

KNOMAD STUDY

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

Part II: Country Cases
(Preliminary)

Roger Zetter
Héloïse Ruaudel

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Refugees' Right to Work and Access to Labor Markets – An Assessment¹

Roger Zetter and Héloïse Ruaudel²

Abstract

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

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

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

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² Roger Zetter is Professor Emeritus of Refugee Studies at the University of Oxford, and Héloïse Ruaudel is Consultant and Researcher (Humanitarian and Development). The authors may be contacted at roger.zetter@qeh.ox.ac.uk and heloise.ruauadel@gmail.com.

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Bangladesh

PROFILE

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

CONTEXT

The vast majority of refugees in Bangladesh are Rohingyas from Myanmar. Under Myanmar's nationality law, the Rohingyas are not considered citizens of Myanmar. About 30,000 Rohingya refugees who were registered by the United Nations High Commissioner for Refugees (UNHCR) before 1992 have been given temporary asylum by the government of Bangladesh and receive assistance in camps, pending a durable solution. The vast majority of Rohingyas who arrived subsequently were not registered as refugees and are treated as illegal migrants and do not receive assistance.⁴ They live in informal settlements near the camps or in towns and cities. Many of them are among the 230,000 who repatriated between 1993 and 2005 but have since returned to Bangladesh.⁵ After the outbreak of renewed violence against Rohingyas in Myanmar beginning in June 2012, many fled their homeland again, but Bangladesh did not allow them

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

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

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

in.⁶ The situation of the undocumented Rohingyas in Bangladesh needs to be seen in the broader context of statelessness.⁷

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

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

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

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

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

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

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

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

1. LAW

Refugee Law

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

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

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

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

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

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

¹⁶. The 1972 Constitution of the People’s Republic of Bangladesh, www.refworld.org/docid/4a40d29f7f.html.

¹⁷. Information provided by the UNHCR.

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

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

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

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

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

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

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

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

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

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

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

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

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

Right to work – refugee and labor and employment law

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

2. POLICY AND PRACTICE

Constraining factors

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Facilitating factors

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

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

3. MEDIATING CONDITIONS

Socioeconomic conditions

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

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

Refugee profiles

In addition to the legal situation, illiteracy and lack of skills make it difficult for Rohingyas to find jobs.⁴³

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

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

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

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

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

Rohingyas suffer from social isolation within Bangladeshi society and as a result they have concentrated in the Cox's Bazar area where their language is spoken. A small number of wealthier Rohingyas have settled in Chittagong city and reportedly hire other Rohingyas.⁴⁴

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

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

4. OUTCOMES

Participation in the labor market

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

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

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

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

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

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

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

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

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

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

SUMMARY AND CONCLUSION

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

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

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

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Ecuador

PROFILE

- **Party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol, and party to the Cartagena Declaration on Refugees 1984**
- **53,191 refugees, 68,344 people in refugee-like situation, and 11,583 asylum seekers totaling 133,118⁵¹ = 0.82 percent of a total estimated population of 16 million**
- **Flow of Colombian asylum seekers remains high although access to asylum has become more difficult since changes in the Refugee Law in 2012.**
- **Refugees spontaneously and widely settled across the country.**
- **Human development rank and index: 88th and 0.732**
- **GDP: Growth 0.3 percent; Per capita US\$6,248.1**
- **Upper-middle-income economy**
- **Unemployment rate: 4.6 percent**

CONTEXT

Ecuador hosts the largest refugee population in Latin America, according to one estimate 250,000 people—almost double the official figures noted above.⁵² Following the international trend, some 60 percent of the refugees are estimated to live in urban areas.⁵³ Underscoring the size of the refugee population is the fact that, at US\$22.5 million in 2015, Ecuador accounts for the second-highest UNHCR budget for Latin America, after Colombia.⁵⁴

⁵¹. Data on refugee populations for end 2014, not mid-2015 as per other case studies.

⁵². Asylum Access (2014) Ecuador, asylumaccess.org/wp-content/uploads/2014/09/FINAL_Global-Refugee-Work-Rights-Report-2014_Interactive.pdf The same source in another report indicates a smaller number with only 88,000 in refugee-like situations in addition to registered refugees, 'Global Refugees Work Rights Report', (2014), Asylum Access and the Refugee Work Rights Coalition, pp. 25, <http://reliefweb.int/report/world/global-refugee-work-rights-report-2014-taking-movement-theory-practice>.

⁵³. Feinstein International Center (2012) "Refugee Livelihoods in Urban Areas: Identifying Program Opportunities. Case Study Ecuador," Feinstein International Center, Friedman School of Nutrition Science and Policy, Tufts University, Somerville, MA. fic.tufts.edu/assets/PRM_report_Ecuador_resized.pdf

⁵⁴. 2015 UNHCR Regional Operations Profile – Americas, www.unhcr.org/pages/4a02da6e.html. Colombia accounts for almost one-third of the Latin American total, US\$31.5million out of US\$95.3million.

The vast majority, 98 percent, of registered refugees come from Colombia⁵⁵ and enter Ecuador across its northern border, a situation that accentuates the country's security concerns. However, despite the easing of tension between the two countries over cross-border movements, in recent years Ecuador has increased its military presence along the border. This increase has been in response to the insecurity created by the spillover effects of the Colombian conflict, the activity of armed groups, and the illegal cross-border activity caused by differences in the currency exchange rates (peso-dollar). In the past five years the asylum and protection space for Colombian refugees in Ecuador has deteriorated. A more restrictive Refugee Decree, No. 1182 adopted in 2012, followed by partial derogation of some Articles of this Decree in 2014, is symptomatic of the heightened national security concerns of the government of Ecuador, which, combined with negative perceptions of the impact of the refugees, render the search for asylum and protection more difficult.

1. LAW

Refugee Law

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

Advocacy groups have drawn attention to concerns that the regulatory framework relating to refugee status in Ecuador (and Colombia) is controlled through executive decrees.⁵⁶ The Asylum Access report recommends that the refugee determination process be regulated by domestic laws passed by the legislature since this is the proper locus for regulating fundamental constitutional rights such as the right to asylum. The National Assembly, Ecuador's legislative branch, is currently debating a Human Mobility Law that would regulate the right to asylum.

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

Access to protection. The Ecuadoran Constitution of 2008 includes recognition of the right to asylum, provides for group recognition of refugee status, includes the principle of *non-refoulement*, and does not apply sanctions for illegal entry.⁵⁷

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

⁵⁵. UNHCR (2013) "Global Appeal 2013 Update," www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=50a9f8320&query=ecuador%202013.

⁵⁶. Asylum Access Ecuador and the US Committee for Refugees and Immigrants (2014) "Refugee Status Determination in Latin America: Regional Challenges and Opportunities - The National Systems of Brazil, Colombia, Costa Rica, Ecuador, and Mexico." p. 35, asylumaccess.org/wp-content/uploads/2014/08/refugeestatus.pdf.

⁵⁷. United States Committee for Refugees and Immigrants (2009) World Refugee Survey "Ecuador," www.refworld.org/docid/4a40d2a444.html.

The decree also required that those seeking refugee status prove they had been subjected to individual persecution, which is in line with the 1951 Refugee Convention but a significant departure from the broader definition of refugees set out in the 1984 Cartagena Declaration and deployed in Ecuador up to that point.⁵⁸ The effect of the decree was to reduce the refugee recognition rate to a record low of 16 percent, compared with more than 70 percent in 2009,⁵⁹ rendering as irregular migrants the large number of those denied refugee status.

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

Likewise, in the context of Decree 1182, several reports such as the Cartagena +30 Initiative,⁶⁰ a 2013 report by Asylum Access Ecuador and the US Committee for Refugees,⁶¹ and a legal disposition by Human Rights Watch⁶² all draw attention to the limited rights of protection of asylum claimants during the admissibility process. Particular concern has been expressed about the accelerated procedures for those claims deemed manifestly unfounded, abusive, or illegitimate and the lack of effective *non-refoulement* safeguards. For example, an applicant for refugee status determination may be declared inadmissible without recourse to an interview or due process consideration of the application.

Asylum seekers with applications pending for refugee status recognition face a protracted wait, often several years, for a status decision. This long wait occurs because another consequence of the tightening of asylum access procedures was the creation of a large backlog. Many asylum seekers that initiated the process under the previous Refugee Decree (3301) and before the entry into force of Decree 1182 are now in legal limbo regarding their application to the preceding Commission and have not received a final response to their asylum requests. The lengthy process creates protection gaps and slows the scope for local integration because asylum seekers cannot fully access their rights or settle in until they have been granted asylum or their refugee status has been recognized.⁶³

⁵⁸. Georgetown Public Policy Review (2012) "Challenges to Refugee Protection in Ecuador: Reflections from World Refugee Day," gppreview.com/2012/06/26/challenges-to-refugee-protection-in-ecuador-reflections-from-world-refugee-day/.

⁵⁹. Human Rights Watch (2014) "Amicus Brief on Refugee Rights in Ecuador," www.hrw.org/news/2014/06/16/amicus-brief-refugee-rights-ecuador.

⁶⁰. Cartagena +30 Initiative (2014) "International Protection and Effective Integration: Recommendations from Civil Society for the Current State of Asylum and Statelessness in Latin America and the Caribbean," pp. 34–35, refugees.org/wp-content/uploads/2015/12/cartagena_INGLES_2803.pdf

⁶¹. Asylum Access Ecuador and the US Committee for Refugees and Immigrants (2014) "Refugee Status Determination in Latin America: Regional Challenges and Opportunities - The National Systems of Brazil, Colombia, Costa Rica, Ecuador, and Mexico." p. 35, asylumaccess.org/wp-content/uploads/2014/08/refugeestatus.pdf.

⁶². Human Rights Watch (2014) "Amicus Brief on Refugee Rights in Ecuador," www.hrw.org/news/2014/06/16/amicus-brief-refugee-rights-ecuador.

⁶³. Feinstein International Center (2012) "Refugee Livelihoods in Urban Areas: Identifying Program Opportunities. Case Study Ecuador," Feinstein International Center, Friedman School of Nutrition Science and Policy, Tufts University, Somerville, MA. fic.tufts.edu/assets/PRM_report_Ecuador_resized.pdf

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

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

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

Right to work – refugee and labor and employment law⁶⁴

The Ecuadoran Constitution and Decree 1182 recognize refugees' and asylum seekers' right to work, although there is no specific reference to the right to work for refugees in Ecuadoran labor law, only provisions related to foreigners within Ecuadoran territory. Articles 9 and 11 of the 2008 Constitution implicitly recognize refugees and asylum seekers as having the same rights as nationals to work, to start and own businesses, and to access the labor market.⁶⁵

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

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

⁶⁴. This section draws heavily on Asylum Access (2011) "'To Have Work Is to Have Life': Refugees' Experience with the Right to Work in Ecuador," <https://rtwasylumaccess.files.wordpress.com/2011/03/asylum-access-right-to-work-in-ecuador.pdf>. Using updated information supplied by UNHCR, this section takes account of changes that have taken place since that report in 2011.

⁶⁵. This interpretation of refugees' right to work derives from Article 9 of the Constitution, which states that "Foreigners in Ecuadorian territory shall have the same rights and responsibilities as Ecuadorians" and from Article 11 that "no one shall be discriminated against for reasons of ethnicity, *place of birth, ... migratory status*" (emphasis added).

and the Ecuadoran courts to protect their rights. However, as discussed below, despite the explicit protection of all workers, including refugees, rights and protection are not respected in practice, and discrimination is persistent.

In practice, until 2012 asylum seekers' right to work has been unclear but restrictive because of the private sector's lack of awareness of procedures. Following Decree 1182, asylum seekers have been granted the right to work in Ecuador— similar to other Latin American countries such as Argentina, Brazil, Costa Rica, and Uruguay—according to recent sources.⁶⁶

Refugees without status are not allowed to work, but may apply for work permits as foreign workers; however, the prohibitive price of the permit as well as the lengthy application procedure makes this an unrealistic proposition.⁶⁷

2. POLICY AND PRACTICE

Constraining factors

Although recognized refugees and asylum seekers have an unrestricted right to work in Ecuador, in practice there are various detailed legal and socioeconomic obstacles and gaps in implementation that prevent their access to employment. As in many Latin American countries, "access to the labor market and employment conditions remain a challenge implicit in being an asylum seeker or a refugee."⁶⁸ In practice, Ecuador's generous legal framework does not guarantee access to employment and sustainable livelihoods for refugees.

In Ecuador, recognized refugees face discrimination from private employers in the labor market and the workplace on the basis of their country of origin and, to a lesser extent, on their migratory status. A range of challenges, predominantly informal barriers, are encountered, as follows.^{69,70}

⁶⁶. Cartagena +30 Initiative (2014) "International Protection and Effective Integration: Recommendations from Civil Society for the Current State of Asylum and Statelessness in Latin America and the Caribbean," p. 48, refugees.org/wp-content/uploads/2015/12/cartagena_INGLES_2803.pdf.

⁶⁷. In 2009 the price of a work permit in Ecuador was \$1000, United States Committee for Refugees and Immigrants(2009) World Refugee Survey "Ecuador", www.refworld.org/publisher,USCRI,ANNUALREPORT,ECU,4a40d2a444,0.html .

⁶⁸. Cartagena +30 Initiative (2014) "International Protection and Effective Integration: Recommendations from Civil Society for the Current State of Asylum and Statelessness in Latin America and the Caribbean," p. 48, refugees.org/wp-content/uploads/2015/12/cartagena_INGLES_2803.pdf.

⁶⁹. See Asylum Access (2011) "'To Have Work Is to Have Life' Refugees' Experience with the Right to Work in Ecuador," pp. 13–19, <https://rtwasylumaccess.files.wordpress.com/2011/03/asylum-access-right-to-work-in-ecuador.pdf>, and Cartagena +30 Initiative (2014) "International Protection and Effective Integration: Recommendations from Civil Society for the Current State of Asylum and Statelessness in Latin America and the Caribbean," pp. 48–50, refugees.org/wp-content/uploads/2015/12/cartagena_INGLES_2803.pdf , and Colombian Refugee project (nd) 'The Issue', <https://colombianrefugeeproject.wordpress.com/the-issue/>.

⁷⁰. Feinstein International Center (2012) "Refugee Livelihoods in Urban Areas: Identifying Program Opportunities. Case Study Ecuador," Feinstein International Center, Friedman School of Nutrition Science and Policy, Tufts University, Somerville, MA, fic.tufts.edu/assets/PRM_report_Ecuador_resized.pdf

Several constraints apply to gaining access to labor markets.⁷¹ Recognized refugees may be stigmatized as economic migrants and considered untrustworthy as a result of particular stereotypes surrounding Colombians. Ignorance or unfamiliarity with the law and misunderstanding of refugee status leaves employers unwilling to accept or recognize the documentation that refugees require, often precipitating the demand for a work permit that is not required for recognized refugees but is required of other nonrefugee foreign nationals.

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

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

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

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

The regulations used by banks, under authorization of the decentralized Ministry, Instituto de Economía Popular y Solidaria (IEPS), often impede access to loans and thus condemn to the informal sector those refugees who either want to be self-employed or want to start up businesses as entrepreneurs. Although the refugee visa should suffice, the banks require an Ecuadoran identity card for which refugee visa holders are ineligible, in spite of repeated interventions with the banks by the banks' central supervisory body at the behest of the UNHCR. In 2014 the UNHCR reached an agreement with one of Ecuador's largest banks (Banco de Pichincha) that allows refugees to access the bank's financial services and cooperative banks.⁷²

The same constraint often acts as a bar to formal employment because many employers require employees to receive salaries and wages through direct credit transfer to a bank account.⁷³

⁷¹ The following paragraphs benefit from observations from UNHCR.

⁷² Information supplied by UNHCR

⁷³ United States Committee for Refugees and Immigrants (2009) World Refugee Survey "Ecuador", www.refworld.org/publisher,USCRI,ANNUALREPORT,ECU,4a40d2a444,0.html .

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

In employment, working conditions often do not comply with Ecuadoran law, although it is unclear whether refugees face more adverse conditions than their Ecuadoran counterparts. Evidence indicates that refugees find themselves exploited by long (and often poorly remunerated) working hours, wages below the legal minimum, and lack of employment contracts that results in no access to social welfare benefits. According to a 2009 CEPAR study, 39 percent of registered refugees indicated that they received lower remuneration than Ecuadorans doing similar work. Additionally, 35 percent of registered refugees indicated that they did not receive the same social security benefits as nationals.⁷⁴

Given the difficulties asylum seekers face in obtaining recognized status and the lack of clarity on required documentation, they are in particularly weak negotiating positions and face more acute pressure to accept substandard and exploitative working conditions and low-paying work in the informal economy. Hence, most refugees end up taking jobs as merchants in public spaces.⁷⁵ These jobs often come with limitations such as difficulties in obtaining the right municipal authorizations, and issues when dealing with controls exercised by municipal authorities. In some cities, control operations by the authorities often end in violent confrontations, and merchandise as well as working tools are often confiscated by the authorities. Although this treatment is often meted out to national citizens as well, these discriminatory practices seem to apply especially to refugees.

In addition, negative national stereotypes, gender-based social discrimination, and violence against refugee women is widespread,⁷⁶ which resonates with the particular challenges that refugee women face in accessing safe employment and income-generating opportunities. There is a stereotypical assumption that Colombian women are willing to engage in sex work. Anecdotal evidence suggests that, as a result, the employment opportunities are often mismatched to skills that women have and that they may be subject to abuse and sexual harassment in the workplace.

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

Facilitating factors

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

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

⁷⁴. Centro de Estudios de Población y Desarrollo Social (CEPAR) study of 2008, cited in www.refworld.org/pdfid/4f0e9d832.pdf.

⁷⁵ This section based on information supplied by UNHCR.

⁷⁶. European Resettlement Network (2013) "The Colombian Refugee Situation," www.resettlement.eu/page/colombian-refugee-situation.

Second, the government has made significant progress in underlining refugees' and asylum seekers' employment rights. The Ministry of Labor has initiated training for its staff, for private companies, and for refugees on refugees' employment rights. The elimination of work permits for access to employment in 2012, and guarantees of free access to vocational training programs to help refugees meet the demands of the job market have also been substantial initiatives to help refugees overcome barriers to labor market access.⁷⁷ However, these provisions have now been rescinded.

Third, SENESCYT has established procedures to recognize and validate degrees and diplomas granted in other countries, thus authorizing asylum seekers and refugees to practice professionally in Ecuador.⁷⁸ Moreover, since 2009, refugees and other legal migrants are no longer required to show valid immigration visas to enroll in public schools.⁷⁹ This enables the children of refugees to gain education and thus increase prospects of access to formal employment or further education and training at the end of their schooling.

Fourth, the UNHCR together with a number of state and partner organizations and the private sector launched a pilot livelihoods program in the urban zone in Santo Domingo, a refugee-hosting city 200 kilometers from Quito.⁸⁰ The aims are to support up to 200 households with self-employment, formal wage earning, and microfinance opportunities (savings, asset transfer, and skills training) that will create a self-sustaining safety net to improve conditions and more stable livelihoods for refugees. The pilot is targeted to empower the refugees with legal assistance, financial education, and vocational training.⁸¹

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

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

⁷⁷. Cartagena +30 Initiative (2014) "International Protection and Effective Integration: Recommendations from Civil Society for the Current State of Asylum and Statelessness in Latin America and the Caribbean," p. 48, refugees.org/wp-content/uploads/2015/12/cartagena_INGLES_2803.pdf.

⁷⁸. Cartagena +30 Initiative (2014) "International Protection and Effective Integration: Recommendations from Civil Society for the Current State of Asylum and Statelessness in Latin America and the Caribbean," p. 50, refugees.org/wp-content/uploads/2015/12/cartagena_INGLES_2803.pdf.

⁷⁹. United States Committee for Refugees and Immigrants (2009) World Refugee Survey "Ecuador".

⁸⁰ Information supplied by UNHCR.

⁸¹. UNHCR (2015) "Giving Refugees from Colombia a Stable Life in Ecuador," News Stories, April 8, 2015, www.unhcr.org/55254e399.html; and Sánchez Piñeiro, O. M, and R. Saavedra (2016) "Doing Business in Ecuador," www.fmreview.org/solutions/sanchez-saavedra.html.

3. MEDIATING FACTORS

Socioeconomic factors

Refugees, like native Ecuadorans, face very tight labor market conditions combined with the insecurity of Ecuador's economic situation.⁸² The abundance of low-skilled workers competing to access the labor market combined with high poverty levels renders livelihoods precarious.

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

Many refugees and asylum seekers, especially those that are in irregular situations, live in inaccessible jungle settings in the border areas, remaining vulnerable to armed conflict between Colombian factions.⁸³ This inhibits their access to work and protection. These conditions deter the undocumented from identifying themselves as refugees and thus improving their rights to protection. Equally, there is evidence that Colombian refugees, in general, fear association with other Colombians because of the risk of running into members of opposing factions,⁸⁴ which affects their work prospects as they leave their jobs and localities to seek safety elsewhere.

Xenophobia and negative stereotypes about Colombians—the overwhelming majority of refugees in Ecuador—as much as their refugee status, leads to some discrimination. Together with gender-based discrimination, the impacts of these stereotypes on access to employment are discussed above. More specifically, evidence suggests that Colombians face discrimination in Ecuadoran society because they are perceived to have strong sales and customer service skills, and are thus seen as unfair competition in the labor market, a situation compounded by the country's economic fragility.⁸⁵

Refugee profiles

Many Colombian refugees in Ecuador lack effective social networks (family, other nationals, religious support groups) and resources. These conditions make it more difficult to find sustainable employment while underscoring their vulnerability. Conversely, evidence suggests that refugees with access to networks in Ecuador, either established before they arrived in Ecuador or afterward, are able to avoid some of the obstacles to accessing employment and other services, such as discrimination, reference requirements, small loans, and housing.⁸⁶ For urban-based refugees (the majority), those from urban

⁸². The EIU Report for 2015 notes that with “a steep drop in oil export revenue, the Ecuadorean economy faces constraints to growth and recovery from a low level of competitiveness...GDP growth will expand modestly in 2016 (0.7%) following a contraction in 2015 whilst public sector expenditure is projected to be cut by 13% in 2016... public debt will rise to an estimated 32.7% of GDP in 2015.” *Economist Intelligence Unit, Country Report: Ecuador, December 8th 2015*.

⁸³. European Resettlement Network (2013) “The Colombian Refugee Situation,” www.resettlement.eu/page/colombian-refugee-situation.

⁸⁴. Colombian Refugee project (nd) “The Issue,” <https://colombianrefugeeproject.wordpress.com/the-issue/>.

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⁸⁶. Feinstein International Center (2012) “Refugee Livelihoods in Urban Areas: Identifying Program Opportunities. Case Study Ecuador,” Feinstein International Center, Friedman School of Nutrition Science and Policy, Tufts University, Somerville, MA.

areas in their country of origin secure better livelihoods than those from rural areas because they are more likely to have transferrable livelihood skills.

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

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

4. OUTCOMES

Participation in the labor market

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

Moreover, even without administrative barriers to employment, the country's prevailing weak socioeconomic conditions militate against access to labor markets and sustainable livelihoods for recognized refugees. According to a 2014 UNHCR baseline study,⁸⁷ 62 percent of refugees are not adequately employed (meaning they earn less than the minimum wage of US\$350/month and work less than eight hours per day), compared with 46.7 percent of Ecuadorans. According to the same study, 25 percent of refugees live in poverty and 14 percent in extreme poverty, compared with 22.5 percent and 7.6 percent of Ecuadorans.

From a socioeconomic perspective, despite a relatively low unemployment rate and one of the highest minimum wage rates in the region, refugees experience the same conditions as the local population: underemployment rates are high;⁸⁸ there is a very large informal economy, estimated to be over 40 percent; and more than a third of the population lives below the poverty line.

Overall, these socioeconomic conditions incline refugees to self-employment and diversification of livelihood activities to maintain steady incomes and ensure resilience against economic shocks that might affect particular sectors or activities.⁸⁹

SUMMARY AND CONCLUSIONS

Even though Ecuador's laws and policies on refugees' right to work are closely aligned with the best international standards, there are significant shortfalls in practice. Moreover, for refugees, the lack of secure employment and the limited needs of the labor market curb opportunities for sustainable livelihoods in a fragile economic environment. Though local integration through social and cultural factors is better than in many countries, the process of integration is still very limited; yet the prospect for return

⁸⁷. Yet to be published.

⁸⁸. Underemployment ran at about 14 percent of the labor force throughout 2015, *Economist Intelligence Unit, Country Report: Ecuador, December 8th 2015*.

⁸⁹. Feinstein International Center (2012) "Refugee Livelihoods in Urban Areas: Identifying Program Opportunities. Case Study Ecuador," Feinstein International Center, Friedman School of Nutrition Science and Policy, Tufts University, Somerville, MA, http://fic.tufts.edu/assets/PRM_report_Ecuador_resized.pdf

to Colombia also remains highly uncertain. Of potentially greater concern is the very large number of undocumented refugees who live invisible lives and who are often viewed with suspicion and resentment by local Ecuadorans.

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

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- <https://rtwasylumaccess.files.wordpress.com/2011/03/asylum-access-right-to-work-in-ecuador.pdf>.
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- Cartagena +30 Initiative. 2014. *International Protection and Effective Integration: Recommendations from Civil Society for the Current State of Asylum and Statelessness in Latin America and the Caribbean*. Cartagena +30 Initiative. http://refugees.org/wp-content/uploads/2015/12/cartagena_INGLES_2803.pdf.
- Feinstein International Center. 2012. *Refugee Livelihoods in Urban Areas: Identifying Program Opportunities. Case Study Ecuador*. Somerville, MA: Feinstein International Center, Friedman School of Nutrition Science and Policy, Tufts University. http://fic.tufts.edu/assets/PRM_report_Ecuador_resized.pdf.

Ethiopia

PROFILE

- Party to the 1951 Convention relating to the Status of Refugees (but with reservations), the 1967 Protocol, and the 1969 Organization of African Unity Convention
- 736,086 refugees and 2,131 asylum seekers totaling 738,217 = 0.74 percent of a total estimated population of 97 million
- The largest refugee populations are South Sudanese with mass arrivals since the inception of the conflict in 2013, followed by Somali and Eritrean refugees in situations of protracted displacement.
- The majority of refugees are accommodated in the 24 government-managed camps across the country, but there are also refugees in Addis Ababa and other urban areas.⁹⁰
- Human development rank and index: 174th and 0.442
- GDP: Growth 9.6 percent; Per capita US\$619.1
- Low-income economy
- Unemployment rate: 5.2 percent

CONTEXT

Ethiopia hosts the largest refugee population in Africa. Conflicts, political unrest, human rights violations, and drought and famine in neighboring countries have caused the displacement of thousands of people to Ethiopia.⁹¹ Since 2010, with the influx of refugees from Somalia, Sudan, and later from South Sudan, the number of refugees in Ethiopia has increased dramatically. Between January and August 2014 alone, the country received about 200,000 new arrivals, mostly women and children fleeing the conflict in South

⁹⁰. There are also large numbers of undocumented refugees, mainly Somalis, living in the capital city; Moret, J., S. Baglioni, and D. Efionayi-Mäder D. (2006) "The Path of Somali Refugees into Exile: A Comparative Analysis of Secondary Movements and Policy Responses." Swiss Forum for Migration and Population Studies (SFM 46), www.unhcr.org/50aa0d6f9.pdf. A 2012 UNHCR PRM mission estimated their numbers to be between 180,000 and 200,000, and most of them were residing in an area predictably known as "Little Mogadishu," US Department of State (2012) "Report of a Joint UNHCR-PRM Mission to Review Urban Refugee Issues in Uganda and Ethiopia," www.state.gov/j/prm/releases/releases/2012/208926.htm.

⁹¹. World Bank Group and UNHCR (2015) "Forced Displacement and Mixed Migration in the Horn of Africa," hdl.handle.net/10986/22286.

Sudan.⁹² Large numbers of Eritreans, including unaccompanied minors, are also continually arriving in Ethiopia.⁹³

Although Ethiopia maintains an open-door policy toward refugees, their prospects for durable solutions remain stalled. Ongoing conflict and instability in several countries of origin effectively preclude voluntary repatriation, and Ethiopia's refugee policy does not provide for the possibility of local integration. While the Proclamation on Ethiopian Nationality (Proclamation No. 378 of 2003) allows for the naturalization of any "foreigner" (non-Ethiopian) married to an Ethiopian national, with certain conditions attached (renunciation of current nationality, residence in Ethiopia for one year, and others), in practice only a limited number of refugees married to Ethiopian nationals have been naturalized.⁹⁴ Resettlement remains the only viable durable solution, but only a small number of refugees benefit from it. Many refugees, young Eritrean males especially, attempt to move on from Ethiopia to a third country. Some try to cross the Mediterranean to Europe expecting to find better assistance and work opportunities, while others move to Sudan or Egypt.

1. LAW

Refugee Law

National legislation. Ethiopia's national legal framework related to refugees and asylum was established by Refugee Proclamation No. 409 of 2004.⁹⁵ The proclamation prohibits the government from refusing entry to refugees or asylum seekers and returning them to any country where they would be at risk of persecution.⁹⁶ It grants refugees some rights but with restrictions on the rights of movement, work, and education.

Institutions. Refugee and asylum policies are the responsibility of the National Intelligence and Security Service (NISS), under the Ministry of Federal Affairs.⁹⁷ In practice, however, this responsibility falls to the Administration for Refugees and Returnee Affairs (ARRA), established as a semi-autonomous body with institutional responsibility for the implementation of all policies relating to refugees and returnees.⁹⁸

⁹². They have arrived in often alarming nutritional conditions in the Gambella Regional State in western Ethiopia, where infrastructure and services are limited; UNHCR 2015 Global Appeal Update, www.unhcr.org/5461e6000.html.

⁹³. Ethiopia is the second-largest country of asylum after Sudan for Eritreans, with more than 106,000 refugees. UNHCR Briefing Notes (2014), "Sharp Increase in Number of Eritrean Refugees and Asylum-Seekers in Europe, Ethiopia and Sudan." www.unhcr.org/news/briefing/2014/11/5465fea1381/sharp-increase-number-eritrean-refugees-asylum-seekers-europe-ethiopia.html.

⁹⁴. UNHCR (2013) "Submission for the Office of the High Commissioner for Human Rights' Compilation Report – Universal Periodic Review for Ethiopia," www.refworld.org/pdfid/5283488c4.pdf.

⁹⁵. Refugee Proclamation No. 409, 2004, www.refworld.org/docid/44e04ed14.html.

⁹⁶. With no reports of deportation of refugees, Ethiopia seems to have respected the principle of *non-refoulement*.

⁹⁷. It was first established as the Security, Immigration and Refugee Affairs Authority before it received its current name in 2006. (See also NISS Re-establishment Proclamation 2013, <https://chilot.files.wordpress.com/2013/10/national-intelligence-and-security-service-re-establishment-proclamation-english.pdf>.)

⁹⁸. In 2014, Ethiopia reported that "the NISS issued a manual and detailed procedure on the provision of different services addressing the needs of refugees and asylum seekers" and announced the setup of a "Refugee Rehabilitation and Protection Committee to protect the rights of refugees and facilitate the procedures for receiving refugees and asylum seekers on the basis of Standard Operating Procedure." Human Rights Council

Access to protection. Asylum seekers must apply directly to the NISS or in any police station within 15 days of arrival. The proclamation gives the right to the head of NISS to designate a group of persons as prima facie refugees under the African Union Convention definition.⁹⁹ Most asylum seekers from neighboring countries are, in effect, being granted refugee status on a prima facie basis while individual refugee status determination is undertaken for all others through a government Eligibility Committee, on which the United Nations High Commissioner for Refugees (UNHCR) sits as an observer.¹⁰⁰

Freedom of movement. Refugee Proclamation No. 409 provides for restrictions on movement and residence, allowing authorities to designate areas where refugees and asylum seekers must live.¹⁰¹ In this regard, the Refugee Proclamation No. 409 appears to conflict with Article 32 of the Ethiopian Constitution, which stipulates that “any Ethiopian or foreign national lawfully in Ethiopia has the right to liberty of movement and freedom to choose his residence.”¹⁰² Because the Constitution makes no explicit reference to refugees or asylum seekers, the reference to “foreign nationals” presumes inclusion of refugees and asylum seekers within that category.¹⁰³ Furthermore, Article 9 of the Constitution highlights its supremacy over other laws and the integration of ratified international instruments.

In practice, until 2009, Ethiopia enforced a strict policy of encampment for all refugees. Exemptions were granted to those who demonstrated reasons for staying out of camps on medical, protection, or humanitarian grounds, with the government and the UNHCR jointly determining eligibility for the urban refugee program and the forms of assistance received by its beneficiaries.¹⁰⁴

In 2010 the implementation of an out-of-camp policy began, allowing refugees to live outside camps provided they are able to support themselves financially or with the support of relatives already living in such areas.¹⁰⁵ Originally applicable only to refugees from Eritrea, this policy was extended to refugees of other nationalities.¹⁰⁶

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

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

⁹⁹. United States Committee for Refugees and Immigrants, World Refugee Survey 2009 “Ethiopia,”

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

¹⁰⁰. UNHCR (2015) “Ethiopia FactSheet,” www.unhcr.org/524d82ce9.html.

¹⁰¹. Article 21.2 of Refugee Proclamation No. 409 of 2004.

¹⁰². Constitution of the Federal Democratic Republic of Ethiopia, www1.umn.edu/humanrts/research/Proclamation%20no.1-1995.pdf.

¹⁰³. Jemal, L. (2014) “The Compatibility of Ethiopian Refugee Law with International Refugee Laws.” Ambo University, www.academia.edu/16512212/The_Compatibility_of_Ethiopian_refugee_law_with_international_refugee_Laws.

¹⁰⁴. UNHCR (2013) “Submission for the Office of the High Commissioner for Human Rights’ Compilation Report – Universal Periodic Review for Ethiopia.” www.refworld.org/pdfid/5283488c4.pdf.

¹⁰⁵. Other conditions included having lived in a camp for at least six months, having a sponsor who could assume responsibility for covering their expenses, and being without a criminal record.

¹⁰⁶. Moses Okello, J.O. (2014) “The 1969 OAU Convention and the continuing challenge for the African Union,” *Forced Migration Review* 48, www.fmreview.org/en/faith/okello.pdf.

Right to work – refugee and labor and employment law

The 1995 Constitution offers the right to work and other labor-related rights only to citizens. The country maintains reservations to the 1951 Refugee Convention, notably to Article 17.2, and there are no provisions under Ethiopia's law for local integration of refugees.¹⁰⁷

Refugees in Ethiopia are only allowed to work and access education insofar as Ethiopia's laws allow other foreign nationals in Ethiopia to do so.¹⁰⁸ Ethiopia's Ministry of Labour and Social Affairs only grants work permits to foreigners when there are no qualified nationals available and in practice does not grant work permits to refugees.¹⁰⁹

2. POLICY AND PRACTICE

Constraining factors

The Ethiopian government does not grant work permits to refugees and asylum seekers, thus preventing their access to the formal labor market. Even to enter the informal labor market, Ethiopian employers may ask for a work permit or an Ethiopian guarantor to hire refugees, which many cannot provide.¹¹⁰

Furthermore, because of restrictions on their movement and because they cannot obtain business licenses, it is almost impossible for refugees to establish their own enterprises.¹¹¹ Although the government has shown some signs of cooperation with the UNHCR in getting refugees into skills development and agricultural schemes with the understanding that it is for the purpose of improving their reintegration when they are sent home, efforts to ensure the viability and sustainability of refugee enterprises are at odds with Ethiopia's legal restriction on the right to work.

Many refugees, Eritreans in particular, also complain that they are subject to discrimination in the informal labor market, making it difficult for them to find jobs or to earn a living wage. A survey commissioned by the Norwegian Refugee Council (NRC) in 2014 pointed out that some employers are reluctant to hire refugees because of their alleged links with Somali and Sudanese terrorist groups.¹¹²

¹⁰⁷. The provisions of Articles 8, 9, 17 (2), and 22 (1) of the Convention are recognized only as recommendations and not as legally binding obligations by the government of Ethiopia, "Reservations and declarations to the 1951 Refugee Convention," www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=3d9abe177&query=1951%20Refugee%20Convention.

¹⁰⁸. Article 21(3) of Refugee Proclamation No. 409.

¹⁰⁹. These restrictions are allowed under Article 21(3) of Refugee Proclamation No. 409.

¹¹⁰. Samuel Hall Consulting (2014) "Living Out of Camp, Alternative to Camp-Based Assistance for Eritrean Refugees in Ethiopia." NRC, <http://samuelhall.org/wp-content/uploads/2014/05/Living-Out-of-Camp-Alternative-to-Camp-based-Assistance-in-Ethiopia.pdf>.

¹¹¹. Samuel Hall Consulting (2014) "Living Out of Camp, Alternative to Camp-Based Assistance for Eritrean Refugees in Ethiopia." NRC, <http://samuelhall.org/wp-content/uploads/2014/05/Living-Out-of-Camp-Alternative-to-Camp-based-Assistance-in-Ethiopia.pdf>.

¹¹². Samuel Hall Consulting (2014) "Living Out of Camp, Alternative to Camp-Based Assistance for Eritrean Refugees in Ethiopia." NRC, <http://samuelhall.org/wp-content/uploads/2014/05/Living-Out-of-Camp-Alternative-to-Camp-based-Assistance-in-Ethiopia.pdf>.

Facilitating factors

Despite legislative restrictions, the government has begun to allow programs permitting greater self-reliance for refugees. Several recent initiatives have been undertaken by international organizations and nongovernmental organizations to enable refugees to find income-generating activities in the informal sector and to reduce their dependency on aid. Between 2012 and 2014, the International Labour Organization (ILO) partnered with the UNHCR and ARRA to implement a project promoting wage employment and self-employment within the refugee camps and the surrounding host communities in the Dollo Ado area of southeastern Ethiopia. By facilitating economic exchanges and collaboration between hosts and refugees, the project contributed to improving social cohesion in the area.¹¹³ The project increased household income including through the ownership of animals and other agricultural activities.¹¹⁴ In the same area, the World Bank reported labor exchanges and market access between the refugee and host community for riverine-irrigated agriculture.¹¹⁵

In the Jijiga area, where there are three camps hosting nearly 40,000 Somali refugees, the UNHCR also engages refugees and host communities in self-reliance activities under its Development Assistance for Refugees project. Refugees and members of the host communities around the camps continue to produce agricultural outputs both for domestic consumption and for the local market.¹¹⁶

With regard to the education sector, the government supports access for refugee children and youth to primary, secondary, and tertiary national education programs; children who arrive without documentation of school attendance are offered the opportunity to sit for a placement test, and all children in the camps are also able to sit for the national exams.¹¹⁷

3. MEDIATING CONDITIONS

Socioeconomic conditions

Ethiopia is a low-income country and still ranks 174th on the Human Development Index. Since 2007, Ethiopia has registered rapid economic growth, making it one of the highest performing economies in Sub-Saharan Africa, but despite a decade (2001–11) of progress related to poverty reduction, about 30 percent of the population still lives below the poverty line.¹¹⁸ The country has ambitions to become a middle-income country by 2025. Given the large number of refugees, it is logical for the government to explore their potential to contribute to economic growth.

With 97 million inhabitants, Ethiopia is the second most populous country in Sub-Saharan Africa, and its very rapid population growth puts pressure on Ethiopia's economy, which remains predominantly based on agriculture, and increases the country's vulnerability to climate change, in particular droughts. The

¹¹³. ILO (2014) "Promoting Livelihood and Durable Solution in Dollo Ado, Ethiopia," www.ilo.org/global/docs/WCMS_239683/lang--en/index.htm.

¹¹⁴. UNHCR (2015) "Ethiopia FactSheet," www.unhcr.org/524d82ce9.html.

¹¹⁵. World Bank Group and UNHCR (2015) "Forced Displacement and Mixed Migration in the Horn of Africa."

¹¹⁶. UNHCR (2015) "Ethiopia FactSheet," www.unhcr.org/524d82ce9.html.

¹¹⁷. In 2010 the government of Ethiopia stipulated that refugee children would be granted access to national schools on par with the host community.

¹¹⁸. World Bank Group (2015) "Ethiopia Poverty Assessment 2014," <https://openknowledge.worldbank.org/handle/10986/21323>.

high population concentration in urban areas, which also absorb an important proportion of Ethiopia's migrant population, thereby straining social services, also presents a challenge for employment opportunities.

The proportion of the working population in the informal sector also showed a significant decline, yet by 2010 a third of the working population remained involved in the informal economy.¹¹⁹ Women are still highly represented in the informal sector, comprising more than 60 percent of those so engaged.¹²⁰

In addition to refugees, there are also some 397,200 internally displaced persons (IDPs) in Ethiopia as a result of intercommunal and cross-border violence, most of them living in protracted displacement situations.¹²¹ The presence of IDPs and refugees is imposing substantial environmental, social, and economic impacts on Ethiopia.¹²²

The isolation of refugees living in camps “prevents the development of livelihood mechanisms (...) leading to a very low level of self-reliance and to negative coping mechanisms.”¹²³ In addition to difficult living conditions in camps and security issues, lack of opportunity for employment is one of the main reasons given by refugees for leaving or avoiding camp life. However, the urban refugee population in Ethiopia remains small compared with other East African countries, and only a few refugees have applied for out-of-camp status. In addition to the fact that out-of-camp refugees do not receive direct forms of assistance and are only allowed to work in the informal sector, they face difficult urban living conditions, rising prices, scarce work opportunities, and little access to affordable housing.¹²⁴ Refugees remaining in the camps reportedly do so because of lack of alternative resources and coping mechanisms to enable them to move to the city.¹²⁵

Refugee profiles

Many refugees in Ethiopia, whether in camps or in urban areas, receive remittances from abroad. Although the probability of finding a job in urban areas is higher than in the camps, many refugees lack information related to the labor market. Refugees from minority ethnic groups voiced concerns about

¹¹⁹. The proportion of the working population in the informal sector showed a significant decline from 72.8 percent in 1999 to 33.3 percent in 2010. The Federal Democratic Republic of Ethiopia Ministry of Labour and Social Affairs (2013) “Labour Market Dynamics in Ethiopia, Analysis of Seven Key Indicators of the Labour Market,” www.molsa.gov.et/English/EPro/Documents/Ethiopia%20KILM.pdf.

¹²⁰. UNDAF 2012–2015, ILO (2014) “Decent Work Country Programme 2014–15 for Ethiopia,” www.ilo.org/public/english/bureau/program/dwcp/download/ethiopia.pdf.

¹²¹. IDMC (2015) “The Global Overview 2015: People Internally Displaced by Conflict and Violence,” www.internal-displacement.org/assets/library/Media/201505-Global-Overview-2015/20150506-global-overview-2015-en.pdf.

¹²². Rising food and fuel prices have led to soaring inflation of 39.2 percent. Kamau, A. (2011) “An Economic Perspective on the Refugee Crisis in Africa's Horn,” Brookings Institution, www.brookings.edu/research/opinions/2011/09/12-refugee-crisis-kamau.

¹²³. Samuel Hall Consulting (2014) “Living Out of Camp, Alternative to Camp-Based Assistance for Eritrean Refugees in Ethiopia.” NRC, <http://samuelhall.org/wp-content/uploads/2014/05/Living-Out-of-Camp-Alternative-to-Camp-based-Assistance-in-Ethiopia.pdf>. p. 5.

¹²⁴. Kamau, A. (2011) “An Economic Perspective on the Refugee Crisis in Africa's Horn.” Brookings Institution, www.brookings.edu/research/opinions/2011/09/12-refugee-crisis-kamau.

¹²⁵. Some also believe that remaining in the camps will enhance their prospects of resettlement. US Department of State (2012) “Report of a Joint UNHCR-PRM Mission to Review Urban Refugee Issues in Uganda and Ethiopia,” www.state.gov/j/prm/releases/releases/2012/208926.htm

their limited ability to access the out-of-camp scheme because of linguistic barriers and lack of relatives or friends able to support them in Ethiopia. For some refugees, not speaking the local language constitutes a barrier to accessing the labor market. Compared with other Eritrean refugees, those from the Tigrinya ethnic group, who share language and culture with the population in northern Ethiopia, have a strong advantage for employment opportunities.¹²⁶

To gain access to legal residence and employment, some refugees resort to purchasing Ethiopian ID cards illegally.¹²⁷

4. OUTCOMES

Participation in the labor market

Refugees in Ethiopia have great difficulty accessing livelihoods and are overall very dependent on UNHCR assistance to survive. There are no formal employment opportunities for refugees in Ethiopia. With the exception of those employed by nongovernmental organizations and ARRA, very few refugees living in the camps are finding stable employment.¹²⁸ The 2014 survey conducted by NRC confirmed low access to work as one of the main obstacles for camp-based refugees, especially for youth and women. Most only find underpaid casual daily labor in the construction-related sector, while some are self-employed and engage in petty trade.¹²⁹ Girls are often sent by their families to work as domestic servants, thus exposing them to risks of sexual harassment and other types of abuse from their employers.¹³⁰

The main sectors of informal employment for refugees in urban areas are related to mechanics, wood work, metal work, and construction. Women reportedly find employment in jobs related to personal services, such as hairdressing and domestic work.¹³¹

¹²⁶. United States Committee for Refugees and Immigrants (2010) "Ethiopia Mission Briefing: Implementation of the Out of Camp Scheme for Eritrean Refugees," www.yumpu.com/en/document/view/28979216/implementation-of-the-out-of-camp-scheme-for-eritrean-refugees.

¹²⁷. Moret, J., S. Baglioni, and D. Efonayi-Mäder (2006) "The Path of Somali Refugees into Exile: A Comparative Analysis of Secondary Movements and Policy Responses." Swiss Forum for Migration and Population Studies (SFM 46), www.unhcr.org/50aa0d6f9.pdf.

¹²⁸. Refugees receive incentive payment, not salaries. In 2010 UNHCR Ethiopia issued interagency guidelines on incentive payment that provide three levels of incentive, ranging from US\$25 to US\$50 monthly, UNHCR (2014) "Which Side Are You On?" PDES Discussion paper on UNHCR's policy and practice of incentive payments to refugees, www.unhcr.org/research/evalreports/5491577c9/whos-side-discussion-paper-unhcrs-policy-practice-incentive-payments-refugees.html.

¹²⁹. Samuel Hall Consulting (2014) "Living Out of Camp, Alternative to Camp-Based Assistance for Eritrean Refugees in Ethiopia." NRC, samuelhall.org/wp-content/uploads/2014/05/Living-Out-of-Camp-Alternative-to-Camp-based-Assistance-in-Ethiopia.pdf.

¹³⁰. Krause-Vilmar, J. (2010) "Struggling to Make a Living in Ethiopia: Surviving in the Informal Economy," Women's Refugee Commission blog, <https://womensrefugeecommission.org/blog/1002-struggling-to-make-a-living-in-ethiopia-surviving-in-the-informal-economy>.

¹³¹. Samuel Hall Consulting (2014) "Living Out of Camp, Alternative to Camp-Based Assistance for Eritrean Refugees in Ethiopia." NRC, <http://samuelhall.org/wp-content/uploads/2014/05/Living-Out-of-Camp-Alternative-to-Camp-based-Assistance-in-Ethiopia.pdf>.

SUMMARY AND CONCLUSION

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

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

KEY SOURCES

- Krause-Vilmar, J. 2010. "Struggling to Make a Living in Ethiopia: Surviving in the Informal Economy." Women's Refugee Commission blog.
- <https://womensrefugeecommission.org/blog/1002-struggling-to-make-a-living-in-ethiopia-surviving-in-the-informal-economy>.
- Samuel Hall Consulting. 2014. *Living Out of Camp, Alternative to Camp-Based Assistance for Eritrean refugees in Ethiopia*. Commissioned by the NRC. <http://samuelhall.org/wp-content/uploads/2014/05/Living-Out-of-Camp-Alternative-to-Camp-based-Assistance-in-Ethiopia.pdf>.
- UNHCR (United Nations High Commissioner for Refugees). 2013. "Submission for the Office of the High Commissioner for Human Rights' Compilation Report – Universal Periodic Review for Ethiopia." UNHCR, Geneva. www.refworld.org/pdfid/5283488c4.pdf.
- US Department of State. 2012. "Report of a Joint UNHCR-PRM Mission to Review Urban Refugee Issues in Uganda and Ethiopia." Bureau of Population, Refugees, and Migration, Washington, DC. www.state.gov/j/prm/releases/releases/2012/208926.htm.

Germany

PROFILE

- **Party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol**
- **316,115 refugees and 420,625 asylum seekers totaling 736,740= 0.9 percent of a total estimated population of 81.4 million**
- **The main countries of origin of asylum seekers in 2015 were Eritrea, Serbia, and Syria.**
- **The majority of asylum seekers live in mass accommodations in urban locations widely distributed throughout the country.**

- **Human development rank and index: 6th and 0.916**
- **GDP: Growth 1.7 percent; Per capita US\$41,219**
- **High-income economy**
- **Unemployment rate: 5.0 percent**

CONTEXT

During the past 30 years Germany has consistently been a main destination for asylum seekers arriving in Europe. After peaking during the Balkan wars at the beginning of the 1990s, the number of asylum seekers in Germany noticeably declined. The strong downward trend bottomed out in 2007 with slightly more than 19,000 first-time applications. However, since 2010, Germany has again experienced a significantly increased influx of asylum seekers.¹³² About 27 percent of asylum seekers in 2015 came from Balkan countries but they have a small chance of being recognized as refugees. However, the number of asylum seekers from Syria increased 12-fold from 2013 to 2015.

This case study draws heavily on three valuable detailed sources:

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

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

ii) Federal Office of Migration and Refugees,

www.bamf.de/EN/Migration/AsylFluechtlinge/Fluechtlingsschutz/fluechtlingsschutz-node.html.

iii) Thraenhardt, D. (2015) "Die Arbeitsintegration von Fluechtlingen in Deutschland: Humanitaet, Effektivitaet, Selbstbestimmung," Bertelsmann Stiftung.

¹³². Federal Office of Migration and Refugees (BAMF) 2015. "Aktuelle Zahlen zu Asyl. Tabellen, Diagramme, Erlaeuterungen, Ausgabe: Oktober 2015,"

www.bamf.de/SharedDocs/Anlagen/DE/Downloads/Infothek/Statistik/Asyl/statistik-anlage-teil-4-aktuelle-zahlen-zu-asyl.pdf?__blob=publicationFile.

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

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

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

1. LAW

Refugee Law

National legislation. As well as being a State Party to the Geneva Convention, the right to asylum for victims of political persecution is also anchored in the German constitution as a fundamental right (Art. 16a of the *Grundgesetz* – Basic law). The procedure for the asylum process is regulated by the Asylum Procedure Act 1993 (*AsylVfG*) (since 2015 superseded by the Asylum Act), and Section 3, subsection 1 of the Asylum Procedure Act sets the grounds for application.¹³³

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

Germany is party to the Common European Asylum System (2013), which sets out common standards and establishes cooperation between European Union member states (EUMSs) on the treatment of asylum claims. It is bound by EU law and the Dublin Regulation III (Regulation No. 604/2013) for determining the state responsible for processing an asylum claim. It is also bound by the Schengen agreement.¹³⁴

Refugee law and policy is set against the backdrop of changing political discourse on immigration in Germany since reunification in 1990, in which Germany became increasingly recognized as a country of immigration with consequential impacts on citizenship and integration as benchmarked in the Citizenship Law of 2000¹³⁵ and the Immigration Act of 2005.

¹³³. Federal Office of Migration and Refugees

www.bamf.de/EN/Migration/AsylFluechtlinge/Fluechtlingsschutz/fluechtlingsschutz-node.html.

¹³⁴. Dublin III allows an EUMS to return an asylum seeker to the European state where she or he first landed. The Schengen agreement abolished all types of border control at the common borders of EUMSs.

¹³⁵. Winter, E. (2010) "Trajectories of Multiculturalism in Germany, the Netherlands and Canada: In Search of Common Patterns," *Government and Opposition* 45:2, pp. 166–86.

Institutions. The complex intertwining and balance of powers, responsibilities, and collaborative arrangements between the Federal Government and the 16 Federal States in Germany is replicated in the structure and implementation of Germany's refugee and asylum system.¹³⁶

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

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

Access to protection. Asylum seekers obtain a temporary residence permit (*Aufenthaltsgestattung*) once they have registered. Applications for asylum are adjudicated at a hearing carried out by experienced and specially trained case officers within the BAMF, usually with knowledge of the country of origin of the applicant.¹³⁷ Technically, the independence of individual BAMF decision makers (case officers) was repealed by the Immigration Act 2005, so that decision makers act under the instruction of superiors within the BAMF. However, appeals against an asylum case officer's decision can be made to the administrative court. This court's ruling is usually final, marking the end of the asylum procedure except where fundamental legal or procedural questions arise, in which case appeal to higher courts remains possible.

If the asylum application is accepted, persons granted asylum status and those granted refugee status receive temporary residence permits for three years and enjoy nearly the same rights as German citizens. The limited residence permit can be converted into a permanent residence permit after three years¹³⁸ if the reasons for flight and asylum are still present. The regulations for issuing residence permits to asylum seekers, persons granted refugee status, and persons granted subsidiary protection are outlined in Section 25 of the Residence Act, which was adopted as part of a fundamental legislative revision of alien law in the Immigration Act of 2005.¹³⁹ The legislation adopted as part of this act has undergone significant modification, for example, to include the provisions of the EU Qualification and Procedures Directives in Federal German Law.

¹³⁶. Schneider, J. (2012) "The Organisation of Asylum and Migration Policies in Germany: Study of the German National Contact Point for the European Migration Network (EMN)" (2. revised and updated edition 2012), ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/migration-policies/10a_germany_national_report_organisation_of_asylum_and_migration_policies_en.pdf.

¹³⁷. Op cit 5, pp. 36–39.

¹³⁸. Currently under revision; final adoption of legislation foreseen later in 2016.

¹³⁹. The Residency Act is part of the Act to Control and Restrict Immigration and to Regulate the Residence and Integration of EU Citizens and Foreigners (for short, the Immigration Act), most parts of which were enacted January 1, 2005.

If neither asylum nor refugee protection is granted, the BAMF examines subsidiary protection under Section 4 of the Asylum Act. If this fails as well, the BAMF reviews whether there are grounds for a prohibition of deportation in accordance with Section 60 subsections 5 or 7 of the Residence Act 2005 (*Duldung* status¹⁴⁰). On this basis, a residence permit may be granted.

In 2015, asylum seekers had to wait 5.2 months, on average, for a decision on their asylum cases.¹⁴¹ For countries such as Pakistan, the average wait time is 15 months. This because applicants from such countries may not be granted refugee status (but still may be granted a residence permit if the prohibition of deportation applies to the specific circumstances). The number of pending asylum applications increased to 364,664 as of December 2015, according to BAMF, but this, of course, is in the context of the massive increase in asylum claims that year.

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

With regard to welfare support, the Asylum Seekers' Benefits Act 1993 forms the legal basis for assisting asylum seekers and other migrants with certain temporary residence permits or with *Duldung* status.¹⁴² Asylum seekers and members of other eligible categories receive mostly noncash benefits in the form of basic provision of food, consumables and accommodation, medical assistance, additional benefits in special circumstances, and a small financial allowance. This provision varies if the asylum seeker is housed in a reception facility or in private accommodation. The individual details of the scheme are controlled by the Federal States.¹⁴³

Under a new act in 2015 to speed up asylum procedures (*Asylverfahrensbeschleunigungsgesetz*), the provisions for welfare assistance have undergone various changes recently, notably switching from cash benefits to noncash benefits as much as possible, in an attempt to cut the incentives to come to Germany.

¹⁴⁰. A *Duldung* certificate is a temporary stay of deportation that prevents the holder (foreign nationals, not just asylum seekers) from being compelled to leave or from being deported from Germany. It is granted in circumstances in which the holder may be ill, or because conflict in the country of origin makes return impossible. It compares with the "exceptional leave to remain" provision in other countries.

¹⁴¹. Deutscher Bundestag – 18. Wahlperiode, Drucksache 18/7625, p. 14.

¹⁴². Schneider, J. (2012) "The Organisation of Asylum and Migration Policies in Germany Study of the German National Contact Point for the European Migration Network (EMN)" (2. revised and updated edition 2012), http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/migration-policies/10a_germany_national_report_organisation_of_asylum_and_migration_policies_en.pdf, p. 23.

¹⁴³. The Asylum Seekers' Benefits Act
www.bamf.de/EN/Migration/AsylFluechtlinge/Asylverfahren/Asylbewerberleistungen/asylbewerberleistungen-node.html.

Special provisions for resettlement and humanitarian admission programs have pertained to Syrian refugees since 2014.¹⁴⁴

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

Right to work – refugee and labor and employment law

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

The regulations on refugees' access to the labor market have undergone many changes in recent decades. Until 2000, access to employment for refugees and recognized asylum seekers was generally tightened to protect labor markets and the requirements of the German economy (largely perceived to have been unsuccessful).¹⁴⁵ But that trend has now been reversed by efforts to improve employment opportunities for immigrants in line with changing attitudes toward migration and citizenship. Specifically, the Labour Migration Control Act of 2009 has improved access to the labor market for distinct migrant groups, including refugees and asylum seekers.¹⁴⁶

Once refugees are recognized and issued a residence permit, there are no limitations on their access to the labor market, self-employment, training, and education. The residence permit includes a work permit for an unrestricted and indefinite period under Section 25(1) and (2) of the Residence Act 2005. These provisions also apply to those with subsidiary protection.

Access to employment is more restricted for those who are registered as asylum seekers, and for those granted residence permits on the grounds of humanitarian protection. For these groups, a "subordinate" work permit is provided, which usually limits the duration of employment to three years in the first instance and, as a general rule, employment authorization expires if the specific employment for which it was issued is terminated.¹⁴⁷

¹⁴⁴. BAMF (2014) "The Reception Procedure for Syrian Refugees," www.bamf.de/EN/Migration/AufnahmeSyrien/aufnahmeverfahren-syrien-node.html.

¹⁴⁵. Schneider, J. (2012) "The Organisation of Asylum and Migration Policies in Germany Study of the German National Contact Point for the European Migration Network (EMN)" (2. revised and updated edition 2012), p. 50, ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/migration-policies/10a_germany_national_report_organisation_of_asylum_and_migration_policies_en.pdf.

¹⁴⁶. Schneider, J. (2012) "The Organisation of Asylum and Migration Policies in Germany Study of the German National Contact Point for the European Migration Network (EMN)" (2. revised and updated edition 2012), p. 24, ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/migration-policies/10a_germany_national_report_organisation_of_asylum_and_migration_policies_en.pdf.

¹⁴⁷. Schneider, J. (2012) "The Organisation of Asylum and Migration Policies in Germany Study of the German National Contact Point for the European Migration Network (EMN)" (2. revised and updated edition 2012), p. 45,

Since November 2014, the government of Germany has allowed asylum seekers authorized to reside in Germany but awaiting a decision on their status to take up employment three months after their arrival,¹⁴⁸ unless there is a qualified applicant for the job from an EU member state, in which case the job is reserved for a 15-month period for EU citizens to apply. Before this change, asylum seekers were obliged to wait for a much longer period (before this ruling for up to five years) before they were allowed to work and could only take jobs if no German national or person with equal rights was available—the so-called *Vorrangprüfung*, or priority check. The priority check is now limited to the first 15 months and only concerns equal treatment with nationals in salary and labor conditions for the first four years. No *Vorrangprüfung* is necessary for internships, voluntary work, vocational training, and highly skilled jobs. Asylum seekers are not allowed to be self-employed.

Those whose deportation is suspended (*Duldung*) are also entitled to work; they can also be self-employed after three months with a priority review and after 15 months without such review. This is an improvement to their situation since *Duldung* status is often repeatedly extended, but until 2014 those with this status were still not entitled to access the labor market. Recently, a number of exceptions have been noted.¹⁴⁹

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

Persons granted refugee or asylum status are given the same rights as German nationals within the social insurance system. They are entitled to social welfare and child benefits, among other benefits.¹⁵⁰

2. POLICY AND PRACTICE

Constraining factors

A number of factors constrain access to employment for refugees in Germany, including lengthy periods of stay but without clear rights of residency and work; residence in mass accommodation for asylum seekers, which limits contacts with networks that could facilitate access to employment; some evidence of slow recognition of skills and qualifications; some lack of feeling welcomed into Germany society,

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

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

¹⁴⁸. Exempt from this are those obliged to reside in mass accommodation for up to six months. This includes those whose countries of origin have been declared safe and who made their asylum request after the end of August 2015, www.bamf.de/SharedDocs/Anlagen/DE/Downloads/Infothek/Asyl/faq-arbeitsmarktzugang-gefluechtete-menschen.pdf?__blob=publicationFile.

¹⁴⁹. Zugang zum Arbeitsmarkt für geflüchtete Menschen (Labour market access for forcibly displaced people) www.bamf.de/SharedDocs/Anlagen/DE/Downloads/Infothek/Asyl/faq-arbeitsmarktzugang-gefluechtete-menschen.pdf?__blob=publicationFile.

¹⁵⁰. Asylum and Refugee Policy in Germany, www.bmi.bund.de/EN/Topics/Migration-Integration/Asylum-Refugee-Protection/Asylum-Refugee-Protection_Germany/asylum-refugee-policy-germany_node.html.

although there has been a quite remarkable movement for welcoming refugees, in particular since the arrival of Syrian refugees in mid-2015 onward.¹⁵¹

Facilitating factors

Despite constraints on access to employment, Germany has developed a range of positive policies and specific initiatives that have been instrumental in promoting employment for refugees and asylum seekers.¹⁵²

Germany offers language and integration training to refugees, as well as vocational training and education for which there are no limitations to access; financial support for these efforts is available. Since October 2015, those without fully recognized refugee status have also been able to participate in integration and language training, based on the 2015 act, *Asylbeschleunigungsgesetz*.¹⁵³ Asylum seekers with a high likelihood of successful asylum procedures wishing to participate in vocational training no longer have to prove that no German national or person with equal rights required the training place. Moreover, since 2013 those with Duldung status are no longer prohibited from starting vocational training. After 15 months they are eligible for financial support for vocational training and study.

Start-up finance is also available for refugees.

A number of projects seek to promote the training and labor market integration of refugees, which, like the other facilitating factors discussed above, take place against the background of Germany's National Integration Action Plan, introduced in 2012. Building on the Immigration Act 2005, this is a Federal Government program, also covering the fields of language, education, and social integration as well as labor integration, aimed at shaping Germany's integration policy with respect to economic, cultural, and social factors in a more systematic and proactive way.¹⁵⁴

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

¹⁵¹. Roddewig-Oudnia, C. (2013) "Integration of Refugees in Work—A Benefit for All," *Webinar Agenda - Access to Employment: Connecting Refugees to the Labour Market*, citiesofmigration.ca/wp-content/uploads/2013/11/Access-to-Employment-Webinar-Slides-Nov-132013.pdf.

¹⁵². This section draws extensively on Zimmermann, S., (Zwickau), J. Krellmann, J. Korte, und der Fraktion Die Linke Antwort der Bundesregierung (2015) "Erfahrungen beim Arbeitsmarktzugang und der Arbeitsförderung von Asylsuchenden und Flüchtlingen – Qualifikation und Beschäftigung," Deutscher Bundestag, 18. Wahlperiode, 19.10.2015, Drucksache 18/640. dip21.bundestag.de/dip21/btd/18/064/1806420.pdf.

¹⁵³. www.bamf.de/SharedDocs/Anlagen/DE/Downloads/Infothek/Asyl/faq-arbeitsmarktzugang-gefluechtete-menschen.pdf?__blob=publicationFile.

¹⁵⁴. Schneider, J. (2012) "The Organisation of Asylum and Migration Policies in Germany Study of the German National Contact Point for the European Migration Network (EMN)" (2. revised and updated edition 2012), p. 20, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/migration-policies/10a._germany_national_report_organisation_of_asylum_and_migration_policies_en.pdf.

Although the Federal Government has only recently taken a major role in laying the foundations for a national integration program, in keeping with the balance of powers between the Federal Government and the Federal States, the policy frameworks for integration are much more developed at the level of the Federal States than at the national level. Differences in legal status become irrelevant at the local level where the concerns are to build relationships and community belonging, activities in which local units of government have been more proactive and for far longer.¹⁵⁵

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

3. MEDIATING CONDITIONS

Socioeconomic factors

Compared with other European countries, Germany's demographic deficit and sustained economic growth, combined with consistently low levels of unemployment, have created favorable conditions for the labor market integration of refugees (and other migrants). Even in the recession of 2008–11 (albeit more limited in Germany than elsewhere in Europe) the economic crisis had a relatively subdued effect, overall, on the foreign migrant population, including refugees, although this may have been a matter of chance rather than the outcome of specific policies for labor market integration or the attributes of the refugees and asylum seekers themselves.¹⁵⁶ Nevertheless, the evidence suggests that the impact of the recession on migrant labor was greater in the manufacturing than in the service sectors.¹⁵⁷

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

Refugee profiles

There is little current information or research in Germany on refugee networks, their social capital, and other attributes that mediate access to labor markets. Although it is known that two-thirds of asylum seekers are of working age and that language barriers make access to the labor market difficult, there are no overall, representative data on the qualification of refugees and asylum seekers as of now.¹⁵⁸ Limited experience of work in Germany and thus the lack of formal and informal knowledge of the labor markets, together with limited previous professional education and skills training for younger members of refugee communities, also contribute to some of the challenges of labor market uptake.

¹⁵⁵. Losi, N., and A. Strang (2008) "Local Communities and Refugees: Fostering Social Integration," Final Report, Integraref, p. 25, http://eresearch.qmu.ac.uk/1240/1/eResearch_1240.pdf.

¹⁵⁶. Kim, A. M. (2010) "Foreign Labour Migration and the Economic Crisis in the EU: Ongoing and Remaining Issues of the Migrant Workforce in Germany," IZA DP No. 5134, August 2010, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1663174.

¹⁵⁷. Kim, A. M. (2010) op cit 25.

¹⁵⁸. Bruecker, H. (2015) "Zur Integration von Fluechtlingen," IAB Stellungnahme 5/2015, <http://doku.iab.de/stellungnahme/2015/sn0515.pdf>.

Only recently have a number of new studies of refugees' access to labor markets commenced.¹⁵⁹ However, based on a nonrepresentative survey among newly arriving asylum seekers in 2015, the Federal Labour Office estimates that about half of this sample population have not acquired any vocational training or academic education or are not able to provide proof of their qualifications. First results of a study of those granted refugee status or asylum between 2008 and 2012 from six main countries of origin showed that two-thirds were male and a majority were between 18 and 34 years old.¹⁶⁰ About 16 percent had not attended any school, 7 percent only four years or less. About 60 percent had no vocational training or university degree. About 10 percent of those between 25 and 65 years old were considered highly qualified and 13 percent had no qualifications. Women were less qualified than men.

Even though there are no representative data yet, refugees' qualifications seem to be lower than the average among nationals as well as other foreigners and migrants.¹⁶¹

4. OUTCOMES

Participation in the labor market

Despite the proactive policies of the Federal Government as well as the Federal States in recent years to promote labor market access and integration for refugees, there is a surprising lack of information or data on the effectiveness of these policies. However, new results published by the Institute for Employment Research of the German Federal Employment Agency show that in the past, when the framework conditions were less favorable, 50 percent of refugees between 15 and 64 years old in Germany were employed five years after their arrival, 60 percent after 10 years, and 70 percent after 15 years.¹⁶² During the first 10 years this percentage is lower than among other migrant groups. Even after 15 years their average income per month is still 300 euro less than for other migrant groups. A study of those granted refugee status or asylum between 2008 and 2012 from six main countries of origin showed that 36.5 percent worked and 9 percent were in training. The labor market participation of women (11.5 percent) was much lower than of men (49.8 percent). Women mainly worked in a small number of sectors and rarely had high-skilled jobs. However, 87.6 percent said that they would like to work, or continue to work. Random evidence also suggests that asylum seekers seek and find jobs, even though they are often low-

¹⁵⁹. Among others, in 2016 the first round of a representative panel study covering 2,000 refugees who arrived in Germany after 2013 is being conducted by Institut für Arbeitsmarkt-und Berufsforschung (Institute for Employment Research) IAB, BAMF, and Das Sozio-oekonomische Panel SOEP (German Socio-economic Panel).

¹⁶⁰. Worbs, S., and E. Bund (2016) "Asylberechtigte und anerkannte Fluechtlinge in Deutschland: Qualifikationsstruktur, Arbeitsmarktbeteiligung und Zukunftsorientierungen." BAMF-Kurzanalyse 01/2016.

¹⁶¹. Institut für Arbeitsmarkt und Berufsforschung (IAB) (2015) "Fluechtlinge und andere Migranten am deutschen Arbeitsmarkt: Der Stand im September 2015." Aktuelle Berichte 14/2015, http://doku.iab.de/aktuell/2015/aktueller_bericht_1514.pdf.

¹⁶². IAB (2015) op cit 30.

paid.¹⁶³ As in many other countries, both high income and developing, work in the informal sector is also a feature of refugee employment in Germany.¹⁶⁴

SUMMARY AND CONCLUSIONS

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

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¹⁶³. Thraenhardt, D. (2015) "Die Arbeitsintegration von Fluechtligen in Deutschland: Humanitaet, Effektivitaet, Selbstbestimmung," Bertelsmann Stiftung, p. 37, www.bertelsmann-stiftung.de/de/publikationen/publikation/did/die-arbeitsintegration-von-fluechtligen-in-deutschland-1/.

¹⁶⁴. Losi, N., and A. Strang (2008) "Local Communities and Refugees: Fostering Social Integration," Final Report, Integraref, p. 25, http://ereseach.qmu.ac.uk/1240/1/eResearch_1240.pdf.

India

PROFILE

- Not party to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol but has positive administrative frameworks and judicial decisions to support refugee protection in practice
 - 201,381 refugees and 6,480 asylum seekers¹⁶⁵ totaling 207,861 = 0.01 percent of a total estimated population of 1,311 billion
 - Majority of refugees assisted by the government of India are Tibetans¹⁶⁶ and Sri Lankans; India also hosts a significant number of refugees from Afghanistan and Myanmar, especially Rohingyas who fled violence from Rakhine state and Chin refugees who have crossed into Mizoram state.¹⁶⁷
 - Tibetans live in official settlements or outside of these settlements in scattered communities. Sri Lankan refugees are mostly hosted in government-run camps located across the Indian state of Tamil Nadu, others live outside the official camps in the surrounding area. About 10 percent of the refugee population, mainly UNHCR-mandated refugees from Afghanistan and Myanmar, live in Delhi.
- Human development rank and index: 135th and 0.586
 - GDP: Growth 7.6 percent; Per capita \$1,581.6
 - Lower-middle-income economy
 - Unemployment rate: 3.6 percent

CONTEXT

India is second to Bangladesh as the largest refugee-receiving country in South Asia. Since gaining independence in 1947, India has received significant numbers of refugees fleeing conflict or persecution, not only from some of its neighboring countries, including Afghanistan, Myanmar, Sri Lanka, and Tibet,

¹⁶⁵. Some 24,000 refugees, the majority Afghans and Rohingyas, are registered with the UNHCR and most of them stay in Delhi.

¹⁶⁶. India is also hosting the Tibetan government-in-exile, the Central Tibetan Administration (CTA).

¹⁶⁷. An estimated 100,000 Chins may be present in India, but only about 6,000 are registered with the UNHCR as asylum seekers and refugees.

but also distant countries like the Islamic Republic of Iran, Iraq, Somalia, Sudan, and Uganda.¹⁶⁸ Despite no provision in domestic law for refugees, the government of India has nevertheless put in place positive administrative frameworks and judicial decisions supporting refugee protection practices.

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

1. LAW

Refugee Law

National legislation. India is not a signatory to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol and has no refugee law.¹⁶⁹ The legal status of refugees in India is governed mainly by the 1946 Foreigners Act, the 1948 Foreigners Order implementing that act, and the 1955 Citizenship Act.¹⁷⁰ These acts do not distinguish refugees fleeing persecution from other foreigners; they apply to all noncitizens equally.

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

Access to protection. Under the 1946 Foreigners Act, illegal entry into the country is a criminal offense punishable by up to five years in prison, with no exception for refugees or asylum seekers,¹⁷¹ while India's 2003 Citizenship Amendment Act defines all noncitizens who enter without visas as "illegal migrants."¹⁷² In practice, however, most asylum seekers and refugees are not penalized for breach of these laws.

The government of India has put in place positive administrative frameworks and judicial decisions¹⁷³ to deal with refugees and asylum seekers, while the United Nations High Commissioner for Refugees (UNHCR) has established procedures for registering and interviewing asylum seekers for refugee status determination.¹⁷⁴ Some groups, such as Sri Lankan Tamils and Tibetans, have been granted asylum under

¹⁶⁸. Ananthachari, T. (2001) "Refugees In India: Legal Framework, Law Enforcement And Security", ISIL Year Book of International Humanitarian and Refugee Law, www.worldlii.org/int/journals/ISILYBIHRL/2001/7.html.

¹⁶⁹. India is, however, a signatory to various other international and regional treaties and conventions relating to universal human rights and refugees, such as the UN Declaration on Territorial Asylum (1967), the Universal Declaration of Human Rights, and the International Convention on Civil and Political Rights.

¹⁷⁰. Human Rights Law Network (2007) "Report of Refugee Populations in India," www.hrln.org/admin/issue/subpdf/Refugee_populations_in_India.pdf.

¹⁷¹. Foreigners Order 1948, order under the Foreigners Act 1946, <http://artassam.nic.in/Passport%20Deptt/Foreigners%20Orders%201948%20Order%20Under%20The%20ForeignersAct,%201946.pdf>.

¹⁷². Citizenship Amendment Act 2003, Citizenship Rules 1956, www.refworld.org/docid/410520784.html

¹⁷³. For instance, in the landmark Chakma refugees case, the Supreme Court clearly held that the state was under a constitutional obligation to protect refugees (National Human Rights Commission v State of Arunachal Pradesh, AIR 1996 SC 1234).

¹⁷⁴. The UNHCR's operations focus on individual refugees and asylum seekers from nonneighboring countries, as well as Myanmar, while the government assumes responsibility for the Tibetan and Sri Lankan refugee caseloads

the government of India's executive policies, and have been given certain rights and support.¹⁷⁵ In particular, Tibetans have been given more rights than most other refugee groups in India.¹⁷⁶ The first wave of Tibetans arriving in 1959 with the Dalai Lama were regarded as refugees and granted legal asylum. They were allotted land and housing—a privilege not afforded to other foreigners and one that would later be denied to newly arriving Tibetans. These refugees were automatically given registration certificates that serve as identity documents valid for two years, granting them employment, residency, and travel rights.¹⁷⁷ However, in 1963, the Indian government ceased to legally recognize arriving Tibetans as refugees, and the process for acquiring a registration certificate became more arduous. The Indian government issued residence permits to Tibetans who arrived subsequently; these permits are to be renewed annually. Under the 1955 Citizenship Act, Indian-born Tibetans may be eligible for Indian citizenship, although fewer than 3 percent actually apply.¹⁷⁸

Ethnic Nepalese Bhutanese and Nepalese are not recognized as refugees who were forced to flee but are nevertheless allowed to live and work in India under friendship treaties.¹⁷⁹ Because the government of India is providing them with a set of rights, they do not receive assistance from the UNHCR.

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

as well as other groups from neighboring countries, Women's Refugee Commission (2011) *Bright Lights, Big City: Urban Refugees Struggle to Make a Living in New Delhi*, www.womensrefugeecommission.org/resources/document//733-bright-lights-big-city-urban-refugees-struggle-to-make-a-living-in-new-delhi.

¹⁷⁵. REUTERS (2014) "Myanmar's Rohingya stuck in refugee limbo in India," www.reuters.com/article/2014/09/15/us-foundation-stateless-india-rohingya-idUSKBN0HA07F20140915.

¹⁷⁶. Human Rights Law Network (2007) "Report of Refugee Populations in India," www.hrln.org/admin/issue/subpdf/Refugee_populations_in_India.pdf.

¹⁷⁷. Artilles, C. (undated), "Tibetan Refugees' Rights and Services in India," *Topical Research Digest: Minority Rights, Human Rights & Human Welfare*, University of Denver, www.du.edu/korbel/hrhw/researchdigest/minority/Tibetan.pdf.

¹⁷⁸. Tibetans born in India between 1950 and 1987 can become citizens; those born between 1987 and 2004 are eligible if one of their parents was Indian at the time of their birth, while those born in India after 2004 can become Indian citizens only if both parents are Indians or if one is a citizen and the other is not illegal; United States Committee for Refugees and Immigrants (2009) *World Refugee Survey "India,"* www.refworld.org/docid/4a40d2a75d.html.

¹⁷⁹. Article 7 of the Indo-Nepal Peace and Friendship Treaty of 1950 stipulates that "The Governments of India and Nepal agree to grant, on a reciprocal basis, to the nationals of one country in the territories of the other the same privileges in the matter of residence, ownership of property, participation in trade and commerce, movement and other privileges of a similar nature," <http://mea.gov.in/bilateral-documents.htm?dtl/6295/Treaty+of+Peace+and+Friendship>. No such reference is made under the 2007 Indo-Bhutan Friendship Treaty, which replaces the 1949 Treaty, http://carnegieendowment.org/newsletters/SAP/pdf/march07/india_bhutan_treaty.pdf.

the 2004 Citizenship Amendment Rules specifically provide for Pakistanis to apply for citizenship in Gujarat and Rajasthan.¹⁸⁰

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

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

The Constitution, which prohibits discrimination based on race, religion, place of birth, and other grounds, extends equality before the law to all person and provides for the equal protection of the law, grants protection of life and liberty, and protects against unlawful detention. India respect the principle of *non-refoulement* and recognizes the UNHCR's mandate status determination as the basis for granting long-term visas for refugees.¹⁸¹ Recognized refugees receive a micro-chipped identity card, a "smart card," that is valid for three to five years.¹⁸²

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

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

¹⁸⁰. Conditions for citizenship are that the individual must have been continuously resident in India for 5 years, rather than for 12 years as is the case with other foreigners applying for citizenship, and intends to settle permanently in India. Once Pakistani refugees have attained citizenship they are afforded the same rights as Indian citizens, although for the poorest Pakistanis the fee for citizenship application, which was increased under an amendment to the Citizenship Act in 2005 is prohibitive; Human Rights Law Network (2007) "Report of Refugee Populations in India," www.hrln.org/admin/issue/subpdf/Refugee_populations_in_India.pdf.

¹⁸¹. In 1996 the Supreme Court ruled that guarantees of life and personal liberties in the 1950 Constitution protect refugees from *refoulement* and, in 2007, the Court affirmed this in the case of an ethnic Armenian Christian resisting return to the Islamic Republic of Iran after his visa had expired; United States Committee for Refugees and Immigrants (2009) World Refugee Survey - "India," www.refworld.org/docid/4a40d2a75d.html.

¹⁸². These photo ID smart cards are similar to identity cards issued by the government of India and include standard refugee status description text in English and Hindi on the back of the card; UNHCR is able to read refugee information by scanning the smart card, Morand, M., and J. Crisp (2013) "Destination Delhi: A review of the implementation of UNHCR's urban refugee policy in India's capital city," UNHCR Policy Development and Evaluation Service, www.unhcr.org/51f66e7d9.pdf.

police surveillance and expected to return to their camps for periodic roll calls. Since 2012 Sri Lankan refugees have been allowed to go outside the camps with written permission.¹⁸³

Right to work – refugee and labor and employment law

The Constitution reserves to citizens the rights to work, practice professions, join unions, and operate businesses.¹⁸⁴ The 1946 Foreigners Act and the 1948 Foreigners Order allow the government to limit employment opportunities, and the combination of the 1946 Act and the 2003 Citizenship Act makes it challenging for refugees, except for those benefiting from specific arrangements as listed below, to secure employment.¹⁸⁵

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

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

2. POLICY AND PRACTICE

Constraining factors

The government of India has a restrictive policy on the issuance of work permits for all foreigners, including refugees. As a result, it is difficult for refugees to obtain formal work permits from the government, but this situation is evolving given that the government issues long-term visas to refugees, which allows them access to work in the private sector.¹⁸⁶

Many of the refugees who find low-paid employment in the informal job market do not possess financial literacy and broader business development skills, such as entrepreneurship, marketing, and pricing, that would enhance their capacity to operate their small businesses and to manage their budgets and plan for anticipated expenses, such as rent. Furthermore, most grants given in the existing grants program are too small to help refugees establish their own businesses and cover equipment and start-up needs. In addition, refugees lack access to savings and micro-insurance.¹⁸⁷ Lack of formal documentation such as education and professional qualification certificates or a refugee identity card may restrict their access to the labor market.

¹⁸³. Information provided by the UNHCR.

¹⁸⁴. Article 16.1 of the Constitution of India (as modified up to December 1, 2007), <http://lawmin.nic.in/coi/coiason29july08.pdf>.

¹⁸⁵. Article 10 of the order highlights sectors of employment not available to foreigners, unless the foreigner obtains special government approval. In addition, the order gives India the power to create new restrictions on employment as it believes necessary.

¹⁸⁶. Information provided by the UNHCR.

¹⁸⁷. Information provided by the UNHCR.

Although Tibetans possessing registration certificates can legally work in preapproved segments of the economy, many employers discriminate against them in favor of Indian nationals. This resentment originates from the belief that Tibetan refugees are adversely affecting job opportunities and that they benefit from services not afforded to Indian nationals.¹⁸⁸ Even Pakistani Hindus, despite their gradual acquisition of Indian citizenship, report experiencing exploitation in the workplace and low wages.¹⁸⁹

Myanmarese and Somali refugees, who have weak relations with the Indian host population, also experience discrimination and exploitation at the workplace.¹⁹⁰ Somalis, mainly unaccompanied minors and young adults, have reportedly been discriminated against because of their color and have great difficulty finding work even in the informal sector.¹⁹¹ The high degree of discrimination faced by Somalis could, in part, explain why most prefer to avoid the job market.¹⁹²

Employers in Mizoram state are also reportedly exploiting the lack of legal status of Chin people from Western Myanmar by, for instance, withholding payment.¹⁹³

In the past, Sri Lankan camp refugees seeking work, mainly in the informal economy, to supplement their incomes could receive an exemption to exit or enter by informing camp-in-charge. They were only allowed to work between 6 am and 6 pm; camps were subject to daily evening curfews.¹⁹⁴ If they were able to produce letters from employers, they were occasionally allowed to leave the camps for a few days. Since 2012 Sri Lankan refugees have been allowed, with written permission, to stay and work outside the camps in formal sectors such as textiles, business process outsourcing and call centers, and the hospitality industry on the condition that they report to camps periodically.¹⁹⁵

Refugee women, especially Myanmarese, working in the informal sector are sometimes overworked, underpaid, and harassed at work, and refugee women and girls are more vulnerable to gender-based violence in India. Some refugee women in the Burmese community have reported being afraid to work

¹⁸⁸. Artilles, C. (undated) "Tibetan Refugees' Rights and Services in India," Topical Research Digest: Minority Rights, Human Rights and Human Welfare, University of Denver, www.du.edu/korbel/hrhw/researchdigest/minority/Tibetan.pdf.

¹⁸⁹. Artilles, C. (undated) "Tibetan Refugees' Rights and Services in India," Topical Research Digest: Minority Rights, Human Rights and Human Welfare, University of Denver, www.du.edu/korbel/hrhw/researchdigest/minority/Tibetan.pdf.

¹⁹⁰. Somali and Myanmarese children also often faced discrimination at school, Joint IDP Profiling Service (2013) "Urban Profiling of Refugees in Delhi, Refugees from Myanmar, Afghanistan and Somalia and Their Indian Neighbours," www.jips.org/system/cms/attachments/817/original_Urban_Profiling_of_Refugee_Situations_in_Delhi.pdf.

¹⁹¹. Human Rights Law Network (2007) "Report of Refugee Populations in India," www.hrln.org/admin/issue/subpdf/Refugee_populations_in_India.pdf

¹⁹². Joint IDP Profiling Service (2013) "Urban Profiling of Refugees in Delhi, Refugees from Myanmar, Afghanistan and Somalia and Their Indian Neighbours," www.jips.org/system/cms/attachments/817/original_Urban_Profiling_of_Refugee_Situations_in_Delhi.pdf.

¹⁹³. Human Rights Law Network (2007) "Report of Refugee Populations in India," www.hrln.org/admin/issue/subpdf/Refugee_populations_in_India.pdf

¹⁹⁴. Human Rights Law Network (2007) "Report of Refugee Populations in India," www.hrln.org/admin/issue/subpdf/Refugee_populations_in_India.pdf

¹⁹⁵. Information provided by the International Labor Organization and the UNHCR.

outside of their homes.¹⁹⁶ Reported incidents of gender-based violence have, however, declined during the past few years due to increased awareness and advocacy.

Child labor among refugee and asylum-seeking children is not uncommon, and is a protection concern.¹⁹⁷ Refugee children's access to primary education has gradually improved since India's 86th amendment to the Constitution in 2002 and the 2010 Right to Education Act, with the state now providing "free and compulsory education to all children of the age of 6 to 14" and through advocacy and education projects run by the UNHCR and implementing partners. However, when applying to the Indian university system, refugees are treated as foreigners and are required to pay higher tuition rates, an impediment that precludes a majority of refugee youth from accessing higher education.¹⁹⁸ Individual refugees have, however, obtained waivers from Indian universities so that they can enroll at par with Indian citizens, but a larger policy dent has not been made yet in this regard.¹⁹⁹

Facilitating factors

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

Tibetan refugees have been granted loans and other facilities for self-employment by the Indian government. Sri Lankan Tamils have also been encouraged to engage in casual labor, including through self-help structures, such as the Organisation for Eelam Refugees Rehabilitation, which supported youth labor cooperatives, tailoring training centers, female income-generation projects, and initiatives to transfer skills.²⁰⁰

Since 2012, the government of India has allowed UNHCR-mandated refugees to apply for residence permits²⁰¹ or long-term visas, giving them permission to work in the private sector, and in 2014, the practice of issuing long-term visas expended. Skilled refugees have been able to find better employment in the private sector, while the benefit of these long-term visas is expected to gradually provide

¹⁹⁶. Women's Refugee Commission (2011) "Bright Lights, Big City: Urban Refugees Struggle to Make a Living in New Delhi," www.womensrefugeecommission.org/resources/document//733-bright-lights-big-city-urban-refugees-struggle-to-make-a-living-in-new-delhi.

¹⁹⁷. UNHCR Global Appeal "India 2011 Update," www.unhcr.org/4cd96e919.pdf.

¹⁹⁸. Women's Refugee Commission (2011) "Bright Lights, Big City: Urban Refugees Struggle to Make a Living in New Delhi," www.womensrefugeecommission.org/resources/document//733-bright-lights-big-city-urban-refugees-struggle-to-make-a-living-in-new-delhi.

¹⁹⁹. Information provided by the UNHCR.

²⁰⁰. Saha, K. C. (2004) "Learning from Empowerment of Sri Lankan Refugees in India," *Forced Migration Review* 20, www.fmreview.org/FMRpdfs/FMR20/FMR2014.pdf.

²⁰¹. "In case of refugees, the procedure of acquiring Residence Permits (issued under Rule 6 of the Registration of Foreigners Rules, 1992) involves application to the Foreigners Regional Registration Office on the basis of a letter issued by the Ministry of Home Affairs together with submission of identity documents such as Residence Proof, Identity Proof and a Police Clearance Certificate." Refugee Watch (2009), "Residence Permits for Refugees in India: Ad-Hocism, Confusion and Lack of Clarity within the Government," <http://refugeewatchonline.blogspot.fr/2009/08/residence-permits-for-refugees-in-india.html>.

opportunities to lesser skilled refugees.²⁰² Among Myanmar urban refugees, micro-entrepreneurs were able to start businesses after getting grants from the UNHCR or loans from churches or a rotating saving and credit association.²⁰³ More than 4,000 refugees from various nationalities have been granted long-term visas and some have already opened bank accounts.²⁰⁴

In addition, the UNHCR and its implementing partners are also supporting refugees' access to livelihood activities, including vocational training and income-generating activities such as the livelihood project managed by the nonprofit organization ACCESS, which has taught weaving techniques to Rohingya women, encouraging self-employment, and enabled them to sell jute products such as bags in local markets.²⁰⁵

3. MEDIATING CONDITIONS

Socioeconomic conditions

Cities like New Delhi represent dynamic, expanding markets where the informal sector offers plentiful opportunities, including for refugees, to earn a living.²⁰⁶ Refugees, however, find themselves in competition with poor urban workers who migrate en masse to the capital from poorer Indian states and a great number of foreign migrants. Accessible urban jobs are low skilled, while better paid, high-skilled jobs require Hindi language skills and documentation beyond the UNHCR-issued identity card. The competition between workers has resulted in suppressed wages and exploitative labor practices with employers able to find employees who will work for longer hours and lower wages than refugees will accept.²⁰⁷ Poverty is thus a key concern for refugees as it is for a majority of the population—despite rapid economic growth, a third of the Indian population lives below the poverty line.²⁰⁸ Against the broader background of difficult socioeconomic conditions for large segments of India's population, a rise in racism and xenophobia have undermined the tradition of tolerance toward refugees.²⁰⁹

²⁰². Thus far, it is mainly the Myanmar refugees that have obtained long-term visas, and the government of India has agreed to waive the associated fees; UNHCR News Stories (2012) "Refugees in India share daily struggles with UNHCR chief," www.unhcr.org/50d47f056.html.

²⁰³. These small businesses were, however, often not full-time activities and thus unlikely to provide secure livelihoods, Joint IDP Profiling Service (2013) "Urban Profiling of Refugees in Delhi, Refugees from Myanmar, Afghanistan and Somalia and Their Indian Neighbours," www.jips.org/system/cms/attachments/817/original_Urban_Profiling_of_Refugee_Situations_in_Delhi.pdf.

²⁰⁴. Information provided by the UNHCR.

²⁰⁵. United Nations Information Centre for India and Bhutan (2016) "UNHCR: Livelihood Programme Empowers Rohingya Refugee Women," www.unic.org.in/display.php?E=14365&K=.

²⁰⁶. Sanderson, M. (2015) "The Role of International Law in Defining the Protection of Refugees in India," *Wisconsin International Law Journal*, Vol. 33 Issue 1, <https://ore.exeter.ac.uk/repository/bitstream/handle/10871/17244/Sanderson%20India%20Paper.pdf?sequence=3>.

²⁰⁷. Women's Refugee Commission (2011) "Bright Lights, Big City: Urban Refugees Struggle to Make a Living in New Delhi," www.womensrefugeecommission.org/resources/document//733-bright-lights-big-city-urban-refugees-struggle-to-make-a-living-in-new-delhi.

²⁰⁸. Morand, M., and J. Crisp (2013) "Destination Delhi: A Review of the Implementation of UNHCR's Urban Refugee Policy in India's Capital City," UNHCR Policy Development and Evaluation Service, www.unhcr.org/51f66e7d9.pdf.

²⁰⁹. UNHCR Global Appeal "India 2011 Update," www.unhcr.org/4cd96e919.pdf.

The inflation and low wages in New Delhi have reportedly compelled some women to take potentially exploitative jobs as, for instance, domestic workers, a sector fraught with abuse, or to risk sexual gender-based violence by working late at night. Some refugee families have also enlisted their adolescents in the workforce to supplement the family income, but of late, child protection and education programs have been scaled up to address issues surrounding out-of-school children and child labor.²¹⁰

For more highly educated and highly skilled refugees, entry into the workforce is even more challenging. While tolerated in the informal economy, before 2012 refugees did not have the right to work in the formal sector and thus were unable to practice their professions.²¹¹

Refugee profiles

Refugees' education levels, skills, and previous occupations differ significantly by nationality. Many of the Somalis and Afghans are highly educated and come from urban backgrounds, while the Burmese come from less educated, agricultural backgrounds and, as such, have the biggest adjustments to make and the fewest transferable skills for the urban environment.²¹²

Among the factors that push many refugees into the low-wage segment of the labor market is that they do not speak English or Hindi to allow them to compete with Indian citizens to secure jobs.²¹³ Somali women are, for instance, less likely than their male counterparts to learn English or Hindi and thus remain isolated from the local community, although the trend is slowly changing as more and more Somali women come forward to join livelihood and vocational training programs that include language classes.

Although the 2013 profile of urban refugees indicates that different refugee communities have diverse perceptions of what constitutes "social capital," it was clearly identified as a facilitating factor given that "more than 70% of Afghan and Myanmarese employees said they found their job through the community, friends or relatives."²¹⁴ Other researchers confirm that social capital is a key determinant of refugees' successful integration and access to income, and that refugees "lead each other to jobs" as much as they "also compete against each other in the job market."²¹⁵

²¹⁰. Morand, M., and J. Crisp (2013) "Destination Delhi: A Review of the Implementation of UNHCR's Urban Refugee Policy in India's Capital City," UNHCR Policy Development and Evaluation Service, www.unhcr.org/51f66e7d9.pdf

²¹¹. Women's Refugee Commission (2011) "Bright Lights, Big City: Urban Refugees Struggle to Make a Living in New Delhi," www.womensrefugeecommission.org/resources/document//733-bright-lights-big-city-urban-refugees-struggle-to-make-a-living-in-new-delhi.

²¹². Women's Refugee Commission (2011) "Bright Lights, Big City: Urban Refugees Struggle to Make a Living in New Delhi," www.womensrefugeecommission.org/resources/document//733-bright-lights-big-city-urban-refugees-struggle-to-make-a-living-in-new-delhi.

²¹³. For instance, refugees from Myanmar reported how limited Hindi skills often led to misunderstandings with employers and at times resulted in receiving reduced salaries, Joint IDP Profiling Service (2013) "Urban Profiling of Refugees in Delhi, Refugees from Myanmar, Afghanistan and Somalia and Their Indian Neighbours," www.jips.org/system/cms/attachments/817/original_Urban_Profiling_of_Refugee_Situations_in_Delhi.pdf.

²¹⁴. Joint IDP Profiling Service (2013) "Urban Profiling of Refugees in Delhi, Refugees from Myanmar, Afghanistan and Somalia and Their Indian Neighbours." p. 51, www.jips.org/system/cms/attachments/817/original_Urban_Profiling_of_Refugee_Situations_in_Delhi.pdf.

²¹⁵. Women's Refugee Commission (2011) "Bright Lights, Big City: Urban Refugees Struggle to Make a Living in New Delhi." p. 2, www.womensrefugeecommission.org/resources/document//733-bright-lights-big-city-urban-refugees-struggle-to-make-a-living-in-new-delhi.

Community-based networks play an important role in the lives of refugee women, for instance, by providing interpretation services, conducting workshops and training in the fields of women's rights and female empowerment and refugee rights, and addressing legal and employment concerns.²¹⁶

Hindu Sikh Afghans, with their religious ties to India, access to naturalization, and community-based self-help groups already in place, are the most integrated of the refugee groups and tend to be better off economically than the other groups. They have greater access to jobs, and most find employment within their own community.²¹⁷

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

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

4. OUTCOMES

Participation in the labor market

The majority of refugees work in the informal sector and few have work contracts. The profile of urban refugees conducted by the Joint IDP Profiling Service in 2013 showed that among the UNHCR-registered refugees in Delhi, Myanmarese refugees had a higher proportion of income earners. They are mainly salaried employees, rather than self-employed and work in a limited number of professions, especially in factories where no Hindi is required; others work in shops, restaurants, beauty salons, or call centers. Their employment conditions are, however, reportedly unstable and sometimes hazardous.²¹⁸ They are also more likely than other groups to engage in exploitative labor and to work in "unregulated" factories.

Afghan household heads reported better working conditions and access to a greater variety of jobs although they had higher unemployment levels, mainly because they lacked documentation in the form of a valid visa, a situation that is expected to evolve now that Afghans and Somalis are being granted long-term visas by the government.²¹⁹ Afghans' salaried occupations include translation and interpretation and

²¹⁶. Kumari, S. (2012) "Burmese Refugee Women in India: Victims and Agents of Empowerment," *Peace Prints: South Asian Journal of Peacebuilding*, Vol. 4, No. 1, <http://wiscomp.org/pubn/wiscomp-peace-prints/4-1/SHEENA.pdf>.

²¹⁷. Women's Refugee Commission (2011) "Bright Lights, Big City Urban Refugees Struggle to Make a Living in New Delhi."

²¹⁸. Myanmarese interviewed as part of the profile reported being paid less than Indians for the same work, some were not paid at all, while others had been fired. The profile also showed that with lower levels of education and skills, Myanmarese accepted more insecure employment, Joint IDP Profiling Service (2013) "Urban Profiling of Refugees in Delhi, Refugees from Myanmar, Afghanistan and Somalia and Their Indian Neighbours," www.jips.org/system/cms/attachments/817/original_Urban_Profiling_of_Refugee_Situations_in_Delhi.pdf.

²¹⁹. The other explanation provide by the profile for the fact that Afghan households had a low number of income earners is "that their higher human capital allows more selective approaches to employment," Joint IDP Profiling Service (2013) "Urban Profiling of Refugees in Delhi, Refugees from Myanmar, Afghanistan and Somalia and Their Indian Neighbours." p. 49, www.jips.org/system/cms/attachments/817/original_Urban_Profiling_of_Refugee_Situations_in_Delhi.pdf.

employment in shops and restaurants and UNHCR's livelihood programs. Entrepreneurship is more widespread and self-employed Afghans usually work as interpreters or engage in service activities that do not require initial capital. Somali household heads have the highest level of unemployment given their restricted access to the job market.

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

Pakistani Hindus generally work in the informal sector taking jobs as manual laborers²²⁰ while Chin refugees only work in the informal sector as day laborers, domestic workers, weavers, or tenant farmers.²²¹

Because farming is important to a Tibetan's income but Indian law prohibits foreigners from purchasing land, Tibetan refugees often acquire land with Indians acting as proxies.²²²

SUMMARY AND CONCLUSION

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

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

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

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

²²¹. United States Committee for Refugees and Immigrants (2009) World Refugee Survey "India," www.refworld.org/docid/4a40d2a75d.html

²²². Artilles, C. (undated) "Tibetan Refugees' Rights and Services in India," *Topical Research Digest: Minority Rights, Human Rights & Human Welfare*, University of Denver, www.du.edu/korbel/hrhw/researchdigest/minority/Tibetan.pdf.

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

The Islamic Republic of Iran

PROFILE

- Iran is party to the 1951 Convention relating to the Status of Refugees (but with reservations) and the 1967 Protocol
- 979,437 refugees and 42 asylum seekers totaling 979,479 = 1.23 percent of a total estimated population of 79 million
- The majority of the refugee population arrived from Afghanistan before 2001 and were given refugee status on a prima facie basis. A smaller number of Iraqis were also registered in 2002 as prima facie refugees.²²³
- Iran has one of the largest urban refugee populations in the world; only 3 percent of Afghan refugees live in camps located in rural areas.²²⁴
- Human development rank and index: 69th and 0.766
- GDP: Growth 4.3 percent; Per capita US\$5,442
- Upper-middle-income economy
- Unemployment rate: 13.2 percent

CONTEXT

Iran is one of the world's top refugee-hosting countries. Years of conflict, violence, and insecurity, as well as drought and unemployment, in Afghanistan have driven millions to flee their country; the vast majority have sought refuge in Iran and Pakistan. In addition to nearly 1 million registered refugees, there are 1.4 million to 2 million undocumented Afghans in Iran according to government estimates.²²⁵ In 2003 there were also more than 200,000 Iraqi refugees in Iran, a number that has fallen to about 28,000 registered Iraqi refugees in 2015.²²⁶

Iran's policies toward refugees, and Afghans in particular, have drastically shifted. From 1979 to 1992, most Afghans entering Iran were automatically given the right to remain on a prima facie basis and had access to social benefits and work permits. Beginning in 1992, however, the government of Iran stopped

²²³. All new asylum seekers are now required to have their refugee status determined individually through the government refugee status determination procedure.

²²⁴. Human Rights Watch (2013) "Unwelcome Guests, Iran's Violation of Afghan Refugee and Migrant Rights," www.hrw.org/sites/default/files/reports/iran1113_forUpload.pdf.

²²⁵. Human Rights Watch (2013) "Unwelcome Guests, Iran's Violation of Afghan Refugee and Migrant Rights," www.hrw.org/sites/default/files/reports/iran1113_forUpload.pdf.

²²⁶. Unofficial statistics, however, put the number of Iraqis (registered and undocumented) at about 500,000 www.presstv.ir/Detail/2015/10/28/435325/Iran-refugees.

automatically granting residency status to newly arriving Afghans, only providing temporary residency permits to some based on seemingly arbitrary criteria. Many Afghans became undocumented and subject to deportation. Various measures were introduced to pressure Afghans to return to Afghanistan, including onerous procedures for renewing refugee papers and the denial of public services. In 1997, the government effectively stopped granting newly arriving Afghans residency rights altogether and increased efforts to register and repatriate those already in the country. While the fall of the Taliban in 2001 coincided with large numbers of voluntary returns, some refugees were reportedly pressured by the government to leave Iran. Despite another noticeable increase of returns to Afghanistan around 2011 under the UN-administered Voluntary Repatriation Program, many Afghans stayed in Iran.

The repatriation of Afghans remains the overarching policy of the Iranian government, which in 2012 took part in the Solutions Strategy for Afghan Refugees, a regional, multiyear strategy toward a “holistic approach to enhancing prospects for sustainable returns and attaining a permanent solution for the protracted refugee situation.”²²⁷ Yet, many Afghan returnees have been confronted with ongoing insecurity and the presence of unexploded ordnance, loss of livelihoods, and lack of services and facilities. Also faced with the challenge of reclaiming land and property, many returnees have experienced secondary displacement, mostly to urban areas. Prospects for local integration remain low in Iran, and the country is among the top 10 countries of origin for resettlement submissions to the United Nations High Commissioner for Refugees (UNHCR).²²⁸

1. LAW

Refugee Law

National legislation. Iran’s 1963 Regulations relating to Refugees require those seeking asylum to present themselves to “the first border guard station or competent government official upon entry into the Iranian territory” and provide that “refugees should not be forcibly returned to the country where their life and freedom is endangered for political, racial or religious reasons or for their membership in a particular group.”²²⁹ The 1979 Constitution also allows the government to grant persons political asylum, “unless they are regarded as traitors and saboteurs.”²³⁰ Although party to the 1951 Refugee Convention, Iran maintains reservations in relation to employment, public relief, labor legislation, social security, and freedom of movement.²³¹

²²⁷. “UNHCR Global Appeal Update 2015,” www.unhcr.org/5461e609b.pdf. The strategy has been endorsed by the governments of Afghanistan, Iran, and Pakistan, UNHCR (2012) “Solutions Strategy for Afghan Refugees to support Voluntary Repatriation, Sustainable Reintegration and Assistance to Host Countries,” <http://unhcr.org/afghanistan/solutions-strategy.pdf>.

²²⁸. “UNHCR Refugee Resettlement Trends 2015,” www.unhcr.org/559e43ac9.pdf.

²²⁹. Articles 2 and 12 of the Regulations relating to Refugees (1963), www.refworld.org/pdfid/3f4a23767.pdf.

²³⁰. Article 155 of the Islamic Republic of Iran’s Constitution of 1979 (with Amendments through 1989), www.constituteproject.org/constitution/Iran_1989.pdf.

²³¹. The government of Iran considers the stipulations contained in Articles 17 (wage-earning employment), 23 (public relief), 24 (labor legislation and social security), and 26 (freedom of movement) as being recommendations only, “Reservations and Declarations to the 1951 Refugee Convention,” www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=3d9abe177&query=1951%20Refugee%20Convention.

Institutions. The Bureau for Aliens and Foreign Immigrants' Affairs (BAFIA), which operates under the Ministry of Interior, has overall responsibility for coordinating refugee affairs in cooperation with other line ministries and is charged under Iranian law with processing refugee claims.

Access to protection. The refugee status determination procedure has changed over time. Under the law, the Foreign Nationals Executive Coordination Council (FNECC), chaired by the Ministry of Interior, has overall responsibility for international relations and the "arrival, settlement, deportation, expulsion, training, employment, health, and medical treatment" of foreigners.²³² The law provides for individual refugee status determination under the charge of the FNECC or a committee designated by the FNECC. Because the FNECC is the higher-level council mainly concerned with general policy development, in 2001 the Standing Committee on Foreign Nationals was set up to review claims for asylum. One of BAFIA's functions, as part of the Ministry of Interior, is to act as the secretariat of the FNECC and the Standing Committee on Foreign Nationals. According to existing laws and regulations, BAFIA is expected to process applications for asylum, which should in principle be received by the police, and to present the case for a decision by the Standing Committee on Foreign Nationals.

Following the "comprehensive registration" program of refugees in 2001, all Afghan asylum seekers have had their status determined by the government on an individual basis. In 2003, Iran introduced a new system known as *Amayesh* to reregister all Afghan nationals who had been granted residency rights in the 1980s and 1990s. Under the *Amayesh* scheme, the BAFIA undertakes annual reregistrations of refugees, but because of these repeated reregistrations, which is a complex and bureaucratic process accompanied by onerous fees, many refugees have lost their status.²³³

From about that time, and especially after 2007, newly arriving Afghans have been prevented from lodging refugee claims, and many were arrested and deported to Afghanistan for unlawful presence in Iran despite acknowledgment that continuing "human rights violations and other consequences of exposure to conflict-related violence [in Afghanistan] may amount to persecution."²³⁴

Freedom of movement. Iran maintains a reservation to the 1951 Refugee Convention's provision for freedom of movement, and the 1963 Regulations allowed the government to restrict refugees' residence.²³⁵ However, refugees had no difficulty moving freely from one location to another until 2000 when the process of regularizing and legalizing the status of Afghans in Iran, through the issuance of residency cards, also led to significant movement restrictions.²³⁶ Refugees' freedom of movement became increasingly restricted with prohibitions on travel in many areas of the country, referred to as "no-go areas." Pursuant to a 2001 Decree, Iran gradually imposed more restrictions on areas, cities, and provinces

²³². Afghanistan Research and Evaluation Unit (2005) "Return To Afghanistan? A Study of Afghans Living in Mashhad, Islamic Republic of Iran," www.unhcr.org/434f69e92.pdf.

²³³. Human Rights Watch (2013) "Unwelcome Guests, Iran's Violation of Afghan Refugee and Migrant Rights," www.hrw.org/sites/default/files/reports/iran1113_forUpload.pdf.

²³⁴. UNHCR (2013) "Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan," www.refworld.org/pdfid/51ffdca34.pdf. p. 5.

²³⁵. United States Committee for Refugees and Immigrants (2009) World Refugee Survey "Iran," www.refworld.org/docid/4a40d2a84a.html.

²³⁶. Farzin, F., and S. Jadali (2013) "Freedom of Movement of Afghan Refugees in Iran," *Forced Migration Review* 44, www.fmreview.org/en/detention/farzin-jadali.pdf.

in which foreign nationals can reside legally, and scores of refugees were instructed to relocate to designated areas. Breach of this requirement can lead to arrest, detention, and even deportation of refugees at the discretion of the authorities.²³⁷ Approximately two-thirds of Iran's territory is now designated as no-go areas for foreigners, a restriction on the freedom of movement that the Iranian authorities justify mainly on the basis of national security and that de facto discriminates between Iranian citizens and noncitizens.²³⁸

Right to work – refugee and labor and employment law

Registered refugees are entitled to apply for temporary work permits. Under Iran's Labour Code, work permits issued by the Ministry of Cooperatives, Labour and Social Welfare are valid for 12 months.²³⁹ The permits can be extended and renewed, subject to the written agreement of the Ministries of Interior and Foreign Affairs. The 1963 Regulations recognize refugees' right to employment "in the fields authorised for foreign nationals and those fields deemed appropriate."²⁴⁰

Although party to the 1951 Refugee Convention, Iran has made reservations to Article 17 (right to engage in wage-earning employment) and to Article 24 (right to labor protections and social security on the same footing as nationals).²⁴¹

In 2000 Iran passed a law under Article 48 of the government's five-year development plan that established the parameters for the repatriation of Afghans working without work permits unless they could demonstrate that they would face physical threats on return.²⁴²

In Iran, foreigners cannot engage in business without appropriate visas and work permits. To obtain a specific permit to engage in business, refugees must abandon their status and return to the country of origin to obtain a passport (if they did not have one already) and an Iranian visa. Afghan Amayesh holders can, in principle, open bank accounts and rent properties including agricultural lands. Like other foreign nationals, refugees can own movable property, but are not allowed to own immovable property, that is, real estate, unless they obtain specific approvals.

²³⁷. Farzin, F., and S. Jadali (2013) "Freedom of Movement of Afghan Refugees in Iran," *Forced Migration Review* 44, www.fmreview.org/en/detention/farzin-jadali.pdf.

²³⁸. Along Iran's eastern border with Afghanistan and Pakistan, the authorities justified the restriction as related to security and drug-smuggling issues. The designation of other provinces or districts as no-go areas may reflect economic or social variables, Koepke, B. (2011) "The Situation of Afghans in the Islamic Republic of Iran Nine Years after the Overthrow of the Taliban Regime in Afghanistan," Middle East Institute Fondation pour la Recherche Stratégique, www.refugeecooperation.org/publications/afghanistan/pdf/03_koepke.pdf.

²³⁹. Article 122, Islamic Republic of Iran Labour Code 1990, www.ilo.org/dyn/natlex/docs/WEBTEXT/21843/64830/E90IRN01.htm.

²⁴⁰. Article 7 of the 1963 Regulations.

²⁴¹. Asylum Access (2014) "The Global Refugee Work Rights Report," http://asylumaccess.org/wp-content/uploads/2014/09/FINAL_Global-Refugee-Work-Rights-Report-2014_Interactive.pdf.

²⁴². The Ministry of Foreign Affairs was given responsibility for determining the presence or absence of a threat to life.

2. POLICY AND PRACTICE

Constraining factors

In the 1980s most refugees were allowed to live and work throughout Iran without too much interference, but in more recent years the government steadily introduced restrictions on where nonnationals could legally live and work. Following the 2000 legislation on employment restrictions, beginning in 2001 the Ministry of Labour and Social Affairs subjected employers of foreign illegal workers to heavy fines and imprisonment and shut down many small businesses that employed Afghans, while also revoking some Afghans' work permits.²⁴³ The government was reportedly more lenient with employers employing Iraqi refugees.²⁴⁴

Most undocumented Afghans who are working fear not only arrest and deportation but are also easily subject to abuse, especially in the construction sector.²⁴⁵ Because the majority of these workers do not have written employment contracts, they have no social protection or benefits such as sick leave.²⁴⁶ In 2013 the United Nations Economic and Social Council expressed concern that "Afghan workers are often paid less than the minimum wage, or are faced with non-payment of wages."²⁴⁷

In 2010, Iran's Supreme National Security Council, an advisory body charged with safeguarding the national interest, sovereignty, and territorial integrity, passed a law called the Plan for Registering Afghan Nationals, also referred to as the Comprehensive Regularization Plan. The law encourages undocumented Afghans to register and acquire a passport (if they do not already have one), an Iranian residency visa, and a work visa if they wish to work. This process is, however, reportedly both expensive and logistically difficult for many Afghans.²⁴⁸

Although registered refugees in Iran are permitted to work they face multiple restrictions.

²⁴³. Afghanistan Research and Evaluation Unit (2005) "Return To Afghanistan? A Study of Afghans Living in Mashhad, Islamic Republic of Iran," www.unhcr.org/434f69e92.pdf.

²⁴⁴. United States Committee for Refugees and Immigrants (2009) World Refugee Survey-"Iran," www.refworld.org/docid/4a40d2a84a.html.

²⁴⁵. Justice for Iran (2013) "Weapons of Mass Discrimination: The Islamic Republic Policies and the Economic, Social and Cultural Rights of Citizens in Iran, Briefing to the UN Committee on Economic, Social and Cultural Rights on the Occasion of the Review of Islamic Republic of Iran in the 50th Session of UN Committee on Economic, Social and Cultural Rights," www2.ohchr.org/English/bodies/cescr/docs/ngos/JusticeIran_Iran_CESCR50.pdf.

²⁴⁶. Altai Consulting and ILO-UNHCR Cooperation Towards Solutions (2008) "Research Study on Afghan Deportees from Iran," www.unhcr.org/49ba32772.pdf.

²⁴⁷. United Nations Economic and Social Council, Committee on Economic, Social and Cultural Rights, Concluding observations on the second periodic report of the Islamic Republic of Iran, adopted by the Committee at its fiftieth session (29 April-17 May 2013), E/C.12/IRN/2, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2FIRN%2F2&Lang=en.

²⁴⁸. As of 2012 the BAFIA reported that 560,000 Afghans had regularized their status; however, because of legal and logistical barriers, in many cases the Afghan government was unable to issue valid legal documents to individuals registered under the Comprehensive Regularization Plan, Human Rights Watch (2013) "Unwelcome Guests, Iran's Violation of Afghan Refugee and Migrant Rights," www.hrw.org/sites/default/files/reports/iran1113_forUpload.pdf.

First, many refugees cannot afford the cost of the work permit or its annual renewal and the related payment of municipal taxes.²⁴⁹

Second, their ability to choose their employment is severely limited by the restrictions on place of residence and freedom of movement, given that refugees are only allowed to work within their areas of residence. These designated areas may be so limited that refugees have difficulty finding employment, and they cannot leave without obtaining a *laisser-passer*, which involves bureaucracy and issuance fees.²⁵⁰

Third, they can only engage in a limited number of occupations, a provision that clearly limits their options for employment. They are only permitted to work in 16 professional categories, including plaster manufacture, making acid for batteries, digging, brick-making, laying asphalt and concrete, herding sheep, slaughtering animals, burning garbage, loading and unloading trucks, stone cutting, road building, mining, and farming.²⁵¹ Most of these jobs are heavy manual labor, mainly menial and potentially dangerous jobs that have been selected based on labor market demands and to ensure that Afghans do not take jobs away from Iranian citizens. Refugees found working in unauthorized occupations are considered to have violated the terms of their refugee status under the Amayesh system and could be subject to deportation to Afghanistan. However, in practice a number of refugees engage in business activities and are employed in jobs other than those stated on their work permits.²⁵²

In 2012, the Iranian government launched an initiative in which Afghan refugees were reportedly encouraged to give up their Amayesh card (and refugee status) in return for a residency and work permit valid for one year, with a possibility to renew it for at least another year. A regular or non-Amayesh residence permit brings with it some privileges the government denies to—or restricts—for Amayesh cardholders, such as a drivers' license and the right to run a business, but comes with no guaranteed permit renewal and no way to restore refugee status. If refugees are not permitted to renew their residency, they will have no protection from deportation.²⁵³

Facilitating factors

In recent years the government has recognized the importance of ensuring that refugees have the education and skills to earn a living upon returning to their country of origin, while also enabling them to contribute to society during their stay in Iran. This has led to the introduction of various livelihood and vocational training programs. For instance, in collaboration with the government and partners, the UNHCR has implemented diverse livelihood interventions in Iran, including technical and vocational training for

²⁴⁹. The work permit fee is established in the Annual Budget Law that is submitted by the government and passed by the Parliament. The average cost for issuance of work permits in the course of Amayesh 10 (2015) was about US\$108, and the average cost for extension of work permits was about US\$80. While no change to the cost of the work permit has been indicated for Amayesh 11 (2016), in view of the constant devaluation of the Iranian rial against the U.S. dollar, the cost would be equivalent to US\$96 for issuance and US\$70 for extension of work permits (information provided by the UNHCR).

²⁵⁰. Farzin, F., and S. Jadali (2014) "Freedom of Movement of Afghan Refugees in Iran," *Forced Migration Review* 44, www.fmreview.org/en/detention/farzin-jadali.pdf.

²⁵¹. Human Rights Watch (2013) "Unwelcome Guests, Iran's Violation of Afghan Refugee and Migrant Rights," www.hrw.org/sites/default/files/reports/iran1113_forUpload.pdf.

²⁵². Information provided by the UNHCR.

²⁵³. Information provided by the UNHCR.

more than 40 occupations (such as welding, plumbing, and tailoring), the establishment of home-based enterprises, access to revolving and micro-credit loans, and the provision of equipment for income-generating activities while also looking into possible cross-border initiatives and interventions.²⁵⁴

Although refugees are subject to limitations on access to education, opportunities are nevertheless provided to refugees up to pre-university level; beginning in 2009 undocumented Afghans who registered with BAFIA and paid school fees were permitted to enroll in Iranian schools.²⁵⁵

1. MEDIATING CONDITIONS

Socioeconomic conditions

Iran is an upper-middle-income economy. It ranks 75th on the Human Development Index and less than 0.1 percent of the population live on less than US\$1.90 per day.

The huge number of refugees and asylum seekers has, however, placed a significant economic and social burden on Iran, especially considering that the country receives little aid from donor countries. Furthermore, the financial and economic sanctions for Iran's alleged nuclear weapons program have led to a shortage of foreign currency reserves; a steep devaluation of the Iranian rial; and rising living costs, inflation, and unemployment. These consequences have adversely affected Iran's refugee population and the Iranian government's tolerance for their presence, and the lifting of sanctions has yet to positively influence their situation. Human Rights Watch reported in 2013 that nearly half of all Afghans in Iran were living below the absolute poverty line and that the increasing cost of living became unsustainable for the majority of these low-income families.²⁵⁶

Despite the difficult economic situation and the restrictions imposed on migrants and refugees, many Afghans still come to Iran, often for a combination of political, personal, and economic reasons. Iran offers greater economic development and opportunities than Afghanistan, especially for women and girls, and access to education and health care is better. "The migration flow of Afghans to Iran is partly a response to the demand on the part of Iranian employers." (...) "Iranian employers prefer hiring Afghan workers because they represent cheap, flexible and highly productive source of labor."²⁵⁷

The 2008 UNHCR and ILO assessment indicated that because refugees are mainly concentrated in subsectors that are unattractive to national workers they are unlikely to take jobs from national workers.

²⁵⁴. UNHCR (2015) "Iran Factsheet," <http://unhcr.org.ir/uploads/news/15-9-07%20%20Iran%20Factsheet%20-%20August%202015%20FINAL.pdf>.

²⁵⁵. Refugees are required to give up their refugee status before entering university and are barred from a variety of degree programs, Human Rights Watch (2013) "Unwelcome Guests, Iran's Violation of Afghan Refugee and Migrant Rights," www.hrw.org/sites/default/files/reports/iran1113_forUpload.pdf.

²⁵⁶. Human Rights Watch (2013) "Unwelcome Guests, Iran's Violation of Afghan Refugee and Migrant Rights," www.hrw.org/sites/default/files/reports/iran1113_forUpload.pdf.

²⁵⁷. "The proportion of Afghan workers is low; they represent less than 2 percent of the overall labor force in Iran," Altai Consulting and ILO-UNHCR Cooperation Towards Solutions (2008) "Research Study on Afghan Deportees from Iran," p. 2, www.unhcr.org/49ba32772.pdf.

Nonetheless, Iranian workers have negative feelings toward Afghans because they provide a flexible, cheap, and highly productive source of labor that is preferred by Iranian employers.²⁵⁸

Refugee profiles

The 2008 UNHCR and ILO assessment found that the most common method used by refugees and undocumented migrants for finding employment is their network of personal contacts and Afghans already in place. Most Afghan refugees and migrant workers settle in cities and neighborhoods where relatives and friends reside, depending on them for assistance upon arrival and for an introduction to the informal labor market. The assessment confirmed that Afghans spent on average 10 days before securing their first employment.²⁵⁹

A common language and similar culture between Afghans and Iranians have also facilitated the integration of refugees. Iran now hosts second- and third-generation Afghans who often speak Farsi. Only the Pashtuns, who for the most part live in camps, are more likely to speak either basic or no Farsi, especially women and girls who tend to be homebound and have limited interaction with Iranian society.²⁶⁰

2. OUTCOMES

Participation in the labor market

In 2010 the government estimated that approximately 2 million documented and undocumented Afghans were employed in the labor market.²⁶¹ The 2008 UNHCR and ILO assessment found that the majority (nearly 75 percent) of surveyed refugees and migrants who are economically active worked in the construction sector, mainly as daily laborers while fewer than 10 percent worked in agriculture, the predominant sector of employment before their departure from Afghanistan.²⁶² The manufacturing and construction sectors are characterized by a high degree of informal activity. The assessment also highlighted that the majority of men working in construction in Iran learned a skill such as masonry and made the transition from low-skilled to skilled work. In agriculture, half of the respondents also claimed to have developed new skills, mainly by learning about innovative methods of farming, gardening, and caring for animals, which increased their output and maximized their resources.

Child labor is widespread among the Afghan refugee and migrant population. Many unaccompanied minors, most undocumented, are found working in the construction sector, agriculture, and carpet weaving.²⁶³

²⁵⁸. Altai Consulting and ILO-UNHCR Cooperation Towards Solutions (2008) "Research Study on Afghan Deportees from Iran," www.unhcr.org/49ba32772.pdf.

²⁵⁹. Altai Consulting and ILO-UNHCR Cooperation Towards Solutions (2008) "Research Study on Afghan Deportees from Iran," www.unhcr.org/49ba32772.pdf.

²⁶⁰. Koepke, B. (2011) "The Situation of Afghans in the Islamic Republic of Iran Nine Years after the Overthrow of the Taliban Regime in Afghanistan," Middle East Institute Fondation pour la Recherche Strategique.

²⁶¹. Altai Consulting and ILO-UNHCR Cooperation Towards Solutions (2008) "Research Study on Afghan Deportees from Iran," www.unhcr.org/49ba32772.pdf.

²⁶². Altai Consulting and ILO-UNHCR Cooperation Towards Solutions (2008) "Research Study on Afghan Deportees from Iran," www.unhcr.org/49ba32772.pdf.

²⁶³. Human Rights Watch (2013) "Unwelcome Guests, Iran's Violation of Afghan Refugee and Migrant Rights," www.hrw.org/sites/default/files/reports/iran1113_forUpload.pdf.

SUMMARY AND CONCLUSION

Iran has historically hosted thousands of refugees, mainly from Afghanistan. However, registered Afghan refugees have found it increasingly difficult to retain their refugee status, and it is virtually impossible for newly arriving Afghans in Iran to lodge refugee claims or be recognized as refugees once they have lodged a claim.

Registered refugees are entitled to temporary work permits, but these permits are subject to high fees and restrictions on occupational fields. Limits on the freedom of movement further impair their access to livelihoods. The majority of refugees are thus excluded from the formal sector. Yet both registered refugees and undocumented Afghans have made significant contributions to Iran's economy, mainly performing manual jobs in the informal sector where labor shortages exist. The government has opened up some employment opportunities for Afghans, but still marginal and subject to conditions that many impoverished Afghans find hard to meet.

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- United States Committee for Refugees and Immigrants. 2009. "World Refugee Survey 2009- Iran." www.refworld.org/publisher,USCRI,,,4a40d2a84a,0.html.

Lebanon

PROFILE

- Not party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol
- 1,070,854 refugees²⁶⁴ and 12,139 asylum seekers totaling 1,082,993 = 18.5 percent of a total estimated population of 5.8 million
- Majority are Syrian refugees, large presence of Palestinian refugees and Iraqis refugees.
- Palestinians are settled in and around camps;²⁶⁵ because of an official “noncamp policy,” most Syrian and Iraqi refugees live dispersed in host communities in cities and towns, some in rented housing, others in informal tent settlements.
- Human development rank and index: 67th and 0.769
- GDP: Growth 1.5 percent; Per capita US\$9,050.8
- Upper-middle-income economy
- Unemployment rate: 6.4 percent

CONTEXT

Lebanon currently hosts, just after Turkey, the second-largest number of Syrian refugees. It also hosts some 450,000 Palestinians registered with UNRWA²⁶⁶ in addition to 50,000 Iraqi refugees who fled in different waves during the Iran-Iraq war, the 1991 Gulf War, and before the fall of Saddam Hussein’s regime in 2003, escaping from human rights abuses and persecution or the impact of the economic sanctions against Iraq. Beginning in 2006, many refugees were escaping from sectarian violence.

Despite having the world’s most refugees per capita—refugees make up a quarter of the population—Lebanon kept an open-border policy during the first few years of the Syrian conflict. But since mid-2013, like Syria’s other neighbors, Lebanon has tightened restrictions on entry for Palestinians; entry restrictions for Syrians began in September 2014.²⁶⁷

²⁶⁴. This figure does not include the 450,000 Palestinian refugees registered with the United Nations Relief and Works Agency (UNRWA) in Lebanon, many of whom are living in the country’s 12 refugee camps; UNRWA in Lebanon, www.unrwa.org/where-we-work/lebanon

²⁶⁵. Many Palestinians are living in informal settings referred to as “gatherings.”

²⁶⁶. Some 450,000 refugees are registered with the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) in Lebanon, with many living in the country’s 12 refugee camps, www.unrwa.org/where-we-work/lebanon.

²⁶⁷. In April 2014, the government completely closed the border to Palestinians from Syria, IRIN (2015) “A Timeline of Syria’s Closing Borders,” <http://newirin.irinnews.org/syrian-refugees-restrictions-timeline/>.

With regard to durable solutions, Lebanon has consistently maintained that it is not an asylum country, and although tolerating the prolonged stay of refugees, it is pressing for their repatriation or resettlement. In practice, however, repatriation is not possible in the foreseeable future, and resettlement concerns only a very small percentage of refugees.²⁶⁸

1. LAW

Refugee Law

National legislation. Lebanon is not party to the 1951 Refugee Convention and does not have formal domestic refugee legislation. Nevertheless, immigration laws regulate the entry and stay of refugees.²⁶⁹ Refugees and all other foreigners in Lebanon fall under the 1962 Law Regulating the Entry and Stay of Foreigners in Lebanon and their Exit from the Country, which makes reference to political asylum and forcible returns and acknowledges the obligation of *non-refoulement* specifically in the context of political asylum.²⁷⁰

In 2003 Lebanon signed a memorandum of understanding (MoU) with the United Nations High Commissioner for Refugees (UNHCR) to deal with the Iraqi refugee crisis. The MoU stipulates that Lebanon is not an asylum country but accepts UNHCR refugee status determination procedures and the organization's protection role, against the expectation that recognized refugees would only temporarily be tolerated, pending their resettlement to third countries. Negotiations on a new MoU to harmonize Lebanon's domestic legal framework with international standards for asylum-seekers' reception and to directly address concerns related to the Syrian crisis stalled in 2014.²⁷¹

Institutions. By presidential decree, in 1948 the Lebanese government created the Central Committee for Refugee Affairs to administer the Palestinian population.²⁷² In 1959 a new decree gave authority over Palestinian refugee issues to the Department of Palestinian Refugee Affairs, under the Ministry of Interior.²⁷³ The Ministry of Interior's General Security Office, among other functions, monitors borders,

²⁶⁸. In 2013 Germany pledged to offer temporary asylum to 4,000 refugees in Lebanon as part of its Humanitarian Admissions Programme, IOM (2013) "Over 100 of 4,000 Syrian Refugees Begin Relocation to Germany from Lebanon on Temporary Basis," www.iom.int/news/over-100-4000-syrian-refugees-begin-relocation-germany-lebanon-temporary-basis.

²⁶⁹. Janmyr, M. (2016) "The Legal Status of Syrian Refugees in Lebanon," Working Paper n. 33, Issam Fares Institute for Public Policy and International Affairs, American University of Beirut Policy Institute, www.aub.edu.lb/ifi/publications/Documents/working_papers/20160331_Maja_Janmyr.pdf.

²⁷⁰. Article 26 of the law states that "[a]ny foreign national who is the subject of a prosecution or a conviction by an authority that is not Lebanese for a political crime or whose life or freedom is threatened, also for political reasons, may request political asylum in Lebanon." Article 31 states that when a political refugee is deported from Lebanon, he or she will not be returned to a country in which "his or her life or freedom is threatened." Order No. 319 Regulating the Status of Foreign Nationals in Lebanon, August 2, 1962, www.refworld.org/pdfid/4c3c630f2.pdf.

²⁷¹. The MoU negotiations appear to have stalled, Bidinger, S., A. Lang, D. Hites, Y. Kuzmova, and E. Nouredine (2014) "Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing," Boston University School of Law, International Human Rights Clinic, www.bu.edu/law/files/2015/07/FINALFullReport.pdf

²⁷². The task of the central committee was to administer the Palestinian presence with respect to statistics, accommodation, relief, and health care; Decree No. 11657 of 26/4/1948.

²⁷³. Decree No. 927/1959 determines the work of the department; it is responsible, among other tasks, for coordinating with the UNRWA on relief, shelter, education and health and social issues; International Labour

carries out the admission and regularization of the status of foreigners, and is in charge of detention and deportation. Because of the Syrian situation, the government has established an interministerial crisis cell.

Access to protection. The government does not legally recognize Syrians as refugees in need of protection, and “displaced” Syrians were allowed to enter, stay, work, and practice economic activity in Lebanon under the conditions of bilateral agreements signed in 1993 and several circulars and decrees that regulate their entry and stay in Lebanon.²⁷⁴ At the inception of the Syrian crisis, Syrian nationals possessing valid identification upon entering Lebanon received free residence permits, in the form of a stamp, valid for six months. This residence permit was renewed at no charge for another six months. In 2013, the General Security Office issued a circular permitting Syrian nationals temporarily residing in Lebanon to renew their permits without leaving Lebanon, but for a fee of US\$200 per person older than age 15, a cost that many refugees could not afford.²⁷⁵ These provisions were changed again under residency regulations issued in 2015 whereby the government introduced new entry categories under which Syrians need to present valid documents and proof that their stay in Lebanon fits into one of the approved entry categories. Critically, seeking refuge is not an approved reason other than in exceptional circumstances to be assessed by the Ministry of Social Affairs.²⁷⁶ This is a first in the history of the two countries, and the measures have caused the rise of unofficial entries.²⁷⁷ New restrictions on Syrians affect not only new entries at the borders, it also makes it harder for those already in the country to retain their status. Syrians are required to extend their stay every six months, and in addition to the fee, they need to present a range of hard-to-obtain documents, including a notarized “pledge not to work” and letters from landlords and a mukhtar (a local government official) informing the government where the refugee lives.²⁷⁸

Organization Regional Office for Arab States (2015) “Access to Work for Syrian Refugees in Jordan: A Discussion Paper on Labour and Refugee Laws and Policies,” www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_357950.pdf; Suleiman, J. (2006) “Marginalised Community: The Case of Palestinian Refugees in Lebanon,” Development Research Centre on Migration, Globalisation and Poverty, <http://r4d.dfid.gov.uk/pdf/outputs/migrationglobpov/jaberedited.pdf>.

²⁷⁴. Under a 1993 Bilateral Agreement for Economic and Social Cooperation and Coordination and in conformity with the laws and regulations in force within each country, nationals from each country could enter the other visa-free, showing only their national identification card, instead of a passport; another agreement also signed in 1993 on the Transport of Persons and Goods grants freedom of stay and movement for nationals of both countries within the framework of the laws and regulations in force, Lebanese Centre for Human Rights (2013) “Syrian Workers in Lebanon, An Assessment of Their Rights and Reality,” [www.rightsobserver.org/files/Report_Syrian_Workers__ENG_final_\(2\).pdf](http://www.rightsobserver.org/files/Report_Syrian_Workers__ENG_final_(2).pdf).

²⁷⁵. The government estimates that about 50 percent of the Syrian refugees had expired residence permits. Unable to pay the renewal fee they choose to reenter Lebanon or reside without valid permits, two scenarios that expose them to a range of protection and security concerns, including arrest and detention.

²⁷⁶. UNHCR (2015) “Syrian Refugees in Lebanon Quarterly Snapshot,” <https://data.unhcr.org/syrianrefugees/download.php?id=8804>.

²⁷⁷. Heinrich Böll Stiftung-Middle East (2015) “Visa Requirements for Syrians: Lebanon Continues to Destabilize,” <https://lb.boell.org/en/2015/05/05/visa-requirements-syrians-lebanon-continues-destabilize>.

²⁷⁸. Oxfam International (2015) “Lebanon: Looking Ahead in Times of Crisis, Taking Stock of the Present to Urgently Build Sustainable Options for the Future,” Oxfam Discussion Paper, www.oxfam.org/sites/www.oxfam.org/files/file_attachments/dp-lebanon-looking-ahead-time-crisis-141215-en_0.pdf; IRIN (2015) “Stranded Syrians at ‘Serious Risk’ of Losing Refugee Status in Lebanon,” www.irinnews.org/report/101236/stranded-syrians-at-serious-risk-of-losing-refugee-status-in-lebanon.

Compared with Syrian nationals, Palestinian refugees from Syria (PRS) face discriminatory treatment; since the beginning of the Syrian conflict their entry into Lebanon has been subject to a number of restrictions, including a visa fee and the need to obtain a departure permit from Damascus (and thus, the need to travel to Damascus if one is to enter Lebanon through an official border crossing). Beginning in mid-2013 the General Security Office instituted additional informal entry restrictions targeting PRS. Since May 2014 further restrictions have been introduced under which, to be allowed to enter, PRS have to meet very tight criteria. These criteria include having preapproval from the General Security Office to enter Lebanon (an entry permit) and a one-year or three-year residency visa for Lebanon; or a valid multiple-entry visa for Lebanon. Such conditions are de facto preventing entry, and some refugees are sent back to Syria.²⁷⁹

Until May 2015, registration performed by either the UNRWA for Palestinians or the UNHCR provided refugees with a certificate of registration giving them access to basic services.²⁸⁰ The situation for Iraqi refugees is also very precarious. Although the UNHCR had issued refugee certificates to Iraqis from central and southern Iraq, the Lebanese authorities still do not recognize these certificates as a substitute for a residency permit, and the holders are not exempted from penalties for their illegal entry or presence in the country.²⁸¹

Freedom of movement. Freedom of movement of both Palestinian refugees and non-Palestinian refugees inside Lebanon has long been constrained by fear of arrest because travel documents or “circulation permits” were reportedly not respected by police or military officials.²⁸² Although information about the current situation of Iraqi refugees is limited, a 2007 report indicated they fear arrest on their way to and from work, thus causing tension between their need to earn a living and the probability of being arrested.²⁸³ In addition, many of the refugees who have fled the Syrian conflict may be undocumented because of the difficulty and cost of renewing residency permits, and thus often restrict their movement to areas where they live for fear of police control and checkpoints.²⁸⁴ The lack of freedom of movement

²⁷⁹. Bidinger, S., A. Lang, D. Hites, Y. Kuzmova, and E. Nouredine (2014) “Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing,” Boston University School of Law, International Human Rights Clinic, www.bu.edu/law/files/2015/07/FINALFullReport.pdf.

²⁸⁰. UNRWA-Lebanon does not register Palestinian refugees already registered in Syria but does record their arrival and cover their assistance needs, Bidinger, S., A. Lang, D. Hites, Y. Kuzmova, and E. Nouredine (2014) “Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing,” Boston University School of Law, International Human Rights Clinic, www.bu.edu/law/files/2015/07/FINALFullReport.pdf. The UNHCR is no longer linking registration certificates with access to services; information provided by the UNHCR.

²⁸¹. Information provided by the UNHCR.

²⁸². In 2013, the UNHCR reported that only some 30 percent of people of concern enjoyed freedom of movement through the circulation permits, “UNHCR Global Appeal 2013 Update- Lebanon,” www.unhcr.org/50a9f82824.pdf.

²⁸³. Human Rights Watch (2007) “Rot Here or Die There, Bleak Choices for Iraqi Refugees in Lebanon,” www.hrw.org/report/2007/12/03/rot-here-or-die-there/bleak-choices-iraqi-refugees-lebanon.

²⁸⁴. Some 58 percent of Syrian households did not have a residency permit in 2015, UNHCR (2016) “Syrian Refugee Vulnerabilities,” <https://data.unhcr.org/syrianrefugees/download.php?id=10404>. Similar estimates are found in other reports, for instance, Oxfam International estimates that as of September 2015, some 57 percent of Syrians and 90 percent of PRS lacked valid residency documents, Oxfam International (2015) “Lebanon: Looking Ahead in Times of Crisis, Taking Stock of the Present to Urgently Build Sustainable Options for the Future,” Oxfam Discussion

is the main challenge that refugees with limited legal status face because it constrains their ability to access employment, income, and services, particularly health care.²⁸⁵

Right to work – refugee and labor and employment law

Strict legal restrictions are imposed on the employment of Palestinian refugees, including PRS. Palestinian refugees have limited social and civil rights, restricted access to the government's public health and educational facilities, and no access to public social services. As foreigners without a formal state, Palestinian refugees in Lebanon are subjected to the constraints of the reciprocity principle, which is mandatory for an overwhelming majority of occupations and professions that foreigners are permitted to practice in Lebanon, particularly where the law requires proof of reciprocity of treatment in the form of a bilateral agreement between Lebanon and the foreigner's state of origin. As such, Palestinians, like all non-Lebanese, need a work permit and they are subjected to a system of national preference and reciprocity agreements.²⁸⁶ Following external pressure to regularize and normalize the status of Palestinian refugees, in 2010, Lebanon passed a law revoking the need for the nation of the work permit applicant to grant reciprocal rights to Lebanese workers and eliminating the payment of a fee to obtain a work permit and allowing access to certain professions.²⁸⁷ However, this law has not been implemented.²⁸⁸ In addition, in 2010, Palestinian refugees in Lebanon were also granted the right to benefit from the end-of-service provisions under the National Social Security Fund (NSSF), but they still do not have the right to illness, maternity, and family indemnities, despite having to pay the same contributions as Lebanese.²⁸⁹

In principle, all other non-Palestinian refugees, including Iraqis legally in the country, must first apply to the Ministry of Labour for work permits as foreigners and should receive it within three months of arrival.²⁹⁰ In theory, foreigners working without permits can be subject to fines or even to a one month

Paper, www.oxfam.org/sites/www.oxfam.org/files/file_attachments/dp-lebanon-looking-ahead-time-crisis-141215-en_0.pdf; Aranki, D., and O. Kalis (2014) "Limited Legal Status for Refugees from Syria in Lebanon," *Forced Migration Review* 47, www.fmreview.org/en/syria/aranki-kalis.pdf.

²⁸⁵. Norwegian Refugee Council, Information, Counselling and Legal Assistance Programme in Lebanon (2013 and 2014) "The Consequences of Limited Legal Status for Syrian Refugees in Lebanon, NRC Lebanon Field Assessment, Part 1- Aarsal and Wadi Khaled", <http://reliefweb.int/sites/reliefweb.int/files/resources/9687105.pdf> ; "The Consequences of Limited Legal Status for Syrian Refugees in Lebanon, NRC Lebanon Field Assessment, Part 2- North, Bekaa, and South," <https://data.unhcr.org/syrianrefugees/download.php?id=5235> .

²⁸⁶. Lebanon, however, offers work permits to foreigners married to Lebanese women for at least a year, or to those who have Lebanese mothers, or are of Lebanese descent.

²⁸⁷. Law No. 129 of August 24, 2010, amending Article 59 of the Labour Code of September 23, 1946.

²⁸⁸. Johansen, H. (2014) "Narrow Scope for Palestinian Rights in Lebanon," *Middle East Monitor* www.middleeastmonitor.com/20140510-narrow-scope-for-palestinian-rights-in-lebanon; Bidinger, S., A. Lang, D. Hites, Y. Kuzmova, and E. Nouredine (2014) "Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing," Boston University School of Law, International Human Rights Clinic, www.bu.edu/law/files/2015/07/FINALFullReport.pdf.

²⁸⁹. Oxfam International (2015) "Lebanon: Looking Ahead in Times of Crisis, Taking Stock of the Present to Urgently Build Sustainable Options for the Future," Oxfam Discussion Paper, www.oxfam.org/sites/www.oxfam.org/files/file_attachments/dp-lebanon-looking-ahead-time-crisis-141215-en_0.pdf

²⁹⁰. International Labour Organization (2012) "Information Guide for Migrant Domestic Workers in Lebanon," http://ilo.dataflow.com.lb/pdfs/english_informal.pdf.

prison sentence. To obtain a work permit a foreigner must apply to the Ministry of Labour and have a work contract with a Lebanese employer for a minimum period of six months; the work contract has to be certified by a notary public. To obtain a residence permit valid for one year, an applicant must return to General Security Office and present his or her passport (a challenging requirement for most refugees), the work permit, a certificate showing that the employer has deposited the equivalent of US\$1,000 with the Housing Bank, an insurance policy, and medical laboratory test results to show that they do not have certain diseases, including HIV/AIDS.²⁹¹

The issuance of a work permit does not provide access to full coverage under the NSSF— even if full contributions to the NSSF are made. The cost of a work permit depends on the work category.

Additionally, foreigners need to show they have expertise or professional skills in a field in which no Lebanese candidates are available;²⁹² for technical and professional positions the employer must prove that he or she tried for three months to find a Lebanese candidate but failed.²⁹³ In principle, non-Lebanese are also excluded from entering professions practiced through association, such as medicine, law, and accounting.

The government has also placed stringent conditions on Syrian refugees' access to work that are closely linked to residency permits. They have two options for residency permits. First, Syrians can renew their residency permits based on the UNHCR registration certificate,²⁹⁴ in which case they must sign a notarized "pledge not to work" (and in practice they are not allowed to work). Second, the residency permit can be based on a Lebanese sponsor or employer ("pledge of responsibility"), and in this case they are allowed to work but are considered migrant workers and no longer displaced persons as per Lebanese regulations.²⁹⁵

In 2001, Lebanon passed the Law Amending the 1969 Law on the Acquisition by Foreigners of Real Estate and Real Estate Right in Lebanon, which de facto excludes Palestinians from owning real estate.²⁹⁶

2. POLICY AND PRACTICE

Constraining factors

At the inception of the Syrian crisis, the government showed lenience toward Syrians who had not regularized their stay in Lebanon or those working without permits, and tolerated the opening and operating of unlicensed businesses. Because of the sheer number of people working without permits,

²⁹¹. Human Rights Watch (2007) "Rot Here or Die There, Bleak Choices for Iraqi Refugees in Lebanon," www.hrw.org/report/2007/12/03/rot-here-or-die-there/bleak-choices-iraqi-refugees-lebanon.

²⁹². United States Committee for Refugees and Immigrants (2009) World Refugee Survey-Lebanon," www.refworld.org/docid/4a40d2ab53.html

²⁹³. Information provided by the UNHCR.

²⁹⁴. This renewable certificate, valid for two years, is not a formal ID and is not a replacement for the residency permit issued by the Lebanese authorities, provided by the General Security, UNHCR, "Information about Registration for Syrian Refugees," www.fluechtlingshilfe.ch/assets/hilfe/syrien/registration-lebanon.pdf.

²⁹⁵. Information provided by the UNHCR.

²⁹⁶. Law 296 Amending the 1969 Law on the Acquisition by Foreigners of Real Estate and Real Estate Rights in Lebanon. (Before 2001, Palestinian refugees could buy and register land). NRC (2016) "Palestinian Refugees' Right to Inherit under the 2001 Amendment Law-Beirut Test Case," www.nrc.no/globalassets/pdf/reports/palestinian-refugees-right-to-inherit-under-the-2001-amendment-law.pdf.

penalties against them were not enforced.²⁹⁷ At the end of 2014, the government developed new policies to implement the “strict enforcement of laws governing displaced persons to protect the Lebanese in their places of work and employment as a whole.”²⁹⁸ In line with this policy, in December 2014, the Minister of Labour issued Resolution 1/197 redefining a long list of professions open only to Lebanese and reducing the categories of work that foreigners could take up, effectively annulling Resolution 1/19 of February 2013, which had made exceptions for some Syrians on humanitarian grounds.²⁹⁹ The resolution explicitly stated that Syrians are allowed to work in the agriculture, construction, and cleaning sectors. Any other sectors are no longer allowed. In December 2015, the Minister of Labour issued a new Resolution (218/1) allowing Syrians to work in the environment sector (which includes cleaning services, as mentioned in Resolution 1/197) in addition to agriculture and construction.

Even so, because of the complicated and costly requirements for obtaining a work permit, most refugees work as undocumented laborers and accept lower incomes, work for longer hours, and forgo social benefits.

Palestinian refugees are still prohibited by law from working in some specific trades and professions. Professional syndicates for occupations such as medicine and engineering are protectionist and apply membership restrictions on noncitizens and bar stateless foreigners, such as Palestinians.³⁰⁰

Irrespective of their country of origin, refugees fear being persecuted because of their limited legal status leads to exploitation by employers. As far back as 2007, Human Rights Watch documented cases of Lebanese employers taking advantage of the Iraqis’ lack of legal status by exploiting and abusing them in the knowledge that Iraqis have no recourse to the Lebanese authorities when their rights are violated.³⁰¹

Although refugees and asylum seekers technically have access to courts, those without legal status often avoid them for fear of arrest and are thus at risk of enduring exploitation and abuse.³⁰²

The recourse to negative coping strategies, including withdrawing children from school and child labor, has reportedly increased drastically since the introduction of the 2015 regulations on regularization.

²⁹⁷. International Labour Organization Regional Office for Arab States (2014) “Assessment of the Impact of Syrian Refugees in Lebanon and Their Employment Profile,”

<https://data.unhcr.org/syrianrefugees/download.php?id=8920>

²⁹⁸. Policy paper approved by the Council of Ministers on October 23, 2014.

²⁹⁹. Under Resolution 1/19 foreigners were allowed to work in the following fields and jobs: Technical professions in the construction sector, commercial representative, marketing representative, warehouse supervisor, mechanics and maintenance personnel, gatekeeper and guard, tailor, works supervisor, and metal work and upholstery, Geagea, N. (2015) “Asylum Crisis or Migrant Labour Crisis?” The Lebanese Centre for Policy Studies, www.lcps-lebanon.org/featuredArticle.php?id=42.

³⁰⁰. Information provided by the ILO.

³⁰¹. Human Rights Watch (2007) “Rot Here or Die There, Bleak Choices for Iraqi Refugees in Lebanon,” www.hrw.org/report/2007/12/03/rot-here-or-die-there/bleak-choices-iraqi-refugees-lebanon; Harper, A. (2008) “Iraq’s Refugees: Ignored and Unwanted,” *International Review of the Red Cross*, Volume 90, Number 869, www.icrc.org/eng/assets/files/other/irrc-869_harper.pdf.

³⁰². Human Rights Watch (2007) “Rot Here or Die There, Bleak Choices for Iraqi Refugees in Lebanon,” www.hrw.org/report/2007/12/03/rot-here-or-die-there/bleak-choices-iraqi-refugees-lebanon

Because children are less likely to be arrested when moving about without legal documents, families have reportedly been sending their children to work. And these children are being paid even lower rates.³⁰³

Facilitating factors

The UNHCR, the International Labour Organization (ILO), and aid organizations have tried to promote skills development and enhancement programs and vocational training benefiting both the Lebanese and refugee populations as a way of building social cohesion. However, the government has resisted expanding skills-training programs for refugees, fearing that it would threaten the competitiveness of Lebanese job seekers in an already oversaturated market and increase social tension.³⁰⁴

Initiatives to support the labor market are foreseen under the UNHCR's Lebanon Crisis Response Plan, including through rapid-impact job creation and income-generation opportunities focusing on areas where poverty, unemployment, and conflict risks are particularly high. The plan also aims to foster partnerships stimulating the private sector, strengthen labor market governance, and support Lebanese businesses to improve their labor standards and build labor force skills.³⁰⁵

3. MEDIATING CONDITIONS

Socioeconomic conditions

Lebanon is an upper-middle-income country and ranks 67th on the Human Development Index. The volatile geopolitical and security conditions, however, affect Lebanon's economic prospects, and with the Syrian conflict persisting, the World Bank forecasts growth at 1.5 percent annually.³⁰⁶

The conflict in Syria, together with the scale of refugee arrivals over a relatively short period, has had significant political and economic impacts, including on the Lebanese labor market: economic growth has slowed, private investment has fallen, the trade deficit has expanded, and real estate and tourism—the two most important sectors—have declined. Weak job creation has fallen behind an increasingly growing labor force that has been affected by the refugee crisis.³⁰⁷

³⁰³. Other negative coping mechanisms that raise serious protection concerns include spiraling debt, reduced food intake, survival sex, and early marriage. Even though risky migration to Europe is increasing, some refugees are also considering returning to Syria, despite the danger of the journey and the raging conflict at home, Oxfam International (2015) "Lebanon: Looking Ahead in Times of Crisis, Taking Stock of the Present to Urgently Build Sustainable Options for the Future," Oxfam Discussion Paper, www.oxfam.org/sites/www.oxfam.org/files/file_attachments/dp-lebanon-looking-ahead-time-crisis-141215-en_0.pdf.

³⁰⁴. Bidinger, S., A. Lang, D. Hites, Y. Kuzmova, and E. Nouredine (2014) "Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing," Boston University School of Law, International Human Rights Clinic, www.bu.edu/law/files/2015/07/FINALFullReport.pdf.

³⁰⁵. Lebanon Crisis Response Plan 2015–16, <http://data.unhcr.org/syrianrefugees/country.php?id=122>.

³⁰⁶. World Bank (2015) "Lebanon Overview," www.worldbank.org/en/country/lebanon/overview.

³⁰⁷. World Bank (2015) "Lebanon: Promoting Poverty Reduction and Shared Prosperity, A Systematic Country Diagnostic," www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2015/06/23/090224b082f55445/1_0/Rendared/PDF/Lebanon000Prom0c0country0diagnostic.pdf.

The refugee influx is felt most in poor host communities in the peripheral regions of Lebanon, putting additional pressure on access to labor markets, resources, and public services.³⁰⁸ Competition between Syrian and Lebanese workers is especially strong in cities already affected by urban poverty. While the competition for jobs is mostly affecting unskilled adults, youth, and women, it is also extending to skilled jobs and to the services sectors and industries.³⁰⁹ Along with competition with local workers, there is significant competition at the self-employment level, especially in handicraft and semiskilled jobs such as carpentry, welding, mechanics, and repairmen, given that Syrians normally have better skills and provide cheaper services than the Lebanese. The rising number of informal micro and small Syrian-owned businesses selling goods (mostly smuggled from Syria) below market prices also poses a threat to equivalent Lebanese businesses.³¹⁰

According to a 2014 ILO assessment, the employment situation has worsened with the Syrian refugee crisis for both refugees and the Lebanese population. The World Bank has also projected an increase of the number of unemployed Lebanese.³¹¹

The presence of refugees has also led to decreasing wages,³¹² while prices for rented accommodation, basic commodities, and services have soared.³¹³

The economic and political pressures associated with the spillover of the Syrian crisis and the influx of Syrian refugees have led to tensions both between the refugee population and the local residents and between different politico-sectarian sectors of Lebanese society that support opposite sides in the Syrian

³⁰⁸. World Bank (2013) "Lebanon: Economic and Social Impact Assessment of the Syrian Conflict," Report No. 81098, www-wds.worldbank.org/external/default/WDSPContentServer/WDSP/IB/2013/09/24/000333037_20130924111238/Rendored/PDF/810980LB0box379831B00P14754500PUBLIC0.pdf.

³⁰⁹. Such massive increases in the number of individuals looking for jobs (estimated to have increased 30–50 percent) is expected to increase both the overall unemployment rate, especially among the low skilled, and the share of informal work in total employment, World Bank (2013) "Lebanon: Economic and Social Impact Assessment of the Syrian Conflict," Report No. 81098, www-wds.worldbank.org/external/default/WDSPContentServer/WDSP/IB/2015/06/23/090224b082f55445/1_0/Rendored/PDF/Lebanon000Prom0c0country0diagnostic.pdf.

³¹⁰. Some shops and small business have reportedly closed because of competition with emerging Syrian enterprises, International Labour Organization Regional Office for Arab States (2014) "Assessment of the Impact of Syrian Refugees in Lebanon and Their Employment Profile," <https://data.unhcr.org/syrianrefugees/download.php?id=8920>

³¹¹. World Bank (2013) "Lebanon: Economic and Social Impact Assessment of the Syrian Conflict," Report No. 81098, www-wds.worldbank.org/external/default/WDSPContentServer/WDSP/IB/2015/06/23/090224b082f55445/1_0/Rendored/PDF/Lebanon000Prom0c0country0diagnostic.pdf.

³¹². The International Rescue Committee has, for example, estimated that wages in the services and agricultural sectors dropped as much as 50 percent between 2011 and 2013; International Rescue Committee (2013) "Reaching the Breaking Point," <http://docplayer.net/18881200-Reaching-the-breaking-point-an-irc-briefing-note-on-syrian-refugees-in-lebanon.html>.

³¹³. This price inflation is attributed to an increase in demand due to population growth, the injection of cash and food/cash vouchers, and the reduced access to cheaper goods from Syria; International Labour Organization Regional Office for Arab States (2014) "Assessment of the Impact of Syrian Refugees in Lebanon and Their Employment Profile," <https://data.unhcr.org/syrianrefugees/download.php?id=8920>.

civil war,³¹⁴ resulting in a general deterioration in social cohesion.³¹⁵ Whereas the poorest and most vulnerable Lebanese are most affected, Lebanese employers and business owners are benefiting from the availability of less costly labor.

Refugee profiles

Refugees speak the local language in Lebanon. The networks created through Syrian migration to Lebanon before the start of the conflict in 2011 also facilitated the labor market integration of Syrian refugees. Historically, many Syrians have come to work in Lebanon since the 1960s and constituted the greatest proportion of expatriate labor in the country, although migration flows varied along with political developments. While this well-established presence of Syrian expatriate laborers did not in theory exempt them from the obligation to obtain a work permit, in practice, the relevant authorities turned a blind eye and Syrians were able to live and work in Lebanon indefinitely.³¹⁶ The 2014 ILO survey indicated that it took, on average, less than three months for Syrian refugees to find work, most often thanks to personal networking; among working refugees some 40 percent found work through a Syrian acquaintance and 36 percent through a Lebanese acquaintance. The survey also showed that refugees who had previously (before the crisis) been employed in Lebanon had greater chances of finding a job.³¹⁷ Palestinians from Syria, however, lack informal social networks related to employment.³¹⁸

One study pointed out that Christian Iraqis residing mainly in the eastern suburbs of Beirut were more easily integrated with Lebanese residents than were Muslim Iraqis who reported feeling the sectarian divide in the southern suburbs and feared police persecution more while lacking communal social networks and receiving limited social support from NGOs.³¹⁹

4. OUTCOMES

Participation in the labor market

Similar to what is found in Jordan and other countries in the region, most refugees work in the informal sector in unskilled positions, with unregistered enterprises, or with no work contract.

Refugees from Syria, as well as low-skilled Lebanese workers, are increasingly engaging in informal work because of the difficulties posed by legal regulations and the high costs incurred by enterprises for

³¹⁴. Hezbollah, the Shiite Muslim party in Lebanon and the strongest political party in the country, has officially taken sides with the Syrian government. This affects the treatment of Syrian refugees in Lebanon because most of the Syrian refugees are Sunni Muslim.

³¹⁵. Berti, B. (2015) "The Syrian Refugee Crisis: Regional and Human Security Implications," *Strategic Assessment* 17 (4), Institute for National Security Studies, www.inss.org.il/uploadImages/systemFiles/adkan17_4ENG_7_Berti.pdf.

³¹⁶. There is no official figure for the exact number of Syrian workers in Lebanon.

³¹⁷. The field survey covered 400 Syrian refugee households in four regions, Akkar, Bekaa, Tripoli, and South Lebanon. International Labour Organization Regional Office for Arab States (2014) "Assessment of the Impact of Syrian Refugees in Lebanon and Their Employment Profile," <https://data.unhcr.org/syrianrefugees/download.php?id=8920>.

³¹⁸. ANERA (2013) "Palestinian Refugees from Syria in Lebanon: A Needs Assessment," www.anera.org/wp-content/uploads/2013/04/PalRefugeesfromSyria2.pdf.

³¹⁹. Makhoul, J. (2011) "From Baghdad through Beirut: Linking Research to Policy for Iraqi Refugees in Lebanon," The Issam Fares Institute for Public Policy and International Affairs, American University of Beirut, Research and Policy Memo 3, www.aub.edu.lb/ifi/public_policy/rapp/Documents/ifi_rapp_memo_03_makhoul_english.pdf.

formalization. Informal work as a share of the labor market is estimated to have increased by 10 percent since before the influx of refugees.³²⁰ The increasing informal sector is inevitably driving down working conditions and wages for all workers, both those working formally and informally. Before the influx of refugees from Syria, the work informality ratio was estimated to be 44 percent, with significantly higher levels in agriculture (92.4 percent) and construction (80.7 percent).³²¹ Most refugees from Syria work informally with poor working conditions and wages: 92 percent have no work contract and 86 percent no job-related benefits.³²²

According to the 2014 ILO survey, about half of working-age refugees³²³ are economically active, the majority of whom were also active in Syria before the crisis. However, while less than a quarter earn regular monthly wages, more than half work on a seasonal, weekly, or daily basis. The ILO assessment also found that most refugees worked in the same kinds of jobs they had before the crisis, mainly in agriculture or in personal and domestic services and, on a smaller scale, in construction, reflecting refugees' low skills. These jobs provide little income and no security or protection.³²⁴

Not all refugees have equal chances of finding employment because their access to work is in part conditioned by their nationality. Unemployment is about 90 percent for Palestinians from Syria.³²⁵ Iraqi refugees have difficulty accessing the formal labor market because most are unable to find a Lebanese employer willing to sponsor their application to regularize their status in Lebanon, and even fewer are able to pay the fees.³²⁶

While refugees in general receive lower wages, females are especially affected and on average earn 40 percent less than male refugees.³²⁷

SUMMARY AND CONCLUSION

Faced with a massive influx of refugees induced by the Syrian crisis, Lebanon has tightened entry and residency requirements for those seeking protection. A growing refugee population, driven by their circumstances or unable to obtain the necessary work and residence permits, is remaining "illegally" in

³²⁰. World Bank (2013) "Lebanon: Economic and Social Impact Assessment of the Syrian Conflict," Report No. 81098.

³²¹. International Labour Organization Regional Office for Arab States (2015) "Towards Decent Work in Lebanon: Issues and Challenges in Light of the Syrian Refugee Crisis," www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_374826.pdf

³²². International Labour Organization Regional Office for Arab States (2014) "Assessment of the Impact of Syrian Refugees in Lebanon and Their Employment Profile," <https://data.unhcr.org/syrianrefugees/download.php?id=8920>.

³²³. More than half of the Syrian refugees in Lebanon are younger than 18 years of age.

³²⁴. International Labour Organization Regional Office for Arab States (2014) "Assessment of the Impact of Syrian Refugees in Lebanon and Their Employment Profile," <https://data.unhcr.org/syrianrefugees/download.php?id=8920>.

³²⁵. ANERA (2013) "Palestinian Refugees from Syria in Lebanon: A Needs Assessment," www.anera.org/wp-content/uploads/2013/04/PalRefugeesfromSyria2.pdf.

³²⁶. Human Rights Watch (2007) "Rot Here or Die There: Bleak Choices for Iraqi Refugees in Lebanon," www.hrw.org/report/2007/12/03/rot-here-or-die-there/bleak-choices-iraqi-refugees-lebanon

³²⁷. International Labour Organization Regional Office for Arab States (2014) "Assessment of the Impact of Syrian Refugees in Lebanon and Their Employment Profile," <https://data.unhcr.org/syrianrefugees/download.php?id=8920>.

Lebanon and is involved in the informal labor market. They are compelled to work for lower wages, in harsher conditions, and with fewer rights than their counterparts in the host communities. Legal, policy, and social barriers are affecting Palestinian refugees the most, with that group having the highest rate of unemployment among the refugee population, while those working in the informal labor market are greatly exposed to exploitation and limited job security and social protection.

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Pakistan

PROFILE

- **Not Party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol**
 - **1,561,162 refugees and 6,442 asylum seekers totaling 1,567,604 = 0.83 percent of a total estimated population of 189 million**
 - **The great majority of refugees are Afghans, but the country also hosts a small number of non-Afghan refugees including Somalis and Iraqis.**
 - **One-third of the refugees live in “refugee villages,” and two-thirds have settled across the country in both rural and urban areas.³²⁸**
- **Human development rank and index: 147th and 0.538**
 - **GDP: Growth 5.5 percent; Per capita US\$1,429**
 - **Lower-middle-income economy**
 - **Unemployment rate: 5.2 percent**

CONTEXT

Pakistan hosts the second largest refugee population worldwide. Refugees originate almost exclusively from Afghanistan.³²⁹ Having hosted Afghan refugees since 1979—the majority of them born in Pakistan—Pakistan is also home to one of the oldest protracted displacement crises. Refugee numbers peaked at 3.2 million around 1989, but declined with the fall of the Kabul government in 1992, only to rise again when many Afghans fled the 1996 civil war. Further displacement occurred as the Taliban gained control of most of Afghanistan and many civilians fled.³³⁰ The “coalition forces” attacks on al-Qaeda and Taliban targets after September 11, 2001, brought another surge of Afghans into Pakistan (hitting a new peak of 3.3 million in 2002). Since the return of the transitional government in 2002, many refugees have returned to Afghanistan.³³¹ Despite the long-term presence of Afghan refugees in Pakistan, for many the

³²⁸. Estimates of the number of registered Afghan refugees living outside camps vary, and some assessments confirm an increase, mostly the result of discontinuation of food assistance in camps, UNHCR (2015) “Sixty-six session of the Executive Committee of the High Commissioner’s Programme, High-Level Segment on the Afghan Refugee Situation,” www.unhcr.org/562a22979.pdf.

³²⁹. For years the largest refugee-hosting country, Pakistan has recently been supplanted by Turkey, which has been faced with the surge of refugees fleeing the Syrian conflict.

³³⁰. Hiegemann, V. (2014) “Repatriation of Afghan Refugees in Pakistan: Voluntary?” *Oxford Monitor of Forced Migration* Vol. 4, No. 1, http://oxmofm.com/wp-content/uploads/2014/05/Repatriation-of-Afghan-Refugees-in-Pakistan-Voluntary_Valentina-Hiegemann.pdf.

³³¹. Since March 2002, when the UNHCR’s facilitated voluntary repatriation operation was launched, nearly 3.7 million Afghans from Pakistan have returned to Afghanistan—and some 5.8 million returned from Pakistan, the

prolonged nature of their exile has not increased their ability to integrate into their host communities beyond a de facto integration in the socioeconomic sense. The government of Pakistan has made it clear that local integration (obtaining permanent legal status) is not a durable solution for refugees, and the return of Afghans to their country remains the government's preferred solution.³³² However, the persistence of insecurity following the withdrawal of NATO's International Security Assistance Force, combined with dire economic conditions and a shortage of livelihood opportunities in Afghanistan, remain the main impediments to the sustainable voluntary repatriation of Afghans.³³³

The government estimates that in addition to refugees, some 1 million undocumented Afghans are residing irregularly in Pakistan. Afghan refugees and undocumented Afghans are two groups that have been accorded distinct rights and fall under different protection and assistance frameworks, notwithstanding that some undocumented Afghans may have valid international protection needs.³³⁴ Undocumented Afghans include persons who arrived after 2007 when the government closed the registration process, but also Afghans who repatriated to Afghanistan under the United Nations High Commissioner for Refugees' (UNHCR's) assisted voluntary repatriation program and subsequently returned to Pakistan for a variety of reasons.³³⁵ The governments of Afghanistan and Pakistan have agreed to register this undocumented population in a comprehensive database to establish their identities, followed by the issuance of travel documents by the government of Afghanistan, allowing for the regularization of their stay in Pakistan through visa applications.³³⁶ However, no progress has yet been made on this front because the criteria for documentation and issuance of travel documents for undocumented Afghans remain unclear.

1. LAW

Refugee Law

National legislation. The Foreigners Act of 1946 and the Foreigners Order of 1951, amended in 2000 and in 2016, are the only legislation regulating the situation of noncitizens; these laws are limited and contain no provisions relating to the protection of refugees. They prohibit assisting illegal entry and prescribe up

Islamic Republic of Iran, and other asylum countries—in the world's largest repatriation operation, UNHCR News Stories (2015) "UNHCR Head 'Extremely Enthusiastic' after Meeting Leaders of Afghanistan," www.unhcr.org/55561ee4530.html.

³³². Tyler, D. (2014) "Reframing Solutions for Afghan Refugees", *Forced Migration Review* 46, www.fmreview.org/en/afghanistan/tyler.pdf.

³³³. Moonzajer, M. F., M.S. Ehsan, S.M.H. Jaffrey, H. Nazir, H. Sohail, S.M. Bukhari, B. Ahmed, M. H. Haroon (2013) "Livelihood of Afghan Refugees: The Influencer of Social and Human Capitals," www.academia.edu/6047411/The_livelihoods_of_Afghan_Refugees_in_Pakistan.

³³⁴. The rights of and protection and assistance frameworks for undocumented Afghans are not entirely clear.

³³⁵. Many undocumented Afghans are part of the family of Proof of Registration (PoR) cardholders. This population does not per se fall under the UNHCR's mandate, but is the source of a constant flow of asylum applications, UNHCR Pakistan (2015) "2015–2017 Protection Strategy," <http://unhcrpk.org/wp-content/uploads/2013/12/2015-2017-Protection-Strategy-External.docx>.

³³⁶. A committee composed of members of both governments was formed to develop the technical modalities for this registration and documentation exercise, "Conclusions on the 25th Tripartite Commission Meeting," <http://unhcrpk.org/wp-content/uploads/2013/12/Conclusions-of-the-25th-Tripartite-Commission.pdf>.

to 10 years' imprisonment and a fine of up to 10 thousands rupees (about US\$100) for anyone who knowingly enters Pakistan without valid travel documents.³³⁷

Pakistan is not party to the 1951 Refugee Convention, but in 2013 the government of Pakistan drafted national refugee legislation. The draft refugee law, which outlines the legal status, rights, and obligations of refugees and applicants for refugee status by referring to Pakistan's existing domestic legal framework, has not yet been passed.³³⁸

Institutions. The Ministry of States and Frontier Regions (SAFRON) is a federal ministry mandated to deal with Afghan refugees.³³⁹ Within SAFRON, the Chief Commissionerate for Afghan Refugees (CCAR) based in Islamabad and the Commissionerate for Afghan Refugees (CAR) found in each province of the country have responsibility for implementing policy and operations in the field.³⁴⁰ In the past, Pakistan's National Aliens Registration Authority (NARA) registered and documented foreigners in Pakistan who arrived before 2000, including asylum seekers and UNHCR-mandated refugees, albeit without recognition of their specific status. In 2014, NARA was merged with the National Database and Registration Authority.³⁴¹

Access to protection. Following several large-scale influxes of refugees since 1979 as well as ongoing return movements, the number of Afghans residing in Pakistan was once much higher (3.3 million reported in 2002) than it has been recently. However, more than 2.7 million repatriated with the UNHCR's assistance between 2002 and 2005, before 2.1 million Afghans were eventually registered on a prima facie basis in 2006/07 (including biometric information) and were issued Proof of Registration (PoR) cards by the government of Pakistan.³⁴² The cards, which act as proof of legal residence and recognize their status as "Afghan citizens temporarily residing in Pakistan," should protect refugees against deportation, arbitrary arrest, and extortion. Although access to some banking services may be possible, PoR cards do not legally confer other rights (for example, the ability to open a bank account or obtain a driving license).³⁴³

³³⁷. Article 13 A and Article 14, Pakistan: Foreigners Act, 1946, Foreigners (Amendment) Ordinance, 2000, <https://joshandmakinternational.com/resources/laws-of-pakistan/foreign-exchange-and-foreigners-regulations/the-foreigners-amendment-ordinance-2000/>; Foreigners (Amendment) Act, 2016, www.na.gov.pk/uploads/documents/1463981266_704.pdf

³³⁸. UNHCR Pakistan (2014) "Refugee Operation," <http://unhcrpk.org/wp-content/uploads/2013/12/UNHCR-Pakistan-Refugee-Operations-Leaflet2.pdf>.

³³⁹. Ministry of States and Frontier Regions, www.safron.gov.pk/.

³⁴⁰. Commissionerate for Afghan Refugees official website, <http://kpkcar.org/carnewsite/CAR/index.php/page/about-us>.

³⁴¹. Information provided by the UNHCR.

³⁴². Refugees have lived in Pakistan without legal documents since 1978. It was only during the 2006/2007 registration process that the government began to issue PoR cards. In 2010, Pakistan also conducted the temporary registration of unregistered family members of PoR cardholders, Human Rights Commission of Pakistan (2009), "Afghan Refugees in Pakistan: Push Comes to Shove," www.operationspaix.net/DATA/DOCUMENT/4816~v~Afghan_Refugees_in_Pakistan___Push_Comes_to_Shove.pdf; Abbas Khan M. (2014) "Pakistan's national refugee policy", *Forced Migration Review* 46, www.fmreview.org/sites/fmr/files/FMRdownloads/en/afghanistan/khan.pdf.

³⁴³. Information provided by the UNHCR.

In the absence of a national legal framework for refugee status determination (RSD), the UNHCR conducts RSD under its mandate amid the complexities of a mixed migration context and lack of clear migration management. Individuals recognized as refugees at the outcome of the UNHCR's RSD process and members of their family are issued Refugee Identity Cards that are valid for 12 months and renewable upon expiry. Like the PoR card, the Refugee Identity Card offers temporary stay in Pakistan and protects against any forcible return to the country of origin.³⁴⁴ UNHCR decisions on RSD are generally accepted, and asylum seekers and recognized refugees are allowed to remain in Pakistan pending identification of a durable solution.³⁴⁵

A Tripartite Agreement between Pakistan, Afghanistan, and the UNHCR signed in 2003 regulates the management and gradual repatriation of registered Afghan refugees.³⁴⁶

The government of Pakistan's draft Comprehensive Policy on Voluntary Repatriation and Management of Afghan Nationals Beyond 2015 included a proposal for the extension of the Tripartite Agreement and the validity of the PoR cards until the end of 2017, but on June 30, 2016, the government of Pakistan extended the validity of the PoR cards held by Afghan refugees until the end of 2016.³⁴⁷ The draft policy also provides for temporary management arrangements depending on the profiles and the needs of the remaining refugee population, and continued protection for those in need, in accordance with international standards and norms.³⁴⁸

Despite the regular extension of PoR cards, many Afghan refugees have felt pressured to return to Afghanistan. The number of returning Afghan refugees and undocumented Afghans rose sharply in the wake of the December 2014 deadly attack by the Pakistani Taliban on the Army Public School in Peshawar. This event compelled the Pakistani government to include "a comprehensive policy to deal with the issue of Afghan refugees" in its new National Action Plan on Counter-Terrorism and to launch police crackdown operations in Afghan neighborhoods and refugee villages. The plan did not explicitly distinguish between registered, "protected" refugees and undocumented Afghans, causing indiscriminate action against both groups.³⁴⁹ With the politicization and securitization of refugees in Pakistan, many refugees have reportedly faced harassment, eviction, arrest, or detention by intelligence agencies, and their release sometimes requires UNHCR intervention. Afghan PoR cardholders who return to Afghanistan through the

³⁴⁴. UNHCR Pakistan (2012) "Information Leaflet for Asylum-Seekers in Pakistan," <http://unhcrpk.org/wp-content/uploads/2012/09/Asylum-Seekers-leaflet-English.pdf>.

³⁴⁵. UNHCR (2012) "Submission for the Office of the High Commissioner for Human Rights' Compilation Report– Universal Periodic Review for Pakistan," www.refworld.org/docid/4f9663d12.html.

³⁴⁶. "Agreement between the Government of the Islamic Republic of Pakistan, the Government of the Islamic Republic of Afghanistan and the United Nations High Commissioner for Refugees Governing the Repatriation of Afghan Citizens Living in Pakistan," www.unhcr.org/46c98acd2.pdf.

³⁴⁷. Through these cards, the temporary stay of Afghans was initially extended until 2012 and later until the end of 2015; the PoR cards were then extended for another six months (June 30, 2016) and again for another six months prolonging their validity until December 2016.

³⁴⁸. The draft policy needs to be endorsed by the Cabinet; UNHCR (2015) Sixty-sixth session of the Executive Committee of the High Commissioner's Programme, High-Level Segment on the Afghan Refugee Situation, www.unhcr.org/562a22979.pdf.

³⁴⁹. Roehrs, C. (2015) "The Refugee Dilemma: Afghans in Pakistan between Expulsion and Failing Aid Schemes," Afghanistan Analysts Network (AAN), www.afghanistan-analysts.org/the-refugee-dilemma-afghans-in-pakistan-between-expulsion-and-failing-aid-schemes/.

UNHCR's facilitated voluntary repatriation program are deregistered from the government database. If they return, it is without the protection of the law like the million other undocumented Afghans.³⁵⁰

Freedom of movement. Although the 1973 Constitution provides only Pakistani citizens with the freedom of movement,³⁵¹ the general rights of freedom of movement and choice of residence extend to nonnationals under the International Covenant on Civil and Political rights to which Pakistan has been party since 2008. In principle, the government imposes no restrictions on the movement or residence of registered Afghans with PoR cards, and refugees have always been relatively free to settle wherever they wish.³⁵² However, refugees, regardless of their nationality and the documents they possess, are also often required to pay bribes to police officers at checkpoints.³⁵³

Right to work – refugee and labor and employment law

Article 18 of the Constitution only affords Pakistan's citizens the right to enter into any lawful profession or occupation, and to conduct any lawful trade or business, while Article 17 stipulates that only citizens enjoy the right of association. However, because the Constitution protects inalienable rights of both citizens and foreigners, all relevant policies and labor laws are applicable to foreigners and they have the right to access justice for any employment agreement violation.³⁵⁴ The following articles also apply to all persons in Pakistan, without distinction between citizen and noncitizen: Article 11 prohibits slavery, forced labor, trafficking in persons, and child labor. Under Article 37 (e) the State shall make provision for securing just and humane conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex, and ensuring the provision of maternity benefits for women in employment; and Article 38 (c) provides for all persons employed in the service of Pakistan or otherwise, social security by compulsory social insurance or other means. Furthermore, in 2008, Pakistan ratified the International Covenant on Economic, Social and Cultural Rights, which recognizes a general human right to work.

In relation, the 1997 circular by the Ministry of Interior clarified that registered Afghan citizens living in Pakistan "have been subject to Pakistani labour and employment laws, and were legally authorized to work in the country."³⁵⁵ In addition, most of the country's labor laws are equally applicable to foreigners (including refugees) working in Pakistan, so legally there is no distinction between workers who are

³⁵⁰. Dawn (2013) "Afghan Refugees in Pakistan Resist Pressure to Return," www.dawn.com/news/770786/afghan-refugees-in-pakistan-resist-pressure-to-return.

³⁵¹. Article 15 of the Constitution of the Islamic State of Pakistan, www.na.gov.pk/uploads/documents/1333523681_951.pdf.

³⁵². Grare, F., and W. Maley (2011) "The Afghan Refugees in Pakistan," Fondation pour la Recherche Stratégique, Middle East Institute, www.refugeecooperation.org/publications/afghanistan/pdf/09_grare.pdf.

³⁵³. United States Committee for Refugees and Immigrants (2009) World Refugee Survey - "Pakistan," www.refworld.org/docid/4a40d2af1cc.html.

³⁵⁴. Article 4.2 (b) of the Constitution "no person shall be prevented from or be hindered in doing that which is not prohibited by law."

³⁵⁵. UNHCR and ILO (2013) "Policy and Legal Framework Analysis for Afghan Refugees Access to Decent Work in Pakistan," Research Study, unpublished.

citizens of Pakistan and workers of foreign origin.³⁵⁶ The 1946 Foreigners Act, on the other hand, prohibits the hiring of “a person who has no permission to stay in Pakistan.”³⁵⁷

The rights stipulated in the draft refugee law are mainly a replication of fundamental rights and freedoms accorded by the Constitution at the same level to every citizen and noncitizen under the jurisdiction of Pakistan. It does include the right to work and should the law be adopted with its current content, it would be consistent with international standards relating to refugees.³⁵⁸

A legal impediment, however, is that refugees cannot hold immovable property or own businesses. To run a business, a refugee needs a Pakistani partner whose name will be necessary in every step of the process.

Pakistan has ratified 36 International Labour Standards, including all 8 ILO fundamental conventions, and developed policies to implement commitments postulated in these conventions. However, Pakistan has not yet ratified ILO Convention 143 on Migrant Workers.

2. POLICY AND PRACTICE

Constraining factors

There is no clear stance by the government on the issue of the right to work for Afghan refugees, and while Afghan refugees with PoR cards are not restricted from performing any lawful occupation in Pakistan, in practice, they cannot access jobs in government service or own property.

Furthermore, local authorities do not always respect the legitimacy of refugees’ presence, as witnessed during refugee encampment and evictions of urban refugees in 2015 in the wake of the Peshawar school attack.³⁵⁹

Similarly, the government has no express policy regarding Afghan work permits. Afghan refugees who intend to take up formal employment or education have to submit an application to the Ministry of SAFRON (through the CCAR) and submit an affidavit from their employer. Although obtaining a work permit is a formal procedure, and the PoR card does not grant the right to work or be employed within Pakistan, permits for working in nongovernmental sectors are not always strictly required, thus allowing Afghan refugees to work in factories, shops, and other places of employment with PoR cards as sufficient proof of identification. The regulations on “Non-Objection Certificates” are not clear, but a Non-Objection Certificate issued by SAFRON on a case-by-case basis (for a particular job in a specific company) may be considered equivalent to a work permit.³⁶⁰

The Department of Labour or the Ministry of Overseas Pakistanis and Human Resource Development have very little role in dealing with Afghan refugees. The lack of coordination between these ministries and

³⁵⁶. UNHCR and ILO (2013) “Policy and Legal Framework Analysis for Afghan Refugees Access to Decent Work in Pakistan,” Research Study, unpublished.

³⁵⁷. Article 13 B, Pakistan: Foreigners Act, 1946, Foreigners (Amendment) Ordinance, 2000.

³⁵⁸. Information provided by the UNHCR.

³⁵⁹. Information provided by the UNHCR.

³⁶⁰. The UNHCR and partners are also required to obtain Non-Objection Certificates from the government to visit refugee and internally displaced persons–hosting areas; information provided by the UNHCR and the ILO.

SAFRON and the CAR on Afghan workers' affairs weakens the social status of Afghan workers, with their social protection and wage regulations being subject to the discretion of their employers.³⁶¹

Assessments conducted by the ILO and the UNHCR in Quetta and Peshawar in 2012 highlighted that refugees considered the lack of access to the Pakistani educational system to be the main reason for not getting formal employment. Most of them received little or no training and education, especially for skill development, but expressed a need for such training so they could compete in the market for better-paying work. Yet female participants, who mainly work from home, indicated they had no idea of how or where to start because of lack of supporting infrastructure and a general lack of opportunities for women, especially refugees.³⁶²

Only a small percentage of self-employed refugees have registered their businesses because of financial and social difficulties as well as mobility and security issues. Incidents of the police taking money from them have been reported.³⁶³

In principle, the PoR is sufficient proof for obtaining informal employment. However, harassment, imprisonment, and threats of deportation have restricted refugees' movements outside the refugee villages or their homes, thereby limiting access to better-paying economic opportunities.³⁶⁴ Under these circumstances, refugees report frequent exploitation.³⁶⁵

Afghan refugee women are extremely vulnerable in view of their social status, particularly the ones who are heads of household. Their economic and other activities are limited and opportunities are few because of constrained mobility, which is the result of culturally determined social segregation between men and women in the public domain. Women have greater difficulty accessing the market, and they are dependent on male family members or contractors to sell their products. Contractors often exploit of females who have no male in the household.³⁶⁶

Child labor is common among Afghan refugee communities, with many poor families sending their children to earn an income. These children work in extremely poor circumstances, often in hazardous conditions, and they are commonly victims of physical, verbal, and sexual abuse by employers and older coworkers. They also face the risk of involvement in crime, theft, and drug addiction.³⁶⁷

³⁶¹. UNHCR and ILO (2013) "Policy and Legal Framework Analysis for Afghan Refugees Access to Decent Work in Pakistan," Research Study, unpublished

³⁶². ILO and UNHCR (2012) "Decent Work Deficit of Workers Particularly Women/Children from Afghan Refugees and Host Communities District Peshawar, Khyber Pakhtunkhwa, Rapid Assessment," unpublished.

³⁶³. UNHCR and ILO (2012) "Rapid Assessment, Decent Work Deficit of Afghan Refugees and Host Communities in District Quetta, Balochistan," unpublished.

³⁶⁴. Segal, U., D. Elliott, and N. Mayadas (2010) "Immigration Worldwide: Policies, Practices and Trends," Oxford University Press.

³⁶⁵. Asylum Access (2014) "Global Refugee Work Rights Report", http://asylumaccess.org/wp-content/uploads/2014/09/FINAL_Global-Refugee-Work-Rights-Report-2014_Interactive.pdf.

³⁶⁶. Contractors provide the carpet or embroidery design and raw materials and collect the product for to sell, UNHCR and ILO (2012) "Rapid Assessment, Decent Work Deficit of Afghan Refugees and Host Communities in District Quetta, Balochistan," unpublished.

³⁶⁷. UNHCR and ILO (2012) "Rapid Assessment, Decent Work Deficit of Afghan Refugees and Host Communities in District Quetta, Balochistan," unpublished.

The judiciary and police generally do not have knowledge of refugee law, making refugees vulnerable to injustice and unfair treatment.³⁶⁸ The precarious nature of refugees' work situation was exposed in the aftermath of the 2014 Peshawar school attack when the police looted or destroyed a number of shops and businesses, including those of PoR cardholders, arresting and beating some shop owners. This series of violent abuses and the increasing demands for bribes by the police threatened the livelihood of these refugees.³⁶⁹

Facilitating factors

After the withdrawal of food and nonfood support by the government of Pakistan and other donors in 1995, implicit permission was granted to Afghan refugees to access the labor market. The government even began issuing temporary driving licenses and other facilitating measures to enable refugees to support themselves. As a matter of practice, Afghan refugees have been able to engage in any business and have been liable for the payment of income taxes (when the business is out of camp).³⁷⁰

While the main priority of the Management and Repatriation Strategy for Afghan Refugees in Pakistan (MRSAR) for 2010–12 was to increase voluntary repatriation, it acknowledged that “Afghan refugees had a stabilizing effect on labour market in Pakistan.” The strategy, among other elements, considered the possibility of alternative stay arrangements for PoR cardholders. As a way to manage investment and employment matters related to the Afghan population for the period 2010–15, it suggested providing 150,000 visas and work permits to skilled and unskilled laborers, entrepreneur permits,³⁷¹ and student permits. It also proposed naturalization for Afghan female heads of household while discouraging any illegal employment.³⁷² However, while some work permits and student visas may have been issued, the MRSAR provisions have by and large not been implemented.

The 25th Tripartite Commission meeting between the Afghan and Pakistani governments and the UNHCR in March 2015 confirmed that the residual population of refugees will be under continuing protection in accordance with international norms and may benefit from temporary stay arrangements for employment, study, and business purposes.³⁷³ Similarly, the government of Pakistan's draft of the Comprehensive Policy on Voluntary Repatriation and Management of Afghans Beyond 2015 provides to

³⁶⁸. Human Rights Commission of Pakistan (2009) “Afghan Refugees in Pakistan: Push Comes to Shove,” www.operationspaix.net/DATA/DOCUMENT/4816~v~Afghan_Refugees_in_Pakistan___Push_Comes_to_Shove.pdf.

³⁶⁹. Human Rights Watch (2015) “‘What Are You Doing Here?’ Police Abuses against Afghans in Pakistan,” www.hrw.org/report/2015/11/18/what-are-you-doing-here/police-abuses-against-afghans-pakistan.

³⁷⁰. They are immune from taxes for business undertaken within their designated camps.

³⁷¹. Refugees who have invested more than 5 million rupees (about US\$47,300) in productive business should be allowed to continue their businesses and may be given work permits for the specific period, while any Afghan individual or group wishing to bring investment into Pakistan of more than 50 million rupees (about US\$473,700) may be encouraged to do so.

³⁷². Other measures included that “All industrial establishments employing Afghan labour should report them for registration; and all businesses run by Afghans like restaurants, shops, and vendors etc. are to be registered and monitored,” Moonzajer, M., , M.S. Ehsan, S.M.H. Jaffrey, H. Nazir, H. Sohail, S.M. Bukhari, B. Ahmed, M. H. Haroon (2013) “Livelihoods of Afghan Refugees: The Influencer of Social and Human Capitals,” p. 30, www.academia.edu/6047411/The_livelihoods_of_Afghan_Refugees_in_Pakistan.

³⁷³. Conclusions on the 25th Tripartite Commission Meeting, <http://unhcrpk.org/wp-content/uploads/2013/12/Conclusions-of-the-25th-Tripartite-Commission.pdf>.

certain profiles of PoR cardholders (investors, businessmen, students, skilled and unskilled laborers, and single women and widows with no bread-earners) the option of obtaining Afghan travel documents in conjunction with Pakistani visas and work permits.³⁷⁴ However, the temporary stay arrangements mentioned in the 25th Tripartite Commission conclusions and the draft comprehensive policy have not yet been implemented.³⁷⁵

The regional Solutions Strategy for Afghan Refugees (SSAR), Phase 2 (2015–17) provides a framework for cooperation between humanitarian and development actors to address the needs of Afghan refugees and identify and implement lasting solutions for refugees, while providing assistance to the host communities. Development projects implemented under the Refugee Affected and Hosting Areas (RAHA) program—benefiting Afghans and Pakistanis and implemented within the framework of the SSAR—aim, among other goals, to boost employment prospects.³⁷⁶ One of the cross-cutting thematic priorities of implementation of the SSAR/RAHA is youth empowerment through interlinked interventions in the areas of education, vocational skills training, and livelihoods support.³⁷⁷

In a separate development, in 2013, some 1,000 non-Afghan refugees, mainly from Somalia, the Islamic Republic of Iran, and Iraq, have been registered with Pakistan's National Aliens Registration Authority (NARA), and received formal identification cards and work permits to promote self-sufficiency.³⁷⁸ Afghan refugees, however, were kept out of the NARA mandate.

To enhance self-reliance, over the years the UNHCR and other international organizations have provided vocational training to Afghan refugees in refugee villages and implemented projects on livelihoods skills development and capacity-building of youth, particularly targeting women.³⁷⁹ The UNHCR's plan to develop a joint urban refugee strategy with the authorities would aim to ensure access to available (public) services without discrimination and support community development toward greater self-reliance.³⁸⁰

³⁷⁴. UNHCR Pakistan (2015) "2015–2017 Protection Strategy," <http://unhcrpk.org/wp-content/uploads/2013/12/2015-2017-Protection-Strategy-External.docx>.

³⁷⁵. Information provided by the UNHCR.

³⁷⁶. The 2012 SSAR, which integrates the RAHA initiative launched in 2009, continues to be the overarching framework for cooperation between Pakistan, Afghanistan, and the UNHCR, <http://unhcrpk.org/wp-content/uploads/2013/12/UNHCR-Pakistan-RAHA-Leaflet-2014.pdf>; UNHCR News Stories (2009) "Pakistan Sign New Agreement on Stay of Afghan Refugees," www.unhcr.org/49ba5db92.html; "The Solutions Strategy for Afghan Refugees, to Support Voluntary Repatriation, Sustainable Reintegration and Assistance to Host Countries," www.unhcr.org/afghanistan/solutions-strategy.pdf.

³⁷⁷. Information provided by the UNHCR.

³⁷⁸. UNHCR News Stories (2013) "Pakistan Hosts First Formal Meeting on Afghan Returns; Non-Afghan Refugees Granted More Rights," <http://unhcr.org/3ec1bb112.html>; Recognized non-Afghan refugees registered with NARA had the right to seek employment through the NARA card, a result of the memorandum of understanding signed between the government and the UNHCR in 2003, UNHCR (2008) "Country Operations Plan, Pakistan," www.unhcr.org/46f789732.pdf.

³⁷⁹. UNHCR and UN Office for the Coordination of Humanitarian Affairs (2014) "Pakistan: Afghan Refugees Situation Overview," www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/Pakistan%20Humanitarian%20Dashboard_Afghan%20Refugees%20February%202014.pdf.

³⁸⁰. UNHCR Pakistan (2015) "2015–2017 Protection Strategy," <http://unhcrpk.org/wp-content/uploads/2013/12/2015-2017-Protection-Strategy-External.docx>.

In the framework of the temporary management of Afghans in Pakistan, in 2012 the ILO and the UNHCR partnered to help refugees get access to decent work opportunities. This effort has taken the form of consultative workshops and policy research, including two assessments in Peshawar and Quetta to review the “Decent Work Deficits” for Afghan refugees and host communities.³⁸¹

3. MEDIATING CONDITIONS

Socioeconomic conditions

Pakistan’s economy is not equipped to host such a large refugee population given that the country is faced with a high population growth rate³⁸² and an annual labor force growth rate of more than 3 percent, among the highest in the world.³⁸³ About a third of its population lives under the poverty line.

The steep rise of internally displaced persons in Pakistan to an estimated 1.9 million as insurgency and counterinsurgency operations intensified constitutes a great additional challenge for the country.³⁸⁴ There are also an estimated 2 million Bangladeshi migrants who are mainly working in the informal sector, in the fishing and carpet-weaving industries and as domestic servants.³⁸⁵

Pakistan has a large and diverse informal economy in which workers typically undertake a wide variety of low-paid, low-productivity jobs, under working conditions that are frequently harsh, unhealthy, and hazardous. According to its 2010 Labour Policy, the government is planning to “reach out to such workers and provide them with basic protection, through the provision of advisory services” (...) and ensure that “workers in the informal economy, including home workers and domestic workers, will benefit from improved safety and health arrangements, access to social security arrangements, and the payment of minimum wages, where an employee-employer relation is evident.” That policy, however, makes no specific reference to refugees or migrant workers.³⁸⁶

Although poor refugees have tended to live in refugee villages, internal mobility has been a livelihood coping strategy for Afghan refugees. A by-product of the decreased assistance in the camps beginning in the mid-1990s was the exodus of refugees toward urban centers such as Peshawar, Lahore, Quetta, and Karachi, where they had better chances of finding jobs. This exodus was further accelerated when World Food Programme food rations ceased in 1995, requiring refugees to search for livelihoods outside the refugee villages. The majority of the Afghan refugees are settled and integrated with local and host communities in urban areas with little or no access to support in terms of livelihoods, protection or access

³⁸¹. Decent work is defined by the ILO and endorsed by the international community as productive work for women and men in conditions of freedom, equity, security, and human dignity, UNHCR and ILO (2013) “Policy and Legal Framework Analysis for Afghan Refugees Access to Decent Work in Pakistan,” Research Study, unpublished.

³⁸². Pakistan is the world’s sixth most populous country.

³⁸³. Government of Pakistan Labour Policy (2010) www.eobi.gov.pk/announcement/labour+policy+2010.pdf.

³⁸⁴. Internal Displacement Monitoring Centre (2015) “The Global Overview 2015: People Internally Displaced by Conflict and Violence,” www.internal-displacement.org/assets/library/Media/201505-Global-Overview-2015/20150506-global-overview-2015-en.pdf.

³⁸⁵. Asylum Access (2014) “Global Refugee Work Rights Report,” http://asylumaccess.org/wp-content/uploads/2014/09/FINAL_Global-Refugee-Work-Rights-Report-2014_Interactive.pdf.

³⁸⁶. Government of Pakistan Labour Policy (2010), www.eobi.gov.pk/announcement/labour+policy+2010.pdf.

to basic services while those remaining in refugee villages have access to humanitarian assistance and protection from the UNHCR. Transborder commuting is another livelihood strategy, with Afghans purchasing goods and cheap products from Pakistan to export them to Afghanistan.³⁸⁷

The 2012 UNHCR and ILO baseline study on the Decent Work Deficit in Quetta found that in areas densely populated by refugees, Pakistanis generally still had better employment opportunities than refugees because they possessed national identification cards and were more trusted by local employers.

Wages and contractual matters concerning Afghan refugees are not transparent and are often subject to the employer's discretion. Being illiterate and innumerate and lacking "agency," many refugees cannot negotiate fair wages and therefore accept low wages, which are often delayed or sometimes not paid.³⁸⁸ Their marginalized and misunderstood status and the pressure to meet their economic needs push Afghan refugee workers to accept poor work conditions.³⁸⁹ Afghan refugee women are also discriminated against on the basis of their gender and their nationality in terms of wage scales.³⁹⁰

The prolonged displacement of refugees within a context of mixed migratory movements has also led to the development of resentment in the host community, blaming Afghans for unemployment, crime, and militancy. This is particularly the case in Khyber Pakhtunkhwa province, where the majority of the Afghan refugee population resides and where the refugee population is still growing by 83,000 each year. This province consistently shows, together with the Federally Administered Tribal Areas, the lowest human development indicators and the highest youth unemployment.³⁹¹

Unemployment rates are high among refugees, and because of the seasonal nature of the labor many are engaged in, they keep falling in and out of wage-earning employment.³⁹² A 2006 assessment highlighted that refugee unemployment and underemployment rates fluctuated between 60 percent and 70 percent, with greater impacts on refugees living in camps than on those residing in urban areas, and that more than 70 percent of Afghans were falling in the very poor and poor categories.³⁹³

³⁸⁷. Segal, U., D. Elliott, and N. Mayadas (2010) "Immigration Worldwide: Policies, Practices and Trends." Oxford: Oxford University Press.

³⁸⁸. Mohmand, R. S. (2010) "The Saga of Afghan Refugees in Pakistan," Fondation pour la Recherche Stratégique, Middle East Institute, www.refugeecooperation.org/publications/afghanistan/pdf/06_mohmand.pdf

³⁸⁹. UNHCR and ILO (2013) "Policy and Legal Framework Analysis for Afghan Refugees Access to Decent Work in Pakistan," Research Study, unpublished.

³⁹⁰. ILO and UNHCR (2012) "Decent Work Deficit of Workers Particularly Women/Children from Afghan Refugees and Host Communities District Peshawar, Khyber Pakhtunkhwa, Rapid Assessment," unpublished.

³⁹¹. Roehrs, C. (2015) "The Refugee Dilemma: Afghans in Pakistan between Expulsion and Failing Aid Schemes," Afghanistan Analysts Network, www.afghanistan-analysts.org/the-refugee-dilemma-afghans-in-pakistan-between-expulsion-and-failing-aid-schemes/.

³⁹². UNHCR and ILO (2012) "Rapid Assessment, Decent Work Deficit of Afghan Refugees and Host Communities in District Quetta, Balochistan," unpublished.

³⁹³. UNHCR (2008) "Country Operations Plan, Pakistan," www.unhcr.org/46f789732.pdf.

Refugee profiles

Coming from a war-torn country, most Afghan refugees are illiterate, especially those who arrived after 2000, who came mostly from rural areas, with limited education and few transferable skills except for farming. Yet, in Pakistan land is not available for refugees to work on.³⁹⁴

A significant impediment to getting employment is that many refugees in rural areas do not speak Urdu or Sindhi. However, if someone can become literate and learn to speak English, access to work becomes easier. Therefore, younger refugees who were able to access education opportunities and enroll in language courses and vocational training manage to assimilate into Pakistani society.

Refugees without human or social capital are more prone to be involved in underpaid jobs and to become impoverished, especially if facing shocks.³⁹⁵ Baloch, Uzbeks, Tajiks, and Turkmen are less likely to have ethnic kinfolk in Pakistan than are Hazaras or Pashtuns. Women also have less access to social capital.³⁹⁶ Refugees with wider networks of social and human capital—such as the Afghan Pashtuns, the largest ethnic group among Afghan refugees in Pakistan, who are originally linked with the local Pakistani Pathans—have easier access to the labor market and are empowered to diversify their livelihood strategies. Ethnic links of Afghan Pashtuns with communities were a major determinant in choosing Balochistan over other provinces, and the networks created have enabled them to, for instance, recruit their family members.³⁹⁷

4. OUTCOMES

Participation in the labor market

Most refugees, including some skilled and semiskilled individuals, work in the informal sector for daily wages with marginal income in the agriculture, transport, construction, and mining sectors.³⁹⁸

A UNHCR survey carried out in 2011 found that most self-employed Afghans are in the shopkeeping and craft and trade business, followed by tailors, owners of vehicles, carpenters, and drivers.

Afghan refugees fall into various economic categories; among the wealthiest are landlords and businessmen, but also refugees who fled following the Soviet invasion bringing their cattle, vehicles, money, and other personal belongings.

³⁹⁴. Segal, U., D. Elliott, and N. Mayadas (2010) "Immigration Worldwide: Policies, Practices and Trends." Oxford: Oxford University Press; UNHCR and ILO (2012) "Rapid Assessment, Decent Work Deficit of Afghan Refugees and Host Communities in District Quetta, Balochistan," unpublished.

³⁹⁵. Moonzajer, M. F., M.S. Ehsan, S.M.H. Jaffrey, H. Nazir, H. Sohail, S.M. Bukhari, B. Ahmed, M. H. Haroon (2013) "Livelihood of Afghan Refugees: The Influencer of Social and Human Capitals," www.academia.edu/6047411/The_livelihoods_of_Afghan_Refugees_in_Pakistan.

³⁹⁶. Cultural Survival (undated) "Resettlement Pattern: The Afghan Refugees in Pakistan," www.culturalsurvival.org/publications/cultural-survival-quarterly/afghanistan/resettlement-pattern-afghan-refugees-pakistan.

³⁹⁷. UNHCR and ILO (2012) "Rapid Assessment, Decent Work Deficit of Afghan Refugees and Host Communities in District Quetta, Balochistan," unpublished.

³⁹⁸. UNHCR and ILO (2012) "Rapid Assessment, Decent Work Deficit of Afghan Refugees and Host Communities in District Quetta, Balochistan," unpublished.

Refugees dominate the transport sector in the north-western region of the country.³⁹⁹ Some of the buses, painted trucks, and auto-rickshaws found in Pakistan also belong to refugees. Peshawar has been named “mini-Kabul” because of the concentration of Afghan refugees working as mechanics, welders, painters, and apprentices, some repairing vehicles and others owning businesses ranging from car dealerships to transport services and video shops.

According to the UNHCR survey conducted in 2011, some 22.5 percent of the surveyed Afghan refugees were economically active with a predominantly (85 percent) male workforce, and the percentage was higher for refugees living in urban settings (25 percent) or rural areas (26 percent) than for those in camps (20 percent).⁴⁰⁰ The findings from this survey further showed that some 55 percent of working Afghans were making a living as day laborers, while self-employed and salaried workers made up 22 percent and 19 percent of the workforce, respectively.⁴⁰¹

In some instances, the economic contribution of refugees becomes visible when they return to their country of origin. According to the Pakistan Carpet Manufacturers and Exporters Association, Pakistan’s share in the carpet export market declined from US\$300 million in 2007–08 to US\$120 million in 2012–13. One of the major reasons for this decline was the return of many Afghan carpet-weaving families to Afghanistan.⁴⁰²

As noted, because of cultural constraints most Afghan women cannot work outside the house and therefore do home-based work, engaging in embroidery, tailoring, bead work, and the making of Afghan rugs (kilim). As for Afghan children, most were found working in auto workshops, selling food items on the roads, working as tailors, weaving carpets, working in restaurants, and being involved in garbage collection.⁴⁰³

SUMMARY AND CONCLUSION

Legal provisions related to refugees’ right to work in Pakistan are ambiguous, and the government’s stance is not clear. In practice, very few refugees are working in the formal sector. With the bulk of refugees working in the informal sector, it is difficult to analyze their livelihood situation. However, existing information points out that the majority of Afghan refugees are working under difficult conditions for low wages and struggle economically. Because of their insecure status and fear of arrest and deportation, undocumented Afghan refugees remain invisible and vulnerable.

Despite the protracted nature of the displacement, Pakistan’s policy has been to consider the presence of refugees to be temporary and has pressured Afghans to return even if it is still envisaged that alternative stay and work arrangements for registered refugees, along with the registration of undocumented refugees, will be part of the package of durable solution options. However, the state of the economy and

³⁹⁹. Grare, F., and W. Maley (2011) “The Afghan Refugees in Pakistan,” Fondation pour la Recherche Stratégique, Middle East Institute, www.refugeecooperation.org/publications/afghanistan/pdf/09_grare.pdf.

⁴⁰⁰. Some 219,639 Afghan refugees were surveyed.

⁴⁰¹. UNHCR (2011) “Population Profiling, Verification and Response Survey of Afghans in Pakistan,” <http://unhcrpk.org/wp-content/uploads/2012/11/PPVR-Report.pdf>.

⁴⁰². Information provided by the ILO.

⁴⁰³. UNHCR and ILO (2012) “Rapid Assessment, Decent Work Deficit of Afghan Refugees and Host Communities in District Quetta, Balochistan,” unpublished.

the unstable political and security situation have translated into decreasing tolerance by the Pakistani authorities and communities toward refugees.

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- UNHCR Pakistan. 2015. "2015-2017 Protection Strategy." <http://unhcrpk.org/wp-content/uploads/2013/12/2015-2017-Protection-Strategy-External.docx>

South Africa

PROFILE

- Party to the 1951 Convention relating to the Status of Refugees, the 1967 Protocol, and the 1969 Organization of African Unity Convention
 - 121,645 refugees and 1,096,063 asylum seekers⁴⁰⁴ totaling 1,217,708 = 2.21 percent of a total estimated population of 55 million
 - Majority of recognized refugees are from Somalia, the Democratic Republic of Congo, Ethiopia, and Zimbabwe
 - No camps or refugee settlements in South Africa; all refugees and asylum seekers live within South African communities in rural or urban areas
- Human development rank and index: 116th and 0.666
 - GDP: Growth 1.3 percent; Per capita \$5,691.7
 - Upper-middle-income economy
 - Unemployment rate: 25.1 percent

CONTEXT

South Africa, which offers relative political stability and prosperity, is a major destination country for a large and mixed flow of people from the Horn of Africa, the Great Lakes, and even Asian countries,⁴⁰⁵ some seeking international protection and others better economic and social opportunities.⁴⁰⁶ In the absence of suitable formal pathways for low-skilled economic migrants to stay in South Africa legally, many migrants have joined those fleeing conflict and persecution in seeking asylum, thus considerably inflating asylum applications.

⁴⁰⁴. The significant increase in the number of asylum seekers from 2014 to 2015 in South Africa as recorded by the United Nations High Commissioner for Refugees (UNHCR) is partly due to a rise in the number of pending claims reported by the government of South Africa from 463,900 to 1,096,100, as a result of updated statistical information (due to the historical underreporting of this population) on the number of cases pending appeal review, and not to an actual significant increase in the number of asylum seekers in South Africa in 2015; this statistical adjustment means that South Africa hosted more asylum seekers than any other country at the end of 2015, UNHCR Global Trends, "Forced Displacement in 2015," www.unhcr.org/statistics/unhcrstats/576408cd7/unhcr-global-trends-2015.html.

⁴⁰⁵. Mainly Afghanistan, Pakistan, and India.

⁴⁰⁶. There are confirmed reports of human smuggling and trafficking, UNHCR (2015) "Global Appeal Update- South Africa," www.unhcr.org/5461e604b.html.

Somalis form the majority of recognized refugees in South Africa. They came to the country in several waves between 1995 and 2000 following the collapse of Siad Barre's regime, in 2006 when Ethiopia invaded Somalia, and more recently as many Somalis flee insurgent violence and militia recruitment.⁴⁰⁷ Other refugees originate from the Democratic Republic of Congo, Côte d'Ivoire, Ethiopia, and Zimbabwe. Zimbabweans currently account for the largest group of asylum seekers. For years millions of Zimbabweans have migrated to neighboring South Africa fleeing political violence, mass forced evictions, and poverty resulting from Zimbabwe's political and financial collapse. In 2009, following the political struggles and economic crisis in Zimbabwe, the South African government announced a special program for Zimbabweans, under which they would be granted permits and a moratorium on deportations. Rather than granting them special permits, Zimbabweans were channeled through the asylum system and given section 22 asylum permits to regularize their stay. Later in 2010, the government announced a special dispensation program for Zimbabweans, whereby Zimbabweans were given four-year permits; these permits were extended for a further four years in 2014. Some Zimbabweans who applied for asylum may have abandoned their claims now that they have permits; however, exact numbers are not known, but because their claims have not been officially withdrawn they are still counted as asylum seekers.⁴⁰⁸

Prospects for durable solutions for refugees in South Africa exist—refugees can apply for permanent residency under the law leading toward local integration despite mitigating socioeconomic factors, restrictive government policies, and xenophobia. The United Nations High Commissioner for Refugees (UNHCR) also supports voluntary return for those who opt for this solution. However, in practice, return can take some time, and given the political and economic fragility of Zimbabwe many Zimbabweans will not return. Resettlement to a third country is an option for a very limited number with critical protection needs. The government of South Africa declared cessation of status⁴⁰⁹ for Mozambicans in 2001 and for Angolans in 2013.⁴¹⁰

⁴⁰⁷. Women's Refugee Commission (2011) "No Place to Go But Up: Urban Refugees in Johannesburg, South Africa" <https://womensrefugeecommission.org/programs/livelihoods/research-and-resources/758-no-place-to-go-but-up-urban-refugees-in-johannesburg-south-africa>.

⁴⁰⁸. Information provided by the UNHCR.

⁴⁰⁹. Under Article 1C of the 1951 Refugee Convention, refugee status may cease either through the actions of the refugee (contained in subparagraphs 1 to 4), such as by reestablishment in his or her country of origin, or through fundamental changes in the objective circumstances in the country of origin upon which refugee status was based (subparagraphs 5 and 6), UNHCR (1999) "The Cessation Clauses: Guidelines on their Application," UNHCR, Geneva, www.refworld.org/pdfid/3c06138c4.pdf; UNHCR (2003) "Guidelines on International Protection, Cessation of Refugee Status under Article 1C(5) and (6) of the 1951 Convention relating to the Status of Refugees (the "Ceased Circumstances" Clauses)," HCR/GIP/03/03, www.unhcr.org/publications/legal/3e637a202/guidelines-international-protection-3-cessation-refugee-status-under-article.html.

⁴¹⁰. A large portion of Mozambicans and Angolans returned voluntarily to their countries while others went through regularization schemes; South Africa granted permits to more than 700 Angolan refugees for two years.

1. LAW

Refugee Law

National legislation. South Africa adopted the Refugees Act in 1998 prohibiting refusal of entry, expulsion, or extradition of refugees.⁴¹¹ The act was reviewed in 2008 and amended to include gender as grounds for persecution, among other changes.⁴¹² The Refugees Act was revised again in 2011 and 2015, together with the Immigration Act, while a Border Management Agency Bill was also drafted as part of a wider reform of South Africa's asylum and immigration regimes.⁴¹³

Institutions. The Department of Home Affairs (DHA) has overall responsibility for refugee issues.

Access to protection. Facing increasing difficulty coping with the large number of foreigners, including asylum seekers, entering its territory, South Africa tightened its immigration and asylum systems beginning in 2011, coinciding with the amendment of the Immigration Act. Because of irregular and clandestine movements, which also involve trafficking and smuggling of people, South Africa has stringent controls that have resulted in large numbers of migrants and asylum seekers crossing through illegal routes, exposing them to violence and exploitation by criminal gangs operating along the borders. If asylum seekers entering the territory transited through a "safe third country" their claim for refugee status may be denied.⁴¹⁴

Although the numbers of refugees have declined from 2009–10, the continuing large number of asylum applications lodged annually, combined with the backlog of applications from previous years, remains a major obstacle to ensuring a fair and efficient refugee status determination process. South Africa has a very low rate for recognizing refugees. In 2014 the approval rate was 12 percent; most rejected asylum seekers who originated from neighboring countries were considered to be economic migrants.⁴¹⁵

If an individual entering South Africa states to a border official an intention to apply for asylum, the law requires that he or she receive a five-day "asylum transit permit"⁴¹⁶ to enable the individual to report to the nearest Refugee Reception Office to apply for asylum.⁴¹⁷ Upon completion of an interview by a Refugee Reception Officer, asylum seekers are issued a "section 22 permit" valid for six months,

⁴¹¹. Republic of South Africa, Refugees Act, 2 December 1998,

www.queensu.ca/samp/sampresources/migrationdocuments/documents/1998/refugee.pdf.

⁴¹². UNHCR (2011) "Submission for the Office of the High Commissioner for Human Rights' Compilation Report – Universal Periodic Review for South Africa." www.refworld.org/pdfid/4ed724952.pdf.

⁴¹³. Republic of South Africa Refugee Amendment Act, 2001, www.gov.za/sites/www.gov.za/files/a12_2011_0.pdf. The Immigration Act was again revised in 2014, www.ufh.ac.za/international/assets/13-of-2002-immigration-act_regs-gnr-413_26-may-2014---to-date.pdf affairs.gov.za/images/PDFs/Draft%20BMA%20Bill%202015%20for%20comments%20-%20Gazetted.pdf.

⁴¹⁴. UNHCR (2011) "Submission for the Office of the High Commissioner for Human Rights' Compilation Report – Universal Periodic Review for South Africa," www.refworld.org/pdfid/4ed724952.pdf.

⁴¹⁵. Information provided by the UNHCR. This trend has remained constant; in 2010 the rejection rate at first instance was 92 percent, Refugee Status Determination and Rights in Southern and East Africa (2010) "International Workshop Report," www.rsc.ox.ac.uk/files/publications/event-reports/er-refugee-status-determination-rights-africa-2010.pdf.

⁴¹⁶. Referred to as "Section 23 permit."

⁴¹⁷. As per section 21 of the Refugees Act.

temporarily legalizing their stay pending a final decision on their application.⁴¹⁸ If refugee status is granted the refugee will be issued a renewable “section 24 permit,” known as a “refugee permit” allowing the permit holder to remain in South Africa for four years.⁴¹⁹ At this point, in addition to the permit, within 15 days a refugee is entitled to apply for a refugee ID card at any Refugee Reception Office.⁴²⁰ Upon completing five full years of continuous residence in South Africa as a formally recognized refugee, a refugee becomes eligible for “certification,” and upon examination of the claim the Standing Committee for Refugee Affairs may grant the applicant the right to remain a refugee indefinitely. The certification then enables the applicant to apply for an Immigration Permit or Permanent Residence.⁴²¹

The asylum system suffers from endemic and systemic corruption in the form of demand for bribes at every point of the process—queuing and obtaining and renewing asylum and refugee documents—and DHA’s anticorruption efforts have thus far failed to prevent it.⁴²² Furthermore, because of corruption it is difficult for intended beneficiaries to find protection.⁴²³

Freedom of movement. Refugees in South Africa are not confined to camps, and with the appropriate identification and permits they are generally free to move across the country and to settle in the place of their choice. However, because their refugee permit may not be recognized as a valid identification documentation, and because of delays in obtaining travel permits, some refugees are unable to access socioeconomic rights (for example, education and work).⁴²⁴ The Constitution’s Bill of Rights guarantees freedom of movement to all persons and the Refugees Act affirms that this applies to refugees.⁴²⁵ The act does not specifically apply this freedom to asylum seekers, but in practice, South Africa generally respects this right. The Refugees Act, however, prohibits asylum seekers from traveling outside of South Africa without DHA approval.⁴²⁶

⁴¹⁸. The permit can be extended by a Refugee Reception Officer for a further six months while the process of status determination is in progress; in the meantime, permit holders are protected against deportation, Refugee Status & Asylum, Department of Home Affairs, www.home-affairs.gov.za/index.php/refugee-status-asylum.

⁴¹⁹. The refugee permit, regardless of country of origin, is valid for two years and renewable, Department of Home Affairs, “Refugee Status and Asylum, General Procedure: Application for Asylum,” www.dha.gov.za/index.php/refugee-status-asylum.

⁴²⁰. In case of rejection, an asylum seeker or refugee who believes that he or she has a well-founded fear of persecution but whose claim has been rejected may decide to appeal the rejection decision of the Refugee Status Determination Officer to the Refugee Appeal Board within 30 days of the decision, Department of Home Affairs, “Refugee Status and Asylum, General Procedure: Application for Asylum,” www.dha.gov.za/index.php/refugee-status-asylum.

⁴²¹. As per section 27 of the Refugees Act.

⁴²². Amit, R. (2015) “Queue Here for Corruption, Measuring Irregularities in South Africa’s Asylum System,” Lawyers for Human Rights and the African Centre for Migration and Society, www.lhr.org.za/sites/lhr.org.za/files/lhr-acms_report_-_queue_here_for_corruption_-_july_2015.pdf.

⁴²³. Amit, R. (2015) “Paying for Protection: Corruption in South Africa’s Asylum System,” Migration Policy Institute, www.migrationpolicy.org/article/paying-protection-corruption-south-africas-asylum-system.

⁴²⁴. Jesuit Refugee Council (2011) “South Africa: Refugee Documentation Remains an Issue,” http://en.jrs.net/news_detail?TN=NEWS-20110214031156.

⁴²⁵. Article 21, chapter 2 of the Constitution’s Bill of Rights, www.justice.gov.za/legislation/constitution/SACConstitution-web-eng-02.pdf.

⁴²⁶. United States Committee for Refugees and Immigrants (2009), “World Refugee Survey- South Africa”, www.refworld.org/docid/4a40d2b22.html.

Right to work – refugee and labor and employment law

Refugees in South Africa are allowed to work and to avail themselves of basic social services.⁴²⁷ The Private Security Industry Regulation Act, however, limits refugees' right to choose employment to the extent that they may not work in the private security industry.⁴²⁸ Asylum seekers in possession of a section 22 permit currently have the right to work and study.⁴²⁹ This is a right that refugee advocates secured using human rights-based litigation.⁴³⁰ However, a draft amendment is to be submitted to Parliament in 2016 that would repeal asylum seekers' right to work for the first four months pending adjudication of the asylum claim.⁴³¹

2. POLICY AND PRACTICE

Constraining factors

Legal documents and permits are essential for refugees and asylum seekers to partake in South Africa's formal economy; access social services; and prevent arbitrary arrest, detention, and deportation.⁴³² Yet, although under the Refugees Act and accompanying regulations, the application process should generally be completed within 180 days, it can take several years for refugee status to be finalized,⁴³³ and South Africa does not provide financial support to asylum seekers and refugees, except for a list of social grants that refugees can access.⁴³⁴ And while, in theory, under the 2014 Immigration Regulation, fines for renewal of documents are no longer charged for overstaying—and persons who overstay for a prescribed number of times are declared undesirable—in practice, fines are still implemented.⁴³⁵ The 2014 regulations did not have any positive effect on the issuance of low-skilled work permits.⁴³⁶ In addition,

⁴²⁷. Article 27 (f)(g) of the Refugees Act 1998.

⁴²⁸. Section 23(1)(a) of The Private Security Industry Regulation Act 56 of 2001 (the Security Act), www.saflii.org/za/legis/num_act/psira2001451.pdf.

⁴²⁹. "Refugee Status & Asylum," Department of Home Affairs.

⁴³⁰. Minister of Home Affairs and Others v. Watchenuka and Another 2004 (4) SA 326 (SCA), www.refugeerights.uct.ac.za/usr/refugee/Case_Law_Reader/Minister_of_Home_Affairs_v_Watchenuka.pdf.

⁴³¹. Article 21.6 of the Refugees Amendment Bill 2015, www.gpwonline.co.za/Gazettes/Gazettes/39067_6-8_HomeAffairs.pdf.

⁴³². Landau, L. (2005) "Migration, Urbanisation and Sustainable Livelihoods in South Africa," Migration Policy Brief No. 15, Southern African Migration Project, www.queensu.ca/samp/sampresources/samppublications/policybriefs/brief15.pdf.

⁴³³. Amit, R. (2015) "Queue Here for Corruption, Measuring Irregularities in South Africa's Asylum System," Lawyers for Human Rights and the African Centre for Migration and Society, www.lhr.org.za/sites/lhr.org.za/files/lhr-acms_report_-_queue_here_for_corruption_-_july_2015.pdf.

⁴³⁴. Nyenti, M., M. du Plessis, L. A. Apon (2007) Access to Social Services for Non-Citizens and the Portability of Social Benefits within the Southern African Development Community (SADC), South Africa Country Report, A Report to the World Bank, Centre for International and Comparative Labour and Social Security, University of Johannesburg, South Africa, http://siteresources.worldbank.org/INTLM/Resources/390041-1244141510600/Nyenti_Plessis_Apon-South_Africa-2007.pdf.

⁴³⁵. Information provided by the ILO.

⁴³⁶. Information provided by the ILO.

many asylum seekers, who often work in precarious positions struggle to schedule time away from work to renew their documents and risk losing their jobs.⁴³⁷

Anyone without an immigration or asylum permit or unable to prove their nationality is most at risk of being arrested and deported. This situation has produced a market for fake documents, which delegitimizes the asylum system.⁴³⁸

Because of discrimination and lack of awareness of refugee rights and entitlements, many refugees and asylum seekers report that, even when their documents clearly state that they are allowed to work, South African employers very often will not recognize their status. Employers are even more reluctant to hire forced migrants with papers valid for a short period. Permits or refugee identity cards may not be recognized by the police or local authorities either, which increases the likelihood that refugees and asylum seekers turn to irregular and dangerous economic activities.⁴³⁹

Despite skills shortage in employment sectors such as health care, education, engineering, and information technology, the professional qualifications of refugees and asylum seekers, assuming they were not lost during their flight, are often not readily recognized by the South African Qualifications Agency or other professional regulatory bodies.⁴⁴⁰ In addition, the South African Department of Health's ban on the recruitment of professionals from developing countries, officially out of an anti-brain drain principled position, has also resulted in pushing health professionals from the region into the asylum system, the only way for them to legally practice their trade in the country.⁴⁴¹ Unable to afford new certification or training, most refugees and asylum seekers abandon their professions for unskilled jobs, or join the informal labor market if they cannot find formal employment.

The cost of registering a business under the regular immigration procedures for business visas is prohibitively expensive. Businesses, other than vendors, must demonstrate they have access to about US\$350,000 in cash or capital, employ at least five permanent residents, and have proper legal documentation. To avoid such costs, some businesses have set up semi-formally, obtaining only a business license, for a cost of about US\$225 per year.⁴⁴²

⁴³⁷. Amit, R. (2015) "Paying for Protection: Corruption in South Africa's Asylum System," Migration Policy Institute, www.migrationpolicy.org/article/paying-protection-corruption-south-africas-asylum-system.

⁴³⁸. Wellman, I. E., and B. L. Landau (2015) "South Africa's Tough Lessons on Migrant Policy," *Foreign Policy*, <http://foreignpolicy.com/2015/10/13/south-africas-tough-lessons-on-migrant-policy/>.

⁴³⁹. Landau, L. (2005) "Migration, Urbanisation and Sustainable Livelihoods in South Africa," Migration Policy Brief No. 15, Southern African Migration Project, www.queensu.ca/samp/sampresources/samppublications/policybriefs/brief15.pdf.

⁴⁴⁰. Consortium for Refugees and Migrants in South Africa (2007) "Protecting Refugees and Asylum Seekers in South Africa," www.cbrmc.org/CRMSA07ReportFinal.pdf; Segatti, A. (2014) "A Disposable Workforce: Foreign Health Professionals in the South African Public Service," Migration for Work Research Consortium Policy Brief 3, African Centre for Migration & Society, University of the Witwatersrand, www.miworc.org.za/docs/MiWORC-PolicyBrief-3-Foreign-health-professionals-in-SA.pdf.

⁴⁴¹. Information provided by the ILO.

⁴⁴². Women's Refugee Commission (2011) "No Place to Go But Up: Urban Refugees in Johannesburg, South Africa," <https://womensrefugeecommission.org/programs/livelihoods/research-and-resources/758-no-place-to-go-but-up-urban-refugees-in-johannesburg-south-africa>.

Refugee women are commonly targets of sexual violence, which limits their capacity to engage in income-generating activities and makes them more dependent on alternative support from spouses, friends, or nongovernmental organizations. They have little recourse or protection from this violence, and there are reports of the police being indifferent to their claims or asking for bribes or sex in exchange for services.⁴⁴³

Xenophobic violence against foreigners, including asylum seekers and refugees, limits their chances to make a decent living.⁴⁴⁴ Xenophobia results in discrimination, exploitation, and abuse; in some instances, violence has been organized by business owners with the intent of eliminating foreign competitors. While the most intense and widespread attacks took place in 2008, refugees have sporadically fallen prey to operations officially targeting undocumented migrants that have been accompanied by loss of life, loss of property, disruption of life, and negative impacts on eventual prospects for local integration.⁴⁴⁵ For instance, in Limpopo province in 2012, a crackdown on businesses perceived to be operating illegally, known as “Operation Hardstick,” led to the closing of businesses and confiscation of stock belonging to refugee and asylum-seeker traders, regardless of whether they had valid licenses.⁴⁴⁶ Many of these refugees lost their livelihoods. After a series of court cases, in 2014 the Supreme Court of Appeal ruled against some of the essential elements on which the operation was based by affirming that it was unlawful and invalid for the authorities to close businesses operated by refugees and asylum seekers with valid permits.⁴⁴⁷

⁴⁴³. Women’s Refugee Commission (2011) “No Place to Go But Up: Urban Refugees in Johannesburg, South Africa,” <https://womensrefugeecommission.org/programs/livelihoods/research-and-resources/758-no-place-to-go-but-up-urban-refugees-in-johannesburg-south-africa>.

⁴⁴⁴. Xenophobic attitudes have been consistently measured at 70 to 75 percent of the population since polls started in 1996, Women’s Refugee Commission (2011) “No Place to Go But Up: Urban Refugees in Johannesburg, South Africa,” <https://womensrefugeecommission.org/programs/livelihoods/research-and-resources/758-no-place-to-go-but-up-urban-refugees-in-johannesburg-south-africa>.”

⁴⁴⁵. In 2008, a series of violent xenophobic attacks took place in various townships and urban areas in most large South African cities. Some 62 people were killed and 670 injured while more than 150,000, including refugees and asylum seekers, were displaced, many of whom also lost their businesses, homes, and possessions in the process. The displaced were temporarily accommodated in camps where violent episodes continued. Once the Constitutional Court ruled that the government was required to care for asylum seekers and refugees but not for illegal aliens, many asylum claims were reviewed under accelerated procedures. According to Amnesty International, accelerated procedures took place without legal advice or assistance or interpreters, leading to a high percentage of rejection rates, low-quality decisions including factual errors, and lack of effective access to appeals, United States Committee for Refugees and Immigrants (2009) “World Refugee Survey “South Africa,” www.refworld.org/docid/4a40d2b22.html.

⁴⁴⁶. Similar events also occurred in 2010 immediately after the Soccer World Cup, at the call of a group named the Greater Gauteng Business Forum; and in 2014, as a direct result of “Operation Fiela” (clean-up) coordinated by the city of Johannesburg when as many as 7,000 hawkers were expelled overnight from the city center, and not reinstated in spite of a court order; information provided by the ILO.

⁴⁴⁷. The court judgment stated, “If a refugee or asylum seeker is unable to obtain wage-earning employment and is on the brink of starvation, which brings with it humiliation and degradation, and that person can only sustain him or herself by engaging in trade, such a person ought to be able to rely on the constitutional right to dignity in order to advance a case for the granting of a license to trade...” The Supreme Court of Appeal of South Africa (2014) *Somali Association of South Africa and Others v Limpopo Department of Economic Development Environment and Tourism and Others*, www.saflii.org/za/cases/ZASCA/2014/143.pdf; see also Asylum Access (2015) “South African Court Backs Refugees’ Right to Own Businesses,” <https://rtwasylumaccess.wordpress.com/2015/02/03/south-african-court-backs-refugees-right-to-own-businesses/>.

In 2015 new episodes of xenophobic violence erupted: in January, the Soweto township near Johannesburg experienced a number of attacks on shopkeepers while attacks spread in KwaZulu-Natal province following an apparent labor dispute involving South African and foreign workers. At least seven people were killed in the 2015 outbreak, and thousands of foreigners were displaced, among them refugees and asylum seekers.

Facilitating factors

With the introduction of special dispensation permits, Zimbabweans have been granted the right to remain temporarily in South Africa and allowed to apply for work permits.⁴⁴⁸ These special permits have alleviated the burden on the asylum system and provided short-term security to some 250,000 Zimbabweans.⁴⁴⁹ Zimbabwean nationals not in possession of the required documentation are, however, systematically deported.⁴⁵⁰

In South Africa, the judiciary has on several occasions confirmed refugees' and asylum seekers' right to work. For instance, in 2003 in relation to a case brought to court by the Cape Town-based Legal Resources Centre on behalf of a Zimbabwean woman and her disabled son, the Supreme Court of Appeal ruled that freedom to work and study were "an important component of human dignity" guaranteed by the country's Bill of Rights.⁴⁵¹

Refugees, mainly from the Somali community, have used innovative means, such as an "incubation system" to expand into new markets. Small businesses train and employ fellow migrants, usually newcomers, to start their own businesses. The original business owner withholds a portion of an employee's salary every pay period and trains the employee in how to run a business. Once enough money is saved and the employee's capacity is built, the employee starts a satellite business in a new location. Typically the original owner maintains shares in the new businesses.⁴⁵²

To overcome refugees' lack of access to formal credit and savings accounts due to bureaucratic hurdles, and the lack of secure places to keep money, which puts them at risk of theft and robbery, the Coordinating Body for Refugee Communities has facilitated the opening of more than 2,000 bank accounts for forced migrants at First National Bank.⁴⁵³

⁴⁴⁸. The special dispensation permits also give access to basic health care and education.

⁴⁴⁹. Wellman, I. E., and B. L. Landau (2015) "South Africa's Tough Lessons on Migrant Policy," *Foreign Policy*, <http://foreignpolicy.com/2015/10/13/south-africas-tough-lessons-on-migrant-policy/>. The permits are now due to expire in 2017, "SA Extends Permits for 250,000 Zimbabweans," <http://southafricanimmigration.org/sa-extends-permits-for-250000-zimbabweans/2260/>.

⁴⁵⁰. UNHCR (2011) "Submission for the Office of the High Commissioner for Human Rights' Compilation Report – Universal Periodic Review for South Africa," www.refworld.org/pdfid/4ed724952.pdf.

⁴⁵¹. IRIN (2011) "South Africa: 'Harsher Regime' for Asylum Seekers," www.irinnews.org/report/94337/south-africa-harsher-regime-for-asylum-seekers.

⁴⁵². Women's Refugee Commission (2011) "No Place to Go But Up: Urban Refugees in Johannesburg, South Africa," <https://womensrefugeecommission.org/programs/livelihoods/research-and-resources/758-no-place-to-go-but-up-urban-refugees-in-johannesburg-south-africa>."

⁴⁵³. Women's Refugee Commission (2011) "No Place to Go But Up: Urban Refugees in Johannesburg, South Africa."

Through targeted income-generating activities and vocational skills training, the UNHCR contributes to empowering a limited number of refugees to become self-reliant while partner organizations assist them with opening small businesses or finding suitable employment.⁴⁵⁴

3. MEDIATING CONDITIONS

Socioeconomic conditions

South Africa is an upper-middle-income economy. However, it ranks only 116 on the Human Development Index and more than 50 percent of the population lives below the national poverty line. The country has one of the highest Gini coefficients and is thus characterized by significant income inequality and a high unemployment rate (25 percent), affecting mainly black South Africans and mixed-race people.

Refugees mostly settle and work in inner cities and in townships in peri-urban areas where the local population continues to increase with the combined collapse of many rural industries and small-scale farming and the breakdown of family structures caused by HIV/AIDS. Those in inner cities have better access to markets, housing, and public services. In contrast, poverty and unemployment are high in townships, both for South Africans and refugees, especially female refugees.⁴⁵⁵

The poor socioeconomic conditions among host communities provide a breeding ground for competition between refugees and South African nationals for jobs, housing, business opportunities, and social services, which often raises tensions and xenophobic attitudes toward refugees, as described above.⁴⁵⁶ Many refugees are willing to work for less than the minimum wage, especially undocumented Zimbabweans,⁴⁵⁷ while women are also more likely to receive lower incomes than men. Xenophobia has also undermined refugees' local integration and the stability of their livelihoods.⁴⁵⁸

Several studies conducted during the past 15 years confirm general public hostility toward migrants, perceived to be "too many," and responsible for the growth in crime rates, for diminishing the resources available to citizens, and for "taking jobs from South Africans." A smaller percentage of citizens

⁴⁵⁴. UNHCR "Fact Sheet – South Africa" (2015), www.unhcr.org/524d87689.pdf.

⁴⁵⁵. About 50 percent of South Africans in townships were either very poor or poor and 43 percent were unemployed, while 40 percent of Congolese and 30 percent of Somalis were unemployed; 66 percent of female refugees in townships are unemployed, Women's Refugee Commission (2011) "No Place to Go But Up: Urban Refugees in Johannesburg, South Africa," <https://womensrefugeecommission.org/programs/livelihoods/research-and-resources/758-no-place-to-go-but-up-urban-refugees-in-johannesburg-south-africa>.

⁴⁵⁶. UNHCR (2011) "Submission for the Office of the High Commissioner for Human Rights' Compilation Report – Universal Periodic Review for South Africa," www.refworld.org/pdfid/4ed724952.pdf.

⁴⁵⁷. International Refugee Rights Initiative (2009) "South Africa Attempts to Help Zimbabwe Migrants through New Permit System," *Refugee Rights News*, www.refugee-rights.org/Publications/RRN/2009/May/V5.I3.SouthAfricaAttempts.html.

⁴⁵⁸. A 2003 study in Johannesburg found that almost 65 percent of South Africans living in the inner city thought it would be good if most of the refugees and immigrants left the country and were in support of exclusionary measures toward them; measures often shaped and legitimized by politicians and bureaucrats on the basis that migrants are responsible for shortcomings in public service delivery and sub-optimal economic conditions, Landau, L. (2005) "Migration, Urbanisation and Sustainable Livelihoods in South Africa," Migration Policy Brief No. 15, Southern African Migration Project, www.queensu.ca/samp/sampresources/samppublications/policybriefs/brief15.pdf.

acknowledged the beneficial effect of migrants on skills shortages experienced by South Africa.⁴⁵⁹ Yet a collaborative research study released in 2016 contains evidence that cross-border migrants and refugees who own businesses are providing jobs, paying rent, paying value-added taxes, and providing affordable and convenient goods.⁴⁶⁰ While the issuance of special permits to Zimbabweans as described above has enabled them to legally work and earn a living, the increased competition that might result from the attraction of the permits has been seen as a potential source of tension and xenophobic feelings among the local population.⁴⁶¹ Yet, South African businesses also benefit from the skills of Zimbabwean workers, with Zimbabwe constituting a market for South African products and an inflow of capital that may stimulate demand.⁴⁶²

Refugee profiles

The 2011 Women's Refugee Commission study on urban refugees found that refugees are predominantly young, urban, male, and educated. All refugees and asylum seekers recognized that English language skills are necessary to get a job, register a business, negotiate prices with suppliers, and deal with customers. The great majority of Somalis speak English and many Zimbabweans also have good English-language skills. Zulu language skills, however, are seen as necessary to better integrate into parts of the community and specifically to prevent xenophobic discrimination. Cultural and linguistic similarities of the ethnic Zimbabwean Ndebele people with the Zulu community have enabled them to assimilate more easily.⁴⁶³

The study found that the various refugee groups enjoy different levels of social capital shaped by cultural and other factors, but those joining friends or relatives already in a city were considerably more successful than those who migrated without such support. Somalis have strong networks and rely on family, religious, and tribal links to secure income and security and many, especially male youth, work for other Somalis in their retail businesses. Somali businesses reportedly share information on industry trends to purchase the cheapest goods and respond quickly to shifts in supply and demand and often buy goods together in bulk, sell surplus goods to each other at a discount, and share informal credit mechanisms. Settled mostly in the Muslim-dominated neighborhoods, Somalis also draw on religious affiliation to connect with South Africans with, for instance, mosques being a common venue for meeting and sharing information on access to services. Some Somalis also work for South African Muslim businesses.

⁴⁵⁹. Crush, J., and D. Ramachandran (2014) "Xenophobic Violence in South Africa: Denialism, Minimalism, Realism," Migration Policy Series No. 66, Southern African Migration Programme, <http://imrc.ca/wp-content/uploads/2014/09/Xenophobic-Violence-in-South-Africa.pdf>.

⁴⁶⁰. The study found that 31 percent of the 618 international migrant traders interviewed collectively employed 1,223 people, of which 503 were South African, Peberdy, S. (2016) "International Migrants in Johannesburg's Informal Economy," Southern African Migration Programme Migration Policy Series No. 71, www.gcro.ac.za/media/reports/SAMP71.pdf.

⁴⁶¹. International Refugee Rights Initiative (2009) "South Africa Attempts to Help Zimbabwe Migrants through New Permit System," Refugee Rights News, www.refugee-rights.org/Publications/RRN/2009/May/V5.I3.SouthAfricaAttempts.html.

⁴⁶². United States Committee for Refugees and Immigrants (2009), "World Refugee Survey- South Africa", www.refworld.org/docid/4a40d2b22.html.

⁴⁶³. Women's Refugee Commission (2011) "No Place to Go But Up: Urban Refugees in Johannesburg, South Africa," <https://womensrefugeecommission.org/programs/livelihoods/research-and-resources/758-no-place-to-go-but-up-urban-refugees-in-johannesburg-south-africa>.

Zimbabweans also have solid social networks helping them secure housing and find employment even if often limited to the informal sector.

The lack of a strong social network and belonging to a minority ethnic group is a disadvantage, especially for new arrivals.⁴⁶⁴ UNHCR research on the Congolese refugee community in Durban highlighted that social networks may spontaneously appear between family members, friends, and colleagues as a reaction to social and economic exclusion.⁴⁶⁵

4. OUTCOMES

Participation in the labor market

The 2011 Women's Refugee Commission study found that some 75 percent of refugees and asylum seekers are economically active, often engaging in multiple simultaneous livelihood strategies, such as petty trading, casual labor, or self-employment. While a few have found formal wage employment, the majority, especially Congolese and Zimbabweans, engage in informal employment while Somalis are more often self-employed or engaged in small businesses.

Notwithstanding their education level and, for some, their specialized skills, few refugees realize the benefits of education because they are unable to access jobs for which they were trained. With the exception of some Congolese who reportedly work in the formal sector as doctors, pharmacists, or accountants,⁴⁶⁶ and some Somalis who own businesses, selling goods to predominantly Somali consumers, refugees are mostly found in unskilled or low-skilled labor in the services industry, street vending, construction, painting, welding, carpentry, hair braiding, or washing or guarding cars.⁴⁶⁷

SUMMARY AND CONCLUSION

South Africa is a major receiving country in the region for a mixed population of economic migrants and asylum seekers. Because of its progressive refugee policy mixed with exclusionary immigration practices, the number of asylum claims remains overwhelmingly high and has substantially strained the asylum system. The massive backlog of applications maintains applicants in situations of limbo sometimes for more than a decade.

While South Africa grants refugees and asylum seekers in possession of appropriate documentation the right to work, as foreigners they face great difficulty in securing formal employment and are largely confined to unskilled labor regardless of their qualifications and work experience and notwithstanding skills shortages in South Africa's labor market. In the informal employment sector they are deprived of

⁴⁶⁴. Women's Refugee Commission (2011) "No Place to Go But Up: Urban Refugees in Johannesburg, South Africa", <https://womensrefugeecommission.org/programs/livelihoods/research-and-resources/758-no-place-to-go-but-up-urban-refugees-in-johannesburg-south-africa>.

⁴⁶⁵. Amisi, B. (2006) "An Exploration of the Livelihood Strategies of Durban Congolese Refugees, New Issues in Refugee Research," Working Paper No. 123, UNHCR Evaluation and Policy Analysis Unit, www.unhcr.org/43fedead2.pdf.

⁴⁶⁶. They have arrived continuously and are currently the majority of applicants in the South African Health Professionals Council's verification examination for health professionals; information provided by the ILO

⁴⁶⁷. Women's Refugee Commission (2011) "No Place to Go But Up: Urban Refugees in Johannesburg, South Africa," <https://womensrefugeecommission.org/programs/livelihoods/research-and-resources/758-no-place-to-go-but-up-urban-refugees-in-johannesburg-south-africa>.

safe, equitable employment conditions and reliable income and are exposed to unchecked exploitation by employers. In addition, xenophobic prejudice is a further impediment experienced by refugees and asylum seekers in their efforts to establish sustainable livelihoods.

Although imperfect, the current system nevertheless allows access to the labor market. However, it would benefit from further improvement of immigration policy and the strengthening and professionalization of the adjudication system so as to decrease backlogs of asylum seekers.

To repeal this access as proposed by the amendment of the Refugees Act would result in massive poverty increases and precariousness among the refugee population.

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Sudan

PROFILE

- **Party to the 1951 Convention relating to the Status of Refugees (but with reservations), the 1967 Protocol, and the Organization of African Unity Refugee Convention**
 - **309,639 refugees and 12,581 asylum seekers totaling 322,220 = 0.8 percent of total estimated population of 40.2 million**
 - **Protracted refugee population (pre-independence Eritreans and residual pre-1991 Ethiopian refugees) and new displacements of Eritrean refugees; refugees from South Sudan, which now constitute the largest group; and from Chad and the Central African Republic in the Darfur area.**
 - **Refugees are in camps but many move on to urban areas; some refugees also live in communities close to the border.**
- **Human development rank and index: 167th and 0.479**
 - **GDP: Growth 3.4 percent; Per capita \$2,089.4**
 - **Lower-middle-income economy**
 - **Unemployment rate: 15.2 percent**

CONTEXT

Sudan is hosting one of the world's most protracted refugee populations, with thousands of Eritrean refugees who have fled their country since independence still living in exile in Sudan, as well as a sizable residual pre-1991 Ethiopian refugee population. New influxes of Eritrean asylum seekers are mainly escaping Eritrea's policy of indefinite military conscription and human rights abuses.⁴⁶⁸ The numbers of South Sudanese who have fled violence since December 2013 continue to increase steadily, and at the end of 2015, the United Nations High Commissioner for Refugees (UNHCR) had recorded more than

⁴⁶⁸. Eritrean independence from Ethiopia left hundreds of thousands displaced to neighboring countries; for some Eritrean refugees displacement may have lasted as long as five decades.

194,400 South Sudanese in Sudan.⁴⁶⁹ The country is also host to refugees and asylum seekers from the Central African Republic, Chad, Ethiopia, and the Syrian Arab Republic.⁴⁷⁰

Sudan is a transit country as much as a destination, with many displaced persons moving on to Europe, often through smuggling operations.⁴⁷¹ About 80 percent intend to continue their journey onward, but only one in every eight refugees actually moves on, including unaccompanied minors, thereby becoming exposed to serious protection risks, such as human trafficking.⁴⁷²

Sudan is not only a host country for refugees, but also a country of origin.⁴⁷³ In addition to a large refugee population, the presence of an even greater number of internally displaced persons, estimated at about 2 million, constitutes a remarkable challenge for the country.⁴⁷⁴

Sudan has maintained an open door policy, especially toward South Sudanese. Given ongoing conflict and risk of persecution in the countries bordering Sudan, voluntary repatriation is not a solution in the foreseeable future for most refugees. In principle, the Asylum (Organisation) Act 2014 recognizes that naturalization is an option for refugees, in accordance with the requirements of the Sudanese Nationality Act 1994, which allowed for naturalization to adult “aliens” who had resided in Sudan for five years or more.⁴⁷⁵ However, in reality naturalization is a difficult durable solution to achieve because the 2011 amendments to the act made it more restrictive, requiring the alien to have “resided in Sudan lawfully and continuously for 10 years or more.” These two conditions are challenging for refugees who are subject to travel restrictions, and for whom 10 years is a long time to wait to be naturalized and to avail themselves of the freedoms granted to nationals.⁴⁷⁶ Two further requirements were added in 2011: that the alien “be of sound mind” and “have a lawful way of earning a living.”⁴⁷⁷ Ambiguity persists as to whether these conditions are retroactive. They also represent a catch-22 for the many refugees who do

⁴⁶⁹. These 194,400 South Sudanese refugees have joined an estimated 350,000 others who had remained in Sudan after South Sudan's secession in 2011, UNHCR (2015) “Global Focus- Sudan,” <http://reporting.unhcr.org/node/2535>; some of these South Sudanese have acquired the Sudanese nationality: under Article 7 of the Sudan Nationality Act (as amended in 2011), an individual may be granted Sudanese nationality by naturalization when he meets certain conditions, including establishing 10 years of continuous and lawful residence in Sudan. Under Article 6 a woman married to a Sudanese man may acquire Sudanese nationality by naturalization after residing in Sudan for two years with her husband; UNHCR (2011) “UNHCR Discussion Paper on Nationality Issues in Sudan and South Sudan” <http://citizenshiprightsafrika.org/unhcr-discussion-paper-on-nationality-issues-in-sudan-and-south-sudan/?lang=fr>.

⁴⁷⁰. UNHCR (2015) “Global Focus- Sudan,” <http://reporting.unhcr.org/node/2535>.

⁴⁷¹. UNHCR (2012) “Submission for Refugees for the Office of the High Commissioner for Human Rights’ Compilation Report - Universal Periodic Review for Sudan,” www.refworld.org/pdfid/4ccfe3502.pdf.

⁴⁷². Information provided by the UNHCR.

⁴⁷³. Nobel, P. (1982) “Refugee Law in the Sudan,” The Nordic Africa Institute, <http://nai.diva-portal.org/smash/get/diva2:277752/FULLTEXT01.pdf>.

⁴⁷⁴. The same goes for neighboring South Sudan with 1.5 million internally displaced persons.

⁴⁷⁵. Section 23 of the Asylum (Organisation) Act 2014 provides “The current laws and regulations, organizing, obtaining the Sudanese nationality, by naturalization, shall apply to such refugee (*sic*), as may officially be recognized in the Sudan.”

⁴⁷⁶. Section 7(1) (c) of the Sudanese Nationality Act 1994 was amended in 2011 to include the words “lawfully and continuously” and the 5-year statutory requirement was extended to 10 years, The Sudanese Nationality Act 1994 and Sudanese Nationality Act (Amendment) 2011, www.refworld.org/pdfid/502cc1b92.pdf.

⁴⁷⁷. Section 7(1) (e) and Section 7(1) (f) of the 2011 Act.

not obtain valid work permits—to obtain Sudanese nationality they must have worked lawfully (or be currently lawfully and gainfully employed), but to be gainfully and lawfully employed requires travel and work permits. In this context, the UNHCR and other agencies have advocated for limited local integration through access to self-reliance mechanisms, especially employment in the informal labor market, especially for protracted populations.⁴⁷⁸

1. LAW

Refugee Law

National legislation. In 2014, Sudan adopted a new Asylum (Organisation) Act. Until then Sudan's asylum policy and practice were regulated by the very succinct Regulation of Asylum Act 1974. Sudan is also party to the 1951 Refugee Convention (but with reservations to Article 26 on Freedom of Movement),⁴⁷⁹ the 1967 Protocol, and the Organization for African Unity Refugee Convention.

Institutions. The administrative framework for Sudan's asylum policy and practice falls under the mandate of the Commission for Refugees (COR).⁴⁸⁰ The Asylum (Organisation) Act 2014 broadened the role of the COR, and refugee status determination (RSD) is only one small component of its overall responsibilities.⁴⁸¹ Registration of all persons in Sudan (that is, nationals and foreigners, including refugees) is the responsibility of the Civil Registry, which then issues all foreigners, including refugees, an Alien Registration Identity number. The Civil Registry and the Directorate of Passports and Immigration were previously a single entity but were split, and the Directorate became involved in the registration of South Sudanese refugees under the memorandum of understanding of December 21, 2014. The COR still conducts RSD in Shagarab Camp in the east, while no RSD is conducted in the west (Darfur); RSD is not available in urban areas either.⁴⁸² In December 2015, however, the UNHCR negotiated an urban-based RSD project that is initially targeting a preexisting refugee population of asylum seekers, mostly from the residual members of the pre-1991 Ethiopian refugee population that remained after implementation of the Ethiopian Cessation Clauses.⁴⁸³

⁴⁷⁸. UNHCR Policy Development and Evaluation Service (2012) "The Implementation of UNHCR's Policy on Refugee Protection and Solutions in Urban Areas, 2012 Global Survey," www.unhcr.org/516d658c9.pdf.

⁴⁷⁹. Reservations and declarations to the 1951 Refugee Convention, www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=3d9abe177&query=1951%20Refugee%20Convention.

⁴⁸⁰. As per Section 24 of the Asylum (Organisation) Act 2014.

⁴⁸¹. Section 25, among other sections of the Asylum (Organisation) Act 2014, covers the responsibilities of the Commission; RSD is only a miniscule part and is canvassed at Section 25(4)(e), which reads "[...function to] receive and sort out the asylum applications and submit the same, before the Commissioner, for determination thereof." The service-implementing role is generally covered under Section 25(4)(b), which reads "[functions to] supervise, rendering and executing services, to refugees, in coordination with the High Commission, (sic) its partners and civil society organizations."

⁴⁸². Asylum seekers from Ethiopia and Eritrea entering via land borders in the east are generally not expected to espouse their claims in the urban centers.

⁴⁸³. On March 1, 2000, the UNHCR withdrew refugee status from Ethiopians who fled their homeland before 1991, applying the "ceased circumstances" portion of the Cessation Clause of the 1951 Refugee Convention; from that day onward, the UNHCR no longer conferred automatic refugee status on Ethiopians who fled their country before 1991, "Ethiopia: No More Automatic Status for Pre-1991 Flight," www.unhcr.org/news/briefing/2000/2/3ae6b81b70/ethiopia-automatic-status-pre-1991-flight.html. The plan is to

Access to protection. Despite national legislation and more than four decades hosting refugees, the Sudanese national asylum system and its institutional capacity have long been considered weak, leaving many asylum seekers undocumented.⁴⁸⁴

In practice, the government conducts individual RSD and provides refugee identification documents. However, the UNHCR sometimes conducts RSD under its mandate in specific situations,⁴⁸⁵ such as when individuals are denied access to the national asylum procedures or for those who have been rejected but whom the UNHCR believes deserve international protection. It may also conduct RSD for individuals who fail to register at designated points of entry and cannot be registered in Khartoum, and at times specifically for resettlement purposes to ensure that cases that are submitted for resettlement satisfy the 1951 Refugee Convention and not only the broadened 1969 Organization for African Unity Convention criteria.

Sudan has traditionally received refugees in waves in which individualized interviews were impractical. Group or prima facie recognition has thus always been applied and is now institutionalized.⁴⁸⁶ For instance, Chadians have all received prima facie status from the government.⁴⁸⁷ For South Sudanese, Syrians, and Yemenis, the government is applying Arab/Islamic conceptions of asylum.⁴⁸⁸ With respect to the massive arrivals of South Sudanese, the UNHCR and the Sudanese Red Crescent Society conduct individual registration in White Nile State while the Directorate of Passport and Immigration registers asylum seekers in four other sites.⁴⁸⁹ Registration of South Sudanese started at the beginning of 2015 as a result of an agreement signed in 2014 between the UNHCR, the COR, and the Directorate General of Passports and Immigration.

In 2002, Sudan ceased applying refugee status to those who had fled the Eritrean War for Independence and subsequent conflict between Ethiopia and Eritrea, but repatriation was halted in 2004 after widespread international criticism of Eritrea's human rights record.⁴⁹⁰ Since then, Sudan has, on several

extend this project, over time, to other urban centers such as Kassala, Port Sudan, Nyala in Darfur, and others, information provided by the UNHCR.

⁴⁸⁴. UNHCR (2007) "Country Operations Plan- Sudan," www.unhcr.org/4524fcb82.pdf.

⁴⁸⁵. Refugee status determination pursuant to the UNHCR's mandate is a core UNHCR protection function, for more information, refer to UNHCR (2003) "Procedural Standards for Refugee Status Determination under UNHCR's Mandate," www.refworld.org/docid/42d66dd84.html.

⁴⁸⁶. Section 8 of the Asylum (Organisation) Act 2014 referring to mass asylum.

⁴⁸⁷. US Committee for Refugees and Immigrants (2009) World Refugee Survey "Sudan," www.refworld.org/docid/4a40d2b285.html.

⁴⁸⁸. In Sudan, while the national refugee legislation is modern and follows the 1951 Refugee Convention, the practice related to forced migration is greatly influenced by the Islamic principle relating to *hijrah*, the humanitarian tradition of receiving foreigners and those in need of protection, Elmadmad, K. (2008) "Asylum in Islam and in Modern Refugee Law," *Refugee Survey Quarterly* Vol. 27, No.2; Peter Nobel P. (1982) "Refugee Law in The Sudan," <http://nai.diva-portal.org/smash/get/diva2:277752/FULLTEXT01.pdf>. As of November 1, 2015, Sudan hosted some 5,500 Yemeni refugees, and following an agreement between the COR and the UNHCR in August 2015, new asylum seekers have been granted prima facie refugee status, UNHCR (2015) "Yemen Situation Regional Refugee and Migrant Response Plan," www.data.unhcr.org/yemen/download.php?id=111.

⁴⁸⁹. UNHCR (2015) "Operational Update for South Sudan- Sudan," <http://data.unhcr.org/SouthSudan/country.php?id=204>.

⁴⁹⁰. IRIN (2012) "In-Depth: Top 10 Neglected Refugee Crises," www.irinnews.org/report/96797/in-depth-top-10-neglected-refugee-crises.

occasions, deported Eritreans and other asylum seekers and refugees in violation of the 1951 Refugee Convention and the 2014 Sudanese Asylum Act.⁴⁹¹ Mass round-ups and deportations reportedly increased in 2014, and asylum seekers were convicted on charges of illegal entry into Sudan without being given access to asylum procedures.⁴⁹² Despite large numbers of refugees in Khartoum, Eritreans in particular, until December 2015, there had been no policy on urban refugees or arrangements for RSD in urban centers. Consequently, this population had no legal status and remained vulnerable to round-ups, detention, deportation, and *refoulement*.⁴⁹³ A Joint Urban Strategy is, however, being developed and under the Asylum (Organisation) Act 2014 the prohibition against forcible returns is specifically recognized.⁴⁹⁴

Freedom of movement. Sudan's reservation to Article 26 of the 1951 Refugee Convention restricting freedom of movement of refugees has led to encampment policies and penalization of refugees who attempt to leave the camps without permission of the COR.⁴⁹⁵ Provisions of the Asylum (Organisation) Act 2014 restrict freedom of movement for refugees.⁴⁹⁶ To obtain a travel permit, refugees must provide documentation to show they have just cause to leave the camp, which is then approved by the COR and the National Intelligence and Security Service (NISS). However, going to look for a job is not one of the factors that COR or NISS will consider when issuing a permit; therefore, most camp refugees in the east of Sudan, are not able to obtain travel permits to seek employment outside the camps.⁴⁹⁷

Right to work – refugee and labor and employment law

The Regulation of Asylum Act 1974 allowed refugees to work, but their employment was subject to certain restrictions. These provisions and restrictions have been imported into the Asylum (Organisation) Act 2014. Refugees are dependent on obtaining a work permit from the Department of Labour before being able to enter wage-earning activities.⁴⁹⁸ When applying for a work permit, refugees are asked to present

⁴⁹¹. Amnesty International (2012) "Sudan Must End Forced Returns of Asylum Seekers to Eritrea," Public Statement, www.amnesty.org/en/documents/AFR54/039/2012/en/; UNHCR (2014) "UNHCR Concerned over Forced Returns of Refugee and Asylum-Seekers from Sudan," Briefing Notes, www.unhcr.org/53b69a4f9.html.

⁴⁹². A group of 32 Eritrean asylum seekers was found guilty under article 30 (1) of Sudan's Immigration and Passport Act of 1994 on illegal entry, which provides that "whoever enters or resides in Sudan illegally shall be imprisoned for no less than one year and not exceeding two years, fined or both together. The punishment also includes a deportation order from the court," African Centre for Justice and Peace Studies (2015) "32 Eritreans at Risk of Forced Return from Sudan," www.acjps.org/32-eritreans-at-risk-of-forced-return-from-sudan-2/; UN News Centre (2014) "UN Refugee Agency Warns Sudan over Forced Return of Eritrean Asylum Seekers," www.un.org/apps/news/story.asp?NewsID=48206#.Vm6RpPkrLIU.

⁴⁹³. UNHCR (2012) "Submission for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report - Universal Periodic Review for Sudan," www.refworld.org/pdfid/4ccfe3502.pdf.

⁴⁹⁴. Section 29 of the Asylum (Organisation) Act 2014.

⁴⁹⁵. Refugees who travel without a travel permit are at high risk of arrest and detention and subsequently deportation; UNHCR Policy Development and Evaluation Service (2012) "The Implementation of UNHCR's Policy on Refugee Protection and Solutions in Urban Areas, 2012 Global Survey," www.unhcr.org/516d658c9.pdf

⁴⁹⁶. Section 13(2)(d), of the Asylum (Organisation) Act 2014, accords refugees "treatment as favorable as possible, and not less favorable than that accorded to aliens generally in the same circumstances."

⁴⁹⁷. Information provided by the UNHCR.

⁴⁹⁸. Section 18(1) of the Asylum (Organisation) Act 2014 specifies that "refugee shall be permitted to work after obtaining a work permit from the competent labour office. The labour office shall send a copy of the work permit to the commission and the ministry within two weeks from the date of its issuance."

their qualifications and supporting documents, and may be told that their skills and qualifications are widely available and that there are no job opportunities, precluding issuance of a work permit.⁴⁹⁹

Under the 2014 Act, refugees are also not allowed to work in sensitive sectors of the economy and in employment related to security and national defense.⁵⁰⁰ Theoretically, refugees have a right to engage in liberal professions.⁵⁰¹

The UNHCR understands that the paucity of work permits issued thus far is due to an organizational change within the government whereby a separate Labor Office is being established specifically to deal with applications for work permits from refugees.⁵⁰² Applications from refugees will thus immediately be identifiable and may lead to the exclusion of refugees from the labor market given protectionist policies, which, in turn, are objectively impelled by the economic decline, itself caused partly by the sanctions regime and loss of oil revenue caused by the secession of South Sudan and the ongoing insurgency in the South.

The prohibition on ownership of land by refugees is an additional legal barrier to refugees' economic integration and possibilities of self-reliance.⁵⁰³

2. POLICY AND PRACTICE

Constraining factors

Even though the Asylum (Organisation) Act 2014 does allow refugees to work, the reality is far from what the legislation calls for. First, work permits are difficult to obtain because the procedure requires documentation that many refugees may not or no longer possess. Work permits are usually granted for one year, with no promise of renewal. Furthermore, as seen above, the prerequisite of a "lawful way of earning a living" preceding the 10 years it takes to be eligible to apply for nationality mentioned in the Sudanese Nationality Act 1994 poses a further barrier to integration as a durable solution. In 2012, only 180 refugees received work permits.⁵⁰⁴

⁴⁹⁹. Pantuliano, S., M. Assal, B. A. Elnaïem, H. McElhinney, and M. Schwab, with Y. Elzein and H. M. Mahmoud Ali, (2011) "City Limits: Urbanisation and Vulnerability in Sudan- Khartoum Case Study," Humanitarian Policy Group, Overseas Development Institute, www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/6520.pdf.

⁵⁰⁰. Section 18(2) of the Asylum (Organisation) Act 2014.

⁵⁰¹. Section 13 (2) (d) of the Asylum (Organisation) Act 2014.

⁵⁰². Before the amendment to the Regulation of Asylum Act 1974, work permits were issued by the Department of Labour in the same way that the department deals with ordinary aliens and foreigners.

⁵⁰³. Section 9 of the Regulation of Asylum Act 1974 prohibited refugees from owning land or immovables in Sudan; Nobel, P. (1982) "Refugee Law in the Sudan," The Nordic Africa Institute, <http://nai.diva-portal.org/smash/get/diva2:277752/FULLTEXT01.pdf>.

⁵⁰⁴. UNHCR News (2013) "UNHCR Signs Agreement to Grant Work Permits for 30,000 Refugees in East Sudan," www.unhcr.org/524bec189.html.

A 2009 UNHCR and World Food Programme joint assessment found that the inability to afford to start up a business was a major concern for refugees who had graduated from vocational training programs.⁵⁰⁵

Unable to enter the formal labor market, in the informal economy refugees are subjected to low wages and to exploitation by employers. The Overseas Development Institute's interviews with refugees suggest that Ethiopian and Eritrean women are most at risk of working overtime while being underpaid. Some are sexually harassed by their employers, but fearing further harassment from unscrupulous policemen or officials, they rarely report abuse or seek support.⁵⁰⁶

Restrictions on freedom of movement make it difficult for refugees to access the labor markets, which are mostly in urban settings such as Kassala and Khartoum. Movement restrictions also affect refugees' access to rural labor markets and land, causing inadequate livelihood options and increasing their dependency on aid. Given the limited options at camp level, refugees opt to travel illegally to urban settings where the promise of gainful employment is a pull factor. Refugees who violate restrictions on their movement face protection risks such as arrest, detention, and possible deportation or *refoulement*.

Those refugees, especially Eritreans, who attempt to continue their journey out of Sudan usually have recourse to smugglers; some have drowned in the Mediterranean Sea.⁵⁰⁷

Facilitating factors

Although the government is not officially supporting local integration, in practice, progress has been made toward self-reliance and livelihoods strategies for camp-based refugees in the east, based on the 2007 *UNHCR/Commissioner for Refugees Joint Solutions Strategy for the Protracted Refugee Situation in Sudan* and the 2009 *Self-Reliance Strategy*, which focuses on reducing the number of refugees that are dependent on direct assistance.⁵⁰⁸

The UNHCR has continuously advocated removing practical barriers to refugees' receiving work permits. In an effort to promote local integration, the UNHCR has used incentives to encourage refugees' access to local labor markets. For instance, the UNHCR and other organizations have installed water pumps and distributed food to the local population on the condition that refugees be allowed to work and integrate into their communities.⁵⁰⁹ And for a long time, Sudan had "Refugee Affected Areas," for which the UNHCR

⁵⁰⁵. World Food Programme, UNHCR, and Commissioner for Refugees (2009) "Joint Assessment Mission, Eastern Sudan Review of Assistance to Eritrean and Ethiopian Refugees," <http://documents.wfp.org/stellent/groups/public/documents/ena/wfp240239.pdf>.

⁵⁰⁶. Pantuliano, S., M. Assal, B. A. Elnaïem, H. McElhinney, and M. Schwab, with Y. Elzein and H. M. Mahmoud Ali, (2011) "City Limits: Urbanisation and Vulnerability in Sudan- Khartoum Case Study," Humanitarian Policy Group, Overseas Development Institute, www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/6520.pdf.

⁵⁰⁷. UNDP/UNHCR Transitional Solutions Initiative Joint Programme for Refugees and their Host Communities, Eastern Sudan, www.sd.undp.org/content/dam/sudan/docs/project_docs/cp16%20UNDP-UNHCR%20JP%20ProDoc%2012%20Feb.pdf.

⁵⁰⁸. Ambroso, G., J. Crisp, and N. Albert (2011) "No Turning Back, A Review of UNHCR's Response to the Protracted Refugee Situation in Eastern Sudan," United Nations High Commissioner for Refugees Policy Development and Evaluation Service, www.unhcr.org/4eb3e5ea9.pdf.

⁵⁰⁹. IRIN (2011) "Eritrea-Sudan: Refugees Battling for a Better Life," www.irinnews.org/report/93118/eritrea-sudan-refugees-battling-for-a-better-life.

acted as a catalyst for funding.⁵¹⁰ The UNHCR has also done vocational training (VT), and the graduates work mainly in the markets in and around the camps.⁵¹¹ Nongovernmental organizations (NGOs) provide start-up kits for the VT graduates, although these are limited and more capital from local microfinance services is required by the refugees.

The government has given access to land to refugees in Um Gargour and Abuda Camps; those in Kilo 26 and Fau 5 Camps have full access to irrigation. Others have de facto access to farmland through private contracts with landlords.

In 2012 the UNHCR launched the Transitional Solutions Initiative (TSI) with the United Nations Development Programme (UNDP) and the World Bank, in close partnership with the Sudanese government, to promote self-reliance among some 77,000 long-staying refugees in eastern Sudan and aim toward their integration into the local population.⁵¹² A milestone of the initiative has been the endorsement of an agreement in 2013 to provide some 30,000 work permits to refugees in Kassala state.⁵¹³ However, at the beginning of 2014 the activities under the TSI were suspended after 97 permits were issued; UNHCR, UNDP, and COR agreed to resume implementation of targeted activities benefiting host communities and refugees following a review by the authorities.⁵¹⁴ In 2015, the UNHCR signed the agreement with COR to provide 1,000 permits in coordination with the Labour Office, but final clearance from NISS at Khartoum has not yet been obtained.

The Sudanese government has declared that refugees from South Sudan should be “treated as Sudanese citizens” with unrestricted right to stay in Sudan as long as the conflict continues, and should enjoy the so-called Four Freedoms: with their ID cards, they will have the same rights as Sudanese citizens, that is, free movement; registration of births, marriages, divorce, and death; the right to work; and access to education and health services.

3. MEDIATING CONDITIONS

Socioeconomic conditions

Sudan is a lower-middle-income country; almost half of its population lives in poverty. Since the secession of South Sudan in 2011, Sudan has become poorer, as illustrated by its sudden drop on the Human Development Index. A high unemployment rate, affecting mainly the country’s youth, combined with a rising and increasingly urbanized population, remains one of Sudan’s major challenges. Furthermore,

⁵¹⁰. This project for refugee-affected areas no longer exists, but according to the European Union Better Migration Management Team there is a plan to implement programs along the same lines to stem the European migration and assist refugee-hosting regions, information provided by the UNHCR.

⁵¹¹. An impact assessment report conducted in 2012 indicated that almost two-thirds of the VT graduates (65 percent) were employed, of which 70 percent were self-employed, and that 81 percent of the employed graduates (male 77 percent and female 87 percent) worked in the field for which they were trained.

⁵¹². UNDP/UNHCR Transitional Solutions Initiative Joint Programme for Refugees and their Host Communities, Eastern Sudan, www.sd.undp.org/content/dam/sudan/docs/project_docs/cp16%20UNDP-UNHCR%20JP%20ProDoc%2012%20Feb.pdf.

⁵¹³. UNHCR News (2013) “UNHCR Signs Agreement to Grant Work Permits for 30,000 Refugees in East Sudan,” www.unhcr.org/524bec189.html.

⁵¹⁴. UNHCR (2014) “Sudan Fact Sheet,” www.unhcr.org/524d87ac9.html.

poverty levels in the country are aggravated by the large numbers of people internally displaced by conflict and natural disasters who need to be supported in reestablishing sustainable livelihoods.⁵¹⁵

Refugees in camps are concentrated in eastern Sudan, which, unlike in the past when it was the country's food basket, is today one of the poorer regions of the country. Refugees, IDPs, and Sudanese citizens alike face an oversaturated informal economy that is leading to growing levels of unemployment and underemployment.⁵¹⁶

A UNHCR assessment at the end of 2012 revealed that more than 52 percent of the refugee population lived below the poverty line,⁵¹⁷ a similar figure as for nationals. However, rates vary tremendously from location to location.⁵¹⁸

Despite movement restrictions and Sudan's encampment policy, many refugees, in particular, the newly arriving younger generation of refugees, move to Sudan's cities, especially Khartoum, Kassala, and Port Sudan, seeking employment opportunities. In towns and cities, urban refugees share limited services with nationals without receiving further assistance from the UNHCR or NGOs.⁵¹⁹ Not able to obtain the requisite permits, most urban refugees continue to work and live illegally, at risk of arrest and detention.

Refugee profiles

The refugee profile has evolved over time, especially when considering the protracted displacement of Eritreans. Most of the Eritreans who participated on the losing side of the various groups that fought for independence, such as the Eritrean Liberation Front, or those who simply escaped the 1961–91 Eritrean War for Independence, are largely integrated and some managed to obtain Sudanese documents.⁵²⁰ Some

⁵¹⁵. UNDP (2014) "Update on Macroeconomic Developments in Sudan, Sudan Talks Series," www.undp.org/content/dam/sudan/docs/policy_roundtable/doc/amend/UNDP%20%20Macroeconomic%20Update%2016%20April%202014.pdf.

⁵¹⁶. Ambroso, G., J. Crisp, and N. Albert (2011) "No Turning Back: A Review of UNHCR's Response to the Protracted Refugee Situation in Eastern Sudan," United Nations High Commissioner for Refugees Policy Development and Evaluation Service, www.unhcr.org/4eb3e5ea9.pdf.

⁵¹⁷. UNHCR News (2013) "UNHCR Signs Agreement to Grant Work Permits for 30,000 Refugees in East Sudan," www.unhcr.org/524bec189.html

⁵¹⁸. In Khartoum, a little over a quarter of the population is below the poverty line, while in North Darfur the figure is more than two-thirds, The Guardian Global Development Poverty Matters blog (2014) "Sudan: A Country Ensnared by Poverty, Inequality and Underdevelopment," www.theguardian.com/global-development/poverty-matters/2014/mar/06/sudan-poverty-inequality-underdevelopment.

⁵¹⁹. Pantuliano, S., M. Assal, B. A. Elnaïem, H. McElhinney, and M. Schwab, with Y. Elzein and H. M. Mahmoud Ali, (2011) "City Limits: Urbanisation and Vulnerability in Sudan- Khartoum Case Study," Humanitarian Policy Group, Overseas Development Institute, www.odl.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/6520.pdf.

⁵²⁰. These refugees have not been deregistered from the assistance registers and the UNHCR does not have information on exactly who has been naturalized, information provided by the UNHCR.

live with local communities and belong to the same ethnic groups, like the Rashaida⁵²¹ and Beja people, two tribes that are found on both sides of the border.⁵²²

New Eritrean arrivals are mostly young, well educated, and from urban backgrounds. They come from the highlands and have no cultural or ethnic ties with local populations, and most of them do not intend to integrate but rather consider Sudan to be a transit country.⁵²³ The local population has generally been less tolerant of these new arrivals.⁵²⁴

4. OUTCOMES

Participation in the labor market

In rural camps, most refugees are involved in agriculture, livestock production, and micro-business, or as casual laborers, while some are self-employed. However, the range of employment refugees have access to is narrow. In eastern Sudan, employment opportunities and income sources outside the agricultural sector are few. Camp refugees lack employment, and while some opportunities exist in farms, access to agricultural lands remains limited, and refugees are subject to movement restrictions. Furthermore, poorer households, particularly women and youth, tend to lack the capacity to sustain profitable activities because of lack of access to land; unreliable rainfall and insufficient water resources; lack of adequate tools, equipment, and technologies; and limited coverage of extension services.

In urban areas, refugees are engaging in activities such as truck driving, barbering, rickshaw driving, catering, and vending, while young Eritrean and Ethiopian refugee women work in restaurants and at the homes of rich people as housemaids, although during the past decade housemaids began to come from Indonesia and the Philippines, and became competitors to the refugees.⁵²⁵ Employment limitations also apply in urban areas, where many jobs are inaccessible to refugees.

While they are generally underpaid and at risk of exploitation, economic opportunities in the informal sector still allow refugees to make a living, and even to send money back home or accumulate savings to pay for their onward journey to a third country.

⁵²¹. Rashaida are “smugglers” by trade, dealing in goods ranging from oil to sugar to cars. They have been carrying on business in this way, importing and exporting goods, for decades and are thus found on both sides of the border, information provided by the UNHCR.

⁵²². IRIN (2011) “Eritrea-Sudan: Refugees Battling for a Better Life,” www.irinnews.org/report/93118/eritrea-sudan-refugees-battling-for-a-better-life.

⁵²³. IRIN (2011) “Eritrea-Sudan: Refugees Battling for a Better Life,” www.irinnews.org/report/93118/eritrea-sudan-refugees-battling-for-a-better-life.

⁵²⁴. World Food Programme, UNHCR, and Commissioner for Refugees (2009) “Joint Assessment Mission, Eastern Sudan Review of Assistance to Eritrean and Ethiopian Refugees,” <http://documents.wfp.org/stellent/groups/public/documents/ena/wfp240239.pdf>.

⁵²⁵. Assal, M. A. (2007) “Refugees From and To Sudan,” Paper Prepared for the Migration and Refugee Movements in the Middle East and North Africa, The Forced Migration & Refugee Studies Program, The American University in Cairo, <http://schools.aucegypt.edu/GAPP/cmrs/Documents/MunzoulAssal.pdf>.

SUMMARY AND CONCLUSION

Although legally permitted to work,⁵²⁶ only refugees with work permits are able to access the formal labor market and have the same employee rights as Sudanese citizens. But in practice, restrictions on movement, discriminatory administrative practices, socioeconomic factors, the rising population, economic sanctions, and high unemployment rates continue to limit refugees' access to the formal labor market.

Refugees are thus often engaged in unskilled labor in agricultural and other informal sectors, or small-scale income-generating activities in and around the camps. While various assessments have identified the market gaps in different areas, the majority of the refugees do not have sufficient livelihood assets to seize the opportunities because they lack human (vocational skills), social (organization), and financial (saving and lending) capital.

Despite being constrained to camps by restrictions on their movement, and no access to land and property, many refugees, especially youth, are seeking mainly informal employment opportunities in Sudan's biggest cities, earning lower wages and incomes.

In such a context, in which Sudan's level of economic development is a key reason why refugees' entitlement to work is not met, the UNHCR and other agencies have advocated for limited local integration through access to self-reliance mechanisms, especially employment in the informal labor market, in particular for protracted populations.

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⁵²⁶ In Sudan there is no "right" to work for refugees, there is only "permission" to work as per Art 18(1) of the Asylum Act, which is further subject to labor laws.

Turkey

PROFILE

- Party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, but applies geographical limitation by providing “refugee status” only to individuals fleeing events occurring in Europe⁵²⁷
- 2,541,352 refugees and 212,408 asylum seekers totaling 2,753,760 = 3.5 percent of a total estimated population of 78.6 million
- The majority of refugees are Syrians under temporary protection in Turkey; the country also hosts significant numbers of refugees from Iraq, the Islamic Republic of Iran, and Afghanistan
- Some 269,193 Syrians under temporary protection are in camps⁵²⁸ along the Syrian border while the great majority of Syrian refugees now live in urban or peri-urban areas⁵²⁹
- Human development rank and index: 72nd and 0.761
- GDP: Growth 4 percent; Per capita US\$9,130
- Upper-middle-income economy
- Unemployment rate: 9.2 percent

CONTEXT

Turkey’s refugee population has increased exponentially since the inception of the conflict in Syria in 2011; Turkey has become host to the world’s largest refugee population.⁵³⁰

⁵²⁷. Although the “geographical limitation” option was dismantled by the 1967 New York Protocol to the Convention, state parties who had signed the Convention before 1967 retained the option of maintaining it. The other countries that maintain this reservation are Monaco, the Republic of Congo, and Madagascar.

⁵²⁸. Statistics from Ministry of Interior Directorate General of Migration Management (DGMM). For further information: www.goc.gov.tr/icerik6/gecici-koruma_363_378_4713_icerik.

⁵²⁹. Some 85 percent of the Syrian refugees live outside the camps; Center for Middle Eastern Strategic Studies (2015), “Effects of the Syrian Refugees on Turkey,” www.alnap.org/resource/21692.

⁵³⁰. Pakistan is second with 1.5 million refugees; UNHCR (2016) “Global Displacement Trends,” 2015 report, www.unhcr.org/576408cd7.

As the Syrian refugee crisis enters its sixth year, the protracted situation is having a growing impact beyond its neighboring countries. Instability in the region is expected to persist, and consequent displacement, inside Syria and across the border into Turkey, will continue.⁵³¹

While 26 camps located in the southeast of the country host nearly 270,000 refugees and provide them with access to various services, the majority live in cities across the country and struggle to access adequate housing and services.⁵³²

With no immediate prospects for return as the conflict continues in Syria, Turkey is faced with the likelihood of the prolonged stay of Syrian refugees, and the country's initial policy of providing aid and assistance in camps no longer meets the reality of growing numbers of mostly destitute urban refugees scattered across the country.⁵³³ The idea of local integration as a possible long-term solution is controversial and politically sensitive in Turkey and not in line with Turkish legislation, which limits "non-European" refugees' access to Turkish citizenship.⁵³⁴

Because of the short distance from its west coast to the Greek islands in the Aegean Sea, which enables relatively easy passage to Europe, in addition to hosting the highest number of asylum seekers and refugees, Turkey is also the most important transit country in the context of migration to Europe.⁵³⁵ To mitigate irregular flows into Europe from Turkey, the European Union (EU) and Turkey agreed on an EU-Turkey resettlement-return scheme to end irregular migration along the Eastern Mediterranean route, first on November 29, 2015, followed by a second deal on March 18, 2016.⁵³⁶

⁵³¹. Given the fluid situation on the ground, the precise scale of refugee flows from Syria or Iraq is uncertain, UNHCR and UNDP (2016) "Regional Refugee & Resilience Plan, 2016–2017 in Response to the Syria Crisis for Turkey," www.3rpsyriacrisis.org/wp-content/uploads/2016/02/Turkey-2016-Regional-Refugee-Resilience-Plan.pdf.

⁵³². Kirişçi, K. (2014) "Syrian Refugees and Turkey's Challenges: Going beyond Hospitality," Brookings, www.brookings.edu/~media/research/files/reports/2014/05/12-turkey-syrian-refugees-kirisci/syrian-refugees-and-turkeys-challenges-may-14-2014.pdf.

⁵³³. İçduygu, A. (2015) "Syrian Refugees in Turkey: The Long Road Ahead," Transatlantic Council on Migration, Migration Policy Institute, www.migrationpolicy.org/research/syrian-refugees-turkey-long-road-ahead.

⁵³⁴. Both the Law on Foreigners and International Protection (LFIP) 2013 and the Settlement Law 2006 limit integration to "individuals or groups of Turkish descent and culture," Dinçer, O. B., V. Federici, E. Ferris, S. Karaca, K. Kirişçi, and E. Ö. Çarmıklı (2013) "Turkey and Syrian Refugees: The Limit of Hospitality," Brookings Institution and Strategic International Research Organization, [www.brookings.edu/~media/research/files/reports/2013/11/18-syria-turkey-refugees/turkey-and-syrian-refugees_the-limits-of-hospitality-\(2014\).pdf](http://www.brookings.edu/~media/research/files/reports/2013/11/18-syria-turkey-refugees/turkey-and-syrian-refugees_the-limits-of-hospitality-(2014).pdf).

⁵³⁵. Norwegian Organisation for Asylum Seekers (2016) "Seeking Asylum in Turkey, A Critical Review of Turkey's Asylum Laws and Practices," www.asylumineurope.org/sites/default/files/resources/noas-rapport-tyrkia-april-2016_0.pdf.

⁵³⁶. Key measures of the March 18 deal include that as of March 20, 2016, all new irregular migrants crossing from Turkey to the Greek islands will be returned to Turkey; for every Syrian being returned to Turkey from the Greek islands, another Syrian will be resettled in the EU; Turkey will take necessary measures to prevent new sea or land routes for irregular migration opening from Turkey to the EU. Once irregular crossings between Turkey and the EU end or have been substantially reduced, a Voluntary Humanitarian Admission Scheme will be activated. The EU will, in close cooperation with Turkey, further speed up the disbursement of the €3 billion initially allocated under the Facility for Refugees in Turkey. Once these resources are almost spent, the EU will mobilize additional funding for the facility up to an additional €3 billion till the end of 2018; Di Bartolomeo, A. (2016) "EU Migration Crisis Actions with a Focus on the EU-Turkey Agreement," Migration Policy Centre, http://cadmus.eui.eu/bitstream/handle/1814/40925/RSCAS_MPC_2016_04.pdf?sequence=1&isAllowed=y.

1. LAW

Refugee Law

National legislation. Turkey's new migration and asylum law framework, which was developed in 2013, features two distinct categories of protection: (1) international protection statuses ("refugee status" and "conditional refugee status"), which are available upon individual assessment of asylum seekers, and (2) temporary protection status, which can be provided on a group basis in mass-arrival situations. Turkey's migration policy was reformed by promulgation in April 2013 of the Law on Foreigners and International Protection (LFIP), which provides a comprehensive framework for protecting and assisting all asylum seekers and refugees, regardless of their country of origin, by allowing individuals to apply for "international protection" in line with EU migration policies and international standards.⁵³⁷ The law, which has been in force since April 2014, however, maintains the geographical limitation to the 1951 Refugee Convention and differentiates three different types of status. Turkey provides "refugee status" only to individuals who fall within the refugee definition of the 1951 Refugee Convention but come from a "European country of origin."⁵³⁸ Persons who fall within the refugee definition of the 1951 Refugee Convention but come from a so-called non-European country of origin are classified as "conditional refugees," and allowed to reside temporarily in Turkey, until they are resettled to third countries in cooperation with the United Nations High Commissioner for Refugees (UNHCR). Finally, persons who do not fulfill the eligibility criteria for either refugee status or conditional refugee status under LFIP, but who would be subjected to the death penalty or torture in their country of origin if returned, or would be at "personalized risk of indiscriminate violence" because of situations of war or internal armed conflict, qualify for "temporary protection." Separately, some Iraqi asylum seekers reside in Turkey pursuant to a "humanitarian residence permit."⁵³⁹ There is no difference in access to fundamental rights to employment, education, health care, legal representation, and other rights, as well as international safeguards, such as protection from *refoulement*, the principle of nonpenalization and so on between the three types of status.⁵⁴⁰ However, different procedures apply in accessing these rights. Also, all three

⁵³⁷. Turkey: Law No. 6458 of 2013 on Foreigners and International Protection [Turkey], April 4, 2013, www.goc.gov.tr/files/files/eng_minikanun_5_son.pdf; Açıkgoz, M., and H. O. Ariner (2014) "Turkey's New Law on Foreigners and International Protection: An Introduction," Briefing Paper 2, Turkish Migration Studies Group at Oxford, Centre on Migration, Policy and Society, University of Oxford, www.compas.ox.ac.uk/media/BP-2014-TurkMis-Turkey_New_Law_Foreigners-1.pdf.

⁵³⁸. Before the LFIP 2013, the 1994 Regulation on Asylum No. 1994/6169, "Procedures and Principles related to Possible Population Movements and Aliens Arriving in Turkey either as Individuals or in Groups from Another Country" was applicable; refugees from countries outside Europe were not eligible to receive international protection from the Turkish government and had to turn to the UNHCR for protection and apply for temporary asylum from the Turkish authorities for permission to remain in Turkey while the UNHCR evaluated their claims. As a result of these complex and parallel procedures, it was taking months or years for applications to be processed; if their application was denied, applicants had to leave Turkey; Levitan, R. (2009) "Refugee Protection in Turkey," *Forced Migration Review* 32, www.fmreview.org/sites/fmr/files/FMRdownloads/en/statelessness/levitan.pdf.

⁵³⁹. A specific process may apply for Iraqis as per Article 46 of the LFIP and two circulars introduced by DGMM in August 2014 and February 2015: if an Iraqi national does not want to apply for international protection (asylum), and is not willing to go back to Iraq in view of the deteriorating security situation in Iraq, then he or she is given the option to stay in Turkey with a humanitarian residence permit. Thus, this is not a "status" given by DGMM but a process that is being allowed based on the preference of the individual.

⁵⁴⁰. The law and the secondary legislation grant these rights equally, information provided by the UNHCR.

durable solutions (local integration, resettlement, and voluntary repatriation) are available to temporary protection beneficiaries, whereas resettlement and voluntary repatriation are the only available durable solutions for conditional refugees.⁵⁴¹

Alongside the LFIP, a Temporary Protection Regulation that came into effect in October 2014 and that sets out specific provisions for registration and documentation procedures provides Syrian nationals, refugees, and stateless persons coming from Syria with the right to a lawful stay in Turkey and grants access to the labor market and to education, health care, legal representation, interpretation services, and social assistance and services.⁵⁴²

Institutions. The LFIP gives authority to an agency within the Ministry of Interior, the Directorate General of Migration Management (DGMM), for carrying out all procedures related to foreigners and people seeking international protection, including temporary protection. In particular, the DGMM is tasked with “promulgating policies related to foreigners and international protection as well as refugee registration.”⁵⁴³ It is also tasked with issuing regulations regarding the rights and obligations of persons receiving temporary protection. Because the agency is still developing,⁵⁴⁴ the UNHCR continues to assume an important role as a complementary protection actor for individually arriving non-Syrian asylum seekers subject to the DGMM international protection procedure, but the UNHCR is gradually handing over the registration and refugee status determination functions.⁵⁴⁵ The UNHCR also provides support to the relevant Turkish authorities with respect to the temporary protection of Syrians in Turkey and works with the DGMM for identification, protection, and resettlement of a small number of Syrians with special protection needs.⁵⁴⁶

The Turkish Disaster and Emergency Management Presidency, an agency controlled by the Prime Minister, reportedly retains responsibility for running the camps.⁵⁴⁷

Access to protection. Although Turkey initially applied an open-door policy, the Syrian conflict and the ensuing massive displacement are now in their sixth year; therefore, Turkey’s 19 official border crossings are generally closed to Syrians. The possession of a valid passport, which only a minority were able to

⁵⁴¹. Conditional refugees are also excluded from family-unification rights whereas temporary protection beneficiaries are granted such family-unification rights in Turkey.

⁵⁴². İçduygu, A. (2015) “Syrian Refugees in Turkey: The Long Road Ahead,” Transatlantic Council on Migration, Migration Policy Institute. www.goc.gov.tr/files/files/eng_minikanun_5_son.pdf.

⁵⁴³. In the period before the LFIP, responsibility for registering and processing asylum seekers was entrusted to the Foreigners Department of the National Police, “Asylum Information Database—Turkey,” www.asylumineurope.org/reports/country/turkey/introduction-asylum-context-turkey.

⁵⁴⁴. Bidinger, S. (2015) “Syrian Refugees and the Right to Work: Developing Temporary Protection in Turkey,” Boston University International Law Journal, Vol. 33, www.bu.edu/ilj/files/2015/01/Bidinger-Syrian-Refugees-and-the-Right-to-Work.pdf.

⁵⁴⁵. Asylum Information Database—Turkey, www.asylumineurope.org/reports/country/turkey/introduction-asylum-context-turkey.

⁵⁴⁶. Norwegian Organisation for Asylum Seekers (2016) “Seeking Asylum in Turkey, A Critical Review of Turkey’s Asylum Laws and Practices,” www.asylumineurope.org/sites/default/files/resources/noas-rapport-tyrkia-april-2016_0.pdf.

⁵⁴⁷. Bidinger, S., A. Lang, D. Hites, Y. Kuzmova, E. Nouredine, and S. M. Akram (2014) “Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing,” Boston University School of Law, www.bu.edu/law/central/jd/programs/clinics/international-human-rights/documents/FINALFullReport.pdf.

provide, is no longer sufficient to be admitted to Turkey, and as of January 8, 2016, Syrians are required to have a visa to enter the country. Nevertheless, admission of vulnerable groups from Syria without passports continues on regular basis.⁵⁴⁸ However, under these circumstances, the overwhelming majority of those fleeing Syria use irregular entry points, passing through dangerous crossings and minefields.

There have been cases of unlawful detention in and unlawful deportation and *refoulement* from Turkey of asylum seekers and refugees, especially as a result of the EU-Turkey negotiations on migration and Turkey's pledge to the EU to restrict transit through its territory to Europe.⁵⁴⁹

Freedom of movement. International protection applicants are assigned to a province by the DGMM, under the dispersal scheme based on Article 71 of the LFIP.⁵⁵⁰

They would normally be required to stay in their assigned province until the end of the proceedings, although change of residence city is possible, and any travel outside the assigned province requires written permission. Failure to comply may lead to the implicit withdrawal of their application.⁵⁵¹

Freedom of movement for temporary protection beneficiaries is also limited.⁵⁵² Temporary leave from the camps can be granted for up to 10 days; for Syrian refugees living outside the camps, the authorities need to be notified if the person moves to another province.⁵⁵³ In August 2015, a written instruction from the DGMM, circulated to Governorates across Turkey, ordered the institution of measures by provincial authorities to control the movement of Syrians within Turkey.⁵⁵⁴

Right to work – refugee and labor and employment law

The LFIP contains provisions regarding access to the labor market while a number of implementing regulations determine the procedures and principles governing employment of the distinct status holders.⁵⁵⁵ A Regulation on Working Procedures of International Protection Applicants and Holders of International Protection Status issued in 2016 provides that foreigners who have the status of refugee or temporary protection have the right to work for an employer or on their own account upon receiving legal status.⁵⁵⁶ However, to work independently or be employed, status applicants or persons having

⁵⁴⁸. Information provided by the UNHCR.

⁵⁴⁹. Norwegian Organisation for Asylum Seekers (2016) "Seeking Asylum in Turkey, A Critical Review of Turkey's Asylum Laws and Practice," www.asylumineurope.org/sites/default/files/resources/noas-rapport-tyrkia-april-2016_0.pdf.

⁵⁵⁰. Applicants are referred to 62 cities in line with family links or other connections and based on their preferences.

⁵⁵¹. Asylum Information Database, Turkey, www.asylumineurope.org/reports/country/turkey/introduction-asylum-context-turkey.

⁵⁵². Asylum Access (2015), "Is Turkey's Refugee Work Permit Program Doing Enough?" Refugee Work Rights, <https://rtwasylumaccess.wordpress.com/2015/02/19/is-turkeys-refugee-work-permit-program-doing-enough/>.

⁵⁵³. Information provided by the International Labour Organisation.

⁵⁵⁴. Asylum Information Database, Turkey, www.asylumineurope.org/reports/country/turkey/introduction-asylum-context-turkey.

⁵⁵⁵. As per Article 89 (4) (c) of the LFIP, the principles and procedures governing the employment of applicants or international protection beneficiaries shall be determined by the Ministry of Labour and Social Security in consultation with the Ministry of Interior.

⁵⁵⁶. Article 4 (1) Regulation No. 6458 on Working Procedures of International Protection Applicants and Holders of International Protection Status was issued in Official Journal No. 29695 dated April 29, 2016.

conditional refugee status are obliged to have a work permit issued before they can start working; they can apply for a work permit six months after applying for international protection status.⁵⁵⁷ Applicant foreigners or conditional refugees to be employed in seasonal agriculture or animal husbandry are exempt from work permit requirements, but geographical restrictions and quotas can be introduced at the discretion of the Ministry of Labour and Social Security.⁵⁵⁸

Once an individual receiving international protection or a conditional refugee has a work permit, he or she is permitted to work independently or for any employer with the condition that access to the labor market may be temporarily restricted within market sectors, geographic areas, or professions when required by the conditions of the labor market as well as a by quota that requires a ratio of five Turkish citizens for every foreign worker under international protection. Refugees and temporary protection beneficiaries who have been residing in Turkey for three years, or are married to Turkish citizens, or have children with Turkish citizenship are exempted from these restrictions.⁵⁵⁹ With regard to remuneration, status applicants or conditional refugees cannot be paid less than the minimum wage.⁵⁶⁰

Announced in 2014, in January 2016 the Turkish government adopted the Regulation on Work Permits of Foreigners under Temporary Protection, allowing Syrians in possession of temporary identity cards to apply for work permits six months after their initial registration with the DGMM. The application for a work permit needs to be initiated by the employer willing to hire the refugee,⁵⁶¹ while those seeking self-employment are “entitled to lodge an application for independent work permit.”⁵⁶² As with applicant foreigners and conditional refugees, foreigners under temporary protection who will work in seasonal agricultural or livestock breeding activities are under the scope of work permit exemption although geographical or quota restrictions may apply.⁵⁶³ Although only able to work in the provinces in which they officially reside, they are not subject to sectoral or occupational restrictions, except for teachers and doctors, for whom the opinion of the Ministry of Education, Higher Education Board, and Ministry of Health is sought to verify diplomas and competencies. The Ministry of Labour and Social Security approves work permit applications on the basis of several evaluation criteria, including a quota of 10 percent for foreigners under temporary protection except in the agricultural and animal husbandry sector, where nonfixed quota restrictions can be introduced.⁵⁶⁴ Once employed, foreigners under temporary protection cannot be paid less than the minimum wage.⁵⁶⁵

2. POLICY AND PRACTICE

Constraining factors

The vast majority of refugees do not have access to formal employment. Employers may be unwilling to hire foreigners despite provision of incentives by the Ministry of Labour and Social Security to employers

⁵⁵⁷. Article 5 (1) and Article 6 (3) of Regulation No. 6458.

⁵⁵⁸. Article 9 (1) and (2) of Regulation No. 6458.

⁵⁵⁹. Article 18 of Regulation No. 6458.

⁵⁶⁰. Article 17 of Regulation No. 6458.

⁵⁶¹. The cost of a work permit is about US\$65; it is valid for one year, information provided by the UNHCR.

⁵⁶². Article 5 (1), (2), and (3) of the Regulation on Work Permits of Foreigners under Temporary Protection.

⁵⁶³. Article 5 (4) and (5) of the Regulation on Work Permits of Foreigners under Temporary Protection.

⁵⁶⁴. Article 8, Regulation 2016/8375 on Work Permits for Foreigners under Temporary Protection.

⁵⁶⁵. Article 10, Regulation 2016/8375 on Work Permits for Foreigners under Temporary Protection.

who would like to train and employ refugees. Because of challenges in accessing the labor market, but also difficulties in getting access to financing and securing loans, Syrians most often seek low-skill work. Language barriers, low levels of education or the inability to prove the level of education, the lack of information about their rights, and work permit procedures, in addition to financial pressures, are additional barriers preventing refugees from accessing the formal labor market.⁵⁶⁶ The protracted conflict in Syria combined with gradual exhaustion of their savings and limited access to assistance outside the camps have forced Syrians to join the informal labor market to sustain themselves.⁵⁶⁷ Competition between refugees and Turkish nationals, especially for low-skilled jobs, has gradually put downward pressure on wages.⁵⁶⁸ Furthermore, refugees working in the informal economy have no social security or other benefits, they cannot pursue any legal recourse if abused, and they can fall prey to human trafficking and exploitation. Urban refugees who are not registered are particularly vulnerable to abuse and exploitation.⁵⁶⁹

Facilitating factors

Turkish authorities have gradually allowed work permits to be issued to refugees, reportedly “to crack down on black market practices and allow their employment within a legal framework, without hurting the local workforce.”⁵⁷⁰ Turkey’s latest effort to offer work permits to Syrians is the outcome of a deal made with the EU in November 2015 to prevent secondary migration toward Europe in return for financial support, the granting of visas to Turks, and renewed talks on joining the EU.⁵⁷¹ Some analysts say this would allow Syrians to “spread their skills across the market, removing the extreme competition for low-wage jobs and stimulate the Turkish economy, and enable refugees to enter the market as consumers, and not merely as aid recipients.”⁵⁷²

⁵⁶⁶. Norwegian Organisation for Asylum Seekers (2016) “Seeking Asylum in Turkey, A Critical Review of Turkey’s Asylum Laws and Practices,” www.asylumineurope.org/sites/default/files/resources/noas-rapport-tyrkia-april-2016_0.pdf.

⁵⁶⁷. Bidinger, S., A. Lang, D. Hites, Y. Kuzmova, E. Nouredine, and S. M. Akram (2014) “Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing,” Boston University School of Law, www.bu.edu/law/central/jd/programs/clinics/international-human-rights/documents/FINALFullReport.pdf

⁵⁶⁸. For instance, according to a study carried out by the Disaster and Emergency Management Presidency of Turkey in 2013 (“Syrian Refugees in Turkey”), more than half of refugees earn less than US\$250 per month, far less than the minimum wage in Turkey, International Labour Organization Regional Office for Arab States (2015) “Access to Work for Syrian Refugees in Jordan: A Discussion Paper on Labour and Refugee Laws and Policies,” www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_357950.pdf.

⁵⁶⁹. İcduygu, A. (2015) “Syrian Refugees in Turkey: The Long Road Ahead,” Transatlantic Council on Migration, Migration Policy Institute, www.migrationpolicy.org/research/syrian-refugees-turkey-long-road-ahead.

⁵⁷⁰. *Daily Mail* (2014) “Turkey to Grant Syrian Refugees Work Permits,” www.dailymail.co.uk/wires/afp/article-2833158/Turkey-grant-Syrian-refugees-work-permits.html

⁵⁷¹. *Hurriyet Daily News* (2014) “Turkey Plans to Ease Work Permits for Foreigners,” www.hurriyetdailynews.com/turkey-plans-to-ease-work-permits-for-foreigners.aspx?pageID=238&nID=70280&NewsCatID=347

⁵⁷². Bidinger, S. (2015) “Syrian Refugees and the Right to Work: Developing Temporary Protection in Turkey,” Boston University International Law Journal, Vol. 33, p. 236, www.bu.edu/ilj/files/2015/01/Bidinger-Syrian-Refugees-and-the-Right-to-Work.pdf.

Alongside efforts to ease entry to the job market, since 2014 Turkish authorities have been facilitating greater access for Syrian refugees to its public schools,⁵⁷³ accrediting a parallel system of private temporary education centers that offer a Syrian curriculum,⁵⁷⁴ granting scholarships to Syrian university students, and providing language courses both inside and outside the refugee camps.⁵⁷⁵ Those under either temporary protection or international protection are granted access to vocational training courses ran by the Turkish Employment Agency (İŞKUR) and the Public Education Centres structures under each Provincial Directorate of Education.⁵⁷⁶ Some nongovernmental organizations also provide free language courses and vocational courses to temporary protection beneficiaries in some localities.

3. MEDIATING CONDITIONS

Socioeconomic conditions

Turkey is an upper-middle-income economy. It ranks 72nd on the Human Development Index. According to the World Bank, Turkey is experiencing a transition and is on the path toward becoming a high-income economy despite its high unemployment rate, especially among the youth.⁵⁷⁷ Turkey's GDP growth remained stable and even increased in the first half of 2015 despite the regional crisis and political uncertainty. The refugee crisis nevertheless has placed a heavy financial burden on Turkey, which, as of March 2016 had spent approximately US\$10 billion providing both camp-based services and some assistance to urban refugees.⁵⁷⁸ Despite recent additional financial support provided by the EU, the continuous migration influx from neighboring countries is likely to pose a challenge for poverty reduction.⁵⁷⁹

Accommodated in camps at the inception of the Syrian refugee crisis, new arrivals are now taking shelter in towns and cities, growing the ranks of Turkish nationals working in the informal economy. The sheer

⁵⁷³. Turkish public schools with high numbers of Syrians are facing significant pressure including capacity to deal with students who have been out of school for an extended period, need psychosocial or additional academic support to adapt to the new curriculum, and do not speak Turkish, Theirworlds (2015) "Partnering for a Better Future: Ensuring Educational Opportunity for All Syrian Refugee Children and Youth in Turkey," www.aworldatschool.org/page/-/uploads/Reports/Theirworld%20-%20Educational%20Opportunity%20for%20Syrian%20Children%20and%20Youth%20in%20Turkey%202015_09_10%20Release.pdf?nocdn=1.

⁵⁷⁴. Human Rights Watch (2015), "'When I Picture Myself, I See Nothing' Barriers to Education for Syrian Refugee Children in Turkey," www.hrw.org/sites/default/files/report_pdf/turkey1115_reportcover_web.pdf.

⁵⁷⁵. Cagaptay, S. (2014) "The Impact of Syria's Refugees on Southern Turkey," Policy Focus 130, The Washington Institute for Near East Policy, www.washingtoninstitute.org/uploads/Documents/pubs/PolicyFocus130_Cagaptay_Revised3s.pdf.

⁵⁷⁶. Temporary education centers offer an adapted Syrian curriculum in Arabic; they are recognized and certified by the Ministry of National Education (MoNE) and operate both in and outside of refugee camps; see Article 104 of the Active Labour Force Regulation and MoNE Circular 2014/21 on Education Services for Foreigners in Our Country.

⁵⁷⁷. The World Bank (2014), "Turkey's Transitions," Report No. 90509, www.wds.worldbank.org/external/default/WDSPContentServer/WDSP/IB/2015/08/26/090224b083099d03/3_0/Rendere d/PDF/Main0report.pdf.

⁵⁷⁸. *The Guardian* (2016) "Turkey Outlines 'One for One' Plan to Tackle Syrian Refugee Crisis," www.theguardian.com/world/2016/mar/07/eu-offers-another-3bn-to-turkey-at-emergency-migration-summit.

⁵⁷⁹. The World Bank (2015) "Micro Poverty Outlook, Europe and Central Asia."

number of refugees, especially in urban areas bordering Syria,⁵⁸⁰ and the expanding length of their stay are fueling public hostility in the form of social tension and xenophobia because their presence is perceived to be contributing to rising housing costs, increased unemployment, and competition with Turkish citizens. The support provided to Syrians is perceived by many to be an act of charity as opposed to a legal right or obligation, and Syrians are consequently seen as unfairly benefiting from the limited resources of the country when many Turkish citizens live in poverty.⁵⁸¹ Their presence is furthermore perceived to be having a negative impact on the labor market, with a majority of people concerned that they will lose their jobs because, as in Jordan and Lebanon, some employers now prefer to employ Syrians over local workers since they are cheaper.⁵⁸²

The presence of refugees has changed both the level and composition of Turkish employment. It has led to the withdrawal from the labor market of low-educated, female Turkish workers in informal agricultural jobs.⁵⁸³ At the same time, higher-paid formal jobs filled by native workers have increased and so have average wages for natives, suggesting that there has been an important compositional change in employment.⁵⁸⁴ Data from the Turkish Statistic Institute also show that while the unemployment rate in southeastern Turkey, where most refugees are concentrated, reached 14.5 percent in 2013,⁵⁸⁵ new economic development was also reported and unemployment decreased in the three provinces of Kilis, Gaziantep, and Adiyaman in southeast Turkey.

Refugee profiles

Most refugees have limited social ties with local communities and do not share their language. Syrian Kurds are the notable exception; they can integrate into Kurdish areas of southern Turkey and thus enjoy better access to social networks and community support.⁵⁸⁶ While the majority of Syrians who initially fled to Turkey were Sunni Muslims, beginning in 2014 the arrival of Yazidis, Armenians, Assyrians, Kurds, and Alawites was met with anti-Arab sentiment, and the majority of Turkish nationals feel they do not share

⁵⁸⁰. At the start of 2014 almost half of Syrian refugees lived outside formal camps, and by late 2014 almost four out of five refugees were sheltered in towns and cities, İcduygu, A. (2015) "Syrian Refugees in Turkey: The Long Road Ahead," Transatlantic Council on Migration, Migration Policy Institute, www.migrationpolicy.org/research/syrian-refugees-turkey-long-road-ahead.

⁵⁸¹. Norwegian Organisation for Asylum Seekers (2016) "Seeking Asylum in Turkey, A Critical Review of Turkey's Asylum Laws and Practices." www.asylumineurope.org/sites/default/files/resources/noas-rapport-tyrkia-april-2016_0.pdf.

⁵⁸². Özden, S. (2013) "Syrian Refugees in Turkey," Migration Policy Centre, Robert Schuman Centre for Advanced Studies, European University Institute, www.migrationpolicycentre.eu/docs/MPC-RR-2013-05.pdf.

⁵⁸³. Del Carpio, X., and M. Wagner (2015) "The Impact of Syrians Refugees on the Turkish Labor Market," Policy Research Working Paper 7402, World Bank Group, www-wds.worldbank.org/external/default/WDSPContentServer/WDSP/IB/2016/02/09/090224b08415e3b5/3_0/Rendere d/PDF/The0impact0of00Turkish0labor0market.pdf.

⁵⁸⁴. IMF (2016) "The Refugee Surge in Europe: Economic Challenges," IMF Staff Discussion Note, www.imf.org/external/pubs/ft/sdn/2016/sdn1602.pdf.

⁵⁸⁵. Cagaptay, S. (2014) "The Impact of Syria's Refugee on Southern Turkey," Policy Focus 130, The Washington Institute for Near East Policy, www.washingtoninstitute.org/uploads/Documents/pubs/PolicyFocus130_Cagaptay_Revised3s.pdf

⁵⁸⁶. Seferis, L. (2014), "DRC Experiences of Cash Assistance to Non-Camp Refugees in Turkey and Lebanon," Field Exchange Issue 48, www.enonline.net/fex/48/drcexperiences.

the same culture as Syrians and would choose not to be neighbors with Syrians.⁵⁸⁷ Such attitudes are also negatively affecting the lives of non-Syrian asylum seekers and refugees in general. Some Sudanese and Somali refugees have reported being denied work and housing because of their skin color while other refugees with non-Muslim and non-Sunni backgrounds also report being discriminated against.⁵⁸⁸

4. OUTCOMES

Participation in the labor market

Between 2011 and 2014, only 3,673 Syrian nationals were able to obtain work permits.⁵⁸⁹ According to the Turkish authorities, as of January 2016 some 7,351 Syrian refugees with residence permits (not Syrians under temporary protection) had been formally given work permits.⁵⁹⁰

Despite finding themselves in competition with unskilled Turkish workers, Syrians find temporary and informal jobs in the sectors of domestic work, construction, textiles, and agriculture.⁵⁹¹ Threats of heavy fines for employing individuals without work permits have not prevented the rapid rise of cheap illegal migrant labor, and Turkish authorities have turned a blind eye to Syrians' informal participation in the workforce.⁵⁹² Many refugees have reportedly mainly taken seasonal agricultural and low-skilled jobs, sometimes accepting worse working conditions, including for children.⁵⁹³

There has also been a sharp rise of new enterprises established by Syrians, estimated to have reached 4,000 in May 2016.⁵⁹⁴

SUMMARY AND CONCLUSION

Although Turkey's recent legislation and its proactive policy making on immigration and asylum issues are more closely aligned with international standards, shortfalls remain—in practice, the new law has not yet caught up with the standards it has set because of Turkey's limited implementation capacity. Despite

⁵⁸⁷. Erdogan, M (2015) "Perception of Syrians in Turkey," http://file.insightturkey.com/Files/Pdf/06_erdogan_5.pdf.

⁵⁸⁸. Norwegian Organisation for Asylum Seekers (2016) "Seeking Asylum in Turkey, A Critical Review of Turkey's Asylum Laws and Practices," www.asylumineurope.org/sites/default/files/resources/noas-rapport-tyrkia-april-2016_0.pdf.

⁵⁸⁹. Asylum Information Database, "Turkey." www.asylumineurope.org/reports/country/turkey/introduction-asylum-context-turkey.

⁵⁹⁰. Some 100,000 foreigners applied to obtain work permits in Turkey between 2009 and 2013, and 64,279 of these applications were successful, according to data from the Labour Ministry, *Hurriyet Daily News* (2014) "Turkey Plans to Ease Work Permits for Foreigners"; www.hurriyetdailynews.com/turkey-plans-to-ease-work-permits-for-foreigners.aspx?pageID=238&nID=70280&NewsCatID=347.

⁵⁹¹. Boyacıoğlu, H. (2014) "Turkey Takes First Step to Offer Work Permit to Syrians," *Hurriyet Daily News*, www.hurriyetdailynews.com/turkey-takes-first-step-to-offer-work-permit-to-syrians.aspx?pageID=238&nID=73353&NewsCatID=347.

⁵⁹². Bidinger, S., A. Lang, D. Hites, Y. Kuzmova, E. Noureddine, and S. M. Akram (2014) "Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing," Boston University School of Law, www.bu.edu/law/central/jd/programs/clinics/international-human-rights/documents/FINALFullReport.pdf

⁵⁹³. International Labour Organization Regional Office for Arab States (2015) "Access to Work for Syrian Refugees in Jordan: A Discussion Paper on Labour and Refugee Laws and Policies." www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_357950.pdf.

⁵⁹⁴. *Financial Times* (2016) "Syrian Refugee Entrepreneurs Boost Turkey's Economy," www.next.ft.com/content/93e3d794-1826-11e6-b197-a4af20d5575e.

being gradually allowed more formal labor market access, because of Syrian refugees' ever-increasing numbers and prolonged stay, job creation is a structural challenge, especially in border towns and cities where Syrians constitute a high percentage of the population. As a result, many refugees remain socially and economically vulnerable, and to sustain themselves, the majority will continue to access the informal labor market where they are vulnerable to abuse and exploitation. Some notable measures have been taken to redress these shortfalls, including by gradually integrating more refugees into the labor market, but these measures will have to be balanced with ensuring social cohesion.

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United Kingdom

PROFILE

Party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol

123,067 refugees and 45,870 asylum seekers totaling 168,937 = 0.25 percent of a total estimated population of 65.1 million

Gradually increasing number of refugees, although the figure remains significantly lower than the 2002 peak, and relatively constant refugee status recognition rates; highly regulated entry

Refugees are widely distributed in urban areas

Human development rank and index: 14th and 0.907

GDP: Growth 2.3 percent; Per capita US\$43,734

High-income economy

Unemployment rate: 6.3 percent

CONTEXT

The United Kingdom (UK), like most European countries, has experienced significant volatility in refugee arrivals, asylum-seeker applications, and mixed migration flows in the past 20 years. The number of asylum claims peaked in 2002, at slightly more than 84,000 (excluding dependents). Since then, asylum claims have substantially decreased, although in recent years the figure has been climbing: asylum applications increased by 29 percent to 32,414 (excluding dependents) in 2015, the highest number of applications since 2004 (33,960). Recent years have seen a steep rise in general immigration, notably from European Union member states (EUMSs), leading to a substantial overall increase in net migration to the UK. These trends ensure that refugee, asylum, and migration issues retain a high political and public saliency in the UK.

Nevertheless, the UK's island status enables it to control borders and regulate entry to a much higher degree than mainland EUMSs. Thus, the UK has developed an extensive portfolio of legislation and policy initiatives to reduce the scale of asylum seeking and manage migration as a whole.

LAW

Refugee Law

National legislation. Although party to the 1951 Refugee Convention and the 1967 Protocol, there is no separate national refugee law in the UK. Instead, obligations under the 1951 Refugee Convention and the 1967 Protocol are largely provided for under the wider legal framework.

A sustained objective of successive UK governments during the past two decades has been to deter and regulate entry and strictly manage all forms of in-migration, including those seeking asylum. Accordingly, since 1996 nine major statutes have been enacted dealing with immigration, asylum, and refugee rights, many of them curtailing the right to work and access to welfare benefits. The most recent legislation is the Immigration Act 2016 which impacts on employment and housing eligibility for asylum seekers, refugees, and other categories of migrants. Despite many legal challenges by organizations representing refugees and asylum seekers, including ultimately appeals to the European Court of Human Rights and the European Court of Justice, successive legislation continues to tighten regulations. Significantly, the United Nations High Commissioner for Refugees (UNHCR) “recognises the important role played by UK courts in the development of international refugee law,” and intervenes in selected cases in the national courts.⁵⁹⁵

The UK is a ‘selective participant’ of the Common European Asylum System (2013), which sets out common standards and establishes cooperation between EUMSs on the treatment of asylum claims, but has not signed recent directives. Consistent with its regulatory approach and the control of borders, the UK is a signatory to the Dublin Regulation III (Regulation No. 604/2013) for determining the EU member state responsible for processing an asylum claim but has decided to opt out of the Schengen Agreement.⁵⁹⁶

Institutions. All immigration matters, including refugee and asylum seeking, are the responsibility of the Home Office under the aegis of the Minister for Immigration, who is responsible for several directorates that deal with different aspects of immigration, such as strategy, visas and immigration, enforcement, and the Border Directorate. All immigration matters reverted to direct control of the Home Office in 2013 when the United Kingdom Border Agency (UKBA), a widely criticized government agency that had been responsible for all immigration matters, was wound up.

Access to protection. The UK has an intricate process for access to protection. Application for protection as a refugee can be made at UK ports or in the country itself. In-country applications that are not made as soon as possible (a period not specified) after arrival risk being denied welfare support and

595. UNHCR (not dated) “Protecting Refugees in the UK,” www.unhcr.org/protecting-refugees-in-the-united-kingdom.html.

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

accommodation, and the delay may harm applicants' claims at a later date. Nevertheless, 90 percent of applications in the year ending September 2014 were made in country rather than at port of entry.⁵⁹⁷

A screening interview is held with a screening officer, at which time the asylum claim is registered and an asylum interview is held with a caseworker who can make a range of decisions, including granting permission to stay in the UK as a refugee, granting permission to stay for humanitarian reasons (that is, subsidiary protection), discretionary leave to remain, or refusal of the claim for refugee protection. Those receiving permission to stay on refugee or humanitarian grounds are granted five years leave to enter or remain in the UK. After five years they may apply to settle in the UK and would receive a status known as "indefinite leave to remain."⁵⁹⁸

Successful applicants with partners and children not already in the UK but part of a family formed before the applicant left his or her country of origin can apply for family unification. Similar conditions apply after the grant of indefinite leave to remain.

Although the target for a status decision is six months and the government has strenuously tried to apply that decision period, in practice, decisions (and appeals, see below) usually take much longer. Thus, at the end of September 2014, 22,879 asylum applications received since April 2006 were pending a decision (initial decision, appeal, or further review), an increase of nearly 50 percent over the previous year.⁵⁹⁹ Other surveys using different data sets indicate that 19 percent of asylum seekers waited less than six months for a decision while 22 percent waited more than five years.⁶⁰⁰

The number of initial decisions on asylum applications in the year ending September 2014 was 15,779; of these decisions, 37 percent (5,915) were grants of asylum or temporary protection, a rate similar to that of the previous year. The balance of 63 percent of applicants, almost 10,000 applications, received initial refusal. These percentages have been consistent over the past three years.⁶⁰¹

597. Home Office (2014) "Immigration Statistics, July–September 2014," www.gov.uk/government/publications/immigration-statistics-july-to-september-2014/immigration-statistics-july-to-september-2014.

598. The five-year period for application for indefinite leave to remain replaced the immediate grant of indefinite leave to remain that had been available until 2005.

599. Home Office (2014) "Immigration Statistics, July–September 2014," www.gov.uk/government/publications/immigration-statistics-july-to-september-2014/immigration-statistics-july-to-september-2014.

600. Cheung, S. Y. , and J. Phillimore (2013) "Social Networks, Social Capital and Refugee Integration," Research Report for Nuffield Foundation, www.birmingham.ac.uk/Documents/college-social-sciences/social-policy/iris/2013/nuffield-refugees-integration-research-report.pdf.

601. Home Office (2014) "Immigration Statistics, July–September 2014," www.gov.uk/government/publications/immigration-statistics-july-to-september-2014/immigration-statistics-july-to-september-2014.

Refusal of an application for refugee protection (or subsidiary status) can be appealed, although the conditions under which appeals can be made, the time period for making an application, and the process for hearing appeals have become more circumscribed in recent years. Appeals are made to an independent first-tier tribunal (the Immigration and Asylum Chamber). Of just over 6,500 appeals in the year ending September 2014 (a drop of nearly 30 percent over the previous year), 67 percent were dismissed, 27 percent were allowed, and 6 percent were withdrawn. In the period 2004–13 only 24 percent of the 78 percent of applicants who were rejected succeeded at appeal.⁶⁰²

Those refused permission to remain may be assisted with voluntary return home or forced to leave, often after detention at an immigration removal center.⁶⁰³

Both detention and removal and deportation measures have increased in severity in recent years as part of the immigration control apparatus. For example, there have been between 2,000 and 3,500 migrants detained at any given time over the past five years, and asylum seekers account for about 60 percent of the total immigrant detainee population.⁶⁰⁴

An extensive array of civil society organizations—both national and locally based—provide valuable information and advisory resources for asylum seekers and refugees on *rights and entitlements and* status application procedures. However, legal support is now heavily circumscribed by the requirement that legal advice on applying for and appealing a status determination can only be given by organizations registered by the government’s Office of the Immigration Services Commissioner⁶⁰⁵ and the substantial reduction in legal aid available to asylum seekers appealing negative status decisions.

Widening the perspective on access to protection beyond legal and procedural matters, since 1999, the Home Office has been able to grant destitute asylum seekers financial or accommodation support while their applications are being processed, although they are ineligible if they are found not to have applied for asylum “as soon as reasonably practicable.” However, there are exceptions for families, people with special needs, and cases where a refusal of support would be a breach of the individual’s human rights. At the end of March 2015, almost 30,500 asylum seekers and their dependants were being supported,⁶⁰⁶

602. Blinder, S. (2016) “Briefing—Migration to the UK: Asylum,” The Migration Observatory, Centre on Migration, Policy and Society (COMPAS), University of Oxford, 5th Revision, www.migrationobservatory.ox.ac.uk/wp-content/uploads/2016/04/Briefing-Asylum.pdf.

603. Voluntary departures numbering 33,978 were recorded in the year ending September 2014, and there were 12,461 enforced removals, Home Office (2014) “Immigration Statistics, July–September 2014,” www.gov.uk/government/publications/immigration-statistics-july-to-september-2014/immigration-statistics-july-to-september-2014.

604. Blinder, S. (2016), “Briefing—Deportations, Removals and Voluntary Departures from the UK,” The Migration Observatory, COMPAS, University of Oxford, , www.migrationobservatory.ox.ac.uk/resources/briefings/deportations-removals-and-voluntary-departures-from-the-uk/.

605. Office of the Immigration Services Commissioner (2016) “How to Become a Regulated Immigration Advisor” Guidance, www.gov.uk/government/publications/how-to-become-a-regulated-immigration-adviser/how-to-become-a-regulated-immigration-adviser.

606. House of Commons (2015) “‘Asylum Support’: Accommodation and Financial Support for Asylum Seekers,” Briefing Paper Number 1909, www.parliament.uk/briefing-papers/sn01909.pdf

a figure that has increased over the past three years, but still well below the total at the end of 2003 (the start of published data series), when 80,123 asylum seekers were in receipt of assistance.

With regard to protection, the UK is unique among EUMSs in providing independent scrutiny of its immigration functions through the UK Independent Chief Inspector of Borders and Immigration, who reports directly to the Home Secretary. A number of the Inspector's reports have challenged UKBA and the Home Office on specific aspects of processing and the treatment of asylum seekers and refugees. An Independent Advisory Group on Country Information exists under the aegis of the Independent Chief Inspector of Borders and Immigration, which makes recommendations about the content of material produced by the Home Office's Country of Origin Information Service used to assist in the determination of claims for refugee status.

Freedom of movement. Refugees and asylum seekers have unrestricted freedom of movement in the UK. There are exceptions that apply to those in detention or who have been released with conditions, and for asylum seekers who are destitute or likely to become destitute (s.95 of the 1999 Act) and have been granted accommodation support by the Home Office.⁶⁰⁷ For the latter category, freedom of movement remains but, by virtue of accommodation provided in so-called cluster areas away from London and the southeast of the UK, they have more limited travel options.

Right to work – refugee and labor and employment law

Regulation of the entitlement to work for refugees largely sits within the wider legal framework dealing with immigration rather than the UK's employment and labor laws.

Refugees, that is, those with full status and leave to enter or remain, have the right to work or set up a business in the UK on the same basis as UK citizens; work permits or points-based visas that are required of other non-EU foreign nationals are not necessary. Refugees can apply for employment benefits such as Job Seekers' Allowance and participate in government job preparation and training for work programs. They are not allowed to work in government departments. Refugee status also provides unrestricted entitlement to the wider portfolio of employment rights available to all UK citizens, for example, the minimum wage, disability rights, and protection from discrimination, found in the UK's employment and labor laws.⁶⁰⁸

Similar to refugees, those with other subsidiary forms of protection—humanitarian protection—and leave to enter or remain have the same rights to work or set up a business as do UK citizens, but this entitlement is only for the period for which they have been granted protection.

Asylum seekers have no right to work while their applications are being considered, although this constraint may be waived after 12 months if their initial claim has not been decided, but only if they are not responsible for the delay. However, employment is restricted to occupations on the official shortage

607. House of Commons (2015) "Asylum Support: Accommodation and Financial Support for Asylum Seekers," Briefing Paper Number 1909, www.parliament.uk/briefing-papers/sn01909.pdf.

608. Refugee Council, and Equality and Human Rights Council (2010) "Employing Refugees: A Guide for Employers: Documents Providing Evidence of Entitlement to Work," London Refugee Council,.

list, and they do not have the same entitlements as refugees and those with other forms of protection to enter government training programs, although they may volunteer while their applications are being considered. They may only work until their asylum claim has been finally determined (that is, when all appeals are exhausted).

POLICY AND PRACTICE

Constraining factors

Several factors highlight why, despite refugees' legal right to work, access to labor markets is often challenging in the UK.

First, the frequent changes to immigration and asylum regulations and rights over the past decade and a half have created confusion about refugees' (and more generally non-EU migrants') legal rights and entitlements to work. Moreover, employers face increasingly punitive civil penalties for employing those who do not have the right to work in the UK.⁶⁰⁹ Thus, although refugees have an unfettered legal right to work, employers remain extremely wary of taking on refugees and the administrative burden of checking eligibility.

Second, successive governments have wound down economic-inclusion policy apparatus strategies that had been operating in the period 2004–08 as the volume of refugee arrivals declined. Moreover, the 2008–12 recession further reduced political commitment to support the economic needs of refugees and asylum seekers against the political backdrop of wider concern about the impact of migration on the capacity of the UK labor market.

Third, since 1999 the UK government has operated a dispersal system on a no-choice allocation basis for destitute asylum seekers who required accommodation. This has had implications for employment if the asylum seeker has eventually received a positive refugee status determination. Not surprisingly, there has been a strong correlation between dispersal areas where ample housing is available and areas of socioeconomic deprivation. On receipt of positive refugee status determination, if the refugee wished to apply for housing under homelessness legislation or to access refugee employment promotion programs, they were required to stay in the dispersal areas, where their chances of employment were more likely to be limited because of the weaker local economy characterizing these areas.

Fourth, a review of substantial research evidence⁶¹⁰ confirms that the transition to refugee status (after receipt of a positive decision) can create difficulty in accessing employment. There are gaps in issuing vital documents, such as the National Insurance number, needed for employment and, at the point of positive

609. Penalties for employers include fines of up to £20,000 or imprisonment for each worker employed without the right to work. The 2016 Immigration Act intensifies both the labor market and illegal working enforcement strategy for employers and employees as well as the penalties for landlords and tenants where the tenant is disqualified from a residential tenancy agreement as a result of his or her immigration status.

610. Allsopp, J., N. Sigona, and J. Phillimore (2014) "Poverty among Refugees and Asylum Seekers in the UK, An Evidence and Policy Review," IRIS Working Paper Series No. 1/2014, University of Birmingham, pp. 23–25, www.birmingham.ac.uk/Documents/college-social-sciences/social-policy/iris/2014/working-paper-series/IRIS-WP-1-2014.pdf.

determination, and housing and financial support available for destitute asylum seekers is rapidly terminated before access to welfare and other benefits is gained. Other barriers to accessing the labor market include the lack of interpreters and the lack of knowledge among, and long waiting times to be interviewed by, Department for Work and Pensions staff for employment opportunities. More generally, the move away from indefinite leave to remain to a five-year term followed by review introduces a sense of temporariness that makes refugees feel insecure and exacerbates the problems of unemployment and underemployment by reducing refugees' attractiveness to potential employers.

Facilitating factors

In the period 2004–08, the UK established a proactive strategy to promote refugee inclusion and integration that included specific initiatives for economic inclusion and thus policies and actions assisting refugees to gain employment. Examples of this policy were the Department for Work and Pensions, the 2005 Refugee Employment Strategy, the Refugee Integration and Employment Service (RIES) of the UKBA, and regional- and local-level Strategic Migration Partnerships to facilitate joint work and consultation between regional actors and the UKBA on migration issues, including employment.⁶¹¹

As noted, this policy apparatus has been wound down; for example, RIES was closed in 2011. Despite being a potentially valuable resource to assist refugees in accessing employment, the evidence as to the effect of these initiatives is not conclusive.⁶¹²

In contrast, the network of national and locally based civil society organizations is an important resource for asylum seekers and refugees for advice about social and welfare rights as well as information on and signposting for employment.

Although the economic recession constrained access to employment for refugees as well as the population as a whole, the recent growth of the economy and the reduction of unemployment to about 5 percent has created more favorable conditions.

MEDIATING CONDITIONS

Socioeconomic conditions

Despite the economic recovery in the UK, accessing employment is not easy. For example, a 2010 government study found that employment rates among refugees eight months after their asylum decision amounted to only a third (34 percent) of those eligible for employment, a total that increased to just under half (49 percent) at 21 months after the decision.⁶¹³

611. Carter, M. (2008) "Navigation Guide: Employment Issues for Refugees and Asylum Seekers in the UK," Information Centre about Asylum and Refugees, ICAR, pp. 9–11, [http://icar.livingrefugeearchive.org/employmentguide_24_07_2008%20\(2\).pdf](http://icar.livingrefugeearchive.org/employmentguide_24_07_2008%20(2).pdf).

612. See Outcomes section.

613. Cebulla, A., M. Daniel, and A. Zurawan (2010) "Spotlight on Refugee Integration: Findings from the Survey of New Refugees in the United Kingdom," Research Report 37, Home Office Research, Development and Statistics

Refugee profiles

Given the diversity of the demographics and countries of origin of refugees in the UK—from over 100 countries⁶¹⁴—it is difficult to generalize refugee profiles and their role in mediating access to employment. Moreover, there is little contemporary research on refugee employment in the UK. Instead the emphasis is on small-scale local studies and qualitative research on the lived experiences of refugees and asylum seekers.

Nevertheless, a 2013 study using multivariate regression analysis of longitudinal data from a 2005–07 survey exploring social capital and, among other factors, its links to employment, supplemented by a face-to-face survey of refugees, refugee workers, and policy makers in 2012, provides valuable findings for the present right to work study.⁶¹⁵ Among the salient findings of the 2013 study, contacts with religious, national, co-ethnic, and other groups enhanced the likelihood of getting help accessing employment. Conversely, refugees with no social networks were the least likely to be employed.

4. OUTCOMES

Participation in the labor market

The 2013 study cited above, consistent with studies in many countries, found that more than half the refugees considered themselves to be overqualified in terms of skills and qualification for work undertaken in the UK, a situation that barely changed over the study period.⁶¹⁶

The same study found that Muslim and African refugees faced greater constraints in accessing employment than other refugees. Although these constraints declined through time, African refugees found difficulty accessing managerial and professional jobs. When controlling the sample for age and gender, Muslim refugees faced significant difficulties accessing permanent employment.

The 2013 study also found there to be a highly significant relationship between English language fluency and accessing employment, while literacy was important for accessing managerial and professional jobs. Refugees who did not need any language training fared best in obtaining employment.

Directorate, www.gov.uk/government/uploads/system/uploads/attachment_data/file/116061/horr37-summary.pdf.

614. Cheung, S. Y. , and J. Phillimore (2013) “Social Networks, Social Capital and Refugee Integration,” Research Report for Nuffield Foundation, www.birmingham.ac.uk/Documents/college-social-sciences/social-policy/iris/2013/nuffield-refugees-integration-research-report.pdf.

615. Cheung S. Y. , and J. Phillimore (2013) “Social Networks, Social Capital and Refugee Integration,” Research Report for Nuffield Foundation, www.birmingham.ac.uk/Documents/college-social-sciences/social-policy/iris/2013/nuffield-refugees-integration-research-report.pdf.

616. Cheung S.Y., and J. Phillimore (2013) “Social Networks, Social Capital and Refugee Integration,” Research Report for Nuffield Foundation, www.birmingham.ac.uk/Documents/college-social-sciences/social-policy/iris/2013/nuffield-refugees-integration-research-report.pdf.

Women fared worse than men in all types of employment in the study despite relatively high levels of premigration employment or education. When controlling for language skills, the employment analysis showed that women were significantly more likely to be unemployed, in education, or economically inactive, as opposed to being in employment.

Surprisingly, the same study also found that assistance from government employment agencies and educational groups significantly reduced chances of employment in the short term, but in the longer term improved the prospects of employment and access to permanent work. More importantly, refugees' subjective evidence reinforces actual employment outcomes: that is, that educational and job-related training made no difference in their prospects of being in employment or obtaining a permanent job or a high-quality job. One explanation posited by the study is that soon after gaining leave to remain, refugees are more focused on getting help to access housing, health, and education services than on gaining employment. As they become more settled, they may be in a better position to seek help to access work.

SUMMARY AND CONCLUSION

Despite the UK's increasingly restrictive statutory and policy framework toward refugees, for those that do receive positive status determination, the right to work is clear, and the UK is fully aligned with the critical articles of the 1951 Refugee Convention. Nevertheless, refugees still face the constraints on accessing the labor market that are commonly experienced by refugees in other highly industrialized countries—reluctance to accept previous professional qualifications and skills, lack of language proficiency, discriminatory recruitment policies of employers, and potential exploitation in the workplace often experienced by ethnic minorities.

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United States

PROFILE

- Party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol
- 273,202 refugees, and 286,168 asylum seekers totaling 559,370 = 0.17 percent of a total estimated population of 321 million
- Variety of nationalities
- Long history of refugee reception and resettlement
- Refugees distributed mainly in a small number of large metropolitan areas

- Human development rank and index: 8th and 0.915
- GDP: Growth 2.4 percent; Per capita US\$55,836.8
- High-income economy
- Unemployment rate: 6.2 percent

CONTEXT

The United States has a long tradition of accommodating refugees backed by a longstanding refugee resettlement program. Resettled refugees, rather than spontaneous arrivals and in-country applicants, comprise the majority. More than 3 million refugees have been received since 1975; their countries of origin reflect both the different locations of refugee crises (mainly so-called P1 Category countries) and specific U.S. interests (so called P2 Category countries, such as the former Soviet Union, some Central American States, and Cuba)⁶¹⁷. The largest national groups comprised 900,000 Vietnamese refugees of a total of 1.3 million from Asia, and some 900,000 from Europe. Significant among the more recently resettled refugee populations are 110,000 Iraqi refugees since 2006, more than 100,000 Somalis, and more than 90,000 Iranians.⁶¹⁸ In 2015, of 69,933 refugee admissions, 35.1 percent (24,579) came from the Near East and South Asia (including Afghanistan, Bhutan, the Islamic Republic of Iran, and Iraq), just over one third of refugee admissions (37.3 percent, 26,079 refugees) came from Africa, and more than a quarter of all refugee admissions (26.4 percent, or 18,469) came from East Asia (including China, Indonesia, and Vietnam).⁶¹⁹ Myanmar was the largest single country of origin with 18,386 refugee arrivals followed by Iraq (12,676) and Somalia (8,858). However as quotas vary each year so too do admissions.

⁶¹⁷ P1 - Priority 1 includes refugee claims from persons of any nationality with compelling protection needs, for whom resettlement appears to be the appropriate durable solution. P2 - Priority 2 includes specific groups in need of resettlement (certain nationalities, clans or ethnic groups, sometimes in specified locations) identified by the Department of State in consultation with Department of Homeland Security/United States Citizenship and Immigration Services/NGOs/UNHCR.

⁶¹⁸. Data from US Department of State website "Diplomacy in Action," www.state.gov/j/prm/ra/admissions/index.htm.

⁶¹⁹. Refugee processing Centre Admissions Reports, www.wrapsnet.org/reports/admissionsarrivals/tabid/211/default.aspx.

Thus for 2016, up to and including 31 August, admissions from Democratic Republic of Congo totalled 12,819, from Myanmar 11,115, and from Syria 10,740.

The United States is by far the largest recipient of resettled refugees in the Organisation for Economic Co-operation and Development. Refugee admission numbers, countries of origin, and sometimes specific priority categories (for example, religious minorities) are highly regulated by law—the so-called refugee ceiling: as of 2014, refugee admissions were capped at about 70,000 per year, down from 80,000 in 2012.^{620,621}

The majority of refugees settle in the larger metropolitan areas on the east and west coasts and in the Midwest. Notable ethnic concentrations of refugees in specific cities are the outcome of resettlement policies and secondary migration.

1. LAW

Refugee Law

National legislation. Commitment to the 1951 Refugee Convention and the 1967 Protocol is codified in the Refugee Act of 1980, approved by the U.S. Congress, which essentially adopts the Convention. Various elements of the Immigration and Nationality Act 1952 (updated to 2013) also apply to refugee law. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) overhauled the immigration law and asylum framework and introduced more restrictive provisions on the asylum process.⁶²²

Institutions. The government's framework for reception and resettlement is located in the Department of State and the Department of Homeland Security; their remits are discussed below.

Access to protection. Referral by the U.S. Refugee Admissions Program is required for consideration as a resettled refugee; referral may come from the United Nations High Commissioner for Refugees, an embassy of the United States, or a nongovernmental organization (NGO). The decision to admit a refugee is then conducted by the Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS). Once resettlement is approved, assistance for resettling refugees is provided through a cooperative public-private program comprising the Department of State's Reception and Placement Program and the Office for Refugee Resettlement (ORR) within the Department of Health and Human Services, together with nine national nongovernmental resettlement agencies (linked to a large network of local agencies) funded by the ORR that are actually responsible for implementing the resettlement process for each refugee and refugee household. ORR coordinates this refugee reception and resettlement program under the auspices of the United States Refugee Admissions Program.

⁶²⁰. The ceiling for resettled refugees is set each year by the President in consultation with Congress, known as the Presidential Determination, under section 207(e) (1)–(7) of the Immigration and Nationality Act.

⁶²¹. The Presidential Determination for 2015 was 70,000.

⁶²². Human Rights Watch (2013) "'At Least Let Them Work', The Denial of Work Authorization and Assistance to Asylum Seekers in the United States," www.hrw.org/report/2013/11/12/least-let-them-work/denial-work-authorization-and-assistance-asylum-seekers-united.

After one year, refugees are required to apply for permanent residence (commonly referred to as a Green Card), and after five years in the United States, refugees are eligible to apply for United States citizenship.

Applicants from outside the United States applying for refugee resettlement may also include in their application a spouse, unmarried children younger than 21 years of age, and in some limited circumstances, other family members. Refugees already resident within the United States may also apply for family reunion within two years of arrival.

Provisions for Temporary Protected Status (TPS) allow individuals from designated countries who are already in the United States to stay in the country for a limited period. Designation may be based on issues such as ongoing armed conflict or environmental disaster that prevent an individual from being able to return safely to his or her country of origin. The most salient example is Hondurans already resident in the United States when Hurricane Mitch devastated their country in 1998, and who still remain in the United States almost two decades later. Similar TPS provisions were extended to Haitian beneficiaries after the 2010 earthquake. TPS designation has been repeatedly extended since that time, most recently to July 2017. Although there are some restrictions, refugees and those with TPS have access to the same social support and welfare benefits as U.S. citizens, including food stamps and Medicare coverage.

In-country application for asylum is more complicated, increasingly regulated, and subject to considerable political debate and advocacy. There are two categories: those who apply for asylum “affirmatively” (that is, they are not subject to removal proceedings) and those who apply “defensively” (in effect appealing government proceedings to remove them from the United States after their claim has failed).⁶²³ The two categories determine which procedure the claim follows. The decision on an affirmative claim may, in principle, be concluded within 60 days of submission; the process can be far more protracted for the defensive claim.

The IIRIRA 1996 erected obstacles for people wanting to lodge asylum claims, created harsher living conditions for asylum seekers with pending cases, and made the adjudication process stricter, thereby making asylum much harder to achieve.⁶²⁴ Applications have to be made within a year of arrival; there are provisions for removal to a “safe third country” through which an asylum seeker may have traveled to the United States; and applicants may be permanently barred from applying for asylum if the Attorney General determines that an asylum seeker made a “frivolous” application. The IIRIRA 1996 also introduced expedited removal and mandatory detention of certain asylum seekers. In addition, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 categorized asylum seekers as “nonqualified” immigrants, in effect excluding them from eligibility for many federal social welfare benefits in all but exceptional humanitarian or disaster-based circumstances.

⁶²³. United States Citizenship and Immigration Services (USCIS) “The Affirmative Asylum Process,” United States Government, March 10, 2011, www.uscis.gov/humanitarian/refugees-asylum/asylum/affirmative-asylum-process.

⁶²⁴. Human Rights Watch (2013) “‘At Least Let Them Work’, The Denial of Work Authorization and Assistance to Asylum Seekers in the United States,” www.hrw.org/report/2013/11/12/least-let-them-work/denial-work-authorization-and-assistance-asylum-seekers-united.

The backlog peaked at 457,670 pending applications for refugee status in 1995, just before the expansion of the number of asylum officers in the IIRIRA of 1996; by the end of 2013 the backlog had been reduced to 32,560 cases.

Freedom of movement. Refugees and asylum seekers have unrestricted freedom of movement in the United States.

Right to work – refugee and labor and employment law

There are strong expectations that refugees will find employment as soon as possible after arrival in the United States.

The right to work and the role of employment law for refugees is relatively clear cut. Once refugee status is approved, refugees can work immediately, whether as a new arrival if they have been resettled or as an approved in-country applicant. Application for Employment Authorization is automatically filed for the refugee when admission is approved, and a Form I-94 (Arrival-Departure Record) is issued on arrival, or soon thereafter, stamped to indicate “Employment Authorized.” If the Employment Authorization Document (EAD) is not finalized, refugees are still able to work for up to 90 days pending the EAD by showing their admission document as proof of permission to work.⁶²⁵

The situation is more complex for asylum seekers, and the more restrictive conditions are subject to considerable debate.⁶²⁶ Asylum seekers may be employed as part of their asylum status, but there are conditions. An EAD is required after the grant of asylum, which may be issued by the Asylum Office (of the USCIS), an immigration judge, or the Board of Immigration Appeals.⁶²⁷ Issuance of an EAD is most straightforward if asylum status has been approved by the Asylum Office. However, asylum seekers can only apply for an EAD, (1) 180 days after filing their asylum claim and (2) if an application for asylum has been pending for more than 150 days without decision by the USCIS or the Executive Office for Immigration Review (that is, there is a 30-day review period in addition to the 150-day waiting time).⁶²⁸ Thus, asylum seekers may have a protracted wait for permission to work, in practice, often extending to years.

Awaiting work authorization, asylum seekers are thus neither able to work legally nor are they able to claim eligibility for federal benefits. As a result they are often vulnerable to destitution and also susceptible to exploitation if they work illegally to avoid impoverishment.

Although asylum seekers may work, in general, they have more limited rights of access to a Green Card (permanent residency) than those with full refugee status. Asylum seekers generally face a lengthy wait because quotas for Green Cards for asylum seekers vary according to the changing ceiling on the number

⁶²⁵. US Citizenship and Immigration Services “Refugees,” www.uscis.gov/humanitarian/refugees-asylum/refugees.

⁶²⁶. Human Rights Watch (2013) “‘At Least Let Them Work’, The Denial of Work Authorization and Assistance to Asylum Seekers in the United States,” www.hrw.org/report/2013/11/12/least-let-them-work/denial-work-authorization-and-assistance-asylum-seekers-united.

⁶²⁷. US Citizenship and Immigration Services (2013) “I am a refugee or asylee, How do I show my employer that I am authorized to work in the United States?” www.uscis.gov/sites/default/files/USCIS/Resources/D2en.pdf.

⁶²⁸. These time periods were revised in the IIRIRA 1996.

each year. Currently, however, there is no cap and an asylum seeker continuously resident in the United States for more than one year may apply for a Green Card.

The effect of the EAD procedure for refugees, and for asylum seekers that satisfy the EAD requirements discussed above, is that neither group is required to qualify for the temporary employment visa that is the norm for other immigrant labor.

Refugees and asylum seekers who satisfy the regulations for employment fall within the auspices of all U.S. employment and labor law. Thus, they enjoy the same rights and receive the same protections as all citizens with regard to, for example, employment contracts, health and safety, wage regulation, family care, pensions, and trade union membership. Federal and state laws protect all workers from employment discrimination based on race, gender, religion, age, and national origin.

2. POLICY AND PRACTICE

Constraining factors

Despite a positive picture overall, there are some constraining factors in the drive to get refugees into employment.

First, the Department of State's Reception and Placement Program is limited to the first three months after refugee arrival, although the Department of Health and Human Services' ORR works with states and NGOs to provide longer-term cash and medical assistance, as well as language, employment, and social services.

The government's pressure to get refugees into work results, as the United States Immigration Service notes, in most refugees beginning in entry-level jobs, even though these jobs may not be commensurate with preexisting high-level skills, experience, or education.⁶²⁹ These negative outcomes are by no means unique to the United States; but it does call into question the effectiveness and efficiency of how the highly calibrated resettlement process engages the labor market opportunities and conditions for highly qualified refugees. To this end, the Refugee Council USA has drawn attention to the need to expand employment services for highly educated and professional refugees, including tailored job training, recertification, and language-acquisition opportunities.⁶³⁰

Facilitating factors

The highly developed resettlement program in the United States is front-loaded with the expectation that refugees will rapidly enter the labor market. Refugees are settled around the country with NGOs as the implementing partners that receive federal funding for case work and support services for the resettled refugees. About one-quarter of refugees opt for the six-month intensive support program from NGOs; the

⁶²⁹. US Citizenship and Immigration Services "Refugees", www.uscis.gov/humanitarian/refugees-asylum/refugees.

⁶³⁰. Refugee Council USA (2015) "Strengthening Communities by Welcoming All Residents: A Federal Strategic Action Plan on Immigrant and Refugee Integration Strategy," in "Recommendations to Help Shape the Focus of the New Federal Immigrant and Refugee Integration Strategy," RCUSA, www.rcusa.org/uploads/pdfs/Task%20Force%20on%20New%20Americans%20Report%20to%20President%20Obama.pdf.

majority opt for the cash support alternative which places the onus on the refugees to settle themselves. Of those in the intensive support program, three-quarters are self-sufficient by the end of this period.

The underlying work ethic of the United States is reflected in the refugee resettlement process. As a Bureau of Population, Refugees, and Migration “Fact Sheet on Refugee Resettlement in the United States” puts it, “Most Americans value self-reliance and hard work” and later “... you will be expected to work.”⁶³¹ Employment is considered the primary indicator of successful refugee integration and self-sufficiency.

To this end, the NGO resettlement agencies have only a very short period, usually between four and six months, in which to place refugees in employment in order to receive continuing matching funding. On the face of it a facilitating factor, the negative impact of a job-first strategy constrains successful settlement in several ways. Refugees have insufficient time to adapt to their surroundings; they may be deprived of access to support services that could improve their long-term prospects as the NGOs move on to new cases; and, as already noted, the refugees may find themselves in jobs that are inappropriate or not equal to their skill set.⁶³²

Despite the large absolute number of resettled refugees, the amount is modest in relation to the total U.S. population. Thus, the absorptive capacity of an entrepreneurial economy combined with the framework of government institutions, and supported by the proactive and well-developed network of organizations charged with encouraging refugees to become employed as soon as possible, creates a generally conducive environment for entry to the labor market. These conditions are underpinned by the major objective of the ORR, which is to assist integration by helping refugees link to critical resources and support structures.

Although programs throughout the country differ, in general, refugees have access to employment assessment services, on-the-job training, vocational training, English language instruction, and if necessary for employment, day care transportation.

Emphasis on starting work soon after arrival, it is claimed, enhances the acquisition of English and more effective social functioning.⁶³³

Some of the NGOs provide specific assistance related to refugee employment. For example, the U.S. Committee for Refugees and Immigrants promotes refugee employment by offering services to employers and by providing a clearing house and support, including prescreening of refugee applicants’ qualifications to match employers’ needs, managing external social and family factors so that the refugee employees

⁶³¹. Bureau of Population, Refugees, and Migration (2013) “Refugee Resettlement in the United States,” Fact Sheet, www.state.gov/j/prm/releases/factsheets/2013/203578.htm.

⁶³². Columbia University School of International and Public Affairs (2010) “Refugee Resettlement in the United States, An Examination of Challenges and Proposed Solutions,” sipa.columbia.edu/sites/default/files/IRCFINALREPORT_0.pdf.

⁶³³. Office of Refugee Resettlement (2014) “Annual Outcomes Goal Plan, ORR-Funded Employment Related Programs for 2014,” www.acf.hhs.gov/programs/orr/resource/office-of-refugee-resettlement-year-in-review-fy2014; US Citizenship and Immigration Services (2015) “Refugees,” www.uscis.gov/humanitarian/refugees-asylum/refugees.

can focus on work, ensuring access to English language classes, and acting as a channel of communication.⁶³⁴

Exemplifying the ethos of helping refugees achieve economic self-sufficiency, an interesting initiative of the ORR has been a Microenterprise Development Program to help refugees develop, expand, or maintain their own businesses and become financially independent.⁶³⁵ Typically, micro-loans up to a maximum of \$15,000, and, if applicable, converted to revolving loans, are funded to support business technical assistance, short-term training, and credit. More than 24,000 refugees have benefited by acquiring new entrepreneurial skills and knowledge from this scheme.

3. MEDIATING CONDITIONS

Socioeconomic conditions

A Migration Policy Institute (MPI) study of refugees in the United States noted that refugee household income levels rise substantially through time, although the level was lower than for other immigrant households and was about 80 percent of the average income of U.S.-born households. Nevertheless, in the period 2009–11, median income for refugee households who had been resident for 20 years was \$31,000 higher than those with five years' residence; Vietnamese and Russian refugees performed best.⁶³⁶ These data compare remarkably accurately with a study of average annual household income for Cleveland area refugees of \$31,024 in 2012.⁶³⁷

However, although the MPI study found no difference between the average income for refugee households and U.S.-born households in 2000, by the 2009–11 period, as discussed above, a substantial gap had appeared. This indicates that lower starting salaries—perhaps linked to low-wage, entry-level jobs that do not match refugees' previous skills and qualifications—and slower income progression for more recent arrivals combine for a less conducive economic environment for employment and integration.⁶³⁸

On the other hand, confirming the wage-earning importance of employment, the data show a marked decline in refugees' claiming public welfare benefits. This finding suggests that economic self-sufficiency increases with length of residency in United States, although the regulations on claiming benefits may also act as a constraint irrespective of economic self-sufficiency.

⁶³⁴. US Committee for Refugees and Immigrants, www.refugees.org

⁶³⁵. Office of Refugee Resettlement, "About Microenterprise Development," www.acf.hhs.gov/programs/orr/programs/microenterprise-development/about.

⁶³⁶. Capps, R., K. Newland, S. Fratzke, S. Groves, M. Fix, M. McHugh, and G. Auclair (2015) "The Integration Outcomes of US Refugees: Successes and Challenges," Migration Policy Institute, www.migrationpolicy.org/research/integration-outcomes-us-refugees-successes-and-challenges, pp. 21–24.

⁶³⁷. Chmura Economics and Analytics (2013) "Economic Impact of Refugees in the Cleveland Area, Calendar Year 2012," Prepared for Refugee Services Collaborative of Greater Cleveland, www.hias.org/sites/default/files/clevelandrefugeeeconomic-impact.pdf.

⁶³⁸. Capps, R., K. Newland, S. Fratzke, S. Groves, M. Fix, M. McHugh, and G. Auclair (2015) "The Integration Outcomes of US Refugees: Successes and Challenges," Migration Policy Institute, www.migrationpolicy.org/research/integration-outcomes-us-refugees-successes-and-challenges, pp. 21–24.

The availability of English language classes for refugees has been highlighted as a significant variable in labor market access. However, a potential issue is that the number of nationalities being resettled rose from 11 in 1980 to 64 in 2013, significantly reflecting the responsiveness of the United States to global trends in refugee crises, but the wider range of languages and educational and skills levels potentially poses problems for assistance provided in the immediate post-arrival period for newly resettled refugees.⁶³⁹

Refugee profiles

Many refugees move from their first settlement destination toward communities with job opportunities. Social networks and their composition play an important role in determining employment prospects. Despite being based on dated data (from 2001–05), a research paper sheds potentially controversial light on these phenomena in the U.S. context.⁶⁴⁰ In essence the study finds that while refugee social networks provide labor market information to members, the larger the network the greater the likelihood that new refugees will compete against each other for employment and drive down hourly wage rates. The study finds that the probability of employment for a new entrant declines with the size of the network. However, where networks are older than two years, the probability increases that a new refugee will find employment. Competition for jobs from new refugees slows the rate of increase of employment of established refugees; thus, the negative competition from an increase in the number of new refugee network members more than offsets the positive effects of an additional year of residence for those already seeking access to labor markets.

The MPI study gives some indication of how refugee profiles affect employment and other settlement variables. The study reveals that recently resettled refugees have lower educational attainment and language skills than in the past. Fewer than half the resettled refugees from Bhutan, Liberia, Myanmar, and Somalia were literate in the language of their country of origin before resettlement. Concern has been expressed that if pushed into work too soon after arrival—in line with prevailing resettlement policies—opportunities to gain further education will be diminished.⁶⁴¹ At the same time, lower language attainment and other skills make it more difficult to integrate, and there is some suggestion that such

⁶³⁹. Capps, R., K. Newland, S. Fratzke, S. Groves, M. Fix, M. McHugh, and G. Auclair (2015) “The Integration Outcomes of US Refugees: Successes and Challenges,” Migration Policy Institute, www.migrationpolicy.org/research/integration-outcomes-us-refugees-successes-and-challenges.

⁶⁴⁰. Beaman, L. A. (2011) “Social Networks and the Dynamics of Labour Market Outcomes: Evidence from Refugees Resettled in the U.S.,” *Review of Economic Studies*, Vol. 20, pp. 1–34, restud.oxfordjournals.org/content/early/2011/08/09/restud.rdr017.abstract; journalistsresource.org/studies/economics/jobs/social-networks-labor-employment-immigration-refugee#sthash.nqQuvlnX.cWziu089.dpuf.

⁶⁴¹. Capps, R., K. Newland, S. Fratzke, S. Groves, M. Fix, M. McHugh, and G. Auclair (2015) “The Integration Outcomes of US Refugees: Successes and Challenges,” Migration Policy Institute, www.migrationpolicy.org/research/integration-outcomes-us-refugees-successes-and-challenges.

refugees have lower income-earning potential.⁶⁴² However, there is evidence that refugees may more quickly acquire language skills (for their country of settlement) in the workplace.⁶⁴³

4. OUTCOMES

Participation in the labor market

Among a significant number of studies analyzing labor market participation by refugees in the United States, many of which are locally based, three have been selected for the relevant information they provide about this process.

Some measure of the effectiveness of the refugee settlement strategy in promoting access to employment is provided by evidence from the same MPI study cited earlier.⁶⁴⁴ The study found that refugee men were more likely to be employed than U.S.-born men (67 percent versus 62 percent), while for women the ratio was the same at 54 percent. More recently resettled refugee populations, such as Iraqis, Myanmarese, and Somalis, however, had lower participation rates, possibly because of their lower levels of educational achievement before resettlement.

These findings echo those of an earlier study using data collected in 2008 that found that refugee employment rates in the three cities studied, Houston, Miami, and Sacramento, were high. The average rates of employment for refugees in the three cities two years after entry were, respectively, 73 percent, 77 percent, and 55 percent. The study suggests that the rates are likely to have been even higher since many refugees work in jobs, such as domestic work, informal child care, and landscaping services, not covered under the unemployment insurance wage records used for the study.⁶⁴⁵

A more recent study of the economic impact of refugees in the Cleveland area found that 73.5 percent of refugees were employed after two years, roughly equal to the 73 percent for Houston but below the 77 percent rate for Miami found in the three city study. Refugees in the Cleveland area were also less likely to take public assistance after two years: 8.1 percent of Cleveland-area refugees compared with an

⁶⁴². Capps, R., K. Newland, S. Fratzke, S. Groves, M. Fix, M. McHugh, and G. Auclair (2015) "The Integration Outcomes of US Refugees: Successes and Challenges," Migration Policy Institute, www.migrationpolicy.org/research/integration-outcomes-us-refugees-successes-and-challenges.

⁶⁴³. Office of Refugee Resettlement (2014) "Annual Outcomes Goal Plan, ORR-Funded Employment Related Programs for 2014," www.acf.hhs.gov/programs/orr/resource/office-of-refugee-resettlement-year-in-review-fy2014.

⁶⁴⁴. Capps, R., K. Newland, S. Fratzke, S. Groves, M. Fix, M. McHugh, and G. Auclair (2015) "The Integration Outcomes of US Refugees: Successes and Challenges," Migration Policy Institute, www.migrationpolicy.org/research/integration-outcomes-us-refugees-successes-and-challenges.

⁶⁴⁵. The Lewin Group (2012) "The Evaluation of the Refugee Social Service (RSS) and Targeted Assistance Formula Grant (TAG) Programs: Synthesis of Findings from Three Sites," Office of Refugee Resettlement, U.S. Department of Health and Human Services, www.acf.hhs.gov/sites/default/files/orr/synthesisoffindingsfromthreesites.pdf.

average of 12.4 percent in the three-city study,⁶⁴⁶ although the Sacramento case in this study significantly increases the average.

SUMMARY AND CONCLUSION

The United States offers perhaps the most compelling evidence of the value of a proactive right-to-work policy for refugees, linked, as it is, to a single-minded job-first strategy that pervades refugee and indeed national employment policy in the United States. Especially with respect to refugee resettlement, the success of this strategy is evident. A large and dynamic economy, even in recession, also offers the traction necessary for the policy to succeed.

On the other hand, the merits of the policy should not conceal the limitations. Refugees may be pushed into work too soon after arrival, which denies them opportunities to make essential social and cultural adjustments that may contribute to more successful integration in the longer term; and it often means that refugees are denied access to employment that matches their preexisting high-level skills, experience, or education. Refugees lose a measure of dignity as well as potentially higher long-term income earning potential; the economy as a whole suffers from underutilization of human resources and assets.

The current debate around refugees, migration, and security may bring some revision or adjustment to the existing legal framework for refugees, or at least to some of the criteria. At this stage it is hard to tell whether possible changes may affect labor market outcomes for this group. However, some of the approaches flagged in the current political context raise concerns about potential impacts on labor and other rights.⁶⁴⁷

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⁶⁴⁶. Chmura Economics and Analytics (2013) “Economic Impact of Refugees in the Cleveland Area, Calendar Year 2012,” Prepared for Refugee Services Collaborative of Greater Cleveland, www.hias.org/sites/default/files/clevelandrefugeeeconomic-impact.pdf.

⁶⁴⁷. See, for example, Resettlement Accountability National Security Act (H.R. 3314, 2105-16) www.congress.gov/bill/114th-congress/house-bill/3314, and US Government Accountability Office (2015) “Asylum, Additional Actions Needed to Assess and Address Fraud Risks,” www.gao.gov/assets/680/673941.pdf.

República Bolivariana de Venezuela

PROFILE

- **Party to the 1967 Protocol, and to the 1984 Cartagena Declaration on Refugees**
- **6,694 refugees, 167,060 people in a refugee-like situation, and 235 asylum seekers totaling 173,989 = 0.54 percent of a total estimated population of 31 million**
- **Large number of undocumented refugees and limited refugee status recognition rates**
- **Refugees spontaneously and widely distributed, with concentration in inaccessible, border areas**
- **Human development rank and index: 71st and 0.762**
- **GDP: Growth –5.7 percent; Per capita US\$12,711⁶⁴⁸**
- **Upper-middle-income economy**
- **Unemployment rate: 8.6 percent**

CONTEXT

With a porous 2,200 kilometer border with Colombia, República Bolivariana de Venezuela hosts a large number of refugees (the vast majority undocumented) fleeing violence in that country⁶⁴⁹ over recent decades. A large volume of Colombian migrants, possibly numbering millions, were also attracted by Venezuela's oil boom of the 1960s and later periods of economic prosperity.

Historically, Venezuela was reluctant to accept the existence of refugees in its territory. Legislation complying with international standards of refugee protection was not passed until 2001, and a Refugee Commission was subsequently established in 2003. Although refugee registration is extremely low,⁶⁵⁰ now Venezuela's attitude has changed to pragmatic acceptance of refugees and asylum seekers. Indeed, since 2012 Venezuela has allowed Colombians to enter without visas.⁶⁵¹

⁶⁴⁸. In 2012.

⁶⁴⁹. It is estimated that 95 percent of these people are Colombians, CEAR, Comisión Española de Ayuda al Refugiado (2013) "Venezuela Procedimiento de Asilo, situación de las personas colombianas, actuación de grupos paramilitares y/o paraestatales colombianos," CEAR, Madrid, p. 5, <https://boletinderechoshumanos.files.wordpress.com/2014/07/venezuela-2013-asilo-colombianos.pdf>.

⁶⁵⁰. Gottwald, M. (2006) "Protecting Colombian Refugees in the Andean Region: The Fight against Invisibility," Agenda Internacional Año XII, No. 23, pp. 199–226, <http://revistas.pucp.edu.pe/index.php/agendainternacional/article/viewFile/8314/8618>.

⁶⁵¹. Venezuelanalysis.com (2012) "Open Borders and Open Hearts: How the Venezuelan State Addresses Its Population of Colombian Refugees," <http://venezuelanalysis.com/analysis/7257>.

1. LAW

Refugee Law

National legislation. The Organic Law on Refugees and Asylum Seekers, adopted in 2001,⁶⁵² and accompanying executive regulations under Decree No. 2491 of 2003 govern all relevant matters. These instruments are in accordance with the provisions of the 1951 Refugee Convention (although Venezuela is only signatory to the 1967 Protocol, not the Convention itself). The National Commission for Refugees (NCR; see below), created in the 2001 legislation, was established in 2003. Venezuela is also a signatory to the 1984 Cartagena Declaration, although its national legislation does not reflect the wider refugee definition contained in the Declaration.

Although now compliant with international obligations to refugees and formal recognition procedures, Venezuelan and external commentators⁶⁵³ have drawn attention to Venezuela's slow pace in both acceding to international conventions—it took almost 20 years to ratify the 1967 Protocol in 1986—and adopting domestic legislation on refugee and asylum matters: the first legislation was approved only in 1999 (more than 30 years after the Protocol was set forth), and adopted in 2001. This hesitancy has been attributed to the view of successive governments that formal refugee recognition procedures would precipitate even larger flows of refugees claiming status.⁶⁵⁴ Symptomatically, the term “displaced person” was often used in the past to avoid the internationally accepted term “refugee.” Indeed the commission preparing the 2003 Decree was entitled the Technical Commission for Displaced Persons.

Institutions. Decree No. 2491 of 2003 also gave legal force to the creation of the NCR, composed of representatives from the Ministries of Foreign Affairs, Interior and Justice, and Defense, the Ombudsman, and the National Assembly. The NCR is the competent authority (that is, the executive body) responsible for refugee matters including registration, decision making on refugee status determination, exclusions, and cessation, for example.

Access to protection. Registration is conducted by the NCR at four administrative centers, one in Caracas and three in the border cities of San Cristobal, Táchira State; Maracaibo, Zulia State; and Guasdalito, Apure State. Asylum seekers have to register at these offices. However, access is difficult for the majority of asylum seekers who live in remote rural areas, and police and military checkpoints on the roads leading to the cities can make access risky. The United Nations High Commissioner for Refugees (UNHCR) and its

⁶⁵². Ley Organica Sobre Refugiados O Refugiadas Y Asilados O Asilada, 2001.

⁶⁵³. See Rincón Eizaga, L. B. (2005) “La Ley Orgánica Sobre Refugiados: su aplicación en la frontera colombo-venezolana,” *Revista Venezolana de Economía y Ciencias Sociales* v.11 n.2, Universidad del Zulia, www.scielo.org.ve/scielo.php?pid=S1315-64112005000200005&script=sci_arttext; Fernández, G. (2004) “Los solicitantes del reconocimiento a la condición de refugiado en Venezuela,” *Andean Programme on Human Rights*, Universidad Andina Simon Bolivar, www.uasb.edu.ec/padh/revista8/articulos/gloriana%20fernandez.htm;

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⁶⁵⁴. Rincón Eizaga, L. B. (2005) “La Ley Orgánica Sobre Refugiados: su aplicación en la frontera colombo-venezolana,” *Revista Venezolana de Economía y Ciencias Sociales* v.11 n.2, Universidad del Zulia, www.scielo.org.ve/scielo.php?pid=S1315-64112005000200005&script=sci_arttext.

implementing partners conduct some registrations in remote areas and submit these registrations to the NCR.⁶⁵⁵ The NCR also conducts some remote registration.

Although Venezuela now has comprehensive refugee legislation and registration systems in place that are generally in accordance with international standards, there were only slightly more than 5,600 recognized refugees in total in 2015 and many thousands of applications pending.⁶⁵⁶

Several factors explain the low status determination rate. Many potential claimants for refugee status have not followed the procedures for registering with the NCR because for many years they were given access to services without documents. These circumstances have changed in recent years with the fragile socioeconomic situation, and people are becoming increasingly concerned about the difficulties in getting registered. At the same time, the low take up is also partly explained by the difficulty of accessing the registration services available in the three border cities, given the widely dispersed refugee population.⁶⁵⁷

In addition, factors such as lack of resources at the disposal of the NCR, the long duration of the status determination process,⁶⁵⁸ and reports of maltreatment and deportations (of undocumented migrants as well as some refugees), which act as deterrents,⁶⁵⁹ also contribute to this low number. These conditions reflect wider concern about Venezuela's human rights record, lack of judicial independence and due process, and excessive use of force,⁶⁶⁰ which are consistently matters of concern for the United Nations Human Rights Council,⁶⁶¹ the UNHCR, and international advocacy organizations.^{662,663}

⁶⁵⁵. World Refugee Survey (2008) "Venezuela," www.refworld.org/docid/485f50da8d.html.

⁶⁵⁶. For example, in 2009 there were 2,873 applications for asylum, only 215 were accepted, 226 were rejected, and 14,187 remained pending, CEAR (Comisión Española de Ayuda al Refugiado) (2013) "Venezuela Procedimiento de Asilo, situación de las personas colombianas, actuación de grupos paramilitares y/o paraestatales colombianos," CEAR, Madrid, p. 6.

⁶⁵⁷. Gottwald, M. (2006) "Protecting Colombian Refugees in the Andean Region: The Fight against Invisibility," *Agenda Internacional Año XII*, N.º 23, 2006, pp. 199–226, <http://revistas.pucp.edu.pe/index.php/agendainternacional/article/viewFile/8314/8618>.

⁶⁵⁸. World Refugee Survey (2009) "Venezuela," www.refugees.org/resources/uscrr_reports/archived-world-refugee-surveys/2009-wrs-country-updates/venezuela.html.

⁶⁵⁹. For example, more than 1,400 Colombians were reportedly deported in the first three months of 2015, www.noticiascn.com/nacional-pais/senador-chamorro-critico-posicion-cancilleria-colombianos-deportados-venezuela and <http://uk.businessinsider.com/venezuela-has-deported-thousands-of-colombians-2015-4#ixzz3a1b7EbmW>. Amnesty International Annual Report 2015–2016 for Venezuela cites 'In August, nearly 2,000 Colombian citizens, including refugees and asylum-seekers, were deported in the course of a few days', www.amnesty.org/en/countries/americas/venezuela/report-venezuela/

⁶⁶⁰. Human Rights Watch (2014) July 29, 2014 "Venezuela before the UN Human Rights Committee Submitted to the UN Human Rights Committee in Advance of its Pre-Sessional Review of Venezuela," www.hrw.org/news/2014/07/29/venezuela-un-human-rights-committee.

⁶⁶¹. See, for example, "Venezuela Must Uphold Rights of 'Even Those Who Disagree with State Policies' – UN Human Rights Chief," www.refworld.org/country,,,VEN,,5645aee832b,0.html. <http://amnesty.org/en/region/venezuela/report-2013>

⁶⁶². See, for example, Human Rights Watch (2015) "World Report 2015: Venezuela Events of 2014," www.hrw.org/world-report/2015/country-chapters/venezuela.

⁶⁶³. Amnesty International (2014) "Amnesty International Report 2014/15 State of the World's Human Rights," pp. 401–4, www.amnesty.org/en/documents/pol10/0001/2015/en/.

Given concerns about access to protection and the rights of refugees,⁶⁶⁴ one of the UNHCR's principal, and often repeated, objectives has been to provide technical support to the NCR to "expedite the processing of asylum application backlogs." The Office [UNHCR] will focus in particular on "improving the issuance of documentation, to enhance protection..."⁶⁶⁵

A verification protocol is in place between the UNHCR, the Norwegian Refugee Council, and the migration authorities with respect to deportation. Nevertheless, persons in need of international protection run the risk of deportation if they have not accessed the registration procedures. Evidence is sparse; however, a UN Office for the Coordination of Human Affairs report states that in the period mid-August to mid-October 2015, 1,950 Colombians were deported at border crossings while between 10,000⁶⁶⁶ and 22,342 Colombians were reported to have returned to Colombia because of fear of deportation.⁶⁶⁷ Significantly, the official returnees' registry has been closed since September 23, 2015.⁶⁶⁸

Refugees are not detained for irregular entry or other noncriminal reasons. However, given weak rule of law, there are reports that members of the National Guard and police regularly extort money from refugees by illegally detaining and threatening them with deportation. Refugees' documents are sometimes destroyed as part of this intimidation.⁶⁶⁹ Fear of provoking reprisals prevents the victims from reporting these incidents.⁶⁷⁰

Freedom of movement

Although the Constitution guarantees freedom of movement, frequent checkpoints make it difficult for undocumented refugees and asylum seekers to move about the country.⁶⁷¹

Right to work – refugee and labor and employment law

Refugees' right to work in Venezuela is mainly governed by the domestic labor laws that pertain to foreigners as a whole, notably the Venezuelan Organic Labor and Workers' Law of 2012 (LOTTT), which is the primary instrument.⁶⁷² In addition, Article 15 of the LOTTT ensures that international treaties and conventions that Venezuela has ratified and that provide more beneficial rights and conditions for workers than domestic law shall apply.

⁶⁶⁴. Jesuit Refugee Service (2012) "Facing Adversity on the Colombia-Venezuela Frontier," http://jrsusa.org/campaign_detail?TN=PROJECT-20121010021622.

⁶⁶⁵. UNHCR (2015) "Global Appeal 2015, Latin America," p. 3, www.unhcr.org/528a0a351e.html.

⁶⁶⁶. IRIN (2015) "Venezuela Crackdown Forces out Colombian Migrants," December 9, 2015, www.irinnews.org/report/101953/venezuela-crackdown-forces-out-colombian-migrants#.VenvHVhPwHo.email.

⁶⁶⁷. UNOCHA (2015) "Colombia: Humanitarian Snapshot: Colombia–Venezuela Border" (October 15, 2015), www.refworld.org/country,,,VEN,,562616084,0.html.

⁶⁶⁸. UNOCHA (2015) "Colombia: Humanitarian Snapshot: Colombia–Venezuela Border" (October 15, 2015), www.refworld.org/country,,,VEN,,562616084,0.html.

⁶⁶⁹. World Refugee Survey (2009) "Venezuela," www.refugees.org/resources/uscrr_reports/archived-world-refugee-surveys/2009-wrs-country-updates/venezuela.html.

⁶⁷⁰. See, for example, Human Rights Watch (2015) "World Report 2015: Venezuela Events of 2014" and earlier annual reports, www.hrw.org/world-report/2015/country-chapters/venezuela.

⁶⁷¹. World Refugee Survey (2009) "Venezuela," www.refugees.org/resources/uscrr_reports/archived-world-refugee-surveys/2009-wrs-country-updates/venezuela.html.

⁶⁷². Ley Orgánica del Trabajo, los Trabajadores y las Trabajadoras, (LOTTT) (2012).

In principle, refugees have more advantageous conditions than other foreign nationals. Thus, according to the 2001 Refugee Law and 2003 Decree, refugee identity cards are sufficient to access and authorize employment without additional permits; identity cards were available from the National Office of Identification and Immigration, part of the Ministry of the Interior, until it was replaced in 2009 by the Administrative Service of Identification, Migration and Immigration. Refugees can run businesses and practice as professionals. The labor laws that apply to nationals also apply to refugees.

2. POLICY AND PRACTICE

Constraining factors

Despite these ostensibly straightforward conditions in the law and the plethora of proworker benefits that employers must provide under Venezuela's highly protectionist labor laws (which extend to refugees),^{673,674} in practice the right to work in Venezuela's highly regulated labor market presents a much more complex picture.

Any foreign national entering Venezuela for other than recreational purposes must obtain a work (or business, industrialist, or investor) visa and a work permit.⁶⁷⁵ Some authorities indicate that the refugee identity card does not allow refugees to access work without an additional permit. Refugees require an annually renewable permit, but not a visa, and the procedures for obtaining the permits (and visa) are complex for both the employee and the employer.

Article 27 of the LOTTT also places restrictive conditions on the employment of nonnationals in any establishment, which may, in principle, affect refugees' ability to access work. Venezuelan nationals must make up 90 percent of the payroll, and remuneration of foreign nationals cannot exceed 20 percent of the total wage bill of the enterprise, although for the purposes of measuring this quota, refugees are treated as nationals.

An important limitation in accessing the formal labor market for both recognized refugees and recognized asylum seekers, even though they should be able to do so, is the fact that their type of ID (a so-called *cédula de transeúnte*) does not enable them to sign up for Social Security. Anyone who is not inscribed in Social Security cannot be employed in a formal work setting.

Perhaps the most salient factor limiting the right to work is the extremely small number of people who have actually been granted refugee status, although as discussed this may be attributable as much to the unwillingness of people to access registration as to the lack of government capacity or commitment. The lack of the right to work for the more than 200,000 undocumented refugees⁶⁷⁶ who do not have status is a far tougher issue. With little likelihood of ever receiving legal status, they, like many refugees, are

⁶⁷³. Economist (2014) "Venezuela's Labour Market: Labour's Love Lost,"

www.economist.com/news/americas/21594997-regime-has-contrived-make-both-bosses-and-workers-unhappy-labours-love-lost.

⁶⁷⁴. Baker and McKenzie (2012) "Overview of Labor & Employment Law in Latin America," pp. 121–45, www.bakermckenzie.com/files/Uploads/Documents/Dallas/bk_overviewlelawlatinamerica.pdf.

⁶⁷⁵. Thomson Reuters Practical Law (2015) "Employment and Employee Benefits in Venezuela: Overview," <http://us.practicallaw.com/3-503-0509#a780457>.

⁶⁷⁶. UNHCR identifies 168,500 persons in need of international protection who have not accessed asylum procedures.

consigned to working in the informal sector without the protection of Venezuela's labor laws; they receive lower wages than Venezuelan nationals, and may be subject to discrimination and exploitation by employers and officials. Without appropriate identification, undocumented refugees have limited freedom of movement, and unable to easily get away from the border areas where they are most at risk, these limitations put far greater constraints on their attempts to find work in the informal sector.⁶⁷⁷ The parlous economic conditions in Venezuela harden both the government's stance and public attitudes toward undocumented refugees' access to the labor market.⁶⁷⁸ The threat of deportation and, in some cases, its application further consigns undocumented refugees to very limited access to the job market.

Finally, it should be noted that these constraints on refugee employment take place against a backdrop of intimidation toward employers' organizations, independent trade unions, and their representatives in general, which mirrors the wider picture of denial of human rights in the country. These concerns were the subject of a detailed report by a tripartite ILO mission to Venezuela in January 2014⁶⁷⁹ and of human rights organizations concerned with limitations on trade union freedoms under international norms.^{680,681}

Facilitating factors

In addition to a positive legal framework mitigating these negative conditions, there are a number of ad hoc factors that facilitate access to jobs and sustainable livelihoods.

First, the Venezuelan government does not encamp refugees, who are free to move around the country. This, in principle at least, widens the potential access to work for refugees, although as discussed, mobility is constrained in practice. Moreover, many live in the inaccessible eastern border areas of the country.

Second, in 2010–11 the Jesuit Refugee Service commenced a capacity-building training and coordination process with refugee populations to strengthen protection mechanisms and to promote their rights and support the local integration processes in collaboration with the International Organization for Migration. The awareness-raising program facilitated access to micro-credit, education, and other services.⁶⁸²

Third, in 2012 the Venezuelan government announced proposals to coordinate a large number of state agencies in the formulation of public policies for the refugee population, in particular, to protect their rights to work as well as to education and health services. The decentralization of these services to local capitals was an important feature of these initiatives.⁶⁸³

⁶⁷⁷. US Department of State (2013) "Country Reports on Human Rights Practices for 2013, Venezuela," Bureau of Democracy, Human Rights and Labor, www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper.

⁶⁷⁸. Economist Intelligence Unit (2015) "Country Report, Venezuela," generated December 8, 2015, through World Bank access.

⁶⁷⁹. ILO (2104) "ILO High-Level Tripartite Mission to Venezuela," January 2014, www.ioe-emp.org/index.php?id=907.

⁶⁸⁰. Human Rights Watch (2014) July 29, 2014, "Venezuela before the UN Human Rights Committee Submitted to the UN Human Rights Committee in Advance of its Pre-Sessional Review of Venezuela."

⁶⁸¹. Human Rights Watch (2015) "World Report 2015: Venezuela Events of 2014," www.hrw.org/world-report/2015/country-chapters/venezuela.

⁶⁸². Jesuit Refugee Service (2012) "Facing Adversity on the Colombia-Venezuela Frontier," http://jrsusa.org/campaign_detail?TN=PROJECT-20121010021622.

⁶⁸³. Notitarde Directora de ACNUR para América realiza visita oficial a Venezuela (2012), www.notitarde.com/Pais/Directora-de-Acnur-para-Am%C3%A9rica-realiza-visita-oficial-a-Venezuela/2012/06/22/114403.

Fourth, the UNHCR, jointly with the UN Development Programme and the government, is seeking to pursue sustainable solutions for refugees through the Transitional Solutions Initiative, with technical support so that the authorities can replicate the projects on a wider scale in other affected areas.⁶⁸⁴

Despite the potential value of these initiatives, their impact and effectiveness have not been formally assessed.

3. MEDIATING FACTORS

Socioeconomic conditions

Although an upper-middle-income country with a comparatively diverse labor market, the precarious state of Venezuela's economy is very challenging.⁶⁸⁵ High unemployment and underemployment, negative economic growth, and a mounting economic crisis limit the socioeconomic prospects of the small number of registered refugees.⁶⁸⁶ For the mass of undocumented refugees who compete in a very crowded informal sector labor market, these conditions are a severe constraint on access to employment.

Although the urban sector offers better opportunities for refugee employment, only recognized refugees and asylum seekers, a minute fraction of the total number, can avail themselves of these conditions and seek employment in the formal sector. Some employers still hire refugees or asylum seekers, but these are rare exceptions. For the enormous number of undocumented refugees, their only opportunity is to work in the informal sector, where they face even greater competition with nationals for jobs, housing, business opportunities, and other services. The majority of undocumented refugees, however, live in remote rural areas where livelihood opportunities are even more constrained.

Since 2008, registered refugees have been able to purchase and own real property, which eased the settlement process and the potential for developing a sustainable livelihood.⁶⁸⁷ However, for asylum seekers, the lack of status and clear identification renders property purchase and ownership far more difficult.⁶⁸⁸ Now, even registered refugees face substantial restrictions. The property register requires refugees to present a national identity card (*cédula de residente*). However, recognized refugees can only obtain a more provisional identity card (*cédula de transeúnte*) with which they cannot register as owners with the Registry of Property. They can obtain a national identity card only once they have obtained Venezuelan nationality.

Earlier changes to banking regulations allowed refugees to open bank accounts with their provisional identity documents or copies of their asylum applications, an entitlement which, according to the UNHCR,

⁶⁸⁴. UNHCR (2015) "Global Appeal 2015, Latin America," p. 139, www.unhcr.org/528a0a351e.html.

⁶⁸⁵. Described as "in freefall," Economist Intelligence Unit (2015) "Country Report, Venezuela," generated on December 8, 2015, through World Bank access.

⁶⁸⁶. There are no recent data on the employment of refugees. A 2007 UNHCR study found that 14 percent of adults in need of international protection but who have not accessed asylum procedures are unemployed, www.acnur.org/t3/fileadmin/Documentos/Publicaciones/2009/6953.pdf?view=1.

⁶⁸⁷. World Refugee Survey (2009) "Venezuela," www.refugees.org/resources/uscrr_reports/archived-world-refugee-surveys/2009-wrs-country-updates/venezuela.html.

⁶⁸⁸. World Refugee Survey (2009) "Venezuela," www.refugees.org/resources/uscrr_reports/archived-world-refugee-surveys/2009-wrs-country-updates/venezuela.html.

allows refugees to cash checks and, until recently, convey remittances to Colombia.⁶⁸⁹ These conditions again open up possibilities to improve economic security and sustainable livelihoods. However, these opportunities are increasingly restricted. The current regulation (Circular SIB-II-GGR-GNP-34064 of 21.10.2011) issued by the Superintendency of Bank Institutions establishes that now only registered refugees, not those with provisional identity cards, are entitled to open bank accounts.⁶⁹⁰ With regard to remittances, regulations of the Minister of Economy and Finance now only allow Venezuelan citizens to send remittances to Colombia.

There is little documented evidence about the attitudes of Venezuelans toward the refugee population. No reports on xenophobia toward migrants have been found, for example, and the fact that there is little cultural difference between Colombians and Venezuelans—they share similar ethnic, religious, and historical characteristics—may help reduce the potential for conflict.⁶⁹¹ However, there is some suggestion of rising public hostility in the context of the harsher economic conditions that the country confronts and the prevailing environment of negativity toward refugees.

Refugee profiles

Little evidence is available on the skill and professional profiles of refugees in Venezuela and how these factors might mediate their access to employment. Because the vast majority of refugees remain undocumented and are employed, if at all, in the informal sector, it could be assumed that they either do not possess or are unable to deploy their skills and resources at appropriate levels.

However, given that the majority of refugees are *campesinos* who come from rural or peasant backgrounds (many from the frontier zones between Colombia and Venezuela), this provenance enables them to eke out a living in the line of work with which they are already familiar.

It is conceivable that the very large number of Colombians who came as migrant labor to Venezuela in the oil boom of the 1960s and later periods of economic prosperity provide a substantial informal social network for the more recently arriving refugees. Such conditions are known to pertain in other countries and might be assumed to apply here although no definitive research evidence has been found.

4. OUTCOMES

Participation in the labor market

As noted, few refugees and very few asylum seekers work in the formal sector. Most recognized refugees and those without documentation work in the informal sector, without the protection of labor laws and receiving lower wages than Venezuelans.

SUMMARY AND CONCLUSION

Venezuela presents a paradoxical picture on refugees' right to work. Venezuelan refugee and labor laws appear to fully secure rights that adhere to international standards and compare favorably with other

⁶⁸⁹. World Refugee Survey (2009) "Venezuela," www.refugees.org/resources/uscrr_reports/archived-world-refugee-surveys/2009-wrs-country-updates/venezuela.html.

⁶⁹⁰. Circular SIB-II-GGR-GNP-34064 of 21.10.2011.

⁶⁹¹. Venezuelanalysis.com (2012) "Open Borders and Open Hearts: How the Venezuelan State Addresses Its Population of Colombian Refugees," <http://venezuelanalysis.com/analysis/7257>.

countries in Latin America. In practice, however, these rights are very severely restricted by the government's lack of enthusiasm, and lack of resources to implement and administer a fully functioning refugee service on the one hand, and a fragile economy on the other hand, which consigns refugees (both documented and undocumented) to limited employment opportunities and high risk of exploitation. These limiting conditions take place against the backdrop of an adverse human rights regime that further militates against satisfactory employment possibilities for the refugees.

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