

The background of the cover is a dark, almost black, gradient. Overlaid on this are several strands of heavily rusted, brown barbed wire. The wires are twisted and knotted, creating sharp, irregular shapes. The lighting is dramatic, highlighting the texture of the rust and the sharp points of the barbs.

Migration, Refugees and Human Security in the Mediterranean and MENA

Edited by Marion Boulby and Kenneth Christie



Migration, Refugees and Human Security
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Marion Boulby · Kenneth Christie
Editors

Migration, Refugees
and Human Security
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Editors

Marion Boulby
Department of History
Trent University
Peterborough, ON, Canada

Kenneth Christie
Royal Roads University
Victoria, BC, Canada

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*For Sarah
from Marion*

*For Vera
from Kenneth*

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EDITORS AND CONTRIBUTORS

About the Editors

Marion Boulby is Associate Professor of History at Trent University, Canada.

Kenneth Christie is Professor and Program Head of the Masters in Arts in Human Security and Peacebuilding at Royal Roads University, Canada.

Contributors

Rute Baptista is Researcher at the Law School of the University of Minho, Portugal.

Nergis Canefe is Associate Professor in the School of Public Policy and Administration (Law Stream) in the Department of Political Science and Associate Faculty Member at the Center for Refugee Studies at York University, Canada.

Robert James Hanlon is Assistant Professor in the Department of Philosophy, History, and Politics at Thompson Rivers University, Canada.

Nur Koprulu is Department Head of Political Science and Associate Professor in the Faculty of Economics and Administrative Sciences at Near East University, Turkey.

Kathleen Manion is Assistant Professor in the School of Humanitarian Studies at Royal Roads University, Canada.

Stephanie D. Perham is Donor Relations Officer at the United Nations High Commissioner for Refugees in Kampala, Uganda.

Julia Rutz is Head of the Research and Migration Law Department in the European Migration Network at the International Organization of Migration in Vienna, Austria.

PART I

Migration, Refugees and Human Security
in the Twenty-First Century



CHAPTER 1

Introduction: Migration, Refugees and Human Security in the Twenty-First Century

Kenneth Christie

More than 20 years ago, Robert Kaplan painted a picture of a descending anarchy threatening to engulf parts of West Africa with global consequences. Ethnic, tribal and identity grievances reinforced by environmental disaster, economic despair and the collapse of states served to reinforce such kinds of predictions that the future was bleak. At the time, and now, we face the fallout of such human security catastrophes with millions moving across borders legally and illegally, drug wars and large criminal networks that feed from and create these anarchic conditions, leading to cycles of violence and human insecurity. The future seems exceptionally bleak from this perspective. Progress, positive social and economic change and the betterment of humanity seemed illusions in this retrospective light. This book is concerned with similar problems that Kaplan described over twenty years ago. We will discuss the human security implications of the migration and refugee crisis caused

K. Christie (✉)
Royal Roads University, Victoria, BC, Canada

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by wars and disasters that have recently engulfed the Middle East, North Africa and beyond and which have threatened to overwhelm receiving states and have led to xenophobia and human rights violations. The vulnerability of people on the move fleeing war and disaster is also in part met by the difficulties faced by states receiving migrants and refugees. In the absence of a real global system of rights and protection for refugees and migrants, a form of chaos and anarchy ensues. This is a situation into which peoples' lives are thrown from any sense of human security to a position of vulnerability and unpredictability.

CONTEXT

Since the Arab uprisings of 2010/2011, the Middle East and North African region (MENA) has continually been the focus of media and scholarly attention over these, and the conflicts that have emerged and engulfed the region, often called the Arab Spring, and seen initially as a social transformation on a revolutionary scale. The widespread political and social change prompting civil war in some cases has brought about some major and minor transformations at all levels and most significantly a series of humanitarian crises that are staggering in nature, depth and the effect they have had on vulnerable populations. The uprisings in their initial stages saw major political and social changes and called into question the national state order in the region, with the development of new social movements and groups opposed to the old order. This old order has proved much more resilient to real change, however, than appeared to be the case in the initial stages. Moreover, any real hopes for a peaceful democratization which would prove inclusive and beneficial to populations here have failed to materialize in a significant way. Rather conflict, stagnation and despair have seen spring turn to winter and the failure of initial hopes, aspirations and dreams for a better future. Into this nexus have flowed all sorts of conflicting problems. For instance, the emergence of the Islamic State in Iraq and Syria as an anti-systemic force using terrorism has strengthened this reality of chaos and conflict, while resurfacing Kurdish nationalism and escalating sectarian conflicts have added momentum to the fragmentation and re-composition (decomposition) of the regional order. Displaced populations and migrants contribute to reshuffle previously configured polities and communities. States like Syria and Iraq appear as failed states unable

to control their borders or the populations moving across them. Chaos and conflict appear to be the best descriptors for the problems here. Conflict between the Gulf states, usually seen as harmonious in nature, has developed as Saudi Arabia and the UAE have turned on Qatar claiming it is influenced and controlled by Iran (the common Sunni enemy) and that Qatar funds terrorism and turmoil in the region for its own ends. Meanwhile, a civil war continues to rage in Yemen with tribal and ethnic animosities fuelled in a proxy war conducted between Iran and Saudi Arabia who have increased the rhetoric and who must also take responsibility for the conflict. The Gulf region appears fractured along religious, ethnic and tribal lines.

Perhaps the most dramatic outcome of conflict in countries like Syria, Iraq and elsewhere has been the massive movement of people who are displaced internally and externally, a combination of people seeking to flee their situation for fear of political persecution (refugees) and migrants who seek a better economic life in a safer country. For many, the lines between these have become blurry and unfocused, resulting in resentment and xenophobia in countries where the victims of such conflicts end up.

It is hard to dismiss the shocking images of and outrage over a dead Syrian toddler washed up on the shores of the Mediterranean. Alan Kurdi was a three-year-old boy from Syria whose background was ethnic Kurdish and whose images made global new headlines when he drowned on the 2 September 2015 in the Mediterranean, another victim of the refugee crisis but one that evoked anger, outrage and sympathy all around the world. The victim's family were trying to reach Canada in the hope of a better life, an effort which ended in tragedy. Combined with the scale of the crisis, these issues became prominent in the Canadian general election in 2015 and resulted in part in Canada declaring a more open-door policy towards refugees and their humane treatment. The destruction of Syria, the war in Iraq and the collapse of Libya are all contributing factors to what has become the world's worst human displacement crisis on record and were a major part of the backdrop to the push factors causing people to take desperate measures to leave their countries. Extreme political violence in the MENA region was and is pushing families into harrowing journeys, taking their toll on lives and stretching countries resources to breaking point in the hope these vulnerable individuals and families can escape the hell they are living in.

Syria and Iraq are Arabian nightmares at the local, the regional and global levels in terms of human security and the protection of the vulnerable. Wracked by civil war, ethnic and political violence in the last 6 years in the case of Syria and 15 years in the case of Iraq, the body count now is staggering; the humanitarian crisis continues and there appears no end to these seemingly intractable conflicts. This is a crisis that has claimed the lives of over 500,000 people so far in Syria, sparked a humanitarian catastrophe, fuelled violent Islamic extremism and exposed serious splits in the international community who appear to have no consensus. The international community's failure to act is simply another sign of the desperate situation which has developed over conflicts that appear unsolvable in the immediate future and may be intractable in the long range.

The responsibility to protect the tens of millions of human beings fleeing real terror requires a radical humanitarian response. Since 2013, the United Nations High Commission for Refugees has documented a fourfold increase in refugees. The dramatic rise is due directly to the conflict in Syria and has resulted in record numbers of asylum seekers arriving at the borders of Europe. But this is not a European problem; rather, it is human crisis that must be dealt with through a global response.

These changes since 2011 ensured that migration issues remained in the spotlight. New regimes in Egypt, Libya and Tunisia, and increasing conflict in Iraq and Syria have focused these challenges in perspective. Humanitarian problems have been exacerbated regarding displaced people. In Syria for instance after 5 years of conflict, Mercy Corps in 2015 has estimated that more than 7.6 million people are internally displaced within Syria's borders and over 4 million have been forced to flee the country. Many of these people most acutely affected are women and children, and other vulnerable groups including migrant workers and refugees, living in a state of insecurity.

Moreover, the spillover effects have been no less dramatic. Over 1.7 million Syrians, nearly half children, are displaced within their neighbours including those who have taken refuge in the five neighbouring countries of Egypt, Iraq, Jordan, Lebanon and Turkey. The demands on these countries capacities to absorb, many of who are undergoing their own crises, have created fundamental challenges to human security. The levels of conflict, instability, coupled with high rates of unemployment and under-employment, particularly among young people have also helped to push people towards irregular migration, in the region and on a global scale.

EUROPE AND MIGRATION

The crisis importantly has also had a major impact on Western Europe and prompted a real political and economic problem for European union member states. Migration, also known as human mobility, is an essential component of globalization. As nations have opened their economies and societies to trade and investment, human mobility has become a key feature in global integration.

Europe, due to its geographical proximity, safety and economic stability, is a favoured migration destination for communities from Africa and the Middle East. The migration to Europe over the past two decades has been classified as a mixed migration, which is a categorization that defines the complex population movements that include economic migrants, refugees, asylum seekers and other smaller groups of migrants into the region. This is despite the fact that European Union migration policy has mainly served to prevent migration from MENA in the past. Despite this however, over the past few years, migration to Europe through the Mediterranean has escalated dramatically, which has resulted in a migration crisis in Southern Europe that is unprecedented in the region's modern history.

While migration is not a new phenomenon, the scale of international migration has dramatically increased in the last two decades with the world's largest concentration in the Middle East. The United Nations (2002) estimated that the number of international migrants increased from 150 million to 180 million between 1990 and 2000. Moreover, skilled migration increased by 67% over the same period, while unskilled migration increased by 14%. This movement of people is being shaped and facilitated by globalization and has substantial economic, social and cultural implications for both source and receiving countries. In today's terms, according to United Nations High Commissioner for Refugees (UNHCR) figures, the current rates for forcibly displaced people and refugees have reached 65.3 and 21.3 million, respectively. The MENA states span both poles of migration, as countries of migrant destination, particularly in the Gulf and as countries of origin. In 2013, the Migration Policy Institute estimated 20 million MENA migrants working in the region or in Europe.

In 2006, the UNHCR registered an increasing number of migrants (22,016) reaching Italy by boat; however, within the first 7 months of 2014, the number of migrants reaching Italy alone has nearly quadrupled

with more than 87,000 people arriving through the Mediterranean to southern Italy alone. Equally concerning is that the International Organization for Migration (IOM) has established that migration across the Mediterranean is considered the most fatal crossing with over 3000 estimated migrant deaths in 2014 alone; this figure is 92% higher than the second most fatal migration routes in the world and is also expected to increase with the growing use of the Mediterranean as a transit route for migration into Europe. With 3771 deaths, 2015 was the deadliest year on record for migrants and refugees crossing the Mediterranean trying to reach Europe, reported IOM in a year-end summary. By comparison, 3279 deaths were recorded in the Mediterranean in 2014.¹ The IOM's recent statistics show that migrants and refugees coming into and through the Mediterranean approached 43,000 in 2017, the clear majority (80%) landing in Italy and the rest in Spain and Greece. At the mid-point, their officials argued that this surpassed by more than 10,000, the number at the same time in the previous year, 2016.² Not only are the numbers alarming and the fact that people are increasingly willing to take dangerous routes to escape their situation of human insecurity, but also there have been many fatalities as a result. The UNHCR for instance recorded at least 1073 people dead or missing between Libya and Italy by April 2017, an increase in the number for the same time in the previous year, with at least 150 of these children.³ This has also fuelled right-wing populism and xenophobia in the receiving countries as politician's scramble to look for scapegoats to the crisis. There are widespread accusations for instance (by right-wing politicians) of collusion between NGOs (such as Medecin San Frontieres and MSF) in the rescue of migrants making the crossing, something that the NGOs themselves have been forced to vigorously deny. The fact that many migrants are being subjected to smuggling and in some cases trafficking compounds the human tragedy of the problem but has also fuelled calls by authorities in Europe to close the routes migrants are taking. In short, the politics of receiving countries is adding to the disarray and vulnerability of the migrants and refugees.⁴

Given such dire consequences for migrants and refugees in the region in terms of their human security and vulnerability, this book proposes to ask three general questions which revolve in and the migration/refugee crisis.

What are the human security implications for migrants/refugees in this current crisis and how and why does this crisis differ significantly from previous migration/refugee flows in the region?

What are the push/pull factors for these migrants/refugees and which are most important? Demographics, conflict, etc., and which groups are most affected by the crisis (women, children, young people, etc.?).

What is the relationship between conflict in the states of migrant origin and the crisis and how does this affect regional policy (European) and national policies on migration and immigration? How can interventions and international legal instruments play a part in resolving this crisis? Lastly, how are the receiving states coping with the crisis? What are the strains these states face in dealing with enormous influxes of people from conflict zones?

The theoretical framework for the text revolves around the notion of human security and how this framework can apply to the political and social nexus surrounding migrants and refugees, often in desperate situations work within this context of human vulnerability. In the next section, we offer a broad overview of human security, and how it is directly applicable to the current crisis.

HUMAN SECURITY AND WHAT IT MEANS

Why are human security and peace building important in the twenty-first century and what does it mean especially in relation to the ongoing crisis? Firstly, human security is the protection of vulnerable individuals to threats and dangers posed from their environment. The concept is interdisciplinary, holistic, and has a normative bias in favour of the individual in a similar way as human rights. It has two main components. An expansive concept, “freedom from want” refers to basic needs such as food, shelter and development, while a narrow version, “freedom from fear” includes identity needs and physical and personal safety. Both components are interrelated. Amyarta Sen, the Nobel economist in turn discussed the notion of “development as freedom” reinforcing the connection between freedom from fear and freedom from want.

In addition and one of the critiques of the idea is that human security is a relatively new concept. It is a “contested” concept, not without controversy in academic and policy circles and as such has had some difficulty gaining credence in the academic world. The conceptual framework first emerged as a term in the 1980s as a riposte to the version of “national” security, but it was not until 1994 that it really gained

credence. The main difference seemed to be over a difference in definition, freedom from fear as different to a broader expanded view, freedom from want. Both were developed in the United Nations Development Programmes *Human Development Report of 1994*.⁵ According to the report, the two components were explained as:

- Freedom from Fear—the narrower of the two seeks to understand Human Security as protecting individuals from violent conflicts while at the same time seeing these threats as strongly associated with poverty, lack of state capacity and other forms of inequities.
- Freedom from Want—On the other hand, this view argues that threats involved in human security should be expanded to include hunger, poverty, disease and natural environmental disasters because they are inseparable concepts in addressing the root of insecurity and because they typically kill far more people than war, genocide and terrorism combined. This develops the focus beyond violence against individuals with an emphasis on human social and economic development as the optimum way to protect individual security.

The latter sees the linkages in a more holistic way in other words. Our argument is that human security encompasses both as complementary and re-enforcing. They are structurally linked together. The second term, freedom from want, however, is more broadly related to development however—an umbrella that takes in all sorts of issues, such as terrorism, refugees, democracy, peacekeeping, development and many other types of security agendas. Adapted from Hanlon/Christie. *Freedom from fear, Freedom from Want: An Introduction to Human Security* (Toronto: University of Toronto Press, 2016).

Human Security, Refugees and Migration: Addressing the Gap

Human security is an interdisciplinary perspective that addresses major gaps in international politics and development studies. It is difficult to find any major university that does not offer a human security-type course. Yet there is a striking gap in resource material available to educators in the field in terms of how and why human security deals with migration, refugees and human security concerns—given there has been an explosion of interest in this in the news and media following the out-pouring of these groups for the Middle East and Africa. This is surprising and needs to be addressed.

This book then deals with some of the most pressing problems in human insecurity today in the sense that it examines the movement of people across borders, human vulnerability of people and transnational crime. These problems are largely man-made and take on special significance, because with concerted political will they could be prevented or solved. Many of the people on the move (voluntary or involuntary) appear as some of the most vulnerable individuals and groups on the planet. They lack the empowerment and strength necessary to control the direction of their lives, and this places them in a vulnerable and disturbed state of human insecurity. They appear to be without the capacity to control or influence their political, social and economic direction. What's interesting from a human security perspective is that many of these problems have strong links to organized transnational crime and global criminal networks. Due to globalization, consumerism and the increasing interdependence of the world we live in this make these difficulties far harder to eradicate and resolve. It also makes these desperate individuals so much more vulnerable to ruthless predators willing to exploit these circumstances and conditions. The fact that organized terrorist networks and groups like Al-Qaeda and ISIS are also heavily embedded in criminal activity is another worrying trend and even more difficult to eradicate in many ways.

The book also argues that although refugees and economic migrants are often perceived as contentious and seen as threats to state sovereignty, they are often the victims of oppressive national state policies which discriminate and condemn them to marginalized lives. These people typically fall within the ranks of the disempowered, only distinguished by some variance in their degree of choice in the matter. Much of this cheap migrant labour helps to sustain the economies of the Global North and South, and yet the clear majority of these people are often on the receiving end of brutal hardship and grave human insecurity in living and employment terms. The case of migrant workers in the Arab Gulf states for instance is a good example of people enduring severe hardship, alienation and abysmal living conditions while working away from home. To obviously that for many of these workers who have no citizenship rights, they can earn more there than back home does nothing to diminish the sad state of insecurity and poor conditions that they find themselves in where they can be deported on a whim. The case of the Rohingya's (Muslim refugees/migrants from Bangladesh into Burma) is also important because it combines aspects of refugees, youth and children who are exploited by criminal sex traffickers. In this context, the

text will look at migration, refugees and the decline in human security with regard to the migrant/refugee crisis which has taken place and is still unfolding in the Mediterranean on the shores of Europe. This crisis has demonstrated the extent of mutual vulnerability and human cost of conflict within the MENA.

CONTEXT: MIGRANTS AND HUMAN SECURITY

Migration and the movement of refugees is one of the important and difficult issues facing nation states and the international community today. Globalization is transforming and accelerating the movement of people seeking new economic opportunities around the world. The push-pull figures are staggering; the number of labour migrants living outside their country of origin for a minimum of one year constitutes at least an estimated 3% of the global population. Conditions at home and lack of economic opportunities (push factors) are coupled with incentives (pull factors) from receiving countries to contribute to skill-based labour or cheap manual labour. While neoliberalism and deregulation have encouraged mobility of capital across boundaries, restrictions on labour flows have remained intact and in some cases increasingly suppressive, impeding the efforts of migrants seeking more economically viable opportunities outside their home base. This protectionist response taken by receiving states contributes to the insecurity and vulnerability of migrants by limiting access to employment, protection and the social safety nets. These processes highlight what's missing in governance because of globalization. In this part, we will explore some of the ways in which globalization has contributed to increased rates in migration and the subsequent effects it has had on human security.

GLOBALIZATION'S EFFECTS ON MIGRATION

The increasing effects of globalization have had wide reaching effects, going well beyond exchange of goods and services as positioned by neo-liberal economic models of capitalism. The transformation in communications and transportation has afforded the global population access to the rest of the planet. This has delivered not only an increased awareness of alternative and different world views and cultural norms; it has shown the diversity in standards of living, income disparities and differences in social and economic well-being. The globalization of employment

opportunities and more sustainable livelihoods in other parts of the world has also provided incentives for migration. However, the minority of migrants who have real choices like this are in real decline as more and more people are forced out of their home countries in search of work, through necessity and through various push and pull factors.

With this transformation in how people move has emerged, we see ‘transnational networks’ which attempt to provide migrants with information on employment, financing, housing, and access to intermediaries (both legal and illegal) who are capable of facilitating migration. Concomitantly, alongside the increasing awareness in less developed countries of a better way of life elsewhere is the deterioration of economic sustainability and livelihoods at home. Structural adjustment policies implemented during the 1980s and 1990s which were aimed at stimulating the flow of international capital and globalization of the financial markets have arguably contributed to the existing disparities between poor and rich nations, widening the gap in human welfare and compounding the effects of rising poverty, unemployment and population growth rates. However, the decline in social protection and increase in unemployment are not the only components of what has been referred to as the global economic recession that developed after 2008. Many of those currently employed in less developed countries would be more accurately characterized as underemployed, meaning employment is insecure, precarious, unpredictable, and/or economically unsustainable. Almost 50% of the world’s 3 billion workers earn less than US\$2 per day. In contrast to developed countries experiencing ageing populations and declines in birth rates, most underdeveloped nations have growing youthful populations further conflating the unemployment issues and increasing overall human insecurity. Migration has shaped the MENA region for thousands of years. And there are a multitude of factors including demographic, socio-economic trends, conflict and, in part, climate change that impact the trends in the region.

The widespread political and social change, also known as the Arab Spring since 2011, ensured that migration issues remained in the spotlight. The MENA countries also are transit stations for many of this irregular migration routes and as such act as a conduit and source for exploitation and human rights violations by traffickers. The IOM provides an example of this:

For example, in 2012, a new light was shed on the extortion and mistreatment of migrants along routes that originate from the Horn of

Africa and those that either attempt to cross Egypt's southern border with Sudan and extend through the Sinai Peninsula to Israel or attempt to cross the Gulf of Aden via Yemen and onward to Saudi Arabia. In other cases, as their initial resources are depleted, migrants become stranded enroute or in-country, with limited access to livelihood, essential services or long-term solutions. Another pressing issue related to migration is the new and continuing internal and cross-border displacement occurring in several countries in the MENA.⁶

THE STATE AND MIGRANT SECURITY

If we can think of migration as a result of globalization, it should also be seen as a powerful force with the potential to change economic policy in both sending and receiving countries. Heads of states who participate in discussions within the global arena on the issues of migrant rights and protection also often enforce strict immigration policies and action to strengthen border controls in response to these. Such measures that highlight state sovereignty and security often supersede migrant rights. At the international level, this type of state-centric behaviour continually obstructs positive discourse and any progress for achieving equal rights. At a national level, it is the division between "us and them" (the other) and reinforces anti-immigrations sentiments, discrimination and hatred.

In times of global fiscal insecurity, negative sentiments tend to worsen, and migrants and immigrants are frequently blamed for unemployment rates, increased crime rates and even disease, despite their overall positive effects on the economy. An interesting correlation linking heightened migration restrictions in receiving countries with increased rates of occurrence of irregular migration concludes that the fewer legal opportunities available only increase the frequency of trafficking and illegal entrance.

MIGRANT RIGHTS AND PROTECTION

For sending countries, intraregional migration has eased poverty and unemployment while encouraging foreign exchange and engendering economic growth. However, because the most economically insecure can be correlated with the unskilled or low-skilled labour market (compared to those with trades and/or higher education), this demographic tends to represent a large portion of the migrant population. Conversely,

migrant receiving countries encourage professionals to renew temporary work permits and encourage permanent immigration while simultaneously increasing stipulations on the unskilled and low-skilled migrants. While temporary or circular migration has accomplished the goal of meeting labour market demands and providing employment to those in need, receiving countries still have control and therefore any protection felt by the vulnerable has been temporary at best.

The United Nations (UN), aided by the International Labour Organization (ILO), developed what is perhaps the most comprehensive document regarding rights of migrants, The International Convention of the Protection of All Migrant Workers and Members of Their Families in 1990. This document is a request for all states to pursue non-discriminatory practices regarding all migrants, legal or irregular; however, it has yet to be ratified by most of the member states. What is obvious is that in the absence of a binding and consensual agreement by the majority of states, migrant's rights will continue to be violated.

THE FAILURE OF STATES (AGAIN)

One of the reasons why we have displaced people and the complex problems of human trafficking are because many of the states where these problems emanate from are either “failed” or failing states where the capacities of the nation state are so severely compromised they are unable to control their territory and the machinery of government. What failed states are good at is the ability to offer shelter to criminal and terrorist networks because they typically operate outside of the realm of the rule of law and the norms ascribed to communities who have healthy, developed polities. They provide the dark underbelly of politics and violence with the lifeblood to carry on their nefarious activities.

This makes it easier in many ways for criminal gangs and organizations to operate, whether in Africa, Asia or Eastern Europe or elsewhere on a global scale. Many of these states have often allowed criminals and people on the run to live there and seek succour from the despots, tyrants or warlords who often inhabit the political space where the state once operated. Many of these states including Sudan and Pakistan for instance allowed or provided tacit approval for Osama bin Laden to stay there and conduct operations. In addition, some of these states (such as in Africa) for instance are resource rich and these resources are in turn creating and maintaining the conflicts going on there, such as parts of Nigeria.

For instance, we have conflicts over diamonds in Congo and Angola for instance as well as other resources which have limited the state in ability to control the ever-changing political landscape. In Somalia, there are serious piracy problems in the Indian Ocean. These are criminal activities which these weak states have little control over and indeed may be encouraging and fostering in a climate of lawlessness and corruption.

ORGANIZATION

The theoretical framework of this book is built on the authors' shared concept of human security. The authors examine the effects of the movement of people across borders in light of human vulnerability, globalization and links to transnational crime. *An underlying premise of their work is that although refugees and migrants are often perceived as contentious and posing threats to nations' sovereignty, these most disempowered people on the planet are in fact often the victims of authoritarian state polices which oppress and marginalize them.*

The goal of this book is to answer three questions surrounding the migration and refugee crisis in the MENA: (1) What are the human security implications for people victimized in this crisis? (2) What are the pull/push factors for these migrants and refugees and which groups of the population, such as women and children, are the most vulnerable? (3) What are the relationships between conflict in MENA states of migrant origin and the crisis, how do they affect regional and national policies towards refugees and migrants and how can interventions and international legal instruments play a role in resolving this crisis?

In addressing these questions, the book is divided into three sections. In *Part I: Migration, Refugees and Human Security in the Twenty-First Century*, Chapter 1 introduces the key theoretical aspects of the book, traces the historical emergence of human security as a new interdisciplinary development paradigm as well as providing a general overview of the refugee crisis and its specificities in the MENA context. In Chapter 2, Canefe discusses the normalization of the phenomenon of the death of asylum seekers and forced migrants by advanced legal systems who turn a blind eye to the thousands drowned in the Mediterranean Sea. In Chapter 3, Manion undertakes a global overview of vulnerability of child and youth migrants and refugees to trafficking and illegal entrance.

In *Part II: Case Studies*, Perham's Chapter 4 looks into the push/pull factors such as destitution of basic human rights, poverty, lack of access

to employment and essential services which in 2015 forced more than a million refugees to flee their countries of origin for Europe. This chapter also discusses how large powers have failed to address the situation with the rise in xenophobia while some weaker states are economically overwhelmed by refugees and migrants and resort to repressive policies such as encampment. The author concludes that availing a safe and dignified return to countries of origin is the preferential solution to the crisis with the option of integrating refugees into the country of asylum in a self-empowering and self-reliant way. In Chapter 5, Rutz explores the interaction of non-governmental NGOs and INGOS with a “bottom-up” approach to human security in assisting migrants and refugees in view of the increasing instability of some host states. Koprulu in Chapter 6 discusses the legal/humanitarian dilemma over either “the right to intervene” or “the right to protect” in the international order in light of the Mediterranean refugee crisis. Her analysis concludes that while international actors have for the most part maintained the principle of non-intervention this precluded the possibility of preventing humanitarian crises such as in Syria. With the massive increase in migration in the MENA region, the author argues that the limitations and shortcomings of the UN and the EU need to be re-evaluated.

In *Part III: Prescribing the Future of Human Security and Migration in MENA* in a case study of Jordan, Marion Boulby analyses the challenges to human security faced by the estimated one million Syrian refugees residing there. She argues that oppressive measures undertaken by the Jordanian regime driven by international and national state security interests have neglected the global humanitarian responsibility to protect Syrian refugees. These measures have included limiting the influx of refugees, closing borders with Syria, encampment and decampment, denial of access to employment and even humanitarian care in the interests of state security. Jordan is indeed facing economic hardship with the influx of refugees. An international donor initiative in 2016 secured 1.7 billion dollars in loans, grants and pledges in return for Jordan opening its labour market to Syrians. However, the initiative has proven unsuccessful in affecting the kingdom’s policies towards refugees. In Chapter 8, Hanlon explores aspects of human trafficking and forced labour amidst the MENA refugee crisis. His study focusses on the role of the private sector in contributing to and preventing the proliferation of forced labour in the MENA. He argues that until the private sector takes greater responsibility in understanding the issue of slavery with their

supply chains the shadow economy will continue to thrive and organized crime will continue to exploit vulnerable populations being trafficked throughout the region. In Chapter 9, Baptista analyses EU responses to the MENA refugee crisis. The author argues that so far the policies have been inadequate and characterized by widespread systemic failure in responding to the biggest refugee exodus since World War II.

CONCLUSION

Migration combined with refugees fleeing conflict is one of the important and difficult issues facing nation states and the international community today. Globalization is transforming and accelerating the movement of people seeking new economic opportunities around the world. The push–pull figures are staggering; the number of labour migrants living outside their country of origin for a minimum of one year constitutes at least an estimated 3% of the global population. Conditions at home and lack of economic opportunities (push factors) are coupled with incentives (pull factors) from receiving countries to contribute to skill-based labour or cheap manual labour. This protectionist response taken by receiving states contributes to the insecurity and vulnerability of migrants by limiting access to employment, protection and the social safety nets.

The Arab Spring since 2011 has the conflicts around this has also played a huge part. The widespread political and social change ensured that migration issues remained in the spotlight. New regimes in Egypt, Libya and Tunisia, and increasing conflict in Iraq and Syria have put these challenges in perspective. Humanitarian problems have been exacerbated about displaced people. Throughout the text, we hope to bring home the devastating human security consequences and implications of this will placing the unfolding crisis in context.

NOTES

1. See <https://www.iom.int/news/iom-counts-3771-migrant-fatalities-mediterranean-2015>.
2. See <https://www.iom.int/news/mediterranean-migrant-arrivals-approach-43000-2017-deaths-962>.
3. See <http://www.independent.co.uk/news/world/europe/refugee-crisis-migrants-asylum-seekers-mediterranean-see-libya-italy-ngos-smugglers-accusations-a7696976.html>.

4. Ibid., pp. 5–6.
5. See http://hdr.undp.org/sites/default/files/reports/255/hdr_1994_en_complete_nostats.pdf.
6. Source <https://www.iom.int/cms/en/sites/iom/home/where-we-work/africa-and-the-middle-east/middle-east-and-north-africa.html>.

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CHAPTER 2

Death of the Refugee: The Silence of Numbers

Nergis Canefe

INTRODUCTION

Since the early 1990s, the concept of human security has occupied a significant place in the global discourses of peace, development, and human rights, despite criticisms concerning its conceptual ambiguity. Arguing for the merit of a broader definition of human security as stated by the UN, i.e., ‘the right of people to live in freedom and dignity, free from poverty and despair’ (UN Resolution A/RES/66/290) requires adherence to an interdisciplinary theoretical framework in which key aspects of human security are systematically laid out and interconnected.¹ The ideal version of this long list would start with threats to security emanating from physical, living, and social systems, and then continues with structural causes that produce threats to human freedom and dignity, ending with instruments to deal with these threats and a robust discussion concerning issues of agency to protect human security. This paper takes issue with the last component of this paradigmatic list: instruments and issues of agency to protect human security. The question I attempt

N. Canefe (✉)

Department of Political Science, School of Public Policy and Administration
(Law Stream), York University, Toronto, Canada

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to address here is not who should protect human security of vulnerable groups. Stressing the importance of responsibilities of sovereign states as crucial agents to protect human security has already been done by critical human rights scholarship. Instead, in the following pages, I try to look at how states who are in theory responsible for ascertaining life with freedom and dignity instead often engage in practices that create, condone, or perpetuate the very conditions that erode the possibility of applying the human security paradigm to subsets of populations residing within their borders.

Specifically, this chapter focuses on the ad hoc policies of select states in the Middle East regarding absorption and management of forced migration, with a particular emphasis on the Syrian crisis. In the following pages, I argue that the dynamics informing the regional response to the Syrian crisis are dictated by the receiving states' willingness to make specific labor recruitment arrangements for the benefit of their economies in the long run, in addition to political, geographical, and demographic calculations they made to serve their local interests at times of prolonged crisis. Furthermore, although the official declarations concerning the absorption of the displaced Syrians underline notion of charity, hospitality, and, in the case of Turkey, claims for regional leadership, the policy measures taken for the settlement and absorption of the Syrian masses do not include debates akin to the human security paradigm. Rather, they prioritize the speedy integration of Syrians to host societies as the utmost priority. With reference to this context, I first provide an overview of select Middle Eastern countries' refugee policies that received the bulk of Syrian refugees. I then examine Syrian refugees' right to reside and work in these countries, as well as revisiting the signs pertaining to the emergence of an informal and secondary sector of precarious and illegal employment, which in turn constitute sites of contestation concerning the applicability of the human security paradigm vis-à-vis the Syrian exodus in the case of states in the MENA region. I contextualize the response of the largest recipient among them, the Turkish state, accordingly, rather than in isolation from the rest of the Middle East and only in terms of its relations with Europe. That is a methodological choice, and I provide the reasoning behind it in a special section of the paper discussing the history of the emergence of the Middle East as a conceptual, rather than geographical, space.

The background question that prompted the overall analysis presented in this paper is why the outbreak of the region's largest refugee

crisis since World War II did not result in the local states' acceding to international refugee law or border closures and whether this move indeed signified an important development concerning the embracing of the principles pertaining to human security in the Global South. This is despite the fact that to this day, most Middle Eastern states continue to reject the legal definitions of refugee or stateless people because of the belief that their interests are best served by alternative and ad hoc policies solely determined by the national legislative action. As such, they have long engaged in instrumental absorption and maneuvering of forced migration. Their chosen strategy has been placing the onus for responding to the crisis in financial terms on international institutions and Western states while incorporating the newly arrived masses as fresh unqualified labor, service sector labor, capital bearers, and potential new voters for regime sustenance and fortification. In the following pages, I posit that the reception of Syrian refugees in contemporary Middle East should be considered a part of this policy continuum. These local state responses in effect have a coherent internal logic and duly serve the emergent forms of developmentalism in the region.

The backbone of the state system in the region is that of a creative amalgamation of corporatism, clientelism, rentier mentality, and developmentalism, all of which rely upon a heavy-handed central state apparatus.² In addition, many of the states in the region witnessed or in effect initiated substantial changes in the ethnolinguistic composition of their populations during the post-independence period. As long as these post-colonial states succeed in maintaining a system of populist representation and centralized authority, they continue to protect their borders. However, overall, the basic political structure of the Middle Eastern states does not hold a strong promise for the stability of the demographic makeup of the region. As contesting groups introduced alternative political understandings of how the state should be run and controlled, the existing system of governance has come under increasing pressure, which in turn led to a constant phenomenon of forced migration flows in the region.³ The Syrian exodus is also to be considered as the latest episode of casualties resulting from this inner logic of statehood.

For much of the twentieth century, modernization was considered as the unifying principle in the study of the changing character of the state in the Middle East.⁴ As Middle Eastern states defied global trends toward formulaic democratization, the region has been marginalized in

the field of comparative politics but interestingly became a strong subject of analysis in the field of political economy. Regimes like those in the Middle East served as a springboard to enhance explanations of the factors that contribute to the perpetuation of authoritarian or heavily centralized rule with popular support and often kept in place through the ballot box. Eschewing orientalist cultural explanations, it is possible to advance different propositions that spotlight political-institutional variables, such as widespread governing party recognition among the marginalized classes as well as the elite, involvement of non-governmental organizations (NGOs) in providing public services parallel to the state and thus filling the vacuum, and institutional involvement of the military in capital accumulation (Zoltan 2011). Similarly, strategic choices made by incumbent authoritarian rulers, religious and secular opposition, and class-based system challengers clearly indicate a robust presence of politics in the region. Therefore, understanding state sovereignty and border maintenance in the Middle East requires a different nomenclature. The same criteria apply to the study of forced migration in the region, as well.

Indeed, the events of the Arab Spring have amply reminded us of the necessity to rethink the logic of authoritarian trends in the region. For instance, internal variations in regime collapse and survival confirmed that the comportment of the coercive state apparatus, especially its will and skill to repress opposition, is pivotal to determining the durability of the centralized regimes and protection of their post-independence borders. Meanwhile, the trajectory of the Arab Spring also introduced an empirical novelty: the manifestation of huge, cross-class, popular protests in the name of political change across the region (Bellin 2012). On that note, suffice to state that many Middle Eastern studies experts were as surprised as everyone else by the contemporary Arab revolts against the Middle Eastern state. Focused on explaining the stability of local autocracies for the last fifty odd years, they underestimated the subaltern forces driving change and the power of discontent. These developments indeed forced us to reconsider long-held assumptions about the Middle Eastern state and its sanctified borders.⁵ They also have direct implications for the remaking of the demographic makeup of the region through forced migration movements, including but not limited to the Syrian exodus.

Daring scholars have highlighted important similarities between the Arab Spring of 2011 and the ‘revolutions’ of 1848 (Goldstone 2011; Weyland 2012). Specifically, it was argued that both waves of contention swept with dramatic speed across whole regions, but ended up yielding

rather limited advances toward political liberalism and actual regime change. What they also failed to see was the pattern of reshuffling of populations repeating itself and thus rendering of state boundaries into a mere formality. Drawing on the analyses of 1848, it is indeed possible to argue that contention spread extremely quickly because of a heightened expectation concerning the significance of popular uprisings. This precipitation prompted protests in multiple settings, many of which were not at all propitious for change, and there we witnessed the emergence of millions of dispossessed and stateless people. The decision to engage in emulative contention fell to ordinary citizens, who then became highly susceptible to the direct and brutally coercive inferences by the regimes they opposed. Since late 2010, as unprecedented wave of protests demanding greater political freedoms and regime change mounted, the number of internally displaced people, asylum seekers, and war refugees in the Middle East reached millions.⁶ Although in Tunisia, Egypt, and Libya, long-standing autocrats have been toppled, in other countries of the region including Syria, well-established authoritarian regimes grew increasingly violent and contained the discontent through incitement of mass exodus of their opponents. Hence is the importance of the study of the Syrian exodus in a regional context due to the fact that it is neither the first of its kind and likely not the last one to be expected in terms of en masse populations movements emanating from a civil war nexus.

FINDING NEMO: WHERE IS THE MIDDLE EAST?⁷

In this section, I will briefly discuss emergence of the Middle East as a conceptual entity in modern history since this issue has direct relevance concerning the way we address the Syrian crisis. It also has repercussions concerning what we could define as human security in the region in politically apt terms. The Middle East is commonly denoted as the landmass around the southern and eastern shores of the Mediterranean Sea, extending from contemporary Morocco to the Arabian Peninsula, including Iran. The central part of the area was formerly called the Near East, originally used by Western geographers and historians specializing in the study of colonies in that area, who divided what they called the Orient into three regions. The term Near East applied to the regions nearest to Europe, extending from the Mediterranean Sea to the Persian Gulf, Middle East applied to the regions from the Persian Gulf all the way to Southeast Asia, and Far East corresponded to those regions extending from the Middle East to the Pacific Ocean.

The change in terminology and usage began prior to 1939, and it was firmly entrenched by the immediate aftermath of the World War II. By the mid-twentieth century, a common definition of the Middle East was settled as encompassing the states and territories including Turkey, Cyprus, Syria, Lebanon, Iraq, Iran, Israel, the West Bank and the Gaza Strip, Jordan, Egypt, Sudan, Libya, and the various states and territories of Arabia proper including Saudi Arabia, Kuwait, Yemen, Oman, Bahrain, Qatar, and the United Arab Emirates. Subsequent decades bore witness to the inclusion of the three North African countries of Tunisia, Algeria, and Morocco to this list. In addition, geopolitical factors sometimes require Afghanistan and Pakistan to be included in the larger definition. The present-day Turkey and Greece, together with the predominantly Arabic-speaking lands around the eastern end of the Mediterranean, were also formerly known as the Levant. Use of the term Middle East nonetheless still remains unsettled, and some agencies such as the United States State Department and certain bodies of the United Nations still employ the terms Near East and Middle East interchangeably denoting the region under question.⁸

Despite the long list of state names in either of the regional coinage, however, there were never any real nation-states in this region—i.e., a state populated almost entirely by a single ethno-religious group. For an entire century, the world's ignorance of diversity of the ethno-religious realities of the Middle East, accompanied by maps and atlases that depict the states of the region separated from each other by sharp and seemingly eternal borders, created an image of a Westphalian state system (Appadurai 1996). This is despite the fact that the Middle East, as we know it today, is more of a place of constantly challenged borders, divided up minorities and shifting alliances. In that sense, it is more akin to the Balkans (otherwise known as the Southeast Europe) than one would care to think.⁹ Prior to the invasion of Iraq some 20 years ago, the Middle East was also perceived mostly as a homogeneously Arab region. There was no knowledge of or even interest in the complex internal differences within and between the states of the region. A case in point is Syria. Prior to the outpouring of the refugees and victims of the war in the country, Who was really aware that Syria was controlled by a small Alawite minority, consisting of no more than 10% of the country's population? Who knew about the Kurds of Syria, or the Christian minorities of the Middle East residing there for centuries? Was it widely known outside of the immediate neighbors of Lebanon that it was an

artificial territorial construct created by the French mandate, based on the outcome of a colonial census, and that the country was populated by not just Maronite Christians, but also by large Sunni, Shi'ite, and Druse populations? And, again prior to the collapse of the Iraqi state, did the world know or care about the three distinct ethnic groups in Iraq, or the fact that the Shi'ites and the Kurds were ruled by a Sunni minority for decades? The one ethno-national group that occupied a clearly defined territory was the Kurds, who never achieved national statehood, as their region was carved up between Iran, Iraq, Syria, and Turkey and they lived an existence being scattered across the region, reshuffled between borders with each civil war. Yet, how many people knew or wrote about the Kurds before 1990s and the massacres that led to their mass displacement by the Baath regime in Iraq? This is all to indicate that insecurity has been endemic to statecraft in the region long before the Syrian exodus.

The concept of the nation-state reached its peak in the immediate aftermath of World War I, as the great empires of the eighteenth and nineteenth centuries declined and collapsed. The same geopolitical principles, which led to the re-territorialization of post-World War I Europe, were then applied to those parts of the Middle East which had been part of the Ottoman Empire.¹⁰ The result was a sundry list of new states, and a variety of strategically defined borders, all of which encapsulated numerous minorities. However, the emergent political and territorial systems bore little relation to the daily realities of the ethno-religiously distinct populations in these newly created states. Nor did it take into consideration the ways in which political power had been practiced by the regions' administrative units until then. As the Middle Eastern states became accepted as part of the global system of power distribution and sovereign immunity, problems within their borders continued to percolate (Bellin 2004, 2012; King 2007). Those groups or tribes which had received the reins of control from the European colonizers of the time, often due to their assistance in wresting power away from the Ottoman Empire, ensured that they would retain that power through uniquely authoritarian and centralized state structures (Schechtman 1961; Nisan 2002; White 2011). Hence were the origins of the current system of states and monarchies, which bore limited legitimacy in the eyes of the populations whom they came to represent. Syria was one of them.

During the post-independence era, military coups became a regular part of politics and regime transformation across the region. As long as

the regimes maintained a relatively stable relationship with the rest of the world, internal dynamics of the region continued to be a non-issue. The borders separating Iraq from Syria, Syria from Lebanon, and Lebanon from Jordan are all constructs from a period when there was a need to create them, but they always maintained the marked traces of historical memories of the communities they divided. These borders have never really represented nations as such, as contemporary events in Syria demonstrate. They were porous and unstable in the face of social and political ferment and change, as the events of the Arab Spring also proved. As the Arab uprisings led to war, exodus, and general turmoil for large segments of the region's populations, the territorial foundations of the region's states began to face unique challenges. One such challenge was that of *en masse* exodus.

Traditionally, Middle Eastern states did not respond well to demands for rights, accountability, direct access to power, greater autonomy, and secession, especially when these demands are waged by minorities within. The backbone of the state system in the region is that of a creative amalgamation of corporatism, clientalism, rentier mentality, and developmentalism, all of which rely upon a heavy-handed central state apparatus. As a result, many of the countries in the region have witnessed substantial changes in the ethnic composition of their populations during the post-independence period. Still, for as long as these countries succeed in maintaining a system of populist representation and centralized authority, they continue to protect their borders. However, overall, the basic political structure of the Middle Eastern states does not hold a strong promise for the stability of the demographic makeup of the region. As contesting groups introduced alternative political understandings of what a state is and how it should be run and controlled, the political idiom of governance has come under increasing pressure, which in turn led to a constant phenomenon of forced migration flows.¹¹

DISPOSSESSION IN THE FINE HOUR OF DISCONTENT: REFUGEES OF THE MIDDLE EAST

The refugee and displacement problem is one of the most complex humanitarian and political issues facing the contemporary Middle East. Currently, the region hosts the highest number of refugees and asylum seekers in the world. Underlining the failure to understand the real

dimensions of the problem is the confusion between stateless people, exiled populations, refugees, asylum seekers, and internally displaced persons (IDPs) in the region. It is therefore imperative to come to terms with the characteristics of the citizenship, migration, and refugee regimes in operation across the region. There are at least 7 states that regularly accept and absorb refugees from the region: Iraq, Syria (hence the irony), Turkey, Egypt, Yemen, Lebanon, and Jordan.¹²

Starting with the country with the largest population, Egypt is a state party to both the 1951 UN Convention relating to the Status of Refugees and the 1969 Organisation of African Unity (known as the African Union) Convention Governing Specific Aspects of Refugee Problems in Africa. It is both a refugee host country and a transit point for asylum seekers, in addition to producing millions of migrant workers dispersed throughout the region herself. Currently, it hosts refugees from 38 countries.¹³ In Egypt, UNHCR conducts all Refugee Status Determination (RSD) procedures, registration, and documentation. Issues affecting refugees, asylum seekers, and dispossessed populations, including poverty, gaps in protection, and dependence on the informal economy, are resolved by the NGOs, and the state offers minimal assistance. However, they are allowed into the country and kept within Egypt's borders.¹⁴

The second largest in this list, Iraq is not a state party to the 1951 UN Refugee Convention while being a source country for millions of dispossessed dispersed in the region. Currently, Iraqis constitute the second largest refugee group in the world. Back in 2010, there were over 2 million UNHCR-documented Iraqi refugees living beyond their country's borders.¹⁵ The estimated number of IDPs exceeds 1.55 million.¹⁶ Most Iraqi refugees were living in Syria, and there were other large communities in Jordan and Lebanon. Some also moved to Turkey. A growing number of dispossessed Iraqis are returning home for lack of employment and education opportunities in neighboring countries, despite the prevailing conditions of civil war. Religious and other minorities face a particularly grave risk of persecution in Iraq. As a result, the majority of the Christian populations of Iraq, a population of 1–1.4 million before 2003, left the country. Similarly, according to UNHCR estimates, of the 34,000 Palestinians in Iraq in May 2006, very few remain. In this sense, Iraq is the quintessential example of porous borders in the Middle East. The reshuffling of the Iraqi population is only second to that of Syria in terms of its overwhelming velocity and volume.

UNHCR's guidelines for Iraq ask governments not to forcibly return people originating from the governorates of Baghdad, Diyala, Kirkuk, Ninewa, and Salah Al-din, in view of the serious human rights violations and continuing security incidents in these areas. UNHCR's position is that Iraqi asylum applicants originating from these five governorates should benefit from international protection as per the 1951 Refugee Convention or an alternative form of protection.¹⁷ Still, there have been a recorded 426,090 Iraqi refugees and IDP returnees in 2008 and 2009. The estimated 1.5 million IDPs in Iraq include 500,000 in settlements or camp-like situations in extremely poor conditions.¹⁸

Similar to Iraq, Jordan is not a signatory to the 1951 UN Refugee Convention but a major recipient of the dispossessed in the region. Before the arrival of Syrians *en masse*, there were around 1.9 million Palestinians settled in Jordan and registered with UNRWA. Unlike any other host country in the region, Jordan granted all Palestinian refugees full citizenship rights, except for the 120,000 Palestinians who originally came from the Gaza Strip. Back in 2010, there were 32,599 registered persons of concern, 90% (29,339) of whom were Iraqis registered with UNHCR, along with 1899 refugees and asylum seekers from other countries, mainly Sudan and Somalia. Jordan's economy is built upon the labor power provided by the refugees and immigrants settled in the country. The Jordanian state is highly adaptable to new arrivals, and more than 90% of the refugees in the country have access to primary education. In 1998, the Jordanian government and UNHCR signed a memorandum of understanding, according to which asylum seekers may remain in Jordan pending RSD by UNHCR.¹⁹

Next on the list of non-signatories to the 1951 UN Refugee Convention comes Lebanon. As of date, around 425,000 Palestinian refugees are registered with UNRWA, while around 3000 are not registered and have no identity documents while living in Lebanon.²⁰ About 53% of registered refugees live in 12 official refugee camps across the country, while the rest live in cities, towns, and informal refugee camps. Living conditions for most refugees—Palestinian or otherwise—are precarious. Non-Lebanese are barred from public sector jobs, though in August 2010, after decades of campaigning, a law was passed in Lebanon's parliament allowing them to request work permits for private sector employment. Since Lebanon is not a state party to either the 1951 Geneva Convention relating to the Status of Refugees or to its 1967 Protocol,

it does not have legislation or administrative practices in place to address the specific needs of refugees and asylum seekers. As a result, refugees who enter the country without prior authorization or who overstay their visa are considered to be illegal and are at risk of being fined, detained for considerable lengths of time, and deported. Without permission to stay until a durable solution is found, they live in hardship and are mostly employed in the informal sector.

The irony of citizenship regimes in the Middle East as both producers and receivers of the region's dispossessed is most starkly observed in the case of Syria. Syria is not a signatory to the 1951 UN Refugee Convention, though before the outbreak of the Syrian civil war, around 427,000 Palestinian refugees living in Syria were registered with UNRWA. They enjoyed the same rights as Syrian citizens, barring citizenship rights. Back in 2010, there were 151,907 Iraqi refugees registered with UNHCR in Syria, as well as 4317 non-Iraqi refugees and 1156 non-Iraqi asylum seekers. Going further back, according to UNHCR's 1997 report *The State of The World's Refugees*, up to 200,000 Kurds in Syria became stateless as a result of a 1962 census that withdrew Syrian citizenship from people who had entered the country illegally from Turkey.²¹ Though most refugees in Syria were Iraqis, there were many illegal residents from Afghanistan, Iran, Somalia, and Sudan. Of these, some had to move to Turkey with the escalation of wartime conditions in Syria. Already back in 2007, the Syrian government estimated that there were over 430,000 IDPs in the country, including the descendants of those originally forced to flee from the Golan Heights during the 1967 six-day war.²²

Yemen is a rare signatory country in the whole region to the 1951 UN Refugee Convention. However, it also had its fair share of producing displaced populations. The challenges Yemen faces are somewhat unique, given its location on a historical migration route between the Horn of Africa and the oil-rich Arabian Gulf. Mixed migration brings in both refugees fleeing persecution and economic migrants fleeing structural poverty, often via dangerous people-smuggling networks. Back in 2010, 95% of the 236,443 registered refugees in Yemen were Somalis who were granted *prima facie* recognition by the Yemeni government. Iraqis, Ethiopians, and Eritreans have also regularly sought refuge in Yemen. On top, there are 2.5 million IDPs in Yemen. These figures further complicate the fact that Yemen is one of the region's poorest countries and faces constant threats of insurgency and conflict.²³

The last country in this select list of recipient states in the Middle East is Turkey. It is a signatory to the Refugee Convention but with a serious exception clause and entertains a unique status determination regime (İçduygu 2016). Despite its reticence in the past concerning formal integration of the displaced arriving from the region, by the end of 2011, Turkish government had thrown its weight completely behind the Syrian opposition and recognized the then Syrian National Council as the representative of the Syrian people. Turkey's expectation, which was in line with a good part of the international community at the time, was that the Assad regime would not last long. Against this background, Turkey declared in October 2011 an open-door policy toward refugees fleeing Syria and developed a legal framework came to be known as 'temporary protection.' However, things did not go entirely according to plan, and by May 2014, there were 220,000 Syrian refugees housed in 22 camps along the Syrian border with another 515,000 registered as urban refugees.²⁴ Needless to say, the persistence of the conflict well into 2017 and the ever-growing number of urban refugees created serious challenges for Turkey. Not just in Turkey but across the region, it is becoming increasingly clear that Syrian war victims and refugees are not about to return home anytime soon. This brought up major policy issues for the Turkish government. They included whether the government should offer Syrian refugees residency and citizenship rights to addressing urgent education, employment, health, shelter, and integration needs. The presence of growing numbers of Syrians in Turkey is having a direct impact on host communities economically, socially, as well as politically. Where they work, how they work, where they live, and for whom they would vote are questions with increasing import, as they now constitute a sizable 5% minority in Turkey.

As much as Turkey's open-door policy has been a commendable one, it has had a weak legal basis and thus a prominently ad hoc quality. This is despite the establishment of a new directorate for management of migration, including forced migration flows.²⁵ Against the backdrop of conflicts and accompanying displacement crises of the past in the Middle East, from the Afghans to the Palestinians and now the Syrians, expecting the return of refugees to their homeland in the near future would be unrealistic and this further exacerbates the problem of temporary solutions. Therefore, Turkey had to develop a well thought out and structurally viable acceptance policy with a legal grounding sooner than later. The legal framework marking these new policy initiatives was heavily

influenced by the EU directives in place. However, these were adapted to the short- and long-term goals of the Turkish state. In particular, the regulation adopted in March 2012 for allowing the Syrians to stay for an indefinite period could not be regarded as constituting the basis of a comprehensive policy extending universal protection for more than three million people (Kırışçı 2014). It is a carefully calculated move for partial and selective absorption of the Syrians in Turkey.²⁶

From the 1920s into the mid-1990s, the Turkish Republic received more than one-and-a-half million Muslim refugees ranging from Albanians to Tatars and their integration was undertaken on an ad hoc basis. During the 1990s, an influx of more than 300,000 Pomaks and ethnic Turks fleeing the persecution of the then Communist regime in Bulgaria were also quickly absorbed within the existing immigration and citizenship policy framework (Kırışçı 2000). The government, in line with a law from 1934, considered the latter group to be of ‘Turkish descent and culture’ and granted them the possibility of acquiring Turkish citizenship. In 1991, however, Turkey became the receiving country of the mass influx of refugees who could not be included in that particular law. Close to half a million people fled Saddam Hussein’s violence against Kurds and other minorities in northern harsh mountainous terrain and winter conditions, and at a time when the Turkish state still denied cultural and language rights of Kurds within its borders. Initially seen as a national security crisis, Turkey tried to deny entry to the displaced. Eventually, the government resorted to mounting a diplomatic effort, which led to the United Nations Security Council to create a safe zone in northern Iraq that would ensure the return of the refugees to their homes. Together with the crisis of 1988 that emerged with the arrival of more than 60,000 Kurds fleeing the Halabja massacres, temporarily housed in southeastern Turkey, the ‘Kurdish refugee problem’ thus constituted the defining moment in modern Turkey’s handling of mass influx of the displaced in the region (Kırışçı 1993, 1996a, b). In November 1994, Turkey proceeded to adopt its first national legislation on asylum. The resultant regulation defined the urgency to respond to mass influxes of refugees before the displaced populations could cross the border into Turkey unless the government was to make a decision to the contrary, as was the case with the Syrians some 20 years later.²⁷

The 1994 Regulation defined procedures for receiving and processing individual asylum applications. In line with Turkey’s acceptance of the 1951 Geneva Convention relating to the Status of Refugees

with a ‘geographical limitation,’ the Regulation limited the right to receive refugee status to only asylum seekers fleeing ‘events in Europe.’ Refugees from outside Europe would be granted only temporary stay in Turkey pending their resettlement to third countries. In this context, the influx and gradual official admission of Syrians into Turkey is unprecedented. Turkey’s facilitation of an ‘open-door’ policy for such a large number of refugees from outside Europe marks a notable break from its past practices. In response to this latest regional refugee crisis, Turkey then set up a General Directorate of Migration Management (GDMM) to be responsible for implementing new immigration laws that address both individual and en masse asylum.²⁸ The anomaly is that Turkey was among the original drafters and signatories of the 1951 Geneva Convention. With the arrival of Syrians, Turkey has become the sixth largest recipient of refugees in the world. However, its immigration system is under severe strain, and the status determination process conducted by the UNHCR could take years. To alleviate the problem in the context of the Syrian exodus, UNHCR began to employ the services of a Turkish non-governmental organization (NGO), Association of Solidarity with Asylum Seekers and Migrants (ASAM) since July 2013 to speed up the process.²⁹ The Turkish GDMM then implemented the Foreigners and International Protection Law that came into force in April 2014. This new law redefines the rights that asylum seekers and recognized refugees would enjoy with respect to access to public services and employment.³⁰ Now that these policy measures are in place, management of Syrian refugees entered a new phase.

It is important to remember, however, that Turkey is not the only country affected by the sheer mass of the Syrian exodus and responding to the regional circumstances in an official capacity. The next section thus offers a brief account of the evolution of the Syrian refugee situation in the region at large. Overall, policy restrictions on residency renewals affect the enjoyment of basic rights and freedom for refugees of all nationalities in the region. Access to territory, UNHCR registration, and maintaining livelihoods including formal right to work remain the main challenges faced by Syrian refugees and the waves of dispossessed that were dislocated before them. With the growing insurrections in Syria in 2011, the ‘refugee crisis’ in the Middle East has escalated sharply and its impact is widening from neighboring countries toward Europe. However, I keep the focus of this debate intentionally on the region as a counterweight to the exponentially growing literature on the

portrayal of the Syrian exodus as Europe's refugee problem. The sheer numbers of refugees hosted in the Middle East speak of a reality that cannot be understood in terms of how the European protection system effects the reception of refugees in the Middle East itself. Though there are no doubt linkages and regime-based relations to consider, centering Europe into this debate is both methodologically and historically faulty. Since the Syrian conflict shows no signs of abating in the near future, there is a constant increase in the number of Syrians fleeing their homes. However, questions on the future impact of the Syrian crisis on the scope and scale of this human mobility are to be answered not with reference to what Europe plans for herself. As the impact of the Syrian crisis on host countries in the region increases, the focus should squarely stay on the Middle East.³¹

The flow of displaced Syrians to neighboring countries in the Middle East started back in April 2011. Syrians first flee fighting in the town of Talkalakh to Lebanon, using an unofficial border crossing previously designated for smuggled goods trade.³² In June 2011, the military siege of the northwestern part of Syria sparked the first major outpouring of war victims to Turkey. Escaping shelling and fighting, thousands crossed the border, which was kept open for their entry. By July 2011, Jordan also began to receive Syrian war victims arriving through the Syrian border town of Deraa. By the end of 2011, Turkey set up 6 refugee camps to host Syrian asylum seekers and military defectors and introduced these populations as 'guests' rather than 'refugees' to the Turkish public. By March 2012, the Bekaa Valley in Lebanon became a major reception site for Syrian war victims and asylum seekers, many of whom were fleeing fierce fighting in Homs, Quseir, Zabadani, and Hama. Syrians began to settle in northern Lebanese cities of Wadi Khaled and Tripoli. Since Bekaa is a poor, agricultural region, they either joined relatives in towns or began to establish squatter communities up on the hills. In April 2012, Syrian refugees of Kurdish origin began to settle in Northern Iraq, in particular the Iraqi Kurdistan. As mines began to be planted across the Syrian-Turkish border, larger numbers began to flee to Turkey, and by July 2013, nearly 200,000 thousand Syrians originating from Aleppo crossed the Turkish border *en masse*. This was followed by the Syrian exodus to Lebanon by Damascus Syrians. Close to 40,000 Syrians crossed the Masnaa border post in a matter of days. In the meantime, UNHCR was forced to open Za'atari refugee camp in Jordan to host the continuous influx of Syrians to Jordan. By September 2012, the heavy

daily influx of Syrians to Turkey, Lebanon, and Jordan reached a new zenith with 11,000 in one single day. By the end of 2012, there were already sizeable Syrian communities in Turkey, Jordan, Lebanon, Egypt, and Iraq, their total number estimated to be more than half a million people.

In January 2013, the Lebanese government took a landmark step and agreed to officially register Syrian refugees. This decision was partly led by the fear of the emergence of new refugee camps such as those allocated to Palestinians. By the end of 2013, the number of Syrians who fled to the region reached 2 million people and half of them were children. This was another factor leading to the decision of the Lebanese parliament to absorb and assimilate the Syrians. Throughout 2013, the Za'atari camp in Jordan continued to grow, though some Syrians managed to settle in Jordanian towns and cities. At the end of 2013, the camp had 12,000 tents, amounting to 20,000 households. The UNHCR estimates were suggesting that 6000 people per day were fleeing Syria throughout 2013. In August 2013, another 20,000 Syrians crossed the Syria–Iraq border in a just a few days. Meanwhile, Turkey built a wall in the district of Nusaybin, a site of frequent clashes between Syrian rebels, Kurds, and local Arab tribes. It is significant to note that of the 2 million Syrians who fled the country, the ‘international community’ of Western states pledged to take in and resettle 30,000 by the end of 2014. By the end of 2013, Syrian war victims who arrived in Turkey began to cross the Aegean Sea and established a dangerous sea route to get to Europe via Greece. In response, Bulgaria built a 30-km fence across its border with Turkey to stop the influx of Syrians. Polio and Tuberculosis began to spread among the Syrians on the move.

By February 2014, Syrian refugees were outnumbering the local residents in the Lebanese border town of Aarsal. They were living in makeshift shelters in the outskirts of the town and away from the resident community. By April 2014, 1 in 5 people in Lebanon were declared to be Syrian, amounting to 20% of the country's total population. Lebanon received its 1 millionth Syrian refugee on April 3, 2014. Meanwhile, Palestinians living in refugee camps within Syria began to leave and flee the war. In June 2014, The Islamic State of Iraq and the Levant (ISIS) took over the Iraqi town of Mosul and 500,000 Mosul residents became displaced. As ISIS declares Iraq and Syria as a caliphate, 1.2 million more Iraqis and Syrians in Iraq became displaced. As ISIS took control of Syrian oil fields, American troops began their airstrikes in August 2014,

which led to the displacement of several more hundreds of thousands Syrians caught under fire. By September 2014, another wave of more than 130,000 Syrian Kurds fled to Turkey. In October 2014, the Turkish town of Suruç grew twice in size with the influx of 400,000 Syrian Kurds fleeing across the border, mainly running away from the massacres in the Syrian town of Kobani. By November 2014, the number of Syrians in Turkey reached 1.6 million.

As the numbers continued to escalate, in January 2015, Lebanon introduced a visa requirement for Syrians crossing its borders. Meanwhile, two-thirds of the Syrians settled in Jordan were estimated to be living below the country's poverty line. The sight of Syrian children working on the streets of Beirut or Istanbul began to be regarded as all too common. Egypt capped its Syrian refugee intake at about 30,000 and as such remained afloat in terms of providing aid and basic services. However, for Lebanon, Turkey, and Jordan, the situation was becoming more complex by the day as the exodus continued. Almost 40% of the Syrians in Lebanon are registered to be under the age of 11, and by 2015, Lebanese schools began to show signs of stress and strained under the added volume of students. By March 2015, Middle Eastern states neighboring Syria were hosting an estimated 4 million Syrian refugees.³³ With the collapse of Palmyra and the DAESH control of half of Syria, the exodus continued with renewed emergency. Meanwhile, Hungary became the second European state to build a wall against Syrians. Germany, however, started an asylum program for Syrians and suspended the 1990 protocol obliging asylum seekers to seek refuge in their first safe country of arrival. By November 2015, the European Union began its Syrian resettlement scheme across the continent, targeting the acceptance of 160,000 Syrians in two years among its 14 participating states. In 2015 alone, 1 million people crossed the Mediterranean Sea to reach the shores of Europe and half of them are estimated to be Syrians.

By January 2016, Turkey established a new policy allowing the 2.5 million Syrian refugees resettled in the country to apply for work permits. In February 2016, Turkey accepted another 70,000 Syrians fleeing the fighting in Aleppo. In March 2016, Turkey signed a deal with the EU, curtailing the forward movement of Syrians through the 'Balkan route' in exchange for monetary aid to Turkey. In June 2016, Amnesty International declared Turkey as unsafe for Syrian refugees due to the regular breach of the non-refoulement principle (i.e., the practice of not forcing refugees or asylum seekers to return to a country in which they

are liable to be subjected to persecution) by the country's authorities. In response, Turkey insisted that the open-door policy for Syrians remains in effect and those who were deported were security threats to the national population. The final step in the Turkish reception of Syrians is the completion of more than half of a planned 511-kilometer wall along its border with Syria.³⁴ With the USA/Russia agreed cease-fire plan of September 2016, the expectation was the gradual ceasing of the Syrian exodus, which did not materialize. By the end of 2016, UNHCR estimates revealed that half of the world's 59.5 million refugees live in the following 10 countries: Turkey, Lebanon, Jordan, Chad, Uganda, Kenya, Ethiopia, Iran, Pakistan, and China.³⁵ This figure alone requires the shift of focus from European and in general Western regimes of refugee protection and migration management to the realities of South–South migrations. As much as Europe is a player in the emergence of a new migration management regime in the Middle East, Jordan, Lebanon and Egypt do not consider Europe as a partner in their decision-making processes concerning how to handle the Syrian crisis, other than accepting ad hoc investment of humanitarian funds. Turkey is the only exception in this regard. However, neither the original Turkish decision to open the border to the Syrian exiles, nor its changed policy mandate concerning the allocation of residency and work permits to Syrians and other groups of displaced populations in Turkey, was spearheaded by the country's interactions with Europe. Though there are institutional adjustment requirements as per the EU candidate state status, during the last decade it has become increasingly clear that the Turkish state under the AKP rule has an instrumentalist approach to its relations with Europe rather than an institutional one (Caneffe and Ugur 2004; Öniş and Bakır 2007). By August 2017, the total number of Syrians settled in Turkey reached 3 million and it continues to increase as the war in Syria expands its perimeters.

CONCLUSION: REDEFINING SOVEREIGNTY AT THE EXPENSE OF HUMAN SECURITY

The closing questions of this chapter are the following: How is sovereignty managed in the Middle East vis-à-vis forced migration and mass population movements across borders? Do the existing practices of

statehood include a marked component of responsible sovereignty? How do they relate to the overall paradigm of human security in the specific context of forced migration? Investigating the relationship between the Syrian exodus and emerging Middle Eastern models of governance, application of dominant Westphalian conceptions of sovereignty and statehood reveals a perplexing phenomenon and an apparent contradiction. The states in the Middle East willingly kept their borders open to the arriving populations from Syria, until such point that they could no longer integrate them either due to significant changes in the makeup of their native demographics as witnessed in Lebanon, or due to a crunch in terms of socioeconomic means to accommodate the newly arrived masses of displaced people, as has been the case for Turkey. In Jordan, the point of satiation seems to have been arrived almost naturally, as the state showed its trump card of keeping the new arrivals in an oversized camp rather than letting them directly in. In none of these three cases, however, state sovereignty has been promoted as a reason for denial of entry for literally millions of Syrians (UNHCR 2017 Report, Global Focus Turkey). In this regard, it is apt to suggest that there is a regional context within which human security initiatives have been extended to populations other than their own citizenry by the MENA states (Marfleet and Hanieh 2014; Berti 2015).

However, the findings discussed in this paper also suggest that the open border initiatives that have been put in practice did not necessarily lead to equitable and justice-oriented treatment of the ‘guests,’ as the dominant political idiom in the MENA region prefers to name the millions of displaced and dispossessed Syrians, Iraqis, etc. Does this mean Middle Eastern states in effect transfer their sovereign competencies to the demands of the market, and in effect act on the basis of long-term calculations about the low cost of labor that would be guaranteed by the employment of the displaced people of other Middle Eastern states? How sovereignty is interpreted and exercised in the region should indeed alert us to the fact that an exclusive focus on the constitutive and regulative dimensions of state sovereignty characterized by the traditional human paradigm would fail to provide answers for the regional reception of dispossessed peoples *en masse*. Similarly, forced migration studies as a field suffers from lack of attention paid to theories of statehood. Consequently, the study of the links between migration regimes, border controls, and restructuring of labor markets by the recipient states is all but absent. The trend observed in the Middle East concerning the Syrian

exodus cannot be attributed to a failure to close the borders. Neither could it simply be a matter of humanitarian impulses gaining the day in the face of human suffering, and hence the inadequacy of the direct application of the traditional human security paradigm. The region has seen many a war and massacre, and this degree of adaptation to the onslaught of war victims fleeing in millions is a relatively unique development, which did not happen in the Iraqi and Iranian cases. Perhaps the only other instance whereby a similar kind of phenomenon was witnessed concerns the Palestinian exodus and the emergence of a stateless Palestinian working class across the Middle East. Thus, it is time to look for other answers and shift the boundaries of disciplinary dictums concerning both human security and forced migration.

As envisioned by T. H. Marshall back in 1950s, social citizenship was meant to be a corrective to the injustices caused by the capitalist market (Marshall 1950). Entitlements and protections guaranteed by the welfare state were hoped to prevent social and economic exclusions that civil and political rights, on their own, could not address. In turn, such protections were to ensure social cohesion and legitimacy for the political regime. Using centuries-old capital accumulation topped up with the American Marshall Plan, European welfare states successfully followed this formula in the aftermath of post-World War II period. The Middle Eastern developmentalist states certainly attempted to follow the same model though with much less certainty, funding, or success.³⁶ This is partly due to the fact that the very meaning of ‘work’ and ‘worker’ on which the welfare state is based has never held such sway in the Global South whereby imposed flexibility, risk, marginality, and precariousness have been the defining elements of work. Furthermore, the Marshallian notion of ‘active citizenship,’ which envisions participatory decision making, is readily unavailable for immigrant, internally displaced, and refugee populations who traditionally made up a significant proportion of the secondary, marginal, and precarious sectors of working classes in the region. Finally, the post-independence social transformation projects embraced by Middle Eastern states transpired a citizenship model that privileges individual political agency as an expression of the national *ethos* and not as a means for negotiation and bargaining with the state. In this context, the Middle Eastern state’s mandate, not only with respect to its regulatory role but also in its redistributive and transformative roles, needs to be carefully re-examined. It may well be the case that the Middle Eastern state had an eye on irregular labor provided

by immigration and refugee flows as a basis for first accumulating then redistributing wealth and resources among the native bourgeoisie and middle classes. Through the informal acknowledgment of the porousness of its borders, the states in the region accept and integrate migrant labor and human capital in all forms, including forced migration flows.

It is not much of a surprise for anyone who looks at the behavior patterns of post-imperial, post-colonial, and neo-developmental states that forced migration—including refugee flows, asylum seekers, internal displacement, environmental and development-induced displacement—has increased considerably in volume since the end of the Cold War. Not only displacement has become an integral part of North–South relationships, but also it is a major determinant of labor and capital market formations and sustenance of economies within the Global South (Castles 2003; Van Hear 2006; Sales 2007; Canefe 2016a, b). As such, forced migration in the Middle East, including but not limited to the Syrian exodus, must be analyzed as a socioeconomic process with significant political repercussions. The fact that forced migration flows often give rise to the fear of loss of state control of borders in Europe should not blind us to the fact that especially in the context of recent population movements in the Middle East, this framework is misleading. To conclude, it is essential to question earlier approaches to refuge, which have been based on the semi-bogus principle of autonomous and self-sufficient national societies with native working classes. Forced migration must be studied with reference to the needs of capital, labor, and state legitimacy and within the context of regional hubs. This is not only relevant to our understanding of the present and the future of the Middle Eastern state. It should be the main takeaway from the Syrian crisis in the Middle East for the field of forced migration studies at large. Overall, the reception, protection, and integration policies employed by the Middle Eastern states concerning the Syrian exodus require further work to be done on entry allowance versus ban, determination of identification documents, sheltering and resettlement practices, entry/stay/travel/work permits, regularization of forced migration flows, access to social benefits, attribution of socioeconomic rights, access to justice and options for citizenship, readmission agreements, expulsion, and detention practices. To understand these dynamics, one has to engage in an in-depth understanding of governance practices rather than being reliant upon the feedback and directives emanating from Europe, USA, or the UN and its organs.

To conclude, this chapter explored the treatment of Syrian refugees in the MENA region and the normalization of forced migration and dispossession by contemporary Middle Eastern states. Specifically, how the dispossessed of the region pursue livelihoods, the impact this pursuit has on the human security of conflict-affected communities, and the ways in which existing forced migration studies framework sans state theory could help us understand the unfolding of events since 2011 have been highlighted. Although humanitarian programmes working alongside national governments could increase economic security and shore up the respective rights of refugees and displaced communities, the degree and magnitude of human displacement in the region surpasses the dimensions of national or international relief interventions to save lives in the short term. As discussed in the pages above, other logics are in place, many of which are yet to be incorporated into the human security paradigm. A primary example is that of responsible statehood at times of peace and at times of war, and avoidance of the creation of multiple tears of citizenship to benefit the expansion of capital accumulation and population of emerging sectors in the labor market at the backs of the dispossessed of the region. This is a component that has thus far not been included in the human security paradigm, which is national rather than regional in its focus. This is an area of work that would greatly benefit our understanding of human suffering in the context of ongoing crisis of legitimacy and as such befits the analysis of forced migration movements in the MENA region.

NOTES

1. Available at <http://www.un.org/humansecurity/publications/UN%20General%20Assembly%20Resolutions%20and%20Debates%20on%20Human%20Security> (accessed September 21, 2017).
2. On the history of state formation in the Middle East, see Ayubi (1996), Anderson (1987), Owen (1993, 2002), Schwarz (2008) and Rupesinghe et al. (2016).
3. On the history of discontent in the Middle East, see Nore and Turner (1980), Eickelman (1989), Seale (1990), Van Dam (2011), Bayat (2013) and Lane and White (2013).
4. By the nineteenth century, the region began to exhibit clear signs of economic stagnation and institutional collapse. This transformation is often associated with vital components of the region's legal infrastructure being stagnated as its Western counterparts blossomed through colonization

- and differential accumulation strategies. For proponents of this point of view, see Bill (1972), Beblawi (1987), Shambayati (1994), Kuran (2004) and Posusney (2004). This particular debate died out with the onset of incorporation of these states to the web of global capitalist relations from the 1960s onward.
5. On the issue of Arab Spring, see Bellin (2004), Gause III (2011), Heydemann and Leenders (2011) and Brownlee et al. (2013).
 6. Available at <https://www.theguardian.com/global-development/2010/oct/05/middle-east-refugees-by-country> (accessed September 21, 2017).
 7. *Nemo* is the name for 'no one' in Latin.
 8. Available at <http://www.un.org/en/sections/where-we-work/middle-east/> (accessed September 21, 2017).
 9. On the history of Southeast Europe, see the groundbreaking work of Wolf (2010).
 10. On this issue, the cannon readings of Middle Eastern studies provide ample evidence. See, *inter alia*, Pamuk (1987), Kasaba (1988), Owen (1993), Issawi (2013) and Goldschmidt and Boum (2015).
 11. On the history of discontent in the Middle East, see Nore and Turner (1980), Eickelman (1989), Seale (1990), Van Dam (2011), Bayat (2013) and Lane and White (2013).
 12. Although I rely on the UNHCR figures by necessity, for a strong critique of the UNHCR's role as a global policeman of migration, see Scheel and Ratfisch (2014).
 13. Prior to the events of the Arab Spring, as of August 2010, the registered population of concern to the UN Refugee Agency (UNHCR) was 38,962, of whom 57% were Sudanese nationals, 17% Iraqi, and 17% Somali. According to the Africa and Middle East Refugee Assistance NGO, unofficial estimates put the number of refugees and asylum seekers in Egypt at 500,000. See IRIN data at <http://www.irinnews.org/news/2010/10/04/refugees-and-idps-country> (accessed September 21, 2017).
 14. The sources for these data are Africa and Middle East Refugee Assistance and Human Rights Watch. See <http://www.refugee-rights.org/African%20NGO%20directory/North%20Africa/Egypt-AMERA.html> (September 21, 2017). On the issue of refugees' right to work across the region, see Marfleet and Hanieh (2014) and Ullah (2014).
 15. See the UNHCR statistics on Iraqi refugees at <http://www.unhcr.org/461f7cb92.pdf> (accessed September 21, 2017).
 16. See Barnes (2009), Al-Qdah and Lacroix (2011) concerning the reception and treatment of Iraqi refugees in the region.
 17. See UNHCR guidelines on Iraq at <http://www.refworld.org/docid/49f569cf2.html> (accessed September 21, 2017).

18. See Internal Displacement Monitoring Centre and Brookings Institution figures at <https://www.brookings.edu/wp-content/uploads/2016/06/Mapping-the-Resource-to-Internal-Displacement-The-Evolution-of-Normative-Developments-October-10-2014-FINAL.pdf> (accessed September 21, 2017).
19. See figures provided by UNHCR available at http://reporting.unhcr.org/node/2549#_ga=2.205953435.947680417.1497265616-1183207402.1497265616 (accessed September 21, 2017).
20. See figures provided by UNHCR on Lebanon available at http://reporting.unhcr.org/node/2520#_ga=2.164156727.947680417.1497265616-1183207402.1497265616 (accessed September 21, 2017).
21. The report is available at <http://www.unhcr.org/publications/sowr/4a4c72719/state-worlds-refugees-1997-humanitarian-agenda.html> (accessed September 21, 2017).
22. See the figures provided by the Norwegian Refugee Council's Internal Displacement Monitoring Centre on Syrian IDPs at <http://www.internal-displacement.org/globalreport2016/> (accessed September 21, 2017).
23. Concerning the refugee situation in Yemen, see the figures provided by UNHCR at <http://www.unhcr.org/protection/operations/4c907a4a9/yemen-fact-sheet.html> (accessed September 21, 2017).
24. See the figures provided by UNHCR at http://reporting.unhcr.org/node/2544#_ga=2.215085203.583954953.1497272120-304441541.1497272120 (accessed September 21, 2017).
25. See Ihlamur-Öner (2013), Yesiltas (2014), Hollifield et al. (2014), Aras and Mentucek (2015) and Darmawan and Daoudov (2015).
26. See Akgündüz et al. (2015), Bircan and Sunata (2015) and Tolay (2015).
27. See <http://www.refworld.org/docid/49746cc62.html> (accessed September 21, 2017). For a detailed analysis of the regulation, see Kırışçı (1996a, b).
28. The rights and obligations of individual asylum seekers and refugees are governed by the 1951 Geneva Convention while en masse asylum cases are defined by UN High Commissioner for Refugees (UNHCR) Executive Committee decisions and general international humanitarian law.
29. On ASAM, see <http://www.unhcr.org/partners/ngodirectory/48fdeb8925/association-solidarity-asylum-seekers-migrants.html> (accessed September 21, 2017).
30. On the background and effects of the new law, see Dinçer et al. (2013), Bidinger (2015), Yazgan et al. (2015) and Baban et al. (2017).
31. Concerning the Eurocentric bias endemic to the field of forced migration studies, see the critiques developed by Mohapatra (2007), Hudson (2008), Byrnes (2013), Koh (2015) and Canefe (2015, 2016a, b, 2017).

32. The timeline is appropriated from <http://syrianrefugees.eu/timeline/> (accessed September 21, 2017).
33. See Global Trends Report at <https://www.dni.gov/index.php/global-trends-home> (accessed September 21, 2017).
34. As to be expected, the EU has remained largely silent about the wall's impact on refugees. According to the journalists' accounts, 'The wall is made from portable concrete blocks each weighing seven tons. The blocks are 2-meters thick (6.5-foot) at the base and 3-meters (10-foot) high, topped by a meter of razor wire. Along the entire wall roads are being built for military patrols and watch towers are being erected.' See <http://www.dw.com/en/turkey-builds-more-than-half-of-syrian-border-wall/a-37723820> (accessed September 21, 2017).
35. See the figures provided by the UNHCR on global refugee distribution at <http://www.unhcr.org/figures-at-a-glance.html> (accessed September 21, 2017).
36. The few cases of rapid economic growth that occurred in the Global South, particularly in the semi-periphery, do not fit the idealized model of liberal democratic governance. Rather, this phenomenon is best explained by the special character of the states in mention, commonly described as the developmentalist state. Key characteristics of these states and their administrative structures and principles of governance are discussed widely in the political economy literature on subject. See for instance, Leftwich (1995), Bayar (1996), Öniş and Senses (2007) and Chibber (2009).

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Children and Youth in the Refugee Equation: Working with the Vulnerable

Kathleen Manion

INTRODUCTION

Migration and refugee-related issues are topics that attract public attention; however, a measured and accurate picture is not always put forward. The response to mass refugee migration is highly political and emotive. While international cooperation has evolved and changed since great strides were made in the post-World War II context, not all of this has been progressive. The public conversation on refugees continues to be at the forefront of political discourse, and this has potentially heightened xenophobia and racism, but it has also opened the door for potential mechanisms of protection and alternative durable solutions for those fleeing persecution, including children.

Even though most refugees are in the global south, the global north has focused intensely on the detrimental impacts of mass migration to the point where Hathaway¹ suggests some states have created legal ruses to avoid their legal obligations to provide surrogate protection for refugees. While states have created diversions and creative interpretations of

K. Manion (✉)
School of Humanitarian Studies,
Royal Roads University, Victoria, BC, Canada

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the law to obsequiously shirk their responsibility, people have rallied for (both private and public) support for refugees. As is discussed in other parts of this book, the current geopolitical climate has challenged previous international refugee practice. The concept of providing surrogate protection remains critical but is commonly challenged. Migration is a sensitive topic, it pushes boundaries and is used as a political tool in many states, but the precarious situation of children in this situation is distinct and needs to be considered.

Images of children exposed to and harmed by violence appear to have catalysed mass public outcry. The image of Alan Kurdi, a Syrian boy whose body was found on a beach in Greece, galvanized public support and palpably changed the tenor of the public discourse on the Syrian refugee situation. While this change may have been temporary, it offered a mechanism to catapult the issues facing children in refugee situations to the forefront of public discourse. While there continues to be an appetite to support children affected by conflict and other disasters that force migration, this chapter brings timely attention to the plight of children and calls for more systemic responses to children's experience of forced migration.

The chapter is organized to provide some context on children and human security and provide a global overview of the current problem and the role of family in protection, before highlighting some vulnerabilities and protective measures for children during the period of crisis, while in transit, in resettlement and upon return. The chapter closes by examining some of the international legal protections and international actors involved in supporting protection, safety and resilience for child refugees and ideas for further strengthening these systems to maintain children's best interests.

CHILDREN, HUMAN SECURITY AND WELL-BEING

Qvortrup highlighted a need to balance the tension between "making children's constructive roles visible, [and] ... laying bare the structural constraints that they are exposed to"² in order to attend to their human agency. This tension is acutely presented when exploring the experiences of child refugees. There is a natural tendency to want to protect children, but jumping in and rescuing without forethought may at times undermine children's long-term safety, dignity and self-efficacy. Reactive rescuing is demanded in times of crisis. This makes sense at the individual level.

However, at the macro-level, children experiencing refugee situations are a constant, not an exception. The global numbers of children fleeing from conflict or disaster have increased in the last few years, particularly as a result of conflict in the Middle Eastern and North African (MENA) region, but in general the numbers have remained relatively stable over the last century, with the exception of distinct major conflicts. Children also make up approximately half of the world's refugee population.³ There are a multitude of actors involved in supporting children, from small church groups to large multinational non-governmental and intergovernmental organizations. As such, global responses should be prepared, holistic, joined-up and thoughtful in their responses. Children's development requires attention to their security, their safety and their well-being. Given their sheer volume, their well-being should be central to policies and practices that redress refugee issues, rather than sidelined afterthoughts. Traditional conceptions of war shielded children and other civilians from conflict, but modern armed conflict has seen an increase in children as the casualties (and sometimes targets) of violence, but also the recruits. This demands that children's protection be analysed.

Children fleeing conflict and disaster unequivocally need protection, and they invariably experience a multitude of vulnerabilities on the various legs of their journey, but this vulnerability and need for protection should be provided in such a way to bolster their sense of belonging, dignity and resilience as central components of their well-being. While children's experience of forced migration is far from uniform, this chapter exposes some of the vulnerabilities that children face, as well as the mechanisms for supporting and protecting them through the lens of human security. Within this chapter, concerns about what is currently happening are identified, as well as what might be more appropriate for children. Beyond that, hints are provided concerning some of the underpinning assumptions and values that dictate this state of play.

This chapter explores issues for any refugee child, but it also looks at the specificity of children coming from the MENA region. For children from this region, vulnerabilities are increased because of the additional intensity and civilian-targeted violence experienced in country and a growing indifference to the protection of children, women and civilians. The central concept of non-refoulement of asylum seekers is a *jus cogen* norm, from which no state should be able to derogate. The crisis in the MENA region has tested this foundational concept as millions continue to flee this area. The ongoing brutal nature of conflicts in the

region has challenged much of the world with mass movement of people and unclear avenues for intervening in the conflict. These conflicts have also launched children to the centre of the humanitarian cry for change. Those fleeing the region also have heightened risks associated with crossing the Mediterranean. Additionally, once arriving in Europe and other parts of the world, asylum seekers are increasingly met by islamophobia. These issues are acutely felt by children.

Hanlon and Christie's definition of human security is "protection of vulnerable individuals to threats and dangers posed from their environment".⁴ This hints at several multifaceted approaches that need to be explored when considering children. As has been mentioned, children face triply intensified threats and dangers from their social, political and economic environments due to their age and development and the fact that they are refugees and that they are shut out of decision-making in those very systems. The idea of embracing freedom from fear and freedom of want is much more potent for children. As a result, adults carry the burden of ensuring protection for children and safeguarding their ability to be meaningfully involved in decision-making that affects them. This is a fundamental right guaranteed in Article 12 of the United Nation Convention on the Rights of the Child (UNCRC). If it is done in an age-appropriate manner and in a way that is sensitive to the vulnerabilities faced by children, children and adults should be encouraged to work together to ensure children have freedom from fear and want during times of conflict, during transit from conflict, during resettlement, and once they are able to return home.

GLOBAL PICTURE—CHILD REFUGEES GLOBALLY

Globally, international law supports the notions of protecting vulnerable populations. Specifically, referencing international refugee law, the 1951 Refugee Convention clearly lays out the foundation for supporting refugees and limiting statelessness. The Refugee Convention defines a refugee as a person fleeing from their country owing to a well-founded fear of persecution due to race, religion, nationality, membership of a particular social group or political opinion and is unable or unwilling to avail himself of the protection of that country or to return to it. In practice, this excludes a great number of people, including children who are forced to flee their home, either inside or outside their country, owing to widespread violence or disaster. In speaking to this, the United Nations

issued a note underscoring there was a lack of a universal definition of a refugee child. Given the large number of children forced to migrate and their specific needs, the term “refugee child” was recommended to include refugees, asylum seekers and displaced persons of concern to United Nations High Commissioner for Refugees (UNHCR). In keeping with Article 1 of the UNCRC, this includes those under the age of 18 unless they reach the age of majority under the applicable national law. As such, this chapter takes a liberal view of the definition of a child refugee to include those forced to migrate and seek asylum elsewhere.

According to the UNHCR,⁵ there were 22.5 million refugees in the world and over half of them were under the age of 18 (51%).⁶ As a point of comparison, children under the age of 18 make up 31% of the global population.⁷ Broadening our definition, the United Nations Children’s Fund (UNICEF) estimates 50 million children have been forcibly displaced within a state or beyond the borders and 28 million have been displaced by violent conflict. There was a 75% increase between 2010 and 2015. The UNHCR has seen a doubling in the number of children protected under their auspices between 2006 and 2016⁸ partly because of the increase in numbers and partly because of a broadening interpretation of their mandate. Another concern of relevance to forcibly displaced children is statelessness; 70,000 children are made stateless each year, and refugee children are at particular risk.

Given that children make up the largest number of refugees in the world,⁹ it is surprising that the 1951 Refugee Convention made no special provisions for children, nor did the 1967 Optional Protocol that removed the temporal and geographic constraints of the earlier treaty. This body of international law has evolved since it was put in place in terms of both refugee law and children’s rights law, but many grey areas remain. At the same time, the nature of forced human migration has also changed.

While children are not new to these situations, the growing breadth of reasons people are forced to flee their homes has increased the diversity of scenarios that children may find themselves in. Refugees (within a wider definition than allowed in the 1951 Convention) may be forced to leave their homes because of natural or manmade disaster, disease, famine or climate change, but the most common reason is violent conflict. This is evident in the MENA region. Although Syria continues to produce the largest number of refugees and displaced persons, in 2016 the crisis in South Sudan saw the fastest growing number of refugees, with the majority (70%) being children.¹⁰ This trend appears to be continuing

into 2017 according to UNHRC statistics. Similarly, of concern the UNICEF Humanitarian Situation Report for July 2017 noted that there were 1.6 million internally displaced children in Yemen.¹¹

If we include Afghanistan in the definition of MENA, then most refugees, including children, are flowing from this region. The UNHCR's 2016 *Global Trends Report* suggested that 75,000 unaccompanied children launched asylum claims in 70 different countries, with the largest number found in Germany (35,900).¹² These statistics are alarming, and they are assumed to be an underestimate.

There are several risks faced by children when they are in transit, but the journey itself can be treacherous and sometimes fatal. Looking in more detail at migration patterns, the central route traverses Libya to Italy. In 2016, 181,436 migrants arrived in Italy. Only 16% of them were children, but 90% of those were unaccompanied. This represents a smaller percentage than found on other routes, but given the high mortality rate of the crossing where at least 700 children died at sea on the crossing.¹³ Migratory risks are exacerbated when children are unaccompanied. UNICEF reported that in January 2017 approximately 40 children died on the central¹⁴ Mediterranean route alone. They also warn of the issue of people smuggling that has engulfed this area.

Although this chapter focuses on children, there is a growing recognition of the importance of transition periods in late youth and young adulthood. It is also worth noting the high numbers of displaced persons around the world between the ages of 18 and 25 and the impediments to development that they face. A 2017 report by Mercy Corps explored the sense of hopelessness and feeling of being adrift felt by refugees in Greece between the ages of 15 and 25.¹⁵ This population represented 30% of the 60,000 stranded refugee population in Greece at the time. Speaking to their well-being, youth suggested that their biggest desire was for further education. To support what they reported, many studies suggest that education is an important protective factor for children in various phases of displacement and this will be further discussed. The youth self-reported high rates of care for others and a desire for acceptance and connection. Speaking to their impediments to well-being, the youth in Greece reported having a sense of uncertainty and a lack of voice or interest from the healthcare sector. They also reported high levels of stress, poor well-being and safety concerns, particularly pertaining to gender-based violence. Overall, they felt betrayed by the enactment of human rights principles. Their concerns are echoed by their younger counterparts.

THE PROTECTIVE ROLE OF FAMILY

It is widely thought that children are most likely to thrive within the protective realm of family across all manner of circumstances. Of course, there are exceptions to this, but in general this holds true. This concept is built into international refugee law. Sadly, many children are separated from their families at some point while in flight. The impact of this further exacerbates the trauma refugee children may experience.

The UNCRC raises the right to family unity, but the right to family is also outlined in the International Covenant on Civil and Political Rights (Article 17, 23, 24 (for children)) and the International Covenant on Economic, Social and Cultural Rights (Article 1). Similarly, several other regional treaties have followed suit. Although the Refugee Convention does not raise this protection within its articles, it is thought to be a core aspect of refugee practice flowing from other human rights treaties. It is outlined in Recommendation B which states that “the unity of the family, the natural and fundamental group unit of society, is an essential right of the refugee and ... the rights granted to a refugee are extended to members of his family”. It also recommends that governments

take the necessary measures for the protection of the refugee’s family especially with a view to: (1) Ensuring that the unity of the refugee’s family is maintained particularly in cases where the head of the family has fulfilled the necessary conditions for admission to a particular country, (2) The protection of refugees who are minors, in particular unaccompanied children and girls, with special reference to guardianship and adoption.

In principle, this aspect of the Refugee Convention was meant to apply to family even if they did not experience fear of persecution. This was strongly stated in the *travaux préparatoires* for the Convention. Some may further argue that this may be interpreted as customary binding law.

Family unity is important. According to Save the Children, family separation is associated with poor mental and physical health. This also reverberates in the longer term as it impacts educational attainment, employment opportunities and connection with others.¹⁶ All of which are critical to children’s longer-term well-being. Therefore, it is unsurprising that various studies document the positive effect of family reunification, particularly on people’s general well-being, but also on their employment prospects and on the educational achievements of their

children.¹⁷ Interestingly, Hinton¹⁸ also found that as much as children are protected by parents, children also act as protection for parents. For example, women with children were more likely to seek necessary medical support.

One of the remaining grey areas in this debate is the definition of family. Some interpret “family” narrowly, defined as parents and children (and opposite sex spouse). For instance, the European Union’s definition of family in Regulation (EU) No 604/2013 includes all unmarried minor children irrespective of their dependency on the applicant. The definition of “family members” includes:

when the beneficiary of international protection is a minor and unmarried, the father, mother or another adult responsible for him or her whether by law or by the practice of the Member State where the beneficiary is present¹⁹

Modern family dynamics demand that a wider interpretation be considered.

Challenges ensue when families cannot be found, sometimes for years, and it is unclear whether they are alive. The regional treaties and policies have minded this area of vulnerability and potential protective element by including special attention to the need for fast and effective family finding systems. As many child refugees fleeing the MENA region travel to or via Europe, their policies are pertinent. For instance, in Europe, Regulation (EU) No 604/2013 of the European Parliament and the Council (26 June 2013), otherwise known as Dublin III (whose purpose was to build in improved international protection for movement into and out of Europe), reiterates the European commitment to the primacy of the child and of their place in a family.

Any Member State should be able to derogate from the responsibility criteria, on humanitarian and compassionate grounds, to bring together family members, relatives or any other family relations and examine an application for international protection lodged with it or with another Member State, even if such examination is not its responsibility under the binding criteria laid down in this Regulation.²⁰

The European Union’s Reception Conditions Directive similarly protects the right to family life, as well as promoting the primacy of the best interest of the child alongside the importance of family tracing services.²¹

There are large numbers of unaccompanied minors fleeing conflicts. The individual experience of loss of family, even temporary loss, is traumatic. Children without birth registration are at even greater risk of a range of factors because family tracing is more challenging. This has been identified as a particular risk for children from the MENA region.²² UNHCR noted that family tracing efforts were a key aspect of the “Live, Learn, Play Safe 2014–2016” initiative that focused on the well-being of unaccompanied minors in Egypt, Yemen, Sudan and Ethiopia.²³ In contrast, in Lebanon, Iraq and Egypt, refugees tend to live with host families rather than in camps.²⁴

Looking more broadly, Charnley²⁵ highlighted the issues faced when mass numbers of children were separated from their families during war in Mozambique. She found a need for support networks, for basic needs, for care and protection of children and for a focus on long-term stability. She also found that substitute families posed a risk to children. However, in a later study, she noted that despite the inherent risks and instability, substitute families had created lasting bonds. Where safety was ensured, surrogate family bonds had endured over time.²⁶

Unaccompanied children need to have durable solution within a child’s timeline. This makes permanency planning incredibly complex for refugees when there is uncertainty of family survivors. This is complicated when family tracing is unsuccessful. Adoption is an important option, but it must be done in the law of the state a child finds himself as well as the home state. Adoption is ideally done with kin, but where this is not possible the Hague Convention of Intercountry Adoption is critical. However, there are often difficulties in tracking appropriate paperwork and jurisdictional ability to sign documents.

For those children who can trace their family members, long-term separation can also damage the family structure and cause conflict when the family is reunited. Family mediation upon return can help the process of reintegration.

CHILDREN’S VULNERABILITY AND PROTECTIVE FACTORS

Children’s needs are tied to their dependency and developmental stage, including educational, medical, psychological, cultural, recreational and spiritual needs. While they have vulnerabilities, they may also have protective measures that can increase their resiliency. Protective factors can be strengthened at the micro-, mezzo- and macro-level with careful

planning, appropriate resources and attendance to a child's timeframe. For instance, at the mezzo-level processes can be put in place at the community level to promote child protection and resilience against conflict at various stages.²⁷ This was done, for instance, in a community resilience building project funded by UNICEF in Burundi and Chad in communities impacted by violent conflict to promote child protection.²⁸

There are numerous short-term, situation-specific and more generalized vulnerabilities faced by child refugees. This includes vulnerabilities encountered when leaving their home, on the journey to a relative place of safety, and once they are in a more permanent setting. These issues range from acute issues like kidnapping, physical insecurity, nutritional deficits, trafficking, abuse, maltreatment, recruitment as child soldiers, imprisonment, sexual and physical violence, temporary or permanent loss of family and property, forced labour and disabilities. They also include educational disruptions, lack of access to adequate health care, lack of a sense of belonging (critical to identity and well-being), insecure or unstable housing, lack of adequate documentation (and for some statelessness) or incarceration, loss of freedom of movement and lack of access to legal recourse. It also includes longer-term individual issues including a raft of psychosocial and mental health issues, which may manifest in pervasive nightmares, depression, substance abuse, suicidal ideation, post-traumatic stress disorder, bed-wetting or anxiety disorders. Children may also experience acute or chronic physical health issues. Socially, children may have to cope with harassment, prejudice, stigma, bullying and racism. Politically, children also face an increased risk of statelessness.²⁹ Children may lose their citizenship in fleeing, they may be unable to prove citizenship because of a lack of documentation or access to their parents, or they may inherent statelessness. Risk of statelessness is particularly high amongst refugee children in the MENA region. According to Howard,³⁰ children fleeing Syria are at risk because Syria does not allow women to pass on citizenship to their children and lacking access to the father may limit a child's ability to prove lineage.

Illustrating some of these vulnerabilities, in Syria, 5.8 million children remain. Many of whom need protection and are grappling with multiple war losses and other trauma. Over half are not in school. Of those in school, half say they do not feel safe there. Save the Children has claimed that toxic stress experienced by children within the country has led to a loss of childhood.³¹ As a result of poverty and trauma, 51% of children suggest they have turned to substances to cope; 2.3 million children have also fled Syria.³²

Given the breadth and depth of issues faced by children and young people on their road to security, the incredible resilience, tenacity and bravery of child survivors must be acknowledged, recognized and fostered.

With a mind to bolstering resilience, it is worth first understanding the scope and depth of issues that children may encounter. Boyden and Mann³³ note the unprecedented levels of violence and environmental degradation that children experience. They suggest that “childhood vulnerability, development, and well-being are contextually constructed” and that “child protection remains an uncertain art, beset by challenges and disputation at the methodological, conceptual, theoretical, and practical levels”.³⁴ This requires an understanding and balancing of both risk and resilience to build protective factors so that children can become, or remain, healthy, strong and well. According to Boyden and Mann, “age, temperament, sense of humor, memory, reasoning, perceptual competencies, sense of purpose, belief in a bright future, and spirituality have all been found to have a significant impact on resilience”.³⁵ However, feelings of inadequacy erupt when there is an absence of a caring adult. Peer support can also enhance resilience. “The experience of adversity is very much mediated by its effects on their social world”.³⁶

STAGES OF REFUGEE

It is useful to explore the particular vulnerabilities and coinciding protective factors during the different stages of flight. This is broken down by pre-departure, the journey and transit, resettlement and return.

Pre-departure

A state where violence or disaster has struck a child or his or her family may need to flee due to a well-founded fear of persecution owing to membership of a particular group. Many more children are forced to leave their homes due to the lack of safety caused by armed violence. While mechanisms to deal with refugee situations have emerged to provide temporary or surrogate protection when a state cannot, these are meant to be temporary remedies that address symptoms but not the root causes of forced migration. While this discussion is beyond the scope of this chapter, it is worth noting that redressing issues within the state is a more ideal option as the alternative may see millions of people to forced

to flee. As this is not possible in all cases, children are forced to flee. They are at risk from the violence that forced their migration, but also from those who seek to profit from their predicament. At times, those levels of pre-migration trauma are extreme and varied.³⁷

Internally displaced people also have less legal protection and do not come under international refugee law. The UNHRC and the UNDP have made efforts to address this gap, but the gap persists.

Protective factors in this period include their family and other peer or community support networks, education and adequate health and nutritional care. These protective measures are often challenged in these precarious times. During this period, schools may be closed, and once a child leaves, they no longer have access to that protective mechanism within the school or the community. As an example, in 2017, there were approximately 2.7 million Syrian children within Syria and in the region who were not in school.³⁸

The Journey Itself and Transit

The journey itself can be dangerous and treacherous. Amongst the most vulnerable are small dependent children. Children may not be able to have their basic needs met, and they may face insecurity, danger and lack of structure. This is compounded by children coping with the physical and psychological impact of whatever occurred in their country of origin. Children cut off from their support, and family networks also experience a higher risk of several vulnerabilities. This is a time when children are at risk for kidnapping, trafficking, forced prostitution or other unsafe labour, as well as abuse and other forms of exploitation. Their basic physical needs may also not be met. Risks are acute while children are on the move. Refugee camps, official or unofficial, may offer some alleviation. Although official camps will have child safe zones, risks persist.

The idea of “in transit” denotes a short-term scenario, but for some children they have experienced transit for their entire lives. Large numbers of children and other refugees are languishing in temporary and unstable situations in many states other than their own. Some Syrian refugees have been in camps in neighbouring states since the beginning of the conflict. For some children, these six years may represent their entire lives. They do not have recourse for resettlement and cannot return home. This includes millions of refugees in Turkey in 2017, but also those in long-term refugee camps in Nigeria, Kenya, Nepal, etc. This is destabilizing for

anyone, but for some children this instability and substandard housing may be the only life they remember.

Bureaucratic issues can also exacerbate and lengthen issues for children. Stewart highlights that some children are forced to lie about their age or their histories or to construct histories for various bureaucratic reasons.³⁹ As children are at risk of being forced into labour and prematurely forced out of school, they are also increasing their longer-term risks. This has been shown to be an issue with Syrian children in Turkey.⁴⁰ According to UNICEF, there are 1.2 million refugee children in the country and 40% are not in school.⁴¹ A significant number are believed to be in illegal work.

Children are also at risk of incarceration, despite explicit prohibition in law of this. There are many cases of children being sent to juvenile jails while being processed. Fazel, Karunakara and Newnham suggest that there is evidence of children being detained in over 60 countries.⁴² As an example, Jones⁴³ highlights how immigration policies are out of step with UNCRC in the United Kingdom. She highlights that this is most acutely illustrated in practices where children are detained. Children in care of the state have processes in place to protect their social, political and economic rights, but this is less obvious when they are detained under immigration regulations. She also notes that data are difficult to obtain on the numbers of children and youth that are detained. In Canada, children have been defacto detainees alongside parents, including approximately 242 children between 2010 and 2014.⁴⁴ These kinds of acts have been admonished by activist groups, the UNHCR and the UNHRC. In Libya, the situation is more dire, with reports of widespread abuse and mistreatment.⁴⁵

At the individual level, they may have heightened risk of infectious diseases or nutritional deficiencies, specific infections (e.g. cerebral malaria, intestinal worms), nutritional deficits (e.g. iron deficiency) and traumatic experiences early in life that significantly impact their development and increase their need for mental health and trauma support, learning and development support. Once children are in a camp or a place of relative safety, these issues can be attended to assuming personnel and resources exist. Many organizations not focused on children and youth attend to children's needs.

Hinton⁴⁶ suggests social dynamics in camps can exasperate the hidden voices of children.⁴⁷ He calls for participatory approaches that attend to their needs in a way that sees them as actors and not only passive

recipients of care. Hinton alluded to the importance of listening to what children need and not making assumptions. This went wrong for Bhutanese refugee children who did not see themselves as traumatized but felt encouraged to tell sensational stories of victimhood, for example stories of rape, so camp organizers could arrange counselling.

The assessment of developmental and learning needs should be an integral part of routine refugee health and well-being service provision and should make room for a continuum of experiences.⁴⁸ Based on research on Sudanese refugees in Egypt, there are children who evidence spontaneous improvements, but equally some develop chronic issues.⁴⁹

In terms of protective measures, the UNHRC has succinctly articulated six stated goals under the Framework for the Protection of Children⁵⁰ under their mandate which attend to the vulnerabilities thus mentioned:

1. Girls and boys are safe where they live, learn and play.
2. Children's participation and capacity are integral to their protection.
3. Girls and boys have access to child-friendly procedures.
4. Girls and boys obtain legal documentation.
5. Girls and boys with specific needs receive targeted support.
6. Girls and boys achieve durable solutions in their interests.

Resettlement

There are three scenarios for durable solutions for refugee populations: to return home, to integrate locally or to resettle. There are relatively few opportunities for resettlement so the criteria are strict. Children have a higher rate of access to these. Of the eight criteria for gaining access to official resettlement programs offered by states through the UNHCR, one specifically denotes children, one refers to family unity, and some others are more relevant for children. States often also have internal public pressure to support child resettlement programs on humanitarian grounds. Resettlement is an important option for children who have little chance of returning home, but it requires ongoing support and thoughtful processes to support integration.

Stewart⁵¹ highlighted four factors that impact the long-term and intergenerational integration of children settling in a new state. The first

includes whether they were first-generation migrants. The second is the pace of accumulation of parents/children. The third is the cultural and economic barriers experienced by youth when they are trying to integrate, and finally, the fourth is the resources available to them as they resettle.

In resettlement, the adjustment depends on the experiences the children or young people faced on their journey to resettlement. These include the severity and cumulative effects of trauma-faced pre-migration, as well as feelings of isolation and shame, or survivors' guilt. Once resettled, other barriers may hinder successful integration including adaptation to cultural differences, language barriers, inequality, racism, discrimination and bullying. Some children suggest that the latter is more upsetting than the adversity they faced prior to fleeing. Refugees are also often settled in low socio-economic neighbourhoods with higher rates of crime. This sense of insecurity can counteract other protective factors. In contrast, language abilities, peer support, respectful reception, a sense of belonging and purpose are all important protective factors, alongside family, educational attainment and employment opportunities. Seeking support is another important indicator of successful integration. While educational attainment is a protective measure, without careful protection in schools, they can be a site of further racism, discrimination, educational challenges, psycho-social challenges, environmental challenges and detrimental.⁵² Teachers are therefore important allies in supporting successful integration for children.

Meffort and Marmar⁵³ suggest that attending to a refugee's post-traumatic stress disorder or depressive disorders is important for successful integration for both parents and children. According to Hart,⁵⁴ 15–90% of refugees experience post-traumatic stress disorder. Parents who exhibit and witness more violence and aggression in different spheres of life have a higher likelihood of using violence on their children, providing further impetus to redress the effects of violence. The importance of attending to psychological distress is also highlighted by Schwartz and Gorman⁵⁵ who illustrate that exposure to community violence increases poor academic performance, poor self-regulation, depressive tendencies and disruptive behaviour.

The long-term impacts of migration insecurity on young children are still debated, including into the next generation. Interpreting Portes and Zhou's work,⁵⁶ Stewart⁵⁷ propose that there are three models of

assimilation for the children of migrants, the straight-line theory (where children continue on a similar path of social and economic assimilation to their parents), the downward spiral theory (where children socially and economically struggle with the contextual constraints and fair worse than their parents) and the upward mobility (where children see improvements in their economic and social lives over their parents and achieve ethnic solidarity).

Return

There is a little research looking at the experience of those who return home.⁵⁸ Hammond⁵⁹ suggests that it is children who may suffer the most when returning home despite parents' good intentions. This is especially so for protracted conflicts where children have been born in refugee camps and have experienced no other life. As Hart⁶⁰ suggests, for some, this is even passed down across generations.

The same protective mechanisms exist, including family support, educational attainment and a sense of belonging in the community, but bolstering these mechanisms may require significant support. Third parties may be able to support the reintegration and attend to any ongoing psychological or physical impact of forced migration. As noted earlier, they may also support mediation of conflicts arising due to the altered family dynamics.

LEGAL PROTECTIONS

The UNCRC continues to be the main source of guidance for protecting children and their rights in the world. As of 2017, all but the USA had ratified the Convention. The overarching principle guiding states is that they must act in the best interests of the child (Article 3). The best interest principle thereby percolates through all international and national legal provisions focused on children, including the parameters of health, education, welfare and legal protection for nationals and non-nationals. These protections are meant to support children with action to meet their specific needs. The UNCRC has three other core principles: non-discrimination (Article 2), survival and development (Article 6), and participation of the child (Article 12). Each of these has direct relevance for refugee children. In addition, one article specifically focuses on refugee children. Article 22 states:

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.
2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

This was the first international convention to provide binding rights to refugee children, and it is notable that there is no derogation from this treaty in times of emergency. To meet the obligations of the Universal Declaration of Human Rights, the UNCRC was drafted to ensure that children could access primary education and basic health care regardless of where they are or their status.⁶¹ The two Optional Protocols to the Convention concerning sex trafficking and armed conflict also offer some further protection.

Other international legal provisions for child refugees include protection during armed conflict. This is articulated in the 1949 Geneva Convention (Articles 14, 17, 23, 24, 38, 50, 82, 89, 94 and 132). While the International Bill of Human Rights does not make much specific reference to children, many of the general rights extend to them (whether as citizens and non-citizens). These are specifically found in the 1966 International Covenant on Civil and Political Rights (particularly Article 23 and 24(3), the latter grants every child the right to acquire a nationality) and the 1966 International Covenant on Economic, Social and Cultural Rights (particularly Article 10).

As noted earlier, the 1993 Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption also offers insight (particularly Article 4) when children are adopted by family or non-family outside their home state.

Adding to the legal provisions, General Comment 6⁶² provides further legal interpretation of these rights by specifying that beyond the normal prohibition of refoulement, children must not be returned to a state where they are likely to be recruited as a soldier. Further, the General Comment explicitly protects unaccompanied minors, irrespective of their refugee status, by granting them rights equivalent to those lawfully staying in states. This comment also reiterates the prioritization of family tracing and family reunification where possible.

The rights granted to refugee children have been tested several times, particularly in the European Court of Human Rights. In *Boultif v. Switzerland*, the court found that the state must take the best interests and well-being of the child into account in deciding cases. This was further tested in *Üner v The Netherlands* (2006) where the state was held to account for insufficiently assessing the seriousness of the difficulties faced by the children of the applicant returned to their home country and the social, cultural and family ties with the host country and with the country of destination. This case set precedent on ensuring that states took seriously the social, cultural and family ties that an applicant had with their host country, their home country and their country of destination.

Again, in Europe, Council Directive 2003/9/EC of 27 January 2003 sets out minimum standards for the reception of asylum seekers and ensures that their housing, education, health care, freedom of movement and reception of unaccompanied children are cared for while their claim is being settled. This was later replaced by the “Reception Conditions Directive” which granted similar protections.

INTERNATIONAL CIVIL SOCIETY

The field of actors involved in helping child refugees is broad. At the international level, it includes UN-based organizations like the UNHCR, the International Organization for Migration (IOM), UNICEF, United Nations Human Rights Council (UNHRC), the United Nations Development Program (UNDP), the International Labour Organization (ILO), to name a few. Hybrid organizations like the International Committee of the Red Cross and Red Crescent Societies (ICRC) are

also intensely involved in protecting refugee children. Other non-state organizations include Amnesty International, Save the Children, Oxfam and Mercy Corps amongst many others. Each of these organizations conducts research and evaluation on their efforts with child refugees and most publish accounts of their processes and best practices for working with child refugees.

States are also involved at multiple levels. At the domestic level, there are a plethora of organizations that support various aspects of refugee and asylum seekers, including groups of families, church groups and more organized non-government actors and government actors, like health and education.

Although an increasing number of organizations have committed themselves to supporting children, even if their mandate does not include children, there remains a tragic dearth of trained professionals in the field and a perplexing overlap in some areas. As an example, in Syria, the lack of psychiatric support is dire.⁶³

WAYS FORWARD

Several ideas have been planted throughout this paper on ways to support global children impacted by forced migration. One of the keys ways forward is to stop punishing victims of geopolitical conflicts, specifically by imprisoning child refugees. As an aside, cases pertaining to the unlawful detention of minors (and other refugees) clog up the European Court of Human Rights. This time could be better spent by applicants and courts if states followed protocol and did not incarcerate child refugees.

As has been highlighted in this chapter, there are relevant legal and systemic mechanisms and actors, as well as knowledge about what is needed to support child refugees. Outlining this, the 1989 UNHCR' Guidelines on Refugee Children⁶⁴ and the 1990 formal Policy on Refugee Children⁶⁵ specify the following guiding principles:

- (a) In all actions taken concerning refugee children, the human rights of the child, in particular his or her best interests, are to be given primary consideration.
- (b) Preserving and restoring family unity are of fundamental concern.
- (c) Actions to benefit refugee children should be directed primarily at enabling their primary caregivers to fulfil their principal responsibility to meet their children's needs.

- (d) Where the special needs of refugee children can only be met effectively through child-focused activities, these should be carried out with the full participation of their families and communities.
- (e) Refugee girls and boys must be assured protection and assistance on a basis of equality.
- (f) Unaccompanied refugee children must be the particular focus of protection and care.
- (g) UNHCR staff are required to make their best efforts both to prevent risk to refugee children and to take additional action to ensure the survival and safety of refugee children at particular risk.

Augmenting this, (UNICEF)'s six-point agenda for action for uprooted children states the following aims:

1. Protect child refugees and migrants, particularly unaccompanied children, from exploitation and violence.
2. End the detention of children seeking refugee status or migrating by introducing a range of practical alternatives.
3. Keep families together as the best way to protect children and give them legal status.
4. Keep all refugee and migrant children learning and give them access to health and other quality services.
5. Press for action on the underlying causes of large-scale movements of refugees and migrants.
6. Promote measures to combat xenophobia, discrimination and marginalization in countries of transit and destination.⁶⁶

The way forward may well be in closing the gap between what is promised by a rights-based framework articulated by UN instruments and what exists. By treating child refugees as a significant population with inherent agency and ongoing needs at each stage of their journeys, with joined-up thinking, processes can support mechanism where children are protected and their resilience is bolstered.

CONCLUDING THOUGHTS

Some may question whether it is wise to segregate responses for children and youth from adults, but their specific vulnerabilities have been laid out in this chapter. The UNHCR notes that families should be kept

together where possible because this social unit is more resilient and better able to cope with adversity.⁶⁷ This is a key aspect of promoting safety, protection and resilience, alongside educational attainment for child refugees. Returning to the definition of human security noted by Hanlon and Christie's definition of "protection of vulnerable individuals to threats and dangers posed from their environment",⁶⁸ this chapter has covered the specific vulnerabilities child refugees face and made an argument for attending to these multifaceted vulnerabilities for children. Bearing in mind that Panter-Brick⁶⁹ suggests, we do a disservice to children when we underestimate their resilience and capacity to weather adversity. By casting them in victimhood, we undermine their capacity for this. Instead, by leaving space for targeted attention on vulnerabilities in tandem with resilience-promoting activities, we can go some way to redressing the impact of forced migration on children from the MENA region.

Given the high level of insecurity in the world and the mass number of people on the move, either forced or voluntary, particularly in the MENA region, the dialogue on the rights and resilience of child refugees continues to be vital. Refugees passing borders have always provided states a complex conundrum. The response can be either to fear the potential negative impacts or to step in to support the temporary concern. At its core, refugee phenomena require the global community to come together and forsake state issues. Refugee issues are often political volleying material, and this has certainly panned out in the wake of the Syrian crisis. This trend appears to be reverberating in the South Sudan and Yemen. Islamophobia has become a rallying cry for which refugees and asylum seekers have had to face in flight and once attempting resettlement.

Most people have an innate sense of responsibility to protect children and ensure their well-being, but what drives us to act to make sure this is done? The answer to this question is not straight forward. Children are sometimes thought of as less than full human beings. Qvortrup suggests they are "human becomings" rather than "human beings".⁷⁰ This is reflected in their limited human rights. Assumedly, these come into full being once they reach the age of majority. With the lack of full rights, however, comes a responsibility to fulfil their needs. While this is assumed to be met by parents, for many children this is not possible. This can exasperate a sense of their lack of full rights or full human capacity. The refugee situation can sometimes be distant from our own

lives and easy to underestimate, ignore or forget, but the images of children suffering can crystallize a sense of urgency and challenge the otherwise dehumanizing approach to refugees. They sharply bring back into focus the humanity that demands we remember that they are not the “other”, but rather like ourselves. There is a significant danger in this approach that further dehumanizes children as drivers of support, rather than actors of their own destinies. However, fleeting, when this occurs, it is useful to take advantage of the interest and begin relevant dialogue on ensuring human security.

While it has been the faces of wounded, suffering and deceased children that have galvanized civil society and individuals around the world to push states to welcome refugees, they are still impacted. Given the unprecedented numbers of child refugees within the MENA region and more broadly, redoubled efforts are necessary to ensure human security. While the frameworks are relatively robust, they are insufficiently applied. The key issue lays more in the giant gulf between what is promised and what is actualized for child refugees. This chapter has laid out both the vulnerabilities that children face at the micro- and macro-level, but it has also offered mechanisms and protective measures that can be bolstered to tackle these issues.

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PART II

Case Studies



Causes and Mitigation

Stephanie D. Perham

INTRODUCTION

The world continues to see an increasing number of persons forced to flee their homes due to extreme violence, whereby their large-scale arrival into neighbouring countries of asylum often generates a burden on the host community and sparks a rise in “othering” and ultra-nationalism, including xenophobia. Currently, there are more than 65.6 million persons forcibly displaced, worldwide, of which 22.5 million are refugees, while over half of the refugee population (51%) are children, and the average period of displacement is for more than 20 years without a solution.¹ The causes of forced displacement are often rooted in a combination of poor governance; unresolved multigenerational conflict; exploitation and competition for control over land and resources; lack of access to services and opportunities; tribalism; weak state capacity in the justice, law and order sector; and lack of surveillance and capacity to respond to early warning indicators. Tensions between conflicting groups escalate until violence becomes the norm and civilians are killed or driven from their homes by force. Flight across international borders is typically the safest temporary solution; however, some people, for example those from Central African Republic (CAR), Democratic Republic of

S. D. Perham (✉)

United Nations High Commissioner for Refugees, Kampala, Uganda

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the Congo (DRC), South Sudan, Iraq or Syria, may flee into a neighbouring country where they face similar risks. The United Nations High Commissioner for Refugees (UNHCR) estimates that 84% of refugees are hosted in developing regions.² Most of the communities that host these refugees are living in regressive socio-economic situations and are confronted by extreme poverty. Many refugees are, therefore, compelled to depart their first countries of asylum due to the systemic destitution of basic civil rights; economic price shocks that force liquidation of assets in response to household food insecurity; environmental degradation and the associated competition over resources; lack of access to employment and self-reliance opportunities; and limited access to essential social services.³ Therefore, in regions experiencing turmoil, the first country of asylum cannot always provide satisfactory human security (both freedom from fear and freedom from want), and refugees may be forced to engage in onward or irregular movement to seek asylum in a third country. This search for a better place of sanctuary often finds refugees, along with migrants, co-opted by traffickers and smugglers who entice desperate people with stories of opportunities and prosperity in a faraway land. Through naivety and blinded by hope for a brighter future, these vulnerable persons are convinced to acquiesce and embark on a perilous journey while sacrificing their life savings to cover the costs.

The global media focused its eyes on Europe in 2015 when more than one million refugees and migrants arrived, and 3735⁴ reported as missing are believed to have drowned in the Mediterranean Sea. In 2016, another 5000⁵ died or were reported missing during their attempt to cross the sea in overcrowded smuggler's boats. European society was dramatically impacted by the influx of these refugees and migrants into their countries, as well as by the embarrassment of not being able to find an approach to save lives through burden sharing—fearing that facilitating their arrival might cause a pull factor opening the floodgates to waves of refugees and migrants. While many refugees were welcomed with open arms, ultranationalism spread across an overwhelmed host population, many of whom perceived that the generosity of the state towards the foreign newcomers was not being replicated in relation to the poorest national communities. Finding a balance between supporting the national poor and receiving the foreign “others” who arrived completely destitute was not a simple task for democratic leaders who must be accountable to their constituents, but who are also obliged to follow international refugee and human rights law in regards to the treatment of asylum claims.

In 2016, European countries received a combined total of 1.2 million applications for asylum, including 722,270 applications for asylum in Germany, while Italy received 121,755; these were made mainly by refugees originally from Syria, Afghanistan and Iraq,⁶ and the trend is continuing. In 2017, more than 117,949 refugees arrived in Europe and 2420 are believed to have drowned as of 17 August.⁷ Irregular movement along dangerous migration routes, despite the risks, is more palatable—especially to the youth—than wasting idly under the conditions of an asylum country’s refugee encampment policy. Finding a solution to this crisis requires an in-depth analysis of the root causes of irregular movement, and the identification of wise practices based on more than half a century of piloted approaches. Furthermore, implementation of solutions requires a comprehensive response that is properly supported financially and morally by the international community.

This chapter argues that the pressure created by the global refugee and migration crisis can be alleviated by: (1) understanding and responding to the root causes that drive forced displacement; (2) adapting existing systems to regulate and support legal movement; (3) developing, enhancing and enforcing laws against human trafficking and smuggling; (4) encouraging first asylum countries to empower refugees and their host communities to be self-reliant and coexist peacefully; and (5) ensuring an effective and accountable financial investment in this long-term approach. Refugee youths must be empowered to eventually choose to return home to rebuild their countries, integrate among their host communities or live elsewhere in the world in accordance with their acquired skills and financial capabilities. This approach towards mitigating the crisis intends to avail a dignified life to refugees and their host populations and empower the hopes and dreams of refugee and host community youths so as to break the conflict cycle.

FORCED DISPLACEMENT: DYNAMICS, PUSH AND PULL FACTORS

Refugees, and especially refugees from countries that continuously experience bouts with extreme violence over decades (i.e. DRC, CAR, Burundi, Sudan, South Sudan, Somalia and Afghanistan), tend to flee their countries as a last resort. Their reluctance to flee despite imminent danger (including public health risks, psychosocial trauma, hunger and malnutrition, sexual and other forms of extreme violence, injury and

death) can be identified as a “frog-in-a-pot”⁸ scenario. The idea is that if you try to place a frog into water that is already boiling, it will jump out having felt the burn, but if you place a frog in room temperature water and very gradually heat the water towards boiling, the frog will begin to cook without realizing it is in danger. Humanitarian aid workers are frequently warned about the frog-in-a-pot scenario before they are deployed on dangerous emergency response missions. In fact, Action Against Hunger’s Training Centre in Nairobi, Kenya, includes this scenario as a part of its standard induction training for new staff members. While aid workers can be evacuated from a danger zone when management identifies the risks to its personnel as too great to continue staffing its operations, there are few options available for the persons that these aid workers are seeking to protect and assist. These populations at risk become so accustomed to the dangers faced as part of their daily lives that the risks associated with fetching water, obtaining food, farming in nearby fields and working in local markets become routine. Communities at risk must often find their own way to safe zones within their own countries (internal displacement) or flee to neighbouring countries where they can seek asylum as refugees. Countries in Africa receiving mass influxes of refugees normally avail *prima facie* refugee status, based on the 1969 African Union Convention, thus identifying people of specific nationalities as refugees upon their arrival. Other asylum seekers fleeing individual or group persecution from within their countries may need to have their situations assessed on a case-by-case basis by the government of the asylum country in order for their status as a refugee to be granted. This is referred to as a refugee status determination process.

The levels of violence forcing civilians to seek refuge across borders are extreme and indiscriminate. As one example among many, a teenage refugee who fled from Yei, in South Sudan, and had recently arrived in Uganda felt inclined to debrief me about his arduous three-day journey after he arrived at Imvepi refugee settlement in Arua District on 6 March 2017. He told me that “on the roadside they were slaughtering people and just continuing through and cutting at the spine to remove the head; it’s what I saw” ... “and I could not do anything about it. I looked at the ground and continued walking along silently with all of the others”. He told me that he would remain in Uganda for safety and to get a good education, and after what he had witnessed, he expressed his fears of ever returning home to Yei again. This is just an example of the many stories that South Sudanese refugees have shared with me concerning the demise

of their young country during my work in Ethiopia and Uganda since the onset of the civil war in their country that started on 15 December 2013 and continues unabated up until now. South Sudan is a state that is deeply fractured in relation to tribal identity. Prior to the catalyst of the current war—which erupted due to a leadership conflict between President Salva Kiir, an ethnic Dinka, and Vice-President Dr. Riek Machar, an ethnic Nuer, and the failure of the young state to establish a constitution and a system of fair governance—there were already 90 cases of conflict ongoing in South Sudan that were completely unrelated to the current situation.⁹ With more than two million¹⁰ refugees from South Sudan living in Kenya, Ethiopia, Sudan, CAR, DRC and of which one million are in Uganda, we need to assume that any efforts towards peacebuilding and the establishment of rule of law and good governance in South Sudan need to start with the refugees. This can be done by empowering South Sudan’s refugee communities with access to quality social services upon which they can base the standard for the future development of their own country once peace is restored. Enabling refugees with enhanced access to education, skill development programmes, tools and start-up capital—at a minimum—will allow them to become self-reliant, and ultimately successful based on the motivation of each individual.

LIMITED ADHERENCE BY ASYLUM COUNTRIES TO THE 1951 REFUGEE CONVENTION

According to Barbara Harrell-Bond (1986: 6 in Finnstrom 2008), “humanitarian aid and relief programs are the response to a state of emergency, when something acute must be done”.¹¹ Since the signing of the 1951 Refugee Convention and the establishment of UNHCR’s protection mandate, the approach to refugee response in Africa has often been of a temporary nature, leaving refugees in limbo (and reliant on aid), while conflict is resolved in their countries of origin.

The greatest impediment to refugee self-reliance is restricted encampment as well as restrictions on the right to work. Chad, Sudan, South Sudan, Kenya, Ethiopia, Tanzania, Pakistan, Malawi, Iraq, Turkey and Jordan, among others, host refugees in camps and have yet to adopt strategies that are effectively aligned with UNHCR’s Alternatives to Camps Policy.¹² UNHCR estimates that 40% of refugees live in camps.¹³ National refugee encampment policies often go hand in hand with reservations by those countries on the 1951 Refugee Convention. For example,

refugees living in camps may not enjoy freedom of movement, the right to work, run a business or access the social services of the national system (i.e. schools, health facilities). Encampment can be a sensible solution for immediate emergency response needs as it enables cost-effective service delivery to a large population in a small area, but once you begin placing upwards of 20,000 persons in low-quality shelter in close quarters, the risk of disease outbreaks (like acute watery diarrhoea, cholera, measles and Hepatitis E) amplifies significantly. Hosting refugees in camps also poses a great resource mobilization challenge as camp inhabitants are almost 100% dependent on humanitarian food aid and assistance. Additional income is generated by camp-based small business enterprises and remittances from relatives living abroad. The humanitarian financial requirements for refugee operations under encampment policies can no longer be supported sufficiently by the international community. Telling are the insufficient financial contributions in support of UNHCR's operations which have been chronically underfunded in recent years (58.7% in 2016 and 51.2% in 2015).¹⁴ These funding levels cannot satisfactorily support refugees who are depending on aid, leave alone enable them to thrive under the conditions of protracted displacement (defined as persons living in exile for more than five years)¹⁵ in the camp setting. There is a need for a new approach otherwise pipeline cuts to critical humanitarian aid supplies, such as those experienced with the United Nations World Food Programme's monthly General Food Distribution Ration, will continue and lives will be lost on a larger scale.

Refugees in camps normally rely on parallel social service systems. In developing countries, these systems often duplicate the services provided for host communities and tend to provide improved services at camp level that the host communities can also access. Services are provided by United Nations agencies, the respective government refugee agencies and non-governmental organizations (NGOs) rather than by the line ministries (i.e. water, health, education) of the host country. This is because those countries are reluctant to budget for the refugees they take on (leave alone to provide sufficient services for their own citizens) and are almost completely reliant on support from the international community. The disparity created in cases when refugees are provided with better assistance and services than host community causes tension. Additionally, most refugee camps are established in the hard-to-access borderlands of countries in arid places like Dollo Ado, Ethiopia; and Kakuma and Dadaab, Kenya, where access to sufficient water, soil and markets to enable refugees to produce, consume and sell their own

crops and fresh vegetables is extremely challenging. Refugees are therefore barely able to eke out a living, and malnutrition and anaemia rates among the population are sky high. As anaemic children are unable to pay attention in school, there are few opportunities for them to be successful in their studies and become anything more than idle youth demoralized by camp life. This places these youths at risk of recruitment into insurgent groups across the nearby borders of their countries of origin, thus perpetuating the cycle of violence, producing yet another lost generation and empowering no champions to restore peace and lead nation-building at home. Unable to work or obtain lawful employment, refugees in countries that are not in adherence with the 1951 Refugee Convention cannot become self-reliant or contribute adequately to the economies of their host countries. Even when refugees are able to find work in such countries, they are at risk of exploitation and human rights violations because they are working illegally.

The World Humanitarian Summit was convened in Istanbul on 23–24 May 2016 to find new ways of tackling the world’s greatest problems by establishing an Agenda for Humanity and to bolster efforts towards achievement of the Sustainable Development Goals by 2030. The Summit demonstrated that the key actors concentrating on humanitarian and development assistance recognize and understand the negative impacts of refugee encampment, the establishment of parallel systems for refugees and their hosts, and especially the consequences of insufficient financing in response to the humanitarian, development and recovery needs of these highly vulnerable populations. An initiative that emerged from the Agenda for Humanity is the Grand Bargain established between key donors and responders which includes commitments to direct “25 per cent of global humanitarian funding to local and national responders by 2020, along with more un-earmarked money, and increased multi-year funding to ensure greater predictability and continuity in humanitarian response, among other commitments”.¹⁶ This move towards empowering national entities is expected to reduce the cost of the responses and strengthen emergency preparedness and response in countries prone to crises. Similarly, providing multi-year predictable funding to humanitarian response agencies, like UNHCR and its partners, will enable a bridge between short-term humanitarian responses and long-term development programmes.

To specifically address the global refugee crisis, former US President Barack Obama called for a Leader’s Summit in New York. At the

71st Session of the United Nations' General Assembly (20 September 2016), President Obama said that, "Tribes and ethnic groups and nation states have very often found it most convenient to define themselves by what they hate and not just those ideas that bind them together". He said that "we all have to do better at tamping down, rather than encouraging a notion of identity that leads us to diminish others".¹⁷ This statement came one day after the 193 members of the United Nations General Assembly reaffirmed their commitments to the 1951 Refugee Convention in the form of the New York Declaration on Refugees and Migrants,¹⁸ pledging to support UNHCR in applying the Comprehensive Refugee Response Framework (CRRF) to diversified contexts (in Uganda, Tanzania and Somalia).¹⁹ Other countries, like Ethiopia and Djibouti as well as the Central American Region, are also adopting this approach. The United Nations is now in the process of developing "a Global Compact on safe, regular and orderly migration to be adopted at an intergovernmental conference on international migration in 2018, based on human rights instruments and existing regional and international processes".²⁰ Drawing out wise practices from lesson learned by model refugee-hosting countries like Uganda will be critical towards redefining how refugees will be managed globally.

In an era where countries are building walls on their borders to deter and reduce the entry of refugees and migrants, President Obama needed to remind the international community about its commitments to the 1951 Refugee Convention. Many countries continue to have reservations, for example Ethiopia, which was the largest refugee-hosting country in Africa at the time (but has since been surpassed by Uganda), had not systematically issued identity documents to refugees; limited freedom of movement; and did not avail refugees the right to engage lawfully in the economy or access integrated social services (i.e. the same schools, health facilities and support services as nationals). Following the signing of the New York Declaration and due to commitments by the international community to avail sufficient support, Ethiopia pledged to extend an out-of-camp policy, issue work permits to skilled refugees, improve access to social services, avail agricultural land and consider local integration as a solution for refugees who have been in Ethiopia for more than 20 years.²¹ This policy shift came at a time when Ethiopia was simultaneously receiving and hosting refugees from South Sudan (on its south-western border); Sudan (on its north-western border); Eritrea (on its

north-eastern border); Somalia (on its south-eastern border); and even from Kenya (to the South).

Ethiopia then took a bold move to declare that it will also pilot the Comprehensive Refugee Response Framework. This will be supported by an interest-free loan from the World Bank's Development Response to Displacement Impacts Project (DRDIP) in the Horn of Africa.²² This loan scheme is also being extended to Djibouti, Uganda and Kenya to inject funds into government-run development programmes serving refugee-impacted areas, including enhancement of integrated social service delivery, environmental sustainability, community resilience and livelihoods, and coordination, monitoring, evaluation and improved accountability. The loans are intended to empower refugee-hosting governments to respond using their national systems without the typical strict oversight of United Nations partners.

LIMITED MEANINGFUL LIFE OPPORTUNITIES: RESTRICTION OF RIGHTS AND LIMITATIONS TO LIFE PROJECTS, ACCESS TO BASIC SERVICES AND SELF-RELIANCE OPPORTUNITIES

The world is experiencing a refugee and migration crisis that is fuelling intolerance and xenophobia, driving people apart while globalization is homogenizing cultural identities. Even the most remote communities are influenced by globalization and the information age, whereby the desire to embrace new and modern ideas is increasingly placing traditional culture at risk of deterioration. With each young generation, there is a loss of traditional knowledge, values and languages. Displaced persons tend to come from vulnerable minority groups that have unique cultures that lack or have limited documentation. Furthermore, while tangible cultural heritage is often looted or destroyed during the conflict, intangible cultural heritage is at risk due to the inability of cultural groups to afford the requirements necessary to conduct cultural activities. These cultural groups, particularly in Africa, are at risk of completely losing their cultural heritage as a result of protracted displacement combined with humanitarian dependency syndrome. No policy is currently in place to protect and promote cultural diversity during periods of protracted displacement. Refugees are, therefore, at a heightened risk of losing their culture because they tend to come from small vulnerable groups that do not have their languages well documented, leave alone documentation

of their cultural practices and often fantastic traditions. The sensation experienced by young people in communities at risk of this cultural deterioration is the loss of hope. The stripping of one's cultural identity is compounded in the refugee context where there is a strong evidence base that compulsory encampment, lack of access to opportunities/assets and dependency on humanitarian aid cause significant cultural degradation that cultivates a sense of hopelessness.

Concurrently, donor governments acknowledge that idle youth in refugee camps are at risk of recruitment into insurgent groups, thus perpetuating conflict in countries of origin and prolonging displacement. This reflects a problematic cycle that needs to be severed by new approaches to youth participation among and between the refugees and their national host communities. Donor governments fund programmes that aim to equip youth with formal education, accelerated learning, adult literacy, vocational training and self-reliance skills to help them rebuild their countries once they can safely return home, but these programmes are limited and could be more successful if they were planned and funded more strategically over a long-term period.

In a study conducted by the Dubai initiative, it was found that refugee students in Yemen had diverse ambitions including becoming teachers, engineers, medical professionals and sport stars; however, many expressed that they would join al-Qaeda to help restore peace in their country, Somalia. This demonstrates the need for education programmes that not only sensitize young people on practical learning ambitions, but also to teach them about the world view on their own situation. For example, countries are not interested in providing visas to youth who are planning to join radical extremist militaries because they do not want to endanger their citizens.²³ While Band-Aid solutions to youth empowerment have been applied in refugee camps around the world, there is no definitive unifying effort underway to engage youth in a manner that could irreversibly break the conflict cycle. Nonetheless, the study by the Dubai Initiative found that access to education, "even if of mediocre quality and even if the student is only able to attend for a few years, is the most important factor in reducing radicalization and terrorist recruitment from a population in a crisis situation, once their basic needs have been satisfied".²⁴ In the study, it was reported that al-Shabaab, the terrorist organization based in Somalia, had the tendency to target youth who did not attend school in Somalia and who arrived in Kenya at an age too old to attend school because the educated children refuse recruitment.²⁵

To mitigate recruitment into insurgent groups, there is need to target the out-of-school youth with high-quality attractive foundational learning programmes furnished with resources in tune with the information age and designed to enable young people to thrive through exposure to information about the outside world—an exposure that youth crave. In regions where communication is increasingly done on the platforms of social media (i.e. Facebook and WhatsApp), a learning system based on connectivity with the world would positively transform attitudes and empower young people with hopes and dreams.²⁶ Most importantly, their exposure to knowledge about the world could generate a belief that those hopes and dreams can realistically be accomplished through dedication and hard work. Constructing a positive environment that allows for access to opportunities is critical to human resilience, peacebuilding, conflict prevention and post-conflict reconstruction. Furthermore, understanding that one's own cultural heritage (both tangible and intangible) is a global treasure; sharing and learning from other cultures by recording and participating in traditional knowledge and histories that may have been nearly erased during conflict are crucial to a wholesome post-conflict recovery.

One new initiative emerging from the World Humanitarian Summit and Grand Bargain is Education Cannot Wait. This is a collaborative fund intended to prioritize education in emergencies and provide children with immediate access to education in humanitarian crises. The fund started as a first-response window that provides immediate funding to the education sector of an emergency response operation, but the fund is adapting to become a multi-year medium-term initiative in accordance with the Comprehensive Refugee Response Framework, and this multi-year approach will be piloted in Uganda where hundreds of thousands of school-age refugee and host community children are out of school due to a lack of infrastructure (including classrooms, water and sanitation, teaching accommodation and offices), trained teachers, furnishings and equipment. This new approach is expected to be successful as it aims to “inspire political commitment”, engage in “joint planning and response, generate and disburse new funding, strengthen capacity, and improve accountability”.²⁷ This approach is expected to garner a greater investment in refugee education from the onset of their arrival in asylum countries, given that the majority of refugees are children.

While primary education has always been supported in the refugee context, you will normally find limited enrolment in relation to the

school-age population who are out-of-school and discover that several, if not a dozen, overcrowded primary schools in a refugee camp will feed into only one secondary school and a handful of vocational training centres. The centres typically offer technical and vocational education and training certificates for professions like carpentry, masonry and tailoring which are skills that already saturate the local market, thus limiting the success of the graduated entrepreneurs. Milner and Loescher (2011) argue that refugees should be trained in fields of study that can help them restore peace and provide services when they return home, for example teachers and health workers.²⁸ What is also needed are skills that can permit refugees to enter any job market, including the most important market—the Internet. Skill training therefore needs to include English and other language training, basic computing and usage of Internet connectivity especially through mobile devices. This will prepare refugees to engage not only in the local market but also in the international market, which will help to redefine economic prosperity in their home countries when the majority of the population eventually return home.

RISKS PERCEIVED AS WORTH FACING ALONG DANGEROUS SMUGGLING ROUTES

The growing global refugee and migrant crisis demonstrates that the existing approaches to protection and solutions are insufficient. Thus, onward movement towards better opportunities cannot be easily stifled even though refugees aspiring for a better life abroad continue to suffer at the hands of traffickers and smugglers. Pull factors include freedom and safety, economic and education opportunities, and the presence of diasporas in European countries, while push factors are mainly war and civil unrest, forced military recruitment, persecution, drought and lack of viable livelihoods.²⁹ Refugees continue to be confronted both with the inability to fully integrate in their first countries of asylum and with, in many cases, the impossibility of return to their countries of origin. Alexander Betts, in his 2016 Ted Talk on refugees held in Vancouver, Canada, presented the notion that refugees only have three options, which are to: (1) endure encampment and its limited prospects for a dignified life; (2) gamble on a life of urban destitution where they will not access any assistance and will likely not have the right to work; and

(3) embark on a perilous journey to a country that may or may not offer a better life.³⁰ These vulnerable persons do not have any legal means to escape freedom from fear and want, and thus they resort to engaging transnational smuggling networks, despite the risks.³¹ Many who benefit from a life of privilege by comparison take a defensive argument with regard to irregular movement trends, the perceived rise in xenophobia and concerns that refugees are being supported more than the national poor. There is a perception that the new arrivals in Europe are mainly men who come from different cultures and have divergent values (e.g. influenced by media footage of all male African youths in dinghies who push and fight to get out of their boats onto rescue ships, mainly because they are terrified and cannot swim); that they are not civilized or educated; and are thus thieves and criminals.³² These negative perceptions have resulted in pressure on politicians to take protectionist stances, and in some countries (i.e. Bulgaria, Macedonia, Greece, Hungary and Slovenia), fences have been erected and security forces deployed to reduce movement into their countries. Over the last two decades, the response towards the reception of migrants into Europe by sea has evolved. For example, in 1997, Italy and Albania joined forces to sink smugglers boats in North Africa and entered into an agreement with Gaddafi's Libya for the country to detain and accept the return of migrants; this forced return of ships was done without screening for genuine asylum seekers.³³ Today's population movement trend, however, is too massive to contain and requires a comprehensive humanitarian response. To reduce incidences of drowning off the Libyan coast, Italy launched Operation Mare Nostrum in 2013. This was a search and rescue (air and sea) operation, which aimed to enhance national security while rescuing thousands of migrants departing North Africa in overcrowded boats. The European Union (EU) followed Mare Nostrum with Operation Triton, supported voluntarily with funding from European countries. Triton had a significantly smaller budget and corresponding area of patrol than Mare Nostrum. The horror stories of massive death by drowning in overcrowded boats have shocked the world, and it is no longer possible for Europe to turn a blind eye to the Mediterranean Sea. Following criticism in relation to catastrophic drownings of migrants, Operation Triton II, combined with support from NGOs scaled-up the operation to the same level as Mare Nostrum by the summer of 2016.³⁴ This operation is supported by NGOs,

including Doctors without Borders (MSF), Save the Children, Proactiva Open Arms and Sea Eye, which patrol close to the Libya coast and provide immediate humanitarian assistance to those that they rescue.

With the onset of the Syrian crisis, refugees with financial means travelling from Syria to Europe strengthened the smuggling industry and transformed it into a widespread lucrative business. This opened up the western (Morocco to Spain), central (Libya to Italy) and eastern (Turkey to Greece) Mediterranean routes for other refugees (from countries like Afghanistan, Iraq, CAR, DRC and Eritrea) and also for migrants (from countries like Nigeria, the Gambia, Ethiopia, Ivory Coast, Sudan and Senegal).³⁵ Some economic migrants even present themselves as nationals from refugee countries³⁶ (e.g. ethnic Tigrinya from Ethiopia are presenting themselves as Eritreans) hoping to benefit from a refugee status. Along dangerous smuggling routes to their ultimate destinations, refugees and migrants reportedly endure a series of traumatizing experiences, including going days without food and water, abuse, torture (normally for ransom), sexual violation, detention, harvesting of vital organs and death. Even though countless tales of woe are recounted to groups vulnerable to onward movement, there is a reluctance to believe that “this will happen to me” when the prevailing situation is so indigent. In some camps, life is so bleak that refugees have attempted suicide in hope that if they survive they might be fast-tracked for resettlement to a wealthy country. The temptation of Europe’s luxuries and the opportunities described by smugglers looking to make quick money lure people along the routes where they are completely dependent on the smuggler’s networks. Libya, the Central Mediterranean Route is currently the most utilized sea crossing point to Europe, and it has proven to be the most deadly journey route. Many African migrants rescued at sea have indicated that they went to Libya to work and earn higher incomes, but lawlessness in Libya combined with hardships experienced en route made it easier to pay as low as USD\$50 per person to enter into a rubber dinghy. This was a better alternative than returning back to their home countries on more expensive and equally risky journeys through smuggler’s havens like Agadez (Niger) and Gatrún (Libya) where the majority have already suffered abuses from bandits and survived a journey without water and food.³⁷ Population movement towards Europe is complex as the routes continuously shift. As the mass movement of refugees and migrants through North Africa has become a lucrative business,

smuggling has become increasingly professional. Smuggling starts with recruiters who market express package deals from countries of origin to Europe (with few stopovers) or step-by-step journeys offering a wide range of transportation methods based on the perceived capacity of each individual or group to pay for the services. Various types of intermediaries provide transportation, food, water and temporary accommodation along the route, while coordinators and financiers have been known to sell migrants to other networks in batches. Certainly, smuggler networks have relationships with border and law enforcement authorities as well as local armed groups, including bandits, who accept bribes in exchange for allowing passage. Additionally, the increased involvement of youth and armed groups chasing higher profits in smuggling has resulted in faster trips with better vehicles and more passengers. Some employees of smuggler networks are the refugees and migrants, themselves. They are useful for their ability to communicate in the local languages of the refugees and migrants to link them to transportation, accommodation, meals and other services. The objective of these working migrants is primarily to obtain free or discounted passage (normally filling up the last few spots on an overcrowded dinghy) to Europe along with the paying clientele. “Whereas trafficking involves the use of fraud, deception or coercion for the purpose of exploitation, smuggling does not necessarily involve exploitation, deception, coercion or any violation of human rights. Nevertheless, smugglers in Libya and along the Central Mediterranean Route often take advantage of peoples’ vulnerabilities by imposing high prices, restricting their freedom of movement and knowingly using unsafe modes of transportation to maximize profits, such as rubber boats and pick-up trucks. In some situations, smuggling becomes trafficking”³⁸ (i.e. cases of kidnapping, domestic servitude as well as sex and vital organ trafficking, including to pay off debts to smugglers).

In July 2017, UNHCR proposed a three-pronged strategy that relies and builds on existing international, regional and national partnerships, policy frameworks, programmes and action plans to help mitigate the high level of migration towards Europe along the dangerous smuggling routes. Planned interventions include: measures to strengthen access to asylum, protection and solutions (especially for those in need of international protection, e.g. Libya does not have an asylum system based on national legislation³⁹); the establishment of adequate and dignified reception services; capacity-building for local and national

authorities; advocacy and awareness-raising with communities that produce migrants; support to the establishment and strengthening of law enforcement in relation to human trafficking and smuggling; training of coast guards on humanitarian assistance including early identification of vulnerable persons and persons with specific protection needs; and “in Europe, UNHCR will continue supporting, complementing and building existing government capacities to ensure effective and safe access to asylum, protection services and solutions for people of concern, with particular attention to those with specific needs and vulnerabilities”.⁴⁰ In order to effectively put this strategy into force, UNHCR indicated that USD\$877.2 million⁴¹ is required in 2017 alone to strengthen and support local reception, protection and law enforcement capacities while raising awareness about the risks involved in migration (mainly targeting Burkina Faso, Chad, Mali, Ethiopia, Niger, Sudan and to a lesser extent the West African region). This is part of a total need of USD\$1.9 billion to respond and mitigate the Mediterranean Crisis.⁴² In accordance with the UN Protocol against the Smuggling of Migrants by Land, Sea and Air has been reflected through the establishment of anti-trafficking and smuggling laws in Sudan⁴³ (January 2014), Niger⁴⁴ (May 2015) and Ethiopia⁴⁵ (August 2015), but still requires support for training on law enforcement and methods to overcome challenges in relation to the general backlog of cases in court. Additionally, Libya has started issuing Refugee Certificates for persons requiring international protection and Attestation Certificates (for persons whose status is not clear until refugee status determination process is completed). The establishment of these new laws across North Africa and the acknowledgement of change by refugee- and migrant-impacted countries should open doors for systematize awareness-raising campaigns, improved legal protection, humanitarian assistance and access to referral mechanisms for additional support, more engagement of refugees and migrants by civil society. These laws have resulted in the arrest of smugglers and closure of ghettos where refugees and migrants are being accommodated. However, the Central Mediterranean Route will likely be the hardest to close due to a large number of source countries, limitations of local law enforcement capacity, systemic corruption and general lawlessness that, despite the establishment of new legal frameworks, could take decades to be regulated and enforced effectively.

WHAT SHOULD BE DONE TOWARDS MITIGATING THE CRISIS?

Realpolitik approaches are not establishing an environment for world peace, and the global population is projected to rise geometrically in the coming decades. New and renewed conflict over increasingly scarce resources is anticipated. We need to increasingly avoid having to react to new crises in fragile states by establishing more pragmatic interventions towards conflict prevention. This should be done by engaging the young generations on nurturing global social cohesion, because as long as people fear “others” due to lack of knowledge and exposure to cultural diversity, tensions will continue to build until extreme violence occurs. However, putting theory into practice is dependent on a great deal of mutual understanding in a complex polyethnic world that continues to experience a great deal of competition between alliances, nationalities and ethnic groups. The key to the success of mitigating the refugee and migrant crisis, idealistically in a world with a high population growth rate expected to top a total of ten billion by 2045,⁴⁶ is for people to accept migration as a natural process which needs to be supported comprehensively.

According to Hanlon and Christie (2016), “Human security must be considered within the context of globalization if we are to fully understand the connection between socioeconomic interdependency and human development”.⁴⁷ We, therefore, need to start by looking at asylum countries where refugees do not have the tendency to engage in irregular movement and ask ourselves why this is the case. What are these countries doing differently that reduces the motivation for departure? Until recently, only three solutions to displacement, called “durable solutions”, were discussed by governments in relation to refugee situations. These durable solutions are: voluntary repatriation to the country of origin; integration in the country of asylum; and resettlement to a third country. Availing a safe and dignified return to countries of origin is the primary durable solution for refugees as endorsed by the First-World nations that finance refugee and peacebuilding operations, the countries of asylum and in accordance with the hopes of the refugees themselves. This involves the rendering of tolerable security, so that refugees can return home and work to rebuild their countries,

albeit with limited resources. However, it takes time to build peace and in the cases of Somalia, Afghanistan, Iraq, Sudan and DRC, conflict has been ongoing for decades without resolve. Though many return homes to sustain access to land, check on any remaining assets and plant and harvest crops, the refugee camp continues to be their base of safety and security, as they are unable to live elsewhere within the country of asylum due to refugee policy restrictions (e.g. policies hindering freedom of movement; right to work or engage in business; and access to national social services). The refugee encampment approach renders refugees as unsustainably aid dependent amidst a global humanitarian funding crisis. This scenario frequently drives refugees back across the border into their country of origin to seek sustenance and also makes idle youth vulnerable to recruitment into insurgent groups, thus perpetuating conflict.

Integration into the country of asylum is another option, but countries hosting large refugee populations continue to enforce encampment policies under the guise of national security. For long, the global South has perceived that the North are working to contain refugees in the South, while the North view encampment and conservative refugee policies as impediments to refugee solutions, like integration. Many refugee-hosting states believe that supporting refugee self-reliance will, in fact, lead to their integration, which is not desirable, similar to the European sentiment of receiving mass influxes of those very same refugees.⁴⁸ Understandably, most countries do not want to integrate large numbers of foreign nationals into their population as refugee-hosting communities are not only burdened by the arrival of large groups of vulnerable persons requiring assistance, but are often in need of improved social assistance, themselves. Furthermore, there are fears of encroachment on land and loss of identity in relation to inclusion of the foreign others. Countries that consider integration of refugees will often do this only on the basis of marriage to a national or after an extended period of displacement, for example 20 years. In relation to integration, there are challenges to self-reliance such as access to land that the government must first resolve, as in many countries land ownership lies in the hands of clans and tribes who expect the land to be returned to them following refugee repatriation. Many refugee-hosting communities are not only burdened by the arrival of large groups of vulnerable persons requiring assistance, but are in need of improved social assistance, themselves. Without social cohesion, however, post-conflict reconstruction cannot be successful regardless of the amount of resources invested

in state-building, as demonstrated by South Sudan's return to extreme violence on 15 December 2013, less than two and a half years after its independence.

Following stringent screening and vetting processes, many refugees cling to the hope that they may be resettled to a developed country with good social services like the USA, Canada and Australia, but preference is given to refugees who can easily integrate. Though UNHCR promotes the resettlement of the most vulnerable refugees (i.e. those with specific legal/physical protection needs; medical needs, women and children at risk; survivors of torture/violence), and also those in need of family reunification,⁴⁹ less than 1% of refugees are resettled in a third country. Resettlement figures show that the global resettlement needs are for 1,190,000 refugees⁵⁰ of which 40% are Syrians; an average of 130,000⁵¹ of these cases are submitted to the existing 37 resettlement countries each year for their consideration. In 2016, more than 114,000 refugees were resettled.⁵² This is just a drop in the water when considering the needs.

According to the World Bank, the United Nations in Uganda and the Ugandan Office of the Prime Minister, "the current way of working [to respond to refugee crises] is fragmented, inefficient and duplicates efforts".⁵³ This acknowledges that there is a long way to go before a new systematic response can be effectively instituted. Due to the limitations of the three durable solutions in responding effectively to the growing global refugee crisis, what is emerging is the need for recognition and institution of a fourth solution: social cohesion. The success of this approach is almost entirely dependent on political will. One small East African country, ranked 163 out of 183 on the United Nations Development Program Human Development Index,⁵⁴ is the working model for a new global approach to managing refugee influxes. Uganda has been hosting refugees since 1959.⁵⁵ Following Independence from the UK on 9 October 1962, Uganda found itself as the centrifuge in a region of turmoil. Having recovered from civil conflicts as well as conflicts involving neighbouring states, many Ugandans have experienced forced displacement, including protracted displacement. Ugandans have also been hosting refugees from neighbouring countries (DRC, Rwanda, Sudan/South Sudan), as well as significant numbers from countries as far away as Burundi, Somalia, Ethiopia and Eritrea. Based on more than five decades of experience, Uganda began hosting refugees in settlements (not camps) and providing refugees with access to agricultural plots to

enable household-level subsistence farming. This approach was expected to reduce dependence on humanitarian aid, and especially on food aid.

A refugee self-reliance policy gradually emerged and the Ugandan Office of the Prime Minister produced its “Self-Reliance Strategy (1999-2003) for Refugee Hosting Areas in Moyo, Arua and Adjumani Districts, Uganda”. The strategy sought to promote and improve social cohesion and peaceful coexistence for refugees hosted in settlements alongside the host communities who donated their land for the settlements and shared their resources with the refugees. The success of the self-reliance strategy demonstrated the need for an evolution towards Development Assistance for Refugees to deliver “compensation for the burden aspect of the host community” and support the “empowerment and enhancement of productive capacities and self-reliance of refugees, particularly of women, pending durable solutions”. This progressive policy enabled UNHCR and humanitarian partners to shift away from a strategy of refugee care and maintenance which was found to no longer be a practical approach for protracted refugee situations and moved into self-reliance programming like household and group livelihoods, vocational training and start-up packages, village savings and loans schemes, and savings and credit cooperation organizations.⁵⁶ All of this was done following a method to promote peace and prosperity that linked refugees and their host communities together in all of the livelihood initiatives.

The general attitude towards refugees in Uganda is compassionate and inclusive. On 13 April 2017, while speaking at a handover ceremony when UNHCR provided vehicles to the Uganda Police towards facilitating their security and law enforcement patrols in the vast refugee settlements, Uganda’s Inspector General of Police, Edward Kalekezi Kayihura, spoke about refugees.⁵⁷ He reminded his audience, which included radio listeners on Capital FM, that he would prefer not to use the term “refugee” which could stigmatize the people that the Government of Uganda is working to protect. Kayihura said that “these are human beings”, and that many Ugandans—like himself—can relate to their own personal experiences of forced displacement during past periods of turmoil in Uganda. All present, myself included, were moved by this statement, which has been echoed by Uganda’s leaders and citizens, alike. The world can learn from Uganda’s approach, and thus, Uganda is recognized as a model country for the new approach for refugee management towards the forthcoming 2018 Global Compact on Refugees,⁵⁸ which will include a clearly defined Comprehensive Refugee Response

Framework and Plan of Action to change the way that refugees are supported in asylum countries.

National refugee policies, like that of Uganda (which does not encompass restrictions on freedom of movement, thus eliminating the need for smuggling), allow refugees to participate lawfully in the formal economy, thus they are empowered to become self-reliant and are less dependent on aid. “The settlement approach combined with [the] laws and freedoms [availed to refugees in according with Uganda’s Refugee Act, 2006] provide refugees in Uganda with some of the best prospects for dignity, normality, and self-reliance found anywhere in the world. These factors also create a conducive environment for pursuing development-oriented planning for refugee and host communities. Rather than being hosted in camps. Refugees are settled in villages, located within refugee-hosting districts”.⁵⁹ In fact, initial investigations by the United Nations World Food Programme (WFP), which demonstrate the benefit of hosting an increasingly self-reliant refugee population, have indicated that the presence of refugees in Uganda contributes towards positive economic development. A local economy-wide impact evaluation (LEWIE) conducted by Taylor et al. (2016) demonstrates that every dollar of WFP food and cash aid has had a multiplier effect uplifting the local economy.⁶⁰ The evaluation consisted of household-level micro-surveys in and around the Uganda refugee settlements and strongly suggests that the refugees in Uganda are not a drain on the already impoverished host community. Rather, there is “evidence that, under the right circumstances and with external support, refugees can add to the welfare of local populations through productive activity and aid spillovers”.⁶¹ This is because the full enjoyment of rights combined with humanitarian assistance and access to land allows refugees “to interact with the host-country economy in ways that would not be possible under conventional aid regimes that distribute food to refugees in closed settlements. Local businesses potentially benefit from refugees’ demand for their produce and the availability of refugee labour”.⁶² Even though most refugee-owned businesses are small, refugees do employ Ugandan nationals and it was found that small shops owned by refugees in the settlements purchase their stock (including agricultural inputs) from host community businesses, thus benefitting the local economy. The study also found that 21% of refugees living in Kampala, Uganda’s capital, own a business that employs people, of which 41% of the employees are national citizens.⁶³ To uplift communities that shelter refugees and ensure that no disparity

is created, there is need to further integrate refugee and development programmes around self-reliance and livelihood strategies. In summary,

The income refugees generate above and beyond the cost of WFP food aid is called an income spillover. Refugee and host-country households and businesses create income spillovers when they spend their cash on goods and services supplied within the local economy. Most of the income spillovers from refugees accrue to host-country households and businesses around the [] settlements, because they usually have more productive assets and are in a better position to increase their supply of goods and services as the local demand rises. Refugees also create income spillovers for the rest of Uganda, when households and businesses buy goods and services outside the local economy (that is, beyond the 15 km radius around each settlement).⁶⁴

While these positive results require further investigation to determine the ultimate approach to successful refugee self-reliance and social cohesion with the host population, underfunding of the refugee response and developmental needs in Uganda has limited the success of the self-reliance approach. This has been compounded by the mass influx of 704,000⁶⁵ refugees from South Sudan between 8 July 2016 and mid-September 2017, and a slow but persistent influx of refugees from DRC and Burundi.

The Government of Uganda is unable to provide sufficient support to the refugees and host communities and therefore requires financial and programmatic support from the international community to help successfully champion the Comprehensive Refugee Response Framework. After all, populations in refugee-hosting districts in Uganda, like Moyo and Adjumani, comprise of 55 and 57% refugees, respectively, which is more than double the population planned for in their annual budgets. Likewise, in Kampala, refugees are highly visible and are estimated to make up nearly 10% of the population. At the Solidarity Summit on Refugees hosted by Uganda on 21–22 June 2017, the international community pledged over 350 million dollars to support the refugee operation, while core pledges were made by some of the countries that are most dramatically affected by the refugee crisis in Europe: Germany pledged 56 million dollars towards Uganda's Comprehensive Refugee Response Framework; the UK pledged 50 million dollars.⁶⁶ This is only a drop in the ocean of the estimated 8 billion dollar funding requirement

needed over the next four years to stabilize a total in-country population of more than 1.3 million refugees (and growing).

Assistance to refugees and host populations in Uganda in a manner that seeks to bridge the humanitarian and development nexus is being coordinated to uplift both communities and avoid creating disparities between the two, thus promoting peaceful coexistence and strengthening social cohesion. The Uganda National Development Plan II (2015/16-2019/20) presents the notion of a Settlement Transformative Agenda (STA),⁶⁷ thus introducing refugees (through support to the refugee settlements) into national development planning. Furthermore, the United Nations Country Team in Uganda and the World Bank have adopted the Refugee and Host Population Empowerment (ReHoPE) strategy. This is a multi-year self-reliance and resilience programme designed to support refugee and host communities with integrated social service delivery and collaborative livelihoods that will transcend the refugee/host population divide. This national policy arrangement fits under the United Nations Development Assistance Framework (UNDAF) in Uganda, which enables all United Nations agencies, including the development agencies to link their development programmes to the refugee response. As part of the process, “the government’s surge and risk management capacity will be developed to enhance its ability to respond to future emergencies”⁶⁸ As the political will already exists, incorporating this approach effectively into the refugee response operation will be dependent on transparency, accountability to the affected populations and the availability of adequate resources.

Can Europe learn from Uganda? In Europe, though a significant level of “othering” has been reported in the media,⁶⁹ train stations filled with well-wishers have been the faces meeting refugees in European cities. In Europe, initiatives like *#RefugeesWelcome*⁷⁰ seek to support refugees in their new countries, link them to social groups, training and accommodation. Alexander Betts (2016) says that refugees need to be supported by enabling environments (i.e. freedom of movement, right to work), economic zones (jobs that integrate refugees and host communities through employment), preference matching (linking refugee aspirations with markets based on criteria like skills and languages) and issuance of humanitarian visa to avoid perilous journeys which cost more than flying on budget airlines or taking a ferry.⁷¹ The humanitarian visas, as piloted by Brazil for Haitians and Syrians,⁷² would curb the illegal smuggling

market, prevent trauma and loss of life, and avail refugees the ability to arrive in a country with their own assets and money (which is, therefore, not wasted on illegal smuggling). This notion of the humanitarian visa as presented by Betts reminded me of a conversation with a friend who is a refugee from the DRC. He was recently invited to the Youth Connekt Africa Summit—2017 in Kigali, Rwanda.⁷³ He has been displaced into Uganda by extreme violence several times in his life, and he laughed while telling me about how strange he felt arriving by airplane into Kigali with his own luggage and how dignified he felt using his Convention Treaty Document (a travel document similar to a passport issued to refugees for international travel) at the Rwandan immigration counter. This concept of dignity in relation to admission into countries is taken for granted by most of the citizens of First-World countries. According to UNHCR (2017), “more needs to be done to enable more refugees to enter legally, including for those trying to join family members already in the EU, rather than having to resort to irregular and dangerous journeys”; there is need for “enhanced rescue at sea operations undertaken by all actors, including the Italian coastguard, NGOs, Frontex and crews of merchant ships”. “More solidarity is needed within the EU to ensure protection and assistance to those arriving in Europe, including through the speeding up, and extension of the relocation scheme”.⁷⁴ A humanitarian visa could allow refugees to enter Europe legally, while they await refugee status determination processes. This would spare from the psychosocial trauma experienced along smuggling routes and enable them to arrive in a dignified manner, since they are already determined to travel against all odds.

Moving forward, progressive national asylum policies, like that of Uganda (2006 Refugee Act⁷⁵ and 2010 Refugee Regulations), avail refugees with identity documents, freedom of movement, lawful participation in the formal economy, “access to social services, and allocation of plots of land for shelter and agricultural production”, thus they are empowered to become self-reliant and are less dependent on aid.⁷⁶ To uplift communities that shelter refugees and ensure that no disparity is created between refugees and their host communities, there is need to integrate refugee and development programmes, especially in sub-Saharan Africa, around self-reliance and livelihoods strategies. In many cases, the ethnicity of refugees is the same or related to the ethnicity of the host community; often the national population from these ethnic groups who live on the periphery of their countries’ porous borders

are considered as a threat to the state. Again, this represents a need for social cohesion among the refugee and host population within the state structures. This can only be achieved effectively through the removal of disparities by enabling a mutual understanding and respect for culture. It is hoped that by piloting the Comprehensive Refugee Response Framework (modelled after Uganda) in countries like Ethiopia, that this may significantly reduce irregular movement from these countries by allowing refugees to be a part of their country while humanitarian and development actors support the government in establishing and scaling up integrated service delivery to refugees and their impoverished host communities.

In 2015, then United Nations High Commissioner for Refugees, Antonio Guterres, stated that “the humanitarian system is broke” as in, without a surplus of financial resources sufficient to respond to multiple emergencies. This means that refugee and host community children are suffering from malnutrition related to cuts in WFP’s general food ration cereals pipeline, as well as sugar, salt and cooking oil. Refugees are increasingly provided with poor-quality cereal crops like red sorghum instead of valuable preferred food like rice, wheat and maize. Essentials that promote skeletal growth like corn–soy blend super-cereals are frequently limited to children under age 2 rather than the standard of providing these much-needed supplements to all children under age 5. This inadequate funding situation also means that refugees lack sufficient access to basic services (e.g. water, sanitation, shelter, health services, education and livelihood opportunities). Despite the policies promoted by UNHCR, self-reliance strategies cannot be implemented when there are significant humanitarian funding gaps in water, sanitation and hygiene; public health and nutrition; and physical protection.

In a 2014 Ted Talk, UNHCR Chief of Communications, Melissa Fleming expressed that refugees need help to thrive, not just survive.⁷⁷ Developing an environment for displaced persons to access human dignity, thrive and participate in all aspects of a normal socio-economic life is a part of upholding human rights, social justice and participating in a successful forward-thinking global society. A limited number of donors are supporting the basic and essential needs of displaced persons via programmes designed, coordinated and monitored by UNHCR in countries where national governments require support. The World Humanitarian Summit’s Agenda for Humanity Core Responsibility #4 is to Invest in Humanity, whereby “accepting and acting upon our shared

responsibilities for humanity requires political, institutional and financing investment”.⁷⁸ This will involve adherence by Organization for Economic Cooperation and Development’s (OECD) 30 Development Assistance Committee (DAC) countries to the Article 43 of UN General Assembly Resolution 2626⁷⁹ in 1970 that followed the Pearson Commission Report whereby each DAC member would increase its Official Development Assistance (ODA) to a minimum 0.7% of its gross national income (GNI) to humanitarian aid. This ODA target was expected to be achieved by 1975.⁸⁰ So far, only the UK, Denmark, the Netherlands, Norway, Luxembourg and Sweden are achieving the standard. Countries like the USA who may be top contributors to humanitarian aid are far from the 0.7% standard indicated at 0.18% in 2016, while the United Arab Emirates, a non-member of the DAC, is providing beyond 1% of its GNI. A unified international scale-up of 0.7% GNI with respect to ODA could bridge the gap in providing sufficient support for the Global Compact on Refugees as well as other developmental needs worldwide.

In addition to the development of a transparent institutional capacity in the refugee-hosting countries as a building block for human rights and dignity, multi-year strategies and sufficient funding for refugee response, there is need to involve academia and the private sector because governments alone cannot provide adequate resources to achieve the Agenda for Humanity and Sustainable Development Goals, which is integral to the Comprehensive Refugee Response Framework. At the World Economic Forum in Davos, Switzerland, on 19 January 2017, Antonio Guterres in his new role as United Nations Secretary General expressed that “without the private sector we will not have the necessary innovation, we will not have the necessary capacity to discover new markets, new products, new services and to be able to develop new areas in the economy”, and added that “only the private sector can create enough jobs to stabilize societies”.⁸¹ United Nations agencies and humanitarian partners are increasingly turning to private sector supporters. As private sector supporters are increasingly engaged, there will be a need to present stronger cases for comprehensive response with budgets that are more transparent and precise than ever before, while donors should allow for humanitarian partners to implement programmes with greater flexibility (i.e. a reduction in earmarked funding approaches).

Accustomed to hardships, before flight, many persons fleeing conflict countries usually experience extreme trauma, unimaginable, that drives

them out of their country. This level of traumatic experience is not well grasped by people from developed countries in safe regions of the world. This inability to identify with the experience of refugees creates a division between the refugees and their hosts in First-World countries. Therefore, a robust mainstream campaign defining the types of forced displacement experienced by refugees and outlining the levels of poverty and hopelessness experienced by migrants would be helpful in enlightening people living in developed countries on the reality of forced displacement. This is a global crisis, and the solution needs to start with global sensitization on the root causes, the faces and stories of the people who are caught in this reality, and the successes (and failures) of people who have endured and attempted to overcome the challenges of life outside their homelands. More than anything, we need to move away from the stigmatization of war-torn communities created by sensationalist films, such as “The Last Face” and “Blood Diamond”, and look at the situation from the eyes of the refugees, themselves. To do this, we need to help empower youth who have experienced forced displacement to produce their own stories. For example, the Nakivale Movies Company, based in Nakivale refugee settlement, Isingiro District, Uganda, creates documentary films on refugee stories and issues, while The Refugee Newspaper and Dadaab Stories from Dadaab refugee camp in north-western province, Kenya, are also good examples of community empowerment, which could be replicated worldwide to help give refugees a stronger voice. Refugees themselves must play a strong role in the Comprehensive Refugee Response Framework and Global Compact on Refugees.

CONCLUSION

The framework established in Uganda and neighbouring countries working to adopt a similar model in the coming years will be epistemic towards demonstrating that comprehensive support to refugee and host communities provides the strongest approach to refugee resilience and peacebuilding.⁸² There will likely be drawbacks to the success of refugee resilience programmes in each country of asylum, and from these, the world will need to document the lessons learned and reinforce and replicate the best practices. Onward movement from asylum countries is driven by the need to find a better place to live and establish comfortable and successful livelihoods. In order to moderate the refugee and migration crisis, the global community needs to provide comprehensive

support to refugees and impoverished communities to enable them to not only thrive where they are, but to become viable citizens anywhere.

The first step is acceptance that these are people seeking dignity under the worst possible conditions, and that they will do anything to access human security. Humanitarian visas need to be given to victims of conflict, but these should not be in the countries that are the primary destinations of migration (e.g. Germany, UK and Sweden); stable but less competitive countries like Macedonia, Brazil, Romania and Georgia should be given an incentive to welcome this potential skilled and unskilled labour force into their countries. Europe needs to address the existence of the smuggling networks in Africa, the Middle-East and within its own territory; support the affected countries to establish national anti-trafficking and smuggling legislation; and train police and security forces on effective and appropriate law enforcement. Most importantly, the refugee-receiving countries that are neighbours with states in turmoil should change their approaches to ensure that refugees are able to contribute to their economies and become equipped to eventually return home and bring peace to their countries through an educated and skilled population. Lastly, the international community (government and private sector partners) needs to scale up their aid packages to sufficiently support refugee-hosting countries so that refugees can stabilize, obtain a quality education and skill set, become self-reliant and contribute to the development of their asylum countries. This approach, which enables young people to recover from traumatizing experiences and establish hopes and dreams that are achievable, is currently the best opportunity towards ending the conflict cycles that continue unabated in their homelands.

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From Failing States to Migration: The Role of Non-state Actors

Julia Rutz

INTRODUCTION

Migration has always existed and will continue to exist. Migration is as old as humankind, as the Director General of the International Organization for Migration (IOM) likes to state.¹ But the influx of asylum seekers in the years 2014–2016 constituted a challenge for many European Union (EU) Member States and for the EU itself. The border and mobility rules of the Schengen Area and the Dublin Regulation came under significant pressure, while for the migrants, the journey to Europe meant extreme uncertainty and dangers. In the Mediterranean alone in the period January 2014–August 2017, 14,620 migrants died or were reported missing on their way to Europe.²

The opinions, comments and analyses expressed in this chapter are those of the author and do not necessarily represent the views of any of the organizations with which the author is affiliated.

J. Rutz (✉)

Research and Migration Law Department, International Organization of Migration (IOM), Vienna, Austria

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The EU Member States are struggling to introduce or amend asylum policies and structural and ad hoc measures to manage the increasing number of migrants. During all those activities to get a grip on the situation, a vigorously contested debate evolved surrounding the so-called migration crisis: Why are all these people coming to us? How should we handle it? How can we solve this “migration crisis”?

The impressive set of activities on the part of the EU and its Member States—such as the implementation of the Common European Asylum System, the adoption of legislative proposals and the organizing of numerous workshops, meetings and conferences—raises the question of whether the measures initiated form the basis of a sustainable solution to the situation that is satisfying and promising for all parties involved, including the migrants themselves. Or did the actions respond instead to immediate requirements, needs and bottlenecks and thus constitute more a patchwork of actions rather than a comprehensive approach?

Migration represents a very complex phenomenon that involves security, social issues as well as socio-economic imbalances between developed and developing countries and deterioration of the environment. The failure to promote peace and security in crisis areas is connected with and related to the migrants’ movements.

The following chapter explores the relationship between conflict in the states of migrants’ origin and the migrants’ movements. It discusses the related role of non-governmental organizations (NGOs) and international non-governmental organizations (INGOs). It demonstrates how these actors interact outside the realm of the state and with other non-state actors in order to fill the gaps left by states failure to meet the responsibilities. Finally, it opens a perspective revealing a broader, more comprehensive approach towards the current migration situation in Europe.

HUMAN SECURITY AND STATES’ RESPONSIBILITY

Protecting states against violent conflict is the traditional view of *human security*. Former UN Secretary General Kofi Annan extends this definition and centres instead on the access and opportunities of individuals and communities by referring to human security as “freedom from want” and “freedom from fear”³: “Human security in its broadest sense, embraces far more than the absence of violent conflict. It encompasses human rights, good governance, access to education and health care...”⁴

Kofi Annan’s extended definition of human security provides a perfect picture of the status to be achieved for civil societies. Only when states

manage to ensure “human security” for their citizens under the broader umbrella of human rights—meaning that every person is entitled to be free of oppression, violence, hunger, poverty and disease—basic human security is achieved.

Human security “aims at securing social protection against risks and vulnerabilities”, as the Commission on Human Security brings it to the point.⁵ Consequently, human security reinforces state security. The latter traditionally refers to the state’s responsibility to protect its boundaries, people, institutions and values from external threats, in other words, providing security lies within the competence of the state.⁶

In many cases, however, states are unable or unwilling to provide security to their citizens and fail to ensure them fundamental human rights. Sometimes it is even governments themselves who pose a threat to citizens, as their presidents or governing bodies do not comply with their citizens’ demands for well-being but rather focus on personal advantage and privileges for themselves, their families or clans.

Here we enter the area of the so-called failed states. Such are defined as “countries where government is unable to deliver even the most basic public services such as territorial control and security—to a significant portion of the population”.⁷ Generally speaking, when a state is not capable of performing such core functions, it is referred to as a failed state.

One option with a failed or a fragile state is “to heal the fragility” through state-building efforts and through other actors supplementing the state’s responsibilities. In the event that such efforts are not successful, often only one option remains: Where citizens are not able or willing any longer to live under the authority of a state, their only remaining choice is to acquire protection by migrating.

The following chapter first analyses the “bottom-up” approach to human security and how various stakeholders operate within the “global civil society”. It explores how these actors interact with non-state actors in order to fill the gaps left by states.

THE ROLE OF NON-STATE ACTORS IN PROVIDING HUMAN SECURITY

Non-state actors play a significant role when it comes to supplementing the state’s responsibilities, if the state is not succeeding in its role by providing human security.⁸ Such actors can become very relevant in the case of a failed state, as will be demonstrated in the next chapter.

The long list of actors operating within the area or territory of a state includes NGOs, media outlets as well as journalists; religious people, informal justice systems and peacekeeping missions among the relevant stakeholders within a governmental system.

Non-governmental Organizations (NGOs)

In general, NGOs are defined as: independent development actors existing apart from governments and corporations, operating on a non-profit or not-for-profit basis with an emphasis on voluntarism, and pursuing a mandate of providing development services, undertaking communal development work or advocating on development issues. Depending on the type of operations, they carry out activities either at a national or international level. Where their activities cross national borders, they are referred to as international NGOs (or INGOs).

NGOs can promote increased accountability of a state system, for example by enhancing the public transparency of state activity or by the creation of formal accountability mechanisms.⁹ Citizens are entitled to detailed information about their governing body: the composition of the government, its objectives and the different procedures of implementation. This is not always the case, and in terms of the level of transparency, governments differ quite a lot. Several NGOs contribute to disclosing such information, for instance through putting pressure on institutions to publish annual reports of their activities, including statistics and other facts, as well as project and policy documents.

Such released documents provide a means of monitoring, analysing and evaluating a government's activities. Civil society actors are for instance able to verify whether institutions act according to their mandate as laid down in the institution's by-laws or official resolution. Possible weaknesses or non-compliance can be pointed out. This external monitoring function of civil society not only enables a double-check of compliance with internal rules, but also with regulations and obligations existing outside the institution, i.e. adherence to principles laid down in international law and also to the legal framework of the respective country.

The extent of the civil societies' control mechanism ranges from the mere identification and reporting of deficiencies to demanding remedial action. In many cases, the pressure imposed by civil society activists leads to the replacement of public officials, to the passing of amended laws or to the establishment of new bodies or mechanisms. Thus, there are many

cases where civil society organizations have helped to ensure good global governance, especially in times where other accountability mechanisms for global governance are weak.¹⁰

Examples of successful intervention range from NGOs stopping the construction of dams¹¹ and include women's organizations promoting increased gender sensitivity, health associations calling for more effective agreements to cover global health threats such as malaria and HIV, as well as a long list of further issues addressed by NGOs that relate to children, education or food security.¹²

Many NGOs are able to complement or supplement human security efforts by governments. Michael has identified six advantages of NGOs, which allow them to provide additional support in improving human security¹³: (1) the influence developed by NGOs, which is growing to a size that enables them to reach communities that governments lack the infrastructure or funds to serve; (2) the comparative advantages of NGOs, such as their flexibility and adaptability or their proven track record and experience with local communities and the legitimacy gained among these people; (3) their ability to engage with threats to human security that other organizations do not recognize or are unwilling to confront; (4) an ability to address political threats to human security resulting from ineffective political institutions or regulatory frameworks; (5) an ability to address transnational threats to human security, including organized crime and terrorism; and (6) their ability to make a long-term contribution to human security. This very comprehensive analysis explains the key role NGOs are playing in improving people's human security. According to Michael, NGOs are key players in international development, as they are major contributors to development processes and the most prominent advocates of international human rights.¹⁴

The challenges facing civil society and NGOs in carrying out their work are manifold. The most common ones should at least be mentioned here.

One significant challenge NGOs are facing is their funding situation, which depends on donors' requirements. Consequently, NGO staff often work under short-term contracts with limited funds and lack the flexibility to pursue their own agendas.

Sometimes NGOs face opposition from their governments, due to the criticism NGOs might be expected to bring towards them or simply due to competition for funds. Advocacy opportunities are restricted because civil society is prevented from engaging in many relevant processes.

Another serious issue to be raised in this context is the perception of NGOs. Often NGOs are not taken as serious counterparts or potential partners by governments or international organizations. Especially in conflict regions with major donor involvement, a huge number of NGOs have been founded. Accusations of incorrect accounting practices and corruption are voiced loudly and negatively influence the perception of NGOs. Such incriminations are quite serious in some cases. In Africa, for instance, the ECOMOG peacekeeping force alleged that some of the war parties were using NGOs for propaganda purposes and for support in getting weapons into the country.¹⁵

Media Outlets

Another important non-state actor in the context of human security to be mentioned in this chapter are the various media outlets. When television, radio, newspapers, websites and social media give publicity to different matters related to human security by providing and processing information, they can have significant influence on public perception and the political atmosphere. Consequently, the level of quality of media contributions determines the direction of the impact. If independent and correct facts are communicated, media outlets can have a positive and constructive impact. In this optimum case, the public, state institutions and policymakers are provided with a sound base of information for planning further initiatives.

Unfortunately, this is not always the case. Often media contributions on human security-related issues are superficial, biased and sensationalized. Media is used to polarize the public's perception, often using deferred or even incorrect information. Such "negative" cases of media impact, where incorrect or biased information is spread, can have a very detrimental influence on the activities of civil society actors and might obscure or jeopardize their achievements.

Journalists

Alongside the important role played by media incorrectly and neutrally reporting the relevant facts of potential conflicts or problems, attention should be given to the specific role of journalists within the human security framework.

Journalists are present in the field to collect information for reports on conflicts or other types of threats to human security. Here they face the danger of becoming victims of the violent conflict themselves as a result of being in the middle of it, or they might even be targeted directly to prevent them from reporting about the conflicts or issues. An additional occupational challenge facing journalists is the possibility of being punished for their journalistic work. Due to these obstacles and dangers impeding journalism, journalists working in international armed conflicts are in fact mentioned explicitly in humanitarian law.¹⁶ Even outside armed conflicts journalists should enjoy the protection of human rights law, ensuring their basic rights as civilians, such as the right to life, freedom of speech and freedom from arbitrary arrest. Such legal mechanisms demonstrate the importance of protecting journalists in performing their work. Only when journalists are not prevented from reporting about critical issues can investigative journalism contribute to human security.¹⁷

Peacekeeping Operations

Another group to mention as important actors are the different types of peacekeeping operations. Peacekeeping operations work closely with host nations and international partners towards strengthening local capacities for conflict management. They provide security and political support to countries transitioning from conflict to peace. Prosecuting crime and achieving sustainable institutional reforms are essential to ensuring social justice. It is also crucial to restoring public trust in state institutions.¹⁸ Such operations are usually multidimensional, with a mix of military, police and civilian capabilities. With regard to humanitarian aid, the primary role of peace operations is to provide an “environment within which humanitarian actors may carry out their activities”.¹⁹

A glimpse into the reality of peacekeeping missions shows that there is still a great need for improvement to tackle the list of challenges faced. A serious problem involves coordinating all the different actors in the field: the staff of peacekeeping operations (working under international organizations such as the OSCE or UN or in EU-operated missions), consultancies implementing projects, NGOs and other actors in the field. Close coordination among actors becomes crucial when project activities are interlinked, which is often the case. For instance,

one organization (be it an international organization, an NGO or a consultancy) is in charge of monitoring trials, while another organization is in charge of the reappointment of judges and prosecutors. Here it is crucial to ensure that the results of monitoring are passed on in a timely and efficient manner to the organization with the authority to implement those results.

Similar to the staffing situation in NGOs, peacekeeping operations also face serious difficulties due to the short-term nature of their contracts. International police officers and civil servants from the judiciary are seconded to peacekeeping missions usually only for one year. This is the minimum period required to become acquainted with the culture and the conditions on site and to gain the trust of local counterparts. Once the international staff member has adapted well enough to be able to pursue the relevant activities in a successful and sustainable manner, their mandate expires and the individual leaves the conflict area. Sometimes local counterparts who are not eager to achieve any change or improvement take advantage of this situation and simply sit out the period, either being unavailable for the internationals or humouring them until they leave.

Staff problems in general also represent a serious issue. In this regard, a policy brief drafted by the German Centre for Peacekeeping Operations (ZIF) concludes that the special conditions of peacekeeping require human resource units to be extremely highly skilled. Yet experience in practice reveals obvious deficits in communication, evaluation and team-building abilities in the missions.²⁰ The same paper also concludes that conflicts and even misbehaviour are often not addressed but rather ignored.

Religious People and Communities—Informal Justice Systems

Religious people and communities of different faith traditions also have a long history of providing humanitarian assistance. They offer accommodation and shelter to people fleeing persecution or poverty. In consequence, governments and international organizations seek to involve religious organisations in the provision of welfare services.²¹ Within this context of religious people and communities, the existence of **informal justice systems** and their great importance for achieving human security are more closely examined in the following.

Informal justice systems are dispute resolution mechanisms falling outside the scope of the state-administered formal justice system. Informal justice systems are often more accessible to poor and disadvantaged people and may have the potential to provide quick, cheap and culturally relevant remedies. Informal systems can be crucial to restoring a certain level of law and justice, especially in post-conflict countries or fragile states where formal procedures and mechanisms to restore human security may have completely disappeared. Such systems focus on consensus, with the goal being not just to punish the perpetrator but to compensate the victim for their loss and to reintegrate both the victim and the offender into the community.²² In areas where people live in very tight communities whose members must rely on cooperation with their neighbours, the informal justice system is the appropriate option for restoring peace and human security.

Informal justice systems are prevalent throughout the world, especially in developing countries. They often exist parallel to the state system, and the population tends to prefer such traditional systems. This is particularly the case in countries that were colonized or occupied and where customary laws and practices were subordinated to foreign law systems. In many such countries, the majority of the population sees the formal justice system as something foreign to them compared with the customs they are familiar with.²³

In some situations, however, informal justice systems face challenges. To name just a few examples: they do not help to resolve conflicts between parties holding highly varying levels of power; they tend to exclude women and disadvantaged groups, as the systems are dominated by men; and they are hindered by a lack of accountability, as the village elders “judging” the cases are generally not elected but appointed and may thus abuse their power.

Despite the fact that many people approach informal justice systems, very limited support is given to such systems. International donor efforts and peacekeeping missions often tend to ignore them because such systems do not fit into their “rule of law building” approach. Such transitional systems can nonetheless serve as a stabilizing factor in societies. Transitional justice can become a tool to build trust, in the government and among former opponents and adversaries.²⁴ Thus, it is necessary to engage with informal justice systems; rather than ignoring their existence, their weaknesses should be addressed.

Migration and Development Sector

When listing the non-state actors who play a significant role when it comes to supplementing the state's responsibilities, the migration and development sector needs special emphasis. Migration and development are interdependent processes, and each of these two processes can influence the other. Acknowledging this, several actors develop and implement migration and development programmes. These programmes contribute to the work of the national and international community to harness the development potential of migration for the benefit of both societies and migrants, to contribute to sustainable development and to improve human security.

To achieve these goals, several organisations engage in many types of migration and development-related activities. Focussing on the MENA region, there is a long list of support measures. So it is difficult to provide an exhausting list of all projects, and only a few should be mentioned as examples.

The *Joint Migration and Development Initiative (JMEDI)* is an inter-agency partnership between IOM, the United Nations Development Programme, the United Nations Population Fund, the United Nations High Commissioner for Refugees and the International Labour Organization. Funded by the European Commission, this initiative aims to build the capacities of migrant and diaspora organizations to promote development primarily in 16 target countries. By gathering and sharing best practices through an online community of practice and supporting small-scale projects linking these organizations with their countries of origin, the initiative aims to empower these organizations to work independently and sustainably to promote development.²⁵ The *International Organization for Migration (IOM)* in the MENA supports states in realizing their national priorities and in fulfilling their international commitments in the area of migration, displacement and mobility. In its 2017–2020 Strategy for MENA, sub-regional priorities are outlined. The objectives represent priority areas for action to improve the conditions and impacts of migration for individuals and societies, address acute and structural challenges in migration governance and contribute to meeting international commitments and standards.²⁶ Also the German development agency, the *GIZ*, for instance, engages in creating prospects for the future in countries in the MENA region, to ensure that people are no longer forced to leave but can decide of their own free will whether or not they wish to migrate. The GIZ helps by improving the food supply, opening

up training and job prospects and supporting economic development. For instance, the GIZ is supporting business start-ups and young entrepreneurs in Tunisia with the objective to generate home-grown professional opportunities for people in their home country.²⁷ It further assists young people in Tunisia to build up their long-term career prospects.²⁸

CONSEQUENCES AND CORRELATIONS: FAILING STATES—MIGRATION

Up to now, the discussion has focused on the various non-state actors, their role in supplementing the states' responsibilities and the challenges involved. The following chapter elaborates in detail the correlations between failing states, non-state actors' intervention and migration.

The challenges faced by the various non-state actors in supporting or supplementing states' responsibilities are manifold. NGOs face restrictions due to dependency on funding, journalists face the danger of becoming victims of violent conflicts themselves and peacekeeping operations struggle with efficient programming and with procuring professional staff. Not all of these challenges can be handled successfully or within a short time frame. This evidently leads to a situation where the various non-state actors fail to ideally supplement the state's functions. Consequently, peace and justice cannot be achieved, the level of insecurity rises and the level of dissatisfaction among the population increases as well. The problem of the fragile state persists. Basically, in this worst-case scenario, the efforts put forth by the non-state actors can also be described as "failed"; they did not succeed in their effort to supplement the gaps caused by the state's failure to provide human security. This boils down to a situation characterized by a double failure: failed state plus failed non-state actor intervention.

The following chapter demonstrates the consequences of this additional failure of non-state actors to supplement the state's obligations. The close correlation between failed states, failed support by non-state actors and migration is then examined in detail.

Failed States as Push Factors

Failed states are generally known or considered as push factors for migration. Worsening political and socio-economic conditions triggered mass emigration from Ireland to the USA, Canada, Australia and

New Zealand in the nineteenth century. In Latin America as well, substantial emigration to the USA started in the 1970s due to repressive governments and a growing socio-economic gap. Severe constraints arising from poverty caused Africans to migrate, primarily to other African countries but, from the 1970s onwards, also towards Western Europe.²⁹ To mention another prominent example, large numbers of Zimbabweans fled their country between 2000 and 2010, no longer able to sustain even the most basic living conditions due to a collapse of economic and political institutions.

The fact that failed states are considered as push factors for migration is taken as a given in the literature, whereas the various authors do not dwell on the causality between failed states and migration.

Krug/Barnard list authoritarian regimes, forced conflicts, poverty and political repression among the factors that cause people to leave their homes. “African refugees flee from civil war, ethnic tensions, marauding warlords and religious extremists ...”.³⁰

Long also takes it as a given fact “that the fragility of states can contribute to forced migration”. She mentions the examples of Ethiopia and Burma where, after elite took over effective control and state institutions, warlord economies thrive and opposition groups are persecuted. Chad, DRC and Haiti are listed as further examples of countries where the fragmentation of the state led to violent civil conflict which in turn caused flight.³¹

Evidence for Causality Between Failed States and Emigration

Despite this tendency in the literature to simply assume that failing states and migration are related, some evidence for this relationship does exist, that is for the causality between the deteriorating situation of a failed state’s population and emigration.

IOM recently examined the migration flows across the Mediterranean based on 133 in-depth qualitative interviews. The field work, conducted in several states of the MENA region, brought to light interesting findings on the causality between failed states and migration: “The underlying and most significant push factor for most people on the move, regardless of their origins, tends to be the need to flee from instability. This instability may take the form of war or conflict ... or may relate to economic or societal pressures, or the lack of livelihood opportunities”.³²

As part of research conducted by Mixed Migration Hub, migrants and refugees were questioned about their reasons for leaving their home countries.³³ In response, interviewees from north-east Africa (Eritrea, Ethiopia, Somalia and Sudan) cited persecution directed at them personally and their families as well as conflict. Refugees from Eritrea said they fled their countries due to the threat of conscription and oppression by the governing regime. People from Sudan felt compelled to leave in the face of the destruction caused by the ongoing conflict between government and rebel forces. A number reported having been imprisoned by government authorities on suspicion of being rebel supporters.³⁴

When seeking evidence for the motives leading people to migrate, one general observation can be made. Migrants might very well not give an academic answer based on an in-depth analysis. Rather it can be assumed that they will provide the most obvious, predominant reason in response to the question posed to them. The problem in achieving reliable surveys and statistics is that many people possibly do not flee from the political situation directly but rather from the economic consequences underlying the political situation.³⁵

This hypothesis is supported by the results of several research studies.³⁶ Two examples from Libya, as one of the most important transit countries in the MENA region, are presented in detail in the following.

In Libya, the IOM's Displacement Tracking Matrix (DTM) revealed that the majority of respondents (90%) reported having left their countries of origin due to economic reasons, which could include poverty and lack of access to livelihood opportunities. Only 3% reported war, conflict, insecurity or politics as grounds for leaving.³⁷

A UNHCR-commissioned study on mixed migration patterns in Libya collected data between October and December 2016.³⁸ Significant factors or drivers for refugees arriving in Libya included political intolerance and repression, armed conflicts, general insecurity, violence, threats, crime and a lack of a rule of law. One or more of these factors was mentioned by 51% of the questionnaire respondents in Libya.³⁹ For instance, the majority of Eritreans reported fleeing their country due to the political situation and claimed they faced political and/or religious persecution. In Ethiopia, tensions escalated in the summer of 2015 following the government's decision to expand the federal administration to cover the Oromia Region. The decision sparked a wave of protests by the Oromo people. These demonstrations led to violent crackdowns by the government which saw hundreds killed and forced thousands to flee the country.

The UNHCR-commissioned study also revealed the economic situation and the lack of job opportunities as by far the most frequent factor or driver cited by respondents (66% of them mentioned either the lack of job opportunities, the economic situation or both). Yet this research also acknowledges that economic factors or drivers were frequently combined with other push factors. “Refugees from countries where conflicts and oppression cause many social ills often cite economic push factors but that should not in any way minimize the validity of actual threats to their life, physical integrity or freedom in countries of origin”.⁴⁰

CASE STUDY: PALESTINE

Another region of the MENA, the occupied Palestinian Territories (in the following: “Palestine”), proves an interesting example explaining the relationships between a failing state (or better bad governance, as the state is only in preparation), intervention by critical non-state actors and the gradual emigration of the population. This Palestinian case study is described in greater detail in the following, as highly relevant data were collected in this context which underpin the hypothesis that not only the failed state but also failed state-building is a push factor for migration.

Palestine today no longer struggles solely for a lasting peace agreement with Israel and the creation of a territorially defined state. Visible efforts have been made towards building in the West Bank territory a democratic state based on the rule of law. Palestinian criminal justice institutions, including public prosecutors, the courts, the penitentiary and the Ministry of Justice, receive support from a long list of international donors.⁴¹

Considering the amount of effort invested in the rule of law building in Palestine, the immediate question arises as to whether the amount invested corresponds to the outcome and the success achieved in the meanwhile.⁴²

Establishing a functioning judiciary is a rather complex process, both in regard to the topics but also in regard to the range of institutions and counterparts, which need to be taken into consideration. A few examples illustrating only some of the **challenges** existing in Palestine are given in the following.

The right to counsel—one of the basic standards of a fair trial—is often neglected, although both specified and implied in the Basic Law and the Criminal Procedure Code of Palestine.⁴³ Despite clear regulation by law,

the implementation of this right in practice looks very different. Palestinian civil police officers in general fail to ensure the right of access to defence counsel during police investigations. According to civil society representatives and lawyers, the police do not inform the arrested of their right to defence and do not offer them access to such counsel. Furthermore, if the arrested person requests a lawyer, their request is refused.⁴⁴

Another challenge lies in the implementation of a system for free legal assistance. Although this right is also reflected in the applicable law, the criteria for legal aid eligibility have not yet been determined. This leads to fee expectations that are obviously exaggerated and often appear unrealistic when compared with similar fees charged in Europe or in neighbouring countries. Furthermore, adequate and prompt payment of any court-appointed defence is not ensured. Due to the difficulties with payment, lawyers tend to refuse the appointments or, when appointed, do not appear in court for the scheduled hearing.⁴⁵

Non-state actors also have an **important role** here in contributing towards filling the gaps, left by official authorities, which preclude an efficient criminal justice system.

There is a vast NGO landscape within Palestine consisting of approximately 3000 NGOs registered with the Ministry of Interior of Palestine.⁴⁶ Several of the challenges existing in Palestine represent ideal targets for the involvement of civil society organizations: NGOs could provide a significant contribution through raising the population's awareness of basic rights—only once the public is aware of their rights are people able to claim respect for their rights from the authorities.

In addition, NGOs potential plays an important role in providing free legal aid to members of the population who cannot afford to pay for their legal defence. Despite this urgent need, the number of NGOs providing legal aid in criminal cases is generally very low.

In summary, there is a strong and obvious tendency in Palestine to undermine in practice basic legal principles, which are enshrined both in international and local laws. Non-state actors only partly manage to fill the existing gaps.

A functioning system of rule of law is nonetheless a crucial element for the envisaged Palestinian state. If progress within the judiciary is not perceivable or even gets bogged down, the people will lose hope of ever achieving their own state. Failing to achieve such a state, in which the rights of the Palestinians are protected, would represent a significant **push factor leading to migration** to other areas.

Some **surveys** in Palestine demonstrate that the level of dissatisfaction among the population has become quite high recently. The Palestinian Center for Policy and Survey regularly conducts surveys on immediate issues of concern to Palestinians.⁴⁷ The survey examines some of the topics that are of relevance for this chapter specifically relating to the relationship between failed states and migration. The most relevant question is the following:

Do current political, security, and economic conditions lead you to seek emigration abroad?

According to the opinion poll, in total, only 8.9% of the persons questioned in 2009 stated that they would “certainly seek to emigrate”. In September 2015, the percentage increased to a peak of 18.5%. Furthermore, the persons who would “seek emigration” increased from 16.8% in December 2009 to 19.5% in July 2015 at a virtually constant rate. Correspondingly, the percentage of people who “certainly do not seek emigration” fell from 44.5% in 2009 to only 28% in September 2015 and remained more or less stable at 27.7% until July 2017. Thus, it can be concluded that the number of persons who are ready to emigrate from Palestine has increased in recent years.

Another survey question relates directly to security and safety:

Would you say that these days your security and safety, and that of your family, is assured or not assured?

While in 2009, only 9.9% of the respondents answered that their security and safety were “completely assured”, the number further decreased to only 5.8% in July 2017. Also, the number of interviewees considering their security as at least “assured” decreased by 10% or from 53.5 to 43.5% during the same period. Correspondingly, the percentages of people who consider their security as “not assured” increased from 30.7% in December 2009 to 39% in July 2017. Thus, it can be concluded that the Palestinian population’s perception of their security deteriorated throughout the last eight years.

With the selection of these four periods, peaks and low points were targeted, while increases and decreases can be seen during the years in between. Despite this fact, the tendency in the figures is clear, even when the entire period is considered.

These very specific data show that in several aspects relevant for state-building the Palestinian population have gradually been losing confidence in recent years. This strongly supports the previous argument that the dysfunction of a state—combined with insufficient support on the part of civil society—makes or forces more people to emigrate and seek protection and opportunities elsewhere.

The same phenomenon can be discovered when expanding this Palestinian case study to the **MENA region**.

Palestinians constitute a significant population group of displaced persons in the world today. By the end of 2016, there were 5.3 million Palestinian refugees registered by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), which makes them the second largest group of refugees after Syrian refugees (5.5 million).⁴⁸ By the end of 2016, 60% of all displaced Palestinians continued to live as refugees in forced exile outside the Palestinian Territories (Table 5.1).⁴⁹

Table 5.1 Percentages of Palestine refugees as of 1 January 2017 (*Source* UNRWA (2017), UNRWA in Figures 2017, https://www.unrwa.org/sites/default/files/content/resources/unrwa_in_figures_2017_english.pdf)

<i>Country/area of registration</i>	<i>Percentage</i>
Jordan	40.7
Gaza Strip	25.3
West Bank	15.2
Syria ^a	10.2
Lebanon	8.7

^aAll Syrian figures represent a working estimate as the situation in Syria remains volatile

Many of them have experienced further forced displacement within or from their Arab host countries due to the political crisis in the region. BADIL, a Palestinian human rights non-profit organization,⁵⁰ lists as causes for further displacement the following: “armed conflict, unstable relations between Arab countries and the PLO or PA, and discriminatory policies”.⁵¹

Looking at Palestinians in Syria, from 2011 to mid-2015, more than 60% of the Palestinians refugees in Syria were displaced to different parts inside or outside Syria.⁵² The ongoing Syria crisis continues to have a negative impact on Lebanon’s socio-economic climate. By the end of 2016, the Government of Lebanon estimated that the country hosts 1.5 million Syrians who fled the conflict, among them 32,042 Palestinian

refugees from Syria. In addition, there are an estimated 450,000 Palestinian refugees already registered in Lebanon, out of which an estimated 270,000 are in the country.⁵³ The unemployment rate among Palestinian refugees registered in Lebanon increased from 8% in 2010 to an estimated 23% in 2016. In addition, Palestinian refugees registered in Lebanon continue to face difficulties in securing their livelihoods as a result of severe labour market restrictions. Consequently, poverty and food insecurity among them remain high.⁵⁴

As illustrated in the examples above of Palestinian refugees living in other areas of the MENA region, bad governance negatively impacts human security and causes migration movements. Once people start losing their trust that the situation would improve and at the same time living conditions deteriorate, people are forced to start looking for alternative options.

This brings us to the concluding section of this chapter. Recognizing that the increasing instability of a state and the related growing frustration among its population are closely connected with migration and observing the growing perplexity among receiving states as to how to deal with increasing numbers of migrants: Why do the states receiving migrants not bolster their efforts and more strongly emphasize efficient support for state-building?

CONCLUDING REMARKS

Although the call to tackle the root causes of migration has been heard more frequently in recent years,⁵⁵ this insight has not necessarily been translated into visible, immediate action. While some consideration might be given to possibly increasing contributions to development aid, there is often a risk of such discussions getting bogged down in political debates.

A more immediate effect could be achieved if already existing mechanisms were to be improved and their efficiency increased. Most countries receiving migrants and refugees also have programmes in place in the countries of origin, to support state-building or to foster other areas of development cooperation. It would be much more efficient to focus on development programmes that are already operating. What could be done in order to increase the efficiency of programmes in operation? What should be done to support the staff operating in the developing countries, and how could this staff's level of professionalism be increased?

EU Member States feeling pressured by increasing numbers of migrants should examine very closely their options for improving state-building efforts in the migrants' countries of origin: professional staff, better coordination among donors, serious consideration of issues reported by peacekeepers to the governments sending them and well-planned programmes. Preventing fragile states and the emergence of conflicts is difficult, yet easier and less expensive than coping with the consequences.

Furthermore and more importantly, the vast majority of migrants have the utmost interest in staying and living in their home countries—as long as decent living conditions exist. “Most of the refugees I have met just want—like most people—to have a future in their home countries. They want to live where their homes are, and their families. They need our support and assistance to help them realize this desire”, the German Development Minister stated.⁵⁶

Addressing the problems in state-building and successfully managing the support of failed states constitutes one option to meet the broader migration challenge, thereby ensuring that people are not forced to flee, that they enjoy protection and security by their state and that the state provides a framework for living in dignity.

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CHAPTER 6

Intervention and Policy in the Mediterranean Refugee Crisis

Nur Koprulu

INTRODUCTION

The refugee crisis in the Mediterranean following the war in Syria is today regarded as the biggest influx of refugees that the international system has faced since the end of World War II (WWII). The Arab Spring engulfed most of the Arab countries in the Middle East and North Africa beginning in 2011. After first erupting in Tunisia, the social uprisings spread to Egypt, Syria, Libya, Jordan, Morocco, Bahrain and also Yemen. The uprisings found particular resonance in Syria, where public protests and the involvement of external actors have divided the country. An estimated 9 million Syrians have fled their homes since the outbreak of civil war in March 2011, taking refuge in neighbouring countries or being internally displaced. According to the United Nations High Commissioner for Refugees (UNHCR), about 5,163,650 million have fled to the neighbouring countries¹ of Turkey, Lebanon, Jordan and Iraq, while 6.5 million are internally displaced. Moreover, nearly 450 thousand Syrians have declared asylum in European countries, with a

N. Koprulu (✉)

Department of Political Science and Faculty of Economics and Administrative Sciences, Near East University, Mersin, Turkey

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small number offered resettlement by countries such as Germany and Sweden (EU 2014).

As far as the Syrian refugees are considered, the question of human security needs to be analysed with the dramatic increase in the number of refugees migrating to neighbouring as well as European countries. Thus, this chapter aims to explore the impact of the crisis in Syria, as well as its spillover effects on the neighbouring countries. Within this context, this section attempts to shed light on the limits of the international community's capacity, such as the ability of the United Nations (UN) and the European Union (EU) to tackle this humanitarian issue, with reference to the impact of the Mediterranean crisis.

Given the increased migration throughout the Mediterranean region, this chapter aims to discuss to what extent humanitarian intervention and the responsibility to protect (RtoP) civilians are effective instruments for rebuilding post-conflict situations. At this point, the legal/humanitarian dilemma over either "the right to intervene" or "the responsibility to protect" comes to the fore. Although the international order mostly agrees to maintain the principle of non-intervention and to respect states' right to sovereignty, this principle might preclude international actors from preventing major humanitarian crises, as in the case of Syria since 2011. The phenomenon of humanitarian intervention and the responsibility to protect are thus explicitly linked to the regulation of mass human migration.

Within this framework, the failure of the Dublin Agreement suggests a critical moment in the processes of European integration, as well as common foreign and security policy formation, and will help us to shed light on how the EU and other international actors have experience challenges during this unpredicted human right crisis.

THE CRISIS IN THE MEDITERRANEAN: REGIONAL IMPLICATIONS

Europe, today, is experiencing one of the most significant influxes of migrants and asylum seekers since the end of the World War II. Huge numbers of Syrians have fled around the Middle East and North Africa, and some have tried to find ways to reach Europe. It is estimated that more than a million migrants and refugees crossed into Europe in 2016 alone. The vast majority of these came from Syria, Iraq and Afghanistan.² The International Organization for Migration (IOM) estimates that 3770 people drowned or went missing crossing the Mediterranean to

Greece or Italy in unsafe boats in 2015.³ According to UNCHR data, 310,000 people arrived in Italy and Greece in 2015.⁴

According to the UNHCR, there are nearly 2 million refugees in Turkey in 2016, while the Turkish Prime Ministry announced that Turkey currently hosts more than that number of refugees.⁵ Lebanon and Jordan are also currently hosting enormous numbers of Syrian refugees. For instance, 23% of Jordan's overall population consists of refugees (Palestinians represent by far the largest group of refugees in the country); it has the highest ratio of refugees per capita of any country in the world today.

Since the beginning of 2015, hundreds of thousands of refugees have made their way into Europe through Turkey, crossing the Mediterranean then travelling northwards through south-eastern Europe.⁶ 10,000 refugees enter Serbia and 7000 enter Macedonia on a daily basis, and the Balkan countries have become buffer zones for refugees seeking to enter the countries to the north.⁷

The number of migrants missing in the Mediterranean is far beyond the number relocated to EU member states. The number of people who lost their lives in the Mediterranean was 3770 in 2015, compared to over 5395 migrants who lost their lives around the world. For instance, in Lebanon refugees represent 20% of the total population. As of 19 February 2016, 411 migrants had gone tragically missing. In contrast, the relocation figures lag far behind the promised scheme. As USAK reports, "as of 7 March 2016, 338 (out of 39,600) relocated from Italy and 534 (out of 66,400) relocated from Greece as part of the implementation of the Emergency Relocation Mechanism, which indeed foresees the relocation of 160,000 people".⁸

SYRIAN REFUGEES IN TURKEY

From the outbreak of the uprisings in Syria, Turkey implemented "an open door policy" for displaced Syrians. The total number of people who entered the country was 3,106,932 as of 4 September 2017.⁹ At the beginning of the war in Syria, Turkey hosted the refugees in the camps, where health services, direct aid and education were provided. However, today only 10% of these refugees can be found in the 22 camps, while the rest are scattered around the country. As International Crisis Group put forward; "A challenge started as 'guests' being housed in camps and given emergency help in 2011 has turned into 2.75 million Syrians under 'temporary protection', 90 percent of them settled around the country".¹⁰ Turkey has become the main country hosting a huge number of Syrian refugees. Turkey's President Recep Tayyip Erdoğan welcomed the refugees and stated that:

We are a nation that has the consciousness of *ensar* (who help fleeing Muslims from Mecca to Medina). We see all our siblings coming to our country as *muhacir* (who had to move from Mecca to Medina) and convivially welcome them. We open our homes to them, share our bread. Today there are around two million siblings within our borders who fled from ... Syria and Iraq. ... Two million here, 130,000 in the whole of Europe. Where is [your commitment] to human rights, the Universal Declaration of Human Rights?¹¹

With the influx of large numbers of Syrian refugees across the borders of Turkey, there is an increase in Turkish people's perception of societal and economic security rooted in "the misconception that Syrian refugees are violent and inclined to criminality" and can steal Turkish people's jobs. It is apparent that Turkey's policy of "temporary protection" is not viable and sustainable due to the current situation in the country as well as the enduring war in Syria.¹²

Turkey had received 455 million dollars from international donors and spent more than 8 billion dollars on refugees as of February 2016. The first arrivals on Turkish territory were Sunni Syrians, as well as ethnic Turkmens and Alawites.¹³ Later, Turkey started to host Yazidis, Christians and Kurds from northern Iraq. In particular, the Kurdish population from Iraq came to Turkey after the Islamic State in Syria and Iraq's (ISIS) capture of Mosul in 2014.

Turkey has attempted to integrate Syrian refugees into the formal labour market, and as of January 2016, the government had begun to grant work permits as a key move allowing Syrians to build a more prosperous life within the country.

The EU recently approved 3.3 billion Euros in funding to help Turkey cope with the huge number of refugees coming from Syria. European Council President Donald Tusk indicated that "it is up to Turkey to decide how to reduce the flow to Europe, but that it could be time to turn back migrant boats trying to reach Greece".¹⁴ EU data from 2014 show that 23% of asylum claims from migrants whose applications originated in Turkey were deemed well-founded.¹⁵

THE EU'S RESPONSE

Following the outbreak of the Arab uprisings and other critical events affecting the southern Mediterranean, the European Commission declared a revised framework of the EU's migration policy. Within this

framework, promoting the international protection and enhancing the external dimension of *asylum* became an important objective, among others including better organizing legal migration, preventing irregular migration and promoting development. Respect for human rights is supposed to be a cross-cutting priority for the external migration policy frame. The EU also declared its intention to promote “mutually beneficial” partnerships with third countries and thereby to serve as an example of international cooperation in a balanced and comprehensive manner.¹⁶

Under an EU rule known as the Dublin Regulation, refugees are required to claim asylum in the member state in which they first arrive. But as recently reported by the BBC, some member states like Greece, Italy and Croatia have been allowing people to pass through—often via the passport-free Schengen zone—to countries farther north.¹⁷ And those countries are often failing to send migrants back. Germany, for instance, received more than 1.1 million asylum seekers in 2015, which is the highest number in the Union so far. In Hungary, Croatia, Austria and Serbia, there are also thousands of people seeking asylum.

However, with the crisis running high, the main challenge for the EU remains its capacity for implementation, i.e. the considerable gap between rhetoric and practice. The EU has been widely criticized for implementing one-sided policies inconsistent with its rhetoric of fairness.¹⁸ On 25 August 2015, François Crépeau, the UN Special Rapporteur on the human rights of migrants, stressed, “Let’s not pretend that what the EU and its member states are doing is working”.¹⁹ This criticism was brought into sharp focus on 2 September 2015, when the body of Aylan Kurdi, a three-year-old boy, washed up on Turkey’s Mediterranean shore and became an international symbol of the Syrian refugee crisis. This tragic incident led the commission to deliver a new “comprehensive” package of proposals, primarily including a revised relocation scheme to help Greece and Italy deal with the influx of refugees.

As Rebecca Bryant observed at the time, “the EU is on the brink of making a ...costly mistake for the sake of domestic expediency”, continuing that “rather than shutting down migrant pathways, the EU should provide safe routes to Europe while obligating members to fulfil increased resettlement obligations”.²⁰

The EU has been struggling to harmonize its asylum policy. In the EU, an area of open borders and freedom of movement, countries share the same fundamental values and states need to take a joint approach

to guaranteeing high standards of protection for refugees. With this in mind, EU states have been committed to establishing a Common European Asylum System (CEAS) since 1999, and to improving the current legislative framework. Between 1999 and 2005, several legislative measures harmonizing common minimum standards for asylum were adopted.²¹ The strengthening of financial solidarity with the creation of the European Refugee Fund was also a part of this strategy. In addition, in 2001, the Temporary Protection Directive allowed for a common EU response to a mass influx of displaced persons unable to return to their country of origin.²²

As revealed through the crisis in the Mediterranean, the EU's agenda is occupied with the issue of how to share the refugee burden and is split over how to tackle the crisis. The EU interior ministers approved a controversial plan to relocate 120,000 migrants across the continent over the next two years, with binding quotas. However, Romania, the Czech Republic, Slovakia and Hungary have opposed the scheme, and Hungary, Croatia and Slovenia closed their borders to refugees coming from Serbia. The Polish government declared that Poland would not participate in the reallocation scheme, and Bulgaria built fences along its borders to avoid the influx of migrants.²³ EU member states thereby came to rely on neighbouring Turkey to relieve its burden, and contributed 3 billion Euros to help Turkey cope with its millions of refugees, and to convince it to help prevent these refugees from reaching EU member states.

THE CONCEPT OF HUMAN SECURITY AND RESPONSIBILITY TO PROTECT (RtOP): IS THERE A UNIVERSAL PERSPECTIVE?

The concept of human security was established in 1994 in the UNDP's *Global Human Development Report* (HDR), which was also adopted at the 66th UN General Assembly (UNGA) session in 2012.²⁴ The HDR rested the concept of human security on two main pillars that distinguished it from physical security, i.e. *freedom from fear* and *freedom from want*.²⁵ What makes this different from the orthodox definition of security is that people have "the right to live in freedom and dignity, free from poverty and despair ... with an equal opportunity to enjoy all their rights and fully develop their human potential".²⁶

Thus, the goal of human security, in the final report *Human Security Now*, was defined as:

to protect the vital core of all human lives in ways that enhance human freedoms and human fulfilment. Human security means protecting fundamental freedoms – freedoms that are the essence of life. It means protecting people from critical (severe) and pervasive (widespread) threats and situations. It means using processes that build on people’s strengths and aspirations. It means creating political, social, environmental, economic, military and cultural systems that together give people the building blocks of survival, livelihood and dignity.²⁷

As also indicated in the Introduction of this book, “Human security in its broadest sense, embraces far more than the absence of violent conflict. It encompasses human rights, good governance, access to education and health care and ensuring that everyone has opportunities and choices to fulfill his or her potential”.²⁸

The crisis in Syria has posed a threat to regional and international peace and security since its eruption in 2011. Although the popular protests were dispersed all over the region, the crash of upheavals differed from country to country. For instance, the course of events resulted in human rights violations and brought questions over humanitarian intervention and the RtoP for the cases of Libya and Syria. Both cases exhibited similarities in terms of human rights violations and the threat represented to international peace and security, but the responses of the international community were divergent. The UNGA condemned the actions of the Assad regime in Syria by passing various resolutions articulating that these were a violation of human rights; in contrast, on several occasions, the UNSC failed to adopt resolutions that included sanctions against the Syrian government.

The concept of RtoP is regarded as a *developing norm* of international law, which dates back to UNSC Resolution 1674, adopted in 2005. Resolution 1674

Reaffirms the provisions of paragraphs 138 and 139 of the 2005 World Summit Outcome Document regarding the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity; ... [and] Emphasizes in this context the responsibility of States to comply with their relevant obligations to end impunity and to prosecute those responsible for war crimes, genocide, crimes against humanity and serious violations of international humanitarian law, while recognizing, for States in or recovering from armed conflict, the need to restore or build independent national judicial systems and institutions.²⁹

THE IDEA OF COLLECTIVE SECURITY UNDER THE UN CHARTER AND ITS CRITIQUES

The UN Organization was established in October 1945, following World War II, with the aim of maintaining peace and security, promoting human rights and self-determination, as well as fostering sociocultural and economic cooperation among its members. The drafting process of the UN Charter—which is the constituent document of the Organization and also regarded as one of the main sources of international law—began before the end of the WWII; it initially had 50 signatory countries. During the post-Cold War era, questions over the effectiveness and the ability of the UN to respond to human rights crises and international conflicts have resurfaced due to the increased number of civil and ethnic conflicts at the domestic or regional level where the jurisdiction of the UN is severely limited. As some scholars argue, the UN is a wartime cooperation that became a peacetime institution with the end of WWII, where the winning powers of the international system have secured a permanent seat and veto rights in the UN Security Council (UNSC).

The Security Council is the ultimate decision-making body of the UN, responding to issues related to international peace and security (Article 24). As is also stated in Article 25 of the UN Charter, the decisions of the UNSC are binding on all member states: “The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter” (UN Charter, Article 25).

The UN is an intergovernmental organization that generally aims to solve interstate problems, rather than intrastate. As stated in Article 2, “All the states are equal in their sovereign rights” and “Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII”. The UN endorses and affirms the principle of non-intervention into the domestic jurisdiction of member states; in contrast, under Chapter VII, it legitimizes—under certain circumstances—intervention (through sanctions) into the internal affairs of states. The main article that authorizes the UNSC to impose sanctions and use force is Article 39, which stipulates that “The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make

recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security". Thus, it is the UNSC, which can decide if there is a threat to peace or aggression, and to take necessary measures to end the threat to peace and security. If Article 39 is invoked, then the SC can take immediate action under Article 41:

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

In cases where Article 41 is not adequate, then the UNSC can use its means under Article 42:

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

During the Cold War, it was nearly impossible to take any resolution in the UNSC with respect to sanctions and maintaining collective peace and security due to bipolarity and confrontation among the two superpowers, the USA and USSR. Thus, in the history of the UN, there have been only two cases where the collective security system—as stated above—was enforced, i.e. the 1951–1953 Korean War and the 1990–1991 Gulf War following the Iraqi invasion of Kuwait. Given that the Soviet Union was absent during the Korean voting, some argue that the only real collective security decision was taken in the case of the 1990 Iraqi invasion of Kuwait.

In Resolution 688, the Security Council was:

Gravely concerned by the repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish-populated areas, which led to a massive flow of refugees towards and across international frontiers and to cross-border incursions which threaten international peace and security in the region.³⁰

THE LIMITS AND RESPONSES OF THE INTERNATIONAL COMMUNITY REVISITED

Today, human security encompasses the security of people: their physical safety, their economic and social well-being, respect for their dignity and worth as human beings, and the protection of their human rights and fundamental freedoms. However, with the huge increase in migration across the Mediterranean Sea, the limitations and shortcomings of international actors/organizations such as the UN and the capability of the EU to overcome this humanitarian issue need to be re-evaluated.

Due to negative votes from two permanent members (the Russian Federation and China), the Security Council at various times has failed to adopt a resolution that would have imposed sanctions on the ruling regime in Syria. In terms of international response, the case of Syria needs to be analysed separately from the other countries engulfed by the uprisings since 2011. From the beginning of the crisis, Western countries have indicated that international intervention was not the preferred policy. This continues to be the case today, in spite of claims that Assad used chemical weapons in 2013. Intervening in Syria would not only mean meddling in the internal affairs of Syria, but could potentially extend the limits of military intervention and/or would have spillover effects into Lebanon, or even into Iran. Rather, the West's policy has been one of the avoiding military interventions/responsibilities in favour of attempting to find a diplomatic solution, including by organizing two conferences in Geneva. The nature of the Russian Federation's involvement in the Syrian conflict since 2015 has historical resemblances with Cold War politics, with Russia now wanting to become engaged in the sphere of influence of Western countries. This motive of Russia became apparent after NATO's direct intervention in Libya in 2011. At the same time, there is awareness among the international community that the unpredictability and fluidity of the regional balance of power in the wake of the Arab Spring may leave a vacuum that could be filled by radical Islamists, especially Salafi Jihadi groups. Thus, the UN in particular has opted to abandon the neutral role it had initially adopted in the wake of the uprisings and has given its tacit support, for example, to the 2013 deposing of Egypt's first elected president, Mohammad Mursi, the leader of *Ikhwan* (Muslim Brotherhood).

The UNSC failed to extend the mandate of the UN Supervision Mission in Syria (UNSMIS)—which would have threatened sanctions on

the country—with 11 yes votes in favour to 2 against (China, Russian Federation), with 2 abstentions (Pakistan and South Africa). The draft proposal would have extended the UNSMIS’s mandate, which would have had the UNSC act under Chapter VII of the UN Charter to “demand verifiable compliance – within 10 days of the adoption – with its demands in previous resolutions that Syrian authorities pull back military concentrations from population centres and cease the use of heavy weaponry against them”.³¹

In comparing the case of Syria with that of Libya in the wake of uprisings, one can easily see the divergent move of the international community, the UN in particular. The UN took two key resolutions in the case of Libya in 2011. First of all, the UNSC Resolution 1970 regarding the situation in Libya included:

Deploing what it called “the gross and systematic violation of human rights” in strife-torn Libya, the Security Council this evening demanded an end to the violence and decided to refer the situation to the International Criminal Court while imposing an arms embargo on the country and a travel ban and assets freeze on the family of Muammar Al-Qadhafi and certain Government officials.³²

Later, the Resolution 1973 called for:

Demanding an immediate ceasefire in Libya, including an end to the current attacks against civilians, which it said might constitute “crimes against humanity”, the Security Council this evening imposed a ban on all flights in the country’s airspace — a no-fly zone — and tightened sanctions on the Qadhafi regime and its supporters.³³

In the case of Syria, the UN was reluctant to take any resolution referring to either “the gross and systematic violation of human rights” and “imposing an arms embargo” nor declaring the situation in Syria as “crimes against humanity” that would empower the Security Council to impose a ban on all flights in the country’s airspace—“a no-fly zone”. The UNSC passed the Resolution 2042 in 2012 unanimously authorizing “a team of up to 30 unarmed military observers ‘to liaise with the parties and to begin to report on the implementation of a full cessation of armed violence in all its forms by all parties’”.³⁴ The Resolution also called “on the [Asad] Government to begin a pull-back of military forces from population centres and cease the use of heavy weaponry in those

areas”, but didn’t refer or mention sanctions against the Asad’s Bath rule.³⁵ Lately, in 2015, the UNSC passed the Resolution 2249 “condemning terrorist attacks and calling on member states to act against the Islamic State in Iraq and the Levant” and failed to take “all necessary measures” invoking “Chapter VII of the UN charter which authorises military action to restore peace and security”.³⁶

The case of Syria, the international community—precisely the UN—failed to put effective sanctions on Syrian government as compared to the case of Libya. The Russian and Chinese vetoes have blocked the UNSC decision-making at various times. One of the key aspects of being ineffective or reluctant to impose sanctions against Syria has been related to the spillover effects of the intervention to neighbouring countries, Iran and Lebanon as such. Moreover, the move of Russia being back to the international scene has radically shaped the newly allocated balance of power in the region and the world entirely—which was an issue that has begun to emerge by the events in Crimea in 2014.

CONCLUSION

As former UN High Commissioner for Refugees António Guterres (now the UN Secretary General) stated, the refugee crisis in the Mediterranean is “the biggest humanitarian crisis of our era” and “is a crisis of political will combined with lack of European unity that is resulting in management mayhem”.³⁷ Until now, the overwhelming tendency has been that EU member states agree on the *security-driven measures* that need to be taken, focusing on border controls, return, readmission and a fight against human smuggling, instead of sharing responsibility and showing genuine solidarity in order to ensure full compliance with fundamental values and the principles of human rights and human security.

As marked by Guild, Costello, Garlick and Moreno-Lax, the EU is now at the edge of understanding that the Dublin system does not work.³⁸ New methods and approaches need to be developed. Today, refugees are forced into illegality, and the Mediterranean Sea has turned into a platform for smugglers preying on those with the aim of reaching Europe. Legally speaking, the problem of the refugee crisis in the Mediterranean has two fundamental aspects: the lack of safe and legal access (Schengen visa) to the EU, and reception problems and the uneven distribution of asylum seekers among EU member states.³⁹

The EU has developed three pillars that trace back to the Treaty of Maastricht (1991), and one of the crucial policy-making areas within this framework is the “Home and Justice Affair”. In this respect, the Syrian refugee crisis in the Mediterranean today offers a litmus test for further European political and socio-economic integration. On the one hand, the EU has engaged in the process of social and political integration through deepening policies; the divergent ideas regarding foreign and security policy, as well as justice and home affairs, have now revealed heated debates on the other. EU member states need to formulate a new approach to establishing a common asylum policy and revise the Dublin Agreement, which will be a vital strategy to reinforce further attempts at European integration and social cohesion.

With regard to the UN, the organization has been deadlocked by the two permanent members’ “no” votes, which ended up in blocking the decision-making. The UN-Arab League envoy Lakhdar Brahimi expressed his regret that “he had been unable to help the Syrian people” and stated that “Apologies once more that we haven’t been able to help [the Syrian people] as much as they deserve, as much as we should have, and also to tell them that the tragedy in their country shall be solved... they have shown incredible resilience and dignity”.⁴⁰ Nevertheless, the UN aimed to solve the humanitarian crises through the method of mediation, as Hinnubush et al. put forward,

At Geneva I, the excluded parties— notably the regime, on the first level— did not prevent a useful agreement on the communiqué but did not agree on its details or implementation. Iran was the main issue in terms of inclusivity at the second level: at Geneva II, the secretarygeneral’s invitation to Iran produced an immediate boycott by the opposition parties and so was immediately rescinded. At this stage, inclusivity remained an ideal beyond the reach of mediation.⁴¹

Thus, neither Annan nor Brahimi was efficient in building bridges and activating the UN in mediating the crisis in Syria which has depicted the fact that the situation in and out of Syria after the influx of refugees and displacement of the people urgently required an effective measure and action by the international community, which needs to embrace principles of “responsibility to protect” or “responsibility while protecting”.

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PART III

Prescribing the Future of Human Security
and Migration in MENA



The Middle East: Syrian Refugees, Human Security and Insecurity in Jordan

Marion Boulby

INTRODUCTION

The Syrian civil war, now in its seventh year, has fuelled the worst migration crisis since World War II, an estimated 11 million displaced and 5 million of them across international boundaries mostly in the neighbouring states of Turkey, Lebanon and Jordan. Jordan alone houses an estimated 1.265 million Syrian refugees including only 657,000 registered and 100,000 trapped for a year now in a remote location near the Syrian border.¹

This chapter will focus on the challenges to human security faced by the estimated more than one million Syrian refugees currently residing in Jordan. Human security, according to the premise of this volume, prioritizes vulnerable individuals, against the post-World War II statist–realist paradigm of national security as predominant state powers have been increasingly challenged by a multitude of interstate and non-state actors—a process fuelled in the Middle East (as elsewhere) by globalization and forces for democratization. In the case of Jordan, it argues

M. Boulby (✉)

Department of History, Trent University, Peterborough, ON, Canada

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against the concept that migrants necessarily pose a threat to state security. To quote Hanlon and Christie, “although refugees and economic migrants are often perceived as contentious and seen as threats to state sovereignty, they are often the victims of oppressive national state policies that discriminate and condemn them to marginalized lives”.²

In Jordan, regime policies, driven by national and international state security interests, have neglected the humanitarian responsibility to protect the human security of Syrian refugees. The regime has done so by constraining the influx of refugees, closing borders with Syria, limiting humanitarian aid, denying access to the labour force, health care and education, encampment, disencampment and forced repatriation. Jordan, a small, resource-poor country of 9.5 million has faced economic hardship with the influx of refugees. The kingdom has experienced an economic downturn in the wake of the war in Syria and border closures with Syria and Iraq which have crippled its export economy. High rates of unemployment, especially among youth, have fuelled the policy of preventing most Syrians from working legally. The Jordan Compact, a World Bank initiative agreed at a major donor conference in February 2016 secured 1.7 billion in loans grants and pledges in return for Jordan opening up its labour market to Syrian refugees. Its success remains to be seen due both to the limitations of the Jordan Response Plan in helping refugees gain legal employment status and the apparent failure of some international donors to fulfil their pledges.³ US and EU policies towards Jordan have on the whole been supportive, yet their focus has been not so much on the plight of refugees but rather to maintain the kingdom’s stability and loyalty in a hostile Middle East plagued by the Syrian civil war and the machinations of ISIS.

REFUGEE POLICY: FAILED VESTIGE OF A POST-WAR SYSTEM

Jordan provides here a useful case study of the general failure of the post-World War II model of dealing with refugees “in the context of globalization, the massive volume of displaced people and the collapse of international cooperation.”⁴

Today, the world has 60 million displaced persons and the Syrian refugees comprise the largest group in the world, 5 million displaced across international borders and 6.3 million others internally displaced.⁵

Despite xenophobia in the EU about migrants from the Middle East and North Africa, the majority of Syrians who have sought refuge

outside their country have done so not in Europe but in neighbouring Middle Eastern states of Turkey, Lebanon and Jordan.

In each of these states, they have encountered serious challenges to their human security whether in urban centres or encampments or sealed in a no man's land between Syrian and Jordanian borders. The security of Syrian refugees has been variously threatened by host state policies of encampment and disencampment, forced repatriation, closing of borders, denial of access to the labour force, poverty and lack of integration in society. The role of the USA and the EU has been primarily to support the status quo with financial assistance and in the EU case, with the primary goal of containing the Syrian refugee crisis outside of Europe. International policy towards refugees is premised on the same logic that has characterized refugee policy since the 1950s. According to this, host states welcome the displaced as long as they receive funding and commitment from wealthy states. The underlying idea is that when the relationship between a state and its citizens breaks down, another state or the international community will act as surrogate. This system has, according to Betts and Collier, broken down in the face of today's refugee policy which is a failed vestige of the post-war international system.⁶

The extent of the crisis has caused donor states to pressure Middle Eastern states to work towards permanent integration of refugees which the regimes, including Jordan, do not want. The perception of the regime and many Jordanians is that refugees constitute a major economic burden to society and hence should be denied access to the labour market and health and welfare support. While the Jordan Compact of 2016 has made some progress towards remedying this perception it has not, as will be discussed below, had significant impact on the labour market due to government policies.

Alternative approaches to refugee policy are suggested below. First, however, it is necessary to review the plight of Syrian refugees in Jordan.

THE BERM

At the time of writing, an estimated 75,000 people, mostly women and children,⁷ are stranded in the border area just inside Jordanian territory known as the "Berm" where earthen mounds (or berms) mark the northern border with Syria. On 21 June 2016, a suicide bomb attack killed seven border guards at the remote Al Rukhban refugee camp near the Syria–Iraq–Jordan tri-border area. Jordan reacted by closing the border.

Since then, the border has remained closed. The kingdom has denied the trapped refugees entry on the basis that many are from northern Syria, an area that was formerly controlled by ISIL.⁸

Amnesty International and Human Rights Watch have called for immediate action to allow their entry to the kingdom with UNHCR spokesperson Melissa Fleming documenting harsh conditions with “elderly people, the sick or wounded, children, women and others, women giving birth in unsanitary conditions, gastroenteritis, scabies, acute malnutrition among children ...”.⁹

International agencies have struggled to provide aid to the off-limits area. UN agencies agreed last year to an aid system that handed much of the control over humanitarian assistance to Jordan’s military and a Jordanian contractor and some Syrian fighters.¹⁰ The humanitarian response has not been satisfactory. “Periodically the Jordanian government has used cranes to drop shipments of aid over the earthen wall demarcating the border.”¹¹ Living conditions at the makeshift camps known as Rukban and Hadalat are extremely poor with no sanitation, running water, electricity or health care.¹² In one section of Hadalat, an estimated 4000 people are living solely on water and flour according to UN deputy spokesman Farhan Haq.¹³ The UN has voiced concern over the fate of these refugees since airstrikes have been reported in the area. Some people are reported to have been trying to leave the area risking “further danger and deprivation in an inhospitable desert location.”¹⁴

The UN is calling on all parties including Jordan to take all necessary steps for the protection of the Syrian refugees.¹⁵ The UN agencies in Jordan stand ready to provide protection and life-saving assistance as needed if they can reach an agreement with the kingdom. King Abdullah II has asserted that there are “elements” of so-called Islamic State among these refugees. He said to the BBC “If you want to take the moral high ground on the issue we will get them all to an airbase and we’re more than happy to relocate them to your country”.¹⁶

Jordan is an appealing target for ISIS because it has been a key contributor to the US-led coalition against it. The kingdom’s F-16s fly missions as part of Operation Inherent Resolve in Syria and Iraq. It also attracts ISIS’ attention because of its pro-Western stance and its 1994 Peace Treaty with Israel.

SYRIAN REFUGEES, HUMAN SECURITY AND INSECURITY

Jordan has been accepting Syrian refugees since 2011. Jordan is not a signatory to the 1951 Geneva Convention Relating to the Status of Refugees and has classified Syrians under its domestic law as foreign visitors or guests. Thus, Jordanian law does not address refugees directly.¹⁷ According to the Memorandum of Understanding of 1998 between Jordan and the UNHCR, Jordan recognizes UNHCR's mandate to determine refugee status and pledges to respect the principle of non-refoulement, regardless of the legal status of refugees or their way of entry.^{18,19}

From 2011 to 2013, Jordan allowed Syrian refugees to cross the border, providing they had valid passports.²⁰ Over 661,000 Syrians are currently registered with the UNHCR although it is believed that the real number of refugees is closer to 1.3 million.²¹ The reason for this is that Jordanian policies have made it extremely difficult to acquire this status since 2014 as will be discussed below.

Jordan was widely praised in the international community for its open-door policy. The large influx of Syrian refugees to Jordan is explained by a variety of pull factors including kinship and friendship ties, and “the historically tight cultural and geographical connection between the two states”.²²

Nonetheless, by the autumn of 2014, the Jordanian government's attitude towards refugees underwent some “worrying changes”.²³ Overall, these changes circumscribed the freedom of movement of refugees, limited their access to the labour market and basic services, and in some cases involved refoulement to Syria.²⁴

The Jordanian regime had initially opposed encampment. But the large influx of refugees, among a number of factors to be discussed below, motivated the government to open Zataari camp, the largest refugee camp in the world with 80,000 inhabitants, in northern Jordan in July 2012 and Azraq camp in 2014.²⁵ Since 2014, the government has openly pursued a policy of curtailing the growing urban refugee community. Of the official UNHCR total of over 620,000 refugees, only fewer than 10% live in five official camps.²⁶ In the north, the governorates of Amman, Irbid, Mafraq and Zarqa host more than 70% of the registered refugees outside camps.²⁷ An estimated 93% of Syrian refugees in these urban areas live under the poverty line.²⁸ Some 20% of these live in sub-standard accommodation such as garages chicken houses and tents.²⁹

In addition, a smaller number of refugees live in informal tented settlements (ITS) throughout the country often lacking basic services such as health, education, water and food.³⁰

Since the second half of 2014 life has become even more difficult for refugees in and outside of camps. In urban areas, the government has progressively restrained Syrians' freedom of movement. Refugees had been able to register with UNHCR no matter the state of their documentation. In July 2014, the Jordanian government instructed UNHCR to stop issuing Asylum Seeker Certificates to refugees who had left one of the camps without proper documentation. Without a valid ASC, refugees cannot access UNHCR and its implementing partners' services such as cash and food.³¹ The ASC is essential for obtaining a Ministry of Interior Service Card for refugee access to public health care. Syrians with legal residency and valid passports can obtain work permits only if the prospective employer pays a fee and shows that the job requires skills not to be found among Jordanians.³² According to a UNHCR survey, only 1% of visited refugee households had a family member with a work permit in Jordan.³³ Syrians found by the Ministry of Labour to be working without permits were forcibly relocated to Zataari camp.³⁴

Humanitarian organizations also reported a growing number of ITS evictions. In June 2014, 1300 Syrians living in an ITS near Amman were forcibly evicted and sent to Azraq camp.³⁵

Meanwhile, the government "Bail out System" meant that only those with capital and Jordanian connections could leave the camps.³⁶ The formal bail out requires a Jordanian sponsor, ostensibly over 35, married, with no police record and a direct family relation. The bail out process had been introduced with the institution of Zataari camp in 2012 but after 2014, there was a stiffening of procedure and proper bailout documentation became difficult to obtain.³⁷ Since February 2015, Jordan has required that all Syrians obtain new service cards. According to an HRW report of April 2016, "Such cards are virtually unobtainable for tens of thousands of Syrians who left refugee camps without first being 'bailed out' of the camps by a guarantor. As of April 2016 about 200,000 Syrians outside refugee camps still did not have the new cards and humanitarian agencies estimate tens of thousands of them may be ineligible to apply".³⁸ There is evidence that a number of Syrians found in urban areas without proper bail out documentation were forcibly returned to Syria.³⁹ Amnesty International and Human Rights Watch have also reported hundreds of cases of refoulement of Syrian refugees including children in overt violation of international law.⁴⁰

CHILD AND WOMEN REFUGEES

Children and women are among the most vulnerable people on this planet as the case of Syrian refugees in Jordan exemplifies.

Today, Syrian children in Jordan face a bleak educational present and an uncertain future. UNICEF estimates that nearly one-third (212,000) of Syrian refugees in Jordan are school-aged children while only 80,000 of them are in school.⁴¹ The Jordanian government has taken some measures since 2011 to accommodate an estimated 226,000 out of 660,000 refugees registered with UNHCR aged 5–17. The measures have included hiring new teachers and having two shifts of nearly one hundred primary schools, yet tens of thousands remain outside the classroom. There are numerous barriers preventing Syrian child refugees from going to school: economic limitations of the Jordanian educational system, Jordanian refugee registration policies and certification and documentary requirements, poverty and work restriction, child labour and child marriage among them.

Human Rights Watch has called for the removal of existing policies that prevent boys and girls from going to school.⁴² Registration policies that require children to obtain identification documents or “service cards” may have prevented thousands from attending school because such cards are virtually unobtainable for tens of thousands who left refugee camps without being “bailed out”. For older children, the requirement by some school directors that they produce Syrian education certificates has ruled out school attendance as many families fled Syria under the pressure of fighting without all documents. Furthermore, the education ministry bars students from attending who are three years of age or more over their grade level.⁴³

Considering that nearly 70% of Syrian refugees are living under the poverty line, it is not surprising that poverty and work restrictions are major barriers to education. A 2015 UN assessment found 97% of Syrian children are at risk of not attending school because of poverty.⁴⁴ For example, although public schools are free to Syrians in Jordan, families are often unable to pay transportation costs (there are no school buses in Jordan). Human rights organizations have also highlighted the prevalence of child labour with the number of refugee child labourers doubling between 2014 and 2015 up to 60,000.⁴⁵ The impact on school attendance is exacerbated by state policies that stop Syrian refugees from working so that in debt, lacking adequate humanitarian support, at risk of arrest for working, around 60% of Syrian families rely on money earned by their children who are forced to drop out of school.⁴⁶

Child labour is widespread among Syrian refugees in Jordan and elsewhere. More than one-quarter of Syrian household in Jordan rely on children as their major breadwinners. A substantial number of children are working in hazardous conditions such as manufacturing or construction in violation of international standards. All children interviewed in a recent HRW study “descried work that violated international law and Jordanian labour laws”.⁴⁷ An ILO survey discovered that most children working in host communities work six to seven days a week and earn between \$4 and \$7 per day.⁴⁸

Finally, child marriages for Syrian girls aged 13 to 17 are on the rise in Jordan. Figures from Jordan’s 2015 census document an increase in child brides increased to 44% of all marriages that year, compared to 33% in 2010.⁴⁹ The major push factor behind child marriages is the effort by families to ease their financial burdens. According to the Chief Islamic Justice Department of around 500 Syrians who marry each month, 150 are under the age of 18.⁵⁰ Most child brides leave school (if they are attending) and few return. Many of the brides suffer physical and psychological abuse. Hussein Khuzai, a professor of sociology at Al Balqa Applied University said, in an interview with the *Jordan Times*

We live in a patriarchal society where women are not usually listened to, unfortunately. Early marriage is on the rise among Syrians and parents seem to be OK with it as they believe when their daughters get married they will have fewer financial problems and burdens. There is a need for greater awareness and radical social change to put an end to this practice. Those young girls who get married do not have a say and will not have a future because of their parents’ decisions.⁵¹

THE JORDAN COMPACT

However, on a more optimistic note, a number of policy and legislative reforms have recently been made concerning the employment of Syrian refugees. On 4 February 2016, the UK, Germany, Kuwait, Norway and the United Nations hosted a Syria Donor conference in London where members of the international community pledged support for Syria and the region conditional on Jordan issuing 200,000 work permits for Syrian refugees. Jordan received pledges of \$1.7 billion for its national Syrian refugee response plan.⁵² According to the plan, known as the Jordan Compact, Jordan agreed to allow Syrians into selected

occupations of the labour market in return for improved Jordanian access to the EU market, soft loans and increased foreign investment in the country. According to government statistics, the number of refugees with work permits increased from \$4000 to around 40,000 between December 2015 and December 2016.⁵³ Until the target of 200,000 work permits is reached, businesses in 18 special economic zones (SEZs) can unlock preferential trading access with the EU by employing Syrians as 15% of the work force in the first two years and 25% thereafter.⁵⁴ By March of this year, Jordan had secured \$923.6 million in funding, including \$147 million in World Bank loans and a December 2016 cash transfer from the USA for one-half billion dollars.⁵⁵ The hoped-for donor pledges have not materialized according to the Jordanian government. Although work permits were made widely available to Syrians starting from April 2016 to February 2017, only \$38,516 permits had been issued according to the Jordanian Ministry of Labour. The Jordan Compact had been welcomed by the international community as taking a refreshing perspective on refugees, which instead of viewing the refugees as a burden that could only be alleviated by humanitarian aid it described them as presenting new economic opportunities for the kingdom. The Jordanian government in its executive summary of the 2016–2019 Jordan Response Plan stated “it is a three year plan that seeks to address the needs and vulnerabilities of Syrian refugees and Jordanian people, communities and institutions affected by the crisis”.⁵⁶

Indeed, the Jordan Pact represents the sort of innovative strategy suggested by Alexander Betts and Paul Collier in their article “Help Refugees Help Themselves: Let Displaced Syrians Join the Labour Market”. They propose that a reconsidered refugee policy would integrate Syrian refugees into specially created economic zones offering them employment and autonomy, incubating businesses in preparation for the end of the Syrian civil war and assisting Jordan with its desire for industrial development and transition to a manufacturing economy.⁵⁷

Unfortunately, the Jordan Compact has not produced the hoped-for results. One factor in this is of course the lack of donor funds. In January 2017, Robert Jenkins, UNICEF’s chief representative in Jordan appealed for \$4.65 billion to meet the needs of Syrian refugees and host communities in neighbouring countries. By April, only \$433 million (9%) had been received.⁵⁸

Also as noted by Frank Hagemann of the ILO,

work permits have been at the centre of the policy debate on the Syrian refugee crisis in Jordan, following a commitment by the government of Jordan and the international community to join forces to create jobs for both Syrian refugees and Jordanians.

The number of work permits issued is often used as an indicator of how successful efforts have been in including more Syrian workers in the labour market. However, work permits can also be a deceptive indicator because they do not necessarily measure job creation but rather the legalization of employment. Indeed, the vast majority of work permits delivered so far have been to Syrian refugees who were already working. Secondly, obtaining a work permit is only the first step towards the formalization of Syrian refugee employment. It is not a guarantee of decent work.⁵⁹

Jordanian policies remain in place which deter Syrians from acquiring work permits. The government of Jordan as part of the Jordan Compact has amended work permit procedures and regulations and agreed to issue permits for Syrian refugees free of charge for a set time limit.⁶⁰ However, there remain numerous bureaucratic hurdles involved in acquiring a work permit. Some professions including medicine, teaching and engineering are completely off-limits for Syrians. Other permits are very difficult to obtain in practice as they involve complex and time-consuming bureaucracy. The procedure is so complex, time-consuming and frustrating that the Jordan INGO Forum published *The Work Permit Maze* which maps out the process that Shadi, a 36-year-old Syrian refugee living in Mafraq, married with three children and a qualified engineer goes through to obtain a job as a construction worker with his Jordanian neighbour. He is not allowed to be employed as an engineer as such positions are off-limits to Syrians.⁶¹

Another limitation of the Jordan Contract is its inattention to the constraints faced by Syrian refugee women. According to a forthcoming research report (September 2017) collaboratively conducted between the International Rescue Committee (IRC) and the Overseas Development Institute (ODI), “the Compact makes no mention of promoting gender equality in accessing the labour market not does it provide any guidelines on overcoming the barriers that may specifically hinder women’s employment. Our analysis suggests these gendered barriers are sizeable”.⁶² The forthcoming report notes that the major barrier to women’s employment is duties at home caring for family and children. Finding home-based work would be an attractive option for some women and the report concludes that a network be established to assist them.

Having established that Jordanian government policy from 2014 has had a negative impact on the human security of Syrian refugees overall, it is now useful to examine the motivation behind these policies.

REGIME PERCEPTIONS AND MOTIVATIONS

The Jordanian regime's decision to limit incoming refugees, discourage their presence in urban areas and impose an encampment policy can be attributed to a number of interrelated factors: Jordanian, especially Transjordanian perceptions that the Syrian refugees were competing in the labour market and draining the economy, the state's desire to maintain stability and the incentive to give a higher international profile to Jordan's refugee "burden" and attract more donor funding (which it has so far achieved only to a limited extent). In the Executive Summary of the Jordan Response Plan for the Syria Crisis 2016–2018, the kingdom, while praising the Jordan Compact cautioned

Although refugee inflows can present opportunities for important transformations, funding shortfalls have contributed to increased pressure on national services and infrastructure, thereby affecting Jordan's resilience. Overcrowded health centres and schools, overstretched, sanitation and municipal services, as well as pressures on the environment, labour and housing market have left Jordanians feeling increasingly disenfranchised and neglected.⁶³

Historically, the Hashemite monarchy has been bolstered by the tribal Transjordanian elite. The Transjordanians have dominated the military, security and public services in general. They have been proportionately disadvantaged by King Abdullah's neoliberal economic reforms and privatization.⁶⁴ There have been long-standing economic and political tensions between the Transjordanians and the Palestinian refugees many of whom have been in Jordan for generations, dominate the private sector and make up more than 50% of the population. Arab spring protests in Jordan (much less extensive than in other states) were diverse but primarily led by Transjordanians frustrated by inflation and stagnating wages. Between 2011 and 2013, there was an explosion of labour-related protests in Jordan. The Transjordanians are based primarily in northern rural regions of the country. For this reason, as the Syrian refugees are concentrated in the north, the economic burden, or rather *perceived* economic burden has fallen heavily on these Transjordanian and tribal

communities. As the regime relies heavily on the political support of the Transjordanians in order to maintain stability, encampment and labour policies were introduced to particularly benefit them. The confinement of lower class refugees to camps (most of them are unable to leave legally due to the Bail out System) successfully reduced the potential of labour market participants who could compete with Jordanian workers and push down wages, especially as Syrians were generally willing to work for lower wages and longer hours than Jordanians.⁶⁵ Since the influx of Syrian refugees Jordan's medical, educational, water and sanitation systems have come under considerable strain with some Jordanians questioning the wisdom of continuing to accept refugees, "warning that resource, budget and demographic pressures may disrupt life in the kingdom for decades or more".⁶⁶

The perception that Syrians are causing economic crisis and stealing employment from Jordanians has been widespread.⁶⁷ The reality of this perception will be discussed below.

The Jordanians have been somewhat successful in raising funds for the support of refugees. When opening Zataari camp in 2012, Jordan made clear that running costs of \$500,000 per day would have to be carried by UNHCR.⁶⁸ Although there was a shortfall in UNHCR funding, it was the lowest of any other refugee-hosting state in the region.⁶⁹ The encampment policy has also served to bring a high profile to Jordan's refugee crisis and to attract donor funds.⁷⁰ Zataari camp has been a focus of NGO assistance and international attention even though it houses only 80,000 out of nearly one million refugees.

The Jordanians are a long-standing ally of the west. Today, major US economic and military aid has played an integral role in the state's survival since the 1950s. King Abdullah's recent pleas for support for the refugee crisis have been successfully met in the last year with increased US assistance.

THE US ROLE

Jordan plays a key role strategically for the USA. Its geopolitically challenging location is a major asset, making it attractive to donors. Its role as the lead Arab partner in the counter Islamic state coalition makes the regime's stability and security a priority for US policy. The US state department has emphasized the importance of Jordan's role noting the kingdom is a "lead Arab partner in the C-ISIL (counter Islamic state)

coalition and an active participant in the air campaign”. Writing in January 2016, Captain Walter C. Hayes of the US Army expressed the concern that Jordan may be “in existential peril as a result of the Syrian conflict. It is an important ally with a questionable ability to absorb the over six hundred thousand Syrian refugees inside its borders. The regional crisis and a further influx of refugees into Jordan could destabilize that country permanently through a deterioration of its national identity”.⁷¹ He also noted that the kingdom sought, and has received, greater US involvement and support as the Jordanians “seek to limit integration of Syrian refugees into Jordanian society” and to “mitigate tensions with its society in order to preserve internal stability”.⁷² Hayes concludes with the recommendation “In devising a strategy to support the Jordanian state, the United States should first focus its attention on the Jordanian Bedouins to determine how the tribes perceive their own status in society and how they might support stability in Jordan in the face of a continuing refugee crisis”.⁷³

There is no question that Jordan has received both greater US involvement and support. Total US aid to Jordan through FY 2015 amounted to approximately \$15.83 billion. On 3 February 2015, the Obama administration and the Jordanian government signed a non-binding three year memorandum of understanding (MOU) in which the USA pledged to provide the kingdom with \$1 billion annually in total US foreign assistance through 2017.⁷⁴ Further, in order to bolster Jordan’s economy and military capability, the Administration and Congress have provided significant amount of foreign assistance to the kingdom in recent months. The FY 2016 Omnibus Appropriations Act provides “not less than” \$1.275 billion in bilateral economic and military aid for Jordan.

In terms of military involvement, the act also authorizes the use of Defense Department funding to “provide assistance to Jordan to enhance its borders”.⁷⁵ According to President Obama’s last War Resolution report to Congress “at the request of the government of Jordan, US armed forces elements, including Patriot missile systems...deployed to Jordan to support the security of Jordan and promote regional stability”.⁷⁶ There are officially 2000 US military personnel in Jordan although “the precise details of US military presence are classified”.

Indeed, according to at least one report, the enhancement of Jordan’s borders will involve the building of a security wall. Obama administration funding of close to half a billion dollars is being used to build a

sophisticated electronic fence alongside Jordan's northern and eastern borders, "a wall US strategic planners hope will stem the flow of refugees and also wall off the increasingly important US base from the disintegration of Iraq and Syria".⁷⁷

The Trump administration has carried on strong linkages with and support to Jordan in the president's first months. According to the Congressional Research Service, "On Syria and Iraq President Trump has acknowledged Jordan's role as a key US partner in countering the Islamic States organization".⁷⁸ Due to Jordan's cooperation with US counterterrorism forces and hosting of Syrian refugees, recent US aid to Jordan has reached record levels due to "Jordan's cooperation with US counterterrorism forces and its hosting of Syrian refugees, recent aid to Jordan has reached record levels".⁷⁹

In summary, it is clear that the Jordanian government's policy of encampment and segregation of the Syrian population is supported by the USA and other donors in the international community, including the EU whose member states are actively involved in supporting Jordan and other states bordering on Syria so as to contain the crisis within the Middle East.⁸⁰

Thus, the mutual interest between the monarchy and the international donors has contributed to a durable system of giving and taking while supporting the persistence of authoritarian rule in Jordan. In this context, the state of Jordan and the international community has while providing some aid and maintaining stability, utterly failed to provide for the human security of Syrian refugees.

There can perhaps be a solution but it will involve a radical change in international refugee policy. In the spirit articulated by Betts et al. that the view that refugees are a burden to host countries is a myth, it might be worthwhile to take a fresh approach.⁸¹

SOLUTIONS

As already stated, the widespread perception that the refugee crisis in Jordan has imposed only an economic burden on the state is highly problematic.

Syrians have indeed burdened the financial resources of the country but have also brought investments, human capital and international assistance to the table.⁸² While Jordanians widely believe that Syrians are competing in the labour market, Turner notes "notwithstanding

evidence Syrians are replacing some Jordanians in some sectors such as construction and retail most Syrians working in Jordan in sectors dominated by migrant workers and are replacing other migrants”.⁸³ In his study, “The Effects of Syrian Refugees on Jordan’s Economy” Phillips concludes that first, “refugees have taken on jobs that Jordanians generally avoid. According to the International Labour Organization (ILO) more than 99% of the refugees work on an informal basis, compared to 50% of Jordanians”.⁸⁴ Informal employment has activated some job markets that have been “dormant for years”. Refugees will accept work as cleaners, labourers and waiters, unlike most Jordanians. “As one Jordanian businessman puts it in an interview, ‘Jordanians have finally accepted to be waiters. Are they willing to sweep floors, are they willing to be a guard in an apartment building, are they willing to wash dishes? No’”.

Second, Phillips concludes that refugees have brought more diversity to the labour market in industries such as textiles, food and beverages and tech entrepreneurship. Since the first influx of refugees in 2011, the food and beverage industry has really grown.⁸⁵

In terms of revenue due to international aid, Phillips notes *that while the government has not revealed the value of assistance Jordan has received to provide for refugees* “available data sources put the value of aid at a much greater level than the official records of expenditures on the refugees”.⁸⁶ Apart from the substantial US donations from 2011 to 2014, Jordan received donations through NGOs of about \$66 million, aid from Arab donors of \$187.5 million and from the EU 4 billion pounds.⁸⁷

Phillips concludes that Syrian refugees have been associated with four economic developments: an increase in Jordan’s GDP from \$28.8 billion in 2011 to \$35.8 billion in 2014, an increase in unemployment rates which is not exclusively related to refugees but also to other factors including the recent economic growth in Jordan has been in low-wage sectors that Jordanians typically avoid, considerable expenditure by the state on the refugees, revenues which have greatly exceeded the costs including those brought by refugee businessmen with hundreds of new factories and thousands of employment opportunities.⁸⁸

Rather than seeing the presence of refugees as a burden it might be possible to see their presence as an opportunity for economic growth. The economic benefit of hosting refugees in the long term however requires the host country to undertake the responsibility of protecting the human security of refugees.

A fresh approach is needed, one that improves the lives of refugees in the short term, serves regional prospects in the long term and takes into account the economic interests of host states. The EU and the USA should use sustained diplomacy to encourage Jordan to enact a genuine open-border policy, to respect the human refugees and respect the principle of non-refoulement.⁸⁹

CONCLUSION

The clock is ticking for Syrian refugees in Jordan and other displaced people throughout the world. Today, there are 60 million displaced persons globally. The Syrian refugees comprise the largest group of them with 5 million displaced across international borders and 6.3 million others internally displaced. This chapter exemplifies through the case of Jordan the authors' shared concept of human security which prioritizes the individual, challenging the post-cold war statist realist paradigm of national security. The kingdom's policies, backed by supporters in the international community, have neglected the global humanitarian responsibility to protect refugees and migrants. These policies, driven by national and international security agendas, have included constraining the influx of refugees, closing borders with Syria, limiting humanitarian aid, denying access to the labour force, health care and education, encampment, disencampment and forced repatriation.

Jordan, a small, resource-poor country of 9.5 million has faced economic hardship with the influx of refugees. The kingdom has experienced an economic downturn in the wake of the war in Syria and border closures with Syria and Iraq which have crippled its export economy. High rates of unemployment, especially among youth, have fuelled the policy of preventing most Syrians from working legally. The success of the Jordan Compact remains to be seen due both to the limitations of the Jordan Response Plan in helping refugees gain legal employment status and the apparent failure of some international donors to fulfil their pledges. US and EU policies towards Jordan have on the whole been supportive, yet their focus has been not so much on the plight of refugees but rather to maintain the kingdom's stability and loyalty in a hostile Middle East plagued by the Syrian civil war and the machinations of ISIS.

If there is to be a solution to this international humanitarian disaster, it must come quickly in the form of coordinated international policies, *new* policies which see refugees and migrants not exclusively as economic burdens and threats to state security but rather as some of the most vulnerable people on the planet, the victims of war, international corruption and famine.

The vulnerability of people on the move, fleeing war and disaster is also in part met by the difficulties faced by states receiving migrants and refugees ensues. If humanitarian concerns are not, and they appear not to be, sufficient to make states act then perhaps the appreciation of refugees as a development opportunity could motivate their integration in the world economy. Such integration is essential for the dignity, the autonomy and indeed the human security of millions.

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Human Trafficking and the Issue of Slavery in Supply Chains

Robert James Hanlon

INTRODUCTION

Human trafficking and the illegal movement of people is now one of the most profitable industries for organized crime. Globally, forced labour contributes an annual US\$150 billion in revenue through a shadow economy that victimizes over 20.9 million people.¹ While the International Organization for Migration (IOM) points to many push factors fuelling the crisis such as economic collapse and natural disaster, the threat of armed conflict remains a principle driver.² The recent conflicts in Libya, Iraq and Syria have led to the worst refugee crisis since World War II forcing many to seek out safe havens across the Mediterranean.³ Yet while there has been significant research detailing the influence of transnational organized crime syndicates on human trafficking in the region, this study explores the role of the private sector in both contributing to and preventing the proliferation of forced labour in the Middle East North Africa (MENA) region.

R. J. Hanlon (✉)

Department of Philosophy, History and Politics, Thompson Rivers University,
Kamloops, BC, Canada

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This chapter will therefore explore the nexus between human trafficking, refugees and the private sector within a context of human insecurity in the Middle East and North Africa (MENA) region. Firms that fail to understand the non-traditional business threats associated with trafficking are in serious risk of economic and legal sanction. Indeed, corporations can experience both *direct* human rights risks in the business model by hiring illegal workers looking to enhance their competitive advantage by lowering wages in the work force. Business can also be complicit in trafficking through *indirect* practices such as hiring contractors within the supply chain that draw on forced labour. Unless the private sector takes greater responsibility in understanding the issue of slavery within supply chains, the shadow economy will thrive and organized crime will continue to exploit vulnerable populations who are being trafficked into seemingly legitimate business.

To show this, I first outline human trafficking as a transnational crime that targets and victimizes vulnerable populations. Second, I consider the linkages between state collapse, human insecurity and trafficking in the MENA region. Third, the paper seeks to build the business case for why the private sector should be establishing strong anti-human trafficking compliance procedures within their sphere of influence and responsibility. Finally, it offers a series of policy recommendations for business that draw on themes of corporate social responsibility and human rights. Indeed, business can play a serious role in the global effort to end human trafficking.

HUMAN TRAFFICKING AND THE GLOBALIZED WORLD

Human traffickers thrive on violence and suffering. Yet to many, they offer opportunity for vulnerable and marginalized people desperately fleeing insecure environments. Modern patterns of trafficking are deeply connected with globalization and war often resulting in South–North movement.⁴ Victims are often targeted by transnational criminal networks who sell narratives of safe and prosperous lives in the developed North.⁵ These syndicates have long thrived on markets built around the principles of supply and demand, offering their services where governments fail to protect or are purposely targeting citizens with violence. A state's prevalence in trafficking has become one indicator of dysfunctional rule of law and failed governance.⁶

But identifying victims of human trafficking can be difficult since the standard definition does not include all undocumented migrants including those being smuggling across borders. Differentiating between human trafficking and human smuggling is important for identifying victims of crime. While human smuggling involves complex illicit networks, those being brought across state borders can be complicit, cooperating and not coerced. Moreover, smugglers who are accused of being traffickers are often only indirectly connected to the transportation of victims and remain hidden behind a clandestine process. On the other hand, human trafficking employs similar methods of operation and engagement although victims are forced and coerced into a life of exploitation and violence. An international crime, the trafficker depends on a market driven by human insecurity.⁷

In 2000, the United Nations provided clarity on the issue with the adoption of the Protocol to Prevent, Suppress and Punish Trafficking in Persons. The global agreement would become known as the Palermo Protocol, a significant tool for entrenching the criminalization of human trafficking within international law. The treaty defines the issue as follows:

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.⁸

The protocol broadened the scope of trafficking to other economic spheres beyond the sex industry, expanding the definition to sectors that involve active recruitment through threat and exploitation.⁹ In some ways, human trafficking can be understood as a modern adaption of the slave trade involving a range of actors including corrupt officials, local armed actors, as well as organized and disorganized crime.¹⁰

Yet as mentioned above, the blurred line of human trafficking does not always equate to slavery.¹¹ Many victims are crossing borders voluntarily and wilfully since traffickers promise a better life. Daniel-Wrabetz

and Penedo point to the vulnerability factor in how victims are targeted with offers of freedom, low-cost transportation and employment opportunities.¹² Traffickers present themselves as trustworthy and professional, and often own legitimate business such as hotels, restaurants and other service industries to hide their industry.¹³

Pull factors influence migrants seeking stability, prospects of gainful employment, access to education and a safer environment for children. Globalization has brought human mobility to labour markets which are fuelling demand for transnational employment especially from those escaping weak and failing economies. Sanghera and Pattanaik note, ‘transborder trafficking, as well as smuggling or other clandestine forms of labour recruitment, is connected to striking imbalances between the increasing supply of unskilled, indigent jobseekers on the one hand and the availability of legal and sustainable work in places where the jobseekers have legal rights to residence or citizenship on the other’.¹⁴ The promise of new opportunity and the search for stability are driving demand from those seeking new beginnings.

Yet it also is unsurprising that vulnerable populations turn to traffickers in times of crisis giving rise to *push* factors forcing people from their homes. This can include civil war, extreme poverty, natural disasters such as famine caused by drought, as well as a lack of economic opportunity. For example, an IOM study found 80% of those fleeing Iraq’s violence cited ‘no hope in the future’ as the principle driver forcing them to leave the war-torn state.¹⁵ Push factors must be recognized as structural causes of illegal migration that will continue so long as communities live in fear.

To be sure, human insecurity leads to weak governments, corruption, political violence and terror which has forced populations to take extreme measures in finding stability and peace.¹⁶ These push factors have caused a breakdown in the social fabric and are contributing causes of illegal migration.¹⁷ Although human trafficking is considered a global security threat, sustained insecurity and crisis in MENA has brought unprecedented challenges to the region.

FEAR AND INSECURITY IN THE MENA REGION

With nearly three million individuals enslaved throughout MENA including an estimated 600,000 engaged in forced labour in the Middle East, regional governments are unable or unwilling to protect vulnerable and marginalized populations.¹⁸ Types of slavery in the region can take many

forms such as forced marriage and indebted labour. Victims of trafficking are often kidnapped, sold and forced to work through violence and threat. Moreover, the Kafala system which requires migrant workers to find sponsorship from within the country they work has also been cited as a tool of oppression in states such as Qatar and Saudi Arabia.¹⁹

State collapse brought on by the Arab Spring uprisings and NATO intervention has created conditions allowing for the emergence of sophisticated smuggling networks in Libya. Libya has emerged as a hub for trafficking being managed by a range of militia and corrupt officials which the ICC has recently considered investigating.²⁰ Micallef cites Libya's market liberalization of human smuggling as a source for new transnational opportunities and the rise of militias offering profitable protection services that offer a sense of legitimacy to smugglers.²¹

As Micallef found, supply and demand has taken less of an important role in Libya; rather trafficking has been consolidated around small and well-organized militia to protect operations that were once defined through fragmented networks with the city of Sabratha emerging as the epicenter for migrants destined for Europe. Indeed, human trafficking has become a state-controlled industry leading to market liberalization after the Gaddafi regime was toppled.²²

The Mediterranean route via Libya has also been used by more affluent Syrians fleeing civil war. As Micallef notes, 'It is the same entrepreneurial spirit, sophisticated social networks, and greater expectations with which Syrian refugees helped shape the routes across the Aegean and through the Balkans in 2015'.²³ Micallef goes on to argue the collapse of the Libyan state and its militarization have given rise to a system based on tribal-militia relations.

Between 2013 and 2014, Libya's trafficking roots saw an increase from 45,000 to 170,000 individuals crossing by boat.²⁴ According to one recent survey conducted by the IMO, an estimated 75% of migrants trafficked into Europe, mostly through Libya, had experienced violence during the journey with significant numbers immediately seized by traffickers when entering Libya.²⁵ Once migrants reach Europe, some are housed in detention centres managed by private-sector firms who have been given authority by the state. Arbogast cites' immigration detention is a thriving business for transnational corporations with outsourcing to key sectors such as cleaning and food services.²⁶

Human insecurity in the MENA region has thereby led to an increase in illegal migration to Europe. What is more, economic competition

within Europe provides conditions for firms to demand international low-skilled labour.²⁷ A ‘race-to the bottom’ in some sectors is providing an economic and social demand that offers an opportunity for illegal migrants looking to help meet demographic challenges such as Europe’s ageing population. As discussed below, developed economies but also economies in transition have come to depend on such labour.²⁸

EUROPEAN DEMAND

Europol has estimated roughly one million illegal migrants reached Europe in 2015 with 90% using facilitation services often found in MENA.²⁹ The largest numbers arrive in Greece, with the Mediterranean roots considered the most active. There are now more than 230 hot-spots for smuggling originating in the MENA region while UNHCR has declared the Mediterranean crossing the deadliest in the world. In 2016, roughly 5000 people died while crossing up from 1500 in 2011.³⁰

As the OSCE points out, migrant labour is critical for developed economies of Europe looking to achieve their production needs.³¹ Migrants are often subjected to what the International Labour Organization has referred to this as the 3D’s, also known as dirty, dangerous and difficult work. The private sector therefore may be unwittingly facilitating human trafficking through a range of services including Internet, hotels, and transportation.³² Stakeholders can include anyone from bus drivers to airport attendants with a supply chain that cuts across transnational borders.³³

Ironically, while the race to the bottom has emboldened human trafficking and slavery, they remain patent rejection of liberal doctrine and the pursuit of happiness.³⁴ The demand for cheap labour and global competition has contributed to market conditions that fuel trafficking. For example, a surge in temporary foreign workers programmes has ensured migrants are transient yet specially fixed in jurisdictions thereby placing workers in a vulnerable position easily exploited by employers.³⁵ Today, bonded labour remains the most prevalent form of forced work.³⁶

While illegal workers can and do enter jurisdictions legally with help of friends and family, there typically remains three ways one can enter a country illegally: overstay a visa, produce false documents or cross a border clandestinely.³⁷ Vulnerability occurs when their work status has been denied, revoked or never approved. A prominent example is the case of

sweatshop workers and migrant labourers may be denied wages or forced to work long hours to meet employer demands. While conditions may be exploitative and the workers are generally free to walk away, they may be unable out of fear of legal sanction.

What is clear, psychological and social ties keep workers from going to authorities who are abused in the workforce while contract labourers might not be covered in codes of conduct.³⁸ Human insecurity and forced labour are often built around ‘wiling selves’ who cannot walk away. The result is the severe economic exploitation and involuntariness since victims are entered into debt bondage. Marx and Polanyi had argued this was a necessary condition for establishing capitalist modes of production. A permanent underclass or ‘reserve army of labour’ would serve the interests of free market societies.³⁹

Insecurity in the MENA region has resulted in a surge of illegal migration to Europe with vulnerable populations living in fear fleeing collapsed economies, violence and total human insecurity. The region still reeling from the fallout of the Arab Spring and regional civil wars in Libya, Syria and Yemen have exacerbated the crisis. Since the downfall of the Gaddafi regime, a glut of illegal migrants has looked at crossing the Mediterranean to Europe in the hope of finding work and fleeing violence. Until asylum seekers feel safe in own state, they will continue to move across borders.

While this section has sought to describe the connections between human insecurity and illegal migration in the MENA region, the chapter now shifts its focus to understanding how such a humanitarian crisis can impact the private sector. Scholarship exploring the nexus between human rights, government policy and corporate governance in the area of migrant labour is expanding. Yet this discourse is noticeably underdeveloped in the MENA region.⁴⁰ There has never been a more important time for the private sector in establishing sound human rights policy that complies with best practice anti-trafficking provisions.

BUSINESS AND HUMAN TRAFFICKING

Globalization and intense free market competition have led many in the private sector to ask if their firm has a responsibility to develop and implement anti-trafficking codes of conduct. While some have taken ethical stands against trafficking, many have yet to see the business case.⁴¹

Yet globalization and human rights risks associated with corporate behaviour in the developing world have forced business to reconsider human rights as a serious business issue. Human trafficking is one area that has emerged as an underreported business risk and only recently started to gain the attention of industry.

For good reason, globalization has placed new pressures on companies to address serious human rights issues in their supply chain. This is particularly relevant for firms operating in states where anti-trafficking laws are enforced.⁴² Several countries have enacted legislation that require firms to implement CSR governance policy such as Denmark, Indonesia, Indonesia, China and the UK.⁴³ Brazil's government maintains a 'dirty list' registry for corporations found using slave labour. In 2017, the government identified 68 employers that had active slavery-type conditions in their work environment.⁴⁴ Meanwhile, the United Nation's Office of the High Commissioner for Human Rights (OHCHR) has recommended that governments pursue criminal charges against firms that are complicit in human trafficking practices.⁴⁵

Governments are now responding such as in the USA where the Obama administration issued an executive order demanding all public procurement involve a rigorous due diligence process to ensure trafficking was not within any state-sanctioned contracting. The US government applies what it calls a 'three P's' approach to trafficking or 'prosecution, protection and prevention'. Such policy can also occur at the regional level; for example, in 2010, the US state of California went as far as introducing the 'California Transparency in Supply Chains Act' which demands that business who earn more than \$100 million annually within the manufacturing and retail sectors report how they avoid trafficking in the supply chain. The act received mixed support amongst the business community and activists for many reasons. Some had rightly noted that the act required corporate compliance rather than state oversight; there was significant confusion over supply chain responsibility; others argued such pointed policies may not address real issues of slavery; while questions were raised whether naming and shaming firms has any long-term impact on consumer behaviour.⁴⁶

Although segments of the supply chain may be vulnerable to trafficking, it can be difficult for MNCs to uncover any violations since forced labour is hidden and public ignorance is prevalent towards the issue.⁴⁷ Ruhmkorf notes 'Risk and costs are passed down the line, to be carried by the small employers, hence this is where extreme labour abuse

typically occurs, apparently several degrees removed from the large, multinational buyers'.⁴⁸ For example, Thai and Ukrainian fishing vessels have been embroiled in forced labour allegations. 'Trash fish' trawled to feed factory-farmed prawns that reach international markets have been caught up in slavery investigations in Thailand while corruption and violence are used to retain workers.⁴⁹ Human trafficking and the issue of slavery in the supply chain has emerged as a serious day-to-day business issue.

Complicated supply chains make it easy for MNCs to avoid safety and labour standards at the bottom while labour regulation continues to be the responsibility of national governments who are unwilling to sacrifice their own citizens for migrants. Davidson states, '...Governments of the home states of multinational enterprises that are driving the "race to the bottom" are unwilling to make those enterprises criminally responsible for human rights abuses in their global supply chains'.⁵⁰ Meanwhile, Ezell has argued that MNCs can often benefit from trafficked labour since it allows for cheaper production costs.⁵¹ Although managers have a fiduciary duty to report human rights violations within the supply chain to protect the firm, the cost-benefits from forced labour throughout the chain can create a disincentive to report and investigate violations.

Yet there are many industries at risk of trafficking especially when dependent on recruitment agencies, outsourcing and subcontracting. Direct violations through policies that endorse forced labour, procurement that has been knowingly compromised with slavery and purposely contracting questionable third-party agents known to employ forced labour. Business may also be directly contributing when withholding passports, refusing to pay salaries and threatening employees in precarious employment situations. Measures often used in forced labour include threats, indebted labour, lack of movement and withholding wage.⁵²

Indirect violations are much more difficult to recognize as they can be found in suppliers, contractors, partners and investors.⁵³ Industries vulnerable to direct and indirect violations can include the agriculture sector which often employs complex subcontracting and 'guest labour' models; garment and textile industries known to outsource through a series of deep and transnational supply chains; tourism which relies on migrant labour expected to work excessive hours; security services that have been subject to accusations of exploitative and unfair contract services; as well as the construction sector that cannot outsource its business model and depends on irregular migrants whose work permits are often tied to the company.⁵⁴

Meanwhile, Hulting cites construction, retail and cleaning industries as common grounds for exploitation.⁵⁵ Working in the informal economy, workers lose rights, which Aggarwal, La China and Vaculova estimate is between 30 and 80% of the working population in the Global South.⁵⁶ Companies must look at their own operations, communities, suppliers and partners within the global economy in search of risk. Hulting writes, 'Big companies hire small firms to perform different services...The large companies refuse to take any responsibility when it turns out that the workers have been exploited, blaming the contracting firm'.⁵⁷

Moreover, the ILO has listed six indicators of forced labour including physical harm and threat; barriers to movement debt bondage; refusal to pay wages; seizing passports; as well as threatening to report their work status to authorities.⁵⁸ More and more firms are realizing these risks and are enhancing their social reporting with it becoming part of overall corporate strategy.⁵⁹ As Bejoy found, roughly 66% of Fortune 100 companies have policies on human trafficking and forced labour.⁶⁰

Indeed, industry coalitions are rapidly looking to incorporate anti-human trafficking measures within their operations. The final section of this chapter seeks to connect business risk associated with the supply chain and the human trafficking within the MENA region. It seeks to offer a series of recommendations, strategies and resources for firms that find themselves at risk.

MITIGATING FORCED LABOUR IN THE SUPPLY CHAIN

Business actors who fail to consider the economic and legal risk associated with corporate complicity in human rights violations are undermining the interests of their stakeholders. Forced labour in the supply chain is one area that managers need to consider when performing their fiduciary duties. Ezell writes 'Directors must be knowledgeable about human rights, as a director's fiduciary duty of care requires understanding the risks and liability exposure of the corporation, including those in the context of international human rights'.⁶¹ This is critical in the context of Europe's refugee crisis which has been exacerbated by the fallout of the Arab Spring. The following three recommendations are offered to guide busy managers looking to reduce human rights risk in their operations.

*Integrate a Meaningful Business
and Human Rights Policy*

Civil wars in MENA have unleashed a wave of migrants fleeing human insecurity seeking new opportunity across the Mediterranean. Managers who do not see the urgency of this crisis and its impact on the private sector are subjecting their business to undue risk. Yet this risk has started to garner attention from industry with a range of sectors acknowledging the importance of voluntary corporate governance schemes that address forced labour. Hunter and Kepes have reinforced this point and argued supply chain risk cannot be mitigated without strong good governance mechanisms. As they note, forced labour is illicit, coercive and undermines free will. Without rigorous policy for deterring and investigating human trafficking and forced labour within the supply chain across Europe and the MENA region, firms risk committing direct and indirect human rights violations.⁶²

John Ruggie, former Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises and the central architect in the UN Guiding Principles on Business and Human Rights, has shown how firms who fail to implement human rights policy risk undermining their reputation. Moreover, firms can face serious legal consequences should be found complicit in rights violations. Understanding the nexus between basic business theory and corporate social responsibility (CSR) can help mitigate risk throughout operations.⁶³ Meaningful CSR policy can be integrated within a firm through the following:

1. Promote a clear and rigorous corporate human rights policy.
2. Establish mechanisms for assessing human rights risk within all business operations.
3. Integrate strategies for communicating human rights values throughout the company.
4. Promote tools for identifying, tracking and reporting corporate human rights performance.
5. Develop a system that provides a safe instrument for reporting human rights grievances.⁶⁴

Indeed, firms serious about minimizing risk associated with rights violations and forced labour must work to entrenching standards within the firm's corporate culture. For Balch, this involves the expansion and widening of CSR training, ensuring that stakeholders have adequate resources to implement strong governance strategies, as well as ensure the firms employ consistencies in its regulatory regime and leadership.⁶⁵

Implement Best Practice Corporate Governance Standards

Greater awareness of CSR has also brought a range of new tools and mechanisms for industry to consider when designing corporate human rights policy. Regimes such as the United Nations Global Compact, the World Business Council for Sustainable Development and the ISO 26000 are but a few offering guidance to business. The European Commission has also identified the linkages between human rights, trade, decent work and compliance in their 'Buying Social Guide'.⁶⁶ The EU also produces a guidebook that helps employment and recruitment (E&R) agencies implement the three pillars of the UN Guiding Principles on Business and Human Rights into their operations. The Principles are defined as:

- The state duty to protect against human rights abuses by third parties, including businesses, through effective policies, legislation, regulations and adjudication;
- The corporate responsibility to respect human rights, meaning that companies should avoid infringing on the rights of others and address negative impacts with which they are involved; and
- The need for greater access to effective remedy for victims of business-related human rights abuses, through both judicial and non-judicial means.⁶⁷

The EU guide also offers direction on how firms can implement corporate anti-trafficking policy such as the Athens Ethical Principles and the UN Initiative to Fight Human Trafficking while supporting training in the workforce. The UN Global Compact has worked to make the business case for rights while the Guiding Principles on Business and Human Rights clearly place the responsibility for drafting legislation and clarity with government. The Principles demand that business:

- (a) Avoid causing or contributing to adverse human rights impacts through their own activities and address such impacts when they occur;
- (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.⁶⁸

One group that assists firms when implementing the Guiding Principles is the Institute for Human Rights and Business. The IHRB offers a comprehensive overview of anti-human trafficking legislation and adjudication mechanisms in eight jurisdictions including Brazil, Japan, Russia, South Africa, Qatar, the UK, the USA, as well as the United Arab Emirates.⁶⁹ Meanwhile, the Corporate Human Rights Benchmark provides robust risk assessments of industries who are engaging a human rights discourse.

The International Standards Organization (ISO) is another group offering guidance through its ISO 26000 framework in seven core areas including labour practices and human rights. Launched in 2010, the ISO 26000 offers guidance on themes of social responsibility. Meanwhile, the Organization for Economic Co-operation and Development's (OECD) Guidelines for Multinational Enterprises has included a chapter on business and human rights pointing to the broad impact of the private sector on rights.

One of the more impressive initiatives has been the Modern Slavery Registry which was launched by the Business and Human Rights Resource Centre. At the time of writing, the registry had collected 2952 statements from corporations outlining their company's anti-human trafficking policy.⁷⁰ Similarly, the United Nations Global Initiative to Prevent and Combat Human Trafficking provides a series of case studies and recommendations on how to implement effective anti-trafficking policy in business operations.⁷¹

The International Labour Organization (ILO) has also established the Global Business Network on Forced Labour and Human Trafficking that seeks to establish a peer-to-peer environment for exchanging strategies on how business can combat forced labour. The network offers members practical tools for identifying risk areas and developing preventative and intervention mechanisms within business operations to ensure fair labour

practices. All these actors and initiatives promote CSR as a pragmatic mechanism for ensuring a firm's commitment to human rights while serving as indispensable tools for firms looking to understand human trafficking risk emerging from the MENA region.

*Partner and Learn from Well-Established Business Leaders
Committed to the Anti-human Trafficking Movement*

A final recommendation is for business actors to learn from and draw on knowledge of those already committed to ending forced labour. One initiative that has shown leadership is the Walk Free Foundation. An anti-human trafficking organization known for publishing the annual Global Slavery Index, Walk Free was founded by an Australian mining executive after he had a revelation speaking with Bill Gates.⁷² Yet while Walk Free has received wide public endorsements the world over, New rightly notes such organization may be offering superficial solutions that are more concerned with public relations than ending the practice.⁷³ Even so, such initiatives have been instrumental in raising awareness within the private sector.

This awareness has encouraged and guided a diverse range of firms in developing anti-human trafficking policies such as Safeway, Rio Tinto, Unilever and TD Bank. The US-based tech firm Oracle has established an Integrity Helpline that employees can call should they experience rights abuse.⁷⁴ Microsoft has established its 'Unlimited Potential' initiative to enhance employability of marginalized populations while FSI Worldwide has developed corporate policy on ethical recruitment that rejects forced labour.⁷⁵ Firms such as Microsoft and FSI have infused anti-human trafficking strategies into their employee training modules.⁷⁶

In 2006, Manpower Group, often cited as a leader in the anti-human trafficking and business discourse, became the first corporate signatory to support the Athens Ethical Principles declaration which calls for a zero per cent tolerance towards human trafficking and forced labour.⁷⁷ When building the business case for anti-human trafficking policy, former ManpowerGroup executive and co-founder of *End Human Trafficking Now* David Arkless stated, 'When you get involved in something like this your employees will love it, the public will love it and your shareholders will love it'.⁷⁸ Manpower was also instrumental in bringing together a range of firms acknowledging risk in supply chain management including Coke, Delta Airlines and LexisNexis.

Apple is another firm that has taken a corporate stance against human trafficking. The tech firm requires its employees to undertake an anti-human trafficking training module that outlines the company's policy. Apple has also developed a supplier code of conduct that seeks to mitigate corporate risk throughout its supply chain. Firms that violate the code risk are being placed on a 'Due Not Source List', although they are given a 90-day grace period to improve their performance and receive a 'Corrective Action Verification'. To date, Apple has dropped 18 suppliers for violating the code of conduct. Apple partnered with the IOM to train over 300 migrant workers on labour rights and responsibility. Indeed, the past decade has seen greater awareness within the private sector on the risk of forced labour within business operations.⁷⁹

In the end, firms looking to minimize their human rights risk can learn from one another given the exceptional risk that the Mediterranean crisis has enabled. As the Arab Initiative to Combat Human Trafficking has noted, building a rights approach to end human trafficking in the region is critical.⁸⁰ Businesses looking to understanding how peers are developing human rights policy and codes of conduct designed to eliminate forced labour within a firm's sphere of influence and responsibility is an important step in shaping the narrative on business and trafficking.

CONCLUSION

Human trafficking and smuggling flow towards Europe from the MENA region are a direct result of extreme poverty, globalization, violence and dysfunctional rule of law. Human insecurity and suffering in the region has driven marginalized populations across borders, who often must rely on transnational criminal networks. Human trafficking and smuggling will continue to grow as a lucrative business preying on vulnerable groups fleeing crisis. State collapse in Libya, Syria and Iraq has fuelled the region's instability.

Push and *pull* factors are driving illegal migrants to Europe, some of whom are finding work in a range of sectors managed by criminal syndicates. Working clandestinely, illegal migrants are often denied basic rights and can be subjected to precarious labour conditions. While sensational examples often link human smuggling to sex trafficking, other types of forced labour go underreported.⁸¹ Demand for illegal labour in Europe and a steady supply of migrants crossing the Mediterranean have only added to region's fragility.

Exploring the relationship between human rights and business in the MENA region, this paper has argued that non-traditional business threats such as trafficking can impact a firm's bottom line through economic and legal threat. Business actors risk committing both direct and indirect rights violations when illegal migrants are hired into legitimate businesses. Insecurity in MENA has significant implications for the private sector. This chapter has set out to build the business case for human rights and how this relates to the anti-human trafficking narrative.

I have argued that businesses who fail to understand how human rights risk may impact their firm's bottom line through negative publicity and legal sanction. Managers that do not act in protecting their firm from such undue risk are not performing their fiduciary duty to their shareholders. Three recommendations are offered to industry that seek direction on how to avoid being complicit in rights violations. First, business must communicate a rigorous human rights policy throughout all levels of the company; second, management should work to entrench best practice human rights standards within corporate governance policy; and finally, firms will benefit from partnering with business leaders who have already established strong anti-human trafficking policy within their enterprise. Only through a multi-stakeholder approach involving governments, business and civil society can a meaningful collaboration begin to tackle the human smuggling and trafficking risk in the MENA region.

NOTES

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Policy Responses: Too Little or Too Late?

Rute Baptista

INTRODUCTION

Since 2011, a growing number of migrants and refugees have arrived in Europe fleeing from war, persecution and other human rights violations in their homelands. In 2015, more than 1 million people crossed the Mediterranean Sea towards Europe in search of international protection¹ and more than 3000 were reported dead or missing in this so-called deadly route.² In 2016, the number of migrants dead or missing in the Mediterranean rose to 5000.³

Facing the enormous exodus—the biggest since World War II—and its respective death toll, European countries have been challenged to respond to this humanitarian crisis in a proper way. Nevertheless, political reactions of those countries and of the European Union itself, shaped by the securitisation of migration theories, are questionable. In fact, migration seems to have become a “security problem” in Europe.

This chapter aims to analyse the policy responses to the refugee crisis and questions if there has been systemic failure in the way countries respond to these crises and humanitarian disasters.

R. Baptista (✉)
Law School, University of Minho, Braga, Portugal

HUMAN SECURITY AND MIGRATION

The Human Security Concept

Although implicitly present in several international instruments of human rights⁴—at least in its spirit—the concept of human security has gained notorious visibility since the end of the Cold War. The disappearance of the bipolarity capitalism/communism and USA/Union of Soviet Socialist Republics, coupled with globalisation, has caused a shift in the traditional concept of security. From a state-centred concept, in which a militarist vision of security focused on the safety of national borders against other countries' threats, security became an individual-centred concept. Security has come to mean “the absence of threat to human life, lifestyles and culture through the fulfilment of basic needs”,⁵ as defined, in 1991, by the Bonn Declaration on Human Security and Environment. In 1992, the then United Nations (UN) Secretary-General, Boutros Boutros-Ghali, called, in the report “Agenda for Peace: Preventive diplomacy, peace-making and peace-keeping”, for “an integrated approach to human security” in order to address root causes of conflict.⁶ This new concept of security-human security- was recognised in 1994, by the United Nations Development Programme (UNDP) report, as of a universal importance, asserting that threats such as unemployment, crime and terrorism, drug addiction, pollution and human rights violations are common threats to every country. Even if those threats occur in just some countries, their consequences have the potential to extend to many others because they do not respect geographical or political borders. Thus, in order to protect this “human security”, actions aimed at preventing the occurrence of such threats, regardless of the country in which they appear, should be engaged by all.⁷ Prevention efforts should focus on the individual, as it is in the defence of the human being and her/his dignity, that the new concept of security is centred.

In the 1994 UNDP report, the UN defined seven main categories in which lie the long list of threats to human security: economic security (assurance of a basic income from a remunerative work or, when not possible, from “some publicly financed safety net”); food security (physical and economical access to food); health security (access to health services); environmental security (security from water scarcity, desertification and air pollution); personal security (security from physical torture,

war, ethnic tension, crime, street violence, rape, domestic violence, child abuse, suicide and drug use); community security (respect for the cultural identity and community values, and security from the destruction of languages and traditional cultures, racial discrimination, genocide and ethnic cleansing); and political security (security from government repression, systematic human rights violations and militarisation).⁸

In 1999, the then UN Secretary-General, Kofi Annan, called the international community, at the UN Millennium Summit, requesting efforts in order to achieve the goals of the human security concept, broadly referred by Kofi Annan as “freedom from fear” and “freedom from want”.⁹ In the same year, the Japanese Government and the UN Secretariat launched the UN Trust Fund for Human Security in order to finance UN human security projects and, thus, boost their operational impact.¹⁰ Finally, still in 1999, the Human Security Network was launched. An initiative of the governments of Canada and Norway, this network comprises a group of countries—from different parts of the world¹¹—committed to implementing the human security concept through the identification of “concrete areas for collective action”.¹²

In January 2001, as an answer to Kofi Annan’s call, the independent Commission on Human Security was established and had, as its mission, to clarify the concept of human security in order to reach a consensus on how operational evaluative principles and policy tools should be implemented, and to identify and explore a programme of concrete actions to fight threats to human security. In 2003, the Commission launched its final report “Human Security Now”¹³ which defined human security as protecting “the vital core of all human lives in ways that enhance human freedoms and human fulfilment”, and presented several policy conclusions on issues such as violent conflict, small arms, refugees and internally displaced persons, post-conflict recovery, health, poverty, trade and education.¹⁴

As an answer to the recommendations of the Commission on Human Rights, an advisory body to the Secretary-General was created, the Advisory Board on Human Security, to accomplish the following tasks: to advise the UN Secretary-General on issues related to the UN Trust Fund for Human Security; to promote the human security concept; and to boost the impact of human security projects funded by the Trust Fund.¹⁵

In 2004, the Human Security Unit was established by the UN. This unit, based at the UN Secretariat, had two main tasks: the management

of the UN Trust Fund and its development in order to be “a major vehicle for the acceptance and advancement of human security within and outside the UN”.¹⁶

In recent years, more than 175 human security projects were developed by UN agencies or departments. Several subjects of concern were covered: post-conflict, peace-building, protection and reintegration of refugees, prevention of human trafficking, food and health security, socio-economic security for the most vulnerable, women’s empowerment, among others.¹⁷ Also, several countries as well as regional organisations—such as the African Union, the European Union, the Association of South East Asian Nations (ASEAN), the Organisation of American States (OAS) and the League of Arab States (LAS)—started to highlight the need for people-centred solutions to prevent worldwide threats to peace and human rights, such as hunger, poverty, failing schools, armed conflicts, human trafficking and international terrorism.¹⁸ The concept of human security has also attracted the attention of academia which, in recent years, devoted itself to creating research centres, institutes or educative programmes on this theme.¹⁹

THE COPENHAGEN SCHOOL’S SECURITISATION CONCEPT

The Copenhagen School along with other schools—such as the Critical Security Studies School and the Paris School—has made a significant contribution to security studies.²⁰ The concept of securitisation, introduced by Ole Waever in 1995, was the main contribution of the Copenhagen School. For this school, the concept of security is determined by political decisions shown by acts of speech.²¹ Therefore, the classification of a reality as a threat to security is made with political agendas.

According to the Copenhagen School, the process of securitisation encompasses the following actors: the referent object—a group, a state or a nation which is said to be threatened; the referent subject—a “state, an opposing culture or transnational” that is threatening the referent object (a real or an imaginary threat); and the securitising actor—the one that is legitimised to act on behalf of the referent object (a government representative for instance) and who classifies, through a discourse or a speech, a given reality as a threat.²² This process of securitisation

is completed if the referent object is convinced that the referent subject is really a threat and accepts the proposed measures issued by the securitising actor. Thus, discourses and acts of speech play a very important role in convincing the referent object—normally a nation—that a given reality is a threat. As some authors argue, if the securitising actor is a representative of an elected government, then the audience will accept the securitising process with no resistance, as “political representatives are democratically elected and officially regarded as legitimate actors for speaking on behalf of the nation”.²³

One of the criticisms made of the Copenhagen School’s securitisation concept is the fact that security analysts, besides exploring how the process of securitisation occurs, should also explore why it occurs. What are the intentions of securitising actors when they act? Knowing that will allow us to understand what is the potential outcome of the securitisation process. The potential outcome will, in turn, demonstrate the moral rightness or wrongness of a securitisation process.²⁴ For authors like Rita Floyd, the securitisation process will be morally right if the threat exists objectively, if the referent object is “morally legitimate”, and if the security response is in proportion to the threat in question—namely, it must be proportionated to the aggressor capabilities and the securitising actor must be honest regarding its intentions.²⁵

The moral wrongness of process is one of the risks of securitisation. In fact, the Copenhagen School recognises that the securitisation process has dangerous aspects, leading sometimes to the restriction of some fundamental rights, for instance some civil liberties, or to the militarisation of society.²⁶ Attending to its importance and the dangers that it may lead to, security answers must be carefully weighed in order to avoid disproportionate results. Thus, checks and balances are crucial in the securitisation process. As Georg Frerks wrote, “Copenhagen School recognises that securitisation is a man-made process based on particular representations and constructions of reality, if not the manipulation thereof, by the stakeholders involved”.²⁷ Despite that, the fact is that, in last years, we have assisted what some authors call over-securitisation.²⁸ Whether following their own agendas or not, government representatives exaggerated social problems and reacted in a disproportionate way by military means. The war on terror has been seen as one of the examples of this over-securitisation trend.²⁹

THE SECURITISATION OF MIGRATION

According to the International Organization for Migration, migration can be defined as the movement of a person or several persons within a country or across the borders of several countries. The reasons that lead migrants to their journeys can be very different: a war in their homeland, persecution for political reasons or insecurity due to the constant violation of their fundamental rights, economic reasons, family reunification purposes, etc.³⁰

The 11 September 2001 attacks in USA, followed by the 2004 Madrid train attacks and the 2005 London metro attacks, caused a shift in the way states see migration. The fact that these attacks were, apparently, perpetrated by civilians changed the way countries face internal/national security issues. The international flux of people is perceived, nowadays, as a threat to countries' security because it is often associated with terrorism, illegal migration networks and illegal activities such as the trafficking of humans, drugs or arms.³¹ Besides the criminal threat, migration is also feared because of its potential of causing socio-economic and political instability. For some, migration entails the risk of under or unemployment—as they accept to do the same work as nationals but for a smaller salary-, and can be perceived as a cultural and/or religious threat—because they take with them their language and their cultural and religious values which can, eventually, contaminate the host country's culture and religion, being a threat to its identity.³² Finally, the utmost consequence of such social and economic instability is political instability. Migration was, thus, securitised. And this securitisation process seems to be very well accepted in academia.³³

The securitisation of migration was built, as we are going to see more accurately further on, through political discourse. Migrants were, thus, the target of xenophobia, racist and discriminatory speeches, where the distinction between “us” and “them” and the negative presentation of “them” was progressively emphasised.³⁴

What are the consequences of the securitisation of migration? Is there any impact of this process on the protection of human rights?

One of the very first consequences of migration's securitisation was a shift in asylum and migration policies towards a more restrictive legislation and an increased border control.

Securitisation of Migration vs. Human Rights

For some authors, there is a paradox between border control and the protection of human rights. The world assists, since 2015 and especially in Europe, in building fences, in increasing border guards and surveillance technology in order to boost border control. In taking such measures a state's prerogative can collide with the fundamental rights of those who cross its borders seeking international protection, as is the case of refugees. According to article 14 (1) of the Universal Declaration of Human Rights (UDHR), it is recognised that “[e]veryone has the right to seek and to enjoy in other countries asylum from persecution”. Despite this right recognised by the majority of world's countries, reports of human rights non-governmental organisations show that border control measures prevent refugees, in several cases, from feeling safe and claiming asylum. In the last few years, the increase of border control in Europe has led refugees to undertake more and more dangerous journeys in search of effective international protection. The increase of border control has often left migrants (men, women and children) deprived of basic needs—such as food, water and shelter—while awaiting for their turn to present their case and see if they are entitled to earn the status of refugee.³⁵

Today, we can see that the securitisation of migration has led to a shift in the way states' leaders view refugees. States are, now, more worried in protecting themselves from refugees than from interstate's war or conflicts. The national security speeches have gained more emphasis than humanitarian speeches, and refugees have become causes of insecurity rather than victims of insecurity.³⁶

The European Securitisation of Migration

The 11 September 2001 attacks in USA had many repercussions, including in the way European countries started to look at migrants. Speeches of European leaders notoriously show a tendency to securitise migration by putting the light on national security, linking terrorist attacks to migrants. This securitisation legitimised the strength of migration control through the increase of border control and a more restrictive legislation on migration. One of the examples of this migration's securitisation trend in Europe was the United Kingdom Anti-Terrorism, Crime and

Security Act of 2001 that included the possibility of indefinite detention of foreign nationals suspected of terrorist attacks.³⁷

The process of securitisation of migration happens, in Europe, through 2 levels: by acts of speech and by the creation of security agencies and European policies on migration.³⁸ Acts of speech regarding the securitisation of migration are common in election campaigns and are political instruments aiming to mobilise the audience through populist and/or nationalist discourses. These speeches exalt the preservation of their cultural and religious identity, placing migrants as threats to that identity and respective values.

The creation of security agencies, such as Frontex, by the European Union (EU), is another path to the securitisation of migration. This European Border and Coast Guard Agency was created “to promote, coordinate and develop European border management in line with the EU fundamental rights charter and the concept of Integrated Border Management”.³⁹ Its mission is, among others, to monitor migratory movements, analysing Member States’ capacity to deal with those flows; to provide support to search and rescue operations; to deploy European Border and Coast Guard teams; to provide support to asylum request procedures and to forced returns operations; and to help other agencies, such as Europol and Eurojust in the fighting against organised cross-border crime and terrorism.⁴⁰

Common European policies on migration have led, also, to the securitisation of migration. This path—initiated by the Single European Act, in 1986,⁴¹ and followed by the Treaty of Maastricht in 1993⁴² and the Stockholm Programme in 2009⁴³—and its importance were stretched, in late 2014, by the President of the European Commission Jean-Claude Juncker’s takeover. One of the 10 top priorities established by Jean-Claude Juncker for 2014–2019 was the implementation of a common asylum policy, a new policy on legal migration, a communication on internal security strategy and operational measures to fight terrorism and counter radicalisation.⁴⁴

The securitisation of migration has been followed not only by intergovernmental institutions, such as the European Union, but also by the some states including the UK, France and Spain. In the first years after the 11 September 2001, speech acts in UK reflected, already, a migrations’ securitisation trend by linking migrants to terrorism and presenting border control as the solution for that threat.⁴⁵ In France, the culture and identity of the country are, in the last decade and for some,

threatened by migrants and their foreign values, leading to the rejection of different cultures, despite the founding values of the French Republic: equality, fraternity and liberty. Thus, several political speeches reflect this perspective on migrants, wide-spreading xenophobe ideas and reveal a complete intolerance regarding the foreigners.⁴⁶

EUROPEAN POLICY RESPONSES TO THE “REFUGEE CRISIS”

European Countries Policy Responses

Although most European states have followed the trend of securitisation of migration, some have been responding differently to this refugee crisis. During 2015, the year when more than one million migrants arrived in Europe, Germany, UK and Hungary took out new policies. While Germany expected to accept 1 million refugees during 2015, pushing away the Dublin regulations that enable states to accept refugees that did not register themselves in the country where they first arrived, the UK planned to welcome only 20 million Syrians until 2020, accepting only refugees taken directly from refugee camps around Syria.⁴⁷ UK policy regarding refugees showed that their politicians are more concerned with national security and economy than with the security of refugees. In 2015, the UK amended its immigration legislation, introducing a new Immigration Act with a view, among others, to discourage undocumented migrants to go to the UK or to encourage them to voluntarily leave the country. This new legislation allows public entities to identify irregular migrants and remove them from the UK more easily.⁴⁸ These legislative changes come together with political speeches that showed the need to securitise migration and intensify border control.⁴⁹ In 2016, the new UK Prime Minister, Theresa May, set out the terms of reference of an immigration taskforce in order to implement measures to control migration, namely through a targeted visa system. This immigration task force was an initiative of the previous Prime Minister David Cameron.⁵⁰

Differently, Germany introduced, in September 2015, a new legislation in order to accelerate the asylum procedures,⁵¹ showing more worried with the refugees’ security. The political speeches reflect the perception that the growing flux of migrants towards Europe is not a crisis (a European crisis) but a tragedy for those who seek international protection.⁵² In Germany case, refugees are not perceived as a threat to the country’s identity. Moreover, it is the national identity that forces

Germany to welcome refugees, as Chancellor Angela Merkel stressed.⁵³ In Germany, the referent object of securitisation is not the German people but the refugees. It is the refugees that need to be protected from threats like xenophobia or racism.⁵⁴

Hungary, in the voice of its Prime Minister Viktor Orban, reacted negatively when, in September 2015, the EU was discussing mandatory quotas of refugees to be welcomed by European countries. Hungarian Prime Minister presented the defence of Hungarian borders as the solution for the threat posed by refugees, arguing, mainly, the need to protect Europe's religious identity. According to Viktor Orban, Europe's Christianity is threatened because refugees are mostly Muslims.⁵⁵

EUROPEAN UNION POLICY RESPONSES

The 10-Point Plan for Immediate Action

In April 2015, the European Union reacted, through the European Commission, establishing an immediate 10-point plan to address the refugee crisis. Those urgent actions were, *inter alia*, to improve the fight against smugglers, either by capturing and destroying their vessels or by promoting co-work with several European institutions—Europol, Frontex, EASO and Eurojust—in order to gather more information on smugglers' *modus operandi*; to deploy teams to help the processing of asylum applications; to start resettlement and relocation processes; to establish a new programme for rapid return of irregular migrants coordinated by Frontex; to start the negotiation of agreements with countries within a geographical situation that allow the prevention of irregular migration and gather information on migratory flows.⁵⁶

The European Agenda on Migration

Pointing to the “human tragedies” taking place within the EU's external borders, the European Commission presented, in May 2015, the European Agenda on Migration as a tool that would allow Member States to better deal with migration.⁵⁷ This agenda aims to provide a “comprehensive approach grounded in mutual trust and solidarity among EU Member States and institutions”, combining internal and external EU's policies.⁵⁸

This new European agenda on migration presents two different answers: a humanitarian answer, regarding refugees' security, and a border control answer, regarding EU states' security. Thus, in the field of humanitarian help, the European Agenda on Migration aims to prevent further deaths of migrants at sea through an extra fund to Frontex in order to improve their search and rescue operations, the safe resettlement of regular migrants to Europe; to improve a solidary relocation of refugees, already benefiting from international protection in an EU country—as Italy or Greece—among the several EU countries; and to improve the funding of Regional Protection and Development Programmes, in order to better answer third countries' needs in ensuring the protection of refugees that cross these countries' borders.⁵⁹ Concerning EU states' security, the new agenda on migration aims to improve the funding of most affected Member States located at the EU's external borders; to strengthen the role of Europol and launch Common Security and Defence Policy (CSDP) in order to better fight smugglers' criminal networks; and to create hotspots in most affected EU countries to “swiftly identify, register and fingerprint arriving migrants”. These hotspots in which EASO, Frontex and Europol will work together, will allow to better investigate and dismantle migrant smuggling networks.⁶⁰

Measures Taken by the European Union in 2015

During the rest of 2015 and having in mind the goals established by the European Agenda on Migration, several measures were implemented by the European Union regarding the refugees' security.

Some of the EU initiatives regarding the “refugee crisis” are, what we call, humanitarian responses and are, mainly, programmes of relocation and resettlement of refugees, financial support to improve human conditions in countries of origin or transit of migrants and in non-European countries where refugees seek asylum, and the creation of more reception places in European countries of migrants' destination or transit.

Thus, attending the number of migrants arriving in Greece and Italy in the first months of 2015, exhausting the resources of those countries that insure their proper reception while assessing their asylum applications, the European Council approved, in June 2015, the relocation to another EU Member State of 40,000 persons in need or that already

benefit from international protection in Italy and Greece.⁶¹ This relocation was programmed to happen during 2015 and 2016. For each person relocated, the Member State who accepted that relocation could get €6000. Italy and Greece earned €500, to cover transport costs, for each person relocated. In September, the European Commission approved the relocation—in 2015 and 2016—of more than 120,000 asylum seekers from Italy, Greece and Hungary, but Hungary refused to enter in that relocation scheme. The refugees that benefited from this EU relocation measure were, mainly, Syrians, Eritreans and Iraqis.⁶² During 2015, in Greece, 64 people were relocated and, in total, were identified 297 relocation candidates. In Italy, 143 people were relocated and 186 candidates were identified. EU Members States made itself available to receive 305 refugees from Greece and 1041 refugees from Italy. The European Commission recognised that the number of people relocated in 2015 fell short and that “relocation from Italy and Greece need to be speeded up as a matter of priority”.⁶³

In the month of June 2015, the European Council approved the resettling of 20,000 displaced persons in “clear need of international protection”.⁶⁴

In 2015, also, the European Commission launched the “Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa”. This €1.8 billion fund is a result of donations from the EU budget, European Development Fund and contributions from EU Member States and other donors.⁶⁵ This Emergency Trust Fund is directed to African countries of transit or origin of migration floods and aims to help preventing it through the fight, in those countries, against “causes of destabilisation, forced displacement and irregular migration, by promoting economic and equal opportunities, security and development”.⁶⁶ Thus, this Trust Fund is directed to finance projects that, for instance, create employment opportunities for young people and women, projects that support the reintegration of returnees into their communities, projects that satisfy the basic needs such as food and nutrition security, health, education, social protection and environmental sustainability, projects that aim to contain and prevent irregular migration and effective return and readmission and projects that aim to promote conflict prevention and enforce the rule of law and contribute to the prevention of radicalisation and extremism.⁶⁷

In December 2015, the European Commission proposed a voluntary humanitarian admission scheme with Turkey for Syrians.⁶⁸

In what concerns, specifically, the “western Balkans migration route”, the European Commission organised a meeting with all the leaders of countries along this route: Albania, Austria, Bulgaria, Croatia, the former Yugoslav Republic of Macedonia, Germany, Greece, Hungary, Romania, Serbia and Slovenia. The enormous mass of migrants that travelled in 2015, along that route from Greece to Germany or Austria—more than 700,000 people—and the poor conditions that they faced such as hunger, thirst, rain, cold, as well as the lack of coordination and communication between these countries, motivated the urgent intervention of the European Commission. The outcome of this meeting was a 17 point Action Plan which, for instance, was agreed to provide 50,000 reception places in Greece and 50,000 along the route with the help, also, of an EU financial support.⁶⁹ Also, a task force on communication started to provide information to migrants along that route.⁷⁰

Concerning the direct support to the countries most affected by the Syrian crisis—Lebanon and Jordan that host around 1.7 million Syrian refugees—the EU and Member States supported, collectively, the biggest financial aid granted to these countries for their humanitarian, development, economic and stabilisation assistance, contributing, namely, for the basic areas of food aid, health, water, sanitation and hygiene, shelter and protection.⁷¹ This fund is directed, also, to the Syrians in their country and to Syrian refugees in other countries such as Iraq and Turkey.⁷² The European Commission has channelled, also, a Trust Fund, “EU Syria Trust Fund”, to support Turkey, Lebanon and Jordan’s governments so that they can enrol more than 170,000 refugee children in school under an initiative named “No Lost Generation”.⁷³

The EU presented some other measures, during 2015, but they were directed, mostly, to border control aiming to improve the security of EU’s Member States. Some of the most relevant measures were a common process of fingerprinting asylum seekers; the creation of hotspots in some EU State Members to speed up the process of identifying interviewing and fingerprinting arriving migrants; an Action Plan on migrants return; an Action Plan on refugee support and migration management with Turkey; a list of safe countries of origin; the enhancement of a Frontex mandate to reinforce EU border’s security; the amendment of the Schengen border code; the reinforcement of Bulgaria, Turkey and Slovenia border control.

In May 2015, the European Commission published guidelines in order for Member States to follow a common process for fingerprinting

incoming migrants applying for international protection. It was perceived that several EU Member States used detention or coercion to ensure migrants' fingerprinting.⁷⁴

The European Commission also proposed the creation of hotspots in countries with a great influx of migrants, such as Greece and Italy, in which teams composed by European Asylum Support Office, Frontex and Europol workers are sent to assist the process of identifying, interviewing and fingerprinting newly arrived migrants. The purpose of the creation of hotspots is to improve the time that this process takes. These hotspot teams help, also, in the return process of irregular migrants and on the dismantling of smuggling and trafficking networks.⁷⁵ In Greece, in 2015, 5 hotspots were identified and 46 fingerprinting machines were deployed.⁷⁶ In Italy, 6 hotspots were identified and 46 fingerprinting machines were deployed.⁷⁷

In the same year, the EU Action Plan on Return was endorsed to prevent and reduce irregular migration. In the EU view, a functional policy on return will dissuade irregular migrants from coming to Europe.⁷⁸ Thus, in that year, in Greece, more than 16,000 migrants with no right to asylum were forced to return to their countries and 3460 returned voluntarily.⁷⁹ In Italy, more than 14,000 migrants were forced to return and were celebrated bilateral return agreements with Egypt and Tunisia.⁸⁰ Later, that year, the European Commission presented a Return Handbook offering, to national authorities, practical instructions of how to carry out returns of those who are not granted asylum.⁸¹

The European Commission started to draft, also in 2015, an Action Plan on refugee support and migration management with Turkey, as this country is, according to the European Commission, a key partner to deal with the European refugee crisis.⁸² Later on that year, the European Council welcomed the Joint EU–Turkey Action Plan.⁸³

A list of safe countries of origin was, also, presented by the European Commission. This list will allow Member States to swiftly process asylum application of migrants that come from countries considered safe.⁸⁴ According to Geneva Conditions and the EU Asylum Procedures Directive, a country is considered safe when it has a democratic system, and generally, its nationals don't suffer from persecutions, from torture or other inhuman or degrading treatment or punishment, from the threat of violence, and there is no armed conflict occurring. Nationals from these countries are usually considered to come from a safe country.⁸⁵ Nevertheless, the asylum requests of nationals coming from

countries of that list have the right to see their applications assessed on an individual basis and the right to appeal should remain, also, at their disposal.⁸⁶

At the end of the year, the European Commission presented some measures to reinforce EU border's security, such as the enhancement of Frontex mandate, proposing new tasks and responsibilities to its role of European Border and Coast Guard Agency. One other measure proposed was the amendment of the Schengen Borders Code in order to allow to implement systematic controls of EU nationals when needed.⁸⁷

The European Council agreed with the European Commission proposals on the speed-up actions on hotspots, on returns, on cooperation with countries of migrants' origin and transit as well as on the control of EU's external borders. Concerning, specifically the Western Balkans Route, in 2015, more than 200 police officers from other State Members were sent to Slovenia in order to help with border management. Frontex started, on that year, to operate at Bulgaria–Turkey border, in order to control migrants' movements.⁸⁸

Measures Taken by the European Union in 2016

In 2016, the European Commission proposed several measures concerning the security of refugees, namely:⁸⁹ a new emergency support instrument for faster crisis response within the EU; emergency support instrument projects to improve conditions for refugees in Greece; the proposition of a new approach to better support displaced people; the implementation of the EU–Turkey deal on migrants, proposing 54,000 places to relocate Syrian refugees from Turkey to the EU; a new financial humanitarian aid for Syrian crisis; an additional donation for the Trust Fund for Africa; and financial assistance for refugees in Greece.

Thus, regarding the scale of refugees' arrivals in Europe during 2015, the European Commission proposed a new emergency support instrument aiming to provide a faster and broader support to State Members overwhelmed with a sudden influx of people searching for international protection.⁹⁰ This new emergency support instrument, agreed by State Members within a week after its proposal,⁹¹ aims to provide assistance through the provision of basic goods and conditions, such as food, shelter and medicines.⁹² The State Members agreed to provide €700 million over the next three years to Member States in need.⁹³

Furthermore, some projects addressing pressing humanitarian needs have started under the emergency support instrument, aiming to aid refugees within the EU territory, namely in Greece.⁹⁴

In 2016, the European Commission presented an approach to better support displaced people, regarding the importance that EU external action can have in their lives. This new vision aims to help refugees become more self-assured in the countries where they live and less dependent on humanitarian aid until they are resettled or return voluntarily to their countries of origin.⁹⁵ Thus, in order to accomplish it, the European Commission proposes actions, namely the promotion of access of displaced people to all forms of legal registration, including the births in order to prevent new stateless people; the encouraging of host countries (their governments and communities) to integrate displaced people into their society and economy, through advocacy, information and incentives; the supporting of self-employed displaced persons in their businesses; encouraging host governments and the private economic sector to facilitate Internet access for the displaced people; encouraging host countries to use the displaced people skills/education, allowing them to have access to education—through a facilitate access to university, for instance—or to take part in public education services; and providing expertise to host countries in order to help them to put in place legislation directed to protect displaced people from exploitation.

On the implementation of the EU–Turkey deal on migrants, the European Commission proposed 54,000 places to relocate Syrian refugees from Turkey to the EU Member States. These 54,000 places were places that were not, at that time, allocated to Member States under the relocation programme.⁹⁶

Concerning financial humanitarian aid, the European Commission announced €445 million aid for the Syrian crisis, proposing 54,000 places to relocate Syrian refugees from Turkey to the EU Member States.⁹⁷ The European Commission presented, as well, a budget for 2017, allocating €200 million for the design of a new instrument to provide humanitarian assistance within the EU and €2.2 billion for external actions, such as €750 million for Facility for Refugees in Turkey and €885 million for Lebanon and Jordan.⁹⁸

Regarding the States Members' security, several measures were taken by the European Commission during 2016, such as:⁹⁹ a draft budget for 2017 of €5.2 billion in order to reinforce external borders and address migration crisis; a revised proposal for an EU Entry–Exit System in order

to facilitate and reinforce border check procedures for third country nationals; a proposal to reform the Common European Asylum System; a proposal to reform the Dublin System; an Action Plan on migrants integration; a Migration Partnership Framework for third countries; the training of the Libyan coastguards and navy; the European Border and Coast Guard; the recommendation to prolong proportionate controls at certain internal Schengen borders; and the EU–Turkey agreement and the funding of refugees facilities in Turkey.

Thus, in 2016, the European Commission presented a draft budget for 2017 proposing €5.2 billion to reinforce EU external borders and respond to the migration crisis. From this budget, €3 billion is directed to measures related to the defence of external borders, such as:¹⁰⁰ the setting up of the European Border and Coast Guard; the proposal for a new Entry–Exit System in order to strengthen border management; the proposals to review the Common European Asylum System and the reform of the Dublin mechanism; and the establishment of an EU Agency for Asylum.

The European Commission presented, as well, a revised proposal for a regulation on the establishment of an Entry–Exit System in order to accelerate, simplify and reinforce border check procedures for third country nationals who arrive at the EU. This legislative proposal is a part of the “Smart Borders Package”. This Entry–Exit System is a new technology that will replace manual stamping of passports, reducing the time consumed on that procedure and will allow, mostly, to improve detection of document and identity fraud, registering the name of the traveller, the type of travel document, biometrics and the date and place of entry and exit, recording, also, refusals of entry.¹⁰¹

In 2016, the European Commission presented a proposal to reform the Common European Asylum System. The aim is to establish a faster and harmonised common procedure for international protection within the EU.¹⁰² Thus, regarding asylum claims, this reform introduces the limit of 2 months for the examination of the merits of the claim in case of unfounded and inadmissible claims, a limit of 1 month for the admissibility examination and a limit of 10 days for the admissibility examination where an applicant comes from a first country of asylum or a safe third country.¹⁰³ This reform previews, also, the introduction of time limits for lodging appeals and for decisions at the first appeal stage, and the asylum seekers right to free legal assistance, representation and a comprehensive personal interview assisted by an interpreter.¹⁰⁴ The asylum

seekers will have also the right to remain in the territory of Member States for the duration of the administrative procedure and, in case of an appeal, until the outcome of the decision.¹⁰⁵ Applicants with special procedural needs and unaccompanied minors can see reinforced their safeguards.¹⁰⁶ In case of migrants' non-compliance with the authorities, this new proposal previews harsher consequences such as the rejection of their asylum application if they refuse to do their fingerprints.¹⁰⁷ In case an applicant is found in a Member State where he/she doesn't have the right to stay, the 5-year period, after which beneficiaries of international protection are eligible for long-term resident status, will be restarted.¹⁰⁸ Furthermore, if an applicant is not in the country where he/she presented its application, he/she is not entitled to have access to material reception conditions, employment and vocational training.¹⁰⁹ Nevertheless, the applicants will always be entitled to health care and to a dignified standard of living and children will always have access to education while waiting for their transference to the responsible Member State.¹¹⁰ This new reform allows, also, that Member States can make the granting of certain social assistance conditional on effective participation of refugees in integration measures.¹¹¹ In order to control migratory flows, the applicants should be available to the competent authorities and should not abscond.¹¹² In case of need, the new reform recommends that Member States introduce restrictions to the applicants' freedom of movement, such as the designation of the residence and reporting obligations.¹¹³ An applicant can be detained if he/she doesn't comply with the obligation to be in a specific place of residence and there is a continued risk of absconding.¹¹⁴ By 1 August 2017, this reform proposal was not yet approved.

The European Commission continued its reformist movement with the Dublin System reform.¹¹⁵ This Dublin regulation defines all the criteria and mechanisms that determine which EU Member State is responsible for examining an asylum application. Normally, and as a result of the application of the Dublin system rules, the Member State responsible is the country where the migrant first entered. Nevertheless, the Dublin System showed that it was not able to give an appropriate response when a huge influx of migrants presented asylum requests in just one Member State. In these cases, as happened in Greece or Italy, the number of asylum seekers exceeded the capacity of that country. The answer found by the EU was to distribute, among all Member States, these migrants as well as its asylum requests. Thus, and regarding this reality, the European

Commission proposed the inclusion, in the Dublin System, of “a corrective allocation mechanism” which they call the fairness mechanism.¹¹⁶ This new automated system will “monitor the number of asylum applications each Member State receives and the number of persons effectively resettled by each”.¹¹⁷ Then, if the system detects that one Member State is under disproportionate pressure, the mechanism is triggered and all new asylum applications made after that triggering will be relocated among the EU State Members. Although, if a Member State doesn’t accept the allocation of applications from a Member State that is under pressure, then that Member State has to pay a solidarity contribution of €250,000 per applicant to the Member State which takes on the responsibility in their place.

Also in 2016, the European Commission presented the Action Plan on the integration of third country nationals. This Plan, directed to support Member States and other entities responsible for the integration of migrants, comprehends actions in 4 areas such as education, employment, vocational training and access to basic services such as housing and health care, participation and social inclusion.¹¹⁸

A migration partnership framework for third countries was launched, also in 2016, by the European Commission.¹¹⁹ This partnership aims to reduce the flow of irregular migrants and to develop third countries (economically, socially and politically) in order to prevent that their nationals feel the urgency to leave and tread the path of irregular migrants. Member States’ contributions will be fundamental in diplomatic, technical and financial areas. Seven priority third countries of origin and transit were identified for this partnership: Jordan, Lebanon, Mali, Nigeria, Senegal, Ethiopia and Niger.¹²⁰

Also in 2016, the European Border and Coast Guard was launched to better assure the security of EU borders, as well as the training of Libyan coastguards and navy in order to restrain the migratory flux from that country towards the Mediterranean Sea and Europe.¹²¹

Several EU Member States reintroduced border control, during 2015 and 2016, due to the migration flux along the Western Balkans Route. The Council of Europe recommended, along the year of 2016, that five Schengen countries, namely Austria, Germany, Denmark, Sweden and Norway, maintained their border control.¹²²

Still in 2016, the EU–Turkey agreement came to life and established that, for every Syrian national returned from the Greek islands to Turkey, another would be resettled in the EU directly from Turkey. This deal

aims to dissuade migrants from making an extremely dangerous trip crossing the Aegean Sea from Turkey to Greece. As a result of this agreement with Turkey and the fact that this country has a geographical location that makes it the first reception or a transit country for migrants, the European Commission is providing a facility for refugees in Turkey. This facility, fully operational in mid-2016, aims to offer humanitarian assistance, education, migration management, health, municipal infrastructure and socio-economic support.¹²³

Measures Taken by the European Union in 2017

In 2017, the Central Mediterranean is under focus, with the European Commission proposing additional actions for a better management of migration along this route. In fact, from the beginning of 2017 until July, more than 85,000 migrants arrived in Italy and more than 2000 lives were lost in the Mediterranean Sea. The main country of departure is Libya, but migrants come from Nigeria, Bangladesh, Guinea, Côte d'Ivoire and Gambia.¹²⁴ In February, the EU States Members leaders agreed on a set of actions on that subject,¹²⁵ and in July, the European Commission presented a plan to support Italy and stem migration flows.¹²⁶ This Action Plan is developed in 5 key areas: saving lives (improving the coordination of search and rescue operations through the enhancement of Libyan coast guard and the creation of maritime rescue coordination centres in Libya, Egypt and Tunisia); fighting trafficking in Libya; cooperating with partner countries (through agreements with countries of origin and transit of migration floods in order to fight irregular migration); stepping up returns; and EU solidarity (speed up relocations from Italy to other Member States and the agreement on the reform of the EU asylum system).¹²⁷

Concerning the reintroduction of EU Member States border control, the European Commission, as well as the Council of Europe, recommended Austria, Germany, Denmark, Sweden and Norway to start lifting temporary control, progressively, until October 2017.¹²⁸

In March 2017, the European Commission presented a revised Action Plan on Return and a recommendation to Member States in order to an efficient implementation of procedures. The Action Plan on Return was adopted in September 2015.¹²⁹

Also in March, the European Commission made the balance of 1 year of the EU–Turkey agreement. According to the Commission, the effects of that agreement were immediate and the arrivals of migrants from Turkey to the Greek islands decreased dramatically—from 10,000 in a day in October 2015 to an average of around 43 today. The death toll in the Aegean Sea decreased, also, from 1145 in the year before the agreements to 80 in the year that followed. Concerning returns of Syrians from Greece to Turkey, in the last year 916 irregular migrants were returned and more than 4000 Syrian refugees were resettled from Turkey to EU Member States. According to the European Commission, this first year on the EU–Turkey agreements was a success, as it was “[e]nsur[ed] that the EU’s external borders are protected and that irregular migration can be stemmed, and that those not in need of protection are returned in full respect of international and human rights”.¹³⁰

The European Commission presented, also in 2017, a balance of the relocation and resettlement programmes started in 2015. Thus, since the launch of the emergency relocation scheme, more than 24,500 people have been relocated from Italy and Greece to other Members States such as Belgium, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Ireland, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovenia, Slovakia and Spain, and non-Member States such as Liechtenstein, Norway, Sweden and Switzerland. On what concerns the relocation programme, more than 17,000 people have been resettled in Europe Member States such as Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Ireland, Italy, Lithuania, Luxembourg, the Netherlands, Portugal, Romania, Spain, Sweden and UK, and non-Member States such as Liechtenstein, Switzerland, Iceland and Norway. This information was made available by Member States and Associated Countries as of 24 July 2017.¹³¹

HAS THERE BEEN SYSTEMIC FAILURE IN THE WAY COUNTRIES RESPOND TO THESE CRISES AND HUMANITARIAN DISASTERS?

Looking at the current situation known as the “refugee crisis”, one can say that the concept of human security, as a collective project to ensure the well-being of people, has seemed to fall short.

It fell short, in the first place, in states such as Syria and Eritrea¹³² and other countries of which most migrants—that arrive, or try to arrive, in

Europe—are from. It is the situation of war and violence—that no country has proved to be effectively engaged to prevent or pacify—that compels thousands of men and women of Syria to flee their country, taking with them babies and children for a trip in which survival is unknown. It is the situation of massive violation of human rights—that the international community wants to continue ignoring—that compels thousands of Eritreans to flee their country. And we could continue doing here the same exercise in relation to Afghanistan and other countries from where flee, every day, hundreds or thousands of people. It is because they feel absolutely insecure, and without the minimum conditions to continue living in those countries, that migrants—who nowadays form the great human mass of refugees that we talk about every day—leave their countries of origin.

Focusing on the case of Syria, one could ask: what actions the international community has taken, under the human security doctrine, in order to prevent the occurrence of threats such as the ones we all assisted in the last years? Didn't the international community know that the Syrian regime was undemocratic and that Syrians had been living under an emergency state law during the last 48 years? How many projects were implemented in Syria under the human security doctrine and financed by the UN Trust Fund for Human Security? None.¹³³ What actions were taken, under the responsibility to protect doctrine, in order to protect the Syrians from the war crimes and crimes against humanity? Didn't the UN know since 2011—when it established an International Commission of Inquiry to investigate the alleged human rights violations in that country—that the Syrian government, as well as anti-government groups, was practicing war crimes and crimes against humanity?¹³⁴

The human security project seems to continue to fall short when the international community, confronted with the huge flux of migrants into the Europe shores, didn't present a timely and adequate answer. As Amnesty International says, in its 2015–2016 World Report, “[g]overnments in Europe, Canada and the USA, where public perceptions of refugees were shaken by the gut-wrenching media image of the drowned body of Syrian toddler Alan Kurdi, were forced to react to the public outcry and the calls to welcome refugees and end the crisis. Yet both in Syria's regional neighbourhood and in western countries, significant gaps in institutional responses to crisis and conflict were exposed”.¹³⁵ In fact, as we see in our analyses of the European countries' answers to the “refugee crisis” in this chapter, several were by the European State

Members that, in 2015, preferred to securitise migration,¹³⁶ rise fences in its borders or to increase border control, instead of accelerating asylum procedures, as Germany did, in order to welcome faster those who were in need of international protection.¹³⁷ As Amnesty International reported, “the human rights of many families and individuals on the move were violated, including through criminalization of asylum-seekers, refoulement, push-backs and removal to other territories, and through various state actions that amounted to denial of access to an asylum process”.¹³⁸

The European Union, itself, took too long to start responding in an adequate way to that human catastrophe the world was witnessing in the Mediterranean. It was needed to wait until mid-April 2015, after more than 1000 deaths/disappearances in the sea,¹³⁹ to see a set of EU actions regarding the safety of migrants, such as the European Commission 10-point plan of immediate actions, the European Agenda on Migration and its accomplishment through several measures such as programmes of relocation and resettlement of refugees, financial support to countries of origin or transit of migrants in order to improve human conditions and to prevent migrant fluxes, financial support to non-European countries where refugees seek for asylum, and the creation of more reception places for migrants in European countries.¹⁴⁰ Nevertheless, the number of deaths after the deploying of those measures remained extremely high: more than 2000 migrants died or were reported missing, in the Mediterranean, from May to December 2015.¹⁴¹ This number remained high because, as Amnesty International reported, of the “absence of safe and legal avenues of entry to EU countries”.¹⁴² In fact, the European Union did not create a safe passage for refugees, exposing them to extremely dangerous journeys, from Turkey to Greece, where many men, women and children have lost their lives. Even the relocation and resettlement programmes started in May 2015 fallen short. In the end of 2015, only around 200 refugees and migrants have been relocated from Greece and Italy to other State Members.¹⁴³

EU State Members, in 2015, presented themselves as more concerned with their own security, controlling their borders, braking the migration flood into Europe, than with the refugee’s security.¹⁴⁴ In fact, the securitisation of migration trend was very visible in measures taken by EU States Members when dealing with the refugees’ humanitarian disaster. As reported by Amnesty International, “Balkan countries alternated between closing their borders and simply ushering refugees and

migrants through”.¹⁴⁵ Macedonia and Hungary closed their borders, and a 200-km fencing was built up by Hungary in its border with Serbia and Croatia.¹⁴⁶ Furthermore, Hungary presented a revision on its legislation “rendering it almost impossible for refugees and asylum-seekers entering via Serbia to claim asylum”.¹⁴⁷

Pursuing its securitisation trend, a list of safe countries was presented by the European Commission in order to allow Member States to quickly process asylum application of migrants coming from countries considered safe, and thus not needing of international protection.¹⁴⁸ Furthermore, the mandate of Frontex was enhanced, being reinforced its role of European Border and Coast Guard Agency, and agreements were made with countries of migrants’ origin or transit, in order to restrict their flow to Europe. This “EU migration control outsourcing”, as Amnesty International called it, was also the reason why the Joint EU–Turkey Action Plan was welcomed by the European Council. In exchange for controlling its borders and restraining the flow of migrants, the EU would pay 3 billion euros of aid for its resident refugee population and “turning of a blind eye to its [Turkey’s] growing list of human rights indiscretions”.¹⁴⁹ The problem, with these EU agreements with other countries is that those same countries have a high rate of human rights violations and disrespect for asylum seekers rights. Actually at the end of 2015, Turkey was reported of having forcibly returned refugees and detained asylum seekers.¹⁵⁰ The European Union showed itself conniving with human rights abuses in favour of its own security.

One of the main goals of EU State Members, in 2016, continued to be the reduction of migrants arriving to Europe. In fact, that aim was accomplished, as the number of migrants arriving in Europe, in that year, was around 358,000, against 1 million in 2015. One of the main reasons for that decrease was the Joint EU–Turkey Action Plan that contributed to the decreasing of the arrivals to Greece from Turkey, through Aegean Sea.¹⁵¹ Nevertheless, as Amnesty International reported, Turkey wasn’t able to offer, as agreed in the Joint EU–Turkey Action Plan, all protection that asylum seekers would be entitled in an EU State Member.¹⁵²

Despite the decrease in migrants’ arrivals in 2016, more than 5000 migrants were reported dead or missing in the Mediterranean, against 3000 in 2015.¹⁵³ That means that in 2016, there was an increase of almost 70% of deaths or disappearances that the EU wasn’t able to prevent. Once more, the lack of a safe passage for refugees continued to condemn those who were seeking international protection to dangerous

and, sometimes, deadly journeys. The lack of solidarity of most EU State Members continued to be the key note in 2016, becoming also evident in, for example, the failure of the relocation scheme. As said before in this chapter, the European Commission foresaw, in 2015, to relocate within 2 years, 120,000 people from Greece and Italy. In the end of 2016, only 8000 refugees—6000 from Greece and 2000 from Italy—have been relocated.¹⁵⁴ The failure of the relocation scheme had some direct consequences in the reception and fingerprinting process of migrants arriving to Italy and Greece borders. Amnesty International reported that “Italy and Greece were left facing enormous pressure to fingerprint, process and return as many migrants as possible” and that there “were incidents of ill-treatment being used to secure fingerprints, arbitrary detention of migrants and collective expulsions”.¹⁵⁵ The resettlement scheme was also a failure. Planning, in July 2015, to resettle 22,000 within 2 years, in December 2016 only around 13,800 have been resettled.¹⁵⁶ Ten EU State Members didn’t want to resettle refugees.¹⁵⁷

In 2016, the reception capacity in Greece didn’t improve enough. Refugees and asylum seekers remained in poor and unsafe conditions, being attacked by locals connected to far-right groups.¹⁵⁸

Returning procedures were one of the biggest worries of the EU in 2016. Thus, some cooperation agreements were made with migrants’ origin countries in order those countries cooperate in the return of its nationals when asylum is not granted. The main concern about these agreements is the fact that some of those countries are not human rights respecters, living in a conflict escalate, and there are no guarantees of the safety and respect of fundamental rights of the ones who return to their countries. Besides that, these agreements, as EU–Afghanistan cooperation agreement “Joint Way Forward”, make easier to return migrants to their country of origin, even if those returning migrants are unaccompanied children.¹⁵⁹

The “EU migration control outsourcing” continued to be a priority to EU policies regarding the “refugee crisis” in 2016. In June of that year, the “Partnership Framework” plan was endorsed by the European Council. The plan’s aim is to reduce the number of migrants reaching the EU coast through the funding and aid of countries of migration origin or transit.¹⁶⁰ In return, those countries should control their borders. The main problem of these agreements is, once more, the fact that those countries are, in most cases, human rights abusers being impossible to assure that the fundamental rights of migrants will be respected.¹⁶¹

Along with the “EU migration control outsourcing”, some EU State Members started to adopt restriction policies regarding asylum requests. Countries previously known by their generosity to migrants such as Finland, Sweden, Denmark and Norway introduced regressive amendments into their legislation.¹⁶² Austria accelerated its asylum requests application processing, returning, immediately and without reasoned motivation, those which its asylum request was rejected. Hungary amended its asylum legislation, and there were reported “pushbacks at the border with Serbia, unlawful detentions inside the country and poor living conditions for those waiting at the border”.¹⁶³ Also reported were “violent pushbacks at the Bulgaria-Turkey and the Macedonia-Greece borders”, mainly due to the close of borders on the Balkans route.¹⁶⁴ Germany remained one of the few EU State Members that more impressively made efforts in dealing with this humanitarian crisis, processing almost 1 million asylum requests received in 2015.¹⁶⁵

The reform proposal to the Common European Asylum System, presented also in 2016, by the European Commission,¹⁶⁶ is controversial as, as Human Rights Watch reports, it has positive aspects as “stronger safeguards for children and better access to a lawyer”, but foresees punishments to asylum seekers that move from one EU to another, simplifying summary claim rejection processes and the revocation of refugee status.¹⁶⁷

Worthy of note was the solidarity shown by a lot of European citizens in reaction to their leaders’ lack of response.¹⁶⁸ In 2016, in reaction to government inertia and lack of solidarity to protect refugees, many volunteers worked to save migrants from drowning in the sea or from thirst and hunger inland.¹⁶⁹ One example of these civil society movements was the PAR, a refugee support platform, built up by Portuguese civil society organisations, to support refugees in the present humanitarian crisis. This platform has 3 main axes: PAR families; PAR Front Line; and PAR Front Line—Greece. PAR families is a project directed to host and integrate refugee children and their families in Portugal, in a community context, with the involvement of local institutions. PAR Front Line is a fundraising campaign, in order to support the work of Caritas and JRS in Lebanon with refugees and internally displaced persons. PAR Front Line—Greece is a volunteer programme promoted by PAR under the “FRONT LINE” programme to support refugees arriving in Greece, in liaison with local organisations.¹⁷⁰

EU State Members politicians and leaders demonstrated during 2016 and 2017 growing concerns on migration issues, using nationalist and

xenophobic speech acts, urging the need of protection of their (EU State Members') cultural identity and, thus, building the securitisation of migration. The threats presented were, among others, immigration, Muslims, foreign nationals and terrorism (linked to Muslim refugees).¹⁷¹ These political discourses are a useful tool for some politicians that aim to gain notoriety. Profiting from the general discontentment of European citizens, due to the economic crisis and terrorist attacks, some European politicians started to highlight the EU States Members law "as protecting only the terrorist suspect or the asylum seeker at the expense of the safety, economic welfare, and cultural preferences of the presumed majority".¹⁷² According to Human rights Watch, "[t]his dangerous trend threatens to reverse the accomplishments of the modern human rights movement",¹⁷³ as people are starting to see human rights not as fundamental for everybody, including themselves, but as protecting only the "others"—the migrants, the ones who are culturally so different—against the European people and their culture.¹⁷⁴ For that reason, people are starting to believe that human rights are thus dispensable.¹⁷⁵

The escalation of discrimination in Europe, evidenced by Islamophobic and anti-immigrant sentiment as well as attacks on Muslims and migrants, is a direct outcome of those nationalist and xenophobic political speeches. Concerns about this anti-immigrant and Islamophobic trend were raised by the United Nations High Commissioner for Human Rights, Zeid Ra'ad al-Hussein, who warned European populist parties about the dangerous effects of their use of xenophobia.¹⁷⁶ The same concerns were voiced by the Council of Europe's Commissioner for Human Rights, Nils Muižnieks, who urged the importance of migrant integration and of effective protection from discrimination.¹⁷⁷ The European Commission, recognising the urgent need to address the high rates of xenophobia in the EU, launched the High Level Group in order to help Member States to prevent hate crimes, by funding relevant projects in that area, providing guidance on the implementation of laws, training and developing platforms to exchange practices and methods.¹⁷⁸

CONCLUSION

According to European Commission 2017 data, the relocation and resettlement programmes have fallen short of what was expected. The relocation scheme intended to relocate 120,000 asylum seekers from Italy and Greece in 2015 and 2016. Nevertheless, until the end of July

2017, only around 24,500 people have been relocated. On what concerns the resettlement scheme, the European Council approved, in 2015, the resettling of 20,000 displaced persons in 2 years. Until July 2017, only 17,000 people have been resettled. These figures show the lack of solidarity of European State Members regarding the refugees humanitarian crisis and illustrate the failure, also, of the intention to speed up procedures in Greece and Italy in order to swiftly identify asylum seekers that can enrol in the relocation programme.¹⁷⁹

Indeed, European policies regarding the refugees' humanitarian disaster seemed too little and too late. Too little for those who continue living with no dignified living conditions, in Greece, Italy, Turkey or in some Balkan countries, while waiting for their asylum requests to be appreciated. Too late for all those who drowned in the Mediterranean Sea because Europe wasn't able to create a safe passage for them.

According to the International Organization for Migration, until 25 September 2017, 140,953 migrants arrived to Europe by land and sea. So far, 2556 were reported dead or missing in the Mediterranean.¹⁸⁰ The flux of migrants has decreased, and that is the main achievement of all European policies regarding refugees: to discourage migrants from coming to Europe. With this "great achievement", Europe showed, only, that its humanitarian core didn't survive this hard test. Nevertheless, people in need of help continue arriving in Europe because, even if they know they are not welcome and may not survive the journey, they don't see any other solution for their lives.

NOTES

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Conclusion

Marion Boulby

This volume is devoted to the challenges to human security posed by global migration and the movement of refugees, one of the most significant issues facing the world today. Our geographical focus has been on the Middle East and North Africa (MENA) region which has experienced the massive transnational movement and internal displacement of political refugees and economic migrants since the tumultuous Arab Uprisings of 2010/2011. While the circumstances of the uprisings varied tremendously from state to state, they all shared opposition to the persistent authoritarianism dominating the region. Sadly, democratization has not been the outcome of these various challenges to state control (except for perhaps in the case of Tunisia). Rather, the region has experienced a reassertion of authoritarian rule, an escalation of sectarian conflicts, violence and fragmentation. Failed states such as Iraq and Syria have been unable to control their borders, leading to massive movement of migrants and refugees. The civil war in Syria, now in its seventh year, has had global consequences, producing 13 million displaced people (both internally and across borders) alone.

The theoretical framework of this book has been built on the authors' shared concept of human security. The authors examine the effects of the

M. Boulby (✉)

Department of History, Trent University, Peterborough, ON, Canada

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movement of people across borders in the light of human vulnerability, globalization and links to transnational crime. *An underlying premise of their work is that although refugees and migrants are often perceived as contentious and posing threats to nations' sovereignty, these most disempowered people on the planet are in fact often the victims of authoritarian state polices which oppress and marginalize them.*

The goal of this book has been to answer three questions surrounding the migration and refugee crisis in the MENA: (1) What are the human security implications for people victimized in this crisis? (2) What are the pull/push factors for these migrants and refugees and which groups of the population, such as women and children, are the most vulnerable? (3) What are the relationships between conflict in MENA states of migrant origin and the crisis, how do they affect regional and national policies towards refugees and migrants and how can interventions and international legal instruments play a role in resolving this crisis?

In the introductory chapter, Kenneth Christie discusses the respective roles of globalization, push/pull factors and international state policies and the Arab 2011 uprisings in contributing to the migration crisis in the MENA. He concludes that the protectionist responses undertaken by receiving states contribute to the insecurity and vulnerability of migrants, limiting access to employment and social safety nets. His contribution is echoed throughout the volume where authors are concerned about state policies of securitization to the detriment of the human rights (and security) of migrants. In Chapter 2, Nergis Canefe, charting the engagement of Middle Eastern states with the ongoing Syrian crisis, concludes that most states (with a focus on Turkey) have pursued a strategy of continuing to reject the legal definition of refugee or stateless people and have long engaged in a conduct of instrumental absorption and manoeuvring of forced migration for state-centric, labour-related, demographic or security purposes. In Chapter 3, Kathleen Manion, having addressed the vulnerability of children and youth in conflict and transit from both global and MENA contexts, suggests that a key way forward is for states and courts to stop punishing these victims and to resort to legal and systemic mechanisms and actors as well as knowledge about what is needed to support child refugees including the 1989 UNHCR "Guidelines on Refugee Children" which prioritizes the human rights of the child in all actions. She points out that while international frameworks are robust, they are insufficiently applied by state and non-state actors, leaving a huge gulf between what is promised and what is actualized for child refugees.

In Chapter 4, Stephanie Perham similarly argues that the pressures created by the global refugee and migration crisis can be alleviated by adapting existing systems to regulate and support legal movement, understanding the root causes that drive forced displacement, encouraging first asylum countries to empower refugees and their host communities to be self-reliant and coexist peacefully and ensuring an effective and accountable financial investment in this long-term approach. The author points out that most refugee youth will eventually choose to return home to rebuild their countries or integrate in other societies in accordance with their acquired skills and financial capabilities. This approach can avail a dignified life to refugees and their hosts and break the conflict cycle.

In Chapter 5, Julia Ritz, after exploring the role of NGOs and INGOs and EU member states in the refugee and migration crisis, argues that both state and non-state actors should reorient their policies to further utilize and improve already existing mechanisms. She emphasizes that more priority should be given to state building efforts in the migrants' countries of origin, better coordination among donors, serious consideration of issues reported by peacekeepers and well-planned programmes.

Policy and intervention in the Mediterranean crisis are also taken up by Nur Koprulu in Chapter 6 with a focus on the case of Syria. She argues that up until now, the overwhelming tendency of EU member states has been to agree on security-driven measures that need to be taken, focusing on border controls, return and readmission instead of sharing responsibility and ensuring full compliance with the principles of human rights and human security. With regard to the UN, the organization has been deadlocked by the two permanent members' "no" votes and has failed to be efficient in building bridges and in mediating the crisis in Syria. She argues that the situation in and out of Syria during the refugee crisis urgently requires effective action by the international community which needs to embrace principles of "responsibility to protect" or "responsibility by protecting".

This author's Chapter 7 focuses on challenges to human security faced by the estimated more than one million Syrian refugees currently residing in Jordan. This is yet another example of how the state securitization of refugee policy fails the human security of the most vulnerable of people. I argue that while the Jordan Compact initiative agreed at a major donor conference in February 2016 secured millions in loans, grants and pledges in return for Jordan opening up its labour market for Syrian refugees,

the success of the Compact remains to be seen due primarily to policies remaining in place which block Syrians from acquiring work permits and the persistence of poverty and child labour among refugees.

In Chapter 8, Robert Hanlon, discussing human trafficking and smuggling flows towards Europe from the MENA region, argues the “business case” for human rights. Only through a multitask-holder approach involving governments, business and civil society can a meaningful collaboration begin to address the human smuggling and trafficking risk in the MENA region. He argues that businesses fail to take into account how the human rights risk may impact their firms’ bottom line through negative publicity and legal sanction. He makes three recommendations for those in industry looking to insure they are not complicit in rights violations. First, businesses should communicate a rigorous human rights policy throughout their companies, second, they should entrench best practice human rights standards within corporate governance policy, and finally, they should partner with business leaders who have already established anti-human trafficking policies.

In Chapter 9, Rute Baptista concludes that the human security project of the international community confronted by the influx of migrants and refugees into Europe has been “too little and too late”. She argues that the EU member states took too long to respond adequately to the human catastrophe in the Mediterranean, waiting until after the more than 1000 deaths/disappearances of migrants/refugees in the area to set in motion a ten-point plan of action. However, the numbers of deaths after the EU employed measures for relocation and resettlement of refugees remained high (more than 2000 dead/missing from May through December 2015) because of the absence of safe and legal avenues of entry into the EU. She points out that EU states were more concerned with their own security and with limiting entry of asylum seekers to Europe than with their human security.

In sum, the authors of this volume analyse the factors underlying the human security crisis arising from the mass movement of migrants and refugees in the MENA. These are many and include protectionist state policies, insufficient international cooperation (between nation states and non-state actors), the persistence of push factors of violence, authoritarian rule, fragmented societies, the normalization of death by international regulators of migration as thousands have drowned in the Mediterranean Sea, the victimization of the most vulnerable—children and youth, the ongoing tragedy of human trafficking as a profitable

industry for organized crime. Overall, we have spoken about the failure of international state actors and organizations such as the UN to uphold the global humanitarian responsibility to ensure the human security of millions of migrants and refugees.

As noted in the introduction to this book, if we think of migration as a result of globalization so too should we see it as a positive force to change policies in sending and receiving countries. Heads of states who participate in discussions within the global arena on issues of human rights and migration are often, as we have seen, motivated primarily by national sovereignty and security concerns to the detriment of human security, especially for migrants.

It is time for international actors to re-evaluate repressive policies towards migration. The migrants in MENA are some of the most vulnerable people on this planet. Availing them of the possibility of a safe and dignified return to their countries of origin would be the preferential solution to the crisis, but for now integration of refugees into the society where they have sought asylum in a self-empowering way is essential.

The global crisis of human security and migration in the MENA is largely man-made. There is a human capability and moreover a moral responsibility to correct it.

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