

WORKING PAPER



THE LEGAL RELEVANCE OF THE GLOBAL COMPACT ON REFUGEES: IMPROVING REFUGEE RIGHTS IN LEBANON AND JORDAN

Elisabeth Kinsky



Issam Fares Institute for Public
Policy and International Affairs
معهد عصام فارس للسياسات
العامة والشؤون الدولية

ABOUT THE PROGRAM

Refugee Research and Policy Program

Lebanon and the Arab region are facing one of the largest refugee crises spawning serious public policy challenges. Given this context, the Refugee Research and Policy program generates refugee related/policy-oriented research that addresses an existing knowledge gap in the field of refugee studies. Moreover, the program seeks to enrich the quality of debate among scholars, officials, international organizations, and civil society actors, with the aim to inform policymaking relating to refugees in the Middle East and beyond.

ABOUT THE ISSAM FARES INSTITUTE

The Issam Fares Institute for Public Policy and International Affairs (IFI) at the American University of Beirut (AUB) is an independent, research-based, policy oriented institute. It aims to initiate and develop policy-relevant research in and about the Arab region.

The Institute is committed to expanding and deepening knowledge production and to creating a space for the interdisciplinary exchange of ideas among researchers, civil society actors, and policy makers.

IFI Goals

- ▶ *Enhancing and broadening public policy-related debate and knowledge production in the Arab world and beyond*
- ▶ *Better understanding the Arab world within shifting international and global contexts*
- ▶ *Providing a space to enrich the quality of interaction among scholars, officials and civil society actors in and about the Arab world*
- ▶ *Disseminating knowledge that is accessible to policy-makers, media, research communities and the general public*

WORKING PAPER

***THE LEGAL RELEVANCE
OF THE GLOBAL COMPACT
ON REFUGEES:***

***IMPROVING REFUGEE RIGHTS
IN LEBANON AND JORDAN***

Elisabeth Kinsky

CONTENTS

ACRONYMS	5
EXECUTIVE SUMMARY	5
INTRODUCTION	6
1. POLICY CLIMATE THAT LED TO THE GCR	7
2. GENERAL SHORTCOMINGS OF THE GCR	7
3. MAIN FACTORS OF THE GCR	8
4. POLITICAL CLIMATES IN LEBANON AN JORDAN	10
4.1. LEBANON	10
4.2. JORDAN	11
5. ON SPECIFIC RIGHTS ISSUES	12
5.1. REGISTRATION AND DOCUMENTATION	12
5.2. IDENTIFYING INTERNATIONAL PROTECTION NEEDS	15
5.3. STATELESSNESS	19
5.4. JOBS AND LIVELIHOODS	23
CONCLUSION	27
LIST OF REFERENCES	28

ACRONYMS

ASC	Asylum Seeking Certificate
CRC	Convention on the Rights of the Child
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
GCR	Global Compact on Refugees
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ITS	Informal Tent Settlements
LAS	League of Arab States
MOI	Ministry of Interior
MOU	Memorandum of Understanding
RSD	Refugee Status Determination
UDHR	Universal Declaration of Human Rights
UNHCR	United Nations High Commissioner for Refugees
UVE	Urban Verification Exercise

EXECUTIVE SUMMARY

In December 2018, the Global Compact on Refugees (GCR) was signed by all UN Member States except the United States, signaling a global dedication to solving the global refugee crisis. The Global Compact's primary aim is to create a system for predictable and equitable burden- and responsibility-sharing for protecting refugees among all signatory Member States, whilst collaborating with stakeholders to improve the plight of refugees on a global scale. This paper will assess whether the Global Compact on Refugees can be an insightful tool when it comes to understanding Lebanon and Jordan's institutional and legal failings towards refugee communities, focusing predominantly on the envisioned changes within the Global Compact on Refugees relative to the protection of refugee rights. It will hone in on the protection of refugee rights in these two host-countries, specifically taking stock of the legal frameworks of four key issues outlined in the Global Compact on Refugees relating to the legal protection of refugees, namely registration and documentation, identifying international protection needs, statelessness, and jobs and livelihood, in the hopes of determining to what extent the Global Compact can be implemented to improve the rights situation for Syrian refugees in Lebanon and Jordan.

INTRODUCTION

The world is facing an unprecedented level of global displacement. There are currently 70.8 million people globally who have been forced to flee their homes due to violence, persecution, human rights abuses or other forms of instability, primarily seeking safety in neighboring countries. 80% of the world's displaced individuals are hosted in the developing world, in countries that do not possess the resources or the infrastructure to provide for large numbers of refugees, and who are predominantly not party to the international legal instruments that seek to protect refugees and asylum seekers (UNHCR, 2019A). In addition, due to many unresolved crises, countless refugees find themselves in protracted situations, unable to return home and unable to access durable, third-country solutions. This seemingly endless 'refugeehood' not only creates an imbalanced responsibility to host refugees between states in the Global North and the Global South, but creates a generational dependency on aid, denies access to basic refugee rights envisioned by international refugee law such as legal protection, durable solutions, residency rights, education, and medical services, and inhibits refugees' capacity to be self-reliant. The hopelessness and desperation that protracted situations generate has compelled many refugees to risk their lives to reach safety, with thousands of people losing their lives as a consequence. As a reaction to increased refugee movements, states in the Global North have acted unilaterally by placing physical and metaphorical barriers to entry and implementing policies of deterrence to stem the flow of people into their countries.

In December 2018, the Global Compact on Refugees (GCR) was signed by all UN Member States except the United States, signaling a global dedication to solving the global refugee crisis. The Global Compact's primary aim is to create a system for predictable and equitable burden- and responsibility-sharing for protecting refugees among all signatory Member States, whilst collaborating with stakeholders such as the UN and international organizations, humanitarian and development actors, local and regional authorities, academics, civil society, the private sector, the media, and host communities and refugees to improve the plight of refugees on a global scale. In order to achieve this, the Global Compact

sets out tools, suggestions, and technical and financial support to be implemented on domestic and international levels.

This paper will assess whether the GCR can be an insightful tool when it comes to understanding Lebanon and Jordan's institutional and legal failings towards refugee communities, focusing predominantly on the envisioned changes within the GCR relative to the protection of refugee rights. Lebanon and Jordan are two of the countries hosting the most Syrian refugees globally. The paper will first detail the policy climate that led to the establishment of the GCR, followed by an overview of the main factors of the GCR, and by a brief analysis of the general shortcomings of the document. Next, it will provide an overview of the political situations in Lebanon and Jordan. Finally, and principally, it will hone in on the protection of refugee rights in these two host-countries, specifically taking stock of the legal frameworks of four key issues relating to the legal protection of refugees, namely registration and documentation, identifying international protection needs, statelessness, and jobs and livelihood. It will lay out the international and domestic laws on each issue, describe how these laws and policies directly affect the lives of refugees in Lebanon and Jordan, and then consider if and how the GCR could be implemented in these settings. Within this context, it will discuss the indicator framework to monitor the success of the GCR and its intended outcomes. It will finally contemplate potential policy changes and the GCR-associated pledges made at the Global Refugee Forum in Geneva in December 2019.

1. POLICY CLIMATE THAT LED TO THE GCR

The incentive behind the GCR to improve the lives of refugees globally by laying out concrete measures to be taken at the local, national and international levels was not developed in a vacuum. Relentless conflict, placing strain on neighboring countries to provide for the refugees of the region, as well as increased migration and staggering numbers of deaths associated with this movement, necessitated global action. The New York Declaration for Refugees and Migrants of 2016 laid the groundwork for the promise of success of the GCR. By setting out an extensive refugee response framework, the New York Declaration expressed the international political will to promote global responsibility sharing, whilst upholding and protecting the human rights of all refugees. Following this Declaration, the High Commissioner for Refugees proposed the creation of the GCR in 2018.

As with many international documents that seek to encourage global cooperation on specific matters, the Global Compact on Refugees is non-binding. This means that a state's decision to sign the GCR carries with it no obligation to abide by the principles to which the state has theoretically 'agreed'. The non-binding status of international documents represents symbolic political dedication to a cause rather than an agreement to be legally bound to the provisions therein. Unwilling to compromise state sovereignty and to tie themselves to international legal obligations, the framing of the GCR as non-binding encouraged states to commit to the GCR in principal, but without creating obligations that would discourage this commitment. As Gavouneli highlights, by formulating the GCR in non-binding terms, states are able to avoid legal discussion of the GCR's normative value in domestic and international law, and hence any concern as to the GCR's ability to set precedent, whilst still exhibiting their dedication to the values and principles of the GCR. Furthermore, it allows these same values and principles to be taken and adopted by non-state actors, allowing for dissemination and implementation beyond the state apparatus. (Gavouneli, 2019) The hope that over time, state and non-state practice becomes enshrined in domestic policy forms the foundation of the strength of the non-binding nature of the GCR.

2. GENERAL SHORTCOMINGS OF THE GCR

As discussed, the Global Compact on Refugees is a non-binding document under international law. Despite this lack of obligation-creating status, there remains hope for the solidification of the Global Compact in domestic and international law. A crucial component needed for the enforcement of non-binding law is the support of civil society and the presence of political will. If civil society members and politicians proactively advocate for the upholding of the Global Compact, this support could act as a driver to change and ultimately allow non-binding law to become rooted in the international law regime as a whole, perhaps even mobilizing off-shoots of these policies to be created domestically. Additionally, the flexibility that can be derived from soft law instruments such as the Global Compact may encourage states who are traditionally more apprehensive about international law to participate. Without having to overcome misgivings about compromising state sovereignty or issues with enforcement mechanisms connected to the ratification of binding international law, states may be willing to legislate on aspects of the Global Compact domestically. As the GCR builds on elements of international refugee law (GCR, para. 5), non-signatories of the Refugee Convention will be able to create a relationship with the international refugee law regime for the first time.

However, this flexibility carries with it the risk of states being able to pick and choose which measures they wish to implement and which measures they will simply ignore. In the context of the Global Compact on Refugees and its target of promoting equitable burden- and responsibility- sharing, this allows host-states to benefit from financial and material support, in addition to possible resettlement spaces and other durable solutions, without having to abide by any suggested domestic changes. There is no quid pro quo that incentivizes host-states to improve the situation of refugees residing in their countries, even on a temporary basis, or to recognize and enforce refugee rights. The GCR explicitly provides that additional burdens will not be placed on host countries in any form (GCR, para. 50).

It remains to be seen to what extent the Global Compact will make an impact on the global expression of refugee policy. At the least, the drafting of deliberately narrow and often generally-phrased and suggestive recommendations may render the value of this document merely to provide heightened and sustained attention to the plight of refugees, and the absolute necessity of a new and updated international refugee policy. At the most, political will, renewed empathy and global cooperation will allow for the principles of the GCR to be adopted by all signatory states, paving the way for the establishment of updated policy based on the sharing of burden and responsibility.

3. MAIN FACTORS OF THE GCR

The GCR boasts four main objectives - to ease pressure on host countries, to enhance refugee self-reliance, to expand access to third-country solutions, and to support conditions in countries of origin for return to safety and dignity. In order to achieve these ambitious objectives, the drafters of the GCR laid out tools which they hoped would foster a cohesive, global and innovative dialogue on how to tackle the global refugee crisis, as well as concrete suggestions as to how the international community and sovereign states hosting large numbers of refugees can act in order to improve the welfare and protection of refugees in the long-term.

The key terms that encapsulate the reasoning behind the creation of the GCR are ‘burden-’ and ‘responsibility-sharing’. As recognized in the Preamble of the Convention Relating to the Status of Refugees (“Refugee Convention”), the international law instrument which governs the protection of refugees, hosting large groups of individuals fleeing from persecution and war often places extremely heavy and unbalanced burdens on just a few countries, the alleviation of which can only be achieved through international cooperation. The GCR therefore envisions global, regional and country-specific actions to spread the burden and responsibility of hosting the world’s refugees among all states, not just those in geographically close proximity to the countries from which refugees are fleeing.

In order to succeed in burden- and responsibility-sharing, the GCR calls upon the international community to contribute in a multitude of manners. Under the heading ‘International Cooperation’, the drafters of the GCR created the Global Refugee Forum, a periodic meeting to happen every four years, in which UN Member States will come together to discuss effective means for which burden- and responsibility-sharing can be encouraged. Member States also discuss the extent to which they could make pledges to ameliorate the refugee plight in the form of financial, material and technical assistance, resettlement places and complementary pathways, as well as additional undertakings on the national level in support of the GCR’s objectives, in order to alleviate pressure on host states (GCR, para. 17). Envisioned

are also methods to support comprehensive and concrete responses to handle specific refugee situations. In this context, the GCR urges nation states to establish mechanisms to coordinate and facilitate the work of all stakeholders involved to make way for more collaborative and united approaches (GCR, paras. 20-21). In support of these national arrangements, the GCR details that host countries will have access to the help of ‘Support Platforms’, which would provide situation-specific assistance to refugees, host countries and host communities (GCR, paras. 22-27). The GCR also addresses the regional dimension, highlighting the importance of addressing varying complexities in circumstance- and region-specific contexts (GCR, paras. 28-30).

The GCR also provides tools for constructive burden- and responsibility-sharing. The first instrument addressed is funding and effective and efficient use of resources, specifically addressing humanitarian assistance, development cooperation and maximizing private sector contributions (GCR, para. 32). The next tool details the need for a multi-stakeholder and partnership approach, while maintaining the responsibility and sovereignty of the States which are being helped (GCR, paras. 33-44). Data and evidence are the final concrete tool needed for burden- and responsibility sharing, relying on evidence-based measures to “improve socio-economic conditions for refugees and host communities; assess and address the impact of large refugee populations on host countries in emergency and protracted situations; and identify and plan appropriate solutions” (GCR, para. 45-48).

Based on the above contributions by the international community, Section B of the Global Compact sets out areas in which support could be implemented, to be called upon by host countries to tackle certain concerns (GCR, 49-84). Although many issues are addressed, the scope of this paper does not allow for a discussion of all of them. Instead, the focus will lock into four sub-headings which cumulatively contribute most to the protection of refugee rights in Lebanon and Jordan. To complement the ways in which domestic states can improve the situation for refugees, the GCR also describes durable solutions which the international community should support. These are support for countries of origin and voluntary repatriation (GCR, paras 87-89), resettlement (GCR, paras. 90-93), complementary pathways for admission to third countries (GCR, paras. 94-96),

local integration (GCR, paras. 97-99) and other local solutions (GCR, para. 100).

Finally, mechanisms for follow-up and review are detailed, including the Global Refugee Forum, to be hosted every four years (GCR, para. 103), biannual meetings with high-level officials (GCR, para. 104) and annual updates to be produced by UNHCR (GCR, para. 105).

4. POLITICAL CLIMATES IN LEBANON AND JORDAN

4.1. Lebanon

With an estimated one-to-four ratio of refugee to national, Lebanon is currently hosting the largest number of refugees per capita in the world. According to official records, almost a million Syrian refugees are registered with UNHCR (UNHCR, 2019B). However, due to a 2015-enacted national policy that prohibited UNHCR from registering new refugees, it is estimated that a further 500,000 Syrians are seeking refuge in Lebanon, albeit informally and without official registration or documentation (UNHCR, 2019B). In addition to the approximate 1.5 million Syrian refugees in Lebanon, Lebanon has also been hosting several hundred thousand Palestinian and Iraqi refugees for decades, a reality that had already placed immense strain on the local population and local politics. Needless to say, the presence of so many refugees in Lebanon has made the refugee issue highly politicized and contentious, inherently intertwined with history and past experiences.

From the beginning of the Syrian conflict in 2011 until 2014, Lebanon exercised an open-door policy, demonstrating a willingness to provide their neighbors in conflict safety and aid until the war subsided. The international community initially praised Lebanon for its openness, but as the Syrian civil war intensified and it became clear that there was no end in near sight, the Lebanese state gradually implemented a stance of deterrence rather than protection. The realization that the Syrian refugee presence was not a temporary challenge, but a more long-term undertaking that would affect the political, economic and social make-up of the country, fueled fears and emphasized pre-existing prejudice. Engrained in the collective perception of refugees in Lebanon is the fear that any demographic changes that would arise through integration or assimilation of refugee newcomers would upset the delicate sectarian balance of the state. Assimilation of large numbers of Syrian Sunnis would tip the power scales immensely in favor of the Sunni political powers.

In line with these fears, and the fear that the refugee camp turned informal neighborhood scenario that arose through the continued presence of Palestinian refugees would be repeated, the Lebanese authorities have refused to allow the formal establishment of refugee camps for Syrians. The spatial transformations that have occurred in Lebanon through the presence of Palestinian refugee camps that have become formalized, economically-sustainable and permanent neighborhoods had to be avoided at all costs (Sanyal, 2017). Instead, many Syrians reside in Informal Tent Settlements (ITS) across Lebanon, permanently placed on the periphery of society in make-shift accommodation. Others have managed to find accommodation in flats or houses but are at risk of exploitation through landlords, as many are unable to sign contracts on account of their unstable legal status. The no-camp policy has created significant barriers for humanitarian organizations in providing infrastructure, support and access to services in a fair and efficient manner.

Further retrogression of the relationship between refugees and local communities stems from the xenophobic public discourse executed by politicians, as well as fears compounded surrounding heightened security, loss of job opportunities, minimized access to public services, and the impression that humanitarian and developmental aid disproportionately targets refugees rather than providing relief to underprivileged local communities.

It has been argued that in order to understand the intricacies of Lebanon's political landscape and its response to the Syrian refugee presence, one must contemplate the particular set of political circumstances relevant to the Lebanese context. Fakhoury highlights that the Lebanese refugee response reflects conflicting political incentives, informal political dealings, as well as the incapacity and inadequacy of state institutions, all catalyzed by prevailing political deadlock. Delegation of refugee assistance to non-state institutions has relegated the state's responsibility and involvement in refugee matters to non-existent. Furthermore, the presence of large numbers of refugees permanently in limbo has allowed the Lebanese state to accrue significant financial benefits from external donors, and has been utilized as a political pawn to be played in the face of international political dealings (Fakhoury, 2017).

4.2. Jordan

There are currently approximately 670,000 Syrian refugees registered with UNHCR in Jordan (UNHCR, 2019C), and an estimated further 700,000 who are not registered (UNHCR/UNDP, 2018) - because they did not plan on staying in Jordan, did not have comprehensive information about the registration process, or the importance thereof, or feared expulsion. As in Lebanon, Jordan has been hosting large numbers of Palestinian refugees since the Arab-Israeli war in 1948. The attitude towards Syrian refugees is therefore a reflection of Jordan's past experience with prolonged refugee presences, which accounts for the government's apprehension to recognize the stay of Syrians as anything but temporary.

Initially, many Syrian refugees in Jordan had a positive perception of the Jordanian response to the Syrian refugee presence. Large numbers of Syrians had familial ties or previously established networks in Northern Jordan and were met with hospitality and openness (Chatty, 2017). However, the presence of so many Syrian refugees in Jordan has placed a severe stress on the economic situation, local communities and the provision of public services, as well as stretching already limited resources. Despite these challenges, the Jordanian response to the sustained presence of Syrian refugees over the past nine years has been met with a higher level of organization than in Lebanon. In general, the Jordanian government has supported an open border policy, although this has become more restrictive in the past few years. Growing security concerns, especially after the self-declaration of the Islamic State in 2014 and a suicide attack on the North-Eastern border in 2016, led many of the border crossings to close for Syrian refugees. The system in place at the beginning of the Syrian conflict utilized the border crossings as a means to regulate the entry and registration of new refugees, immediately transferring them to UNHCR refugee camps where their asylum seeker certificates would be issued.

In contrast to Lebanon, UNHCR-run refugee camps do exist, although an estimated 80% of Syrian refugees live outside these camps, in urban and rural regions (UNHCR, 2019C). Za'atari refugee camp is considered the largest Syrian refugee camp in the world, hosting approximately 78,000 Syrian refugees (UNHCR, 2019D). The legal status of refugees living in UNHCR-camps differs from the status of those living in host

communities, a practice which has caused many additional barriers for refugees.

Tsourpas argues that Jordanian policy-makers have made active efforts to keep the presence of Syrian refugees on the international agenda by making their numbers 'visible' and exaggerating the actual statistics of numbers present. The vast increase of residents in Za'atari from 45,000 in November 2012 to 156,000 in March 2013 allowed the Jordanian state to highlight the strain of the refugee influx and catapulted the necessity of international aid to center-stage (Tsourpas, 2019). Maintaining and utilizing refugee vulnerability to appeal to an international audience only exasperates the pre-existing vulnerability. The Jordan Compact – an agreement between the EU and Jordan that traded off economic incentives from the EU with the promise of creating more jobs for Syrians in Jordan in order to stem the flow of refugees out of the country – has been seen by some as Jordan leveraging the protracted nature of the crisis for economic gain. Indeed, Imad Fakhoury, the Jordanian Planning Minister stated, “[t]his is an opportunity to transform the Syrian refugee crisis to an economic opportunity” (Al-Khalidi, 2016). In an attempt to fulfill the quota of Syrian employment guaranteed by the Jordan Compact, there have been significant consequences for other foreign workers in Jordan, in particular Egyptian domestic workers who now face far more stringent restrictions on employment in Jordan (Tsourpas, 2019).

Despite these hints of opportunism, in comparison to Lebanon, where the government has completely relieved itself of all responsibility towards the refugee community, the Jordanian government has generally shown itself more willing to work on policies, and the implementation of these policies, in conjunction with UNHCR and other stakeholders.

5. ON SPECIFIC RIGHTS ISSUES

The following section will examine how the political and legal frameworks in Lebanon and Jordan have affected the rights and protection of Syrian refugees, in particular looking at key rights issues detailed in the GCR, namely registration and documentation, international protection needs, statelessness, and jobs and livelihoods. It will then assess the extent to which the GCR's ambitious aims for the optimization of the provision of refugee rights emphasize how far removed current refugee policies in Lebanon and Jordan are from the legal and ethical standards envisioned in international law. Finally, it will discuss potential policy measures that could be taken that align with the proposals of the GCR, as well as detailing some GCR pledges seen thus far in the Global Refugee Forum held in Geneva in December 2019.

5.1. Registration and Documentation

5.1.1. International Law

The identification and registration of asylum seekers is a crucial tool in the safeguarding of refugee rights and access to basic assistance, as well as for States to have a database of who is in the country. It forms the first formal step in the creation of the protection relationship between the individual and the State and/or UNHCR. Through registration, refugees are recognized as individuals of concern and can begin the international protection process - be it through *prima facie* recognition¹ of refugee status, or through individual refugee status determination. The mere fact of being registered in the national or UNHCR system can protect against *refoulement*,² arrest or

1 *Prima facie recognition is when a State or UNHCR recognizes refugee status based on the objective circumstances of a country, rather than assessing refugee claims based on their individual merit.*

2 *The principle of non-refoulement is a fundamental international law principle that forbids states from deporting or forcibly removing refugees or asylum seekers to countries where they may be subject to persecution.*

detention. It is therefore a fundamental tool in the application of international and national standards for refugee protection, and also forms the basis on which residency permits are issued. Providing documentation of registration and/or residency ensures freedom of movement, grants access to certain services, and provides proof of legal stay in the country.

International law lays out some requirements and standards for the conducting of registration. The Refugee Convention specifies that States party shall provide UNHCR with information and data on refugees' conditions (Article 35), shall issue identity papers and travel documents to refugees who do not possess any (Article 27 and 28), and will guarantee that documents are issued to refugees as they would to other aliens in the territory (Article 25). However, Lebanon and Jordan's lack of ratification of the Refugee Convention makes these inapplicable to the present context. Other international conventions, to which Lebanon and Jordan are signatories, should provide more legal coverage to refugees and asylum seekers in regard to registration, in particular the ICCPR (Article 16: recognition before the law, and Article 24: regarding nationality and birth registration), ICESCR (Article 10: protection of family and children), CRC (Article 7: Birth registration, name, nationality, right to know parents, and Article 8: Preservation of identity).

5.1.2. Lebanese Law and Policy

Typically, registration of asylum seekers and refugees is a responsibility solely of the State concerned; however, UNHCR assumes this role when States cannot or will not conduct the registration process themselves. Up until 2015, UNHCR had taken on this role on behalf of the Lebanese state, whilst the Lebanese state remains responsible for the issuance of residency permits.

The open-door policy in Lebanon originally praised by the international community in the first few years of the Syrian civil war ended abruptly in December 2014, when Lebanon's General Security Directorate established new and restrictive regulations on residency permits in an attempt to curb the flow of Syrians into the country. These required all Syrians who were applying for, or seeking to renew, residency permits to pay an annual fee of \$200, provide a valid passport or ID card, and present signed proof that a Lebanese national is sponsoring the applicant. The

prospect of paying such a high sum for legal residency permits was unfeasible and unaffordable for the majority of Syrian refugees, many of whom were living under the poverty line. Those who managed to find sponsorship were left extremely vulnerable to exploitation as the continuation of their legal status was contingent on the willingness of the sponsor to support them, a relationship of dependence that can lead to the sponsor demanding high fees in exchange for cooperation. As a result, 61% of households reported not holding a legal and valid residency permit within the first few months, in comparison to 9% before implementation of this policy (Inter-Agency Coordination Lebanon, 2015).

These numbers became even more drastic once the Lebanese Ministry of Social Affairs demanded in May 2015 that UNHCR terminate registration of all refugees arriving in Lebanon after that date. It is estimated that approximately 500,000 Syrian refugees have not been able to register with UNHCR since 2015 and have thus been denied access to protection and services. Although UNHCR still has records on many of the individuals arriving after 2015, this does not equate to official registration, nor does it result in the issuance of temporary legal stay. UNHCR continue to ‘record’ refugees – but this does not equate to official registration.

Despite the decision of the Lebanese General Security Office to waive the \$200 residency renewal fee in March 2017, the percentage of refugees without legal residency remains extremely high. This is not least due to the fact that this waiver is excluded for all refugees arriving after 2015 who have not been able to register with UNHCR, as well as all refugees registered prior to 1st January 2015 who had renewed their residency on the basis of tourism, sponsorship or being a property owner or tenant. There remain limited alternatives to access residency permits, including studying, being granted a work permit, and being married to a Lebanese national.

5.1.3. Jordanian Law and Policy

Refugees in Jordan must register with both the Ministry of Interior (MOI), who issue refugees with biometric service cards, granting refugees access to public services such as education and healthcare, and UNHCR, who provide refugees with a ‘proof of registration’ if residing in formal UNHCR-camps, or an ‘asylum seeker certificate’ (ASC) if living outside of the camps.

A system called the Urban Verification Exercise (UVE) has been in place since February 2015, which requires all Syrians living in host communities to re-declare their presence at a local police station in order to receive renewed MOI biometric service cards. However, the requirements and barriers for issuance are many, including lease contracts, proof of residence and additional, unexpected documentation. Not being able to acquire said documents has forced many Syrian refugees to be unable to update their registration.

In addition, many refugees who wished to relocate to host communities from refugee camps have been denied re-registration. A ‘bailout’ system was implemented in 2014 which allowed Jordanian relatives to sponsor Syrians wanting to move from refugee camps to host communities. Although enforced loosely initially, allowing refugees to gain access to MOI service cards without proof of Jordanian familial ties, vigorous enforcement of this process in 2015, and eventual cancellation of the system all together, meant refugees wishing to leave the refugee camp setting faced major hurdles. Many chose to leave the camps anyway, despite not receiving the bail-out or the attached access to MOI cards; their registration has mostly been denied under the new system, forcing them into a legal limbo. There is currently no legal way for refugees living in camps to re-settle permanently in host communities, except for very exceptional cases which must be approved by the Humanitarian Committee in the camp.

In March 2018, the Jordanian government decided to grant ‘amnesty’ or ‘regularization’ to refugees living outside of refugee camps without permits or proof of re-registration. This decision formalized refugees’ residency, protecting many vulnerable individuals who had previously been at risk of arrest or deportation.

5.1.4. Reality for Refugees

In both Lebanon and Jordan, a significant proportion of the Syrian refugee population remains unregistered. In Lebanon, approximately 30% of the estimated 1.5 million Syrian refugees are not registered; of the 1.38 million Syrian refugees in Jordan, about 700,000 are unregistered (UNHCR/ UNDP, 2018).

The financial burden placed on refugees who arrived in Lebanon before 2015 of \$200/year to renew their residency, coupled with the prohibition of registering

refugees arriving after 2015 is arguably the most prevalent and severe source of issues facing refugees in Lebanon. A staggering 73% of Syrian refugees over the age of 15 do not possess legal residency (Government of Lebanon and UN, 2019), which leads to a host of different legal and social problems. Refugees who were not able to register with UNHCR also face minimized access to assistance offered by UN agencies and other humanitarian organizations, including access to healthcare, education and other services.

In Jordan, the registration process is more straightforward and lenient. The government of Jordan and UNHCR continue registering refugees and updating their legal status. The decision in March 2018 to regularize many refugees' status who were illegally residing outside of UNHCR camps was an important move for people to access legal residency, thereby also opening up eligibility for access to employment, humanitarian aid, and education.

Residing in Lebanon and Jordan illegally remains a criminal offence for refugees, for which people can be detained and prosecuted. Indeed, many Syrians who do not hold legal residency face departure orders if arrested, although deportations are usually not carried out due to Lebanon and Jordan's apparent commitment to the principle of *non-refoulement*.

Refugees who have not been able to register themselves with the government or UNHCR, due to practical or administrative issues, often find themselves in a state of legal lacuna, where they are not able to access basic legal protection, nor are they eligible for resettlement. Legal residency becomes a near impossibility unless individuals remain in the country based on student or work visas, or other forms of residency permits. Without legal residency, refugees are faced with restricted freedom of movement due to fears that passing through internal security checkpoints in order to access other geographical regions could lead to arrests. This in turn creates barriers to employment, to sending children to school, to finding adequate housing, or to accessing medical services. In addition, the ability to obtain civil documentation such as birth, marriage, and death certificates is severely restricted, and places legal and financial burdens on individuals, resulting in many Syrian children being at risk of being forced into statelessness. Lack of legal status, provided through the government or UNHCR, has also exasperated the risk of abuse, including labor exploitation and sexual

and gender-based violence, as refugees with irregular status will be unlikely to report abuse to relevant authorities for fear of arrest.

5.1.5. GCR

As outlined in the GCR, registration is “an important tool in ensuring the integrity of refugee protection systems and preventing and combating fraud, corruption and crime, including trafficking in persons,” (GCR, para. 58) and is a fundamental tool for finding long-term solutions for refugees. In order to achieve a more consistent approach to registration and documentation, the GCR envisions a role for UNHCR, along with other States and relevant stakeholders, to contribute resources and expertise in order to reinforce the role of the State in national registration systems (GCR, para. 58).

In the case of Lebanon, registration and documentation has become a very politicized issue. The indefinite prohibition placed on UNHCR to register new refugees has been used by politicians to signify to Syrian refugees that they are not welcome in Lebanon. It has arguably been an effective tool of deterrence, as Syrians arriving post-2015 have heightened difficulty accessing fundamental rights and often fall between the cracks of protection usually afforded by UNHCR. The stringent renewal processes of legal residency also continue to create extra hurdles for refugees, placing financial and legal pressures on many families. These policies were actively enacted by Lebanese politicians to make refugees' stay more difficult, not less. In addition, the Lebanese state has consistently relied on UNHCR to manage all aspects of registration of refugees, and has never sought to have a role in the process.

The GCR therefore does little in providing suggestions for direct action on registration or insisting on the implementation of fair, efficient and simple registration systems that allow refugees to be registered based on the principle of non-discrimination. As has been shown, registration and access to residency permits is one of the most fundamental components of a refugee's ability to receive legal protection.

There is no specific reference to registration and documentation within UNHCR's indicator framework for monitoring and evaluating the success of the GCR. More broadly, the framework puts forth that the number of partners supporting national arrangements

in the refugee-hosting country will indicate to what extent pressure is eased on host countries. Other indicators are the volume of official development assistance, and the number of donors thereof, to, or for the benefit of, refugee and communities in refugee-hosting countries (UNHCR, 2019E). Morocco, for example, pledged a contribution of \$300,000 at the Global Refugee Forum to support the area of registration and documentation.

5.1.6. Policy Recommendations and Global Refugee Forum Pledges

The weak language and vague suggestions of the GCR are not enough to reform registration systems, especially in the case of Lebanon as the GCR envisions states taking a proactive role in the registration of refugees. As discussed, this prospect remains unlikely in Lebanon. However, intermediate steps should be taken in order to safeguard the rights that flow from registration. It is of the utmost importance that Lebanon retracts its current stance on registration and documentation, and follows the guidelines set out in international law. Without sufficient registration and documentation processes in place, access to long-term solutions and domestic and international protection are restricted, in contradiction to the international treaties that Lebanon has ratified. A collaborative effort between the government of Pakistan, the government of Afghanistan and UNHCR presents as a best-practice model that could be implemented in these circumstances. This model has demonstrated the merit of an adequate registration system for the refugees it registers, their country of origin and the host-state. In addition to providing access to services and protection, this registration system has allowed the governments of Pakistan and Afghanistan to pave the way for safe and voluntary repatriation and re-integration through mutual identification of areas for safe and dignified return and data-sharing (The Global Compact on Refugees Digital Platform, 2019A).

In relation to Jordan, research conducted by CARE shows that the predominant cause of non-registration of refugees in Jordan is lack of information, with over half of participants claiming they had not registered with UNHCR because they did not know what the procedure entailed (CARE Jordan, 2018). This indicates that more than needing the role of the State to be strengthened in the registration process, the focus should be diverted onto the dissemination and provision of information. A pledge made at the Global

Refugee Forum proposes the mapping of existing programs and services to ensure that refugees and asylum seekers can gain access to their basic needs (The Global Compact On Refugees Digital Platform, 2020). To this end, to encourage registration in Jordan, resources and expertise should be gathered to provide refugees in Jordan with adequate counsel on the importance of registration, as well as targeted information campaigns on how to conduct the registration process.

5.2. Identifying International Protection Needs

5.2.1. International Law

The right to apply for asylum finds its footing in the UDHR (Article 14). The universal foundation of international refugee law is formed from the Refugee Convention and its Protocol Relating to the Status of Refugees (“1967 Protocol”). Article 1A(2) of the Refugee Convention confers refugee status on applicants seeking asylum in states party to the Convention, who are able to prove that they have a well-founded fear of persecution in their country of origin based on race, religion, nationality, membership of a particular social group or political opinion, and due to this fear are unable to seek protection of that country, or return to it. Upon determination of refugee status, the Refugee Convention provides that host states must confer the minimum standard of rights that would be afforded to other non-nationals legally residing in that state, which includes the rights of freedom of movement, work, and protection (Refugee Convention, Article 7(1)). Refugee status provides a temporary form of protection until individuals are granted permanent residency or nationality of the host state or are repatriated. An integral part of international refugee law is the customary international law principle of *non-refoulement*, which dictates that states are prohibited from forcibly removing refugees or asylum seekers to countries or areas where their lives or freedom may be put at risk on the basis of persecution or human rights abuses. Due to the customary nature of this principle, the principle of *non-refoulement* is an obligation that is binding, independent of whether a country has ratified the Refugee Convention or not.

Neither Lebanon nor Jordan have ratified the Refugee Convention, or its 1967 Protocol, meaning that the rights envisioned to flow from recognition of refugee

status are not conferred onto their asylum-seeking communities, resulting in refugees being forced into a legal limbo, where access to these fundamental rights are denied. There is no relevant regional refugee regime that could be applied. Several refugee rights are theoretically protected under the many other international conventions that Lebanon and Jordan have ratified, but these are generally not enforced.

5.2.2. Lebanese Law and Policy

Since the granting of asylum, and the accompanying rights that stem from that status, is a legal process that is enshrined in the Refugee Convention, Lebanon's non-signatory status means that refugees requiring protection in Lebanon do not actually formally qualify as refugees under international law. Lebanon has consistently refused to refer to Syrian refugees as 'refugees', preferring to label them as 'displaced'. In fact, there is no domestic asylum law at all which could provide for any kind of rights or welfare protection in Lebanon, further reflecting the state's unwillingness to host refugees. Instead, refugee issues are governed by national immigration laws such as the 1962 Law Regulating the Entry and Stay of Foreigners in Lebanon and their Exit from the Country, which has a limited number of articles pertaining to asylum; these articles have been rarely implemented. As such, the system used to govern the immigration status of refugees residing in Lebanon is the same law used to dictate the status of foreign nationals. Lebanon insists that it is "neither a country of asylum, nor a final destination for refugees, let alone a country of resettlement" (UNHCR/ UNDP, 2014).

In an attempt to fill the protection void created by non-compliance with the international refugee regime and lack of concrete domestic policy towards refugees, UNHCR has taken on many roles usually conducted by national governments. Based on a Memorandum of Understanding (MOU) between the Lebanese General Security Office and UNHCR, signed in 2003, UNHCR has sole responsibility for the registration of asylum seekers and the provision of international protection. However, the MOU has not been updated since its creation and thus does not contain any direct references to the treatment of Syrian refugees. Although initially praised as an important step towards the protection of refugees as it recognizes the right to remain in Lebanon, the MOU fails to provide adequate protection standards. Its principle shortcomings are its non-inclusion of

the principle of *non-refoulement* and its applicability only to asylum seekers who have registered with UNHCR within two months after entering Lebanon (MOU, Article 1).

Registration with UNHCR, therefore, does not carry with it any formal legal refugee status. UNHCR has stopped short of recognizing Syrian refugees as *prima facie* refugees, the automatic recognition of refugee status based on the objective factor of being from a specific country and therefore requiring protection. This method is often used in cases of large-scale displacement where the individual assessment of refugee status determination is not considered pertinent. Instead, UNHCR classifies the Syrian refugee presence in Lebanon as a 'refugee movement', a characterization which does not equate to refugee status under international law. It has been argued that UNHCR is conferring *de facto prima facie* refugee status, as although *prima facie* refugee status is not an official policy, all refugees in Lebanon are treated as such by UNHCR, and are granted the accompanying rights from UNHCR (Janmyr, 2018). Under international legal parlance, Syrians refugees in Lebanon are therefore considered to be '*de-facto* refugees', a status that denotes protection under UNHCR as a refugee, without formal recognition by the state. The decision of the Lebanese government in 2015 to halt the UNHCR registration of all new refugees has resulted in hundreds of thousands of Syrian refugees being excluded even from these minimum protections.

In general, Lebanon has abided by the principle of *non-refoulement*. However, there have been instances of unlawful deportation. Concerningly, in May 2019, the Lebanese General Security Office declared that all Syrians coming into Lebanon illegally after 24th April 2019 would face deportation. In addition, some have criticized the decay of the protective environment in Lebanon as *non-refoulement* in disguise. The deteriorating protection environment, including difficulty accessing legal residency, diminishing livelihood opportunities, and the decrease in humanitarian aid, combine to form significant push factors for return. The Lebanese General Security Office has gone so far as to incentivize return by allowing Syrians wishing to return home to be exempt from paying an exit fees usually payable if returnees had not obtained residency permits during their time in Lebanon; passports are then stamped to indicate that the returnee is banned from re-entering for a period time, unbeknownst to their owner (Fakhoury,

2019). It has therefore been questioned whether the decision of Syrian refugees to return to Syria is made on the basis of free and informed consent, or whether these decisions can even be made on a 'voluntary' basis if the conditions in the host-country are deteriorating to such an extent that leading a life of dignity is no longer possible (Sawa for Development & Aid, 2019).

5.2.3. Jordanian Law and Policy

Jordanian Law does not provide many specific references to refugees or asylum seekers. Official recognition of refugee status for Syrians is mostly circumvented in domestic Jordanian law, labelling Syrian refugees as 'guests', 'irregular guests' or 'visitors'. Importantly, and in line with customary international law, a resolve to uphold the principle of *non-refoulement* can be found in the Jordanian Constitution, which dictates that "political refugees shall not be extradited on account of their political beliefs or for their defense of liberty" (Article 21). Beyond this, the 1973 Residency and Foreigners' Affairs Law, which deals with the legal conditions for the entry and stay of foreign nationals residing in Jordan, explicitly allows exceptions for residency requirements "on account of special consideration connected with international or humanitarian courtesy or of the right to political asylum," (Article 29) as well as for stateless individuals or stateless refugees (Article 4(c)).

The 1998 Memorandum of Understanding (MOU) between UNHCR and Jordan, renewed in 2003, remains the only legal document specifically directed towards the safeguarding of refugee rights in Jordan. The MOU essentially delegates all work involved in the Refugee Status Determination (RSD) process to UNHCR, completely relieving the Jordanian government of any duties to involve themselves in this process. It adopts a similar definition of 'refugee' as the Refugee Convention (Article 1) and confirms that the government of Jordan is committed to the international standards of refugee protection, including the right of refugees to stay in the country on a temporary basis (Article 5). Article 2 reiterates the recognition and commitment to the principle *non-refoulement* found in the Jordanian constitution. However, in contravention to the principle of *non-refoulement*, Palestinian and Iraqi refugees from Syria, unmarried men of military age, and refugees without valid legal papers have been consistently refused entry into Jordan, forcing them to seek

out illegal means of crossing the border, including resorting to human smuggling. The closure of border crossings constitutes a further violation of the principle of *non-refoulement* as many refugees are being denied access to international protection.

Due to the gravity of the Syrian refugee context, UNHCR in Jordan grants *prima facie* refugee status to all Syrian refugees, without having to conduct formal RSD proceedings. This bestows upon Syrian refugees the automatic right to receive protection, aid and shelter from UNHCR upon registration with the Agency, as well as potential access to third-country resettlement. However, this automatic bestowal is mostly limited to UNHCR-registered refugees residing in formal UNHCR camps in Jordan. In general, those living outside of camps are only able to access government-subsidized primary health care and education.

5.2.4. Reality for Refugees

The consequence of Lebanon and Jordan's non-existent asylum frameworks and adamant stance that Syrian refugees are merely 'displaced' or 'guests' not only denies Syrians in Lebanon and Jordan the legal status of refugee, but also denies them basic human rights usually afforded by the state through the determination of refugee status. Despite the MOUs providing a thin layer of legal protection, their protective breadth extends only to finding temporary humanitarian solutions, without delivering durable alternatives. An important aspect of the agreements for the host-states is the clarification that they are merely countries of 'transit' and not of asylum, and have no obligation to integrate or naturalize asylum seekers, obligations under the Refugee Convention which remain Lebanon and Jordan's greatest objection to the international refugee regime. The two states tolerate the presence of refugees on a merely temporary basis and consider resettlement the only long-term solution. The MOUs alleviate Lebanon and Jordan from any involvement in refugee protection, shifting all responsibility to UNHCR to make rulings on asylum applications, grant refugee status, address the needs of refugees, and to provide long-term, third country solutions.

Additional to denying them the human right to apply for asylum as found in the UDHR, Syrian refugees in Lebanon and Jordan are unable to access the many additional rights envisioned by the Refugee Convention, such as employment rights and the

right to have equal standing before the law as other non-nationals legally residing in the state. The basic legal rights granted by the MOUs cannot be equated with the rights that stem from the granting of refugee status through the Refugee Convention. For example, the MOUs guarantee a temporary right to stay in the country, but do not allow for naturalization or long-term, legal residency. Stuck in a purgatory between being able to return to Syria and accessing third-country solutions, Syrian refugees have therefore found themselves in a highly protracted situation where accessing basic rights such as education, healthcare, and employment is made extremely difficult. Although many humanitarian organizations have attempted to supply alternative solutions by providing ad-hoc education, limited medical services, and humanitarian aid in the form of cash and food, integration into Lebanese and Jordanian society and the development of sustainable, independent lifestyles is near impossible.

5.2.5. GCR

Under the sub-category ‘Identifying international protection needs’, the GCR highlights that “fair and efficient determination of individual international protection claims provide an opportunity for States to duly determine the status of those on their territory in accordance with their applicable international and regional obligations, in a way which avoids protection gaps and enables all those in need of international protection to find and enjoy it. In the context of large refugee movements, group-based protection (such as *prima facie* recognition of refugee status) can assist in addressing international protection needs, where considered appropriate by the State” (GCR, para. 61). In order to improve access to international protection, the GCR envisions the establishment of an ‘Asylum Capacity Support Group’, made up of international experts who would come together to offer support to national authorities on how to strengthen their national asylum systems, ensuring that the principles of fairness, efficiency, adaptability and integrity are upheld. Activation of this group would be on the request of ‘concerned States’, to whom support would be provided in the form of ‘standby arrangements’ and ‘sharing of good practices’ on issues involving case-processing, registration and case management processes, interviewing techniques and institutional capacity development (GCR, para. 62).

However, when considering the disinterest of Lebanese and Jordanian politicians to enact

safeguarding or rights-upholding policies that would guarantee the protection of refugee rights, it remains unlikely that these governments would actively seek international consultation on how to improve their domestic refugee protection scheme. Not only have Lebanon and Jordan mostly refused to legislate on the protection of refugees domestically, there has been a consistent rejection of the Refugee Convention and the compliance of most of the principles therein.

The proactive avenue envisioned by the GCR to improve domestic approaches to the protection of refugees is therefore fundamentally flawed. Countless countries worldwide have purposefully opted out of the global refugee regime - the intention behind this rejection can almost categorically be traced to the unwillingness of states to provide legal protection or legal avenues for refugees to stay in the country in the long-term. The struggle of many countries, predominantly in the Global South, to host large numbers of refugees for long, and often protracted, periods is the basis on which the GCR was formed - to increase responsibility- and burden-sharing among *all* states. It is comprehensible that states under the most strain through refugee presences and the economic and social complications that arise alongside them, are unwilling to re-formulate their asylum policies to offer more sustainable solutions. Needless to say, this does not alleviate responsibility of states to provide adequate protection based on international human rights law principles to asylum seekers and refugees. It is, however, somewhat idealistic to expect countries who have been shouldering a disproportionate share of the burden of the Syrian refugee crisis to wish to strengthen their asylum systems in order to afford more protection to refugees. The problems associated with the non-binding nature of the Global Compact come to the forefront here, as host countries are not required to guarantee the protection of refugee rights in exchange for global commitment to responsibility- and burden-sharing.

A positive aspect of the GCR in relation to the improvement of international protection standards is the encouragement of more resettlement space and the opening up of further complementary pathways for admission into third countries, two of the Global Compact’s durable solutions to refugee situations (GCR, paras. 90-96). Resettlement can be seen as one of the best-case-scenario circumstances, as it grants refugee status in a third-country whilst the applicant still remains in the country of origin or host-country, then providing safe travel to the third-country. This

allow refugees to be granted international protection without having to reach the country of refuge in a dangerous manner, whilst also spreading the burden and responsibility to other countries. Student visas, humanitarian visas, and labor mobility are some of the alternative methods detailed in the GCR, which would also grant travel permission to refugees.

As with the topic of registration and documentation, there is no specific reference to the improvement of international protection included in the GCR indicator framework. Success is to be measured in the same broad manner – by assessing the financial and supportive assistance to refugees and the national arrangements in the country (UNHCR, 2019E).

5.2.6. Policy Recommendations and Global Refugee Forum Pledges

In line with the GCR's aim of providing comprehensive legal protection to refugees, alternative models to the Refugee Convention could be considered. The method of so-called 'temporary protection' may present a more realistic approach to safeguarding the rights of refugees than is now available through the Convention. In order to overcome the concern that refugees will become a permanent reality, rather than a temporary problem if granted refugee status, Susan Akram highlights the benefit of temporary protection in relation to Palestinian refugees' ambiguous legal status. This is a protective method that could be applied with equal merit to Syrian refugees in Lebanon and Jordan. Temporary protection is characterized by the provision of legal protection that imitates protection guarantees found in the Refugee Convention, but for a short-term, interim period. It provides the same basic protections accorded to Convention refugees, specifically addressing the right to work, to move freely within and outside the state, to reunite with family members, and to choose where to live. The time limitation of the protection acts to subdue host state fears that providing these rights means permanent responsibility over refugee communities (Akram, 2014). Due to its temporary nature, temporary protection still allows for alternative long-term solutions such as resettlement or ultimate repatriation, but ensures refugees enjoy the rights envisioned in the Refugee Convention until such durable solutions are made possible. In the context of Lebanon and Jordan, temporary protection would be best achieved through the adoption, or continued application, of *prima facie* recognition.

The Global Refugee Forum, hosted in December 2019 in Geneva, saw numerous pledges focused on incorporating more systematic and uniform asylum laws. For example, a joint project proposed by UNDP and UNHCR hopes to bolster local governance, the rule of law and human rights systems. Many organizations, the Danish Refugee Council being one of them, also pledged their support to the Asylum Capacity Support Group, offering their assistance to governments in order to improve asylum procedures, as well as provision of legal aid and protection services to asylum seekers (The Global Compact On Refugees Digital Platform, 2020). These pledges and others focused on capacity building and governance approaches to international protection, could be conducive to encouraging the Lebanese and Jordanian governments to consider alternatives to the Refugee Convention, such as temporary protection. By providing support to inspire alternative models that appease local governmental interests, whilst still protecting the refugee population, there is perhaps potential for new momentum to improve the international protection regime.

5.3. Statelessness

5.3.1. International Law

Nationality, the right to which is enshrined in countless international legal instruments, allows its holders to enforce the relationship the individual has with its nationality-providing state to uphold certain accompanying rights and obligations. Those who do not possess a nationality - in other words, stateless persons - therefore fall into a legal bind where their lack of rights-invoking status denies them access to protection, as well as the ability to assert themselves as a person under the law. The Convention Relating to the Status of Stateless Persons ("1954 Convention") and the Convention on the Reduction of Statelessness ("1961 Convention") seek to combat the dire reality that statelessness creates by obliging signatory states to contribute to the battle to eradicate statelessness. Lebanon and Jordan have yet to sign either of the Statelessness Conventions. The unwillingness to participate in the global pursuit to combat statelessness likely stems from an apprehension to providing stateless Palestinian refugees, who have been residing in Lebanon and Jordan for over 70 years, legal avenues to assimilation into the country.³

³ *Although Jordan has been more lenient on this.*

The right to a legal identity can be found within other sources of international law. For example, the ICCPR details that all children have the right to protection, immediate registration, and the acquiring of nationality (Article 23), the CRC includes the right to birth registration, “in particular where the child would otherwise be stateless” (Article 7) and the UDHR confirms the right to nationality (Article 15). The CRC further provides that States Party have the responsibility to prevent statelessness among children, obliging states to ensure the protection and care of the child (Article 3), as well as their right to life and development (Article 6). Access to healthcare (Article 24) and education (Article 28), also provided in the CRC, can also be violated in cases of statelessness.

The Arab Charter of Human Rights defines in Article 29 that every person has a right to nationality and cannot be deprived of this nationality unlawfully; it also encourages the transfer of nationality from mothers, as well as fathers, in order prevent childhood statelessness.

5.3.2. Lebanese Law and Policy

In addition to the approximately 29,000 stateless Palestinian Syrians who have fled to Lebanon over the course of the civil war, many Syrian children born in Lebanon are at risk of statelessness on account of Syrian nationality laws, inherited statelessness, as well as documentation problems in Lebanon. In 2018, only 21% of Syrian children born in Lebanon had completed the birth registration process, an improvement of 4% compared to 2017 (UNHCR/ UNDP, 2018).

Similar to Lebanese law, Syrian law only confers nationality through discriminatory *jus sanguinis* principles. This means that Syrian nationality can only be passed down through the paternal line, creating significant barriers to nationality accession where only the mother possesses Syrian nationality or paternity cannot be legally proven. The civil war and displacement have emphasized the problems associated with paternal *jus sanguinis* as fathers may have been killed, disappeared, separated or may be unknown. Additionally, further problems may arise if the marriage of the parents cannot be verified.

Syrian law demands that all Syrian children born in another country abide by the personal status law of that country. In an attempt to promote the birth

registration process for refugees, more lenient measures were implemented in Lebanon in September 2017, allowing Syrian parents to register the birth of their children in the Foreigner’s Registry without proof of their own legal residency (Memorandum 43/02 of 12 September 2017). However, the process remains stringent, complicated and expensive. Immediate action is required on the part of the parents - firstly, they must acquire a birth notification from the doctor or midwife present at the birth; next, they must secure the signed birth certificate from the local Mukhtar, also to be signed by the doctor or midwife who delivered the child; the birth certificate must then be registered at the local Nofous; finally, the birth certificate must be registered at the Foreigners’ Registry of the Governorate where the child was born. Extremely vital is that the registration at the Nofous happen before the child has its first birthday, otherwise a lengthy and expensive court process will ensue in order to obtain the legal birth certificate. In March 2018, an exception to this rule was made for all children born between 1st January 2011 and 8th February 2018, in order to allow children born in this time to gain access to official birth records and nationality (Memorandum 19/2 of 3 March 2018). All children born before or after this window must still adhere to the one-year registration deadline.

Despite these concessions on the part of the Lebanese government to increase access to the birth registration process, there remain several obstacles which can lead to statelessness for Syrian children born in Lebanon. The most significant obstacle remains problems with documentation. For example, proof of marriage is required in order to complete the birth registration process. Loss or destruction of the marriage certificate, or marriage before an unauthorized Sheikh can compromise the required proof of legal marriage. Marriages licensed in Lebanon are only legitimate if at least one of the spouses has legal residency (Memorandum 43/02 of 12 September 2017).

Further hurdles can be found pertaining to cost and logistics. If parents fail to complete the registration process before the child is one-year-old, birth certificates and proof of the familial relationship can only be ascertained through the Sharia and civil courts, costing between 500,000 and 1,000,000 Lebanese pounds. Access to registration offices may also be impeded if the office is far away, the costs to get there are deemed too high, or there are security checkpoints en-route, which parents are unwilling

to cross for fear of arrest, especially those with an irregular legal status.

As part of the humanitarian response, and in an attempt to reduce statelessness, many humanitarian actors are actively informing the refugee population of the importance of documentation, as well as providing legal counselling and assistance on the birth registration process.

5.3.3. Jordanian Law and Policy

Birth registration is also a serious problem in Jordan. Similar to Lebanon, one of the most prevalent causes of statelessness among the Syrian population in Jordan is due to Syria's *jus sanguinis* nationality law, which only allows nationality to be conferred through the father. Where refugee children are born in female-headed households, it may be difficult to secure adequate evidence of the father's Syrian nationality, hence forcing the child to become stateless. In Jordan, almost 30% of refugee households are female headed (CARE Jordan, 2018).

Domestic laws on statelessness are very scarce in Jordan. A vague mention of nationality is included in the Jordanian constitution, determining that "Jordanian nationality shall be defined by law" (Article 5), a far step away from expressing a specific right to nationality. Weakly formed nationality laws provide no protection against childhood statelessness, nor do they provide recourse to the fact of statelessness, in direct contravention with adopted international and regional instruments.

The complicated birth registration process, as in Lebanon, remains a factor in the risk of statelessness for Syrian children born in Jordanian territory. In order to register a birth, the issuance of a birth notification is required from the hospital in which the child was born, or from a licensed midwife if the child was born at home. Until recently, this had to occur within thirty days of the birth in order to avoid receiving a fine. Along with the identity documents and marriage certificates of the parents, the birth notification must then be brought to the Civil Status Department, where the child will be registered and issued with a birth certificate. The deadline for the completion of the registration process is one year after the child's birth; registration after one year will result in a civil lawsuit in order to obtain the birth certificate.

Recent developments in connection with the birth registration process have significantly decreased the financial and administrative burdens on Syrian parents registering their new-born children. The waiving of certain fees and the acceleration of the court process to register children after the one-year deadline have been seen as very positive steps towards reducing the risk of statelessness. Additionally, access to MOI cards for refugee children has been made more lenient.

Despite these improvements, there remain obstacles to birth registration beyond the administrative complexities. For example, obtaining a valid marriage certificate can cost up to 1,000 Jordanian dinars in some cases, an extreme cost for parents who are living on the poverty line. False dissemination of information, and fear of travelling without valid documentation are also common obstacles to birth registration. In the past few years, NGOs and international organizations have become vital drivers of the fight against statelessness in Jordan, providing cash assistance to pay for expensive administrative elements, as well as legal advice on how to complete the birth registration process.

There are no specific measures that provide nationality to stateless Palestinians from Syria or to children born in Syria who were not able to complete the birth registration process.

5.3.4. Reality for Refugees

Without legal birth registration, many Syrian children in Lebanon and Jordan are at risk of being stateless for the rest of their lives, as well as creating multi-generational statelessness. The decision of the Lebanese government to allow delayed birth registration for Syrian children born between 2011 and 2018 was a very welcomed step to reduce this risk, as were the relaxations of Jordanian birth registration policies. The risk remains acute, however, seen reflected in the only slight increase in birth registration in Lebanon in 2018 compared to 2017.

The lack of formal, legal documentation for Syrian refugee children can lead to many pronounced problems. Without proper documentation, stateless children and adults may be denied access to medical care, education, freedom of movement, access to civil documentation including marriage registration, as well as the capacity to own property or obtain work permits. Statelessness can also lead to the denial

of fundamental human rights and increased risk of vulnerability, including acquiring legal protection and legal recourse to abuse or exploitation. Statelessness may also be passed down to offspring, making future generations vulnerable to the same difficulties.

Ultimately, stateless refugees are unable to prove the legal connector to their own country and may lack legal proof of parentage. This not only has the potential to cause difficulties re-entering Syria, as the relationship between individual and state cannot be demonstrated, but may also compromise access to durable solutions such as resettlement.

5.3.5. GCR

Under the heading ‘Civil registries’, the GCR envisions that “States and relevant stakeholders will contribute resources and expertise to strengthen the capacity of national civil registries to facilitate timely access by refugees and stateless persons, as appropriate, to civil and birth registration and documentation” (GCR, para. 82). In addition, the GCR proposes the following in order to tackle statelessness: “Recognizing that statelessness may be both a cause and consequence of refugee movements, States, UNHCR and other relevant stakeholders will contribute resources and expertise to support the sharing of good, gender-sensitive practices for the prevention and reduction of statelessness, and the development of, as appropriate, national and regional and international action plans to end statelessness, in line with relevant standards and initiatives, including UNHCR’s Campaign to End Statelessness. States that have not yet acceded to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness are encouraged to consider doing so” (GCR, para. 83).

In relation to the continuous improvement of civil registries in Lebanon and Jordan, the willingness of the Lebanese and Jordanian governments to improve access to birth registration has been indicted through the two changes seen in Lebanon in 2018, allowing children to be registered retrospectively, and allowing parents without legal status to register their children, and the loosening of policies in Jordan, allowing some fees to be waived and accelerating court proceedings for late birth registration. However, more will need to be done on this front to reduce the risk of statelessness amongst refugee children altogether, including more proactive information campaigns and simplified registration procedures.

Ultimately, pressurizing Arab states to ratify the Stateless Conventions, as suggested by the GCR, is impracticable. The implicit obligation on host states to integrate or naturalize those who fall within the definition of the Stateless Conventions or the Refugee Convention cannot be reconciled with Arab states’ unwillingness to provide Palestinian refugees with long-term solutions within their borders, nor does it account for the fact that Palestinians are unwilling to give up their right of return through assimilation into third countries. Without incentivizing accession to the Stateless Conventions, for example by making it contingent on the receipt of aid or third country solutions, the regional concern of sustained refugee presence will trump the only suggestive language on ratifying these international treaties.

As with registration and documentation, as well as international protection, the topic of statelessness does not have its own set of indicators as provided by the GCR indicator framework. On this issue, the same more general indicators may be used to assess and monitor success.

5.3.6. Policy Recommendations and Global Refugee Forum Pledges

In order to erase statelessness entirely, states must recognize the significance of the rights of stateless persons, or those at risk of statelessness, to a legal identity, according to principles of international law. Further to this understanding, the state must contemplate the reasons why some individuals have not been able to access documentation, especially reflecting on whether their own domestic policies have been particularly complicit in the lack of, or barriers to, documentation. Most significantly, states with discriminatory *jus sanguinis* laws must recognize the importance of non-gendered nationality laws, allowing women the right to pass on nationality to their children.

The emphasis on the eradication of statelessness contained in the GCR is in line with UNHCR’s ‘Global Action Plan to End Statelessness: 2014–2024’. Since initial drafts of the Global Compact were presented in 2017, sustained international attention on the issues of statelessness and nationality has expanded the global dialogue on these issues, potentially creating a shift that could lead Arab states to show a heightened willingness to revamp domestic policies on refugees and stateless persons. In particular, the League of Arab States (LAS) has emphasized that

states party to the Arab Charter on Human Rights must abide by the provisions therein which focus on women's rights, children's rights and the rights of refugees, particularly in relation to the reduction of statelessness. The LAS has also encouraged Arab states to commit to equal nationality rights for men and women to allow for nationality to be passed down from both parents. The Arab Declaration on Belonging and Legal Identity, a document produced by the LAS and UNHCR in February 2018, which is based on rights provisions detailed in the Arab Charter, the CRC and CEDAW, underscores this new-found dedication to more a rights-producing and rights-enforcing regime. The Declaration creates an obligation on LAS to initiate a regional meeting, which will focus on the advancement of the right of refugee children to be issued documentation, and seeks to enhance women's nationality laws. These shall conform to applicable domestic laws and international norms. These initial steps forwards signify a potential paradigm shift towards the heightened protection of children considered at risk of statelessness in the Middle East.

Pledges at the Global Refugee Forum were also made in relation to the eradication of statelessness, addressing the issue from a multitude of angles. These ranged from the agreement to ratify the Statelessness Conventions (Malta) to civil society organizations promising to commit to finding and protecting solutions for refugees, asylum-seekers and stateless persons in cooperation with other stakeholders in the form of multi-stakeholder and partnership approaches (The Global Compact On Refugees Digital Platform, 2020). In contrast to international protection, where legal reform is necessary in order to change Lebanon and Jordan's protection approach, initiatives from non-governmental stakeholders that go beyond a merely legal nature have the potential for change when it comes to the eradication of statelessness.

5.4. Jobs and Livelihoods

5.4.1. International Law

Chapter 3 of the Refugee Convention focusses on the right to employment once refugee status has been confirmed under the requirements of the Convention. Article 17(1) provides that States party to the Convention shall afford refugees legally residing in the state with the same right to engage in wage-earning

employment as is afforded other foreign nationals with legal employment status. However, as mentioned above, Lebanon and Jordan are not signatories to the Refugee Convention, resulting in refugees not being able to benefit from the automatic conferral of employment rights.

Other international human rights conventions offer some headway on this front. For example, Article 23 of the UDHR labels the right to work as a universal human right, but is non-binding and so creates no obligations on states. The Convention that seems to offer a binding protection of the right to work is the ICESCR, to which Lebanon and Jordan are signatories. The right to work is enshrined in Article 6, emphasizing that states must ensure enjoyment of the right. It was confirmed by the UN Committee monitoring the adherence to ICESCR that work rights expressed in the Covenant apply "to everyone including non-nationals, such as refugees, asylum seekers, stateless persons, migrant workers and victims of international trafficking, regardless of legal status and documentation" (UN Committee on Economic, Social and Cultural Rights, 2009). However, a significant limitation to the expression of and reliance on this right under international law is Article 2(3), which gives developing states the prerogative to shape the way in which these rights are guaranteed for non-nationals.

Despite the intention of the ICESCR for rights to be applied without discrimination (Art. 2(2)), the Covenant lacks an enforcement mechanism, making it difficult for the international community or individuals to insist on compliance to its Articles.

5.4.2. Lebanese Law and Policy

Lebanese labor law does not provide for the accession to the labor market for refugees specifically, and has placed many barriers to Syrian foreign nationals being granted permission to work.

Traditionally, the exchange of labor forces between Lebanon and Syria was a seamless process. The 1993 Agreement for Economic and Social Cooperation and Coordination Between the Lebanese Republic and the Syrian Arab Republic provided that Lebanese and Syrian workers had complete freedom of movement and were guaranteed the right to work under the corresponding country's domestic labor laws. Syrian workers have been working in Lebanon on this basis for several decades, often taking on job roles that

locals refused to occupy and accepting lower wages for that work. However, due to economic and labor competition between local Lebanese communities and the high number of Syrian refugees, the Ministry of Labor imposed a limitation on the areas in which Syrians are permitted to work (MoL Resolution No. 1/197 of December 2014). This limitation reduced the available sectors to construction, agriculture and cleaning. In addition, stringent requirements were placed on employers in order to legally hire Syrian workers, requiring them to prove that they had attempted to fill the role with a Lebanese worker, that a 10:1 ratio of Lebanese to foreigner was consistently sustained within the company, and that Syrian workers are sponsored by a Lebanese national (can be the employer) who are obliged to sign a “pledge of responsibility” (MoL Decision 1/41 of 31st January 2017, MoL Decision no. 1/49 of the 3rd January 2017). The difficulties of renewing residency permits, as well as the inability of many refugees to register with UNHCR has made access to work even more complicated. Furthermore, based on the logic that refugees registered with UNHCR are receiving humanitarian aid, these refugees are prohibited from gaining legal employment, and must sign a pledge not to work.

5.4.3. *Jordanian Law and Policy*

Syrian refugees residing in Jordan face numerous barriers to legal employment. Despite the Agreement on Workforce Cooperation between the Government of the Hashemite Kingdom of Jordan and the Government of the Syrian Arab Republic of 2001, a bilateral agreement between Syria and Jordan that allowed cross-border labor exchange, many Syrian refugees residing in Jordan since 2011 have been denied the right to work.

The guaranteed right to work is explicitly reserved for Jordanian nationals under the Jordanian Constitution of 1954 (Article 23). Foreigners without a valid Jordanian residence permit are barred from legal employment under the 1973 Residence and Foreigners’ Affairs Law (Article 16). As mentioned previously, exceptions have been made on the basis of this law for those who are seeking political or humanitarian asylum, but this exemption has mainly been made for Palestinians. Certain rights and protections may be acquired for foreign workers under Labor Law No. 8 of 1996; no reference is made to ‘refugees’, implying they are grouped under the same heading as all other non-Jordanian workers. The

Ministry of Labor must approve work permits for all foreign workers, which are usually only given if the individual is filling a position which Jordanian workers cannot or refuse to work in. Workers from Arab states who possess specific expertise or skills are given priority (Article 12(A)).

As the only decree which focusses solely on the provision of rights for refugees in Jordan, the UNHCR-Jordan MOU attempts to secure accession into the labor market for refugees and asylum seekers. Specifically addressed are refugees with degrees which are recognized by the Jordanian authorities and the authorization of these individuals to work in certain fields (Article 9). The MOU also contains soft language relating to the more general framework of labor rights, advocating for the need of refugees to being able to provide for their families (Article 8). However, this language is non-binding and remains advisory.

In 2016, a very significant step was taken by the international community and the Jordanian government by way of the Jordan Compact, which sought to provide 200,000 Syrians with work permits over a three-year period. In exchange, Jordan was granted heightened access to the European market and an increase in funds from the World Bank. As of November 2018, approximately 125,400 work permits had been issued (Ministry of Labour Syrian Refugee Unit, 2018). Syrians who do not hold valid MOI cards are barred from gaining work permits.

Although the Jordan Compact’s approach to employment is an important advancement, there remain many significant issues surrounding access to the labor market. Most glaring is the prohibition on all non-citizens to work in certain sectors in Jordan, including medicine, administration, teaching and engineering, except if the employer is able to prove that no Jordanian is willing, available, or qualified to assume the role (ILO Regional Office for Arab States, 2017). In addition, some sectors require refugees to be ‘sponsored’ by their employers, creating an unbalanced dependency, to be easily exploited in the form of lower pay and poor work conditions.

5.4.4. *Reality for Refugees*

The double-bind many Syrian refugees face in Lebanon of not possessing legal residency, and not being able to obtain valid work permits is a driving factor behind the deterioration of the economic and

psychological welfare of refugee communities. The informality of work that has been created as a result places many Syrians in a particularly vulnerable situation, where employers are able to exploit them with no legal recourse available to the exploited, including paying them a significantly lower wage than Lebanese nationals in the same positions. Skilled workers who seek to find gainful employment in more legitimate settings are often completely barred from doing so as cooperate companies are less likely to risk the legal repercussions of hiring illegal workers, and access to work permits is very limited.

The situation in Jordan is slightly better as the Jordan Compact has the potential to significantly alter the employment plain for Syrian refugees. The increase in legally and gainfully employed individuals will be a catalyst for the improvement of social welfare and refugee self-reliance, a decrease in vulnerability, as well as for creating a more normal, independent and dignified life for Syrian families. However, as has been shown, the existence of remaining barriers to employment has kept Syrian refugees in precarious situations, and many people are still unemployed or involved in informal employment.

In Lebanon, 69% of Syrians are living below the poverty line, and the average debt for Syrian households is \$1,016 (UNICEF/UNHCR/WFP, 2018). According to the data, women are disproportionately affected by employment restrictions - despite heading 19% of all Syrian households in Lebanon, 61% of women are unemployed, compared to 35% of men (UNICEF/UNHCR/WFP, 2018). Despite the Lebanese minimum wage of \$450, in 2018, Syrian men earned an average of \$207/a month and women earned \$92 (UNICEF/UNHCR/WFP, 2018).

In Jordan, approximately 90% of Syrian refugees claimed to be in debt, and 80% of refugees living outside camps are living below the poverty line (UNHCR/UNDP, 2018). Access to the formal labor market has been especially impeded for Syrian women, to which only 4% of work permits were issued (Jordan INGO Forum, 2018). Until recently, it was almost impossible to register home-based businesses, seen as an attractive business model for many Syrian women, making it even more arduous for women to be legally employed. As of November 2018, this restriction was lifted, allowing greater economic opportunity to refugees, especially women. Of all Syrian women in Jordan, 9% are employed, meaning that a further 5% are working illegally and

informally. 46% of men are employed, both formally and informally (CARE Jordan, 2018).

The desperation that originates from lack of sufficient household income also feeds into the growing market for child labor and the increase in early marriages in Lebanon and Jordan. In 2018, 5% of children in Syrian households in Lebanon were working. 2.2% of Syrian children were engaged in child labor, doing work that is considered harmful to children (UNICEF/UNHCR/WFP, 2018). In Lebanon, the likelihood of children to be engaged in labor is twice as high in households led by women than male-headed households (Government of Lebanon and UN, 2019). According to the National Child Labour Survey conducted in 2016 in Jordan, 1.89% of the child population in Jordan was engaged in economic activities, at the time equating to 75,982 children (Centre for Strategic Studies, University of Jordan, 2016). An additional consequence for families struggling from economic stability is that girls are exposed to early marriage in order to relieve the household of an extra mouth to feed. 2018 saw a spike in marriages of girls in Lebanon between the ages of 15 and 19 to 29%, up from 7% in 2017 (UNICEF/UNHCR/WFP, 2018). In Jordan, 14% of girls and 11% of boys are married before the age of 18 (CARE Jordan, 2018). Both of these consequences of economic hardship can ultimately lead to children dropping out of school to alleviate the economic burden, lead to increased trauma, and expose them to extreme forms of exploitation, including human trafficking and sexual violence.

5.4.5. GCR

Under the heading of 'Meeting needs and supporting communities' the GCR addresses the improvement of jobs and livelihoods for refugees. A primary focus is cast on improving access to economic opportunities, including capacity building, recognition and strengthening of skills and qualifications, and labor market analyzes to determine employment gaps (GCR, para. 71). However, a key proponent of these suggestions for change is found in the previous clause, which states that "[T]o foster inclusive economic growth for host communities and refugees, in support of host countries and *subject to relevant national laws and policies*, States and relevant stakeholders will contribute resources and expertise to promote economic opportunities, decent work, job creation and entrepreneurship programs for host community members and refugees, including

women, young adults, older persons and persons with disabilities” (GCR, para. 70). The language used to promote the right to work is weak and steers clear of furthering any semblance of rights-based advances or linkages to principles or standards of existing international law.

The relevance of domestic laws and policies to the promotion of economic opportunity or accession into the job market is the greatest obstruction to the Global Compact’s aim of improving livelihoods and refugee self-reliance. Particularly in Lebanon, where obtaining work permits is virtually impossible for Syrian refugees, the tools envisioned by the GCR, although relevant for the long-term employability of refugees upon return or third-country resettlement, will not do much to close the unemployment gap amongst refugees in Lebanon. Instead, the GCR should advocate for the domestic barriers to employment rights to be removed, outlining the economic advantages for host-states to allow refugees to become legitimate components of the labor market, as well as providing strategic incentives.

In the case of Jordan, the Jordan Compact’s policy implementation, allowing 200,000 Syrian refugees to receive work permits allows the measures in the GCR to be of much greater relevance. Due to domestic policy barring non-citizens from a plethora of sectors, the attention paid to market analyzes to identify gaps in the employment market and the strengthening of specific skills will allow many individuals to fill voids in the market. By determining how to make refugees’ skills more compatible with the job market, this approach will not only increase economic growth for the state, but will also reduce unemployment among refugees.

The indicator established by the GCR for measuring refugee self-reliance in relation to active participation in the social and economic life of host countries is calculating the proportion of refugees who have access to decent work. This calculation is done by analyzing the local labor law of the country to provide a statistical estimate of the number of refugees who have access to the labor market and work opportunities (UNHCR, 2019E).

5.4.6. Policy Recommendations and Global Refugee Forum Pledges

Significant pledges were made at the Global Refugee Forum in relation to the improvement of refugee self-

reliance, economic empowerment and easier access to jobs for refugee communities. Beyond more general commitments, several initiatives specifically targeted the situation of refugees in Lebanon and Jordan, and in the Middle East more broadly. The state of Croatia teamed up with UN Women on a project that seeks to provide 110 vulnerable women and girls in Lebanon (Syrian and Palestinian refugees, as well as Lebanese locals) with high quality vocational training. The Jordan River Foundation (JRF) initiated a partnership with IKEA to become an official supplier of carpets to the Swedish company. The project aims to create 400 jobs for vulnerable Syrian refugee and Jordanian women in the next two years, who will receive full-time employment, training, work permits, health insurance and social security. Germany pledged to continue to fund the Partnership for Prospects Initiative to foster job opportunities for Syrian and Iraqi refugees in the Middle East (The Global Compact On Refugees Digital Platform, 2020).

The example pledges from the Global Refugee Forum establish a solid basis for further best practice models to be implemented on the principles of the GCR, thereby involving higher numbers of refugees in the economic fabric of their host-state. These pledges particularly show how actors outside of the refugee host-state can contribute to improving refugees’ access to gainful and meaningful employment beyond a purely legal basis. The Jordan Compact has paved the way for breaking down national employment barriers; combining this national concession with external partnerships and initiatives has led to Jordan’s approach to refugee inclusion in the labor market being considered by UNHCR as an example of ‘best practice’ for the implementation of the GCR (The Global Compact on Refugees Digital Platform, 2019B).

CONCLUSION

Due to the Global Compact's non-binding nature, the GCR imposes no concrete obligations as these would have shied many states away from participating in the construction of a global approach to the refugee crisis. On this basis, the GCR's framework for the improvement of refugee rights in host-countries offers mainly suggestive measures, often bypassing the core issues of current national policies. In some cases, these measures even contradict domestic law to such an extent to make them completely unviable with the political and legal circumstances of the focus countries. This unviability with proposed global measures goes far to illuminate the present institutional and legal failings of the Jordanian and Lebanese refugee responses.

Although we have seen some positive developments through the heightened attention on issues detailed in the GCR, such as an increased focus on the eradication of statelessness, it seems unlikely that the GCR will act to completely shake up the protection frameworks in Jordan and Lebanon, at least in relation to proactively-enacted domestic laws or the ratification of relevant international laws. We can, however, remain hopeful that sustained political attention will galvanize local institutions, civil societies and local and international organizations to implement policies and programs based on the envisioned transformations of the GCR. These may in turn lead to new platforms through which protection landscapes can be re-evaluated, and maybe even shifted to allow refugees access to the rights that international law envisions them to be granted.

As the GCR is a tool meant to spur action to ease the pressure on host states, the Compact triggers the development and accumulation of best practice models and initiatives that go beyond the state apparatus and provide protective methods that can be implemented where the state has failed to do so. Pledges and commitments made at the Global Refugee Forum in relation to the above discussed rights issues show how multi-stakeholder initiatives can bring about change in a creative way, where the interests of the state, civil actors and refugees can be balanced, incorporating the underlying vision of the GCR. Where the GCR has perhaps failed in directing states towards legal reform, the Compact has demonstrated worth in galvanizing discussion

amongst other actors and platforms, including external partners outside the country in question. As highlighted by Pijenburg, although the GCR pays tribute to the importance of international law, it does not go so far as to proactively adopt it within its framework. The adoption of human rights language presents the GCR as a tool to protect the human rights of refugees, when in fact it should be seen more as a basis for humanitarian and development cooperation. Pijenburg emphasizes that by failing to imbed international law into the GCR, the international community has missed an opportunity for states to recall their legal obligations to protect refugees (Pijenburg, 2019).

LIST OF REFERENCES

REPORTS/ARTICLES:

Al-Khalidi, S. (2016). EU relaxes trade rules with Jordan to create jobs for Syrian refugees. *Reuters*. [online] Available at: <https://www.reuters.com/article/us-mideast-crisis-syria-jordan-refugees-idUSKCN1012M4>

CARE Jordan. (2018). *CARE Jordan: Fact Sheet – 8 Years Into Exile – Urban Syrian refugees, non-Syrian refugees, and vulnerable host communities Survey results in brief*

Centre for Strategic Studies, University of Jordan. (2016). *National Child Labour Survey 2016 of Jordan*

Chatty, D. (2017). The Syrian Humanitarian Disaster: Understanding Perceptions and Aspirations in Jordan, Lebanon and Turkey. *Global Policy*, 8

Fakhoury, T. (2017). Governance Strategies And Refugee Response: Lebanon In The Face Of Syrian Displacement. *International Journal of Middle East Studies*, 49(4)

Gavouneli, M. (2019). Legislating by Compacts? – The Legal Nature of the Global Compacts. [Blog] *Blog of the European Journal of International Law*. Available at: <https://www.ejiltalk.org/legislating-by-compacts-the-legal-nature-of-the-global-compacts/>

Government of Lebanon and UN. (2019). *Lebanon Crisis Response Plan 2017-2020 (2019 Update)*

ILO Regional Office for Arab States. (2017). *Work Permits and Employment of Syrian Refugees in Jordan*

Inter-Agency Coordination Lebanon. (2015). *Protection Monthly Dashboard July 2015*

Janmyr, M. (2018). UNHCR and the Syrian refugee response: negotiating status and registration in Lebanon. *The International Journal of Human Rights*

Jordan INGO Forum. (2018). *Syrian refugees in Jordan, A protection overview*

Tsourapas, G. (2019). The Syrian Refugee Crisis and Foreign Policy Decision-Making in Jordan, Lebanon, and Turkey. *Journal of Global Security Studies*, 4(4)

UN Committee on Economic, Social and Cultural Rights. (2009). *General Comment No. 20, Non-Discrimination in Economic, Social and Cultural Rights, UN Doc. E/C.12/GC/20*

UNHCR. (2019A). *Figures at a Glance*. UNHCR

UNHCR. (2019B). *Lebanon Operational Fact Sheet January 2019*. UNHCR

UNHCR. (2019C). *Jordan Operational Fact Sheet February 2019*

UNHCR. (2019D). *Jordan - Zaatari Refugee Camp Fact Sheet*

UNHCR (2019E). *Global Compact on Refugees: Indicator Framework*.

UNHCR/UNDP. (2014). *Regional Refugee & Resilience Plan 2015-16: Lebanon*

UNHCR/UNDP. (2018). *Regional Refugee and Resilience Plan 2019-2020 - In Response to the Syria Crisis (Regional Strategic Overview Summary)*

UNICEF/UNHCR/WFP. (2018). *Vulnerability Assessment for Syrian Refugees in Lebanon (VASyR-2018)*

NATIONAL LAWS/POLICIES:

1962 Law Regulating the Entry and Stay of Foreigners in Lebanon and their Exit from the Country (Lebanon)

Memorandum 43/02 of 12 September 2017 (Lebanon)

Memorandum 19/2 of 3 March 2018 (Lebanon)

MoL Resolution No. 1/197 of December 2014 (Lebanon)

MoL Decision 1/41 of 31st January 2017 (Lebanon)

MoL Decision no. 1/49 of the 3rd January 2017 (Lebanon)

1952 Constitution of The Hashemite Kingdom of Jordan (Jordan)

Labour Law No. 8 of 1996 (Jordan)

1973 Residency and Foreigners' Affairs Law (Jordan)

BILATERAL TREATIES:

1998 Memorandum of Understanding between UNHCR and Jordan

2003 Memorandum of Understanding between UNHCR and Lebanon

1993 Agreement for Economic and Social Cooperation and Coordination Between the Lebanese Republic and the Syrian Arab Republic (Lebanon and Syria)

2001 Agreement on Workforce Cooperation between the Government of the Hashemite Kingdom of Jordan and the Government of the Syrian Arab Republic (Jordan and Syria)

INTERNATIONAL CONVENTIONS:

The Arab Declaration on Belonging and Legal Identity 2018

Convention on the Reduction of Statelessness (adopted 30 Aug 1961, entered into force 13 Dec 1975) 989 UNTS 175

Convention Relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137

Convention Relating to the Status of Stateless Persons (adopted 28 Sept 1954, entered into force 6 June 1960) 189 UNTS 117

Global Compact on Refugees 2018

International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171

New York Declaration for Refugees and Migrants 2016

Universal Declaration of Human Rights (Adopted 10 December 1948) UNGA res. 217 A(III)

ABOUT THE AUTHOR

Elisabeth Kinsky holds a BA in Law with German and German Law from the University of Nottingham, and an LLM in Human Rights, Conflict and Justice from SOAS, University of London. She has experience working and researching in different refugee contexts in Austria, Germany, Greece, Lebanon and Egypt. She is currently working as a Senior Legal Officer in the Refugee Status Determination process in Cairo, providing legal advice and representation to asylum seekers and refugees from Sub-Saharan Africa and the Middle East.

Beirut, April 2020 © All Rights Reserved

The report is published by the Issam Fares Institute for Public Policy and International Affairs (IFI) at the American University of Beirut (AUB). It can be obtained from IFI or can be downloaded from the following website: <http://www.aub.edu.lb/ifi>

This report or any portion thereof may not be reproduced or used in any manner whatsoever without the express written permission of the publisher except for the use of brief quotations. The contents of this document are the sole responsibility of the authors and can under no circumstances be regarded as reflecting the position of the Issam Fares Institute for Public Policy and International Affairs at the American University of Beirut.

 Issam Fares Institute for Public Policy and International Affairs at the American University of Beirut (AUB)
Issam Fares Institute Building (Facing the Green Oval)

 PO Box 11-0236, Riad El-Solh, Beirut 1107 2020, Lebanon

 +961-1-350000 Ext. 4150

 +961-1-737627

 ifi.comms@aub.edu.lb

 www.aub.edu.lb/ifi

 aub.ifi

 [@ifi_aub](https://twitter.com/ifi_aub)

