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REFUGEE POLICIES OF HOST GOVERNMENTS IN
PROTRACTED REFUGEE SITUATIONS: A COMPARATIVE
APPROACH TO PALESTINIANS IN LEBANON

by
MEGAN LEE ALCANTAR

A thesis
submitted in partial fulfillment of the requirements
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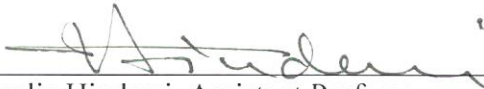APPROACH TO PALESTINIANS IN LEBANON

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Title: <u>Refugee Policies of Host Governments in Protracted Refugee Situations: A</u>
<u>Comparative Approach to Palestinians in Lebanon</u>

For nearly 70 years Palestinian refugees have resided in Lebanon and experienced increasing levels of legal discrimination, poverty, and restrictive government policies regarding their rights. Similar to other cases of protracted refugee situations, the social, political, and legal status of Palestinians in Lebanon does not appear to be changing anytime soon. Although the political status quo has endured for decades, the rights and freedoms of protracted refugees have not progressed in correlation with their length of residence. Palestinians as refugees and Lebanon as a host state have been excluded from much of the literature surrounding refugees because their qualities are considered too unique for comparison. Therefore, the purpose of this thesis is to challenge the existing narrative of Palestinian and Lebanese exceptionalism through a comparative analysis of Lebanese host state policies toward Palestinians with three other cases- Somalis in Kenya, Afghans in Pakistan, and Sahrawis in Algeria. Through the analysis of primary legal documents and secondary sources, I outline the overarching similarities across cases, as well as some differences and proposed solutions for a way forward. Despite the unique characteristics of each of these protracted refugee situations, it is beneficial to address the similarities among the host-refugee relationships for further research and policy analysis.

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CHAPTER 1

INTRODUCTION

1.1 Background

The international refugee regime was formed in response to the growing

number of refugees following the violence that occurred during the Second World War.

The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol were

meant to protect refugees from involuntary repatriation during continued conflict in

their country of origin while also affording them rights in the country of asylum

(UNHCR 2011). The most popular durable solution to the refugee crisis in this time

period up to the Cold War was integration into European host states because this was

the only option that the limited staff and budget of UNHCR could accommodate.

However, by the 1960s the refugee-hosting states shifted from Europe to less-developed

parts of the world. Shifts in the legal approach to refugee protection have demonstrated

that states' interests take precedence over refugees' needs (Betts 2009; Kneebone,

Baldassar, and Stevens 2014). Globalization, the spread of neoliberal economic policies,

and the professionalization of humanitarianism also have all contributed to significant

changes in state behavior (Banki 2004). Hosts are now increasingly reluctant to share

resources with migrants which has led to an over-reliance upon local non-governmental

organizations and international humanitarian agencies such as UNHCR for emergency

refugee services and long-term care. Now states' preferred solution for refugee crises is

voluntary repatriation, although this option has proven to be unsuccessful for most.

Because of this, refugee-hosting states began implementing more restrictive refugee

policies in an attempt to deter them from integrating into the host community and

remaining long-term. This same time period witnessed multiple wars of independence to break from colonial rule as well as the development of the nation-state concept.

The idea that entire state populations should share similar ethnic, religious, and cultural ties led to a shift in the nature of conflict, and as a result, of refugee situations. As conflicts became increasingly politically complicated, and therefore more difficult to resolve, so too did the refugee situations that accompanied them. Conflicts became protracted and recurrent which led to an elongation of time refugees spend in exile. There are approximately 16.9 million[1] refugees trapped in protracted refugee situations (including the recent refugees emanating from the Syrian civil war) for an average length of 26 years with few prospects for a peace settlement in the near future (Loescher and Milner 2008; UNHCR 2016a). In the meantime, they lack economic, social, and political rights in their country of asylum, even though UN statistics show that the likelihood of permanent settlement in their first country of asylum is higher than repatriation (Dumper 2008). The protracted refugee situations that exist in the 21st century are likely to become permanent situations for the overwhelming majority of refugees, yet development efforts, third-country resettlement opportunities, and host-government policies toward refugees have not been adapted to the changing realities.

Critically assessing current refugee policies will allow for greater dialogue concerning the futures of refugees in exile, and could potentially reduce the size, scope and duration of refugee crises to come. Without compiling this research and attempting to bridge the gaps between politics, human rights, development, and security, we would not be able to determine the appropriate regional refugee policies going forward. It is

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[1] See UNHCR 2016a for UNHCR figures from 2015. Estimate of protracted refugees is 6.7 million. UNRWA reports that there are 5.2 million additional Palestinian refugees. See data.unhcr.org/syrianrefugees for recently protracted Syrian refugee situation that includes another 5 million.

important to carry out this research because most refugees in protracted situations are likely to remain in their country of asylum indefinitely. More importantly, 86 percent of refugees are currently hosted in developing countries which lack the means to support a growing number of refugees, and policies toward refugees have become increasingly restrictive because of security concerns or limited economic resources (UNHCR 2016a). Due to globalization, states cannot address worldwide issues such as refugee protection while confining their policies to domestic concerns. These policies often prevent refugees from seeking employment or public education and eventually becoming self-sufficient, relegating them to a life of dependency on humanitarian organizations for their basic needs which ultimately go unfulfilled. Hence, protracted refugee situations go unresolved for decades.

1.2 Protracted Refugee Situations

When referring to protracted refugee situations, I will use the basic definition provided by UNHCR which is 25,000 or more refugees from the same nationality who have been in exile in a particular country for at least five years (UNHCR 2008). These refugee populations are usually beyond the initial emergency phase of the humanitarian crisis, however, opportunities for human development and improved livelihoods often get overlooked.

Each protracted refugee situation has some unique characteristics due to the respective historical and cultural differences, but there are many conditions of protracted conflicts and refugee situations that are similar if not identical across cases. Protracted refugee situations occur because of prolonged or recurring conflict in the country of origin, they often create second-generation refugees born in exile, refugee

camps lack opportunities for development, host state policies restrict individual rights, living conditions are often deteriorating, refugee camps witness an increase in sexual and gender-based violence, poverty and unemployment rates are both higher than average, and many, if not most, are completely dependent on humanitarian aid for survival.

This seems to be particularly true for Palestinian refugees in Lebanon, some of whom constitute the fourth generation in exile. Although the roughly 450,000[2] Palestinian refugees registered in Lebanon with the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) are *de facto* part of Lebanese society, they have been marginalized and discriminated against in almost every facet of life, especially property ownership, infrastructural development, employment, and education (UNRWA 2014, Suleiman 2006). There is a plethora of explanations for the dynamics of the relationship between Palestinians and the Lebanese host community, most of which point to the unique nature of both the Palestinian refugee situation and the organization of the Lebanese political system and sectarian divisions that plague the country. While the specifics of this case may appear exceptional, the overarching characteristics of this protracted refugee situation and the power dynamics of this host-refugee relationship mirror those of other protracted refugee situations (Loescher et al. 2008, Crisp 2003).

1.3 Palestinian and Lebanese Exceptionalism

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[2] Estimates of the Palestinian population in Lebanon range from 100,000-600,000 since an official census has never been taken. Chabaan et al. (2010) more accurately estimates that between 270,000 and 280,000 Palestinians resided in Lebanon at the time. The Lebanese Palestinian Dialogue Committee announced in 2017 that an official census of Palestinians in Lebanon will be completed by late 2018.

Exceptionalism by definition injects bias into analysis because it emphasizes the differences between cases while overlooking underlying similarities (Kagan 2009). All too often, the Palestinian refugee situation is excluded from analyses of protracted refugee situations or general refugee studies because it is considered an outlier. Statistics on the length of time refugees spend in exile or the size of refugee problems rarely include Palestinians, or they provide numbers separately with an asterisk to signify its irregularity.[3] This particular situation has always been considered unique to the point of being incapable of comparison because it is rarely looked at outside of the context of the Palestine-Israel conflict. When looking at Palestinian refugee populations in specific host countries, comparison with other protracted refugee situations becomes more obvious. It is clear that there are unique characteristics associated with the conflict that generated the Palestinian refugees as well as their experiences in exile. However, each and every refugee situation has context-specific characteristics that set it apart from other groups, yet these cases are more often compared with others to increase our understanding of their plight as well as their lives in exile and opportunities for solutions. Just as these comparisons are beneficial, so too is the comparative study of Palestinian refugees, especially since the unique qualities of this refugee situation seem to have little bearing on host state policies enacted to control them.

Similarly, Lebanon as a host state has been considered exceptional because of its government system of power-sharing among all religious sects in the country. Common arguments against hosting refugees, and especially employing local integration as a solution, include upsetting the delicate power-sharing system, damaging the already fragile economy, or draining Lebanon's relatively little resources. However,

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[3] See Aleinikoff and Poellot (2015), Black (2001), and Tyler (2014) for examples of this exclusion.

Lebanon is not the only developing state tasked with absorbing large numbers of refugees or experiencing the pressures of an externally imposed democratization agenda. They are not the only host state to be in a post-war nation-building phase or the only government with insecurities or inefficiencies. Therefore the comparison of Lebanon's policies toward Palestinian refugees with policies of other states hosting protracted refugees would be beneficial for helping us understand why states react to refugees in the manner they do.

1.4 Research Statement

The primary purpose of this research is to challenge the narratives of Palestinian and Lebanese exceptionalism by comparing the protracted refugee situation of Palestinians in Lebanon with three other cases of protracted refugees- Somalis in Kenya, Afghans in Pakistan, and Sahrawi in Algeria. These cases were chosen because Palestinians, Somalis, Afghans, and Sahrawi are some of the early large scale refugee movements seeking refuge in host states in the global South after the establishment of independence and the modern international refugee regime. The conflicts that created these refugee situations are far from identical, yet the contemporary host state policies governing them follow similar patterns which make them ideal for comparison. The next chapters seek to answer the following questions:

- How are the identities of refugees and states shaped in protracted refugee situations?
- To what extent can the case of Palestinians in Lebanon be said to be unique?
- Where are the points of similarity with other protracted refugee situations?
- What lessons can be drawn from these comparisons?
- How can these lessons inform future research, humanitarian organizations, the donor community, and policy-makers?

1.5 Theoretical Framework

This study approaches the case of Palestinians in Lebanon through the framework of a protracted refugee situation resulting from a protracted conflict as opposed to an exceptional case apart from other refugee situations. Rather than looking at the current living conditions and legal status of Palestinians in exile in the context of the Palestine-Israel conflict, this study will focus on the broader context of the general phenomenon of prolonged exile. While there may be unique features in the Palestinian case, the characteristics that make the case unique have little bearing on host state policies toward refugees in the long term as shown through comparisons with other protracted refugee situations. This paper also seeks to bridge gaps among academic disciplines that address refugee issues. Many narrowly-focused analyses of protracted refugee situations miss the bigger picture and potentially ignore important realities, one of which being the inherently political and systemic nature of prolonged refugee situations. They do not always address realities on the ground, but rather focus on idealistic approaches to refugee management and solutions to refugee situations. The research approach is primarily from a critical perspective which views refugee policy as a tool of states to control refugees by limiting, labeling, and attempting to prevent long-term integration (Miller 2012). I question the status quo regarding the position of Palestinians in refugee discourse as well as global refugee policy and current host state policies. The analysis challenges the existing narrative of Palestinian and Lebanese exceptionalism as well as the 'three durable solutions' framework of UNHCR. To some degree, the critique of host-refugee relationships will be positivist since I believe logic and empirical data should dictate future policies. There is a clear discrepancy between how I think states *should* behave and how states *actually* behave, but I also recognize

that states possess more power than individuals, institutions, and laws can regulate. The political science discipline is often criticized for its primary focus on states, however, denying the validity of states' concerns does not precipitate pacification or change state behavior. Due to this reality, it is necessary to analyze forced migration from an international relations perspective in order to fully understand state policies regarding refugees.

1.6 Methodology

In an attempt to answer the critical questions laid out earlier, this paper employs a mixture of primary and secondary source research and data analysis. I have done in-depth analysis of former and current refugee policies regarding development that have been implemented by host governments responsible for a substantial number of protracted refugees as well as patterns of repatriation, resettlement, and integration of protracted refugees, primarily through reading and analysis of secondary sources and primary legal documents. I have compiled data from various cases of protracted refugee situations and analyzed the relationship among length of time in exile, degree of marginalization and discrimination, and level of development in refugee camps.

Throughout the course of this paper, the refugees referred to will be those specifically recognized by UNHCR and UNRWA as refugees, whether registered or unregistered, self-settled or camp-based. This presents some challenges as population estimates often exclude many urban refugees outside of camps and include refugees no longer residing in the host countries in question. However, for the sake of consistency across cases, I will be relying on statistics and population estimates as reported by these organizations. There is also a contentious debate concerning the definition of integration

in refugee studies. For the purposes of this paper, integration is conceptualized not as assimilation or naturalization, but as freedom of movement, to seek employment, to choose housing, to attend public schools or hospitals, and to access basic resources and legal protection in order to establish self-sufficiency and a livelihood in exile (Banki 2004; Weighill 1997). Unlike many interpretations, this reading of integration does not necessarily result in permanent naturalization, but rather citizen-like rights on a temporary and renewable basis pending alternate solutions to refugees' plight. By this definition, integration is barely discernible from the rights provisions encouraged by international refugee and human rights law.

CHAPTER 2

REFUGEES AND STATES

Refugees are often incorrectly assumed to be passive recipients of aid residing in cliché tented camps until a solution to their plight is found. On the contrary, refugees are multidimensional and rational actors with rights, skills, and aspirations. As described by Susan Kneebone (2014), refugees' identities are cosmopolitan, political, and legal- or humans owed protection, subjects of a state, and refugees with rights grounded in international law (98). Similarly, states also play various roles in the same vein. States have a moral duty to protect those within their borders, states offer social, economic, and political membership, and states have obligations under international law to protect and offer rights to refugees. Arguably the humanitarian duty to protect one another is at the core of refugee protection, however, in contemporary global power structures, states have the ability to significantly affect refugees' lives with or without the consent of the refugees or the international community. This makes refugee management and protection an inherently political issue. International legal structures are put in place to ensure refugee protection and state cooperation, however, inconsistent interpretation and implementation of international refugee law has grave consequences for many refugees, especially those caught in protracted situations. Protracted refugee situations are neither inevitable nor acceptable, and are consequences of political decisions of states, whether states of origin, hosts, or donors. The characteristics that define these protracted situations commonly strip refugees of their complex identities in service of preserving state power, regardless of the case. This

chapter will address the various identities that both refugees and states assume as well as their roles in protracted refugee situations.

2.1 Humanitarian

In recent decades, the refugee label has derived a negative connotation because of widespread xenophobia and the proliferation of terrorism. A label that once evoked emotions of sympathy now evokes feelings of fear and anxiety. Because of this consequence, states react accordingly by negatively modifying refugee policies and reaping the political benefits of a citizenry preoccupied with unfounded security concerns. By analyzing refugee issues from a humanitarian perspective, we can identify refugees as human rights bearers, while states would be considered governments and communities offering assistance (Adelman 2016; Kneebone, Baldassar, and Stevens 2014). Refugees do not choose to be refugees. Their lives do not get put on hold indefinitely because they have fled conflict or persecution. They continue to live and move forward with the major obstacles to self-reliance being discriminatory host state policies, enforced dependence on humanitarian aid, and lack of opportunities for solutions to their plight (Aleinikoff 2015; Roberts 2010; Suhrke 1999; Zetter and Ruaudel 2016).

The obsession of host governments and humanitarian organizations with seeking solutions- one act to end any refugee situations- overlooks the fact that lives are going unfulfilled on a daily basis without temporary or short-term opportunities for improved livelihoods or empowerment while they await a 'solution' (Crisp 2003; Tyler 2014). Suhrke (1999) suggests that focusing on the immediate results of developing human security would be more beneficial than focusing on long-term 'solutions' corresponding

to the security interests of states alone. In protracted refugee situations, solutions are even more difficult to implement, so host states' fixations on solving their refugee problems while preventing permanent settlement that *de facto* already exists compromises the human development of thousands of refugees for years (or decades) on end (Abdi 2005). In many cases of protracted refugee situations, such as Palestinians in Lebanon, an aversion to permanent settlement of refugees is also part of the national narrative and therefore considered justifiable in the name of nation-building (Hanafi 2014).

2.1.1 Nation-States and Humanity as Identity

In contemporary states that both produce and host refugees, the nation-state was never a coherent political scheme (Bradley 2014). Nation-states are an imaginary construct that assumes homogeneity among the population within a state territory (Schiller, Basch, and Blanc-Szanton 1992). While some kind of national identity may be necessary for state-building, it becomes problematic beyond state formation because it highlights the true heterogeneous nature of most state territories today. Additionally, it sharpens the divide between citizens and noncitizens which undermines the protection of human rights and instead provides for citizens' rights only (Hanafi 2011). This distinction not only creates social inequality among diverse citizen populations, but also reduces the opportunities available to non-citizens in order to clarify the benefits available for those who were lucky enough to be born on the right side of a border. By recognizing that many refugee populations today are part of a wider transnational network, Schiller, Basch, and Blanc-Szanton (1992) have argued that the only way to

understand and improve experiences of migrants today is to view the world as a single social system, a global identity linked to humanity.

Agier (2010) criticizes the concept of humanity as an identity because it fuses the definition of universalism to globalization. His argument is that expansion of global values regarding politics and economics does not extend to humanism. On an international or state level this may be true to some extent. States are not inherently concerned with the well-being of humans outside of their own borders. However, individuals can and do sympathize with other humans that are struggling worldwide. In a democratic state, citizens have power to address these issues which is likely part of the reason states distribute foreign aid, and humanitarian agencies even exist. An extension of this argument would suggest that universalism is notably present, although not universally, and not necessarily because of globalization.

International refugee law may not obligate all states to protect refugees, but there are many states that allow refugees to cross into their borders anyway. This can be understood partially through analyzing historical ties between the refugee and host communities, whether familial, cultural, or economic ties. In many cases, there was regular human migration between the states of origin and the contemporary host states long before refugee situations were created. Because of this pre-existing bond, even host states not legally bound to offer protection still choose to in order to show hospitality and solidarity with their neighbors. Not until other factors come into play do host state policies turn against refugees. This further reinforces the idea that initial protection for refugees is rooted in sympathizing with other humans that are suffering, not politics, economics, or even the law. The challenge here is to identify which factors erode this

initial hospitality and transform into the securitization of forced migration that we see today.

2.1.2 Encampment Policies

Some argue that developing host state policies today are an extension of colonial practices or a consequence of mirroring the modern state policies of Europe, North America, and Australia (Abdi 2005; Betts 2009; Hyndman 2011; Lindley and Haslie 2011; Zetter 2007). In the past few decades, wealthier states have made an effort to reduce their responsibilities and prevent refugees from gaining access to their territories by financing UNHCR operations in the developing world (Betts 2009; Kelley 2007; Slaughter and Crisp 2008). This disregard for international responsibility-sharing has made developing host states wary of accepting refugees into their borders at all, let alone allowing them to reside there indefinitely (Jamal 2002; Ward 2014). In particular, protracted refugee situations that witness significant donor fatigue also witness declining host state support for refugees (Jacobsen 2002). The end result, if not present already, is encampment of refugees so as to control refugee movements and ensure continued donor support by emphasizing the poverty of refugee groups.

Encampment, or warehousing, is not only counterproductive in achieving basic human rights for the most vulnerable of the world's populations, but is also a breach of international law because of its physically restrictive characteristics and proven negative consequences (Black 1998; Smith 2004). Since states are aware of this fact, one could argue that states are willing to allow grave violations of human rights in exchange for the ability to control the populations within its border. However, this is counterproductive for both refugees and hosts since overcrowding and rampant poverty

often lead to conflict with locals due to environmental degradation, decreased health, and increased security concerns (Black 1998; Smith 2004). Dignity, freedom, and realization of human rights, however, are only achievable in a state of self-reliance (Durieux 2009). Achieving productivity and self-reliance allows refugees to regain a sense of dignity that is lost when their movements and activities are monitored and restricted (Feldman 2012).

2.1.3 Conclusion

In the initial stages of a conflict that produces large numbers of refugees needs are characterized by food rations, shelter, and healthcare. As conflicts become protracted the needs of refugees evolve to include human development and improved infrastructure for better access to education, employment opportunities, and eventually self-reliance (Aleinikoff 2015). Development actors typically do not see the needs of the displaced as a priority because they are considered 'humanitarian', however, needs are fluid in refugee situations (Aleinikoff 2015). In the international refugee regime, there is no real distinction between refugees and protracted refugees, and therefore assistance provisions were not adapted to accommodate their different needs. Not until recently have development efforts increased to improve the overall well-being of refugees and host communities, although there is still skepticism from both groups surrounding the issue of permanent integration (Gabiam 2012; Mattner 2008; Misselwitz and Hanafi 2009).

Unfortunately, governments are less altruistic than we would like them to be, and therefore need to be persuaded to cooperate in the international refugee regime. Host governments and donors occasionally act in a humanitarian manner, although

often for un-humanitarian reasons. State policies should address first and foremost the moral implications, and then the political and legal. In a humanitarian world, states would be made up of a community willing to offer protection to those who need it. This would be ideal, however, states more often than not act in their own self-interest at the expense of the vulnerable. Since refugee protection and implementation of solutions are dependent upon state cooperation, it is vital to analyze forced migration from a political perspective.

2.2 Political

The field of refugee studies commonly takes a bottom-up approach on an individual level of analysis with a focus on humanitarian issues. However, states and international organizations are often those who make final decisions regarding refugees, and therefore it is a necessity to complement the bottom-up analyses with a top-down approach in order to understand state responses to refugee populations (Majidi and Dadu-Brown 2016, Morris and Stedman 2008). Since forced migration represents a failure of the state-citizen-territory relationship, refugees are not only a humanitarian issue, but an inherently political one (Betts 2014). The concept of citizenship, as well as security and economics, contribute to the political identity of refugees. Refugees are not solely considered subjects of a state, but active participants in their own lives and the host community. The reciprocal political role of states in cases of forced migration is to extend to refugees membership to the state, and to protect all within the state's borders as an expression of sovereignty.

2.2.1 Refugee Situations as a Political Issue

Protracted refugee situations are neither natural nor inevitable consequences of forced migration, but rather are the result of political actions by states of origin, host states, and donors (Jamal 2002). In 2009 then High Commissioner for Refugees, António Guterres, stated that UNHCR could not solve the protracted refugee situation the Sahrawis were facing because it is a political issue (Alsalem 2009). He may have been talking about the Sahrawi refugees in this particular instance, but the sentiment is applicable to all protracted refugee situations. Humanitarian organizations can only temporarily relieve suffering on a day to day basis, but to really end the conflict, states need to come to an agreement. In the short term UNHCR and UNRWA are capable of providing basic needs, but they cannot grant access to the labor market, public services, or sufficient livelihood opportunities (Van der Klaauw 2010). UNHCR's mandate allows for oversight of refugee management and advocacy on behalf of refugees as well as implementation of durable solutions. However, in recent years, the organization has somewhat disengaged from an aggressive watchdog role so as not to offend host governments that allow them to operate within their borders (Bialczyk 2008; Harild, Christensen, and Zetter 2015; Lindley and Haslie 2011). Observers of recent trends in 'durable solutions' being implemented could note UNHCR's yielding to pressure from host and donor states at the expense of refugee rights and protection (Harild, Christensen, and Zetter 2015; Ward 2014). Some argue that the strong presence of UNHCR and UNRWA facilitates the disengagement of states from the role of refugee protection, even though they continue to be active in securitizing their presence (Purkey 2014; Slaughter and Crisp 2008). Migration policies are increasingly examined through the lens of security issues and state sovereignty (Betts 2009). Over the past decade or so research on the relationship between refugees and security or economics has increased,

but there is a need for research on states and institutions with regards to refugees considering they have the most power in implementing policies and durable solutions (Betts 2008; 2009; 2014; Hurwitz 2009; Ward 2014).

2.2.2 A Question of Sovereignty

Hosting refugees should not be seen as an erosion of state authority, but an expression of sovereignty as states meet their existing responsibilities (Burns 2010; Garlick 2016; Purkey 2014). Rather than playing a passive role where policies are imposed from outside and new developments in refugee issues occur without local input, host states and possible third countries for resettlement should recognize the realities on the ground and formulate proactive refugee policies in the interest of protecting refugees and fulfilling international responsibilities (Alimia 2014; Lindley 2011; Lindley and Haslie 2011). Part of these responsibilities includes upholding human rights and other international norms and agreements, one of which could include the Responsibility to Protect (R2P).

While R2P is commonly associated with humanitarian intervention, the least controversial aspect, and preferred application, of R2P is the protection of civilians through peaceful means (UN Office on Genocide Prevention and the Responsibility to Protect). One way to accomplish this would be to grant refugees admission into host states and offer protection. In light of R2P, sovereignty is considered a responsibility to domestic civilians and the international community rather than a shield from outside meddling in domestic affairs (UNGA 2016). If the responsibility to protect residents of a state is not taken seriously by its government, it is the duty of the international community to redress the failures of the state. Applying the concept of R2P is not only

acceptable within the legal framework for the international community to provide

protection to those who cannot receive it from another state; it is encouraged by the

international refugee regime. Even though peaceful measures of R2P are supported by

international law and the refugee regime, it is selectively applied to humanitarian

situations where the intervening states have more at stake than the lives of civilians.[4]

Where states of origin or host states are not positioned in a geostrategic location,

international cooperation in refugee protection or humanitarian intervention is less

likely (Slaughter and Crisp 2008).

2.2.3 The Concept of Membership

In the international refugee regime, the most popular durable solution for host

states and humanitarian organizations alike is voluntary repatriation. Of course a

preferable solution would be a sustainable peace in the refugee-producing state and a

reparation of the state-citizen-territory relationship, though protracted refugee situations

have shown us that it is rarely entirely voluntary or durable (Hanafi 2006; Harild,

Christensen, and Zetter 2015; Kibreab 2003). Being afforded rights associated with the

refugee status and achieving a political solution and justice are not necessarily

dependent upon refugees returning 'home', a concept that is highly debatable in itself

since it imposes a nationality and an identity upon refugees based on a hollow

attachment to a state territory. This is especially relevant to question in the case of

protracted refugee situations as many subsequent generations of refugees born in exile

do not always possess a sentimental attachment to the land where their ancestors were

born (Bradley 2014; Hammer 2005; Hanafi 2011; Schmeidl and Maley 2016). This

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[4] For example, in the application of R2P in Libya in 2011. This operation was criticized as a means to enact regime change rather than protect civilians.

nominal label also means that refugees are often unable to renounce the ties to the same lands, should they want to end being a protracted refugee. Repatriation, according to Long (2011; 2013), can be seen as regaining membership to a political entity, although not inevitably returning to a specific physical location in order to allow for flexibility in rectifying the situation. The existing durable solutions imply that humans are stationary, and that solutions must permanently situate refugees in one particular location. This is an inaccurate assumption since many refugees leave on their own accord and see themselves as neither immobile nor victims (Schmeidl and Maley 2016). As Hammer (2005) notes, "There are people in this 'world of movement' who can comfortably live with a cosmopolitan identity and a home that they carry with them" (206). This is obviously not the case with all refugees, but for those with a history of migration or large transnational networks, migration and mobility may be the norm and a potential solution to refugeehood.

It is pertinent that a continuation of political and civil rights be realized, however temporarily, to protect future rights and facilitate right of return or any solution for any refugee population. Return is less likely to occur if refugees do not have the resources or necessary skills to rebuild their state of origin post-conflict. Those who integrate or resettle in a third country also require a continuation of human development in order to prevent lost generations. By denying refugees membership to a state, human rights are being equally denied, therefore a commitment to human rights necessitates that refugees have a right to a solution that includes being provided membership (Aleinikoff and Poellot 2014).

Integration and increased infrastructural development are underrepresented as a solution because of the inaccurate assumption of cultural/political assimilation and

permanence associated with the concept of integration. The 2004 Geneva Conference of UNRWA donors concluded that maintaining the 'right of return' is not conditional upon living under circumstances deemed temporary such as poor housing structures or restricted access to employment, education, potable water or electricity (Misselwitz and Hanafi 2009, 367). Host states can maintain their sovereignty while protracted refugees can maintain their right of return all the while improving their living conditions and becoming contributing members of their host society in the immediate term. However, even temporary or limited integration policies have been relatively unexplored officially for political reasons (Jacobsen 2001; 2002; Banki 2004).

2.2.4 Refugees and State Security

One solution that should not be imposed, but often is, is securitization through detainment in camps and supervision by state security or military as is the case not only in Lebanon, but also in Kenya and Pakistan, among others. Loescher and Milner (2008) assert "Lacking policy alternatives, many host governments present refugee populations as security threats to justify actions that would not otherwise be permissible, especially when the state is confronted with the pressures of externally imposed democratization and economic liberalization" (37). Traditional security studies remains skeptical of securitization of the migration issue because it could lead to an increase in military presence, exclusionary policies, and increased anxieties about the 'other' (Loescher et al. 2008; Zetter 2007). The containment of refugees in camps labels them as outsiders and reinforces their own feeling of exclusion. Soon the negative aspects of separation begin to outweigh the initial benefit for the state (Slaughter and Crisp 2008). This exclusion combined with deteriorating living conditions creates an environment

conducive to increased sexual violence, conflict among refugees and locals, and politicization and/or militarization in the camps, thus producing a security concern that would have been minimal otherwise (UNHCR 2008; Zetter 2007, Black 1998). If sovereignty and the state appear to be threatened by the presence of 'foreigners', states can justify their restrictive policies, especially since there are little to no consequences for host states not abiding by international refugee law (Jacobsen 2002). The rise of securitization and xenophobia contrasts with the earlier era of less diverse refugee populations and labels, and more efficient management of migration (Zetter 2007).

In the 1990s, UNHCR made an attempt to convince donor and host states that their security interests were aligned with that of refugees' in order to increase international cooperation in refugee protection (Hammerstad 2014). However, after the September 11 attacks on the United States, there was a direct link made between lenient immigration controls and terrorism which further fueled fear of the 'other' and justified harsher refugee laws (Hammerstad 2014; Kibreab 2014). After the expansion of the Global War on Terror, UNHCR abandoned all security language and shifted toward language of humanitarianism. Associating forced migrants with security at all undermined their protection since they would be analyzed more as security threats than victims (Hammerstad 2014). While it is understandable that humanitarian agencies would want to steer clear of security language for the sake of refugee protection, states' concerns do not disappear with a shift in institutional adaptation. It is still imperative that security issues are addressed especially when dealing with donors and hosts who justify harsh refugee policies because of the perceived threat to their security and ways of life (Garlick 2016). By ignoring political factors and pushing language of 'rights', host states are potentially deterred from allowing refugees across their borders at all, let

alone offering them protection or resources (Stevens 2015). Especially in the age of

neoliberal economic policies, states are increasingly reluctant to share resources with

'foreigners' which makes analysis of refugees' economic impact essential for improving

refugee access to asylum and freedom.

2.2.5 Economic Impact of Hosting Refugees

Refugees exercise important economic functions and have a significant impact

on the livelihoods of hosts, whether the refugees are marginalized or not. Even without

access to formal employment, refugees often engage in the informal economy in order

to achieve some level of self-reliance, although limiting economic activity to the

informal sector in refugee camps inhibits the full realization of their economic potential

(Jacobsen 2002). Development of economic activities often draws locals into refugee

camps or enclaves for low-cost services and goods (Dorai 2010). In urban camp settings

such as those in Lebanon, even segregation and marginalization cannot prevent

Palestinians from being physically and economically integrated within their host society

because of these daily interactions. Refugees participate in the economy not only

through their entrepreneurial skills, but they also provide relatively cheap labor and add

to the consumer market which increases demand for local goods and improves trade

among locals and refugees (Maystadt and Verwimp 2014). The consumer market is

further expanded by the presence of employees from refugee aid organizations that have

a higher purchasing power. These same aid organizations, in addition to their foreign

staff, also provide job opportunities for many locals and refugees alike. Humanitarian

and development aid aimed at helping refugees also improves infrastructure and

livelihood opportunities for hosts which results in less local conflict between the groups

(Omata 2016). Meanwhile, the negative economic effects of refugees tend to be highly localized and decrease over time (Maystadt and Verwimp 2014). On average, the impact of refugee presence on welfare in the host country is more positive than negative (Kelley 2007; Maystadt and Verwimp 2014).

Despite these economic incentives for hosting refugees, states are still reluctant to accept refugees and allow their freedom within the host state's borders (Garlick 2016). Competition with citizens over limited jobs, perceived "special treatment" of non-citizens, and institutionalized discrimination are just a few of the reasons refugee participation in the labor market is limited. Also by denying access to work, the host state discourages integration by aiding poverty and an illusion of temporariness that are seen as guaranteeing repatriation as the only solution. If voluntary repatriation is to continue being the preferred solution for hosts and donors, then the education and skills of refugees need to be nurtured in order to ensure successful and sustainable return. Perpetuating dependency on aid has a negative impact on the ability to implement any future durable solutions, not to mention its negative psychological and physical consequences (Khan 2014; Maina 2014).

2.2.6 Conclusion

The reasons for which the international community should protect refugees and make a concerted effort to end protracted conflicts and implement solutions to refugee situations should be rooted in humanitarian concern. However, resolving any protracted refugee solution would be inherently political as there are multiple actors involved with varied ideas of what a solution should consist of. Most importantly, these multiple

actors *include* refugees themselves. Refugees should be understood not as an apolitical bureaucratic category, but political actors with skills and assets. In the political climate of the world in 2017, states tend to view refugees as subordinate to their citizen populations due to security, economic, and social pressures, but there can be a convergence of interests of both host communities and refugees.

Interest convergence, or issue-linkage, has been critical for local and international cooperation. Some states further removed from both the refugee-producing conflict and the mass influxes of refugees often need to be persuaded into cooperating. The most effective way of doing this seems to be linking the needs of refugees to concerns of states, such as security or development. Addressing the concerns of host states ensures that their responsibilities to protect all residents of the state are met. It also encourages donors to fulfill their obligations to assist hosts and humanitarian agencies financially as well as facilitate implementation of solutions including third country resettlement.

Conflicts could be ended, but if wealthy states do not have anything at stake in the state/region experiencing conflict, they tend not to act without persuasion (Slaughter and Crisp 2008). However, it would be beneficial for states and refugees in the long term to create stability through implementation of durable solutions for refugees. This would reduce the need for UNHCR, redistribute humanitarian aid toward local development, and therefore reduce the burden on hosts and donors by reducing costs of hosting refugees as well as working toward preventing future conflicts. This is essentially the definition of a durable and sustainable solution, yet host states rarely engage in this long-term logic. Although it is supposed to be the responsibility of states to provide protection to refugees, UNHCR has expanded its role in refugee assistance to

close the gaps in protection experienced, especially in developing states. An unintended consequence of this is that UNHCR is now essentially functioning as a surrogate state and allowing host states to be relieved of their own moral responsibilities and legal obligations (Purkey 2014; Slaughter and Crisp 2008; Stevens 2016).

2.3 Legal

International refugee law was created to supplement human rights and humanitarian law in circumstances that cause forced displacement. There are no specific provisions in international law concerning protracted refugees or prolonged encampment. This is likely due to the legal ambiguity that arises from the existence of a multitude of actors and stakeholders, and the uncertainty about which state/s is/are responsible for refugee protection (Purkey 2014). However, the existing international legal framework is supposed to provide basic human rights and international cooperation in preventing and resolving conflicts.

From the legal perspective, refugees are rights-bearers under international refugee law, and states are guarantors of protection as obligated by international refugee law. Within the international refugee regime, refugees' identities become synonymous with being victims in need of protection under international and domestic asylum law. Recognizing refugees solely as passive objects of refugee law may be considered robbing them of their humanity by imposing a singular identity (Stevens, Kneebone, and Baldassar 2014), although in conjunction with both political and cosmopolitan dimensions, having a legal safety net is an important part of seeking asylum and returning to one's country of origin.

2.3.1 International Refugee Law

The international refugee regime is based primarily on the creation of the United Nations High Commissioner for Refugees (UNHCR) as well as the 1951 Convention Relating to the Status of Refugees (1951 Convention) and its 1967 Protocol. Aleinikoff and Poellot (2014) state that the chronology of international refugee regime obligations consists of flight, non-refoulement, assistance, and a solution (211). Contrary to popular belief, the 1951 Convention itself does not guarantee rights to refugees nor does it oblige a state to offer asylum, but rather determines *who* is a refugee and suggests what rights *should be* afforded to those determined to be refugees (Feller 2014; Goodwin-Gill 2014; Kneebone, Baldassar, and Stevens 2014). Therefore a more realistic chronology of events would be flight, *admission*, non-refoulement, *refugee status determination*, assistance, solution, with each step being dependent upon implementation of the preceding requirement.

The dominant principle laid out in the 1951 Convention is that of non-refoulement, or not returning asylum-seekers to a location in which their lives would be in danger. Numerous lawyers and academics have suggested that non-refoulement is considered customary international law which makes it legally-binding even for states not party to the 1951 Convention (Hurwitz 2009). For UNHCR, ensuring non-refoulement can override the provision of refugee rights, which is not uncommon in developing host states (Jamal 2002). Beyond non-refoulement, states are not obliged to offer refugee status or rights in accordance with that title (Goodwin-Gill 2014).[5] Aleinikoff and Poellot (2014) argue that non-refoulement is not the goal of the international refugee regime, but rather a means to an end- finding alternatives to

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[5] Not in all cases, however the European Court of Human Rights did rule that if asylum-seekers qualify for refugee status, then states are obliged to grant that status. Of course, this is only applicable in the European Union.

refugeehood as a solution. The 1951 Convention and 1967 Protocol call for the international community as a whole to fulfill its responsibility in protecting refugees and finding solutions, as well as cooperate in order to find and implement at least one of the three durable solutions offered by UNHCR- voluntary repatriation, local integration, and resettlement in a third country (UNHCR 2008). As history has shown, international responsibility-sharing is quite limited, and durable solutions within this framework are difficult to implement (Betts 2009; Aleinikoff and Poellot 2014). Although the 1951 Convention and 1967 Protocol are limited by lack of implementation by states, there are international human rights laws and declarations that complement the 1951 Convention and 1967 Protocol by ensuring provision of basic human rights. Some of these include the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment- all of which are considered legally binding and applicable to the four case studies presented in this paper (Betts 2009; Hurwitz 2009; Stevens, Kneebone, and Baldassar 2014). Refugee law read in light of general human rights law supports the incremental enhancement of rights as the norm, and therefore addresses the fluidity of needs and protection as refugee situations become protracted (Durieux 2009). Since states determine how to interpret and implement international law, it is relatively easy for some states to forgo their international obligations to share in the responsibility for refugee care (Feller 2014; Goodwin-Gill 2014; Kelley 2007). Inconsistent interpretations of the law and the expansion of the global refugee regime through creation of new institutions have allowed states to circumvent both UNHCR and the

1951 Convention in order to meet their own interests at the expense of refugee protection (Betts 2009).

2.3.2 Regional Instruments

In addition to the international refugee and human rights laws, there are a few regional agreements that relate to refugee protection in the case studies presented in this paper. Most notably, the Organization of African Unity (now the African Union) established a Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Convention) in 1969 which came into effect in 1974. This document was hailed as a progressive piece of legislation because of its expanded definition of a refugee to include victims of "external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin..." (OAU 1969, 3) in order to account for common refugee-producing conflicts in Africa at the time (D'Orsi 2014; Sharpe 2012). The OAU Convention also had specific provisions for allowing *prima facie* recognition of refugees in cases of mass influx as well as formalizing responsibility-sharing among African states when refugee hosts become overwhelmed (D'Orsi 2014). On paper, the OAU Convention appears to have a more inclusive refugee definition and greater insurance of protection. In practice, however, protection of refugees is diminished because the OAU Convention does not address civil and political rights of refugees, nor does it increase responsibility-sharing since most African states are equally ill-equipped to accommodate the vast populations of refugees currently emanating from their neighbors (Sharpe 2012). The limited rights offered by the OAU Convention allow for more lenient admission in cases of mass influx such as Somalis fleeing to Kenya, whereas access to full rights that lead to long-

term settlement may discourage hosts from allowing refugees to access their territory (Sharpe 2012). At least in Kenya, obtaining the legal status of 'refugee' is more difficult than *prima facie* refugee status that grants fewer rights, but still generally upholds the principle of non-refoulement (Lindley 2011). For this reason, the OAU Convention is meant to be complementary to the 1951 Convention so that refugees can benefit from protection mechanisms outlined in each.

Within the Middle East and North Africa, the Protocol for the Treatment of Palestinians in Arab States (Casablanca Protocol) was adopted by the Arab League in 1965 to guarantee protection and rights for Palestinian refugees (Hanafi 2014; Knudsen 2009). Although the document was supposed to offer Palestinians legal residency and access to employment equal to citizens, it was later agreed that state laws supersede the Casablanca Protocol, thereby revoking rights from Palestinians in Lebanon (Knudsen 2009; Shiblak 1996). The Arab Charter on Human Rights, while not legally binding, is a regional extension of the UDHR which is considered encompassing international norms of human rights. The charter encourages signatories to provide basic human rights to those within states' borders "without distinction on the basis of race, colour, sex, language, religion, political opinion, national or social origin, wealth, birth or other status, and without any discrimination between men and women" (League of Arab States 1994). While these regional complements to the UDHR and the 1951 Convention are a step in the right direction, there is little evidence to support that they are implemented consistently across cases, and thus suffer the same flaw as the original 1951 Convention. Although interpretation and implementation of refugee law is inconsistent and limit refugees exercising their rights, the situation is worse in states

that lack national administration procedures or legislation for regulating the entry and status determination of refugees (Van der Klaauw 2010.)

2.3.3 A Note on Domestic Legislation

Beyond the international and regional instruments that make up the international refugee regime, domestic legislation pertaining to refugees can affect the protection measures and access to rights. Kenya adopted its first domestic refugee law as of 2006, although its contents are concerning security of the state more than protection of refugees (Maina 2016). The subsequent creation of a Refugee Affairs Committee allowed the state to resume some of the administrative tasks previously given up to UNHCR. Although the asylum system in Kenya is far from ideal, asylum-seekers in host states without national asylum procedures or institutions tend to fare worse (Van der Klaauw 2010). Lebanon, Pakistan, and Algeria do not have domestic refugee legislations, but rather laws pertaining to foreigners or guests. Pakistan drafted a national refugee law in 2013, but it has yet to be enacted (Zetter and Ruaudel 2016). The states without adequate domestic laws to protect refugees sign Memoranda of Understanding (MOU) with UNHCR or UNRWA (Ward 2014). By doing this, the state relinquishes control of refugee status determination and assistance provisions to the aid agency and simply allows them to conduct their operations within the border of the host state. In the case of Palestinians in Lebanon, refugees are under the mandate of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) rather than UNHCR[6]; however this relationship and further analysis of domestic refugee law will be explored in later chapters.

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[6] See Chapter 3 case study of Palestinians in Lebanon and Chapter 4

2.3.4 Conclusion

The evolution of the legal framework concerning refugees has negatively impacted refugee protection because it focuses more heavily on states' interests than the needs of refugees or human rights. Even in violations of international refugee and human rights law, states can justify morally questionable policies on the grounds of national security, especially in the context of the global war on terror. There have been donor conferences and Executive Committee[7] meetings to reinforce commitments to international responsibility-sharing, but the rhetoric of protection and rights rarely translates into action, as is demonstrated by the numerous protracted refugee situations around the world.

Since the principle of responsibility-sharing is not taken seriously, developing host states implement encampment policies which they see as the least risky path in the short term (Garlick 2016). Restriction of movement, employment prospects, education, and healthcare is detrimental to the livelihoods of camp residents, but could also be considered a violation of international law. Despite this, it is common practice in most developing host states since international refugee law is relatively unenforceable. This could be due to states being seen as having little moral authority to pressure others when they are likely to be in violation of international human rights law as well (Hurwitz 2009; Lindley and Haslie 2011).

It is important to address the legal and humanitarian frameworks within refugee studies, but neither of these effects change since states are not penalized for not enforcing international refugee law, and human rights of non-nationals are second to

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[7] A subsidiary of the UN General Assembly that serves as a governing body of UNHCR

citizens of the state. In order to secure improved protection for refugees and seek durable solutions to protracted refugee situations, it is necessary to address states' concerns and analyze host state interactions with refugees from and international relations perspective.

CHAPTER 3

CASE STUDIES

3.1 Palestinians in Lebanon

3.1.1 Background

The first wave of Palestinian refugees arrived in Lebanon after the establishment of the state of Israel and the 1948 *Nakba*, or catastrophe, which forced them from their homes. Approximately 100,000 Palestinians arrived at the southern borders of Lebanon, warmly welcomed by their northern neighbors (Amnesty International 2007, 12). At the time, the war was expected to be short-lived, but it was soon revealed that the conflict would not be easily resolved. About 50,000 Palestinians, mostly Christians, were granted Lebanese citizenship in the 1950s and 1960s, but many continued to reside in Lebanon with an indeterminate legal status (Haddad 2004, 478). In spite of their legal status, Palestinians enjoyed a wider range of rights pertaining to employment, property ownership, and political organization than they do today. Throughout the 1960s, the increased politicization of Palestinian presence led to a 1964 law barring employment in various 'high status' profession such as medicine, law, and engineering (Knudsen 2009, 55).

A second wave of Palestinian refugees fled to Lebanon after the 1967 Arab-Israeli war, increasing the population of Palestinians from roughly 140,000 to 240,000 (Haddad 2004, 474). This was followed by the relocation of the Palestine Liberation Organization (PLO) to South Lebanon after their expulsion from Jordan in 1970. Although the refugee camps were located in Lebanon, the Palestinians enjoyed relative

autonomy to build their nation-state on Lebanese territory with the PLO being responsible for administration and security. By the time the PLO leadership arrived in Lebanon, hundreds of thousands of Palestinians already resided in Lebanon, and sectarian tensions had long been developing. These tensions eventually evolved into a civil war that lasted from 1975-1990. Due to the PLO conducting military operations from Lebanon, Israel invaded Lebanon in 1982. The PLO was subsequently expelled from Lebanon, leaving the Palestinians in Lebanon without proper security or administrative capabilities. Later the same year witnessed brutal massacres of mainly Palestinians within the camps of Sabra and Shatila perpetrated by Israeli military and Christian Phalangist militiamen under the guise of the civil war. The Ta'if Accords that allowed for an end to the war and national reconciliation did so at the expense of Palestinians' future in the country. Opposing *tawtin*, or permanent settlement, was one of the few unifying factors of the Lebanese community.

Although Lebanon has a history of tolerating the existence of refugees, the state continues to discriminate against refugees through legal channels. In 1983, the Ministry of Labor banned Palestinians from employment in another 72 professions, forcing many to work in informal and exploitative employment if they weren't already (Knudsen 2009, 55). The signing of the Oslo Accords led to further deterioration of the Palestinians' situation in Lebanon to send a message of Lebanon's unwillingness to allow permanent settlement (Al Husseini 2007, 459-460). The Ministry of Labor subsequently barred Palestinians from employment in an additional 46 professions in 1995 (Knudsen 2009). As of 2007, the total number was reduced to around 20 professions, although formal employment opportunities now open to Palestinians are still typically fulfilled by Lebanese citizens if possible (Amnesty International 2007).

The need for improvement of livelihoods exists in other Palestinian refugee-hosting

states, however, those living in Lebanon fare the worst as evidenced by the high levels

of special hardship cases and the high proportion[8] of refugees living in camps (Brynen

2013; Roberts 2010). Comparatively, Palestinians in Syria and Jordan have lower

poverty rates and are offered much more freedom of movement, employment, and

education. Camps in Lebanon are increasingly portrayed as 'spaces of exception'[9]

associated with crime and insecurity after decades of restrictive policies and rising

poverty rates. Because of the longevity of Palestinian exile, the relationship with their

Lebanese hosts is defined by clear integration due to urbanization alongside of

marginalization (Doraï 2010; 2012). Today, UNRWA reports that there are

approximately 450,000 Palestinians registered in Lebanon, but a 2010 survey estimated

that only 270,000-280,000 actually resided in Lebanon at that time (Chabaan et al.

2010).

3.1.2 Legal Status of Palestinians in Lebanon

Lebanon is not party to the 1951 Convention or the Convention on Stateless

Persons, and Palestinian nationality is linked to a state that does not officially exist

which leads to a questionable legal status in Lebanon (Library of Congress 2016a). To

the Lebanese state, they qualify neither as refugees, stateless persons, nor citizens, and

therefore are not entitled to protection offered by refugee or statelessness conventions,

or rights afforded citizens (Akram 2002; El Rifai and Shehadi 2013). There are three

main administrative categories of Palestinians in Lebanon- those registered with the

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[8] UNRWA estimates percentage of Palestinians inside camps at over 50 percent.

[9] See Giorgio Agamben's (2006) *State of Exception*. In spaces of exception, state sovereignty supersedes individual rights

Ministry of Labor and UNRWA, those registered with only the Ministry of Interior, and those registered with neither. However, these categories lack a legal framework and still do not provide for protection or assistance (Association Najdeh 2016).

Although not party to the primary refugee conventions, Lebanon has accepted the Universal Declaration on Human Rights[10], the Arab League Declaration on Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights, but has failed to apply them to the Palestinian population within the state's borders (Shiblak 1996). Most Arab states cite the reasons for not signing the 1951 Convention are the Palestinian refugee situation and states' unwillingness to accept permanent settlement of Palestinians (Stevens 2014). In 1965 Lebanon acceded to the Protocol for the Treatment of Palestinians in Arab States (Casablanca Protocol) which was supposed to provide rights and protection on par with citizens without the pressure to accept resettlement. However, in 1991 Saudi Arabia and Kuwait amended the agreement to allow the original rights for Palestinians to be overshadowed by national political considerations and domestic laws that favor citizens over non-citizens (Knudsen 2009; Shiblak 1998). The new provision in the Casablanca Protocol left Palestinians with UNRWA assistance alone which, while not a significant problem in Jordan and Syria, created a serious protection gap in Lebanon (Knudsen 2009).

There are currently no domestic refugee laws, but rather a 1962 Law Regulating the Entry and Stay of Foreigners in Lebanon and Their Exit from the Country that apply to refugees regardless of length of time in the country or place of birth (Library of Congress 2016a). Palestinians are still considered temporary guests that are beholden to

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[10] Commitment to the UNDHR is outlined in the Lebanese Constitution

the same regulations that apply to other non-citizens in the country (El Rifai and Shehadi 2013). Lebanon has signed a MOU with UNRWA and UNHCR in order to relinquish responsibilities for refugee protection and assistance provision while still allowing humanitarian operations on Lebanese territory (Zetter and Ruaudel 2016, 62).

At the creation of UNRWA in 1949 there was a parallel organization, the UN Conciliation Commission on Palestine (UNCCP), that was tasked with implementing a durable solution of return and protecting the interests of refugees (Akram 2002; 2014). Once UNHCR and the 1951 Convention were established, Palestinians were excluded from the coverage they provided because the pre-existing refugee population was receiving assistance from pre-existing organizations. Due to its failure to fulfill its mandate, UNCCP was defunded in 1951, and Palestinian refugees were without an organization to advocate on their behalf or implement the right of return (Akram 2002; 2014). Being outside the protection of UNHCR and the 1951 Convention has left Palestinians without formalized legal protection in any host states within UNRWA's areas of operation which includes Lebanon.[11]

Institutionalized discrimination against Palestinians has allowed for laws barring access to improved livelihoods, opportunities for economic advancement, or any activities that are viewed as leading to integration. One of the most restrictive of these laws is the barring of employment in high-level professions such as government, medicine, engineering, or law. Before 2005, Palestinians were restricted entry into over 70 professions, but a 2005 law eased restrictions on most sectors, provided Palestinians can obtain a work permit from the Ministry of Labor. Despite the positive step of easing restrictions, 20 professions are still off limits. Additionally, most Palestinians did not

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[11] Palestinians outside of UNRWA's areas of operation (Lebanon, Jordan, Syria, West Bank, and Gaza) are entitled to protection under UNHCR because they are excluded from UNRWA's mandate.

benefit from the 2005 law because they could not afford the fees associated with the permit, or their applications are denied (Human Rights Watch 2010). A 2010 amendment of the labor law allowed for waiving permit fees, but access to permits continues to be a challenge.[12] In addition to restrictions on employment, there are other discriminatory laws that deny access to public schools[13] and hospitals, forbid ownership of housing, land, or property[14], and prevent improvements or expansion of refugee housing and infrastructure (Amnesty International 2007).

3.1.3 Concerns of the Lebanese State

Since the civil war, the Lebanese state had two main goals regarding Palestinians: reiterate to the international community that permanent settlement of Palestinians is not an option and scale down the Palestinian population by imposing disincentives to stay and restricting re-entry to Lebanon (Roberts 2010). More recently during the Syrian refugee crisis, Lebanon imposed entry restrictions on Palestinians from Syria, while Syrians were allowed to continue to seek asylum in Lebanon for a longer period (Janmyr 2016). The Lebanese state's reasons for preventing resettlement include protection of Palestinians' political goals to return to a Palestinian state, the Lebanese economy cannot accommodate more people since it already has a high population density and few resources, and because of the history of Palestinians in the civil war in Lebanon (Haddad 2004, 471-472).

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[12] See Lebanese-Palestinian Dialogue Committee (2016) for more information on the labor law amendment

[13] A 1998 law states that only children with Lebanese citizenship have the right to free primary education in Lebanon

[14] A 2001 law states that those with Lebanese citizenship and foreigners can own and inherit property, but excludes those without a nationality, i.e. Palestinians, even though they were previously granted those rights for decades

Haddad and Jamali (2003) argue that no amount of development in Lebanon would persuade Palestinians to stay permanently considering their Lebanese hosts, while divided along sectarian lines, do agree that Palestinians should not remain in Lebanon. Since the mid-1950's, Palestinian and Lebanese aversion to *tawtin* turned into a defensive position against Western intentions to incorporate refugees into their host societies (Kagan 2009, 427; Weighill 1997). Arab host states' political opposition to resettlement has prevented UNRWA from moving beyond the 'relief' phase of its mandate (Akram 2014). Furthermore, any form of development beyond what can be transported, such as education or training, was considered resettlement by stealth (Weighill 1997). The permanent resettlement of Palestinians in Lebanon is said to undermine Lebanese post-civil war national reconciliation and Palestinian national identity (Salam 1994), affect Palestinians' right of return, and add thousands of Sunni Muslims to the population whose government representation is divided along sectarian lines currently in favor of the state's Christian sects (Roberts 2010). The current policy of 'warehousing' refugees[15] prevents resettlement- and any progress toward self-reliance- from occurring (Roberts 2010; Smith 2004). This opposition to *tawtin* is a cause for the lack of development in Palestinian camps because a permanent dramatic shift in population demographics could potentially arouse animosities that lie dormant now (Sayigh 1995).

The primary themes across these concerns are the fear of Palestinians losing right of return and the inability of Lebanese society to incorporate Palestinians politically and economically. Shiblak (1996) argued that only the creation of a sovereign Palestinian state would lead to a solution to the refugee issue. However, in the

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[15] See Smith (2004) and the Campaign to End Warehousing

meantime there needs to be an overhaul of current legislation concerning residency

status and civil rights of Palestinian refugees in Lebanon in order to ensure continued

economic and social development (Shiblak 1996). The 2004 Geneva Conference to

discuss the living conditions in Palestinian refugee camps provided groundwork to

make this possible by alleviating some fears about imposed resettlement, but

Palestinians and host states remain skeptical (Gabiam 2012; Misselwitz and Hanafi

2009). In recent years, UNRWA and UNHCR have both placed emphasis on

development aid for protracted situations. While humanitarian aid is aimed at survival,

development aid is for improving the state of affairs which can be seen as an alternative

to finding a political solution to the conflict that produced the refugees (Gabiam 2012;

2016). Similarly, Ilcan and Rygiel (2015) assert that 'responsibilizing' refugees and

increasing participatory development is actually disempowering because it makes

refugees resign to resettlement and abandon their calls for recognition of refugee rights

or for a political solution to the conflict they fled from. The Lebanese state often cites

protection of the right of return as justification for their anti-integration stance (Roberts

2010). While these are valid concerns, Palestinians have been in exile for almost seven

decades and require assistance beyond emergency humanitarian aid. Furthermore, by

perpetuating the state of poverty that Palestinians in Lebanon experience, they are

unable to focus energy on the right of return movement when high unemployment and

legal discrimination are more pressing matters. According to a 2005 survey of

Palestinians' primary concerns in each host country, Palestinians in Lebanon were most

concerned with employment (33%) and discrimination (20%), while loss of

homeland/longing for return was expressed as a primary concern by only 6% of

respondents (Al Husseini and Bocco 2010). In Jordan, employment, discrimination, and

longing for return were expressed as a concern by 19%, 26%, and 12%, respectively. In Syria, the same categories resulted in 5%, 6%, and 24%.

Also declining security associated with radicalized armed groups inside the camps in Lebanon has become a major issue in the last decade especially.[16] These reasons are why many younger Palestinians in Lebanon are now trading their refugee status for migrant status and searching for livelihood opportunities in Europe and elsewhere (Hanafi 2012, Samuhu 2015).

3.1.4 Living Conditions of Palestinians in Lebanon

The initial refugee camps were built to be temporary since the refugee crisis was expected to be short-lived. Now the camp population is growing exponentially in impoverished conditions due to restrained urbanization and the restrictions on employment (Budeiri 2014). Deteriorating 'temporary' housing structures and infrastructure contribute to the decline in health and livability in the camps (Amnesty International 2007). The Lebanese government employs the camp as a form of 'urban exclusion' that highlights Palestinian marginalization and suffering, and amplifies the extant legal discrimination facing Palestinians in Lebanon (Hanafi, Chabaan and Seyfert 2012). Despite their segregation and exclusion, Palestinians are nonetheless a segment of Lebanon due to their prolonged stay in the country (Doraï 2010; 2012). UNRWA's work is most effective in the areas of education and human development, and now infrastructure improvement, which would have the most meaningful long-term impact on refugees' well-being (Rosenfeld 2009; Misselwitz and Hanafi 2009). However, UNRWA's financial resources are strained in Lebanon due to continued refugee

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[16] See Daily Star (2007; 2017)

reliance on humanitarian aid which causes a decline in quality of services and development. Rosenfeld (2009) argues that the organization should disengage from relief work to focus on its most efficient fields, but it often has to revert back to humanitarian aid in times of crisis. By blocking access to quality education and employment, the Lebanese government effectively keeps the Palestinians in a state of crisis in order to prevent UNRWA development projects aimed at self-reliance (Hilal 2014).

While historically there has been a shared reluctance to improve development for Palestinians in Lebanon, and especially to accept integration, more recent years have seen a shift in Palestinian thinking, primarily among younger generations (Chatty 2009; Dumper 2008). Maintaining the political right to return and achieving justice for Palestinians continues to be a strong desire expressed by Palestinians and Lebanese alike, but most Palestinians would prefer to remain in their country of asylum with the social networks that they built in exile (Dumper 2008). However, the obstacles to achieving self-reliance make waiting for a durable solution less palatable, and many now seek employment and education opportunities abroad (Samuhu 2015).

3.1.5 Conclusion

Efforts to establish Palestinian self-sufficiency are restricted by laws aimed at preventing integration, although calling the existing integration by another name does not change the reality of Palestinian permanence in Lebanon. It is argued that the anti-integration stance is in pursuit of implementing right of return and protecting Lebanon from descending into another civil war. However, guaranteeing poverty in Lebanon will not achieve dignity in Palestine, nor will formally acknowledging the already well-

known existence of Palestinians in Lebanon cause an outbreak of war. This promotion of Lebanese exceptionalism undermines the resilience of the local population and overemphasizes the differences within communities while overlooking the similarities.

The common national narrative of the civil war places blame on the presence of Palestinians for the outbreak of violence. Therefore, post-war nation-building occurred at the expense of Palestinian rights (Knudsen 2009; Roberts 2010). Upon associating the entire Palestinian population with the start of the civil war and the activities of the PLO, it became acceptable to scapegoat the Palestinians for the political, social, and economic ills of the country, whether or not the Palestinian presence contributed to them. The continuous reiteration of the government's unwillingness to accept the settlement of Palestinians for political and economic reasons tends to create a common enemy for the host population. In a sense, this could be considered a form of the 'rally 'round the flag effect' for the purpose of maintaining national unity and confidence in the government.

Recent years have witnessed some progress in normalizing relations between the Lebanese and Palestinians. After 2005, the Lebanese-Palestinian Dialogue Committee (LPDC) was formed to improve the rights of Palestinians in the country, although not much has changed since.[17] In February 2017, the LPDC announced the first census of Palestinians in Lebanon in order to gather much-needed data for future research and improvement of Palestinians' living situations. There is hope that the results of this census will encourage a wider national census and translate into more progressive policies regarding Palestinian residency in Lebanon, though only time will tell.

3.2 Somalis in Kenya

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[17] See Lebanese-Palestinian Dialogue Committee (2016) for goals and progress. For more information, see lpdc.gov.lb

3.2.1 Background

The Great Lakes region and Horn of Africa have a history of cross-border trade and seasonal migration. Both sides of the modern Somalia-Kenya border are inhabited by ethnic Somalis who share a common culture and language. From 1920 to 1963, Kenya was a colony of the British Empire. During the colonial period, there was significant marginalization of ethnic Somalis living in the Northeast Province (NEP) in Kenya that continued into modern day (Lindley and Haslie 2011). Following independence, there was a secession movement in the NEP promoted by ethnic Somalis who wanted to be joined with Greater Somalia. This led to a war between the Kenyan state and Somali militias in the NEP which ultimately ended with a ceasefire and the NEP remaining a Kenyan territory. This province is where most of the 317,000 Somali refugees are living in camps today in the world's largest refugee camp complex, Dadaab (UNHCR 2017b).

The first mass influx of Somali refugees into Kenya took place in 1991 with the fall of Sayyid Barre's regime and the start of Somalia's civil war. Until the 1980's African states had a relatively open-door policy to refugees fleeing colonial struggles and wars of independence, but an increase in refugee flows overwhelmed the administration and infrastructure of the underdeveloped African host states (Kibreab 2014). From early 1991 to the end of 1992, Kenya's total population of all refugees increased from 16,000 to over 400,000 (Kagwanja and Juma 2008, 220). In 1991, Kenya gave up its responsibility for refugee status determination to UNHCR because of the large numbers of Somalis fleeing the civil war (Omata 2016). Government officials, similar to those of Lebanon, had repeatedly called on the international community and UNHCR to take more responsibility for refugees as Kenya should not be expected to

absorb such a large population into its already fragile state (Kagwanja and Juma 2008, 220).

During a period of relative calm in Somalia, there was a repatriation movement of approximately one million Somalis, but recurring bouts of violence and drought posed security risks for returning refugees and forced many to seek refuge again in Kenya (Lindley 2011). The formation of the terrorist organization, Al Shabaab, in 2006 further complicated the relationship between Somali refugees and the local Kenyan community because the shared nationality between Al Shabaab and the refugees heightened fears about the 'other'. The securitization of the refugee issue challenged protection of Somalis in Kenya and led to an increase in targeted violence against Somalis. After decades of hosting refugees, Kenya drafted its first refugee law in 2006 that went into effect in 2007, but it addresses national security more than refugee protection. Securitization of refugees through national laws precludes integration efforts and implementation of durable solutions (ReDSS and Samuel Hall 2015). Throughout the 2000s, there have been escalations of violence and refugee outflows from Somalia that prompted Kenya to close its borders in 2007, although it only prevented entry through legal means. Further droughts and conflict continued to increase refugee populations in Kenya, although entry restrictions made it more difficult.

By the end of 2013, some peace was restored in Somalia once again which initiated another repatriation process expected to repatriate 135,000 by the end of 2017 (UNHCR 2016b). In 2014, the government imposed a strict encampment policy ordering all urban and self-settled refugees to relocate to inside refugee camps, most of which are located in insecure border areas with desperate living conditions. Most Somalis will choose to remain in Kenya despite the poor living standards because of

continued insecurity and lack of economic opportunity in Somalia (UNHCR 2016b), yet Kenya's policies continue to be aimed at forcing 'voluntary' repatriation through imposing unfavorable conditions on refugees.

3.2.2 Legal Status of Somalis in Kenya

Kenya is party to 1951 convention, the 1967 Protocol, the OAU convention, the African Charter on Human and Peoples' Rights, and other relevant human rights instruments previously mentioned, but the state fails to implement policies that recognize the rights outlined in each. By the time the OAU Convention was implemented in 1974, solidarity with refugees was already dwindling because refugee populations increased dramatically, capacity of neighboring states was in decline, the refugee-producing conflicts were now internal armed struggles[18], and by the 1980s it became clear that the global South was hosting a disproportionate number of refugees (Slaughter and Crisp 2008).

The OAU Convention's expanded definition of who constitutes a refugee was arguably the most important component because it allowed asylum-seekers to claim refugee status for common conflicts in Africa such as foreign aggression or occupation. Because of its applicability to most of the developing world, this more inclusive definition influenced the Cartagena Declaration- a regional refugee convention in Latin America with principles similar to the OAU Convention. Sharpe (2012) argues that "the focus in the literature on the definition's broadness tends to gloss over its vagueness" (111). While it might pave the way for a more liberal admission policy, it mostly serves *prima facie* recognition of refugees in cases of mass influx, but does not grant official

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[18] Because of the nature of the conflict, it was assumed that those who were seeking asylum were also party to the conflict, and therefore posed a security threat to neighboring countries

refugee status to individuals. Since the 1951 Convention does not provide rights for *prima facie* refugees and the OAU Convention does not outline political or civil rights at all, refugees experience diminished rights under OAU Convention (Lindley 2011; Sharpe 2012). Because of this paradox, the OAU Convention is meant to be complementary to the 1951 Convention, and rights from both Conventions need to be applied simultaneously.

Kenya lacked any domestic asylum legislation until the enactment of the 2006 Refugee Act which was implemented in 2007. In 2007, the Kenyan state began to resume some administrative functions concerning refugee affairs, including reacquiring responsibility for refugee status determination in conjunction with UNHCR (Konzolo 2011). The elevated involvement of the state in refugee issues also led to the creation of the Department of Refugee Affairs. The new department incorporates government officials from foreign affairs, security, public health, and the National Registration Bureau to discuss refugee issues in Kenya (Lindley and Haslie 2011).

In 2012, the Kenyan Government drafted a law that would force encampment on all refugees living in Kenya. This law was declared unconstitutional and in violation of international human rights law, so it did not pass. In 2014, forced encampment became official refugee policy under the Security Laws Act of 2014 which cited national security as justification for ordering the move. Refugees in Kenya are now required to reside in already overcrowded and insecure camps. Movement is severely restricted, and those wishing to travel outside the camps require advanced permission and a travel pass. Defying the encampment policy regularly results in unaffordable fines and deportations for in violation of the fundamental 1951 Convention principle of non-refoulement (Library of Congress 2016b).

Legally, refugees are allowed to work and seek Kenyan citizenship, but are almost never granted either one (Library of Congress 2016b). Restriction on movement outside the camps makes formal work nearly impossible. The requirements to be naturalized include residing in Kenya long-term, being able to speak Swahili, and being economically self-sufficient. Although some Somalis can meet these requirements, a further condition required the applicant to have entered Kenya legally, which disqualifies most refugees from receiving Kenyan citizenship (Lindley and Haslie 2011). On paper, Kenyan laws pertaining to refugees appear progressive (with the exception of the encampment policy), but are futile if not implemented.

3.2.3 Concerns of the Kenyan State

First and foremost, Kenya's concern about Somali refugees is with regards to security. Al Shabaab was created in 2006 in response to unfavorable domestic politics in Somalia, but the group has expanded its ambitions to include regional dominance (Burns 2010). The rise of terrorism in Somalia is viewed from the perspective of the Global War on Terror, so negative perceptions of Somalis has increased in the last decade, especially in neighboring Kenya (Kagwanja and Juma 2008). This xenophobia has been further inflamed by anti-refugee rhetoric from the government. In 2004 the Vice President of Kenya linked the presence of Somali refugees in Kenya to the rise in small arms and terrorist activity (Omata 2016, 6). Burns (2010) argues that Kenya has to choose between humanitarianism and security because the state is incapable of assuming both roles simultaneously. Considering the elevated political and economic position of Kenya in the region, security concerns trump human rights. Also, considering ethnic Somalis in the NEP attempted secession in the past, Kenya fears

ideologically vulnerable refugees will empathize with Al Shabaab and join forces (Burns 2010; Lindley and Haslie 2011). After the April 2015 attack in the NEP by Al Shabaab, the Kenyan Government again demanded the closure of Dadaab (D'Orsi 2014, 151). Although pressure from the humanitarian community kept the camps open, this rhetoric demonstrates the collective punishment mentality that informs policy toward Somali refugees.

In addition to security, a main concern of the government is the lack of national resources available for refugee assistance in combination with donor fatigue which is common with all protracted refugee situations. However, with freedom of movement and easier access to employment opportunities, refugees can become self-reliant and even beneficial to the state. Somali refugees are often mistakenly assumed to be an economic burden to Kenya; however a 2010 socioeconomic survey showed that total economic benefits equal approximately $14 million annually, or 25% of GDP per capita in the NEP, in spite of their restriction to mostly informal work (Lindley and Haslie 2011, 35). While allowing unrestricted access to formal employment would be economically beneficial for refugees and the state alike, competition over jobs can easily become a source of hostility between local communities and refugees. Similarly, citizens' complaints about environmental degradation, poor public infrastructure, and declining health force the government to react (Aukot 2003). When posed with a dilemma concerning citizens and non-citizens, the state is likely to reinforce its support for local Kenyans. UNHCR and other NGOs have helped increase awareness of these issues and engaged in more community-oriented development programs, but the official policies of the Kenyan state continue to encourage nationalist behavior.

3.2.4 Living Conditions of Somalis in Kenya

As of 2014, strict encampment policies came into effect that required all refugees to relocate to already destitute camps, often in insecure border regions. Despite the strict encampment policy, approximately 30,000 Somalis continue to live in the Eastleigh District of Nairobi where a large Somali Kenyan enclave was already established (Omata 2016, 8). The majority who are living in the overcrowded and unstable camps are completely dependent on aid from UNHCR and local humanitarian NGOs. The impoverished and crowded conditions in the camps are conducive to poor health and malnutrition, physical insecurity, high unemployment, increased sexual and gender-based violence, child abuse, and discrimination against elderly and disabled (Lindley 2011). Sustaining this dependency and insecurity is severely restricting human development, and thereby will negatively impact the Somalis' ability to participate in post-conflict state-building efforts in the future (Maina 2014). Poor access to education and formal employment means Somali refugees are relegated to a life of informal employment and poverty. According to a study done by Omata (2016), approximately 70% of refugees in Kenya work informally, and at least 50% live below the poverty line (8). Those who are capable of finding work often do so in precarious conditions, are easily exploited, and risk fines if caught working illegally outside of refugee camps (Maina 2016).

Discrimination has become institutionalized, with authorities in Kenya associating refugees with lawlessness and terrorism (Kibreab 2014, 583). Counterterrorism operations in Kenya target Somali neighborhoods and camps, leading to unlawful arrests and detention in violation of the 1951 Convention and various human rights law (Kagwanja and Juma 2008, 225). In 2012, Human Rights Watch

conducted investigations in the Dadaab region which reported police abuse of Somali Kenyans and Somali refugees, believed to be in retaliation for Al Shabaab attacks on Kenyan territory (Human Rights Watch 2013, 16). These living conditions have made desperate young Somalis vulnerable to recruitment either by armed groups or the Kenyan military, often for the financial benefit (Burns 2010). By continuing strict encampment, the Kenyan state is guaranteeing the inevitability of a security threat.

These conditions exist in parallel to *de facto* integration through interaction with the host community, and informal economic transactions. Still, some Somalis in the overcrowded and deteriorating Dadaab camp complex expressed interest in repatriation because their living conditions as refugees in the camps are worse than the living conditions in Somalia from which they originally fled (Abdi 2005; Human Rights Watch 2013).

3.2.5 Conclusion

It is a myth that refugees are an economic burden to hosts, a national security threat, or do not participate in development (Muriuki 2014). By associating Somalis with all terrorism originating from Somalia, Kenya can justify any policies regardless of the human rights implications (Maina 2016). Arguably, the degrading living conditions imposed on Somalis and other refuges are intended to force 'voluntary' repatriation and relieve Kenya of its refugee-hosting responsibilities. By November 2013, Kenya signed a Tripartite Agreement with UNHCR and Somalia in order to facilitate a gradual repatriation of Somali refugees (UNHCR 2016b). Despite host and donor efforts to encourage return, many Somalis will choose to continue their lives in Kenya, especially considering the instability and lack of opportunities in Somalia.

Studies show that the host community and Dadaab region have benefited from economic activity of refugees (Lindley and Haslie 2011; ReDSS and Samuel Hall 2015). Initially, there was regular conflict among refugees and local Turkana in Kakuma, but over time, the rise in refugee numbers along with increased economic opportunity and development efforts has generally improved the relationship with the local host community (Majidi and Dadu-Brown 2016; Omata 2016). Kenya may be politically unable to suggest a national integration policy, but localized integration is possible as evidenced by programs underway in Turkana. Currently there are plans for the development of a new urban settlement called Kalobeyei in the Turkana District where both refugees and locals will benefit from improved infrastructure and new economic opportunities (ReDSS and Samuel Hall 2015). The improved relations between the local host community and refugees that led to this development project will hopefully encourage other host communities to undertake similar projects to alleviate the suffering of those caught in protracted refugee situations. In addition, international responsibility-sharing would be the most realistic step toward relieving developing states of some refugee-hosting responsibilities in order improve refugee protection and increase the likelihood of implementing solutions.

3.3 Afghans in Pakistan

3.3.1 Background

In Central Asia, particularly modern day Afghanistan and Pakistan, there is a long history of cross-border pastoral trade, pilgrimage and seasonal migration. Similar to the Kenya-Somalia border areas that are home to ethnic Somalis, the Pakistan-Afghanistan border is inhabited by Pashtun tribes with a common language and culture.

After the 1979 Soviet invasion that created the first mass influx of Afghan refugees, the majority settled in Afghan refugee 'villages' near the border among the Pashtun Pakistani populations. By 1989, approximately 3.2 million Afghans were residing in Pakistan in both refugee villages and urban areas (Harild, Christensen, and Zetter 2015). The geostrategic location of Afghanistan at the height of the Cold War meant that the West showed more commitment to protection for Afghan refugees as well as the Pakistani host state during this period.

Afghan refugees have been considered victims of communist expansion, tribal conflict, foreign intervention, and terrorism, and therefore in need of being administered and assisted. However, following the Soviet invasion, Afghans viewed their migration choice similar to that of the Prophet Muhammad's migration from Mecca to Medina (Monsutti and Balci 2014). In this context they were not considered helpless victims, but brave and proactive for choosing to leave of their own accord and seek temporary refuge among fellow tribesmen.

Over the next 38 years, there would be times of relative calm leading to repatriation efforts by UNHCR, with subsequent outbreaks of violence that forced more Afghans back into Pakistan. The Afghan refugee population in Pakistan peaked at 3.3 million after the U.S. invasion of Afghanistan in 2001, but decreased again following the fall of the Taliban in 2002. Since then, a Tripartite Agreement among UNHCR, Pakistan, and Afghanistan established a 'voluntary' repatriation program to facilitate a sustainable return of refugees to Afghanistan. The fluctuation of peace and conflict in the region also saw the fluctuation of international interest in the protracted refugee situation, ranging "between strong humanitarian commitment and benign neglect"

(Macleod 2008, 348), depending on the degree of politicization of the conflict at the time.

Initial reception of Afghan refugees in Pakistan was positive, especially considering the common culture and history between the refugees and the host communities. As the refugee situation has become protracted however, treatment of Afghans has worsened due to proliferation of terrorism in the region, perceived competition over housing and jobs, and overall hosting fatigue. The rise of the Taliban and consequent association of Afghans with terrorism justified harsher policies toward Afghans and led to further discrimination against refugees by local communities and authorities (Zetter and Ruaudel 2016). Similar to both Lebanon and Kenya, the Pakistani Government prefers repatriation of refugees, and by no means will accept local integration as a durable solution, especially in light of increased hostility between host communities and refugees (Schmeidl and Maley 2016). In 2007, the Pakistani Government issued Proof of Registration (PoR) cards in order to document Afghans residing legally in the country. After the registration period was over, Afghans were required to pursue individual refugee status determination procedures in order to stem the flow of Afghans to Pakistan. As of February 2017, there were 1.34 million Afghans in Pakistan with PoR cards and an estimated 1 million undocumented Afghan migrants (UNHCR 2017a; Zetter and Ruaudel 2016). Despite host and donor efforts to persuade Afghan refugees to migrate back to Afghanistan, those who have lived in Pakistan for an extended period of time or are second generation refugees have expressed little interest in returning after establishing lives in Pakistan (Harild, Christensen, and Zetter 2015; Macleod 2008).

3.3.2 Legal Status of Afghans in Pakistan

Pakistan is not party to the 1951 convention or 1967 protocol, but it is party to previously mentioned international human rights law. The government drafted national refugee legislation addressing protection issues in 2013, but it has not yet been enacted. Until then, there are no active national asylum or refugee laws in Pakistan. All non-citizens are addressed by the Foreigners Act of 1946 and the Foreigners Order of 1951, but they do not have provisions pertaining to asylum seekers or refugee protection (Zetter and Ruaudel 2016). Since the state is without national asylum procedures, Pakistan has signed a MOU with UNHCR which carries out refugee status determination and refugee assistance provisions.

In 2007, Pakistan carried out registration measures in order to issue Proof of Residence (PoR) cards to Afghan refugees. These cards are intended to provide identification for refugees and prevent unlawful arrests and harassment. The current PoR cards' validity has been extended to December 31, 2017 (UNHCR 2017a). Once registration was closed, all new refugees would have to apply for refugee status on an individual basis which helps stem the flow of irregular migrants to Pakistan. Approximately 1 million undocumented Afghan migrants reside in Pakistan and face discrimination, police abuse, fines, and possible deportation (Zetter and Ruaudel 2016).

Documented Afghans are legally allowed to work in the formal sector in Pakistan, but in practice it is rare due to institutionalized discrimination against non-citizens and difficulty in obtaining work permits. Most Afghans still work in low-paid informal work or seasonal labor on a temporary basis (Zetter and Ruaudel 2016). In 2010, a Management and Repatriation Strategy for Afghan Refugees in Pakistan suggested provisions that would allow for female heads of household to obtain

citizenship, and student and work permits would be issued more generously from 2010-2015 (Zetter and Ruaudel 2016). However, these provisions were never implemented, and the state has reverted back to its firm position on repatriation as the only solution.

3.3.3 Concerns of the Pakistani State

A primary concern of the Pakistani state is the proliferation of terrorism in the region. Afghan refugees are also victims of the threat of terrorism, but are the ones who are often blamed for its existence in Pakistan. In response to allegations that the Pakistani Government is supportive of Taliban activities, the state placed blame for terrorism and insurgency on the presence of Afghan refugees (Macleod 2008). In December 2014 there was a Taliban attack on Peshawar, and a subsequent National Action Plan on Counter-terrorism led to indiscriminate raids on Afghan villages based on unfounded fears of terrorist activity (Zetter and Ruaudel 2016). This very public government stance on Afghan refugees has influenced wider public opinion on refugees which has led to an increase in discrimination and harassment of Afghans in Pakistan. Another factor contributing to Afghans worsening position in Pakistan is the limited affordable housing and weak economy. Competition over housing and jobs creates hostility between the local community and refugees, although this tension is more likely due to overall hosting fatigue rather than dislike of Afghan refugees per se. Regardless, conflict between citizens and non-citizens creates a new issue for the government to address. Pakistan has appealed to the UN for increased funding and assistance for development projects in both Pakistan for local communities and Afghanistan to help facilitate return, but outcomes have fallen short of expectations.

Another concern of the state is the sustainability of repatriation and high likelihood of permanent integration for many Afghans. Pakistan's official position is that repatriation is the only viable solution to the Afghan refugee issue (Tyler 2014). However, there is a clear correlation between length of time in exile and willingness to return (Macleod 2008; Schmeidl and Maley 2016). Those who left before the rise of the Taliban are more likely to remain in Pakistan if given the choice. Especially Afghans who were born in exile may prefer to stay where they were raised. By politicizing the refugee situation, the solutions are also politicized, and the main stakeholders in durable solutions get little say in the outcome of their futures. Rather than respecting the choices of refugees not to repatriate, the Pakistani state has increased deportations and refusals to extend the validity of PoR cards. Along with vulnerability to police abuse and discrimination by locals, many Afghans are forced to return to Afghanistan.

3.3.4 Living Conditions of Afghans in Pakistan

Upon first arriving in Pakistan, most Afghan refugees settled in refugee 'villages' close to the border, but their orientation today are more like Palestinian enclaves in Lebanon. Most Afghans left these villages after humanitarian agencies stopped providing food aid, and now 70% of registered refugees live outside villages in rural areas and cities (Khan 2014). Afghans in Pakistan have relative freedom of movement compared to many other cases of protracted refugee situations. However, there are instances where Afghans may be required to pay bribes at security checkpoints, and increasing discrimination and police abuse discourages many from leaving their home or refugee village (Zetter and Ruaudel 2016). Even though Afghans have settled within host communities since the 1980s, there has been a recent increase

in discrimination because of hosting fatigue, political insecurity, and nationalism (Alimia 2014).

While Afghans are legally allowed to work in Pakistan, there are still few opportunities for formal employment due to discrimination against non-citizens and some Afghans' unwillingness to leave the security of the refugee village to seek employment. Consequently, most Afghans, especially women, work in low-paying, low-skill jobs and exploitative employment (Harild, Christensen, and Zetter 2015). Compared to the local population, unemployment and populations living below the poverty line are considerably higher.

Considering the host state's official position on repatriation, it is possible that the living conditions for Afghans in Pakistan will only get worse so as to deter them from permanent integration and force further 'voluntary' repatriation. Last year saw an increase in threats of deportation and police abuse which drove over 500,000 Afghans back to Afghanistan despite the shaky security situation, and the Pakistani government expects to see a similar number of returns in 2017 (Human Rights Watch 2017).

3.3.5 Conclusion

Until the rise of the Taliban, acceptance of Afghans in Pakistan was more positive. Once Afghans were associated with rising insecurity and political instability, they became scapegoats not only for terrorism, but also the weak economy and poor housing market. Now that local communities and authorities are internalizing the anti-refugee rhetoric of the Pakistani Government, tolerance of prolonged stay and progress in the host-refugee relationship has slowed.

There are currently repatriation programs underway, however many Afghans have not been persuaded to return due to security, economic, and housing concerns in Afghanistan (Harild, Christensen, Zetter 2015). Many that do utilize UN support for repatriation eventually re-return to Pakistan for the same reasons. There should be less focus on solving the protracted refugee situation, and more on addressing protection issues and improved livelihoods through community-oriented programs in the short-term (Tyler 2014). However, repatriation is clearly perpetuated by political interests of hosts and donors rather than protection of refugees and human rights, so refugees are being pressured to return by their deteriorating situation in Pakistan. Imposing more discriminatory restrictions on refugees is counterproductive since the restriction of refugees' education and employment opportunities will hinder sustainable development both in Pakistan and in Afghanistan upon return (Khan 2014). In any case, many will remain a long-term and integral segment of Pakistan. The government needs to recognize this and formulate policy to provide rights and equal opportunities to Afghans (Alimia 2014). UNHCR is supposed to pressure governments and donors to respect the voluntariness of repatriation and protect refugee rights, but the organization is reluctant to criticize hosts that they depend on for continuing operations in the state's borders (Bialczyk 2008).

3.4 Sahrawis in Algeria

3.4.1 Background

Ethnic Sahrawis are native to southern Morocco, western Algeria, and northern Mauritania (Zunes and Mundy 2010, xxi). In 1975, the UN called for a referendum that would establish an independent state for the Sahrawi people after the Spanish colonial

power withdrew, but Morocco instead marched the Moroccan military into Western Sahara and annexed the majority of the territory. The Sahrawi independence movement, the Popular Front for the Liberation of Saguia el Hamra and Río de Oro (Polisario), established refugee camps in Algeria near the border town of Tindouf in 1976. Nearly half of the total native Sahrawi population became refugees (Zunes and Mundy 2010). A war between Polisario and Morocco ensued, ending only after an UN-brokered ceasefire 15 years later. Western Sahara is now the last colony of Africa and UNHCR's second longest caseload after Burundians in Tanzania (Fiddian-Qasmiyeh 2011).

The Algerian state witnessed its own anti-colonial struggles and has a history of supporting other anti-colonial movements, so it was very supportive of the Polisario and the Sahrawi quest for independence. Furthermore, Algeria had concerns that Morocco would act on further ambitions to establish a 'Greater Morocco' that would include Algerian territory (Farah 2010). This pre-existing feud fueled Algeria's support for an independent Sahrawi state.

The Polisario established the Sahrawi Arab Democratic Republic (SADR) in exile on territory borrowed from Algeria. The new state was recognized by over 70 other states, but lacked one of the defining characteristics of a nation-state: territory (Farah 2010). This 'state within a state' adhered to the nationalist model similar to Gamal Abdel Nasser and the PLO (Mundy 2007). Both sides of the conflict have upheld the 1991 ceasefire, but Sahrawi continue to peacefully resist the Moroccan occupation. Prolonged exile has resulted in urbanization and the development of more state-like structures (Herz 2013). Although they are located in Algeria, the Polisario and the SADR autonomously run the camps, providing their own administration, security, and judicial courts outside the jurisdiction of the Algerian host state. From humanitarian

agency and donor perspectives, the Sahrawi refugee camps are considered 'ideal' because they maintain *minimum* human rights standards without negatively affecting their host state or arousing hostility with Morocco (Fiddian-Qasmiyeh 2011).

From this relatively sustainable position, the Sahrawi would prefer to have independence in exile rather than live under occupation, even though they have permission to return to Moroccan-controlled Western Sahara at any point (Mundy 2007).

3.4.2 Legal Status of Sahrawis in Algeria

Algeria is party to the 1951 Convention, 1967 Protocol, OAU Convention, Arab League Declaration of Human Rights, and other previously mentioned international human rights law, but lacks any national refugee or asylum laws. Algeria has signed a MOU with UNHCR in order for the humanitarian organization to conduct refugee status determination and assistance provision to refugees. Sahrawis do not have official refugee status in accordance with the 1951 Convention, but Algeria has respected the principle of non-refoulement and allowed the Sahrawi refugee camps to operate autonomously on Algerian territory. Algeria also provides material support in the form of humanitarian aid in coordination with UNHCR as well as Spain.

The Sahrawi refugees in Algeria are UNHCR's second oldest caseload after the Burundians in Tanzania. They have been present in Algeria officially since 1975, yet have not formally accepted integration as a durable solution. The Sahrawi refugee camps have become more city than camps considering they are completely autonomous and function as a sovereign state, only inside another state's territory with its permission. Both the Algerian state and the Polisario leadership have expressed

unwillingness to integrate the Sahrawi refugees into Algeria or offer Algerian citizenship. Yet, the Polisario have also expressly refused to return to the Western Sahara while it is still occupied by Morocco. This leaves Sahrawi refugees in legal limbo, being neither entirely a citizen of an official state nor a refugee provided rights and a solution to their plight.

The camps, while not a state in legal terms, has offered the Sahrawi nationalist movement an opportunity to create governing structures in preparation for an independent state (Farah 2010; Mundy 2007). In this sense, the autonomy exercised by the Sahrawi in exile is comparable only to the Palestinian case (Martín 2017). Algeria politically and materially supports the Polisario and SADR, while simultaneously allowing limited and unofficial integration into Algeria.

Sahrawis are legally allowed to seek formal employment in Algeria for up to three years, but most jobs obtained by Sahrawis are in the informal sector inside or nearby camps. Algeria, Spain, Germany, and Mauritania also have scholarship programs for Sahrawi to study abroad and increase education and training. The non-confrontational relationship between the Sahrawis and the Algerian state have also allowed for relative freedom of movement. The Algerian state provides travel documents, Sahrawis are allowed to enter and exit the camps and nearby Algerian towns freely, and can even travel to Moroccan-controlled Western Sahara and return to Algeria.

3.4.3 Concerns of the Algerian State

With regards to Sahrawi refugees, the Algerian state appears to have few concerns as of now. The state provides assistance including land, food and water,

infrastructure such as roads and electricity, scholarships for study in Algeria, training, and medical services in serious cases (Herz 2013). It is impossible to tell whether or not hosting fatigue will eventually set in, but the host-refugee relationship for the time being is quite civil.

A concern of Algeria's in general is achieving justice for the Sahrawi people while simultaneously getting revenge on its regional rival, Morocco (Zunes and Mundy 2010). The pre-existing feud over the legitimacy of the Algerian state and Morocco's ambitions for a "Greater Morocco" has undoubtedly contributed to Algeria's support for the Sahrawi cause.

Algeria is responsible for protecting the rights of all within its territory, but ceded control of camps to Polisario and SADR that are not wholly accountable. Despite this, refugee rights in the camps are mostly respected and therefore do not create conflict or concern for the Algerian state. This argument is further reinforced by the lack of Algerian military presence in the camps and lack of securitization of refugees, at least in the case of Sahrawis.

3.4.4 Living Conditions of Sahrawis in Algeria

Most Sahrawis live in five refugee camps in the desert of Algeria near the border town of Tindouf. Housing consists mostly of tents and adobe huts to signify their temporariness (Herz 2013). Temporary housing structures, however, sometimes fall victim to the elements or do not provide adequate privacy or comfort for whole families.[19] Camp infrastructure is also under strain, but limited funding does not allow for regular improvements or upgrades.

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[19] In October 2015, there were severe floods that destroyed homes and supplies of 25,000 Sahrawi refugees

The protractedness of this refugee situation has given way to more complex urban planning and economic systems (Martín 2017) that designate a kind of permanence, despite the parallel symbols of temporariness. There is a perception of 'normality' in this abnormal refugee situation (Herz 2013). Fiddian-Qasmiyeh (2011) argues that this idealization of the Sahrawi case normalizes the status quo of living in refugee camps indefinitely. The refugee camps should not be considered a durable solution to the Sahrawi refugee situation considering thousands continue to live in poverty, dependent on insufficient humanitarian aid and awaiting an inordinate amount of time to return to their place of origin (Martín 2017).

Human Rights Watch reported in 2014 that there are virtually no signs of human rights abuses in the camps (Human Rights Watch 2014).[20] Under recent UNHCR-established confidence-building measures, Sahrawi refugees can also visit family in Moroccan-controlled Western Sahara.[21] Those who wish to stay can do so, but very few choose this option as most would prefer to stay independent in exile than live under occupation (Mundy 2007).

Sahrawis' movement is fairly unrestricted, but there is still an issue with poverty and finding employment, since the camps are isolated in the middle of the desert and the only income-generating activities in the camps are mostly informal and low-paying. Sahrawis are highly dependent on humanitarian aid, and the protractedness of the conflict has resulted in donor fatigue and inadequate assistance provision. This is especially true in this case that is considered 'ideal' because of Sahrawis' relative

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[20] While there are no widespread human rights violations, there have been singular isolated cases of torture and forced disappearance.

[21] See Al Achi (2014) and Benson (2009)

comfort compared to other refugee crises. This leads to shortages in much-needed assistance fulfilling basic needs of the camp residents (Belloso and Irantzu 2009).

Additionally, education is becoming a problem in the camps since many drop out due to low confidence in their ability to find employment after graduation. Enrollment rates are now at about 55% (Fiddian-Qasmiyeh 2011). There is also a high correlation between decreasing enrollment and an increase in petty crime. Many youth who do complete primary school and have had the opportunity to study or live abroad are more likely to give up their refugee status in order to migrate somewhere with more economic opportunities (Al Achi 2014; Belloso and Irantzu 2009; Fiddian-Qasmiyeh 2011). Remittances sent from abroad are now developing a noticeable inequality among the Sahrawi inside refugee camps which may result in conflict over time (Belloso and Irantzu 2009).

There is increasing dissatisfaction with the Polisario leadership in the camps, and many are choosing to exercise their right to live in the open desert or to return to Morocco-controlled Western Sahara (Fiddian-Qasmiyeh 2011).[22] After the death of long-time President Mohamed Abdelaziz in mid-2016, a new SADR president, Brahim Ghalil, took power later that year. His noticeably more confrontational and resistance-oriented mentality is encouraging a more radicalized youth that is dissatisfied with the status quo (Martín 2017). Considering the ideological vulnerability of undereducated and unemployed youth and the stagnation of the Western Sahara peace process, there is an increased possibility of a resumption of hostilities. In the event that this trend continues, the Algerian state's position regarding the Sahrawi refugees may change.

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[22] Fiddian-Qasmiyeh (2011) reports that an estimated 20,000 out of a total 90,000 Sahrawi refugees reside in the open desert

3.4.5 Conclusion

This case is considered ideal because the camps meet the expectations of donors, they are far removed from Algerian affairs, and they peacefully resist the Moroccan occupation of Western Sahara. From a state perspective, Algeria's policies are reflective of the relatively low burden Sahrawi place on the state, economically, politically, and socially. While the other case studies presented show little evidence of refugees being an economic burden to their host states, the obvious physical presence of 'foreigners' appears to have a large effect on the perceptions host communities have of refugees. Whether their comparatively small population or their geographic isolation in the desert, the characteristics of the Sahrawi refugee population have not led to significant discrimination by the Algerian state. I would consider this case to be the most exceptional, although even this case's unique characteristics can be explained by political developments in the region such as the pre-existing rivalry between Algeria and Morocco, the overall anti-colonial sentiment expressed throughout the region, and the isolation and autonomy of the Sahrawi refugee camps.

CHAPTER 4

SIMILARITIES AND DIFFERENCES

The Palestinian refugee situation is commonly excluded from analyses of protracted refugee situations or general refugee studies. This particular situation has always been considered unique to the point of being incapable of comparison because it is rarely looked at outside of the context of the Palestine-Israel conflict. Even within the Palestinian diaspora there are variations in experiences living in exile depending on the policies of the host state. By analyzing the specific Palestinian population that resides in Lebanon, we can compare this case with other host-refugee relationships in protracted refugee situations.

Similarly, Lebanon as a host state has been considered exceptional because of its power-sharing system of government and sectarian politics. However, Lebanon is not the only developing state tasked with absorbing large numbers of refugees or experiencing post-war nation-building, nor is it the only host government with insecurities or inefficiencies. Therefore the comparison of Lebanon's policies toward Palestinian refugees with policies of other states hosting protracted refugees would be beneficial for helping us understand why states react to refugees in the manner they do.

Through the comparative study of the protracted refugee situations Somalis in Kenya, Afghans in Pakistan, and Sahrawis in Algeria with Palestinians in Lebanon I have analyzed correlations between length of time in exile, level of marginalization and discrimination, and progression of state policies pertaining to refugees across each case.

4.1 Challenging Palestinian Exceptionalism

Palestinians are often excluded from academic literature on general refugee studies or protracted refugee situations because of their perceived exceptionalism. Dumper (2008) lists the five reasons why Palestinians are considered exceptional: 1) It is the longest-lasting refugee situation; 2) It is the largest refugee population worldwide; 3) It is under the mandate of UNRWA instead of UNHCR; 4) They lack a state territory in legal terms; and 5) They cannot return because they lack permission from an occupying state. While these characteristics may appear to make the Palestinian case exceptional, these qualities have little effect on Lebanon's policies toward Palestinian refugees, and absence of these qualities has little effect on other host state policies toward their respective protracted refugee populations.

4.1.1 Length of Time in Exile

Palestinians represent the case of the most protracted refugees in the world. This should not exempt the Palestinian case from comparison, but should inform our understanding of why host states' refugee policies evolve in the manner they do and why refugee situations become this protracted. Even though other situations are not as protracted, they one day will be if the status quo is continuously supported by the international community's lack of cooperation in finding solutions, even if temporary or transitional. Surveys have shown that those who have spent more time in exile are less likely to return because they have built social networks outside of their state of origin and conditions for return are not ideal (Dumper 2008; Schmeidl and Maley 2016; UNHCR 2016b). Those who are born in exile show even less desire to repatriate as they often find their host countries to be closer to 'home' than a state to which they have never been. The time it takes for many refugees to reach this point is less than the length

of time most Palestinians have been in Lebanon. Somalis, Afghans, and Sahrawis have

all spent between 26 and 42 years in their respective host countries. Since all four cases

of protracted refugee situations have established lives outside of their countries of

origin, then any time Palestinians have spent in Lebanon in excess of the threshold

required to achieve integration will be rendered insignificant for comparative purposes.

So while the Palestinians may be the most protracted refugee situation, the *de facto*

integration that has occurred in Lebanon is congruent with the integration levels of

many other protracted refugees despite their shorter time in exile. Since host state

policies toward protracted refugees are quite similar across cases, it could be argued that

the length of time Palestinian refugees have been in Lebanon does not impact Lebanese

refugee policy.

4.1.2 Size of Refugee Population

Palestinian refugees worldwide make up roughly 5.2 million people which make

it the largest refugee population. Although there are more total Palestinians than other

refugee groups, in Lebanon specifically there are approximately 450,000 Palestinians

registered with UNRWA, and other reputable population estimates have exposed this

number as inflated (Chabaan et al. 2010). By the end of 2018, the Lebanese-Palestinian

Dialogue Committee is supposed to have completed a census of Palestinians in

Lebanon.[23] Considering the Lebanese state has not conducted an official population

census in Lebanon since the 1930s, it is difficult to know with certainty the ratio of

Palestinians to citizens, although it is safe to assume it is higher than the ratio of

refugees to citizens in other cases because of Lebanon's small size and estimated

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[23] See Lebanese-Palestinian Dialogue Committee (2016) and Haboush (2017)

population. Regardless, Lebanese policies toward Palestinians have little to do with the population. It has already been demonstrated that Lebanon can physically accommodate the population, Palestinians have thus far not posed an economic burden, poor living conditions have not achieved right of return, and without naturalization the Palestinians pose no threat to the power-sharing system in the government. Yet, rights of Palestinians have continued to be restricted or revoked altogether.

There is a much lower ratio of Somalis to Kenyans, Afghans to Pakistanis, and Sahrawis to Algerians,[24] yet restrictive refugee policies negatively affect these populations as well. This suggests that even a smaller Palestinian population in Lebanon would have yielded similar results due to the politicization of the Palestinian presence, just as politicization of Somalis and Afghans have resulted in similar restrictive policies and discrimination. The freedom and rights offered Sahrawis by the Algerian state are considerably more positive than the other three cases which could possibly be due to its much smaller population size, but could also be due to their isolated location.

4.1.3 UNRWA vs. UNHCR

While UNHCR and UNRWA have different mandates and, on paper, different roles regarding their respective refugee populations, in practice the two organizations are quite similar. UNRWA and the UN Conciliation Commission on Palestine (UNCCP) were created to elevate the level of Palestinians because of the involvement of the UN in creating the Palestinian refugee situation (Akram 2014). Unfortunately UNRWA's existence prevented Palestinians from receiving the same level of protection

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[24] Based on refugee population estimates by UNHCR and UNRWA and state population estimates from the World Bank, the ratio of refugees to citizens in percent (%) is approximately 7.6, 0.6, 1.2, and 0.2 for Palestinians in Lebanon, Somalis in Kenya, Afghans in Pakistan, and Sahrawis in Algeria, respectively.

as refugees covered by the 1951 Convention and UNHCR's mandate. It should be noted that the host states within UNRWA's areas of operation are not party to the 1951 Convention or its 1967 Protocol, and therefore are not bound by its principles other than non-refoulement. Without accession to the 1951 Convention and progressive implementation of its principles, it is unlikely the Lebanese state's refugee policies toward Palestinians would differ *if* they were protected under UNHCR's mandate.

Palestinians were not covered by UNHCR or the 1951 Convention because they were assigned a special organization earlier, UNCCP, to fulfill the same protection role (Akram 2014). Once the UNCCP lost funding for not fulfilling its mandate, Palestinians also lost their legal safety net and the organization responsible for seeking solutions to the refugee situation. UNRWA by its mandate has neglected the mission of protection, but after decades of intractable conflict and refugees suffering, it began to take on a protection role as well to fill the gap, even if only informally. UNRWA alone lacks the legal basis for its mandate whereas UNHCR has an enabling statute and the Executive Committee (ExCom) that provides legal authority for its activities (Akram 2014).

UNHCR also has the ability to advocate on behalf of refugees in order to ensure protection. As an oversight agency, it is able to pressure host states and possible resettlement states to comply with the refugee convention, to engage in international responsibility-sharing, and to respect the voluntariness of voluntary repatriation. However, UNHCR does little to ensure protection or pressure host governments even though it has a legal basis for doing so. If they act against the wishes of donors or hosts, they could be prevented from conducting humanitarian operations inside host state territories at all. UNHCR is increasingly criticized for its muted responses to human rights violations concerning refugees for fear of jeopardizing relationships with the

governments it depends on for access for camp operations (Lindley and Haslie 2011).

For example, UNHCR's response to Kenyan authorities regarding its strict encampment

policy in 2014 has been weak at best (Human Rights Watch 2013). Also, both the

Somali and Afghan repatriation efforts currently underway are largely involuntary, yet

UNHCR complies due to pressure from hosts and donors (Harild, Christensen, and

Zetter 2015).

On paper, UNHCR may have more legal grounds for advocacy and pressuring

governments to ensure protection and seek solutions, but in practice, UNHCR and

UNRWA provide similar levels of assistance and protection in these cases because they

are equally restricted in their abilities to advocate on behalf of refugees. Whether

refugees are under the mandate of UNHCR or UNRWA and host states are party to the

1951 Convention or other human rights instruments seems to be irrelevant in protracted

refugee situations. Host state policies regarding protracted refugees are similarly

insufficient and regularly violate international refugee law. The prevailing lack of

solutions is not so much an issue of agency mandates, but a lack of action on the part of

the United Nations (Kagan 2009, 427).

4.1.4 No State and No Return Allowed

In other words, Palestinian refugees cannot return to their territory of origin

because the conflict that created the refugees has not been resolved. There are 16.9

million protracted refugees in the world who also cannot return to their states of origin

because of a recurring or protracted conflict. Once conditions for repatriation exist,

refugees can begin returning if they choose to do so as evidenced by the return of almost

200,000 Palestinian refugees to West Bank and Gaza after the establishment of the

Palestinian National Authority in 1993. In the event that there is a peace settlement and an end to the Palestine-Israel conflict, Palestinian refugees will also theoretically be allowed to begin returning. While the conflict that prevents Palestinian repatriation may be unique, the end result for protracted refugees is the same. While Lebanese-Palestinian relations might have once been influenced by the *Nakba*, the reasons for Palestinians seeking refuge in Lebanon do not affect Lebanese policies concerning their residence *now*; just as the civil war in Somalia does not affect Kenyan treatment of Somalis today, just as the foreign interventions in Afghanistan do not affect Pakistani policies toward Afghans today, and just as Moroccan occupation does not affect Algerian policies toward Sahrawi today. In protracted refugee situations, refugees are in a host country for a long enough period of time to develop a new history, a new conflict. The contemporary relationships between hosts and refugees are shaped by these new histories and conflicts, not by the initial conflict that created the refugees.

4.2 Challenging Lebanese Exceptionalism

The Lebanese state's reasons for not providing rights to refugees take different forms during different time periods. To clarify, I am not discussing naturalization of Palestinians, but simply rights provisions in accordance with international human rights law. Most commonly reiterated is the desire to protect Palestinian right of return, protect the delicate balance of sectarian politics in Lebanon, and/or Lebanon's size and limited resources are not enough to accommodate the Palestinian population.

4.2.1 Protecting Right of Return

Despite naturalization of thousands of Palestinians in the past, restricted human development of Palestinians in the present, and desperate Palestinians leaving Lebanon for Europe in the near future, the Lebanese state still claims today's restrictive policies are in defense of Palestinian right of return.

Before the 2004 Geneva UNRWA Conference ruled that right of return was not dependent upon temporary living conditions, it was a common assumption among many Palestinians that any form of infrastructural development or increased rights would equate to forgoing political aspirations to establish an independent state and repatriate in the future. Although Palestinians and Lebanese are skeptical about developing symbols of permanence such as new housing structures, Palestinians express a strong interest in improving their living conditions and labor rights in Lebanon. Still, the state restricts Palestinians' opportunities for upward mobility in an attempt to force Palestinians to leave.

This is similar to other host states that cannot deport refugees because of the principle of non-refoulement, but can impose such restrictions that the refugees choose to leave on their own accord. This is a commonly used loophole in international refugee law, especially by developing host states that share in a disproportionately high amount of the international community's responsibility for refugee protection. Since third country resettlement opportunities are *very* limited and repatriation unlikely due to continuing security concerns, local integration becomes the final feasible option, but one that host states do not feel they should have to implement. By imposing restrictions that make refugees' lives unlivable, states are essentially forcing repatriation or onward migration to anywhere else.

4.2.2 Sectarian Politics

The Lebanese Government is unique in that it has a consociational democracy based on power-sharing among each religious sect in the country. The president, prime minister, and speaker of parliament have to be Maronite Christian, Sunni Muslim, and Shi'a Muslim respectively, and parliamentary seats are divided equally among Christian and Muslim sects. Changing demographics have become a highly contentious political topic, and has previously resulted in armed conflict. The argument then is that by absorbing several hundred thousand Palestinians, the demographics of Lebanon would shift further in favor of Sunni Muslims, and potentially reignite old hostilities. There are two problems with this argument. First, Palestinians already live in Lebanon, and have been here for nearly 70 years, so allowing them to continue living here should not pose a problem. Secondly, improving human rights and living standards of Palestinians in Lebanon does not necessarily lead to naturalization. Without citizenship, Palestinians pose no threat to the power-sharing system since they would not participate in elections.

By claiming that Palestinians and other refugees represent a threat to the stability of the state, Lebanon can justify continuing discriminatory refugee policies in the name of national security. Kenya and Pakistan make similar claims about Somalis and Afghans. While they may not be seen as a threat to the system of government, they are framed as threats to stability and security which justify any refugee policies necessary to protect national interests. Each of the four case studies has diverse populations with different political views that have often resulted in armed conflict. Lebanon is not the only refugee-hosting state with a complicated history with a protracted refugee population, nor is it the only state with a complicated government structure. Granting basic human rights to refugees does not cause these complications.

4.2.3 Limited Resources

Since Palestinians have integrated into Lebanon over several decades, it is clear that the state can physically accommodate the Palestinians living there. Since 1948, Palestinians have contributed to the local economy through both formal and informal employment, entrepreneurial ventures, consumption of local goods, trade with locals, tax contributions, and individual skills and ideas. In return, Lebanon allows UNRWA to conduct its humanitarian operations on Lebanese soil. Lebanon does not provide material support or access to public goods and services reserved for Lebanese citizens. All humanitarian aid and development projects for Palestinians are provided by UNRWA and local NGOs.

It is untrue refugees are long-term burdens on the economy or that they do not contribute to national development. Palestinians have benefited the local economy and helped contribute to national development since they arrived in Lebanon in 1948. According to Sari Hanafi, Lebanon benefits from roughly a quarter of a billion dollars annually through foreign funding received by UNRWA, international and local NGOs, and direct aid to the Lebanese Government.[25] By allowing Palestinians to achieve some degree of self-sufficiency, UNRWA would be able to disengage from some relief work in order to provide better education and health services as well as local development projects aimed at helping both Palestinians and the Lebanese community.

Kenya, Pakistan, and Algeria (as well as all other developing states) also have limited resources to devote to refugee assistance. This is why UNHCR, UNRWA, and other organizations are funded by outside donors to try to fill the protection gaps left by

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[25] Oral communication with him in May 2017

states. If host states were to allow refugees to become self-sufficient while they await solutions to the refugee situation, there would be less strain on host communities and underfunded humanitarian organizations. By realizing the full potential of refugees and incorporating their assets into the local economy, humanitarian agencies can direct their resources toward community-oriented development projects rather than basic services provision.

4.3 Similarities

4.3.1 No Solution in Sight

In each case study, states claim integration or permanent settlement are not an option. All refugees are 'temporary' regardless of long-term residence or birth in the country (Shiblak 1998). However, resettlement to a third country involves only a small percentage of refugees, and repatriation is not always an option in protracted situations due to continuing security concerns in the country of origin. Since return is more due to a push factor from hosts rather than a pull factor from home, voluntary repatriation is also rarely voluntary. Studies in Lebanon, Kenya, Pakistan, and Algeria show that those who have been in exile longer and have established networks outside their states of origin are less likely to prefer repatriation, especially if they were born in exile. However, poor living conditions in host countries serves as an incentive to leave. There is evidence of restrictive policies regarding entry, labor, education, property ownership, movement, and citizenship in each case study which propel many to leave their host country. Some refugees will choose to return to their countries of origin, but most will stay behind where they have established new lives (Lindley and Haslie 2011, 42). Host states should recognize this reality and formulate proactive policies to allow for a more

favorable outcome for all, but obsession with denying that integration already exists has precluded any progress toward solutions in the event that settlement *is* permanent.

4.3.2 Permanent Temporariness

In each case study presented, government officials have stated on multiple occasions that integration is not an option for that state and/or that refugee population. This often leads to policies of encampment or enforcement of 'temporariness'. Over 50% of Palestinians live in camps in Lebanon, and many more live in informal gatherings nearby. Attempts at building improvements on housing structures without permission from the state have resulted in demolitions and fines. The state attempts to restrict integration by preventing formal employment or attendance to public schools. The Lebanese government has repeatedly stated that they are unwilling to integrate Palestinians for historical, political, and economic reasons.

Strict encampment policies have been imposed in Kenya since 2014, and applications for work permits and citizenship are regularly denied in order to prevent integration. Deportations or unaffordable fines are consequences for those who violate the encampment policy. Politicians inside Kenya publicly state their inability to integrate Somalis also for cultural, political, and economic reasons.

Although Afghans in Pakistan legally have relative freedom of movement, the Pakistani government has also avoided an official policy of integration, and institutionalized discrimination tends to confine Afghans to refugee villages and neighborhoods out of fear of harassment.

'Temporary' shelters inside Sahrawi refugee camps in Algeria signify a readiness to return to Western Sahara at any moment. Both the Algerian state and the

Sahrawi claim integration is not an option. Restrictive policies toward refugees, like encampment, prevent implementation of solutions and further prolong the suffering of refugees who have already experienced severe hardships due to having to flee conflict in their countries of origin.

These protracted refugee situations all have similar characteristics including rampant poverty, high unemployment, low education enrollment, higher instances of crime and sexual and gender-based violence, discrimination, and police abuse.[26] The anti-integration stance is usually justified by claims for justice (right of return for Palestinians and Sahrawi), national security (association of refugee nationality or religion with that of security threats), or a weak economy (claims refugees are a burden on the economy). However, right of return is not dependent upon temporary housing structures or impoverished conditions in exile. National security is not threatened by refugee populations, but rather radicalized individuals who happen to share a similar nationality as refugees. And studies have shown that local economies have benefited from refugee economic activity.

4.3.3 Refugees to Blame?

Refugees are often used as scapegoats for pre-existing social, economic, and political ills in the host states. The conditions for conflict in host countries usually exist before the arrival of refugees, but occasionally refugee presence can be a catalyst for conflict (Loescher and Milner 2008). In Kenya refugees in Kakuma camp were blamed for burdening the local economy, even though the local economy was nearly non-existent before the arrival of refugees and was subsequently boosted due to increased

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[26] The only characteristics applicable to the Sahrawi case are issues related to education, employment, and poverty

economic activity. Similarly, Palestinians are regularly blamed for the civil war in Lebanon, even though sectarian tensions existed before their arrival, and all segments of society participated in the war. More recently, the Pakistani government attributed the rise of the Taliban in Pakistan to the existence of Afghan refugees in the country, but only after the government was implicated in supporting the Taliban.

Labeling refugees as the catalyst for conflict, security threats, high unemployment, inflation, depleted resources, political issues, community divisions, etc. justifies host governments' policies of encampment and rights deprivation, although these policies are counterproductive at best since encampment usually exacerbates the negative aspects of refugeehood. However, blaming refugees alleviates pressure on the government and local elites for the poor state of affairs. Host governments are most likely aware that protracted refugees will remain indefinitely, so they also know they have an endless scapegoat for problems plaguing the country, while simultaneously advocating for their removal satisfies their constituencies.

4.4 From Hospitality to Hostility

If a solution to a refugee crisis is not found quickly, the likelihood of developing a secondary conflict in a developing host country is increased due to tensions among hosts and refugees because of perceived or real competitions over various resources. The longer a refugee population is warehoused and marginalized, the higher the risk of conflict, especially as living conditions deteriorate amid decreased donor funding (Slaughter and Crisp 2008). The more violent the conflict becomes, the more discriminatory the policies of the government will be. Especially in developing countries, the host governments and societies view development as a zero-sum game-

i.e. the goods and services provided to refugees are at the loss of the hosts (Aleinikoff 2015; Weighill 1997). In a relationship dynamic where the hosts see the refugees as causing conflict in their country, the result from increased development for refugees would be resentment from the host community (Aukot 2003; Loescher and Milner 2008). Therefore, the more protracted a refugee situation becomes, the more difficult it will be for formal integration to occur, even though *de facto* integration will continue. Receiving goods and services beyond emergency aid may also arouse suspicion and resentment from locals if they view a group in an implied lower socioeconomic status as getting special treatment. In reality, these refugees constitute more of a semi-permanent minority in need of more substantial development and civil rights in conjunction with the local population.

The case of Palestinians in Lebanon was used as the control for this research since it is the case most often considered to be unique. However, the Sahrawi case has more anomalies when analyzed in conjunction with other protracted refugee situations. Based on the characteristics of each case study, we can deduce that hospitality of host states begins to wane 1) when it becomes clear the international community has given up and local integration becomes inevitable; 2) when armed groups, insurgent organizations, or other violent non-state actors are associated with the refugee population in question; and 3) when declining security as well as social, economic, and political problems are blamed on refugees. Considering none of these criteria can really be applied to the case of Sahrawis in Algeria, it can help in explaining the 'ideal' situation they experience compared with the politicization and securitization of the other three case studies.

Because of the analysis of the Sahrawi case, we can discern that the overall size of the refugee population along with isolated location of the refugee camps and limited interaction between hosts and refugees all contribute to the perceived "ideal" situation the Sahrawis experience. Compared to the other three case studies, the Sahrawi population is significantly smaller (90,000 compared to upwards of 300,000), the camps are located in a remote and arid location in the desert region of the Algerian border, the camps are autonomous, and there is little interaction (and therefore little confrontation) with the Algerian host community.

In the initial phase of mass refugee outward migration, hosts states are generally more welcoming. Considering the majority of host states today are in the developing world, sizeable refugee populations can begin to overwhelm the state. This combined with prolonged residence, the decreased likelihood of repatriation, and perceived threat to security and livelihoods of hosts leads to a deteriorated relationship among hosts and refugees which, in turn, translates into discriminating and restrictive refugee policies.

Although host claims and concerns may be unreasonable or illogical, these problems challenge the protection of refugees, and therefore need to be addressed. Issue linkage is necessary for even creating the space to talk about finding solutions or improving the state of affairs. There are working groups in some host states to tend to refugee affairs or improve relations among hosts and protracted refugees. These include the Lebanese Palestinian Dialogue Committee in Lebanon, the Department of Refugee Affairs in Kenya, and the Commissionerate for Afghan Refugees in Pakistan. The existence of these groups is a step in the right direction in terms of advocacy for refugee rights, education about refugee affairs, and communication of new developments to the community. However, all of these are relatively new (formed in the last decade), and

have yet to show substantial results. The announcement of an official census of

Palestinians in Lebanon is a positive step, but more needs to be done to improve more

systemic issues of discrimination in all cases.

CHAPTER 5

CONCLUDING REFLECTIONS

There is a need for comparison of both the Palestinian refugee situation in Lebanon and Lebanese policies toward refugees with other protracted refugee situations and host states, as neither one's uniqueness disqualifies it from being valuable in comparative politics. Despite their difference from other cases studies, there are many similarities that have previously been ignored. We can use these similarities and the experiences of Palestinians in Lebanon to understand why refugee-hosting states adopt discriminatory policies at different stages, and how to prevent these hostile host-refugee relationships from forming in the future.

Similarities across these cases include dependence on international aid, high poverty and unemployment, low education enrollment, higher likelihood of sexual and gender-based violence, and discrimination and police abuse against refugees. States rarely formally adopt integrations policies despite integration *de facto* occurring, but rather restrict the entry, movement, employment, and property ownership of refugees. Additionally, refugees are regularly blamed for often pre-existing social, political, and economic ills of the host country regardless of refugees' involvement or positive impact on the host community. Although the living conditions of refugees and host-refugee relationships continue to deteriorate, solutions to protracted refugees situations remain elusive. Voluntary repatriation cannot safely occur while political and armed conflicts continue in the country of origin, third country resettlement affects only a very small percentage of refugees, and local integration is officially avoided by host states at all costs.

During this research I set out to show that Palestinian and Lebanese exceptionalism are unsubstantiated and can be compared to any other case of protracted refugee situations. After careful examination of four different case studies, it appears that Sahrawis in Algeria are a more exceptional case since the common characteristics that apply to the other three cases do not apply to Sahrawis or the Algerian state, although this could be explained by the isolation of Sahrawi camps and the relatively small population of Sahrawis. Similarly, Somalis and other refugees in the Turkana District of Kenya had a different experience than those living in the Northeast Province (NEP). After initial conflict with the local Turkanas, the host-refugee relationship improved once additional economic opportunities became available to all inhabitants of the area. After years of integrating and developing the diverse community, UN efforts to build a local settlement that benefits Kenyans and refugees is finally materializing. Further research on these two cases should be carried out in order to understand more fully the differences that led to different outcomes than other cases of protracted refugee situations. Results of this research and future research on the topic should lead to more flexible solutions than the existing 3 durable solutions framework supported by the international refugee regime.

5.1 More Flexible Solutions Framework

As time passes, voluntary repatriation seems less and less likely for protracted refugees. Simultaneously, integration becomes harder as tension builds between hosts and refugees, and resettlement to a third country is increasingly difficult as xenophobia rises and developed countries restrict entry across their borders. The important next step is to find more flexible, medium-term solutions to protracted refugee situations in

today's shifting political landscape, and to prevent refugee situations from becoming protracted in the first place (Aleinikoff 2015; Aleinikoff and Poellot 2014; Crisp 2003; Dumper 2006; Loescher et al. 2008).

Firstly, all states need to recognize and respect both their obligations under international law and their responsibilities as sovereign states, whether hosts, donors, or states of origin. By invoking the Responsibility to Protect, states could be more effective at preventing and resolving conflict while simultaneously protecting civilians as refugees. Secondly, the existing legal framework should distinguish between short-term and protracted refugees in order to increase the likelihood of solutions for refugees before the situations even become protracted. By limiting all refugees to the same generic solutions, many protracted refugees instead experience *no* solutions. The existing framework should be updated to pressure all relevant stakeholders into finding solutions for protracted refugees. One option could include introducing a time frame for ending conflicts in countries of origin and providing positive conditions for return migration of refugees before solutions are imposed upon states, such as requiring a minimum percentage to be resettled in third countries, offering citizenship for second-generation refugees in host states, or easing restrictions on work and student visas in order to encourage migration as a solution. It is more likely we would see international collaboration and progress toward ending conflicts in countries of origin sooner in order to facilitate voluntary repatriation which has been established as the preferred solution of host states and donors.

Many unorthodox solutions have been proposed multiple times, but have not yet seen widespread implementation. There is increasing research on transnationalism, regional citizenship, and migration as solutions to refugee situations (Hanafi 2006;

2012; Long 2011; 2012; 2013; UNHCR 2008). In light of limited international responsibility-sharing, migration could provide an alternative to only a few states in the global South bearing a disproportionate burden. In addition to migration and regional approaches to refugee situations, more localized approaches to integration have also been explored (ReDSS and Samuel Hall 2015). While formal integration is not feasible in all cases, under a devolved government in Kenya increased resources for the local Turkana county government has produced positive results for the diverse refugee population and local Kenyans.

Considering most creative solutions to forced migration in this global era challenge the notion of borders and sovereignty, more research needs to be done on how concerns about sovereignty and international relations interact with states' responsibilities to protect refugees. A way forward should include finding political solutions to conflicts in countries of origin, educating all stakeholders about refugee issues, confidence-building measures to improve host-refugee relations, community-oriented approaches to integration, and greater enforcement of international responsibility-sharing.

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