigration Act 2011,⁴⁸⁵ not the Refugees Act 2006, governs the issuance of work permits to non-Kenyans. To be able to work in Kenya, refugees must apply for "Class M" permits, which are issued without charge. The Permits Determination Committee under the Directorate for Immigration grants refugees work permits, which are normally initially valid for two years.⁴⁸⁶ Applications for permits must be accompanied by a recommendation from a prospective employer and must include a letter from DRA confirming status.⁴⁸⁷

2. POLICY AND PRACTICE

Constraining factors

The first factor that is hampering asylum seekers' and refugees' access to employment relates directly to the lengthy asylum-seeking process. The Refugee Consortium of Kenya has estimated that the RSD process can take from 3 to 24 months, and occasionally more, in general much longer than the 90 days stipulated in the law.⁴⁸⁸ Such delays in securing legal documentation limit options for asylum seekers to find better paying jobs and claim equal pay. As a consequence of not providing evidence of legal refugee status or Class M work permits, asylum seekers and refugees are often paid lower wages.

Second, in practice, Class M permits are rarely issued. This restrictive policy reflects the government's concern that granting refugees the right to employment would promote long-term residence and introduce competition with local Kenyans in a congested job market.⁴⁸⁹ With no clear information on how to obtain the permits, some refugees have paid bribes. Cases of lost application forms and lack of feedback and of effective appeal processes for declined applications have also been reported. Furthermore, the immigration laws limit the validity of work permits to five years (cumulative, including renewals), a legal stance that *de facto* undermines the right of refugees to work and earn a living, especially for those in situations of protracted displacement.⁴⁹⁰

⁴⁸⁴. Section 16(4) of the Refugees Act 2006; Art. 7(2)(o) of the act also recognizes that refugees have the rights to economic and productive activities, provided these "do not have a negative impact on host communities, natural resources or the local environment."

⁴⁸⁵. The Kenya Citizenship and Immigration Act 2011, www.nairobi.diplo.de/contentblob/3356358/Daten/1788002/d_KenyanCitizenship_No12_of_2011.pdf.

⁴⁸⁶. www.immigration.go.ke/Information.html.

⁴⁸⁷. Information provided by the Refugee Consortium of Kenya.

⁴⁸⁸. Refugee Consortium of Kenya (undated), "RSD as an Effective Protection Tool," Presentation at the Canadian Council for Refugees Refugee Rights Conference, <http://ccrweb.ca/sites/ccrweb.ca/files/static-files/presentations/jwakahiursd.pdf>.

⁴⁸⁹. For instance, in 2013, only 70 Class M permits were issued and 30,000 aliens were granted work permits, *The Standard*, www.standardmedia.co.ke/article/2000096851/30-000-aliens-granted-work-permits.

⁴⁹⁰. Information provided by the Refugee Consortium of Kenya.

Third, in certain areas, refugees have limited contact with the local administrative authorities and are thus deprived of critical protection and support for accessing work.

A fourth factor is that, despite gradual urbanization, most of the assistance from the UNHCR and nongovernmental organizations is channeled to camp-based refugees and not to those in urban centers who need to access livelihoods through their own means.⁴⁹¹

A fifth factor is related to the wider “securitization of refugee affairs” at the national level, whereby refugees are considered to be a national security concern. This plays a part in blocking the potential for local integration of refugees.⁴⁹²

Facilitating factors

In the camps, certain initiatives aim to increase refugees’ self-reliance. For instance, in Kakuma, “a number of humanitarian agencies are supporting life skills trainings, vocational training, business planning, financial literacy and savings and loans associations.”⁴⁹³ The success of these initiatives has, however, been constrained by the limited local job market, skill saturation, and the fact that even trained refugees are highly unlikely to obtain work permits..⁴⁹⁴

A new refugee settlement in Kalobeyei, initially envisaged as a decongestion site for Kakuma, also signals a shift in refugee management. The UNHCR and the DRA have agreed with the Turkana county government, rather than the central government, to develop a settlement that would promote the self-reliance of refugees and host communities by providing them with better livelihood opportunities and enhanced service delivery.⁴⁹⁵ In collaboration with the World Bank and other UN agencies, the UNHCR is currently developing the Kalobeyei Integrated Social and Economic Development Programme, a multi-agency collaboration that will run from 2016 to 2030 to develop the local economy and services delivery at Kalobeyei. The overall objective of this initiative is to reorient the refugee assistance program to contribute to (1) improvement of the socioeconomic conditions of the refugee and host communities; (2) better preparing the host community to take advantage of emerging economic opportunities in upcoming

⁴⁹¹. Konzolo, S. (2010) “An Overview of Refugee Status Determination and the Rights of Refugees in Kenya, The Protection Envisaged Under the 2006 Refugees Act,” Paper Prepared for Refugee Studies Centre Workshop on Refugee Status Determination and Rights in Southern and East Africa, Refugee Consortium of Kenya, www.rsc.ox.ac.uk/files/publications/other/dp-rsd-kenya-2010.pdf.

⁴⁹². Regional Durable Solutions Secretariat (ReDSS) / Hall, Samuel (2015) “Devolution in Kenya: Opportunity for Transitional Solutions for Refugees?” https://drc.dk/media/1419712/final_devolution_report_230715.pdf, 51.

⁴⁹³. International Rescue Committee and Regional Durable Solutions Secretariat (2016) “Early Solutions Planning in Displacement, What Can Be Done to Promote, Support and Facilitate Solutions Processes in the Early Stages of Displacement?”

www.regionaldss.org/sites/default/files/Early%20Solution%20Planning%20Report%20December%202016.pdf, 30.

⁴⁹⁴. International Rescue Committee and Regional Durable Solutions Secretariat (2016), “Early Solutions Planning in Displacement, What Can Be Done to Promote, Support and Facilitate Solutions Processes in the Early Stages of Displacement?”

www.regionaldss.org/sites/default/files/Early%20Solution%20Planning%20Report%20December%202016.pdf.

⁴⁹⁵. International Rescue Committee and Regional Durable Solutions Secretariat (2016), “Early Solutions Planning in Displacement, What Can Be Done to Promote, Support and Facilitate Solutions Processes in the Early Stages of Displacement?”

www.regionaldss.org/sites/default/files/Early%20Solution%20Planning%20Report%20December%202016.pdf.

extraction and potential irrigation-fed agriculture; and (3) reducing overdependence on humanitarian aid and support refugees in achieving durable solutions.⁴⁹⁶ The 15-year plan to develop the settlement therefore combines elements of strengthening income-earning opportunities, urban and agricultural and livestock development, integrated service delivery, and private sector engagement, with the intention that the site will eventually become an urban center.⁴⁹⁷

Despite Kenya's encampment policy, over the years, refugees have moved to Nairobi from the camps for a combination of livelihood and protection concerns; they have also come directly to Nairobi from countries of origin.⁴⁹⁸ Although limited numbers of refugees have been granted work permits, some, especially those in urban areas, have been in a position to develop sufficient livelihoods for self-reliance.⁴⁹⁹ In Eastleigh, the 2012 livelihood assessment conducted by the UNHCR and the Danish Refugee Council (DRC) indicated that many recruiters do not ask whether job seekers are legally permitted to work, and in some sectors local Kenyans and asylum seekers and refugees receive similar wages. The 2012 livelihood assessment also showed that, for instance, the growing economy of Kitengela, an area located some 40 kilometers south of the Nairobi city center, is attracting inflows of both local Kenyans and refugees, and little scrutiny is given to the origin of the new residents. Ample land and employment and trade opportunities mitigate local concerns about competition from asylum seekers and refugees.⁵⁰⁰

Community-based organizations established by the refugees and asylum seekers themselves are providing fellow refugees with much-needed social support, including through Kiswahili lessons and by facilitating links to labor opportunities. The UNHCR and the urban refugees' livelihoods working group are, for their part, implementing a range of livelihood projects.⁵⁰¹

3. MEDIATING CONDITIONS

Socioeconomic conditions

Kenya is a lower-middle-income country and has become the fifth-largest economy in Sub-Saharan Africa. According to the World Bank's Global Economic Prospects, growth of 6 to 7 percent is expected in coming

⁴⁹⁶. UNHCR (2016) "Kenya Comprehensive Refugee Programme 2016, Programming for Solutions," www.unhcr.org/ke/wp-content/uploads/sites/2/2016/05/Kenya-Comprehensive-Refugee-Programme-document-KCRP-20161.pdf.

⁴⁹⁷. The plan is in its infancy, with about 4,000 refugees at the end of 2016, but the site is intended to eventually host 60,000 refugees. An additional 20,000 host community members will benefit from the initiative, International Rescue Committee and Regional Durable Solutions Secretariat (2016) "Early Solutions Planning in Displacement, What Can Be Done to Promote, Support and Facilitate Solutions Processes in the Early Stages of Displacement?" www.regionaldss.org/sites/default/files/Early%20Solution%20Planning%20Report%20December%202016.pdf.

⁴⁹⁸. Push factors included overcrowding and insecurity in the camps and deteriorating aid rations and services. The search for livelihood prospects and access to better quality education and health services in Nairobi were among the pull factors, UNHCR and DRC (2012) "Living on the Edge, A Livelihood Status Report on Urban Refugees Living in Nairobi, Kenya," www.refworld.org/pdfid/52401e8f4.pdf.

⁴⁹⁹. UNHCR (2014) "Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report—Universal Periodic Review, Kenya," www.refworld.org/docid/54c0f47f4.html.

⁵⁰⁰. UNHCR and DRC (2012) "Living on the Edge, A Livelihood Status Report on Urban Refugees Living in Nairobi, Kenya," www.refworld.org/pdfid/52401e8f4.pdf.

⁵⁰¹. UNHCR and DRC (2012) "Living on the Edge, A Livelihood Status Report on Urban Refugees Living in Nairobi, Kenya," www.refworld.org/pdfid/52401e8f4.pdf.

years. Even though Kenya is on a path toward economic growth, nearly half of the population still lives below the poverty line, especially in rural areas where climate change and environmental degradation are affecting the rural economy. Kenya also has one of the world's highest rates of population growth: its population has tripled in the past 35 years, increasing pressure on the country's resources and leaving young people particularly vulnerable to unemployment and poverty.⁵⁰² Like other Sub-Saharan African countries, Kenya has a large informal labor market in comparison with formal wage employment.

According to the International Organization for Migration (IOM), Kenya's migrant population accounts for about 2 percent of its entire population; refugees make up about one-third of migrants and non-refugee immigrants drawn to Kenya for employment and education make up the remainder. IOM also reports that the public perception of the presence of foreign populations in Kenya is largely negative, focused on the environmental impacts of refugee camps on fragile ecosystems; the security risks posed by foreigners, particularly Somalis; and the loss of jobs to foreign workers. This perception discounts or ignores the actual or potential positive impacts of foreign populations on the development of Kenya: the improved access to social infrastructure, services, goods, and employment for host communities surrounding refugee camps as well as the skills, money, investments, innovation, and dynamism that foreign workers and investors can inject into the economy.⁵⁰³ For instance, even though livelihood opportunities remain limited, a thriving informal economy has gradually developed within Kakuma and Dadaab camps, which host two-thirds of Kenya's refugee population.⁵⁰⁴ Some studies identified a number of contributions that refugees make to the local economy including through trade, remittances, taxation, and provision of employment.⁵⁰⁵ In Kakuma, refugees' superior purchasing power has been driving economic activities in the camp and its surroundings.⁵⁰⁶ A World Bank study looking at the social and economic impacts of refugee hosting in Kakuma found some positive impact of refugee presence in relation to the development of housing and land markets and more wage jobs and higher real wages in certain sectors. It also noted that some segments of the host population and parts of the economy do not benefit from the presence of refugees.⁵⁰⁷

⁵⁰². Rural Poverty Portal, "Rural Poverty in Kenya," www.ruralpovertyportal.org/country/home/tags/kenya.

⁵⁰³. International Organization for Migration (2015) "Migration in Kenya, A Country Profile," https://publications.iom.int/system/files/pdf/migration_profile_kenya.pdf.

⁵⁰⁴. Oka, R. (2011) "Unlikely Cities in the Desert: The Informal Economy as Causal Agent for Permanent 'Urban' Sustainability in Kakuma Refugee Camp, Kenya," *Urban Anthropology* Vol. 40, The Institute, Inc., <http://the-institute-ny.com/Supporting%20Materials/SAMPLE%20ARTICLES/OKA.pdf>.

⁵⁰⁵. Because the host community is poorer than the refugee community—a situation specific to Kakuma—local Turkanans work for refugees, Regional Durable Solutions Secretariat (ReDSS) / Samuel Hall (2015) "Devolution in Kenya: Opportunity for Transitional Solutions for Refugees?" https://drc.dk/media/1419712/final_devolution_report_230715.pdf.

⁵⁰⁶. World Bank Group and UNHCR (2015) "Forced Displacement and Mixed Migration in the Horn of Africa," <http://hdl.handle.net/10986/22286>.

⁵⁰⁷. World Bank Group and UNHCR (2016) "'Yes' In My Backyard? The Economics of Refugees and Their Social Dynamics in Kakuma, Kenya," <http://documents.worldbank.org/curated/en/308011482417763778/pdf/111303-WP-Kakuma-Report-Yes-in-my-backyard-December-2016-PUBLIC.pdf>.

As in the camps, entrepreneurial urban refugees have enabled the spread of thriving hubs of informal markets, such as Eastleigh in Nairobi, which has contributed to Kenya's economy through job creation, capital investments, income generation, and provision of consumer goods.⁵⁰⁸

Refugee profiles

The combination of savings earned before migration and access to social networks in the country of asylum facilitates refugees' insertion into economic life. Refugees who have some access to capital, thanks to remittances and relief assistance, and bring with them useful skills are able to contribute to the economy of the host community. In the camps, jobs in the commercial sector are reportedly "filled through personal networks and influence and hence tend to be occupied by individuals with better status and means within the refugee communities."⁵⁰⁹

The same principle holds for urban refugees; for instance, households from the Great Lakes reportedly exhibit a high level of participation in Nairobi's social life, especially among those fluent in Kiswahili who blend into the local population.

The length of stay in Nairobi also influences access to livelihood opportunities—better off households are found to have been in Nairobi longer and are more established.⁵¹⁰ In that respect, the Somali community benefits from significant accrued social capital.

Refugees with less developed social networks, such as Ethiopians, are less established and are proportionally more likely to be among the poor or very poor wealth groups. Refugees without financial assets or specialized skills or those who have limited local language proficiency and low literacy levels are also less likely to have the capacity to increase their income because they lack capital to start their own business and lack fixed assets to offer as collateral for loans.⁵¹¹ Furthermore, access to financial credit from formal banking institutions is unavailable.⁵¹² Poor refugee households are more prone to resort to negative coping strategies, such as prostitution, to make up their financial shortfalls.⁵¹³

The link between refugees, terrorism, and Kenya's security operation in Somalia has manifested itself in increasingly xenophobic attitudes toward Somali refugees, who have been alleged to be affiliated with al-

⁵⁰⁸. International Organization for Migration (2015) "Migration in Kenya, A Country Profile," https://publications.iom.int/system/files/pdf/migration_profile_kenya.pdf.

⁵⁰⁹. Oka, R. (2011) "Unlikely Cities in the Desert: The Informal Economy as Causal Agent For Permanent 'Urban' Sustainability in Kakuma Refugee Camp, Kenya," *Urban Anthropology* Vol. 40, The Institute, Inc., <http://the-institute-ny.com/Supporting%20Materials/SAMPLE%20ARTICLES/OKA.pdf>, 244.

⁵¹⁰. Oka, R. (2011) "Unlikely Cities in the Desert: The Informal Economy as Causal Agent for Permanent 'Urban' Sustainability in Kakuma Refugee Camp, Kenya," *Urban Anthropology* Vol. 40, The Institute, Inc., <http://the-institute-ny.com/Supporting%20Materials/SAMPLE%20ARTICLES/OKA.pdf>.

⁵¹¹ UNHCR and DRC (2012) "Living on the Edge, A Livelihood Status Report on Urban Refugees Living in Nairobi, Kenya," www.refworld.org/pdfid/52401e8f4.pdf.

⁵¹². Information provided by the UNHCR.

⁵¹³. UNHCR and DRC (2012) "Living on the Edge, A Livelihood Status Report on Urban Refugees Living in Nairobi, Kenya," www.refworld.org/pdfid/52401e8f4.pdf.

Shabaab. In response to the growing hostility toward them, some Somali refugees have fraudulently acquired Kenyan IDs to enable them do business or access work.⁵¹⁴

4. OUTCOMES

Participation in the labor market

In refugee camps, dependence on humanitarian assistance remains high. In Kakuma refugee camp, for example, a very small proportion of refugees engages in formal livelihoods and the vast majority rely on humanitarian assistance.⁵¹⁵ Very few camp-based refugees are engaged in agricultural activities because the scarcity of land and water, as well as legal constraints on livestock ownership, farming, and livestock rearing, prevent these types of livelihood possibilities.⁵¹⁶ Out of those camp residents involved in economic activities, the majority work for humanitarian agencies, in shops, or in construction.⁵¹⁷

As for urban refugees, a study conducted by the UNHCR and DRC in 2012 shows that the majority are engaged in economic activities in the informal sector, and some have even made modest gains. In urban zones such as Eastleigh, refugees reportedly engage in a variety of income-generating activities. Most low-skilled workers and very poor households find daily or temporary casual labor opportunities on construction sites, as domestic workers, or as watchmen. The 2012 UNHCR and DRC study found that, on average, wage rates for asylum seekers and refugees living in Nairobi were 30 percent of what a Kenyan earned for equivalent work.⁵¹⁸ Those possessing modest skills are self-employed as tailors, hairdressers, and barbers; petty trade selling food, water, handicrafts, and clothes is a common female activity. Asylum seekers and refugees from the Great Lakes fill a niche as French teachers and translators, while Somalis tend to be involved in trade. The better-off households earn income from employment, own retail shops, and receive remittances that provide them access to capital for investment in business.

The few refugees in possession of work permits can own their own businesses and make a significant profit.⁵¹⁹

⁵¹⁴. Konzolo, S. (2010) "An Overview of Refugee Status Determination and the Rights of Refugees in Kenya, The Protection Envisaged Under the 2006 Refugees Act," Paper Prepared for Refugee Studies Centre Workshop on Refugee Status Determination and Rights in Southern and East Africa, Refugee Consortium of Kenya, www.rsc.ox.ac.uk/files/publications/other/dp-rsd-kenya-2010.pdf.

⁵¹⁵. UNHCR (2016) "Kenya Comprehensive Refugee Programme 2016, Programming for Solutions," www.unhcr.org/ke/wp-content/uploads/sites/2/2016/05/Kenya-Comprehensive-Refugee-Programme-document-KCRP-20161.pdf.

⁵¹⁶. Kimetrica (2016) "Refugee Vulnerability Study: Kakuma, Refugee Camp," Commissioned by UNHCR and WFP, https://www.wfp.org/sites/default/files/Refugee%20HH%20Vulnerability%20Study_Kakuma%20Refugee%20Camp_%202016%2005%2006.pdf.

⁵¹⁷. Oka, R. (2011) "Unlikely Cities in the Desert: The Informal Economy as Causal Agent for Permanent 'Urban' Sustainability in Kakuma Refugee Camp, Kenya," *Urban Anthropology* Vol. 40, The Institute, Inc., <http://the-institute-ny.com/Supporting%20Materials/SAMPLE%20ARTICLES/OKA.pdf>.

⁵¹⁸. UNHCR and DRC (2012) "Living on the Edge, A Livelihood Status Report on Urban Refugees Living in Nairobi, Kenya," www.refworld.org/pdfid/52401e8f4.pdf.

⁵¹⁹. UNHCR and DRC (2012) "Living on the Edge, A Livelihood Status Report on Urban Refugees Living in Nairobi, Kenya," www.refworld.org/pdfid/52401e8f4.pdf.

According to a focus group discussion with refugees from Somalia, Ethiopia, and the Great Lakes on access to work permits conducted by the Refugee Consortium of Kenya in 2012, despite a rich mix of competences, to earn a living in Kenya they all had to engage in activities different from their initial training and not commensurate with their professional skills and competencies, mainly because of the challenges of obtaining formal employment in Kenya.⁵²⁰

SUMMARY AND CONCLUSION

Kenya possesses a solid legal framework, with the 2006 Refugees Act providing for refugees' rights, including access to employment. However, the country is gradually implementing a stricter refugee regime, and refugees' rights are undermined by new security and counterterrorism legislation and the possible future enactment of a security-oriented refugee bill.

In Kenya, the key problem to refugees' access to the labor market lies in the combination of seemingly progressive policies that face major political opposition and are not implemented and the progressive "securitization of refugee management," thus causing inequality of treatment and ethnic segmentation of the labor market. Kenya's restrictive encampment policy, recognized under the law since 2014, also continues to negatively affect the refugee population, especially refugees who established their livelihoods in urban areas and have been forcibly relocated to camps.

In practice it is challenging for refugees to obtain work permits because of a myriad of factors, including administrative barriers, the lack of clear and consistent information from government departments about the administration of refugee Class M permits, and prospective employers' and refugees' lack of knowledge of the laws regulating work permits. With such limited access to formal employment, many asylum seekers and refugees have no other alternative but to take up jobs in the highly competitive informal sector. Entrepreneurial refugees, mostly in urban areas, have been able to engage in the thriving informal sector as traders and casual workers. Income-generating activities are possible, but mainly for refugees who have access to capital, and often along clan lines, thus contributing to further segmentation of the labor market. Many others do not have access to decent work and accept lower wages, remaining "invisible" and living in fear of police harassment or detention. A potentially promising new approach to refugee management in Kenya is the development of the Kalobeyei refugee settlement, which explicitly seeks to improve refugees' self-reliance. The initiative, however, requires clarification of the feasibility of the longer-term implementation plan.

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⁵²⁰ Information provided by the Refugee Consortium of Kenya.

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The Islamic Republic of Iran

PROFILE

- Party to the 1951 Convention relating to the Status of Refugees (but with reservations) and the 1967 Protocol.
 - 979,437 refugees and 42 asylum seekers totaling 979,479 = 1.23 percent of a total estimated population of 79 million.
 - The majority of the refugee population arrived from Afghanistan before 2001 and were given refugee status on a prima facie basis. A smaller number of Iraqis were also registered in 2002 as prima facie refugees.⁵²¹
 - Iran has one of the largest urban refugee populations in the world; only 3 percent of Afghan refugees live in camps located in rural areas.⁵²²
- Human development rank and index: 69th and 0.766
 - GDP: Growth 4.3 percent; Per capita US\$5,442
 - Upper-middle-income economy
 - Unemployment rate: 13.2 percent

CONTEXT

Iran is one of the world's top refugee-hosting countries. Years of conflict, violence, and insecurity, as well as drought and unemployment, in Afghanistan have driven millions to flee their country; the vast majority have sought refuge in Iran and Pakistan. In addition to nearly 1 million registered refugees, there are 1.4 million to 2 million undocumented Afghans in Iran according to government estimates.⁵²³ In 2003 there were also more than 200,000 Iraqi refugees in Iran, a number that has fallen to about 28,000 registered Iraqi refugees in 2015.⁵²⁴

Iran's policies toward refugees, and Afghans in particular, have drastically shifted. From 1979 to 1992, most Afghans entering Iran were automatically given the right to remain on a prima facie basis and had

⁵²¹ All new asylum seekers are now required to have their refugee status determined individually through the government refugee status determination procedure.

⁵²² Human Rights Watch (2013) "Unwelcome Guests, Iran's Violation of Afghan Refugee and Migrant Rights," www.hrw.org/sites/default/files/reports/iran1113_forUpload.pdf.

⁵²³ Human Rights Watch (2013) "Unwelcome Guests, Iran's Violation of Afghan Refugee and Migrant Rights," www.hrw.org/sites/default/files/reports/iran1113_forUpload.pdf.

⁵²⁴ Unofficial statistics, however, put the number of Iraqis (registered and undocumented) at about 500,000, www.presstv.ir/Detail/2015/10/28/435325/Iran-refugees.

access to social benefits and work permits. Beginning in 1992, however, the government of Iran stopped automatically granting residency status to newly arriving Afghans, only providing temporary residency permits to some based on seemingly arbitrary criteria. Many Afghans became undocumented and subject to deportation. Various measures were introduced to pressure Afghans to return to Afghanistan, including onerous procedures for renewing refugee papers and the denial of public services. In 1997, the government effectively stopped granting newly arriving Afghans residency rights altogether and increased efforts to register and repatriate those already in the country. While the fall of the Taliban in 2001 coincided with large numbers of voluntary returns, some refugees were reportedly pressured by the government to leave Iran. Despite another noticeable increase of returns to Afghanistan around 2011 under the UN-administered Voluntary Repatriation Program, many Afghans stayed in Iran.

The repatriation of Afghans remains the overarching policy of the Iranian government, which in 2012 took part in the Solutions Strategy for Afghan Refugees, a regional, multiyear strategy toward a “holistic approach to enhancing prospects for sustainable returns and attaining a permanent solution for the protracted refugee situation.”⁵²⁵ Yet, many Afghan returnees have been confronted with ongoing insecurity and the presence of unexploded ordnance, loss of livelihoods, and lack of services and facilities. Also faced with the challenge of reclaiming land and property, many returnees have experienced secondary displacement, mostly to urban areas. Prospects for local integration remain low in Iran, and the country is among the top 10 countries of origin for resettlement submissions to the United Nations High Commissioner for Refugees (UNHCR).⁵²⁶

1. LAW

Refugee Law

National legislation. Iran’s 1963 Regulations relating to Refugees require those seeking asylum to present themselves to “the first border guard station or competent government official upon entry into the Iranian territory” and provide that “refugees should not be forcibly returned to the country where their life and freedom is endangered for political, racial or religious reasons or for their membership in a particular group.”⁵²⁷ The 1979 Constitution also allows the government to grant persons political asylum, “unless they are regarded as traitors and saboteurs.”⁵²⁸ Although party to the 1951 Refugee Convention, Iran maintains reservations in relation to employment, public relief, labor legislation, social security, and freedom of movement.⁵²⁹

⁵²⁵ “UNHCR Global Appeal Update 2015,” www.unhcr.org/5461e609b.pdf. The strategy has been endorsed by the governments of Afghanistan, Iran, and Pakistan, UNHCR (2012) “Solutions Strategy for Afghan Refugees to support Voluntary Repatriation, Sustainable Reintegration and Assistance to Host Countries,” <http://unhcr.org/afghanistan/solutions-strategy.pdf>.

⁵²⁶ “UNHCR Refugee Resettlement Trends 2015,” www.unhcr.org/559e43ac9.pdf.

⁵²⁷ Articles 2 and 12 of the Regulations relating to Refugees (1963), www.refworld.org/pdfid/3f4a23767.pdf.

⁵²⁸ Article 155 of the Islamic Republic of Iran’s Constitution of 1979 (with Amendments through 1989), www.constituteproject.org/constitution/Iran_1989.pdf.

⁵²⁹ The government of Iran considers the stipulations contained in Articles 17 (wage-earning employment), 23 (public relief), 24 (labor legislation and social security), and 26 (freedom of movement) as being recommendations only, “Reservations and Declarations to the 1951 Refugee Convention,” www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=3d9abe177&query=1951%20Refugee%20Convention.

Institutions. The Bureau for Aliens and Foreign Immigrants' Affairs (BAFIA), which operates under the Ministry of Interior, has overall responsibility for coordinating refugee affairs in cooperation with other line ministries and is charged under Iranian law with processing refugee claims.

Access to protection. The refugee status determination procedure has changed over time. Under the law, the Foreign Nationals Executive Coordination Council (FNECC), chaired by the Ministry of Interior, has overall responsibility for international relations and the "arrival, settlement, deportation, expulsion, training, employment, health, and medical treatment" of foreigners.⁵³⁰ The law provides for individual refugee status determination under the charge of the FNECC or a committee designated by the FNECC. Because the FNECC is the higher-level council mainly concerned with general policy development, in 2001 the Standing Committee on Foreign Nationals was set up to review claims for asylum. One of BAFIA's functions, as part of the Ministry of Interior, is to act as the secretariat of the FNECC and the Standing Committee on Foreign Nationals. According to existing laws and regulations, BAFIA is expected to process applications for asylum, which should in principle be received by the police, and to present the case for a decision by the Standing Committee on Foreign Nationals.

Following the "comprehensive registration" program of refugees in 2001, all Afghan asylum seekers have had their status determined by the government on an individual basis. In 2003, Iran introduced a new system known as *Amayesh* to reregister all Afghan nationals who had been granted residency rights in the 1980s and 1990s. Under the *Amayesh* scheme, the BAFIA undertakes annual reregistrations of refugees, but because of these repeated reregistrations, which is a complex and bureaucratic process accompanied by onerous fees, many refugees have lost their status.⁵³¹

From about that time, and especially after 2007, newly arriving Afghans have been prevented from lodging refugee claims, and many were arrested and deported to Afghanistan for unlawful presence in Iran despite acknowledgment that continuing "human rights violations and other consequences of exposure to conflict-related violence [in Afghanistan] may amount to persecution."⁵³²

Freedom of movement. Iran maintains a reservation to the 1951 Refugee Convention's provision for freedom of movement, and the 1963 Regulations allowed the government to restrict refugees' residence.⁵³³ However, refugees had no difficulty moving freely from one location to another until 2000 when the process of regularizing and legalizing the status of Afghans in Iran, through the issuance of residency cards, also led to significant movement restrictions.⁵³⁴ Refugees' freedom of movement became increasingly restricted with prohibitions on travel in many areas of the country, referred to as "no-go areas." Pursuant to a 2001 Decree, Iran gradually imposed more restrictions on areas, cities, and provinces

⁵³⁰ Afghanistan Research and Evaluation Unit (2005) "Return To Afghanistan? A Study of Afghans Living in Mashhad, Islamic Republic of Iran," www.unhcr.org/434f69e92.pdf.

⁵³¹ Human Rights Watch (2013) "Unwelcome Guests, Iran's Violation of Afghan Refugee and Migrant Rights," www.hrw.org/sites/default/files/reports/iran1113_forUpload.pdf.

⁵³² UNHCR (2013) "Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan," p. 5, www.refworld.org/pdfid/51ffdca34.pdf.

⁵³³ United States Committee for Refugees and Immigrants (2009) "World Refugee Survey—Iran," www.refworld.org/docid/4a40d2a84a.html.

⁵³⁴ Farzin, F., and S. Jadali (2013) "Freedom of Movement of Afghan Refugees in Iran," *Forced Migration Review* 44, www.fmreview.org/en/detention/farzin-jadali.pdf.

in which foreign nationals can reside legally, and scores of refugees were instructed to relocate to designated areas. Breach of this requirement can lead to arrest, detention, and even deportation of refugees at the discretion of the authorities.⁵³⁵ Approximately two-thirds of Iran's territory is now designated as no-go areas for foreigners, a restriction on the freedom of movement that the Iranian authorities justify mainly on the basis of national security and that de facto discriminates between Iranian citizens and noncitizens.⁵³⁶

Right to work – refugee and labor and employment law

Registered refugees are entitled to apply for temporary work permits. Under Iran's Labour Code, work permits issued by the Ministry of Cooperatives, Labour and Social Welfare are valid for 12 months.⁵³⁷ The permits can be extended and renewed, subject to the written agreement of the Ministries of Interior and Foreign Affairs. The 1963 Regulations recognize refugees' right to employment "in the fields authorised for foreign nationals and those fields deemed appropriate."⁵³⁸

Although party to the 1951 Refugee Convention, Iran has made reservations to Article 17 (right to engage in wage-earning employment) and to Article 24 (right to labor protections and social security on the same footing as nationals).⁵³⁹

In 2000 Iran passed a law under Article 48 of the government's five-year development plan that established the parameters for the repatriation of Afghans working without work permits unless they could demonstrate that they would face physical threats on return.⁵⁴⁰

In Iran, foreigners cannot engage in business without appropriate visas and work permits. To obtain a specific permit to engage in business, refugees must abandon their status and return to the country of origin to obtain a passport (if they did not have one already) and an Iranian visa. Afghan Amayesh holders can, in principle, open bank accounts and rent properties including agricultural lands. Like other foreign nationals, refugees can own movable property, but are not allowed to own immovable property, that is, real estate, unless they obtain specific approvals.

⁵³⁵ Farzin, F., and S. Jadali (2013) "Freedom of Movement of Afghan Refugees in Iran," *Forced Migration Review* 44, www.fmreview.org/en/detention/farzin-jadali.pdf.

⁵³⁶ Along Iran's eastern border with Afghanistan and Pakistan, the authorities justified the restriction as related to security and drug-smuggling issues. The designation of other provinces or districts as no-go areas may reflect economic or social variables, Koepke, B. (2011) "The Situation of Afghans in the Islamic Republic of Iran Nine Years after the Overthrow of the Taliban Regime in Afghanistan," Middle East Institute Fondation pour la Recherche Stratégique, www.refugeecooperation.org/publications/afghanistan/pdf/03_koepke.pdf.

⁵³⁷ Article 122, Islamic Republic of Iran Labour Code 1990, www.ilo.org/dyn/natlex/docs/WEBTEXT/21843/64830/E90IRN01.htm.

⁵³⁸ Article 7 of the 1963 Regulations.

⁵³⁹ Asylum Access (2014) "The Global Refugee Work Rights Report," http://asylumaccess.org/wp-content/uploads/2014/09/FINAL_Global-Refugee-Work-Rights-Report-2014_Interactive.pdf.

⁵⁴⁰ The Ministry of Foreign Affairs was given responsibility for determining the presence or absence of a threat to life.

2. POLICY AND PRACTICE

Constraining factors

In the 1980s most refugees were allowed to live and work throughout Iran without too much interference, but in more recent years the government steadily introduced restrictions on where nonnationals could legally live and work. Following the 2000 legislation on employment restrictions, beginning in 2001 the Ministry of Labour and Social Affairs subjected employers of foreign illegal workers to heavy fines and imprisonment and shut down many small businesses that employed Afghans, while also revoking some Afghans' work permits.⁵⁴¹ The government was reportedly more lenient with employers employing Iraqi refugees.⁵⁴²

Most undocumented Afghans who are working fear not only arrest and deportation but are also easily subject to abuse, especially in the construction sector.⁵⁴³ Because the majority of these workers do not have written employment contracts, they have no social protection or benefits such as sick leave.⁵⁴⁴ In 2013 the United Nations Economic and Social Council expressed concern that "Afghan workers are often paid less than the minimum wage, or are faced with non-payment of wages."⁵⁴⁵

In 2010, Iran's Supreme National Security Council, an advisory body charged with safeguarding the national interest, sovereignty, and territorial integrity, passed a law called the Plan for Registering Afghan Nationals, also referred to as the Comprehensive Regularization Plan. The law encourages undocumented Afghans to register and acquire a passport (if they do not already have one), an Iranian residency visa, and a work visa if they wish to work. This process is, however, reportedly both expensive and logistically difficult for many Afghans.⁵⁴⁶

Although registered refugees in Iran are permitted to work they face multiple restrictions.

⁵⁴¹ Afghanistan Research and Evaluation Unit (2005) "Return To Afghanistan? A Study of Afghans Living in Mashhad, Islamic Republic of Iran," www.unhcr.org/434f69e92.pdf.

⁵⁴² United States Committee for Refugees and Immigrants (2009) "World Refugee Survey—Iran," www.refworld.org/docid/4a40d2a84a.html.

⁵⁴³ Justice for Iran (2013) "Weapons of Mass Discrimination: The Islamic Republic Policies and the Economic, Social and Cultural Rights of Citizens in Iran, Briefing to the UN Committee on Economic, Social and Cultural Rights on the Occasion of the Review of Islamic Republic of Iran in the 50th Session of UN Committee on Economic, Social and Cultural Rights," www2.ohchr.org/English/bodies/cescr/docs/ngos/JusticeIran_Iran_CESCR50.pdf.

⁵⁴⁴ Altai Consulting and ILO-UNHCR Cooperation Towards Solutions (2008) "Research Study on Afghan Deportees from Iran," www.unhcr.org/49ba32772.pdf.

⁵⁴⁵ United Nations Economic and Social Council, Committee on Economic, Social and Cultural Rights, Concluding observations on the second periodic report of the Islamic Republic of Iran, adopted by the Committee at its fiftieth session (29 April-17 May 2013), E/C.12/IRN/2, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=E%2FC.12%2FIRN%2F2&Lang=en.

⁵⁴⁶ As of 2012 the BAFIA reported that 560,000 Afghans had regularized their status; however, because of legal and logistical barriers, in many cases the Afghan government was unable to issue valid legal documents to individuals registered under the Comprehensive Regularization Plan, Human Rights Watch (2013) "Unwelcome Guests, Iran's Violation of Afghan Refugee and Migrant Rights," www.hrw.org/sites/default/files/reports/iran1113_forUpload.pdf.

First, many refugees cannot afford the cost of the work permit or its annual renewal and the related payment of municipal taxes.⁵⁴⁷

Second, their ability to choose their employment is severely limited by the restrictions on place of residence and freedom of movement, given that refugees are only allowed to work within their areas of residence. These designated areas may be so limited that refugees have difficulty finding employment, and they cannot leave without obtaining a *laisser-passer*, which involves bureaucracy and issuance fees.⁵⁴⁸

Third, they can only engage in a limited number of occupations, a provision that clearly limits their options for employment. They are only permitted to work in 16 professional categories, including plaster manufacture, making acid for batteries, digging, brick-making, laying asphalt and concrete, herding sheep, slaughtering animals, burning garbage, loading and unloading trucks, stone cutting, road building, mining, and farming.⁵⁴⁹ Most of these jobs are heavy manual labor, mainly menial and potentially dangerous jobs that have been selected based on labor market demands and to ensure that Afghans do not take jobs away from Iranian citizens. Refugees found working in unauthorized occupations are considered to have violated the terms of their refugee status under the Amayesh system and could be subject to deportation to Afghanistan. However, in practice a number of refugees engage in business activities and are employed in jobs other than those stated on their work permits.⁵⁵⁰

In 2012, the Iranian government launched an initiative in which Afghan refugees were reportedly encouraged to give up their Amayesh card (and refugee status) in return for a residency and work permit valid for one year, with a possibility to renew it for at least another year. A regular or non-Amayesh residence permit brings with it some privileges the government denies to—or restricts—for Amayesh cardholders, such as a drivers' license and the right to run a business, but comes with no guaranteed permit renewal and no way to restore refugee status. If refugees are not permitted to renew their residency, they will have no protection from deportation.⁵⁵¹

Facilitating factors

In recent years the government has recognized the importance of ensuring that refugees have the education and skills to earn a living upon returning to their country of origin, while also enabling them to contribute to society during their stay in Iran. This has led to the introduction of various livelihood and vocational training programs. For instance, in collaboration with the government and partners, the UNHCR has implemented diverse livelihood interventions in Iran, including technical and vocational training for

⁵⁴⁷ The work permit fee is established in the Annual Budget Law that is submitted by the government and passed by the Parliament. The average cost for issuance of work permits in the course of Amayesh 10 (2015) was about US\$108, and the average cost for extension of work permits was about US\$80. While no change to the cost of the work permit has been indicated for Amayesh 11 (2016), in view of the constant devaluation of the Iranian rial against the U.S. dollar, the cost would be equivalent to US\$96 for issuance and US\$70 for extension of work permits (information provided by the UNHCR).

⁵⁴⁸ Farzin, F., and S. Jadali (2014) "Freedom of Movement of Afghan Refugees in Iran," *Forced Migration Review* 44, www.fmreview.org/en/detention/farzin-jadali.pdf.

⁵⁴⁹ Human Rights Watch (2013) "Unwelcome Guests, Iran's Violation of Afghan Refugee and Migrant Rights," www.hrw.org/sites/default/files/reports/iran1113_forUpload.pdf.

⁵⁵⁰ Information provided by the UNHCR.

⁵⁵¹ Information provided by the UNHCR.

more than 40 occupations (such as welding, plumbing, and tailoring), the establishment of home-based enterprises, access to revolving and micro-credit loans, and the provision of equipment for income-generating activities while also looking into possible cross-border initiatives and interventions.⁵⁵²

Although refugees are subject to limitations on access to education, opportunities are nevertheless provided to refugees up to pre-university level; beginning in 2009 undocumented Afghans who registered with BAFIA and paid school fees were permitted to enroll in Iranian schools.⁵⁵³

3. MEDIATING CONDITIONS

Socioeconomic conditions

Iran is an upper-middle-income economy. It ranks 75th on the Human Development Index and less than 0.1 percent of the population live on less than US\$1.90 per day.

The huge number of refugees and asylum seekers has, however, placed a significant economic and social burden on Iran, especially considering that the country receives little aid from donor countries. Furthermore, the financial and economic sanctions for Iran's alleged nuclear weapons program have led to a shortage of foreign currency reserves; a steep devaluation of the Iranian rial; and rising living costs, inflation, and unemployment. These consequences have adversely affected Iran's refugee population and the Iranian government's tolerance for their presence, and the lifting of sanctions has yet to positively influence their situation. Human Rights Watch reported in 2013 that nearly half of all Afghans in Iran were living below the absolute poverty line and that the increasing cost of living became unsustainable for the majority of these low-income families.⁵⁵⁴

Despite the difficult economic situation and the restrictions imposed on migrants and refugees, many Afghans still come to Iran, often for a combination of political, personal, and economic reasons. Iran offers greater economic development and opportunities than Afghanistan, especially for women and girls, and access to education and health care is better. "The migration flow of Afghans to Iran is partly a response to the demand on the part of Iranian employers." (...) "Iranian employers prefer hiring Afghan workers because they represent cheap, flexible and highly productive source of labor."⁵⁵⁵

The 2008 UNHCR and ILO assessment indicated that because refugees are mainly concentrated in subsectors that are unattractive to national workers they are unlikely to take jobs from national workers.

⁵⁵² UNHCR (2015) "Iran Factsheet," <http://unhcr.org/ir/uploads/news/15-9-07%20%20Iran%20Factsheet%20-%20August%202015%20FINAL.pdf>.

⁵⁵³ Refugees are required to give up their refugee status before entering university and are barred from a variety of degree programs, Human Rights Watch (2013) "Unwelcome Guests, Iran's Violation of Afghan Refugee and Migrant Rights," www.hrw.org/sites/default/files/reports/iran1113_forUpload.pdf.

⁵⁵⁴ Human Rights Watch (2013) "Unwelcome Guests, Iran's Violation of Afghan Refugee and Migrant Rights," www.hrw.org/sites/default/files/reports/iran1113_forUpload.pdf.

⁵⁵⁵ "The proportion of Afghan workers is low; they represent less than 2 percent of the overall labor force in Iran," Altai Consulting and ILO-UNHCR Cooperation Towards Solutions (2008) "Research Study on Afghan Deportees from Iran," p. 2, www.unhcr.org/49ba32772.pdf.

Nonetheless, Iranian workers have negative feelings toward Afghans because they provide a flexible, cheap, and highly productive source of labor that is preferred by Iranian employers.⁵⁵⁶

Refugee profiles

The 2008 UNHCR and ILO assessment found that the most common method used by refugees and undocumented migrants for finding employment is their network of personal contacts and Afghans already in place. Most Afghan refugees and migrant workers settle in cities and neighborhoods where relatives and friends reside, depending on them for assistance upon arrival and for an introduction to the informal labor market. The assessment confirmed that Afghans spent on average 10 days before securing their first employment.⁵⁵⁷

A common language and similar culture between Afghans and Iranians have also facilitated the integration of refugees. Iran now hosts second- and third-generation Afghans who often speak Farsi. Only the Pashtuns, who for the most part live in camps, are more likely to speak either basic or no Farsi, especially women and girls who tend to be homebound and have limited interaction with Iranian society.⁵⁵⁸

4. OUTCOMES

Participation in the labor market

In 2010 the government estimated that approximately 2 million documented and undocumented Afghans were employed in the labor market.⁵⁵⁹ The 2008 UNHCR and ILO assessment found that the majority (nearly 75 percent) of surveyed refugees and migrants who are economically active worked in the construction sector, mainly as daily laborers while fewer than 10 percent worked in agriculture, the predominant sector of employment before their departure from Afghanistan.⁵⁶⁰ The manufacturing and construction sectors are characterized by a high degree of informal activity. The assessment also highlighted that the majority of men working in construction in Iran learned a skill such as masonry and made the transition from low-skilled to skilled work. In agriculture, half of the respondents also claimed to have developed new skills, mainly by learning about innovative methods of farming, gardening, and caring for animals, which increased their output and maximized their resources.

Child labor is widespread among the Afghan refugee and migrant population. Many unaccompanied minors, most undocumented, are found working in the construction sector, agriculture, and carpet weaving.⁵⁶¹

⁵⁵⁶ Altai Consulting and ILO-UNHCR Cooperation Towards Solutions (2008) "Research Study on Afghan Deportees from Iran," www.unhcr.org/49ba32772.pdf.

⁵⁵⁷ Altai Consulting and ILO-UNHCR Cooperation Towards Solutions (2008) "Research Study on Afghan Deportees from Iran," www.unhcr.org/49ba32772.pdf.

⁵⁵⁸ Koepke, B. (2011) "The Situation of Afghans in the Islamic Republic of Iran Nine Years after the Overthrow of the Taliban Regime in Afghanistan," Middle East Institute Fondation pour la Recherche Strategique.

⁵⁵⁹ Altai Consulting and ILO-UNHCR Cooperation Towards Solutions (2008) "Research Study on Afghan Deportees from Iran," www.unhcr.org/49ba32772.pdf.

⁵⁶⁰ Altai Consulting and ILO-UNHCR Cooperation Towards Solutions (2008) "Research Study on Afghan Deportees from Iran," www.unhcr.org/49ba32772.pdf.

⁵⁶¹ Human Rights Watch (2013) "Unwelcome Guests, Iran's Violation of Afghan Refugee and Migrant Rights," www.hrw.org/sites/default/files/reports/iran1113_forUpload.pdf.

SUMMARY AND CONCLUSION

Iran has historically hosted thousands of refugees, mainly from Afghanistan. However, registered Afghan refugees have found it increasingly difficult to retain their refugee status, and it is virtually impossible for newly arriving Afghans in Iran to lodge refugee claims or be recognized as refugees once they have lodged a claim.

Registered refugees are entitled to temporary work permits, but these permits are subject to high fees and restrictions on occupational fields. Limits on the freedom of movement further impair their access to livelihoods. The majority of refugees are thus excluded from the formal sector. Yet both registered refugees and undocumented Afghans have made significant contributions to Iran's economy, mainly performing manual jobs in the informal sector where labor shortages exist. The government has opened up some employment opportunities for Afghans, but still marginal and subject to conditions that many impoverished Afghans find hard to meet.

KEY SOURCES

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- United States Committee for Refugees and Immigrants. 2009. "World Refugee Survey 2009–Iran." www.refworld.org/publisher,USCRI,,,4a40d2a84a,0.html.

Lebanon

PROFILE

- **Not party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol.**
 - **1,070,854 refugees and 12,139 asylum seekers totaling 1,082,993 = 18.5 percent of a total estimated population of 5.8 million.**
 - **Majority are Syrian refugees, large presence of Palestinian refugees and Iraqis refugees.**
 - **Palestinians are settled in and around camps,⁵⁶² because of an official “noncamp policy,” most Syrian and Iraqi refugees live dispersed in host communities in cities and towns, some in rented housing, others in informal tent settlements.**
- **Human development rank and index: 67th and 0.769**
 - **GDP: Growth 1.5 percent; Per capita US\$9,050.8**
 - **Upper-middle-income economy**
 - **Unemployment rate: 6.4 percent**

CONTEXT

Lebanon currently hosts, just after Turkey, the second-largest number of Syrian refugees. It also hosts some 450,000 Palestinians registered with UNRWA⁵⁶³ in addition to 50,000 Iraqi refugees who fled in different waves during the Iran-Iraq war, the 1991 Gulf War, and before the fall of Saddam Hussein’s regime in 2003, escaping from human rights abuses and persecution or the impact of the economic sanctions against Iraq. Beginning in 2006, many refugees were escaping from sectarian violence.

Despite having the world’s most refugees per capita—refugees make up a quarter of the population—Lebanon kept an open-border policy during the first few years of the Syrian conflict. But since mid-2013, like Syria’s other neighbors, Lebanon has tightened restrictions on entry for Palestinians; entry restrictions for Syrians began in September 2014.⁵⁶⁴

With regard to durable solutions, Lebanon has consistently maintained that it is not an asylum country, and although tolerating the prolonged stay of refugees, it is pressing for their repatriation or

⁵⁶² Many Palestinians are living in informal settings referred to as “gatherings.”

⁵⁶³ Some 450,000 refugees are registered with the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) in Lebanon, with many living in the country’s 12 refugee camps, www.unrwa.org/where-we-work/lebanon.

⁵⁶⁴ In April 2014, the government completely closed the border to Palestinians from Syria, IRIN (2015) “A Timeline of Syria’s Closing Borders,” <http://newirin.irinnews.org/syrian-refugees-restrictions-timeline/>.

resettlement. In practice, however, repatriation is not possible in the foreseeable future, and resettlement concerns only a very small percentage of refugees.⁵⁶⁵

1. LAW

Refugee Law

National legislation. Lebanon is not party to the 1951 Refugee Convention and does not have formal domestic refugee legislation. Nevertheless, immigration laws regulate the entry and stay of refugees.⁵⁶⁶ Refugees and all other foreigners in Lebanon fall under the 1962 Law Regulating the Entry and Stay of Foreigners in Lebanon and their Exit from the Country, which makes reference to political asylum and forcible returns and acknowledges the obligation of *non-refoulement* specifically in the context of political asylum.⁵⁶⁷

In 2003 Lebanon signed a memorandum of understanding (MoU) with the United Nations High Commissioner for Refugees (UNHCR) to deal with the Iraqi refugee crisis. The MoU stipulates that Lebanon is not an asylum country but accepts UNHCR refugee status determination procedures and the organization's protection role, against the expectation that recognized refugees would only temporarily be tolerated, pending their resettlement to third countries. Negotiations on a new MoU to harmonize Lebanon's domestic legal framework with international standards for asylum-seekers' reception and to directly address concerns related to the Syrian crisis stalled in 2014.⁵⁶⁸

Institutions. By presidential decree, in 1948 the Lebanese government created the Central Committee for Refugee Affairs to administer the Palestinian population.⁵⁶⁹ In 1959 a new decree gave authority over Palestinian refugee issues to the Department of Palestinian Refugee Affairs, under the Ministry of Interior.⁵⁷⁰ The Ministry of Interior's General Security Office, among other functions, monitors borders,

⁵⁶⁵ In 2013 Germany pledged to offer temporary asylum to 4,000 refugees in Lebanon as part of its Humanitarian Admissions Programme, IOM (2013) "Over 100 of 4,000 Syrian Refugees Begin Relocation to Germany from Lebanon on Temporary Basis," www.iom.int/news/over-100-4000-syrian-refugees-begin-relocation-germany-lebanon-temporary-basis.

⁵⁶⁶ Janmyr, M. (2016) "The Legal Status of Syrian Refugees in Lebanon," Working Paper No. 33, Issam Fares Institute for Public Policy and International Affairs, American University of Beirut Policy Institute, https://www.aub.edu.lb/ifi/publications/Documents/working_papers/20160331_Maja_Janmyr.pdf.

⁵⁶⁷ Article 26 of the law states that "[a]ny foreign national who is the subject of a prosecution or a conviction by an authority that is not Lebanese for a political crime or whose life or freedom is threatened, also for political reasons, may request political asylum in Lebanon." Article 31 states that when a political refugee is deported from Lebanon, he or she will not be returned to a country in which "his or her life or freedom is threatened." Order No. 319 Regulating the Status of Foreign Nationals in Lebanon, August 2, 1962, www.refworld.org/pdfid/4c3c630f2.pdf.

⁵⁶⁸ The MoU negotiations appear to have stalled, Bidinger, S., A. Lang, D. Hites, Y. Kuzmova, and E. Nouredine (2014) "Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing," Boston University School of Law, International Human Rights Clinic, www.bu.edu/law/files/2015/07/FINALFullReport.pdf.

⁵⁶⁹ The task of the central committee was to administer the Palestinian presence with respect to statistics, accommodation, relief, and health care; Decree No. 11657 of 26/4/1948.

⁵⁷⁰ Decree No. 927/1959 determines the work of the department; it is responsible, among other tasks, for coordinating with the UNRWA on relief, shelter, education and health and social issues; International Labour Organization Regional Office for Arab States (2015) "Access to Work for Syrian Refugees in Jordan: A Discussion Paper on Labour and Refugee Laws and Policies," www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_357950.pdf; Suleiman, J. (2006) "Marginalised Community: The Case of

carries out the admission and regularization of the status of foreigners, and is in charge of detention and deportation. Because of the Syrian situation, the government has established an interministerial crisis cell.

Access to protection. The government does not legally recognize Syrians as refugees in need of protection, and “displaced” Syrians were allowed to enter, stay, work, and practice economic activity in Lebanon under the conditions of bilateral agreements signed in 1993 and several circulars and decrees that regulate their entry and stay in Lebanon.⁵⁷¹ At the inception of the Syrian crisis, Syrian nationals possessing valid identification upon entering Lebanon received free residence permits, in the form of a stamp, valid for six months. This residence permit was renewed at no charge for another six months. In 2013, the General Security Office issued a circular permitting Syrian nationals temporarily residing in Lebanon to renew their permits without leaving Lebanon, but for a fee of US\$200 per person older than age 15, a cost that many refugees could not afford.⁵⁷² These provisions were changed again under residency regulations issued in 2015 whereby the government introduced new entry categories under which Syrians need to present valid documents and proof that their stay in Lebanon fits into one of the approved entry categories. Critically, seeking refuge is not an approved reason other than in exceptional circumstances to be assessed by the Ministry of Social Affairs.⁵⁷³ This is a first in the history of the two countries, and the measures have caused the rise of unofficial entries.⁵⁷⁴ New restrictions on Syrians affect not only new entries at the borders, it also makes it harder for those already in the country to retain their status. Syrians are required to extend their stay every six months, and in addition to the fee, they need to present a range of hard-to-obtain documents, including a notarized “pledge not to work” and letters from landlords and a mukhtar (a local government official) informing the government where the refugee lives.⁵⁷⁵

Palestinian Refugees in Lebanon,” Development Research Centre on Migration, Globalisation and Poverty, <http://r4d.dfid.gov.uk/pdf/outputs/migrationglobpov/jaberedited.pdf>.

⁵⁷¹ Under a 1993 Bilateral Agreement for Economic and Social Cooperation and Coordination and in conformity with the laws and regulations in force within each country, nationals from each country could enter the other visa-free, showing only their national identification card, instead of a passport; another agreement also signed in 1993 on the Transport of Persons and Goods grants freedom of stay and movement for nationals of both countries within the framework of the laws and regulations in force, Lebanese Centre for Human Rights (2013) “Syrian Workers in Lebanon, An Assessment of Their Rights and Reality,” [www.rightsobserver.org/files/Report_Syrian_Workers__ENG_final_\(2\).pdf](http://www.rightsobserver.org/files/Report_Syrian_Workers__ENG_final_(2).pdf).

⁵⁷² The government estimates that about 50 percent of the Syrian refugees had expired residence permits. Unable to pay the renewal fee they choose to reenter Lebanon or reside without valid permits, two scenarios that expose them to a range of protection and security concerns, including arrest and detention.

⁵⁷³ UNHCR (2015) “Syrian Refugees in Lebanon Quarterly Snapshot,”

<https://data.unhcr.org/syrianrefugees/download.php?id=8804>.

⁵⁷⁴ Heinrich Böll Stiftung-Middle East (2015) “Visa Requirements for Syrians: Lebanon Continues to Destabilize,” <https://lb.boell.org/en/2015/05/05/visa-requirements-syrians-lebanon-continues-destabilize>.

⁵⁷⁵ Oxfam International (2015) “Lebanon: Looking Ahead in Times of Crisis, Taking Stock of the Present to Urgently Build Sustainable Options for the Future,” Oxfam Discussion Paper, https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/dp-lebanon-looking-ahead-time-crisis-141215-en_0.pdf; IRIN (2015) “Stranded Syrians at ‘Serious Risk’ of Losing Refugee Status in Lebanon,” www.irinnews.org/report/101236/stranded-syrians-at-serious-risk-of-losing-refugee-status-in-lebanon.

Compared with Syrian nationals, Palestinian refugees from Syria (PRS) face discriminatory treatment; since the beginning of the Syrian conflict their entry into Lebanon has been subject to a number of restrictions, including a visa fee and the need to obtain a departure permit from Damascus (and thus, the need to travel to Damascus if one is to enter Lebanon through an official border crossing). Beginning in mid-2013 the General Security Office instituted additional informal entry restrictions targeting PRS. Since May 2014 further restrictions have been introduced under which, to be allowed to enter, PRS have to meet very tight criteria. These criteria include having preapproval from the General Security Office to enter Lebanon (an entry permit) and a one-year or three-year residency visa for Lebanon; or a valid multiple-entry visa for Lebanon. Such conditions are de facto preventing entry, and some refugees are sent back to Syria.⁵⁷⁶

Until May 2015, registration performed by either the UNRWA for Palestinians or the UNHCR provided refugees with a certificate of registration giving them access to basic services.⁵⁷⁷ The situation for Iraqi refugees is also very precarious. Although the UNHCR had issued refugee certificates to Iraqis from central and southern Iraq, the Lebanese authorities still do not recognize these certificates as a substitute for a residency permit, and the holders are not exempted from penalties for their illegal entry or presence in the country.⁵⁷⁸

Freedom of movement. Freedom of movement of both Palestinian refugees and non-Palestinian refugees inside Lebanon has long been constrained by fear of arrest because travel documents or “circulation permits” were reportedly not respected by police or military officials.⁵⁷⁹ Although information about the current situation of Iraqi refugees is limited, a 2007 report indicated they fear arrest on their way to and from work, thus causing tension between their need to earn a living and the probability of being arrested.⁵⁸⁰ In addition, many of the refugees who have fled the Syrian conflict may be undocumented because of the difficulty and cost of renewing residency permits, and thus often restrict their movement to areas where they live for fear of police control and checkpoints.⁵⁸¹ The lack of freedom of movement

⁵⁷⁶ Bidinger, S., A. Lang, D. Hites, Y. Kuzmova, and E. Nouredine (2014) “Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing,” Boston University School of Law, International Human Rights Clinic, www.bu.edu/law/files/2015/07/FINALFullReport.pdf.

⁵⁷⁷ UNRWA-Lebanon does not register Palestinian refugees already registered in Syria but does record their arrival and cover their assistance needs, Bidinger, S., A. Lang, D. Hites, Y. Kuzmova, and E. Nouredine (2014) “Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing,” Boston University School of Law, International Human Rights Clinic, www.bu.edu/law/files/2015/07/FINALFullReport.pdf. The UNHCR is no longer linking registration certificates with access to services; information provided by the UNHCR.

⁵⁷⁸ Information provided by the UNHCR.

⁵⁷⁹ In 2013, the UNHCR reported that only some 30 percent of people of concern enjoyed freedom of movement through the circulation permits, “UNHCR Global Appeal 2013 Update- Lebanon,” www.unhcr.org/50a9f82824.pdf.

⁵⁸⁰ Human Rights Watch (2007) “Rot Here or Die There, Bleak Choices for Iraqi Refugees in Lebanon,” <https://www.hrw.org/report/2007/12/03/rot-here-or-die-there/bleak-choices-iraqi-refugees-lebanon>.

⁵⁸¹ Some 58 percent of Syrian households did not have a residency permit in 2015, UNHCR (2016) “Syrian Refugee Vulnerabilities,” <https://data.unhcr.org/syrianrefugees/download.php?id=10404>. Similar estimates are found in other reports, for instance, Oxfam International estimates that as of September 2015, some 57 percent of Syrians and 90 percent of PRS lacked valid residency documents, Oxfam International (2015) “Lebanon: Looking Ahead in Times of Crisis, Taking Stock of the Present to Urgently Build Sustainable Options for the Future,” Oxfam Discussion Paper, www.oxfam.org/sites/www.oxfam.org/files/file_attachments/dp-lebanon-looking-ahead-time-crisis-

is the main challenge that refugees with limited legal status face because it constrains their ability to access employment, income, and services, particularly health care.⁵⁸²

Right to work – refugee and labor and employment law

Strict legal restrictions are imposed on the employment of Palestinian refugees, including PRS. Palestinian refugees have limited social and civil rights, restricted access to the government's public health and educational facilities, and no access to public social services. As foreigners without a formal state, Palestinian refugees in Lebanon are subjected to the constraints of the reciprocity principle, which is mandatory for an overwhelming majority of occupations and professions that foreigners are permitted to practice in Lebanon, particularly where the law requires proof of reciprocity of treatment in the form of a bilateral agreement between Lebanon and the foreigner's state of origin. As such, Palestinians, like all non-Lebanese, need a work permit and they are subjected to a system of national preference and reciprocity agreements.⁵⁸³ Following external pressure to regularize and normalize the status of Palestinian refugees, in 2010, Lebanon passed a law revoking the need for the nation of the work permit applicant to grant reciprocal rights to Lebanese workers and eliminating the payment of a fee to obtain a work permit and allowing access to certain professions.⁵⁸⁴ However, this law has not been implemented.⁵⁸⁵ In addition, in 2010, Palestinian refugees in Lebanon were also granted the right to benefit from the end-of-service provisions under the National Social Security Fund (NSSF), but they still do not have the right to illness, maternity, and family indemnities, despite having to pay the same contributions as Lebanese.⁵⁸⁶

In principle, all other non-Palestinian refugees, including Iraqis legally in the country, must first apply to the Ministry of Labour for work permits as foreigners and should receive it within three months of arrival.⁵⁸⁷ In theory, foreigners working without permits can be subject to fines or even to a one month prison sentence. To obtain a work permit a foreigner must apply to the Ministry of Labour and have a

141215-en_0.pdf; Aranki, D., and O. Kalis (2014) "Limited Legal Status for Refugees from Syria in Lebanon," *Forced Migration Review* 47, www.fmreview.org/en/syria/aranki-kalis.pdf.

⁵⁸² Norwegian Refugee Council, Information, Counselling and Legal Assistance Programme in Lebanon (2013 and 2014) "The Consequences of Limited Legal Status for Syrian Refugees in Lebanon, NRC Lebanon Field Assessment, Part 1- Aarsal and Wadi Khaled," <http://reliefweb.int/sites/reliefweb.int/files/resources/9687105.pdf>; "The Consequences of Limited Legal Status for Syrian Refugees in Lebanon, NRC Lebanon Field Assessment, Part 2- North, Bekaa, and South," <https://data.unhcr.org/syrianrefugees/download.php?id=5235>.

⁵⁸³ Lebanon, however, offers work permits to foreigners married to Lebanese women for at least a year, or to those who have Lebanese mothers, or are of Lebanese descent.

⁵⁸⁴ Law No. 129 of August 24, 2010, amending Article 59 of the Labour Code of September 23, 1946.

⁵⁸⁵ Johansen, H. (2014) "Narrow Scope for Palestinian Rights in Lebanon," *Middle East Monitor* <https://www.middleeastmonitor.com/20140510-narrow-scope-for-palestinian-rights-in-lebanon/>; Bidinger, S., A. Lang, D. Hites, Y. Kuzmova, and E. Nouredine (2014) "Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing," Boston University School of Law, International Human Rights Clinic, www.bu.edu/law/files/2015/07/FINALFullReport.pdf.

⁵⁸⁶ Oxfam International (2015) "Lebanon: Looking Ahead in Times of Crisis, Taking Stock of the Present to Urgently Build Sustainable Options for the Future," Oxfam Discussion Paper, www.oxfam.org/sites/www.oxfam.org/files/file_attachments/dp-lebanon-looking-ahead-time-crisis-141215-en_0.pdf.

⁵⁸⁷ International Labour Organization (2012) "Information Guide for Migrant Domestic Workers in Lebanon," http://ilo.dataflow.com.lb/pdfs/english_informal.pdf.

work contract with a Lebanese employer for a minimum period of six months; the work contract has to be certified by a notary public. To obtain a residence permit valid for one year, an applicant must return to General Security Office and present his or her passport (a challenging requirement for most refugees), the work permit, a certificate showing that the employer has deposited the equivalent of US\$1,000 with the Housing Bank, an insurance policy, and medical laboratory test results to show that they do not have certain diseases, including HIV/AIDS.⁵⁸⁸

The issuance of a work permit does not provide access to full coverage under the NSSF— even if full contributions to the NSSF are made. The cost of a work permit depends on the work category.

Additionally, foreigners need to show they have expertise or professional skills in a field in which no Lebanese candidates are available;⁵⁸⁹ for technical and professional positions the employer must prove that he or she tried for three months to find a Lebanese candidate but failed.⁵⁹⁰ In principle, non-Lebanese are also excluded from entering professions practiced through association, such as medicine, law, and accounting.

The government has also placed stringent conditions on Syrian refugees' access to work that are closely linked to residency permits. They have two options for residency permits. First, Syrians can renew their residency permits based on the UNHCR registration certificate,⁵⁹¹ in which case they must sign a notarized "pledge not to work" (and in practice they are not allowed to work). Second, the residency permit can be based on a Lebanese sponsor or employer ("pledge of responsibility"), and in this case they are allowed to work but are considered migrant workers and no longer displaced persons as per Lebanese regulations.⁵⁹²

In 2001, Lebanon passed the Law Amending the 1969 Law on the Acquisition by Foreigners of Real Estate and Real Estate Right in Lebanon, which de facto excludes Palestinians from owning real estate.⁵⁹³

2. POLICY AND PRACTICE

Constraining factors

At the inception of the Syrian crisis, the government showed lenience toward Syrians who had not regularized their stay in Lebanon or those working without permits, and tolerated the opening and operating of unlicensed businesses. Because of the sheer number of people working without permits,

⁵⁸⁸ Human Rights Watch (2007) "Rot Here or Die There, Bleak Choices for Iraqi Refugees in Lebanon," <https://www.hrw.org/report/2007/12/03/rot-here-or-die-there/bleak-choices-iraqi-refugees-lebanon>.

⁵⁸⁹ United States Committee for Refugees and Immigrants (2009) "World Refugee Survey—Lebanon," www.refworld.org/docid/4a40d2ab53.html.

⁵⁹⁰ Information provided by the UNHCR.

⁵⁹¹ This renewable certificate, valid for two years, is not a formal ID and is not a replacement for the residency permit issued by the Lebanese authorities, provided by the General Security, UNHCR, "Information about Registration for Syrian Refugees," <https://www.fluechtlingshilfe.ch/assets/hilfe/syrien/registration-lebanon.pdf>.

⁵⁹² Information provided by the UNHCR.

⁵⁹³ Law 296 Amending the 1969 Law on the Acquisition by Foreigners of Real Estate and Real Estate Rights in Lebanon. (Before 2001, Palestinian refugees could buy and register land). NRC (2016) "Palestinian Refugees' Right to Inherit under the 2001 Amendment Law-Beirut Test Case," <https://www.nrc.no/globalassets/pdf/reports/palestinian-refugees-right-to-inherit-under-the-2001-amendment-law.pdf>.

penalties against them were not enforced.⁵⁹⁴ At the end of 2014, the government developed new policies to implement the “strict enforcement of laws governing displaced persons to protect the Lebanese in their places of work and employment as a whole.”⁵⁹⁵ In line with this policy, in December 2014, the Minister of Labour issued Resolution 1/197 redefining a long list of professions open only to Lebanese and reducing the categories of work that foreigners could take up, effectively annulling Resolution 1/19 of February 2013, which had made exceptions for some Syrians on humanitarian grounds.⁵⁹⁶ The resolution explicitly stated that Syrians are allowed to work in the agriculture, construction, and cleaning sectors. Any other sectors are no longer allowed. In December 2015, the Minister of Labour issued a new Resolution (218/1) allowing Syrians to work in the environment sector (which includes cleaning services, as mentioned in Resolution 1/197) in addition to agriculture and construction.

Even so, because of the complicated and costly requirements for obtaining a work permit, most refugees work as undocumented laborers and accept lower incomes, work for longer hours, and forgo social benefits.

Palestinian refugees are still prohibited by law from working in some specific trades and professions. Professional syndicates for occupations such as medicine and engineering are protectionist and apply membership restrictions on noncitizens and bar stateless foreigners, such as Palestinians.⁵⁹⁷

Irrespective of their country of origin, refugees fear being persecuted because of their limited legal status leads to exploitation by employers. As far back as 2007, Human Rights Watch documented cases of Lebanese employers taking advantage of the Iraqis’ lack of legal status by exploiting and abusing them in the knowledge that Iraqis have no recourse to the Lebanese authorities when their rights are violated.⁵⁹⁸

Although refugees and asylum seekers technically have access to courts, those without legal status often avoid them for fear of arrest and are thus at risk of enduring exploitation and abuse.⁵⁹⁹

The recourse to negative coping strategies, including withdrawing children from school and child labor, has reportedly increased drastically since the introduction of the 2015 regulations on regularization.

⁵⁹⁴ International Labour Organization Regional Office for Arab States (2014) “Assessment of the Impact of Syrian Refugees in Lebanon and Their Employment Profile,”

<https://data.unhcr.org/syrianrefugees/download.php?id=8920>.

⁵⁹⁵ Policy paper approved by the Council of Ministers on October 23, 2014.

⁵⁹⁶ Under Resolution 1/19 foreigners were allowed to work in the following fields and jobs: Technical professions in the construction sector, commercial representative, marketing representative, warehouse supervisor, mechanics and maintenance personnel, gatekeeper and guard, tailor, works supervisor, and metal work and upholstery, Geagea, N. (2015) “Asylum Crisis or Migrant Labour Crisis?” The Lebanese Centre for Policy Studies, www.lcps-lebanon.org/featuredArticle.php?id=42.

⁵⁹⁷ Information provided by the ILO.

⁵⁹⁸ Human Rights Watch (2007) “Rot Here or Die There, Bleak Choices for Iraqi Refugees in Lebanon,” <https://www.hrw.org/report/2007/12/03/rot-here-or-die-there/bleak-choices-iraqi-refugees-lebanon>; Harper, A. (2008) “Iraq’s Refugees: Ignored and Unwanted,” *International Review of the Red Cross*, Volume 90, Number 869, https://www.icrc.org/eng/assets/files/other/irrc-869_harper.pdf.

⁵⁹⁹ Human Rights Watch (2007) “Rot Here or Die There, Bleak Choices for Iraqi Refugees in Lebanon,” <https://www.hrw.org/report/2007/12/03/rot-here-or-die-there/bleak-choices-iraqi-refugees-lebanon>.

Because children are less likely to be arrested when moving about without legal documents, families have reportedly been sending their children to work. And these children are being paid even lower rates.⁶⁰⁰

Facilitating factors

The UNHCR, the International Labour Organization (ILO), and aid organizations have tried to promote skills development and enhancement programs and vocational training benefiting both the Lebanese and refugee populations as a way of building social cohesion. However, the government has resisted expanding skills-training programs for refugees, fearing that it would threaten the competitiveness of Lebanese job seekers in an already oversaturated market and increase social tension.⁶⁰¹

Initiatives to support the labor market are foreseen under the UNHCR's Lebanon Crisis Response Plan, including through rapid-impact job creation and income-generation opportunities focusing on areas where poverty, unemployment, and conflict risks are particularly high. The plan also aims to foster partnerships stimulating the private sector, strengthen labor market governance, and support Lebanese businesses to improve their labor standards and build labor force skills.⁶⁰²

3. MEDIATING CONDITIONS

Socioeconomic conditions

Lebanon is an upper-middle-income country and ranks 67th on the Human Development Index. The volatile geopolitical and security conditions, however, affect Lebanon's economic prospects, and with the Syrian conflict persisting, the World Bank forecasts growth at 1.5 percent annually.⁶⁰³

The conflict in Syria, together with the scale of refugee arrivals over a relatively short period, has had significant political and economic impacts, including on the Lebanese labor market: economic growth has slowed, private investment has fallen, the trade deficit has expanded, and real estate and tourism—the two most important sectors—have declined. Weak job creation has fallen behind an increasingly growing labor force that has been affected by the refugee crisis.⁶⁰⁴

⁶⁰⁰ Other negative coping mechanisms that raise serious protection concerns include spiraling debt, reduced food intake, survival sex, and early marriage. Even though risky migration to Europe is increasing, some refugees are also considering returning to Syria, despite the danger of the journey and the raging conflict at home, Oxfam International (2015) "Lebanon: Looking Ahead in Times of Crisis, Taking Stock of the Present to Urgently Build Sustainable Options for the Future," Oxfam Discussion Paper, https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/dp-lebanon-looking-ahead-time-crisis-141215-en_0.pdf.

⁶⁰¹ Bidinger, S., A. Lang, D. Hites, Y. Kuzmova, and E. Nouredine (2014) "Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing," Boston University School of Law, International Human Rights Clinic, www.bu.edu/law/files/2015/07/FINALFullReport.pdf.

⁶⁰² Lebanon Crisis Response Plan 2015–16, <http://data.unhcr.org/syrianrefugees/country.php?id=122>.

⁶⁰³ World Bank (2015) "Lebanon Overview," www.worldbank.org/en/country/lebanon/overview.

⁶⁰⁴ World Bank (2015) "Lebanon: Promoting Poverty Reduction and Shared Prosperity, A Systematic Country Diagnostic," www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2015/06/23/090224b082f55445/1_0/Rendere d/PDF/Lebanon000Prom0c0country0diagnostic.pdf.

The refugee influx is felt most in poor host communities in the peripheral regions of Lebanon, putting additional pressure on access to labor markets, resources, and public services.⁶⁰⁵ Competition between Syrian and Lebanese workers is especially strong in cities already affected by urban poverty. While the competition for jobs is mostly affecting unskilled adults, youth, and women, it is also extending to skilled jobs and to the services sectors and industries.⁶⁰⁶ Along with competition with local workers, there is significant competition at the self-employment level, especially in handicraft and semiskilled jobs such as carpentry, welding, mechanics, and repairmen, given that Syrians normally have better skills and provide cheaper services than the Lebanese. The rising number of informal micro and small Syrian-owned businesses selling goods (mostly smuggled from Syria) below market prices also poses a threat to equivalent Lebanese businesses.⁶⁰⁷

According to a 2014 ILO assessment, the employment situation has worsened with the Syrian refugee crisis for both refugees and the Lebanese population. The World Bank has also projected an increase of the number of unemployed Lebanese.⁶⁰⁸ The presence of refugees has also led to decreasing wages,⁶⁰⁹ while prices for rented accommodation, basic commodities, and services have soared.⁶¹⁰

The economic and political pressures associated with the spillover of the Syrian crisis and the influx of Syrian refugees have led to tensions both between the refugee population and the local residents and between different politico-sectarian sectors of Lebanese society that support opposite sides in the Syrian

⁶⁰⁵ World Bank (2013) "Lebanon: Economic and Social Impact Assessment of the Syrian Conflict," Report No. 81098, www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2013/09/24/000333037_20130924111238/Rendered/PDF/810980LB0box379831B00P14754500PUBLIC0.pdf.

⁶⁰⁶ Such massive increases in the number of individuals looking for jobs (estimated to have increased 30–50 percent) is expected to increase both the overall unemployment rate, especially among the low skilled, and the share of informal work in total employment, World Bank (2013) "Lebanon: Economic and Social Impact Assessment of the Syrian Conflict," Report No. 81098, www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2015/06/23/090224b082f55445/1_0/Rendered/PDF/Lebanon000Prom0c0countryOdiagnostic.pdf.

⁶⁰⁷ Some shops and small business have reportedly closed because of competition with emerging Syrian enterprises, International Labour Organization Regional Office for Arab States (2014) "Assessment of the Impact of Syrian Refugees in Lebanon and Their Employment Profile," <https://data.unhcr.org/syrianrefugees/download.php?id=8920>.

⁶⁰⁸ World Bank (2013) "Lebanon: Economic and Social Impact Assessment of the Syrian Conflict," Report No. 81098, www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2015/06/23/090224b082f55445/1_0/Rendered/PDF/Lebanon000Prom0c0countryOdiagnostic.pdf.

⁶⁰⁹ The International Rescue Committee has, for example, estimated that wages in the services and agricultural sectors dropped as much as 50 percent between 2011 and 2013; International Rescue Committee (2013) "Reaching the Breaking Point," <http://docplayer.net/18881200-Reaching-the-breaking-point-an-irc-briefing-note-on-syrian-refugees-in-lebanon.html>.

⁶¹⁰ This price inflation is attributed to an increase in demand due to population growth, the injection of cash and food/cash vouchers, and the reduced access to cheaper goods from Syria; International Labour Organization Regional Office for Arab States (2014) "Assessment of the Impact of Syrian Refugees in Lebanon and Their Employment Profile," <https://data.unhcr.org/syrianrefugees/download.php?id=8920>.

civil war,⁶¹¹ resulting in a general deterioration in social cohesion.⁶¹² Whereas the poorest and most vulnerable Lebanese are most affected, Lebanese employers and business owners are benefiting from the availability of less costly labor.

Refugee profiles

Refugees speak the local language in Lebanon. The networks created through Syrian migration to Lebanon before the start of the conflict in 2011 also facilitated the labor market integration of Syrian refugees. Historically, many Syrians have come to work in Lebanon since the 1960s and constituted the greatest proportion of expatriate labor in the country, although migration flows varied along with political developments. While this well-established presence of Syrian expatriate laborers did not in theory exempt them from the obligation to obtain a work permit, in practice, the relevant authorities turned a blind eye and Syrians were able to live and work in Lebanon indefinitely.⁶¹³ The 2014 ILO survey indicated that it took, on average, less than three months for Syrian refugees to find work, most often thanks to personal networking; among working refugees some 40 percent found work through a Syrian acquaintance and 36 percent through a Lebanese acquaintance. The survey also showed that refugees who had previously (before the crisis) been employed in Lebanon had greater chances of finding a job.⁶¹⁴ Palestinians from Syria, however, lack informal social networks related to employment.⁶¹⁵

One study pointed out that Christian Iraqis residing mainly in the eastern suburbs of Beirut were more easily integrated with Lebanese residents than were Muslim Iraqis who reported feeling the sectarian divide in the southern suburbs and feared police persecution more while lacking communal social networks and receiving limited social support from NGOs.⁶¹⁶

4. OUTCOMES

Participation in the labor market

Similar to what is found in Jordan and other countries in the region, most refugees work in the informal sector in unskilled positions, with unregistered enterprises, or with no work contract.

⁶¹¹ Hezbollah, the Shiite Muslim party in Lebanon and the strongest political party in the country, has officially taken sides with the Syrian government. This affects the treatment of Syrian refugees in Lebanon because most of the Syrian refugees are Sunni Muslim.

⁶¹² Berti, B. (2015) "The Syrian Refugee Crisis: Regional and Human Security Implications," *Strategic Assessment* 17 (4), Institute for National Security Studies, www.inss.org.il/uploadImages/systemFiles/adkan17_4ENG_7_Berti.pdf.

⁶¹³ There is no official figure for the exact number of Syrian workers in Lebanon.

⁶¹⁴ The field survey covered 400 Syrian refugee households in four regions, Akkar, Bekaa, Tripoli, and South Lebanon. International Labour Organization Regional Office for Arab States (2014) "Assessment of the Impact of Syrian Refugees in Lebanon and Their Employment Profile," <https://data.unhcr.org/syrianrefugees/download.php?id=8920>.

⁶¹⁵ ANERA (2013) "Palestinian Refugees from Syria in Lebanon: A Needs Assessment," www.anera.org/wp-content/uploads/2013/04/PalRefugeesfromSyria2.pdf.

⁶¹⁶ Makhoul, J. (2011) "From Baghdad through Beirut: Linking Research to Policy for Iraqi Refugees in Lebanon," The Issam Fares Institute for Public Policy and International Affairs, American University of Beirut, Research and Policy Memo 3, https://www.aub.edu.lb/ifi/public_policy/rapp/Documents/ifi_rapp_memo_03_makhoul_english.pdf.

Refugees from Syria, as well as low-skilled Lebanese workers, are increasingly engaging in informal work because of the difficulties posed by legal regulations and the high costs incurred by enterprises for formalization. Informal work as a share of the labor market is estimated to have increased by 10 percent since before the influx of refugees.⁶¹⁷ The increasing informal sector is inevitably driving down working conditions and wages for all workers, both those working formally and informally. Before the influx of refugees from Syria, the work informality ratio was estimated to be 44 percent, with significantly higher levels in agriculture (92.4 percent) and construction (80.7 percent).⁶¹⁸ Most refugees from Syria work informally with poor working conditions and wages: 92 percent have no work contract and 86 percent no job-related benefits.⁶¹⁹

According to the 2014 ILO survey, about half of working-age refugees⁶²⁰ are economically active, the majority of whom were also active in Syria before the crisis. However, while less than a quarter earn regular monthly wages, more than half work on a seasonal, weekly, or daily basis. The ILO assessment also found that most refugees worked in the same kinds of jobs they had before the crisis, mainly in agriculture or in personal and domestic services and, on a smaller scale, in construction, reflecting refugees' low skills. These jobs provide little income and no security or protection.⁶²¹

Not all refugees have equal chances of finding employment because their access to work is in part conditioned by their nationality. Unemployment is about 90 percent for Palestinians from Syria.⁶²² Iraqi refugees have difficulty accessing the formal labor market because most are unable to find a Lebanese employer willing to sponsor their application to regularize their status in Lebanon, and even fewer are able to pay the fees.⁶²³

While refugees in general receive lower wages, females are especially affected and on average earn 40 percent less than male refugees.⁶²⁴

⁶¹⁷ World Bank (2013) "Lebanon: Economic and Social Impact Assessment of the Syrian Conflict," Report No. 81098.

⁶¹⁸ International Labour Organization Regional Office for Arab States (2015) "Towards Decent Work in Lebanon: Issues and Challenges in Light of the Syrian Refugee Crisis," www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_374826.pdf.

⁶¹⁹ International Labour Organization Regional Office for Arab States (2014) "Assessment of the Impact of Syrian Refugees in Lebanon and Their Employment Profile," <https://data.unhcr.org/syrianrefugees/download.php?id=8920>.

⁶²⁰ More than half of the Syrian refugees in Lebanon are younger than 18 years of age.

⁶²¹ International Labour Organization Regional Office for Arab States (2014) "Assessment of the Impact of Syrian Refugees in Lebanon and Their Employment Profile," <https://data.unhcr.org/syrianrefugees/download.php?id=8920>.

⁶²² ANERA (2013) "Palestinian Refugees from Syria in Lebanon: A Needs Assessment," www.anera.org/wp-content/uploads/2013/04/PalRefugeesfromSyria2.pdf.

⁶²³ Human Rights Watch (2007) "Rot Here or Die There: Bleak Choices for Iraqi Refugees in Lebanon," <https://www.hrw.org/report/2007/12/03/rot-here-or-die-there/bleak-choices-iraqi-refugees-lebanon>.

⁶²⁴ International Labour Organization Regional Office for Arab States (2014) "Assessment of the Impact of Syrian Refugees in Lebanon and Their Employment Profile," <https://data.unhcr.org/syrianrefugees/download.php?id=8920>.

SUMMARY AND CONCLUSION

Faced with a massive influx of refugees induced by the Syrian crisis, Lebanon has tightened entry and residency requirements for those seeking protection. A growing refugee population, driven by their circumstances or unable to obtain the necessary work and residence permits, is remaining “illegally” in Lebanon and is involved in the informal labor market. They are compelled to work for lower wages, in harsher conditions, and with fewer rights than their counterparts in the host communities. Legal, policy, and social barriers are affecting Palestinian refugees the most, with that group having the highest rate of unemployment among the refugee population, while those working in the informal labor market are greatly exposed to exploitation and limited job security and social protection.

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Pakistan

PROFILE

- **Not party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol.**
 - **1,561,162 refugees and 6,442 asylum seekers totaling 1,567,604 = 0.83 percent of a total estimated population of 189 million.**
 - **The great majority of refugees are Afghans, but the country also hosts a small number of non-Afghan refugees including Somalis and Iraqis.**
 - **One-third of the refugees live in “refugee villages,” and two-thirds have settled across the country in both rural and urban areas.⁶²⁵**
- **Human development rank and index: 147th and 0.538**
 - **GDP: Growth 5.5 percent; Per capita US\$1,429**
 - **Lower-middle-income economy**
 - **Unemployment rate: 5.2 percent**

CONTEXT

Pakistan hosts the second largest refugee population worldwide. Refugees originate almost exclusively from Afghanistan.⁶²⁶ Having hosted Afghan refugees since 1979—the majority of them born in Pakistan—Pakistan is also home to one of the oldest protracted displacement crises. Refugee numbers peaked at 3.2 million around 1989, but declined with the fall of the Kabul government in 1992, only to rise again when many Afghans fled the 1996 civil war. Further displacement occurred as the Taliban gained control of most of Afghanistan and many civilians fled.⁶²⁷ The “coalition forces” attacks on al-Qaeda and Taliban targets after September 11, 2001, brought another surge of Afghans into Pakistan (hitting a new peak of 3.3 million in 2002). Since the return of the transitional government in 2002, many refugees have returned to Afghanistan.⁶²⁸ Despite the long-term presence of Afghan refugees in Pakistan, for many the

⁶²⁵ Estimates of the number of registered Afghan refugees living outside camps vary, and some assessments confirm an increase, mostly the result of discontinuation of food assistance in camps, UNHCR (2015) “Sixty-sixth session of the Executive Committee of the High Commissioner’s Programme, High-Level Segment on the Afghan Refugee Situation,” www.unhcr.org/562a22979.pdf.

⁶²⁶ For years the largest refugee-hosting country, Pakistan has recently been supplanted by Turkey, which has been faced with the surge of refugees fleeing the Syrian conflict.

⁶²⁷ Hiegemann, V. (2014) “Repatriation of Afghan Refugees in Pakistan: Voluntary?” *Oxford Monitor of Forced Migration* Vol. 4, No. 1, http://oxmofm.com/wp-content/uploads/2014/05/Repatriation-of-Afghan-Refugees-in-Pakistan-Voluntary_Valentina-Hiegemann.pdf.

⁶²⁸ Since March 2002, when the UNHCR’s facilitated voluntary repatriation operation was launched, nearly 3.7 million Afghans from Pakistan have returned to Afghanistan—and some 5.8 million returned from Pakistan, the

prolonged nature of their exile has not increased their ability to integrate into their host communities beyond a de facto integration in the socioeconomic sense. The government of Pakistan has made it clear that local integration (obtaining permanent legal status) is not a durable solution for refugees, and the return of Afghans to their country remains the government's preferred solution.⁶²⁹ However, the persistence of insecurity following the withdrawal of NATO's International Security Assistance Force, combined with dire economic conditions and a shortage of livelihood opportunities in Afghanistan, remain the main impediments to the sustainable voluntary repatriation of Afghans.⁶³⁰

The government estimates that in addition to refugees, some 1 million undocumented Afghans are residing irregularly in Pakistan. Afghan refugees and undocumented Afghans are two groups that have been accorded distinct rights and fall under different protection and assistance frameworks, notwithstanding that some undocumented Afghans may have valid international protection needs.⁶³¹ Undocumented Afghans include persons who arrived after 2007 when the government closed the registration process, but also Afghans who repatriated to Afghanistan under the United Nations High Commissioner for Refugees' (UNHCR's) assisted voluntary repatriation program and subsequently returned to Pakistan for a variety of reasons.⁶³² The governments of Afghanistan and Pakistan have agreed to register this undocumented population in a comprehensive database to establish their identities, followed by the issuance of travel documents by the government of Afghanistan, allowing for the regularization of their stay in Pakistan through visa applications.⁶³³ However, no progress has yet been made on this front because the criteria for documentation and issuance of travel documents for undocumented Afghans remain unclear.

1. LAW

Refugee Law

National legislation. The Foreigners Act of 1946 and the Foreigners Order of 1951, amended in 2000 and in 2016, are the only legislation regulating the situation of noncitizens; these laws are limited and contain no provisions relating to the protection of refugees. They prohibit assisting illegal entry and prescribe up

Islamic Republic of Iran, and other asylum countries—in the world's largest repatriation operation, UNHCR News Stories (2015) "UNHCR Head 'Extremely Enthusiastic' after Meeting Leaders of Afghanistan," www.unhcr.org/55561ee4530.html.

⁶²⁹Tyler, D. (2014) "Reframing Solutions for Afghan Refugees," *Forced Migration Review* 46, www.fmreview.org/en/afghanistan/tyler.pdf.

⁶³⁰ Moonzajer, M. F., M. S. Ehsan, S. M. H. Jaffrey, H. Nazir, H. Sohail, S. M. Bukhari, B. Ahmed, M. H. Haroon (2013) "Livelihood of Afghan Refugees: The Influencer of Social and Human Capitals," www.academia.edu/6047411/The_livelihoods_of_Afghan_Refugees_in_Pakistan.

⁶³¹ The rights of and protection and assistance frameworks for undocumented Afghans are not entirely clear.

⁶³² Many undocumented Afghans are part of the family of Proof of Registration (PoR) cardholders. This population does not per se fall under the UNHCR's mandate, but is the source of a constant flow of asylum applications, UNHCR Pakistan (2015) "2015–2017 Protection Strategy," <http://unhcrpk.org/wp-content/uploads/2013/12/2015-2017-Protection-Strategy-External.docx>.

⁶³³ A committee composed of members of both governments was formed to develop the technical modalities for this registration and documentation exercise, "Conclusions on the 25th Tripartite Commission Meeting," <http://unhcrpk.org/wp-content/uploads/2013/12/Conclusions-of-the-25th-Tripartite-Commission.pdf>.

to 10 years' imprisonment and a fine of up to 10 thousands rupees (about US\$100) for anyone who knowingly enters Pakistan without valid travel documents.⁶³⁴

Pakistan is not party to the 1951 Refugee Convention, but in 2013 the government of Pakistan drafted national refugee legislation. The draft refugee law, which outlines the legal status, rights, and obligations of refugees and applicants for refugee status by referring to Pakistan's existing domestic legal framework, has not yet been passed.⁶³⁵

Institutions. The Ministry of States and Frontier Regions (SAFRON) is a federal ministry mandated to deal with Afghan refugees.⁶³⁶ Within SAFRON, the Chief Commissionerate for Afghan Refugees (CCAR) based in Islamabad and the Commissionerate for Afghan Refugees (CAR) found in each province of the country have responsibility for implementing policy and operations in the field.⁶³⁷ In the past, Pakistan's National Aliens Registration Authority (NARA) registered and documented foreigners in Pakistan who arrived before 2000, including asylum seekers and UNHCR-mandated refugees, albeit without recognition of their specific status. In 2014, NARA was merged with the National Database and Registration Authority.⁶³⁸

Access to protection. Following several large-scale influxes of refugees since 1979 as well as ongoing return movements, the number of Afghans residing in Pakistan was once much higher (3.3 million reported in 2002) than it has been recently. However, more than 2.7 million repatriated with the UNHCR's assistance between 2002 and 2005, before 2.1 million Afghans were eventually registered on a prima facie basis in 2006/07 (including biometric information) and were issued Proof of Registration (PoR) cards by the government of Pakistan.⁶³⁹ The cards, which act as proof of legal residence and recognize their status as "Afghan citizens temporarily residing in Pakistan," should protect refugees against deportation, arbitrary arrest, and extortion. Although access to some banking services may be possible, PoR cards do not legally confer other rights (for example, the ability to open a bank account or obtain a driving license).⁶⁴⁰

⁶³⁴ Article 13 A and Article 14, Pakistan: Foreigners Act, 1946, Foreigners (Amendment) Ordinance, 2000, <https://joshandmakinternational.com/resources/laws-of-pakistan/foreign-exchange-and-foreigners-regulations/the-foreigners-amendment-ordinance-2000/>; Foreigners (Amendment) Act, 2016, www.na.gov.pk/uploads/documents/1463981266_704.pdf.

⁶³⁵ UNHCR Pakistan (2014) "Refugee Operation," <http://unhcrpk.org/wp-content/uploads/2013/12/UNHCR-Pakistan-Refugee-Operations-Leaflet2.pdf>.

⁶³⁶ Ministry of States and Frontier Regions, www.safron.gov.pk/.

⁶³⁷ Commissionerate for Afghan Refugees official website, <http://kpkcar.org/carnesite/CAR/index.php/page/about-us>.

⁶³⁸ Information provided by the UNHCR.

⁶³⁹ Refugees have lived in Pakistan without legal documents since 1978. It was only during the 2006/2007 registration process that the government began to issue PoR cards. In 2010, Pakistan also conducted the temporary registration of unregistered family members of PoR cardholders, Human Rights Commission of Pakistan (2009), "Afghan Refugees in Pakistan: Push Comes to Shove," www.operationspaix.net/DATA/DOCUMENT/4816~v~Afghan_Refugees_in_Pakistan___Push_Comes_to_Shove.pdf; Abbas Khan M. (2014) "Pakistan's National Refugee Policy," *Forced Migration Review* 46, www.fmreview.org/sites/fmr/files/FMRdownloads/en/afghanistan/khan.pdf.

⁶⁴⁰ Information provided by the UNHCR.

In the absence of a national legal framework for refugee status determination (RSD), the UNHCR conducts RSD under its mandate amid the complexities of a mixed migration context and lack of clear migration management. Individuals recognized as refugees at the outcome of the UNHCR's RSD process and members of their family are issued Refugee Identity Cards that are valid for 12 months and renewable upon expiry. Like the PoR card, the Refugee Identity Card offers temporary stay in Pakistan and protects against any forcible return to the country of origin.⁶⁴¹ UNHCR decisions on RSD are generally accepted, and asylum seekers and recognized refugees are allowed to remain in Pakistan pending identification of a durable solution.⁶⁴²

A Tripartite Agreement between Pakistan, Afghanistan, and the UNHCR signed in 2003 regulates the management and gradual repatriation of registered Afghan refugees.⁶⁴³

The government of Pakistan's draft Comprehensive Policy on Voluntary Repatriation and Management of Afghan Nationals Beyond 2015 included a proposal for the extension of the Tripartite Agreement and the validity of the PoR cards until the end of 2017, but on June 30, 2016, the government of Pakistan extended the validity of the PoR cards held by Afghan refugees until the end of 2016.⁶⁴⁴ The draft policy also provides for temporary management arrangements depending on the profiles and the needs of the remaining refugee population, and continued protection for those in need, in accordance with international standards and norms.⁶⁴⁵

Despite the regular extension of PoR cards, many Afghan refugees have felt pressured to return to Afghanistan. The number of returning Afghan refugees and undocumented Afghans rose sharply in the wake of the December 2014 deadly attack by the Pakistani Taliban on the Army Public School in Peshawar. This event compelled the Pakistani government to include "a comprehensive policy to deal with the issue of Afghan refugees" in its new National Action Plan on Counter-Terrorism and to launch police crackdown operations in Afghan neighborhoods and refugee villages. The plan did not explicitly distinguish between registered, "protected" refugees and undocumented Afghans, causing indiscriminate action against both groups.⁶⁴⁶ With the politicization and securitization of refugees in Pakistan, many refugees have reportedly faced harassment, eviction, arrest, or detention by intelligence agencies, and their release sometimes requires UNHCR intervention. Afghan PoR cardholders who return to Afghanistan through the

⁶⁴¹ UNHCR Pakistan (2012) "Information Leaflet for Asylum-Seekers in Pakistan," <http://unhcrpk.org/wp-content/uploads/2012/09/Asylum-Seekers-leaflet-English.pdf>.

⁶⁴² UNHCR (2012) "Submission for the Office of the High Commissioner for Human Rights' Compilation Report—Universal Periodic Review for Pakistan," www.refworld.org/docid/4f9663d12.html.

⁶⁴³ "Agreement between the Government of the Islamic Republic of Pakistan, the Government of the Islamic Republic of Afghanistan and the United Nations High Commissioner for Refugees Governing the Repatriation of Afghan Citizens Living in Pakistan," www.unhcr.org/46c98acd2.pdf.

⁶⁴⁴ Through these cards, the temporary stay of Afghans was initially extended until 2012 and later until the end of 2015; the PoR cards were then extended for another six months (June 30, 2016) and again for another six months prolonging their validity until December 2016.

⁶⁴⁵ The draft policy needs to be endorsed by the Cabinet; UNHCR (2015) Sixty-sixth session of the Executive Committee of the High Commissioner's Programme, High-Level Segment on the Afghan Refugee Situation, www.unhcr.org/562a22979.pdf.

⁶⁴⁶ Roehrs, C. (2015) "The Refugee Dilemma: Afghans in Pakistan between Expulsion and Failing Aid Schemes," Afghanistan Analysts Network (AAN), <https://www.afghanistan-analysts.org/the-refugee-dilemma-afghans-in-pakistan-between-expulsion-and-failing-aid-schemes/>.

UNHCR's facilitated voluntary repatriation program are deregistered from the government database. If they return, it is without the protection of the law like the million other undocumented Afghans.⁶⁴⁷

Freedom of movement. Although the 1973 Constitution provides only Pakistani citizens with the freedom of movement,⁶⁴⁸ the general rights of freedom of movement and choice of residence extend to nonnationals under the International Covenant on Civil and Political rights to which Pakistan has been party since 2008. In principle, the government imposes no restrictions on the movement or residence of registered Afghans with PoR cards, and refugees have always been relatively free to settle wherever they wish.⁶⁴⁹ However, refugees, regardless of their nationality and the documents they possess, are also often required to pay bribes to police officers at checkpoints.⁶⁵⁰

Right to work – refugee and labor and employment law

Article 18 of the Constitution only affords Pakistan's citizens the right to enter into any lawful profession or occupation, and to conduct any lawful trade or business, while Article 17 stipulates that only citizens enjoy the right of association. However, because the Constitution protects inalienable rights of both citizens and foreigners, all relevant policies and labor laws are applicable to foreigners and they have the right to access justice for any employment agreement violation.⁶⁵¹ The following articles also apply to all persons in Pakistan, without distinction between citizen and noncitizen: Article 11 prohibits slavery, forced labor, trafficking in persons, and child labor. Under Article 37 (e) the State shall make provision for securing just and humane conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex, and ensuring the provision of maternity benefits for women in employment; and Article 38 (c) provides for all persons employed in the service of Pakistan or otherwise, social security by compulsory social insurance or other means. Furthermore, in 2008, Pakistan ratified the International Covenant on Economic, Social and Cultural Rights, which recognizes a general human right to work.

In relation, the 1997 circular by the Ministry of Interior clarified that registered Afghan citizens living in Pakistan "have been subject to Pakistani labour and employment laws, and were legally authorized to work in the country."⁶⁵² In addition, most of the country's labor laws are equally applicable to foreigners (including refugees) working in Pakistan, so legally there is no distinction between workers who are

⁶⁴⁷ Dawn (2013) "Afghan Refugees in Pakistan Resist Pressure to Return," www.dawn.com/news/770786/afghan-refugees-in-pakistan-resist-pressure-to-return.

⁶⁴⁸ Article 15 of the Constitution of the Islamic State of Pakistan, www.na.gov.pk/uploads/documents/1333523681_951.pdf.

⁶⁴⁹ Grare, F., and W. Maley (2011) "The Afghan Refugees in Pakistan," Fondation pour la Recherche Stratégique, Middle East Institute, www.refugeecooperation.org/publications/afghanistan/pdf/09_grare.pdf.

⁶⁵⁰ United States Committee for Refugees and Immigrants (2009) "World Refugee Survey —Pakistan," <http://www.refworld.org/docid/4a40d2af1cc.html>.

⁶⁵¹ Article 4.2 (b) of the Constitution "no person shall be prevented from or be hindered in doing that which is not prohibited by law."

⁶⁵² UNHCR and ILO (2013) "Policy and Legal Framework Analysis for Afghan Refugees Access to Decent Work in Pakistan," Research Study, unpublished.

citizens of Pakistan and workers of foreign origin.⁶⁵³ The 1946 Foreigners Act, on the other hand, prohibits the hiring of “a person who has no permission to stay in Pakistan.”⁶⁵⁴

The rights stipulated in the draft refugee law are mainly a replication of fundamental rights and freedoms accorded by the Constitution at the same level to every citizen and noncitizen under the jurisdiction of Pakistan. It does include the right to work and should the law be adopted with its current content, it would be consistent with international standards relating to refugees.⁶⁵⁵

A legal impediment, however, is that refugees cannot hold immovable property or own businesses. To run a business, a refugee needs a Pakistani partner whose name will be necessary in every step of the process.

Pakistan has ratified 36 International Labour Standards, including all 8 ILO fundamental conventions, and developed policies to implement commitments postulated in these conventions. However, Pakistan has not yet ratified ILO Convention 143 on Migrant Workers.

2. POLICY AND PRACTICE

Constraining factors

There is no clear stance by the government on the issue of the right to work for Afghan refugees, and while Afghan refugees with PoR cards are not restricted from performing any lawful occupation in Pakistan, in practice, they cannot access jobs in government service or own property.

Furthermore, local authorities do not always respect the legitimacy of refugees' presence, as witnessed during refugee encampment and evictions of urban refugees in 2015 in the wake of the Peshawar school attack.⁶⁵⁶

Similarly, the government has no express policy regarding Afghan work permits. Afghan refugees who intend to take up formal employment or education have to submit an application to the Ministry of SAFRON (through the CCAR) and submit an affidavit from their employer. Although obtaining a work permit is a formal procedure, and the PoR card does not grant the right to work or be employed within Pakistan, permits for working in nongovernmental sectors are not always strictly required, thus allowing Afghan refugees to work in factories, shops, and other places of employment with PoR cards as sufficient proof of identification. The regulations on “Non-Objection Certificates” are not clear, but a Non-Objection Certificate issued by SAFRON on a case-by-case basis (for a particular job in a specific company) may be considered equivalent to a work permit.⁶⁵⁷

⁶⁵³ UNHCR and ILO (2013) “Policy and Legal Framework Analysis for Afghan Refugees Access to Decent Work in Pakistan,” Research Study, unpublished.

⁶⁵⁴ Article 13 B, Pakistan: Foreigners Act, 1946, Foreigners (Amendment) Ordinance, 2000.

⁶⁵⁵ Information provided by the UNHCR.

⁶⁵⁶ Information provided by the UNHCR.

⁶⁵⁷ The UNHCR and partners are also required to obtain Non-Objection Certificates from the government to visit refugee and internally displaced persons–hosting areas; information provided by the UNHCR and the ILO.

The Department of Labour or the Ministry of Overseas Pakistanis and Human Resource Development have very little role in dealing with Afghan refugees. The lack of coordination between these ministries and SAFRON and the CAR on Afghan workers' affairs weakens the social status of Afghan workers, with their social protection and wage regulations being subject to the discretion of their employers.⁶⁵⁸

Assessments conducted by the ILO and the UNHCR in Quetta and Peshawar in 2012 highlighted that refugees considered the lack of access to the Pakistani educational system to be the main reason for not getting formal employment. Most of them received little or no training and education, especially for skill development, but expressed a need for such training so they could compete in the market for better-paying work. Yet female participants, who mainly work from home, indicated they had no idea of how or where to start because of lack of supporting infrastructure and a general lack of opportunities for women, especially refugees.⁶⁵⁹

Only a small percentage of self-employed refugees have registered their businesses because of financial and social difficulties as well as mobility and security issues. Incidents of the police taking money from them have been reported.⁶⁶⁰

In principle, the PoR is sufficient proof for obtaining informal employment. However, harassment, imprisonment, and threats of deportation have restricted refugees' movements outside the refugee villages or their homes, thereby limiting access to better-paying economic opportunities.⁶⁶¹ Under these circumstances, refugees report frequent exploitation.⁶⁶²

Afghan refugee women are extremely vulnerable in view of their social status, particularly the ones who are heads of household. Their economic and other activities are limited and opportunities are few because of constrained mobility, which is the result of culturally determined social segregation between men and women in the public domain. Women have greater difficulty accessing the market, and they are dependent on male family members or contractors to sell their products. Contractors often exploit of females who have no male in the household.⁶⁶³

Child labor is common among Afghan refugee communities, with many poor families sending their children to earn an income. These children work in extremely poor circumstances, often in hazardous

⁶⁵⁸ UNHCR and ILO (2013) "Policy and Legal Framework Analysis for Afghan Refugees Access to Decent Work in Pakistan," Research Study, unpublished

⁶⁵⁹ ILO and UNHCR (2012) "Decent Work Deficit of Workers Particularly Women/Children from Afghan Refugees and Host Communities District Peshawar, Khyber Pakhtunkhwa, Rapid Assessment," unpublished.

⁶⁶⁰ UNHCR and ILO (2012) "Rapid Assessment, Decent Work Deficit of Afghan Refugees and Host Communities in District Quetta, Balochistan," unpublished.

⁶⁶¹ Segal, U., D. Elliott, and N. Mayadas (2010) "Immigration Worldwide: Policies, Practices and Trends," Oxford University Press.

⁶⁶² Asylum Access (2014) "Global Refugee Work Rights Report," http://asylumaccess.org/wp-content/uploads/2014/09/FINAL_Global-Refugee-Work-Rights-Report-2014_Interactive.pdf.

⁶⁶³ Contractors provide the carpet or embroidery design and raw materials and collect the product for to sell, UNHCR and ILO (2012) "Rapid Assessment, Decent Work Deficit of Afghan Refugees and Host Communities in District Quetta, Balochistan," unpublished.

conditions, and they are commonly victims of physical, verbal, and sexual abuse by employers and older coworkers. They also face the risk of involvement in crime, theft, and drug addiction.⁶⁶⁴

The judiciary and police generally do not have knowledge of refugee law, making refugees vulnerable to injustice and unfair treatment.⁶⁶⁵ The precarious nature of refugees' work situation was exposed in the aftermath of the 2014 Peshawar school attack when the police looted or destroyed a number of shops and businesses, including those of PoR cardholders, arresting and beating some shop owners. This series of violent abuses and the increasing demands for bribes by the police threatened the livelihood of these refugees.⁶⁶⁶

Facilitating factors

After the withdrawal of food and nonfood support by the government of Pakistan and other donors in 1995, implicit permission was granted to Afghan refugees to access the labor market. The government even began issuing temporary driving licenses and other facilitating measures to enable refugees to support themselves. As a matter of practice, Afghan refugees have been able to engage in any business and have been liable for the payment of income taxes (when the business is out of camp).⁶⁶⁷

While the main priority of the Management and Repatriation Strategy for Afghan Refugees in Pakistan (MRSAR) for 2010–12 was to increase voluntary repatriation, it acknowledged that “Afghan refugees had a stabilizing effect on labour market in Pakistan.” The strategy, among other elements, considered the possibility of alternative stay arrangements for PoR cardholders. As a way to manage investment and employment matters related to the Afghan population for the period 2010–15, it suggested providing 150,000 visas and work permits to skilled and unskilled laborers, entrepreneur permits,⁶⁶⁸ and student permits. It also proposed naturalization for Afghan female heads of household while discouraging any illegal employment.⁶⁶⁹ However, while some work permits and student visas may have been issued, the MRSAR provisions have by and large not been implemented.

⁶⁶⁴ UNHCR and ILO (2012) “Rapid Assessment, Decent Work Deficit of Afghan Refugees and Host Communities in District Quetta, Balochistan,” unpublished.

⁶⁶⁵ Human Rights Commission of Pakistan (2009) “Afghan Refugees in Pakistan: Push Comes to Shove,” http://www.operationspaix.net/DATA/DOCUMENT/4816~v~Afghan_Refugees_in_Pakistan___Push_Comes_to_Shove.pdf.

⁶⁶⁶ Human Rights Watch (2015) “‘What Are You Doing Here?’ Police Abuses against Afghans in Pakistan,” <https://www.hrw.org/report/2015/11/18/what-are-you-doing-here/police-abuses-against-afghans-pakistan>.

⁶⁶⁷ They are immune from taxes for business undertaken within their designated camps.

⁶⁶⁸ Refugees who have invested more than 5 million rupees (about US\$47,300) in productive business should be allowed to continue their businesses and may be given work permits for the specific period, while any Afghan individual or group wishing to bring investment into Pakistan of more than 50 million rupees (about US\$473,700) may be encouraged to do so.

⁶⁶⁹ Other measures included that “All industrial establishments employing Afghan labour should report them for registration; and all businesses run by Afghans like restaurants, shops, and vendors etc. are to be registered and monitored;” Moonzajer, M., M. S. Ehsan, S. M. H. Jaffrey, H. Nazir, H. Sohail, S. M. Bukhari, B. Ahmed, M. H. Haroon (2013) “Livelihoods of Afghan Refugees: The Influencer of Social and Human Capitals,” p. 30, www.academia.edu/6047411/The_livelihoods_of_Afghan_Refugees_in_Pakistan.

The 25th Tripartite Commission meeting between the Afghan and Pakistani governments and the UNHCR in March 2015 confirmed that the residual population of refugees will be under continuing protection in accordance with international norms and may benefit from temporary stay arrangements for employment, study, and business purposes.⁶⁷⁰ Similarly, the government of Pakistan's draft of the Comprehensive Policy on Voluntary Repatriation and Management of Afghans Beyond 2015 provides to certain profiles of PoR cardholders (investors, businessmen, students, skilled and unskilled laborers, and single women and widows with no bread-earners) the option of obtaining Afghan travel documents in conjunction with Pakistani visas and work permits.⁶⁷¹ However, the temporary stay arrangements mentioned in the 25th Tripartite Commission conclusions and the draft comprehensive policy have not yet been implemented.⁶⁷²

The regional Solutions Strategy for Afghan Refugees (SSAR), Phase 2 (2015–17) provides a framework for cooperation between humanitarian and development actors to address the needs of Afghan refugees and identify and implement lasting solutions for refugees, while providing assistance to the host communities. Development projects implemented under the Refugee Affected and Hosting Areas (RAHA) program—benefiting Afghans and Pakistanis and implemented within the framework of the SSAR—aim, among other goals, to boost employment prospects.⁶⁷³ One of the cross-cutting thematic priorities of implementation of the SSAR/RAHA is youth empowerment through interlinked interventions in the areas of education, vocational skills training, and livelihoods support.⁶⁷⁴ In a separate development, in 2013, some 1,000 non-Afghan refugees, mainly from Somalia, the Islamic Republic of Iran, and Iraq, have been registered with Pakistan's National Aliens Registration Authority (NARA), and received formal identification cards and work permits to promote self-sufficiency.⁶⁷⁵ Afghan refugees, however, were kept out of the NARA mandate. To enhance self-reliance, over the years the UNHCR and other international organizations have provided vocational training to Afghan refugees in refugee villages and implemented projects on livelihoods skills development and capacity-building of youth, particularly targeting women.⁶⁷⁶ The

⁶⁷⁰ Conclusions on the 25th Tripartite Commission Meeting, <http://unhcrpk.org/wp-content/uploads/2013/12/Conclusions-of-the-25th-Tripartite-Commission.pdf>.

⁶⁷¹ UNHCR Pakistan (2015) "2015–2017 Protection Strategy," <http://unhcrpk.org/wp-content/uploads/2013/12/2015-2017-Protection-Strategy-External.docx>.

⁶⁷² Information provided by the UNHCR.

⁶⁷³ The 2012 SSAR, which integrates the RAHA initiative launched in 2009, continues to be the overarching framework for cooperation between Pakistan, Afghanistan, and the UNHCR, <http://unhcrpk.org/wp-content/uploads/2013/12/UNHCR-Pakistan-RAHA-Leaflet-2014.pdf>; UNHCR News Stories (2009) "Pakistan Sign New Agreement on Stay of Afghan Refugees," www.unhcr.org/49ba5db92.html; "The Solutions Strategy for Afghan Refugees, to Support Voluntary Repatriation, Sustainable Reintegration and Assistance to Host Countries," www.unhcr.org/afghanistan/solutions-strategy.pdf.

⁶⁷⁴ Information provided by the UNHCR.

⁶⁷⁵ UNHCR News Stories (2013) "Pakistan Hosts First Formal Meeting on Afghan Returns; Non-Afghan Refugees Granted More Rights," <http://unhcr.org/3ec1bb112.html>; Recognized non-Afghan refugees registered with NARA had the right to seek employment through the NARA card, a result of the memorandum of understanding signed between the government and the UNHCR in 2003, UNHCR (2008) "Country Operations Plan, Pakistan," www.unhcr.org/46f789732.pdf.

⁶⁷⁶ UNHCR and UN Office for the Coordination of Humanitarian Affairs (2014) "Pakistan: Afghan Refugees Situation Overview," www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/Pakistan%20Humanitarian%20Dashboard_Afghan%20Refugees%20February%202014.pdf.

UNHCR's plan to develop a joint urban refugee strategy with the authorities would aim to ensure access to available (public) services without discrimination and support community development toward greater self-reliance.⁶⁷⁷

In the framework of the temporary management of Afghans in Pakistan, in 2012 the ILO and the UNHCR partnered to help refugees get access to decent work opportunities. This effort has taken the form of consultative workshops and policy research, including two assessments in Peshawar and Quetta to review the "Decent Work Deficits" for Afghan refugees and host communities.⁶⁷⁸

3. MEDIATING CONDITIONS

Socioeconomic conditions

Pakistan's economy is not equipped to host such a large refugee population given that the country is faced with a high population growth rate⁶⁷⁹ and an annual labor force growth rate of more than 3 percent, among the highest in the world.⁶⁸⁰ About a third of its population lives under the poverty line.

The steep rise of internally displaced persons in Pakistan to an estimated 1.9 million as insurgency and counterinsurgency operations intensified constitutes a great additional challenge for the country.⁶⁸¹ There are also an estimated 2 million Bangladeshi migrants who are mainly working in the informal sector, in the fishing and carpet-weaving industries and as domestic servants.⁶⁸²

Pakistan has a large and diverse informal economy in which workers typically undertake a wide variety of low-paid, low-productivity jobs, under working conditions that are frequently harsh, unhealthy, and hazardous. According to its 2010 Labour Policy, the government is planning to "reach out to such workers and provide them with basic protection, through the provision of advisory services" (...) and ensure that "workers in the informal economy, including home workers and domestic workers, will benefit from improved safety and health arrangements, access to social security arrangements, and the payment of minimum wages, where an employee-employer relation is evident." That policy, however, makes no specific reference to refugees or migrant workers.⁶⁸³

Although poor refugees have tended to live in refugee villages, internal mobility has been a livelihood coping strategy for Afghan refugees. A by-product of the decreased assistance in the camps beginning in the mid-1990s was the exodus of refugees toward urban centers such as Peshawar, Lahore, Quetta, and Karachi, where they had better chances of finding jobs. This exodus was further accelerated when World

⁶⁷⁷ UNHCR Pakistan (2015) "2015–2017 Protection Strategy," <http://unhcrpk.org/wp-content/uploads/2013/12/2015-2017-Protection-Strategy-External.docx>.

⁶⁷⁸ Decent work is defined by the ILO and endorsed by the international community as productive work for women and men in conditions of freedom, equity, security, and human dignity, UNHCR and ILO (2013) "Policy and Legal Framework Analysis for Afghan Refugees Access to Decent Work in Pakistan," Research Study, unpublished.

⁶⁷⁹ Pakistan is the world's sixth most populous country.

⁶⁸⁰ Government of Pakistan Labour Policy (2010) www.eobi.gov.pk/announcement/labour+poilcy+2010.pdf.

⁶⁸¹ Internal Displacement Monitoring Centre (2015) "The Global Overview 2015: People Internally Displaced by Conflict and Violence," www.internal-displacement.org/assets/library/Media/201505-Global-Overview-2015/20150506-global-overview-2015-en.pdf.

⁶⁸² Asylum Access (2014) "Global Refugee Work Rights Report," http://asylumaccess.org/wp-content/uploads/2014/09/FINAL_Global-Refugee-Work-Rights-Report-2014_Interactive.pdf.

⁶⁸³ Government of Pakistan Labour Policy (2010), www.eobi.gov.pk/announcement/labour+poilcy+2010.pdf.

Food Programme food rations ceased in 1995, requiring refugees to search for livelihoods outside the refugee villages. The majority of the Afghan refugees are settled and integrated with local and host communities in urban areas with little or no access to support in terms of livelihoods, protection or access to basic services while those remaining in refugee villages have access to humanitarian assistance and protection from the UNHCR. Transborder commuting is another livelihood strategy, with Afghans purchasing goods and cheap products from Pakistan to export them to Afghanistan.⁶⁸⁴

The 2012 UNHCR and ILO baseline study on the Decent Work Deficit in Quetta found that in areas densely populated by refugees, Pakistanis generally still had better employment opportunities than refugees because they possessed national identification cards and were more trusted by local employers.

Wages and contractual matters concerning Afghan refugees are not transparent and are often subject to the employer's discretion. Being illiterate and innumerate and lacking "agency," many refugees cannot negotiate fair wages and therefore accept low wages, which are often delayed or sometimes not paid.⁶⁸⁵ Their marginalized and misunderstood status and the pressure to meet their economic needs push Afghan refugee workers to accept poor work conditions.⁶⁸⁶ Afghan refugee women are also discriminated against on the basis of their gender and their nationality in terms of wage scales.⁶⁸⁷

The prolonged displacement of refugees within a context of mixed migratory movements has also led to the development of resentment in the host community, blaming Afghans for unemployment, crime, and militancy. This is particularly the case in Khyber Pakhtunkhwa province, where the majority of the Afghan refugee population resides and where the refugee population is still growing by 83,000 each year. This province consistently shows, together with the Federally Administered Tribal Areas, the lowest human development indicators and the highest youth unemployment.⁶⁸⁸

Unemployment rates are high among refugees, and because of the seasonal nature of the labor many are engaged in, they keep falling in and out of wage-earning employment.⁶⁸⁹ A 2006 assessment highlighted that refugee unemployment and underemployment rates fluctuated between 60 percent and 70 percent, with greater impacts on refugees living in camps than on those residing in urban areas, and that more than 70 percent of Afghans were falling in the very poor and poor categories.⁶⁹⁰

⁶⁸⁴ Segal, U., D. Elliott, and N. Mayadas (2010) "Immigration Worldwide: Policies, Practices and Trends." Oxford: Oxford University Press.

⁶⁸⁵ Mohmand, R. S. (2010) "The Saga of Afghan Refugees in Pakistan," Fondation pour la Recherche Stratégique, Middle East Institute, www.refugeecooperation.org/publications/afghanistan/pdf/06_mohmand.pdf.

⁶⁸⁶ UNHCR and ILO (2013) "Policy and Legal Framework Analysis for Afghan Refugees Access to Decent Work in Pakistan," Research Study, unpublished.

⁶⁸⁷ ILO and UNHCR (2012) "Decent Work Deficit of Workers Particularly Women/Children from Afghan Refugees and Host Communities District Peshawar, Khyber Pakhtunkhwa, Rapid Assessment," unpublished.

⁶⁸⁸ Roehrs, C. (2015) "The Refugee Dilemma: Afghans in Pakistan between Expulsion and Failing Aid Schemes," Afghanistan Analysts Network, <https://www.afghanistan-analysts.org/the-refugee-dilemma-afghans-in-pakistan-between-expulsion-and-failing-aid-schemes/>.

⁶⁸⁹ UNHCR and ILO (2012) "Rapid Assessment, Decent Work Deficit of Afghan Refugees and Host Communities in District Quetta, Balochistan," unpublished.

⁶⁹⁰ UNHCR (2008) "Country Operations Plan, Pakistan," www.unhcr.org/46f789732.pdf.

Refugee profiles

Coming from a war-torn country, most Afghan refugees are illiterate, especially those who arrived after 2000, who came mostly from rural areas, with limited education and few transferable skills except for farming. Yet, in Pakistan land is not available for refugees to work on.⁶⁹¹

A significant impediment to getting employment is that many refugees in rural areas do not speak Urdu or Sindhi. However, if someone can become literate and learn to speak English, access to work becomes easier. Therefore, younger refugees who were able to access education opportunities and enroll in language courses and vocational training manage to assimilate into Pakistani society.

Refugees without human or social capital are more prone to be involved in underpaid jobs and to become impoverished, especially if facing shocks.⁶⁹² Baloch, Uzbeks, Tajiks, and Turkmen are less likely to have ethnic kinfolk in Pakistan than are Hazaras or Pashtuns. Women also have less access to social capital.⁶⁹³ Refugees with wider networks of social and human capital—such as the Afghan Pashtuns, the largest ethnic group among Afghan refugees in Pakistan, who are originally linked with the local Pakistani Pathans—have easier access to the labor market and are empowered to diversify their livelihood strategies. Ethnic links of Afghan Pashtuns with communities were a major determinant in choosing Balochistan over other provinces, and the networks created have enabled them to, for instance, recruit their family members.⁶⁹⁴

4. OUTCOMES

Participation in the labor market

Most refugees, including some skilled and semiskilled individuals, work in the informal sector for daily wages with marginal income in the agriculture, transport, construction, and mining sectors.⁶⁹⁵

A UNHCR survey carried out in 2011 found that most self-employed Afghans are in the shopkeeping and craft and trade business, followed by tailors, owners of vehicles, carpenters, and drivers.

Afghan refugees fall into various economic categories; among the wealthiest are landlords and businessmen, but also refugees who fled following the Soviet invasion bringing their cattle, vehicles, money, and other personal belongings.

⁶⁹¹ Segal, U., D. Elliott, and N. Mayadas (2010) "Immigration Worldwide: Policies, Practices and Trends." Oxford: Oxford University Press; UNHCR and ILO (2012) "Rapid Assessment, Decent Work Deficit of Afghan Refugees and Host Communities in District Quetta, Balochistan," unpublished.

⁶⁹² Moonzajer, M. F., M. S. Ehsan, S. M. H. Jaffrey, H. Nazir, H. Sohail, S. M. Bukhari, B. Ahmed, M. H. Haroon (2013) "Livelihood of Afghan Refugees: The Influencer of Social and Human Capitals," www.academia.edu/6047411/The_livelihoods_of_Afghan_Refugees_in_Pakistan.

⁶⁹³ Cultural Survival (undated) "Resettlement Pattern: The Afghan Refugees in Pakistan," www.culturalsurvival.org/publications/cultural-survival-quarterly/afghanistan/resettlement-pattern-afghan-refugees-pakistan.

⁶⁹⁴ UNHCR and ILO (2012) "Rapid Assessment, Decent Work Deficit of Afghan Refugees and Host Communities in District Quetta, Balochistan," unpublished.

⁶⁹⁵ UNHCR and ILO (2012) "Rapid Assessment, Decent Work Deficit of Afghan Refugees and Host Communities in District Quetta, Balochistan," unpublished.

Refugees dominate the transport sector in the north-western region of the country.⁶⁹⁶ Some of the buses, painted trucks, and auto-rickshaws found in Pakistan also belong to refugees. Peshawar has been named “mini-Kabul” because of the concentration of Afghan refugees working as mechanics, welders, painters, and apprentices, some repairing vehicles and others owning businesses ranging from car dealerships to transport services and video shops.

According to the UNHCR survey conducted in 2011, some 22.5 percent of the surveyed Afghan refugees were economically active with a predominantly (85 percent) male workforce, and the percentage was higher for refugees living in urban settings (25 percent) or rural areas (26 percent) than for those in camps (20 percent).⁶⁹⁷ The findings from this survey further showed that some 55 percent of working Afghans were making a living as day laborers, while self-employed and salaried workers made up 22 percent and 19 percent of the workforce, respectively.⁶⁹⁸

In some instances, the economic contribution of refugees becomes visible when they return to their country of origin. According to the Pakistan Carpet Manufacturers and Exporters Association, Pakistan’s share in the carpet export market declined from US\$300 million in 2007–08 to US\$120 million in 2012–13. One of the major reasons for this decline was the return of many Afghan carpet-weaving families to Afghanistan.⁶⁹⁹

As noted, because of cultural constraints most Afghan women cannot work outside the house and therefore do home-based work, engaging in embroidery, tailoring, bead work, and the making of Afghan rugs (kilim). As for Afghan children, most were found working in auto workshops, selling food items on the roads, working as tailors, weaving carpets, working in restaurants, and being involved in garbage collection.⁷⁰⁰

SUMMARY AND CONCLUSION

Legal provisions related to refugees’ right to work in Pakistan are ambiguous, and the government’s stance is not clear. In practice, very few refugees are working in the formal sector. With the bulk of refugees working in the informal sector, it is difficult to analyze their livelihood situation. However, existing information points out that the majority of Afghan refugees are working under difficult conditions for low wages and struggle economically. Because of their insecure status and fear of arrest and deportation, undocumented Afghan refugees remain invisible and vulnerable.

Despite the protracted nature of the displacement, Pakistan’s policy has been to consider the presence of refugees to be temporary and has pressured Afghans to return even if it is still envisaged that alternative stay and work arrangements for registered refugees, along with the registration of undocumented refugees, will be part of the package of durable solution options. However, the state of the economy and

⁶⁹⁶ Grare, F., and W. Maley (2011) “The Afghan Refugees in Pakistan,” Fondation pour la Recherche Stratégique, Middle East Institute, www.refugeecooperation.org/publications/afghanistan/pdf/09_grare.pdf.

⁶⁹⁷ Some 219,639 Afghan refugees were surveyed.

⁶⁹⁸ UNHCR (2011) “Population Profiling, Verification and Response Survey of Afghans in Pakistan,” <http://unhcrpk.org/wp-content/uploads/2012/11/PPVR-Report.pdf>.

⁶⁹⁹ Information provided by the ILO.

⁷⁰⁰ UNHCR and ILO (2012) “Rapid Assessment, Decent Work Deficit of Afghan Refugees and Host Communities in District Quetta, Balochistan,” unpublished.

the unstable political and security situation have translated into decreasing tolerance by the Pakistani authorities and communities toward refugees.

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South Africa

PROFILE

- **Party to the 1951 Convention relating to the Status of Refugees, the 1967 Protocol, and the 1969 Organization of African Unity Convention.**
 - **121,645 refugees and 1,096,063 asylum seekers⁷⁰¹ totaling 1,217,708 = 2.21 percent of a total estimated population of 55 million.**
 - **Majority of recognized refugees are from Somalia, the Democratic Republic of Congo, Ethiopia, and Zimbabwe.**
 - **No camps or refugee settlements in South Africa; all refugees and asylum seekers live within South African communities in rural or urban areas.**
- **Human development rank and index: 116th and 0.666**
 - **GDP: Growth 1.3 percent; Per capita US\$5,691.7**
 - **Upper-middle-income economy**
 - **Unemployment rate: 25.1 percent**

CONTEXT

South Africa, which offers relative political stability and prosperity, is a major destination country for a large and mixed flow of people from the Horn of Africa, the Great Lakes, and even Asian countries,⁷⁰² some seeking international protection and others better economic and social opportunities.⁷⁰³ In the absence of suitable formal pathways for low-skilled economic migrants to stay in South Africa legally, many migrants have joined those fleeing conflict and persecution in seeking asylum, thus considerably inflating asylum applications.

⁷⁰¹ The significant increase in the number of asylum seekers from 2014 to 2015 in South Africa as recorded by the United Nations High Commissioner for Refugees (UNHCR) is partly due to a rise in the number of pending claims reported by the government of South Africa from 463,900 to 1,096,100, as a result of updated statistical information (due to the historical underreporting of this population) on the number of cases pending appeal review, and not to an actual significant increase in the number of asylum seekers in South Africa in 2015; this statistical adjustment means that South Africa hosted more asylum seekers than any other country at the end of 2015, UNHCR Global Trends, "Forced Displacement in 2015," www.unhcr.org/statistics/unhcrstats/576408cd7/unhcr-global-trends-2015.html.

⁷⁰² Mainly Afghanistan, Pakistan, and India.

⁷⁰³ There are confirmed reports of human smuggling and trafficking, UNHCR (2015) "Global Appeal Update- South Africa," www.unhcr.org/5461e604b.html.

Somalis form the majority of recognized refugees in South Africa. They came to the country in several waves between 1995 and 2000 following the collapse of Siad Barre’s regime, in 2006 when Ethiopia invaded Somalia, and more recently as many Somalis flee insurgent violence and militia recruitment.⁷⁰⁴ Other refugees originate from Côte d’Ivoire, the Democratic Republic of Congo, Ethiopia, and Zimbabwe. Zimbabweans currently account for the largest group of asylum seekers. For years millions of Zimbabweans have migrated to neighboring South Africa fleeing political violence, mass forced evictions, and poverty resulting from Zimbabwe’s political and financial collapse. In 2009, following the political struggles and economic crisis in Zimbabwe, the South African government announced a special program for Zimbabweans, under which they would be granted permits and a moratorium on deportations. Rather than granting them special permits, Zimbabweans were channeled through the asylum system and given section 22 asylum permits to regularize their stay. Later in 2010, the government announced a special dispensation program for Zimbabweans, whereby Zimbabweans were given four-year permits; these permits were extended for a further four years in 2014. Some Zimbabweans who applied for asylum may have abandoned their claims now that they have permits; however, exact numbers are not known, but because their claims have not been officially withdrawn they are still counted as asylum seekers.⁷⁰⁵

Prospects for durable solutions for refugees in South Africa exist—refugees can apply for permanent residency under the law leading toward local integration despite mitigating socioeconomic factors, restrictive government policies, and xenophobia. The United Nations High Commissioner for Refugees (UNHCR) also supports voluntary return for those who opt for this solution. However, in practice, return can take some time, and given the political and economic fragility of Zimbabwe many Zimbabweans will not return. Resettlement to a third country is an option for a very limited number with critical protection needs. The government of South Africa declared cessation of status⁷⁰⁶ for Mozambicans in 2001 and for Angolans in 2013.⁷⁰⁷

⁷⁰⁴ Women’s Refugee Commission (2011) “No Place to Go but Up: Urban Refugees in Johannesburg, South Africa” <https://womensrefugeecommission.org/programs/livelihoods/research-and-resources/758-no-place-to-go-but-up-urban-refugees-in-johannesburg-south-africa>.

⁷⁰⁵ Information provided by the UNHCR.

⁷⁰⁶ Under Article 1C of the 1951 Refugee Convention, refugee status may cease either through the actions of the refugee (contained in subparagraphs 1–4), such as by reestablishment in his or her country of origin, or through fundamental changes in the objective circumstances in the country of origin upon which refugee status was based (subparagraphs 5 and 6), UNHCR (1999) “The Cessation Clauses: Guidelines on their Application,” UNHCR, Geneva, www.refworld.org/pdfid/3c06138c4.pdf; UNHCR (2003) “Guidelines on International Protection, Cessation of Refugee Status under Article 1C(5) and (6) of the 1951 Convention relating to the Status of Refugees (the ‘Ceased Circumstances’ Clauses),” HCR/GIP/03/03, www.unhcr.org/publications/legal/3e637a202/guidelines-international-protection-3-cessation-refugee-status-under-article.html.

⁷⁰⁷ A large portion of Mozambicans and Angolans returned voluntarily to their countries while others went through regularization schemes; South Africa granted permits to more than 700 Angolan refugees for two years.

1. LAW

Refugee Law

National legislation. South Africa adopted the Refugees Act in 1998 prohibiting refusal of entry, expulsion, or extradition of refugees.⁷⁰⁸ The act was reviewed in 2008 and amended to include gender as grounds for persecution, among other changes.⁷⁰⁹ The Refugees Act was revised again in 2011 and 2015, together with the Immigration Act, while a Border Management Agency Bill was also drafted as part of a wider reform of South Africa's asylum and immigration regimes.⁷¹⁰

Institutions. The Department of Home Affairs (DHA) has overall responsibility for refugee issues.

Access to protection. Facing increasing difficulty coping with the large number of foreigners, including asylum seekers, entering its territory, South Africa tightened its immigration and asylum systems beginning in 2011, coinciding with the amendment of the Immigration Act. Because of irregular and clandestine movements, which also involve trafficking and smuggling of people, South Africa has stringent controls that have resulted in large numbers of migrants and asylum seekers crossing through illegal routes, exposing them to violence and exploitation by criminal gangs operating along the borders. If asylum seekers entering the territory transited through a "safe third country" their claim for refugee status may be denied.⁷¹¹

Although the numbers of refugees have declined from 2009–10, the continuing large number of asylum applications lodged annually, combined with the backlog of applications from previous years, remains a major obstacle to ensuring a fair and efficient refugee status determination process. South Africa has a very low rate for recognizing refugees. In 2014 the approval rate was 12 percent; most rejected asylum seekers who originated from neighboring countries were considered to be economic migrants.⁷¹²

If an individual entering South Africa states to a border official an intention to apply for asylum, the law requires that he or she receive a five-day "asylum transit permit"⁷¹³ to enable the individual to report to the nearest Refugee Reception Office to apply for asylum.⁷¹⁴ Upon completion of an interview by a Refugee Reception Officer, asylum seekers are issued a "section 22 permit" valid for six months,

⁷⁰⁸ Republic of South Africa, Refugees Act, 2 December 1998,

www.queensu.ca/samp/sampresources/migrationdocuments/documents/1998/refugee.pdf.

⁷⁰⁹ UNHCR (2011) "Submission for the Office of the High Commissioner for Human Rights' Compilation Report – Universal Periodic Review for South Africa," www.refworld.org/pdfid/4ed724952.pdf.

⁷¹⁰ Republic of South Africa Refugee Amendment Act, 2001, www.gov.za/sites/www.gov.za/files/a12_2011_0.pdf.

The Immigration Act was again revised in 2014,

www.ru.ac.za/media/rhodesuniversity/content/international/documents/visaforms/New%20Immigrations%20Act%202014.pdf; www.ufh.ac.za/international/assets/13-of-2002-immigration-act_regs-gnr-413_26-may-2014---to-date.pdf.

⁷¹¹ UNHCR (2011) "Submission for the Office of the High Commissioner for Human Rights' Compilation Report – Universal Periodic Review for South Africa," www.refworld.org/pdfid/4ed724952.pdf.

⁷¹² Information provided by the UNHCR. This trend has remained constant; in 2010 the rejection rate at first instance was 92 percent, Refugee Status Determination and Rights in Southern and East Africa (2010) "International Workshop Report," www.rsc.ox.ac.uk/files/publications/event-reports/er-refugee-status-determination-rights-africa-2010.pdf.

⁷¹³ Referred to as "Section 23 permit."

⁷¹⁴ As per section 21 of the Refugees Act.

temporarily legalizing their stay pending a final decision on their application.⁷¹⁵ If refugee status is granted the refugee will be issued a renewable “section 24 permit,” known as a “refugee permit” allowing the permit holder to remain in South Africa for four years.⁷¹⁶ At this point, in addition to the permit, within 15 days a refugee is entitled to apply for a refugee ID card at any Refugee Reception Office.⁷¹⁷ Upon completing five full years of continuous residence in South Africa as a formally recognized refugee, a refugee becomes eligible for “certification,” and upon examination of the claim the Standing Committee for Refugee Affairs may grant the applicant the right to remain a refugee indefinitely. The certification then enables the applicant to apply for an Immigration Permit or Permanent Residence.⁷¹⁸

The asylum system suffers from endemic and systemic corruption in the form of demand for bribes at every point of the process—queuing and obtaining and renewing asylum and refugee documents—and DHA’s anticorruption efforts have thus far failed to prevent it.⁷¹⁹ Furthermore, because of corruption it is difficult for intended beneficiaries to find protection.⁷²⁰

Freedom of movement. Refugees in South Africa are not confined to camps, and with the appropriate identification and permits they are generally free to move across the country and to settle in the place of their choice. However, because their refugee permit may not be recognized as a valid identification documentation, and because of delays in obtaining travel permits, some refugees are unable to access socioeconomic rights (for example, education and work).⁷²¹ The Constitution’s Bill of Rights guarantees freedom of movement to all persons and the Refugees Act affirms that this applies to refugees.⁷²² The act does not specifically apply this freedom to asylum seekers, but in practice, South Africa generally respects this right. The Refugees Act, however, prohibits asylum seekers from traveling outside of South Africa without DHA approval.⁷²³

⁷¹⁵ The permit can be extended by a Refugee Reception Officer for a further six months while the process of status determination is in progress; in the meantime, permit holders are protected against deportation, Department of Home Affairs, “Refugee Status & Asylum,” www.home-affairs.gov.za/index.php/refugee-status-asylum.

⁷¹⁶ The refugee permit, regardless of country of origin, is valid for two years and renewable, Department of Home Affairs, “Refugee Status and Asylum, General Procedure: Application for Asylum,” www.dha.gov.za/index.php/refugee-status-asylum.

⁷¹⁷ In case of rejection, an asylum seeker or refugee who believes that he or she has a well-founded fear of persecution but whose claim has been rejected may decide to appeal the rejection decision of the Refugee Status Determination Officer to the Refugee Appeal Board within 30 days of the decision, Department of Home Affairs, “Refugee Status and Asylum, General Procedure: Application for Asylum,” www.dha.gov.za/index.php/refugee-status-asylum.

⁷¹⁸ As per section 27 of the Refugees Act.

⁷¹⁹ Amit, R. (2015) “Queue Here for Corruption, Measuring Irregularities in South Africa’s Asylum System,” Lawyers for Human Rights and the African Centre for Migration and Society, www.lhr.org.za/sites/lhr.org.za/files/lhr-acms_report_-_queue_here_for_corruption_-_july_2015.pdf.

⁷²⁰ Amit, R. (2015) “Paying for Protection: Corruption in South Africa’s Asylum System,” Migration Policy Institute, www.migrationpolicy.org/article/paying-protection-corruption-south-africas-asylum-system.

⁷²¹ Jesuit Refugee Council (2011) “South Africa: Refugee Documentation Remains an Issue,” http://en.jrs.net/news_detail?TN=NEWS-20110214031156.

⁷²² Article 21, chapter 2 of the Constitution’s Bill of Rights, www.justice.gov.za/legislation/constitution/SACConstitution-web-eng-02.pdf.

⁷²³ United States Committee for Refugees and Immigrants (2009) “World Refugee Survey—South Africa,” www.refworld.org/docid/4a40d2b22.html.

Right to work – refugee and labor and employment law

Refugees in South Africa are allowed to work and to avail themselves of basic social services.⁷²⁴ The Private Security Industry Regulation Act, however, limits refugees' right to choose employment to the extent that they may not work in the private security industry.⁷²⁵

Asylum seekers in possession of a section 22 permit currently have the right to work and study.⁷²⁶ This is a right that refugee advocates secured using human rights–based litigation.⁷²⁷

However, a draft amendment is to be submitted to Parliament in 2016 that would repeal asylum seekers' right to work for the first four months pending adjudication of the asylum claim.⁷²⁸

2. POLICY AND PRACTICE

Constraining factors

Legal documents and permits are essential for refugees and asylum seekers to partake in South Africa's formal economy; access social services; and prevent arbitrary arrest, detention, and deportation.⁷²⁹ Yet, although under the Refugees Act and accompanying regulations, the application process should generally be completed within 180 days, it can take several years for refugee status to be finalized,⁷³⁰ and South Africa does not provide financial support to asylum seekers and refugees, except for a list of social grants that refugees can access.⁷³¹ And while, in theory, under the 2014 Immigration Regulation, fines for renewal of documents are no longer charged for overstaying—and persons who overstay for a prescribed number of times are declared undesirable—in practice, fines are still implemented.⁷³² The 2014 regulations did not have any positive effect on the issuance of low-skilled work permits.⁷³³ In addition,

⁷²⁴ Article 27 (f)(g) of the Refugees Act 1998.

⁷²⁵ Section 23(1)(a) of The Private Security Industry Regulation Act 56 of 2001 (the Security Act), www.saflii.org/za/legis/num_act/psira2001451.pdf.

⁷²⁶ Department of Home Affairs, "Refugee Status & Asylum," www.home-affairs.gov.za/index.php/refugee-status-asylum.

⁷²⁷ Minister of Home Affairs and Others v. Watchenuka and Another 2004 (4) SA 326 (SCA), www.refugeerights.uct.ac.za/usr/refugee/Case_Law_Reader/Minister_of_Home_Affairs_v_Watchenuka.pdf.

⁷²⁸ Article 21.6 of the Refugees Amendment Bill 2015, www.gpwonline.co.za/Gazettes/Gazettes/39067_6-8_HomeAffairs.pdf.

⁷²⁹ Landau, L. (2005) "Migration, Urbanisation and Sustainable Livelihoods in South Africa," Migration Policy Brief No. 15, Southern African Migration Project, www.queensu.ca/samp/sampresources/samppublications/policybriefs/brief15.pdf.

⁷³⁰ Amit, R. (2015) "Queue Here for Corruption, Measuring Irregularities in South Africa's Asylum System," Lawyers for Human Rights and the African Centre for Migration and Society, www.lhr.org.za/sites/lhr.org.za/files/lhr-acms_report_-_queue_here_for_corruption_-_july_2015.pdf.

⁷³¹ Nyenti, M., M. du Plessis, L. A. Apon (2007) "Access to Social Services for Non-Citizens and the Portability of Social Benefits within the Southern African Development Community (SADC)," South Africa Country Report, A Report to the World Bank, Centre for International and Comparative Labour and Social Security, University of Johannesburg, South Africa, http://siteresources.worldbank.org/INTLM/Resources/390041-1244141510600/Nyenti_Plessis_Apon-South_Africa-2007.pdf.

⁷³² Information provided by the ILO.

⁷³³ Information provided by the ILO.

many asylum seekers, who often work in precarious positions struggle to schedule time away from work to renew their documents and risk losing their jobs.⁷³⁴

Anyone without an immigration or asylum permit or unable to prove their nationality is most at risk of being arrested and deported. This situation has produced a market for fake documents, which delegitimizes the asylum system.⁷³⁵

Because of discrimination and lack of awareness of refugee rights and entitlements, many refugees and asylum seekers report that, even when their documents clearly state that they are allowed to work, South African employers very often will not recognize their status. Employers are even more reluctant to hire forced migrants with papers valid for a short period. Permits or refugee identity cards may not be recognized by the police or local authorities either, which increases the likelihood that refugees and asylum seekers turn to irregular and dangerous economic activities.⁷³⁶

Despite skills shortage in employment sectors such as health care, education, engineering, and information technology, the professional qualifications of refugees and asylum seekers, assuming they were not lost during their flight, are often not readily recognized by the South African Qualifications Agency or other professional regulatory bodies.⁷³⁷ In addition, the South African Department of Health's ban on the recruitment of professionals from developing countries, officially out of an anti-brain drain principled position, has also resulted in pushing health professionals from the region into the asylum system, the only way for them to legally practice their trade in the country.⁷³⁸ Unable to afford new certification or training, most refugees and asylum seekers abandon their professions for unskilled jobs, or join the informal labor market if they cannot find formal employment.

The cost of registering a business under the regular immigration procedures for business visas is prohibitively expensive. Businesses, other than vendors, must demonstrate they have access to about US\$350,000 in cash or capital, employ at least five permanent residents, and have proper legal documentation. To avoid such costs, some businesses have set up semi-formally, obtaining only a business license, for a cost of about US\$225 per year.⁷³⁹

⁷³⁴ Amit, R. (2015) "Paying for Protection: Corruption in South Africa's Asylum System," Migration Policy Institute, www.migrationpolicy.org/article/paying-protection-corruption-south-africas-asylum-system.

⁷³⁵ Wellman, I. E., and B. L. Landau (2015) "South Africa's Tough Lessons on Migrant Policy," *Foreign Policy*, <http://foreignpolicy.com/2015/10/13/south-africas-tough-lessons-on-migrant-policy/>.

⁷³⁶ Landau, L. (2005) "Migration, Urbanisation and Sustainable Livelihoods in South Africa," Migration Policy Brief No. 15, Southern African Migration Project, www.queensu.ca/samp/sampresources/samppublications/policybriefs/brief15.pdf.

⁷³⁷ Consortium for Refugees and Migrants in South Africa (2007) "Protecting Refugees and Asylum Seekers in South Africa," www.cbrmc.org/CRMSA07ReportFinal.pdf; Segatti, A. (2014) "A Disposable Workforce: Foreign Health Professionals in the South African Public Service," Migration for Work Research Consortium Policy Brief 3, African Centre for Migration & Society, University of the Witwatersrand, www.miworc.org.za/docs/MiWORC-PolicyBrief-3-Foreign-health-professionals-in-SA.pdf.

⁷³⁸ Information provided by the ILO.

⁷³⁹ Women's Refugee Commission (2011) "No Place to Go but Up: Urban Refugees in Johannesburg, South Africa," <https://womensrefugeecommission.org/programs/livelihoods/research-and-resources/758-no-place-to-go-but-up-urban-refugees-in-johannesburg-south-africa>.

Refugee women are commonly targets of sexual violence, which limits their capacity to engage in income-generating activities and makes them more dependent on alternative support from spouses, friends, or nongovernmental organizations. They have little recourse or protection from this violence, and there are reports of the police being indifferent to their claims or asking for bribes or sex in exchange for services.⁷⁴⁰

Xenophobic violence against foreigners, including asylum seekers and refugees, limits their chances to make a decent living.⁷⁴¹ Xenophobia results in discrimination, exploitation, and abuse; in some instances, violence has been organized by business owners with the intent of eliminating foreign competitors. While the most intense and widespread attacks took place in 2008, refugees have sporadically fallen prey to operations officially targeting undocumented migrants that have been accompanied by loss of life, loss of property, disruption of life, and negative impacts on eventual prospects for local integration.⁷⁴² For instance, in Limpopo province in 2012, a crackdown on businesses perceived to be operating illegally, known as “Operation Hardstick,” led to the closing of businesses and confiscation of stock belonging to refugee and asylum-seeker traders, regardless of whether they had valid licenses.⁷⁴³ Many of these refugees lost their livelihoods. After a series of court cases, in 2014 the Supreme Court of Appeal ruled against some of the essential elements on which the operation was based by affirming that it was unlawful and invalid for the authorities to close businesses operated by refugees and asylum seekers with valid permits.⁷⁴⁴

⁷⁴⁰ Women’s Refugee Commission (2011) “No Place to Go but Up: Urban Refugees in Johannesburg, South Africa,” <https://womensrefugeecommission.org/programs/livelihoods/research-and-resources/758-no-place-to-go-but-up-urban-refugees-in-johannesburg-south-africa>.

⁷⁴¹ Xenophobic attitudes have been consistently measured at 70 to 75 percent of the population since polls started in 1996, Women’s Refugee Commission (2011) “No Place to Go but Up: Urban Refugees in Johannesburg, South Africa,” <https://womensrefugeecommission.org/programs/livelihoods/research-and-resources/758-no-place-to-go-but-up-urban-refugees-in-johannesburg-south-africa>.

⁷⁴² In 2008, a series of violent xenophobic attacks took place in various townships and urban areas in most large South African cities. Some 62 people were killed and 670 injured while more than 150,000, including refugees and asylum seekers, were displaced, many of whom also lost their businesses, homes, and possessions in the process. The displaced were temporarily accommodated in camps where violent episodes continued. Once the Constitutional Court ruled that the government was required to care for asylum seekers and refugees but not for illegal aliens, many asylum claims were reviewed under accelerated procedures. According to Amnesty International, accelerated procedures took place without legal advice or assistance or interpreters, leading to a high percentage of rejection rates, low-quality decisions including factual errors, and lack of effective access to appeals, United States Committee for Refugees and Immigrants (2009) “World Refugee Survey—South Africa,” www.refworld.org/docid/4a40d2b22.html.

⁷⁴³ Similar events also occurred in 2010 immediately after the Soccer World Cup, at the call of a group named the Greater Gauteng Business Forum; and in 2014, as a direct result of “Operation Fiela” (clean-up) coordinated by the city of Johannesburg when as many as 7,000 hawkers were expelled overnight from the city center, and not reinstated in spite of a court order; information provided by the ILO.

⁷⁴⁴ The court judgment stated, “If a refugee or asylum seeker is unable to obtain wage-earning employment and is on the brink of starvation, which brings with it humiliation and degradation, and that person can only sustain him or herself by engaging in trade, such a person ought to be able to rely on the constitutional right to dignity in order to advance a case for the granting of a license to trade...” The Supreme Court of Appeal of South Africa (2014) *Somali Association of South Africa and Others v Limpopo Department of Economic Development Environment and Tourism and Others*, www.saflii.org/za/cases/ZASCA/2014/143.pdf; see also Asylum Access (2015) “South African Court Backs Refugees’ Right to Own Businesses,” <https://rtwasylumaccess.wordpress.com/2015/02/03/south-african-court-backs-refugees-right-to-own-businesses/>.

In 2015 new episodes of xenophobic violence erupted: in January, the Soweto township near Johannesburg experienced a number of attacks on shopkeepers while attacks spread in KwaZulu-Natal province following an apparent labor dispute involving South African and foreign workers. At least seven people were killed in the 2015 outbreak, and thousands of foreigners were displaced, among them refugees and asylum seekers.

Facilitating factors

With the introduction of special dispensation permits, Zimbabweans have been granted the right to remain temporarily in South Africa and allowed to apply for work permits.⁷⁴⁵ These special permits have alleviated the burden on the asylum system and provided short-term security to some 250,000 Zimbabweans.⁷⁴⁶ Zimbabwean nationals not in possession of the required documentation are, however, systematically deported.⁷⁴⁷

In South Africa, the judiciary has on several occasions confirmed refugees' and asylum seekers' right to work. For instance, in 2003 in relation to a case brought to court by the Cape Town-based Legal Resources Centre on behalf of a Zimbabwean woman and her disabled son, the Supreme Court of Appeal ruled that freedom to work and study were "an important component of human dignity" guaranteed by the country's Bill of Rights.⁷⁴⁸

Refugees, mainly from the Somali community, have used innovative means, such as an "incubation system" to expand into new markets. Small businesses train and employ fellow migrants, usually newcomers, to start their own businesses. The original business owner withholds a portion of an employee's salary every pay period and trains the employee in how to run a business. Once enough money is saved and the employee's capacity is built, the employee starts a satellite business in a new location. Typically the original owner maintains shares in the new businesses.⁷⁴⁹

To overcome refugees' lack of access to formal credit and savings accounts due to bureaucratic hurdles, and the lack of secure places to keep money, which puts them at risk of theft and robbery, the Coordinating Body for Refugee Communities has facilitated the opening of more than 2,000 bank accounts for forced migrants at First National Bank.⁷⁵⁰

⁷⁴⁵ The special dispensation permits also give access to basic health care and education.

⁷⁴⁶ Wellman, I. E., and B. L. Landau (2015) "South Africa's Tough Lessons on Migrant Policy," *Foreign Policy*, <http://foreignpolicy.com/2015/10/13/south-africas-tough-lessons-on-migrant-policy/>. The permits are now due to expire in 2017, "SA Extends Permits for 250,000 Zimbabweans," <http://southafricanimmigration.org/sa-extends-permits-for-250000-zimbabweans/2260/>.

⁷⁴⁷ UNHCR (2011) "Submission for the Office of the High Commissioner for Human Rights' Compilation Report – Universal Periodic Review for South Africa," www.refworld.org/pdfid/4ed724952.pdf.

⁷⁴⁸ IRIN (2011) "South Africa: 'Harsher Regime' for Asylum Seekers," www.irinnews.org/report/94337/south-africa-harsher-regime-for-asylum-seekers.

⁷⁴⁹ Women's Refugee Commission (2011) "No Place to Go but Up: Urban Refugees in Johannesburg, South Africa," <https://womensrefugeecommission.org/programs/livelihoods/research-and-resources/758-no-place-to-go-but-up-urban-refugees-in-johannesburg-south-africa>.

⁷⁵⁰ Women's Refugee Commission (2011) "No Place to Go but Up: Urban Refugees in Johannesburg, South Africa," <https://womensrefugeecommission.org/programs/livelihoods/research-and-resources/758-no-place-to-go-but-up-urban-refugees-in-johannesburg-south-africa>.

Through targeted income-generating activities and vocational skills training, the UNHCR contributes to empowering a limited number of refugees to become self-reliant while partner organizations assist them with opening small businesses or finding suitable employment.⁷⁵¹

3. MEDIATING CONDITIONS

Socioeconomic conditions

South Africa is an upper-middle-income economy. However, it ranks only 116 on the Human Development Index and more than 50 percent of the population lives below the national poverty line. The country has one of the highest Gini coefficients and is thus characterized by significant income inequality and a high unemployment rate (25 percent), affecting mainly black South Africans and mixed-race people.

Refugees mostly settle and work in inner cities and in townships in peri-urban areas where the local population continues to increase with the combined collapse of many rural industries and small-scale farming and the breakdown of family structures caused by HIV/AIDS. Those in inner cities have better access to markets, housing, and public services. In contrast, poverty and unemployment are high in townships, both for South Africans and refugees, especially female refugees.⁷⁵²

The poor socioeconomic conditions among host communities provide a breeding ground for competition between refugees and South African nationals for jobs, housing, business opportunities, and social services, which often raises tensions and xenophobic attitudes toward refugees, as described above.⁷⁵³ Many refugees are willing to work for less than the minimum wage, especially undocumented Zimbabweans,⁷⁵⁴ while women are also more likely to receive lower incomes than men. Xenophobia has also undermined refugees' local integration and the stability of their livelihoods.⁷⁵⁵

Several studies conducted during the past 15 years confirm general public hostility toward migrants, perceived to be "too many," and responsible for the growth in crime rates, for diminishing the resources available to citizens, and for "taking jobs from South Africans." A smaller percentage of citizens

⁷⁵¹ UNHCR "Fact Sheet – South Africa" (2015), www.unhcr.org/524d87689.pdf.

⁷⁵² About 50 percent of South Africans in townships were either very poor or poor and 43 percent were unemployed, while 40 percent of Congolese and 30 percent of Somalis were unemployed; 66 percent of female refugees in townships are unemployed, Women's Refugee Commission (2011) "No Place to Go but Up: Urban Refugees in Johannesburg, South Africa," <https://womensrefugeecommission.org/programs/livelihoods/research-and-resources/758-no-place-to-go-but-up-urban-refugees-in-johannesburg-south-africa>.

⁷⁵³ UNHCR (2011) "Submission for the Office of the High Commissioner for Human Rights' Compilation Report – Universal Periodic Review for South Africa," www.refworld.org/pdfid/4ed724952.pdf.

⁷⁵⁴ International Refugee Rights Initiative (2009) "South Africa Attempts to Help Zimbabwe Migrants through New Permit System," *Refugee Rights News*, www.refugee-rights.org/Publications/RRN/2009/May/V5.I3.SouthAfricaAttempts.html.

⁷⁵⁵ A 2003 study in Johannesburg found that almost 65 percent of South Africans living in the inner city thought it would be good if most of the refugees and immigrants left the country and were in support of exclusionary measures toward them; measures often shaped and legitimized by politicians and bureaucrats on the basis that migrants are responsible for shortcomings in public service delivery and sub-optimal economic conditions, Landau, L. (2005) "Migration, Urbanisation and Sustainable Livelihoods in South Africa," Migration Policy Brief No. 15, Southern African Migration Project, www.queensu.ca/samp/sampresources/samppublications/policybriefs/brief15.pdf.

acknowledged the beneficial effect of migrants on skills shortages experienced by South Africa.⁷⁵⁶ Yet a collaborative research study released in 2016 contains evidence that cross-border migrants and refugees who own businesses are providing jobs, paying rent, paying value-added taxes, and providing affordable and convenient goods.⁷⁵⁷ While the issuance of special permits to Zimbabweans as described above has enabled them to legally work and earn a living, the increased competition that might result from the attraction of the permits has been seen as a potential source of tension and xenophobic feelings among the local population.⁷⁵⁸ Yet, South African businesses also benefit from the skills of Zimbabwean workers, with Zimbabwe constituting a market for South African products and an inflow of capital that may stimulate demand.⁷⁵⁹

Refugee profiles

The 2011 Women's Refugee Commission study on urban refugees found that refugees are predominantly young, urban, male, and educated. All refugees and asylum seekers recognized that English language skills are necessary to get a job, register a business, negotiate prices with suppliers, and deal with customers. The great majority of Somalis speak English and many Zimbabweans also have good English-language skills. Zulu language skills, however, are seen as necessary to better integrate into parts of the community and specifically to prevent xenophobic discrimination. Cultural and linguistic similarities of the ethnic Zimbabwean Ndebele people with the Zulu community have enabled them to assimilate more easily.⁷⁶⁰

The study found that the various refugee groups enjoy different levels of social capital shaped by cultural and other factors, but those joining friends or relatives already in a city were considerably more successful than those who migrated without such support. Somalis have strong networks and rely on family, religious, and tribal links to secure income and security and many, especially male youth, work for other Somalis in their retail businesses. Somali businesses reportedly share information on industry trends to purchase the cheapest goods and respond quickly to shifts in supply and demand and often buy goods together in bulk, sell surplus goods to each other at a discount, and share informal credit mechanisms. Settled mostly in the Muslim-dominated neighborhoods, Somalis also draw on religious affiliation to connect with South Africans with, for instance, mosques being a common venue for meeting and sharing information on access to services. Some Somalis also work for South African Muslim businesses.

⁷⁵⁶ Crush, J., and D. Ramachandran (2014) "Xenophobic Violence in South Africa: Denialism, Minimalism, Realism," Migration Policy Series No. 66, Southern African Migration Programme, <http://imrc.ca/wp-content/uploads/2014/09/Xenophobic-Violence-in-South-Africa.pdf>.

⁷⁵⁷ The study found that 31 percent of the 618 international migrant traders interviewed collectively employed 1,223 people, of which 503 were South African, Peberdy, S. (2016) "International Migrants in Johannesburg's Informal Economy," Southern African Migration Programme Migration Policy Series No. 71, www.gcro.ac.za/media/reports/SAMP71.pdf.

⁷⁵⁸ International Refugee Rights Initiative (2009) "South Africa Attempts to Help Zimbabwe Migrants through New Permit System," Refugee Rights News, www.refugee-rights.org/Publications/RRN/2009/May/V5.I3.SouthAfricaAttempts.html.

⁷⁵⁹ United States Committee for Refugees and Immigrants (2009) "World Refugee Survey—South Africa," www.refworld.org/docid/4a40d2b22.html.

⁷⁶⁰ Women's Refugee Commission (2011) "No Place to Go but Up: Urban Refugees in Johannesburg, South Africa," <https://womensrefugeecommission.org/programs/livelihoods/research-and-resources/758-no-place-to-go-but-up-urban-refugees-in-johannesburg-south-africa>.

Zimbabweans also have solid social networks helping them secure housing and find employment even if often limited to the informal sector.

The lack of a strong social network and belonging to a minority ethnic group is a disadvantage, especially for new arrivals.⁷⁶¹ UNHCR research on the Congolese refugee community in Durban highlighted that social networks may spontaneously appear between family members, friends, and colleagues as a reaction to social and economic exclusion.⁷⁶²

4. OUTCOMES

Participation in the labor market

The 2011 Women's Refugee Commission study found that some 75 percent of refugees and asylum seekers are economically active, often engaging in multiple simultaneous livelihood strategies, such as petty trading, casual labor, or self-employment. While a few have found formal wage employment, the majority, especially Congolese and Zimbabweans, engage in informal employment while Somalis are more often self-employed or engaged in small businesses.

Notwithstanding their education level and, for some, their specialized skills, few refugees realize the benefits of education because they are unable to access jobs for which they were trained. With the exception of some Congolese who reportedly work in the formal sector as doctors, pharmacists, or accountants,⁷⁶³ and some Somalis who own businesses, selling goods to predominantly Somali consumers, refugees are mostly found in unskilled or low-skilled labor in the services industry, street vending, construction, painting, welding, carpentry, hair braiding, or washing or guarding cars.⁷⁶⁴

SUMMARY AND CONCLUSION

South Africa is a major receiving country in the region for a mixed population of economic migrants and asylum seekers. Because of its progressive refugee policy mixed with exclusionary immigration practices, the number of asylum claims remains overwhelmingly high and has substantially strained the asylum system. The massive backlog of applications maintains applicants in situations of limbo sometimes for more than a decade.

While South Africa grants refugees and asylum seekers in possession of appropriate documentation the right to work, as foreigners they face great difficulty in securing formal employment and are largely confined to unskilled labor regardless of their qualifications and work experience and notwithstanding skills shortages in South Africa's labor market. In the informal employment sector they are deprived of

⁷⁶¹ Women's Refugee Commission (2011) "No Place to Go but Up: Urban Refugees in Johannesburg, South Africa," <https://womensrefugeecommission.org/programs/livelihoods/research-and-resources/758-no-place-to-go-but-up-urban-refugees-in-johannesburg-south-africa>.

⁷⁶² Amisi, B. (2006) "An Exploration of the Livelihood Strategies of Durban Congolese Refugees, New Issues in Refugee Research," Working Paper No. 123, UNHCR Evaluation and Policy Analysis Unit, www.unhcr.org/43fedead2.pdf.

⁷⁶³ They have arrived continuously and are currently the majority of applicants in the South African Health Professionals Council's verification examination for health professionals; information provided by the ILO.

⁷⁶⁴ Women's Refugee Commission (2011) "No Place to Go but Up: Urban Refugees in Johannesburg, South Africa," <https://womensrefugeecommission.org/programs/livelihoods/research-and-resources/758-no-place-to-go-but-up-urban-refugees-in-johannesburg-south-africa>.

safe, equitable employment conditions and reliable income and are exposed to unchecked exploitation by employers. In addition, xenophobic prejudice is a further impediment experienced by refugees and asylum seekers in their efforts to establish sustainable livelihoods.

Although imperfect, the current system nevertheless allows access to the labor market. However, it would benefit from further improvement of immigration policy and the strengthening and professionalization of the adjudication system so as to decrease backlogs of asylum seekers.

To repeal this access as proposed by the amendment of the Refugees Act would result in massive poverty increases and precariousness among the refugee population.

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Sudan

PROFILE

- **Party to the 1951 Convention relating to the Status of Refugees (but with reservations), the 1967 Protocol, and the Organization of African Unity Refugee Convention.**
 - **309,639 refugees and 12,581 asylum seekers totaling 322,220 = 0.8 percent of total estimated population of 40.2 million.**
 - **Protracted refugee population (pre-independence Eritreans and residual pre-1991 Ethiopian refugees) and new displacements of Eritrean refugees; refugees from South Sudan, which now constitute the largest group; and from Chad and the Central African Republic in the Darfur area.**
 - **Refugees are in camps but many move on to urban areas; some refugees also live in communities close to the border.**
- **Human development rank and index: 167th and 0.479**
 - **GDP: Growth 3.4 percent; Per capita US\$2,089.4**
 - **Lower-middle-income economy**
 - **Unemployment rate: 15.2 percent**

CONTEXT

Sudan is hosting one of the world's most protracted refugee populations, with thousands of Eritrean refugees who have fled their country since independence still living in exile in Sudan, as well as a sizable residual pre-1991 Ethiopian refugee population. New influxes of Eritrean asylum seekers are mainly escaping Eritrea's policy of indefinite military conscription and human rights abuses.⁷⁶⁵ The numbers of South Sudanese who have fled violence since December 2013 continue to increase steadily, and at the end of 2015, the United Nations High Commissioner for Refugees (UNHCR) had recorded more than

⁷⁶⁵ Eritrean independence from Ethiopia left hundreds of thousands displaced to neighboring countries; for some Eritrean refugees displacement may have lasted as long as five decades.

194,400 South Sudanese in Sudan.⁷⁶⁶ The country is also host to refugees and asylum seekers from the Central African Republic, Chad, Ethiopia, and the Syrian Arab Republic.⁷⁶⁷

Sudan is a transit country as much as a destination, with many displaced persons moving on to Europe, often through smuggling operations.⁷⁶⁸ About 80 percent intend to continue their journey onward, but only one in every eight refugees actually moves on, including unaccompanied minors, thereby becoming exposed to serious protection risks, such as human trafficking.⁷⁶⁹

Sudan is not only a host country for refugees, but also a country of origin.⁷⁷⁰ In addition to a large refugee population, the presence of an even greater number of internally displaced persons, estimated at about 2 million, constitutes a remarkable challenge for the country.⁷⁷¹

Sudan has maintained an open door policy, especially toward South Sudanese. Given ongoing conflict and risk of persecution in the countries bordering Sudan, voluntary repatriation is not a solution in the foreseeable future for most refugees. In principle, the Asylum (Organisation) Act 2014 recognizes that naturalization is an option for refugees, in accordance with the requirements of the Sudanese Nationality Act 1994, which allowed for naturalization to adult “aliens” who had resided in Sudan for five years or more.⁷⁷² However, in reality naturalization is a difficult durable solution to achieve because the 2011 amendments to the act made it more restrictive, requiring the alien to have “resided in Sudan lawfully and continuously for 10 years or more.” These two conditions are challenging for refugees who are subject to travel restrictions, and for whom 10 years is a long time to wait to be naturalized and to avail themselves of the freedoms granted to nationals.⁷⁷³ Two further requirements were added in 2011: that the alien “be of sound mind” and “have a lawful way of earning a living.”⁷⁷⁴ Ambiguity persists as to whether these conditions are retroactive. They also represent a catch-22 for the many refugees who do

⁷⁶⁶ These 194,400 South Sudanese refugees have joined an estimated 350,000 others who had remained in Sudan after South Sudan's secession in 2011, UNHCR (2015) “Global Focus- Sudan,”

<http://reporting.unhcr.org/node/2535>; some of these South Sudanese have acquired the Sudanese nationality: under Article 7 of the Sudan Nationality Act (as amended in 2011), an individual may be granted Sudanese nationality by naturalization when he meets certain conditions, including establishing 10 years of continuous and lawful residence in Sudan. Under Article 6 a woman married to a Sudanese man may acquire Sudanese nationality by naturalization after residing in Sudan for two years with her husband; UNHCR (2011) “UNHCR Discussion Paper on Nationality Issues in Sudan and South Sudan” <http://citizenshiprightsafrika.org/unhcr-discussion-paper-on-nationality-issues-in-sudan-and-south-sudan/?lang=fr>.

⁷⁶⁷ UNHCR (2015) “Global Focus- Sudan,” <http://reporting.unhcr.org/node/2535>.

⁷⁶⁸ UNHCR (2012) “Submission for Refugees for the Office of the High Commissioner for Human Rights’ Compilation Report - Universal Periodic Review for Sudan,” www.refworld.org/pdfid/4ccfe3502.pdf.

⁷⁶⁹ Information provided by the UNHCR.

⁷⁷⁰ Nobel, P. (1982) “Refugee Law in the Sudan,” The Nordic Africa Institute, <http://nai.diva-portal.org/smash/get/diva2:277752/FULLTEXT01.pdf>.

⁷⁷¹ The same goes for neighboring South Sudan with 1.5 million internally displaced persons.

⁷⁷² Section 23 of the Asylum (Organisation) Act 2014 provides “The current laws and regulations, organizing, obtaining the Sudanese nationality, by naturalization, shall apply to such refugee (*sic*), as may officially be recognized in the Sudan.”

⁷⁷³ Section 7(1) (c) of the Sudanese Nationality Act 1994 was amended in 2011 to include the words “lawfully and continuously” and the 5-year statutory requirement was extended to 10 years, The Sudanese Nationality Act 1994 and Sudanese Nationality Act (Amendment) 2011, www.refworld.org/pdfid/502cc1b92.pdf.

⁷⁷⁴ Section 7(1) (e) and Section 7(1) (f) of the 2011 Act.

not obtain valid work permits—to obtain Sudanese nationality they must have worked lawfully (or be currently lawfully and gainfully employed), but to be gainfully and lawfully employed requires travel and work permits. In this context, the UNHCR and other agencies have advocated for limited local integration through access to self-reliance mechanisms, especially employment in the informal labor market, especially for protracted populations.⁷⁷⁵

1. LAW

Refugee Law

National legislation. In 2014, Sudan adopted a new Asylum (Organisation) Act. Until then Sudan’s asylum policy and practice were regulated by the very succinct Regulation of Asylum Act 1974. Sudan is also party to the 1951 Refugee Convention (but with reservations to Article 26 on Freedom of Movement),⁷⁷⁶ the 1967 Protocol, and the Organization for African Unity Refugee Convention.

Institutions. The administrative framework for Sudan’s asylum policy and practice falls under the mandate of the Commission for Refugees (COR).⁷⁷⁷ The Asylum (Organisation) Act 2014 broadened the role of the COR, and refugee status determination (RSD) is only one small component of its overall responsibilities.⁷⁷⁸ Registration of all persons in Sudan (that is, nationals and foreigners, including refugees) is the responsibility of the Civil Registry, which then issues all foreigners, including refugees, an Alien Registration Identity number. The Civil Registry and the Directorate of Passports and Immigration were previously a single entity but were split, and the Directorate became involved in the registration of South Sudanese refugees under the memorandum of understanding of December 21, 2014. The COR still conducts RSD in Shagarab Camp in the east, while no RSD is conducted in the west (Darfur); RSD is not available in urban areas either.⁷⁷⁹ In December 2015, however, the UNHCR negotiated an urban-based RSD project that is initially targeting a preexisting refugee population of asylum seekers, mostly from the residual members of the pre-1991 Ethiopian refugee population that remained after implementation of the Ethiopian Cessation Clauses.⁷⁸⁰

⁷⁷⁵ UNHCR Policy Development and Evaluation Service (2012) “The Implementation of UNHCR’s Policy on Refugee Protection and Solutions in Urban Areas, 2012 Global Survey,” www.unhcr.org/516d658c9.pdf.

⁷⁷⁶ Reservations and declarations to the 1951 Refugee Convention, www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=3d9abe177&query=1951%20Refugee%20Convention.

⁷⁷⁷ As per Section 24 of the Asylum (Organisation) Act 2014.

⁷⁷⁸ Section 25, among other sections of the Asylum (Organisation) Act 2014, covers the responsibilities of the Commission; RSD is only a minuscule part and is canvassed at Section 25(4)(e), which reads “[...function to] receive and sort out the asylum applications and submit the same, before the Commissioner, for determination thereof.” The service-implementing role is generally covered under Section 25(4)(b), which reads “[functions to] supervise, rendering and executing services, to refugees, in coordination with the High Commission, (sic) its partners and civil society organizations.”

⁷⁷⁹ Asylum seekers from Ethiopia and Eritrea entering via land borders in the east are generally not expected to espouse their claims in the urban centers.

⁷⁸⁰ On March 1, 2000, the UNHCR withdrew refugee status from Ethiopians who fled their homeland before 1991, applying the “ceased circumstances” portion of the Cessation Clause of the 1951 Refugee Convention; from that day onward, the UNHCR no longer conferred automatic refugee status on Ethiopians who fled their country before 1991, “Ethiopia: No More Automatic Status for Pre-1991 Flight,” www.unhcr.org/news/briefing/2000/2/3ae6b81b70/ethiopia-automatic-status-pre-1991-flight.html. The plan is to

Access to protection. Despite national legislation and more than four decades hosting refugees, the Sudanese national asylum system and its institutional capacity have long been considered weak, leaving many asylum seekers undocumented.⁷⁸¹

In practice, the government conducts individual RSD and provides refugee identification documents. However, the UNHCR sometimes conducts RSD under its mandate in specific situations,⁷⁸² such as when individuals are denied access to the national asylum procedures or for those who have been rejected but whom the UNHCR believes deserve international protection. It may also conduct RSD for individuals who fail to register at designated points of entry and cannot be registered in Khartoum, and at times specifically for resettlement purposes to ensure that cases that are submitted for resettlement satisfy the 1951 Refugee Convention and not only the broadened 1969 Organization for African Unity Convention criteria.

Sudan has traditionally received refugees in waves in which individualized interviews were impractical. Group or prima facie recognition has thus always been applied and is now institutionalized.⁷⁸³ For instance, Chadians have all received prima facie status from the government.⁷⁸⁴ For South Sudanese, Syrians, and Yemenis, the government is applying Arab/Islamic conceptions of asylum.⁷⁸⁵ With respect to the massive arrivals of South Sudanese, the UNHCR and the Sudanese Red Crescent Society conduct individual registration in White Nile State while the Directorate of Passport and Immigration registers asylum seekers in four other sites.⁷⁸⁶ Registration of South Sudanese started at the beginning of 2015 as a result of an agreement signed in 2014 between the UNHCR, the COR, and the Directorate General of Passports and Immigration.

In 2002, Sudan ceased applying refugee status to those who had fled the Eritrean War for Independence and subsequent conflict between Ethiopia and Eritrea, but repatriation was halted in 2004 after widespread international criticism of Eritrea's human rights record.⁷⁸⁷ Since then, Sudan has, on several

extend this project, over time, to other urban centers such as Kassala, Port Sudan, Nyala in Darfur, and others, information provided by the UNHCR.

⁷⁸¹ UNHCR (2007) "Country Operations Plan–Sudan," www.unhcr.org/4524fcb82.pdf.

⁷⁸² Refugee status determination pursuant to the UNHCR's mandate is a core UNHCR protection function; for more information, refer to UNHCR (2003) "Procedural Standards for Refugee Status Determination under UNHCR's Mandate," www.refworld.org/docid/42d66dd84.html.

⁷⁸³ Section 8 of the Asylum (Organisation) Act 2014 referring to mass asylum.

⁷⁸⁴ United States Committee for Refugees and Immigrants (2009) "World Refugee Survey–Sudan," www.refworld.org/docid/4a40d2b285.html.

⁷⁸⁵ In Sudan, while the national refugee legislation is modern and follows the 1951 Refugee Convention, the practice related to forced migration is greatly influenced by the Islamic principle relating to *hijrah*, the humanitarian tradition of receiving foreigners and those in need of protection, Elmadmad, K. (2008) "Asylum in Islam and in Modern Refugee Law," *Refugee Survey Quarterly* Vol. 27, No. 2; Nobel, P. (1982) "Refugee Law in The Sudan," <http://nai.diva-portal.org/smash/get/diva2:277752/FULLTEXT01.pdf>. As of November 1, 2015, Sudan hosted some 5,500 Yemeni refugees, and following an agreement between the COR and the UNHCR in August 2015, new asylum seekers have been granted prima facie refugee status, UNHCR (2015) "Yemen Situation Regional Refugee and Migrant Response Plan," www.data.unhcr.org/yemen/download.php?id=111.

⁷⁸⁶ UNHCR (2015) "Operational Update for South Sudan–Sudan," <http://data.unhcr.org/SouthSudan/country.php?id=204>.

⁷⁸⁷ IRIN (2012) "In-Depth: Top 10 Neglected Refugee Crises," www.irinnews.org/report/96797/in-depth-top-10-neglected-refugee-crises.

occasions, deported Eritreans and other asylum seekers and refugees in violation of the 1951 Refugee Convention and the 2014 Sudanese Asylum Act.⁷⁸⁸ Mass round-ups and deportations reportedly increased in 2014, and asylum seekers were convicted on charges of illegal entry into Sudan without being given access to asylum procedures.⁷⁸⁹ Despite large numbers of refugees in Khartoum, Eritreans in particular, until December 2015, there had been no policy on urban refugees or arrangements for RSD in urban centers. Consequently, this population had no legal status and remained vulnerable to round-ups, detention, deportation, and *refoulement*.⁷⁹⁰ A Joint Urban Strategy is, however, being developed and under the Asylum (Organisation) Act 2014 the prohibition against forcible returns is specifically recognized.⁷⁹¹

Freedom of movement. Sudan's reservation to Article 26 of the 1951 Refugee Convention restricting freedom of movement of refugees has led to encampment policies and penalization of refugees who attempt to leave the camps without permission of the COR.⁷⁹² Provisions of the Asylum (Organisation) Act 2014 restrict freedom of movement for refugees.⁷⁹³ To obtain a travel permit, refugees must provide documentation to show they have just cause to leave the camp, which is then approved by the COR and the National Intelligence and Security Service (NISS). However, going to look for a job is not one of the factors that COR or NISS will consider when issuing a permit; therefore, most camp refugees in the east of Sudan, are not able to obtain travel permits to seek employment outside the camps.⁷⁹⁴

Right to work – refugee and labor and employment law

The Regulation of Asylum Act 1974 allowed refugees to work, but their employment was subject to certain restrictions. These provisions and restrictions have been imported into the Asylum (Organisation) Act 2014. Refugees are dependent on obtaining a work permit from the Department of Labour before being able to enter wage-earning activities.⁷⁹⁵ When applying for a work permit, refugees are asked to present

⁷⁸⁸ Amnesty International (2012) "Sudan Must End Forced Returns of Asylum Seekers to Eritrea," Public Statement, www.amnesty.org/en/documents/AFR54/039/2012/en/; UNHCR (2014) "UNHCR Concerned over Forced Returns of Refugee and Asylum-Seekers from Sudan," Briefing Notes, www.unhcr.org/53b69a4f9.html.

⁷⁸⁹ A group of 32 Eritrean asylum seekers was found guilty under article 30 (1) of Sudan's Immigration and Passport Act of 1994 on illegal entry, which provides that "whoever enters or resides in Sudan illegally shall be imprisoned for no less than one year and not exceeding two years, fined or both together. The punishment also includes a deportation order from the court," African Centre for Justice and Peace Studies (2015) "32 Eritreans at Risk of Forced Return from Sudan," www.acjps.org/32-eritreans-at-risk-of-forced-return-from-sudan-2/; UN News Centre (2014) "UN Refugee Agency Warns Sudan over Forced Return of Eritrean Asylum Seekers," www.un.org/apps/news/story.asp?NewsID=48206#.Vm6RpPkrLIU.

⁷⁹⁰ UNHCR (2012) "Submission for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report - Universal Periodic Review for Sudan," www.refworld.org/pdfid/4ccfe3502.pdf.

⁷⁹¹ Section 29 of the Asylum (Organisation) Act 2014.

⁷⁹² Refugees who travel without a travel permit are at high risk of arrest and detention and subsequently deportation; UNHCR Policy Development and Evaluation Service (2012) "The Implementation of UNHCR's Policy on Refugee Protection and Solutions in Urban Areas, 2012 Global Survey," www.unhcr.org/516d658c9.pdf.

⁷⁹³ Section 13(2)(d), of the Asylum (Organisation) Act 2014, accords refugees "treatment as favorable as possible, and not less favorable than that accorded to aliens generally in the same circumstances."

⁷⁹⁴ Information provided by the UNHCR.

⁷⁹⁵ Section 18(1) of the Asylum (Organisation) Act 2014 specifies that "refugee shall be permitted to work after obtaining a work permit from the competent labour office. The labour office shall send a copy of the work permit to the commission and the ministry within two weeks from the date of its issuance."

their qualifications and supporting documents, and may be told that their skills and qualifications are widely available and that there are no job opportunities, precluding issuance of a work permit.⁷⁹⁶

Under the 2014 Act, refugees are also not allowed to work in sensitive sectors of the economy and in employment related to security and national defense.⁷⁹⁷ Theoretically, refugees have a right to engage in liberal professions.⁷⁹⁸

The UNHCR understands that the paucity of work permits issued thus far is due to an organizational change within the government whereby a separate Labor Office is being established specifically to deal with applications for work permits from refugees.⁷⁹⁹ Applications from refugees will thus immediately be identifiable and may lead to the exclusion of refugees from the labor market given protectionist policies, which, in turn, are objectively impelled by the economic decline, itself caused partly by the sanctions regime and loss of oil revenue caused by the secession of South Sudan and the ongoing insurgency in the South.

The prohibition on ownership of land by refugees is an additional legal barrier to refugees' economic integration and possibilities of self-reliance.⁸⁰⁰

2. POLICY AND PRACTICE

Constraining factors

Even though the Asylum (Organisation) Act 2014 does allow refugees to work, the reality is far from what the legislation calls for. First, work permits are difficult to obtain because the procedure requires documentation that many refugees may not or no longer possess. Work permits are usually granted for one year, with no promise of renewal. Furthermore, as seen above, the prerequisite of a "lawful way of earning a living" preceding the 10 years it takes to be eligible to apply for nationality mentioned in the Sudanese Nationality Act 1994 poses a further barrier to integration as a durable solution. In 2012, only 180 refugees received work permits.⁸⁰¹

⁷⁹⁶ Pantuliano, S., M. Assal, B. A. Elnaiem, H. McElhinney, and M. Schwab, with Y. Elzein and H. M. Mahmoud Ali, (2011) "City Limits: Urbanisation and Vulnerability in Sudan- Khartoum Case Study," Humanitarian Policy Group, Overseas Development Institute, www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/6520.pdf.

⁷⁹⁷ Section 18(2) of the Asylum (Organisation) Act 2014.

⁷⁹⁸ Section 13 (2) (d) of the Asylum (Organisation) Act 2014.

⁷⁹⁹ Before the amendment to the Regulation of Asylum Act 1974, work permits were issued by the Department of Labour in the same way that the department deals with ordinary aliens and foreigners.

⁸⁰⁰ Section 9 of the Regulation of Asylum Act 1974 prohibited refugees from owning land or immovables in Sudan; Nobel, P. (1982) "Refugee Law in the Sudan," The Nordic Africa Institute, <http://nai.diva-portal.org/smash/get/diva2:277752/FULLTEXT01.pdf>.

⁸⁰¹ UNHCR News (2013) "UNHCR Signs Agreement to Grant Work Permits for 30,000 Refugees in East Sudan," www.unhcr.org/524bec189.html.

A 2009 UNHCR and World Food Programme joint assessment found that the inability to afford to start up a business was a major concern for refugees who had graduated from vocational training programs.⁸⁰²

Unable to enter the formal labor market, in the informal economy refugees are subjected to low wages and to exploitation by employers. The Overseas Development Institute's interviews with refugees suggest that Ethiopian and Eritrean women are most at risk of working overtime while being underpaid. Some are sexually harassed by their employers, but fearing further harassment from unscrupulous policemen or officials, they rarely report abuse or seek support.⁸⁰³

Restrictions on freedom of movement make it difficult for refugees to access the labor markets, which are mostly in urban settings such as Kassala and Khartoum. Movement restrictions also affect refugees' access to rural labor markets and land, causing inadequate livelihood options and increasing their dependency on aid. Given the limited options at camp level, refugees opt to travel illegally to urban settings where the promise of gainful employment is a pull factor. Refugees who violate restrictions on their movement face protection risks such as arrest, detention, and possible deportation or *refoulement*.

Those refugees, especially Eritreans, who attempt to continue their journey out of Sudan usually have recourse to smugglers; some have drowned in the Mediterranean Sea.⁸⁰⁴

Facilitating factors

Although the government is not officially supporting local integration, in practice, progress has been made toward self-reliance and livelihoods strategies for camp-based refugees in the east, based on the 2007 UNHCR/Commissioner for Refugees Joint Solutions Strategy for the Protracted Refugee Situation in Sudan and the 2009 Self-Reliance Strategy, which focuses on reducing the number of refugees that are dependent on direct assistance.⁸⁰⁵

The UNHCR has continuously advocated removing practical barriers to refugees' receiving work permits. In an effort to promote local integration, the UNHCR has used incentives to encourage refugees' access to local labor markets. For instance, the UNHCR and other organizations have installed water pumps and distributed food to the local population on the condition that refugees be allowed to work and integrate into their communities.⁸⁰⁶ And for a long time, Sudan had "Refugee Affected Areas," for which the UNHCR

⁸⁰² World Food Programme, UNHCR, and Commissioner for Refugees (2009) "Joint Assessment Mission, Eastern Sudan Review of Assistance to Eritrean and Ethiopian Refugees," <http://documents.wfp.org/stellent/groups/public/documents/ena/wfp240239.pdf>.

⁸⁰³ Pantuliano, S., M. Assal, B. A. Elnaiem, H. McElhinney, and M. Schwab, with Y. Elzein and H. M. Mahmoud Ali, (2011) "City Limits: Urbanisation and Vulnerability in Sudan- Khartoum Case Study," Humanitarian Policy Group, Overseas Development Institute, www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/6520.pdf.

⁸⁰⁴ UNDP/UNHCR Transitional Solutions Initiative Joint Programme for Refugees and their Host Communities, Eastern Sudan, www.sd.undp.org/content/dam/sudan/docs/project_docs/cp16%20UNDP-UNHCR%20JP%20ProDoc%2012%20Feb.pdf.

⁸⁰⁵ Ambroso, G., J. Crisp, and N. Albert (2011) "No Turning Back, A Review of UNHCR's Response to the Protracted Refugee Situation in Eastern Sudan," United Nations High Commissioner for Refugees Policy Development and Evaluation Service, www.unhcr.org/4eb3e5ea9.pdf.

⁸⁰⁶ IRIN (2011) "Eritrea-Sudan: Refugees Battling for a Better Life," www.irinnews.org/report/93118/eritrea-sudan-refugees-battling-for-a-better-life.

acted as a catalyst for funding.⁸⁰⁷ The UNHCR has also done vocational training (VT), and the graduates work mainly in the markets in and around the camps.⁸⁰⁸ Nongovernmental organizations (NGOs) provide start-up kits for the VT graduates, although these are limited and more capital from local microfinance services is required by the refugees.

The government has given access to land to refugees in Um Gargour and Abuda Camps; those in Kilo 26 and Fau 5 Camps have full access to irrigation. Others have de facto access to farmland through private contracts with landlords.

In 2012 the UNHCR launched the Transitional Solutions Initiative (TSI) with the United Nations Development Programme (UNDP) and the World Bank, in close partnership with the Sudanese government, to promote self-reliance among some 77,000 long-staying refugees in eastern Sudan and aim toward their integration into the local population.⁸⁰⁹ A milestone of the initiative has been the endorsement of an agreement in 2013 to provide some 30,000 work permits to refugees in Kassala state.⁸¹⁰ However, at the beginning of 2014 the activities under the TSI were suspended after 97 permits were issued; UNHCR, UNDP, and COR agreed to resume implementation of targeted activities benefiting host communities and refugees following a review by the authorities.⁸¹¹ In 2015, the UNHCR signed the agreement with COR to provide 1,000 permits in coordination with the Labour Office, but final clearance from NISS at Khartoum has not yet been obtained.

The Sudanese government has declared that refugees from South Sudan should be “treated as Sudanese citizens” with unrestricted right to stay in Sudan as long as the conflict continues, and should enjoy the so-called Four Freedoms: with their ID cards, they will have the same rights as Sudanese citizens, that is, free movement; registration of births, marriages, divorce, and death; the right to work; and access to education and health services.

3. MEDIATING CONDITIONS

Socioeconomic conditions

Sudan is a lower-middle-income country; almost half of its population lives in poverty. Since the secession of South Sudan in 2011, Sudan has become poorer, as illustrated by its sudden drop on the Human Development Index. A high unemployment rate, affecting mainly the country’s youth, combined with a rising and increasingly urbanized population, remains one of Sudan’s major challenges. Furthermore,

⁸⁰⁷ This project for refugee-affected areas no longer exists, but according to the European Union Better Migration Management Team there is a plan to implement programs along the same lines to stem the European migration and assist refugee-hosting regions, information provided by the UNHCR.

⁸⁰⁸ An impact assessment report conducted in 2012 indicated that almost two-thirds of the VT graduates (65 percent) were employed, of which 70 percent were self-employed, and that 81 percent of the employed graduates (male 77 percent and female 87 percent) worked in the field for which they were trained.

⁸⁰⁹ UNDP/UNHCR Transitional Solutions Initiative Joint Programme for Refugees and their Host Communities, Eastern Sudan, www.sd.undp.org/content/dam/sudan/docs/project_docs/cp16%20UNDP-UNHCR%20JP%20ProDoc%2012%20Feb.pdf.

⁸¹⁰ UNHCR News (2013) “UNHCR Signs Agreement to Grant Work Permits for 30,000 Refugees in East Sudan,” www.unhcr.org/524bec189.html.

⁸¹¹ UNHCR (2014) “Sudan Fact Sheet,” www.unhcr.org/524d87ac9.html.

poverty levels in the country are aggravated by the large numbers of people internally displaced by conflict and natural disasters who need to be supported in reestablishing sustainable livelihoods.⁸¹²

Refugees in camps are concentrated in eastern Sudan, which, unlike in the past when it was the country's food basket, is today one of the poorer regions of the country. Refugees, IDPs, and Sudanese citizens alike face an oversaturated informal economy that is leading to growing levels of unemployment and underemployment.⁸¹³

A UNHCR assessment at the end of 2012 revealed that more than 52 percent of the refugee population lived below the poverty line,⁸¹⁴ a similar figure as for nationals. However, rates vary tremendously from location to location.⁸¹⁵

Despite movement restrictions and Sudan's encampment policy, many refugees, in particular, the newly arriving younger generation of refugees, move to Sudan's cities, especially Khartoum, Kassala, and Port Sudan, seeking employment opportunities. In towns and cities, urban refugees share limited services with nationals without receiving further assistance from the UNHCR or NGOs.⁸¹⁶ Not able to obtain the requisite permits, most urban refugees continue to work and live illegally, at risk of arrest and detention.

Refugee profiles

The refugee profile has evolved over time, especially when considering the protracted displacement of Eritreans. Most of the Eritreans who participated on the losing side of the various groups that fought for independence, such as the Eritrean Liberation Front, or those who simply escaped the 1961–91 Eritrean War for Independence, are largely integrated and some managed to obtain Sudanese documents.⁸¹⁷ Some

⁸¹² UNDP (2014) "Update on Macroeconomic Developments in Sudan, Sudan Talks Series," www.undp.org/content/dam/sudan/docs/policy_roundtable/doc/amend/UNDP%20%20Macroeconomic%20Update%2016%20April%202014.pdf.

⁸¹³ Ambroso, G., J. Crisp, and N. Albert (2011) "No Turning Back: A Review of UNHCR's Response to the Protracted Refugee Situation in Eastern Sudan," United Nations High Commissioner for Refugees Policy Development and Evaluation Service, www.unhcr.org/4eb3e5ea9.pdf.

⁸¹⁴ UNHCR News (2013) "UNHCR Signs Agreement to Grant Work Permits for 30,000 Refugees in East Sudan," www.unhcr.org/524bec189.html.

⁸¹⁵ In Khartoum, a little over a quarter of the population is below the poverty line, while in North Darfur the figure is more than two-thirds, The Guardian Global Development Poverty Matters blog (2014) "Sudan: A Country Ensnared by Poverty, Inequality and Underdevelopment," www.theguardian.com/global-development/poverty-matters/2014/mar/06/sudan-poverty-inequality-underdevelopment.

⁸¹⁶ Pantuliano, S., M. Assal, B. A. Elnaiem, H. McElhinney, and M. Schwab, with Y. Elzein and H. M. Mahmoud Ali, (2011) "City Limits: Urbanisation and Vulnerability in Sudan- Khartoum Case Study," Humanitarian Policy Group, Overseas Development Institute, www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/6520.pdf.

⁸¹⁷ These refugees have not been deregistered from the assistance registers and the UNHCR does not have information on exactly who has been naturalized, information provided by the UNHCR.

live with local communities and belong to the same ethnic groups, like the Rashaida⁸¹⁸ and Beja people, two tribes that are found on both sides of the border.⁸¹⁹

New Eritrean arrivals are mostly young, well educated, and from urban backgrounds. They come from the highlands and have no cultural or ethnic ties with local populations, and most of them do not intend to integrate but rather consider Sudan to be a transit country.⁸²⁰ The local population has generally been less tolerant of these new arrivals.⁸²¹

4. OUTCOMES

Participation in the labor market

In rural camps, most refugees are involved in agriculture, livestock production, and micro-business, or as casual laborers, while some are self-employed. However, the range of employment refugees have access to is narrow. In eastern Sudan, employment opportunities and income sources outside the agricultural sector are few. Camp refugees lack employment, and while some opportunities exist in farms, access to agricultural lands remains limited, and refugees are subject to movement restrictions. Furthermore, poorer households, particularly women and youth, tend to lack the capacity to sustain profitable activities because of lack of access to land; unreliable rainfall and insufficient water resources; lack of adequate tools, equipment, and technologies; and limited coverage of extension services.

In urban areas, refugees are engaging in activities such as truck driving, barbering, rickshaw driving, catering, and vending, while young Eritrean and Ethiopian refugee women work in restaurants and at the homes of rich people as housemaids, although during the past decade housemaids began to come from Indonesia and the Philippines, and became competitors to the refugees.⁸²² Employment limitations also apply in urban areas, where many jobs are inaccessible to refugees.

While they are generally underpaid and at risk of exploitation, economic opportunities in the informal sector still allow refugees to make a living, and even to send money back home or accumulate savings to pay for their onward journey to a third country.

⁸¹⁸ Rashaida are “smugglers” by trade, dealing in goods ranging from oil to sugar to cars. They have been carrying on business in this way, importing and exporting goods, for decades and are thus found on both sides of the border, information provided by the UNHCR.

⁸¹⁹ IRIN (2011) “Eritrea-Sudan: Refugees Battling for a Better Life,” www.irinnews.org/report/93118/eritrea-sudan-refugees-battling-for-a-better-life.

⁸²⁰ IRIN (2011) “Eritrea-Sudan: Refugees Battling for a Better Life,” www.irinnews.org/report/93118/eritrea-sudan-refugees-battling-for-a-better-life.

⁸²¹ World Food Programme, UNHCR, and Commissioner for Refugees (2009) “Joint Assessment Mission, Eastern Sudan Review of Assistance to Eritrean and Ethiopian Refugees,” <http://documents.wfp.org/stellent/groups/public/documents/ena/wfp240239.pdf>.

⁸²² Assal, M. A. (2007) “Refugees From and To Sudan,” Paper Prepared for the Migration and Refugee Movements in the Middle East and North Africa, The Forced Migration & Refugee Studies Program, The American University in Cairo, <http://schools.aucegypt.edu/GAPP/cmrs/Documents/MunzoulAssal.pdf>.

SUMMARY AND CONCLUSION

Although legally permitted to work,⁸²³ only refugees with work permits are able to access the formal labor market and have the same employee rights as Sudanese citizens. But in practice, restrictions on movement, discriminatory administrative practices, socioeconomic factors, the rising population, economic sanctions, and high unemployment rates continue to limit refugees' access to the formal labor market.

Refugees are thus often engaged in unskilled labor in agricultural and other informal sectors, or small-scale income-generating activities in and around the camps. While various assessments have identified the market gaps in different areas, the majority of the refugees do not have sufficient livelihood assets to seize the opportunities because they lack human (vocational skills), social (organization), and financial (saving and lending) capital.

Despite being constrained to camps by restrictions on their movement, and no access to land and property, many refugees, especially youth, are seeking mainly informal employment opportunities in Sudan's biggest cities, earning lower wages and incomes.

In such a context, in which Sudan's level of economic development is a key reason why refugees' entitlement to work is not met, the UNHCR and other agencies have advocated for limited local integration through access to self-reliance mechanisms, especially employment in the informal labor market, in particular for protracted populations.

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⁸²³ In Sudan there is no "right" to work for refugees, there is only "permission" to work as per Art 18(1) of the Asylum Act, which is further subject to labor laws.

Turkey

PROFILE

- Party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol, but applies geographical limitation by providing “refugee status” only to individuals fleeing events occurring in Europe.⁸²⁴
 - 2,541,352 refugees and 212,408 asylum seekers totaling 2,753,760 = 3.5 percent of a total estimated population of 78.6 million.
 - The majority of refugees are Syrians under temporary protection in Turkey; the country also hosts significant numbers of refugees from Iraq, the Islamic Republic of Iran, and Afghanistan.
 - Some 269,193 Syrians under temporary protection are in camps⁸²⁵ along the Syrian border while the great majority of Syrian refugees now live in urban or peri-urban areas.⁸²⁶
- Human development rank and index: 72nd and 0.761
 - GDP: Growth 4 percent; Per capita US\$9,130
 - Upper-middle-income economy
 - Unemployment rate: 9.2 percent

CONTEXT

Turkey’s refugee population has increased exponentially since the inception of the conflict in Syria in 2011; Turkey has become host to the world’s largest refugee population.⁸²⁷ As the Syrian refugee crisis enters its sixth year, the protracted situation is having a growing impact beyond its neighboring countries.

⁸²⁴ Although the “geographical limitation” option was dismantled by the 1967 New York Protocol to the Convention, state parties who had signed the Convention before 1967 retained the option of maintaining it. The other countries that maintain this reservation are Monaco, the Republic of Congo, and Madagascar.

⁸²⁵ Statistics from Ministry of Interior Directorate General of Migration Management (DGMM). For further information: www.goc.gov.tr/icerik6/gecici-koruma_363_378_4713_icerik.

⁸²⁶ Some 85 percent of the Syrian refugees live outside the camps; Center for Middle Eastern Strategic Studies (2015), “Effects of the Syrian Refugees on Turkey,” www.alnap.org/resource/21692.

⁸²⁷ Pakistan is second with 1.5 million refugees; UNHCR (2016) “Global Displacement Trends,” 2015 report, www.unhcr.org/576408cd7.

Instability in the region is expected to persist, and consequent displacement, inside Syria and across the border into Turkey, will continue.⁸²⁸

While 26 camps located in the southeast of the country host nearly 270,000 refugees and provide them with access to various services, the majority live in cities across the country and struggle to access adequate housing and services.⁸²⁹

With no immediate prospects for return as the conflict continues in Syria, Turkey is faced with the likelihood of the prolonged stay of Syrian refugees, and the country's initial policy of providing aid and assistance in camps no longer meets the reality of growing numbers of mostly destitute urban refugees scattered across the country.⁸³⁰ The idea of local integration as a possible long-term solution is controversial and politically sensitive in Turkey and not in line with Turkish legislation, which limits "non-European" refugees' access to Turkish citizenship.⁸³¹

Because of the short distance from its west coast to the Greek islands in the Aegean Sea, which enables relatively easy passage to Europe, in addition to hosting the highest number of asylum seekers and refugees, Turkey is also the most important transit country in the context of migration to Europe.⁸³² To mitigate irregular flows into Europe from Turkey, the European Union (EU) and Turkey agreed on an EU-Turkey resettlement-return scheme to end irregular migration along the Eastern Mediterranean route, first on November 29, 2015, followed by a second deal on March 18, 2016.⁸³³

⁸²⁸ Given the fluid situation on the ground, the precise scale of refugee flows from Syria or Iraq is uncertain, UNHCR and UNDP (2016) "Regional Refugee & Resilience Plan, 2016–2017 in Response to the Syria Crisis for Turkey," www.3rpsyriacrisis.org/wp-content/uploads/2016/02/Turkey-2016-Regional-Refugee-Resilience-Plan.pdf.

⁸²⁹ Kirişçi, K. (2014) "Syrian Refugees and Turkey's Challenges: Going beyond Hospitality," Brookings, www.brookings.edu/~media/research/files/reports/2014/05/12-turkey-syrian-refugees-kirisci/syrian-refugees-and-turkeys-challenges-may-14-2014.pdf.

⁸³⁰ İçduygu, A. (2015) "Syrian Refugees in Turkey: The Long Road Ahead," Transatlantic Council on Migration, Migration Policy Institute, www.migrationpolicy.org/research/syrian-refugees-turkey-long-road-ahead.

⁸³¹ Both the Law on Foreigners and International Protection (LFIP) 2013 and the Settlement Law 2006 limit integration to "individuals or groups of Turkish descent and culture," Dinçer, O. B., V. Federici, E. Ferris, S. Karaca, K. Kirişçi, and E. Ö. Çarmıklı (2013) "Turkey and Syrian Refugees: The Limit of Hospitality," Brookings Institution and Strategic International Research Organization, [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).

⁸³² Norwegian Organisation for Asylum Seekers (2016) "Seeking Asylum in Turkey, A Critical Review of Turkey's Asylum Laws and Practices," www.asylumineurope.org/sites/default/files/resources/noas-rapport-tyrkia-april-2016_0.pdf.

⁸³³ Key measures of the March 18 deal include that as of March 20, 2016, all new irregular migrants crossing from Turkey to the Greek islands will be returned to Turkey; for every Syrian being returned to Turkey from the Greek islands, another Syrian will be resettled in the EU; Turkey will take necessary measures to prevent new sea or land routes for irregular migration opening from Turkey to the EU. Once irregular crossings between Turkey and the EU end or have been substantially reduced, a Voluntary Humanitarian Admission Scheme will be activated. The EU will, in close cooperation with Turkey, further speed up the disbursement of the €3 billion initially allocated under the Facility for Refugees in Turkey. Once these resources are almost spent, the EU will mobilize additional funding for the facility up to an additional €3 billion till the end of 2018; Di Bartolomeo, A. (2016) "EU Migration Crisis Actions with a Focus on the EU-Turkey Agreement," Migration Policy Centre, http://cadmus.eui.eu/bitstream/handle/1814/40925/RSCAS_MPC_2016_04.pdf?sequence=1&isAllowed=y.

1. LAW

Refugee Law

National legislation. Turkey's new migration and asylum law framework, which was developed in 2013, features two distinct categories of protection: (1) international protection statuses ("refugee status" and "conditional refugee status"), which are available upon individual assessment of asylum seekers, and (2) temporary protection status, which can be provided on a group basis in mass-arrival situations. Turkey's migration policy was reformed by promulgation in April 2013 of the Law on Foreigners and International Protection (LFIP), which provides a comprehensive framework for protecting and assisting all asylum seekers and refugees, regardless of their country of origin, by allowing individuals to apply for "international protection" in line with EU migration policies and international standards.⁸³⁴ The law, which has been in force since April 2014, however, maintains the geographical limitation to the 1951 Refugee Convention and differentiates three different types of status. Turkey provides "refugee status" only to individuals who fall within the refugee definition of the 1951 Refugee Convention but come from a "European country of origin."⁸³⁵ Persons who fall within the refugee definition of the 1951 Refugee Convention but come from a so-called non-European country of origin are classified as "conditional refugees," and allowed to reside temporarily in Turkey, until they are resettled to third countries in cooperation with the United Nations High Commissioner for Refugees (UNHCR). Finally, persons who do not fulfill the eligibility criteria for either refugee status or conditional refugee status under LFIP, but who would be subjected to the death penalty or torture in their country of origin if returned, or would be at "personalized risk of indiscriminate violence" because of situations of war or internal armed conflict, qualify for "temporary protection." Separately, some Iraqi asylum seekers reside in Turkey pursuant to a "humanitarian residence permit."⁸³⁶ There is no difference in access to fundamental rights to employment, education, health care, legal representation, and other rights, as well as international safeguards, such as protection from *refoulement*, the principle of nonpenalization and so on between the three types of status.⁸³⁷ However, different procedures apply in accessing these rights. Also, all three

⁸³⁴ Republic of Turkey, "Law No. 6458 of 2013 on Foreigners and International Protection," April 4, 2013, www.goc.gov.tr/files/files/eng_minikanun_5_son.pdf; Açıköz, M., and H. O. Ariner (2014) "Turkey's New Law on Foreigners and International Protection: An Introduction," Briefing Paper 2, Turkish Migration Studies Group at Oxford, Centre on Migration, Policy and Society, University of Oxford, https://www.compas.ox.ac.uk/media/BP-2014-TurkMis-Turkey_New_Law_Foreigners-1.pdf.

⁸³⁵ Before the LFIP 2013, the 1994 Regulation on Asylum No. 1994/6169, "Procedures and Principles related to Possible Population Movements and Aliens Arriving in Turkey either as Individuals or in Groups from Another Country" was applicable; refugees from countries outside Europe were not eligible to receive international protection from the Turkish government and had to turn to the UNHCR for protection and apply for temporary asylum from the Turkish authorities for permission to remain in Turkey while the UNHCR evaluated their claims. As a result of these complex and parallel procedures, it was taking months or years for applications to be processed; if their application was denied, applicants had to leave Turkey; Levitan, R. (2009) "Refugee Protection in Turkey," *Forced Migration Review* 32, www.fmreview.org/sites/fmr/files/FMRdownloads/en/statelessness/levitan.pdf.

⁸³⁶ A specific process may apply for Iraqis as per Article 46 of the LFIP and two circulars introduced by DGMM in August 2014 and February 2015: if an Iraqi national does not want to apply for international protection (asylum), and is not willing to go back to Iraq in view of the deteriorating security situation in Iraq, then he or she is given the option to stay in Turkey with a humanitarian residence permit. Thus, this is not a "status" given by DGMM but a process that is being allowed based on the preference of the individual.

⁸³⁷ The law and the secondary legislation grant these rights equally, information provided by the UNHCR.

durable solutions (local integration, resettlement, and voluntary repatriation) are available to temporary protection beneficiaries, whereas resettlement and voluntary repatriation are the only available durable solutions for conditional refugees.⁸³⁸

Alongside the LFIP, a Temporary Protection Regulation that came into effect in October 2014 and that sets out specific provisions for registration and documentation procedures provides Syrian nationals, refugees, and stateless persons coming from Syria with the right to a lawful stay in Turkey and grants access to the labor market and to education, health care, legal representation, interpretation services, and social assistance and services.⁸³⁹

Institutions. The LFIP gives authority to an agency within the Ministry of Interior, the Directorate General of Migration Management (DGMM), for carrying out all procedures related to foreigners and people seeking international protection, including temporary protection. In particular, the DGMM is tasked with “promulgating policies related to foreigners and international protection as well as refugee registration.”⁸⁴⁰ It is also tasked with issuing regulations regarding the rights and obligations of persons receiving temporary protection. Because the agency is still developing,⁸⁴¹ the UNHCR continues to assume an important role as a complementary protection actor for individually arriving non-Syrian asylum seekers subject to the DGMM international protection procedure, but the UNHCR is gradually handing over the registration and refugee status determination functions.⁸⁴² The UNHCR also provides support to the relevant Turkish authorities with respect to the temporary protection of Syrians in Turkey and works with the DGMM for identification, protection, and resettlement of a small number of Syrians with special protection needs.⁸⁴³ The Turkish Disaster and Emergency Management Presidency, an agency controlled by the Prime Minister, reportedly retains responsibility for running the camps.⁸⁴⁴

Access to protection. Although Turkey initially applied an open-door policy, the Syrian conflict and the ensuing massive displacement are now in their sixth year; therefore, Turkey’s 19 official border crossings are generally closed to Syrians. The possession of a valid passport, which only a minority were able to provide, is no longer sufficient to be admitted to Turkey, and as of January 8, 2016, Syrians are required

⁸³⁸ Conditional refugees are also excluded from family-unification rights whereas temporary protection beneficiaries are granted such family-unification rights in Turkey.

⁸³⁹ İçduygu, A. (2015) “Syrian Refugees in Turkey: The Long Road Ahead,” Transatlantic Council on Migration, Migration Policy Institute. www.goc.gov.tr/files/files/eng_minikanun_5_son.pdf.

⁸⁴⁰ In the period before the LFIP, responsibility for registering and processing asylum seekers was entrusted to the Foreigners Department of the National Police, Asylum Information Database—Turkey, www.asylumineurope.org/reports/country/turkey/introduction-asylum-context-turkey, accessed July 2016.

⁸⁴¹ Bidinger, S. (2015) “Syrian Refugees and the Right to Work: Developing Temporary Protection in Turkey,” Boston University International Law Journal, Vol. 33, www.bu.edu/ilj/files/2015/01/Bidinger-Syrian-Refugees-and-the-Right-to-Work.pdf.

⁸⁴² Asylum Information Database—Turkey, www.asylumineurope.org/reports/country/turkey/introduction-asylum-context-turkey.

⁸⁴³ Norwegian Organisation for Asylum Seekers (2016) “Seeking Asylum in Turkey, A Critical Review of Turkey’s Asylum Laws and Practices,” www.asylumineurope.org/sites/default/files/resources/noas-rapport-tyrkia-april-2016_0.pdf.

⁸⁴⁴ Bidinger, S., A. Lang, D. Hites, Y. Kuzmova, E. Nouredine, and S. M. Akram (2014) “Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing,” Boston University School of Law, www.bu.edu/law/central/jd/programs/clinics/international-human-rights/documents/FINALFullReport.pdf.

to have a visa to enter the country. Nevertheless, admission of vulnerable groups from Syria without passports continues on regular basis.⁸⁴⁵ However, under these circumstances, the overwhelming majority of those fleeing Syria use irregular entry points, passing through dangerous crossings and minefields.

There have been cases of unlawful detention in and unlawful deportation and *refoulement* from Turkey of asylum seekers and refugees, especially as a result of the EU-Turkey negotiations on migration and Turkey's pledge to the EU to restrict transit through its territory to Europe.⁸⁴⁶

Freedom of movement. International protection applicants are assigned to a province by the DGMM, under the dispersal scheme based on Article 71 of the LFIP.⁸⁴⁷

They would normally be required to stay in their assigned province until the end of the proceedings, although change of residence city is possible, and any travel outside the assigned province requires written permission. Failure to comply may lead to the implicit withdrawal of their application.⁸⁴⁸

Freedom of movement for temporary protection beneficiaries is also limited.⁸⁴⁹ Temporary leave from the camps can be granted for up to 10 days; for Syrian refugees living outside the camps, the authorities need to be notified if the person moves to another province.⁸⁵⁰ In August 2015, a written instruction from the DGMM, circulated to Governorates across Turkey, ordered the institution of measures by provincial authorities to control the movement of Syrians within Turkey.⁸⁵¹

Right to work – refugee and labor and employment law

The LFIP contains provisions regarding access to the labor market while a number of implementing regulations determine the procedures and principles governing employment of the distinct status holders.⁸⁵² A Regulation on Working Procedures of International Protection Applicants and Holders of International Protection Status issued in 2016 provides that foreigners who have the status of refugee or temporary protection have the right to work for an employer or on their own account upon receiving legal status.⁸⁵³ However, to work independently or be employed, status applicants or persons having conditional refugee status are obliged to have a work permit issued before they can start working; they

⁸⁴⁵ Information provided by the UNHCR.

⁸⁴⁶ Norwegian Organisation for Asylum Seekers (2016) "Seeking Asylum in Turkey, A Critical Review of Turkey's Asylum Laws and Practice," www.asylumineurope.org/sites/default/files/resources/noas-rapport-tyrkia-april-2016_0.pdf.

⁸⁴⁷ Applicants are referred to 62 cities in line with family links or other connections and based on their preferences.

⁸⁴⁸ Asylum Information Database—Turkey, www.asylumineurope.org/reports/country/turkey/introduction-asylum-context-turkey.

⁸⁴⁹ Asylum Access (2015), "Is Turkey's Refugee Work Permit Program Doing Enough?" Refugee Work Rights, <https://rtwasylumaccess.wordpress.com/2015/02/19/is-turkeys-refugee-work-permit-program-doing-enough/>.

⁸⁵⁰ Information provided by the International Labour Organisation.

⁸⁵¹ Asylum Information Database—Turkey, www.asylumineurope.org/reports/country/turkey/introduction-asylum-context-turkey.

⁸⁵² As per Article 89 (4) (c) of the LFIP, the principles and procedures governing the employment of applicants or international protection beneficiaries shall be determined by the Ministry of Labour and Social Security in consultation with the Ministry of Interior.

⁸⁵³ Article 4 (1) Regulation No. 6458 on Working Procedures of International Protection Applicants and Holders of International Protection Status was issued in Official Journal No. 29695 dated April 29, 2016.

can apply for a work permit six months after applying for international protection status.⁸⁵⁴ Applicant foreigners or conditional refugees to be employed in seasonal agriculture or animal husbandry are exempt from work permit requirements, but geographical restrictions and quotas can be introduced at the discretion of the Ministry of Labour and Social Security.⁸⁵⁵

Once an individual receiving international protection or a conditional refugee has a work permit, he or she is permitted to work independently or for any employer with the condition that access to the labor market may be temporarily restricted within market sectors, geographic areas, or professions when required by the conditions of the labor market as well as a by quota that requires a ratio of five Turkish citizens for every foreign worker under international protection. Refugees and temporary protection beneficiaries who have been residing in Turkey for three years, or are married to Turkish citizens, or have children with Turkish citizenship are exempted from these restrictions.⁸⁵⁶ With regard to remuneration, status applicants or conditional refugees cannot be paid less than the minimum wage.⁸⁵⁷

Announced in 2014, in January 2016 the Turkish government adopted the Regulation on Work Permits of Foreigners under Temporary Protection, allowing Syrians in possession of temporary identity cards to apply for work permits six months after their initial registration with the DGMM. The application for a work permit needs to be initiated by the employer willing to hire the refugee,⁸⁵⁸ while those seeking self-employment are “entitled to lodge an application for independent work permit.”⁸⁵⁹ As with applicant foreigners and conditional refugees, foreigners under temporary protection who will work in seasonal agricultural or livestock breeding activities are under the scope of work permit exemption although geographical or quota restrictions may apply.⁸⁶⁰ Although only able to work in the provinces in which they officially reside, they are not subject to sectoral or occupational restrictions, except for teachers and doctors, for whom the opinion of the Ministry of Education, Higher Education Board, and Ministry of Health is sought to verify diplomas and competencies. The Ministry of Labour and Social Security approves work permit applications on the basis of several evaluation criteria, including a quota of 10 percent for foreigners under temporary protection except in the agricultural and animal husbandry sector, where nonfixed quota restrictions can be introduced.⁸⁶¹ Once employed, foreigners under temporary protection cannot be paid less than the minimum wage.⁸⁶²

⁸⁵⁴ Article 5 (1) and Article 6 (3) of Regulation No. 6458.

⁸⁵⁵ Article 9 (1) and (2) of Regulation No. 6458.

⁸⁵⁶ Article 18 of Regulation No. 6458.

⁸⁵⁷ Article 17 of Regulation No. 6458.

⁸⁵⁸ The cost of a work permit is about US\$65; it is valid for one year, information provided by the UNHCR.

⁸⁵⁹ Article 5 (1), (2), and (3) of the Regulation on Work Permits of Foreigners under Temporary Protection.

⁸⁶⁰ Article 5 (4) and (5) of the Regulation on Work Permits of Foreigners under Temporary Protection.

⁸⁶¹ Article 8, Regulation 2016/8375 on Work Permits for Foreigners under Temporary Protection.

⁸⁶² Article 10, Regulation 2016/8375 on Work Permits for Foreigners under Temporary Protection.

2. POLICY AND PRACTICE

Constraining factors

The vast majority of refugees do not have access to formal employment. Employers may be unwilling to hire foreigners despite provision of incentives by the Ministry of Labour and Social Security to employers who would like to train and employ refugees. Because of challenges in accessing the labor market, but also difficulties in getting access to financing and securing loans, Syrians most often seek low-skill work. Language barriers, low levels of education or the inability to prove the level of education, the lack of information about their rights, and work permit procedures, in addition to financial pressures, are additional barriers preventing refugees from accessing the formal labor market.⁸⁶³ The protracted conflict in Syria combined with gradual exhaustion of their savings and limited access to assistance outside the camps have forced Syrians to join the informal labor market to sustain themselves.⁸⁶⁴ Competition between refugees and Turkish nationals, especially for low-skilled jobs, has gradually put downward pressure on wages.⁸⁶⁵ Furthermore, refugees working in the informal economy have no social security or other benefits, they cannot pursue any legal recourse if abused, and they can fall prey to human trafficking and exploitation. Urban refugees who are not registered are particularly vulnerable to abuse and exploitation.⁸⁶⁶

Facilitating factors

Turkish authorities have gradually allowed work permits to be issued to refugees, reportedly “to crack down on black market practices and allow their employment within a legal framework, without hurting the local workforce.”⁸⁶⁷ Turkey’s latest effort to offer work permits to Syrians is the outcome of a deal made with the EU in November 2015 to prevent secondary migration toward Europe in return for financial support, the granting of visas to Turks, and renewed talks on joining the EU.⁸⁶⁸ Some analysts say this would allow Syrians to “spread their skills across the market, removing the extreme competition for low-

⁸⁶³ Norwegian Organisation for Asylum Seekers (2016) “Seeking Asylum in Turkey, A Critical Review of Turkey’s Asylum Laws and Practices,” www.asylumineurope.org/sites/default/files/resources/noas-rapport-tyrkia-april-2016_0.pdf.

⁸⁶⁴ Bidinger, S., A. Lang, D. Hites, Y. Kuzmova, E. Nouredine, and S. M. Akram (2014) “Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing,” Boston University School of Law, www.bu.edu/law/central/jd/programs/clinics/international-human-rights/documents/FINALFullReport.pdf.

⁸⁶⁵ For instance, according to a study carried out by the Disaster and Emergency Management Presidency of Turkey in 2013 (“Syrian Refugees in Turkey”), more than half of refugees earn less than US\$250 per month, far less than the minimum wage in Turkey, International Labour Organization Regional Office for Arab States (2015) “Access to Work for Syrian Refugees in Jordan: A Discussion Paper on Labour and Refugee Laws and Policies,” www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_357950.pdf.

⁸⁶⁶ İcduygu, A. (2015) “Syrian Refugees in Turkey: The Long Road Ahead,” Transatlantic Council on Migration, Migration Policy Institute, www.migrationpolicy.org/research/syrian-refugees-turkey-long-road-ahead.

⁸⁶⁷ *Daily Mail* (2014) “Turkey to Grant Syrian Refugees Work Permits,” www.dailymail.co.uk/wires/afp/article-2833158/Turkey-grant-Syrian-refugees-work-permits.html.

⁸⁶⁸ *Hurriyet Daily News* (2014) “Turkey Plans to Ease Work Permits for Foreigners,” www.hurriyetdailynews.com/turkey-plans-to-ease-work-permits-for-foreigners.aspx?pageID=238&nID=70280&NewsCatID=347.

wage jobs and stimulate the Turkish economy, and enable refugees to enter the market as consumers, and not merely as aid recipients.”⁸⁶⁹

Alongside efforts to ease entry to the job market, since 2014 Turkish authorities have been facilitating greater access for Syrian refugees to its public schools,⁸⁷⁰ accrediting a parallel system of private temporary education centers that offer a Syrian curriculum,⁸⁷¹ granting scholarships to Syrian university students, and providing language courses both inside and outside the refugee camps.⁸⁷² Those under either temporary protection or international protection are granted access to vocational training courses ran by the Turkish Employment Agency (İŞKUR) and the Public Education Centres structures under each Provincial Directorate of Education.⁸⁷³ Some nongovernmental organizations also provide free language courses and vocational courses to temporary protection beneficiaries in some localities.

3. MEDIATING CONDITIONS

Socioeconomic conditions

Turkey is an upper-middle-income economy. It ranks 72nd on the Human Development Index. According to the World Bank, Turkey is experiencing a transition and is on the path toward becoming a high-income economy despite its high unemployment rate, especially among the youth.⁸⁷⁴ Turkey’s GDP growth remained stable and even increased in the first half of 2015 despite the regional crisis and political uncertainty. The refugee crisis nevertheless has placed a heavy financial burden on Turkey, which, as of March 2016 had spent approximately US\$10 billion providing both camp-based services and some assistance to urban refugees.⁸⁷⁵ Despite recent additional financial support provided by the EU, the

⁸⁶⁹ Bidinger, S. (2015) “Syrian Refugees and the Right to Work: Developing Temporary Protection in Turkey,” Boston University International Law Journal, Vol. 33, p. 236, www.bu.edu/ilj/files/2015/01/Bidinger-Syrian-Refugees-and-the-Right-to-Work.pdf.

⁸⁷⁰ Turkish public schools with high numbers of Syrians are facing significant pressure including capacity to deal with students who have been out of school for an extended period, need psychosocial or additional academic support to adapt to the new curriculum, and do not speak Turkish, Theirworlds (2015) “Partnering for a Better Future: Ensuring Educational Opportunity for All Syrian Refugee Children and Youth in Turkey,” www.aworldatschool.org/page/-/uploads/Reports/Theirworld%20-%20Educational%20Opportunity%20for%20Syrian%20Children%20and%20Youth%20in%20Turkey%202015_09_10%20Release.pdf?nocdn=1.

⁸⁷¹ Human Rights Watch (2015), “‘When I Picture Myself, I See Nothing’: Barriers to Education for Syrian Refugee Children in Turkey,” https://www.hrw.org/sites/default/files/report_pdf/turkey1115_reportcover_web.pdf.

⁸⁷² Cagaptay, S. (2014) “The Impact of Syria’s Refugees on Southern Turkey,” Policy Focus 130, The Washington Institute for Near East Policy, https://www.washingtoninstitute.org/uploads/Documents/pubs/PolicyFocus130_Cagaptay_Revised3s.pdf.

⁸⁷³ Temporary education centers offer an adapted Syrian curriculum in Arabic; they are recognized and certified by the Ministry of National Education (MoNE) and operate both in and outside of refugee camps; see Article 104 of the Active Labour Force Regulation and MoNE Circular 2014/21 on Education Services for Foreigners in Our Country.

⁸⁷⁴ The World Bank (2014) “Turkey’s Transitions,” Report No. 90509, www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2015/08/26/090224b083099d03/3_0/Rendere d/PDF/Main0report.pdf.

⁸⁷⁵ *The Guardian* (2016) “Turkey Outlines ‘One for One’ Plan to Tackle Syrian Refugee Crisis,” <https://www.theguardian.com/world/2016/mar/07/eu-offers-another-3bn-to-turkey-at-emergency-migration-summit>.

continuous migration influx from neighboring countries is likely to pose a challenge for poverty reduction.⁸⁷⁶

Accommodated in camps at the inception of the Syrian refugee crisis, new arrivals are now taking shelter in towns and cities, growing the ranks of Turkish nationals working in the informal economy. The sheer number of refugees, especially in urban areas bordering Syria,⁸⁷⁷ and the expanding length of their stay are fueling public hostility in the form of social tension and xenophobia because their presence is perceived to be contributing to rising housing costs, increased unemployment, and competition with Turkish citizens. The support provided to Syrians is perceived by many to be an act of charity as opposed to a legal right or obligation, and Syrians are consequently seen as unfairly benefiting from the limited resources of the country when many Turkish citizens live in poverty.⁸⁷⁸ Their presence is furthermore perceived to be having a negative impact on the labor market, with a majority of people concerned that they will lose their jobs because, as in Jordan and Lebanon, some employers now prefer to employ Syrians over local workers since they are cheaper.⁸⁷⁹

The presence of refugees has changed both the level and composition of Turkish employment. It has led to the withdrawal from the labor market of low-educated, female Turkish workers in informal agricultural jobs.⁸⁸⁰ At the same time, higher-paid formal jobs filled by native workers have increased and so have average wages for natives, suggesting that there has been an important compositional change in employment.⁸⁸¹ Data from the Turkish Statistic Institute also show that while the unemployment rate in southeastern Turkey, where most refugees are concentrated, reached 14.5 percent in 2013,⁸⁸² new economic development was also reported and unemployment decreased in the three provinces of Kilis, Gaziantep, and Adiyaman in southeast Turkey.

Refugee profiles

Most refugees have limited social ties with local communities and do not share their language. Syrian Kurds are the notable exception; they can integrate into Kurdish areas of southern Turkey and thus enjoy

⁸⁷⁶ World Bank (2015) "Micro Poverty Outlook, Europe and Central Asia."

⁸⁷⁷ At the start of 2014 almost half of Syrian refugees lived outside formal camps, and by late 2014 almost four out of five refugees were sheltered in towns and cities, İçduygu, A. (2015) "Syrian Refugees in Turkey: The Long Road Ahead," Transatlantic Council on Migration, Migration Policy Institute, www.migrationpolicy.org/research/syrian-refugees-turkey-long-road-ahead.

⁸⁷⁸ Norwegian Organisation for Asylum Seekers (2016) "Seeking Asylum in Turkey, A Critical Review of Turkey's Asylum Laws and Practices," www.migrationpolicy.org/research/syrian-refugees-turkey-long-road-ahead.

⁸⁷⁹ Özden, S. (2013) "Syrian Refugees in Turkey," Migration Policy Centre, Robert Schuman Centre for Advanced Studies, European University Institute, www.migrationpolicycentre.eu/docs/MPC-RR-2013-05.pdf.

⁸⁸⁰ Del Carpio, X., and M. Wagner (2015) "The Impact of Syrians Refugees on the Turkish Labor Market," Policy Research Working Paper 7402, World Bank Group, www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2016/02/09/090224b08415e3b5/3_0/Rendere d/PDF/The0impact0of00Turkish0labor0market.pdf.

⁸⁸¹ IMF (2016) "The Refugee Surge in Europe: Economic Challenges," IMF Staff Discussion Note, <https://www.imf.org/external/pubs/ft/sdn/2016/sdn1602.pdf>.

⁸⁸² Cagaptay, S. (2014) "The Impact of Syria's Refugee on Southern Turkey," Policy Focus 130, The Washington Institute for Near East Policy, https://www.washingtoninstitute.org/uploads/Documents/pubs/PolicyFocus130_Cagaptay_Revised3s.pdf.

better access to social networks and community support.⁸⁸³ While the majority of Syrians who initially fled to Turkey were Sunni Muslims, beginning in 2014 the arrival of Yazidis, Armenians, Assyrians, Kurds, and Alawites was met with anti-Arab sentiment, and the majority of Turkish nationals feel they do not share the same culture as Syrians and would choose not to be neighbors with Syrians.⁸⁸⁴ Such attitudes are also negatively affecting the lives of non-Syrian asylum seekers and refugees in general. Some Sudanese and Somali refugees have reported being denied work and housing because of their skin color while other refugees with non-Muslim and non-Sunni backgrounds also report being discriminated against.⁸⁸⁵

4. OUTCOMES

Participation in the labor market

Between 2011 and 2014, only 3,673 Syrian nationals were able to obtain work permits.⁸⁸⁶ According to the Turkish authorities, as of January 2016 some 7,351 Syrian refugees with residence permits (not Syrians under temporary protection) had been formally given work permits.⁸⁸⁷

Despite finding themselves in competition with unskilled Turkish workers, Syrians find temporary and informal jobs in the sectors of domestic work, construction, textiles, and agriculture.⁸⁸⁸ Threats of heavy fines for employing individuals without work permits have not prevented the rapid rise of cheap illegal migrant labor, and Turkish authorities have turned a blind eye to Syrians' informal participation in the workforce.⁸⁸⁹ Many refugees have reportedly mainly taken seasonal agricultural and low-skilled jobs, sometimes accepting worse working conditions, including for children.⁸⁹⁰ There has also been a sharp rise of new enterprises established by Syrians, estimated to have reached 4,000 in May 2016.⁸⁹¹

⁸⁸³ Seferis, L. (2014) "DRC Experiences of Cash Assistance to Non-Camp Refugees in Turkey and Lebanon," Field Exchange Issue 48, www.enonline.net/fex/48/drcexperiences.

⁸⁸⁴ Erdogan, M. (2015) "Perception of Syrians in Turkey," http://file.insightturkey.com/Files/Pdf/06_erdogan_5.pdf.

⁸⁸⁵ Norwegian Organisation for Asylum Seekers (2016) "Seeking Asylum in Turkey, A Critical Review of Turkey's Asylum Laws and Practices," www.asylumineurope.org/sites/default/files/resources/noas-rapport-tyrkia-april-2016_0.pdf.

⁸⁸⁶ Asylum Information Database—Turkey, www.asylumineurope.org/reports/country/turkey/introduction-asylum-context-turkey.

⁸⁸⁷ Some 100,000 foreigners applied to obtain work permits in Turkey between 2009 and 2013, and 64,279 of these applications were successful, according to data from the Labour Ministry, *Hurriyet Daily News* (2014) "Turkey Plans to Ease Work Permits for Foreigners," www.hurriyetdailynews.com/turkey-plans-to-ease-work-permits-for-foreigners.aspx?pageID=238&nID=70280&NewsCatID=347.

⁸⁸⁸ Boyacıoğlu, H. (2014) "Turkey Takes First Step to Offer Work Permit to Syrians," *Hurriyet Daily News*, www.hurriyetdailynews.com/turkey-takes-first-step-to-offer-work-permit-to-syrians.aspx?pageID=238&nID=73353&NewsCatID=347.

⁸⁸⁹ Bidinger, S., A. Lang, D. Hites, Y. Kuzmova, E. Nouredine, and S. M. Akram (2014) "Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing," Boston University School of Law, www.bu.edu/law/central/jd/programs/clinics/international-human-rights/documents/FINALFullReport.pdf.

⁸⁹⁰ International Labour Organization Regional Office for Arab States (2015) "Access to Work for Syrian Refugees in Jordan: A Discussion Paper on Labour and Refugee Laws and Policies," www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_357950.pdf.

⁸⁹¹ *Financial Times* (2016) "Syrian Refugee Entrepreneurs Boost Turkey's Economy," <https://www.next.ft.com/content/93e3d794-1826-11e6-b197-a4af20d5575e>.

SUMMARY AND CONCLUSION

Although Turkey's recent legislation and its proactive policy making on immigration and asylum issues are more closely aligned with international standards, shortfalls remain—in practice, the new law has not yet caught up with the standards it has set because of Turkey's limited implementation capacity. Despite being gradually allowed more formal labor market access, because of Syrian refugees' ever-increasing numbers and prolonged stay, job creation is a structural challenge, especially in border towns and cities where Syrians constitute a high percentage of the population. As a result, many refugees remain socially and economically vulnerable, and to sustain themselves, the majority will continue to access the informal labor market where they are vulnerable to abuse and exploitation. Some notable measures have been taken to redress these shortfalls, including by gradually integrating more refugees into the labor market, but these measures will have to be balanced with ensuring social cohesion.

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Uganda⁸⁹²

PROFILE

- **Party to the 1951 Convention relating to the Status of Refugees (but with reservations), the 1967 Protocol, and the 1969 Organization of African Unity Convention.**
 - **477,187 refugees and 35,779 asylum seekers totaling 512,966 = 1.35 percent of a total estimated population of 37.783 million.⁸⁹³**
 - **Protracted and new displacement of refugees mainly from Democratic Republic of Congo and South Sudan and a smaller number of Somali refugees.**
 - **The majority of refugees reside in the 14 settlements and 8 refugee villages in the northern and western parts of the country, but significant and increasing numbers are self-settled in urban areas, especially in Kampala.**
- **Human development rank and index: 163th and 0.493**
 - **GDP: Growth 4.6 percent; Per capita US\$615.3**
 - **Low-income economy**
 - **Unemployment rate: 2.3 percent**

CONTEXT

Uganda is directly adjacent to countries in the Great Lakes region, East Africa, and the Horn of Africa that have produced refugees, some of whom have lived in exile in Uganda for more than a decade. The number of refugees in Uganda has increased since 2010 with the renewed crisis in the Democratic Republic of Congo and since 2013 with the instability in Burundi. A sharper increase was caused by the massive arrival of South Sudanese refugees triggered by the renewed conflict in South Sudan in 2013 and the intensification of the conflict in 2016.⁸⁹⁴ With half a million refugees, Uganda was the third-largest

892. This case study has been revised to include developments through May 2017.

⁸⁹³. This number has significantly increased since the publication in June 2016 of the UNHCR's mid-2015 trend report: by 2016, the refugee population had almost doubled, and as of February 2017, Uganda was hosting more than 1 million refugees and asylum seekers according to the UNHCR (2017) "Uganda Refugees and Asylum-seekers as of 01 February 2017," <http://reliefweb.int/sites/reliefweb.int/files/resources/53647.pdf>.

894. UNHCR (2017) "South Sudan Regional Refugee Response Plan, Revised, January–December 2017," [http://reporting.unhcr.org/sites/default/files/2017%20Revised%20South%20Sudan%20Regional%20Refugee%20Response%20Plan%20-%20Jan-Dec%202017%20\(May%202017\).pdf#_ga=2.52350890.2006423951.1494876139-2070792137.1473951852](http://reporting.unhcr.org/sites/default/files/2017%20Revised%20South%20Sudan%20Regional%20Refugee%20Response%20Plan%20-%20Jan-Dec%202017%20(May%202017).pdf#_ga=2.52350890.2006423951.1494876139-2070792137.1473951852).

refugee-hosting country in Africa after Ethiopia and Kenya in 2015, but in 2016 the number of refugees almost doubled.⁸⁹⁵ Uganda also continues to host smaller numbers of refugees from Burundi, Eritrea, Ethiopia, Kenya, and Rwanda. The country has followed an open-door policy for refugees and has progressive refugee and asylum policies.

Voluntary repatriation is Uganda's preferred option for refugees, and when possible it is facilitated by the United Nations High Commissioner for Refugees (UNHCR). For instance, in 2014 the "spontaneous return" to the Democratic Republic of Congo of more than 5,000 refugees was facilitated by the refugee agency following a tripartite meeting between the governments of Uganda and the Democratic Republic of Congo and the UNHCR.⁸⁹⁶ Many refugees, however, remain unwilling or unable to return because current conditions in most of the countries of origin preclude large-scale assisted returns and the scale of the resettlement program is limited. Alternative solutions have been sought within Uganda through "local settlement," which aims to enable refugees to become self-reliant. It is, however, distinct from local integration given that it is not based on the assumption of permanent asylum and it offers refugees no prospect for obtaining citizenship.⁸⁹⁷

1. LAW

Refugee Law

National legislation. In 2006, Uganda passed legislation related to refugees that replaced the Control of Alien Refugees Act of 1960. Section 48 of the Refugee Act 2006 empowers the minister responsible for refugees to make regulations that give effect to the provisions of the act. In 2010, the Refugee Regulations were approved and made operational.⁸⁹⁸

Although a signatory to the 1951 Convention relating to the Status of Refugees, Uganda maintains reservations to a number of the Convention's rights.⁸⁹⁹

895. UNHCR (2017) "Uganda Refugees and Asylum-seekers as of 01 February 2017," <http://reliefweb.int/sites/reliefweb.int/files/resources/53647.pdf>.

896. UNHCR (2015) "Uganda Factsheet," www.unhcr.org/524d880a9.pdf.

897. In principle, the law would allow refugees meeting certain criteria to naturalize, but in practice it has invariably been refused to them, Cole, G. (2014) "Refugees' Integration in Uganda Will Require Renewed Lobbying," *Forced Migration Review* 48, www.fmreview.org/en/faith/cole.pdf.

898. Government of Uganda (2010) "The Refugees Regulations," www.refworld.org/docid/544e4f154.html.

899. Reservations apply to Article 7, exemption from reciprocity; Article 8, exemption from excessive measures; Article 9, provisional measures to maintain national security; Article 13, right to movable and immovable property; Article 15, right to association; Article 16, access to courts; Article 17, wage earning employment; Article 25, administrative assistance; and Article 32, restrictions on expulsion. In relation to Article 17 Uganda declared that it "shall not be construed as extending to refugees the benefit of preferential treatment granted to nationals of the states who enjoy special privileges on account of existing or future treaties between Uganda and those countries"; in addition, regulation 9 of the Refugees Regulations provides "A person who applies and is granted refugee status in Uganda and is a national of a member state of the East African Community shall enjoy all the rights and privileges conferred on 'community nationals' as set out in the Treaty and Protocols for the establishment of the East Africa Community," Hovil, L., and M. Chrispus Okello (2008) "The Right to Freedom of Movement for Refugees in Uganda," Georgetown University Press, www.refugee-rights.org/Publications/Staff%20publications/2008/Hovil.RightToFreedom.April2008.pdf.

Institutions. Refugee affairs are the responsibility of the central government and are dealt with by the Department of Refugees under the political leadership of the Minister for Disaster Preparedness, Management and Refugees in the Office of the Prime Minister (OPM).⁹⁰⁰ The coordination, settlement, management, and security at all refugee sites are also under the responsibility of the OPM.⁹⁰¹

Access to protection. Registration and refugee status determination (RSD) processes vary based on whether asylum seekers arrive at one of Uganda's rural refugee settlements or in Kampala. At a settlement, asylum seekers register directly with the OPM settlement commandant and the UNHCR. To apply for status, asylum seekers must submit a written application to the Refugee Eligibility Committee (REC) and are interviewed in the settlement by a subcommittee of the REC.⁹⁰²

Refugees arriving in Kampala must first report to the Refugee Front Office, a police unit (at the Old Kampala Police Station) staffed by officers of the Crime Intelligence Unit, for registration, and subsequently to the Directorate of Refugees under the Ministry of Disaster Preparedness and Refugees within the OPM, which handles refugee status determination. Individuals who do not qualify for *prima facie* status are requested to undergo an additional interview at the Old Kampala Police Station. The information is transmitted to the REC, which decides whether to grant refugee status in the presence of the UNHCR as observer. The decision is then communicated by the OPM Department of Refugees, who then informs the refugee.⁹⁰³

The Refugee Act 2006 grants residence in Uganda to asylum seekers whose applications are pending decision by the REC.⁹⁰⁴ The act entitles applicants to hearings and to legal or other assistance, and the REC must provide rejected asylum seekers the reason for rejection in writing. The REC has endeavored to reduce the number of pending RSD cases with sessions being conducted at least monthly in Kampala and in refugee settlements.⁹⁰⁵

The act provides for appeals, with evaluations of rejected cases by an independent quasi-judicial body, the Refugee Appeals Board (RAB).⁹⁰⁶ The RAB cannot overrule the REC, but after hearing appeals from rejected asylum seekers, it makes determinations about whether the decisions should be upheld or be reviewed by the REC.⁹⁰⁷

Although most RSDs have been carried out on an individual basis since 2007 and with a very high recognition rate,⁹⁰⁸ those fleeing South Sudan since fighting erupted in December 2013 have been

900. Article 189.1 of the Constitution of the Republic of Uganda 1995, www.statehouse.go.ug/sites/default/files/attachments/Constitution_1995.pdf.

901. UNHCR (2015) "Uganda Fact Sheet," www.unhcr.org/524d880a9.pdf.

902. Rory Peck Trust, "The Refugee Process in Uganda," <https://rorypecktrust.org/resources/exile/refugee-process/uganda>.

903. Jesuit Refugee Service, "Information for Refugees," www.jrsea.org/Advocacy?LID=354.

904. Section 23 of the Refugee Act 2006.

905. Information provided by the UNHCR.

906. The RAB decides but has to refer decisions back for reconsideration, United States Committee for Refugees and Immigrants (2009) World Refugee Survey "Uganda," www.refworld.org/docid/4a40d2b5c.html.

907. Government of Uganda, Office of the Prime Minister, Refugee Department, UNHCR, and WFP (2014) "Uganda Joint Assessment Mission," www.unhcr.org/54d3762f0.pdf.

908. Before 2007, Uganda operated a *prima facie* status determination system; in 2010 Uganda had a 97 percent recognition rate, Refugee Studies Centre (2010) "Refugee Status Determination and Rights in Southern and East

recognised on a *prima facie* basis, and as of 2014 those fleeing the Democratic Republic of Congo have also been considered on a *prima facie* basis.⁹⁰⁹

Episodes of large-scale forcible returns date back to 2010 when Uganda and Rwanda forcibly returned some 1,700 Rwandan asylum seekers and refugees.⁹¹⁰ However, according to Human Rights Watch, Uganda is not a safe country for Rwandan refugees who are known for their political opposition to the regime in Rwanda. This group has been subjected to incidents of killing, disappearance, and forcible return.⁹¹¹

Freedom of movement. Freedom of movement is subject to restrictions under the Refugee Act 2006. Although Section 30(1) provides that all refugees in Uganda are entitled to freedom of movement, Section 30(2) provides that this right may be restricted in line with the laws of Uganda or the direction of the Commissioner for Refugees applicable to aliens in the same circumstances. The restriction of rights is permissible “especially on grounds of national security, public order, public health, public morals or the protection of the rights and freedoms of others.” Moreover, there are limits on where refugees may be able to establish themselves, and Section 44(1)(b) of the 2006 Act provides that the minister responsible for refugees may designate public lands for the “local settlement and integration” of refugees; Section 44(2) requires that any refugee who wishes to reside outside designated areas must apply to the commissioner for a movement permit valid for up to 90 days.⁹¹² Permits to move are free for refugees in settlements, but most cannot afford to pay for transport. Refugees are also only eligible for aid if they stay in one of the settlements, which dissuades some from moving outside, although in practice the movement of refugees in and out of the camps has not been curtailed.⁹¹³

Right to work – refugee and labor and employment law

The Refugee Act 2006 guarantees that recognized refugees shall receive the same treatment as “aliens generally in similar circumstances” regarding the right to engage in gainful employment and provides that “gainfully employed refugees shall pay taxes,” suggesting that refugees are a group with the right to work.

⁹¹⁴

Africa,” International workshop report, www.rsc.ox.ac.uk/files/publications/event-reports/er-refugee-status-determination-rights-africa-2010.pdf.

909. *Prima facie* refugee status also applies to refugees from Burundi, Office of the Prime Minister (2016) “Statement of the Minister for Disaster, Preparedness, Relief & Refugees, Hon. Eng. Hillary Onek at the High Level Meeting on Addressing Large Movement of Refugees and Migrants,” www.un.org/en/development/desa/population/migration/events/ga/documents/2016/ecosoc/Uganda.pdf.

910. UNHCR News Stories (2010) “UNHCR Condemns Forced Return of 1,700 Rwandans from Uganda,” www.unhcr.org/4c406edb6.html.

911. Human Rights Watch (2014) “[Rwanda: Repression across Borders](#), Attacks and Threats against Rwandan Opponents and Critics Abroad,” www.hrw.org/news/2014/01/28/rwanda-repression-across-borders.

912. Hovil, L., and M. Chrispus Okello (2008) “The Right to Freedom of Movement for Refugees in Uganda, Refugee Rights: Ethics, Advocacy, and Africa,” Georgetown University Press, www.refugee-rights.org/Publications/Staff%20publications/2008/Hovil.RightToFreedom.April2008.pdf.

913. International Refugee Rights Initiative (2014) “Conflict in South Sudan: Refugees Seek Protection in Uganda and a Way Home,” www.refugee-rights.org/Publications/Papers/2014/14%2004%2001%20South%20Sudanese%20refugees%20FINAL.pdf.

914. Respectively, Section 29(1)(e)(vi) and Section 35(f) of the Refugee Act 2006.

However, for some, the right to work under the Refugee Act 2006 and the 2010 regulations is subject to legal interpretation, especially in relation to work permits where uncertainty persists. The Refugee Act 2006 does not state that refugees are exempt from obtaining a permit to work, and the fact that Article 64 of the 2010 Regulations states that “recognised refugees shall exceptionally be exempt from any requirement to pay any charges or fees prior to the taking up of any offer of or to continue in his or her employment” implies that in most cases refugees are required to obtain and pay a fee for a work permit. Yet, there appears to be some confusion or at least different views within the government as to whether refugees need work permits.⁹¹⁵ Refugees do not enjoy the benefits of social security, unemployment, or disability insurance, nor does labor legislation protect them.⁹¹⁶

There is also a discrepancy of views in relation to asylum seekers’ right to work. Some legal experts posit they do not have such a right because “the rights framework applicable under the Refugees Act applies only to formally recognized refugees, leaving asylum seekers with no specific protections beyond those provided by human rights law more generally.”⁹¹⁷ Asylum seekers cannot own businesses, property, or other assets.⁹¹⁸ On the other hand, the Refugee Act 2006 also states that “where asylum seekers are permitted to reside in Uganda ..., they shall be subject to the general treatment and rights accorded to refugees under this Act,” which could imply that they also have the right to work.⁹¹⁹ Other reports confirm that interpretation, but highlight that “despite the fact that employment is legal for asylum seekers in Uganda, job prospects are rare.”⁹²⁰

2. POLICY AND PRACTICE

Constraining factors

In principle, refugees have the right to work and to establish their own businesses, but various legal and socioeconomic obstacles prevent them from accessing employment. Delays in the operationalization of the Refugee Act 2006 have meant that refugees and asylum seekers had to “grapple with the recognition

915. The joint assessment by the OPM, the UNHCR, and WFP has interpreted the Refugee Regulations 2010 differently, stating that the regulations “expressly exempt refugees from having to pay fees required of foreign nationals working in Uganda,” Government of Uganda, Office of the Prime Minister, Refugee Department, UNHCR, and WFP (2014) “Uganda Joint Assessment Mission,” www.unhcr.org/54d3762f0.pdf, 19. The Immigration Department interprets the regulation to mean that refugees require work permits like other aliens; on the other hand, for the OPM, once a refugee is in the country, he or she is de facto granted the right to work, Betts, A., L. Bloom, J. Kaplan, and N. Omata (2017) *Refugee Economies: Forced Displacement and Development*, Oxford, UK: Oxford University Press.

916. Sharpe, M., and S. Namusobya (2012) “Refugee Status Determination and the Rights of Recognized Refugees under Uganda’s Refugees Act 2006,” *International Journal of Refugee Law* 24 (3).

917. Sharpe, M., and S. Namusobya (2012) “Refugee Status Determination and the Rights of Recognized Refugees under Uganda’s Refugees Act 2006,” *International Journal of Refugee Law* 24 (3).

918. United States Committee for Refugees and Immigrants (2009) “World Refugee Survey – Uganda,” www.refworld.org/docid/4a40d2b5c.html.

919. Section 25 (5) of the Refugee Act 2006.

920. Rory Peck Trust (2015) “The Refugee Process in Uganda,” <https://rorypecktrust.org/resources/exile/refugee-process/uganda>.

and respect of their rights, particularly the right to work and employment.”⁹²¹ Although the OPM has asserted that once a refugee is in the country she or he is allowed to work, in practice, the lack of clarity and varied enforcement of the regulations guiding employment cause confusion among government officials, employers, and refugees. Because of this and other reasons, such as social stigma against those employing refugees, some employers may be wary of hiring refugees, and even refugees working formally may still be harassed by local government and immigration officials.⁹²²

These barriers to employment are even more restrictive for asylum seekers, who face delays as long as two years in receiving decisions on their claims. There appear to be divergent views when it comes to asylum seekers’ right to work. Some claim that an asylum seeker is a protected person in Uganda and has assumed rights to work until his or her asylum claim is disposed of.⁹²³ Other analysts argue that asylum seekers do not have the right to work while they wait for status determination, a situation that severely compromises their livelihoods.⁹²⁴

The Refugee Law Project has highlighted that the cost of an annual work permit (US\$1,000) is prohibitive for refugees.⁹²⁵ The cost of a permit may also be arbitrarily elevated by local officials. Although refugees are allowed to set up businesses, the process is also costly and time-consuming, and if found operating without a license, refugees may have their goods and earnings confiscated.⁹²⁶ Refugees also have limited access to secondary education and vocational training, partially due to a lack of facilities and restrictive fees.⁹²⁷

Without start-up resources and basic inputs, for instance, micro-loans, many refugees are unable to start business ventures such as shops and restaurants.⁹²⁸ Refugees do not qualify for micro-credit with most

921. Refugee Law Project (2011) “Submission for the Universal Periodic Review for Uganda—Refugees, Internally Displaced Persons & Transitional Justice,” <http://lib.ohchr.org/HRBodies/UPR/Documents/session12/UG/RLP-RefugeeLawProject-eng.pdf>, 2.

922. Women’s Refugee Commission (2011) *The Living Ain’t Easy, Urban Refugees in Kampala*, <https://womensrefugeecommission.org/resources/document/701>.

923. Information provided by the UNHCR. This right could be derived from Section 25 (5) of the Refugee Act 2006, which states that “Where asylum seekers are permitted to reside in Uganda under subsection (3) of this section, they shall be subject to the general treatment and rights accorded to refugees under this Act.”

924. Refugee Law Project (2011) “Submission for the Universal Periodic Review for Uganda—Refugees, Internally Displaced Persons & Transitional Justice,” <http://lib.ohchr.org/HRBodies/UPR/Documents/session12/UG/RLP-RefugeeLawProject-eng.pdf>.

925. The OPM has, however, stated that it is aware that the Directorate of Citizenship and Immigration Control has gazetted a “free work permit” for refugees, which is pending implementation (information provided by the UNHCR).

926. Women’s Refugee Commission (2011) *The Living Ain’t Easy, Urban Refugees in Kampala*, <https://womensrefugeecommission.org/resources/document/701>.

927. Norris, K. (2013) “Livelihood Security among Refugees in Uganda: Opportunities, Obstacles, and Physical Security Implications,” SIT Graduate Institute, http://digitalcollections.sit.edu/cgi/viewcontent.cgi?article=2720&context=isp_collection.

928. Norris, K. (2013) “Livelihood Security among Refugees in Uganda: Opportunities, Obstacles, and Physical Security Implications,” SIT Graduate Institute, http://digitalcollections.sit.edu/cgi/viewcontent.cgi?article=2720&context=isp_collection.

formal financial institutions because they are considered a repayment risk—they lack proof of collateral, proof of past repayment, and social networks that can vouch for them.⁹²⁹

As a consequence of these obstacles, most refugees enter the informal economy, where they are at higher risk of discrimination and exploitation, including sexual exploitation experienced by some refugee women, especially widows and the unmarried, at the hands of other refugees and Ugandan nationals.⁹³⁰

Refugees' lack of knowledge of local laws and judicial systems puts them at risk of legal prosecution and arrest for tax evasion, and they often lose their products when caught. Refugees abused by employers rarely legally contest the abuses.⁹³¹

As in other countries, assistance is almost exclusively provided to refugees in settlements. Although refugees in settlements are allocated a piece of land for housing and farming, which has provided a foundation for sustainable livelihoods for a large portion of the refugee population, the UNHCR has acknowledged that “growth in national and refugee populations means that land is becoming scarce and plot sizes are shrinking to accommodate new arrivals.”⁹³² Furthermore, some of these settlements are located in remote areas, thereby limiting employment or trading opportunities because refugees may not be able to travel easily or far as a result of high travel costs and decisions made by local offices.⁹³³ Such a situation may prevent refugees in settlements from selling their products in urban markets and require them to rely on Ugandan intermediaries.⁹³⁴ This has to some extent hampered their ability to engage in the local economy.⁹³⁵ There is typically a middleman who comes into a settlement after each harvest and many refugees sell the same crop at the same time, resulting in low prices for refugee farmers who have no other channel for reaching the outside market.⁹³⁶

Facilitating factors

Several initiatives have been aimed at supporting refugees' self-reliance by rendering them more economically autonomous. In 1999, a Self-Reliance Strategy was jointly designed by the OPM and the UNHCR. Initially conceptualized for the protracted case of Sudanese refugees but later extended to all refugees, the strategy aimed to integrate the services provided to refugees into regular government

929. Some specialized financial institutions have been set up (information provided by the International Labour Organization [ILO]).

930. Norris, K. (2013) “Livelihood Security among Refugees in Uganda: Opportunities, Obstacles, and Physical Security Implications,” SIT Graduate Institute, http://digitalcollections.sit.edu/cgi/viewcontent.cgi?article=2720&context=isp_collection.

931. Norris, K. (2013) “Livelihood Security among Refugees in Uganda: Opportunities, Obstacles, and Physical Security Implications,” SIT Graduate Institute, http://digitalcollections.sit.edu/cgi/viewcontent.cgi?article=2720&context=isp_collection.

932. UNHCR (2015) “Global Appeal Update for Uganda,” www.unhcr.org/5461e6020.pdf, 1.

933. Krause, U. (2016) “Limitations of Development-Oriented Assistance in Uganda,” *Forced Migration Review* 52: 51–53, www.fmreview.org/sites/fmr/files/FMRdownloads/en/solutions/krause.pdf.

934. United States Committee for Refugees and Immigrants (2009) “World Refugee Survey – Uganda,” www.refworld.org/docid/4a40d2b5c.html.

935. Hovil, L., and M. Chrispus Okello (2008) “The Right to Freedom of Movement for Refugees in Uganda, Refugee Rights: Ethics, Advocacy, and Africa,” Georgetown University Press, www.refugee-rights.org/Publications/Staff%20publications/2008/Hovil.RightToFreedom.April2008.pdf.

936. Information provided by the ILO.

structures and policies and to empower the areas hosting refugees and nationals.⁹³⁷ In 2004, the Self-Reliance Strategy was replaced with the Development Assistance for Refugee-Hosting Areas, which aimed “to ensure better food security, access to social services and improved income generating opportunities for refugees and host communities, to empower refugees and locals to participate in the planning and implementation of their own development agenda.”⁹³⁸ In 2006 the Refugee Act introduced steps toward local integration of the refugees. In all three cases, implementation of these initiatives was slow and unstructured.⁹³⁹

Still pursuing the objective of social and economic development in areas hosting refugees for both refugees and host communities, in 2015 the government included refugee management and protection within its National Development Plan, through a five-year strategy called the Settlement Transformative Agenda (STA).⁹⁴⁰ The main initiative in support of the STA is a multiyear Refugee and Host Population Empowerment (ReHoPE) Strategic Framework that brings together the government of Uganda, UN agencies, the World Bank, development partners, and the private sector. Its aim is “developing a coordinated strategy to transform and transition interventions in Uganda’s refugee-impacted districts from a humanitarian to a development approach.”⁹⁴¹ The program is underpinned by a wider, creative solution for enhancing the socioeconomic integration of refugees in their districts.⁹⁴² A number of specific initiatives and activities launched in support of ReHoPE focus on livelihood and employment creation. These include a multiyear (2015–18) joint pilot project between the OPM, the UNHCR, and the World Food Programme on self-reliance in the Rwamwanja and Kyangwali settlements, targeting 3,500 refugees and host community households, using a two-pronged approach to enhance agricultural productivity and income-generating activities; the Koboko Partnership, which is a public-private partnership targeting 7,500 refugee and host community households in modern, commercial-scale agriculture; and Yunus Social Business—a social entrepreneurship initiative designed to empower and increase the capacity of youth in refugee and host communities.^{943, 944} With regard to job creation, Japan’s International Cooperation

937. Government of Uganda and UNHCR (2004) “Self-Reliance Strategy (1999-2003) for Refugees Hosting Areas in Moyo, Arua and Adjumani Districts, Uganda, Report of the Mid-term Review,” www.unhcr.org/41c6a4fc4.pdf.

938. UNHCR (2006) “UNHCR Global Appeal 2006—Uganda,” www.unhcr.org/4371d1ab0.pdf, 163.

939. World Bank Group and UNHCR (2015) “Forced Displacement and Mixed Migration in the Horn of Africa,” <http://hdl.handle.net/10986/22286>.

940. UNHCR News Stories (2015) “Uganda Hosts Record 500,000 Refugees and Asylum-seekers,” www.unhcr.org/news/latest/2015/12/567414b26/uganda-hosts-record-500000-refugees-asylum-seekers.html.

941. World Bank Group (2016) “An Assessment of Uganda’s Progressive Approach to Refugee Management,” <http://documents.worldbank.org/curated/en/259711469593058429/An-assessment-of-Ugandas-progressive-approach-to-refugee-management>, 25.

942. Refugee and Host Population Empowerment (ReHoPE) Strategic Framework (2015), https://d10k7k7mywg42z.cloudfront.net/assets/5667425fd4c96170fe082173/REHOPE_2_Page_Brief_141015.pdf.

943. Refugee and Host Population Empowerment (ReHoPE) Strategic Framework (2015), https://d10k7k7mywg42z.cloudfront.net/assets/5667425fd4c96170fe082173/REHOPE_2_Page_Brief_141015.pdf.

944. After the adoption on September 19, 2016, of the United Nations General Assembly *New York Declaration on Refugees and Migrants* and of the “commitment of UN Member States to apply a Comprehensive Refugee Response Framework,” Uganda was selected to be among the few pilot countries where the framework will be implemented—through the National Development Plan and its Settlement Transformative Agenda—under the leadership of the Ugandan government, UNHCR (2016) “Comprehensive Refugee Response Framework: From the New York Declaration to a Global Compact on Refugees,”

Agency has made a US\$4.5 million contribution to support the UNHCR and the United Nations Development Programme “to coordinate their efforts to help more refugees and their Ugandan hosts to learn new skills in business and entrepreneurship, use these to start their own businesses and finally link them to markets for their products. This will empower them to be more productive and make the most of their new skills to develop the local economy.”⁹⁴⁵

At the same time, refugee-founded self-empowerment groups, such as the Young African Refugees for Integral Development in Kampala⁹⁴⁶ and CIYOTA/COBURWAS in Kyangwali refugee camp, are promoting education, entrepreneurship, and empowerment among refugees and have been instrumental in supporting refugees’ self-sufficiency by expanding their access to education and to language, computer, and vocational training.⁹⁴⁷

3. MEDIATING CONDITIONS

Socioeconomic conditions

Uganda is a low-income country. According to the World Bank’s Global Economic Prospects, growth of 5 to 6 percent is expected in coming years. Although extreme poverty has declined over the years, in 2014 the country still ranked 164th on the Human Development Index.

An increasing number of refugees, mainly those with no agricultural background, self-settle in urban areas, especially Kampala, with the expectation of finding more employment opportunities. Uganda, like many other Sub-Saharan African countries, has a significant urban informal sector, and in 2010 nearly 70 percent of the population was employed informally in the non-agricultural sector.⁹⁴⁸ Opportunities in the formal sector are limited. With annual population growth of 3.3 percent, Uganda has one of the youngest and fastest growing populations in Africa. Because many young people enter the labor market every year, competition for jobs is high and youth unemployment and underemployment are expected to increase.

The concentration of large numbers of refugees in northern Uganda, especially in the districts bordering South Sudan, has had economic implications.⁹⁴⁹ Some Ugandans living in the areas surrounding refugee settlements recognize the refugee presence as economically advantageous, as an additional source of

www.unhcr.org/events/conferences/584687b57/comprehensive-refugee-response-framework-new-york-declaration-global-compact.html.

945. UNDP Uganda (2016) “Japan Contributes US\$4.5 m towards Refugees and Hosts Communities in Uganda,” www.ug.undp.org/content/uganda/en/home/presscenter/pressreleases/2016/06/30/japan-contributes-us-4-5m-towards-refugees-and-host-communities-in-uganda.html.

946. In February 2016, Young African Refugees for Integral Development (www.yarid.org/) won the Ockenden International Prize for its Women’s Empowerment Project—a prize that rewards successful on-the-ground projects for promoting the self-reliance of refugees and displaced people—as a result of the substantial impact it has had on the economic empowerment and reduced vulnerability of refugees, Omata, N. (2016) “Ockenden International Prize Awarded to YARID!” www.rsc.ox.ac.uk/news/ockenden-international-prize-for-yarid-naohiko-omata.

947. CIYOTA/ COBURWAS International Youth Organisation to Transform Africa (www.coburwas.org).

948. ILO (2013) *Women and Men in the Informal Economy: A Statistical Picture*, 2nd edition, www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/publication/wcms_234413.pdf.

949. Refugee Law Project (2014) “South Sudan Crisis and Its Implications on Post Conflict Recovery in Northern Uganda,” RLP Rapid Assessment Briefing Paper, http://refugeelawproject.org/files/ACCS_activity_briefs/14_01_24_Rapid_Assessment_Brief_Impact_of_South_Sudan_Crisis_in_Uganda.pdf.

trade, exchange, and demand for goods. The local population also benefits from the presence of the UNHCR and implementing organizations by setting up small shops and restaurants that cater to aid staff and some of the better-off refugees.⁹⁵⁰ On the other hand, members of the local population that are more directly competing with refugees entering the labor market see their presence as having a negative impact on their own economic situation. This enduring perception, most often related to competition over natural resources and grazing land, creates tension between the host and refugee communities, tension that has turned violent in some cases.⁹⁵¹ Some researchers argue that by definition the “settlement policy” limits economic and social integration and heightens risks of xenophobia and that without it, local communities would more easily benefit from the economic and business opportunities that result from the presence of the refugees.⁹⁵²

Refugee profiles

While refugees in Uganda may possess different skill sets than locals, they still face many challenges to accessing employment. Research conducted under the Humanitarian Innovation Project (HIP) shows that the wealthiest refugees are those who have successfully diversified their livelihoods and those who have formed connections with regional markets. These findings corroborate the research by the Women’s Refugee Commission that shows that vulnerable households have low diversity of income sources.⁹⁵³

The HIP research also finds clear evidence of economic interdependence attributable to ethnic ties, with refugees obtaining employment from co-national owners of businesses.⁹⁵⁴ Somali refugees, in particular, have reportedly secured employment as restaurant staff, shopkeepers, and business clerks or work in the oil industry through their ethnic and religious networks.⁹⁵⁵ In turn, Somali business owners may employ refugees of different nationalities looking for hire, including Congolese and Rwandans.⁹⁵⁶

Language, cultural, and social barriers can limit interactions and accentuate the negative perception Ugandans have of refugees. In contrast, knowledge of English or Luganda has a positive effect on the capacity of refugees to find employment. However, although some free English language courses are offered by international and national nongovernmental organizations and refugee-founded organizations,

950. Information provided by the ILO.

951. Kreibaum, M. (2014) “Their Suffering, Our Burden? How Congolese Refugees Affect the Ugandan Population,” Households in Conflict Network, HiCN Working Paper 181, The Institute of Development Studies, University of Sussex, www.hicn.org/wordpress/wp-content/uploads/2012/06/HiCN-WP-181.pdf.

952. International Refugee Rights Initiative (2014) “Conflict in South Sudan: Refugees Seek Protection in Uganda and a Way Home,” www.refugee-rights.org/Publications/Papers/2014/14%2004%2001%20South%20Sudanese%20refugees%20FINAL.pdf.

953. Women’s Refugee Commission (2011) *The Living Ain’t Easy, Urban Refugees in Kampala*, <https://womensrefugeecommission.org/resources/document/701>.

954. Omata, N., and J. Kaplan (2013) “Refugee Livelihoods in Kampala, Nakivale and Kyangwali Refugee Settlements—Patterns of Engagement with the Private Sector,” Working Paper No. 95, Refugee Studies Centre, University of Oxford, www.rsc.ox.ac.uk/files/publications/working-paper-series/wp95-refugee-livelihoods-kampala-nakivale-kyangwali-2013.pdf.

955. Betts, A., L. Bloom, J. Kaplan, and N. Omata (2014) “Refugee Economies Rethinking Popular Assumptions,” www.rsc.ox.ac.uk/refugeeeconomies.

956. Norris, K. (2013) “Livelihood Security among Refugees in Uganda: Opportunities, Obstacles, and Physical Security Implications,” SIT Graduate Institute, http://digitalcollections.sit.edu/cgi/viewcontent.cgi?article=2720&context=isp_collection.

these initiatives remain limited and experience a high dropout rate due to participants' need to earn a living.⁹⁵⁷ Other refugees do not feel that making the time commitment to learning English is worth their while, since they may have to return to their countries at any moment; however, many are likely to end up in a protracted situation where the ability to speak English would support their livelihoods.⁹⁵⁸

4. OUTCOMES

Participation in the labor market

Refugees in settlements with fertile land who have farmed successfully on the plots allocated to them are likely to sell their products in nearby markets. Without assistance or plots to cultivate, self-settled refugees⁹⁵⁹ in urban areas are required to find work to be able to sustain themselves. In competition with nationals and other migrants and confronted by unfavorable market conditions, even skilled refugees face widespread unemployment.⁹⁶⁰ However, some findings indicate that self-settled refugees are more easily accepted within local government structures because they pay taxes and contribute to the local economy and have better coping strategies for eventually returning to their home countries when the time arises, if they so choose.⁹⁶¹

Both the 2011 research by the Women's Refugee Commission on urban refugee livelihoods and the HIP have documented that despite policy limitations, refugees and asylum seekers are economically active, engaging in one or more forms of income generation, some combining employment with self-employment, petty trade, or casual day labor.⁹⁶²

Refugees engage in a wide range of businesses, from being café owners to vegetable sellers, to farmers growing maize on a commercial scale, millers, restaurateurs, transporters, and traders in fabrics and jewelry.⁹⁶³ The 2016 World Bank study, however, reveals that refugees are mainly engaged in occupations that provide little income, social protection, or job security; this is especially notable for refugee women, whose participation in the formal sector is low.⁹⁶⁴

957. Women's Refugee Commission (2011) *The Living Ain't Easy, Urban Refugees in Kampala*, <https://womensrefugeecommission.org/resources/document/701>.

958. Information provided by the ILO.

959. Self-settled refugees are those who have chosen to opt out of the settlement structure.

960. Norris, K. (2013) "Livelihood Security among Refugees in Uganda: Opportunities, Obstacles, and Physical Security Implications," SIT Graduate Institute, http://digitalcollections.sit.edu/cgi/viewcontent.cgi?article=2720&context=isp_collection.

961. Hovil, L., and M. Chrispus Okello (2008) "The Right to Freedom of Movement for Refugees in Uganda, Refugee Rights: Ethics, Advocacy, and Africa," Georgetown University Press, www.refugee-rights.org/Publications/Staff%20publications/2008/Hovil.RightToFreedom.April2008.pdf.

962. Women's Refugee Commission (2011) *The Living Ain't Easy, Urban Refugees in Kampala*, <https://womensrefugeecommission.org/resources/document/701>.

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964. World Bank Group (2016) "An Assessment of Uganda's Progressive Approach to Refugee Management," <http://documents.worldbank.org/curated/en/259711469593058429/An-assessment-of-Ugandas-progressive-approach-to-refugee-management>.

A main finding from the HIP is that extensive trade takes place within each settlement between refugee populations living in settlements and those in Kampala, but also with the wider Ugandan and regional and international markets.

Refugees can be employment creators, thus directly contributing to the Ugandan economy. The HIP research reveals that in Kampala some 21 percent of refugee business owners taking part in the study were hiring people and that 40 percent of these employees were Ugandan nationals.⁹⁶⁵ The presence of refugees has also reportedly resulted in skills transfer to Ugandans and has allowed Ugandans to embark on new income-generating activities through refugee guidance. One example uncovered by the HIP research concerns a group of Congolese refugee tailors in Kampala who provide training on tailoring skills and techniques to Ugandans, enabling them to start their own tailoring businesses.⁹⁶⁶

SUMMARY AND CONCLUSION

Uganda is often recognized as having progressive and forward-thinking refugee and asylum policies offering an environment conducive to the self-reliance of refugees. Nevertheless, Uganda still has ambiguous legislation and unclear policies relating to the right to work, and in practice refugees are confronted by several barriers to employment.

In theory refugees granted refugee status can settle either in urban areas or in rural refugee settlements; in practice, however, Uganda's favored policy of confining refugees to settlements constitutes an impediment to their freedom of movement and limits their opportunities for self-reliance. The absence of clear guidance on work permits, lack of legal documentation, and limited access to credit and formal sector employment—along with language barriers and discrimination—are additional constraints that refugees face. These constraints have not prevented many refugees, either in settlements or self-settled in urban areas, from engaging in, most often informally, a wide variety of types of employment and business in Uganda or across borders. Most of those in settlements have been able to fend for themselves by growing crops, thereby attaining food security and other basic human needs. Urban refugees in Kampala and other urban areas can face difficulties in accessing employment because of legal and social restrictions in the labor market and competition with nationals for work, which compounds discrimination toward refugees.

More generally, the significant increase in refugees in Uganda beginning in 2013, especially the massive influx of South Sudanese refugees, is straining the capacity of the country to absorb them into its economy.

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United Kingdom

PROFILE

- Party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol.
 - 123,067 refugees and 45,870 asylum seekers totaling 168,937 = 0.25 percent of a total estimated population of 65.1 million.
 - Gradually increasing number of refugees, although the figure remains significantly lower than the 2002 peak, and relatively constant refugee status recognition rates; highly regulated entry.
 - Refugees are widely distributed in urban areas.
- Human development rank and index: 14th and 0.907
 - GDP: Growth 2.3 percent; Per capita US\$43,734
 - High-income economy
 - Unemployment rate: 6.3 percent

CONTEXT

The United Kingdom (UK), like most European countries, has experienced significant volatility in refugee arrivals, asylum-seeker applications, and mixed migration flows in the past 20 years. The number of asylum claims peaked in 2002, at slightly more than 84,000 (excluding dependents). Since then, asylum claims have substantially decreased, although in recent years the figure has been climbing: asylum applications increased by 29 percent to 32,414 (excluding dependents, who increase the total to 38,878) in 2015, the highest number of applications since 2004 (33,960). Recent years have seen a steep rise in general immigration, notably from European Union member states (EUMSs), leading to a substantial overall increase in net migration to the UK. These trends ensure that refugee, asylum, and migration issues retain a high political and public saliency in the UK.

Nevertheless, the UK's island status enables it to control borders and regulate entry to a much higher degree than mainland EUMSs. Thus, the UK has developed an extensive portfolio of legislation and policy initiatives to reduce the scale of asylum seeking and manage migration as a whole.

1. LAW

Refugee Law

National legislation. Although party to the 1951 Refugee Convention and the 1967 Protocol, there is no separate national refugee law in the UK. Instead, obligations under the 1951 Refugee Convention and the 1967 Protocol are largely provided for under the wider legal framework.

A sustained objective of successive UK governments during the past two decades has been to deter and regulate entry and strictly manage all forms of in-migration, including those seeking asylum. Accordingly, since 1996 nine major statutes have been enacted dealing with immigration, asylum, and refugee rights, many of them curtailing the right to work and access to welfare benefits. The most recent legislation is the Immigration Act 2016, which impacts employment and housing eligibility for asylum seekers, refugees, and other categories of migrants. Despite many legal challenges by organizations representing refugees and asylum seekers, including ultimately appeals to the European Court of Human Rights and the European Court of Justice, successive legislation continues to tighten regulations. Significantly, the United Nations High Commissioner for Refugees (UNHCR) “recognises the important role played by UK courts in the development of international refugee law,” and intervenes in selected cases in the national courts.⁹⁶⁷

The UK is a ‘selective participant’ of the Common European Asylum System (2013), which sets out common standards and establishes cooperation between EUMSs on the treatment of asylum claims, but has not signed recent directives. Consistent with its regulatory approach and the control of borders, the UK is a signatory to the Dublin Regulation III (Regulation No. 604/2013) for determining the EU member state responsible for processing an asylum claim but has decided to opt out of the Schengen Agreement.⁹⁶⁸

Institutions. All immigration matters, including refugee and asylum seeking, are the responsibility of the Home Office under the aegis of the Minister for Immigration, who is responsible for several directorates that deal with different aspects of immigration, such as strategy, visas and immigration, enforcement, and the Border Directorate. All immigration matters reverted to direct control of the Home Office in 2013 when the United Kingdom Border Agency (UKBA), a widely criticized government agency that had been responsible for all immigration matters, was wound up.

Access to protection. The UK has an intricate process for access to protection. Application for protection as a refugee can be made at UK ports or in the country itself. In-country applications that are not made as soon as possible (a period not specified) after arrival risk being denied welfare support and accommodation, and the delay may harm applicants’ claims at a later date. Nevertheless, 90 percent of applications in the year ending September 2014 were made in country rather than at port of entry.⁹⁶⁹

⁹⁶⁷ UNHCR (not dated) “Protecting Refugees in the UK,” <http://www.unhcr.org/protecting-refugees-in-the-united-kingdom.html>.

⁹⁶⁸ Dublin III allows an EUMS to return an asylum seeker to the European state where she or he first landed. The Schengen Agreement abolished all types of border control at the common borders of EUMSs.

⁹⁶⁹ Home Office (2014) “Immigration Statistics, July–September 2014,” <https://www.gov.uk/government/publications/immigration-statistics-july-to-september-2014/immigration-statistics-july-to-september-2014>.

A screening interview is held with a screening officer, at which time the asylum claim is registered and an asylum interview is held with a caseworker who can make a range of decisions, including granting permission to stay in the UK as a refugee, granting permission to stay for humanitarian reasons (that is, subsidiary protection), discretionary leave to remain, or refusal of the claim for refugee protection. Those receiving permission to stay on refugee or humanitarian grounds are granted five years leave to enter or remain in the UK. After five years they may apply to settle in the UK and would receive a status known as “indefinite leave to remain.”⁹⁷⁰

Successful applicants with partners and children not already in the UK but part of a family formed before the applicant left his or her country of origin can apply for family unification. Similar conditions apply after the grant of indefinite leave to remain.

Although the target for a status decision is six months and the government has strenuously tried to apply that decision period, in practice, decisions (and appeals, see below) usually take much longer. Thus, at the end of September 2014, 22,879 asylum applications received since April 2006 were pending a decision (initial decision, appeal, or further review), an increase of nearly 50 percent over the previous year.⁹⁷¹ Other surveys using different data sets indicate that 19 percent of asylum seekers waited less than six months for a decision while 22 percent waited more than five years.⁹⁷²

The number of initial decisions on asylum applications in the year ending September 2014 was 15,779; of these decisions, 37 percent (5,915) were grants of asylum or temporary protection, a rate similar to that of the previous year. The balance of 63 percent of applicants, almost 10,000 applications, received initial refusal. These percentages have been consistent over the past three years,⁹⁷³ but a reduction to the high point of an almost 90 percent initial refusal rate in 2004.⁹⁷⁴

Refusal of an application for refugee protection (or subsidiary status) can be appealed, although the conditions under which appeals can be made, the time period for making an application, and the process for hearing appeals have become more circumscribed in recent years. Appeals are made to an independent first-tier tribunal (the Immigration and Asylum Chamber).

Of just over 6,500 appeals in the year ending September 2014 (a drop of nearly 30 percent over the previous year), 67 percent were dismissed, 27 percent were allowed, and 6 percent were withdrawn. In

⁹⁷⁰ The five-year period for application for indefinite leave to remain replaced the immediate grant of indefinite leave to remain that had been available until 2005.

⁹⁷¹ Home Office (2014) “Immigration Statistics, July–September 2014,”

<https://www.gov.uk/government/publications/immigration-statistics-july-to-september-2014/immigration-statistics-july-to-september-2014>.

⁹⁷² Cheung, S. Y., and J. Phillimore (2013) “Social Networks, Social Capital and Refugee Integration,”

Research Report for Nuffield Foundation,

<http://www.birmingham.ac.uk/Documents/college-social-sciences/social-policy/iris/2013/nuffield-refugees-integration-research-report.pdf>.

⁹⁷³ Home Office (2014) “Immigration Statistics, July–September 2014,”

<https://www.gov.uk/government/publications/immigration-statistics-july-to-september-2014/immigration-statistics-july-to-september-2014>.

⁹⁷⁴ Blinder, S. (2016) “Briefing—Migration to the UK: Asylum,” The Migration Observatory, Centre on Migration, Policy and Society (COMPAS), University of Oxford, 5th Revision, <http://www.migrationobservatory.ox.ac.uk/wp-content/uploads/2016/04/Briefing-Asylum.pdf>.

the period 2007–15, on average only 28 percent of decisions on appeals were granted, leaving 72 percent of applications dismissed.⁹⁷⁵ In terms of final asylum outcomes after appeal for applicants in 2014, 43 percent gained leave to remain in the UK either as refugees (39 percent) or through Humanitarian Protection or Discretionary Leave to Remain, while 34 percent were refused protection.⁹⁷⁶

Those refused permission to remain may be assisted with voluntary return home or forced to leave, often after detention at an immigration removal center.⁹⁷⁷

Both detention and removal and deportation measures have increased in severity in recent years as part of the immigration control apparatus. However, deportation rates of asylum seekers appear to have declined. In 2015, 5,238 deportees were asylum seekers, the lowest total since current data have been collected. This reflects, in part, the decline in the overall number of those seeking asylum, and the marginally higher rate of grants of refugee and subsidiary protection status.⁹⁷⁸

An extensive array of civil society organizations—both national and locally based—provide valuable information and advisory resources for asylum seekers and refugees on rights and entitlements and status application procedures. However, legal support is now heavily circumscribed by the requirement that legal advice on applying for and appealing a status determination can only be given by organizations registered by the government’s Office of the Immigration Services Commissioner⁹⁷⁹ and the substantial reduction in legal aid available to asylum seekers appealing negative status decisions.

Widening the perspective on access to protection beyond legal and procedural matters, since 1999, the Home Office has been able to grant destitute asylum seekers financial or accommodation support while their applications are being processed, although they are ineligible if they are found not to have applied for asylum “as soon as reasonably practicable.” However, there are exceptions for families, people with special needs, and cases where a refusal of support would be a breach of the individual’s human rights. At the end of March 2015, almost 30,500 asylum seekers and their dependants were being supported,⁹⁸⁰

⁹⁷⁵ Blinder, S. (2016) “Briefing—Migration to the UK: Asylum,” The Migration Observatory, Centre on Migration, Policy and Society (COMPAS), University of Oxford, 5th Revision, <http://www.migrationobservatory.ox.ac.uk/wp-content/uploads/2016/04/Briefing-Asylum.pdf>.

⁹⁷⁶ Blinder, S. (2016) “Briefing—Migration to the UK: Asylum,” The Migration Observatory, Centre on Migration, Policy and Society (COMPAS), University of Oxford, 5th Revision, <http://www.migrationobservatory.ox.ac.uk/wp-content/uploads/2016/04/Briefing-Asylum.pdf>.

⁹⁷⁷ Voluntary departures numbering 33,978 were recorded in the year ending September 2014, and there were 12,461 enforced removals, Home Office (2014) “Immigration Statistics, July–September 2014,” <https://www.gov.uk/government/publications/immigration-statistics-july-to-september-2014/immigration-statistics-july-to-september-2014>.

⁹⁷⁸ Blinder, S. (2016) “Briefing—Deportations, Removals and Voluntary Departures from the UK,” The Migration Observatory, COMPAS, University of Oxford, <http://www.migrationobservatory.ox.ac.uk/resources/briefings/deportations-removals-and-voluntary-departures-from-the-uk/>.

⁹⁷⁹ Office of the Immigration Services Commissioner (2016) “How to Become a Regulated Immigration Advisor,” Guidance, <https://www.gov.uk/government/publications/how-to-become-a-regulated-immigration-advisor/how-to-become-a-regulated-immigration-advisor>.

⁹⁸⁰ House of Commons (2015) “‘Asylum Support’: Accommodation and Financial Support for Asylum Seekers,” Briefing Paper Number 1909, www.parliament.uk/briefing-papers/sn01909.pdf.

a figure that has increased over the past three years, but still well below the total at the end of 2003 (the start of published data series), when 80,123 asylum seekers were in receipt of assistance.

With regard to protection, the UK is unique among EUMSs in providing independent scrutiny of its immigration functions through the UK Independent Chief Inspector of Borders and Immigration, who reports directly to the Home Secretary. A number of the Inspector's reports have challenged UKBA and the Home Office on specific aspects of processing and the treatment of asylum seekers and refugees. An Independent Advisory Group on Country Information exists under the aegis of the Independent Chief Inspector of Borders and Immigration, which makes recommendations about the content of material produced by the Home Office's Country of Origin Information Service used to assist in the determination of claims for refugee status.

Freedom of movement. Refugees and asylum seekers have unrestricted freedom of movement in the UK. There are exceptions that apply to those in detention or who have been released with conditions, and for asylum seekers who are destitute or likely to become destitute (s.95 of the 1999 Act) and have been granted accommodation support by the Home Office.⁹⁸¹ For the latter category, freedom of movement remains but, by virtue of accommodation provided in so-called cluster areas away from London and the southeast of the UK, they have more limited travel options.

Right to work – refugee and labor and employment law

Regulation of the entitlement to work for refugees largely sits within the wider legal framework dealing with immigration rather than the UK's employment and labor laws.

Refugees, that is, those with full status and leave to enter or remain, have the right to work or set up a business in the UK on the same basis as UK citizens; work permits or points-based visas that are required of other non-EU foreign nationals are not necessary. Refugees can apply for employment benefits such as Job Seekers' Allowance and participate in government job preparation and training for work programs. They are not allowed to work in government departments. Refugee status also provides unrestricted entitlement to the wider portfolio of employment rights available to all UK citizens, for example, the minimum wage, disability rights, and protection from discrimination, found in the UK's employment and labor laws.⁹⁸²

Similar to refugees, those with other subsidiary forms of protection—humanitarian protection—and leave to enter or remain have the same rights to work or set up a business as do UK citizens, but this entitlement is only for the period for which they have been granted protection.

Asylum seekers have no right to work while their applications are being considered, although this constraint may be waived after 12 months if their initial claim has not been decided, but only if they are not responsible for the delay. However, employment is restricted to occupations on the official shortage

⁹⁸¹ House of Commons (2015) "'Asylum Support': Accommodation and Financial Support for Asylum Seekers," Briefing Paper Number 1909, www.parliament.uk/briefing-papers/sn01909.pdf.

⁹⁸² Refugee Council, and Equality and Human Rights Council (2014) "Employing Refugees: A Guide for Employers: Documents Providing Evidence of Entitlement to Work," London Refugee Council, http://www.refugeecouncil.org.uk/assets/0003/4097/Employing_Refugees_-_Guide_to_documents_required_Dec_2014.pdf.

list, and they do not have the same entitlements as refugees and those with other forms of protection to enter government training programs, although they may volunteer while their applications are being considered. They may only work until their asylum claim has been finally determined (that is, when all appeals are exhausted).

2. POLICY AND PRACTICE

Constraining factors

Several factors highlight why, despite refugees' legal right to work, access to labor markets is often challenging in the UK.

First, the frequent changes to immigration and asylum regulations and rights over the past decade and a half have created confusion about refugees' (and more generally non-EU migrants') legal rights and entitlements to work. Moreover, employers face increasingly punitive civil penalties for employing those who do not have the right to work in the UK.⁹⁸³ Thus, although refugees have an unfettered legal right to work, employers remain extremely wary of taking on refugees and the administrative burden of checking eligibility.

Second, successive governments have wound down economic-inclusion policy apparatus strategies that had been operating in the period 2004–08 as the volume of refugee arrivals declined. Moreover, the 2008–12 recession further reduced political commitment to support the economic needs of refugees and asylum seekers against the political backdrop of wider concern about the impact of migration on the capacity of the UK labor market.

Third, since 1999 the UK government has operated a dispersal system on a no-choice allocation basis for destitute asylum seekers who required accommodation. This has had implications for employment if the asylum seeker has eventually received a positive refugee status determination. Not surprisingly, there has been a strong correlation between dispersal areas where ample housing is available and areas of socioeconomic deprivation. On receipt of positive refugee status determination, if the refugee wished to apply for housing under homelessness legislation or to access refugee employment promotion programs, they were required to stay in the dispersal areas, where their chances of employment were more likely to be limited because of the weaker local economy characterizing these areas.

Fourth, a review of substantial research evidence⁹⁸⁴ confirms that the transition to refugee status (after receipt of a positive decision) can create difficulty in accessing employment. There are gaps in issuing vital documents, such as the National Insurance number, needed for employment and, at the point of positive determination, and housing and financial support available for destitute asylum seekers is rapidly terminated before access to welfare and other benefits is gained. Other barriers to accessing the labor

⁹⁸³ Penalties for employers include fines of up to £20,000 or imprisonment for each worker employed without the right to work. The 2016 Immigration Act intensifies both the labor market and illegal working enforcement strategy for employers and employees as well as the penalties for landlords and tenants where the tenant is disqualified from a residential tenancy agreement as a result of his or her immigration status.

⁹⁸⁴ Allsopp, J., N. Sigona, and J. Phillimore (2014) "Poverty among Refugees and Asylum Seekers in the UK, An Evidence and Policy Review," IRIS Working Paper Series No. 1/2014, University of Birmingham, pp. 23–25, <http://www.birmingham.ac.uk/Documents/college-social-sciences/social-policy/iris/2014/working-paper-series/IRIS-WP-1-2014.pdf>.

market include the lack of interpreters and the lack of knowledge among, and long waiting times to be interviewed by, Department for Work and Pensions staff for employment opportunities. More generally, the move away from indefinite leave to remain to a five-year term followed by review introduces a sense of temporariness that makes refugees feel insecure and exacerbates the problems of unemployment and underemployment by reducing refugees' attractiveness to potential employers.

Facilitating factors

In the period 2004–08, the UK established a proactive strategy to promote refugee inclusion and integration that included specific initiatives for economic inclusion and thus policies and actions assisting refugees to gain employment. Examples of this policy were the Department for Work and Pensions, the 2005 Refugee Employment Strategy, the Refugee Integration and Employment Service (RIES) of the UKBA, and regional- and local-level Strategic Migration Partnerships to facilitate joint work and consultation between regional actors and the UKBA on migration issues, including employment.⁹⁸⁵

As noted, this policy apparatus has been wound down; for example, RIES was closed in 2011. Despite being a potentially valuable resource to assist refugees in accessing employment, the evidence as to the effect of these initiatives is not conclusive.⁹⁸⁶

In contrast, the network of national and locally based civil society organizations is an important resource for asylum seekers and refugees for advice about social and welfare rights as well as information on and signposting for employment.

Although the economic recession between 2008 and 2013 constrained access to employment for refugees as well as the population as a whole, more recent growth of the economy since 2014 and the reduction of unemployment to about 5 percent has created more favorable conditions. The impact of the economic uncertainty surrounding BREXIT⁹⁸⁷ on access to work for refugees has yet to be assessed.

3. MEDIATING CONDITIONS

Socioeconomic conditions

Despite the economic recovery in the UK, accessing employment is not easy, and it is likely that BREXIT may make it more difficult. For example, a 2010 government study found that employment rates among refugees eight months after their asylum decision amounted to only a third (34 percent) of those eligible for employment, a total that increased to just under half (49 percent) at 21 months after the decision.⁹⁸⁸

⁹⁸⁵ Carter, M. (2008) "Navigation Guide: Employment Issues for Refugees and Asylum Seekers in the UK," Information Centre about Asylum and Refugees, ICAR, pp. 9–11, [http://icar.livingrefugeearchive.org/employmentguide_24_07_2008%20\(2\).pdf](http://icar.livingrefugeearchive.org/employmentguide_24_07_2008%20(2).pdf).

⁹⁸⁶ See Outcomes section.

⁹⁸⁷ BREXIT is the decision by the UK, as a result of the referendum of June 23, 2016, to leave the European Union.

⁹⁸⁸ Cebulla, A., M. Daniel, and A. Zurawan (2010) "Spotlight on Refugee Integration: Findings from the Survey of New Refugees in the United Kingdom," Research Report 37, Home Office Research, Development and Statistics Directorate, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/116061/horr37-summary.pdf.

Refugee profiles

Given the diversity of the demographics and countries of origin of refugees in the UK—from over 100 countries⁹⁸⁹—it is difficult to generalize refugee profiles and their role in mediating access to employment. Moreover, there is little contemporary research on refugee employment in the UK. Instead the emphasis is on small-scale local studies and qualitative research on the lived experiences of refugees and asylum seekers.

Nevertheless, a 2013 study using multivariate regression analysis of longitudinal data from a 2005–07 survey exploring social capital and, among other factors, its links to employment, supplemented by a face-to-face survey of refugees, refugee workers, and policy makers in 2012, provides valuable findings for the present right to work study.⁹⁹⁰ Among the salient findings of the 2013 study, contacts with religious, national, co-ethnic, and other groups enhanced the likelihood of getting help accessing employment. Conversely, refugees with no social networks were the least likely to be employed.

4. OUTCOMES

Participation in the labor market

The 2013 study cited above, consistent with studies in many countries, found that more than half the refugees considered themselves to be overqualified in terms of skills and qualification for work undertaken in the UK, a situation that barely changed over the study period.⁹⁹¹

The same study found that Muslim and African refugees faced greater constraints in accessing employment than other refugees. Although these constraints declined through time, African refugees found difficulty accessing managerial and professional jobs. When controlling the sample for age and gender, Muslim refugees faced significant difficulties accessing permanent employment.

The 2013 study also found there to be a highly significant relationship between English language fluency and accessing employment, while literacy was important for accessing managerial and professional jobs. Refugees who did not need any language training fared best in obtaining employment.

Women fared worse than men in all types of employment in the study despite relatively high levels of premigration employment or education. When controlling for language skills, the employment analysis showed that women were significantly more likely to be unemployed, in education, or economically inactive, as opposed to being in employment.

⁹⁸⁹ Cheung, S. Y., and J. Phillimore (2013) “Social Networks, Social Capital and Refugee Integration,” Research Report for Nuffield Foundation, <http://www.birmingham.ac.uk/Documents/college-social-sciences/social-policy/iris/2013/nuffield-refugees-integration-research-report.pdf>.

⁹⁹⁰ Cheung, S. Y., and J. Phillimore (2013) “Social Networks, Social Capital and Refugee Integration,” Research Report for Nuffield Foundation, <http://www.birmingham.ac.uk/Documents/college-social-sciences/social-policy/iris/2013/nuffield-refugees-integration-research-report.pdf>.

⁹⁹¹ Cheung, S. Y., and J. Phillimore (2013) “Social Networks, Social Capital and Refugee Integration,” Research Report for Nuffield Foundation, <http://www.birmingham.ac.uk/Documents/college-social-sciences/social-policy/iris/2013/nuffield-refugees-integration-research-report.pdf>.

Surprisingly, the same study also found that assistance from government employment agencies and educational groups significantly reduced chances of employment in the short term, but in the longer term improved the prospects of employment and access to permanent work. More importantly, refugees' subjective evidence reinforces actual employment outcomes: that is, that educational and job-related training made no difference in their prospects of being in employment or obtaining a permanent job or a high-quality job. One explanation posited by the study is that soon after gaining leave to remain, refugees are more focused on getting help to access housing, health, and education services than on gaining employment. As they become more settled, they may be in a better position to seek help to access work.

SUMMARY AND CONCLUSION

Despite the UK's increasingly restrictive statutory and policy framework toward refugees, for those that do receive positive status determination, the right to work is clear, and the UK is fully aligned with the critical articles of the 1951 Refugee Convention. Nevertheless, refugees still face the constraints on accessing the labor market that are commonly experienced by refugees in other highly industrialized countries—reluctance to accept previous professional qualifications and skills, lack of language proficiency, discriminatory recruitment policies of employers, and potential exploitation in the workplace often experienced by ethnic minorities.

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United States

PROFILE

- **Party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol.**
 - **273,202 refugees, and 286,168 asylum seekers totaling 559,370 = 0.17 percent of a total estimated population of 321 million.**
 - **Variety of nationalities.**
 - **Long history of refugee reception and resettlement.**
 - **Refugees distributed mainly in a small number of large metropolitan areas.**
- **Human development rank and index: 8th and 0.915**
 - **GDP: Growth 2.4 percent; Per capita US\$55,836.8**
 - **High-income economy**
 - **Unemployment rate: 6.2 percent**

CONTEXT

The United States has a long tradition of accommodating refugees backed by a longstanding refugee resettlement program. Resettled refugees, rather than spontaneous arrivals and in-country applicants, comprise the majority. More than 3 million refugees have been received since 1975; their countries of origin reflect both the different locations of refugee crises (mainly so-called P1 Category countries) and specific U.S. interests (so-called P2 Category countries, such as the former Soviet Union, some Central American States, and Cuba).⁹⁹² The largest national groups comprised 900,000 Vietnamese refugees of a total of 1.3 million from Asia, and some 900,000 from Europe. Significant among the more recently resettled refugee populations are 110,000 Iraqi refugees since 2006, more than 100,000 Somalis, and more than 90,000 Iranians.⁹⁹³ In 2015, of 69,933 refugee admissions, 35.1 percent (24,579) came from the Near East and South Asia (including Afghanistan, Bhutan, the Islamic Republic of Iran, and Iraq), just over one-third of refugee admissions (37.3 percent, 26,0792 refugees) came from Africa, and more than a quarter of all refugee admissions (26.4 percent, or 18,469) came from East Asia (including China,

⁹⁹² P1 (Priority 1) includes refugee claims from persons of any nationality with compelling protection needs, for whom resettlement appears to be the appropriate durable solution. P2 (Priority 2) includes specific groups in need of resettlement (certain nationalities, clans, or ethnic groups, sometimes in specified locations) identified by the Department of State in consultation with the Department of Homeland Security, United States Citizenship and Immigration Services, nongovernmental organizations, and the UNHCR.

⁹⁹³ Data from US Department of State website “Diplomacy in Action,” <http://www.state.gov/j/prm/ra/admissions/index.htm>.

Indonesia, and Vietnam).⁹⁹⁴ Myanmar was the largest single country of origin with 18,386 refugee arrivals, followed by Iraq (12,676) and Somalia (8,858). However, as quotas vary each year so too do admissions. Thus, through August 31, 2016, admissions from the Democratic Republic of Congo totaled 12,819, from Myanmar 11,115, and from Syria 10,740.

The United States is by far the largest recipient of resettled refugees in the Organisation for Economic Co-operation and Development. Refugee admission numbers, countries of origin, and sometimes specific priority categories (for example, religious minorities) are highly regulated by law—the so-called refugee ceiling: as of 2014, refugee admissions were capped at about 70,000 per year, down from 80,000 in 2012.^{995,996}

The majority of refugees settle in the larger metropolitan areas on the east and west coasts and in the Midwest. Notable ethnic concentrations of refugees in specific cities are the outcome of resettlement policies and secondary migration.

1. LAW

Refugee Law

National legislation. Commitment to the 1951 Refugee Convention and the 1967 Protocol is codified in the Refugee Act of 1980, approved by the U.S. Congress, which essentially adopts the Convention. Various elements of the Immigration and Nationality Act 1952 (updated in 2013) also apply to refugee law. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) overhauled the immigration law and asylum framework and introduced more restrictive provisions on the asylum process.⁹⁹⁷

Institutions. The government’s framework for reception and resettlement is located in the Department of State and the Department of Homeland Security; their remits are discussed below.

Access to protection. Referral by the U.S. Refugee Admissions Program is required for consideration as a resettled refugee; referral may come from the United Nations High Commissioner for Refugees, an embassy of the United States, or a nongovernmental organization (NGO). The decision to admit a refugee is then conducted by the Department of Homeland Security’s U.S. Citizenship and Immigration Services (USCIS). Once resettlement is approved, assistance for resettling refugees is provided through a cooperative public-private program comprising the Department of State’s Reception and Placement Program and the Office for Refugee Resettlement (ORR) within the Department of Health and Human Services, together with nine national nongovernmental resettlement agencies (linked to a large network of local agencies) funded by the ORR that are actually responsible for implementing the resettlement process for each refugee and refugee household. ORR coordinates this refugee reception and resettlement program under the auspices of the United States Refugee Admissions Program.

⁹⁹⁴ Refugee processing Center Admissions Reports,

<http://www.wrapsnet.org/reports/admissionsarrivals/tabid/211/default.aspx>.

⁹⁹⁵ The ceiling for resettled refugees is set each year by the President in consultation with Congress, known as the Presidential Determination, under section 207(e) (1)–(7) of the Immigration and Nationality Act.

⁹⁹⁶ The Presidential Determination for 2015 was 70,000. However this has been increased to 85,000 for 2016.

⁹⁹⁷ Human Rights Watch (2013) “‘At Least Let Them Work’: The Denial of Work Authorization and Assistance to Asylum Seekers in the United States,” <https://www.hrw.org/report/2013/11/12/least-let-them-work/denial-work-authorization-and-assistance-asylum-seekers-united>.

After one year, refugees are required to apply for permanent residence (commonly referred to as a Green Card), and after five years in the United States, refugees are eligible to apply for United States citizenship. Applicants from outside the United States applying for refugee resettlement may also include in their application a spouse, unmarried children younger than 21 years of age, and in some limited circumstances, other family members. Refugees already resident within the United States may also apply for family reunion within two years of arrival.

Provisions for Temporary Protected Status (TPS) allow individuals from designated countries who are already in the United States to stay in the country for a limited period. Designation may be based on issues such as ongoing armed conflict or environmental disaster that prevent an individual from being able to return safely to his or her country of origin. The most salient example is Hondurans already resident in the United States when Hurricane Mitch devastated their country in 1998, and who still remain in the United States almost two decades later. Similar TPS provisions were extended to Haitian beneficiaries after the 2010 earthquake. TPS designation has been repeatedly extended since that time, most recently to July 2017. Although there are some restrictions, refugees and those with TPS have access to the same social support and welfare benefits as U.S. citizens, including food stamps and Medicare coverage.

In-country application for asylum is more complicated, increasingly regulated, and subject to considerable political debate and advocacy. There are two categories: those who apply for asylum “affirmatively” (that is, they are not subject to removal proceedings) and those who apply “defensively” (in effect appealing government proceedings to remove them from the United States after their claim has failed).⁹⁹⁸ The two categories determine which procedure the claim follows. The decision on an affirmative claim may, in principle, be concluded within 60 days of submission; the process can be far more protracted for the defensive claim.

The IIRIRA 1996 erected obstacles for people wanting to lodge asylum claims, created harsher living conditions for asylum seekers with pending cases, and made the adjudication process stricter, thereby making asylum much harder to achieve.⁹⁹⁹ Applications have to be made within a year of arrival; there are provisions for removal to a “safe third country” through which an asylum seeker may have traveled to the United States; and applicants may be permanently barred from applying for asylum if the Attorney General determines that an asylum seeker made a “frivolous” application. The IIRIRA 1996 also introduced expedited removal and mandatory detention of certain asylum seekers. In addition, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 categorized asylum seekers as “nonqualified” immigrants, in effect excluding them from eligibility for many federal social welfare benefits in all but exceptional humanitarian or disaster-based circumstances.

⁹⁹⁸ United States Citizenship and Immigration Services (USCIS) “The Affirmative Asylum Process,” United States Government, March 10, 2011, <http://www.uscis.gov/humanitarian/refugees-asylum/asylum/affirmative-asylum-process>.

⁹⁹⁹ Human Rights Watch (2013) “‘At Least Let Them Work’: The Denial of Work Authorization and Assistance to Asylum Seekers in the United States,” <https://www.hrw.org/report/2013/11/12/least-let-them-work/denial-work-authorization-and-assistance-asylum-seekers-united>.

The backlog peaked at 457,670 pending applications for refugee status in 1995, just before the expansion of the number of asylum officers in the IIRIRA of 1996; by the end of 2013 the backlog had been reduced to 32,560 cases.

Freedom of movement. Refugees and asylum seekers have unrestricted freedom of movement in the United States.

Right to work – refugee and labor and employment law

There are strong expectations that refugees will find employment as soon as possible after arrival in the United States.

The right to work and the role of employment law for refugees is relatively clear cut. Once refugee status is approved, refugees can work immediately, whether as a new arrival if they have been resettled or as an approved in-country applicant. Application for Employment Authorization is automatically filed for the refugee when admission is approved, and a Form I-94 (Arrival-Departure Record) is issued on arrival, or soon thereafter, stamped to indicate “Employment Authorized.” If the Employment Authorization Document (EAD) is not finalized, refugees are still able to work for up to 90 days pending the EAD by showing their admission document as proof of permission to work.¹⁰⁰⁰

The situation is more complex for asylum seekers, and the more restrictive conditions are subject to considerable debate.¹⁰⁰¹ Asylum seekers may be employed as part of their asylum status, but there are conditions. An EAD is required after the grant of asylum, which may be issued by the Asylum Office (of the USCIS), an immigration judge, or the Board of Immigration Appeals.¹⁰⁰² Issuance of an EAD is most straightforward if asylum status has been approved by the Asylum Office. However, asylum seekers can only apply for an EAD, (1) 180 days after filing their asylum claim and (2) if an application for asylum has been pending for more than 150 days without decision by the USCIS or the Executive Office for Immigration Review (that is, there is a 30-day review period in addition to the 150-day waiting time).¹⁰⁰³ Thus, asylum seekers may have a protracted wait for permission to work, in practice, often extending to years.

Awaiting work authorization, asylum seekers are thus neither able to work legally nor are they able to claim eligibility for federal benefits. As a result they are often vulnerable to destitution and also susceptible to exploitation if they work illegally to avoid impoverishment.

Although asylum seekers may work, in general, they have more limited rights of access to a Green Card (permanent residency) than those with full refugee status. Asylum seekers generally face a lengthy wait because quotas for Green Cards for asylum seekers vary according to the changing ceiling on the number

¹⁰⁰⁰ US Citizenship and Immigration Services “Refugees,” <http://www.uscis.gov/humanitarian/refugees-asylum/refugees>.

¹⁰⁰¹ Human Rights Watch (2013) “‘At Least Let Them Work’: The Denial of Work Authorization and Assistance to Asylum Seekers in the United States,” <https://www.hrw.org/report/2013/11/12/least-let-them-work/denial-work-authorization-and-assistance-asylum-seekers-united>.

¹⁰⁰² US Citizenship and Immigration Services (2013) “I am a refugee or asylee, How do I show my employer that I am authorized to work in the United States?” <http://www.uscis.gov/sites/default/files/USCIS/Resources/D2en.pdf>.

¹⁰⁰³ These time periods were revised in the IIRIRA 1996.

each year. Currently, however, there is no cap and an asylum seeker continuously resident in the United States for more than one year may apply for a Green Card.

The effect of the EAD procedure for refugees, and for asylum seekers that satisfy the EAD requirements discussed above, is that neither group is required to qualify for the temporary employment visa that is the norm for other immigrant labor.

Refugees and asylum seekers who satisfy the regulations for employment fall within the auspices of all U.S. employment and labor law. Thus, they enjoy the same rights and receive the same protections as all citizens with regard to, for example, employment contracts, health and safety, wage regulation, family care, pensions, and trade union membership. Federal and state laws protect all workers from employment discrimination based on race, gender, religion, age, and national origin.

2. POLICY AND PRACTICE

Constraining factors

Despite a positive picture overall, there are some constraining factors in the drive to get refugees into employment.

First, the Department of State's Reception and Placement Program is limited to the first three months after refugee arrival, although the Department of Health and Human Services' ORR works with states and NGOs to provide longer-term cash and medical assistance, as well as language, employment, and social services.

The government's pressure to get refugees into work results, as the United States Immigration Service notes, in most refugees beginning in entry-level jobs, even though these jobs may not be commensurate with preexisting high-level skills, experience, or education.¹⁰⁰⁴ These negative outcomes are by no means unique to the United States; but it does call into question the effectiveness and efficiency of how the highly calibrated resettlement process engages the labor market opportunities and conditions for highly qualified refugees. To this end, the Refugee Council USA has drawn attention to the need to expand employment services for highly educated and professional refugees, including tailored job training, recertification, and language-acquisition opportunities.¹⁰⁰⁵

¹⁰⁰⁴US Citizenship and Immigration Services "Refugees", <http://www.uscis.gov/humanitarian/refugees-asylum/refugees>.

¹⁰⁰⁵ Refugee Council USA (2015) "Strengthening Communities by Welcoming All Residents: A Federal Strategic Action Plan on Immigrant and Refugee Integration Strategy," in "Recommendations to Help Shape the Focus of the New Federal Immigrant and Refugee Integration Strategy," RCUSA, <http://www.rcusa.org/uploads/pdfs/Task%20Force%20on%20New%20Americans%20Report%20to%20President%20Obama.pdf>.

Facilitating factors

The highly developed resettlement program in the United States is front-loaded with the expectation that refugees will rapidly enter the labor market. Refugees are settled around the country with NGOs as the implementing partners that receive federal funding for case work and support services for the resettled refugees. About one-quarter of refugees opt for the six-month intensive support program from NGOs; the majority opt for the cash support alternative, which places the onus on the refugees to settle themselves. Of those in the intensive support program, three-quarters are self-sufficient by the end of this period.

The underlying work ethic of the United States is reflected in the refugee resettlement process. As a Bureau of Population, Refugees, and Migration “Fact Sheet on Refugee Resettlement in the United States” puts it, “Most Americans value self-reliance and hard work” and later “... you will be expected to work.”¹⁰⁰⁶ Employment is considered the primary indicator of successful refugee integration and self-sufficiency.

To this end, the NGO resettlement agencies have only a very short period, usually between four and six months, in which to place refugees in employment in order to receive continuing matching funding. On the face of it a facilitating factor, the negative impact of a job-first strategy constrains successful settlement in several ways. Refugees have insufficient time to adapt to their surroundings; they may be deprived of access to support services that could improve their long-term prospects as the NGOs move on to new cases; and, as already noted, the refugees may find themselves in jobs that are inappropriate or not equal to their skill set.¹⁰⁰⁷

Despite the large absolute number of resettled refugees, the amount is modest in relation to the total U.S. population. Thus, the absorptive capacity of an entrepreneurial economy combined with the framework of government institutions, and supported by the proactive and well-developed network of organizations charged with encouraging refugees to become employed as soon as possible, creates a generally conducive environment for entry to the labor market. These conditions are underpinned by the major objective of the ORR, which is to assist integration by helping refugees link to critical resources and support structures.

Although programs throughout the country differ, in general, refugees have access to employment assessment services, on-the-job training, vocational training, English language instruction, and if necessary for employment, day care transportation. Emphasis on starting work soon after arrival, it is claimed, enhances the acquisition of English and more effective social functioning.¹⁰⁰⁸

¹⁰⁰⁶ Bureau of Population, Refugees, and Migration (2013) “Refugee Resettlement in the United States,” Fact Sheet, , <http://www.state.gov/j/prm/releases/factsheets/2013/203578.htm>.

¹⁰⁰⁷ Columbia University School of International and Public Affairs (2010) “Refugee Resettlement in the United States, An Examination of Challenges and Proposed Solutions,” https://sipa.columbia.edu/sites/default/files/IRCFINALREPORT_0.pdf.

¹⁰⁰⁸ Office of Refugee Resettlement (2014) “Annual Outcomes Goal Plan, ORR-Funded Employment Related Programs for 2014,” <http://www.acf.hhs.gov/programs/orr/resource/office-of-refugee-resettlement-year-in-review-fy2014>; US Citizenship and Immigration Services (2015) “Refugees,” <http://www.uscis.gov/humanitarian/refugees-asylum/refugees>.

Some of the NGOs provide specific assistance related to refugee employment. For example, the U.S. Committee for Refugees and Immigrants promotes refugee employment by offering services to employers and by providing a clearing house and support, including prescreening of refugee applicants' qualifications to match employers' needs, managing external social and family factors so that the refugee employees can focus on work, ensuring access to English language classes, and acting as a channel of communication.¹⁰⁰⁹

Exemplifying the ethos of helping refugees achieve economic self-sufficiency, an interesting initiative of the ORR has been a Microenterprise Development Program to help refugees develop, expand, or maintain their own businesses and become financially independent.¹⁰¹⁰ Typically, micro-loans up to a maximum of US\$15,000, and, if applicable, converted to revolving loans, are funded to support business technical assistance, short-term training, and credit. More than 24,000 refugees have benefited by acquiring new entrepreneurial skills and knowledge from this scheme.

3. MEDIATING CONDITIONS

Socioeconomic conditions

A Migration Policy Institute (MPI) study of refugees in the United States noted that refugee household income levels rise substantially through time, although the level was lower than for other immigrant households and was about 80 percent of the average income of U.S.-born households. Nevertheless, in the period 2009–11, median income for refugee households who had been resident for 20 years was US\$31,000 higher than those with five years' residence; Vietnamese and Russian refugees performed best.¹⁰¹¹ These data compare remarkably accurately with a study of average annual household income for Cleveland area refugees of US\$31,024 in 2012.¹⁰¹²

However, although the MPI study found no difference between the average income for refugee households and U.S.-born households in 2000, by the 2009–11 period, as discussed above, a substantial gap had appeared. This indicates that lower starting salaries—perhaps linked to low-wage, entry-level jobs that do not match refugees' previous skills and qualifications—and slower income progression for more recent arrivals combine to result in a less conducive economic environment for employment and integration.¹⁰¹³

On the other hand, confirming the wage-earning importance of employment, the data show a marked decline in refugees' claiming public welfare benefits. This finding suggests that economic self-sufficiency

¹⁰⁰⁹ US Committee for Refugees and Immigrants, www.refugees.org.

¹⁰¹⁰ Office of Refugee Resettlement, "About Microenterprise Development," <http://www.acf.hhs.gov/programs/orr/programs/microenterprise-development/about>.

¹⁰¹¹ Capps, R., K. Newland, S. Fratzke, S. Groves, M. Fix, M. McHugh, and G. Auclair (2015) "The Integration Outcomes of US Refugees: Successes and Challenges," Migration Policy Institute, <http://www.migrationpolicy.org/research/integration-outcomes-us-refugees-successes-and-challenges>.

¹⁰¹² Chmura Economics and Analytics (2013) "Economic Impact of Refugees in the Cleveland Area, Calendar Year 2012," Prepared for Refugee Services Collaborative of Greater Cleveland, <http://www.hias.org/sites/default/files/clevelandrefugeeeconomic-impact.pdf>.

¹⁰¹³ Capps, R., K. Newland, S. Fratzke, S. Groves, M. Fix, M. McHugh, and G. Auclair (2015) "The Integration Outcomes of US Refugees: Successes and Challenges," Migration Policy Institute, <http://www.migrationpolicy.org/research/integration-outcomes-us-refugees-successes-and-challenges>.

increases with length of residency in United States, although the regulations on claiming benefits may also act as a constraint irrespective of economic self-sufficiency.

The availability of English language classes for refugees has been highlighted as a significant variable in labor market access. However, a potential issue is that the number of nationalities being resettled rose from 11 in 1980 to 64 in 2013, significantly reflecting the responsiveness of the United States to global trends in refugee crises, but the wider range of languages and educational and skills levels potentially poses problems for assistance provided in the immediate post-arrival period for newly resettled refugees.¹⁰¹⁴

Refugee profiles

Many refugees move from their first settlement destination toward communities with job opportunities. Social networks and their composition play an important role in determining employment prospects. Despite being based on dated data (from 2001–05), a research paper sheds potentially controversial light on these phenomena in the U.S. context.¹⁰¹⁵ In essence the study finds that while refugee social networks provide labor market information to members, the larger the network the greater the likelihood that new refugees will compete against each other for employment and drive down hourly wage rates. The study finds that the probability of employment for a new entrant declines with the size of the network. However, where networks are older than two years, the probability increases that a new refugee will find employment. Competition for jobs from new refugees slows the rate of increase of employment of established refugees; thus, the negative competition from an increase in the number of new refugee network members more than offsets the positive effects of an additional year of residence for those already seeking access to labor markets.

The MPI study gives some indication of how refugee profiles affect employment and other settlement variables. The study reveals that recently resettled refugees have lower educational attainment and language skills than in the past. Fewer than half the resettled refugees from Bhutan, Liberia, Myanmar, and Somalia were literate in the language of their country of origin before resettlement. Concern has been expressed that if pushed into work too soon after arrival—in line with prevailing resettlement policies—opportunities to gain further education will be diminished.¹⁰¹⁶ At the same time, lower language attainment and other skills make it more difficult to integrate, and there is some suggestion that such

¹⁰¹⁴ Capps, R., K. Newland, S. Fratzke, S. Groves, M. Fix, M. McHugh, and G. Auclair (2015) “The Integration Outcomes of US Refugees: Successes and Challenges,” Migration Policy Institute, <http://www.migrationpolicy.org/research/integration-outcomes-us-refugees-successes-and-challenges>.

¹⁰¹⁵ Beaman, L. A. (2011) “Social Networks and the Dynamics of Labor Market Outcomes: Evidence from Refugees Resettled in the U.S.,” *Review of Economic Studies*, Vol. 20, pp. 1–34, <http://restud.oxfordjournals.org/content/early/2011/08/09/restud.rdr017.abstract>; <http://journalistsresource.org/studies/economics/jobs/social-networks-labor-employment-immigration-refugee#sthash.nqQuvlnX.cWziu089.dpuf>.

¹⁰¹⁶ Capps, R., K. Newland, S. Fratzke, S. Groves, M. Fix, M. McHugh, and G. Auclair (2015) “The Integration Outcomes of US Refugees: Successes and Challenges,” Migration Policy Institute, <http://www.migrationpolicy.org/research/integration-outcomes-us-refugees-successes-and-challenges>.

refugees have lower income-earning potential.¹⁰¹⁷ However, there is evidence that refugees may more quickly acquire language skills (for their country of settlement) in the workplace.¹⁰¹⁸

4. OUTCOMES

Participation in the labor market

Among a significant number of studies analyzing labor market participation by refugees in the United States, many of which are locally based, three have been selected for the relevant information they provide about this process.

Some measure of the effectiveness of the refugee settlement strategy in promoting access to employment is provided by evidence from the same MPI study cited earlier.¹⁰¹⁹ The study found that refugee men were more likely to be employed than U.S.-born men (67 percent versus 62 percent), while for women the ratio was the same at 54 percent. More recently resettled refugee populations, such as Iraqis, Myanmarese, and Somalis, however, had lower participation rates, possibly because of their lower levels of educational achievement before resettlement.

These findings echo those of an earlier study using data collected in 2008 that found that refugee employment rates in the three cities studied, Houston, Miami, and Sacramento, were high. The average rates of employment for refugees in the three cities two years after entry were, respectively, 73 percent, 77 percent, and 55 percent. The study suggests that the rates are likely to have been even higher since many refugees work in jobs, such as domestic work, informal child care, and landscaping services, not covered under the unemployment insurance wage records used for the study.¹⁰²⁰

A more recent study of the economic impact of refugees in the Cleveland area found that 73.5 percent of refugees were employed after two years, roughly equal to the 73 percent for Houston but below the 77 percent rate for Miami found in the three city study. Refugees in the Cleveland area were also less likely to take public assistance after two years: 8.1 percent of Cleveland-area refugees compared with an average of 12.4 percent in the three-city study,¹⁰²¹ although the Sacramento case in this study significantly increases the average.

¹⁰¹⁷ Capps, R., K. Newland, S. Fratzke, S. Groves, M. Fix, M. McHugh, and G. Auclair (2015) "The Integration Outcomes of US Refugees: Successes and Challenges," Migration Policy Institute, <http://www.migrationpolicy.org/research/integration-outcomes-us-refugees-successes-and-challenges>.

¹⁰¹⁸ Office of Refugee Resettlement (2014) "Annual Outcomes Goal Plan, ORR-Funded Employment Related Programs for 2014," <http://www.acf.hhs.gov/programs/orr/resource/office-of-refugee-resettlement-year-in-review-fy2014>.

¹⁰¹⁹ Capps, R., K. Newland, S. Fratzke, S. Groves, M. Fix, M. McHugh, and G. Auclair (2015) "The Integration Outcomes of US Refugees: Successes and Challenges," Migration Policy Institute, <http://www.migrationpolicy.org/research/integration-outcomes-us-refugees-successes-and-challenges>.

¹⁰²⁰ The Lewin Group (2012) "The Evaluation of the Refugee Social Service (RSS) and Targeted Assistance Formula Grant (TAG) Programs: Synthesis of Findings from Three Sites," Office of Refugee Resettlement, U.S. Department of Health and Human Services, <http://www.acf.hhs.gov/sites/default/files/orr/synthesisoffindingsfromthreesites.pdf>.

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SUMMARY AND CONCLUSIONS

The United States offers perhaps the most compelling evidence of the value of a proactive right-to-work policy for refugees, linked, as it is, to a single-minded job-first strategy that pervades refugee and indeed national employment policy in the United States. Especially with respect to refugee resettlement, the success of this strategy is evident. A large and dynamic economy, even in recession, also offers the traction necessary for the policy to succeed.

On the other hand, the merits of the policy should not conceal the limitations. Refugees may be pushed into work too soon after arrival, which denies them opportunities to make essential social and cultural adjustments that may contribute to more successful integration in the longer term; and it often means that refugees are denied access to employment that matches their preexisting high-level skills, experience, or education. Refugees lose a measure of dignity as well as potentially higher long-term income earning potential; the economy as a whole suffers from underutilization of human resources and assets.

The current debate around refugees, migration, and security may bring some revision or adjustment to the existing legal framework for refugees, or at least to some of the criteria. At this stage it is hard to tell whether possible changes may affect labor market outcomes for this group. However, some of the approaches flagged in the current political context raise concerns about potential impacts on labor and other rights.¹⁰²²

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¹⁰²² See, for example, Resettlement Accountability National Security Act (H.R. 3314, 2105–16) <https://www.congress.gov/bill/114th-congress/house-bill/3314>, and US Government Accountability Office (2015) “Asylum, Additional Actions Needed to Assess and Address Fraud Risks,” <http://www.gao.gov/assets/680/673941.pdf>.

República Bolivariana de Venezuela

PROFILE

- **Party to the 1967 Protocol, and to the 1984 Cartagena Declaration on Refugees.**
- **6,694 refugees, 167,060 people in a refugee-like situation, and 235 asylum seekers totaling 173,989 = 0.54 percent of a total estimated population of 31 million.**
- **Large number of undocumented refugees and limited refugee status recognition rates.**
- **Refugees spontaneously and widely distributed, with concentration in inaccessible, border areas.**
- **Human development rank and index: 71st and 0.762**
- **GDP: Growth –5.7 percent; Per capita US\$12,711¹⁰²³**
- **Upper-middle-income economy**
- **Unemployment rate: 8.6 percent**

CONTEXT

With a porous 2,200 kilometer border with Colombia, República Bolivariana de Venezuela hosts a large number of refugees (the vast majority undocumented) fleeing violence in that country¹⁰²⁴ over recent decades. A large volume of Colombian migrants, possibly numbering millions, were also attracted by Venezuela's oil boom of the 1960s and later periods of economic prosperity.

Historically, Venezuela was reluctant to accept the existence of refugees in its territory. Legislation complying with international standards of refugee protection was not passed until 2001, and a Refugee Commission was subsequently established in 2003. Although refugee registration is extremely low,¹⁰²⁵ now Venezuela's attitude has changed to pragmatic acceptance of refugees and asylum seekers. Indeed, since 2012 Venezuela has allowed Colombians to enter without visas.¹⁰²⁶

¹⁰²³ In 2012.

¹⁰²⁴ It is estimated that 95 percent of these people are Colombians, CEAR, Comisión Española de Ayuda al Refugiado (2013) "Venezuela Procedimiento de Asilo, situación de las personas colombianas, actuación de grupos paramilitares y/o paraestatales colombianos," CEAR, Madrid, p. 5, <https://boletinderechoshumanos.files.wordpress.com/2014/07/venezuela-2013-asilo-colombianos.pdf>.

¹⁰²⁵ Gottwald, M. (2006) "Protecting Colombian Refugees in the Andean Region: The Fight against Invisibility," *Agenda Internacional Año XII*, No. 23, pp. 199–226, <http://revistas.pucp.edu.pe/index.php/agendainternacional/article/viewFile/8314/8618>.

¹⁰²⁶ Venezuelanalysis.com (2012) "Open Borders and Open Hearts: How the Venezuelan State Addresses Its Population of Colombian Refugees," <http://venezuelanalysis.com/analysis/7257>.

1. LAW

Refugee Law

National legislation. The Organic Law on Refugees and Asylum Seekers, adopted in 2001,¹⁰²⁷ and accompanying executive regulations under Decree No. 2491 of 2003 govern all relevant matters. These instruments are in accordance with the provisions of the 1951 Refugee Convention (although Venezuela is only signatory to the 1967 Protocol, not the Convention itself). The National Commission for Refugees (NCR; see below), created in the 2001 legislation, was established in 2003. Venezuela is also a signatory to the 1984 Cartagena Declaration, although its national legislation does not reflect the wider refugee definition contained in the Declaration.

Although now compliant with international obligations to refugees and formal recognition procedures, Venezuelan and external commentators¹⁰²⁸ have drawn attention to Venezuela's slow pace in both acceding to international conventions—it took almost 20 years to ratify the 1967 Protocol in 1986—and adopting domestic legislation on refugee and asylum matters: the first legislation was approved only in 1999 (more than 30 years after the Protocol was set forth), and adopted in 2001. This hesitancy has been attributed to the view of successive governments that formal refugee recognition procedures would precipitate even larger flows of refugees claiming status.¹⁰²⁹ Symptomatically, the term “displaced person” was often used in the past to avoid the internationally accepted term “refugee.” Indeed the commission preparing the 2003 Decree was entitled the Technical Commission for Displaced Persons.

Institutions. Decree No. 2491 of 2003 also gave legal force to the creation of the NCR, composed of representatives from the Ministries of Foreign Affairs, Interior and Justice, and Defense, the Ombudsman, and the National Assembly. The NCR is the competent authority (that is, the executive body) responsible for refugee matters including registration, decision making on refugee status determination, exclusions, and cessation, for example.

Access to protection. Registration is conducted by the NCR at four administrative centers, one in Caracas and three in the border cities of San Cristobal, Táchira State; Maracaibo, Zulia State; and Guasualito, Apure State. Asylum seekers have to register at these offices. However, access is difficult for the majority of asylum seekers who live in remote rural areas, and police and military checkpoints on the roads leading to the cities can make access risky. The United Nations High Commissioner for Refugees (UNHCR) and its

¹⁰²⁷ Ley Organica Sobre Refugiados O Refugiadas Y Asilados O Asilada, 2001.

¹⁰²⁸ See Rincón Eizaga, L. B. (2005) “La Ley Orgánica Sobre Refugiados: su aplicación en la frontera colombo-venezolana,” *Revista Venezolana de Economía y Ciencias Sociales* v.11 n.2, Universidad del Zulia, http://www.scielo.org.ve/scielo.php?pid=S1315-64112005000200005&script=sci_arttext;
Fernández, G. (2004) “Los solicitantes del reconocimiento a la condición de refugiado en Venezuela,” *Andean Programme on Human Rights, Universidad Andina Simon Bolivar*, <http://www.uasb.edu.ec/padh/revista8/articulos/gloriana%20fernandez.htm>;
and CEAR (Comisión Española de Ayuda al Refugiado) (2013) “Venezuela Procedimiento de Asilo, situación de las personas colombianas, actuación de grupos paramilitares y/o paraestatales colombianos,” CEAR, Madrid, p. 5.

¹⁰²⁹ Rincón Eizaga, L. B. (2005) “La Ley Orgánica Sobre Refugiados: su aplicación en la frontera colombo-venezolana,” *Revista Venezolana de Economía y Ciencias Sociales* v.11 n.2, Universidad del Zulia, http://www.scielo.org.ve/scielo.php?pid=S1315-64112005000200005&script=sci_arttext.

implementing partners conduct some registrations in remote areas and submit these registrations to the NCR.¹⁰³⁰ The NCR also conducts some remote registration.

Although Venezuela now has comprehensive refugee legislation and registration systems in place that are generally in accordance with international standards, there were only slightly more than 5,600 recognized refugees in total in 2015 and many thousands of applications pending.¹⁰³¹

Several factors explain the low status determination rate. Many potential claimants for refugee status have not followed the procedures for registering with the NCR because for many years they were given access to services without documents. These circumstances have changed in recent years with the fragile socioeconomic situation, and people are becoming increasingly concerned about the difficulties in getting registered. At the same time, the low take up is also partly explained by the difficulty of accessing the registration services available in the three border cities, given the widely dispersed refugee population.¹⁰³²

In addition, factors such as lack of resources at the disposal of the NCR, the long duration of the status determination process,¹⁰³³ and reports of maltreatment and deportations (of undocumented migrants as well as some refugees), which act as deterrents,¹⁰³⁴ also contribute to this low number. These conditions reflect wider concern about Venezuela's human rights record, lack of judicial independence and due process, and excessive use of force,¹⁰³⁵ which are consistently matters of concern for the United Nations Human Rights Council,¹⁰³⁶ the UNHCR, and international advocacy organizations.^{1037,1038}

¹⁰³⁰ United States Committee for Refugees and Immigrants, "World Refugee Survey 2008–Venezuela," <http://www.refworld.org/docid/485f50da8d.html>.

¹⁰³¹ For example, in 2009 there were 2,873 applications for asylum, only 215 were accepted, 226 were rejected, and 14,187 remained pending, CEAR (Comisión Española de Ayuda al Refugiado) (2013) "Venezuela Procedimiento de Asilo, situación de las personas colombianas, actuación de grupos paramilitares y/o paraestatales colombianos," CEAR, Madrid, p. 6.

¹⁰³² Gottwald, M. (2006) "Protecting Colombian Refugees in the Andean Region: The Fight against Invisibility," *Agenda Internacional Año XII*, N.º 23, 2006, pp. 199–226, <http://revistas.pucp.edu.pe/index.php/agendainternacional/article/viewFile/8314/8618>.

¹⁰³³ United States Committee for Refugees and Immigrants, "World Refugee Survey 2009–Venezuela," http://www.refugees.org/resources/uscri_reports/archived-world-refugee-surveys/2009-wrs-country-updates/venezuela.html.

¹⁰³⁴ For example, more than 1,400 Colombians were reportedly deported in the first three months of 2015, <http://www.noticiasrcn.com/nacional-pais/senador-chamorro-critico-posicion-cancilleria-colombianos-deportados-venezuela> and <http://uk.businessinsider.com/venezuela-has-deported-thousands-of-colombians-2015-4#ixzz3a1b7EbmW>. Amnesty International Annual Report 2015–16 for Venezuela states "In August, nearly 2,000 Colombian citizens, including refugees and asylum-seekers, were deported in the course of a few days," <https://www.amnesty.org/en/countries/americas/venezuela/report-venezuela/>.

¹⁰³⁵ Human Rights Watch (2014) July 29, 2014 "Venezuela before the UN Human Rights Committee Submitted to the UN Human Rights Committee in Advance of its Pre-Sessional Review of Venezuela," <https://www.hrw.org/news/2014/07/29/venezuela-un-human-rights-committee>.

¹⁰³⁶ See, for example, "Venezuela Must Uphold Rights of 'Even Those Who Disagree with State Policies' – UN Human Rights Chief," <http://www.refworld.org/country,,,VEN,,5645aee832b,0.html>. <http://amnesty.org/en/region/venezuela/report-2013>.

¹⁰³⁷ See, for example, Human Rights Watch (2015) "World Report 2015: Venezuela Events of 2014," <https://www.hrw.org/world-report/2015/country-chapters/venezuela>.

¹⁰³⁸ Amnesty International (2014) "Amnesty International Report 2014/15 State of the World's Human Rights," pp. 401–4, <https://www.amnesty.org/en/documents/pol10/0001/2015/en/>.

Given concerns about access to protection and the rights of refugees,¹⁰³⁹ one of the UNHCR's principal, and often repeated, objectives has been to provide technical support to the NCR to "expedite the processing of asylum application backlogs." The Office [UNHCR] will focus in particular on "improving the issuance of documentation, to enhance protection..."¹⁰⁴⁰

A verification protocol is in place between the UNHCR, the Norwegian Refugee Council, and the migration authorities with respect to deportation. Nevertheless, persons in need of international protection run the risk of deportation if they have not accessed the registration procedures. Evidence is sparse; however, a UN Office for the Coordination of Human Affairs report states that in the period mid-August to mid-October 2015, 1,950 Colombians were deported at border crossings while between 10,000¹⁰⁴¹ and 22,342 Colombians were reported to have returned to Colombia because of fear of deportation.¹⁰⁴² Significantly, the official returnees' registry has been closed since September 23, 2015.¹⁰⁴³

Refugees are not detained for irregular entry or other noncriminal reasons. However, given weak rule of law, there are reports that members of the National Guard and police regularly extort money from refugees by illegally detaining and threatening them with deportation. Refugees' documents are sometimes destroyed as part of this intimidation.¹⁰⁴⁴ Fear of provoking reprisals prevents the victims from reporting these incidents.¹⁰⁴⁵

Freedom of movement

Although the Constitution guarantees freedom of movement, frequent checkpoints make it difficult for undocumented refugees and asylum seekers to move about the country.¹⁰⁴⁶

Right to work – refugee and labor and employment law

Refugees' right to work in Venezuela is mainly governed by the domestic labor laws that pertain to foreigners as a whole, notably the Venezuelan Organic Labor and Workers' Law of 2012 (LOTTT), which is the primary instrument.¹⁰⁴⁷ In addition, Article 15 of the LOTTT ensures that international treaties and conventions that Venezuela has ratified and that provide more beneficial rights and conditions for workers

¹⁰³⁹ Jesuit Refugee Service (2012) "Facing Adversity on the Colombia-Venezuela Frontier," http://jrsusa.org/campaign_detail?TN=PROJECT-20121010021622.

¹⁰⁴⁰ UNHCR (2015) "Global Appeal 2015, Latin America," p. 3, <http://www.unhcr.org/528a0a351e.html>.

¹⁰⁴¹ IRIN (2015) "Venezuela Crackdown Forces out Colombian Migrants," December 9, 2015, www.irinnews.org/report/101953/venezuela-crackdown-forces-out-colombian-migrants#.VenvHVhPwHo.email.

¹⁰⁴² UNOCHA (2015) "Colombia: Humanitarian Snapshot: Colombia–Venezuela Border" (October 15, 2015), <http://www.refworld.org/country,,,VEN,,562616084,0.html>.

¹⁰⁴³ UNOCHA (2015) "Colombia: Humanitarian Snapshot: Colombia–Venezuela Border" (October 15, 2015), <http://www.refworld.org/country,,,VEN,,562616084,0.html>.

¹⁰⁴⁴ United States Committee for Refugees and Immigrants, "World Refugee Survey 2009–Venezuela," http://www.refugees.org/resources/uscri_reports/archived-world-refugee-surveys/2009-wrs-country-updates/venezuela.html.

¹⁰⁴⁵ See, for example, Human Rights Watch (2015) "World Report 2015: Venezuela Events of 2014" and earlier annual reports, <https://www.hrw.org/world-report/2015/country-chapters/venezuela>.

¹⁰⁴⁶ United States Committee for Refugees and Immigrants, "World Refugee Survey 2009–Venezuela," http://www.refugees.org/resources/uscri_reports/archived-world-refugee-surveys/2009-wrs-country-updates/venezuela.html.

¹⁰⁴⁷ Ley Orgánica del Trabajo, los Trabajadores y las Trabajadoras, (LOTTT) (2012).

than domestic law shall apply. In principle, refugees have more advantageous conditions than other foreign nationals. Thus, according to the 2001 Refugee Law and 2003 Decree, refugee identity cards are sufficient to access and authorize employment without additional permits; identity cards were available from the National Office of Identification and Immigration, part of the Ministry of the Interior, until it was replaced in 2009 by the Administrative Service of Identification, Migration and Immigration. Refugees can run businesses and practice as professionals. The labor laws that apply to nationals also apply to refugees.

2. POLICY AND PRACTICE

Constraining factors

Despite these ostensibly straightforward conditions in the law and the plethora of proworker benefits that employers must provide under Venezuela's highly protectionist labor laws (which extend to refugees),^{1048,1049} in practice the right to work in Venezuela's highly regulated labor market presents a much more complex picture.

Any foreign national entering Venezuela for other than recreational purposes must obtain a work (or business, industrialist, or investor) visa and a work permit.¹⁰⁵⁰ Some authorities indicate that the refugee identity card does not allow refugees to access work without an additional permit. Refugees require an annually renewable permit, but not a visa, and the procedures for obtaining the permits (and visa) are complex for both the employee and the employer.

Article 27 of the LOTTT also places restrictive conditions on the employment of nonnationals in any establishment, which may, in principle, affect refugees' ability to access work. Venezuelan nationals must make up 90 percent of the payroll, and remuneration of foreign nationals cannot exceed 20 percent of the total wage bill of the enterprise, although for the purposes of measuring this quota, refugees are treated as nationals.

An important limitation in accessing the formal labor market for both recognized refugees and recognized asylum seekers, even though they should be able to do so, is the fact that their type of ID (a so-called *cédula de transeúnte*) does not enable them to sign up for Social Security. Anyone who is not inscribed in Social Security cannot be employed in a formal work setting.

Perhaps the most salient factor limiting the right to work is the extremely small number of people who have actually been granted refugee status, although as discussed this may be attributable as much to the unwillingness of people to access registration as to the lack of government capacity or commitment. The lack of the right to work for the more than 200,000 undocumented refugees¹⁰⁵¹ who do not have status is a far tougher issue. With little likelihood of ever receiving legal status, they, like many refugees, are

¹⁰⁴⁸ Economist (2014) "Venezuela's Labour Market: Labour's Love Lost,"

<http://www.economist.com/news/americas/21594997-regime-has-contrived-make-both-bosses-and-workers-unhappy-labours-love-lost>.

¹⁰⁴⁹ Baker and McKenzie (2012) "Overview of Labor & Employment Law in Latin America," pp. 121–45, http://www.bakermckenzie.com/files/Uploads/Documents/Dallas/bk_overviewlelawlatinamerica.pdf.

¹⁰⁵⁰ Thomson Reuters Practical Law (2015) "Employment and Employee Benefits in Venezuela: Overview," <http://us.practicallaw.com/3-503-0509#a780457>.

¹⁰⁵¹ UNHCR identifies 168,500 persons in need of international protection who have not accessed asylum procedures.

consigned to working in the informal sector without the protection of Venezuela's labor laws; they receive lower wages than Venezuelan nationals, and may be subject to discrimination and exploitation by employers and officials. Without appropriate identification, undocumented refugees have limited freedom of movement, and unable to easily get away from the border areas where they are most at risk, these limitations put far greater constraints on their attempts to find work in the informal sector.¹⁰⁵² The parlous economic conditions in Venezuela harden both the government's stance and public attitudes toward undocumented refugees' access to the labor market.¹⁰⁵³ The threat of deportation and, in some cases, its application further consigns undocumented refugees to very limited access to the job market.

Finally, it should be noted that these constraints on refugee employment take place against a backdrop of intimidation toward employers' organizations, independent trade unions, and their representatives in general, which mirrors the wider picture of denial of human rights in the country. These concerns were the subject of a detailed report by a tripartite ILO mission to Venezuela in January 2014¹⁰⁵⁴ and of human rights organizations concerned with limitations on trade union freedoms under international norms.^{1055,1056}

Facilitating factors

In addition to a positive legal framework mitigating these negative conditions, there are a number of ad hoc factors that facilitate access to jobs and sustainable livelihoods.

First, the Venezuelan government does not encamp refugees, who are free to move around the country. This, in principle at least, widens the potential access to work for refugees, although as discussed, mobility is constrained in practice. Moreover, many live in the inaccessible eastern border areas of the country.

Second, in 2010–11 the Jesuit Refugee Service commenced a capacity-building training and coordination process with refugee populations to strengthen protection mechanisms and to promote their rights and support the local integration processes in collaboration with the International Organization for Migration. The awareness-raising program facilitated access to micro-credit, education, and other services.¹⁰⁵⁷

Third, in 2012 the Venezuelan government announced proposals to coordinate a large number of state agencies in the formulation of public policies for the refugee population, in particular, to protect their

¹⁰⁵² US Department of State (2013) "Country Reports on Human Rights Practices for 2013, Venezuela," Bureau of Democracy, Human Rights and Labor, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>.

¹⁰⁵³ Economist Intelligence Unit (2015) "Country Report, Venezuela," generated December 8, 2015, through World Bank access.

¹⁰⁵⁴ ILO (2104) "ILO High-Level Tripartite Mission to Venezuela," January 2014 <http://www.ioe-emp.org/index.php?id=907>.

¹⁰⁵⁵ Human Rights Watch (2014) July 29, 2014, "Venezuela before the UN Human Rights Committee Submitted to the UN Human Rights Committee in Advance of its Pre-Sessional Review of Venezuela."

¹⁰⁵⁶ Human Rights Watch (2015) "World Report 2015: Venezuela Events of 2014," <https://www.hrw.org/world-report/2015/country-chapters/venezuela>.

¹⁰⁵⁷ Jesuit Refugee Service (2012) "Facing Adversity on the Colombia-Venezuela Frontier," http://jrsusa.org/campaign_detail?TN=PROJECT-20121010021622.

rights to work as well as to education and health services. The decentralization of these services to local capitals was an important feature of these initiatives.¹⁰⁵⁸

Fourth, the UNHCR, jointly with the UN Development Programme and the government, is seeking to pursue sustainable solutions for refugees through the Transitional Solutions Initiative, with technical support so that the authorities can replicate the projects on a wider scale in other affected areas.¹⁰⁵⁹

Despite the potential value of these initiatives, their impact and effectiveness have not been formally assessed.

3. MEDIATING FACTORS

Socioeconomic conditions

Although an upper-middle-income country with a comparatively diverse labor market, the precarious state of Venezuela's economy is very challenging.¹⁰⁶⁰ High unemployment and underemployment, negative economic growth, and a mounting economic crisis limit the socioeconomic prospects of the small number of registered refugees.¹⁰⁶¹ For the mass of undocumented refugees who compete in a very crowded informal sector labor market, these conditions are a severe constraint on access to employment.

Although the urban sector offers better opportunities for refugee employment, only recognized refugees and asylum seekers, a minute fraction of the total number, can avail themselves of these conditions and seek employment in the formal sector. Some employers still hire refugees or asylum seekers, but these are rare exceptions. For the enormous number of undocumented refugees, their only opportunity is to work in the informal sector, where they face even greater competition with nationals for jobs, housing, business opportunities, and other services. The majority of undocumented refugees, however, live in remote rural areas where livelihood opportunities are even more constrained.

Since 2008, registered refugees have been able to purchase and own real property, which eased the settlement process and the potential for developing a sustainable livelihood.¹⁰⁶² However, for asylum seekers, the lack of status and clear identification renders property purchase and ownership far more difficult.¹⁰⁶³ Now, even registered refugees face substantial restrictions. The property register requires refugees to present a national identity card (*cédula de residente*). However, recognized refugees can only

¹⁰⁵⁸ Notitarde Directora de ACNUR para América realiza visita oficial a Venezuela (2012), <http://www.notitarde.com/Pais/Directora-de-Acnur-para-Am%C3%A9rica-realiza-visita-oficial-a-Venezuela/2012/06/22/114403>.

¹⁰⁵⁹ UNHCR (2015) "Global Appeal 2015, Latin America," p. 139, <http://www.unhcr.org/528a0a351e.html>.

¹⁰⁶⁰ Described as "in freefall," Economist Intelligence Unit (2015) "Country Report, Venezuela," generated on December 8, 2015, through World Bank access.

¹⁰⁶¹ There are no recent data on the employment of refugees. A 2007 UNHCR study found that 14 percent of adults in need of international protection but who have not accessed asylum procedures are unemployed, <http://www.acnur.org/t3/fileadmin/Documentos/Publicaciones/2009/6953.pdf?view=1>.

¹⁰⁶² United States Committee for Refugees and Immigrants, "World Refugee Survey 2009–Venezuela," http://www.refugees.org/resources/uscri_reports/archived-world-refugee-surveys/2009-wrs-country-updates/venezuela.html.

¹⁰⁶³ United States Committee for Refugees and Immigrants, "World Refugee Survey 2009–Venezuela," http://www.refugees.org/resources/uscri_reports/archived-world-refugee-surveys/2009-wrs-country-updates/venezuela.html.

obtain a more provisional identity card (*cédula de transeúnte*) with which they cannot register as owners with the Registry of Property. They can obtain a national identity card only once they have obtained Venezuelan nationality.

Earlier changes to banking regulations allowed refugees to open bank accounts with their provisional identity documents or copies of their asylum applications, an entitlement which, according to the UNHCR, allows refugees to cash checks and, until recently, convey remittances to Colombia.¹⁰⁶⁴ These conditions again open up possibilities to improve economic security and sustainable livelihoods. However, these opportunities are increasingly restricted. The current regulation (Circular SIB-II-GGR-GNP-34064 of 21.10.2011) issued by the Superintendency of Bank Institutions establishes that now only registered refugees, not those with provisional identity cards, are entitled to open bank accounts.¹⁰⁶⁵ With regard to remittances, regulations of the Minister of Economy and Finance now only allow Venezuelan citizens to send remittances to Colombia.

There is little documented evidence about the attitudes of Venezuelans toward the refugee population. No reports on xenophobia toward migrants have been found, for example, and the fact that there is little cultural difference between Colombians and Venezuelans—they share similar ethnic, religious, and historical characteristics—may help reduce the potential for conflict.¹⁰⁶⁶ However, there is some suggestion of rising public hostility in the context of the harsher economic conditions that the country confronts and the prevailing environment of negativity toward refugees.

Refugee profiles

Little evidence is available on the skill and professional profiles of refugees in Venezuela and how these factors might mediate their access to employment. Because the vast majority of refugees remain undocumented and are employed, if at all, in the informal sector, it could be assumed that they either do not possess or are unable to deploy their skills and resources at appropriate levels.

However, given that the majority of refugees are *campesinos* who come from rural or peasant backgrounds (many from the frontier zones between Colombia and Venezuela), this provenance enables them to eke out a living in the line of work with which they are already familiar.

It is conceivable that the very large number of Colombians who came as migrant labor to Venezuela in the oil boom of the 1960s and later periods of economic prosperity provide a substantial informal social network for the more recently arriving refugees. Such conditions are known to pertain in other countries and might be assumed to apply here although no definitive research evidence has been found.

¹⁰⁶⁴ United States Committee for Refugees and Immigrants, “World Refugee Survey 2009–Venezuela,” http://www.refugees.org/resources/uscri_reports/archived-world-refugee-surveys/2009-wrs-country-updates/venezuela.html.

¹⁰⁶⁵ Circular SIB-II-GGR-GNP-34064 of 21.10.2011.

¹⁰⁶⁶ Venezuelanalysis.com (2012) “Open Borders and Open Hearts: How the Venezuelan State Addresses Its Population of Colombian Refugees,” <http://venezuelanalysis.com/analysis/7257>.

4. OUTCOMES

Participation in the labor market

As noted, few refugees and very few asylum seekers work in the formal sector. Most recognized refugees and those without documentation work in the informal sector, without the protection of labor laws and receiving lower wages than Venezuelans.

SUMMARY AND CONCLUSION

Venezuela presents a paradoxical picture on refugees' right to work. Venezuelan refugee and labor laws appear to fully secure rights that adhere to international standards and compare favorably with other countries in Latin America. In practice, however, these rights are very severely restricted by the government's lack of enthusiasm, and lack of resources to implement and administer a fully functioning refugee service on the one hand, and a fragile economy on the other hand, which consigns refugees (both documented and undocumented) to limited employment opportunities and high risk of exploitation. These limiting conditions take place against the backdrop of an adverse human rights regime that further militates against satisfactory employment possibilities for the refugees.

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Zambia

PROFILE

- **Party to the 1951 Convention relating to the Status of Refugees (with reservations), the 1967 Protocol, and the Organization of African Unity Refugee Convention.**
 - **26,447 refugees and 2,411 asylum seekers totaling 28,858 = 0.17 percent of a total estimated population of 16.2 million.**
 - **Protracted displacement of refugees mainly from the Democratic Republic of Congo and Somalia and new episodes of displacement of refugees from Democratic Republic of Congo and Burundi.¹⁰⁶⁷ The country also still hosts some 18,000 former Angolan refugees and about 6,000 former Rwandese refugees.¹⁰⁶⁸**
 - **The majority of refugees are in “refugee settlements”;¹⁰⁶⁹ more than 12,000 refugees and former refugees self-settled outside the refugee settlements in rural or urban areas.¹⁰⁷⁰**
- **Human development rank and index: 139th and 0.586**
 - **GDP: Growth 3.2 percent; Per capita US\$1,307.8**
 - **Lower-middle-income economy**
 - **Unemployment rate: 13.3 percent**

¹⁰⁶⁷ As of March 2016, the number of refugees who had fled the violence in Burundi was estimated at 1,197, UNHCR (2015) Number of Burundian refugees tops 250,000 since April, <http://www.unhcr.org/news/latest/2016/3/56d97f2d9.number-burundian-refugees-tops-250000-since-april.html>.

¹⁰⁶⁸ Although their status as refugees ceased in 2012 for Angolans and 2013 for Rwandans, they are still considered “persons of concern” for the government of Zambia and the UNHCR, US Department of State (2014) “Field Evaluation of Local Integration of Former Refugees in Zambia,” Field Visit Report, Evaluating the Effectiveness of Humanitarian Engagement and Programming in Promoting Local Integration of Refugees in Zambia, Tanzania, and Cameroon, <http://www.state.gov/documents/organization/235057.pdf>; Kambela, L. (2016) “Angolan Refugees in Zambia: Reflecting on Local Integration as a Sustainable Solution,” Policy & Practice Brief No. 39, Accord, <http://www.accord.org.za/wp-content/uploads/2016/05/PPB-39.pdf>; Government of Zambia and UNHCR (2014) “Strategic Framework for the Local Integration of Former Refugees in Zambia,” <http://www.solutionsalliance.org/system/files/resources/STRATEGIC-FRAMEWORK-FOR-THE-LOCAL-INTEGRATION-OF-FORMER-REFUGEES-IN-ZAMBIA.pdf>.

¹⁰⁶⁹ Some 58 percent of the population of concern (that is, including former refugees) or 50 percent of the refugee and asylum-seeker population.

¹⁰⁷⁰ Zambia has an estimated population of 5,600 refugees, and 6,800 former refugees self-settled outside camps who are no longer in regular contact with the UNHCR or the Commissioner for Refugees (information provided by the UNHCR).

CONTEXT

Zambia has had a long tradition of hosting refugees, starting with Polish refugees fleeing the Holocaust during World War II, although it has gradually shifted away from an open door policy.¹⁰⁷¹ In the period between 1960 and 1990 the country received several hundred thousand refugees, including “liberation fighters” from African countries seeking independence from colonialism and apartheid. In the 1990s and the decade that followed, Zambia received refugees fleeing conflicts in the Great Lakes region and the Horn of Africa, especially Rwanda, Burundi, the Democratic Republic of Congo (DRC), and Somalia and those fleeing the civil war in Angola. Subsequently, the total refugee population decreased gradually as many refugees repatriated to their countries of origin.¹⁰⁷² A significant number of refugees in protracted displacement, however, resist repatriation. A small percentage of the total refugee population has been resettled to third countries.¹⁰⁷³ In 2011, the government of Zambia pledged to allow local integration for some 10,000 former Angolan refugees in compliance with specific criteria under the immigration laws, including being financially self-sustainable, and in 2015 the criteria for eligibility for local integration were extended to all Angolan refugees who arrived before 2003. As of September 2016, more than 10,000 have applied and have been screened and found eligible for local integration.¹⁰⁷⁴ The local integration offer was also later extended to some 4,000 former Rwandan refugees, and at the Leaders’ Summit on Refugees hosted by U.S. President Barack Obama on September 20, 2016, held in New York, a commitment to consider the option of local integration for Congolese refugees who have been in the country for more than 10 years was made.¹⁰⁷⁵

Since 2013, the number of refugees from the DRC fleeing persecution, generalized violence, and armed conflict has increased. As of March-April 2015, new refugees from Burundi started arriving in Zambia to seek protection from the ongoing unrest in the country. From 2010 onward, the United Nations High Commissioner for Refugees (UNHCR) also reported an increase of mixed migration movements to and through Zambia from the Horn of Africa.¹⁰⁷⁶

1. LAW

Refugee Law

National legislation. The national Refugee (Control) Act of 1970 regulates issues related to asylum.¹⁰⁷⁷ The Act reflects Zambia’s reservations to the 1951 Convention on the right to work, education, freedom

¹⁰⁷¹ Frischkorn, R. (2013) “We Just Aren’t Free: Urban Refugees and Integration in Lusaka, Zambia,” American University, <http://auislandora.wrlc.org/islandora/object/thesesdissertations%3A434>.

¹⁰⁷² In 2014, some 1,620 former Angolan refugees repatriated from Zambia with the UNHCR’s assistance; another 18,185 former Angolan refugees are still in Zambia, UNHCR (2016) “Projected Global Resettlement Needs,” <http://www.unhcr.org/558019729.html>.

¹⁰⁷³ Some 709 refugees had been resettled and departed Zambia in 2015 while another 195 departed in the first half of 2016 (information provided by the UNHCR).

¹⁰⁷⁴ Information provided by the UNHCR.

¹⁰⁷⁵ One of the objectives of the Leaders’ Summit was to “galvanize significant new global commitments to increase refugees’ self-reliance and inclusion through opportunities for education and legal work,” <http://www.state.gov/p/io/c71574.htm>; according to the UNHCR, this commitment for Congolese refugees would concern some 6,600 persons.

¹⁰⁷⁶ UNHCR “Global Appeal 2012–2013—Zambia,” <http://www.unhcr.org/4ec230ff0.html>.

¹⁰⁷⁷ Zambia: Refugee (Control) Act 1970, www.refworld.org/docid/3ae6b4d6c.html.

of movement, and international travel documents.¹⁰⁷⁸ Although it forbids deportation in cases in which refugees would be at risk of physical attack or punishment for an “offence of a political character,” by giving the Minister of Home Affairs wide discretion to deport refugees from the territory, the Act lacks provisions that protect against *refoulement* and thus fails to comply with international standards.¹⁰⁷⁹ The Immigration and Deportation Act adopted in 2010 also fails to incorporate the principle of *non-refoulement* and does not provide for an effective remedy against deportation orders.¹⁰⁸⁰

A new refugee bill, intended to replace the 1970 Act, is currently being redrafted and is pending submission to Parliament for adoption. In its current version, the draft refugee bill includes a provision on *non-refoulement*, but nothing on durable solutions, including local integration, and it retains the encampment policy and restrictions on freedom of movement, limitations on refugees’ right to work, restrictions on refugees’ freedom of association and expression, and the requirement to submit an asylum application within seven days of entry into the country.¹⁰⁸¹ The draft bill has not yet been presented to Parliament, which was dissolved in May 2016, as stipulated under Article 81 of the Zambian Constitution, as the country prepared for the polls in August. Furthermore, the Bill of Rights 2016 that was to amend the Constitution included provisions protecting refugees and asylum seekers against *non-refoulement*; the Bill of Rights has, however, not been enacted because it failed to receive the required level of support during the August 2016 referendum.¹⁰⁸²

Institutions. The Office of the Commissioner for Refugees (COR), headed by the Commissioner for Refugees, in the Ministry of Home Affairs, administers refugee affairs.

Access to protection. Asylum seekers have an obligation to present themselves to the Zambian authorities within seven days of their arrival in country.¹⁰⁸³ Zambia has a dual system of refugee status determination (RSD), depending first on whether the person applies for status in the capital Lusaka or in one of the provinces, and second on which treaty their case falls under.¹⁰⁸⁴ Asylum seekers arriving in border areas are received and screened by the District Joint Operations Committee which determines refugee status

¹⁰⁷⁸ Reservations concern articles 17.2, 22.1, 26, and 28, Reservations and Declarations to the 1951 Refugee Convention, <http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=3d9abe177&query=1951%20Refugee%20Convention>.

¹⁰⁷⁹ United States Committee for Refugees and Immigrants (2009) “World Refugee Survey—Zambia,” <http://www.refworld.org/docid/4a40d2b7c.html>.

¹⁰⁸⁰ The last deportation episode on a large scale dates to 2010 when 36 refugees were forced back to DRC, UNHCR News Stories (2010) “UNHCR Protests to Zambia about Deportation of 36 Congolese Refugees,” <http://www.unhcr.org/4bc484776.html>.

¹⁰⁸¹ UNHCR (2012) Submission for the Office of the High Commissioner for Human Rights’ Compilation Report – Universal Periodic Review for Zambia, <http://www.refworld.org/docid/4f9660982.html>.

¹⁰⁸² Article 28 of the Bill of Rights reads, “A person who is granted asylum or refuge in Zambia has a right not to be returned to the country of origin or a third country if that person has a well founded fear of persecution, in the country of origin or a third country, which justifies that person’s request for asylum or refuge,” while Article 52 highlights that the principle of *non-refoulement* as provided for in Article 28 is a nonderogable right, Bill of Rights Act 2016, <http://ccmgzambia.org/wp-content/uploads/2016/06/Constitution-of-Zambia-Amendment-Bill-Bill-of-Rights.pdf>.

¹⁰⁸³ Section 11 of the Refugee (Control) Act of 1970.

¹⁰⁸⁴ Until 1993, the UNHCR carried out RSD alone; by 1998 COR took over, Darwin, C. (2005) “Report on the Situation of Refugees in Zambia,” Africa and Middle East Refugee Assistance (AMERA), http://www.matrixlaw.co.uk/wp-content/uploads/2016/03/20_10_2014_09_30_27_Report-Refugees-Zambia.pdf.

under the 1969 Organization of African Unity (OAU) Convention.¹⁰⁸⁵ Asylum seekers whose OAU claims falls within the definition of the 1951 Refugee Convention proceed to Lusaka for a more rigorous screening. The COR registers and determines asylum applications of those applying in Lusaka.¹⁰⁸⁶ The COR has the authority to grant refugee status pursuant to the 1969 OAU Convention or the 1951 Refugee Convention. The COR chairs the National Eligibility Committee (NEC), which conducts RSD for individual persecution claims, as well as the Sub-Committee on Urban Residency, which reviews applications from refugees for residence outside the designated settlements.¹⁰⁸⁷

In both committees the UNHCR acts as an observer and advisor.¹⁰⁸⁸ In the event of a rejection, there is no procedure for appeal to the High Court under the Refugee (Control) Act, although in practice the NEC reviews appeals. Rejected asylum seekers also have the right to appeal by submitting an application to the Minister of Interior. There are no timeframes regulating these appeals and the Minister may take several months or more to decide on the appeal.

As per the Refugee (Control) Act, all recognized refugees are issued refugee IDs; the IDs are different colors depending on whether the refugees are registered in the camp or whether they have been approved by the Sub-Committee on Urban Residency to reside in urban areas.

Freedom of movement. Although Zambia's 1996 Constitution recognized that every person in Zambia (of whatever race, place of origin, political opinions, color, creed, sex, or marital status) was entitled to freedom of movement, a 1972 High Court judgement indicated that the guarantee of freedom of movement in the Constitution is not applicable to noncitizens of Zambia.¹⁰⁸⁹ The new Constitution adopted in January 2016 does not refer to the freedom of movement, while, as noted above, the Bill of Rights that was to be included in the country's new Constitution and that contains specific provisions about the freedom of movement was not approved by referendum during the August 2016 elections.

¹⁰⁹⁰ Zambia has also made a reservation to Article 26 of the 1951 Refugee Convention and has reserved

¹⁰⁸⁵ Provincial Operations Committees and District Operations Committees have the authority to grant refugee status pursuant to Article 1.2 of the 1969 OAU Convention.

¹⁰⁸⁶ Refugee Status Determination and Rights in Southern and East Africa (2010) International Workshop Report, <http://www.rsc.ox.ac.uk/files/publications/event-reports/er-refugee-status-determination-rights-africa-2010.pdf>

¹⁰⁸⁷ UNHCR (2012) "Zambia," Submission by the United Nations High Commissioner for Refugees, For the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review, <http://www.refworld.org/docid/4f9660982.html>.

¹⁰⁸⁸ The UNHCR may provide technical advice, trainings, and country of origin information, UNHCR (2015) "Operation in Zambia Factsheet," <http://www.unhcr.org/524d884c9.html>.

¹⁰⁸⁹ Radebe vs. The Attorney General (1972) in Darwin, C. (2005) "Report on the Situation of Refugees in Zambia," AMERA, http://www.matrixlaw.co.uk/wp-content/uploads/2016/03/20_10_2014_09_30_27_Report-Refugees-Zambia.pdf.

¹⁰⁹⁰ Article 11, Constitution of Zambia (as amended by Act N.18 of 1996), <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/26620/90492/F735047973/ZMB26620.pdf>; In Radebe vs. The Attorney General (1972), the High Court found that the guarantee of freedom of movement in the Constitution is not applicable to noncitizens of Zambia, Darwin, C. (2005) "Report on the Situation of Refugees in Zambia," AMERA, http://www.matrixlaw.co.uk/wp-content/uploads/2016/03/20_10_2014_09_30_27_Report-Refugees-Zambia.pdf.

Article 27.b of the Bill of Rights reads, "A person has the right to freedom of movement, which includes the right (...) to enter, remain, leave and reside anywhere in the Republic, subject to the imposition of restrictions on the

the right to designate a place or places of residence for refugees. The Refugee (Control) Act requires refugees to go to and remain in designated “refugee settlements,”¹⁰⁹¹ unless provided with written permission (a gate pass) from the COR or his delegates. With written permission refugees may travel internally for medical-, work-, or study-related reasons. They may also travel outside designated settlements if in possession of a residence permit approved by the Sub-Committee on Urban Residency, which is valid for one to three years.¹⁰⁹² To be granted exemption from encampment, a refugee must meet at least one of the following five criteria, agreed upon by the government and the UNHCR: (1) have a permit, issued by the Department of Immigration, for employment, self-employment or investment, or study; (2) require medical care not accessible in the settlements or the district; (3) show an established family connection with a refugee already in an urban area; (4) face a specific security or protection problem; or (5) be awaiting final steps of resettlement to a third country.¹⁰⁹³ Article 31 of the Immigration and Deportation Act 2010 provides that any refugee found in any place other than a refugee settlement without a valid pass or permit is considered to have committed an offense.¹⁰⁹⁴

Right to work – refugee and labor and employment law

Although refugees have the right to work in Zambia, a reservation to article 17 of the 1951 Refugee Convention stipulates that refugee job seekers will not be granted privilege or exemption from the conditions and procedures applied to other foreign job seekers, and refugees like other foreigners require a work permit.¹⁰⁹⁵

The Immigration and Deportation Act 2010 prohibits all foreigners, including refugees and asylum seekers, from working, doing business, or studying at institutions without permits, and doing so exposes them to arrest, detention, and prosecution.

The law requires refugees to apply for and obtain a job offer from an employer before they can receive a work permit, which costs about US\$230.¹⁰⁹⁶ To obtain a permit, refugees must submit an application to the Labor Department of the Office of Immigration with a letter from the COR. The Chief Immigration Officer (CIO) is able to issue permits provided that the persons are already in the country and have a

entry, movement or residence of persons who are not citizens, as prescribed,” <http://ccmgzambia.org/wp-content/uploads/2016/06/Constitution-of-Zambia-Amendment-Bill-Bill-of-Rights.pdf>.

¹⁰⁹¹ Two refugee settlements remain in the country: Mayukwayukwa settlement (Western Province) and Meheba settlement (North-Western Province).

¹⁰⁹² The Sub-Committee on Urban Residency is chaired by the Commissioner for Refugees and comprises officials from, among others, the Immigration Department and the Ministry of Labour and Social Services, UNHCR (2012) “Submission for the Office of the High Commissioner for Human Rights’ Compilation Report – Universal Periodic Review for Zambia,” <http://www.refworld.org/docid/4f9660982.html>.

¹⁰⁹³ Medical reasons or the possession of a valid work or study permit may entail the delivery of a residence permit, UNHCR internal document (undated), <http://www.unhcr.org/50a6464d9.pdf>; Chiasson, S. (2015) “Refugee Freedom of Movement Restricted in Zambia,” *Rights in Exile*, IIRI Refugee Legal Aid Newsletter, <http://rightsinexile.tumblr.com/post/132370262377/refugee-freedom-of-movement-restricted-in-zambia>.

¹⁰⁹⁴ This Act replaced the 1967 Immigration and Deportation Act, http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_186144.pdf.

¹⁰⁹⁵ Reservations and Declarations to the 1951 Refugee Convention, <http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=3d9abe177&query=1951%20Refugee%20Convention>.

¹⁰⁹⁶ Frischkorn, R. (2013) “We Just Aren’t Free: Urban Refugees and Integration in Lusaka, Zambia,” American University, <http://auislandora.wrlc.org/islandora/object/thesesdissertations%3A434>.

sufficient level of education, qualifications, skills, and financial resources, and that no Zambian is qualified for the job. The permits may specify conditions regarding the area in which the bearers can work and the kind of work they can do “as the CIO think fit.” The length of the work permit, which can be renewed to a maximum duration of five years (from its issuance), is also at the discretion of the CIO.¹⁰⁹⁷

Refugees and asylum seekers enjoy the same legislative labor protections as do nationals, but cannot receive state benefits such as pensions or old age and disability allowances. Zambia is, however, in the process of revising its labor laws to further improve labor standards and rights.¹⁰⁹⁸

To apply for a self-employment permit, called an “investor’s permit,” refugees and asylum seekers, like any other foreign investors, must have invested US\$25,000 in Zambia, a prohibitive amount for most refugees. Further restrictions apply in that refugees are permitted to invest only in manufacturing, tourism, agriculture, or mining, but not in commerce.¹⁰⁹⁹

2. POLICY AND PRACTICE

Constraining factors

Employers often reject refugees’ requests for jobs, mistakenly thinking that the law prohibits them from hiring refugees. In the event that refugees are offered a job, they need to apply for a work permit, a complex bureaucratic procedure that involves documenting that no Zambian is qualified for the job. In practice very few refugees can meet that requirement, except doctors, nurses, teachers, and lecturers—professions in acute shortage in the national labor market as a result of emigration and HIV/AIDS.¹¹⁰⁰ In addition, the high cost of annual work permits or the US\$25,000 up-front investment required for self-employment are additional obstacles.

Because most refugees are de facto prohibited from accessing formal work in urban areas, they join the informal labor market and are involved in economic activities that have low returns and do not allow households to generate enough income to invest in more profitable activities or to build savings to rely on in the case of shocks. The UNHCR, through its implementing partner Action Africa Help, provides subsistence allowances to a very limited number of vulnerable individuals with urban residency in Lusaka.

The estimated 12,400 urban refugees, mostly from the DRC, and former refugees from Rwanda and Angola who are “self-settled” in Lusaka,¹¹⁰¹ particularly face impediments to employability in the formal sector. They are thus more vulnerable to exploitative working conditions and abuse in the informal market, with many refugees reporting not being paid for their services.¹¹⁰² Their insecure legal position

¹⁰⁹⁷ All these requirements are based on the Immigration and Deportation Act 2010 rather than labor law.

¹⁰⁹⁸ Zambia has ratified 43 ILO conventions, and a total of 39 conventions are currently in force, including all 8 core conventions.

¹⁰⁹⁹ They also need a letter from the COR supporting the application, a certificate of registration of the business in Zambia, or a certificate of incorporation.

¹¹⁰⁰ Frischkorn, R. (2013) “We Just Aren’t Free: Urban Refugees and Integration in Lusaka, Zambia,” American University, <http://auislandora.wrlc.org/islandora/object/thesesdissertations%3A434>.

¹¹⁰¹ Out of this number, some 5,600 are refugees, information provided by the UNHCR, March 2016.

¹¹⁰² Chiasson, S. (2015) “Refugee Freedom of Movement Restricted in Zambia,” *Rights in Exile*, IRRI Refugee Legal Aid Newsletter, <http://rightsinexile.tumblr.com/post/132370262377/refugee-freedom-of-movement-restricted-in-zambia>.

also puts them at risk of arrest and imprisonment if caught. Rather than forcing urban refugees back to settlements, the government enacted harsher urban residency policies in 2000. Instead of deterring urban residency as projected, the policies caused the underreporting and marginalization of urban refugees.¹¹⁰³

Facilitating factors

In the late 1990s, as it became clear that most refugees would remain in Zambia for longer than expected, the UNHCR began to advocate for the inclusion of refugees in the country's development agenda by recognizing refugees as agents of change and converting long-standing settlements into "development-oriented interventions." The first outcome of this effort was the *Zambian Initiative* in 2002, with the goal of integrating refugees into their host communities to contribute to local development.¹¹⁰⁴ By improving the living conditions of some of the refugee-populated areas in western Zambia, the *Zambian Initiative* helped refugees and host communities coexist.¹¹⁰⁵

In more recent efforts to promote self-reliance in the settlements,¹¹⁰⁶ the government and the UNHCR have supported income-generating activities such as fish farming, bee-keeping, farming, and livestock, as well as training in business and entrepreneurship skills. Under the *Local Integration* program, the UNHCR and partners are scaling up livelihoods interventions, addressing issues related to savings and access to finance and access to markets, and promoting community cohesion and formation of networks and cooperatives. In 2014, some 300 former refugees and Zambian farming households received 5 to 10 hectares of farm land from the government, a measure expected to be extended to an additional 1,000 farming households in 2015–16.¹¹⁰⁷

The government of Zambia has taken some positive steps toward facilitating local integration for select groups of former refugees. Beginning in 2012, the government, with the support of the UNHCR, granted "local integration permits" to former Angolan refugees.¹¹⁰⁸ Some 10,000 Angolans are in the process of receiving permanent residence, and once they acquire a residence permit, they become eligible for citizenship after 10 years. In 2015 the local integration program was opened up to some 4,000 Rwandans whose refugee status had ceased in 2013, so, as with the Angolans, they will have an option for citizenship after 10 years with residence permits. The process has, however, encountered significant problems because to apply for a residence permit the *Immigration Act* requires that former Rwandan refugees first need to apply for a national Rwandan passport. The refugees are reluctant to do so and no solution has been found so far.¹¹⁰⁹ The deadline for applications has passed, and technically all former Rwandan

¹¹⁰³ Frischkorn, R. (2015) "Political Economy of Control: Urban Refugees and the Regulation of Space in Lusaka, Zambia," *Economic Anthropology* Vol. 2: 205–23, <http://onlinelibrary.wiley.com/doi/10.1002/sea2.12025/epdf>.

¹¹⁰⁴ Frischkorn, R. (2015) "Political Economy of Control: Urban Refugees and the Regulation of Space in Lusaka, Zambia," *Economic Anthropology* Vol. 2: 205–23, <http://onlinelibrary.wiley.com/doi/10.1002/sea2.12025/epdf>.

¹¹⁰⁵ Watabe, M. (2005) "The Zambia Initiative," *Forced Migration Review* No, 24, <http://www.fmreview.org/FMRpdfs/FMR24/FMR2442.pdf>.

¹¹⁰⁶ Following the *Zambia Initiative* (2002) were the *Comprehensive Strategy* (2009) and *Local Integration Strategy* (2014).

¹¹⁰⁷ UNHCR (2015) "Zambia Factsheet," <http://www.unhcr.org/524d884c9.pdf>.

¹¹⁰⁸ This was done with the financial support of the African Union.

¹¹⁰⁹ IRRI (2015) "Zambia Shouldn't Make Integration and Freedom of Movement Contingent on Registration with Rwandan Authorities," *Justice Matters in Africa: The Official Blog of the International Refugee Rights Initiative*, <http://www.refugee-rights.org/blog/?p=923>.

refugees in Zambia who have not applied for a residence permit, which is the vast majority, are now staying in the country illegally.¹¹¹⁰

Zambia has procedures in place for recognition of foreign professional diplomas; refugees are granted access to such procedures on the same basis as other nationals, notwithstanding the lengthy delays that refugees may experience.¹¹¹¹ This practice extends to vocational training qualifications under the oversight of the Zambia qualifications authority, which is a government institution that is mandated to deal with such issues.¹¹¹²

Some refugees in Zambia have also had access to training in sectors and on skills including agriculture, business management, carpentry, community mobilization, community school teaching, knitting, and sewing. The field evaluation conducted by the U.S. Department of State revealed that among former Angolan refugees interviewed, those most likely to have received training were those who arrived in the first wave (starting in 1966) of refugees and who were in the 30–50 year age range. However, among those refugees trained, very few had the opportunity to use their skills for financial gain or employment. For example, refugees who had been trained in business management were not provided access to credit to start a business, and those who learned to sew have not had access to sewing machines; thus they have not been able to apply the skills they gained through training.¹¹¹³

3. MEDIATING CONDITIONS

Socioeconomic conditions

Zambia is a lower-middle-income country. Despite good economic performance and poverty reduction mainly in the large urban areas, poverty is still greater than 60 percent, and in 2015 Zambia ranked 139th on the Human Development Index. Although not densely populated, Zambia's population is growing fast and it is one of the most urbanized countries in Sub-Saharan Africa.¹¹¹⁴

Despite policies to keep refugees in settlements, many are finding ways to live with the local population outside designated sites, both in urban and rural areas. Refugees inhabit these areas with the intention of retaining their freedom of movement and the economic and social advantages they perceive available outside of settlements. Lusaka, the capital, especially attracts refugees from camps within Zambia or from directly across the border. These refugees go to Lusaka searching for employment, educational opportunities, better health facilities, and higher standards of living, and a few opt to live in urban areas for security reasons because of fear of being targeted or harmed by other refugees.¹¹¹⁵

¹¹¹⁰ Information provided by the UNHCR, March 2016.

¹¹¹¹ UNHCR (2007) "Analysis of the Gaps in Protection of Refugees: Zambia," <http://www.refworld.org/docid/472897100.html>.

¹¹¹² Information provided by the UNHCR.

¹¹¹³ US Department of State (2014) "Field Evaluation of Local Integration of Former Refugees in Zambia," Field Visit Report, Evaluating the Effectiveness of Humanitarian Engagement and Programming in Promoting Local Integration of Refugees in Zambia, Tanzania, and Cameroon <http://www.state.gov/documents/organization/235057.pdf>.

¹¹¹⁴ World Population Review (2015) "Zambia Population," <http://worldpopulationreview.com/countries/zambia-population/>.

¹¹¹⁵ Frischkorn, R. (2013) "We Just Aren't Free: Urban Refugees and Integration in Lusaka, Zambia," American University, <http://auislandora.wrlc.org/islandora/object/thesesdissertations%3A434>.

Youth unemployment remains a key challenge in Zambia. Youths make up more than 80 percent of total unemployment, and they lack access to training and effective vocational guidance services that match industry needs. The formal sector contributes more to GDP than the informal economy, which absorbs more than 80 percent of Zambia's labor force. Most youth and women work in the informal sector.¹¹¹⁶ Working conditions are worse in the informal sector, and wages are much lower in sectors with larger shares of informal employment. Like the majority of Zambian nationals, most refugees join the informal labor market.¹¹¹⁷ The government has justified employment restrictions for refugees by citing the need to protect the national labor market despite recognition in national development strategies of the potential productivity of refugees.¹¹¹⁸

Another related point is the rising xenophobia toward refugees despite the country's positive reputation for hosting them. In 2005, at the occasion of World Refugee Day, one official noted the "disturbing rise in the verbal abuse, harassment, arbitrary detention, and physical violence that refugees suffer in Zambia."¹¹¹⁹ More than 10 years later this resentment toward foreigners occasionally manifests itself as in April 2016 when anti-foreigner violence targeted refugee shop owners, mainly Rwandans. These attacks occurred against the backdrop of economic growth, rising inflation, and political tensions ahead of the August 2016 general elections.¹¹²⁰

Refugee profiles

Although many former Angolan refugees have rural backgrounds and the skills necessary for agricultural work, those who opted to settle in Lusaka are largely educated and from urban areas and lack the skills necessary to engage in subsistence agriculture in refugee settlements. Refugees from the Great Lakes area are often urban professionals or men and women with business backgrounds who express difficulties in adjusting to rural conditions.

There are also significant numbers of vulnerable, sick, elderly, or single female refugees for whom the capital offers greater access to medical care and where they can more easily rely on family support or social networks.¹¹²¹

¹¹¹⁶ Ministry of Labor and Social Security and ILO (2013) "Zambia Decent Work Country Programme (2013–2016)," <http://www.ilo.org/public/english/bureau/program/dwcp/download/zambia.pdf>.

¹¹¹⁷ Danish Trade Union, Council for International Development Cooperation (2014) "Zambia – Labor Market Profile 2014," http://www.ulandssekretariatet.dk/sites/default/files/uploads/public/PDF/LMP/Imp_zambia_2014_final_version_revised.pdf.

¹¹¹⁸ UNHCR (2007) "Analysis of the Gaps in Protection of Refugees: Zambia," <http://www.refworld.org/docid/472897100.html>.

¹¹¹⁹ Darwin, C. (2005) "Report on the Situation of Refugees in Zambia," AMERA, http://www.matrixlaw.co.uk/wp-content/uploads/2016/03/20_10_2014_09_30_27_Report-Refugees-Zambia.pdf, p. 6.

¹¹²⁰ Mail & Guardian Africa (2016) "Refugees in Fear as Anti-Foreigner Riot Tarnish Zambia's Image as Haven," <http://mgafrica.com/article/2016-04-22-refugees-in-fear-as-anti-foreigner-riots-tarnish-zambias-image-as-haven>.

¹¹²¹ Frischkorn, R. (2013) "We Just Aren't Free: Urban Refugees and Integration in Lusaka, Zambia," American University, <http://aislandora.wrlc.org/islandora/object/thesesdissertations%3A434>.

4. OUTCOMES

Participation in the labor market

Among the few refugees in possession of work permits, the most successful are those involved in the medical and education sectors or those engaged in businesses importing foodstuffs and other goods from rural areas and reselling them in Lusaka. Restrictions on the right to self-employment have affected skilled traders who are unable to practice their skills.

The majority of refugees, even those with specific skills or higher education, are working in the informal sector where they are mainly self-employed in trade and services, or in some form of paid service. Less-skilled refugee employment opportunities include small-scale trade in building materials, charcoal, foodstuff, clothes, and small household items, while some refugees rely on temporary jobs such as transporting water or goods; washing clothes; braiding hair; repairing watches, cell phones, radios, or small appliances; engaging in odd manual labor jobs; or working in someone else's shop.

The livelihoods of the Angolans, like all current and former refugees in Zambia, are limited because of the lack of freedom of employment. Furthermore, they cannot secure formal jobs without work permits, and work permits are not available to them. This severely restricts forms of livelihood and prevents nonfarmers from making good use of the skills they brought with them from Angola.

Refugees and former refugees have access to casual labor, but they report receiving lower wages than their Zambian counterparts, and some employers do not pay or employers say that they will pay later. Some youth report walking several days to engage in casual labor and then not being paid.

SUMMARY AND CONCLUSION

Although generous in the acceptance of refugees, Zambia's national refugee legislation conditions refugees' rights to work on obtaining a permit, and the country's encampment policy restricts freedom of movement and limits possibilities for self-reliance.

While refugees with work permits are allowed to work or be self-employed, in practice the government has greatly restricted this right given that obtaining such a permit is a lengthy, complex, arbitrary, and expensive process, thereby prohibiting many from participating in the formal economy. Although evidence has shown that refugees in Lusaka have integrated into the informal economy by accessing many of the same income-generating activities as the local population and using the same markets and social networks, their capacity to fully use their education, skills, and resources is greatly diminished by their insecure legal status. Refugees working informally further risk being abused by employers, or face arrest or detention for immigration offenses.

Despite initiatives to promote self-reliance and the inclusion of refugees into communities, Zambia lacks a comprehensive study of the economic and social impact of refugees and asylum-seekers on local communities that could provide guidance on the potential economic contributions of refugees to their host communities.

KEY SOURCES

- Chitupila, Chonga V. 2010. "The Administration of Refugees in Zambia," Workshop Discussion on Refugee Status Determination and Rights in Southern and East Africa. www.rsc.ox.ac.uk/files/publications/other/dp-rsd-zambia-2010.pdf.
- Frischkorn, R. 2013. "We Just Aren't Free: Urban Refugees and Integration in Lusaka, Zambia," PhD dissertation, American University, Washington, DC. <http://auislandora.wrlc.org/islandora/object/thesedissertations%3A434>.
- Frischkorn, R. 2015. "Political Economy of Control: Urban Refugees and the Regulation of Space in Lusaka, Zambia," *Economic Anthropology* Vol. 2: 205–23. <http://onlinelibrary.wiley.com/doi/10.1002/sea2.12025/epdf>.
- UNHCR. 2012. "Zambia." Submission by the United Nations High Commissioner for Refugees, For the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review. www.refworld.org/docid/4f9660982.html.
- United States Committee for Refugees and Immigrants. 2009. "World Refugee Survey—Zambia." www.refworld.org/docid/4a40d2b7c.html.
- United States Department of State. 2014. "Field Evaluation of Local Integration of Former Refugees in Zambia." Field Visit Report, Evaluating the Effectiveness of Humanitarian Engagement and Programming in Promoting Local Integration of Refugees in Zambia, Tanzania, and Cameroon. <http://www.state.gov/documents/organization/235057.pdf>.

Country

PROFILE¹¹²²

- Indicate whether the country is party to the 1951 Convention relating to the Status of
 - Refugees (mentioning if with reservations), the 1967 Protocol, and regional instruments
 - xxx refugees, xxx people in refugee-like situations, and xxx asylum seekers: Use UNHCR Global Trends Forced Displacement in 2015 (www.unhcr.org/statistics/unhcrstats/576408cd7/unhcr-global-trends-2015.html) = Percentage of the 2015 total population estimates (<http://databank.worldbank.org/data/download/POP.pdf>); percentage is calculated using the sum of refugees, people in refugee-like situations, and asylum seekers
 - Top refugee origin countries: List top three countries of origin
 - Indicate whether refugees are encamped, self-settled, mainly rural or urban (multiple possible sources)
- Human Development Index classification (2014): Include rank and value (<http://hdr.undp.org/en/composite/HDI>)
 - GDP growth rate (2015): Annual percentage growth rate of GDP (<http://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG>) and per capita GDP (US\$) (<http://data.worldbank.org/indicator/NY.GDP.PCAP.CD>)
 - Country classification (2015): Indicate whether the country has a lower-middle- or upper-middle-income economy (http://data.worldbank.org/about/country-and-lending-groups#Low_income)
 - Unemployment rate (2014): Percentage of total labor force, modeled on ILO estimate (<http://data.worldbank.org/indicator/SL.UEM.TOTL.ZS/countries>)

¹¹²² The first four bullets (left box) contain information on refugees and migration; the last four (right box), socioeconomic-related information.

CONTEXT

One or two short paragraphs with

- Main geopolitical information about the regional or country context (for example, whether the country is an unstable region, at war)
- Explanation about the source of the refugee caseload
 - Mass arrival of refugees at once, in different waves, protracted displacement
 - Types of refugees (for example, fleeing conflict, persecution, political unrest, natural disasters, mixed migration)
 - Whether border issues or relations between neighboring states might be germane to the context
- General approach toward refugees (for example, open-door policy; whether it is a transit or destination country)
- Prospects (or lack of prospects) for durable solutions (voluntary return, local integration, resettlement)

1. LAW

Refugee Law

- **National legislation:** Information about relevant national legislation (and eventual reservations to the 1951 Refugee Convention)
- **Institutions:** Institutions responsible for refugee affairs
- **Access to protection:** Government position toward refugees and legal frameworks related to access to protection
- **Freedom of movement:** Information on whether refugees are free to move and choose their place of residence or whether there are constraints on the freedom of movement (for example, encampment or detention)

Right to work – refugee and labor and employment law

Elaborate on specific laws (national, regional, international) applicable in the country, highlighting similarities and differences between refugees, other migrants (if the information is easily available and relevant), those with other forms of protection, and asylum seekers; covering access to work, self-employment, and various rights related to work conditions (for example whether refugees benefit from social security or pensions).

2. POLICY AND PRACTICE

Assessment of the following factors that may facilitate or constrain the right to work:

- Inclusion policies (for example, issuance of work permits, implementation of regulations regarding access to formal employment)
- Education, vocational training, language training opportunities
- Start-up finance

- Support projects by host country or organizations
- Recognition of skills
- Discrimination, including gender discrimination
- Exploitation
- Information about legal entitlements and access to legal advice and justice
- Freedom of movement
- Dispersal or encampment policies

3. MEDIATING CONDITIONS

Socioeconomic conditions

- Description of socioeconomic context (for example, developed or poor country)
- Macro- and microeconomic conditions, including economic performance, prospects for economic growth (World Bank 2015)¹¹²³, investment climate, informal employment (ILO 2013)¹¹²⁴, unemployment, underemployment,¹¹²⁵ and wage rates
- Urban economic conditions that may offer more diverse livelihood opportunities but also include broader challenges, including oversupply of unskilled labor, irregular work and income
- Scale of migration: Number of refugees and number of migrants in the country¹¹²⁶

Refugee profiles

- Skills match with needs of labor market; complements to or substitutes for local labor force
- Social capital
- Knowledge of legal entitlements
- Language proficiency

4. OUTCOMES

Participation in the labor market

Analyze refugees' actual access to and participation in the labor market (both formal and informal; also self-employment and creation of businesses) and, where information is readily available and relevant, compare it with the labor market participation of other foreigners.

¹¹²³ Global Economic Prospects of the World Bank
<http://pubdocs.worldbank.org/pubdocs/publicdoc/2015/9/961521443473555360/Global-Economic-Prospects-June-2015-Global-economy-in-transition.pdf>

¹¹²⁴ ILO (2013) Women and Men in the Informal Economy: A Statistical Picture,
www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/publication/wcms_234413.pdf

¹¹²⁵ Refer to ILO Key Indicators of the Labour Market database, which has data on informal employment and underemployment for a number of countries, www.ilo.org/empelm/what/WCMS_114240/lang--en/index.htm.

¹¹²⁶ Refer to World Bank's bilateral migration matrix 2013
http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1288990760745/Bilateral_Migration_Matrix_2013.xlsx

SUMMARY AND CONCLUSION

Short paragraph with main features of the situation related to the law, policy, and other key variables, highlighting any new legislation or policies.

KEY SOURCES

List four to five most relevant and recent publications with url (where existing).

