

**THE ROLE OF HIGHER EDUCATION PATHWAYS IN THE INTERNATIONAL
PROTECTION REGIME FOR FORCED MIGRANTS**

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*To my parents, Mahvash and Reza,
and to the Iranians who lost their loved ones for freedom.*

Abstract

This thesis explores the meaning of “protection” in international refugee law and examines how higher education initiatives can contribute to rethinking the concept. It responds to gaps in the existing literature concerning the relationship between protection and higher education. The thesis uses a doctrinal and qualitative case study approach as its methodology. It draws on legal analysis of international refugee law and human rights law, combined with empirical data from semi-structured interviews with key informants involved in two higher education initiatives in Canada: the World University Service of Canada’s Student Refugee Program (WUSC’s SRP) and the Scholars at Risk (SAR) network. These cases are examined as pathways through which higher education functions not only as a human right but also as a means of accessing other human rights.

The findings demonstrate that protection is a positive concept that extends beyond the absence of serious harm; it requires conditions in which forced migrants are able to access fundamental human rights. This is reflected in both cases, where protection is not limited to safety but is realized through higher education opportunities, academic participation, and forms of institutional support that enable beneficiaries to utilize resources in practice. Across both cases, protection is delivered through partnerships among multiple actors, particularly post-secondary institutions, and is sustained through integration support tailored to the needs of beneficiaries. While WUSC’s SRP provides resettlement alongside higher education, SAR offers temporary protection through academic placements. They operate through different legal and institutional arrangements, with each initiative responding to protection needs within the scope of its objectives and capacities. Together, they highlight that protection is an ongoing process rather than a fixed legal outcome.

Keywords: Protection, International refugee law, Higher education, Student Refugee Program (SRP), Scholars at Risk (SAR), Canada, Academic freedom

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Since the beginning of writing my dissertation, I have thought about this page and the people whose presence in my life, in different ways, made this work possible. My Ph.D. journey began with a move to Canada, which was not an easy decision. It felt like stepping into an unknown land, far from home and without the presence of family and friends. I often heard from members of academia that a Ph.D. is a lonely journey, and at times it was. But along the way, I had the chance to meet and get to know remarkable people, on and off campus, who made this experience not only manageable but also meaningful and even enjoyable.

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Finally, as the great Persian poet Sa’adi Shirazi beautifully wrote, “Be pāyān āmad in daftar, hekāyat hamčēnān bāqi” (به پایان آمد این دفتر، حکایت همچنان باقی) – “This chapter has come to an end, but the tale continues.” Although this thesis marks the completion of one journey, it is also the beginning of another, and I carry with me the lessons, friendships, and experiences that have shaped both this research and myself.

Table of Content

Abstract	iii
Acknowledgement	v
Table of Content.....	vii
List of Figures	xi
List of Acronyms.....	xii
1. Introduction.....	1
1.1. How It Started	2
1.2. Brief Literature Review	4
1.2.1. Protection	5
1.2.2. Higher Education	9
1.3. Research Question	13
1.4. Methodological Orientation of the Study	14
1.4.1. Rationale for Combining Doctrinal Analysis and Case Study Methodology	16
1.4.1.1. Doctrinal Research.....	16
1.4.1.1.1. Core Features of Doctrinal Research	18
1.4.1.2. Case Study Methodology	23
1.4.1.2.1. Data Collection	26
1.4.1.2.2. Data Analysis	30
1.5. Structure of the Thesis	31
2. ‘Protection’: Trajectory of the Concept in International Refugee Law	34
2.1. Introduction.....	35
2.2. Background.....	36
2.3. Definitional Challenges: Insights from International Humanitarian Law and International Human Rights Law	41
2.3.1. International Humanitarian Law	42
2.3.2. International Human Rights Law	47
2.4. What is the Meaning of ‘Protection’ in Refugee Law?	49
2.4.1. Beneficiaries of Protection.....	54
2.4.2. Core of Protection: Absence of Persecution and Presence of Fundamental Human Rights	57
2.4.3. Protection Actors.....	62
2.4.3.1. State Protection	62
2.4.3.2. Non-state Actors.....	65

2.4.3.2.1. UNHCR and the Mandate of ‘International Protection’	69
2.4.3.2.2. Civil Society.....	73
2.4.4. Termination of International Protection.....	77
2.4.4.1. Cessation Clauses.....	77
2.4.4.2. Durable Solutions.....	80
2.5. Conclusion	84
3. Higher Education in International Law.....	86
3.1. Introduction.....	87
3.2. Definition of Higher Education: Conceptual Analysis	88
3.3. Why Higher Education Matters for Refugees?	90
3.3.1. Intrinsic Value(s) of Higher Education	92
3.3.2. Instrumental Value(s) of Higher Education	93
3.4. Higher Education in International Human Rights Law	96
3.4.1. Global Compacts and Afterwards	101
3.5. Barriers and Challenges of Right to Higher Education for Forced Migrants	104
3.5.1. Availability	104
3.5.2. Accessibility	105
3.5.3. Acceptability	110
3.5.4. Adaptability.....	111
3.6. Higher Education Institutions as Protection Actors	113
3.7. Academic Freedom	116
3.7.1. Legal Nature of Academic Freedom: Normative Framework	117
3.7.2. Significance of Academic Freedom	119
3.8. Conclusion	123
4. Protection through Higher Education Opportunities: Canadian Context	124
4.1. Introduction.....	125
4.2. Canada’s Legal Framework for Protection of Forced Migrants	125
4.2.1. Background	125
4.2.2. Major Sources of Protection in Canadian Legal Context	128
4.2.2.1. International Human Rights Instruments to Which Canada is a Party	129
4.2.2.2. Immigration and Refugee Protection Act (IRPA)	131
4.2.2.3. Charter of Rights and Freedoms	134
4.2.3. Canadian Avenues for Protection of Forced Migrants	137
4.2.3.1. In-country Asylum Seekers.....	138

4.2.3.2. Overseas Refugees	141
4.2.3.2.1. Resettlement.....	141
4.2.3.2.2. Complementary Protection Pathways	144
4.2.3.3. Special Temporary and Humanitarian Measures	147
4.3. Canada's Higher Education System and Its Governance.....	148
4.3.1. Academic Freedom in Canadian Context	152
4.4. Intersection of Protection and Higher Education in Canadian Context.....	155
4.4.1. In-Land Protection and Significance of Higher Education.....	156
4.4.2. Overseas Protection through Higher Education Opportunities.....	158
4.4.3. Universities' Initiatives in Protection of Forced Migrants.....	160
4.5. Conclusion	163
5. World University Service of Canada (WUSC)	165
5.1. Introduction.....	166
5.2. Background	166
5.3. The Student Refugee Program (SRP): Overview	169
5.4. SRP Core of Protection: Enhancing Quality of Life.....	172
5.5. Unique Features of SRP Protection Model	177
5.5.1. Partnership and Collective Protection.....	178
5.5.2. Peer to Peer Protection Model	181
5.5.2.1. Structure of Local Committees	182
5.5.2.2. The Impact of Peer-to-Peer Support	184
5.5.2.2.1. For SRP Beneficiaries.....	184
5.5.2.2.2. For Local Committees.....	191
5.5.2.3. Major Challenges of Local Committees in Peer Support	194
5.5.3. Empowerment	199
5.5.3.1. Gender Empowerment	201
5.6. Conclusion	205
6. Scholars at Risk (SAR)	207
6.1. Introduction.....	208
6.2. Background	209
6.3. SAR Network: Structure and Key Areas	211
6.4. SAR-Canada: Institutional Engagement and Committee Structures	215
6.4.1. University of Toronto.....	216
6.4.2. Carleton University.....	220

6.4.3. University of Ottawa.....	223
6.5. SAR Core of Protection: Academic Freedom.....	225
6.6. Unique Features of SAR Protection Model	228
6.6.1. Decentralized Section Model.....	228
6.6.1.1. SAR-Canada Section	230
6.6.2. Temporary Protection.....	232
6.6.2.1. Legal Overview.....	232
6.6.2.2. SAR's Rationale to Temporary Protection.....	235
6.6.2.3. Navigating Temporary Visa in Canada	238
6.6.2.4. Toward a Tailored Immigration Pathway.....	242
6.6.3. Integration Support	246
6.6.3.1. Immigration and Settlement Support.....	247
6.6.3.2. Academic Mentorship	249
6.6.3.3. Professional and Social Integration	250
6.7. Major Challenges of SAR-Canada Committees	254
6.7.1. Voluntary-Based Support	254
6.7.2. Absence of a National Hub	255
6.8. Conclusion	257
7. Conclusion	260
7.1. Overview of the Research.....	261
7.2. Synthesis of Arguments	262
7.2.1. Protection Framework.....	262
7.2.2. Insights from Cases.....	264
7.3. Research Limitations	268
7.4. Recommendations.....	268
7.4.1. Implications for Policy and Practice	269
7.4.2. Implications for Future Research.....	270
Bibliography	272
Appendix One: Ethics Approval	309
Appendix Two: Interview Guide.....	310
Appendix Three: Interviewee Invitation Letter	312
Appendix Four: Consent Form	314

List of Figures

Figure 1: The Egg Model.....	45
Figure 2: Overview of the International Protection Framework.....	85
Figure 3: Academic Advancement and Career Alignment Workshop Participant Background Survey.....	253
Figure 4: SAR-Canada member institutions.....	259

List of Acronyms

BHER	Borderless Higher Education for Refugees
BVOR	Blended Visa-Office Referred
CUASA	Carleton University Academic Staff Association
CDE	Convention against Discrimination in Education
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CRC	Convention on the Right of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CARA	Council for At Risk Academics
CBSA	Canada Border Service
CUAET	Canada-Ukraine Authorization for Emergency Travel
CSPSL	Society for the Protection of Science and Learning
DAAD	German Academic Exchange Service
EMPP	Economic Mobility Pathways Pilot
ECOSOC	United Nations Economic and Social Council
GA	General Assembly
GAR	Government-Assisted Refugee
GCPEA	Global Coalition to Protect Education From Attack
GCR	Global Compact on Refugees
GCM	Global Compact for Safe, Orderly and Regular Migration
HRREC	Human Rights Research and Education Center
H&C	Humanitarian and Compassionate
IIE	Institute of International Education
IDPs	Internally Displaced Persons
IAC	International Advisory Committee
ICRC	International Committee of the Red Cross
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social, and Cultural Rights
IHL	International Humanitarian Law
INGO	International non-governmental organization
IOM	International Organization for Migration

IRO	International Refugee Organization
IRCC	Immigration, Refugees, and Citizenship Canada
IRPR	Immigration and Refugee Protection Regulations
IRB	Immigration and Refugee Board
IRPA	Immigration and Refugee Protection Act
ISCED	International Standard Classification of Education
JAS	Joint Assistance Sponsorship
JC:HEM	Jesuit Commons: Higher Education at the Margins
PRRA	Pre-removal Risk Assessment
PGWP	Post-Graduation Work Permit
PSR	Private Sponsorship of Refugees
QoL	Quality of Life
RCM	Refugee Coordination Model
RAD	Refugee Appeal Division
RAP	Resettlement Assistance Program
RPD	Refugee Protection Division
SARCAN	SAR Canada Section
SAR	Scholars at Risk
SPSL	British Society for the Protection of Science and Learning
SAHs	Sponsorship Agreement Holders
SRF	Scholar Rescue Fund
SRP	Student Refugee Program
STCA	Safe Third Country Agreement
SUR	Strategic Use of Resettlement
TRPs	Temporary Resident Permits
TRVs	Temporary Resident Visas
UDHR	Universal Declaration of Human Rights
UQP	UNESCO Qualification Passport
U of T	University of Toronto
uOttawa	University of Ottawa
UN	United Nations

UNCCP	United Nations Conciliation Commission for Palestine
UNRWA	United Nations Relief and Works Agency for Palestine
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	United Nations High Commissioner for Refugees
WHOQOL	World Health Organization Quality of Life
WUSC	World University Service of Canada
WGAF	Working Group on Academic Freedom

Chapter One:

Introduction

1.1. How It Started

In the interior of the United Nations (UN) headquarters in New York, an Iranian hand-woven carpet is displayed on the wall, containing a poem by Sa’adi Shirazi, a Persian poet of the thirteenth century. The poem, “Bani Adam” (“Human Kind”), describes how humanity is interdependent:

Human beings are members of one frame, Since all, at first, from the same essence came. If one member is inflicted with pain Other members at rest cannot remain.	Bani ādam a’zāyé yékdigarand ké dar āfarinéš zé yék goharand čo ozvi bé dard āvarad ruzégār dégar ozvhā rā namānad ġarār
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Sa’adi’s verses express a simple moral insight that when one person suffers, others cannot remain indifferent; suffering itself creates a responsibility to respond. This responsibility is not confined by geography, citizenship, or legal status, but rests on the idea of a shared human duty that crosses borders and identities. This intuition provides a foundation for thinking about the logic of international protection regime, where the suffering of others implicates everyone and calls for action to protect those at risk.

This moral duty of protection stands in tension with the realities of how protection is delivered in practice –a tension that became visible to me, in 2014, when I started an internship at the office of the United Nations High Commissioner for Refugees (UNHCR) in Tehran, Iran. Every morning, large numbers of refugees waited for hours in queues to speak with UN staff in the hope that their concerns would be heard. However, the office’s limited resources, heavy caseloads, and, procedural constraints shaped the scope of protection that could realistically be provided. Observing these dynamics raised questions that stayed with me, what does ‘protection’ truly mean, and how is it defined within refugee law?

In refugee law, protection is not a straightforward concept. It raises foundational questions about who qualifies as being in need of protection and under what conditions such protection is triggered. Although the 1951 Refugee Convention and its 1967 Protocol focus on refugees as the primary beneficiaries, over time protection have been expanded to other persons of concerns, including asylum seekers, stateless persons and internally displaced individuals. Protection also involves questions of responsibility: who is expected to provide it, and under what obligations. States have traditionally been positioned as the primary duty bearers; however, today a wider range of actors, including international organizations, UN agencies, civil society, and even individuals, play a significant role in shaping protection practices.

The concept of protection also involves questions about its purposes and how it is realized in practice. From the standpoint of providers, protection may be incurred once serious harm is absent and physical safety is existed. For beneficiaries, however, this understanding is incomplete and limited: they may feel protected when they are able to exercise their human rights, live in dignity, and have a realistic sense of rebuilding their lives.

Having these questions in my mind, a few months after my internship at UNHCR, I began working at an international non-governmental organization (INGO) that provided short educational courses for refugee youth in Iran. The centre aimed to offer practical short courses, such as graphic design, accounting, and computer science to support refugees' educational and economic participation in the Iranian job market. Over time, however, the centre became more than a learning setting; it became a hub for youth to interact, socialize, and exchange ideas. Most of them returned after completing their courses, to work with us as interns to maintain their connections. It was a moment that I realized how a learning centre acts as a site of protection, not only by providing education, but by creating a sense of belonging, offering a safe place in which

young refugees could reflect on who they are as youth, what are their interests, and who they want to be in the future, regardless of the social and legal limitations associated with their refugee status.

When I began my Ph.D., I sought a research topic that could reflect these experiences while remaining grounded in a legal and policy context. My academic background in law and international law, together with my previous work with UN agencies and international NGOs in Iran, had already exposed me to refugee protection in practice. Gradually, connections emerged between my questions about the meaning of protection, the limitations of existing protection approaches, the protective potential of higher education, and the ways in which countries such as Canada provide protection through higher education initiatives.

Since I was trained in the Iranian legal system, a hybrid civil law system influenced by Islamic law, I needed to become familiar with the Canadian immigration and refugee protection framework. Through coursework, independent reading, and volunteer work with relevant organizations, including Capital Rainbow Refuge, Romero House, and the Ottawa Community Immigrant Services Organization (OCISO), I developed a better understanding of the Canadian legal and institutional context. This thesis represents my journey, examining how education, particularly at the tertiary level, can contribute to rethinking the meaning of protection in practice.

1.2. Brief Literature Review

This research engages with international refugee law, international human rights law, Canadian refugee protection, and higher education studies. Given their distinct histories and developments, each chapter starts with a focused contextual background section tailored to its specific subject.

This brief literature review centres on two core concepts –protection and higher education for forced migrants– and explores how they have been discussed in the academic literature. Its purpose is to introduce the principal scholarly discussions surrounding these concepts and to identify the questions and gaps that this research addresses. It does not intend to provide a comprehensive review of relevant debates; it focuses on academic literature to explore how these concepts have been interpreted, debated, and developed by scholars. The chapters that follow draw on these scholarly discussions by examining these concepts within their relevant legal and institutional frameworks.

The Canadian context is not examined here; it is addressed separately in Chapter Four, where the legal framework and institutional structures are discussed in detail. By examining these conceptual origins at the international level, this section establishes a normative baseline for the study without focusing on a particular national system.

Importantly, Canada’s current refugee protection and higher education systems are shaped by these international norms. The Immigration and Refugee Protection Act (IRPA), for example, reflects the 1951 Refugee Convention and its 1967 Protocol. Similarly, access to education and related policies are influenced by international human rights instruments as well as Canada’s federal-provincial governance structure. This structure avoids repetition of the background material presented in Chapter Four and allows the discussion of Canada to build on these foundations.

1.2.1. Protection

Protection lies at the core of international refugee law and appears throughout its jurisprudence and scholarship. Since the term is used in different contexts in the literature, for example, to refer to refugee status, to the obligations of states, or to practical measures, its

meaning is not always clear. This section therefore focuses on scholarship that explicitly examines the concept of protection and clarifies its legal meaning.

Classical refugee law scholarship views protection as the bond between state and individual; its absence signals when that effective relationship breaks down. In this framework, refugees and stateless persons were often treated similarly, both defined by the absence of state protection and the lack of a secure legal status.¹ They were described as “anomalous,” “a vessel on the open sea, without holding a flag,” “aliens,” or “a man without papers.”² Paul Weis emphasized that the 1951 Refugee Convention addressed this status deficit by establishing legal recognition for refugees, including key provisions like non-refoulement, treatment standards for refugees, and mandating UNHCR supervision of the Convention’s application.³

Around the time of the 1951 Refugee Convention, in response to the mass displacement caused by the World Wars, some scholars approached protection through the activities undertaken to secure it. This functional understanding is later articulated by Bertie G. Ramcharan, who distinguishes between direct interventions by international actors and indirect efforts such as monitoring, research, and standard-setting.⁴ He further classifies these activities according to their function, namely anticipatory or preventive, curative or mitigatory, and remedial or compensatory.⁵ This approach shifts attention from the legal meaning of protection to the practical aspects through which it is delivered.

¹ Paul Weis, “The International Protection of Refugees” (1954) 48:2 AJIL 193–221 at 193.

² *Ibid.* Also see James C Hathaway, *The rights of refugees under international law*, second edition edn (Cambridge University Press, 2021) at Part 1: The Evolution of the Refugee Right Regime (1.1. International Aliens Law) 10 to 17.

³ Weis, *supra* note 1 at 193 & 194.

⁴ Bertie G Ramcharan, *The concept and present status of the international protection of human rights: forty years after the universal declaration* (Dordrecht; Boston: M. Nijhoff Publishers; Norwell, MA, U.S.A.: Kluwer Academic Publishers distributor, 1989) at 17 & 18.

⁵ *Ibid* at 18.

Following the adoption of the 1951 Refugee Convention, scholarly focus turned to the interpretation of its terms, particularly the refugee definition in Article 1A(2).⁶ Key elements such as persecution, the nexus requirement, and the Convention grounds for serious harm have been widely examined, as they define the scope and limits of refugee protection. Within these debates, a further question emerged regarding the nature of “protection” within the refugee definition, whether it should be understood as internal state protection or as the state’s role at the international level, commonly understood as diplomatic protection.⁷ Although the latter understanding has been argued to be closer to the intentions of the drafters, as reflected in the travaux préparatoires and legal texts, this view has received limited judicial or academic support.⁸

The emergence of international human rights instruments further expanded scholarly understandings of protection in refugee law beyond a purely status-based framework. Scholars began to emphasize human rights obligations; for instance, Guy S. Goodwin-Gill argues that protection cannot be reduced to the recognition of formal status, but must be understood in terms of obligations derived from fundamental human rights, including the right to life, liberty, and security.⁹ Hugo Storey and James C. Hathaway also similarly understand protection as a positive,

⁶ See Guy S Goodwin-Gill & Jane McAdam, *The refugee in international law*, 4th ed (Oxford: Oxford University Press, 2021) at Part One. In this study, the authors examine the system of international refugee protection under the 1951 Refugee Convention and its 1967 Protocol, alongside the growing role of human rights law. Also see James C Hathaway & Michelle Foster, *The Law of Refugee Status*, 2nd edn (Cambridge: Cambridge University Press, 2014) at Chapters One to Seven. The study offers a comprehensive and global analysis of the central question in asylum law: who is a refugee? Also see Hugo Storey, *The refugee definition in international law* (Oxford: Oxford University Press, 2023). In this study, Storey argues that although the refugee definition in Article 1A (2) remains central, its key terms are still widely perceived as unclear. This study systematically examines the interpretation, structure, and interrelationship of its components, as well as the disputes surrounding them.

⁷ See Antonio Fortin, “The Meaning of “Protection” in the Refugee Definition” (2001) 12:4 Intl J Ref L 548–576 at 548 to 576. Also see Antonio Fortin, “More on the Meaning of ‘Protection’ in the Refugee Definition” (2025) 37:1 Intl J Ref L 8–35 at 8 to 35.

⁸ See James C Hathaway & Michelle Foster, *The Law of Refugee Status*, 2nd edn (Cambridge: Cambridge University Press, 2014) at 340.

⁹ Guy S Goodwin-Gill, “The Language of Protection” (1989) 1:1 Int J Refugee Law 6–19 at 13 to 16.

affirmative concept, requiring not only the absence of persecution or serious harm but also the effective enjoyment of basic human rights.¹⁰ Arthur C. Helton also explains that, in refugee law the concept of protection is not defined; however, it can be taken to mean “the act of respecting and upholding fundamental human rights, such as the core rights declared in the Covenants on Civil and Political Rights, and on Economic, Social, and Cultural Rights.”¹¹ In a similar vein, Ivor C. Jackson,¹² Vincent Chetail,¹³ and Colin Harvey¹⁴ have explored the interaction between refugee law and international human rights law, showing how human rights instruments articulate protection in a broader and more substantive way.

The human rights perspective also led to the proliferation of protection-related concepts, as Dallal Stevens identifies and examines four widely used terms: effective protection, subsidiary or complementary protection, sufficiency of protection, and internal protection.¹⁵ Through her analysis, she traces the emergence of these concepts from states’ human rights obligations, while critiquing how they complicate the application of refugee protection in practice.¹⁶

¹⁰ See James C Hathaway & Hugo Storey, “What is the Meaning of State Protection in Refugee Law? A Debate” (2016) 28:3 REFLAW 480 at 480, 481 & 484.

¹¹ Arthur C Helton, “What is Refugee Protection? A Question Revisited” in Niklaus Steiner, Mark Gibney & Gil Loescher, eds, *Problems of Protection The UNHCR, Refugees, and Human Rights*, 1st edn (New York: Routledge, 2003) at 22.

¹² See Ivor C Jackson, “The 1951 Convention relating to the Status of Refugees: A Universal Basis for Protection” (1991) 3:3 Int J Refugee Law 403–413.

¹³ See Vincent Chetail, “Armed Conflict and Forced Migration: A Systematic Approach to International Humanitarian Law, Refugee Law, And International Human Rights Law” in Andrew Clapham & Paula Gaeta, eds, *The Oxford Handbook of International Law in Armed Conflict* (Oxford: Oxford University Press, 2014) at 700–734. Also see Vincent Chetail, “Are Refugee Rights Human Rights? An Unorthodox Questioning of the Relations between Refugee Law and Human Rights Law” in Ruth Rubio-Marín, ed, *Human Rights and Immigration*, 1st edn (Oxford: Oxford University Press, 2014) 19 at 19–72. Also see Vincent Chetail, “Moving Towards an Integrated Approach of Refugee Law and Human Rights Law” in Cathryn Costello, Michelle Foster & Jane McAdam, eds, *The Oxford Handbook of International Refugee Law*, 1st edn (Oxford University Press, 2021) 202 at 202–220.

¹⁴ See Colin Harvey, “Time for Reform? Refugees, Asylum-seekers, and Protection Under International Human Rights Law” (2015) 34:1 Refugee Survey Quarterly 43–60 at 43–60.

¹⁵ Dallal Stevens, “What Do We Mean by Protection?” (2013) 20:2 Int J Minor Group Rights 233 at 247–259. Also see Jane McAdam, *Complementary Protection in International Refugee Law* (United Kingdom: Oxford University Press, 2007) at 19 to 52.

¹⁶ Stevens, *supra* note 15 at 247–259.

Due to the central role of states in refugee protection, the concept is often understood as “state protection,”¹⁷ closely tied to the actions and capacities of states.¹⁸ In this sense, states shape the quality and accessibility of protection through their practices, such as admission controls, detention, and restrictions on access to asylum procedures.¹⁹ At the same time, this state-centric approach has been increasingly questioned, as it does not fully capture the range of actors involved in contemporary protection practices. While debates on the role of non-state actors remain ongoing,²⁰ regional instruments such as the EU Qualification Directive,²¹ and scholarly works, including that of Hugo Storey, recognize that protection may also involve actors beyond the state.²² Although their capacity may differ from that of states, these actors remain significant in supporting refugees and broader groups of forced migrants.

1.2.2. Higher Education

Higher education is recognized in international law as part of the broader right to education,²³ although its legal content is more limited and less developed than that of primary education. The International Covenant on Economic, Social and Cultural Rights (ICESCR) establishes that higher education should be made “equally accessible to all, on the basis of

¹⁷ James C Hathaway & Michelle Foster, *The Law of Refugee Status*, 2nd edn (Cambridge: Cambridge University Press, 2014) at 289.

¹⁸ See *Ibid* at 288–361.

¹⁹ Helton, *supra* note 11 at 22–24.

²⁰ See Maria O’Sullivan, “Acting the Part: Can Non-State Entities Provide Protection Under International Refugee Law?” (2012) 24:1 Intl J Ref L 85 at 85–110.

²¹ European Union, *Directive (2011/95/EU) of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)*, 2011(OJ 2011 L 337/9) online: EUR <www.eur-lex.europa.eu> [archive.org/details/recast_202307] [Qualification Directive/QD].

²² See Hathaway & Storey, “What is the Meaning of State Protection in Refugee Law?”, *supra* note 10 at 481. Also see Hugo Storey, “The Meaning of “Protection” within the Refugee Definition” (2016) 35:3 Ref Survey Quarterly at 1–34.

²³ See Tristan McCowan, “Is There A Universal Right To Higher Education?” (2012) 60:2 British J Educational Studies 111 at 116.

capacity,”²⁴ and progressively free. As scholars such as Klaus Dieter Beiter and Fons Coomans note, this means states are not expected to provide higher education for everyone immediately but must take concrete steps toward its full realization over time.²⁵ While the scope and realization of higher education are subject to uncertainty, scholars such as Jane Kotzmann and Heidi R. Gilchrist emphasize its broader significance, particularly its connection to the development of the human personality and human dignity, effective participation in a free society, and the promotion of tolerance and understanding in important contexts such as national security and counter-terrorism.²⁶ Taken together, this body of work situates higher education as an integral part of the right to education, while recognizing the limits that shape its implementation in practice.

Despite its recognition as a human right, access to higher education remains limited for disadvantaged groups, including refugees. Before 2016 and up to early 2018, research on higher education for refugees was primarily exploratory, often based on small case studies.²⁷ These studies focused on specific groups, such as African refugees,²⁸ and identified key challenges, including language barriers, poverty, and interruptions in their educational trajectories.²⁹

²⁴ *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, 993 UNTS 172 (entered into force 3 January 1976, accession by Canada 19 May 1976) [ICESCR] Article 13(C).

²⁵ See Klaus Dieter Beiter, *The Protection of the Right to Education by International Law: Including a Systematic Analysis of Article 13 of the International Covenant on Economic, Social and Cultural Rights* (Leiden, The Netherlands: Brill | Nijhoff, 2005) at 90–100. Also see Fons Coomans, “Exploring the Normative Content of the Right to Education as a Human Right: Recent Approaches” (2018) *Persona y Derecho* 61 at 91 & 92.

²⁶ See Jane Kotzmann, “Lifting the cloak of conceptual confusion: exploring the meaning of the human right to higher education” (2015) 21:1 *Australian Journal of Human Rights* 71 at 79 & 80. Also see Heidi R Gilchrist, “Higher Education as a Human Right” (2018) 17:3 *Wash U Global Stud L Rev* 645 at 668–675.

²⁷ Jana Berg, “Higher Education for Refugees: Relevance, Challenges, and Open Research Questions” (2023) 3:10 *SN Soc Sci Article* 177 at 1.

²⁸ See Laura-Ashley Wright & Robyn Plasterer, “Beyond Basic Education: Exploring Opportunities for Higher Learning in Kenyan Refugee Camps” (2010) 27:2 *Refuge* 42–56. Also see Thomas M Crea & Neil Sparnon, “Democratizing education at the margins: faculty and practitioner perspectives on delivering online tertiary education for refugees” (2017) 14:43 *Int J Educ Technol High Educ* 1–19.

²⁹ See Yogendra B Shakya et al, “Aspirations for Higher Education among Newcomer Refugee Youth in Toronto: Expectations, Challenges, and Strategies” (2010) 27:2 *Refuge* 65–78. Also see Jacqueline Stevenson & John Willott,

Building on this growing body of work, scholars such as Georgina Ramsay and Sally Baker conducted a meta-scoping study of 46 papers published between 1999 and 2018 on higher education and students from refugee backgrounds.³⁰ As part of their findings, they highlight the challenges faced by refugee students in different contexts, including limited access to the internet and study materials in camp settings, as well as integration, financial, and psychological challenges in resettlement countries.³¹

In 2019, UNHCR reported that only one per cent of refugee youth were enrolled in higher education and introduced the 15by30 goal to expand access.³² This benchmark has been widely cited in the literature and has contributed to growing academic and policy attention to higher education for refugees. This growing focus builds on earlier policy developments, particularly the adoption of the Global Compact on Refugees in 2018, which highlights complementary pathways as practical mechanisms to expand access to protection.³³ Within this framework, higher education initiatives, including scholarships and academic mobility programs, have been recognized as important avenues for creating opportunities beyond traditional resettlement.³⁴ To highlight their roles, scholars, in different national contexts, have examined how host countries

“The aspiration and access to higher education of teenage refugees in the UK” (2007) 37:5 *Compare: A Journal of Comparative and International Education* 671–687.

³⁰ Georgina Ramsay & Sally Baker, “Higher Education and Students from Refugee Backgrounds: A Meta-Scoping Study” (2019) 38:1 *Refugee Survey Quarterly* 55 at 60.

³¹ *Ibid* at 65 & 66.

³² “Higher education and skills” (last visited 18 April 2026), online: United Nations High Commissioner for Refugees <www.unhcr.org> [archive.ph/IHIQ7].

³³ “Global Compact on Refugees” (2018), online: <www.globalcompactrefugees.org> [archive.org/details/gcr_20240207] at para 68 & 95.

³⁴ See Tamara Wood, “The role of Complementary Pathways in Refugee Protection” (2020), online (pdf): UNHCR <www.unhcr.org> [archive.org/details/tamara-wood-the-role-of-complementary-pathways-in-refugee-protection] at 1–47. Also see Taya Ketelaar-Jones, Natalie Welfens & Tamara Wood, “Complementary Pathways: New Horizons or Muddled Waters?” (2025) 44:4 *Refugee survey quarterly* 614–633.

and higher education institutions design and implement such initiatives to support refugee students.³⁵

Reflecting this evolution, recent scholarship adopts a wider analytical lens that considers the impacts of higher education beyond the individual level, including the socio-economic contributions of refugees with post-secondary degrees to host countries,³⁶ their potential role in the future reconstruction of their countries of origin,³⁷ and the contribution of refugee students to the internationalization and diversity of students at higher education institutions.³⁸

Beyond questions of access and impact, another important dimension of the right to higher education is academic freedom. It protects the autonomy of scholars, students, and institutions to pursue inquiry, expression, and dissemination of knowledge free from political or ideological control.³⁹ Academic freedom is not merely a professional privilege,⁴⁰ but a collective right that brings together several human rights, particularly the right to education, the right to participate in cultural life and enjoy the benefits of scientific progress, and the right to freedom of opinion and expression.⁴¹ Despite its important role, in many parts of the world, scholars face

³⁵ See Norine Verberg & Jordan MacDonald, “A Meso-Level Analysis of the Revitalization of the WUSC Student Refugee Program at St. Francis Xavier University” (2023) 39:1 *Refuge: Canada’s J on Refugees* 1–16. Also see Souzan Hussein, “International Education as Complementary Pathways to Resettlement: The Case of Refugee Background Students in Japan” (2025) 10 *Journal of immigrant & refugee studies* 1–19.

³⁶ See Christina Hajisoteriou, “Building a Pathway to Belonging: The Role of Higher education in Supporting Refugees’ Inclusion” (2023) 8 *Front Educ* at 1–4. Also see Lisa Unangst & Thomas M Crea, “Higher Education for Refugees: A Need for Intersectional Research” (2020) 64:2 *Comparative education review* 228–248.

³⁷ See Arif Sahar & Christian Kaunert, “Higher Education as a Catalyst of Peacebuilding in Violence and Conflict-Affected Contexts: The Case of Afghanistan” (2021) 9:1 *Peacebuilding* 57–78.

³⁸ See Bernhard Streitwieser et al, “Access for Refugees Into Higher Education: A Review of Interventions in North America and Europe” (2019) 23:4 *J Studies in Intl Ed* 473–496.

³⁹ See Kudus Oluwatoyin Adebayo, “The state of academic (un)freedom and scholar rescue programmes: a contemporary and critical overview” (2022) 43:8 *Third world quarterly* 1817–1836.

⁴⁰ See Michael Ignatieff, “The Geopolitics of Academic Freedom: Universities, Democracy & the Authoritarian Challenge” (2024) 153:2 *Daedalus* 194–206.

⁴¹ See *ICESCR*, *supra* note 24 at Article 13 (1) & Article 15. Also see *International Covenant on Civil and Political Rights*, 19 December 1966, 999 UNTS 171 (entered into force 23 March 1976, accession by Canada 19 May 1976) [ICCPR] at Article 19.

restrictions, violence, and harassment due to their academic work or public engagement, leading to what is often described in the literature as academic displacement.⁴² This phenomenon highlights the vulnerability of academic communities and underlines the importance of institutional responses in providing protection for at-risk scholars. In this sense, academic freedom becomes a critical concern within discussions of higher education and forced migration.

1.3. Research Question

Despite extensive scholarship on refugee protection and higher education access for forced migrants, important gaps remain in how these fields are currently studied. First, there is limited work that brings together the concept of protection in international and refugee law with higher education, and little attention is paid to how protection is understood beyond traditional state-centric asylum frameworks. Second, there is a lack of academic research on higher education pathways themselves, including programs such as World University Service of Canada (WUSC)'s Student Refugee Program (SRP) and the Scholars at Risk (SAR) network, which are often discussed in policy or program reports rather than in scholarly analysis. Third, the experiences of post-secondary institutions participating in these initiatives remain underexplored, particularly in terms of how these programs are implemented within host countries, and how they are experienced by institutions in terms of their practical challenges. While policy reports often focus on outputs, such as the number of scholarships or fellowship opportunities, they provide limited insight into how these initiatives can contribute to rethinking or reshaping the meaning of protection. Documenting and examining these institutional experiences is important, as it allows

⁴² See C McLaughlin et al, "Testimonies of Syrian academic displacement post-2011: Time, place and the agentic self" (2020) 1 *International journal of educational research open* 1–9. Also see Ludger Pries, "Scientists as Forced Migrants and Refugees: What Can We Learn from the 1930s and 2010s?" (2017) 84:4 *Johns Hopkins University Press* 857–872.

for the identification of models that can be adapted and replicated in other contexts and expanded access to academic opportunities for forced migrants. In this sense, this research asks: how can higher education pathways such as WUSC's SRP and SAR help to rethink the concept of protection in international law?

1.4. Methodological Orientation of the Study

I began my Ph.D. program at the University of Ottawa by taking the course *Ph.D. Legal Research Methodology*, which provided an important opportunity to explore different ways of framing and designing a legal research project. In that course, students, including myself, had the opportunity to examine their research questions through different methodological lenses in order to ensure alignment between the framing of the research question, the methodological approach, and the methods used to address the question.

One reading in the course outline that particularly shaped my thinking was Michael Doherty's chapter, "*Getting Down and Dirty: The Case for Empirical Legal Research.*" Doherty, a Professor of Law with doctoral training in sociology, highlights the importance of empirical legal research and argues that the failure to build this capacity in law schools may have negative consequences for the next generation of legal scholars.⁴³ He explains that the complexity of contemporary legal problems increasingly requires multi-faceted forms of analysis, as well as engagement with non-legal audiences.⁴⁴ Empirically grounded legal research, he argues, provides an important means of addressing this challenge through qualitative research methods such as interviews, focus groups, and ethnography.⁴⁵ These methods generate first-hand empirical

⁴³ Michael Doherty, "Getting Down and Dirty: The Case for Empirical Legal Research" in Laura Cahillane & Jennifer Schweppe, eds, *Legal Research Methods: principles and practicalities* (Dublin: Clarus Press, 2016) at 131.

⁴⁴ See *Ibid* at 134.

⁴⁵ *Ibid* at 133.

insights into how law operates in practice and facilitate the generalization of findings to wider, international (non-local) audiences or, in Doherty's words, enable findings to be "transplant[ed] to another legal setting."⁴⁶

Before coming to Canada, I was already certain that I wanted to pursue my Ph.D. research in refugee law. At the same time, and in line with Doherty's argument, I was aware that many of the central research questions in this field cannot be examined in isolation or through doctrinal analysis alone; they require engagement with interdisciplinary perspectives. Moreover, refugee law is deeply shaped by the lived experiences of forced migrants and by the institutional practices of organizations and networks through which legal protection is delivered. Empirical research therefore offers an important means of accessing primary perspectives on how refugee law operates in practice and how these practices contribute to a broader understanding of protection.⁴⁷

On this basis, I chose to focus on an interdisciplinary research topic that brings together law and education by examining higher education initiatives and institutional networks, and the ways in which they operate and shape protection practices on Canadian campuses. This study adopts doctrinal legal analysis to trace the legal foundations and development of the concepts of 'protection' and higher education in international law and the Canadian legal system. In parallel, it combines doctrinal analysis with qualitative case studies, focusing on WUSC's SRP and SAR, to explore how this legal understanding of protection is interpreted and operationalized in practice within Canadian higher education settings.

⁴⁶ *Ibid.*

⁴⁷ See Daniel Ghezelbash & Keyvan Dorostkar, "Understanding the politics of refugee law and policy making: Interdisciplinary and empirical approaches" (2024) 37:4 *Journal of Refugee Studies* 898–910.

1.4.1. Rationale for Combining Doctrinal Analysis and Case Study Methodology

The doctrinal and case study components are presented separately in the following subsections, reflecting their distinct methodological roles while being integrated within the overall research design.

1.4.1.1. Doctrinal Research

Law as a science was shaped in Western Europe through a combination of political and intellectual developments, notably the rise of strong central authorities, the emergence of professional jurists, including judges and lawyers, and the systematic creation of the first law schools and the writing and organization of legal materials.⁴⁸ From the emergence of universities in the twelfth century, as Berman explains, law was studied and taught as a distinct and coherent body of knowledge with its own methodology.⁴⁹ During that time, legal scientists were concerned with ‘legal dogmatics,’ that is, the systematic analysis of legal rules, their relationships, and their application to specific situations.⁵⁰ What is today known as black letter law, doctrinalism, and legal-dogmatic research builds up on this methodological foundation, particularly through the scholastic or dialectical method that characterized early legal science.⁵¹

The term ‘doctrine’ originates from the Latin noun *doctrina*, meaning instruction, knowledge or learning.⁵² In a legal context, doctrine has been defined as “[a] synthesis of various rules, principles, norms, interpretive guidelines and values. It explains, makes coherent or justifies a segment of the law as part of a larger system of law. Doctrines can be more or less

⁴⁸ Harold J Berman, “The Origins of Western Legal Science” (1977) 90:5 Harvard Law Rev 894 at 896.

⁴⁹ *Ibid* at 895.

⁵⁰ *Ibid* at 933.

⁵¹ See *Ibid* at 908–921. Also see Jan M Smits, “What Is Legal Doctrine?: On The Aims and Methods of Legal-Dogmatic Research” in Rob van Gestel, Hans-W Micklitz & Edward L Rubin, eds, *Rethinking Legal Scholarship: A Transatlantic Dialogue* (New York, NY: Cambridge University Press, 2017) at 210.

⁵² Terry Hutchinson & Nigel Duncan, “Defining and Describing What We Do: Doctrinal Legal Research” (2012) 17:1 Deakin Law Review 83 at 84.

abstract, binding or non-binding.”⁵³ Doctrinal research therefore focuses on legal concepts, or, in simple terms, “research which asks what the law is in a particular area”⁵⁴; and examines how such bodies of law are created, refined, and developed over time.⁵⁵

“To a large extent, it is the doctrinal aspect of law that makes legal research distinctive and provides an often under-recognised parallel to ‘discovery’ in the physical sciences.”⁵⁶ It involves careful analysis that connects different legal rules, and identifies general principles from complex legal materials.⁵⁷ Despite its central role, doctrinal methodology is often applied implicitly in legal research, as many scholars treat it as part of legal analysis in their research rather than articulating it as a distinct method.⁵⁸ As Chynoweth notes, “legal researchers have always struggled to explain the nature of their activities to colleagues in other disciplines.”⁵⁹ This lack of explicit articulation can make legal scholarship more flexible and open to other kinds of methods, such as empirical and interdisciplinary work; however, it can also create confusion by treating such general openness as an ‘anything goes’ approach that blurs its methodological distinctiveness.⁶⁰

⁵³ Trischa Mann, ed, *Australian Law Dictionary*, 3rd edn (Melbourne: Oxford University Press, 2018) sub verbo “doctrine”.

⁵⁴ Ian Dobinson & Francis Johns, “Legal Research as Qualitative Research” in Mike McConville & Wing Hong Chui, eds, *Research Methods for Law* (Edinburgh: Edinburgh University Press, 2007) 9 at 19.

⁵⁵ See Terry Hutchinson & Nigel Duncan, *supra* note 52 at 84 & 85.

⁵⁶ “Statement on the Nature of Legal Research” online: <www.cald.asn.au> [archive.org/details/cald-2005] at 3.

⁵⁷ *Ibid* at 3.

⁵⁸ See Paul Chynoweth, “Legal Research” in Andrew Knight & Les Ruddock, eds, *Advanced Research Methods in the Built Environment* (Chichester, U.K.; Ames, Iowa: Wiley-Blackwell, 2008) at 37. Also see Terry Hutchinson & Nigel Duncan, *supra* note 52 at 99. According to Hutchinson and Duncan, “Unfortunately the doctrinal method is often so implicit and so tacit that many working within the legal paradigm consider that it is unnecessary to verbalize the process. Any articulation that occurs is for the benefit of outsiders. [...] It is when lawyers step or are pushed into wider interdisciplinary work, or find themselves competing for grants with researchers from other disciplines, that the articulation of method becomes of paramount importance.”

⁵⁹ Chynoweth, *supra* note 58 at 28.

⁶⁰ Stefan Theil, “Carefully Tailored: Doctrinal Methods and Empirical Contributions” (2025) 45:4 Oxford J Legal Stud 1047 at 1048.

These concerns combined with critiques regarding the limited use of interdisciplinary and empirical approach in legal scholarship, and the dominance of doctrinal research, led to production of national reviews in several common law jurisdictions, including Arthurs Report (Law and Learning) in Canada, the Pearce Committee Report, and the Council of Australian Law Deans (CALD) statement in Australia.⁶¹ These debates highlight the need for legal scholars to reflect on and clearly articulate the methodological foundations of their doctrinal work, particularly when engaging with audiences in other disciplines.⁶²

1.4.1.1.1. Core Features of Doctrinal Research

The doctrinal approach has been described as the ‘mother’s milk’⁶³ of legal academics and as a necessary prerequisite for undertaking different forms of legal analysis.⁶⁴ As explained earlier, this approach, while foundational, has received critiques for being too narrow or too insufficiently articulated as a methodology. The following discussion outlines the core features of doctrinal research and explains how this research aligns with those essential characteristics. The categorization of these features draw from the work of Stefan Theil and Jan M. Smits.⁶⁵

The first feature is a focus on the study of legal sources,⁶⁶ whether at the international level or within a particular domestic legal system. In Smits’ perspective, these legal sources such as legislation, foreign law, and case law, should relate to present law.⁶⁷ This does not mean that the past law cannot be taken into account, but only as it contributes to further developing the

⁶¹ See Terry Hutchinson & Nigel Duncan, *supra* note 52 at 101 & 102. Also see Janice Dickin McGinnis, “Reflections on the Law and Learning” (1985) 65:1 Dalhousie Rev 13 at 18.

⁶² See Chynoweth, *supra* note 58 at 37.

⁶³ Christopher Mccrudden, “Legal Research and the Social Sciences” (2006) 122 The Law Quarterly Review 632 at 634.

⁶⁴ Smits, *supra* note 51 at 209.

⁶⁵ See Theil, “*supra* note 60 at 1075. Also see Smits, *supra* note 51 at 228.

⁶⁶ Theil, “*supra* note 60 at 1054.

⁶⁷ Smits, *supra* note 51 at 212.

system of present law.⁶⁸ In line with this approach, this study draws on two main categories of sources in examining the concept of protection and higher education: binding sources of international law and relevant soft law materials, which fairly encompass the principles in the general rule of interpretation and supplementary means of interpretation present in the 1969 Vienna Convention on the Law of Treaties (Art. 31 & 32.).

1) *Hard Law Materials*: Protection analysis draws on international legal instruments, primarily multilateral and regional treaties. As Hall notes, “since the end of the Second World War, treaties have assumed an increasingly important place in international law.”⁶⁹ As the world becomes more interconnected, treaties have become a significant mechanism for creating ‘legislation’ or ‘law-making,’ enabling states to create, amend, and update common legal standards. In some instances, rules reflected in multilateral treaties may acquire the status of customary international law, becoming binding on all states.⁷⁰ The customary nature of such rules derives from general state practice (*usus*), including omissions, accompanied by a belief that such practice is legally required or allowed (*opinio juris*).⁷¹ Within this study, a key example is the principle of non-refoulement, codified in the 1951 Refugee Convention and other instruments and widely recognized as customary international law, binding on all states, including those not party to the Convention.⁷²

2) *Soft Law Materials*: As Hall explains, “Soft law [refers to] any material which is not intended to generate, or is not per se capable of generating, legal rules but which may,

⁶⁸ *Ibid* at 213.

⁶⁹ Stephen Hall, “Researching International Law” in Mike McConville & Wing Hong Chui, eds, *Research Methods for Law* (Edinburgh: Edinburgh University Press, 2007) at 183.

⁷⁰ *Ibid* at 183 & 184.

⁷¹ *Ibid* at 190.

⁷² See Emmanuel Arthur - Ewusie, “Has the Non -refoulement Principle Acquired Customary Status in International Law?” (2024) SSRN Journal 1–23.

nonetheless, produce certain legal effects.”⁷³ A central example for the purposes of this research is the Global Compact on Refugees and the Global Compact for Safe, Orderly and Regular Migration. Although they are not legally binding, these instruments provide important interpretive assistance and contribute to the contemporary development of international refugee and migration law, including evolving understandings of protection.

The study also engages with the acts and practices of international organizations, in particular the United Nations and its agencies, notably UNHCR. While their acts or decisions do not necessarily constitute binding sources of international law, they are highly relevant to the interpretation and development of refugee protection. As recognized by the International Court of Justice, “General Assembly resolutions, even if they are not binding, may sometimes have normative value. They can, in certain circumstances, provide evidence important for establishing the existence of a rule or the emergence of an *opinio juris*.”⁷⁴ This recognition supports the use of UN materials, particularly UNHCR as interpretive guidance for exploring the meaning of protection in refugee law. Additionally, the study also draws on selective legal scholarship that engage directly with the conceptual debates surrounding the meaning of protection and seeks to explain its different dimensions.

A similar categorization of legal materials is applied in Chapter Four, which analyzes protection and higher education in the Canadian context. In this chapter, the dualistic approach of the Canadian legal system toward international treaties is examined alongside domestic legal sources, including judicial decisions and federal statutes, in particular the Immigration and Refugee Protection Act (IRPA) and the Canadian Charter of Rights and Freedoms.

⁷³ Hall, *supra* note 69 at 203.

⁷⁴ *Ibid* at 201.

The second core feature of doctrinal research is the assumption that legal sources are intelligible, coherent and consistent,⁷⁵ or in Smits' words, "the law seen as a system."⁷⁶ Doctrinal analysis involves organizing legal materials into coherent principles, rules, and concepts; it seeks to connect relevant legal elements, extract general principles, and resolve internal inconsistencies among different materials.⁷⁷ The assumption of coherence allows legal materials to be read together as part of a legal system, while recognizing that particular legal concepts may remain open to interpretation. In this research, the objective is not to impose coherence on the concept of protection or to formulate a new legal definition. Instead, it explores the complexity of the concept, how protection has been understood across the relevant legal sources and doctrinal scholarship, and different dimensions through which the concept has been interpreted. In doing so, this research draws on relevant international and domestic legal materials, alongside refugee law scholarship, to explore the concept of protection within international and Canadian law.

The third core feature of doctrinal research is that legal analysis proceeds from an internal perspective, evaluating rules and principles primarily by reference to the legal system's own normative framework.⁷⁸ As Smits notes, this means that the legal system "is not only the subject of the inquiry[;] it also provides the normative framework for analysis."⁷⁹ As explained earlier, this research seeks to understand what the law says about protection and higher education, and how these concepts are understood within the relevant legal framework. Instead of approaching these concepts from external perspectives, such as policy, sociology, or morality, Chapters Two, Three, and Four explores the legal and conceptual foundations of protection and higher

⁷⁵ Theil, *supra* note 60 at 1056.

⁷⁶ Smits, *supra* note 51 at 211.

⁷⁷ *Ibid* at 211 & 212.

⁷⁸ Theil, *supra* note 60 at 1059.

⁷⁹ Smits, *supra* note 51 at 210.

education. Chapters Five and Six examine WUSC’s SRP and SAR to understand how these initiatives operate within existing legal frameworks, what distinctive features they introduce and analyze them in light of the legal and conceptual framework developed in the preceding chapters.

Within these features, three purposes for doctrinal research have been identified: descriptive, prescriptive, and justificatory.⁸⁰ The descriptive aim of doctrinal research is to explain the existing law in a neutral and systematic manner; it creates a shared framework of concepts and categories, and a language for legal reasoning.⁸¹ According to Smits, “[i]t is difficult to see how the law could do without this systemizing description.”⁸² Building on this descriptive function, legal doctrine involves a search for practical solutions or prescription that are consistent with the internal logic of the legal system.⁸³ The justificatory aim of doctrinal research lies in its ability to justify legal rules by demonstrating that a rule is accepted as law insofar as it fits within the system of principles, concepts, and prior decisions.⁸⁴ These aims are distinct, but they are interrelated in practice and doctrinal research often moves between them.

This research primarily adopts the descriptive and justificatory functions of doctrinal analysis. It describes the concept of protection and higher education within existing legal frameworks at the international level and in the Canadian context. The doctrinal task of this analysis is to explore how different legal sources and doctrinal scholarship inform these concepts and to illustrate patterns of normative understanding, consistent with what McCrudden describes as showing “the woods and the trees together as constituting a working whole.”⁸⁵ The research also has a justificatory purpose by examining why higher education matters for forced migrants

⁸⁰ See *Ibid* at 213–221. Also see Theil, *supra* note 60 at 1052 & 1053.

⁸¹ Smits, *supra* note 51 at 214.

⁸² *Ibid.*

⁸³ *Ibid* at 217.

⁸⁴ *Ibid* at 219 & 220.

⁸⁵ Christopher McCrudden, *supra* note 63 at 634.

and can be recognized as a relevant component of protection within international discussions. This research does not seek to prescribe or propose higher education as a new form of protection, as the Global Compacts and related international discussions already recognize the potential of higher education opportunities as complementary pathways of protection. Instead, it explores how higher education initiatives, particularly WUSC's SRP and SAR, operate within existing legal and institutional frameworks and their contributions to the understandings of protection.

1.4.1.2. Case Study Methodology

Pure doctrinal analysis has been criticized by academic scholars, particularly those working in interdisciplinary fields, for being “intellectually rigid, inflexible, and inward-looking”⁸⁶ in its understanding of law and the operation of legal analysis. According to Cotterrell, “All the centuries of purely doctrinal writing on law probably have produced less valuable knowledge about what law is, as a social phenomenon, and what it does than the relatively few decades of work in sophisticated modern empirical socio-legal studies[.]”⁸⁷ To address these concerns, I adopt a case study approach in combination with doctrinal research to examine how protection as a legal concept works in reality within higher education initiatives.

Case studies are widely used across the social sciences disciplines; however, this approach has not always been regarded as methodologically robust, due to the absence of well-structured and well-defined research protocols.⁸⁸ In other words, research methodologists have limited consensus regarding the design and implementation of case study research.⁸⁹

⁸⁶ Douglas W Vick, “Interdisciplinary and the Discipline of Law” (2004) 31:2 Journal of Law and Society 163 at 164.

⁸⁷ Roger Cotterrell, *Law's Community: Legal Theory in Sociological Perspective* (Oxford: Clarendon, 1995) at 296.

⁸⁸ Bedrettin Yazan, “Three Approaches to Case Study Methods in Education: Yin, Merriam, and Stake” (2015) 20:2 Qualitative report 134 at 134. Also see Robert K Yin, *Case study research: Design and methods* (Thousand Oaks, CA: Sage Publications, 2002).

⁸⁹ Yazan, *supra* note 88 at 134.

Nevertheless, the work of contemporary scholars such as Stake⁹⁰, Merriam⁹¹, and Yin⁹² has significantly contributed to the development of case study methodology literature by clarifying its philosophical foundations, research design, and practical procedures. For the purpose of this research, Merriam and her co-authors' approach is adopted as it provides a clear and flexible framework for structuring the research process, from case selection and data collection to the development of analytical strategies.

In Merriam's and her co-authors' perspective, "[a] central characteristic of all qualitative research is that individuals construct reality in interaction with their social worlds.

Constructivism thus underlines what we are calling a basic qualitative study."⁹³ Within this approach, a case is understood as "a bounded system," which may take the form of "a single person who is a case example of some phenomenon, a program, a group, an institution, a community, or a specific policy, [around which there are boundaries.]"⁹⁴ The researcher's role is to understand the meaning and context of that case, typically following an inductive strategy, moving from specific observations to broader insights, while relying on themselves as the primary instrument of data collection and analysis.⁹⁵

According to Merriam et al., the primary steps of case study research include literature review, case (sample) selection, and identification of a theoretical lens for analyzing the cases.⁹⁶

During the literature review phase, I identified a research gap concerning the role of higher

⁹⁰ See Robert E Stake, *The Art of Case Study Research* (Thousand Oaks, CA: Sage Publications, 1995).

⁹¹ See Sharan B Merriam, *Qualitative Research and case study applications in education* (San Francisco: Jossey-Bass Publishers, 1998). Also see Sharan B Merriam & Elizabeth J Tisdell, *Qualitative research: a guide to design and implementation* (San Francisco, CA: Jossey-Bass, a Wiley brand, 2016). Also see Elizabeth J Tisdell, Sharan B Merriam & Heather L Stuckey-Peyrot, *Qualitative research: a guide to design and implementation* (Hoboken, New Jersey: John Wiley & Sons, Inc., 2025).

⁹² See Yin, *supra* note 88. The 4th ed was also published in 2009.

⁹³ Merriam & Tisdell, *supra* note 91 at 24.

⁹⁴ Tisdell, Merriam & Stuckey-Peyrot, *supra* note 91 at 46 & 47.

⁹⁵ *Ibid* at 45.

⁹⁶ See *Ibid* at 97 to 131, Chapter five: Designing your study and Selecting Sample.

education in the lives of forced migrants. To refine this gap into a clearer research question, I focused on programs and networks actively operating within Canadian tertiary institutions. This led me to select the WUSC's SRP and SAR initiatives operating within Canadian higher education institutions. Since 1978, WUSC has combined resettlement with tertiary education pathways to support refugee youth and facilitate their arrival in Canada. Meanwhile, since 2012, Canadian universities have joined the SAR network to promote academic freedom and protect scholars facing threats. These two cases were selected because both facilitate access to higher education for forced migrants; operate through organized institutional structures, including committees across Canadian post-secondary institutions, and remain relatively under-examined in existing academic literature. The study does not adopt a comparative design; rather the cases are treated as illustrative and explanatory examples within the broader framework of protection through higher education pathways.

The object of this research is to understand the interaction between protection and higher education within international refugee law. More specifically, it examines how higher education initiatives contribute to rethinking the meaning of protection. The conceptual framework of this study is grounded in the legal concept of protection and the recognition of higher education as a human right within international and Canadian law. Since the research examines the interaction between these two concepts, protection provides the primary analytical framework through which higher education initiatives are analyzed. The research first examines the legal and conceptual foundations of protection and higher education before analyzing how WUSC's SRP and SAR operate within existing legal and institutional frameworks and what they contribute to discussions of protection.

1.4.1.2.1. Data Collection

Following the discussion of case selection and the conceptual lens, this section explains the data sources used to examine the selected cases. Data for the case study component were collected from two principal sources: text and documentary materials, and key informant interviews. Together, these sources provide insight into how each initiative is structured, operates, and engages with the concept of protection.

1) *Text and documentary Sources*: According to Merriam et al., the term ‘document’ functions “as an umbrella term to refer to a wide range of written, visual, digital, and physical material relevant to the study [..., including] official records, organizational promotional materials, letters, newspaper accounts, poems, songs, corporate records, government documents, historical accounts, diaries, autobiographies, blogs, and so on.”⁹⁷ In addition to secondary academic resources, such as journal articles, book chapters, books, and policy papers addressing higher education for forced migrants, this study relied on document analysis of institutional materials related to each selected case.

For WUSC’s SRP, the data sources included organizational materials such as annual reports, impact reports, news and blog posts, and materials from roundtable discussions. For SAR, this included the annual *Free to Think* report series, which examines global trends in attacks on higher education communities, SAR’s annual reports, research and learning materials, including handbooks, reports, courses, and workshops, as well as its *Free to Think* podcast series.

2) *Key Informant Interviews*: In qualitative research involving human participants, it is essential to obtain procedural ethics approval through “the formal processes of ethical board review.”⁹⁸ This study was reviewed and received ethics clearance from the Office of Research

⁹⁷ *Ibid* at 197 & 198.

⁹⁸ *Ibid* at 308.

Ethics and Integrity of the University of Ottawa (S-06-23-8222; see Appendix One). The ethics approval certificate is included in Appendix One. In addition to ethics approval, all participants were provided with an invitation letter and consent form outlining the purpose of the study and other necessary information regarding the interviews. Informed consent was obtained from all participants before the interviews. Participation was voluntary, and participants were informed of their right to withdraw at any time. Interviews were conducted in a confidential manner, and identifying information has been anonymized. However, if the structure of the chapters reveals an interviewees' affiliation with a particular institution, consent was obtained. Audio and video recordings and transcripts were securely stored in a password-protected format on a private laptop and cloud storage service. The invitation letter and consent form are included in Appendices Three and Four.

The interviews were conducted with current and former individuals based at the headquarters and those at institutional WUSC and SAR committees. Five participants were interviewed for each initiative (ten in total), and this number was considered sufficient to reach informational saturation. Since the pool of individuals with direct experience in the design and implementation of these initiatives was limited, particularly in the case of SAR, this study attempts to capture a meaningful range of perspectives within each case. Further interviews would likely result in repetition of ideas while also raising concerns for preserving participants' anonymity. Due to the small sample size, the findings cannot be generalized beyond the participants' experiences and perspective. Forced migrants, as beneficiaries of these initiatives, were not interviewed because the research focused on analyzing the institutional structure and operation of the WUSC's SRP and SAR initiatives.

Participants were selected based on their level of experience, familiarity with the initiatives, and their willingness to share their experiences. To identify key informants, I began by approaching my networks to locate individuals in both initiatives. For WUSC's local committees, I circulated emails through relevant mailing lists as a public call to reach individuals working within the local committees. For SAR, I checked the SAR network and SAR Canada websites to identify focal persons at member institutions and contacted them directly to ask if they were interested in participating in an interview or to connect me with other relevant contacts.

The interviews were semi-structured and guided by a set of open-ended questions and thematic prompts; however, neither the precise wording nor the order of questions was predetermined.⁹⁹ This approach provided flexibility during the interviews, allowing space for participants to elaborate on issues they considered significant. The semi-structured format also enabled me “to respond to the situation at hand, to the emerging worldview of the respondent, and to new ideas on the topic.”¹⁰⁰

The interviews were conducted online via Zoom and Microsoft Teams platforms. Conducting the interviews online enabled flexibility in participant selection without geographical constraints,¹⁰¹ which was particularly relevant in the SAR case, given that its headquarters is located in New York. In addition, the online format facilitated audio and video recording, with the permission of the interviewee, allowing for careful review of verbal and non-verbal cues and more efficient transcription for the analysis phase.¹⁰²

⁹⁹ Merriam & Tisdell, *supra* note 91 at 110.

¹⁰⁰ *Ibid* at 110 & 111.

¹⁰¹ Tisdell, Merriam & Stuckey-Peyrot, *supra* note 91 at 145.

¹⁰² *Ibid* at 146.

Each interview lasted approximately two hours, and the interview guide, available in Appendix Two, was structured around three major thematic areas. The first theme, *Perception of Protection through Higher Education Initiatives*, explored how participants understand the relationship between higher education initiatives and the concept of protection in the context of forced migration. The second theme, *Empowerment, Impacts, and Evaluation Mechanism(s)*, examined how these initiatives contribute to the empowerment of forced migrants and how their effectiveness is assessed. The final theme, *Advocacy and Future Prospects*, focused on the broader role of WUSC and SAR Canada in shaping public discourse and influencing future developments in protection through higher education.

The interview guide was deliberately designed to remain broad and flexible to capture a wide range of perspectives across the two initiatives. It combined conceptual questions about the interviewees' perceptions of protection with practical questions based on their experiences with the initiatives. As explained earlier, the interview guide was organized around three thematic areas, which structured the overall design. Under each theme, questions were then developed using key terms found through background research on both cases, including reviewing institutional websites, program reports, and relevant academic and policy literature. These keywords shaped the wording and focus of the questions within each theme.

For the first theme, questions were focused on program stages, specific approaches, challenges, barriers, partnership and collaboration, immigration procedure, and settlement services. For the second, the questions addressed concepts such as empowerment, effectiveness, resilience, agency, inclusion, social integration, vulnerability, and transition. The third theme was guided by forward-looking terms such as program expansion, future plans, advocacy, policy and practices, and potential growth. This approach allowed me to explore the meaning of protection

in connection with different key terms and, at the same time, supported the analytical process by helping identify recurring patterns across participants' responses.

1.4.1.2.2. Data Analysis

In qualitative research, data consist of textual and narrative materials through which participants' experiences, perspectives, and institutional practices can be understood.¹⁰³ It is through the process of analysis that these materials are interpreted and organized in relation to the study's conceptual framework. According to Merriam and her co-authors, there is no single "right way" to conduct qualitative analysis, and the process is inherently recursive, dynamic, and rigorous.¹⁰⁴ Codes and themes may emerge gradually and are continuously revised as the researcher revisits the data.¹⁰⁵

A similar pattern shaped the analysis in this study. Although the interview guide was organized around three broad thematic areas, the analytical process was not confined to that initial structure. As interviews were conducted and transcripts reviewed, additional themes related to the concept and unique features of protection began to emerge which were beyond the original thematic groups. This was partly due to the different roles of interviewees within each initiative, which provided perspectives that complemented the initial interview guide. Through careful and iterative reading of the transcripts, I developed sub-themes and grouped relevant quotes under each of them. In this process, recurring patterns across participants' responses became more visible. These major patterns were then examined in relation to the existing academic literature to support the interpretation of the findings. Since the dataset comprised

¹⁰³ See *Ibid* at 133.

¹⁰⁴ *Ibid* at 231.

¹⁰⁵ *Ibid*.

approximately 200 pages of interview transcripts, the analysis was conducted manually, without the use of any specific software.

A key concern in qualitative research relates to the credibility and responsible representation of findings. Readers need to be assured not only that the analysis is trustworthy and grounded in the data, but also that participants' contributions are presented accurately and ethically.¹⁰⁶ While validation procedure in qualitative research is complex, this study sought to strengthen credibility in several ways. In addition to ethical safeguards, such as voluntary participation, confidentiality, and anonymity, the information drawn from interviews and used in the analysis was shared with participants for verification. A draft containing direct quotations, marked as participants' exact words, as well as sections paraphrased in my own language but derived from the interviews, was sent to to each interviewee to ensure accuracy and faithful representation of the data. In some instances, interviewees were also invited to review and provide feedback on case chapters to verify factual details and institutional information.

It is also worthwhile to note that, while no direct identifiers were used in the case study chapters, quotations were sometimes presented under institutional headings or relevant narratives, which could reveal an interviewee's affiliation with a particular institution. To address this concern, participants were informed of this possibility and their consent was obtained prior to finalizing the chapters.

1.5. Structure of the Thesis

This thesis is organized in a general-to-specific progression, moving from broader conceptual discussions to more detailed case analysis. It begins by reconstructing the legal meaning of "protection" within international refugee law, then examines the normative

¹⁰⁶ *Ibid* at 279–313.

foundations of higher education in international human rights, and finally brings these elements together in the Canadian context before turning to two institutional case studies.

Chapter Two traces the trajectory of the concept of protection in international refugee law and identifies its core elements, beneficiaries, and actors. The chapter establishes a doctrinal understanding of protection as both the absence of persecution and the presence of fundamental human rights. This understanding provides the conceptual foundation for the remainder of the thesis.

Building on this legal foundation, *Chapter Three* turns to higher education, analyzing its definition, normative grounding in international human rights law, and its intrinsic and instrumental value(s) for forced migrants. By examining structural barriers and the role of academic freedom as part of right to higher education, the chapter situates higher education as a social good, a human right, and a means of access to other human rights. It also examines the role of universities as rights-based institutions that contribute to the provision of protection for forced migrants.

Chapter Four brings these conceptual discussions into the Canadian context. It outlines Canada's refugee protection framework and situates higher education within the domestic constitutional and legislative structure. This chapter demonstrates that the intersection between protection and higher education is embedded within Canada's legal and institutional arrangements.

Chapter Five and *Chapter Six* examine how protection is operationalized through higher education initiatives in practice. Chapter Five analyzes WUSC's SRP protection model that combines resettlement with tertiary education, highlighting its partnership structure, peer-to-peer model, and emphasis on empowerment. Chapter Six turns to SAR, examining academic freedom

as a core element of protection, as well as other unique features of temporary protection, decentralized model, and integration mechanisms.

Finally, *Chapter Seven* synthesizes the doctrinal and empirical findings of the study to respond to the central research question. It reflects on whether higher education initiatives contribute to rethinking the contemporary understanding of protection within refugee law and clarifies the thesis's contribution. The chapter also identifies the limitations of the study and outlines directions for future research.

Chapter Two:

‘Protection’: Trajectory of the Concept in International Refugee Law

2.1. Introduction

Protection is the core purpose of international refugee law; however, its meaning has never been straightforward. Throughout history, the idea of protection has appeared in different legal, ethical, and philosophical traditions, including natural law principles and early ideas concerning human dignity and the moral responsibility to protect individuals from harm. Although the concept has much older roots, the background of this chapter is not intended to provide a comprehensive account of the historical evolution of protection. Instead, it examines the concept within the framework of international refugee law. For this reason, the discussion begins with the Peace of Westphalia as a historical reference point for the emergence of state sovereignty and the nation-state system. These developments provide the legal and political context within which international law evolved and, subsequently, the 1951 Refugee Convention and the contemporary refugee protection regime were established.

This chapter primarily draws upon the principal sources of international refugee law, including the 1951 Refugee Convention, the 1967 Protocol, regional instruments, related international human rights and international humanitarian law instruments, and selected UNHCR materials. The discussion of treaty provisions is informed by the general rules of treaty interpretation reflected in Articles 31 to 33 of the 1969 Vienna Convention on the Law of Treaties. These sources inform the discussion of protection in international refugee law and provide the legal context for further analysis. However, neither the 1951 Refugee Convention nor the 1967 Protocol provides a single definition of protection. Similarly, while UNHCR materials provide important interpretive guidance on different aspects of international protection, they do not provide a conceptual discussion of protection as a multidimensional concept or explain the broader debates surrounding its complexity. Understanding protection therefore requires looking

not only at the legal framework established by these sources but also at why the concept is complex and how it has been interpreted and debated within refugee law scholarship. Consequently, this chapter also draws upon relevant refugee law scholarship as a subsidiary interpretive source. The works of Hathaway, Storey, Foster, McAdam, Goodwin-Gill, Stevens and others are discussed not as primary sources of international law, but because they engage directly with the conceptual debates surrounding protection and have sought to explain its different dimensions. Accordingly, the chapter is organized around the principal dimensions of protection rather than following the formal hierarchy of sources of international law. Within each dimension, the relevant primary legal sources are discussed alongside doctrinal scholarship to highlight the conceptual debates surrounding protection and its multidimensional nature.

Considering these explanations, the chapter first outlines the historical background, then explore protection through international humanitarian law and international human rights law. The discussion then turns to how refugee law conceptualizes protection and different dimensions of the concept: who the beneficiaries are, what constitutes persecution and the core of protection, and which actors are responsible for providing it. Finally, it explains the termination of protection through cessation clauses and the framework of durable solutions.

2.2. Background

Protection as a legal and political concept can be connected to the Treaty of Westphalia in 1648, which marked the emergence of state sovereignty. Westphalian sovereignty focused on the nation-state's right "to monopolize certain exercises of power with respect to its territory and citizens."¹⁰⁷ This framework identified states as the primary authorities over their populations,

¹⁰⁷ John H Jackson, "Sovereignty - Modern: A New Approach to an Outdated Concept" (2003) 97 Am J Int'l L 782 at 782.

positioning them as the main actors responsible for the protection of individuals within their borders.¹⁰⁸

Over time, the concept of protection emerged in treaties related to protecting members of religious groups from their own sovereign.¹⁰⁹ An example of this is the 1774 Treaty of Küçük Kaynarca, signed between Turkey and Russia, aimed at protecting the Christian religion and its churches within Turkish territory.¹¹⁰ This treaty can be considered as “one of the first instances that a sovereign State was expressly prohibited from engaging in mistreatment of a religious minority within its own political borders by another sovereign State.”¹¹¹

When the League of Nations was established, the concept of protection was institutionalized in relation to ethnic and national minorities, building on bilateral treaties between the victorious Allied powers of the First World War and individual nation-states.¹¹² These treaties focused on prohibition of discrimination, equality for all inhabitants in terms of personal liberty and free exercise of religion, and the right to use their own language in the private, judicial, and educational settings.¹¹³ At that time, the League’s main role was to act as a ‘guarantor’ to ensure that states fulfilled their obligations towards national minorities.¹¹⁴

¹⁰⁸ See Alexander Betts, Gil Loescher & James Milner, *UNHCR: The Politics and Practice of Refugee Protection*, 2nd edn (Abingdon, Oxon: Routledge, 2012) at 7. Also see PA Hayman & John Williams, “Westphalian Sovereignty: Rights, Intervention, Meaning and Context” (2006) 20:4 Global Soc 521–541.

¹⁰⁹ See Ramcharan, *supra* note 4 at 12.

¹¹⁰ *Ibid* at 13.

¹¹¹ Mustafa Aijazuddin, “Protection of Religious and Ethnic Minorities Before The Genocide Convention” (2020) 16:2 Loy U Chi Int’l L Rev 145 at 159.

¹¹² Harald Christian Scheu, “The heritage of the League of Nations’ minority protection system” (2020) 61:4 Acta Jur Hung 356 at 358 & 359.

¹¹³ *Ibid*.

¹¹⁴ See Lucy Mair, “The Machinery of Minority Protection” (1928) 7:4 J Royal Inst Intl Aff 256–266 at 256–266. Also see Jennifer Jackson Preece, “The League of Nations System of Minority Guarantees (1919–1939)” in Jennifer Jackson Preece, ed, *National Minorities and the European Nation-States System* (Oxford: Oxford University Press, 1998) 67 at 73. Also see “Report Presented by M. Tittoni and Adopted by the Council of the League of Nations on October 22nd, 1920” (1920), online (pdf): <www.forost.ungarisches-institut.de/archive.org/details/19201022-1> [archive.org/details/19201022-1] at 1. “[...] it may be advisable at the outset to define clearly the exact meaning of the term “guarantee of the League of Nations”. It seems clear that this stipulation means, above all, that the provisions for the protection of minorities are inviolable-is to say, they cannot be modified in the sense of violating in any way rights actually recognized and

In addition to protecting ethnic and national minorities, the League of Nations played a significant role in recognizing civilians displaced by the First World War. In 1921, the League appointed Fridtjof Nansen as High Commissioner for Refugees to assist Russian civilians who had fled their homes and not had acquired another nationality.¹¹⁵ At that time, protection was centred around three remedial measures: first, the recognition of legal status for refugees; second, facilitating repatriation, emigration, or employment; and third, providing material relief.¹¹⁶ Nansen's notable contribution was the introduction of an identity certificate system, commonly known as the 'Nansen Certificate'.¹¹⁷ This innovative approach enabled refugees to travel across borders, thereby facilitating their chances for emigration and employment in other countries.¹¹⁸

In the 1930s, the concept of protection became more closely tied to the legal definition of refugees and the obligation of host states to ensure humane treatment at their borders. With the adoption of the 1933 Convention Relating to the Status of Refugees, and the 1938 Convention Regarding the Status of Refugees from Germany, states provided legal measures to limit expulsion and refoulement of refugees.¹¹⁹ The 1933 Convention obligated states not to deny

without the approval of the majority of the Council of the League of Nations. Secondly, this stipulation means that the League must ascertain that the provisions for the protection of minorities are always observed.”

¹¹⁵ Ivor C Jackson, “Dr. Fridtjof Nansen a Pioneer in the International Protection of Refugees” (2003) 22:1 Refugee Survey Quarterly 7 at 7 & 8.

¹¹⁶ *Ibid* at 7.

¹¹⁷ *Ibid* at 13. *Convention relating to the International Status of Refugees*, 28 October 1933, Vol. CLIX LNTS 3663 [1933 Convention]. The first occasion that the refugee identity certificate was officially described as “Nansen Certificate” was in Article 2 of the 1933 Convention relating to the International Status of Refugees, adopted after the death of Nansen. It provided that: “Each of the Contracting Parties undertakes to issue Nansen certificates valid for not less than one year, to refugees residing regularly in its territory. The text of the said certificates shall include a formula authorizing exit and return Bearers of Nansen certificates which have not expired shall be free to leave the country which has issued these documents and return to it without requiring any authorisation on exit or visa from the consuls of that country on their return.”

¹¹⁸ *Ibid* at Article 2.

¹¹⁹ Weis, *supra* note 1 at 197.

entry to refugees at their frontiers, and the 1938 Convention prohibited forced return to Germany, except in cases where the refugee unreasonably refused to relocate to another country.¹²⁰

During 1938, in response to the fleeing of German Jews, the Intergovernmental Committee of Refugees (IGCR) was established to protect three groups of individuals: involuntary emigrants from Germany and Austria; individuals facing the need to emigrate due to political, religious, or racial factors in their home countries; and those who had already left their country of origin but had not yet resettled elsewhere.¹²¹ Regarding the second group, this was the first time that such a debate took place on expanding the concept of protection to include ‘would-be refugees’.¹²² It marked a shift from the traditional approach of offering protection upon arrival in host countries to a more proactive approach of anticipating potential movements and ensuring protection in advance.

During this period, refugee protection was understood in legal and political terms; however, none of the instruments adopted at the time offered an explicit definition.¹²³ Drawing on state practices, Goodwin-Gill explains that legal protection concerned the status, rights, and interests of forced migrants in other countries, while political protection referred to governmental interventions at the political level to address crises related to forced migration.¹²⁴

At the end of the Second World War, in 1945, the United Nations (UN) was established to promote peace and security in the world. In line with the League’s tradition, in 1946 the UN created the first International Refugee Organization (IRO) to address refugee protection and

¹²⁰ *Ibid.*

¹²¹ International Organization, “Intergovernmental Committee on Refugees” (1947) 1:1 University of Wisconsin Press 144 at 144.

¹²² “Intergovernmental Committee on Refugees: The West’s Response to Jewish Emigration” (last visited 18 April 2026), online: <<https://link.gale.com/apps/collection/3FGU/GDSC?u=otta77973&sid=bookmark-GDSC>>.

¹²³ Goodwin-Gill, *supra* note 9 at 7.

¹²⁴ *Ibid.*

regulate their status.¹²⁵ Although the IRO did not define the concept of protection, it explicitly recognized its mandate to provide ‘legal and political protection’ to forced migrants.¹²⁶ The IRO Constitution gave official definitions to the terms ‘refugee’ and ‘displaced person,’ marking an early step toward a shared understanding at the international level.¹²⁷ It also referred to the concept of ‘persecution,’ which later became central to the definition of refugees.¹²⁸

At that time, the spirit of protection was humanitarian in nature, emphasizing that refugees who were forced to flee their home countries should be treated with dignity and compassion.¹²⁹ The concept of protection became closely tied to international human rights law, as violations of these rights were understood to be a primary cause of refugee movements.¹³⁰ Within this context, the Universal Declaration of Human Rights (UDHR) was adopted, proclaiming the right to seek asylum as a human right.¹³¹

Building on this spirit, after the liquidation of the IRO, the General Assembly recognized that the nature and scope of refugee crises had become a matter of international concern and

¹²⁵ Paul Weis, “Human Rights and Refugees” (1971) 1 Isr YB Hum Rts 35 at 37.

¹²⁶ *Constitution of the International Refugee Organization*, 15 December 1946, entered into force 20 August 1948 (adopted by UNGA Res 62(I)) [IRO Constitution]. [archive.org/details/ch-v-1p]. Article 2 (Functions and Powers) stated that “The functions of the Organization to be carried out in accordance with the purposes and the principles of the Charter of the United Nations, shall be: the repatriation; identification, registration and classification; care and assistance; legal and political protection; transport; and the re-settlement and re-establishment, in countries able and willing to receive them [...].”

¹²⁷ *Ibid* at Section A (1) (Definition of Refugees): “[T]he term “refugee” applies to a person who has left, or who is outside of, his country of nationality or of former habitual residence, and who, whether or not [...] had retained his nationality [...]” Also see Annex I, Part I, Section A (2): “[T]he term “refugee” also applies to a person, other than a displaced person [...] who is outside of his country of nationality or former habitual residence, and who, as a result of events subsequent to the outbreak of the second world war, is unable or unwilling to avail himself of the protection of the Government of his country of nationality or former nationality.” Also see Annex I, Part I, Section B (Definition of Displaced Persons): “The term “displaced person” applies to a person who, [...] has been deported from, or has been obliged to leave his country of nationality or of former habitual residence, such as persons who were compelled to undertake forced labour or who were deported for racial, religious or political reasons.”

¹²⁸ Jackson, *supra* note 12 at 405.

¹²⁹ *Ibid* at 403.

¹³⁰ Vincent Chetail, “Are Refugee Rights Human Rights? An Unorthodox Questioning of the Relations between Refugee Law and Human Rights Law” *supra* note 13 at 19.

¹³¹ *Universal Declaration of Human Rights*, UNGA, 3rd Sess, UN Doc A/810 (1948) GA Res 217A (III) [UDHR]. Article 14 (1): Everyone has the right to seek and to enjoy in other countries asylum from persecution. And Jackson, *supra* note 12 at 403.

should fall under the responsibility of the UN.¹³² In 1950, under Resolution 428(V), the Statute of the United Nations High Commissioner for Refugees (UNHCR) was adopted,¹³³ establishing a clear mandate to provide international protection to refugees:

“[UNHCR] shall assume the function of providing international protection, under the auspices of the United Nations, to refugees [falling] within the scope of the present Statute and of seeking permanent solutions for the problem of refugees by assisting Governments and, [with their approval,] private organizations to facilitate the voluntary repatriation of such refugees, or their assimilation within new national communities.”¹³⁴

By establishing the UNHCR, the UN sought to strengthen the international framework for refugee protection and to promote cooperation among states.¹³⁵ The 1951 Refugee Convention gave effect to this vision by defining who qualified as a refugee and setting out the obligations of signatory states to protect refugees’ human rights.¹³⁶ The adoption of the 1967 Protocol Relating to the Status of Refugees expanded the 1951 Convention’s scope, making it applicable to all refugees around the world, regardless of the time or place of their displacement.¹³⁷

2.3. Definitional Challenges: Insights from International Humanitarian Law and International Human Rights Law

Although protection is central to international refugee law, the term itself is not clearly defined in the 1951 Refugee Convention or the 1967 Protocol. These instruments rely on contextual provisions, such as the definition of a refugee, the principle of non-refoulement, and

¹³² Resolutions Adopted on the Reports of the Third Committee (1949) IV 319 (A), online: <www.unhcr.org/publications> [perma.cc/5N4B-J9CM] at para one and two. Also see Goodwin-Gill, *supra* note 9 at 8.

¹³³ *Statute of the Office of the United Nations High Commissioner for Refugees*, GA Res 428(V), UNGAOR, 5th Sess, Supp No 20, UN Doc A/1775, at 46, Annex (14 December 1950) [UNHCR Statute].

¹³⁴ *Ibid* at Chapter 1 (General Provisions) (1).

¹³⁵ Julia Morris, “The Value of Refugees: UNHCR and the Growth of the Global Refugee Industry” (2021) 34:3 *Journal of Refugee Studies* 2676 at 2685.

¹³⁶ *Ibid*.

¹³⁷ See “The 1951 convention Relating to the Status of Refugees and Its 1967 Protocol: Signing on could make all the Difference” (2001) 20:3 *Refugee Survey Quarterly* 105 at 107.

surrogate state duties to operationalize protection without providing an explicit definition. In contemporary debates on forced migration, however, the absence of a clear definition has become problematic, particularly due to the emergence of terms such as ‘temporary protection,’ ‘complementary protection,’ ‘surrogate protection,’ and ‘humanitarian protection’ alongside ‘international protection’ and ‘legal and political protection.’¹³⁸ The proliferation of these concepts, combined with the influence of international human rights law and international humanitarian law (IHL) on refugee law, has further complicated the task of interpretation.¹³⁹ Against this background, the following sections examine these two legal frameworks as key normative foundations of refugee law to clarify their roles in shaping the meaning of protection.

2.3.1. International Humanitarian Law

International humanitarian law (IHL)’s core instruments, particularly the 1949 Geneva Conventions and their Additional Protocols, are structured around the protection of specific groups of individuals, including civilians, wounded combatants, prisoners of war, and other vulnerable populations during armed conflicts.¹⁴⁰ Within this framework, protection is understood as the taking of practical measures to safeguard individuals during armed conflict.

This action-oriented understanding has been reflected in UN reports in conflict-affected areas. In 1988, for example, the Secretary-General submitted a report to the Security Council regarding the situation in the Occupied Palestinian Territories (the Goulding Report), in which he introduced four types of protection for the Palestinian civilian population: First, ‘physical protection’ refers to the deployment of armed forces to deter and, if required, combat threats to

¹³⁸ Stevens, *supra* note 15 at 234.

¹³⁹ *Ibid.*

¹⁴⁰ See Roberto Kolb & Katherine Del Mar, “Treaties for Armed Conflict” in Andrew Clapham & Paola Gaeta, eds, *The Oxford Handbook of International Law in Armed Conflict* (Oxford: Oxford University Press, 2014) 51–88.

the safety of individuals or groups.¹⁴¹ Second, ‘legal protection’ involves the intervention of an outside agency with the security, judicial, and political authorities of the occupying power to ensure equitable treatment of individuals or groups within the territory.¹⁴² Third, ‘general assistance’ refers to the intervention of external agencies with the authorities of the occupying power to support individuals or groups in resisting violations of their rights and coping with the day-to-day difficulties of life under occupation.¹⁴³ Finally, ‘intangible protection’ or ‘protection by publicity,’ relates to the presence and readiness of the international media in reporting on the situation.¹⁴⁴

A similar practical approach is evident in the work of the International Committee of the Red Cross (ICRC), which acts as the guardian of IHL.¹⁴⁵ In Red Cross action ““to protect” implies preserving victims of conflicts who are in the hands of an adverse authority from the dangers, sufferings and abuses of power to which they may be exposed, defending them and giving them support.”¹⁴⁶

In 1996, the ICRC initiated a process to explore different ways to better protect civilian victims of conflict. For four consecutive years, experts from non-governmental humanitarian organizations met in working groups organized by the ICRC to examine the meaning and practice of protection.¹⁴⁷ The main rationale for organizing these workshops was the lack of a common standard for implementing protection. As noted in the ICRC report, “No similar

¹⁴¹ *Report to the Security Council in accordance with resolution 605 (1987)*, submitted by Secretary-General, S/19443 (21 January 1988) online: <www.digitallibrary.un.org> [archive.org/details/s-19443-en] at 10 & 11.

¹⁴² *Ibid.*

¹⁴³ *Ibid.*

¹⁴⁴ *Ibid.*

¹⁴⁵ See Kelisiana Thynne, “The Role of the International Committee of the Red Cross” in Rain Livoja & Tim McCormack, eds, *Routledge Handbook of the Law of Armed Conflict*, 1st edn (London: Routledge, 2016) 477–491.

¹⁴⁶ “The ICRC, the League and the Report on the re-appraisal of the Role of the Red Cross (III): Protection and assistance in the event of armed conflict” (1978) 18:205 *Int Rev Red Cross* 205 at 206.

¹⁴⁷ Sylvie Giossi Caverzasio, ed, “Strengthening Protection in War: A Search for Professional Standards” (2001), online(pdf): ICRC <www.globalprotectioncluster.org> [archive.org/details/icrc-protection-war] at 6.

yardstick exists for protection: neither the word nor the concept has the same shared understanding. Protection means something different for each organization, depending on its mandate and working methods. Moreover, each organization uses its own vocabulary, which may not align with that of others and can lead to misunderstandings.”¹⁴⁸

During the third workshop in 1999, the goal was to formulate a conceptual framework that would help participants reach a shared understanding of ‘protection’ by identifying the specific ‘activities’ associated with it.¹⁴⁹ They defined protection activity as:

“all activities aimed at ensuring full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law, i.e. human rights law, international humanitarian law and refugee law. Human rights and humanitarian organizations must conduct these activities in an impartial manner (not on the basis of race, national or ethnic origin, language or gender)”.¹⁵⁰

In this workshop, participants proposed a protection framework known as the “Egg Model,” which outlines three categories of protection activities based on the practices of human rights and humanitarian organizations. These activities are “non-hierarchical and interdependent [... with] the possibility of carrying them out simultaneously.”¹⁵¹ According to Stevens, “their understanding of protection acknowledges a rights-based approach, but [in an extremely] action-oriented [pattern].”¹⁵²

¹⁴⁸ *Ibid* at 18.

¹⁴⁹ *Ibid* at 12.

¹⁵⁰ *Ibid* at 19.

¹⁵¹ *Ibid* at 20.

¹⁵² Stevens, *supra* note 15 at 243 & 244.

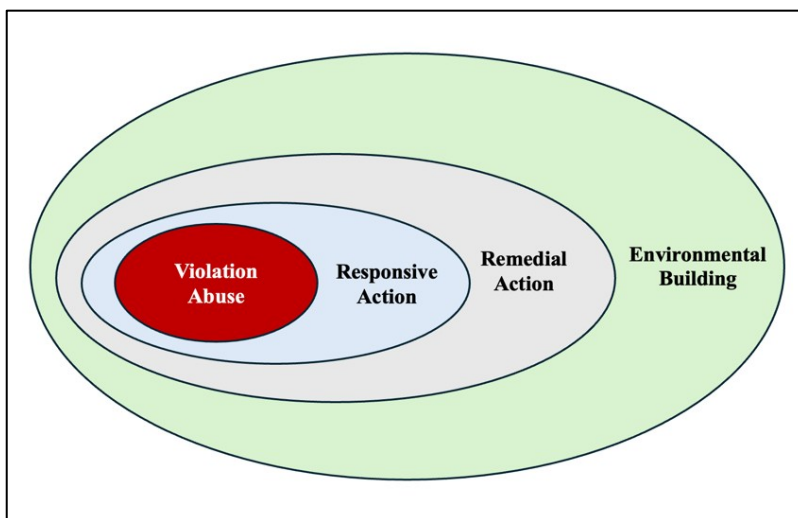


Figure 1: The Egg Model¹⁵³

In this model, when patterns of abuse occur, the first layer involves responsive action, which aims to prevent further recurrence, stop ongoing harm, and alleviate immediate effects.¹⁵⁴ The second layer is remedial action, which focuses on restoring people's dignity and ensuring adequate living conditions after the abuse.¹⁵⁵ The third and final layer is environment-building, which involves creating conditions that promote full respect for human rights across all areas of life.¹⁵⁶

The question is whether this practical and action-oriented approach to understanding protection can be transplanted from IHL to refugee law. Certain aspects of it may be relevant; however, action-oriented protection is often context-based and emerges in response to specific political or territorial situations. For instance, as discussed above, the UN report was prepared in response to Security Council resolution 605 (1987),¹⁵⁷ which requested the Secretary-General to examine the situation of civilians in the Occupied Palestinian Territory and to propose possible

¹⁵³ Giossi Caverzasio, *supra* note 147 at 21.

¹⁵⁴ *Ibid.*

¹⁵⁵ *Ibid* at 22.

¹⁵⁶ *Ibid.*

¹⁵⁷ See Resolution 605 (1987), online: <www.docs.un.org> [archive.org/details/res605] S/RES/605.

means of protection in that area.¹⁵⁸ As a result, the scope and mandate of protection outlined in that report remain confined to those specific circumstances.

With regard to the Egg Model, although it represents an important effort to clarify the nature of protection activities, Stevens argues that the attempt to adopt an all-encompassing, activity-focused definition of ‘protection’ ultimately undermined conceptual clarity.¹⁵⁹ In her view, the Egg Model incorporates definitions of protection activities from different legal regimes, including IHL, human rights, and refugee law, which are, in her terms, so broad as to be almost meaningless.¹⁶⁰ Furthermore, the Egg Model and the definition of protection activities make no reference to refugees or asylum seekers, who are key beneficiaries of protection alongside civilians.¹⁶¹ This omission risks overlooking the role of states alongside humanitarian organizations, thus limiting the effectiveness of the definition within refugee law.¹⁶² Due to these limitations, the Egg Model and the definition of ‘protection activity’ do not fully capture the legal and institutional dimensions of refugee protection. Protection in refugee law, as Storey argues, is contextually sensitive and must be specified within its own legal framework.¹⁶³

Another related discourse on protection within the IHL context is the doctrine of Responsibility to Protect (R2P), developed by the UN and other international actors in 2005. The doctrine affirms that states have a responsibility to protect their populations from specific crimes

¹⁵⁸ See United Nations General Assembly, “Protection of the Palestinian civilian population Report of the Secretary-General” (2018) A/ES-10/794, online (pdf): <www.un.org> [web.archive.org/web/20231214002530/https://www.un.org/unispal/wp-content/uploads/2018/08/A.ES_.10.794.pdf] at 1.

¹⁵⁹ Dallah Stevens, *supra* note 15 at 244.

¹⁶⁰ *Ibid.*

¹⁶¹ *Ibid.*

¹⁶² See *Ibid.*

¹⁶³ Hugo Storey, “The Meaning of “Protection” within the Refugee Definition” (2016) 35:3 Refugee Survey Quarterly 1 at 3.

of genocide, war crimes, ethnic cleansing, and crimes against humanity.¹⁶⁴ As stated by the UN formulation, “[t]his responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means.”¹⁶⁵ As Storey notes, under R2P, protection is framed in terms of ‘populations’ extending to both nationals and non-nationals within a state’s territory.¹⁶⁶ Although this approach is a shift away from the traditional reliance on the bond of allegiance between citizen and state, its scope are limited to a “narrow subset of dangers”.¹⁶⁷

2.3.2. International Human Rights Law

International human rights law is another legal framework that closely intersects with refugee law. While the two are treated as distinct branches of international law, they are in practice closely connected through their shared objective of protecting individuals from serious harm. As Goodwin Gill highlighted “the refugee problem cannot be considered apart from the field of human rights as a whole, which touches on both causes and solutions[.]”¹⁶⁸

Historically, human rights treaties such as the ICCPR and the ICESCR, were adopted after the establishment of refugee law.¹⁶⁹ This chronological disjuncture has influenced the interaction between these two legal frameworks and the content, language, and tone of the 1951 Refugee Convention and its 1967 Protocol.¹⁷⁰ As a primary instrument of refugee law, the 1951

¹⁶⁴ United Nations General Assembly, “2005 World Summit Outcome” (2005) A/60/L.1, online: <www.un.org/web.archive.org/web/20250702072512/https://peacemaker.un.org/sites/default/files/document/files/2022/08/gaworld-summit-outcome-documentaires601english0.pdf> at para 138.

¹⁶⁵ *Ibid.*

¹⁶⁶ Storey, *supra* note 163 at 3.

¹⁶⁷ *Ibid* at 2.

¹⁶⁸ Guy S Goodwin-Gill, “The International Law of Refugee Protection” in Elena Fiddian-Qasmiyeh et al, eds, *The Oxford Handbook of Refugee and Forced Migration Studies*, 1st edn (Oxford University Press, 2014) 36 at 43.

¹⁶⁹ Chetail, “Are Refugee Rights Human Rights? An Unorthodox Questioning of the Relations between Refugee Law and Human Rights Law”, *supra* note 13 at 40. As Chetail explained “In 1951, the individual did not have human rights conventionally binding at the universal level. One would have to wait for fifteen years after the adoption of the Geneva Convention for the UN Covenants to give a conventional basis to the rights identified in the UDHR.”

¹⁷⁰ See Chetail, “Moving Towards an Integrated Approach of Refugee Law and Human Rights Law”, *supra* note 13 at 204 & 205.

Convention adopts a duty-based approach, focusing primarily on states' obligations rather than individual rights and offering a model of protection that is selective and conditional.¹⁷¹ Under refugee law, protection is available only to individuals who meet specific eligibility criteria, who are outside their country of origin, and who are lawfully present in the host countries.¹⁷² The 1951 Convention is structurally decentralized, granting states significant discretion in implementing protection measures, without detailed procedural guidelines or a formal monitoring mechanism.¹⁷³

The later adoption of human rights treaties introduced a more balanced framework by placing the fact of being “human” as the starting point of protection.¹⁷⁴ Human rights treaties recognize human beings, including refugees, as subjects of law rather than beneficiaries of standards agreed upon by states.¹⁷⁵ Although the relationship between the two legal frameworks initially took the form of a causal link, where human rights violations were seen as drivers of displacement, over time it evolved into a more integrated approach in which refugees' rights are increasingly articulated through international human rights law.¹⁷⁶

The complementary role of human rights in relation to refugee law can be seen in four major areas. First, identifying and introducing new vulnerable groups, in addition to refugees, who are in need of protection, such as internally displaced persons (IDPs) and stateless persons.¹⁷⁷ Second, expanding the threshold requirements of the conventional refugee definition to include serious human rights violations such as the deprivation of life, the imposition of the

¹⁷¹ *Ibid* at 205 & 206.

¹⁷² *Ibid*.

¹⁷³ *Ibid*.

¹⁷⁴ Harvey, “Time for Reform?”, *supra* note 14 at 44.

¹⁷⁵ Chetail, “Moving Towards an Integrated Approach of Refugee Law and Human Rights Law”, *supra* note 13 at 205.

¹⁷⁶ *Ibid* at 203.

¹⁷⁷ *Ibid* at 208.

death penalty, torture, or cruel, inhuman, or degrading treatment or punishment.¹⁷⁸ Third, in countries that have not ratified the 1951 Refugee Convention, human rights instruments provide an alternative basis for protecting the rights of refugees.¹⁷⁹ Finally, human rights instruments provide an important benchmark for interpreting key concepts of the 1951 Refugee Convention such as persecution which will be discussed later.¹⁸⁰

Overall, the growing influence of human rights law on refugee law has made it difficult to draw a clear line between these two legal regimes. Scholars such as Simeon argue that the vast majority of the articles within the 1951 Refugee Convention deal with human rights, positioning the Convention as part of the broader human rights framework.¹⁸¹ Chetail similarly reinforces this view, stating that “human rights law is the primary source of refugee protection, while the Geneva Convention is bound to play a complementary and secondary role.”¹⁸² In this context, it would be difficult to analyze the concept of protection in refugee law without reference to human rights law.

2.4. What is the Meaning of ‘Protection’ in Refugee Law?

In refugee law, protection is understood as a “term of art,”¹⁸³ whose meaning depends on context or, as Storey framed it, is “contextually sensitive”.¹⁸⁴ The drafters of the 1951

¹⁷⁸ Jane McAdam, “Complementary Protection” in Cathryn Costello, Michelle Foster & Jane McAdam, eds, *The Oxford Handbook of International Refugee Law*, 1st edn (Oxford University Press, 2021) 661 at 665 & 666.

¹⁷⁹ See Chetail, “Moving Towards an Integrated Approach of Refugee Law and Human Rights Law”, *supra* note 13 at 213–215.

¹⁸⁰ Chetail, “Are Refugee Rights Human Rights? An Unorthodox Questioning of the Relations between Refugee Law and Human Rights Law”, *supra* note 13 at 26.

¹⁸¹ James C Simeon, “The Human Rights Bases of Refugee Protection in Canada” in Bruce Burson & David James Cantor, eds, *Human Rights and the Refugee Definition* (Leiden, Netherlands; Boston, Massachusetts: Brill | Nijhoff, 2016) 86 at 87. “[T]he vast majority (67%) – deal with the human rights guarantees for those who are determined to be refugees. It is trite, then, to note that Refugee Convention is an international human rights instrument.”

¹⁸² Chetail, “Are Refugee Rights Human Rights? An Unorthodox Questioning of the Relations between Refugee Law and Human Rights Law”, *supra* note 13 at 22.

¹⁸³ Goodwin-Gill, *supra* note 9 at 6.

¹⁸⁴ Storey, *supra* note 163 at 3.

Convention sought to clarify the concept through two principal spheres: the threshold criteria for identifying refugees and the rights attached to refugee status.¹⁸⁵ As Paul Weis explained, in the Travaux préparatoires, these efforts are reflected in Article 1, which plays a critical role in outlining the basis on which protection is granted, denied, or discontinued.¹⁸⁶ The concept articulated in Article 1 is further shaped by three guiding principles found in Articles 3, 31, and 33.¹⁸⁷ Article 3 sets out non-discrimination obligations, Article 31 ensures non-penalization of refugees on account of their illegal entry or presence in host countries without authorization, and Article 33 focuses on the non-refoulement principle, prohibiting states from returning refugees to a place where their life or freedom would be at risk.¹⁸⁸ These articles form the foundation of the 1951 Refugee Convention, encapsulating its core principles and reflecting the complex nature of protection in refugee law.¹⁸⁹

Once an individual is recognized as a refugee under Article 1, the 1951 Convention sets out provisions binding on states concerning refugees' rights in areas such as employment, access to court, public relief, freedom of movement, and education.¹⁹⁰ The inclusion of these provisions demonstrate that protection is not limited to the formal recognition of refugee status; it also requires that refugees' human rights be respected and secured. This rights-based understanding of

¹⁸⁵ See McAdam, *supra* note 15 at 20.

¹⁸⁶ Paul Weis, ed, *The Refugee Convention, 1951: The Travaux Préparatoires Analysed, with a Commentary* (Cambridge: Grotius Publications, 1995) [archive.org/details/Travaux] at 7.

¹⁸⁷ See Suman Momin, "A Human Rights Based Approach to Refugees: A Look at the Syrian Refugee Crisis and the Responses from Germany and the United States" (2017) 9 Duke F L & Soc Change 55 at 60.

¹⁸⁸ *Convention relating to the Status of Refugees*, 28 July 1951, 189 UNTS 146 (entered into force 22 April 1954) [1951 Refugee Convention].

¹⁸⁹ United Nations High Commissioner for Refugees, "Information Note on Article 1 of the 1951 Convention" (1 March 1995), online: <www.refworld.org/docid/3ae6b32c8.html> [archive.ph/MogsN].

¹⁹⁰ See 1951 Refugee Convention, *supra* note 188.

protection later became more explicit in UNHCR strategies and practices.¹⁹¹ In its 2008 manual on protection operations in refugee communities, UNHCR explained:

“Protection, which includes physical security and the restoration of human dignity, involves supporting communities to rebuild their social structures, realize their rights, and find durable solutions. Protection encompasses all activities aimed at ensuring that women, girls, boys and men of all ages and backgrounds have equal access to and can enjoy their rights in accordance with the letter and spirit of the relevant bodies of law, including international refugee law, international human rights law and international humanitarian law.”¹⁹²

The question then arises, how do legal scholars understand protection in refugee law? In this context, protection is often described as multi-dimensional, a complexity that has generated conceptual debates. Scholars such as Hathaway demonstrate that protection performs multiple roles within the 1951 Refugee Convention. In Article 1 alone, the term appears five times, referring to internal protection, assistance, and the denial of protection.¹⁹³ Protection is also closely tied to the notion of persecution within refugee definition, since the absence or failure of state protection may give rise to serious harm and forced displacement.¹⁹⁴ Given these different roles, Hathaway cautions “against an overly aggressive search for a definitive and universally applicable meaning of ‘protection.’”¹⁹⁵ Storey, however, argues that the multiplicity of roles does not mean multiplicity of concepts; to treat protection in that way would make it impossible to achieve a coherent definition of the term.¹⁹⁶

¹⁹¹ See Ilse Griek, “The «rights turn» in refugee protection: an analysis of UNHCR’s adoption of the human rights based approach” (2017) 6 DJHR 73–90 at 75.

¹⁹² United Nations High Commissioner for Refugees, “UNHCR Manual on a Community Based Approach in UNHCR Operations” (2008), online: <www.refworld.org> [archive.org/details/unhcr-manual] at 11.

¹⁹³ Hathaway & Storey, *supra* note 10 at 484.

¹⁹⁴ *Ibid.*

¹⁹⁵ *Ibid.*

¹⁹⁶ *Ibid* at 488.

The common ground between these different perspectives is the interpretation of the concept in light of the close relationship between refugee law and international human rights law. It is widely accepted that these two legal regimes are closely interconnected, and that human rights law provides an important normative reference for interpreting key terms of the refugee definition within Article 1A (2), including protection.¹⁹⁷ When view through this lens, protection cannot be understood merely as the absence of persecution. At first glance, the concept may appear as a purely negative one, concerned only with the removal or prevention of harm; however, a closer examination reveals that it also has a positive dimension.¹⁹⁸ In this sense, protection is not simply the negation of persecution; it is a positive, affirmative concept that entails the presence of conditions necessary for the exercise of basic human rights by refugees.¹⁹⁹ As O’Sullivan explains “[protection] involves positive attributes, such as, inter alia, the provision of physical security and safety; the existence of [...] basic administrative structures, including a functioning legal and judicial system; and an adequate infrastructure to enable residents to exercise their rights.”²⁰⁰

In addition to the securement of basic human rights, Storey argues that protection requires certain qualities in order to be meaningful. Drawing on a human rights approach to Article 1A (2) of the 1951 Refugee Convention and informed by the EU Qualification Directive and relevant jurisprudence on state protection,²⁰¹ he identifies at least five qualities that must be included within the concept: “willingness to protect; ability to protect; accessibility, effectiveness and non-

¹⁹⁷ Storey, *supra* note 163 at 9.

¹⁹⁸ *Ibid* at 10.

¹⁹⁹ Hathaway & Storey, “What is the Meaning of State Protection in Refugee Law?”, *supra* note 10 at 481.

²⁰⁰ Maria O’Sullivan, *Refugee Law and Durability of Protection: Temporary Residence and Cessation of Status*, 1st edn (Abingdon, Oxon: Routledge, 2019) at 7.

²⁰¹ I will discuss Article 7 of the EU Qualification Directive in the section related to non-state actors. For relevant jurisprudence see *Aydin Salahadin Abdulla and Others v Bundesrepublik Deutschland*, Court of Justice of the European Union (CJEU).

temporary duration.”²⁰² He explains that, a state cannot provide protection unless it is willing and able to protect individuals from persecution or serious harm.²⁰³ Accessibility and effectiveness are often associated with Article 1C of the Convention, which concerns the cessation of refugee status; however, he argues that these qualities should not be confined to that context.²⁰⁴ If protection in a person’s home area is not accessible and effective, it can not be said that the individual will or can receive protection, or that such protection reduces the risk of persecution.²⁰⁵ Moreover, protection needs to have non-temporary nature; otherwise, it cannot remove the real risk of serious harm.²⁰⁶ These qualifications are also compatible with the dynamic nature of the 1951 Refugee Convention as a living instrument, whose key terms remain open to interpretation and development.

Adopting this understanding of protection, this research does not attempt to produce a new definition of the concept, since a single definition cannot capture all its aspects and details. Instead, it approaches protection through the human rights lens by examining its underlying components and the ways in which the concept operates within refugee law. In particular, the analysis considers four interrelated dimensions: the beneficiaries of protection, the core of protection, the actors responsible for providing protection, and the circumstances in which protection comes to an end. Viewing protection in this way helps explain why there is no single formula and why the concept is contextually sensitive in refugee law.

²⁰² Storey, *supra* note 163 at 11.

²⁰³ See *Ibid* at 12.

²⁰⁴ See *Ibid*.

²⁰⁵ See *Ibid*.

²⁰⁶ See *Ibid*.

2.4.1. Beneficiaries of Protection

The 1951 Refugee Convention along with the 1967 Protocol defines ‘refugee’ as someone who “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of [their] nationality and is unable or, owing to such fear, is unwilling to avail [themselves] of the protection of that country.”²⁰⁷ To qualify for refugee protection, a claimant must demonstrate a linkage, known as the nexus clause, between well-founded fear of persecution and five grounds of race, religion, nationality, membership in a particular social group, or political opinion.²⁰⁸

Since the Convention provides a legal definition of who qualifies as a refugee, protection in this context has generally been understood as ‘legal protection’. As Helton explains, when we speak of “protection” we mean legal protection; the concept is associated with entitlements and mechanisms through which those entitlements may be enforced.²⁰⁹ In this sense, “individual [who] cannot meet the requisites of this definition, then he or she is not entitled to protection under the Convention or Protocol.”²¹⁰

According to Hathaway and Foster, “it is legally impossible for a state party to the Convention to in any way *limit or reduce* the scope of the Convention refugee definition.”²¹¹ However, state parties may extend the scope of the refugee definition through regional instruments, the most notable examples being found in Africa and Latin America.²¹² The 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, for instance,

²⁰⁷ 1951 Refugee, *supra* note 188 at Article 1(A)(2). Also see *Protocol Relating to the Status of Refugees*, 31 January 1967, 606 UNTS 267, (entered into force 4 October 1967) at Article 1(2).

²⁰⁸ Matthew E Price, *Rethinking Asylum: History, Purpose, and Limits*, 1st edn (Cambridge: Cambridge University Press, 2009) at 104. For details about grounds of persecution also see Goodwin-Gill & McAdam, *supra* note 6 at 95–122.

²⁰⁹ Helton, *supra* note 11 at 20.

²¹⁰ *Ibid.*

²¹¹ Hathaway & Foster, *supra* note 18 at 2 para 5.

²¹² See *Ibid* at 2 (note 7).

expands refugee status to any person who, “owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.”²¹³ Similarly, the 1984 Cartagena Declaration on Refugees recognizes individuals as refugees “who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed the public order.”²¹⁴ Through these expanded definitions, additional groups of displaced individuals are recognized as refugees and therefore become beneficiaries of refugee protection.

Protection beneficiaries have also expanded through complementary protection, a mechanism rooted in international human rights law. Since the international community began to regulate the movement of refugees through international law, “states have recognized that not all persons seeking protection fit neatly within legal refugee definition.”²¹⁵ Accordingly, some states have allowed individuals “who are not technically ‘refugees’, but who nonetheless have a valid need for protection, to remain in their territories.”²¹⁶

Under international human rights instruments, the obligation of states not to return individuals extends beyond Article 33 of the 1951 Refugee Convention to include those “who face a real risk of being arbitrarily deprived of their life, or subjected to the death penalty, torture,

²¹³ Organization of African Unity, *OAU Convention Governing the Specific Aspects of Refugee Problems in Africa* 10 September 1969, UNTS 14691 (entered into force 20 June 1974) [OAU] at Article 1(2).

²¹⁴ *Cartagena Declaration on Refugees Adopted by the Colloquium on the International Protection of Refugees in Central America, Mexico and Panama*, 22 November 1984, online (pdf): <www.refworld.org/archive.org/details/cartagena-refugees> [Cartagena Declaration] at Conclusions and Recommendations III (para 3).

²¹⁵ McAdam, *supra* note 15 at 19.

²¹⁶ *Ibid.*

or cruel, inhuman, or degrading treatment or punishment.”²¹⁷ This obligation is expressly set out in the Convention Against Torture (CAT), which prohibits states from returning individuals to places where they are at risk of torture,²¹⁸ and is implied in the ICCPR,²¹⁹ and the European Convention in Human Rights (ECHR).²²⁰

Jurisdictions adopt different legislative approaches in recognizing complementary protection: some refer to relevant international treaties as the source of the non-refoulement obligation, whereas others define the scope of that obligation within their own legislation.²²¹ A notable example of the latter is the EU Qualification Directive, which explicitly recognizes complementary protection, referred to as ‘subsidiary protection’.²²² As the first supranational instrument, the Directive replaces fragmented, ad hoc domestic approaches with a harmonized legal regime for complementary protection across EU member states.²²³ However, the Directive has been criticised for failing to establish a new system of protection grounded in international law; instead, as McAdam argues, it largely harmonizes existing practices of subsidiary protection across EU member states.²²⁴ Within this framework, beneficiaries receive a lesser status and

²¹⁷ Jane McAdam, “Complementary Protection” in Cathryn Costello, Michelle Foster & Jane McAdam, eds, *The Oxford Handbook of International Refugee Law*, 1st edn (Oxford University Press, 2021) 661 at 661.

²¹⁸ *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, by United Nations, 10 December 1984, UNTS 1465 (entered into force 26 June 1987, accession by Canada 24 June 1987). Article 3 CAT stated that “No State Party shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.”

²¹⁹ ICCPR, *supra* note 41 at Article 7: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

²²⁰ *Convention for the Protection of Human Rights and Fundamental Freedoms*, 4 November 1950, 213 UNTS 221 (entered into force 3 September 1953) [ECHR] at Article 3, “No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

²²¹ McAdam, *supra* note 217 at 669.

²²² Qualification Directive/QD, *supra* note 21 at Article 2(f) stated persons eligible for subsidiary protection are “a third- country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm [...] and is unable, or, owing to such risk, unwilling to avail himself or herself of the protection of that country[.]”

²²³ Jane McAdam, “The European Union Qualification Directive: The Creation of a Subsidiary Protection Regime” (2005) 17:3 Intl J Ref L 461 at 461.

²²⁴ McAdam, *supra* note 15 at 32.

accordingly a lower level of rights compared to Convention refugees.²²⁵ This differential treatment may lead decision makers to favor subsidiary protection as it is simpler for them to identify a particular form of harm as ‘inhuman treatment’ rather than conducting a detailed analysis to determine the Convention grounds of persecution.²²⁶

Unlike the EU subsidiary protection framework, national legislation in countries such as Canada, which will be discussed in Chapter four, grants beneficiaries of complementary protection the same status and rights as those afforded to refugees under the 1951 Refugee Convention.²²⁷ These differences in legislation of complementary protection show that, similar to the 1951 Convention refugee definition, the interpretation of complementary protection continues to evolve alongside the development of human rights law.²²⁸

2.4.2. Core of Protection: Absence of Persecution and Presence of Fundamental Human Rights

The requirement to show a well-founded fear of ‘being persecuted’ is at the core of the refugee definition; however, the 1951 Refugee Convention does not define the meaning of this concept.²²⁹ It has been argued that the drafters deliberately left the concept undefined, as it is impossible to enumerate in advance “all of the forms of maltreatment that might legitimately entitle persons to benefit from international protection.”²³⁰ A holistic reading of the refugee

²²⁵ *Ibid.*

²²⁶ McAdam, *supra* note 217 at 670. Also see Jean-François Durieux, “The vanishing refugee: how EU asylum law blurs the specificity of refugee protection” in Hélène Lambert, Jane McAdam & Maryellen Fullerton, eds, *The Global Reach of European Refugee Law*, 1st edn (Cambridge: Cambridge University Press, 2013) 225 at 254.

²²⁷ *Immigration and Refugee Protection Act*, SC 2001, c 27, ss 4(2)(a)-(c), 7 [IRPA] at Article 97 (1): “A person in need of protection is a person in Canada whose removal to their country or countries of nationality or, if they do not have a country of nationality, their country of former habitual residence, would subject them personally (a) to a danger, believed on substantial grounds to exist, of torture within the meaning of Article 1 of the Convention Against Torture; or (b) to a risk to their life or to a risk of cruel and unusual treatment or punishment[.]”

²²⁸ McAdam, *supra* note 217 at 677.

²²⁹ Hathaway & Foster, *supra* note 18 at 182.

²³⁰ *Ibid.*

definition reveals that persecution is not concerned solely with particular forms of harm; it arises where such harm demonstrates the failure or absence of national protection.²³¹ In this sense, according to Price, persecution refers to serious harm against which the state is unable or unwilling to provide protection.²³²

To address this conceptual ambiguity, legal experts have developed interpretive frameworks to clarify the meaning of persecution and determine when harm meets the threshold required for refugee protection. Several interpretive approaches have been proposed to clarify the concept, including hermeneutical definitions, subjective approach adopted by judges, and literalist or dictionary approach; however, these methods have largely been rejected for failing to align with the context, object, and purpose of the 1951 Refugee Convention.²³³ Instead, the human rights approach has come to be widely recognized as a proper benchmark for interpreting persecution. As Hathaway and Foster explain, “[t]he logic of relying on human rights law to elucidate the meaning of serious harm is [... that] [i]nternational human rights standards are rather uniquely suited to the task of defining which risks involve unacceptable forms of serious harm in a manner that offers not only consistency, but also normative legitimacy[...].”²³⁴

Within this framework, Hathaway developed a significant formulations of persecution grounded in international human rights law. His model has been widely employed by judicial decision-makers, particularly within common law jurisdictions.²³⁵ According to Hathway, persecution is understood as a “sustained or systematic violation of basic human rights

²³¹ *Ibid* at 184.

²³² Price, *supra* note 208 at 104.

²³³ See Hugo Storey, “What Constitutes Persecution? Towards a Working Definition” (2014) 26:2 Int J Refugee Law 272 at 275 & 276. Also see Hathaway & Foster, *supra* note 18 at 186–193.

²³⁴ Hathaway & Foster, *supra* note 18 at 194.

²³⁵ See Michelle Foster, *International Refugee Law and Socio-Economic Rights* (Cambridge: Cambridge University Press, 2007) at 116. Also see Storey, *supra* note 233 at 278.

demonstrative of a failure of State protection.”²³⁶ To assess the seriousness of harm, Hathaway proposed a four-fold hierarchy of state obligations, derived from the UDHR, the ICCPR, and the ICESCR:

- (i) Non-derogable human rights as set out in the ICCPR;
- (ii) derogable human rights as set out in the UDHR and ICCPR;
- (iii) progressively implemented economic, social and cultural rights set out in the ICESCR and UDHR;
- (iv) human rights contained in the UDHR that were not codified in either ICCPR or ICESCR.²³⁷

This hierarchy model reflects the idea that human rights obligations are not codified in an equal manner; some rights are “clearly defined and unambiguously binding, while others are more vague or framed as duties of process rather than result.”²³⁸ This formulation implied that violations of certain human rights, such as socio-economic rights, might constitute a lower level of harm for the purpose of establishing persecution. However, Hathaway and Foster later clarified that “the conditioning of social and economic rights on progressive implementation was simply intended to recognize that such rights will often take longer to put in place, not that they are any less important.”²³⁹ Foster further notes that modern refugee jurisprudence increasingly acknowledges socio-economic claims in practice as capable of constituting persecution, reflecting a broader understanding of serious harm in refugee law.²⁴⁰

²³⁶ James C. Hathaway, *The law of refugee status* (Toronto: Butterworths, 1991) at 104 & 105.

²³⁷ This categorization is outlined in Michelle Foster’s book and Hugo Storey’s article. See Foster, *supra* note 235 at 113–116. Also see Storey, “What Constitutes Persecution?”, *supra* note 233 at 278 & 279. Also see Hathaway, *supra* note 236 at 106–113.

²³⁸ Hathaway & Foster, *supra* note 18 at 200.

²³⁹ *Ibid* at 203.

²⁴⁰ Michelle Foster, “Economic Migrant or Person in Need of Protection? Socio-Economic Rights and Persecution in International Refugee Law” in Bruce Burson & David James Cantor, eds, *Human Rights and the Refugee Definition: Comparative Legal Practice and Theory* (Leiden, Netherlands; Boston, Massachusetts: Brill Nijhoff, 2016) 229 at 233.

In addition to scholarly formulation such as Hathaway's model, the interpretation of persecution has also been articulated in regional legal instruments. A notable example is the EU Qualification Directive, which provides a more structured legal framework for identifying acts of persecution. Under Article 9(1), an act of persecution within the meaning of Article 1(A) of the 1951 Refugee Convention must:

- “(a) be sufficiently serious by its nature or repetition as to constitute a severe violation of basic human rights, in particular the rights from which derogation cannot be made under Article 15(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms;
- (b) be an accumulation of various measures, including violations of human rights which is sufficiently severe as to affect an individual in a similar manner as mentioned in point (a).”²⁴¹

Article 9(1) adopts a conceptual definition of persecution which is broadly reflecting Hathaway's understanding of persecution; however, the Directive modifies his emphasis on “sustained or systematic” violations by stating that persecution may arise from harm that is sufficiently serious “by its nature or repetition”.²⁴² In this sense, a single act of serious harm such as murder or torture can constitute persecution without requiring persistency or repetition. Furthermore, while Article 9(1)(a) encapsulates non-derogable civil and political rights; Foster explains that Article 9(1)(b) has been interpreted as encompassing situations of socio-economic deprivation, where an accumulation of measures reaches to the level of severity described in Article 9(1)(a).²⁴³ This interpretation has been reflected in the jurisprudence of some EU states, such as the United Kingdom and Germany, where tribunals have recognized the

²⁴¹ Qualification Directive/QD, *supra* note 21 at Chapter III, Article 9(a)(b).

²⁴² Storey, “What Constitutes Persecution?”, *supra* note 233 at 280.

²⁴³ Foster, *supra* note 240 at 235.

severe restrictions on access to education, healthcare, or the ability to earn livelihood may amount to persecution.²⁴⁴

Article 9(2) of the Directive specifies acts of persecution by providing a ‘list of acts’ or ‘forms of persecution’:

- “(a) acts of physical or mental violence, including acts of sexual violence;
- (b) legal, administrative, police, and/or judicial measures which are in themselves discriminatory or which are implemented in a discriminatory manner;
- (c) prosecution or punishment which is disproportionate or discriminatory;
- (d) denial of judicial redress resulting in a disproportionate or discriminatory punishment;
- (e) prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts falling within the scope of the grounds for exclusion [...];
- (f) acts of a gender-specific or child-specific nature.”²⁴⁵

It is important to note that this list is not exhaustive.²⁴⁶ As Storey explains, the language of Article 9(2), stating that “Acts of persecution [...] can, inter alia, take the form of [the listed acts]” leaves room for the recognition of additional forms of persecution as the interpretation of human rights evolves.²⁴⁷

Although the Qualification Directive is a regional instrument, Storey argues that its structure offers a template for developing a working definition of persecution that includes a non-exhaustive list of acts.²⁴⁸ One possible objection is that interpreting persecution under the 1951 Refugee Convention through the lens of a regional instrument risks producing a “Eurocentric” understanding of the concept.²⁴⁹ Storey acknowledges this concern but contends

²⁴⁴ *Ibid.*

²⁴⁵ Qualification Directive/QD, *supra* note 21 at Article 9(2).

²⁴⁶ Hugo Storey, “Persecution: Towards a working definition” in Vincent Chetail, Céline Bauloz & Hugo Storey, eds, *Research Handbook on International Law and Migration* (United Kingdom: Edward Elgar Publishing, 2014) at 471.

²⁴⁷ *Ibid.*

²⁴⁸ *Ibid.*

²⁴⁹ Storey, “What Constitutes Persecution?”, *supra* note 233 at 282.

that the Directive demonstrates significant potential for reaching a broader consensus on the meaning of persecution at the international level.²⁵⁰

2.4.3. Protection Actors

According to the structure of the 1951 Refugee Convention, protection requires actors who are both able and willing to provide it. Traditionally, states have been recognized as the primary actors of protection, as they are parties to international treaties and bear obligations under international law.²⁵¹ However, the operation of the refugee protection regime has increasingly involved a wider range of actors alongside states. The growing number of non-state actors, including UN agencies, international organizations, and civil society organizations have come to play important roles in providing and facilitating protection activities.²⁵² The following section therefore examines the roles of both states and non-state actors in refugee protection.

2.4.3.1. State Protection

In international law, protection is generally understood through the measures taken by states to safeguard the rights and interests of individuals. Ramcharan, quoting Eide's explanation of the nature of protection, notes that:

“Protection may take many shapes. We may distinguish between internal protection (‘the protection of the law’) and external protection (diplomatic or consular protection...). Moreover, protection may be active or passive. Thus, if a government intercedes with another government for one of its citizens, we may speak of active or explicit protection. On the other hand, if the authorities of one State merely enable a person to refer to them and thereby get certain benefits from the authorities of another State, we

²⁵⁰ *Ibid* at 283.

²⁵¹ Maria O’Sullivan, “Acting the Part: Can Non-State Entities Provide Protection Under International Refugee Law?” (2012) 24:1 Intl J Ref L 85 at 85.

²⁵² See *Ibid* at 86.

may call it passive or implicit protection. Typical of the latter kind of protection is the issuing of national passports and certificates of nationality.”²⁵³

Eide’s categorization reveals that protection in international law is primarily understood through the institutional and legal mechanisms exercised by states, whether through the domestic legal system (internal protection), diplomatic or consular action (external protection), or through active and passive forms of intervention.

Within the field of refugee law, states similarly play a central role in the international refugee protection regime. As Weis explained, “the absence of protection by a State [...] is a determining element of refugee character.”²⁵⁴ Accordingly, the failure of the state of origin to provide protection gives rise to the need for other states to step in and offer protection to those forced to flee.

In this context, protection is evaluated in light of the acts or omissions of the state. This approach is developed in the work of contemporary refugee law scholars such as Hathaway and Foster. By ‘state protection,’ they refer to ‘internal protection’ where “the country of origin either will not, or cannot, respond to that risk of harm [...] in such circumstances [it can] be said that there is a need for the surrogate or substitute protection of international refugee law, since only then will the state of origin not be a suitable guarantor of the individual’s well-being.”²⁵⁵ The logic behind this state-centric understanding is that “[t]he goal of the international refugee regime is not simply to keep people safe from harm, but more fundamentally to restore relevantly at-risk persons to the protection of a State – that is, to an entity with clear protective duties at

²⁵³ Ramcharan, *supra* note 4 at 16. Also see Asbjørn Eide, “The New Humanitarian Law in Non-international Armed Conflict” in Antonio Cassese, ed, *The New Humanitarian Law of Armed Conflict* (Napoli: Editoriale scientifica, 1979) 227 at 227–309.

²⁵⁴ Weis, *supra* note 125 at 35.

²⁵⁵ Hathaway & Foster, *supra* note 18 at 289.

international law.”²⁵⁶ For this reason, if the state is able to offer effective internal protection in another part of the country, the person would not qualify for international refugee protection.²⁵⁷

From Hathaway’s perspective, almost every reference to protection in the 1951 Refugee Convention’s definition of a refugee is tied to the ‘country of nationality’ and the only exception is Article 1(D), which concerns Palestinians receiving protection from the United Nations Relief and Works Agency for Palestine (UNRWA), (historically also associated with the United Nations Conciliation Commission for Palestine (UNCCP)).²⁵⁸ The nature of this provision, in his view, is highly exceptional, as evidenced by the explicit exclusion of UNHCR, the only agency with a clear mandate to protect refugees, from the list of acceptable alternatives to the norm of state protection.²⁵⁹

A different interpretation is offered by Fortin who also understands protection in the refugee definition as state protection; however, he interprets the concept specifically as ‘diplomatic’ or ‘external’ protection, provided by a state to its nationals abroad.²⁶⁰ In his view, this interpretation is more consistent with the drafting history of the refugee definition and the intentions of the drafters.²⁶¹ As he argues, “the only protection that can be made available to [a] person who [is] outside their country of nationality, or to which such [a] person can resort[,] is diplomatic protection.”²⁶² Revisiting the argument in a later revision of his work in 2025, Fortin explains that “the original meaning of the term has changed as a result of a constant, sufficiently

²⁵⁶ Hathaway & Storey, “What is the Meaning of State Protection in Refugee Law?”, *supra* note 10 at 485.

²⁵⁷ Hathaway & Foster, *supra* note 18 at 289.

²⁵⁸ Hathaway & Storey, “What is the Meaning of State Protection in Refugee Law?”, *supra* note 10 at 485.

²⁵⁹ *Ibid.*

²⁶⁰ Fortin, “More on the Meaning of ‘Protection’ in the Refugee Definition”, *supra* note 7 at 9.

²⁶¹ Fortin, “The Meaning of “Protection” in the Refugee Definition”, *supra* note 7 at 551.

²⁶² *Ibid* at 565.

widespread and uniform subsequent practice of States at large, or as a result of a common and concordant subsequent practice of the States parties to the Convention.”²⁶³

Despite their different understandings, both approaches continue to treat states as the primary protection actors in refugee law. This state-centric understanding, however, is being challenged. As Storey argues, “refugee law needs to move beyond decades of continued reliance on vague assertions about there being a basic duty on States to protect their citizens.”²⁶⁴ From this perspective, interpretations that frame protection exclusively through internal or diplomatic protection risk narrowing the concept to forms of protection exercised by the state alone. This view also differs from UNHCR’s traditional position that “the terms of the 1951 Convention and 1967 Protocol should be interpreted consistently with ‘the generous spirit in which they were conceived’, so as to have an inclusive rather than restrictive meaning.”²⁶⁵ The development of international human rights standards and the growing reliance on rights-based approaches to refugee protection have reinforced broader understandings of protection that extend beyond the exclusive role of states as protection actors. This shift calls for a closer examination of the role of other actors who are capable of offering and delivering protection.

2.4.3.2. Non-state Actors

In refugee law, non-state actors have increasingly been recognized as agents of persecution, particularly where the state is unable or unwilling to provide protection.²⁶⁶ Debate, however, has grown over whether such actors are capable of providing protection. This

²⁶³ Fortin, “More on the Meaning of ‘Protection’ in the Refugee Definition”, *supra* note 7 at 35.

²⁶⁴ Hathaway & Storey, “What is the Meaning of State Protection in Refugee Law?”, *supra* note 10 at 481.

²⁶⁵ James C Hathaway & Michelle Foster, “Internal protection/relocation/flight alternative as an aspect of refugee status determination” in Erika Feller, Volker Türk & Nicholson Frances, eds, *Refugee Protection in International Law: UNHCR’s Global Consultations on International Protection* (Cambridge: Cambridge University Press, 2003) at 380 & 381.

²⁶⁶ O’Sullivan, *supra* note 251 at 89.

possibility received legal recognition at the regional level with the adoption of the EU Qualification Directive. Article 7 of the Directive expands the category of protection actors to include certain non-state actors. According to Article 7:

“1. Protection against persecution or serious harm can only be provided by:
(a) the States; or
(b) parties or organisations, including international organisations, controlling the State or a substantial part of the territory of the State;
provided they are willing and able to offer protection in accordance with paragraph 2.
2. Protection against persecution or serious harm must be effective and of a non-temporary nature. Such protection is generally provided when the actors mentioned under points (a) and (b) of paragraph 1 take reasonable steps to prevent the persecution or suffering of serious harm, inter alia, by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and when the applicant has access to such protection.”²⁶⁷

It is important to note that the Qualification Directive was adopted as a regional instrument intended to harmonizing member states’ interpretation of the 1951 Refugee Convention rather than to replace it.²⁶⁸ In this respect, its provisions offer a useful reference point for examining the role of non-state actors in refugee law. Article 7 moves beyond the state-centric understanding of protection; it identifies both states and certain non-state entities as potential protection actors. It also sets conditions for such protection, requiring that actors be willing and able to provide it and that the protection be effective, accessible, and non-temporary. In a broad sense, the key question, however, is whether non-state actors are truly capable of providing protection that meets these requirements within the context of refugee law.

This issue has attracted significant commentary and criticism from academic scholars and international organizations such as UNHCR. O’Sullivan explains that the essence of refugeehood

²⁶⁷ Qualification Directive/QD, *supra* note 21 at Article 7(1)(2).

²⁶⁸ O’Sullivan, *supra* note 251 at 92.

lies in “the severance of a political relationship with the country of nationality.”²⁶⁹ From this perspective, the presence of non-state actors in the country of origin cannot be equated with state protection, as such actors cannot repair the political bond between the individual and the state that was broken by persecution.²⁷⁰ Furthermore, the provision of protection requires certain positive institutional attributes, such as a basic administrative structure, legal and judicial systems, and the infrastructure necessary for individuals to exercise their rights, which non-state actors typically lack.²⁷¹

Another important criticism concerns the international accountability of non-state actors, since they have “a limited ability to enforce the rule of law, and are not bound by international human rights treaties.”²⁷² According to the UNHCR comment:

“[N]on-state actors in principle should not be considered actors of protection. Parties and organizations, including international organizations, do not have the attributes of a state and do not have the same obligations under international law. In practice, this means that their ability to enforce the rule of law is limited, and thus their ability to render protection[.]”²⁷³

Critics also question the stability and durability of protection provided by non-state actors. For instance, in situations where non-state actors such as clans or militias assume control, they may be unable to provide effective and non-temporary protection, nor can they protect individuals in the same way as states.²⁷⁴ Their territorial control is often fluid, changeable, and

²⁶⁹ *Ibid.*

²⁷⁰ *Ibid* at 102.

²⁷¹ *Ibid* at 89.

²⁷² Jane McAdam, “The Qualification Directive: An Overview” in Karin Zwaan, ed, *The Qualification Directive: Central Themes, Problem Issues, and Implementation in Selected Member States* (The Netherlands: Wolf Legal Publishers (WLP), 2007) at 13.

²⁷³ United Nations High Commissioner for Refugees, “UNHCR comments on the European Commission’s proposal for a Directive of the European Parliament and of the Council on minimum standards for the qualification and status of third country nationals or stateless persons as beneficiaries of international protection and the content of the protection granted” (COM(2009)551, 21 October 2009), online (pdf): <www.unhcr.org/archive.org/details/stateless-persons> at 5.

²⁷⁴ O’Sullivan, *supra* note 251 at 107.

vulnerable to challenges from rival groups within the state.²⁷⁵ As a result, reliance on such transitional and temporary authorities may increase the risk of refoulement and the return of refugees to situations of persecution.²⁷⁶

In response to these criticisms, legal scholars like Storey have raised several important points. First, he notes that recognizing non-state actors as providers of protection is not unprecedented, as Article 1D of the 1951 Refugee Convention refers to at least one entity other than a state.²⁷⁷ Second, while criticisms regarding the instability or limited institutional capacity of non-state actors are valid, they are based on empirical observations and cannot establish a theoretical principle that only states are capable of providing protection.²⁷⁸ Third, in response to the accountability argument, Storey explains that accountability is not a defining requirement of statehood; international law recognizes that entities other than states, including international organizations, may incur responsibility in certain circumstances.²⁷⁹ Refugee law generally evaluates protection based on whether it is actually secured in practice, not on whether the actor providing it has signed international human rights treaties.²⁸⁰ In other words, being a party to such treaties does not automatically guarantee protection for those who are at risk; what matters is the actor's actual conduct in practice.

The arguments discussed above highlight important limitations and possibilities of non-state actors as protection providers in refugee law. While scholars continue to debate this issue,

²⁷⁵ *Ibid* at 103.

²⁷⁶ *Ibid* at 108.

²⁷⁷ Storey, "The Meaning of "Protection", *supra* note 163 at 23 "Even assuming it were accepted that Article 7 goes too far, it does not and cannot of course alter the fact that the 1951 Refugee Convention recognises that protection can be afforded by at least one category of entity(ies) other than the State of nationality."

²⁷⁸ *Ibid* at 24.

²⁷⁹ *Ibid* at 25.

²⁸⁰ *Ibid*. Also see Hathaway & Foster, *supra* note 18 at 200. According to Hathaway and Foster, "[I]n the refugee law context, reference to international human rights standards is made solely for the purpose of seeking authoritative guidance on the interpretation of an otherwise ambiguous term— "being persecuted"— not to engage in an assessment of liability for breach of human rights law."

the presence of limitations does not diminish the practical roles that non-state actors play. In today's displacement crises, protection does not come solely from states; international organizations, particularly UNHCR, along with civil society groups, and humanitarian networks, play major roles in offering protection and helping forced migrants access it. Although the level of protection offered by these actors does not equate to the legal responsibilities and institutional capacity of states, their contributions remain significant. In many situations, they step in where state protection is weak, absent, or ineffective, through direct assistance, human rights monitoring, legal support, and the facilitation of durable solutions. As a result, in this research, the term "non-state actors" is used in a broad sense to refer to entities operating outside formal state structures. This broader usage differs from more restrictive interpretations found in certain legal frameworks, such as the EU QD. It does not require that such actors necessarily exercise territorial control or possess political authority; rather, it emphasizes their practical involvement in protection activities. For these reasons, the next sections focus on UNHCR and civil society as two major non-state protection actors. Recognizing their roles does not imply that they replace states as primary protection actors; rather, it reflects the fact that refugee protection is a collective effort involving multiple actors working alongside states.

2.4.3.2.1. UNHCR and the Mandate of 'International Protection'

In 1950, UNHCR was created by the General Assembly as the only subsidiary organ mandated to provide international protection and seek permanent solutions for the problem of refugees.²⁸¹ From a legal perspective, the subsidiary nature of UNHCR means that the office

²⁸¹ United Nations General Assembly, *supra* note 133 Chapter I (General Provisions). According to the UNHCR Statute, "The United Nations High Commissioner for Refugees, acting under the authority of the General Assembly, shall assume the function of providing international protection, under the auspices of the United Nations, to refugees who fall within the scope of the present Statute and of seeking permanent solutions for the problem of refugees by

operates within the UN framework, however it retains “the degree of independence and the prestige required for the effective performance of its duties.”²⁸² The office has been authorized “to enter into contracts, to sue, to acquire, hold and transfer property, and to take any other legal action required in the performance of [its] functions.”²⁸³

Under Article 35 of the 1951 Refugee Convention, UNHCR performs a supervisory role, and contracting states undertake to cooperate with the office in the exercise of its functions. This supervisory responsibility complements UNHCR’s broader protection mandate by enabling the Office to monitor the application of the Convention, provide interpretive guidelines on refugee protection, identify protection challenges, and support States in implementing their obligations under international refugee law.

Although within the framework of the UNHCR Statute, ensuring ‘international protection’ is recognized as one of the core functions of the office, neither the preamble nor the substantive provisions offers a clear definition of the term.²⁸⁴ As Lewis points out, the term is not self-evident, ‘international’ and ‘protection’ each have independent meanings and combining them into one phrase does not produce a separate meaning that stands alone.²⁸⁵ In notes published by the Executive Committee of the High Commissioner’s Programme (ExCom), UNHCR attempted to clarify the concept:

“International protection is [...] premised on human rights principles. From this human rights perspective, the reason for the United Nations [...] to assume responsibility for the international protection to refugees seems clear: fundamental rights and freedoms are normally secured for the individual by his or her Government. Since refugees do not

assisting Governments and, subject to the approval of the Governments concerned, private organizations to facilitate the voluntary repatriation of such refugees, or their assimilation within new national communities.”

²⁸² Guy S Goodwin-Gill, “The Office of the United Nations High Commissioner for Refugees and the Sources of International Refugee Law” (2020) 69:1 Int’l & Comp LQ 1 at 3.

²⁸³ *Ibid* at 3 & 4.

²⁸⁴ Corinne Lewis, *UNHCR and International Refugee Law: From treaties to innovation*, 1st edn (London: Routledge, 2012) at 18.

²⁸⁵ *Ibid* at 18 & 19.

enjoy the effective protection of their own Government, this normal remedy is unavailable, and it falls to the international community as a whole to provide the “international” protection necessary to secure to refugees the enjoyment of these rights. [...] International protection thus begins with securing admission, asylum, and respect for basic rights, including the principle of non-refoulement, without which the safety and even survival of the refugee is in jeopardy; it ends only with the attainment of a durable solution, ideally through the restoration of protection by the refugee’s own country. [...] Protection includes ensuring that the special needs of refugee women, particularly victims of violence and of children, especially those separated from their families, are met.”²⁸⁶

To give substance to this mandate, paragraph 8 of the UNHCR Statute outlines a list of specific tasks that enable the office to fulfill its protection role:

“The High Commissioner shall provide for the protection of refugees falling under the competence of his Office by:

- (a) promoting the conclusion and ratification of international conventions for the protection of refugees, supervising their application and proposing amendments thereto;
- (b) promoting through special agreements with Governments the execution of any measures calculated to improve the situation of refugees and to reduce the number requiring protection;
- (c) assisting governmental and private efforts to promote voluntary repatriation or assimilation within new national communities;
- (d) promoting the admission of refugees, not excluding those in the most destitute categories, to the territories of States;
- (e) endeavouring to obtain permission for refugees to transfer their assets and especially those necessary for their resettlement;
- (f) obtaining from Governments information concerning the number and conditions of refugees in their territories and the laws and regulations concerning them;
- (g) keeping in close touch with the Governments and inter-governmental organizations concerned;
- (h) establishing contact in such manner as he may think best with private organizations dealing with refugee questions;
- (i) facilitating the co-ordination of the efforts of private organizations concerned with the welfare of refugees.”²⁸⁷

²⁸⁶ *Note on International Protection*, by Executive Committee of the High Commissioner’s Programme, A/AC.96/830 (United Nations General Assembly, 7 September 1994), online: <www.refworld.org> [archive.org/details/note-on-international-protection] at para 11 & 12.

²⁸⁷ [UNHCR Statute], *supra* note 133 at Chapter II, para 8.

The list, as Lewis highlights, “has an eclectic nature rather than a systemic one,”²⁸⁸ but the tasks can be grouped into three general areas. First, facilitating refugee protection by helping refugees gain admission to countries where they can be safe; second, promoting and supervising international conventions related to the legal protection of refugees’ rights; and third, pursuing durable solutions by entering into agreements with governments.²⁸⁹ Paragraph 8 is framed in a dynamic and action-oriented terms, involving a range of activities that address both policy and operational concerns.²⁹⁰ These roles are carried out in collaboration with states and other partners, with the aim of promoting respect for refugees’ rights and resolving their challenges.²⁹¹

The relevant question here is not the content of paragraph 8 itself, but whether UNHCR’s protection mandate is limited to the functions listed in that paragraph. In practice, the answer is no; as Goodwin-Gill explains, “the list of ‘protection functions’ is illustrative only”.²⁹² This interpretation becomes evident when examining how the office’s protection functions and the categories of beneficiaries have evolved over time.

In UNHCR’s practice, international protection has included material assistance and practical responses to the immediate needs of displaced populations, such as food rations, clean water, and shelter.²⁹³ Over time, it expanded to include physical, legal, and diplomatic protection, particularly in relation to the status and rights of refugees in host countries.²⁹⁴ Although finding durable solutions has always been part of UNHCR’s mandate, the growing number of forced

²⁸⁸ Lewis, *supra* note 284 at 19.

²⁸⁹ *Ibid.*

²⁹⁰ See *Note on International Protection*, by Executive Committee of the High Commissioner’s Programme, A/AC.96/930 (United Nations General Assembly, 7 July 2000), online: <www.refworld.org> [archive.org/details/aac.96930] at para 5.

²⁹¹ *Ibid.*

²⁹² Guy S Goodwin-Gill, “Refugees: Challenges to Protection” (2001) 35:1 Int’l Migration Rev 130 at 131.

²⁹³ Executive Committee of the High Commissioner’s Programme, *supra* note 286 at para 14.

²⁹⁴ See *Ibid.* Also see Corinne Lewis, “UNHCR’s Contribution to the Development of International Refugee Law: Its Foundations and Evolution” (2005) 17:1 International Journal of Refugee Law 67 at 79–85.

migrants, especially those trapped in protracted situations, has led UNHCR to seek additional pathways to address their needs, which are discussed later in this chapter.

In terms of the growing diversity of displaced populations, UNHCR historically focused on refugees and asylum seekers; however, a notable shift occurred from the mid-1990s, when the term ‘refugee’ began to be replaced by the broader category of ‘persons of concern to UNHCR,’ or later ‘people on the move’.²⁹⁵ In addition to refugees and asylum seekers, this expanded category includes internally displaced persons (IDPs), stateless individuals, returned refugees and IDPs, and others in need of international protection.²⁹⁶

Today, UNHCR continues to act as an intermediary between forced migrants and states, and sometimes between states and their official bodies.²⁹⁷ This role is reflected across a range of contexts, including border zones, refugee settlements, courts and tribunals, as well as in policy and law-making.²⁹⁸ In this sense, while UNHCR’s international protection mandate was initially outlined in paragraph 8 of its Statute, it has gradually expanded over the decades in response to evolving realities of forced displacement.²⁹⁹

2.4.3.2.2. Civil Society

Civil society actors constitute an important group of non-state actors in protecting forced migrants. Although the concept is defined in different ways,³⁰⁰ Alagappa offers a useful

²⁹⁵ Jeff Crisp, “Refugees, persons of concern, and people on the move: the broadening boundaries of UNHCR” (2009) 26:1 *Refuge* 73 at 74.

²⁹⁶ See United Nations High Commissioner for Refugees, “Global Appeal 2025 - Executive Summary” (2025), online (pdf): <www.unhcr.org> [archive.org/details/global-appeal-2025-executive-summary] at 3 & 4.

²⁹⁷ See Goodwin-Gill, *supra* note 282 at 6.

²⁹⁸ See *Ibid.*

²⁹⁹ See Dallal Stevens, “Rights, needs or assistance? The role of the UNHCR in refugee protection in the Middle East” (2016) 20:2 *The Intl J H R* 264 at 267.

³⁰⁰ For details see Gil Loescher, *Refugees: A Very Short Introduction*, 1st edn (United Kingdom: Oxford University Press, 2021) at 88. Also see Alice M Nah, “Networks and norm entrepreneurship amongst local civil society actors: advancing refugee protection in the Asia Pacific region” (2016) 20:2 *The Intl J H R* 223 at 227. Also see “The UN and Civil Society” (last visited 30 November 2025), online: *United Nations* <www.un.org> [archive.ph/pGl5G].

definition, describing them as “self-organized, self-governing, non-state, non-profit, non-private institutions that employ non-violent means to achieve a public interest or good through collective action.”³⁰¹ In practice, civil society actors include “volunteer groups, non-governmental organizations (NGOs), churches and other religious institutions, refugee-led initiatives, and many concerned individuals, families, communities, local and even neighborhood organizations, women, youth and business societies, academia and other local groups[.]”³⁰²

Civil society actors contribute to refugee protection by working alongside UNHCR in the implementation of protection activities, particularly by delivering essential services such as refugee registration, legal aid, health services, education, and support for durable solutions.³⁰³ In situations where UNHCR lacks sufficient presence or staffing, the involvement of civil society becomes particularly important in maintaining access to protection services for forced migrants.³⁰⁴

In addition to emergency assistance, over the past decades, these actors have played an important role in raising awareness about the conditions, causes, and unmet needs of forced migrants through research, field engagement, advocacy, and public debate.³⁰⁵ They have also contributed to shaping global refugee policy by participating in processes such as agenda setting, policy formulation, decision-making, implementation, and policy review.³⁰⁶ A notable example is the Global Compact for Migration (GCM), where civil society actors actively advocated for

³⁰¹ Muthiah Alagappa, *Civil Society and Political Change in Asia: Expanding and Contracting Democratic Space* (Redwood City: Stanford University Press, 2004) at 34.

³⁰² Loescher, *supra* note 300 at 88.

³⁰³ James Milner & Amanda Klassen, “Civil Society and the Politics of the Global Refugee Regime” (2021), online (pdf): Carleton University <www.carleton.ca> [archive.org/details/LERRN] at 14.

³⁰⁴ Elizabeth G Ferris, “The Role of Non-Governmental Organizations in the International Refugee Regime” in Gil Loescher, Mark Gibney & Niklaus Steiner, eds, *Problems of Protection The UNHCR, Refugees, and Human Rights*, 1st edn (United Kingdom: Routledge, 2003) at 131.

³⁰⁵ *Ibid* at 132.

³⁰⁶ Milner & Klassen, *supra* note 303 at 17.

during the policy formulation process. According to Gottardo and Rego, “there was strong civil society advocacy for the GCM to explicitly address the issue of migrants in vulnerable situations. The result was Objective 7, and its imperative to “address and reduce vulnerabilities in migration””.³⁰⁷

Civil society actors have also been recognized within the framework of the Global Compact on Refugees (GCR), where, in collaboration with national actors, they contribute to durable solutions through programs related to repatriation, rehabilitation, resettlement, and post-resettlement assistance.³⁰⁸ The GCR also identifies civil society actors among the “relevant stakeholders”³⁰⁹ to be engaged in its two key mechanisms: the Global Refugee Forum (GRF), where states and other actors share progress, good practices, and pledges related to refugee responses, and national arrangements such as Support Platforms under the Comprehensive Refugee Response Framework (CRRF), which aim to enhance coordination and responsibility-sharing.³¹⁰

The GCR also calls for greater support for refugees from post-secondary institutions to support initiatives that expand refugees’ access to higher education and promote their long-term socio-economic inclusion.³¹¹ Such programs strengthen refugees’ self-reliance and resilience

³⁰⁷ Carolina Gottardo & Nishadh Rego, “The Global Compact for Migration (GCM), International Solidarity and Civil Society Participation: a Stakeholder’s Perspective” (2021) 22:4 Hum Rights Rev 425 at 440.

³⁰⁸ Milner & Klassen, *supra* note 303 at 16.

³⁰⁹ “Global Compact on Refugees”, *supra* note 33 at para 3: “the global compact on refugees intends to provide a basis for predictable and equitable burden-and responsibility-sharing among all United Nations Member States, together with other relevant stakeholders as appropriate, including but not limited to: international organizations within and outside the United Nations system, including those forming part of the International Red Cross and Red Crescent Movement; other humanitarian and development actors; international and regional financial institutions; regional organizations; local authorities; civil society, including faith-based organizations; academics and other experts; the private sector; media; host community members and refugees themselves (hereinafter “relevant stakeholders”).”.

³¹⁰ Milner & Klassen, *supra* note 303 at 5.

³¹¹ Hajisoteriou, “Building a Pathway to Belonging”, *supra* note 36 at 1.

while enabling them to contribute more effectively to their own futures and to the societies that host them.³¹²

Despite their important role, civil society actors face several challenges in providing protection for forced migrants. One major challenge relates to power imbalances that affect their ability to influence refugee-related policies across different regions. In the Global North, civil society actors often have greater access to decision-makers and are recognized for their policy expertise and first-hand knowledge, whereas in the Global South, despite hosting the vast majority of refugees, they have limited representation in refugee-related debates.³¹³ This imbalance can lead to policies and decisions that do not adequately reflect the specific challenges and needs faced by host communities in the Global South.

Another important challenge concerns the accountability and transparency of civil society organizations. These organizations follow their own internal standards and evaluation methods, relying on self-defined assessment criteria.³¹⁴ While many civil society actors acknowledge the need for minimum evaluation standards, they are often hesitant to allow external bodies to assess their performance.³¹⁵ This reluctance has made it difficult to create strong compliance or oversight mechanisms.³¹⁶ Developing a systematic evaluation mechanism would not only strengthen their accountability and transparency but also create opportunities to share experiences and learn from each other to improve future programming.

³¹² *Ibid.*

³¹³ Milner & Klassen, *supra* note 303 at 19.

³¹⁴ Ferris, *supra* note 304 at 125.

³¹⁵ *Ibid.*

³¹⁶ *Ibid.*

2.4.4. Termination of International Protection

Cessation clauses and durable solutions are both addressed under the broader title of the termination of protection. Although they refer to different situations, each marks the point at which international refugee protection comes to an end. Cessation clauses apply when circumstances change in such a way that international protection is no longer required, whereas durable solutions represent the successful resolution of a refugee's protection needs.

2.4.4.1. Cessation Clauses

Refugee status has a transitory nature, and as emphasized by the first UN High Commissioner, G. J. van Heuven Goedhart, "it should not be granted for a day longer than was absolutely necessary and should come to an end[.]"³¹⁷ This perspective was shared by the drafters of the 1951 Refugee Convention, who believed that "it would be deleterious for refugees themselves to live outside of their country of origin indefinitely under 'international protection'."³¹⁸ In line with this view, Article 1C of the Convention was included to specify the circumstances under which refugee status may end.

UNHCR categorizes the cessation clauses under Article 1C into two groups: first, those based on the actions of refugees (Article 1C (1) to (4)), such as re-availment of national protection, re-establishment in national territory, and obtaining a new nationality; and second, those based on fundamental changes in the circumstances of the country of origin (Article 1C (5))

³¹⁷ *Note on the Cessation Clauses*, by UNHCR Standing Committee, EC/47/SC/CRP.30 (30 May 1997), online: <www.unhcr.org> [archive.ph/JuhHL] at para 4. Also see Hathaway & Foster, *supra* note 18 at 462.

³¹⁸ Georgia Cole, "Cessation" in Cathryn Costello, Michelle Foster & Jane McAdam, eds, *The Oxford Handbook of International Refugee Law* (Oxford: Oxford University Press, 2021) 1029 at 1029.

and (6)).³¹⁹ The second group has raised more complex interpretive questions regarding how states determine whether protection in the country of origin has been restored.

The second group, referred to as ‘ceased circumstances,’ is formulated in a problematic and unclear manner or, as Goodwin-Gill describes it, ‘glaring’ and ‘perverse’.³²⁰ To clarify the interpretation, UNHCR’s Executive Committee has emphasized that a change in circumstances under Article 1C (5) and (6) of the Convention should have a “fundamental, stable and durable character”.³²¹

“[Since] the application of the cessation clause(s) in the 1951 Convention rests exclusively with the Contracting States, [...they] must carefully assess the fundamental character of the changes in the country of nationality or origin, including the general human rights situation, as well as the particular cause of fear of persecution, in order to make sure in an objective and verifiable way that the situation which justified the granting of refugee status has ceased to exist[.]”³²²

Despite this guidance, states in practice often rely on their own national procedures, which can lead to a number of challenges. One such challenge is that some states assume that international protection is no longer needed once the original circumstances that led to the recognition of refugee status have ceased to exist.³²³ In these cases, “the end of persecution is conflated with (or seen to automatically arise from) the availability of effective protection,”³²⁴ which leads to the cessation of refugee status. As discussed earlier, legal scholars such as Hathaway and Storey challenge this narrow interpretation of protection, which equates protection

³¹⁹ United Nations High Commissioner for Refugees, “UNHCR Observations on the proposed amendments to the Danish Aliens legislation, L 87” (6 January 2016), online (pdf): <www.refworld.org> [archive.org/details/unhcr-l87] at 11 para 29.

³²⁰ Cole, *supra* note 318 at 1034.

³²¹ Executive Committee Meeting, “Cessation of Status No. 69 (XLIII) – 1992” (9 October 1992), online: *United Nations High Commissioner for Refugees* <www.unhcr.org> [web.archive.org/web/20260306185210/https://www.unhcr.org/publications/cessation-status] at para (b).

³²² *Ibid* at para (a).

³²³ Cole, *supra* note 318 at 1037.

³²⁴ *Ibid*.

simply with the cessation of persecution. Instead, they argue that protection should be understood as a positive concept that requires the absence of serious harm and the effective realization of basic human rights.³²⁵ From this perspective, the mere disappearance of the original circumstances of persecution should not by itself justify cessation decisions under Article 1C.

Another challenge concerns the lack of consideration for the practical integration of refugees in host societies, or what O’Sullivan describes as ‘social citizenship’.³²⁶ From this perspective, citizenship is not limited to legal status and can include social participation, political membership, and civic obligations within the host state.³²⁷ Refugees may spend a significant number of years in a host state, developing strong social and economic ties and participating in public life, even if they do not hold formal citizenship.³²⁸ Yet many states do not consider the degree of integration of refugees when making cessation or return decisions.³²⁹ This omission creates a significant gap in refugee law, as implementing cessation clauses and returning refugees “after an extended period may not lead to sustainable return (i.e. it may eventually result in secondary movement).”³³⁰

There are also additional challenges regarding the relationship between refugee status and the issuance of temporary residence permits, particularly in how cessation decisions affect both legal status and the conditions of stay for refugees.³³¹ Overall, these challenges demonstrate how determinations of ‘fundamental change’ in the country of origin can be interpreted differently

³²⁵ See Hathaway & Storey, “What is the Meaning of State Protection in Refugee Law?”, *supra* note 10 at 480 & 484.

³²⁶ O’Sullivan, *supra* note 200 at 163.

³²⁷ See *Ibid* at 167 & 168.

³²⁸ *Ibid* at 163.

³²⁹ See *Ibid* at 163 & 164.

³³⁰ *Ibid* at 164.

³³¹ See *Ibid* at 24–31.

across national systems, and how such interpretations influence the meaning of protection in practice.

2.4.4.2. Durable Solutions

According to Long, “[t]he international refugee regime was designed not just to protect refugees, but to solve refugee crises.”³³² As part of UNHCR’s protection mandate, three durable solutions are recognized: voluntary repatriation, local integration, and resettlement. Signatory states to the 1951 Refugee Convention and its Protocol are obliged to cooperate with UNHCR to achieve these durable solutions.³³³ In broad terms, refugees may remain in the country of asylum if they are permitted to integrate, return to their home countries through voluntary repatriation if conditions allow, or resettle in a third country if another state is willing to admit them.³³⁴ As Labman notes, “[t]here are many “ifs” on the solution side”,³³⁵ and each solution presents significant challenges in both principle and practice.

The first solution is voluntary repatriation, which has traditionally been regarded as the ideal response to refugee displacement.³³⁶ However, examples highlighted by human rights organizations suggest that the reality can be more complex; for instance, large-scale repatriation operations led by UNHCR, such as the return of Rwandan refugees from Tanzania, have revealed some limitations of this solution.³³⁷ While in state practice repatriation has sometimes been understood as the movement or physical return of refugees to their country of origin, the fragile

³³² Katy Long, “Rethinking ‘Durable’ Solutions” in Elena Fiddian-Qasimiyeh et al, eds, *The Oxford Handbook of Refugee and Forced Migration Studies* (Oxford University Press, 2014) 475 at 475.

³³³ Dennis Gallagher, “Durable Solutions in a New Political Era” (1994) 47:2 J Intl Affairs 429 at 430.

³³⁴ Shauna Labman, *Crossing Law’s Border: Canada’s Refugee Resettlement Program* (Vancouver; Toronto: University of British Columbia Press, 2019) at 4.

³³⁵ *Ibid* at 5.

³³⁶ See Katy Long, “Rethinking durable solutions for refugees” in Graham K Brown & Arnim Langer, eds, *Elgar Handbook of Civil War and Fragile States* (Cheltenham; Northampton, Mass.: Edward Elgar Publishing, 2012) at 155.

³³⁷ *Ibid*.

conditions of post-conflict states demonstrate that they often lack the capacity and resources to support the integration and resilience of large populations of returnees.³³⁸ In addition, many refugees, especially younger or second-generation individuals with strong ties in host countries, have little or no desire to return, as their sense of ‘home’ has fundamentally shifted.³³⁹

Local integration has been described as the “forgotten”³⁴⁰ or even “evaded”³⁴¹ solution, since “[m]ost states are not eager to absorb new members, except in cases when they choose to increase immigration.”³⁴² As Hovil explains, in practice, local integration as a durable solution “is about far more—and far less— than the acquisition of citizenship” in the host country.³⁴³ For this reason, host states, particularly low- and middle-income countries, resist formally integrating refugees into their societies. They are concerned that if long-term refugees are recognized as citizens, they will be entitled to access public resources such as healthcare, education, and housing, which can potentially create tensions with existing citizen groups.³⁴⁴

Unlike local integration, in resettlement, obtaining citizenship is assumed to be the outcome of the process, making it a truly durable solution for refugees.³⁴⁵ However, despite its promise, as Van Selm explains, it “cannot be the solution for all refugees as the number of places is simply too low.”³⁴⁶ There is no legal obligation for states to offer resettlement, and the practice is entirely voluntary, described as “an extreme act of compassion”.³⁴⁷ According to UNHCR

³³⁸ *Ibid* at 173.

³³⁹ Long, *supra* note 332 at 476.

³⁴⁰ See Karen Jacobsen, “The forgotten solution: local integration for refugees in developing countries” (July 2001) Fletcher School of Law & Diplomacy and Feinstein International Famine Center Tufts University, Working Paper No. 45, online (pdf): <www.refworld.org> [archive.org/details/forgotten-solution] at 1–5.

³⁴¹ Lucy Hovil, “Local Integration” in Elena Fiddian-Qasmiyeh et al, eds, *The Oxford Handbook of Refugee and Forced Migration Studies* (Oxford University Press, 2014) 488 at 488.

³⁴² Gallagher, *supra* note 333 at 430.

³⁴³ Hovil, *supra* note 341 at 488.

³⁴⁴ Long, *supra* note 332 at 481.

³⁴⁵ Hovil, *supra* note 341 at 488.

³⁴⁶ Joanne Van Selm, “Refugee Resettlement” in Elena Fiddian-Qasmiyeh et al, eds, *The Oxford Handbook of Refugee and Forced Migration Studies* (New York, NY: Oxford University Press, 2014) 512 at 513.

³⁴⁷ Labman, *supra* note 334 at 44.

resettlement statistics published in 2023, only 24 countries worldwide accept refugee resettlement submissions, covering approximately 7 per cent of the global refugee population.³⁴⁸

The limited availability of durable solutions highlights the fact that “[they] continue to remain a reality for very few people.”³⁴⁹ Refugees now spend an average of twenty-two years waiting for voluntary repatriation, resettlement, or local integration.³⁵⁰ In 2022, the gap widened further: for every refugee who returned or was resettled, sixteen new refugees were registered.³⁵¹ This imbalance pushes states and other stakeholders with no choice but to explore complementary pathways as an additional response to displacement.

In 2018, through the Global Compact on Refugees (GCR), UN Member States acknowledged complementary pathways as a means of admitting individuals in need of international protection. According to UNHCR, complementary pathways are defined as:

“legal admission programmes created or adjusted to allow refugees access for the purposes of eventually reaching a solution to their displacement. These programmes are additional and separate to UNHCR-referred resettlement programmes against state-set quotas. Eligibility of refugees for complementary pathways is based on criteria other than those for resettlement (such vulnerability or protection needs of the refugees) and includes their education or employment qualifications, family composition, etc. Ideally, complementary pathways include progressive access to permanent residency or citizenship.”³⁵²

Complementary pathways can be varied in nature and in the way they are incorporated into the migration policies of destination countries.³⁵³ Wood identifies four types of

³⁴⁸ See United Nations High Commissioner for Refugees, “Refugee Resettlement Facts” (October 2023), online (pdf): <www.unhcr.org> [archive.org/details/refugee-resettlement-facts].

³⁴⁹ United Nations High Commissioner for Refugees, “Global Trends Forced Displacement in 2022” (2022), online (pdf): <www.unhcr.org> [archive.org/details/global-trends-report-2022] at 36.

³⁵⁰ Midori T Kaga, “Development Perspective: Providing Durable Solutions for Refugees Through Development” (2019) 31:3 *Diacrítica* (Braga) 113 at 116.

³⁵¹ “Global Trends Forced Displacement in 2022”, *supra* note 349 at 36.

³⁵² Susan Fratzke et al, “Refugee Resettlement and Complementary Pathways Opportunities for Growth” (2021), online (pdf): <www.unhcr.org> [archive.org/details/mpic-unhcr_global-mapping] at 15.

³⁵³ Wood, *supra* note 34 at 3 para 7.

complementary pathways: needs-based pathways, such as humanitarian visas and sponsorship programs, which are designed on the basis of protection needs and refugee vulnerability; qualification-based pathways, including family reunification, education, and labor mobility, which rely on refugees' skills and experiences; custom pathways, which involve the creation of specific visa or migration channels to admit and support refugees; and other complementary pathways, encompassing a range of options, from regular migration routes such as international student or skilled worker visas to additional avenues introduced by individual states.³⁵⁴

Despite this diversity, the role of complementary pathways in refugee protection is not straightforward. As Wood notes, “Unlike resettlement, which is (at least in principle) exclusively humanitarian in its goals, complementary pathways aim to serve multiple goals and objectives at once.”³⁵⁵ For instance, some pathways are not necessarily designed specifically for refugees, including non-humanitarian regular migration channels or temporary protection routes that offer short-term admission.³⁵⁶ In terms of eligibility criteria, in some categories of complementary pathways, having protection needs alone is not enough; refugees must also meet additional criteria related to skills, education, or family ties, which can exclude the most vulnerable individuals.

Furthermore, sometimes refugees are not aware of available complementary pathways, such as community sponsorship programs or education and employment opportunities.³⁵⁷ As Van Selm argues, “complementary pathways are being established to fill the [protection] gap, but if

³⁵⁴ *Ibid.*, at 3 para 7, and pages 13 & 14.

³⁵⁵ *Ibid.* at 22.

³⁵⁶ Martin Wagner & Caitlin Katsiaficas, “Networks and mobility: A case for complementary pathways” (2021), Transnational Figurations of Displacement, Policy Brief No. 3, online (pdf): <www.nbn-resolving.org> [archive.org/details/SSOAR] at 2.

³⁵⁷ See Joanne Van Selm, “Whose Pathways are They? The Top-Down/Bottom-Up Conundrum of Complementary Pathways for Refugees” (2023) 25:2 EU J Migration and L 137 at 160.

the target beneficiaries are not aware of the opportunities, or have limited access to information about them, how are the pathways to function?”³⁵⁸ Accessibility is further constrained by administrative hurdles, refugees who cannot meet procedural requirements may be left out of these pathways even when they are qualified.³⁵⁹ These limitations highlight the importance of aligning complementary pathways with the realities of refugees’ needs and circumstances.³⁶⁰

Apart from these practical challenges, complementary pathways, particularly education-based initiatives that involve universities and other post-secondary institutions, have attracted growing attention as potential avenues for expanding protection for refugees and broader groups of forced migrants. The significance of the right to higher education as a human right and the rationale behind the development of these initiatives will be examined in subsequent chapters.

2.5. Conclusion

This chapter provides a roadmap for the research by examining the meaning of protection in refugee law. It began with a historical overview, tracing the evolution of the concept and showing how its content has developed over time. It then turned to the definitional challenges surrounding protection, drawing insights from two interrelated legal frameworks upon which refugee law is grounded: international humanitarian law and international human rights law.

Building on these foundations, the chapter adopted a human rights approach to analyzing the concept of protection, emphasizing that it is a positive notion that goes beyond the mere absence of persecution and seek to ensure refugees’ access to fundamental rights. Adopting this understanding, the chapter does not attempt to formulate a new definition of protection, since no single definition could capture all its details. Instead, it approached the concept by examining

³⁵⁸ *Ibid.*

³⁵⁹ *Ibid* at 161.

³⁶⁰ *Ibid.*

four interrelated elements: the beneficiaries of protection, its normative core, the actors responsible for providing it, and the circumstances under which protection may be terminated.

The discussion under each of these dimensions revealed the conceptual and practical challenges of protection, explaining why refugee law contains no definition and why legal scholars often describe it as a ‘term of art.’ At the same time, because the principal legal source remains the 1951 Refugee Convention and its Protocol, protection should be understood as a dynamic notion, flexible enough to address different groups and respond to the evolving realities of forced displacement.

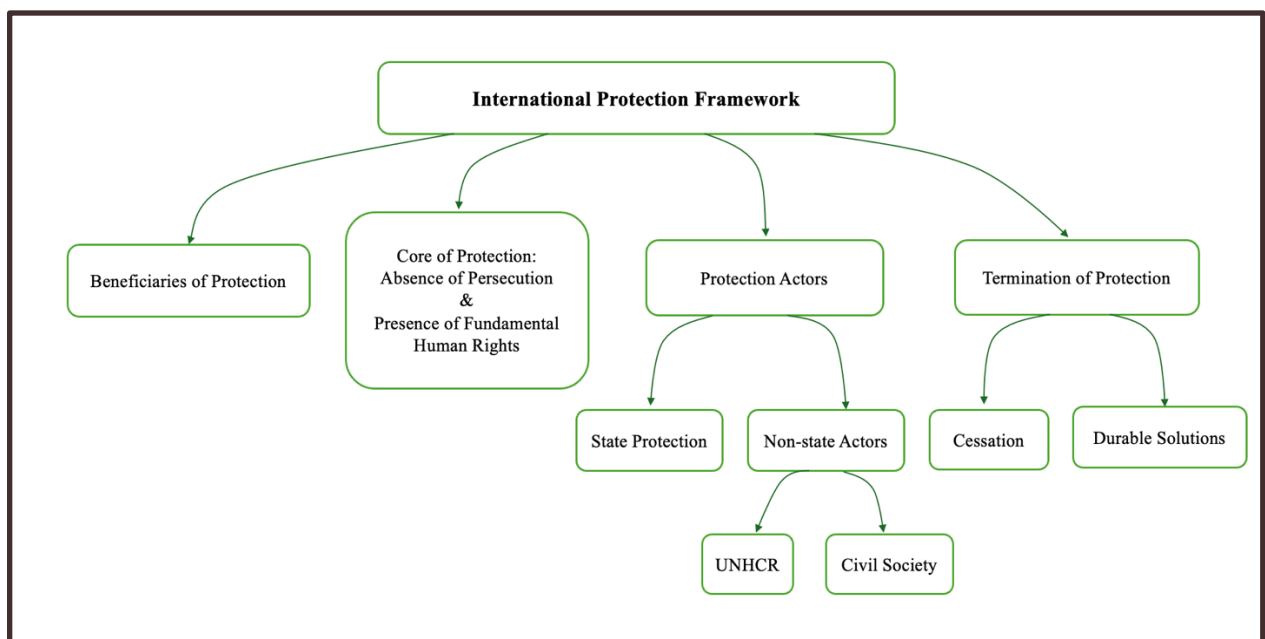


Figure 2: Overview of the International Protection Framework³⁶¹

³⁶¹ Author’s own creation, Microsoft Power Point, (December 2025).

Chapter Three:
Higher Education in International Law

3.1. Introduction

*“Ever since economists revealed how much universities contribute to economic growth, politicians have paid close attention to higher education.”*³⁶²

Derek Bok

*“Higher education is a human right. [...] We need to change the dialogue about higher education so that it does not become a luxury only the wealthy can afford.”*³⁶³

Heidi R. Gilchrist

For much of history, education was perceived as a luxury reserved for the elite. However, in the nineteenth century, with the rise of socialism and liberalism, it began to be recognized as a human right, and free education was advocated for poor and working-class populations.³⁶⁴ After the First World War, the League of Nations placed the right to education on the international agenda, with a focus on child welfare and protection.³⁶⁵ In 1945, the UN Charter further emphasized international cooperation in the social, cultural, and educational fields as a means of creating stability,³⁶⁶ and the United Nations Educational, Scientific and Cultural Organization (UNESCO) took the lead in addressing illiteracy, equality of opportunity, and access to education for children, youth, and adults.³⁶⁷

Despite these historical advances, debates around the role and value of higher education remain complex and evolving. The perspectives of Bok and Gilchrist capture a tension in the contemporary global discourse on higher education. On the one hand, higher education has been recognized as a driver of economic growth and national development; on the other, international

³⁶² Derek Bok, “Higher Education Misconceived” (7 November 2013), online: *Project Syndicate* <www.project-syndicate.org/archive.ph/QC0ck> [archive.ph/QC0ck].

³⁶³ Gilchrist, *supra* note 26 at 645.

³⁶⁴ Douglas Hodgson, *The Human Right to Education* (Aldershot; Brookfield, VT: Ashgate/Dartmouth, 1998) at 9.

³⁶⁵ *Ibid* at 10.

³⁶⁶ *Charter of the United Nations*, 26 June 1945, Can TS 1945 No 7 (entered into force 24 October 1945) [UN Charter] at Article 55(b).

³⁶⁷ *Constitution of the United Nations Educational, Scientific and Cultural Organization*, adopted 16 November 1945, entered into force 4 November 1946, 4 UNTS 275 [UNESCO Constitution] at Article I (Purpose and Functions).

human rights law affirms it as part of the right to education and obliges states to make it accessible. While its economic value is undeniable, this chapter focuses on the human rights aspect of higher education and, in particular, its significance for the protection of forced migrants.

For this group, access to post-secondary education is not only about pursuing academic knowledge, but also about reclaiming dignity, building a future, and securing the conditions for meaningful participation in society.³⁶⁸ In this sense, higher education becomes a complementary pathway through which protection is realized: it supports access to other human rights such as work and health, creates opportunities for agency and self-reliance, and strengthens the capacity of refugees to contribute to their countries of origin in case they decide to return.

Considering this background, this chapter situates higher education within the framework of international human rights law. It begins with a conceptual analysis and explores the nature of higher education as part of right to education in international human rights instruments. It then examines why higher education is especially important for refugees and forced migrants, highlighting its transformative potential and the barriers to access. The chapter goes on to discuss the role of universities as protection actors and turns to academic freedom as one of the core values of universities, a component of the right to higher education, and potentially an independent human right, to evaluate its significance for forced migrants.

3.2. Definition of Higher Education: Conceptual Analysis

Historically, higher education was not understood as an independent concept but was closely tied to the institutions that offered it or seen as part of broader notions such as higher education systems. This overlap is understandable due to the involvement of various actors and

³⁶⁸ See Hajisoteriou, “Building a Pathway to Belonging”, *supra* note 36 at 1–4.

normative frameworks in different parts of the world. For example, the term ‘universities’ and ‘higher education’ were often used interchangeably, as universities were the primary places that offered advanced knowledge.³⁶⁹

In the early 1970s, UNESCO designed the International Standard Classification of Education (ISCED) as an international framework to classify education programs across countries. The 2011 version of ISCED defines higher education as:

“Tertiary education builds on secondary education, providing learning activities in specialised fields of education. It aims at learning at a high level of complexity and specialisation. Tertiary education includes what is commonly understood as academic education but also includes advanced vocational or professional education. [...] It comprises [...] short-cycle tertiary education, Bachelor’s or equivalent level, Master’s or equivalent level, and doctoral or equivalent level, respectively.”³⁷⁰

This widely accepted definition, reflected in other UNESCO instruments, provides a common basis for understanding higher education across different national contexts.³⁷¹ However, it does not fully capture the changing nature of higher education. In today’s context of internationalization, new and non-traditional models have emerged, making advanced learning more adaptable and transferable across different settings. These developments are particularly significant for displaced and marginalized populations, whose diverse needs often fall outside these descriptive definitions of higher education.³⁷²

Based on this understanding, the meaning of higher education can be further clarified by identifying conceptual boundaries. As McCowan explains, higher education builds on earlier

³⁶⁹ Sintayehu Kassaye Alemu, “The Meaning, Idea and History of University/Higher Education in Africa: A Brief Literature Review” (2018) 4:3 FIRE: Forum for Intl Research in Edu 210 at 210 & 212.

³⁷⁰ *International Standard Classification of Education, ISCED 2011* (Montreal: UIS, 2012), online: <www.uis.unesco.org> [archive.org/details/isced-2011] at 46 (para 200).

³⁷¹ See *International Standard Classification of Education: ISCED 1997*, re-edition edn (Montreal: UIS, 2006), online: <www.uis.unesco.org> [archive.org/details/ISCED1997] at 7.

³⁷² See Hakan Ergin, Hans de Wit & Betty Leask, “Forced Internationalization of Higher Education: An Emerging Phenomenon” (2019) 97 IHE 9–10.

stages of learning, and is typically pursued by individuals who have completed primary and secondary education.³⁷³ It involves the acquisition of specialized and in-depth knowledge in a particular field, equipping learners with relevant expertise and skills.³⁷⁴ At the same time, there is no single international standard for curriculum content as this varies across societies.³⁷⁵ Finally, higher education is widely recognized as a public good and a public responsibility; however, unlike earlier levels of education, it is not always state-funded and may involve associated costs.³⁷⁶

Understanding higher education as an evolving concept allows policymakers, educators, and institutions to remain responsive changing contexts, better address the needs of diverse learners, and contribute to both individuals and broader social development.

3.3. Why Higher Education Matters for Refugees?

The global response to displacement has traditionally focused more on life-saving interventions such as providing shelter, food, water, and medical care to address essential needs of individuals.³⁷⁷ A primary reason for this approach is that displacement and refugeehood have long been understood as temporary emergencies, demanding urgent, short-term responses.³⁷⁸ Today, however, this humanitarian or relief approach no longer reflects the reality of refugees' lives, as displacement can last a lifetime. Many people spend years, and even decades, in

³⁷³ McCowan, *supra* note 23 at 112.

³⁷⁴ *Ibid.*

³⁷⁵ *Ibid* at 112 & 113.

³⁷⁶ *Ibid* at 113.

³⁷⁷ Sarah Dryden-Peterson, "The Politics of Higher Education for Refugees in a Global Movement for Primary Education" (2010) 27:2 *Refuge* 10 at 12.

³⁷⁸ Sally Baker, Georgina Ramsay & Caroline Lenette, "Students from Refugee and Asylum Seeker Backgrounds and Meaningful Participation in Higher Education: From Peripheral to Fundamental Concern" (2019) 21:2 *Wide Particip Lifelong Learn J* 4–19 at 7. Also see Cathrine Brun, "There is no Future in Humanitarianism: Emergency, Temporality and Protracted Displacement" (2016) 27:4 *History and Anthropology* 393–410.

displacement, long after their basic needs have been met.³⁷⁹ According to UNHCR, refugees now spend an average of around twenty years in exile, a period that represents a significant portion of a person's learning years.³⁸⁰

In this context, limiting responses to immediate or basic survival needs is not sufficient. As Zeus argues “we cannot afford to have human potential linger around until a durable solution is found ... we need to look at the immediate and long-term development needs of refugees in protracted contexts.”³⁸¹ The prolonged nature of displacement requires a shift from a relief model that focuses on material aid to a development model that addresses long-term needs.³⁸² This approach emphasizes expanding refugees' choices “rather than inducing passivity and a feeling of helplessness.”³⁸³

The development model focuses on addressing refugees' human rights needs, including access to socio-economic rights such as education. Education at all levels is a fundamental human right that belongs to all individuals regardless of their attachments to a particular country in the form of citizenship or national affiliation.³⁸⁴ It is particularly important for refugees as it not only mitigates the impact of displacement³⁸⁵ but also facilitates access to and realize other human rights, such as employment, welfare, and healthcare. This dual role of education is

³⁷⁹ Baker, Ramsay & Lenette, “Students from Refugee and Asylum Seeker Backgrounds and Meaningful Participation in Higher Education”, *supra* note 378 at 7.

³⁸⁰ “Introduction” (last visited 06 February 2024), online: *United Nations High Commissioner for Refugees* <www.unhcr.org> [archive.ph/tkdGl].

³⁸¹ Barbara Zeus, “Exploring Paradoxes around Higher Education in Protracted Refugee Situations,” in *Borderless Education: The Provision of Tertiary Degree Programmes to Long-term Refugees* (Toronto: Centre for Refugees Studies, York University, 2010), 6. This is the major source; however, I found the quote in Wright & Plasterer, *supra* note 28 at 44.

³⁸² See Jadranka Mimica & Paul Stubbs, “Between Relief and Development: Theories, Practice and Evaluation of Psycho-Social Projects in Croatia” (1996) 31:4 *Community Development Journal* 281 at 283–285.

³⁸³ *Ibid* at 283. Wright & Plasterer, *supra* note 28 at 44.

³⁸⁴ Tristan McCowan, *Education as a Human Right: Principles for a Universal Entitlement to Learning* (UK, US: Bloomsbury Academic, 2013) at 11.

³⁸⁵ Khalid Arar, Yasar Kondakci & Bernhard Streitwieser, “Higher Education for Forcibly Displaced Migrants, Refugees and Asylum Seekers” (2020) 33:2 *High Educ Policy* 195 at 196.

emphasized by the Committee on Economic, Social and Cultural Rights in its General Comment on the right to education:

“Education is both a human right in itself and an indispensable means of realizing other human rights. As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities.”³⁸⁶

Building on this understanding, the work of legal scholars such as Hodgson also highlights the value of education across four interrelated areas: social utilitarian or public interest, where education functions as a means of cultural transmission; individual welfare, supporting individuals in meeting their basic needs; individual development, providing opportunities to realize their potential; and individual dignity, enabling them to lead a dignified life.³⁸⁷

While the Committee and Hodgson’s framework refer to education in a broad sense, the value of education at the tertiary level for displaced individuals becomes even more critical. For refugees, higher education can contribute to rebuilding disrupted lives, supporting economic self-sufficiency, and contributing to the nation- or peace-building in post-conflict situations. Inspired by Hodgson’s insights, the following section is organized around two categories: the intrinsic and instrumental values of higher education for refugees.

3.3.1. Intrinsic Value(s) of Higher Education

According to Kotzee and Martin, “universities do not in the first instance regulate access to jobs, income and position, but are there, firstly, to provide a certain kind of education.”³⁸⁸

³⁸⁶ UN Committee on Economic, Social and Cultural Rights, *General Comment No. 13: The right to education (Article 13)*, 21st Sess, UN Doc E/C.12/1999/10 (1999) [*CESCR General Comment No. 13*] at para 1.

³⁸⁷ Hodgson, *supra* note 364 at 17–20.

³⁸⁸ Ben Kotzee & Christopher Martin, “Who Should Go to University? Justice in University Admissions: Justice in University Admissions” (2013) 47:4 *J Philosophy Edu* 623 at 624.

Education itself is intrinsically valuable as it enables individuals to actively participate in the process of learning. At the post-secondary level this value becomes even stronger, as learners are able to engage deeply with the acquisition of knowledge in a specific field and experience intellectual development.³⁸⁹ The comment of the Committee on Economic, Social and Cultural Rights emphasizes this intrinsic dimension, noting that:

“[T]he importance of education is not just practical: a well-educated, enlightened and active mind, able to wander freely and widely, is one of the joys and rewards of human existence.”³⁹⁰

For refugees, the intrinsic value of higher education lies not only in the pursuit of knowledge but also in the sense of purpose it provides during the prolonged uncertainty of displacement. As Baker et al. note, “Studying in preparation for or as part of a higher education programme is often a way to pass the time, either in a country of asylum or while awaiting asylum claims or refugee status determinations to be processed.”³⁹¹ In this context, higher education is more than a way to fill empty hours; it becomes a source of meaning and a daily practice that creates a sense of hope about “having a future or working towards a future”.³⁹² It also serves as a form of resistance, helping “to rupture the notion of crisis as permanence”.³⁹³

3.3.2. Instrumental Value(s) of Higher Education

In 2023, Berg provided a review of literature, examining 104 papers published between 2016 and 2019 on the challenges of higher education for refugees.³⁹⁴ As part of her research, she

³⁸⁹ See *Ibid* at 635. Also see McCowan, *supra* note 384 at 56–62.

³⁹⁰ *CESCR General Comment No. 13*, *supra* note 386 at para 1.

³⁹¹ Baker, Ramsay & Lenette, “Students from Refugee and Asylum Seeker Backgrounds and Meaningful Participation in Higher Education”, *supra* note 378 at 7.

³⁹² Brun, “There is no Future in Humanitarianism”, *supra* note 378 at 394.

³⁹³ Tejendra Pherali & Mai Abu Moghli, “Higher Education in the Context of Mass Displacement: Towards Sustainable Solutions for Refugees” (2021) 34:2 J Ref Studies 2159 at 2162.

³⁹⁴ See Berg, “Higher education for refugees”, *supra* note 27 at 1–25.

developed a framework to explore the relevance of support for refugee students. Based on that framework, the instrumental values of higher education for forced migrants can be categorized into, but not limited to, socio-economic, individual, and institutional levels.³⁹⁵

At the individual level, the instrumental value of higher education lies in the tangible outcomes it delivers, such as improving refugees' material conditions. It empowers refugees to rebuild their lives by facilitating employment, financial independence, and career development.³⁹⁶ It also creates self-reliance, enabling displaced persons to regain control over their lives and to exercise agency in shaping their future.³⁹⁷ Additionally, as Arar et al. explain, the skills and competencies developed through higher education equip forced migrants to make informed decisions about migration, in particular, the routes they choose for migration for themselves and their families.³⁹⁸

At a socio-economic level, higher education provides critical benefits for host countries. By enabling refugees to pursue higher education, host countries benefit from an accelerated process of integration.³⁹⁹ It produces qualified workers and experts who contribute to economic productivity. Post-secondary graduates have access to more stable employment, which in turn increases tax revenues and reduces their dependency on host countries.⁴⁰⁰ Beyond economic contributions, higher education also plays an important role in social integration. Universities serve as key settings for social interaction, where refugees and local students can learn about

³⁹⁵ See *Ibid* at 13.

³⁹⁶ Amani El Jack, ““Education Is My Mother and Father”: The “Invisible” Women of Sudan” (2012) 27:2 *Refugee* 19 at 23.

³⁹⁷ See Thomas M Crea, “Refugee Higher Education: Contextual Challenges and Implications for Program Design, Delivery, and Accompaniment” (2016) 46 *Intl J Edu Development* 12 at 13.

³⁹⁸ Arar, Kondakci & Streitwieser, *supra* note 385 at 196.

³⁹⁹ Jana Berg, Michael Grüttner & Bernhard Streitwieser, “Introduction: Refugees in Higher Education—Questioning the Notion of Integration” in Jana Berg, Michael Grüttner & Bernhard Streitwieser, eds, *Refugees in Higher Education* (Germany: Springer VS, 2021) 3 at 5.

⁴⁰⁰ Wright & Plasterer, *supra* note 28 at 43.

social norms such as diversity, equity, and inclusion, exchange perspectives, and build mutual trust.⁴⁰¹ These everyday encounters promote tolerance and understanding, providing a safe space for all students, including refugees, to discuss challenging issues such as xenophobia or gender stereotypes.⁴⁰²

The socio-economic benefits of higher education are not limited to host countries; they also extend to countries of origin in post-conflict situations. Several studies emphasize “the critical role of higher education in nation building and peace making, particularly in countries recovering from war.”⁴⁰³ Refugees with higher education are agents of development and valuable sources of social capital, whose expertise is urgently needed for national recovery.⁴⁰⁴ This perspective is reinforced by Antonio Guterres, who stated that “Refugees return with schooling and new skills, in itself a critical factor in any post-conflict situation. Over and over, we see that their participation is necessary for the consolidation of both peace and post-conflict economic recovery.”⁴⁰⁵ Empirical research also supports this view, for instance, Coffie’s study on Liberian refugees returning from Ghana and Guinea shows that those with higher education degrees are not passive recipients in the peace-building process, but rather key contributors.⁴⁰⁶ They actively

⁴⁰¹ See Gilchrist, *supra* note 26 at 672.

⁴⁰² See *Ibid.*

⁴⁰³ Wright & Plasterer, *supra* note 28 at 43. See Rabeen A Rasheed & Alexander Munoz, “Higher education and peacebuilding— a bridge between communities?” (2016) 13:2 Journal of Peace Education 172–185. Also see Sahar & Kaunert, “Higher education as a catalyst of peacebuilding in violence and conflict-affected contexts”, *supra* note 37. Also see Sansom Milton & Sultan Barakat, “Higher Education as the Catalyst of Recovery in Conflict-Affected Societies” (2016) 14:3 Globalisation, Societies & Edu 403–421.

⁴⁰⁴ See Barbara Zeus, “Exploring Paradoxes around Higher Education in Protracted Refugee Situations The Case of Burmese refugees in Thailand” (01 September 2009), online (pdf): Institute of Education University of London <www.eenet.org.uk> [archive.org/details/higher-ed-refugees-thailand] at 71–80. Also see Amanda Coffie, “Filling in the Gap: Refugee Returnees Deploy Higher Education Skills to Peacebuilding” (2014) 33:4 Refugee Survey Quarterly 114 at 115.

⁴⁰⁵ António Guterres, United Nations High Commissioner for Refugees, “Statement to the United Nations Security Council” (24 January 2006), online: UN<www.unhcr.org> [archive.fo/GmXZK] at Part II: Refugee Returns and Sustainability.

⁴⁰⁶ Coffie, *supra* note 404 at 140.

deploy their skills to benefit their communities and support the recovery and reconciliation of their country.⁴⁰⁷

At the institutional level, the inclusion of refugees in higher education offers two main benefits. First, it contributes to the internationalization of universities and enhances diversity on campus.⁴⁰⁸ Refugee students bring different cultural perspectives and experiences, creating a richer and more global learning environment for their peers.⁴⁰⁹ Second, by responding to refugee crises and expanding access to higher education, universities demonstrate social responsibility and strengthen their public reputation.⁴¹⁰ Such efforts can also contribute to institutional visibility in global rankings, where indicators such as the admission rates of underrepresented groups, including refugee students, are taken into account.⁴¹¹ In this sense, the inclusion of refugee students creates a “win-win” scenario for both refugee and the institutions that host them.⁴¹²

3.4. Higher Education in International Human Rights Law

Higher education forms an integral part of the right to education. As McCowan argued, “[i]t is quite arbitrary to determine that the learning provided in primary school is a right and at subsequent levels is simply a good.”⁴¹³ International human rights law affirms that the right to education covers “all types and levels [...], and includes access to education, the standard and

⁴⁰⁷ *Ibid.*

⁴⁰⁸ Berg, “Higher education for refugees”, *supra* note 27 at 13.

⁴⁰⁹ *Ibid.*

⁴¹⁰ Streitwieser et al, “Access for Refugees Into Higher Education”, *supra* note 38 at 488.

⁴¹¹ Times Higher Education Impact Rankings provides a global framework for assessing universities’ contributions to the United Nations Sustainable Development Goals (SDGs). Within this framework, support for refugee students is explicitly recognized through SDG 10 (Reduced Inequalities), SDG 4 (Quality Education), and SDG 11 (Sustainable Cities and Communities). See Duncan Ross, “Why we are rewarding support for refugees in our Impact Rankings” (17 June 2025), online: *Times Higher Education* <www.timeshighereducation.com> [web.archive.org/web/20251116222711/https://www.timeshighereducation.com/world-university-rankings/why-we-are-rewarding-support-refugees-our-impact-rankings].

⁴¹² Streitwieser et al, “Access for Refugees Into Higher Education”, *supra* note 38 at 488.

⁴¹³ McCowan, *supra* note 23 at 116.

quality of education, and the conditions under which it is given.”⁴¹⁴ Human rights instruments therefore frame education as a holistic concept that includes all levels, from primary to tertiary levels.

The Universal Declaration of Human Rights (UDHR) was the first global instrument to affirm that “higher education shall be equally accessible to all on the basis of merit”.⁴¹⁵ While not legally binding, the UDHR is widely recognized as the foundation of international human rights law, establishing “a common standard of achievement for all peoples and all nations”.⁴¹⁶ The Convention against Discrimination in Education (CDE) and ICESCR both reinforce the UDHR principle of equal access, but they use the term ‘capacity’ instead of ‘merit’.⁴¹⁷ This shift moves the focus from prior academic achievement to students’ potential and future ability, making higher education more inclusive for those from disadvantaged backgrounds, including refugees.⁴¹⁸ According to Article 13 of the ICESCR:

“Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education[.]”⁴¹⁹

As Beiter explains, the ICESCR plays an important role in recognizing the “formal and material universality” of the right to education.⁴²⁰ Since its adoption in 1966, 172 out of the 193 UN Member States have ratified the Covenant, reflecting a remarkable level of international

⁴¹⁴ *Convention against Discrimination in Education*, 14 December 1960, UNTS 6193 (entered into force 22 May 1962) [CDE] at Article 1(2).

⁴¹⁵ *UDHR*, *supra* note 131 at Article 26.

⁴¹⁶ *Ibid* at Preamble para 8.

⁴¹⁷ See *ICESCR*, *supra* note 24 at Article 13 (2)(C). Also see *CDE*, *supra* note 414 at Article 4 (a).

⁴¹⁸ McCowan, *supra* note 384 at 118.

⁴¹⁹ *ICESCR*, *supra* note 24 at Article 13 (2)(C).

⁴²⁰ Beiter, *supra* note 25 at 35.

support.⁴²¹ Article 13 of the ICESCR defines education as a universal right granted to everyone, irrespective of age, language, social or ethnic background, or any other status.⁴²²

The right to higher education is also recognized in several human rights instruments, that address the needs of specific groups. The Convention on the Rights of the Child (CRC) requires states to make higher education accessible “by every appropriate means”.⁴²³ The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) obliges states to provide equal access for women at all levels of education, including scholarships and study grants.⁴²⁴ Similarly, the Convention on the Rights of Persons with Disabilities (CRPD) strengthens these obligations by requiring states to ensure access to tertiary education without discrimination and with reasonable accommodation for individuals with disabilities.⁴²⁵

Refugees are among the groups for whom access to education beyond the elementary level was expressly recognized in early international law, particularly in the 1951 Refugee Convention. Article 22 places education within Chapter IV, under the broader category of ‘Welfare’. This chapter brings together provisions related to social and economic well-being of refugees, including housing, labour legislation, social security, and education. These rights were understood by the drafters as essential to ensuring a decent standard of living, and contracting states were expected to address such welfare considerations in their treatment of refugees.⁴²⁶

⁴²¹ “United Nations Treaty Collection” (last visited 7 December 2025), online: <www.treaties.un.org> [archive.ph/LQMnz].

⁴²² Coomans, “Exploring the normative Content of the Right to Education as a human Right”, *supra* note 25 at 65.

⁴²³ See *Convention on the Rights of the Child*, 20 November 1989, 1577 UNTS 196 (entered into force 02 September 1990, accession by Canada 12 December 1991) [CRC] at Article 28(C).

⁴²⁴ See *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, 1249 UNTS 189 (entered into force 03 September 1981, accession by Canada 10 December 1981) [CEDAW] at Article 10.

⁴²⁵ See *Convention on the Rights of Persons with Disabilities*, 13 December 2006, 2515 UNTS 190 (entered into force 03 May 2008, accession by Canada 11 March 2010) [CRPD] at Article 24(1).

⁴²⁶ See Andreas Zimmermann & Jonas Dörschner, “Article 22: (Public Education/Education Publique)” in Andreas Zimmermann, Felix Machts & Jonas Dörschner, eds, *The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol: A Commentary* (Oxford: Oxford University Press, 2011) at 1026.

Article 22 recognizes and protects the right to education in broad terms; however, with respect to higher education, it uses more conditional language:

“The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education. [...] The Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.”⁴²⁷

The language and content of Article 22 were inspired by earlier refugee conventions. The 1933 Convention (Article 12)⁴²⁸ and the 1938 Convention (Article 14)⁴²⁹ required states to treat refugees on the same basis as “other foreigners in general.” By contrast, Article 22 marked a significant advance by requiring “the same treatment as nationals” for elementary education, and for education beyond that, including higher education, treatment “as favourable as possible,” and in any case no less favourable than that accorded to aliens.⁴³⁰

The earlier instruments did not extend such treatment to “access to studies,” limiting states’ obligations to refugees already admitted to schools; they also made no provision for the recognition of foreign school certificates, diplomas, or degrees.⁴³¹ However, with the support of UNHCR during the Conference of Plenipotentiaries, the issue of recognition was raised and included in paragraph 2, reflecting its importance for refugees,⁴³² particularly those seeking to

⁴²⁷ 1951 Refugee Convention, *supra* note 188 at Article 22.

⁴²⁸ 1933 Convention, *supra* note 117 at Article 12: “Refugees shall enjoy in the schools, courses, faculties and universities of each of the Contracting Parties treatment as favorable as other foreigners in general. They shall benefit in particular to the same extent as the latter by the total or partial remission of fees and charges and the award of scholarships.”

⁴²⁹ *Convention concerning the Status of Refugees Coming From Germany*, 10 February 1938, CXCII LNTS 4461 [1938 Convention] at Article 14: “Refugees shall enjoy in the schools, courses, faculties and universities of each of the High Contracting Parties treatment as favourable as other foreigners in general. They shall benefit in particular to the same extent as the latter by the total or partial remission of fees and charges and the award of scholarships.”.

⁴³⁰ 1951 Refugee Convention, *supra* note 188 at Article 22.

⁴³¹ Zimmermann & Dörschner, *supra* note 426 at 1022.

⁴³² *Ibid* at 1025.

pursue higher education. This amendment did not guarantee full equivalence or automatic recognition, but it established at least a minimum obligation on states to treat refugees' diplomas no less favourably than those of other aliens.⁴³³

It is worth noting that the records of the drafting process indicate that the drafters were aware of the significance of post-primary education for refugees and the barriers they might face. For instance, in his 1949 memorandum regarding the preliminary draft of the Refugee Convention, Trygve Lie, the first Secretary-General, highlighted this concern for refugees and urged contracting states to provide more than the ordinary treatment regarding higher education:

“Since refugees are in a precarious economic position and the Government of their country of origin takes no interest in them, it would be desirable to do more than merely accord them the ordinary right enjoyed by foreigners; otherwise in practice although secondary and higher education is open to them, they will be unable, for want of money, to take advantage of it. For this reason it is proposed to grant refugees the most favourable treatment accorded to the nationals of a foreign country.”⁴³⁴

Although the final text of Article 22 does not grant refugees the same treatment as nationals in higher education, this limitation does not diminish the human rights character of higher education for them. By placing education within the welfare provisions, the drafters acknowledged its essential role in refugees' well-being. This recognition remains relevant today, particularly when the 1951 Convention is understood as a living instrument that should be interpreted in light of the contemporary displacement conditions.

⁴³³ *Ibid.*

⁴³⁴ Secretary-General, *Status of Refugees and Stateless Persons: Memorandum*, UN Doc E/AC.32/2 (3 January 1950), online: <www.digitallibrary.un.org> [archive.org/details/e-ac-32-2] at 40 comment para 2. Also see Zimmermann & Dörschner, *supra* note 426 at 1023 & 1024.

3.4.1. Global Compacts and Afterwards

There is a strong demand for higher education opportunities among refugees,⁴³⁵ yet access remains restricted and is often “limited to a ‘lucky’ few”.⁴³⁶ UNHCR specifically notes that although a significant portion of the refugee population consists of young people, between the ages 18 and 24, only nine percent are enrolled in tertiary education, compared to a global average of around forty percent among their non-refugee peers.⁴³⁷ This disparity is further exacerbated by the ongoing growth of the global refugee population, highlighting the urgent need for enhanced collaboration within the international community.

In 2016, world leaders came together at the UN General Assembly to discuss collective approaches to supporting refugees. Their efforts led to the adoption of the *New York Declaration for Refugees and Migrants*, which laid the foundation for the later Global Compacts. In the Declaration’s introduction, state parties acknowledged their “shared responsibility to manage large movements of refugees and migrants in a humane, sensitive, compassionate and people-centred manner.”⁴³⁸ The Declaration also emphasized the importance of providing quality education in safe learning environments for all refugees, highlighting higher education “as a powerful driver for change”⁴³⁹ and a critical pathway to support refugees’ social inclusion and integration in host countries.⁴⁴⁰

⁴³⁵ See Shakya et al, *supra* note 29 at 65–78. Also see Stevenson & Willott, *supra* note 29 at 671–687.

⁴³⁶ Baker, Ramsay & Lenette, “Students from Refugee and Asylum Seeker Backgrounds and Meaningful Participation in Higher Education” *supra* note 378 at 8. Also see United Nations High Commissioner for Refugees, “UNHCR Education Strategy, 2012-2016” (2012), online (pdf): <www.refworld.org> [archive.org/details/4f-4cd-9812] at 21.

⁴³⁷ “Higher Education and Skills”, *supra* note 32. Also see Tebeje Molla, “Higher education for refugees: Global initiatives and national responses” in Julie Matthews & Quentin Maire, eds, *A Modern Guide to Refugee Education* (United Kingdom: Edward Elgar Publishing, 2025) 223 at 223.

⁴³⁸ United Nations General Assembly, *New York Declaration for Refugees and Migrants*, UNGAOR, 71st Sess, UN Doc A/RES/71/1, (3 October 2016), [archive.org/details/a-res-71-1] [New York Declaration] at para 11.

⁴³⁹ *Ibid* at para 82.

⁴⁴⁰ Molla, *supra* note 437 at 227.

Two years later, in line with the Declaration, the Global Compact on Refugees (GCR) was adopted, reaffirming higher education as a complementary pathway for refugees' protection, social inclusion, and integration in host countries.⁴⁴¹ To make this operational, the GCR emphasized practical measures such as expanding scholarships and student visas as part of complementary pathways to refugee protection.⁴⁴² As a collective effort, the GCR aims to facilitate access to education for refugees and host community members, including children, adolescents, and young people, across primary, secondary, and tertiary levels.⁴⁴³

The Global Compact for Safe, Orderly and Regular Migration (GCM) likewise acknowledged the role of education. In Objective 5, states commit to enhancing education opportunities through expanding “available options for academic mobility, through bilateral and multilateral agreements that facilitate academic exchanges, such as scholarships for students and academic professionals, visiting professorships, joint training programmes, and international research opportunities, in cooperation with academic institutions and other relevant stakeholders.”⁴⁴⁴

Despite criticisms regarding their non-binding nature and limited engagement with large-scale migration dynamics,⁴⁴⁵ both Global Compacts reflect the political will of member states to strengthen support for forced migrants and promote their social inclusion. Within this framework, education, particularly higher education, is recognized as a key means of protection

⁴⁴¹ See “Global Compact on Refugees”, *supra* note 33 at para 68 & 95.

⁴⁴² See *Ibid* at para 95.

⁴⁴³ *Ibid* at para 68.

⁴⁴⁴ “Global Compact for Safe, Orderly and Regular Migration” (2018), online (pdf): <www.refugeesmigrants.un.org> [archive.org/details/gcm_20240207] at para 21(j).

⁴⁴⁵ Liliana Lyra Jubilut & Melissa Martins Casagrande, “Shortcomings and/or Missed Opportunities of the Global Compacts for the Protection of Forced Migrants” (2019) 57:6 International Migration 139 at 140.

and empowerment not only for refugees but also for other groups of migrants in precarious situations.⁴⁴⁶

In line with the spirit and objectives of the Global Compacts, UNESCO adopted the *Global Convention on the Recognition of Qualifications concerning Higher Education* as the first international UN treaty on higher education.⁴⁴⁷ The Convention sets out universal principles for fair, transparent, and non-discriminatory recognition of higher education qualifications,⁴⁴⁸ aiming to promote “inclusive and equitable access to quality higher education and support lifelong learning opportunities for all, including refugees and displaced persons[.]”⁴⁴⁹ For forced migrants, recognition carries both academic and professional value: it is closely linked to their right to access higher education outside their countries of origin and also opens pathways to employment.⁴⁵⁰ This dual role is reflected in the Convention:

“Each State Party shall take the necessary and feasible steps, within its education system and in conformity with its constitutional, legislative and regulatory provisions, to develop reasonable procedures for assessing fairly and efficiently whether refugees and displaced persons fulfil the relevant requirements for access to higher education, to further higher-education programmes, or to the seeking of employment opportunities, including in cases where partial studies, prior learning, or qualifications acquired in another country cannot be proven by documentary evidence.”⁴⁵¹

This provision recognizes the specific challenges refugees face in presenting their prior education. Such recognition is particularly important for forced migrants, who often encounter difficulties in obtaining or verifying their academic credentials. By establishing harmonized

⁴⁴⁶ Molla, *supra* note 437 at 228.

⁴⁴⁷ *Global Convention on the Recognition of Qualifications concerning Higher Education*, UNESCO General Conference, 40th Sess, No. 72013, 25 November 2019, entered into force 05 March 2023 [archive.org/details/higher-education-72013], [Global Convention].

⁴⁴⁸ United Nations Educational, Scientific and Cultural Organization, “A Practical Guide to Recognition” (2020), online (pdf): *UNESCO* <www.unesdoc.unesco.org> [archive.org/details/guide2402] at 5.

⁴⁴⁹ *Global Convention*, *supra* note 447 at Art II (part 9).

⁴⁵⁰ United Nations Educational, Scientific and Cultural Organization, *supra* note 448 at 25.

⁴⁵¹ *Global Convention*, *supra* note 447 at Art VII. Recognition of Partial Studies and Qualifications Held by Refugees and Displaced Persons.

global norms, the Convention builds on existing regional frameworks⁴⁵² and promotes fair access to higher education and employment, even in the absence of formal documentation.

3.5. Barriers and Challenges of Right to Higher Education for Forced Migrants

Data on education indicators for forced migrants are often missing from national statistical records in both their countries of origin and their host countries.⁴⁵³ This invisibility makes it difficult to capture the full extent of their educational barriers, particularly at the higher education level. To unpack these challenges, this section is inspired by the 4-A framework developed by Katarina Tomaševski, former UN Special Rapporteur on the right to education.⁴⁵⁴ Tomaševski originally designed this framework to evaluate state obligations for children's education, but its analytical depth and foundation in human rights law make it useful for examining refugee barriers in higher education.⁴⁵⁵ This section focuses on the four interrelated elements of availability, accessibility, acceptability, and adaptability, to examine the structural shortcomings and possible ways to address them.

3.5.1. Availability

The availability of higher education within a state's jurisdiction depends on the existence of functional institutions and programs in adequate numbers.⁴⁵⁶ This includes a sufficient number

⁴⁵² See Anasse Bouhlal & Peter J Wells, "UNESCO Conventions on the Recognition of Higher-Education Qualifications" in Adnan Badran, Elias Baydoun & John R Hillman, eds, *Major Challenges Facing Higher Education in the Arab World: Quality Assurance and Relevance* (Cham, Switzerland: Springer International Publishing, 2019) 225 at 226 & 227.

⁴⁵³ United Nations Educational, Scientific and Cultural Organization, "Enforcing the Right to Education of Refugees: A Policy Perspective" (2019) Working paper No. 8, online: <www.unesdoc.unesco.org/archive.org/details/education-refugees-policy> at 6.

⁴⁵⁴ See Katarina Tomaševski, *Human Rights Obligations in Education: The 4-A Scheme* (Nijmegen, The Netherlands: Wolf Legal Publishers WLP, 2006) at 15–122. Also see *CESCR General Comment No. 13*, *supra* note 386 at para 6.

⁴⁵⁵ See *Ibid*, at 9–14 & 29. Also see Steven J Klees & Nisha Thapliyal, "The Right to Education: The Work of Katarina Tomasevski" (2007) 51:4 Comparative Edu Rev at 497–510.

⁴⁵⁶ *CESCR General Comment No. 13*, *supra* note 386 at para 6 (a).

of universities and colleges, the range and quality of higher education programs, teaching resources, and qualified professors.⁴⁵⁷ For refugees and other groups of forced migrants, availability means their formal recognition as potential beneficiaries within national higher education systems on an equal basis with domestic students.⁴⁵⁸ Once this recognition is in place, host countries should provide programs with adequate capacity and geographic reach, so that forced migrant students can pursue higher education alongside nationals.

3.5.2. Accessibility

In international education discourse, ‘access’ refers to the ability to enroll in and attend schools, often measured by indicators such as gross and net enrollment ratios.⁴⁵⁹ While these metrics could theoretically apply to forced migrants, measuring their access to higher education at national and international levels remains challenging. This difficulty stems from significant barriers to access, including legal status, financial constraints, the recognition of prior academic qualifications, and language proficiency,

Forced migrants include a wide spectrum of groups, ranging from refugee claimants and identified refugees to refused claimants and undocumented individuals. For many young people in these categories, financial constraints represent one of the most significant barriers to accessing higher education.⁴⁶⁰ These financial barriers are often compounded by legal status, which determines whether they are treated as domestic students or charged international student

⁴⁵⁷ See Sital Kalantry, Jocelyn E Getgen & Steven Arrigg Koh, “Enhancing Enforcement of Economic, Social, and Cultural Rights using Indicators: A Focus on the Right to Education in the ICESCR” (2010) 32:2 Hum Rts Q 253 at 275 & 276.

⁴⁵⁸ United Nations Educational, Scientific and Cultural Organization, *supra* note 453 at 38.

⁴⁵⁹ Sarah Kabay, *Access, Quality, and the Global Learning Crisis: Insights from Ugandan Primary Education* (Oxford: Oxford University Press, 2021) at 8 & 9.

⁴⁶⁰ Michael Platzer, “Refugee Access to Tertiary Education” in Helmut Kury & Sławomir Redo, eds, *Refugees and Migrants in Law and Policy: Challenges and Opportunities for Global Civic Education* (Cham: Springer International Publishing AG, 2018) 191 at 193.

fees. Without a refugee status, they may have limited or no access to higher education, or at least to affordable higher education.⁴⁶¹ As a result, even when higher education infrastructure is formally available, the cost can make it effectively out of reach.

For example, asylum seekers in Ireland, England, Wales and Scotland are charged international student fees, and due to their status, they are not eligible for national student support.⁴⁶² Once they are granted refugee status, they can access domestic financial support for pursuing higher education. In Canada, some universities, such as York University and Toronto Metropolitan University, offer specialized pathways to include students with precarious legal status, but the number of beneficiaries remains limited.⁴⁶³

Nearly eighty per cent of the world's refugees reside in low and middle income countries, where higher education systems are already under pressure to serve domestic students.⁴⁶⁴ In such contexts, access to higher education depends less on legal recognition of refugee status, or infrastructure availability, and more on the financial resources that enable participation.⁴⁶⁵ Research on Syrian refugees in Jordan, Lebanon, and Turkey demonstrates that refugees' concern in these areas is not a lack of higher education institutions, given the presence of numerous public and private universities, but rather the financial resources required to make higher

⁴⁶¹ See Loshini Naidoo et al, *Refugee Background Students Transitioning Into Higher Education: Navigating Complex Spaces* (Singapore: Springer Nature Singapore, 2018) at 3.

⁴⁶² Andrina Louise Bowen, *Life, learning and university: An inquiry into refugee participation in UK higher education*, University of the West of England, 2014, online (pdf): <www.uwe-repository.worktribe.com/archive.org/details/phdthesis_202402> at 103. Also see Rebecca Murray & Harriet Gray, "Forced migrants in higher education: 'sanctuary scholarships' in a hostile environment" (2023) 49:3 *J Ethics & Migration Studies* 795–812. Also see Orna Farrell et al, "'This is two different worlds, you have the asylum world and you have the study world': an exploration of refugee participation in online Irish higher education" (2020) 28 *Research in Learning Technology* at 1.

⁴⁶³ Elise Mercier, Sean Rehaag & Francisco Rico-Martinez, "Canadian 'Dreamers': Access to Post-Secondary Education" (2023) 60:3 *Osgoode Hall Law Journal* 699 at 720–724.

⁴⁶⁴ Michaela Martin & Manal Stulgaitis, eds, "Refugees' Access to Higher Education in their Host Countries: Overcoming the 'super-disadvantage'" International Institute for Educational Planning, Policy Paper (2022), online (pdf): <www.unesdoc.unesco.org/archive.org/details/Policypaper> at 32.

⁴⁶⁵ Kathleen Fincham, "Rethinking higher education for Syrian refugees in Jordan, Lebanon and Turkey" (2020) 15:4 *Research in Comparative & Intl Edu* 329 at 343.

education accessible.⁴⁶⁶ As Gilchrist notes, “Although higher education is expensive, the cost of not educating an entire generation of refugees will be more expensive in a long run.”⁴⁶⁷ With only limited scholarships and financial aid, many forced migrants remain excluded. Although some states have introduced measures such as fee exemptions, scholarships, public grants, and loans to address this issue, these initiatives remain insufficient to meet the growing demand.⁴⁶⁸

In addition to financial constraints, refugees and other groups of forced migrants are required to present documentation, such as credentials, school diplomas, and examination reports to prove their educational backgrounds in order to access higher education.⁴⁶⁹ However, many of them come from conflict-affected areas where educational institutions have been destroyed by state forces or non-state armed groups.⁴⁷⁰ According to the latest report from the Global Coalition to Protect Education From Attack (GCPEA), around 6,000 attacks on students, educators, schools, and universities were recorded in 2022 and 2023, with the highest numbers in Palestine, Ukraine, the Democratic Republic of Congo, and Myanmar.⁴⁷¹ Even when refugees are able to bring some or all of their documents, many institutions, particularly those in Europe and North America, still require official verification from the issuing institutions.⁴⁷²

At international and regional levels, there are several important instruments focused on the recognition of qualifications in higher education. Before the adoption of the 2019 UNESCO Global Recognition Convention, the 1997 Lisbon Recognition Convention was the first binding

⁴⁶⁶ *Ibid.*

⁴⁶⁷ Gilchrist, *supra* note 26 at 671.

⁴⁶⁸ Martin & Stulgaitis, “Refugees’ Access to Higher Education in their Host Countries”, *supra* note 464 at 39–43. Also see United Nations Educational, Scientific and Cultural Organization, *supra* note 453 at 36.

⁴⁶⁹ Dryden-Peterson, *supra* note 377 at 11. Also see Irene Rizzolatti, “Access to Higher Education: A Comparative Law Analysis of the Institutional & Societal Barriers Refugees Must Overcome” (2023) 56:4 UIC L Rev 737 at 751.

⁴⁷⁰ Rizzolatti, *supra* note 469 at 751.

⁴⁷¹ Global Coalition to Protect Education from Attack (GCPEA), “Education under Attack 2024” (2024), online (pdf): <www.protectingeducation.org> [archive.org/details/eua-2024] at 11.

⁴⁷² See Bryce Loo, “Recognizing Refugee Qualifications: Practical Tips for Credential Assessment” (2016), online (pdf): <www.aqu.cat> [archive.org/details/wes-2016] at 2.

international instrument that addresses fair and transparent recognition of higher education qualifications in general. Article VII of the Lisbon Convention specifically addresses the situation of forced migrants:

“Each Party shall take all feasible and reasonable steps within the framework of its education system and in conformity with its constitutional, legal, and regulatory provisions to develop procedures designed to assess fairly and expeditiously whether refugees, displaced persons and persons in a refugee-like situation fulfill the relevant requirements for access to higher education, to further higher education programmes or to employment activities, even in cases in which the qualifications obtained in one of the Parties cannot be proven through documentary evidence.”⁴⁷³

Similar commitments are reflected in regional instruments such as the Asia-Pacific Regional Convention⁴⁷⁴ and the Addis-Ababa Revised Convention.⁴⁷⁵ There are also initiatives at the institutional level, including the training of academic and administrative staff to assess refugee qualifications without formal documentation, the use of standardized tests, fast-track training, and bridging programs designed to facilitate forced migrants’ access to higher education.⁴⁷⁶ Building on these efforts, UNESCO also introduced the Qualification Passport

⁴⁷³ *Convention on the Recognition of Qualifications concerning Higher Education in the European Region* April 1997, 2132 UNTS 207 (entered into force 1 February 1999) at Article VII.

⁴⁷⁴ *Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education*, (26 November 2011), 2899 UNTS 3 (entered into force 15 February 2018). at Article VII: “Each Party shall make all reasonable efforts within the framework of its education system and in conformity with its constitutional, legal, and regulatory requirements to develop procedures, including recognition of prior learning, designed to assess fairly and expeditiously whether refugees, displaced persons and persons in a refugee-like situation fulfil the relevant requirements for access to higher education programmes or for recognition of qualifications for employment activities, even in cases in which the qualifications obtained in one of the Parties cannot be proven through documentary evidence.”

⁴⁷⁵ *Revised African Convention on the Recognition of Studies, Certificates, Diplomas, Degrees and Other Academic Qualifications in Higher Education in African States*, 12 December 2014, UNESCO Doc C/67 (entered into force 15 December 2019). Article III.2 (5): “Parties, through competent recognition authorities, agree to establish appropriate procedures to assess whether refugees and internally displaced persons respectively fulfil relevant requirements to access higher education through recognition of prior learning and qualifications for employability and integration.”

⁴⁷⁶ Platzer, *supra* note 460 at 194 & 195.

(UQP) in 2019 to assist forced migrants in “recognizing the academic, professional and vocational qualifications[.]”⁴⁷⁷

The other significant challenge for access to higher education is related to host country language proficiency. Even if other accessibility barriers are overcome and forced migrants are admitted to universities, the language requirement, particularly fluency in the local language or English, is difficult to meet.⁴⁷⁸ Research on Syrian forced migrants in Turkey also highlights language proficiency as a significant factor, noting that a lack of proficiency can delay both academic and social integration.⁴⁷⁹ Syrian refugees reported that academic language felt too difficult to manage and negatively affected their academic performance; however, as their Turkish language skills improved, their academic and social social integration also improved.⁴⁸⁰

To address this challenge, scholars have recommended expanding university-based language training beyond state-subsidized language courses, along with peer mentoring programs and opportunities to practice subject-specific terminology and conversational skills in informal settings.⁴⁸¹ Research on German higher education opportunities for refugees shows that the German Academic Exchange Service (DAAD) supports universities in helping refugees overcome language barriers and achieve the proficiency required for admission.⁴⁸² The DAAD provides financial support to universities to develop and expand specialized language training

⁴⁷⁷ “UNESCO Qualifications Passport” (last visited 7 December 2025), online: *UNESCO’s emergency response* <www.unesco.org> [archive.ph/wZIXI].

⁴⁷⁸ Platzer, *supra* note 460 at 194.

⁴⁷⁹ Khalid Arar et al, “Higher Education Policy for Displaced People: Implications of Turkey’s Higher Education Policy for Syrian Migrants” (2020) 33:2 Higher Education Policy 265 at 277.

⁴⁸⁰ *Ibid.*

⁴⁸¹ Erika Kalocsányiová et al, “What works to facilitate displaced and refugee-background students’ access and participation in European higher education: results from a multilingual systematic review” (2022) 76:6 Educational Review 1722 at 1734.

⁴⁸² Bernhard Streitwieser et al, “The Potential and Reality of New Refugees Entering German Higher Education: The Case of Berlin Institutions” (2017) 49:4 European Education 231 at 239.

programs, sometimes combined with academic language preparation for specific disciplines.⁴⁸³

These examples demonstrate that without adequate language support, access to higher education remains incomplete for forced migrants.

3.5.3. Acceptability

According to the CESCR General Comment No.13 on the Right to Education, acceptability refers to “the form and substance of the education, including curricula and teaching methods”.⁴⁸⁴ These aspects should meet the expectations and needs of students at all educational levels and be aligned with quality, relevance, and cultural appropriateness. For forced migrants, however, the principle of acceptability cannot be fully realized where marginalization, discrimination, stigma, or racism undermine their educational aspirations.⁴⁸⁵ Such experiences negatively impact refugees’ confidence, motivation, and academic performance of refugees and may ultimately discourage them from pursuing higher education.⁴⁸⁶ As Lynnebakke notes, these challenges within higher education institutions can be exacerbated as they shape forced migrants’ social integration and long-term career aspirations.⁴⁸⁷ They can also lead to serious mental health difficulties, in addition to displacement-related distress, and prevent individuals from seeking institutional support, even where such services are available.⁴⁸⁸

In light of these challenges, it is essential for higher education institutions to uphold inclusive standards and provide a welcoming environment that meets the diverse needs of all

⁴⁸³ *Ibid.*

⁴⁸⁴ *CESCR General Comment No. 13*, *supra* note 386 at para 6 (C).

⁴⁸⁵ See Naidoo et al, *supra* note 461 at Chapter 6 Navigating the Terrain of Higher Education 100–103.

⁴⁸⁶ Brit Lynnebakke, “Barriers and Enablers of Refugees’ Higher Education Aspirations” in Julie Matthews & Quentin Maire, eds, *A Modern Guide to Refugee Education* (United Kingdom: Edward Elgar Publishing, 2025) 259 at 268.

⁴⁸⁷ *Ibid.*

⁴⁸⁸ *Ibid* at 269.

students, particularly those who are disadvantaged.⁴⁸⁹ Forced migrant students come from diverse ethnic, religious, and educational backgrounds. For them, acceptance in higher education is more than symbolic; it enables them to feel valued, culturally respected, included, and capable of meaningful engagement throughout their academic journey.

3.5.4. Adaptability

In today's global landscape, shaped by the COVID-19 pandemic, ongoing conflicts, and frequent natural disasters, higher education systems face increasing pressure to adapt to the unique situations of forced migrants. Rapid advances in information and communication technology (ICT) have made online platforms a practical and often an essential method for delivering higher education to refugees, especially those living in urban and resource-limited environments.⁴⁹⁰ As UNESCO emphasizes, information technology must now “be understood as part of the right to education.”⁴⁹¹

In recent years, several online initiatives have been developed to extend higher education opportunities to refugees in camp settings. Examples include the Borderless Higher Education for Refugees (BHER) program in Kenya's Dadaab camps⁴⁹², the Jesuit Commons: Higher

⁴⁸⁹ See Frida Rundell, Alia Sheety & Vidia Negrea, “Managing Trauma: A Restorative Process” in Enakshi Sengupta & Patrick Blessinger, eds, *Refugee Education: Integration and Acceptance of Refugees in Mainstream Society* (Bingley: Emerald Publishing Limited, 2018, vol 11) at 18.

⁴⁹⁰ Paul O’Keeffe, “Flexible and Adaptive Responsiveness – Disruptive Lessons from Higher Education in Refugee Contexts” in Ljupka Naumovska, ed, *The Impact of COVID19 on the International Education System* (Proud Pen, 2020) 17 at 19. For urban and under resource settings see Suzanne Reinhardt, “Exploring the Emerging Field of Online Tertiary Education for Refugees in Protracted Situations” (2018) 10:3 *Open Praxis* 211 at 213. Also see Crea & Sparnon, “Democratizing education at the margins”, *supra* note 28 at 2.

⁴⁹¹ United Nations Educational, Scientific and Cultural Organization, *supra* note 453 at 38.

⁴⁹² See Don Dippo, “Learning with and from People Living in Displacement: The Promise of Borderless Higher Education” in Olga Zlatkin-Troitschanskaia, Sarah Nell-Müller & Roland Happ, eds, *Digital Approaches to Promoting Integration in Higher Education: Opening Universities for Refugees* (Cham: Springer International Publishing, 2021) 21. Also see Wenona Mary Giles & Lorrie Miller, *Borderless higher education for refugees: lessons from the Dadaab refugee camps* (London: UK: Bloomsbury Academic, 2021).

Education at the Margins (JC:HEM) project,⁴⁹³ and higher education initiatives for Burmese refugees.⁴⁹⁴ These programs are typically developed and facilitated through partnerships between Global North universities, humanitarian organizations, and local institutions, that offer diplomas, certificates and other accredited qualifications.⁴⁹⁵

Despite their potential, delivering higher education through online platforms faces significant practical challenges. Adapting to camp environments often requires major investments in infrastructure, such as reliable electricity, adequate computer labs, advanced software, and even air conditioning to ensure that students and equipment can function properly.⁴⁹⁶ Student engagements remain another hurdle, as many learners experience isolation, uncertainty about their futures, a lack of sense of belonging, and difficulties in building meaningful connections.⁴⁹⁷ Providers also face constraints, including resource shortages, uncertainty regarding post-program opportunities for graduates, and limited class size that restrict access.⁴⁹⁸ These challenges show that adaptability is not only about technological innovation but also about localizing knowledge and centering refugees' needs within higher education programming.⁴⁹⁹ For forced migrants, access to such opportunities has a different meaning compared to those who have greater agency over their life choices.

⁴⁹³ See Thomas M Crea & Mary McFarland, "Higher education for refugees: Lessons from a 4-year pilot project" (2015) 61:2 Int Rev Educ 235–245. Also see Crea & Sparnon, "Democratizing education at the margins", *supra* note 28 at 1–19.

⁴⁹⁴ See Duncan MacLaren, "Tertiary Education for Refugees: A Case Study from the Thai-Burma Border" (2010) 27:2 Refuge 103–110.

⁴⁹⁵ Paul O'Keeffe & Abdeljalil Akkari, "University education in refugee camps must meet refugee needs" (18 May 2020), online: *The Conversation* <www.theconversation.com> [archive.ph/PuC4R].

⁴⁹⁶ Crea & Sparnon, "Democratizing education at the margins", *supra* note 28 at 7 & 8.

⁴⁹⁷ Gabi Witthaus, "Refugees and Online Engagement in Higher Education: A Capabilitarian Model" (2023) 27:2 OLJ 46–66 at 49 & 50. Also see Orna Farrell et al, *supra* note 462 at 4–11.

⁴⁹⁸ Crea & Sparnon, "Democratizing education at the margins", *supra* note 28 at 14–16.

⁴⁹⁹ O'Keeffe & Akkari, *supra* note 495.

3.6. Higher Education Institutions as Protection Actors

Up to this point, the discussion has examined higher education as a human right and as a means of protection, focusing on its legal framework, its value for refugees, and the barriers they may face in accessing it. The following section turns to higher education institutions, particularly universities, as protection actors and explains why they can be engaged in protection efforts for refugees and other groups of forced migrants.

According to An-Na'im, the current human rights system relies heavily on a state-centric approach for the legality and enforcement of rights.⁵⁰⁰ Traditionally, the implementation of human rights has been understood as a responsibility that primarily lies with states, which commit themselves to fulfilling international treaty obligations.⁵⁰¹ However, the Preamble of the UDHR extends responsibility beyond states as the only bearers of responsibilities⁵⁰²:

“[E]very individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance[.]”⁵⁰³

This framing opens space for actors such as universities to play a role in advancing human rights and contributing to protection. Historically, universities have not been limited to their academic functions; they have also acted as sites of social engagement and activism.⁵⁰⁴ They have provided spaces where students and scholars respond to injustices and inequalities, as

⁵⁰⁰ See Abdullahi Ahmed An-Na'im, “The Spirit of Laws is Not Universal: Alternatives to the Enforcement Paradigm for Human Rights” (2016) 21:2 *Tilburg Law Review* 255 at 259.

⁵⁰¹ Eva Brems, Laurens Lavrysen & Lieselot Verdonck, “Universities as Human Rights Actors” (2019) 11:1 *J Hum Rts Prac* 229 at 229.

⁵⁰² See *Ibid.*

⁵⁰³ *UDHR*, *supra* note 131 at Preamble.

⁵⁰⁴ Paul Gready & Emma Jackson, “Universities unbound: Universities as sites of human rights activism and protection in an era of democratic crisis” (2025) 24:1 *Journal of Human Rights* 57 at 61.

seen in movements such as the anti-apartheid protests in South Africa and the Tianamen Square protests in China.⁵⁰⁵

Over time, this role expanded to include support for migrant rights. During the 20th century, universities increasingly became spaces dedicated to serving the public good and promoting democratization within societies.⁵⁰⁶ At that time, they were recognized as sanctuaries, spaces that offered support to displaced scholars and students.⁵⁰⁷ Universities in this role responded to the needs of those seeking protection and to the legal and social uncertainty faced by undocumented migrants or individuals awaiting status determination.⁵⁰⁸ In this sense, universities functioned not only as places of learning but also as providers of physical safety and institutional support.

In recent years, the scope of sanctuary initiatives has broadened. In response to conflicts in Syria, Afghanistan, Ukraine, and other regions, sanctuary universities, particularly in North America, Europe, and Australia, have developed programs that support forced migrants through scholarships, fee waivers, fellowship opportunities, and more flexible educational pathways.⁵⁰⁹ Through these initiatives, universities have come to represent a practice of solidarity, integration, and equitable access to higher education.⁵¹⁰

Alongside their role as sanctuaries, universities also act as collaborators. While they have long worked with governments to address societal needs, increasing institutional autonomy has

⁵⁰⁵ *Ibid.*

⁵⁰⁶ Daniel T L Shek, Angelina W K Yuen-Tsang & Eddie C W Ng, “University Social Responsibility (USR): Insight from the Historical Roots to the Contemporary Challenges” in Daniel T L Shek & Robert M Hollister, eds, *University Social Responsibility and Quality of Life: A Global Survey of Concepts and Experiences* (Singapore: Springer Singapore, 2017) 25 at 28. Also see John C Scott, “The Mission of the University: Medieval to Postmodern Transformations” (2006) 77:1 *The Journal of Higher Education* 1–39.

⁵⁰⁷ David L Clark, “Abolish the University” (2021) 21:3 *CR: The New Centennial Review* 1 at 3.

⁵⁰⁸ Rebecca Murray & Tanya Aberman, “The sanctuary spectrum: (re)imagining the sanctuary to come through the lens of higher education” (2024) 8:3/4 *IJMBS* 280 at 283.

⁵⁰⁹ *Ibid* at 285.

⁵¹⁰ See *Ibid* at 280–300.

enabled them to build broader partnerships with civil society organizations and international networks.⁵¹¹ Through these collaborations, universities engage directly with marginalized groups, generate knowledge with them based on their lived experiences, and communicate these insights to broader audiences, including policymakers.⁵¹² At the same time, such engagement provides students with opportunities to participate actively in addressing societal challenges.⁵¹³

The protection role of universities is also grounded in their core values, particularly social justice and academic freedom. While the meaning of social justice varies across different contexts, it generally refers to principles of equality, solidarity, and respect for human rights.⁵¹⁴ For universities, this has translated into efforts to expand access for disadvantaged groups, including forced migrants, and to develop policies that support their inclusion within higher education systems.

This role has gained further recognition in the context of global policy developments. With the adoption of the UN Global Compacts and the subsequent 15by30 roadmap, universities are increasingly viewed not only as educational institutions but also as actors capable of responding to global challenges. In this context, higher education is also no longer seen merely as the next step in the education cycle, but as a pathway through which forced migrants can transform their lives, and fostering resilience and agency.⁵¹⁵

⁵¹¹ See Matthew Bakko & Amanda Moore McBride, “University Social Responsibility as Civic Learning: Outcomes Assessment and Community Partnership” in Daniel T L Shek & Robert M Hollister, eds, *University Social Responsibility and Quality of Life: A Global Survey of Concepts and Experiences* (Singapore: Springer Singapore, 2017) 81–98.

⁵¹² See Gready & Jackson, “Universities unbound”, *supra* note 504 at 62 & 63.

⁵¹³ See *Ibid.* Also see Robert M Hollister, “A Comprehensive University-Wide Strategy to Educate Students in All Fields for Lifetimes of Active Citizenship” in Daniel T L Shek & Robert M Hollister, eds, *University Social Responsibility and Quality of Life: A Global Survey of Concepts and Experiences* (Singapore: Springer Singapore, 2017) at 63–80.

⁵¹⁴ See Joseph Zajda, Suzanne Majhanovich & Val Rust, “Introduction: Education and social justice” (2007) 52:1–2 *Int Rev Educ* 9 at 9 & 10.

⁵¹⁵ See United Nations High Commissioner for Refugees, “15by30 Roadmap: Expanding Higher Education, Skills and Self-Reliance for Refugees” online (pdf): <www.unhcr.org> [archive.org/details/15by-30-roadmap] at 5. Also see Irene de Lorenzo-Cáceres Cantero, Michelle Manks & Parisa Azari, “Transforming Futures: Why and How

Today, universities across the world are actively engaged in developing higher education pathways for forced migrants. Examples include the University of Galway in Ireland, EARTH University in Costa Rica, the University of Barcelona in Spain, and the University of Manchester in the UK.⁵¹⁶ With the growing involvement of universities, some countries have developed national-level education pathway programs. For instance, the Habesha Project in Mexico brings together 26 campuses to support refugee students; Pathways Japan coordinates the efforts of 40 colleges and universities; and the University Corridors for Refugees (UNICORE) in Italy now includes 42 campuses supporting refugees.⁵¹⁷ These initiatives demonstrate the power of universities and their capacity to act, individually or collectively, as protection actors in shaping protection initiatives.

3.7. Academic Freedom

Given its importance, this section considers academic freedom not only as a core value of universities but also as a component of the right to higher education and an independent, interdependent human right. Without it, universities lack the autonomy necessary to perform their social and protective roles, risking that higher education becomes a tool of assimilation rather than a pathway to empowerment. This section therefore explores the legal foundation of academic freedom as a human right and examines how its restriction may give rise to protection concerns for affected scholars.

Your Institution Should Champion Refugee Education Pathways” EU-Password and European Union’s Asylum, Migration and Integration Funds, online: <www.eupassworld.eu> [archive.org/details/transforming-futures] 1–42.

⁵¹⁶ Cantero, Manks & Azari, *supra* note 515 at 33 & 36.

⁵¹⁷ *Ibid* at 36 & 37.

3.7.1. Legal Nature of Academic Freedom: Normative Framework

The 1997 UNESCO Recommendation Concerning the Status of Higher Education Teaching Personnel is one of the significant international standard-setting instruments for academic freedom. It defines academic freedom as the right of scholars to the “freedom of teaching and discussion, freedom in carrying out research and disseminating and publishing the results thereof, freedom to express freely their opinion about the institution or system in which they work, freedom from institutional censorship and freedom to participate in professional or representative academic bodies.”⁵¹⁸

Academic freedom has a complex legal character, it may be viewed as a privilege, a necessary component of higher education, or a right, though in the latter case, it is not explicitly codified as a standalone right in international human rights treaties.⁵¹⁹ In practice, it functions as a collective human right, an umbrella concept that brings together several human rights under ‘a single roof’.⁵²⁰ The UN Covenants, for example, provide principles relevant to academic freedom such as non-discrimination, freedom from torture or inhuman or degrading treatment, the right to liberty, freedom of movement, privacy, association, freedom of thought and expression, the right to fair and public hearing, as well as the right of researchers to claim ownership of their work.⁵²¹

⁵¹⁸ “Recommendation concerning the Status of Higher-Education Teaching Personnel” (11 November 1997), online: UNESCO <www.unesco.org> [archive.ph/sf0AM] at para 27.

⁵¹⁹ Farida Shaheed, *Report of the Special Rapporteur on the Right to Education: Academic Freedom*, UNHCR, 56th Sess, UN Doc A/HRC/56/58 (27 June 2024) at para 10.

⁵²⁰ See Jogchum Vrieling, Paul Lemmens & Stephan Parmentier, “Academic Freedom as a Fundamental Right” (2011) 13 *Procedia - Social and Behavioral Sciences* 117 at 120. Also see Klaus D Beiter, Terence Karran & Kwadwo Appiagyei-Atua, “Academic Freedom and Its Protection in the Law of European States” (2016) 3:3 *Eur J Comp Law Gov* 254 at 264.

⁵²¹ Beiter, Karran & Appiagyei-Atua, *supra* note 520 at 261–263. Also see Robert Quinn & Jesse Levine, “Intellectual-HRDs and claims for academic freedom under human rights law” (2014) 18:7–8 *The International Journal of Human Rights* 898 at 904 (Figure 1).

Within this broader human rights framework, three provisions have received particular attention for their role in providing the legal grounds for academic freedom.⁵²² First, Article 13 of the ICESCR recognizes the right of everyone to education and specifies that education must “be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms.”⁵²³ It further provides that education should “enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups [...]”⁵²⁴

The Committee on Economic, Social and Cultural Rights (CESCR) which interprets and supervises the implementation of the ICESCR explicitly links academic freedom to the right to education. In General Comment No.13, it states that “the right to education can only be enjoyed if accompanied by the academic freedom of staff and students.”⁵²⁵ The CESCR describes academic freedom as the freedom of all members of the academic community, individually or collectively “to pursue, develop and transmit knowledge and ideas, through research, teaching, study, discussion, documentation, production, creation or writing.”⁵²⁶ The Committee also highlights that among different levels of education, staff and students in higher education “are especially vulnerable to political and other pressures which undermine academic freedom.”⁵²⁷

Second, Article 15 of the ICESCR frames academic freedom within a broader set of cultural and scientific rights, affirming everyone’s right to participate in cultural life, enjoy the benefits of scientific progress, and benefit from the protection of the moral and material interests

⁵²² Beiter, Karran & Appiagyei-Atua, *supra* note 520 at 263.

⁵²³ ICESCR, *supra* note 24 at Article 13(1).

⁵²⁴ *Ibid.*

⁵²⁵ CESCR General Comment No. 13, *supra* note 386 at para 38.

⁵²⁶ *Ibid* at para 39.

⁵²⁷ *Ibid* at para 38.

resulting from their scientific work.⁵²⁸ Under this article, states are obliged to take necessary steps for “the conservation, the development and the diffusion of science and culture.”⁵²⁹ This requirement highlights the significance of protecting scholarly autonomy as an integral component of the right to education.⁵³⁰

Third, Article 19 of the ICCPR, together with Article 19 of the UDHR,⁵³¹ emphasizes the right to freedom of opinion and expression. This right includes “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”⁵³² While this freedom may be subject to limitations, such restrictions must be lawful, necessary, and proportionate.⁵³³ The European Court of Human Rights (ECHR) in *Vogt v. Germany* clarified that freedom of expression includes all ideas even those that are “offend, shock or disturb”, as such ideas are essential to pluralism, tolerance and broad-mindedness in a democratic society.⁵³⁴

These provisions show that academic freedom is supported through multiple human rights in international law, which helps explain why its protection matters in practice.

3.7.2. Significance of Academic Freedom

As explained earlier, when academic freedom is denied, universities lose their autonomy to act as protection actors and, in some cases, become sites of repression that drive displacement for their members. In legal discourse, some argue that academic freedom does not constitute a

⁵²⁸ ICESCR, *supra* note 24 at Article 15(1)(a)(b)(c).

⁵²⁹ *Ibid* at Article 15 (2).

⁵³⁰ *Ibid* at Article 15 (3) & (4).

⁵³¹ UDHR, *supra* note 131 at Article 19: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

⁵³² ICCPR, *supra* note 41 at Article 19(2).

⁵³³ *Ibid* at Article 19 (3). Also see Quinn & Levine, *supra* note 521 at 903.

⁵³⁴ *Vogt v Germany*, 1995, Application No. 17851/91, European Court of Human Rights at para 52(ii).

fundamental human right, and therefore its violation does not automatically amount to persecution.⁵³⁵ From this perspective, states are allowed to restrict, penalize, or chill scholars through legislation or judicial action and such measures are widespread and even legally justified in some democratic or semi-democratic states.⁵³⁶ According to this view, only in extreme circumstances, where restrictions on academic freedom escalate to life-threatening situations or involve torture, could such violations reach the threshold of persecution.⁵³⁷

This narrow interpretation, however, fails to fully capture the impact of academic freedom and its significance in the protection context. As argued earlier, academic freedom “is more than a professional privilege enjoyed by tenured faculty”⁵³⁸; it is a collective human right that unites several fundamental human rights under one roof, most notably the right to education, freedom of expression, and freedom of thought. Although states may lawfully impose certain restrictions on academic freedom, history has shown that authoritarian regimes have frequently used regulatory instruments to suppress these intersecting rights, turning law into a tool of control.⁵³⁹ Under such regimes, universities lose their autonomy and are transformed into spaces that silence critical voices and shut down inquiry and debate.

When academic freedom is violated, the harm rarely ends with a scholar’s particular research or teaching activities; it affects professional prospects, reputation, livelihood, and even personal security. As Heisler explains, “the persecution of scholars and educators for reasons related to their work is like a pebble thrown into a pond: the effect is most evident where the

⁵³⁵ See Martin O Heisler, “Academic Freedom and the Freedom of Academics: Toward a Transnational Civil Society Move” (2007) 8:4 Int Studies Perspectives 347 at 351.

⁵³⁶ *Ibid.*

⁵³⁷ *Ibid.*

⁵³⁸ Ignatieff, “The Geopolitics of Academic Freedom”, *supra* note 40 at 194.

⁵³⁹ See *Ibid* at 194–206. Also see Nicholas Berggren & Christian Bjørnskov, “Political institutions and academic freedom: evidence from across the world” (2022) 190:(1-2) Public Choice 205–228.

pebble enters the water, the ripples it creates carry its impacts far and wide. The impact extends beyond the obvious requirements to pursue knowledge wherever ethical inquiry may lead.”⁵⁴⁰

These broader impacts of violations of academic freedom can be observed in different national contexts. In Turkey’s 2016 crackdown, for example, the release of the petition ‘We Will Not Be a Party’ led to all 1,128 academic signatories being accused of disloyalty to the state and of supporting an extremist terrorist group seeking separation.⁵⁴¹ Soon after, the Council of Higher Education sent letters to all institutions with signatories among their staff and universities responded by suspending staff and opening academic investigations.⁵⁴² Many academics were taken into custody and interrogated, even those who had not signed the petition were brought before the courts on different charges.⁵⁴³ More than 121,000 civil servants were expelled from public service, with 74,000 detained and 34,000 arrested.⁵⁴⁴

At an individual level, signatories faced legal jeopardy, reputational damage, loss of employment and financial hardship. More broadly, such measures affect future research, encourage self-censorship, and erode trust in academic institutions, undermining the foundation of critical thought and inquiry within society.⁵⁴⁵ Turkey’s case and similar examples worldwide clearly illustrate how attacks on academic freedom extend beyond professional restrictions and have potential to create conditions of persecution. However, in judicial proceedings, these cases are reframed as criminal acts, such as disloyalty to the state or support for terrorism, obscuring

⁵⁴⁰ Heisler, “Academic Freedom and the Freedom of Academics”, *supra* note 535 at 350.

⁵⁴¹ Tahir Abbas & Anja Zalta, “‘You cannot talk about academic freedom in such an oppressive environment’: perceptions of the We Will Not Be a Party to This Crime! Petition signatories” (2017) 18:4 Turkish Studies 624 at 624 & 625.

⁵⁴² *Ibid* at 625.

⁵⁴³ *Ibid*.

⁵⁴⁴ *Ibid*.

⁵⁴⁵ See Muzaffer Kaya, “Turkey’s Purge of Critical Academia” (15 December 2018), online: *Middle East Research and Information Project* <www.merip.org> [archive.ph/fQXdV].

the true nature of the repression.⁵⁴⁶ This invisibility erases the issue from human rights discourse and reinforces the perception that academic freedom is not a human right, thereby undermining the recognition of protection needs of scholars who are sometimes forced to flee.⁵⁴⁷

To make academic freedom more visible and enforceable in legal contexts, regional instruments and soft law initiatives have been developed. For instance, the EU Charter of Fundamental Rights,⁵⁴⁸ the Dar es Salaam Declaration on Academic Freedom and Social Responsibility,⁵⁴⁹ the Kampala Declaration on Intellectual Freedom and Social Responsibility,⁵⁵⁰ the Juba Declaration on Academic Freedom and University Autonomy,⁵⁵¹ and in the Americas, the Inter-American Principles on Academic Freedom and University Autonomy. The preamble of the latter explicitly recognizes academic freedom as “an independent and interdependent human right, which enables the exercise of a series of other rights[.]”⁵⁵² More recently, the drafting of the 2020 ‘Principles for Implementing the Right to Academic Freedom’ by the Working Group on Academic Freedom (WGAF) marked an important step in defining legal and practical standards for states, institutions, and other stakeholders to ensure the “protection, promotion, and enjoyment of the right to academic freedom.”⁵⁵³ These efforts highlight the significance of

⁵⁴⁶ See Quinn & Levine, *supra* note 521 at 905–912.

⁵⁴⁷ See David Gómez Gamboa & Ricardo Villalobos Fontalvo, “Academic freedom: A view from the Inter-American system of human rights” (2023) 41:2 Netherlands Quarterly of Human Rights 67 at 68–70.

⁵⁴⁸ *Charter of Fundamental Rights of the European Union*, OJ 2000 C 364/01 (18 December 2000) at art 13. “The arts and scientific research shall be free of constraint. Academic freedom shall be respected.” Vrielink, Lemmens & Parmentier, *supra* note 520 at 120.

⁵⁴⁹ *Dar es Salaam Declaration on Academic Freedom and Social Responsibility of Academics*, adopted 19 April 1990, (Tanzania).

⁵⁵⁰ *Kampala Declaration on Intellectual Freedom and Social Responsibility*, adopted 29 November 1990 (Uganda) at Article 1 to 9.

⁵⁵¹ David Kaye, *Promotion and protection of the right to freedom of opinion and expression* UN, 75th Sess, UN Doc A/75/261 (28 July 2020) at para 22.

⁵⁵² Inter-American Commission on Human Rights, “Inter-American Principles on Academic Freedom and University Autonomy” (2021), online (pdf): *Organization of American States* <www.oas.org> [archive.org/details/interamerican-academic-freedom] at Preamble para 2.

⁵⁵³ “Principles for Implementing the Right to Academic Freedom” (March 2024), online (pdf): *Scholars at Risk Network* <www.scholarsatrisk.org> [archive.org/details/piraf-2024] at 1 (Introduction).

academic freedom and how its violations can contribute to the displacement of scholars and other members of the academic community.

3.8. Conclusion

This chapter has examined higher education as a form of protection that can complement traditional durable solutions in refugee law. It has shown that higher education functions not only as a human right in itself but also as a means through which other rights can be accessed and exercised. Building on this, the chapter has explored the role of universities as protection actors, focusing on how they operate in practice as sites of sanctuary, collaboration, and engagement shaped by commitments to social justice in responding to disadvantaged groups such as forced migrants.

The analysis also considers academic freedom both as an essential component of the right to education and as a distinct human right that requires active support. Where academic freedom is restricted, universities can lose their ability to function as spaces of inquiry and, in some contexts, may contribute to forms of control that place members of the academic community at risk. Together, these discussions highlight how higher education is positioned within broader protection frameworks and how universities can contribute to shaping protection in practice.

Chapter Four:
Protection through Higher Education Opportunities: Canadian Context

4.1. Introduction

Having examined how the concept of protection for forced migrants has been shaped within international law and considered the growing recognition of higher education as both a human right and a complementary protection pathway, this chapter narrows the analytical focus to Canada. Given the depth and complexity of Canada's legal protection regime for forced migrants, and the dual governance structure of higher education, this chapter is organized into three major sections. First, it examines Canada's legal protection framework; second, it addresses higher education governance under federal and provincial regulation; and third, it analyzes how these two frameworks intersect. Overall, the chapter provides the groundwork for situating the case studies that are explored in subsequent chapters.

4.2. Canada's Legal Framework for Protection of Forced Migrants

This section opens with a brief historical overview and then examines the main legal sources that define and structure protection obligations in Canada, including international human rights instruments, the Immigration and Refugee Protection Act (IRPA), and the Charter of Rights and Freedoms. It then outlines the key avenues through which protection is determined and accessed in practice. Together, these components illustrate how Canada's protection framework operates as a multi-layered system.

4.2.1. Background

According to Hathaway's categorization, Canada's immigration and refugee policy has evolved within three distinct eras.⁵⁵⁴ During the first era, Canada had no clearly formulated regulations for admitting refugees and followed an active immigration policy by opening its

⁵⁵⁴ James C Hathaway, "The Conundrum of Refugee Protection in Canada: From Control to Compliance to Collective Deterrence" (1992) 4:1 J Policy Hist 71 at 71.

doors to the mass settlement of individuals.⁵⁵⁵ In 1869, Canada adopted its first immigration legislation, *An Act Respecting Immigration and Immigrants* (referred to as the Immigration Act, 1869), which imposed relatively few restrictions on immigration.⁵⁵⁶ Due to industrial growth, at that time, Canada experienced a substantial influx of over three million individuals with diverse cultures, languages, and ethnicities.⁵⁵⁷ By the beginning of the First World War and throughout the interwar period, hostility towards foreigners intensified, particularly toward those who came from enemy countries or individuals born in those nations but residing in Canada.⁵⁵⁸

The second era coincided with the end of the Second World War, when Canada's rapid economic growth created a demand for skilled workers and prompted the government to increase the admission of immigrants and displaced people to meet this need.⁵⁵⁹ During this period, Canada confronted the refugee phenomenon for the first time by resettling the most adaptable European refugees "either through contract-labour schemes or through sponsorship by relatives, the government, or religious groups."⁵⁶⁰ This era was also marked by Canada's eventual accession to the 1951 Refugee Convention and its 1967 Protocol after a delay of nearly two decades, as well as the drafting of the Immigration Act, 1976. The delay in ratifying the Convention and its Protocol was primarily due to the government's concerns about the Convention's broad definition of 'refugee' and the principle of non-refoulement, both of which were seen as limiting governments' ability to control immigration.⁵⁶¹

⁵⁵⁵ Sasha Baglay & Martin Jones, *Refugee law*, 2nd edn (Toronto, ON: Irwin Law, 2017) at 3 & 4.

⁵⁵⁶ Lindsay Van Dyk, "Canadian Immigration Acts and Legislation" (last visited 27 December 2025), online: *Canadian Museum of Immigration at Pier 21* <www.pier21.ca> [archive.ph/hJ2ue].

⁵⁵⁷ Bruno G  linas-Faucher & Delphine Nakache, "Canadian Immigration and Refugee Policies since 1945" in Lauchlan T Munro & Mahmoud Masaeli, eds, *Canada and the Challenges of International Development and Globalization* (Baltimore, Maryland: Project Muse, 2018) 107 at 111.

⁵⁵⁸ *Ibid* at 114.

⁵⁵⁹ Baglay & Jones, *supra* note 555 at 7.

⁵⁶⁰ *Ibid* at 8.

⁵⁶¹ See Hathaway, "The Conundrum of Refugee Protection in Canada", *supra* note 554 at 73 & 74.

By the mid-1970s, shifting international norms and growing domestic support for humanitarian initiatives contributed to a significant policy change. In Canada, as Masoumi states, “it took several years to harmonize domestic immigration laws with the international provisions of refugee protection, a task finally achieved by the 1976 Immigration Act.”⁵⁶² The 1976 Act became a turning point: it recognized refugees as a distinct class of immigrants and expanded the scope of protection on humanitarian grounds to include persecuted and displaced persons who did not fully fit within the conventional refugee definition.⁵⁶³

The third era began as a reaction to the second era and the increased number of refugees.⁵⁶⁴ Due to the “collective deterrence” of asylum seekers by the United States (US) and European countries, refugee claimants were redirected to other countries like Canada.⁵⁶⁵ During this time, Canada predominantly became a country of first asylum as the number of asylum seekers recognized as eligible through the inland determination system matched or exceeded the number of refugees resettled through government and private sponsors.⁵⁶⁶ In this era, the publication of research and consultation reports advocated for a more securitized and sensitive legal approach to refugee protection.⁵⁶⁷ These discussions resulted in the drafting of the IRPA, which serves as the primary federal legislation to regulating immigration to Canada.

⁵⁶² Azar Masoumi, *Refugees Are (Not) Welcome Here: The Paradox of Protection in Canada*, 1st edn (Vancouver: University of British Columbia Press, 2023) at 31.

⁵⁶³ Bruno Gélinas-Faucher & Delphine Nakache, *supra* note 557 at 122.

⁵⁶⁴ Hathaway, “The Conundrum of Refugee Protection in Canada”, *supra* note 554 at 71.

⁵⁶⁵ *Ibid.*

⁵⁶⁶ *Ibid* at 79.

⁵⁶⁷ See Bruno Gélinas-Faucher & Delphine Nakache, *supra* note 557 at 124. A notable example of such reports occurred in 1999, following the arrival of four boats carrying Chinese asylum seekers. The Standing Committee on Citizenship and Immigration released a report titled “Refugee Protection and Border Security: Striking a Balance” to raise critical questions about Canada’s immigration control.

4.2.2. Major Sources of Protection in Canadian Legal Context

Canada operates under a federal system of governance, composed of ten provinces and three territories, each with its own jurisdictional authority. Under the Constitution Act (1867), immigration and refugee protection decisions are central to national policy and managed through shared responsibility among the federal, provincial, and territorial governments.⁵⁶⁸ The federal department of Immigration, Refugees, and Citizenship Canada (IRCC) facilitates this collaboration through agreements that reflects regional needs and priorities.⁵⁶⁹

Canada's immigration and refugee law functions within a multi-layered legal framework, intersecting with different branches of law, including constitutional, international, and administrative law.⁵⁷⁰ The Canadian Charter of Rights and Freedoms, a cornerstone of constitutional law, protects the most fundamental human rights and freedoms of all individuals in Canada. International law reinforces Canada's commitment to human rights instruments such as the 1951 Refugee Convention and the Convention against Torture.⁵⁷¹ Finally, administrative law provides procedural guidance, ensuring that decision-makers act fairly and that individuals, including forced migrants, can challenge decisions through judicial and administrative review.⁵⁷² In this regard, the following sub-sections focus on the human rights instruments that Canada has ratified, the IRPA, and the Canadian Charter of Rights and Freedoms.

⁵⁶⁸ "Federal-Provincial/Territorial Agreements" (15 February 2022), online: *Immigration, Refugees and Citizenship Canada* <www.canada.ca> [archive.ph/uWnCH].

⁵⁶⁹ *Ibid.*

⁵⁷⁰ Baglay & Jones, *supra* note 555 at 41.

⁵⁷¹ *Ibid.*

⁵⁷² *Ibid.*

4.2.2.1. International Human Rights Instruments to Which Canada is a Party

As Clement et al. note, “Canadians began to engage with the principles of human rights long before the 1970s, but it was only in this period that human rights became pervasive and systemic.”⁵⁷³ During this time, Canada became a party to several principal international human rights treaties, including the Bill of Rights alongside the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture, the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities, and the Convention on the Elimination of All Forms of Discrimination against Women.⁵⁷⁴ These instruments collectively aim to ensure that states translate their human rights commitments into practice for all human beings.⁵⁷⁵

In Canada, the challenge with human rights law does not arise from a lack of ratified human rights instruments or treaty commitments, as the country is a party to major human rights instruments, but rather, the challenge lies in the effective implementation of these treaties.⁵⁷⁶ Many of these treaties have been ratified by the executive branch of the federal government without subsequent incorporation into domestic law.⁵⁷⁷ As a “dualist” state, mere ratification of a treaty does not make it enforceable at the national level; explicit incorporation into domestic law is required.⁵⁷⁸ According to Manirabona and Cr  peau:

⁵⁷³ Dominique Clement, William Andrew Silver & Daniel Trottier, *The Evolution of Human Rights in Canada* (Ottawa, Ont: Canadian Human Rights Commission, 2013) at 1.

⁵⁷⁴ See “Human Rights Treaties” (15 August 2024), online: *Government of Canada* <www.canada.ca> [archive.ph/oin4T].

⁵⁷⁵ Iris Almeida & Marc Porret, *Renewing Canada’s Commitment to Human Rights: Strategic Action for at Home and Abroad* (Montr  al, Que.: Droits et d  mocratie/Rights & Democracy, 2008) at 39.

⁵⁷⁶ *Ibid.*

⁵⁷⁷ Elisabeth Eid, “Interaction Between International and Domestic Human Rights Law: A Canadian Perspective” (2001) International Centre for Criminal Law Reform and Criminal Justice Policy, online (pdf): <www.icclr.org> [archive.org/details/e-eid] at 1–3.

⁵⁷⁸ Amissi M Manirabona & Fran  ois Cr  peau, “Enhancing the Implementation of Human Rights Treaties in Canadian Law: The Need for a National Monitoring Body” (2012) 1:1 Can J Hum Rts 25 at 37.

“[I]n the absence of a specific treaty incorporating legislation, the general trend is that treaties are not legally enforced on a national level. Effectively, this means that no domestic human rights claims may be based on treaties before domestic courts. Only the incorporation of a treaty into domestic law enables private persons to have access to domestic remedies in cases of violation of legal rights which have been created by that treaty.”⁵⁷⁹

The official position of the federal government regarding this issue is that “Canadian law provides at least as much protection as international human rights treaties. The Charter [of Rights and Freedoms], as well as federal and provincial human rights statutes, are deemed to implement fully Canada’s international human rights obligations.”⁵⁸⁰ On this view, further incorporating treaty provisions would result in multiple expressions of the same right in domestic legislation which could lead to inconsistency and confusion in legislative policy.⁵⁸¹

By contrast, scholars like Almeida and Porret argue that Canada has not consistently translated its international human rights obligations into domestic law; the Canadian Charter does not extensively cover these rights as delineated in the ICESCR, except for language rights and, to a lesser extent, equality rights.⁵⁸² These shortcomings are partially mitigated by judicial interpretation, as judges use unincorporated treaties to interpret domestic law. For instance, in *Reference Re Public Service Employee Relations Act (Alta.)*, the Supreme Court of Canada affirmed that:

“Canada is a party to a number of international human rights conventions which contain provision similar or identical to those in the Charter. Canada has thus obliged itself internationally to ensure within its borders the protection of certain fundamental rights and freedoms which are also contained in the Charter. The general principles of

⁵⁷⁹ *Ibid* at 30.

⁵⁸⁰ *Ibid* at 35.

⁵⁸¹ Eid, *supra* note 577 at 3.

⁵⁸² Almeida & Porret, *supra* note 575 at 49. In their book, they also address additional “Urgent and Compelling Concerns” regarding Economic, Social, and Cultural Rights at 49–60.

constitutional interpretation require that these international obligations be a relevant and persuasive factor in Charter interpretation.”⁵⁸³

Debates are still ongoing; however, this judicial openness allows unincorporated international human rights norms to influence domestic legal interpretation, partially bridging the gap between Canada’s international commitments and how protection is understood and applied in practice.

4.2.2.2. Immigration and Refugee Protection Act (IRPA)

As the primary federal legislation, IRPA was enacted in 2002. The Act outlines the main principles and concepts “that govern Canada’s immigration and refugee protection programs, including provisions relating to refugees, sponsorships and removals, detention reviews and admissibility hearings, and the jurisdiction and powers of tribunals.”⁵⁸⁴ Despite suggestions to create two separate acts, IRPA governs both immigrants and refugees under a single statute but includes a separate division dedicated to refugees to acknowledge their distinct protection needs.⁵⁸⁵

Under IRPA, the concept of protection is reflected in the title and serves as the ultimate objective of the Act for refugees. As discussed in the previous chapter, at its core, protection extends beyond the mere absence of persecution; it entails creating conditions that ensure access to fundamental human rights. The same interpretation is reflected in section 3(2) of the IRPA, which outlines the objectives of the Act concerning refugees:

⁵⁸³ *Reference Re Public Service Employee Relations Act (Alta)*, [1987] 1 SCR 313 at para 59.

⁵⁸⁴ “Acts, Rules and Regulations” (last modified 2 February 2023), online: *Immigration and Refugee Board of Canada* <irb.gc.ca/en> [archive.fo/kYalp].

⁵⁸⁵ Sharryn J Aiken et al, *Immigration and Refugee Law: Cases, Materials, and Commentary*, 3rd edn (Toronto: Emond Montgomery, 2020) at 27.

“(d) to offer safe haven to persons with a well-founded fear of persecution based on race, religion, nationality, political opinion or membership in a particular social group, as well as those at risk of torture or cruel and unusual treatment or punishment;
(e) to establish fair and efficient procedures that will maintain the integrity of the Canadian refugee protection system, while upholding Canada’s respect for the human rights and fundamental freedoms of all human beings[.]”⁵⁸⁶

Under the Act, “the line between those who receive and those who do not receive refugee protection is drawn by sections 96 to 98.”⁵⁸⁷ These three provisions constitute the foundation of Canadian refugee protection jurisprudence and are the subject of thousands of decisions in Canada each year.⁵⁸⁸ Under the Act, the basis for ‘conferral of refugee protection’ is influenced by two key human rights instruments: the 1951 Refugee Convention and the Convention against Torture.⁵⁸⁹

Section 96 incorporates the definition of ‘refugee’ found in the 1951 Refugee Convention and its 1967 Protocol:

“A Convention refugee is a person who, by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,

(a) is outside each of their countries of nationality and is unable or, by reason of that fear, unwilling to avail themselves of the protection of each of those countries; or

(b) not having a country of nationality, is outside the country of their former habitual residence and is unable or, by reason of that fear, unwilling to return to that country.”⁵⁹⁰

Under this provision, refugee applicants must establish a nexus between their claim and one of the five grounds set out in section 96. Section 97 also provides complementary protection to individuals who do not fall under the Convention refugee definition but are in need of

⁵⁸⁶ *Immigration and Refugee Protection Act*, SC 2001 2001 [IRPA] at Section 3(2)(d) & (e).

⁵⁸⁷ Aiken et al, *supra* note 585 at 889.

⁵⁸⁸ *Ibid.*, at 890.

⁵⁸⁹ Simeon, *supra* note 181 at 93.

⁵⁹⁰ IRPA, *supra* note 586 at Section 96 (a)(b).

protection on the grounds of torture, risk to life, or cruel and unusual treatment or punishment.⁵⁹¹

If an individual falls within the scope of section 97, they are deemed to be ‘persons in need of protection’.⁵⁹²

In addition to these groups, IRPA expands the scope of protection through sections 25 and 25.1, which authorize Humanitarian and Compassionate (H&C) considerations. This safety valve functions as a key component of Canada’s immigration system, allowing the admission of vulnerable individuals who are already in Canada and would not qualify for permanent residence under other immigration pathways.⁵⁹³ There is no doubt about the significance of H&C provisions; however, their breadth has two effects: it grants immigration officers flexibility and freedom in the decision-making processes; but it also makes outcomes unpredictable and highly discretionary, particularly for vulnerable groups such as children, for whom decisions are life-changing.⁵⁹⁴

The third provision is section 98, which refers to the exclusion clauses mentioned in Articles 1E and 1F of the 1951 Refugee Convention. It states that refugee status shall not apply to individuals who have “the rights and obligations which are attached to the possession of the nationality of [a third] country.”⁵⁹⁵ It also stipulates that the provisions of the Refugee Convention do not apply to individuals who have committed specific international crimes, such as crimes against humanity, war crimes, serious non-political crimes, or “acts contrary to the purposes and principles of the United Nations.”⁵⁹⁶

⁵⁹¹ Aiken et al, *supra* note 585 at 890.

⁵⁹² *Ibid.*

⁵⁹³ Anthony Delisle & Delphine Nakache, “Humanitarian and Compassionate Applications: A Critical Look at Canadian Decision-Makers’ Assessment of Claims from “Vulnerable” Applicants” (2022) 11:3 (40) *Laws* at 1.

⁵⁹⁴ See *Ibid.*, at 1–21.

⁵⁹⁵ See 1951 Refugee Convention, *supra* note 188 at Article 1E. Also see *IRPA*, *supra* note 586 at Section 98.

⁵⁹⁶ See 1951 Refugee Convention, *supra* note 188 at Article 1F(C). Also see Aiken et al, *supra* note 585 at 890.

IRPA, as a major legislative instrument, sets out the general principles, criteria, and decision-making powers for immigration and refugee matters. Detailed definitions, procedures, and criteria are provided in the Immigration and Refugee Protection Regulations (IRPR).⁵⁹⁷ Additionally, bodies established under the IRPA, such as the Immigration and Refugee Board (IRB), have the authority to formulate rules and guidelines.⁵⁹⁸ There are also governmental entities involved in immigration and refugee management, such as IRCC and Canada Border Services (CBSA), that issue manuals, guidelines, and policies to enhance consistency and efficiency in their decision-making.⁵⁹⁹ In short, IRPA is the primary legislative framework for refugee protection in Canada, informed by Canada's international human rights obligations and fundamental freedoms.

4.2.2.3. Charter of Rights and Freedoms

While the IRPA sets out the primary procedures and grounds for the protection of forced migrants, the Act itself recognizes that its implementation must be aligned with broader constitutional and human rights principles. Under section 3(3) of the IRPA, the Act is to be interpreted and applied in a manner consistent with the principles of the Charter of Rights and Freedoms and, more broadly, with international human rights instruments to which Canada is a signatory:

“(d) [...] decisions taken under this Act are consistent with the Canadian Charter of Rights and Freedoms, including its principles of equality and freedom from discrimination[.]
(f) complies with international human rights instruments to which Canada is signatory.”⁶⁰⁰

⁵⁹⁷ See *Immigration and Refugee Protection Regulations*, SOR 2002 [IRPR].

⁵⁹⁸ Baglay & Jones, *supra* note 555 at 60.

⁵⁹⁹ *Ibid.*

⁶⁰⁰ *IRPA*, *supra* note 586 at Section 3(3)(d) & (f).

The Charter protects a wide range of civil, political, and equality rights, including “fundamental freedoms (s. 2); democratic rights (ss. 3 to 5); mobility rights (s. 6); legal rights (ss. 7 to 14); and equality rights (s. 15 and s. 28)[.]”⁶⁰¹ Socio-economic rights are not explicitly enumerated within the Charter; the closest explicit reference is section 23, which provides a right to publicly funded minority language education where numbers warrant.⁶⁰² Nevertheless, certain provisions such as section 2 (freedom of thought, belief, opinion, and expression), section 7 (right to life, liberty, and the security of the person), and section 15(1) (equality and equal protection and benefit of the law),⁶⁰³ have been addressed in legal cases relating to socio-economic rights. In practice, it is left to Canadian courts to interpret substantive Charter obligations, particularly sections 7 and 15, in ways that may incorporate aspects of the rights recognized in the ICESCR.⁶⁰⁴

As part of Canada’s constitutional law, the Charter’s provisions play a significant role in “establishing a connection between human rights law and refugee law.”⁶⁰⁵ The Charter protects the human rights of all individuals, including non-citizens, refugee claimants, and other groups of forced migrants in Canada. Section 7 of the Charter provides that:

“Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.”⁶⁰⁶

The Supreme Court decision in *Singh v. Canada (Minister of Employment and Immigration)* established that section 7 of the Charter extends to all individuals physically

⁶⁰¹ K. M. Lysyk, “The Canadian Charter of Rights and Freedoms: General Principles” (1994) 16:1 Advoc Q 1 at 6.

⁶⁰² Martha Jackman & Bruce Porter, “Canada: Socio-Economic Rights Under the Canadian Charter” in Malcolm Langford, ed, *Social Rights Jurisprudence: Emerging Trends in International and Comparative Law* (Cambridge: Cambridge University Press, 2009) 209 at 209.

⁶⁰³ Baglay & Jones, *supra* note 555 at 49 & 50.

⁶⁰⁴ Jackman & Porter, *supra* note 602 at 211 & 212.

⁶⁰⁵ Simeon, *supra* note 181 at 99.

⁶⁰⁶ *Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982*, being Schedule B to the Canada Act 1982 (UK), 1982, c 11 [Charter] at Section 7.

present in Canada, regardless of their immigration status.⁶⁰⁷ The Court held that refugee claimants are entitled to procedural fairness, including the right to a meaningful hearing, when seeking protection.⁶⁰⁸

In addition to *Singh*, a later case, *Suresh v. Canada (Minister of Citizenship and Immigration)*, addressed a different but significant dimension of protection. The Court held that section 7 of the Charter protects refugee claimants against deportation to a substantial risk of torture. The Court stated:

“Deportation to torture may deprive a refugee of the right to liberty, security and perhaps life protected by s. 7 of the Charter. Section 7 applies to torture inflicted abroad if there is a sufficient causal connection with Canadian government acts. In determining whether this deprivation is in accordance with the principles of fundamental justice, Canada’s interest in combating terrorism must be balanced against the refugee’s interest in not being deported to torture.”⁶⁰⁹

Although cases such as *Singh* and *Suresh* are examples in which the Supreme Court has explicitly referred to and engaged the Charter in protecting the human rights for non-citizens, scholars such as Catherine Dauvergne argue that the Charter has failed to protect non-citizens’ human rights, including refugees and other groups of forced migrants. She attributes this failure to the way in which higher courts, such as the Supreme Court of Canada, have interpreted and applied the Charter.⁶¹⁰

By examining Supreme Court decisions over the first thirty years following the Charter’s introduction, she concludes that despite the early promises in *Singh*, non-citizens have had little

⁶⁰⁷ See *Singh v. Minister of Employment and Immigration*, [1985] 177 SCR, [1985] 1 S.C.R. 177. “The term “everyone” in s. 7 includes every person physically present in Canada and by virtue of such presence amenable to Canadian law.”

⁶⁰⁸ See Catherine Dauvergne, “How the Charter Has Failed Non-citizens in Canada: Reviewing Thirty Years of Supreme Court of Canada Jurisprudence” (2013) 58:3 McGill L J 663 at 668.

⁶⁰⁹ See *Suresh v. Canada (Minister of Citizenship and Immigration)*, [2002] 3 SCR, 2002 SCC 1.

⁶¹⁰ Dauvergne, *supra* note 608 at 663.

success in making Charter rights claims or in accessing alternative sources of protection such as international human rights law.⁶¹¹ For instance, while Mr. Suresh succeeded at the Supreme Court and was ultimately not deported to a risk of torture, the Court's reasoning established the principle of possible deportation to torture by separating international human rights norms such as the Convention against Torture from the content of the Charter.⁶¹² Establishing this separation creates uncertainty in legal interpretation and contributes to inconsistency in jurisprudence; it also produces confusion for claimants seeking protection, particularly those in complicated cases involving urgent risks.

Despite these challenges and critiques, the Charter remains a significant source of protection for all individuals present in Canada, including refugees and other forced migrants. It continues to provide a constitutional framework that grounds Canada's refugee and immigration regime within broader principles of human dignity, equality, and fundamental justice.

4.2.3. Canadian Avenues for Protection of Forced Migrants

At the international level, there is no agreed-upon mechanism for determining refugee status, nor any obligation to ensure consistent interpretation of the 1951 Refugee Convention.⁶¹³ According to Hathaway and Neve, "States commit themselves to abide by a common set of refugee rights, but there is no meaningful system to enforce those entitlements."⁶¹⁴ As a result, each state party implements its protection framework according to its own interpretation and discretion.⁶¹⁵ In Canada, refugee protection can be granted to a claimant through two main

⁶¹¹ *Ibid* at 667 & 668.

⁶¹² *Ibid*, at 690. It is noted by the author that "to the best of my knowledge, the Canadian government has not used the discretion open to it under *Suresh* to deport anyone to face torture after having concluded that there was a prima facie risk."

⁶¹³ James C Hathaway & R Alexander Neve, "Fundamental Justice and the Deflection of Refugees from Canada" (1996) 34:2 Osgoode Hall L J 213 at 215.

⁶¹⁴ *Ibid*.

⁶¹⁵ *Ibid*.

routes: the inland asylum procedure and overseas programs, through resettlement and complementary pathways.⁶¹⁶ In addition to these routes, depending on the circumstances, Canada may provide protection to particular groups of forced migrants within the framework of temporary humanitarian measures.

4.2.3.1. In-country Asylum Seekers

The process for inland refugee protection begins when individuals file their claims at a port of entry or with relevant authorities, such as the IRCC or the CBSA, inside the country.⁶¹⁷ Once a claim is filed, it is referred to the Refugee Protection Division (RPD) of the IRB for an oral hearing. If the decision is positive, the claimant is granted ‘protected person status,’ allowing them to remain in Canada.⁶¹⁸ If the claim is rejected, the claimant may appeal to the Refugee Appeal Division (RAD), or, if the appeal is dismissed, seek judicial review before the Federal Court.⁶¹⁹ In addition, unsuccessful claimants may apply for a Pre-removal Risk Assessment (PRRA) or submit an application on Humanitarian and Compassionate (H&C) grounds as alternative avenues for protection.

Although both PRRA and H&C applications operate as last-resort mechanisms, they serve different purposes in Canada’s protection framework. The PRRA is a final risk assessment mechanism before a potential removal order, evaluating whether the individual would face a risk

⁶¹⁶ *IRPA*, *supra* note 586 at Section 99(1): A claim for refugee protection may be made in or outside Canada.

⁶¹⁷ “An Introduction to Canada’s Refugee Determination System” (last modified 30 November 2021), online: *Immigration and Refugee Board of Canada* <www.irb-cisr.gc.ca> [archive.ph/YPGdW]. *IRPA*, *supra* note 586 at Section 99 (3): A claim for refugee protection made by a person inside Canada must be made in person to an officer, must not be made by a person who is subject to a removal order, and is governed by this Part. Also see section 99(3.1): A person who makes a claim for refugee protection inside Canada other than at a port of entry must provide the officer, within the time limits provided for in the regulations, with the documents and information, including in respect of the basis for the claim, required by the rules of the Board, in accordance with those rules.

⁶¹⁸ Lorne Waldman & Jacqueline Swaisland, *Canada’s Refugee Determination Procedure: A Guide for the Post-Bill C-31 Era* (Markham, Ontario: LexisNexis, 2013) at 9.

⁶¹⁹ See *IRPA*, *supra* note 586 at Section 110(1) & (2): ‘Appeal to Refugee Appeal Division’. Also see Waldman & Swaisland, *supra* note 618 at 6.

of persecution or other forms of mistreatment upon return to their country of origin.⁶²⁰ H&C decisions, as explained earlier, are exceptional and characterized by the discretion of the immigration officer.⁶²¹ They provide special permission to remain in Canada when an individual does not qualify for other immigration pathways for permanent residency.

A further dimension of inland protection for asylum seekers is the border agreement between Canada and the US, known as the Safe Third Country Agreement (STCA), which is designed to enhance responsibility-sharing in refugee protection.⁶²² Under this treaty, which is incorporated in IRPA and IRPR,⁶²³ refugee claimants must seek protection in whichever of the two countries –Canada or the US– they enter first after leaving their country of origin. Therefore, if they arrive from the US to Canada and claim refugee protection at the border or a port of entry, their claim is not eligible to be referred to the RPD.⁶²⁴

Legal scholars like Foster see the agreement as an example of ‘responsibility shifting,’ rather than sharing, as a means of offloading refugee protection responsibility to the neighbouring country.⁶²⁵ Kiyani also criticizes the STCA, arguing that “any agreement, designation, or process such as the STCA that purports to negate the ability of claimants to make

⁶²⁰ Midori Kaga et al, “Vulnerability in the Canadian Protection Regime: Research Report on the Policy Framework” (28 July 2021), online (pdf): <www.vulner.eu> [archive.org/details/vulner-wp-6-report] at 24.

⁶²¹ “Humanitarian and Compassionate Considerations” (29 September 2025), online: *Government of Canada* <www.canada.ca> [archive.ph/hg5SY].

⁶²² See *Canadian Council for Refugees v Canada (Citizenship and Immigration)*, 2023 Supreme Court of Canada, 2023 SCC 17.

⁶²³ See *Ibid.* “The Safe Third Country Agreement is given effect in Canadian domestic law through the Immigration and Refugee Protection Act (“IRPA”) and its regulations (“IRPR”). Under s. 101(1) (e) of the IRPA, refugee status claims are ineligible to be considered in Canada if the claimant came from a country designated by the IRPR. [...] The United States is designated under s. 159.3 of the *IRPR*.”

⁶²⁴ “The Agreement only applies with respect to refugee claims made at a land port-of-entry; it does not apply to asylum seekers who make inland refugee claims from within Canada or the United States.” See Audrey Macklin, “Disappearing Refugees: Reflections on the Canada-U.S. Safe Third Country Agreement” (2005) 36:2 *Colum HRLR* 365 at 372.

⁶²⁵ Sharryn J Aiken & Colin Grey, “Equality Rights and the Canada-US Safe Third Country Agreement” (2025) 5:(3d) *SCLR* at 1 & 2. Michelle Foster, “Responsibility Sharing or Shifting? “Safe” Third Countries and International Law” (2008) 25:2 *Refuge* 64–78.

their case, poses a risk to their safety” and ultimately is inconsistent with the principle of non-refoulement.⁶²⁶

In addition to the STCA which restricts claims at the border, subsequent legislative reforms further tightened ineligibility rules for asylum seekers. Most notably, the 2019 adoption of Bill C-97 introduced section 101(1)(c.1) of the IRPA, under which individuals who have made a previous refugee claim in a country with which Canada has an information-sharing agreement, namely the Five Eyes partners, are ineligible to have their claims referred to RPD, regardless of whether a decision was made based on their earlier claim in those countries.⁶²⁷ Under both the STCA and this legislative reform, the only remaining legal protection avenue to challenge deportation is through a PRRA application.⁶²⁸

In 2023, the Supreme Court of Canada, in *Canadian Council for Refugees v. Canada (Citizenship and Immigration)*, upheld an important decision regarding the designation of the US as a safe third country.⁶²⁹ In a unanimous opinion written by Justice Kasirer, the Court held that “the Regulation designating the US as a safe third country for the purposes of the STCA does not breach section 7 of the Charter.”⁶³⁰ Although the Court ultimately found no violation, it clarified that returning claimants under the STCA to the US may expose them to risks of refoulement and

⁶²⁶ Asad G Kiyani, “Criminalization, Safety, and the Safe Third Country Agreement” in Geneviève Tellier et al, eds, *Borders and Migration: The Canadian Experience in Comparative Perspective* (Ottawa, Ontario: University of Ottawa Press, 2023) 147 at 149.

⁶²⁷ Idil Atak, Claire Ellis & Zainab Abu Alrob, “Refugee system as a bordering site: security, surveillance, and the rights of asylum seekers in Canada” in Graham Hudson & Idil Atak, eds, *Migration, Security, and Resistance: Global and Local Perspectives* (Abingdon, Oxon; New York, NY: Routledge, 2022) at 26 & 27. “[A] person is ineligible to make a refugee claim in Canada, and thus to be heard by the Immigration and Refugee Board of Canada (IRB), if they have previously made a refugee claim in the US, Australia, New Zealand, or the UK.” Also see Bill C-97, *An Act to implement certain provisions of the budget tabled in Parliament on March 19, 2019 and other measures*, 1st Sess, 42nd Parl, 2019, cl 116(2) (first reading 08 April 2019).

⁶²⁸ Atak, Ellis & Abu Alrob, *supra* note 627 at 27.

⁶²⁹ See *Canadian Council for Refugees v Canada (Citizenship and Immigration)*, *supra* note 622.

⁶³⁰ “Canadian Council for Refugees v. Canada (Citizenship and Immigration)” (last modified 25 December 2025), online: *Case in Brief* <www.scc-csc.ca> [archive.ph/kPWfb].

thereby engage rights to liberty and security of the person under section 7.⁶³¹ Such recognition marks a shift in judicial reasoning; according to Aiken and Gray, it reverses a longstanding tendency in the courts below to dismiss section 7 challenges to deportation procedures, including those involving refugees, without examining the principles of fundamental justice.⁶³²

4.2.3.2. Overseas Refugees

In Canada, protection policies for overseas refugees are shaped by different factors, including foreign policy goals, economic considerations, political coalitions, and the attitudes of civil society. These intersecting factors make refugee policymaking complex and often politicized. Within this dynamic, resettlement remains the primary avenue through which Canada protects overseas refugees. Alongside resettlement, Canada has also developed complementary pathways that may lead to durable protection, including but not limited to resettlement, reflecting the country's effort to diversify its protection avenues.

4.2.3.2.1. Resettlement

As discussed in Chapter Two, durable solutions, including resettlement, represent a voluntary expression of refugee protection and reflect states' participation in international responsibility-sharing. The resettlement process is characterized by ad hoc decision making, with terms, conditions, and approaches that vary across states.⁶³³ In Canada, resettlement has long been a central component of the country's refugee policy, with the federal government

⁶³¹ *Ibid.*

⁶³² Aiken & Grey, *supra* note 625 at 2.

⁶³³ Labman, *supra* note 334 at 9. Also see Adèle Garnier, Kristin Bergtora Sandvik & Liliana Lyra Jubilut, "Introduction Refugee Resettlement as Humanitarian Governance: Power Dynamics" in Adèle Garnier, Kristin Bergtora Sandvik & Liliana Lyra Jubilut, eds, *Refugee Resettlement: Power, Politics, and Humanitarian Governance* (New York, Oxford: Berghahn Books, 2018) at 10. "Contrary to the provision of asylum, refugee resettlement is not, as mentioned, codified in hard international law. UNHCR provides advice on refugee resettlement that national governments are at their own discretion to follow or not."

determining the parameters of selection, integration, and program funding.⁶³⁴ Before the enactment of the IRPA, Canada was subject to criticism for adopting a selective, ‘cherry-picking’ approach to refugee resettlement; however, following its adoption, the government claimed to have shifted its approach by prioritizing refugees in urgent need over those with a higher likelihood of successful establishment in Canada.⁶³⁵

In a broad sense, to be eligible for resettlement in Canada, refugees are typically referred by the UNHCR or another designated referral organization, or in some cases by an approved private sponsorship group. All resettled applicants must fall under one of two regulated categories: the Convention Refugees Abroad Class (based on the definition in the 1951 Refugee Convention and its 1967 Protocol) or the Country of Asylum Class.⁶³⁶ In both classes, applicants need to be outside their country of origin or habitual residence, demonstrate a need for protection with no reasonable prospect of a durable solution, and be admissible to Canada.⁶³⁷

Canada’s refugee resettlement system consists of three formal streams: Government-Assisted Refugee (GAR); Private Sponsorship of Refugees (PSR), and the combination of these programs, known as Blended Visa-Office Referred (BVOR).⁶³⁸ GAR beneficiaries are selected abroad and funded by the government through the Resettlement Assistance Program (RAP), including temporary accommodations, life skills, and financial support for up to one to two

⁶³⁴ Labman, *supra* note 334 at 5.

⁶³⁵ Shauna Labman, “Resettlement’s Renaissance: A Cautionary Advocacy” (2007) 24:2 *Refuge: Canada’s J on Refugees* 35 at 39. Also see Labman, *supra* note 334 at 63.

⁶³⁶ Lara Coleman, *Resettling Refugees: Canada’s Humanitarian Commitments*, 2020-74-E (19 June 2025) online: *Library of Parliament* <www.lop.parl.ca> [archive.org/details/2020-74-e] at 2. *IRPR*, *supra* note 597 at Sections 145 & 147. Under s. 145 of IRPR: “A foreign national is a Convention refugee abroad and a member of the Convention refugees abroad class if the foreign national has been determined, outside Canada, by an officer to be a Convention refugee.” Also s. 147 of IRPR: “A foreign national is a member of the country of asylum class if they have been determined by an officer to be in need of resettlement because (a) they are outside all of their countries of nationality and habitual residence; and (b) they have been, and continue to be, seriously and personally affected by civil war, armed conflict or massive violation of human rights in each of those countries.”

⁶³⁷ Labman, *supra* note 334 at 60 & 61.

⁶³⁸ Coleman, *supra* note 636 at 2.

years.⁶³⁹ Within the GAR stream, the government recognizes the distinct protection needs of particular groups, such as those with medical conditions or disabilities, trauma from violence or torture, or exposure to systemic discrimination.⁶⁴⁰ For these higher-needs cases, the Joint Assistance Sponsorship (JAS) program pairs government support with private sponsors to provide enhanced settlement assistance for a longer period of time (up to 24 months).⁶⁴¹

The PSR program is a unique model that allows Canadian citizens or permanent residents to name refugees for resettlement and provide financial and settlement support for a minimum of twelve months.⁶⁴² Sponsorship groups may be formed as Groups of Five (G5), in which five individuals jointly sponsor a refugee or a family; as Sponsorship Agreement Holders (SAHs), which are registered organizations, corporations, or associations; and as Community Sponsors (CS).⁶⁴³ In this model, although refugees are chosen by sponsors, applications are still reviewed by IRCC to determine the eligibility and protection needs of the applicants.⁶⁴⁴

Building on the PSR model, in 2013, the BVOR program was established as a partnership among IRCC, refugee referral organizations, and private sponsors to resettle refugees.⁶⁴⁵ The program connects private sponsors with refugees who have already been referred to IRCC by the UNHCR or another designated referral organization. Under the BVOR program, the costs of sponsorship are shared, between the government and private sponsors, each providing six months

⁶³⁹ Sandra Elgersma, *Resettling Refugees: Canada's Humanitarian Commitments (In Brief)*, 2015-11-E (01 April 2015) online: *Government of Canada* <www.publications.gc.ca> [archive.org/details/2015-11-e] at 3. Also see Maggie Perzyna & Sandeep Agrawal, "Making the Match: Understanding the Destining Process of Government-Assisted Refugees in Canada" (2024) 22:3 *Journal of Immigrant & Refugee Studies* 662–681.

⁶⁴⁰ Elgersma, *supra* note 639 at 3.

⁶⁴¹ Coleman, *supra* note 636 at 3. Also see "Joint Assistance Sponsorship" (9 May 2025), online: *Government of Canada* <www.canada.ca> [archive.ph/D2mdW].

⁶⁴² Labman, *supra* note 334 at 86.

⁶⁴³ Johanna Reynolds & Christina Clark-Kazak, "Introduction: Special Issue on Private Sponsorship in Canada" (2019) 35:2 *Refuge: Canada's J on Refugees* 3 at 3.

⁶⁴⁴ Labman, *supra* note 334 at 86.

⁶⁴⁵ Coleman, *supra* note 636 at 5.

of financial support, while private sponsors provide a year of settlement support services in addition.⁶⁴⁶ Together, the GAR, PSR, and BVOR programs constitute Canada's three resettlement streams to bring refugees selected abroad into Canada.

4.2.3.2.2. Complementary Protection Pathways

In 2003, fifteen years before the adoption of the Global Compacts, a Canadian-led working group introduced the concept of Strategic Use of Resettlement (SUR), defining it as “the planned use of resettlement in a manner that maximizes the benefits, directly or indirectly, other than those received by the refugee being resettled.”⁶⁴⁷ The core insight was that resettlement is not an isolated humanitarian act but part of a broader framework of protection and can be deployed strategically to bring benefits not only to resettled refugees but also to host states, other states, and in general the international protection regime.⁶⁴⁸ SUR was an initiative intended to expand responsibility-sharing and bridge the gap between North and South in refugee protection.⁶⁴⁹ While SUR's primary idea was influential, it was not without pitfalls, including the risk of abuse or misuse of resettlement, as seen in the EU and Turkey arrangements for Syrian refugees, which were not compatible with SUR's primary objectives.⁶⁵⁰

Although SUR was established years before the adoption of the Global Compacts, its underlying logic can be seen as foreshadowed the GCR and the GCM, reflecting similar approaches, strategies, and coalition-based problem-solving. SUR laid the groundwork for the

⁶⁴⁶ *Ibid.*

⁶⁴⁷ Joanne Van Selm, “Strategic Use of Resettlement: Enhancing Solutions for Greater Protection?” in Adèle Garnier, Kristin Bergtora Sandvik & Liliana Lyra Jubilut, eds, *Refugee resettlement: power, politics, and humanitarian governance* (New York; Oxford: Berghahn Books, 2018) at 31.

⁶⁴⁸ *Ibid* at 32.

⁶⁴⁹ *Ibid*, at 34.

⁶⁵⁰ See *Ibid* at 39 & 40.

later proliferation of related terminology, such as ‘enhanced resettlement,’ or what the Global Compacts refer to as ‘alternative’ or ‘complementary’ pathways.⁶⁵¹

Building on this foundation, Canada has been influential in shaping and advancing the Global Compacts; it has been an active participant in GCM negotiations and GCR consultations.⁶⁵² As Milner explains, this active engagement is linked to Canada’s status as a major UNHCR donor, its leadership in refugee resettlement, and its role as a democratic actor in international policymaking on forced migration.⁶⁵³

Aligned with the objectives of the Global Compacts, Canada seeks to expand durable solutions for refugees by combining resettlement with education and economic pathways, often referred to as complementary pathways, which aim to address the gap between the number of resettlement places and the number of refugees for whom there is no other durable solution.⁶⁵⁴ Education will be discussed in the next section; with regard to the economic pathways, in 2018, Canada launched the Economic Mobility Pathways Pilot (EMPP) program to facilitate forced migrants’ access to labor markets.⁶⁵⁵ The program was designed to bridge the gap between skilled forced migrants and local employers through existing economic channels. It operated by identifying Canadian employers with specific labor market needs and partnering with two NGOs, Talent Beyond Boundaries and RefugePoint, to identify refugees with relevant skills in countries

⁶⁵¹ See *Ibid* at 34–38.

⁶⁵² Idil Atak, Claire Linley-Moore & Julie (Ha Young) Kim, “Canada’s Implementation of the UN Global Compacts on Migration and Refugees: Advancing Foreign Policy Objectives and the Status Quo?” (2023) 42:4 *Refugee Survey Quarterly* 453 at 454.

⁶⁵³ James Milner, “Canada and the UN Global Compact on Refugees: A Case Study of Influence in the Global Refugee Regime” in Howard Duncan & Yiagadeesen Samy, eds, *International Affairs and Canadian Migration Policy* (Cham: Springer International Publishing: Imprint: Palgrave Macmillan, 2021) at 49.

⁶⁵⁴ See Wood, “The role of Complementary Pathways in Refugee Protection”, *supra* note 34 at 4 para 9.

⁶⁵⁵ Roberto Cortinovis & Andrew Fallone, “Country Report Canada: An analysis of the Private Sponsorship of Refugees (PSR) program and the Economic Mobility Pathways Pilot (EMPP)” (2022), online (pdf): *ASILE* <www.asileproject.eu> [archive.org/details/canada-psr-empp] at 2.

of first asylum.⁶⁵⁶ At the time of writing this chapter, however, the EMPP has been paused and is no longer accepting new applications.⁶⁵⁷

What makes the EMPP unique is that the scope of beneficiaries extends beyond identified refugees; it includes other groups of forced migrants, such as those registered as persons of concern by the UNHCR, individuals with temporary protected status, and those registered with the UNRWA.⁶⁵⁸ Furthermore, the program provides security and stability by offering permanent residency to all beneficiaries upon their arrival to Canada. It is essential to note that since individuals are admitted as economic immigrants, they are not entitled to refugee resettlement services.⁶⁵⁹ Therefore, they need to demonstrate the capacity for self-establishment and to support themselves and their families during the first year in Canada.⁶⁶⁰

Although by actively supporting the Global Compacts, Canada has positioned itself as a global leader in migration management and a norm entrepreneur in refugee resettlement, particularly through private sponsorship, scholars argue that the Compacts have had limited, if any, impact on domestic policies of the country regarding both migrants and inland refugee claimants.⁶⁶¹ The Compacts are not widely known among practitioners; as Macklin and Blum note, they have not been cited in case law, nor referenced in new policy announcements that are potentially relevant to the GCR framework.⁶⁶² In areas such as the Canada-U.S Safe Third

⁶⁵⁶ *Ibid* at 36.

⁶⁵⁷ Refugees and Citizenship Canada Immigration, “Closed: Economic Mobility Pathways Pilot” (last modified 25 March 2026), online: *Government of Canada* <www.canada.ca> [archive.ph/hQ9V0].

⁶⁵⁸ Refugees and Citizenship Canada Immigration, “Immigrate through the Economic Mobility Pathways Pilot: Who can apply” (last modified 02 January 2026), online: *Government of Canada* <www.canada.ca> [archive.ph/GPvaI].

⁶⁵⁹ Refugees and Citizenship Canada Immigration, “Economic Mobility Pathways Pilot (EMPP)” (8 October 2025), online: *Government of Canada* <www.canada.ca> [archive.ph/2Joph].

⁶⁶⁰ *Ibid*.

⁶⁶¹ See Atak, Linley-Moore & Kim, *supra* note 652 at 455.

⁶⁶² Audrey Macklin & Joshua Blum, “Country Fiche Canada” (January 2021), online: *ASILE* <www.asileproject.eu> [archive.org/details/country-fiche-canada] at 5.

Country Agreement, the Compacts remain largely unaddressed.⁶⁶³ Furthermore, this lack of inclusion affects complementary pathways such as EMPP by exposing them to risks of selective practices and treating refugees as economic migrants, downplaying their protection needs.⁶⁶⁴ As such, while Canada's foreign policy has engaged with the Global Compacts, their influence still remains limited within the country's national policies relating to refugees and migrants.

4.2.3.3. Special Temporary and Humanitarian Measures

In addition to resettlement and complementary pathways, Canada has also established a range of ad hoc special measures to respond to international crises and address the urgent needs of people fleeing conflict, violence, or disaster. These measures are temporary and not tied to permanent residence, but they function as important forms of protection for those outside the traditional refugee framework or where other solutions are not available or applicable in the short term.

In legal terms, these humanitarian measures often take the form of Temporary Resident Visas (TRVs) or Temporary Resident Permits (TRPs), which allow affected individuals to enter Canada on a temporary basis. However, the IRPA does not establish a distinct class for temporary humanitarian admissions.⁶⁶⁵ Under the IRPA, temporary resident status is granted through four main categories, including visitors, students, workers, and other discretionary permit holders.⁶⁶⁶ The latter are occasionally issued to victims of human trafficking or to individuals who would otherwise be inadmissible to Canada because of criminal records or health grounds.⁶⁶⁷

⁶⁶³ Atak, Linley-Moore & Kim, *supra* note 652 at 471.

⁶⁶⁴ *Ibid* at 462 & 463.

⁶⁶⁵ Catherine Xhardez & Dagmar Soennecken, "Temporary Protection in Times of Crisis: The European Union, Canada, and the Invasion of Ukraine" (2023) 11:3 PaG 264 at 266 & 267.

⁶⁶⁶ *Ibid* at 267.

⁶⁶⁷ *Ibid*.

In recent crises related to Ukraine and Gaza, for example, the government introduced special measures for individuals from these regions to come to Canada. For Ukrainians, under the Canada-Ukraine Authorization for Emergency Travel (CUAET) program, Canada offered temporary visitor visas that allowed Ukrainian citizens and their family members “to enter and leave Canada during a ten-year period, staying in Canada for three years at a time.”⁶⁶⁸ In response to the Gaza crisis, Canada introduced a temporary visa valid for three years, but imposed a program cap and a requirement that applicants have a Canadian citizen or permanent resident anchor who is willing to support them for one year, alongside other eligibility conditions.⁶⁶⁹

These programs demonstrate Canada’s capacity for rapid humanitarian response, but also highlight concerns about differential treatment among groups (for example, uncapped versus capped entry, anchor requirements, and other benefits).⁶⁷⁰ The design and implementation of these measures reflect Canada’s commitment to humanitarian protection; however, their ad hoc and discretionary nature, outside the formal refugee determination system, limits their capacity to provide stable, consistent, and rights-based forms of protection.

4.3. Canada’s Higher Education System and Its Governance

In Canada, higher education is highly decentralized, with responsibility for education at all levels assigned to the provinces and territories.⁶⁷¹ Section 93 of the Constitution Act (1867)

⁶⁶⁸ Heather Neufeld, “Ukrainians in Canada: Special Immigration Measures and Supports for Temporary Residents” (2022), online (pdf): *Connecting Ottawa* <www.connectingottawa.com> [archive.org/details/ukraine-info-june-23] at 4.

⁶⁶⁹ “Crisis in Gaza: Special measures for extended family” (24 October 2025), online: *Government of Canada* <www.canada.ca> [archive.ph/lbHkM].

⁶⁷⁰ See Ken Theobald, “Gaza and Canada’s refugee double standard” (24 January 2024), online: *Canadian Dimension* <www.canadiandimension.com> [archive.ph/56qcq].

⁶⁷¹ Glen A Jones & Christian Noumi, “Canada: Provincial Responsibility, Federal Influence and the Challenge of Coordination” in Martin Carnoy et al, eds, *Higher Education in Federal Countries: A Comparative Study* (Los Angeles, CA: SAGE Publications, Inc., 2018) 96 at 98.

establishes this provincial authority: “[i]n and for each Province[,] the Legislature may exclusively make Laws in relation to Education[.]”⁶⁷² In practice, provincial governments have primary responsibility for the programming, monitoring, and governance of higher education.⁶⁷³ They have the authority to regulate and steer the activities of public postsecondary institutions through quality assurance processes and degree-granting regulations.⁶⁷⁴ As a result, there is no federal department or minister of education at the national level; instead, each province and territory has its own minister responsible for all levels of education, including post-secondary institutions.⁶⁷⁵

While provinces have constitutional authority over education, the federal government has greater fiscal capacity to support it. Both the federal and provincial governments possess financial resources for policy implementation; however, the federal government has more financial power that can be leveraged in highly influential ways.⁶⁷⁶ Through this spending power, the federal government funds higher education programs such as research initiatives and student financial assistance programs.

The federal government justifies its role in funding research through its responsibility for economic development.⁶⁷⁷ Post-secondary research is viewed as a significant component of economic growth; therefore, the federal government has become the primary external investor in

⁶⁷² *Constitution Act, 1867* at Section 93. Theresa Shanahan, “The Legislative Framework of Postsecondary Education in Canada” in Theresa Shanahan, Michelle Nilson & Li-Jeen Broshko, eds, *The Handbook of Canadian Higher Education Law* (Montreal: Policy Press, 2016) 3 at 11.

⁶⁷³ Theresa Shanahan, “The Role of the Provincial Government in Postsecondary Education” in Theresa Shanahan, Michelle Nilson & Li-Jeen Broshko, eds, *The Handbook of Canadian Higher Education Law* (Montreal: Policy Press, 2016) 37 at 46.

⁶⁷⁴ *Ibid* at 46.

⁶⁷⁵ Jones & Noumi, *supra* note 671 at 100.

⁶⁷⁶ See Theresa Shanahan, “The Role of the Federal Government in Postsecondary Education” in Theresa Shanahan, Michelle Nilson, & Li-Jeen Broshko, eds, *The Handbook of Canadian Higher Education Law* (Montreal: Policy Press, 2016) at 25.

⁶⁷⁷ *Ibid* at 18.

university research projects. This funding is provided through research granting councils,⁶⁷⁸ along with initiatives such as research chair opportunities and scholarship programs to attract talented students.⁶⁷⁹ Additionally, to make higher education more accessible, the federal government, pursuant to the Canada Student Financial Assistance Act (1994), provides loans and grants to eligible students who are Canadian citizens, permanent residents, and protected persons.⁶⁸⁰

The federal government also plays a significant role in shaping the circumstances of international students.⁶⁸¹ It controls who can study in Canada by setting eligibility criteria for study permits and by establishing annual quotas on the number of study permits approved.⁶⁸² In addition, the federal government determines the conditions for the Post-Graduation Work Permit (PGWP), including which types and fields of study qualify.⁶⁸³ These rules substantially influence international students' program choices and their ability to stay and work in Canada after graduation.

⁶⁷⁸ The federal research councils are the Social Science and Humanities research Council (SSHRC), the Natural Science and Engineering Council of Canada (NSERC), and the Canadian Institutes of Health Research (CIHR).

⁶⁷⁹ See Shanahan, "The Role of the Federal Government in Postsecondary Education" *supra* note 676 at 30–36.

⁶⁸⁰ *Canada Student Financial Assistance Act*, S.C. 1994, c. 28. "[Q]ualifying student means a person (a) who is a Canadian citizen, a person registered as an Indian under the Indian Act, permanent resident as defined in subsection 2(1) of the Immigration and Refugee Protection Act or a protected person within the meaning of subsection 95(2) of that Act, (b) who is qualified for enrolment or is enrolled at a designated educational institution as a full-time student or part-student for a period of studies at a post-secondary school level, and (c) who intends to attend a designated educational institution as a full-student or part-student for a period of studies described in paragraph (b) if it is financially possible for that person to do so. (étudiant admissible)."

⁶⁸¹ Compared to other provinces, Quebec has additional powers in the area of immigration and international student authorization, which makes the provincial-federal relationship more complex. For instance, Quebec has introduced its own cap on international students in addition to the federal cap. Please see Cassandra Yanez-Leyton, "Quebec announces cap on international post-secondary students" (26 February 2025), online: *CBC News* <[www.cbc.ca/archive.ph/IKImP](http://www.cbc.ca/archive/ph/IKImP)>.

⁶⁸² See Hannah Liddle, "Defending Academic Freedom" (14 February 2024), online: *University Affairs* <www.universityaffairs.ca/archive.ph/GchBM>. Also see Larry Till & Sadaf Taimoor, "Othering International Students: Exploring the Conflict Between Student Visa Policy and Canada's Commitment to Multiculturalism" (2025) 1:1 PBGR 21–25.

⁶⁸³ See Refugees and Citizenship Canada Immigration, "Post-graduation work permit: Who can apply" (last modified 09 March 2026), online: *Government of Canada* <www.canada.ca/archive.ph/sdIrY>.

While the federal and provincial governments shape the broader policy and regulatory environment,⁶⁸⁴ Canadian universities have considerable independence in managing their internal affairs. They are legally established as autonomous, non-profit corporations, which exercise control over academic affairs and set policies regarding degree requirements, program offerings, and student admissions.⁶⁸⁵

For a long time, Canadian universities were governed primarily through internal mechanisms; following the Flavelle Commission of 1906, many institutions adopted a bicameral model.⁶⁸⁶ By the mid-1960s, almost every institution in English-speaking Canada had adopted some form of bicameral governance structure.⁶⁸⁷ The bicameral model was founded on the idea that “the process by which universities make decisions should be autonomous from the political whims of government.”⁶⁸⁸ As Cameron noted, the model aimed to create harmony by juxtaposing the two bodies: a faculty senate representing faculty interests in shaping academic policy, and a lay board of governors, responsible for safeguarding the public interest, particularly in financial matters.⁶⁸⁹

While the structure of bicameralism continues to prevail, its operational reality has changed significantly. With the growth of faculty unionization and the rising influence of student

⁶⁸⁴ It is important to note that in addition to federal and provincial governments, other external actors also influence universities’ decision-making process. These include Indigenous nations and communities, as well as non-governmental actors such as churches, rating agencies, foundations, and advocacy or policy organizations. See Julia Eastman et al, *University Governance in Canada: Navigating Complexity*, 1st edn (Montreal, Quebec: McGill-Queen’s University Press, 2022) at 62–67.

⁶⁸⁵ Glen A Jones, Theresa Shanahan & Paul Goyan, “University Governance in Canadian Higher Education” (2001) 7:2 *Tertiary Education & Management* 135 at 136. Also see Shanahan, “The Role of the Provincial Government in Postsecondary Education”, *supra* note 673 at 46.

⁶⁸⁶ Jones, Shanahan & Goyan, “University Governance in Canadian Higher Education” *supra* note 685 at 136. See also Eastman et al, *supra* note 684 at 19. “Several others had long been bicameral (including Dalhousie, McGill, and Queen’s), but it was the Flavelle Commission that articulated the underlying rationale and principles of bicameralism.”

⁶⁸⁷ Eastman et al, *supra* note 684 at 19.

⁶⁸⁸ Jones, Shanahan & Goyan, “University Governance in Canadian Higher Education”, *supra* note 685 at 136.

⁶⁸⁹ David M Cameron, “The Challenge of Change: Canadian Universities in the 21st Century” (2002) 45:2 *Canadian Public Administration* 145 at 151.

groups, the original harmony between the board of governors and the senate has been weakened or, in Cameron words “destroyed”.⁶⁹⁰ Unionization introduced a more adversarial relationship between faculty unions and the board, shifting key matters such as salaries, procedures for appointment, tenure, and promotion into collective bargaining arenas that operate outside the traditional senate-board framework.⁶⁹¹ Thus, today the role and effectiveness of the senate remain contested, “some see the senate as an important instrument of governance and academic leadership in the university, while others are more skeptical of its power and impact.”⁶⁹²

To sum up, in Canada, universities operate within a multi-level governance framework shaped by federal and provincial regulations related to access, funding, and migration, as well as by their institutional autonomy in designing and implementing programs. Understanding this structure is essential for examining how higher education initiatives are developed, supported, and sustained, and how they can function in practice as protection mechanisms for forced migrant students and scholars.

4.3.1. Academic Freedom in Canadian Context

Academic freedom in Canada began to take shape in the late 1950s; before then, it was not the central concern, and conflicts between faculty and university boards often led to dismissals.⁶⁹³ When the Canadian Association of University Teachers (CAUT) was formed in 1951, its primary concern was faculty compensation and benefits, and academic freedom remained secondary.⁶⁹⁴ The turning point came in 1958 with the Crowe case: Harry S. Crowe, a

⁶⁹⁰ *Ibid.*

⁶⁹¹ Eastman et al, *supra* note 684 at 80 & 81.

⁶⁹² Ross H Paul, *Leadership Under Fire: The Challenging Role of the Canadian University President*, 2nd edn (Montreal Quebec; Kingston Ontario: McGill-Queen’s University Press, 2015) at 195.

⁶⁹³ James L Turk, “Understanding Academic Freedom in Canada” (March 2022), online (pdf): *Centre for Free Expression* <www.cfe.torontomu.ca> [archive.org/details/understanding-academic-freedom-cfe] at 9.

⁶⁹⁴ *Ibid.*

history professor at United College in Winnipeg, was dismissed after sending a private letter criticizing the college administration and the ‘corrosive’ role of religion in the life of the college.⁶⁹⁵ As the case gained public attention, CAUT launched its first formal inquiry, led by Vernon Fowke, Professor of Economics at the University of Saskatchewan and Professor Bora Laskin, Professor of Law at the University of Toronto.⁶⁹⁶ The Fowke-Laskin report found that Crowe’s dismissal was a “trespass to academic freedom”.⁶⁹⁷ Crowe was offered his job back, but he declined because his colleagues who had resigned in solidarity were not reinstated.⁶⁹⁸

The Crowe case was one of the several incidents that brought academic freedom into the spotlight. With the expansion of higher education institutions in the 1960s, academic freedom moved to the centre of university governance and faculty priorities.⁶⁹⁹ In 1977, the CAUT Council adopted a policy statement defining academic freedom to include:

“the right, without restriction by prescribed doctrine, to freedom to teach and discuss; freedom to carry out research and disseminate and publish the results thereof; freedom to produce and perform creative works; freedom to engage in service to the institution and the community; freedom to express one’s opinion about the institution, its administration, and the system in which one works; freedom to acquire, preserve, and provide access to documentary material in all formats; and freedom to participate in professional and representative academic bodies. Academic freedom always entails freedom from institutional censorship.”⁷⁰⁰

This statement affirms that, academic freedom protects individuals from reprisal or repercussions and does not require neutrality in scholarly works.⁷⁰¹

⁶⁹⁵ James L Turk, “Academic Freedom in Canada: Its Origins, Components, and Limits” (2023) 25:1 Canadian Lab & Emp LJ 35 at 45.

⁶⁹⁶ *Ibid.*

⁶⁹⁷ *Ibid* at 46.

⁶⁹⁸ *Ibid.*

⁶⁹⁹ Barry E Hogan & Lane D Trotter, “Academic Freedom in Canadian Higher Education: Universities, Colleges, and Institutes were not Created Equal” (2013) 43:2 CJHE 68 at 69.

⁷⁰⁰ “Academic Freedom: Policy Statement” (last visited 27 December 2025), online: *Canadian Association of University Teachers* <www.caut.ca> [archive.ph/CNkYr].

⁷⁰¹ *Ibid.*

In the Canadian legal context, academic freedom has limited statutory or constitutional recognition; neither the Charter of Rights and Freedoms nor human rights legislation expressly protects the general right to academic freedom.⁷⁰² Although academic freedom and freedom of expression under the Charter often overlap and are sometimes conflated, they are distinct. As Robinson notes, “Not everyone has academic freedom, but we all have freedom of expression. People can express themselves within the law on a whole range of issues, whereas academic freedom is more attached to a specific occupation and setting.”⁷⁰³

Canadian courts have made only occasional comments on the topic, and these have not carried significant legal weight.⁷⁰⁴ In *McKinney v. University of Guelph* (1990), Justice La Forest acknowledged that:

“Academic freedom and excellence is necessary to our continuance as a lively democracy. [...] While I believe that the principle of academic freedom serves an absolutely vital role in the life of the university, I think its focus is quite narrow. It protects only against the censorship of ideas.”⁷⁰⁵

The Supreme Court also recognized that academic freedom is essential to a democratic society; however, its legal scope has been framed narrowly as protection against the censorship of ideas. The Court has also held that universities are not government actors, and their actions “do not fall within the ambit of the Charter[.]”⁷⁰⁶ As a result, according to Robinson, “Canadian judges have not established any significant legal interpretation of academic freedom.”⁷⁰⁷

Through the establishment of faculty associations, which later became certified as trade unions, academic freedom in Canada is recognized as a negotiated right, enforced through

⁷⁰² David Robinson, “Academic Freedom in Canada: A Labor Law Right” (2019) 105:4 AAUP 22 at 23.

⁷⁰³ Liddle, “Defending Academic Freedom”, *supra* note 682.

⁷⁰⁴ Robinson, *supra* note 702 at 23.

⁷⁰⁵ *McKinney v University of Guelph*, 1990 3 S.C.R. 229.

⁷⁰⁶ *Ibid.*

⁷⁰⁷ Robinson, *supra* note 702 at 26.

collective agreements between faculty associations and university administrations.⁷⁰⁸ Today, almost 90 percent of faculty members at Canadian universities are unionized, and these collective agreements contain comprehensive definitions of academic freedom.⁷⁰⁹ As a result, academic freedom in the Canadian context is best understood as a labor law right, with most disputes about its scope or violation resolved through labor grievance and arbitration.⁷¹⁰

4.4. Intersection of Protection and Higher Education in Canadian Context

As discussed in the previous chapter, education, including higher education, is a well-established fundamental human right. In Canada, this understanding rests on the country's ratification of core human rights instruments, particularly the ICESCR and the Convention on the Rights of the Child (CRC), both of which affirm education as a human right and call for equitable access at all levels.⁷¹¹ Building on this framework, scholars such as Gardiner-Milln argue that these international instruments impose obligations on Canada to recognize higher education as a human right rather than a privilege, and to take concrete steps to ensure that access is fair, non-discriminatory, and progressively available to all based on capacity.⁷¹²

In the Canadian protection framework, this rights-based approach to higher education is significant, as access to higher education for forced migrants is not merely an educational matter;

⁷⁰⁸ Michael Lynk, "Academic Freedom, Canadian Labour Law and the Scope of Intra-Mural Expression" (2020) 29:2 Constitutional Forum 45 at 47.

⁷⁰⁹ *Ibid.*

⁷¹⁰ Robinson, *supra* note 702 at 26 & 27. Also see in the case of *McKenzie v. Isla*, the Human Rights Tribunals of Ontario (HRTO) noted that "With respect to academic freedom, it is well-established that courts and tribunals should be restrained in intervening in the affairs of a university in any circumstance where what is at issue is expression and communication made in the context of an exploration of ideas, no matter how controversial or provocative those ideas may be." John A Baker, Mark Gabbert & Penni Stewart, "Report of the Ad Hoc Investigatory Committee to Examine the Situations of Drs. Isla, Van Ingen & Corman, & Messrs. Wood & Fowler at Brock University" (November 2015), online (pdf): CAUT <www.caut.ca> [archive.org/details/caut-ahic-report] at Appendix 4, para 35.

⁷¹¹ Danielle Gardiner-Milln, "Understanding Higher Education in Canada as a Human Right" (2021) 12:2 Canadian Journal for New Scholars in Education 78 at 78.

⁷¹² See *Ibid.*

it forms part of their socio-economic rights that can shape their prospects for secure employment, economic independence, and long-term stability. In a country with a long history of immigration and refugee support, access to higher education is not simply a discretionary benefit, but a key factor in promoting equality, social inclusion, and meaningful participation in society.

The intersection of protection and higher education becomes visible in three areas: first, in the context of in-land protection, where the absence of access to socio-economic rights may contribute to claims of persecution; second, in overseas protection, particularly through resettlement and complementary pathways; and third, through university-led initiatives that support different groups of forced migrants.

4.4.1. In-Land Protection and Significance of Higher Education

In Canada, the IRPA does not define “persecution,” and the term itself is not self-evident; therefore, Canadian tribunal members and judges have had to delineate the boundaries of the concept.⁷¹³ In *Canada (attorney General) v. Ward*, the Supreme Court adopted Hathway’s definition of persecution as a: “sustained or systematic violation of basic human rights demonstrative of a failure of state protection.”⁷¹⁴ Building on this definition, the IRB has issued a Guideline that clarify persecution by distinguishing the concept from discrimination or harassment.⁷¹⁵ Persecution involves serious harm or mistreatment that is persistent, or systematic, and must be linked to one of the five Convention grounds, namely race, religion, nationality, membership in a particular social group, or political opinion.⁷¹⁶ Under this

⁷¹³ “Interpretation of Convention Refugee and Person in Need of Protection in the Case Law” (last modified 15 December 2021), online: *Immigration and Refugee Board of Canada* <www.irb-cisr.gc.ca> [archive.ph/qXNQg].

⁷¹⁴ *Canada (Attorney General) v. Ward*, [1993] 689 SCR. Also see Hathaway, *The law of refugee status*, *supra* note 236 at 104 & 105.

⁷¹⁵ See “Interpretation of Convention Refugee and Person in Need of Protection in the Case Law”, *supra* note 713.

⁷¹⁶ *Ibid.*

framework, the denial of socio-economic rights is not an independent Convention ground for persecution. However, recent Canadian jurisprudence reflects an emerging openness among decision makers to recognize that serious or cumulative violations of socio-economic rights, including denial of access to higher education, may contribute to persecution.

A significant example of this rights-based approach is reflected in IRB Board Member Dilani Mohan's 2020 RAD decision in the Mr. A Case.⁷¹⁷ In 2018, Mr. A and his wife, a stateless Palestinian couple born in Saudi Arabia, arrived in Canada seeking protection.⁷¹⁸ Their fear of persecution arose from their exclusion from socio-economic rights, including access to free healthcare, education, and other social services reserved for Saudi citizens.⁷¹⁹ This exclusion was based on their Palestinian ethnicity, statelessness, and Mr. A's status as a foreign worker in Saudi Arabia.⁷²⁰ The RPD granted protection to Mr. A's wife on gender-related grounds but denied Mr. A's own refugee claim, prompting an appeal to the RAD.⁷²¹

Board Member Mohan reassessed the case from several perspectives, including the consequences of discrimination for Mr. A's access to education and employment, and the resulting insecurity of his future.⁷²² She underscored the link between higher education and access to better employment opportunities, highlighting how denial of access could lead to long-term marginalization.⁷²³ She also noted that the refusal of post-secondary education for Mr. A, merely on the basis of his stateless Palestinian status, reflected his exclusion from fundamental

⁷¹⁷ *X (Re)*, [2020] 2020 CanLII 125457, 2020 CanLII 125457 (CA IRB).

⁷¹⁸ *Ibid.*

⁷¹⁹ *Ibid.*

⁷²⁰ See *Ibid.* "Mr. A also fears retaliation by a member of the Saudi royal family because of an altercation in XXXX 2017 at the XXXX centre where he previously worked. The royal family member had left the centre without paying, and, when Mr. A followed him outside to request payment, he was threatened and assaulted by four of the royal's associates. The following month, Mr. A's employment was terminated. Mr. A was unable to obtain a new job due to Saudization."

⁷²¹ *Ibid.*

⁷²² *Ibid.*

⁷²³ *Ibid.*

human rights within Saudi society.⁷²⁴ This systematic denial prevented him from improving his socio-economic standing, limited his ability to financially progress, access to public higher education, healthcare, and meaningful employment, and effectively confined him to low-paid, precarious work.⁷²⁵ Based on these arguments, she found Mr. A to be a Convention refugee.

Although this is the only case discussed here, it provides valuable insights into the significance of socio-economic rights, particularly higher education, within the assessment of refugee protection. It shows how denial of access to higher education can contribute to a pattern of long-term, life-shaping harm that may rise to the level of persecution. This point has also been recognized in earlier refugee law scholarship; as Grahl-Madsen notes, “if a person will be excluded from institutions of higher learning [...], this will affect his whole life much more profoundly than a relatively short term of imprisonment.”⁷²⁶ In this sense, exclusion from higher education is not a marginal disadvantage but a form of harm with lasting consequences for an individual’s life trajectory. While a comprehensive review of Canadian jurisprudence would be required to support a broader claim, this case suggests that Canadian decision makers are adopting a more progressive approach in viewing higher education not only as a human right but also a pathway to other socio-economic rights.

4.4.2. Overseas Protection through Higher Education Opportunities

Canada’s long-standing experience with private sponsorship of refugees has played an influential role in shaping discussions around complementary pathways for refugees, including within the framework of Global Compacts. These pathways, including the EMPP, discussed

⁷²⁴ *Ibid.*

⁷²⁵ *Ibid.*

⁷²⁶ Atle Grahl-Madsen, *The status of refugees in international law*, Vol. I: Refugee Character (Leyden: A. W. Sijthoff, 1966) at 215.

earlier, and higher education pathways, seek to address the limited availability of resettlement places for refugees.

In Canada, higher education occupies a distinctive position within this framework. It can enable refugees to leave protracted displacement through secure and lawful admission channels, while also supporting their post-arrival integration into Canadian society. Existing research demonstrates a strong link between higher education and greater social, economic, and civic integration for refugees.⁷²⁷ It equips them with skills such as problem-solving, critical thinking, and teamwork, which can improve their job prospects while supporting their self-reliance and confidence.⁷²⁸ In programs where admission to post-secondary education is connected to permanent legal status, higher education becomes more than a socio-economic right; it can also operate as a structured complementary pathway to protection.

The WUSC's SRP exemplifies this pathway for refugee youth. It has developed a model in which educational opportunities and protection are intertwined: admission to a university or college is accompanied by a pathway to permanent residence and the enjoyment of a broader set of rights in Canada. The program operates within Canada's private sponsorship framework, but in practice relies on the efforts of student groups, faculties, and institutional partners, who take on responsibilities such as financial support and settlement assistance. The details of the program will be discussed in the next chapter.

⁷²⁷ See Hajisoteriou, "Building a Pathway to Belonging", *supra* note 36 at 2. Also see Martha K Ferede, "Structural Factors Associated with Higher Education Access for First-Generation Refugees in Canada: An Agenda for Research" (2010) 27:2 79 at 80 & 81. Also see Martin & Stulgaitis, "Refugees' Access to Higher Education in their Host Countries", *supra* note 464 at 22–27.

⁷²⁸ "Introduction", *supra* note 380.

4.4.3. Universities' Initiatives in Protection of Forced Migrants

As explained earlier, Canadian universities and colleges with degree-granting authority have the autonomy to establish student and scholar support initiatives independently. In recent years, many institutions have established scholarships, bursaries, tuition fee waivers, and emergency funding programs in response to international crises affecting students and scholars around the world, including those from Ukraine, Afghanistan, and Syria.⁷²⁹

Although each institution administers its own program, the initiatives can generally be grouped into two broad categories: support for forced migrants already in Canada and pathways designed for those outside the country.⁷³⁰ Depending on the nature of crisis, these programs may serve individuals who meet the narrow legal definition of 'refugee' or broader groups of forced migrants whose precarious circumstances fall outside the formal protection regime.

For individuals who are inside Canada and recognized as refugees or protected persons, universities such as the University of Waterloo,⁷³¹ Simon Fraser University,⁷³² and Western University⁷³³ have developed programs that offer financial awards. For forced migrants in Canada who are not recognized as refugees, such as refugee claimants, humanitarian and compassionate applicants, undocumented individuals, forced migrants with temporary visa, rejected refugee claimants, foreign nationals under unenforceable removal orders, some

⁷²⁹ See Melody Viczko & Renata Matsumoto, "Problematizing Access to Higher Education for Refugee and Globally Displaced Students: What's the Problem Represented to Be in Canadian University Responses to Syrian, Afghan and Ukrainian Crises?" (2022) 17:1 J Contemporary Issues in Edu 40 at 45–48.

⁷³⁰ "Opportunities in Canada for displaced students and researchers outside Canada" (last visited 27 December 2025), online: *UnborderED Knowledge* <www.unborderedknowledge.com> [archive.ph/ckMds].

⁷³¹ "David Johnston Waterloo Awards for Refugee Students" (last visited 27 December 2025), online: *University of Waterloo Student Awards & Financial Aid* <www.uwaterloo.ca> [archive.ph/3GK3y].

⁷³² "Diverse qualifications admission - more than grades" (last visited 27 December 2025), online: *Simon Fraser University Student Services* <www.sfu.ca> [archive.ph/zz3w4].

⁷³³ "John and Catherine Kelly Bursary for Refugees, Students from Kosovo or Indigenous Students – First Nations, Metis and Inuit" (last visited 27 December 2025), online: *Western University Graduate & Postdoctoral Studies* <www.grad.uwo.ca> [archive.ph/gcHbS].

universities also provide support to facilitate their access to post-secondary education.⁷³⁴ These students are often described as having precarious legal status.⁷³⁵ While they may have access to primary and secondary education in several provinces, access to post-secondary education remains more limited and, they are often treated as international students.⁷³⁶ Institutions such as York University have created pathways for students with precarious legal status to pursue undergraduate programs, without requiring study permits, applying domestic fee rates, and access to free bridging courses.⁷³⁷

A second group of initiatives is aimed at forced migrants outside Canada. These programs are typically focus on individuals in conflict affected regions or protracted situations to facilitate their access to higher education. For instance, International Students Overcoming War (ISOW) offered by Wilfrid Laurier University supports students from war-torn countries to study in Canada, and is described as a student-funded initiative.⁷³⁸ Similarly, the Jusoor-TMU Scholarship, offered by Toronto Metropolitan University, supports Syrian and Palestinian-Syrian students through scholarship opportunities.⁷³⁹

In addition, some universities participate in international networks that aim to provide protection to forced migrant students or scholars. For instance, the McGill University,⁷⁴⁰ the

⁷³⁴ For further information on variety of forced migrants see Elise Mercier, Sean Rehaag & Francisco Rico-Martinez, “Canadian “Dreamers”: Access to Post-Secondary Education” (2023) 60:3 Osgoode Hall Law Journal 699 at 708–710.

⁷³⁵ *Ibid* at 707 & 708.

⁷³⁶ *Ibid* at 708.

⁷³⁷ *Ibid* at 721 & 722.

⁷³⁸ “International Students Overcoming War” (last visited 27 December 2025), online: *International Students Overcoming War* <www.isow.ca> [archive.ph/glaZv].

⁷³⁹ “Jusoor - TMU Scholarship” (last visited 27 December 2025), online: *Jusoor* <www.jusoor.ngo> [archive.ph/7G9PB].

⁷⁴⁰ “Mastercard Foundation Scholars Program at McGill University” (last visited 27 December 2025), online: *McGill University* <www.mcgill.ca> [archive.ph/8GGuT].

University of Toronto,⁷⁴¹ and the University of British Columbia⁷⁴² participate in Mastercard Foundation Scholars Program initiatives, which support access to higher education for students from across Sub-Saharan Africa. Scholars at Risk is another international network in which around thirty Canadian universities participate as member institutions to assist scholars in precarious situations around the world. The details of this program will be discussed in Chapter six.

Although these initiatives play an important role in facilitating access to higher education for forced migrants, their availability remains inconsistent across institutions. Many are temporary and reactive, established in response to humanitarian crises rather than as sustained institutional commitments. As a result, programs may terminate or disappear when institutional leadership or priorities change, leaving forced migrant students with limited and unpredictable pathways to pursue their studies.

Furthermore, scholars such as Viczko and Matsumoto argue that universities' responses are not merely based on compassion; they may also be intertwined with "the political activities of nation states, and such engagements are complicated[.]"⁷⁴³ In their analysis of universities' responses in Ontario during the Syrian, Afghan, and Ukrainian crises, they show that federal policy decisions can influence, and sometimes shape, universities' responses.⁷⁴⁴ Although universities are expected to remain neutral and act as "more than benevolent ventures of humanitarian practices,"⁷⁴⁵ their initiatives are shaped by these broader political dynamics.

⁷⁴¹ "Mastercard Foundation Scholars Program" (last visited 27 December 2025), online: *Centre for International Experience University of Toronto* <www.internationalexperience.utoronto.ca> [archive.ph/Pmsu6].

⁷⁴² "Mastercard Foundation Scholars Program at UBC" (last visited 27 December 2025), online: *The University of British Columbia* <www.mastercardfdn.scholars.ubc.ca> [archive.ph/89BM2].

⁷⁴³ Viczko & Matsumoto, *supra* note 729 at 51.

⁷⁴⁴ See *Ibid* at 41–43.

⁷⁴⁵ *Ibid* at 51.

Nevertheless, these initiatives remain influential opportunities where protection and higher education intersect, creating opportunities for different groups of forced migrants.

4.5. Conclusion

This chapter has shown that protection in the Canadian context is not a singular legal category but a composite framework shaped by a layered legal regime. It is anchored in the IRPA, informed by Canada's international human rights commitments and the Charter, and operationalized through multiple pathways, including in-country asylum, overseas resettlement and complementary pathways, and special humanitarian or temporary measures. Together, these elements reveal the scope and the limits of Canada's protection regime, particularly in how protection is structured and experienced in practice.

At the same time, the chapter has demonstrated that Canada's higher education operates within a similarly complex and multi-level governance structure. Although education falls primarily under provincial jurisdiction, the federal influence through funding and immigration-related policy continues to shape institutional capacities and access for different groups of students. This dynamic sometimes creates tension state priorities and institutional autonomy, particularly where universities act as independent actors responding to global crises.

Bringing these two frameworks into relation highlights an important insight: protection in practice extends beyond formal legal mechanisms and is shaped through institutional actors. In the inland context, higher education is not only a socio-economic concern but also a factor that can have long-term implications for individuals' stability and inclusion. In the overseas context, education functions as a pathway through which protection objectives are pursued, particularly through complementary pathways that combine education, resettlement, and integration support.

Universities initiatives further illustrate protection can be operated through decentralized and often ad hoc institutional responses.

This analysis establishes the conditions for rethinking protection beyond its conventional legal boundaries and situates higher education as a pathway through which these boundaries are negotiated in practice. This provides the foundation for examining programs such as WUSC and SAR in the following chapters.

Chapter Five:
World University Service of Canada (WUSC)

“I was once a refugee in Kenya and came to Canada via WUSC-SRP in August 2023. Being a refugee was a moment in my life where I felt like I was being ‘tested’ by life because it’s a moment that posed numerous challenges to me, ranging from poor academics, poor healthcare to mental and emotional breakdown, among others. Having grown up in such a hostile environment, resilience and hope were key for my survival. It is mostly nearly impossible to dream in a refugee camp but optimism and hope are the way through these hazy visions of such beautiful dreams. Thanks to WUSC-SRP and all the donors, organizations and individuals who support this program; because of them, the dreams of thousands of young refugees who rely on hope and optimism are made valid and actualized.”⁷⁴⁶

5.1. Introduction

The WUSC’s Student Refugee Program (SRP) represents a significant institutional model for advancing refugee protection through higher education opportunities. The program operates through the contributions of state and non-state actors, including WUSC organization, Canadian post-secondary institutions, and students. This chapter examines how the SRP functions within the broader Canadian higher education system, explaining its institutional structure, operational and distinctive features. It begins by tracing WUSC’s broader background and the establishment of the SRP, then outlines the program’s core of protection logic, and continues with the key features of the model, including partnership and collective protection, peer to peer model, and empowerment.

5.2. Background

The WUSC is a Canadian non-governmental organization that evolved from a Christian movement and European crises. In 1895, the World Student Christian Federation (WSCF), as one of the oldest student organization, was founded by student leaders from ten North American and

⁷⁴⁶ “Student Refugee Program” (last visited 28 December 2025) online: *University of Toronto Students’ Union-Jok Quote* <www.utsu.ca> [archive.ph/qKnbc].

European countries.⁷⁴⁷ During the World Wars, the WSCF played a crucial role in assisting refugees across Europe and maintaining communication and solidarity among Christians impacted by nationalism and war.⁷⁴⁸ After the First World War, the WSCF established the European Student Relief (ESR) to support university students whose lives and studies had been significantly disrupted by the conflict.⁷⁴⁹ The ESR organization provided over £500,000 for the relief and rehabilitation of university students in 19 countries.⁷⁵⁰

In May 1925, ESR changed its name to International Student Services (ISS) and continued to assist “Jewish students and other refugees fleeing persecution in Nazi Germany, Austria and Czechoslovakia.”⁷⁵¹ As Henderson explained, in between two World Wars, the work of ISS had two-fold: continuing to support student relief efforts while also exploring the role of universities and students in society, focusing on issues such as student self-help, selection methods for gifted students, student loan funds, health services, hostel administration, and the integration of foreign guest students into national universities.⁷⁵² ISS earned respect and global recognition for its active role in the social and academic aspects of students’ lives, as well as its participation in humanitarian efforts.⁷⁵³

⁷⁴⁷ “History of WSCF-Europe” (last visited 28 December 2025), online: *WSCF-Europe* <www.wscf-europe.org> [archive.ph/kuo62].

⁷⁴⁸ “The Federation History” (last visited 28 February 2025), online: *World Student Christian Federation* <www.wscf.ch> [archive.ph/HityF].

⁷⁴⁹ *Ibid.*

⁷⁵⁰ “History of WSCF-Europe”, *supra* note 747.

⁷⁵¹ Glen Peterson, ““Education Changes the World”: The World University Service of Canada’s Student Refugee Program” (2010) 27:2 *Refuge: Canada’s J on Refugees* 111 at 112.

⁷⁵² James L Henderson, “World Student Relief The Work of International Student Service” (1944) 153:3875 *Nature* 152 at 152.

⁷⁵³ Martha Kateri Ferde, *It Takes a University: The Social and Academic Integration and Experiences of Refugee Youth in Canada* (Ed.D., Harvard University, 2013) Thesis Presented to the Faculty of the Graduate School of Education of Harvard University in Partial Fulfillment of the Requirements of the Degree of Doctor of Education at 38.

In Canada, the first Canadian committee of ISS was formed in 1939 at the University of Toronto by a group of students and professors.⁷⁵⁴ The committee assisted Jewish academics to resettle in Canada through various academic exchanges.⁷⁵⁵ A few years later, Canadian students participated in international seminars organized by ISS in Europe, where young people from different countries could come together to discuss international affairs, peace, and justice.⁷⁵⁶ These events enabled Canadians to “build relationships with their counterparts in other countries, to add a new dimension to their studies, and to gain a sense of their own identity.”⁷⁵⁷

In 1950, ISS renamed itself to World University Service (WUS) to assist broader groups of refugees in Asia and the Middle East.⁷⁵⁸ The organization opened many offices around the world, including Canada. In 1957, the World University Service of Canada (WUSC) was established as a non-profit, non-governmental organization in Toronto to assist refugees in their resettlement journey.⁷⁵⁹ During the 1960s to 1970s, WUSC increasingly focused on developing countries and supporting the anti-Apartheid movement across campuses.⁷⁶⁰ In 1978, WUSC officially participated in private sponsorship of refugees by supporting the first refugee student from Zambia at Carleton University.⁷⁶¹ This experience shaped and developed the current structure of WUSC’s SRP, and since that time, Canadian students have responded to the needs of refugee youth through this model.

⁷⁵⁴ Peterson, *supra* note 751 at 112.

⁷⁵⁵ “Student Refugee Program: Guide for Local Committees” (August 2020), online (pdf): *World University Service of Canada* <www.wusc.ca> [archive.org/details/srp-guide-2020] at 109.

⁷⁵⁶ Ferede, *supra* note 753 at 38.

⁷⁵⁷ *Ibid.*

⁷⁵⁸ Peterson, *supra* note 751 at 112.

⁷⁵⁹ Ferede, *supra* note 753 at 39.

⁷⁶⁰ “Student Refugee Program: Guide for Local Committees”, *supra* note 755 at 109 & 110.

⁷⁶¹ *Ibid.*

5.3. The Student Refugee Program (SRP): Overview

WUSC is built on the idea of creating a better world for all young people, driven by the belief that many youth globally are not reaching their full potential. The organization emphasized that: “there are not enough opportunities accessible to youth to develop their knowledge and skills; they face significant barriers to entering the workforce and improving their livelihoods; and they are left out of important conversations that affect their lives.”⁷⁶² In response to these challenges, in recent years, WUSC expanded its mission beyond education to include economic opportunities for refugee youth, but the organization is best known for improving access to quality education through SRP.⁷⁶³

From a legal perspective, WUSC’s SRP protection model combines post-secondary education with resettlement through applying the Private Sponsorship of Refugees Program.⁷⁶⁴ As an official Sponsorship Agreement Holder (SAH), WUSC with assistance of IRCC aims to bring refugee students to study in Canada as permanent residents.⁷⁶⁵ As one of interviewee explained:

“The program provides refugees with opportunities to pursue higher education in safety while also offering a durable solution and ensuring they have the tools and support they need to succeed in Canada. Also, the program engages young people in Canada on

⁷⁶² “Annual Report 2022-2023” online (pdf): *World University Service of Canada* <www.assets.wusc.ca> [archive.org/details/wusc-annual-report-2022-2023] at 4.

⁷⁶³ See “Our Work: What we do” (last visited 28 December 2025), online: *World University Service of Canada* <www.wusc.ca> [archive.ph/OsCPT]. Also see “From Education to Employment to Sport and Beyond: Seven Pledges to Expand Complementary Pathways, Champion Durable Solutions to Forced Displacement and Promote Refugee-led Solutions” (11 December 2023), online: *World University Service of Canada* <www.wusc.ca> [archive.ph/Nmyqy]. Also see “How Every Job Vacancy Becomes an Opportunity for Refugee Youth and Canadian Businesses | HIRES Pilot Learnings Report” (7 June 2024), online: *World University Service of Canada* <www.wusc.ca> [archive.ph/BWGHZ]. WUSC pledged to support the expansion of labor pathways in Canada. From 2019 to 2023, WUSC organized a pilot project named HIRES, aimed at facilitating the employment and resettlement of 60 refugees in Canada.

⁷⁶⁴ See Verberg & MacDonald, *supra* note 35 at 2.

⁷⁶⁵ “Student Refugee Program About” (last visited 28 December 2025), online: *World University Service of Canada* <www.srp.wusc.ca> [archive.ph/h77uo].

refugee issues, educating and involving them in supporting newcomers and hoping to demystify and destigmatize forced migrants in Canada.”⁷⁶⁶

WUSC is the leading non-profit organization to sponsor refugee youth for educational purposes through local committees across Canadian campuses. For each newly arrived SRP student, a tripartite agreement is established between the local committees, WUSC’s National Office, and the SRP student, outlining the roles and responsibilities of all three key stakeholders.⁷⁶⁷ Currently, the program actively works in more than 90 campuses across Canada, with approximately 130 refugees arriving each year through the program.⁷⁶⁸

In terms of the procedure, WUSC accepts applications from selected geographical contexts, including Uganda, Kenya, Jordan, and Lebanon.⁷⁶⁹ While these countries have hosted large refugee populations in protracted situation, the program’s focus is also shaped by logistical, operational, and strategic considerations.⁷⁷⁰ The geographical scope of the SRP has evolved over time and has varied in response to institutional capacity, partnerships, and changing global contexts.⁷⁷¹ In recent years, in response to specific crises, WUSC has made a direct or indirect impact on supporting refugee youth education. As an interviewee from headquarters explained:

“Over the years, WUSC has primarily focused on protracted refugee situations rather than emerging crises. The organization’s approach has been less about providing immediate humanitarian response and more about offering long-term solutions. So we often come in contexts where refugees have been displaced for a long time. However, we did respond to a few new situations, such as supporting Afghan students in Pakistan and Syrian crisis. [...] Generally speaking, we would more target on protracted refugee situations, but it’s not set in stone, and we do assess depending on what comes up.”⁷⁷²

⁷⁶⁶ Interviewee 3 (16 April 2024) on World University Service of Canada (WUSC), Zoom, communicated to author.

⁷⁶⁷ “Student Refugee Program: Guide for Local Committees”, *supra* note 755 at 26.

⁷⁶⁸ *Ibid* at 8.

⁷⁶⁹ “Student Refugee Program FAQ” (last visited 28 December 2025), online: *World University Service of Canada* <www.srp.wusc.ca> [archive.ph/fUjFn].

⁷⁷⁰ Interviewee 4 (26 April 2024) on World University Service of Canada (WUSC), Zoom, communicated to author.

⁷⁷¹ *Ibid*, Interviewee 4.

⁷⁷² *Ibid*, Interviewee 4.

Depending on the nature of the crisis, the organization may have an indirect impact in supporting refugee students. For example, as an interviewee noted, in response to the Gaza crisis, WUSC is actively working in Jordan and Lebanon, the closest areas to Palestine. These countries are home to large Palestinian communities, and WUSC is focused on supporting all refugee youth that meet program requirements, including Palestinians, within those regions.⁷⁷³

In addition to geographical contexts, refugees must meet several selection criteria to be considered for the SRP. Applicants must be recognized as refugees by the UNHCR or their country of asylum; however, exceptions may be applied for certain individuals in refugee-like situations (not including IDPs), such as Afghan individuals in Pakistan, where the government has ceased officially registering them as refugees.⁷⁷⁴ WUSC ensures that cases with a higher chance of approval in the immigration process are considered for the SRP, but the final decision rests with the Canadian government.⁷⁷⁵ Additionally, applicants must be single, between 18 and 25 years old, and have completed secondary school.⁷⁷⁶ They must also demonstrate proficiency in English or French, providing proof of their language skills through standardized assessments, including the Duolingo English Test for English-language candidate and the Evalang test for francophone candidates.⁷⁷⁷

To briefly explain the journey from camp to campus, the process begins with the application phase, which can take approximately eighteen months from selection to preparation and arrival in Canada.⁷⁷⁸ After receiving student applications, WUSC shortlists potential candidates, as the program can only sponsor a limited number of refugees. Selected candidates

⁷⁷³ *Ibid*, Interviewee 4.

⁷⁷⁴ *Ibid*, Interviewee 4. Also see “Student Refugee Program: Guide for Local Committees”, *supra* note 755 at 18.

⁷⁷⁵ Interviewee 4, *supra* note 770.

⁷⁷⁶ “Student Refugee Program: Guide for Local Committees”, *supra* note 755 at 18.

⁷⁷⁷ Interviewee 4 *supra* note 770.

⁷⁷⁸ Peterson, *supra* note 751 at 113.

must successfully complete in-depth interviews with WUSC, IRCC, and partner officials; they must also pass medical and security checks.⁷⁷⁹ Once the selection is finalized, SRP students prepare for the admission phase by completing language courses and providing necessary documents, including identity and educational records.⁷⁸⁰ In collaboration with local committees, WUSC finds and places students in Canadian institutions that are prepared to admit SRP participants.

Following the completion of student immigration and admission procedures, WUSC, in collaboration with the International Organization for Migration (IOM), organizes departure arrangements, including pre-departure orientations to prepare students for their journey to Canada.⁷⁸¹ These orientations provide students with “a basic overview of Canada’s geography, socio-political structures, food, and housing, as well as how to use electricity and send remittances.”⁷⁸² In addition, they include social and academic preparation aimed at easing students’ transition and minimizing the impacts of culture shock.⁷⁸³ Upon arrival in Canada, this preparatory support is complemented by the work of local committees on campuses, which assist SRP beneficiaries with their adjustment and integration processes.

5.4. SRP Core of Protection: Enhancing Quality of Life

As discussed in Chapter two, in refugee law, protection at its core extends beyond the absence of persecution and serious harm; it provides a pathway for forced migrants to access human rights and fundamental freedoms. This understanding of protection is reflected in

⁷⁷⁹ “Student Refugee Program: Guide for Local Committees”, *supra* note 755 at 18.

⁷⁸⁰ Robyn Plasterer, “Investigating Integration: The Geographies of the WUSC Student Refugee Program at the University of British Columbia” (2010) 27:1 *Refuge: Canada’s J on Refugees* 59 at 64.

⁷⁸¹ *Ibid* at 64 & 65.

⁷⁸² *Ibid* at 65.

⁷⁸³ *Ibid*.

Canadian immigration and refugee law, as well as in the strategies of WUSC for its SRP program. WUSC works with a diverse groups of students, volunteers, institutions, and governments, to save refugee youth from precarious situations and bring them to Canada where they can access to human rights. In this journey, WUSC's approach to protection can be understood through the lens of a Quality of Life (QoL), which centres not only on bringing refugee youth to Canada and providing them with educational resources, but also on supporting them in making the most out of this journey to achieve individual and social fulfillment. By incorporating QoL components, WUSC adopts a holistic approach that goes beyond the conventional resettlement standards, enabling SRP beneficiaries to mobilize resources for integration and of sustainable livelihoods in Canada.

QoL is a broad-ranging concept influenced by a person's physical health, mental state, level of independence, social relationships, and connection to significant features of their environment.⁷⁸⁴ The concept is associated with life satisfaction and how individuals perceive "what it means for [them] to be happy and live in a society that facilitates an enjoyable life."⁷⁸⁵ In 1998, the World Health Organization Quality of Life (WHOQOL) Group provided a general definition for the concept as, "an individual's perception of their position in life in the context of the culture and value systems in which they live and in relation to their goals, expectations, standards and concerns."⁷⁸⁶

⁷⁸⁴ The World Health Organization Quality of Life (WHOQOL), "WHOQOL User Manual" (1 March 2012), online: *World Health Organization* <www.who.int/tools/whoqol> [archive.org/details/who-his-hsi-rev.-2012.03-eng] at 3. Also see Yoshitaka Iwasaki, "Leisure and quality of life in an international and multicultural context: What are major pathways linking leisure to quality of life?" (2007) 82:2 Soc Indic Res 233 at 234.

⁷⁸⁵ Parveen Nangia & Kelly Gingrich, "Quality of Life of Immigrants in Canada" (2020) 52:2 Canadian Ethnic Studies 29 at 30.

⁷⁸⁶ The WHOQOL Group, "Development of the World Health Organization WHOQOL-BREF Quality of Life Assessment" (1998) 28:3 Psychol Med 551 at 551.

The domains and components of QoL can differ across geographical regions, communities, and populations, highlighting the diverse needs and experiences of various groups.⁷⁸⁷ For refugees, Ager categorized the domains and conditions affected QoL based on a fieldwork project conducted among Mozambican refugees in Malawi as: (1) physiological needs, such as adequate food, water, and health facilities; (2) safety needs, like protection from harm, secure property, clothing, and shelter; (3) belonging needs, involving family unity, friendships, and absence of discrimination; (4) esteem needs, including personal income, productive activities, education, and non-essential assets; and (5) transcendence needs, which include a connection to home, personal freedom, and future confidence.⁷⁸⁸

QoL components are interrelated with each other and different factors such as access to services and broader socio-economic conditions in host countries can positively affect them.⁷⁸⁹ There is growing evidence that access to higher education can contribute to improving refugees' quality of life, particularly by enhancing their social integration and long-term stability in host countries.⁷⁹⁰ This, in turn, is associated with improved employment opportunities, expanded social networks, and a stronger sense of belonging in their new communities.⁷⁹¹ Recognizing these dynamics, WUSC, in its strategic plans for refugee youth, addresses QoL components as:

- “- Ability to fulfill basic human needs (including food, water, housing);
- Ability to access fundamental services (including education, healthcare);
- Ability to secure a minimum standard of living (including access to and influence over resources, decent economic opportunities, and leisure opportunities);

⁷⁸⁷ Nangia & Gingrich, *supra* note 785 at 30.

⁷⁸⁸ Jolanda De Vries & Guus L Van Heck, “Quality of Life and Refugees” (1994) 23:3 Intl J Mental Health 57 at 61 & 62.

⁷⁸⁹ See Catharina F Van Der Boor et al, “Systematic review of factors associated with quality of life of asylum seekers and refugees in high-income countries” (2020) 14:48 Conflict & Health 1 at 18–20.

⁷⁹⁰ Martin & Stulgaitis, “Refugees’ Access to Higher Education in their Host Countries”, *supra* note 464 at 25. Also see Hajisoteriou, “Building a Pathway to Belonging”, *supra* note 36 at 2 & 3. Also see Anatoliy Goncharuk, “The role of higher education institutions in refugee integration: Evidence from Norway” (2026) 24:2 Problems and Perspectives in Management 42 at 43 & 44.

⁷⁹¹ Martin & Stulgaitis, “Refugees’ Access to Higher Education in their Host Countries”, *supra* note 464 at 22–24.

- Ability to exercise one's universal rights and freedoms;
- Safe, secure, and supportive environments (free from violence and abuse, and disaster resilient);
- Positive social relationships;
- Individual perceptions of and satisfaction with well-being (sense of belonging, sense of purpose, sense of optimism, happiness).⁷⁹²

Improving QoL is central to WUSC's organizational vision. As one of interviewees noted: "WUSC really works towards improving the quality of life of youth. As outlined in our 2030 Strategy,⁷⁹³ WUSC works for a world where every young person thrives and belongs. [Its] mission is to catalyze positive education and economic outcomes."⁷⁹⁴ Within the SRP, WUSC works with refugee youth in protracted displacement settings, such as the Dadaab Camp in Kenya, where access to basic human services is limited and young people may face risks of physical and psychological harm, including sexual violence, forced recruitment in military, and severe distress.⁷⁹⁵ In such circumstances, as Cooper argued, education is regarded as an important element in fostering resilience and self-reliance.⁷⁹⁶ From WUSC's perspective, post-secondary education provides more than knowledge; it promotes innovation, grows economies, and creates a ripple effect that improves QoL not only for refugees but also, in a broad sense, for their families and the entire communities.⁷⁹⁷

In a broad sense, measuring QoL is challenging for several reasons, mostly due to the absence of fixed measurement criteria, and the need for long-term monitoring or longitudinal

⁷⁹² "WUSC's 2019 – 2024 Strategy" (January 2019), online (pdf): *World University Service of Canada* <www.wusc.ca> [perma.cc/L9XP-SU2A] at 4.

⁷⁹³ See "WUSC 2030 Catalyzing Positive Change for Young People" (2025), online (pdf): *World University Service of Canada* <www.wusc.ca> [web.archive.org/web/20260303182943/https://wusc.ca/wp-content/uploads/2025/08/WUSC-2030-Strategy-1.pdf].

⁷⁹⁴ Interviewee 4 *supra* note 770.

⁷⁹⁵ Elizabeth Cooper, "Praxis in a Refugee Camp? Meanings of Participation and Empowerment for Long-Term Refugee Youth" (2007) 17:3 *Children, Youth and Environments* 104 at 107 & 108.

⁷⁹⁶ *Ibid* at 108.

⁷⁹⁷ "WUSC Annual Report (2018-2019)" (January 2020), online (pdf): *World University Service of Canada* <www.wusc.ca> [archive.org/details/wusc-annual-report-2018-2019] at 10.

studies to ensure the stability of the indicators used.⁷⁹⁸ Additionally, individuals' own assessments of their QoL may shift over time and in relation to changing circumstances, which complicates efforts to measure it consistently.⁷⁹⁹ The evaluation of SRP beneficiaries' QoL is also not exempt from these challenges. As one interviewee explained:

“WUSC has practices to monitor the student journey throughout the first 12 months through surveys, formal and informal meetings, but it is really hard to assess holistically the quality of the program and its impact [on refugees' lives] and after the one year, WUSC no longer monitors.”⁸⁰⁰

Considering these challenges, WUSC conducted a quantitative study in 2017 using outcomes from two sources: the SRP database and SRP Survey “to monitor information relevant to SRP students during the selection, immigration, and arrival period in Canada.”⁸⁰¹ This Impact Report employed various metrics, including graduation rates, employment status, pursuit of further education, family sponsorship and remittances, mental health indicators, and the sense of connection to Canada.⁸⁰² Out of 991 individuals invited to participate, 353 SRP beneficiaries who arrived before 2012 responded:

Since arriving in Canada, 90% of students completed their initial studies without interruption, and 65% of those whose studies were interrupted completed them at a later date. Two out of three individuals secured employment during their first year of study. 58% pursued additional post-secondary education, including those enrol in diplomas, undergraduate, or master's degrees. Nearly 66% of respondents expressed satisfaction with their jobs, and 54% reported improved mental health since arriving in Canada. Overall, 93% felt a sense of belonging to Canada, influenced by their employment status, mental health, and job satisfaction.⁸⁰³

⁷⁹⁸ Nangia & Gingrich, *supra* note 785 at 30 & 34.

⁷⁹⁹ *Ibid* at 30.

⁸⁰⁰ Interviewee 4 *supra* note 770.

⁸⁰¹ “The Student Refugee Program Providing Resettlement, Higher Education, and Hope for Refugee Youth” (2017), online (pdf): *World University Service of Canada* <www.srp.wusc.ca> [archive.org/details/srp-impact-study-2018] at 2.

⁸⁰² *Ibid* at 3 & 4.

⁸⁰³ *Ibid*.

The data highlights significant achievements among SRP beneficiaries across various components of QoL. It also reflects the strong interconnection between different QoL domains, demonstrating how education leads to better employment opportunities, which in turn enhances job satisfaction, and ultimately contributes to mental health and well-being of SRP beneficiaries.

In addition to the SRP Impact Study, a qualitative research conducted by Yamikani Falinya in 2022 explored the academic, social, and psychological experiences of SRP students as they navigated higher education in Canada.⁸⁰⁴ The research highlighted that, for SRP beneficiaries coming from camp settings, the program represented “a possibility for a life beyond the refugee camp perimeters, [filling] them with hope and confidence for the future.”⁸⁰⁵ In their view, SRP offered an opportunity to access fundamental human rights and experience freedom, allowing them to live like ordinary individuals in society.⁸⁰⁶ They described their SRP journey as transformative, providing permanent status, university degrees, personal growth, and exposure to a developed life.⁸⁰⁷ Overall, despite facing significant adjustment challenges, refugee youth reported that the SRP’s protection significantly improved their QoL.

5.5. Unique Features of SRP Protection Model

A closer examination of the SRP protection model reveals several distinctive features that set the program apart from traditional resettlement pathways. These features fall into three categories: First, within the SRP program, WUSC collaborates with different group of partners, including individuals, non-governmental organizations, institutions, and government actors.

⁸⁰⁴ See Yamikani Falinya, *The Experiences of Refugee University Students in Canada under the WUSC-Student Refugee Program* (Master’s thesis, Bowling Green State University, 2022) Thesis presented to the Graduate College of Bowling Green State University in partial fulfillment of the requirements for the degree of Master of Arts.

⁸⁰⁵ *Ibid* at 39.

⁸⁰⁶ *Ibid* at 40 & 41, 76 & 77.

⁸⁰⁷ *Ibid* at 74–76.

Second, the program stands out for its peer-to-peer support model, in which campus-based students (WUSC Local Committees) sponsor and support their refugee peers. Third, the model emphasizes empowering refugee youth to become self-reliant and to lead their own lives.

5.5.1. Partnership and Collective Protection

According to the UNHCR Executive Committee, partnership is foundational to refugee protection and to how it is envisaged under the 1951 Refugee Convention and the 1967 Protocol.⁸⁰⁸ As part of UNHCR's mandate, the organization recognizes that effective protection for refugees and other persons of concern requires partnerships with a range of actors, including states, international organizations, non-state actors, and private actors.⁸⁰⁹ In 1999, during an ExCom meeting, the scope and meaning of partnership were clearly articulated:

“The term *Partnership* conjures up a number of concepts: those of a shared objective or goal, the desire to join efforts to attain that objective and a sense [of] co-responsibility for the desired outcome. Partnership, however, does not require a consonance of views on all issues and at all time[s]. Nor does partnership forged to achieve a specific, shared objective imply that partners will wish to pursue their cooperation to tackle other problems or issues. At the same time, partnership means more than coordination or cooperation. It may be the only means to fill gaps between traditional mandates or to mobilize the efforts of a number of partners where identified needs cut across the mandates of several organizations.”⁸¹⁰

This conceptualization of partnership provides a useful lens for understanding the SRP's protection model. As McKee et al. note, the GCR emphasizes “a multi-stakeholder and partnership approach,”⁸¹¹ and the SRP aligns with this approach through its engagement with a

⁸⁰⁸ See *Annual Theme: Strengthening Partnership to Ensure Protection, Also in Relation to Security*, A/AC.96/923 (United Nations General Assembly, 14 September 1999), online: <www.unhcr.org> [archive.org/details/annual-theme] at 3 para 7.

⁸⁰⁹ *Ibid* at 3 para 7 & 8.

⁸¹⁰ *Ibid* at 3 para 6.

⁸¹¹ This model is explained by the UNHCR. See “Official version – Draft 3 of the global compact on refugees” (4 June 2018), online: *United Nations High Commissioner for Refugees* <www.unhcr.org> [archive.org/details/5b-1579427] at 7–9.

range of actors.⁸¹² The program is organized by WUSC's headquarters in Ottawa, but its implementation relies on collaboration among partners across three levels of local, national, and international, to resettle refugee youth in Canada through educational pathways.⁸¹³ As noted by one interviewee:

“The SRP opens the door to having non-traditional actors to take leadership roles in resettlement efforts. These unusual actors include higher education institutions, private sectors, NGOs, individuals, and government, all of whom play a crucial role in offering protection through tertiary education opportunities. It's a collective effort that goes above and beyond states' responsibility as conventional and major protection actors.”⁸¹⁴

At the international level, WUSC collaborates with various partners, including IRCC, UNHCR, government ministries in refugees' host countries, and the International Organization for Migration (IOM).⁸¹⁵ Through its overseas offices, WUSC also works with refugee-led and community-based organizations, thereby incorporating refugees themselves into the implementation of protection efforts.⁸¹⁶ These organizations contribute by providing educational services, language training, and connecting refugee youth to higher education opportunities.⁸¹⁷ Such partnerships shape the selection, preparation, and movement of students prior to their arrival in Canada.

At the national level, WUSC collaborates with post-secondary institutions and networks, Canadian ministries of education, and the federal government.⁸¹⁸ Together, these partners, particularly universities, colleges, and CEGEPs, support the SRP initiative and advocate for

⁸¹² Carolyn McKee et al, “Fostering Better Integration Through Youth-Led Refugee Sponsorship” (2019) 35:2 *Refuge: Canada's J on Refugees* 74 at 84.

⁸¹³ See “Building Educational Pathways for Refugees: Mapping a Canadian Peer-to-Peer Support Model” (6 November 2017), online (pdf): *World University Service of Canada* <www.wusc.ca> [archive.org/details/edu-path-ref] at 12.

⁸¹⁴ Interviewee 4 *supra* note 770.

⁸¹⁵ “Building Educational Pathways for Refugees”, *supra* note 813 at 12.

⁸¹⁶ See Peterson, *supra* note 751 at 113.

⁸¹⁷ *Ibid* at 113.

⁸¹⁸ “Building Educational Pathways for Refugees”, *supra* note 813 at 13.

increased federal government support.⁸¹⁹ They also promote the program to expand its reach, encouraging additional post-secondary institutions, particularly those not yet involved, to participate.⁸²⁰ Through these efforts, national partners assist WUSC in facilitating private sponsorship arrangements and supporting the resettlement of refugees through the SRP.⁸²¹

At the institutional level, campus-based partners can be categorized into two groups: campus administration and WUSC Local Committees.⁸²² Campus administrators support SRP students primarily through admissions processes and documentation assessment, while also addressing their broader needs through services such as healthcare, career guidance, and academic counseling.⁸²³ Alongside administrative support, WUSC local committees play a central role in raising and managing funds to sponsor refugee students and cover their expenses for a minimum of twelve months.⁸²⁴ Following students' arrival in Canada, local committees continue to provide support to facilitate their integration and academic experience, as discussed in the next section.

The collective nature of the SRP partnership model functions similarly to UNHCR's Refugee Coordination Model (RCM), formalized in 2013 and updated in 2019.⁸²⁵ The RCM similarly emphasizes that, while the primary responsibility for refugee protection lies with states, its effective implementation requires coordination across multiple actors.⁸²⁶ Within this framework, UNHCR identifies the needs of refugees and other groups of forced migrants, assesses the capacity of host governments and partner organizations, and considers the broader

⁸¹⁹ *Ibid.*

⁸²⁰ *Ibid* at 14.

⁸²¹ *Ibid.*

⁸²² *Ibid* at 15.

⁸²³ *Ibid.*

⁸²⁴ *Ibid* at 16.

⁸²⁵ See "Refugee Coordination Model (RCM)" (24 November 2025), online (pdf): *UNHCR Emergency Handbook* <www.emergency.unhcr.org> [archive.org/details/refugee-coordination-model-rcm] at 1–8.

⁸²⁶ *Ibid* at 1.

operational context, including security and available resources.⁸²⁷ The model’s objective is to ensure that refugees and other persons of concern receive the protection and assistance they need through the collective efforts and capacities of all stakeholders involved.⁸²⁸ This demonstrates that refugee protection is operationalized through structured coordination among multiple actors under UNHCR’s leadership, rather than through isolated institutional efforts.

In this respect, the SRP applies a similar coordination logic at a smaller, education-based scale. Its partnership model reflects what McKee et al. describe as a “whole of society” approach.⁸²⁹ In this structure, WUSC plays a coordinating role similar to UNHCR within the RCM, linking partners across refugee youth’s journey from camps to campuses. Rather than relying solely on state resources, the SRP model operates through collaboration among non-state partners, including refugees themselves, campuses, and community actors, who collectively contribute to protection in practice. In doing so, it reflects broader approaches to responsibility sharing in protection of forced migrants and aligns with global commitments such as the 15by30 initiative, which seeks to expand refugee access to higher education through “the coordinated, committed and sustained engagement of a range of partners[.]”⁸³⁰

5.5.2. Peer to Peer Protection Model

In general, peer support provides “a system of giving and receiving help based on the key principles of respect, responsibility, and mutual agreement of what is helpful.”⁸³¹ WUSC’s SRP

⁸²⁷ See *Ibid* at 2 & 3.

⁸²⁸ “Refugee Coordination Model (RCM)” (3 September 2018), online: *UNHCR Emergency Handbook* <www.emergency.unhcr.org> [archive.org/details/emergency-handbook-rcm] at 4.

⁸²⁹ McKee et al, *supra* note 812 at 84.

⁸³⁰ “Higher education and skills”, *supra* note 32. Also see “Strengthening Partnerships with Higher Education Institutions to Support Inclusive Higher Education Systems” (last visited 25 December 2025), online (pdf): *United Nations High Commissioner for Refugees* <www.unhcr.org> [archive.org/details/briefing-notes-unhcr] 1–5.

⁸³¹ Filippou Barbaresos et al, “Peer support groups and peer mentoring in refugee adolescents and young adults: A literature review” (2023) 14:2 GJCPP 1 at 3.

is distinctive among refugee sponsorship models for its youth-to-youth, or peer-to-peer approach to protection. This model centres on the role of local committees, which provide essential resources and support to SRP beneficiaries. Local committees serve as both facilitators and peers, creating a unique form of integration that addresses the social, academic, and cultural needs of refugee students. According to a former SRP student:

“[w]hat’s special about the WUSC [...], and what sets this program apart from other sponsorship schemes, is that it’s young people sponsoring other young people. Everyone [...] is a similar age to me, which made it easy to make friends and develop a social life.”⁸³²

He continued that:

“[r]ight from the start, they treated me not simply as a refugee they were sponsoring, but as their friend. I was so impressed by how much easier they made my transition to life as a Canadian student that I immediately decided that I wanted to join the committee myself to sponsor other refugees.”⁸³³

The following sections examine the critical dimensions of this peer-to-peer model and how it shapes SRP’s approach to protection.

5.5.2.1. Structure of Local Committees

In the peer-to-peer protection model, WUSC relies on the potential and capabilities of post-secondary students to create positive change. The success of the SRP “depends on the goodwill and participation of [students] in local committees and those [who care] about these issues and want refugee students to succeed.”⁸³⁴ Students at Canadian post-secondary institutions can participate in the SRP by establishing campus-based local committees, which serve as the

⁸³² “What it’s like being sponsored as a refugee student” (28 April 2023), online: *Reset Communities for Refugees* <www.resetuk.org> [archive.ph/pWWLk].

⁸³³ *Ibid.*

⁸³⁴ Interviewee 5 (10 May 2024) on World University Service of Canada (WUSC), Zoom, communicated to author.

operational core through which sponsorship is implemented.⁸³⁵ These committees function as the primary actors responsible for organizing, funding, and delivering support to sponsored students. WUSC recommends that local committees include staff and faculty members to strengthen their structure and ensure continuity of the program.⁸³⁶

To formalize their operations, local committees are expected to develop internal governance structure, including a constitution that outlines members' roles and responsibilities.⁸³⁷ In addition, local committees typically register as student clubs or associations, working with student unions to secure funding through student levies by organizing a referendum campaign.⁸³⁸ Securing sustainable funding is therefore central to the functioning of local committees, as it enables them to meet the financial and support obligations associated with sponsorship.⁸³⁹

Once local committees are established and sponsorship funding is secured, WUSC proceeds to match SRP candidates with participating committees. At this stage, the role of local committees becomes more engaged as described by one interviewee:

“We get involved about six months before the students arrive. During this time, we receive a list of profiles from WUSC and conduct an initial assessment. Our assessment is quite preliminary; we look at the students' listed interests, what they want to study, their grades, and IELTS scores if applicable. We compile that information into a form and submit it to the admissions team, who ultimately decide whether a student is eligible to attend or not.”⁸⁴⁰

While local committees across campuses follow similar sponsorship frameworks, their operational arrangements, particularly on funding, vary significantly. This variation is reflected

⁸³⁵ See “Student Refugee Program: Guide for Local Committees”, *supra* note 755 at 22.

⁸³⁶ *Ibid.*

⁸³⁷ *Ibid* at 24.

⁸³⁸ *Ibid* at 23.

⁸³⁹ Peterson, *supra* note 751 at 114.

⁸⁴⁰ Interviewee 5, *supra* note 834.

in the level of support provided, the structure of local committees, and the number of students sponsored. At institutions where the SRP is well-established and supported by administration, more extensive support is available that exceeds the minimum requirements of sponsorship.⁸⁴¹ By contrast, at smaller institutions or where the program is relatively new, both the number of beneficiaries and the level of support are more limited, in some cases not extending beyond the mandatory twelve months of support required under the sponsorship agreement.⁸⁴²

5.5.2.2. The Impact of Peer-to-Peer Support

This part highlights the benefits of the peer-to-peer protection model for both SRP beneficiaries and student members of local committees. For SRP beneficiaries, this model offers empathetic, warm support, personalized integration, and a smoother transition into Canadian society. For local committee students, their voluntary roles provide invaluable experience that shapes their perspectives on refugee protection. This involvement also enhances their leadership and interpersonal skills, helping them prepare for future professional environments.

5.5.2.2.1. For SRP Beneficiaries

1) Empathy-Driven Support: “Empathy [is] as an important psychological and social concept that links the individual with others.”⁸⁴³ At the psychological level, it can be understood as “a set of individual tendencies, rather than trained competencies, to consider the perspective of others in everyday life.”⁸⁴⁴ At the social level, according to Demetriou, “[i]t has the potential to establish unity, enable congruity, achieve harmony, solidify society, invigorate community and

⁸⁴¹ Peterson, *supra* note 751 at 114.

⁸⁴² *Ibid.*

⁸⁴³ Bianca Briciu, ““Anyone can become a refugee:” strategies for empathic concern in activist documentaries on migration” (2020) 37 *Emotion, Space and Society* at 3.

⁸⁴⁴ Paulina Pawlicka, Maria Kazmierczak & Adam Jagiello-Rusilowski, “Empathy and social closeness toward refugees from Syria: The mediating role of cultural intelligence” (2019) 47:5 *J Community Psychol* 1014 at 1016.

enhance humanity.”⁸⁴⁵ In the context of refugee support, empathy-driven support is relevant because it shapes how members of receiving communities, including organizations, agencies, and individuals, understand and respond to the experiences of forced migrants.⁸⁴⁶ It can contribute to building trust and strengthening relationships, while also helping to foreground the human dimension of forced migration.⁸⁴⁷ A study on Syrian refugees suggests that individuals with higher levels of empathy in host countries tend to hold more positive attitudes toward welcoming and assisting refugees,⁸⁴⁸ which can create a more supportive social environment for their adaptation.

In the SRP, students in local committees may have their own migration experiences or familiarity with the challenges of moving to a new country, which can inform their engagement with sponsored students. This does not mean that all committee members share similar backgrounds; however, such experiences can contribute to empathetic forms of support, allowing them to better understand some of the difficulties faced by SRP beneficiaries in adjusting to a new country. At the same time, these peer-to-peer relationships can make interactions feel less formal and more comfortable for SRP beneficiaries. According to one local committee member:

“When we got to Canada, I experienced a very sharp contrast between being an immigrant and becoming Canadian. Learning both official languages, struggling through the healthcare system, and navigating the school system were all significant challenges. These were big things I experienced on my own and felt very lonely in doing so. I missed having more help and guidance. When I was back in CEGEP, I met a professor who was trying to start the SRP program at that institution. I got hooked on the idea, and once I graduated from CEGEP and went on to university, the first thing I did was look for the WUSC local committee and start volunteering with them. Through this experience, I was motivated to help others make their transition easier, providing

⁸⁴⁵ Helen Demetriou, *Empathy, emotion and education*, 1st edn (London: Palgrave Macmillan, 2018) at 17.

⁸⁴⁶ See Michaela Hynie, “Refugee Integration: Research and Policy” (2018) 24:3 *Peace and conflict* 265 at 269 & 270.

⁸⁴⁷ See Pawlicka, Kazmierczak & Jagiello-Rusilowski, *supra* note 844 at at 1016.

⁸⁴⁸ *Ibid* at 1026 & 1027.

them with the tools to navigate and utilize the system so that they could make the most of it.”⁸⁴⁹

Another member of a local committee also explained:

“When we moved to Canada, it was a significant adjustment. I do recall that arriving in a new country was a big deal ... Fortunately, we received a lot of support from the immigrant community that was already established. My dad had friends who had arrived in Canada through a similar way before him, helped him out, and he, in turn, did the same for others. Moving to a new country and learning a whole new education system is a major challenge, but having people around who can offer help and support makes a big difference. I felt that this kind of support could be very valuable.”⁸⁵⁰

The relationship between SRP beneficiaries and local committee members can be strengthened, when both sides have mutual understanding.⁸⁵¹ In this sense, feeling understood and heard can enhance the sense of support that SRP beneficiaries experience in their interaction with local committee members.

2) *Warm Support*: A research project on the experience of refugees in navigating higher education reveals that students from refugee backgrounds “tend not to use the formal-institutional support systems that are in place, preferring to seek support from other spaces, places and people.”⁸⁵² The authors categorized these “other spaces” or alternative sources into three types of support: ‘hot,’ ‘warm,’ and ‘cold.’⁸⁵³ ‘Hot’ support refers to familial and community-based networks, ‘warm’ support involves individuals with whom there is a sense of trust and synergy such as other students at universities, and ‘cold’ support comes from official representatives, faculty members, and institutional staff.⁸⁵⁴ The research concludes that students

⁸⁴⁹ Interviewee 1 (20 October 2023) on World University Service of Canada (WUSC), Zoom, communicated to author.

⁸⁵⁰ Interviewee 5, *supra* note 834.

⁸⁵¹ “Building Educational Pathways for Refugees”, *supra* note 813 at 27.

⁸⁵² Sally Baker et al, ““Hot”, “Cold” and “Warm” supports: towards theorising where refugee students go for assistance at university” (2018) 23:1 Teach High Educ 1 at 2.

⁸⁵³ *Ibid* at 6 & 7.

⁸⁵⁴ *Ibid*.

from refugee backgrounds tend to rely more on ‘warm’ and ‘hot’ sources of support due to the sense of trust and belonging they offer.⁸⁵⁵

According to this categorization, students in local committees provide ‘warm’ support through their relationships with SRP beneficiaries. As peers within the same institutional environment, they are of similar age and status, which can create a greater sense of relatability and understanding. Furthermore, they are generally more accessible for informal support than faculty members and institutional staff, whose roles, responsibilities, and multiple job demands limit their ability to address refugees’ needs effectively.⁸⁵⁶ According to one of the interviewees:

“Sometimes, when SRP students need help in [different issues such as] finding a job, they are connected with the staff responsible for providing that service. However, the students often don’t follow up or engage with them. In most cases, they’re used to a more organic or community-oriented way of functioning, which means they often prefer asking a friend for help rather than approaching an employee.”⁸⁵⁷

This preference is also linked to the informal relationships developed between SRP beneficiaries and local committee members. Trust has been identified as an important factor in supporting students from refugee backgrounds.⁸⁵⁸ Members of these committees are well placed to build that sense,⁸⁵⁹ particularly as they are the first individuals to welcome SRP beneficiaries upon arrival, provide initial support during their transition, and interact with them on a regular basis. These early and ongoing interactions can contribute to a sense of familiarity and ease, which may encourage SRP beneficiaries to seek support from them. As noted by one of the interviewees:

⁸⁵⁵ *Ibid* at 11–13.

⁸⁵⁶ Peter Collier, “Why peer mentoring is an effective approach for promoting college student success” (2017) 28:3 *Metropolitan universities* 9 at 12.

⁸⁵⁷ Interviewee 2 (30 October 2023) on World University Service of Canada (WUSC), Zoom, communicated to author.

⁸⁵⁸ Baker et al, *supra* note 852 at 12.

⁸⁵⁹ McKee et al, *supra* note 812 at 77.

“I think the local committee plays a really important role, especially at the very beginning. We are the ones who pick up the students from the airport, help them figure out how their laptops work, and show them how to navigate campus [digital platforms]. We guide them in accessing various resources through websites and help them figure things out in those early days. Throughout the year, we also host events tailored to the students, becoming like their first family here.”⁸⁶⁰

3) *Individualized Integration Support*: In the SRP protection model, higher education institutions are recognized as well-established entities that possess the necessary capacity and resources to support the integration of refugee students.⁸⁶¹ As noted by one of the interviewees, universities are “almost like a micro-community [for SRP students] before they are thrown out into the bigger and wider community.”⁸⁶² Within this environment, students can develop academic skills and intercultural awareness before navigating the broader Canadian context. Support from local committees further facilitates this transition by creating a more structured and manageable setting in which integration can take place:

“They get to learn a little bit more about Canada in a more contained environment, where there is a lot more exposure to international students and people that have come from everywhere [with] different backgrounds. There’s more forgiveness, flexibility, and recognition that people are learning.”⁸⁶³

Within this context, local committees provide individualized, need-based, and culturally informed support to SRP beneficiaries.⁸⁶⁴ This support is often organized through mentorship structures that fall into four interconnected areas: financial, academic, social, and health. These

⁸⁶⁰ Interviewee 5, *supra* note 834.

⁸⁶¹ Ratna Ghosh et al, “Creating a Refugee Space in the Canadian School Context: The Approach of an Inclusive Society” in Alexander W Wiseman et al, eds, *Comparative Perspectives on Refugee Youth Education: Dreams and Realities in Educational Systems Worldwide*, 1st edn (London: Routledge, 2019) 102 at 109. “Schools, as social institutions, are a reflection of society. As with a generally inclusive culture, there is a strong tradition of supporting refugee youth to integrate into Canadian schools and this is often pointed to as an example of best practice.”

⁸⁶² Interviewee 3, *supra* note 766.

⁸⁶³ *Ibid*, Interviewee 3.

⁸⁶⁴ See Plasterer, “Investigating Integration”, *supra* note 780 at 64.

areas are also recognized as the pillars of sponsorship, reflecting the range of challenges students face during their integration:

“We have four types of mentorship programs: academic, social, health, and financial mentorships. The academic mentor, is a one-to-one ratio, helps students navigate Brightspace and understand the syllabus and course materials during the semester. Social mentors help organize informal events for students to take part to create a strong sense of community. For health mentorship, three to four SRP students are paired with a health science student, usually a nursing student to learn about how the health system works and how they can access to services at clinics; and financial mentorship, where four to six SRP students are paired with a student [from faculty of management] to learn about finances.”⁸⁶⁵

For financial support, each local committee is responsible for managing its own budget for the sponsorship period. A designated member is typically responsible for overseeing financial matters and ensuring that expenditures align with planned resources.⁸⁶⁶ Given the variations in institutional and local contexts, the level of financial support differs across local committees.⁸⁶⁷ Upon arrival, SRP students are introduced to this budget and supported in managing their expenses as they settle in:

“We help them set up bank accounts and get them situated financially. We enrol the students at the university and as far as finances goes well, we cover the full cost of sponsorship in the first year. This means the student receives a stipend from us that covers their tuition and housing. [We also] allocate money for other essentials like a cell phone, laptop, an emergency fund for medical needs, and quarterly funds for clothing and moving expenses. All of this is provided within a set budget, which the student receives when they first arrive.”⁸⁶⁸

Academic integration is another central dimension of this support. SRP students often encounter challenges in adapting to the Canadian academic system, including differences in

⁸⁶⁵ Interviewee 5, *supra* note 834.

⁸⁶⁶ See “Student Refugee Program: Guide for Local Committees”, *supra* note 755 at 29 & 30.

⁸⁶⁷ Discussed in the “5.5.2.1. Structure of Local Committees section.” Also see “Student Refugee Program: Guide for Local Committees”, *supra* note 755 at 45–47.

⁸⁶⁸ Interviewee 5, *supra* note 834.

pace, workload, and teaching methods of professors. As explained by one of the local committee members:

“Sometimes, professors aren’t very clear about what is necessary for their course. Students are often used to classical or orthodox teaching methods, such as pen, paper, or whiteboards. When they arrive here, they are introduced to virtual platforms like Brightspace and have to navigate technology, which they might not be able to adapt to quickly.”⁸⁶⁹

Academic mentors assist SRP students with time management, study strategies, and maintaining progress in their coursework.⁸⁷⁰ They provide guidance on assignments and written work, and help students access academic resources. Local committees may also negotiate with their institutions to facilitate access to language training, including English or French as a second language, or connect students to community-based language programs, such as those offered by school boards.⁸⁷¹

Social support helps SRP students feel more welcome in their new environment.⁸⁷² Social mentors introduce SRP students to campus and community networks through organized events and activities, linking them to clubs, faith groups, career centres, and co-op programs:

“Peer-to-peer support and having a social network are huge. On campuses, students have access to activities, clubs, and sports, all of which contribute to their well-being and integration. The key point is that everything is accessible to them on campuses.”⁸⁷³

In addition, health mentors assist SRP students in navigating the Canadian health system. This includes with applying for provincial health insurance, scheduling medical appointments,

⁸⁶⁹ Interviewee 1, *supra* note 849.

⁸⁷⁰ See Griselda Flores PhD & Antonio G Estudillo PhD, “Effects of a Peer-To-Peer Mentoring Program: Supporting First-Year College Students’ Academic and Social Integration on Campus” (2018) 3:2 *Journal of Human Services: Training, Research, and Practice* 1 at 14–16.

⁸⁷¹ “Student Refugee Program: Guide for Local Committees”, *supra* note 755 at 23.

⁸⁷² *Ibid* at 32.

⁸⁷³ Interviewee 3, *supra* note 766.

and accessing physical and mental health services. They also ensure that SRP beneficiaries receive an initial medical check-up upon arrival in Canada.⁸⁷⁴

These forms of support show how local committees provide a more individualized approach to integration than other formal service providers. While settlement organizations often serve a large number of diverse populations, local committees work with a limited number of students and are therefore able to respond more directly to individual needs. Research also indicates that displaced populations are not homogeneous; rather, factors such as gender, and varied experiences of conflict and displacement shape their integration trajectories.⁸⁷⁵

The SRP peer-to-peer support responds to these differences through youth-focused, tailored support with mentors assigned to small groups of students across academic, social, financial, and health domains. This structure enables a more gradual and supported transition for SRP beneficiaries into both academic life and the broader social environment in Canada.

5.5.2.2.2. For Local Committees

1) Shaping Future Protection Efforts: This peer-to-peer model not only facilitates support for refugee students but also encourages students in local committees to participate in future protection-related efforts. Evidence of this impact is reflected in a research project conducted by McKee et al., which shows that participation in local committees on campuses can influence students' academic and career pathways.⁸⁷⁶ Students may become motivated to pursue studies related to global issues, and their experiences can shape a longer-term commitment to refugee protection, including continued involvement in refugee-related activities such as private

⁸⁷⁴ *Ibid* at 72.

⁸⁷⁵ See Eva Wikström & Petra Ahnlund, "Making Refugees Work? Individualized Work Strategies in the Swedish Refugee Settlement Program" (2018) 8:54 NJWLS 47 at 48.

⁸⁷⁶ See McKee et al, *supra* note 812 at 81 & 82.

sponsorship.⁸⁷⁷ Additionally, participation in local committees has been described as an opportunity to experience global citizenship, where students identify themselves “as a member of an international network of people involved in humanitarian aid and refugee justice.”⁸⁷⁸ This engagement contributes to a deeper understanding of refugee protection as a lived and ongoing practice rather than a theoretical concept. As noted by McKee et al., a local committee alumnus explained:

“Ultimately it ignited my passion to pursue a career in immigration and newcomer settlement. I did a master’s in immigration settlement. I am an English teacher. It has played a part in all areas of my life. It has lasting impact in what I do today.”⁸⁷⁹

2) Leadership and Skills Development: The peer-to-peer, student-run protection model also provides a practical context in which local committee members can take on leadership roles and develop a range of soft skills. By serving in roles such as co-president, finance officer, event coordinator, and mentor, students engage in activities including organizing elections, preparing proposals and budgets, fundraising, and coordinating referendum campaigns. As one of local committees explained:

“We run recruitment campaigns to find academic and health mentors. We also hold elections every year, with a new executive team being selected annually. All positions are open for anyone to run for, except for the co-president and finance officer roles. For the finance officer position, we don’t hold elections; instead, we conduct interviews and select a candidate. This is because the finance officer has access to significant funds and sensitive information, so we take extra care in choosing someone for this role.”⁸⁸⁰

Furthermore, local committee members participate in training sessions and learning opportunities designed to familiarize them with the SRP and effective approaches to supporting

⁸⁷⁷ *Ibid* at 82.

⁸⁷⁸ Verberg & MacDonald, *supra* note 35 at 12.

⁸⁷⁹ McKee et al, *supra* note 812 at 82.

⁸⁸⁰ Interviewee 5, *supra* note 834.

refugee students.⁸⁸¹ It is important that all members, not just the primary contacts, receive this training:

“Definitely all volunteers have been trained, to be able to have this mindset of autonomy, self-determination, and then also the ability to not necessarily have any sort of bias.”⁸⁸²

Another member of a local committee also noted:

“WUSC provides a lot of internal trainings to explain key aspects of the program. There are [...] important points we always want to get across, like confidentiality. We don’t want to create an environment where there’s already an inherent imbalance of power, so we work to reduce that as much as possible. Another big focus is on being culturally competent and sensitive to students’ needs. These are all things we handle internally through our training sessions.”⁸⁸³

In addition to developing leadership capacities such as confidentiality and cultural competency, students also enhance their soft skills, including negotiation, decision-making, problem-solving, teamwork, and networking.⁸⁸⁴ Through their involvement in sponsorship activities, they interact with a diverse range of actors, such as organizations, educational networks, administrators, faculty members, and fellow students. This engagement encourages proactive approaches to address the day-to-day challenges faced by SRP beneficiaries, including needs related to housing, employment, and settlement. As explained by one member of a local committee:

“We’ve reached out to a [local] organization called ‘Helping with Furniture’, which provides free furniture for newcomers and people transitioning out of homelessness. We’ve used their services to help students settle into new homes when they move out of residence. We’ve organized career-oriented events with ‘World Skills Ottawa,’ a nonprofit that helps newcomers and refugees find skilled employment based on their previous experiences. What I’m trying to say is that all of these initiatives were created

⁸⁸¹ “Student Refugee Program: Guide for Local Committees”, *supra* note 755 at 38 & 57.

⁸⁸² Interviewee 1, *supra* note 849.

⁸⁸³ Interviewee 5, *supra* note 834.

⁸⁸⁴ See Avinash Wesley & Sneha Narayan, “Leadership: An In-depth Study of the Attributes of an Effective Leader” (2023) 11:3 The International Journal of Indian Psychology 3209–3221.

by ourselves. They weren't advertised or provided to us, [we sought them out and established them ourselves].”⁸⁸⁵

Furthermore, through negotiations with institutional focal points, such as admission offices and registrars, local committees can bring attention to structural barriers faced by refugee students, including difficulties in providing original documents from their previous institutions. In some cases, these efforts have contributed to the adoption of more flexible institutional practices that accommodate the needs of refugee students:

“There are some campuses that make exceptions by providing alternative admission procedures such as accepting photocopies of documents that are not in sealed envelope for people who may have lost their documents due to conflict or persecution. But to my knowledge, very few campuses have alternative credential assessment mechanisms.”⁸⁸⁶

These examples highlight that the peer-to-peer feature of the SRP protection model not only supports the integration of SRP beneficiaries but also shapes the experiences of local committee members. It provides opportunities for students to develop leadership capacities and practical skills through their direct involvement in protection efforts.⁸⁸⁷

5.5.2.3. Major Challenges of Local Committees in Peer Support

The peer-to-peer model relies on the involvement of local committees, which act as intermediaries between WUSC headquarters, higher education institutions, and SRP beneficiaries. Students in these committees dedicate significant time, energy, and resources to sustain protection efforts for SRP students. In carrying out their roles and responsibilities,

⁸⁸⁵ Interviewee 5, *supra* note 834.

⁸⁸⁶ Interviewee 3, *supra* note 766.

⁸⁸⁷ To encourage students' participation in SRP local committees, some universities, such as Queen's University, present the “*Peer Leadership Award*” to students “who, through their commitment, skill, dedication, and interest in helping others, have exemplified excellence in peer-to-peer assistance and outreach.” For further information see “Celebrating student and staff leadership” (29 March 2023), online: *Queen's University* <www.queensu.ca> [archive.ph/qCH0P].

however, they encounter a range of challenges. This section examines these challenges from the perspectives of local committee members, based on their reported experiences in the interviews. While not exhaustive, these challenges fall into three categories: the voluntary nature of local committee work, interactions with institutional actors, and the difficulties of responding to the needs and expectations of SRP students.

1) Voluntary Nature of Local Committees: Local committees are sustained through student volunteer participation. This structure can create significant challenges related to time management and the continuity of their work. As one local committee member reflected:

“It’s a blessing and a curse that we’re entirely student-led. It’s a blessing in the sense that everyone involved really cares deeply and wants to help and provide support. But it’s not so great when you realize everyone is a volunteer. You have to balance asking for their time with the fact that they have other commitments. And if, for some reason, they stop participating midway through the year, there’s really nothing we can do about it.”⁸⁸⁸

This dynamic can create tensions for both local committee members, who should take on additional responsibilities or recruit new volunteers, and SRP beneficiaries, who may depend on the consistency of their services. Furthermore, the voluntary nature of this work is closely tied to its temporary character, as students are involved only for the duration of their studies at universities:

“As university students, we typically have around four years max at the university. In the first couple of years, we’re often figuring out where we want to volunteer. Then, we might spend one year volunteering with that club or organization and perhaps take on a leadership role in the following year. This means we are only able to the network for maximum a year. Within this situation, building stable contact and lasting relationships with the university has been very difficult.”⁸⁸⁹

⁸⁸⁸ Interviewee 5, *supra* note 834.

⁸⁸⁹ *Ibid*, Interviewee 5.

As a result, when student members graduate or transfer their roles to new members, the relationships they have cultivated with local and external partners may weaken, making it difficult for subsequent groups to fully leverage the networks established by their predecessors.

2) *Interaction with Institutional Actors:* As explained earlier, WUSC's local committees are organized as student-run clubs. They are encouraged to register as official campus clubs in order to access resources such as office space, materials, and funding.⁸⁹⁰ Although formally structured in this way, the scope of their responsibilities often resembles that of a small organization. In this context, some committee members indicate a need for a greater formalization and visibility across campus in order to receive greater institutional support and manage increasing workloads:

“Technically speaking, on paper, we’re just a club, like how there’s a club for soccer fans. We’re at that same level. But what we do is more like an organization. We’re doing more than the average club, but we need to be more formalized than we currently are, which has been difficult to achieve.”⁸⁹¹

Greater visibility can facilitate recognition by university departments, staff, and faculty members, enabling more consistent engagement on issues affecting SRP beneficiaries. At the same time, local committees members frequently report frustration with administrative processes, noting that these create unnecessary and time-consuming barriers in their efforts to provide support:

“We’ve reached a point that we can’t do so much because of the limited access to some services like administration. It’s really frustrating for example spend your summer having to deal with the multi factor authenticator to get access to their accounts and sign them up for classes. Sometimes we’re spending a couple of hours over a week doing this. Right now a lot of workloads are on us and the university seems to forget that we exist until we tell them, hey, we exist, we need more support. I think we need to become

⁸⁹⁰ “Student Refugee Program: Guide for Local Committees”, *supra* note 755 at 23.

⁸⁹¹ Interviewee 5, *supra* note 834.

more prevalent on campus and this includes having a foothold in administration or some more formalized support such as having paid positions.”⁸⁹²

Interviewees emphasized that institutions could strengthen their support by allocating dedicated staff or assigning clear focal points within key offices such as the registrar, financial aid, and professional development services. They also suggested increasing institutional contributions, including expanding the scope and duration of tuition waivers for SRP beneficiaries. Such measures would help formalize the role of local committees within institutional structures while alleviating some of administrative burdens they currently face.

3) Interaction with SRP Beneficiaries: The third group of challenges reported by local committees relates to their interaction with SRP beneficiaries. Although SRP students attend orientation sessions about living in Canada before their arrival,⁸⁹³ they often develop high expectations about life in the country, which can lead to disappointment. Local committees describe this situation as an ‘expectation versus reality’ gap, where SRP students’ expectations do not align with the reality of their lived experiences.

Upon arrival, students require time to adjust to different aspects of life, such as the healthcare system, food, cold weather, and, most importantly, their academic pathways. In the latter case, the process can be particularly challenging, and students often require support in managing their expectations and setting realistic academic goals. As explained by a local committee member:

“We want to provide support, but we’re facing barriers, so what we can do is really limited. Many students want to change programs because we often place them in whatever program is available at the time, and it’s not always the one [that] they want. A lot of them want to go into medicine, but here in Canada, you need to complete an undergraduate degree before applying to medical school. That’s a big challenge. Many

⁸⁹² *Ibid*, Interviewee 5.

⁸⁹³ Plasterer, “Investigating Integration”, *supra* note 780 at 65.

students also want to go into sciences or engineering, which are difficult programs to get into. By the time we receive their profiles and get them registered, those programs are often full. So, we're dealing with students being in programs they don't want, and there's not much we can do about it. We tell them to focus on maintaining good grades and applying to change programs later, which is really all we can offer."⁸⁹⁴

Another significant challenge concerns the issue of dependency, which arises from the private sponsorship model.⁸⁹⁵ While the peer-to-peer dynamic can create a closer relationship, it may also lead SRP beneficiaries to rely heavily on local committee members for guidance and support, extending beyond formal sponsorship responsibilities. In such cases, the sponsor/sponsored relations⁸⁹⁶ can become tense. Local committee members, who are typically same-age students with their own academic and social commitments, are expected to provide ongoing support, while SRP beneficiaries, due to their circumstances, often depend on this assistance to navigate everyday tasks. Managing this imbalance can be challenging, as explained by one of the local committee members:

"It creates kind of like a dependency situation for the students. We provide financial support. We help them to settle. We buy them their winter clothes and everything. So they're kind of dependent on us, but at the same time, we're volunteers, so it's like we don't owe them anything [...] I think a lot of local committee members feel the same that sometimes students are ungrateful or that they treated sometimes like we're their personal employees. At the same time, the sponsored students feel very vulnerable like very dependent. We tried to limit these tensions and complex situations but it sometimes feels like a frustrating 'sponsor versus sponsored' situation, a kind of dependency that's hard to manage."⁸⁹⁷

The positive aspect of this dependency, as indicated by local committees, is its temporary nature. During the first months after SRP students' arrival, the intensity of support is particularly

⁸⁹⁴ Interviewee 5, *supra* note 834.

⁸⁹⁵ See Audrey Macklin et al, "Kindred Spirits?: Links between Refugee Sponsorship and Family Sponsorship" in Geoffrey Cameron & Shauna Labman, eds, *Strangers to Neighbours: Refugee Sponsorship in Context* (Canada: McGill-Queen's University Press, 2020) 177 at 190–195.

⁸⁹⁶ "Sponsor/sponsored relations" borrowed from *Ibid* at 179.

⁸⁹⁷ Interviewee 2, *supra* note 857.

high; however, over time, as students become more independent and integrated, the relationship evolves, and what initially begins as a sponsorship gradually develops into a friendship:

“I think the relationship evolves along during the year. If you ask us at the beginning of the year how things are going with the students, or how our relationship with them is, the answer would be very different from what we would say when the sponsorship is almost over. [...] There are moments during the year when it becomes very frustrating and tense between the students and the committee. But when the students become less dependent and more integrated, and don’t need us as much, the relationship gets friendlier. But during the first months of the sponsorship, it’s definitely an important difficulty.”⁸⁹⁸

Despite these challenges, local committee members play a central role in delivering peer support to SRP beneficiaries. This ongoing commitment is reflected in efforts by students across Canadian institutions to establish new local committees through referendums and to encourage broader institutional participation in the SRP network.

5.5.3. Empowerment

The third feature of the SRP protection model relates to refugee empowerment. In the current context of forced migration, where three out of four refugees live in protracted situations,⁸⁹⁹ global responses have not fully addressed this challenge. They tend to prioritize emergency assistance such as food, shelter, and healthcare, rather than long-term livelihoods strategies.⁹⁰⁰ Within this context, WUSC seeks to shift this narrative by moving beyond short-term assistance and emphasizing longer-term needs through the empowerment of refugee youth.

According to the UN draft, empowerment is a process that enables social groups, such as youth and marginalized people, to gain control over their lives by increasing resources, building

⁸⁹⁸ *Ibid*, Interviewee 2.

⁸⁹⁹ United Nations High Commissioner for Refugees, “10 Facts About Refugees” (August 2021), online (pdf): *Operational Data Portal* <www.data.unhcr.org> [archive.org/details/10-facts-about-refugees-2021].

⁹⁰⁰ Barbara Zeus, “Exploring Barriers to Higher Education in Protracted Refugee Situations: The Case of Burmese Refugees in Thailand” (2011) 24:2 *J Refug Stud* 256 at 263.

capacities, and taking charge of their own development.⁹⁰¹ As Zeus argues, higher education can function both as a means of refugee empowerment and as a form of it.⁹⁰² This dual role is reflected in the SRP protection model, which positions refugee youth as a source of human capital capable of navigating and overcoming challenges,⁹⁰³ rather than helpless or passive recipients of support.⁹⁰⁴ The program goes beyond resettlement in Canada; it provides refugee youth with access to higher education, creating conditions in which they can become more self-reliant and actively develop their academic and personal capacities.⁹⁰⁵ This emphasis on agency and participation was also highlighted by one of the interviewees:

“WUSC places a strong emphasis on the individual experiences of refugees and the tools they’ve developed to reach this point. One key aspect that often gets overlooked in immigration is that it’s not just about bringing people and providing them with resources, but also about utilizing that drive. [...] The program empowers students by providing opportunities to pursue post-secondary studies. This empowerment means students develop an open mind and gain the tools needed to access a broad range of academic and professional opportunities.”⁹⁰⁶

Through empowerment of refugees, as Peterson argues, WUSC aligns with the SRP motto, “Education Changes the World,” at both individual and community levels.⁹⁰⁷ At the individual level, the SRP provides learning opportunities that involves the transmission of knowledge and the acquisition of skills,⁹⁰⁸ enabling refugees to “lead[ing] the kind of lives they want to lead, do[ing] what they want to do and be[ing] the person they want to be.”⁹⁰⁹ At the

⁹⁰¹ United Nations Department of Economic and Social Affairs, “Empowerment Booklet” online (pdf): <www.un.org> [archive.org/details/empowerment-booklet] at 5.

⁹⁰² Zeus, *supra* note 900 at 256.

⁹⁰³ Plasterer, “Investigating Integration”, *supra* note 780 at 59.

⁹⁰⁴ See Zeus, *supra* note 900 at 272.

⁹⁰⁵ See “Building Educational Pathways for Refugees”, *supra* note 813 at 9. at 9. Also see “From Education to Employment to Sport and Beyond”, *supra* note 763.

⁹⁰⁶ Interviewee 1, *supra* note 849.

⁹⁰⁷ Peterson, *supra* note 751 at 112.

⁹⁰⁸ *Ibid.*

⁹⁰⁹ Ingrid Robeyns, “The Capability Approach: a theoretical survey” (2005) 6:1 *Journal of Human Development* 93–117 at 95.

community level, the program aims to support refugees in becoming active participants in their social environments and in accessing economic and social resources independently.⁹¹⁰

Within the SRP, empowerment is also pursued through efforts to address structural inequalities. Through the program, WUSC supports refugee youth in pursuing higher education while also addressing gender disparities. The program promotes empowerment by prioritizing women and girls and expanding their access to higher education, positioning gender parity as a long-term development strategy for refugees. The following section examines WUSC's efforts to advance gender empowerment.

5.5.3.1. Gender Empowerment

At the international level, access to education, particularly higher education, remains unequal, with women frequently falling behind men.⁹¹¹ This disparity is even more intense for refugee populations; as Grandi notes, “refugee girls at secondary level are only half as likely to enrol as their male peers.”⁹¹² According to UNHCR statistics, in countries like Kenya and Ethiopia, there are four refugee girls for every ten boys in secondary school, and if this trend continues, there would be only one refugee girl in higher education for every ten boys.⁹¹³

Several social and cultural factors contribute to this disparity, such as the heavy responsibilities placed on women and girls, including collecting water or fuel and caring for younger children or elderly relatives.⁹¹⁴ They often have less control over their lives, less power

⁹¹⁰ See Carmine Conte, “Effective inclusion of refugees: Participatory approaches for practitioners at the local level” online (pdf): *United Nations High Commissioner for Refugees* <www.unhcr.org> [archive.org/details/eff-incl] at 14.

⁹¹¹ Manoj Kumar Halder, “Women Empowerment Through Higher Education: Open and Distance Education Perspective” (2017) 1:1 NSOU Journal of Social Sciences 23 at 24.

⁹¹² Filippo Grandi, “Her Turn”, online: *United Nations High Commissioner for Refugees* <www.unhcr.org> [web.archive.org/web/20260225131442/https://www.unhcr.org/herturn/].

⁹¹³ Teresa Mwoma & Fatuma Chege, “Gender and Access to Higher Education among Refugees in Dadaab and Kakuma Kenya: Challenges and Possible Interventions” (2012) 4:1 East Afr J Edu Stud 18 at 19. See also Grandi, *supra* note 912.

⁹¹⁴ Grandi, *supra* note 912.

in decision-making, and are more likely to experience violence. Within community attitudes, when refugee families with limited resources must decide which child will continue their education, boys are often prioritized over girls, as they are viewed as future breadwinners.⁹¹⁵

Between 1978 and 2000, an impact study conducted by WUSC revealed that of the 578 students sponsored through the SRP, 79% were male.⁹¹⁶ At the institutional level, local committee members also raised concerns about the noticeable gender disparity among SRP students.⁹¹⁷ This finding suggested that the pool of eligible female applicants for Canadian colleges and universities was much smaller than that of qualified male candidates.⁹¹⁸ To address this issue, WUSC recognized that improving refugee girls' access to education in schools would increase their representation in higher education. As a result, the organization implemented large-scale programming at lower educational levels to enhance retention rates and outcomes for girls and other marginalized groups in camp settings.⁹¹⁹

WUSC focused on three key areas of intervention in camp settings. First, it provided targeted support for female learners through remedial classes, guidance and counseling, and scholarships for secondary education.⁹²⁰ Second, it created girl-friendly learning environments, including access to learning materials, private washrooms, and teachers trained in gender-responsive pedagogy and classroom management.⁹²¹ Third, it fostered community and parental

⁹¹⁵ *Ibid.*

⁹¹⁶ Peterson, *supra* note 751 at 115.

⁹¹⁷ "Student Refugee Program: Guide for Local Committees", *supra* note 755 at 107.

⁹¹⁸ Glen Peterson, "Education Changes the World": The World University Service of Canada's Student Refugee Program" (2010) 27:2 *Refugee* 111 at 115.

⁹¹⁹ Michelle Manks, "Student sponsorship program in Canada" (last visited 25 December 2025), online: *Global Compact on Refugees* <www.globalcompactrefugees.org> [web.archive.org/web/20250811012420/https://globalcompactrefugees.org/good-practices/student-sponsorship-program-canada].

⁹²⁰ "What Works for Girls' Education" (11 October 2017), online: *World University Service of Canada* <www.wusc.ca> [https://archive.ph/3K8mP].

⁹²¹ *Ibid.*

support for girls' education through community engagement, multimedia campaigns, and collaboration with men and boys to advocate for gender equality.⁹²²

WUSC also implemented different programs such as the campaign of 'Shine A Light' to provide refugee girls with solar lamps to study at night, remedial training classes for thousands of girls in Kenya and Uganda who were at higher risk of dropping out of school, and the facilitation of refugee girls' access to scholarships for secondary schools.⁹²³ In Kenya, WUSC in partnership with local organizations planned the Kenya Equitable Education Project (KEEP), which aimed to improve the education of over 20,000 girls from the Dadaab and Kakuma refugee camps, as well as from host communities.⁹²⁴ Following the COVID-19 pandemic, WUSC supported girls' education in crisis settings by providing cash transfers to help families meet essential needs while continuing to send their daughters to school.⁹²⁵ These initiatives are part of WUSC's broader efforts to support refugee girls' education, which has become a key element of the organization's long-term programming beyond the SRP.

Building on these efforts, in recent years, WUSC has adopted a more flexible and equitable approach to selecting female refugees for SRP cohorts. According to one of the interviewees at headquarters:

"One of our top priorities is the gender parity, focusing on girls' access to education. We recognize that girls often have fewer opportunities to pursue their education, and their academic background often show lower grades or more difficulties with language skills, for example. Recognizing this, we work to ensure that these factors do not become barriers to accessing the SRP. We always take these considerations into account, trying

⁹²² *Ibid.*

⁹²³ Plasterer, "Investigating Integration", *supra* note 780 at 67. Also see "WUSC Queen's" (last visited 25 December 2025), online: *Queen's University* <www.wuscqueens.org> [web.archive.org/web/20230206033259/https://wuscqueens.org/various-initiatives/].

⁹²⁴ Nora Fyles & Dean Brooks, "Putting gender equality at the heart of education in emergencies" (26 November 2019), online (blog): *World University Service of Canada* <www.wusc.ca> [perma.cc/6ZWS-CKCN].

⁹²⁵ "Annual Report 2020-2021" (last visited 25 December 2025), online (pdf): *World University Service of Canada* <www.wusc.org> [archive.org/details/wuscannual-report-2020-2021_202605] at 7. "87% of girls who received support from WUSC through cash transfers in Kenya returned back to school immediately after the reopening."

to review applications from both male and female candidates in a way that ensures a 50/50 cohort at the end of the day. Our goal is to have an equal representation of male and female candidates.”⁹²⁶

To improve access to post-secondary education for girls, WUSC also works with higher education institutions to apply more flexible standards, such as adjusting the minimum academic requirements for admitting female refugees, recognizing that female refugees often have had fewer educational opportunities than their male peers. According to one interviewee:

“WUSC asks institutions to set lower standards for accepting women and girl students in terms of their academic records and transcripts. [...] For instance, in Quebec, the minimum acceptable grade is 60%, meaning that to pass the class, students have to get at least 60%. However, the female refugee students we’ve admitted in the last three years all had grades inferior to like, 50%. The university accepted this because women and girls are not offered the same opportunities as men; they work outside of the home or help [care for] their younger siblings, which limits their study time. Therefore, WUSC asks us to be more flexible towards girls and women.”⁹²⁷

Through the SRP, WUSC also supports female beneficiaries in developing confidence. The program empowers them to pursue their education and make meaningful contributions during their studies and after graduation. In this way, SRP graduates may serve as role models for women and girls in similar vulnerable circumstances, encouraging educational persistence despite existing barriers. As one of the local committee members explained:

“One example that comes to mind is a woman who came through the SRP program [...]. She was almost done with her engineering degree and had won a couple of awards. After graduating, she went on to advocate for women in STEM and engineering. So, I think it’s really empowering for students to have that platform and the opportunity to make such an impact.”⁹²⁸

⁹²⁶ Interviewee 4, *supra* note 770.

⁹²⁷ Interviewee 2, *supra* note 857.

⁹²⁸ Interviewee 1, *supra* note 849.

To sum up, WUSC places a strong focus on gender empowerment across its programs, particularly through the SRP. By addressing the structural causes that limit female refugees' access to higher education, the organization takes a sustainable approach that aims to influencing laws, policies, and public attitudes toward women and girls' access to education.

5.6. Conclusion

This chapter examines the WUSC's SRP as a complementary pathway, but in practice it operates more than a resettlement program. It extends protection beyond immediate needs to long-term processes that focus on enhancing refugees' lives. At its core, the program contributes to improving refugees' quality of life across social, educational, and personal dimensions, enabling them to move beyond survival toward more meaningful participation in their new environments.

The chapter also focuses on the unique features of the SRP protection model and how it is organized and implemented. Instead of relying on a single actor, typically the states, the program brings together institutions, organizations, and individuals, demonstrating that protection is carried out through shared responsibilities across different levels. Within this structure, the peer-to-peer model shows the significance of local committees' role in delivering protection and supporting their peers through mentorship and individualized integration support. At the same time, the peer-to-peer model shows that protection is not a one-directional process. While SRP beneficiaries receive support, student colunteers also become actively involved in protection through sponsorship, taking on responsibilities and developing skills through their participation.

The role of empowerment further reinforces the SRP protection model. Through access to higher education and efforts to address structural barriers, particularly for women and girls, the SRP supports refugee youth in developing their capacities to shape their own paths. In this sense,

protection is not limited to legal status or short-term assistance, but is a process through which refugees have access to higher education and broader human rights, and are able to realize these in practice.

Chapter Six:
Scholars at Risk (SAR)

*“Scholars ask questions and that can be very threatening to authorities whose power depends on controlling information and what people think. When they can’t speak, we don’t hear. It starts with whispers, warnings to keep silent to stop asking questions. When they are censored, we are censored. For those brave enough to keep going, the risks grow. Every year, thousands of educators, worldwide are harrassed, censored, imprisoned, even tortured and killed for their teaching. When they are at risk, we are at risk.”*⁹²⁹

6.1. Introduction

Scholars are forced to move when their work, identity, or public engagement exposes them to violence, harassment, dismissal, detention, or other forms of serious harm. In such circumstances, their need for protection extends beyond physical safety to include the preservation of academic freedom, and the ability to continue research and teaching. In response to this reality, the Scholars at Risk (SAR) network was established, mobilizing higher education institutions around the world as sites of protection and offering temporary academic placements.

This chapter mainly focuses on SAR Canada and examines how Canadian universities participate in this protection mission. It begins with a brief background on the SAR network and then turns to Canadian institutional engagement, focusing on committee structures at particular universities. The discussion then highlights the core of SAR’s protection model and analyzes the unique features of it, including a decentralized section model, reliance on temporary protection, and integration support. The chapter wraps up the discussion by highlighting key challenges faced by SAR Canada committees.

⁹²⁹ The quote is borrowed from the video of Clyfford Young, Introducing Scholars At Risk, (17 October 2017), online: <www.youtube.com> [web.archive.org/web/20260503153932/https://www.youtube.com/watch?v=b6RLmZqBfaQ&t=3s].

6.2. Background

Protecting threatened and at-risk academics has historically relied on ad hoc responses from various organizations and institutions; however, in the period between the two World Wars, several institutions formalized collective efforts to protect those who were forced to flee. For instance, in North America, the Rockefeller Foundation, the Carnegie corporation,⁹³⁰ and the Institute of International Education (IIE), and in the United Kingdom (UK), the Council for At Risk Academics (CARA), were established to protect endangered academics from all over the world. In the 1930s, with the rise of Nazism and facism, the support provided by these institutions became more significant, particularly in response to Nazi laws on dismissing Jewish scholars on racial grounds.⁹³¹ During this time, Canada unlike its counterparts in the US and UK, offered very limited support to Jewish scholars. As Zimmerman notes, “in the 1930s, institutional anti-Semitism was the norm in many Canadian universities.”⁹³²

In 1938, Canada ranked fifteenth among the countries providing sanctuary to displaced scholars, offering only five permanent placements, all fully funded by a special American-based program.⁹³³ A year later, Canadian academics, inspired by the British Society for the Protection of Science and Learning (SPSL), established the Canadian Society for the Protection of Science and Learning (CSPSL) to assist displaced scholars. The Society aimed to be a non-political organization with three main objectives: selecting suitable candidates through its executive committee, collecting pledges for funding, and supporting scholars for up to five years.⁹³⁴ To

⁹³⁰ Vanessa Frangville, Gwennaël Gaffric & Robert Quinn, “An Interview with Robert Quinn, Founding Executive Director of the Global Network Scholars at Risk” (2021) 16 *Transtext(e)s Transcultures* 跨文本跨文化 at 1.

⁹³¹ See “About Us”, online: Institute of International Education <www.scholarrescuefund.org> [archive.ph/9rrvc].

⁹³² David Zimmerman, ““Narrow-Minded People”: Canadian Universities and the Academic Refugee Crises, 1933–1941” (2007) 88:2 *The Canadian Historical Rev* 291 at 292.

⁹³³ *Ibid* at 293 & 294.

⁹³⁴ *Ibid* at 308.

expand its work, CSPSL tried to build committees at Canadian universities but, only three institutions –the University of Toronto, Queen’s University, and McGill University– reached to the point of assisting displaced scholars.⁹³⁵

Although the Society remained active during the Second World War, it was not successful, or in Stortz’s words, “far too powerless,” as many of its committees either reduced their operations or ceased to function.⁹³⁶ After the Second World War and during the Cold War, new international programs were initiated to welcome threatened scholars such as scientists from Eastern Europe or Chilean academics.⁹³⁷ These early institutions and networks played a significant role in shaping the global framework for the protection of threatened scholars.

According to Frangville, “the category of “scholar at risk”, [...] emerged only in the early twenty-first century.”⁹³⁸ The term highlights the risks that scholars face due to their research or academic work and emphasizes their need for protection as a distinct group of forced migrants.⁹³⁹ In June 2000, the SAR network was officially launched at the University of Chicago during an international conference.⁹⁴⁰ Initially, it focused on programs such as Scholars in Prison, but over time, the network became a reference point for monitoring and defending academic freedom.⁹⁴¹ In 2003, SAR’s headquarters relocated to New York University and two years later, the network expanded globally by organizing SAR sections and partner networks around the

⁹³⁵ *Ibid* at 310.

⁹³⁶ Paul Stortz, ““Rescue Our Family From a Living Death:” Refugee Professors and the Canadian Society for the Protection of Science and Learning at the University of Toronto, 1935-1946” (2003) 14:1 J of the Canadian Historical Association 231 at 247.

⁹³⁷ Frangville, Gaffric & Quinn, *supra* note 930 at 1.

⁹³⁸ *Ibid*.

⁹³⁹ *Ibid*.

⁹⁴⁰ “About” (last visited 25 December 2025), online: *Scholars at Risk Network* <www.scholarsatrisk.org> [archive.ph/eyMNU].

⁹⁴¹ *Ibid*.

world.⁹⁴² SAR was granted consultative status with UNESCO in 2012, and a year later, it achieved Special Consultative Status with the United Nations Economic and Social Council.⁹⁴³

6.3. SAR Network: Structure and Key Areas

SAR operates as a non-profit global network, working with higher education institutions around the world as members, and associations as affiliates.⁹⁴⁴ Member institutions are encouraged to subscribe by paying a membership fee of \$5,000 USD to maintain their status within the network.⁹⁴⁵ If they are unable to pay, they can still request membership, as the network is committed to broadening participation.⁹⁴⁶ When the number of member institutions in a country or, on a larger scale, a region increases, they can establish a section to organize and coordinate SAR activities.⁹⁴⁷ SAR sections normally have a national steering committee or secretariat to stay connected with SAR headquarters.⁹⁴⁸

Broadly explained, the vision and mission of SAR focus on protecting the freedom to think, express ideas, and engage in open debate.⁹⁴⁹ Its programming is grounded in the recognition of these fundamental freedoms and the reality that they are under threat in many parts of the world.⁹⁵⁰ To achieve this vision, SAR headquarters provides services under three categories of advocacy, learning, and protection. These three areas indicate that SAR approaches

⁹⁴² *Ibid.*

⁹⁴³ “Awards and Distinctions”, online: *Scholars at Risk Network* <www.scholarsatrisk.org> [archive.ph/ANPV0].

⁹⁴⁴ “Membership Directory” (last visited 16 February 2026), online: *Scholars at Risk Network* <www.scholarsatrisk.org> [archive.ph/QfKIY].

⁹⁴⁵ “Membership Contributions” (last visited 16 February 2026), online: *Scholars at Risk Network* <www.scholarsatrisk.org> [archive.ph/xThyn].

⁹⁴⁶ *Ibid.*

⁹⁴⁷ “SAR Sections” (last visited 16 February 2026), online: *Scholars at Risk Network* <www.scholarsatrisk.org> [archive.ph/2QDIJ].

⁹⁴⁸ *Ibid.*

⁹⁴⁹ “Mission and History” (last visited 25 December 2025), online: *Scholars at Risk* <www.scholarsatrisk.org> [archive.ph/sQAdN].

⁹⁵⁰ Interviewee 10 (11 September 2024) on Scholars at Risk (SAR), Zoom, communicated to author.

protection not only through relocating scholars, but also through monitoring, knowledge production, and institutional engagement.

The main focus of SAR's advocacy team is to track and report on attacks against academic freedom and higher education.⁹⁵¹ According to one of the interviewees at headquarters:

“We have a tracker called the SAR's Academic Freedom Monitoring Project. When we receive a report through our network of monitors, we investigate it, look for sources to support what's being reported, and then publish it. We frame the report in terms of academic freedom, highlighting why Scholars at Risk is concerned about this particular issue and its implications for academic freedom in that country and, sometimes, more widely. Each year, the advocacy team reviews all reports from the previous year, analyzes trends, looks at what's happening in certain countries of concern, involves regional partners if needed, and then publishes the *Free to Think* report.”⁹⁵²

The learning and research team focuses on capacity-building and public awareness about SAR's activities. This team provides guidebooks, workshops, seminars, and conferences for faculty, students, and members of the higher education community, aiming to advance conversations about academic freedom and equip universities with tools to effectively respond to academic freedom violations or threats.⁹⁵³

A significant part of SAR's work is related to protection. The SAR team, in collaboration with its wider network members (institutions), attempts to “arrange temporary research and teaching positions at higher education institutions around the world.”⁹⁵⁴ The work of the

⁹⁵¹ See “Advocacy” (last visited 16 February 2026), online: *Scholars at Risk Network* <www.scholarsatrisk.org> [archive.ph/wUSjp]. Also see “Academic Freedom Monitoring Project” (last visited 16 February 2026), online: *Scholars at Risk Network* <www.scholarsatrisk.org> [archive.ph/fLjNe].

⁹⁵² Interviewee 10, *supra* note 950.

⁹⁵³ For further information and read more about publications, podcasts, and workshops see “Research & Learning” (last visited 16 February 2026), online: *Scholars at Risk Network* <www.scholarsatrisk.org> [archive.ph/nu9J4].

⁹⁵⁴ “Protection” (last visited 16 February 2026), online: *Scholars at Risk Network* <www.scholarsatrisk.org> [archive.ph/vYVDf].

protection team is split into two main areas: reviewing applications and matching scholars with institutional members.⁹⁵⁵

SAR has eligibility criteria for reviewing applications on a case-by-case basis and selecting beneficiaries accordingly.⁹⁵⁶ SAR assists scholars holding a Ph.D. or other terminal degree from an accredited higher education institution.⁹⁵⁷ Applicants are typically required to have current or recent academic employment (within one year); however, exceptions may be granted for those unable to provide employment documentation due to the risks they face.⁹⁵⁸ Furthermore, applicants have to demonstrate that they are at risk, either through direct threats such as harassment, intimidation, arrest, or general physical dangers, such as those posed by torture or active conflict in their country of origin.⁹⁵⁹ Scholars are invited to provide corroborating evidence of risk, such as court documents, police reports, or media articles, to help SAR understand the threats they experience.⁹⁶⁰ Additionally, since SAR offers temporary protection, scholars must have valid travel documents to apply for placement assistance, whether they are residing in their home country or in a third country.⁹⁶¹ These criteria show that SAR's protection is selective and tied to both academic status and demonstrable risk, which shapes who is able to access this form of protection.

Evaluation of applications is challenging due to the growing number of scholars and limited academic placements. To avoid raising false hopes and potential disappointments, the

⁹⁵⁵ See *Ibid.*

⁹⁵⁶ "Applicant Guide" (last visited 16 February 2026), online: *Scholars at Risk Network* <www.scholarsatrisk.org> [archive.ph/5rp0P].

⁹⁵⁷ *Ibid.*

⁹⁵⁸ *Ibid.*

⁹⁵⁹ *Ibid.*

⁹⁶⁰ *Ibid.*

⁹⁶¹ *Ibid.*

SAR protection team carefully reviews applications and makes informed decisions. As one of the interviewees explained:

“Because of the vast number of scholars who apply for our help, we aren’t able to accept everyone, even if they meet the criteria. We have to make a very informed decision about how likely we are, at SAR, to succeed in creating a position for this scholar. To determine that, we’re not only review the scholar’s background, materials, and the work they’ve done; we’re also looking at the trends within our network.”⁹⁶²

Once an applicant is recognized as qualified, the next step involves seeking for academic opportunities for them:

“We find positions in two ways: Institutions reach out to SAR, letting us know they are ready to receive a list of scholars who might be considered for their institution. These are typically more established hosts that have been hosting regularly over the years and may have a dedicated pool of funding at their institution for this purpose. Alternatively, a part of our team actively engages with institutions to find matches. They proactively reach out to SAR members in relevant departments to see if they are interested in reviewing anonymous scholar profiles or if they know of colleagues who might be interested in hosting scholars.”⁹⁶³

When both the scholar and the university agree on the position, SAR supports them throughout the process.⁹⁶⁴ It is important to note that all three sections of SAR at headquarters are complementary and aligned with the network’s main objectives. Through its advocacy monitoring work and research team reports, SAR supports scholars who cannot leave their home countries by highlighting country-specific situations, such as conflicts, or individual incidents, including wrongful imprisonment.⁹⁶⁵ However, the protection team focuses on securing academic opportunities for those who are already outside their countries or are able to leave.⁹⁶⁶

⁹⁶² Interviewee 10, *supra* note 950.

⁹⁶³ *Ibid.*

⁹⁶⁴ *Ibid.*

⁹⁶⁵ *Ibid.*

⁹⁶⁶ *Ibid.*

6.4. SAR-Canada: Institutional Engagement and Committee Structures

In 2001, the University of Toronto (U of T) and its Massey College, as one of the primary institutions, joined the SAR network.⁹⁶⁷ Prior to joining the SAR network, Massey College had experience assisting scholars. From 1995 onwards, through its collaboration with PEN Canada's Writer-in-Exile Program, the college supported at-risk writers by providing opportunities to continue their work.⁹⁶⁸ These early efforts mostly focused on providing humanitarian support to a small number of academics who were residing in Canada. According to one of the interviewees:

“In the early 2000s, the program operated at the professor level [some of them were not necessarily professors] and was run by Massey College, an affiliated college of the University of Toronto. They were selected directly by the college, but they were not necessarily given academic roles within the departments. The arrangement was simply for scholars to remain safely in Canada and be part of the college community. The program was basically [designed] to pay them a salary and safety at the college for one year or more. It didn't necessarily offer them an academic platform in which to operate, depending on the individual and their skills. Through this program, about ten people from around the world were supported at the college.”⁹⁶⁹

By joining the SAR network, more Canadian institutions have come to emphasize the academic aspect of the program rather than merely bringing scholars to Canada on humanitarian basis. Over time, in addition to the U of T, the program expanded to include other institutions

⁹⁶⁷ “Scholars at Risk - About the Program” (last visited 16 February 2026), online: *Massey College in The University of Toronto* <www.masseycollege.ca> [archive.ph/Tvax7].

⁹⁶⁸ *Ibid.*

⁹⁶⁹ Interviewee 9 (17 May 2024) on Scholars at Risk (SAR), Zoom, communicated to author.

such as Western University,⁹⁷⁰ McGill University,⁹⁷¹ University of Ottawa, and Carleton University, which were among the earliest members of the SAR network in Canada.⁹⁷²

The following sections explore the structures and practices of SAR committees at three institutions of the University of Toronto, Carleton University, and the University of Ottawa. It is important to note that, since all three case study institutions are located in Ontario, their experiences should not be considered representative of practices across all Canadian provinces. The main reason for including these case examples is that there is a limited body of literature examining how higher education institutions, particularly in the Canadian context, implement the hosting of at-risk scholars. Their experiences provide valuable empirical insight into how SAR operates at the institutional level. These institutions also illustrate variations in practice, including the use of innovative approaches to hosting scholars. For instance, the U of T has expanded the program to include students at risk in addition to well-established scholars. These examples further provide practical reference points for institutions that are not currently part of the SAR network or are not actively involved in hosting scholars. Documenting these practices provides a basis for adaptation and replication of the program within different institutional contexts, depending on available resources and capacities.

6.4.1. University of Toronto

The U of T has a longstanding history of assisting scientists, humanists, and other groups of scholars who have been victims of violence such as ideological or territorial repression. The

⁹⁷⁰ “Western University welcomes its first SAR scholar” (last visited 6 April 2026), online: *Scholars at Risk Canada Section* <www.scholarsatrisk.org> [archive.ph/Kell1i].

⁹⁷¹ “McGill University welcomes its first SAR scholar” (last visited 6 April 2026), online: *Scholars at Risk Canada Section* <www.scholarsatrisk.org> [archive.ph/VP6Wy].

⁹⁷² Yosra Salem, Temidayo Fawole & Mahmoud Rahim, “Evaluation Report: Carleton University Academic Advancement and Career Alignment Certificate for New Scholars in Canada” (June 2024), online (pdf): *Carleton University* <www.carleton.ca> [web.archive.org/web/20260223025640/https://carleton.ca/scholars-at-risk/wp-content/uploads/2024Evaluation-Report_CU_Academic-Advancement-and-Career-Alignment.pdf] at 4.

university has been providing protection to these individuals through two types of programs: the student program and the faculty or professor program.⁹⁷³ Under both programs, applicants need to meet specific eligibility criteria to be selected:

“The student and professor elements of our program are open to individuals from anywhere in the world who have been asylum seekers within the last five years. This means they don’t need to have current refugee status in Canada. Basically, they just have to have sought asylum over the last five years, or their studies, work, or research have to have been significantly impacted by the political situation in their home countries. So it could be anybody from anywhere around the world.”⁹⁷⁴

The student program started with awards at the graduate level. Funding from the university and its academic units, Massey College, donors, and foundations is mobilized to support graduate students:

“We have a formal application process for our graduate scholars at risk. The program is a fellowship for graduate students who have already been admitted to the U of T. Each year, funding from an endowment supports 4 to 6 fellowships, each valued at \$10,000. A small committee reviews all applications to ensure they meet the criteria.”⁹⁷⁵

Over time, in response to global incidents such as armed conflicts, the scope of the student program expanded to include undergraduate students.⁹⁷⁶ As an interviewee noted:

“In 2015, as a response to the Syrian war, we found as a university that members of our community, which included alumni who felt strongly about world events, were looking for ways to help people impacted by these conflicts. They were contacting us and saying, is there something that the university can do? So we decided to start a fund for undergraduate scholarships as well to supplement the graduate scholarships. It started with the Syria conflict but is not limited to Syrian students.”⁹⁷⁷

⁹⁷³ Interviewee 9, *supra* note 969.

⁹⁷⁴ *Ibid*, Interviewee 9.

⁹⁷⁵ Interviewee 9, *supra* note 969. Also see “Scholars-at-Risk Fellowship” (last visited 16 February 2026), online: *University of Toronto* <www.sgs.utoronto.ca> [archive.ph/9cg6R].

⁹⁷⁶ “Support for Students Impacted by Conflict or War” (last visited 16 February 2026), online: *University of Toronto* <www.registrar.utoronto.ca> [archive.ph/Ks7Uz].

⁹⁷⁷ Interviewee 9, *supra* note 969.

For undergraduate students, the program is more flexible, allowing them to apply at any stage of their studies, whether they are newly admitted or in their third or fourth year. According to one of interviewees:

“The process, for them is a little less competitive. Depending on the amount of money available in the fund that year, we would like to distribute as much of the funding as possible. So basically, if a student meets the criteria of being a recent asylum seeker or being impacted, they will receive \$10,000 per year.”⁹⁷⁸

The process of selecting students can be challenging, as the matter of protection is sometimes mistakenly conflated with financial need. Not all students from disadvantaged countries qualify for funding; they must to be at risk to fall within the scope of the program. This distinction highlights an important boundary, where protection is defined by serious harm and risk rather than general harm or disadvantage situations. As the interviewee explained:

“[We had] an applicant from a low-income but peaceful country argued that their country’s lack of funding for quality science labs prevents them from conducting the research they want. [While] this is an unfortunate situation, it falls outside the scope of this award.”⁹⁷⁹

The second program at U of T is designed for at-risk professors who are established members of the academy or public leaders. To support them, the university liaison office collaborates with the SAR network and the International Institute for Education (IIE), which supports the Scholar Rescue Fund (SRF) program.⁹⁸⁰ According to the interviewee:

“We prefer to work with these networks because they do the assessment, and it’s like they will say, don’t worry, we have checked that scholars have a Ph.D. or whatever else. So we don’t ask for that kind of proof. We rely on their assessment and treat them as a trusted network.”⁹⁸¹

⁹⁷⁸ *Ibid*, Interviewee 9.

⁹⁷⁹ *Ibid*, Interviewee 9.

⁹⁸⁰ *Ibid*, Interviewee 9.

⁹⁸¹ *Ibid*, Interviewee 9.

According to the university guidelines, the program offers each professor a one-year contract or fellowship as a one-time support.⁹⁸² Given their unique circumstances and the temporary nature of these positions, the hiring process is less formal compared to that of regular full-time faculty members:

“When dossiers arrive from the SAR or IIE networks, the first criterion we assess is their proficiency in English. We aim to bring in someone who can have a positive experience at the university and effectively engage with faculty members and colleagues. Next, we look at whether they have a doctorate degree and see if they have experience in research and teaching. [...] From the dossiers, we typically select one or two candidates who meet these basic criteria. We then reach out to the dean or department chair of the relevant division or faculty to see if the candidate would be a good fit.”⁹⁸³

At the U of T, funding for selected candidates, including their salaries and other expenses, is jointly shared between the university and the relevant department:

“One of the great aspects of our program is that we have funding to cover 50% of the candidate’s salary for one year, meaning the division or faculty only needs to pay the other half. We’ve found that combining these resources creates a positive, win-win scenario for scholars and the university itself. The departments normally acknowledge that a priority of the university is enhancing diversity and this would be a great opportunity to increase diversity within their divisions.”⁹⁸⁴

When the one-year contract ends, if the faculty or department wishes to continue working with the scholar, they should take responsibility for hiring, including salary payments and the provision of other benefits:

“When scholars’ one-year contract come to the end, we cannot give them funding for another year as we currently have a preference to distribute the remaining money to more new scholars. If the faculty or department wants to retain the scholar, they should agree to hire them themselves.”⁹⁸⁵

⁹⁸² *Ibid*, Interviewee 9.

⁹⁸³ *Ibid*, Interviewee 9.

⁹⁸⁴ *Ibid*, Interviewee 9.

⁹⁸⁵ *Ibid*, Interviewee 9.

At the U of T SAR committee, the inclusion of both graduate and undergraduate students is a significant feature of the program, as it allows the university to respond to different stages of disrupted academic pathways. This flexibility also enables the program to adjust in response to international incidents as they unfold, rather than operating within a fixed scope. For instance, during the Ukraine conflict, the program received attention from the public, in particular human-rights-minded alumni and community members with Ukrainian backgrounds, who urged the university to take action. Their efforts, along with fundraising events, led to the collection of a large amount of funding, which helped the university support more scholars.⁹⁸⁶

Additionally, the program relies on the involvement of multiple units across the university, particularly in securing financial resources. This distributed form of participation increases the program's visibility within the institution. Such visibility is important in practice, as for faculty members, it facilitates communication and coordination in identifying potential placements, while for scholars, it helps keep the program active sustained over time.

6.4.2. Carleton University

In 2014, Carleton joined the SAR network and started to build a committee at the university to support at-risk academic members:

“When I came to Carleton in 2010, I realized that there was no SAR program. So, I, along with a few others at Carleton, decided to start a scholars at risk program. The first thing we did was establish a committee and find funding resources. In that time, we found funding through the administration and Carleton University Academic Staff Association (CUASA), which is one of the faculty unions. That’s how we got the program started at Carleton.”⁹⁸⁷

⁹⁸⁶ *Ibid*, Interviewee 9.

⁹⁸⁷ Interviewee 8 (8 January 2024) on Scholars at Risk (SAR), Zoom, communicated to author.

At its inception, the program operated on a co-hosting model, providing temporary academic appointments to established scholars to support the continuation of their research and teaching.⁹⁸⁸ As one interviewee noted:

“The initial program was a joint program between uOttawa and Carleton University. What we did to get both programs up and running was co-host and share scholars. They had access to all the resources of both universities. We continued this arrangement for three to four years, and once the two programs were robust enough, we split them into separate programs to host more scholars.”⁹⁸⁹

Over the years, the scope of the program has expanded to provide additional support mechanisms and include more groups of scholars in need of protection. Currently, Carleton University welcomes at-risk scholars under three programs⁹⁹⁰:

“We do provide a sanctuary for scholars who can no longer work in their home country. We do this through several different pathways. We do it through a one to two-year paid appointment [fully funded positions] that sometimes we’re able to renew for longer. We do it through a partially funded, one-term appointment. We also do it through our Global Scholars Program, where people who remain abroad.”⁹⁹¹

In partially and fully funded positions, scholars join the university through different pathways, such as visiting researchers, post-docs, guest lecturers, fellowships or other available positions. The third program was initiated during the pandemic, when travel restrictions and mobility challenges made it difficult for scholars to relocate.⁹⁹² In response, the university launched the ‘Carleton Global Scholars Program,’ providing remote access to campus resources to those scholars who cannot travel for any reason and need to remain in their home countries.⁹⁹³ Under this program, the university supports five scholars per year who have lost their

⁹⁸⁸ Salem, Fawole & Rahim, “Evaluation Report”, *supra* note 972 at 4.

⁹⁸⁹ Interviewee 8, *supra* note 987.

⁹⁹⁰ “Scholars at Risk Annual Report 2023-2024” (2024), online (pdf): *Carleton University* <www.carleton.ca/archive.org/details/2024-sar-annual-report> at 10.

⁹⁹¹ Interviewee 6 (31 October 2023) on Scholars at Risk (SAR), Zoom, communicated to author.

⁹⁹² See Salem, Fawole & Rahim, “Evaluation Report”, *supra* note 972 at 4

⁹⁹³ *Ibid.*

institutional affiliation, providing assistance for two years with the possibility of renewal for up to five years.⁹⁹⁴

In terms of procedure, upon receiving applicant information from the SAR and SRF networks, the committee begins to negotiate with different departments to find a position for potential candidates:

“[Following receiving the name], we would have an interview with the department to see if there was a match or see whether they feel that they were had the ability to host at this time. We also have to make sure that they have the capacity and the time to provide that hosting relationship as well. Once that’s agreed upon, we connect with the Dean to ensure their approval as well as the Provost. With all the approvals in place, we prepare a letter of offer, handle the immigration paperwork, and then await their arrival.”⁹⁹⁵

To cover expenses, the Carleton SAR committee receives financial support from various sources, including Carleton’s Provost, Faculty Deans, the Carleton University Academic Staff Association (CUASA), generous community donations, and small grants from the IIE, the Scholar at Risk Ukraine Fellowships, and the Afghan Challenge Fund from the Open Society University Network.⁹⁹⁶ However, what makes the program sustainable, is the funding from the Deans, which accelerates the allocation of placements:

“We’ve changed our budget model. In 2022, we were lucky to [receive] an ongoing commitment of funding for three years from the Deans. Previously, we asked for funding once a scholar was identified for placement [but] now we don’t have to seek funding for each individual applicant.”⁹⁹⁷

At Carleton University, the SAR program is well established, with an active committee supporting at-risk scholars. The committee is governed by a formal “Terms of Reference,”⁹⁹⁸

⁹⁹⁴ “Scholars at Risk Annual Report 2023-2024”, *supra* note 990 at 10.

⁹⁹⁵ Interviewee 6, *supra* note 991.

⁹⁹⁶ “Scholars at Risk Annual Report 2023-2024”, *supra* note 990 at 8.

⁹⁹⁷ Interviewee 6, *supra* note 991.

⁹⁹⁸ “Scholars at Risk Committee Terms of Reference” (November 2022), online: *Carleton University* <www.carleton.ca> [archive.org/details/sar-terms-of-reference-CU].

which provides a clear institutional framework for its structure, membership, decision-making processes, and meetings. This formalization distinguishes the program from ad hoc models and contributes to its consistency over time. The program's institutional ties across departments and faculties help the committee revise its budget model and secure funding for a three-year period, allowing it to assist scholars on a regular basis through collaboration with SAR and SRF networks.

Another notable feature of the committee is its emphasis on reporting and transparency. Since 2017, as outlined in the Terms of Reference, the committee has produced annual reports that are publicly available.⁹⁹⁹ These reports not only demonstrate accountability, particularly in relation to financial contributions from donors, but also serve as a tool for evaluating the program's progress. In practice, they also help identify gaps, set objectives for expansion, and raise awareness about the committee's activities beyond the university framework.

6.4.3. University of Ottawa

The University of Ottawa (uOttawa) joined the SAR network in 2014 and formed a committee to support threatened scholars:

“When the university joined the SAR network, they asked the Human Rights Research and Education Centre (HRREC) to take care of this initiative. The Centre accepted and formed a committee. [At the beginning], the main component of the program was hosting scholars, which was the only preoccupation. We began fairly small as it was a joint venture with Carleton University. So we both contribute 50% to host one scholar per year.”¹⁰⁰⁰

When the uOttawa SAR committee became independent of Carleton University, it continued to host scholars by securing funding from various sources:

⁹⁹⁹ These reports are publicly available on “Annual Reports - Scholars at Risk” (last visited 16 February 2026), (online: *Carleton University* <www.carleton.ca> [archive.ph/GsnAF]).

¹⁰⁰⁰ Interviewee 7 (5 December 2023) on Scholars at Risk (SAR), Zoom, communicated to author.

“We have been able to leverage the funding [mostly] from the Office of the Vice President Research. We also partner with other funders, such as the Scholars Rescue Fund, Scholars at Risk, and soon the Open Society University Network, enabling us to host more scholars [...] We have done some attempts for fundraising. The fund is open to anybody who decides to donate. We have also tried to raise funds through the Association of Professors of the University of Ottawa (APUO). So they contribute yearly to our program but we also tried to circulate a notice in their bulletins, encouraging professors to donate if they could. [At the beginning of the pandemic,] we were going to have a big campaign including alumni and other stakeholders, but it was suspended or cut short, so we left it there.”¹⁰⁰¹

To support at-risk scholars, the uOttawa SAR committee offers fully funded and partially funded positions in collaboration with funding partners:

“We fully fund scholars and also partner with other funders, which means splitting the funding 50-50 for one or two years, depending on the funders. Additionally, we typically provide health insurance for the scholar.”¹⁰⁰²

In 2021, SAR uOttawa offered remote fellowships to support scholars unable to travel, but the program’s current focus is on scholars from Venezuela.¹⁰⁰³

Upon receiving names from SAR or IIE-SRF networks, the uOttawa SAR committee starts to matchmaking process by approaching different departments and faculties based on the candidates’ qualifications:

“We try to identify scholars willing to come to Canada, specifically to Ottawa, and, if possible, find a match within one of the university’s departments, faculties, centers, or institutes. We aim to provide the necessary space for these units to assess the fit between the scholar and themselves. Additionally, we support all the administrative tasks involved, including funding agreements and partnerships that arise from securing resources.”¹⁰⁰⁴

¹⁰⁰¹ *Ibid*, Interviewee 7.

¹⁰⁰² *Ibid*, Interviewee 7..

¹⁰⁰³ “Scholars at Risk (SAR) Program uOttawa” (last visited 16 February 2026), online: *University of Ottawa* <www.uottawa.ca> [archive.ph/TEII8].

¹⁰⁰⁴ Interviewee 7, *supra* note 1000.

In addition to offering placements to at-risk scholars, the uOttawa SAR committee actively engages in advocacy and monitoring work through the HRREC. Since 2018, HRREC has contributed to projects such as the Academic Freedom Monitoring Project in Americas, which focuses on identifying, verifying, and documenting incidents affecting scholars and academic institutions across the region.¹⁰⁰⁵ In recent years, HRREC, in partnership with SAR headquarters and the University of Monterrey, contributed to the establishment of the Coalition for Academic Freedom in the Americas (CAFA).¹⁰⁰⁶ Through CAFA and related collaborations, the committee participates in broader regional efforts to promote academic freedom, including engagement with the Inter-American Commission on Human Rights system.¹⁰⁰⁷ One significant outcome of this work was the development of the Inter-American Principles on Academic Freedom and University Autonomy, which provide an important normative framework for advancing academic freedom at universities.¹⁰⁰⁸

6.5. SAR Core of Protection: Academic Freedom

In the SAR protection model, the core of protection is intrinsically tied to supporting academic freedom. From SAR's perspective, violation of academic freedom affects not only targeted individuals and institutions but also broader academic systems and society as a whole.¹⁰⁰⁹ At the individual level, such attacks "shrink the space in which every person is free to think, question, and share ideas," thereby undermining the security of higher education

¹⁰⁰⁵ See "Scholars at Risk in the Americas" (last visited 16 February 2026), online: *University of Ottawa* <www.uottawa.ca> [archive.ph/L1A6P].

¹⁰⁰⁶ See "About CAFA" (last visited 16 February 2026), online: Coalition for Academic Freedom in the Americas (CAFA) <www.cafa-claa.org> [archive.ph/uR2AE]. Also see "Scholars at Risk (SAR) Program uOttawa", *supra* note 1003.

¹⁰⁰⁷ "Scholars at Risk (SAR) Program uOttawa", *supra* note 1003.

¹⁰⁰⁸ See "Inter-American Commission on Human Rights, Inter-American Principles on Academic Freedom and University Autonomy", *supra* note 552.

¹⁰⁰⁹ "Free to Think: Report of the Scholars at Risk Academic Freedom Monitoring Project" (September 2017), online (pdf): *Scholars at Risk Network* <www.scholarsatrisk.org> [archive.org/details/free-to-think-2017] at 4.

personnel.¹⁰¹⁰ At the social level, these violations erode academic quality by affecting research, teaching, and public discourse. Since higher education contributes to pedagogy, materials, and teacher training, such attacks undermine education at all levels.¹⁰¹¹ At the international level, these attacks exacerbate inequities within the global knowledge economy by contributing to the flight of scholars and students, often referred to as “brain drain”.¹⁰¹² They also disrupt the exchange of knowledge between countries due to censorship and the difficulties scholars face in participating in cross-border programs.¹⁰¹³

This focus on academic freedom distinguishes SAR from other higher education initiatives, as it is directed not only at access to tertiary education, but also at safeguarding the intellectual and professional conditions necessary for scholars to continue their work. SAR has advocated for the human rights nature of academic freedom, which is understood as a “system of complementary rights”¹⁰¹⁴ or “interdependent human rights.”¹⁰¹⁵ According to its Bylaws, academic freedom encompasses the exercise of the freedoms of expression, opinion, and thought, as well as the rights to higher education, scholarship, and the free exchange of ideas.¹⁰¹⁶

When these human rights are violated, scholars become exposed to various forms of risk that affect their ability to continue their academic work. In some cases, their risks are “of such gravity that other forms of assistance, [except relocating to a safe country], would prove

¹⁰¹⁰ *Ibid.*

¹⁰¹¹ “Free to Think: Report of the Scholars at Risk Academic Freedom Monitoring Project” (June 2015), online (pdf): *Scholars at Risk Network* <www.scholarsatrisk.org> [archive.org/details/sar-free-to-think] at 11.

¹⁰¹² *Ibid.*

¹⁰¹³ *Ibid* at 32.

¹⁰¹⁴ Jogchum Vrielink, Stephan Parmentier & Paul Lemmens, “Academic Freedom as a Fundamental Right” (December 2010), online (pdf): *League of European Research Universities* <www.leru.org> [archive.org/details/academic-freedom-leru] at 9 para 27.

¹⁰¹⁵ “Inter-American Commission on Human Rights, Inter-American Principles on Academic Freedom and University Autonomy”, *supra* note 552 at Preamble.

¹⁰¹⁶ “Bylaws of Scholars at Risk, Inc.” (2 August 2017), online (pdf): *Scholars at Risk Network* <www.scholarsatrisk.org> [archive.org/details/scholars-at-risk-bylaws] at Preamble.

ineffective or insufficient[.]”¹⁰¹⁷ However, their risks do not necessarily meet the threshold of persecution or the five grounds of protection discussed in Chapter Two. As a result, they are in need of protection but may not be eligible to claim refugee status.

In protection of academic freedom, the SAR network, in collaboration with non-state partners such as institutions, groups, and individuals, dedicates itself to protecting the fundamental human rights of scholars and other members of the global academic community.¹⁰¹⁸

According to one interviewee:

“In many countries, scholars may be targeted for their ideas that they share via publication or speech or just the research they do, especially if it critiques an authoritarian government or another official body that doesn’t welcome critique. Protection through the [academic] positions provided by the network really are essential tools and helping preserve their knowledge and help these scholars continue to be scholars despite what’s happening at home.”¹⁰¹⁹

In practice, for scholars who are able to relocate, SAR advances the protection of academic freedom through temporary placements. While these placements provide safety and enables scholars to access to their fundamental human rights, particularly academic freedom, they are short-term solutions, and scholars may still require post-placemet support. The SAR Bylaws acknowledge this situation, noting that “[where] conditions are not likely to permit safe return by the expiration of a position, the purpose is to assist the scholars to identify suitable long-term opportunities.”¹⁰²⁰

¹⁰¹⁷ *Ibid.*

¹⁰¹⁸ *Ibid.*

¹⁰¹⁹ Interviewee 10, *supra* note 950.

¹⁰²⁰ “Bylaws of Scholars at Risk, Inc.”, *supra* note 1016 at Article 1.

6.6. Unique Features of SAR Protection Model

The SAR protection model stands out for its unique features in supporting threatened and displaced members of academic communities. These key features can be categorized into three groups: the section model, temporary protection, and integration services. These features are integral to SAR's global operation, shaping how the network functions across different countries.

6.6.1. Decentralized Section Model

Higher education institutions typically join the SAR network as part of their international mission to become globally engaged institutions and to make a meaningful impact by advancing education.¹⁰²¹ However, their participation is shaped by differing resources, institutional priorities, and constraints, whether acting individually as SAR members or collectively as part of SAR sections. In countries where multiple SAR members are present, section development is strongly encouraged by SAR headquarters.¹⁰²²

To effectively protect at-risk scholars, the SAR network relies on collaboration and strong partnerships with its sections. The section model is a unique feature of SAR's protection framework, offering both collective coordination and institutional autonomy. It resembles decentralized non-profit organizations, defined as “a distributed group of entities, [pursuing] shared objectives without relying on third-party administration.”¹⁰²³ Within this structure, each entity has significant autonomy in decision-making, follows its own institutional policies, and adapts to its national context.¹⁰²⁴

¹⁰²¹ Interviewee 9, *supra* note 969.

¹⁰²² Interviewee 10, *supra* note 950

¹⁰²³ Sam Gabor & Noah Walters, “Getting DAO to Business: Decentralized Autonomous Organizations Under Canadian Insolvency Law” (2022) 20 Annual Review of Insolvency Law at 1.

¹⁰²⁴ See Alan Fowler, “Decentralisation for International NGOs” (1992) 2:2 Development in Practice 121 at 121.

In the SAR network, this structure allows flexible participation across diverse settings without requiring uniform resources or governance models. It is also a cost-effective model, as each institution maintains independent financial resources and relies on a mix of internal and external fundings to support at-risk scholars.¹⁰²⁵ In some cases, the establishment of sections enables access to additional financial support, including from government sources, to expand program activities.

Sections also play a crucial role in planning and coordinating SAR activities, creating greater engagement and agency among non-member institutions.¹⁰²⁶ According to one interviewee:

“Sometimes, as a section is forming, universities not already part of SAR hear about it and join the network. Whether it’s a professor or a group of professors who care about these issues going to their leadership and saying, ‘Hey, we should get involved,’ or leaders themselves noticing what their peers or competitors in the same country are doing and [deciding] to get involved too, because it’s such a positive initiative to be a part of.”¹⁰²⁷

Section development also has practical implications in terms of expanding protection outcomes for SAR beneficiaries. As noted by an interviewee at headquarters, “When a section is established, we often see a drastic uptick in opportunities for scholars.”¹⁰²⁸

While the decentralized model is largely regarded as a strength, it can pose challenges, particularly by limiting coordination across institutions and reducing the network’s capacity to engage in unified advocacy and sustained dialogue with governments. To manage these challenges, SAR headquarters engages with its sections through the International Advisory Committee (IAC), which provides guidance to the secretariat and board on section-related

¹⁰²⁵ See *Ibid* at 122.

¹⁰²⁶ Interviewee 10, *supra* note 950.

¹⁰²⁷ *Ibid*, Interviewee 10.

¹⁰²⁸ *Ibid*, Interviewee 10.

matters.¹⁰²⁹ The committee provides a forum and a formal communication channel between SAR sections, network members, and SAR staff at headquarters.¹⁰³⁰ According to one of the interviewees at headquarters:

“The IAC comprises representatives from each section, and we meet with them formally three times a year to share important updates from headquarters and to learn about developments within their sections. This serves as the primary mechanism for formal communication. [Beyond that,] the sections typically operate and hold meetings on their own. SAR sometimes attends these meetings if invited, but we are careful not to impose ourselves. We want our sections to have certain amount of autonomy and agency, allowing them to discuss matters independently without our presence.”¹⁰³¹

6.6.1.1. SAR-Canada Section

In Canada, as the number of member institutions increased, the idea of establishing a national SAR section became stronger. In 2012, the SAR Canada Section (SARCAN) was officially launched at “the University of Toronto’s Massey College by The Honourable Dr. Lloyd Axworthy, then President and Vice-Chancellor of The University of Winnipeg.”¹⁰³² The launch represented the outcome of several years of partnership between Canadian higher education institutions and the SAR network.¹⁰³³

In 2016, following the 15th anniversary of the SAR network, a congress was held at McGill University in Montreal, entitled “Universities in a Dangerous World”.¹⁰³⁴ This event brought together over 200 representatives from universities, governments, non-profit organizations, faculty, and students worldwide to discuss ways to protect universities and

¹⁰²⁹ “International Advisory Committee” (last visited 16 February 2026), online: *Scholars at Risk Network* <www.scholarsatrisk.org> [archive.ph/Fw9J2].

¹⁰³⁰ *Ibid.*

¹⁰³¹ Interviewee 10, *supra* note 950.

¹⁰³² “The SAR Canada Section” (last visited 16 February 2026), online: *Scholars at Risk Network* <www.scholarsatrisk.org> [archive.ph/l9NoQ].

¹⁰³³ *Ibid.*

¹⁰³⁴ “2016 Global Congress: Universities in a Dangerous World” (last visited 16 February 2026), online: *Scholars at Risk Network* <www.scholarsatrisk.org> [archive.ph/KpYf3].

scholars under threat.¹⁰³⁵ The congress was a significant milestone in SAR's history in Canada, as it offered Canadian higher education institutions a unique opportunity to engage with the network. According to one interviewee:

“In 2016, during the Congress in Montreal, we [presented] SARCAN along with its terms of reference. The mission was to bring together Canadian universities that support at-risk scholars. While SARCAN is an organization closely affiliated with SAR [headquarters], we also work very closely with the Scholar Rescue Fund. This collaboration allows us to be as broad as possible, as these two international organizations are mainly responsible for supporting scholars who are fleeing.”¹⁰³⁶

Since the launch of SARCAN, any Canadian institution or association that joins the network as a new member is automatically registered with it. SARCAN operates under its “Terms of Reference” (ToR), a relatively informal constitution that aligns with SAR's official Bylaws at headquarters.¹⁰³⁷ According to the ToR, the main objectives of SARCAN include promoting the aims and activities of SAR headquarters, carrying out joint programs among member institutions, developing relationships with external partners, and encouraging new institutions to join the network.¹⁰³⁸ As one interviewee noted:

“At SARCAN, our initial goal was to encourage more universities to join SAR and host more SAR scholars across Canada. I think each university should host one, two, or even three SAR scholars, depending on its budget, size, and other factors. With approximately 90 universities across Canada, I believe, we should aim to host at least 150 scholars a year. That is my hope and dream that one day, we will get there.”¹⁰³⁹

SARCAN has a General Assembly (GA) for decision-making, consisting of representatives from all member institutions, which meets at least every two years.¹⁰⁴⁰ During

¹⁰³⁵ *Ibid.*

¹⁰³⁶ Interviewee 8, *supra* note 987.

¹⁰³⁷ “Terms of Reference for Scholars at Risk – Canada Section (SARCAN)” online: *Scholars at Risk* <www.scholarsatrisk.or> [archive.org/details/tor-sarcan].

¹⁰³⁸ *Ibid.*

¹⁰³⁹ Interviewee 8, *supra* note 987.

¹⁰⁴⁰ “Terms of Reference for Scholars at Risk – Canada Section (SARCAN)”, *supra* note 1037 at 1.

this period, to stay connected with the community, the GA elects six primary contact persons to form the SARCAN Steering Committee.¹⁰⁴¹ The Steering Committee plays a leadership role and represents SARCAN at the national and international levels.¹⁰⁴² As one of the interviewees explained:

“In those first years, as a steering committee, we went to different universities and gave speeches and lectures about SAR and the establishment of SARCAN. We also launched a newsletter to keep members informed about what is going on. We also organized at least one, if not two federal events a year, along with various online and local events that were supported by scholars involved in the SARCAN committee.”¹⁰⁴³

6.6.2. Temporary Protection

In the SAR network, protection is a flexible concept, compared to the legal framework for refugees.¹⁰⁴⁴ It is primarily about helping individuals escape harmful and threatening situations through temporary academic positions rather than creating permanent solutions such as asylum or long-term employment opportunities.¹⁰⁴⁵ From a legal standpoint, the nature of SAR’s protection mission shares key similarities with the temporary protection regimes in international law. In this regard, this section provides a brief overview of the foundations of temporary protection in international law, followed by an exploration of SAR’s rationale for temporary protection, and Canada’s approach to implementation of temporary protection for SAR beneficiaries.

6.6.2.1. Legal Overview

It is widely recognized that the 1951 Refugee Convention and its 1967 Protocol do not address all challenges related to forced migration. As Volker Turk and Rebecca Dowd argue,

¹⁰⁴¹ *Ibid* at 1.

¹⁰⁴² *Ibid* at 2 & 3.

¹⁰⁴³ Interviewee 8, *supra* note 987.

¹⁰⁴⁴ Interviewee 10, *supra* note 950.

¹⁰⁴⁵ *Ibid*, Interviewee 10.

there are gaps in the “existing provisions [... that make] them either not applicable, non-existent, or inadequate in scope, or not interpreted and/or applied in an appropriate manner.”¹⁰⁴⁶ SAR beneficiaries, for instance, represent situations in which individuals face risks and require protection, but either choose not to seek asylum or fall outside the criteria of the 1951 Refugee Convention definition. In response to these situations, temporary protection has emerged to fill such gaps and enhance international protection standards for forced migrants.

There is no universal definition of temporary protection, but as Fitzpatrick notes, it is not a new concept and has long been part of states’ practice for admitting forced migrants.¹⁰⁴⁷ In the context of large-scale displacement or mass influx situations, temporary protection reflects a more structured legal response. A recent example is the response of the EU and other host countries to displaced Ukrainians. According to the EU’s Temporary Protection Directive, temporary protection is an exceptional measure to provide immediate, short-term protection to displaced persons from third countries in cases of mass influx, particularly when the asylum system is unable to process arrivals efficiently without negative consequences.¹⁰⁴⁸ In this context, where civilians flee armed conflicts, legal scholars such as Lambert conceptualize temporary protection as a positive obligation on all states “to admit and not to return anyone to a situation where there is a risk to life,” while also providing basic human rights.¹⁰⁴⁹

¹⁰⁴⁶ Volker Türk & Rebecca Dowd, “Protection Gaps” in Elena Fiddian-Qasmiyeh et al, eds, *The Oxford Handbook of Refugee and Forced Migration Studies* (Oxford University Press, 2014) at 278.

¹⁰⁴⁷ Joan Fitzpatrick, “Temporary Protection of Refugees: Elements of a Formalized Regime” (2000) 94:2 *The American J Intl L* 279 at 279.

¹⁰⁴⁸ *Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof* (2001), online (pdf): <www.eur-lex.europa.eu/> [perma.cc/JSF6-LRT7]. Article 1: “a procedure of exceptional character to provide, in the event of a mass influx or imminent mass influx of displaced persons from third countries who are unable to return to their country of origin, immediate and temporary protection to such persons, in particular if there is also a risk that the asylum system will be unable to process this influx without adverse effects for its efficient operation, in the interests of the persons concerned and other persons requesting protection.”

¹⁰⁴⁹ Hélène Lambert, “Temporary Refuge from War: Customary International Law and The Syrian Conflict” (2017) 66:3 *ICLQ* 723 at 723.

The legal rationale for temporary protection is controversial. Earlier scholarship, particularly by Perluss and Hartman, conceptualized temporary protection as a distinct form of protection, separate from both refugee law and international humanitarian law, grounded in the need to provide general protection against risks of harm, irrespective of the style or type of the armed conflict.¹⁰⁵⁰ In contrast, more recent scholars such as Goodwin-Gill argue that the core obligations of temporary protection are “firmly rooted in customary international law, operate across a broader spectrum than non-refoulement, and are closely integrated into the international refugee regime.”¹⁰⁵¹ In this view, temporary protection does not replace non-refoulement but builds upon it, extending its logic into more practical forms of admission and short-term protection.

This understanding is reflected in policy frameworks. As noted by UNHCR, temporary protection is “an umbrella concept which describes a range of policies providing forced migrants [with] protection from refoulement and at least [a] basic minimum [level of] treatment until durable solutions are available.”¹⁰⁵² This policy formulation of temporary protection is not limited to situations of armed conflict or mass influx, but extends more broadly to circumstances in which individuals face serious harm and cannot return, regardless of the specific cause of displacement. On this basis, states may grant temporary forms of admission, including time-

¹⁰⁵⁰ Guy S Goodwin-Gill, “Non-refoulement, Temporary Refuge, and the ‘New’ Asylum Seekers” in David Cantor & Jean François Durieux, eds, *Refuge from Inhumanity? War Refugees and International Humanitarian Law* (Leiden, Netherlands: Brill, 2014) 433 at 458. Also see Deborah Perluss & Joan F Hartman, “Temporary Refuge: Emergence of a Customary Norm” (1986) 26:3 *Virginia J Intl L* 551–626.

¹⁰⁵¹ Goodwin-Gill, “Non-refoulement, Temporary Refuge, and the ‘New’ Asylum Seekers”, *supra* note 1050 at 458.

¹⁰⁵² United Nations High commissioner for Refugees, “Discussion Paper on Temporary Protection: Roundtable on temporary protection” (19 July 2012), online (pdf): <www.unhcr.org> [archive.org/details/roundtable-temporary-prot] at para 3.

limited or humanitarian visas, under their national legal frameworks to individuals who require protection and cannot return to situations of harm.¹⁰⁵³

6.6.2.2. SAR's Rationale to Temporary Protection

Within the SAR network, the nature of academic positions, and, more broadly, its protection mission, aligns with the temporary protection regime. In SAR cases, member institutions typically offer academic positions for a limited duration (between one and three years), and host countries provide temporary visas based on the length of the contracts. For a long time, the temporary nature of SAR positions has been a topic of discussion at SAR headquarters, as one of the interviewees stated:

“The question has been debated for years at SAR [that] do we want to help more scholars for a shorter period of time, or drastically fewer scholars for a longer period? We have oriented ourselves toward helping more scholars for shorter periods, recognizing our limitations in providing long-term solutions.”¹⁰⁵⁴

This preference has both positive and negative implications. Short-term positions enable scholars to leave dangerous situations and relocate to safe host countries in a more timely manner. They provide a temporary respite, allowing scholars to step away from immediate risks and consider their next steps.¹⁰⁵⁵ More importantly, they provide a foundation for scholars to plan for their long-term futures.¹⁰⁵⁶ According to one interviewee:

“I think temporary opportunities give scholars a pause to reflect on what's next, start making connections, and build skills that will help them secure their next position. There's a lot to gain from this. It also helps them rebuild a professional network, as they've often had to leave all their contacts behind. In many cases, they're doing meaningful work, publishing, and really getting back into their field.”¹⁰⁵⁷

¹⁰⁵³ See Meltem Ineli-Ciger, *Temporary Protection in Law and Practice* (Leiden, Netherlands; Boston, Massachusetts: Brill Nijhoff, 2018) at 41

¹⁰⁵⁴ Interviewee 10, *supra* note 950.

¹⁰⁵⁵ Interviewee 9, *supra* note 969.

¹⁰⁵⁶ *Ibid*, Interviewee 9.

¹⁰⁵⁷ Interviewee 10, *supra* note 950.

Additionally, short-term contracts are more compatible with institutional resources for both administrative and financial reasons. Since SAR academic positions are not permanent, they allow university administrators to navigate bureaucratic hiring processes more quickly than usual timeline:

“Through short and temporary contracts, we can quickly secure a dean’s approval for hiring a scholar. It is not a tenure-track role that requires a lengthy six-month hiring process through a committee.”¹⁰⁵⁸

For financial reasons, short-term positions also appear to be more feasible, as universities are not required to commit to multi-year or large amounts of funding. The temporary duration makes it more manageable for departments to allocate resources, increasing their willingness to support SAR beneficiaries:

“If we tell the departments that the funding is actually for two years and they need to spend double, or even triple, the amount, I am not sure they would give us an easy yes.”¹⁰⁵⁹

On the negative side, temporary protection creates significant vulnerabilities for scholars, especially regarding the uncertainty of their status.¹⁰⁶⁰ From the moment they seek support from SAR, they face a series of unknowns, starting with the initial application process, securing acceptance from a host institution, navigating visa procedures, and relocating to the host country. For most SAR beneficiaries, this uncertainty continues even after arrival, as the temporary nature of their positions does not align with their need for long-term stability. As one interviewee noted:

“I think at the outset, we thought that protection was about providing a one-year appointment, and later extending it to two years, offering scholars a place of sanctuary

¹⁰⁵⁸ Interviewee 9, *supra* note 969.

¹⁰⁵⁹ *Ibid*, Interviewee 9.

¹⁰⁶⁰ Sanja Cukut Krilić & Simona Zavratnik, “Uncertainties of Temporary Protection: Forcibly Displaced People From Ukraine and Bosnia and Herzegovina” (2025) 25:1 *Global networks* (Oxford) at 2.

for a limited time. But now, when I think about protection, I believe it needs to be much more than that because, in many cases, they simply still can't go back home.”¹⁰⁶¹

The SAR protection team at headquarters and member institutions acknowledge this uncertainty and attempt to address it based on their available resources. However, there is no consistent procedure across universities to address this issue. For instance, as an interviewee at the U of T explained:

“Although the university has come up with guidelines for using funds to support each SAR professor for one year as one-time support, when [the contract] terminates, it does not mean the person has to leave the university. We advocate for extending the fellowship for an additional period, such as six months or a year, but this extension is solely at that faculty or department's cost. We are hopeful that, during this time, the division can see the persons' contributions and decide to retain them and extend their contract.”¹⁰⁶²

Another significant consequence of this uncertainty is that it often forces scholars to seek employment opportunities outside academia to maintain their legal status and financial stability in host countries.¹⁰⁶³ This shift is rarely a matter of personal choice; it results from the temporary nature of the protection they receive. The transition can be profound, affecting both their personal and professional lives, especially after years spent building their academic careers and identities:

“Scholars might need to transition out of academia if the situation in their home country worsens to the point where they can't return, or if their priorities shift and they decide to stay abroad. This might require finding stable employment outside of academia, and

¹⁰⁶¹ Interviewee 6, *supra* note 991.

¹⁰⁶² Interviewee 9, *supra* note 969.

¹⁰⁶³ See Evgenia Valuy & Jodi Sanger, “To Rescue Scholars is to Rescue the Future: An Impact Study of the IIE Scholar Rescue Fund 2002–2020” (April 2021), online (pdf): *Institute of International Education* <www.iie.org> [archive.org/details/ed-661463] at 7. In a research project about post fellowship experiences and achievements for IIE-SRF alumni, the outcome reveals that: “Among the 32 [survey] respondents who were unemployed and seeking employment, more than 90% currently live outside of their home countries. Though 67% of the unemployed alumni residing in new countries have worked since the end of their IIE-SRF fellowships, their jobs were more likely to be outside of academia because of the challenges of finding an academic position. These challenges, among others, related to credential recognition, finding a position at an appropriate level, potentially insufficient knowledge of the new country's language, and legal issues.”

some scholars do take that step. They might work in an industry related to their field of study and may find fulfillment in that. However, some scholars may see this as a loss of their scholarly identity, which can be very difficult for them, especially given all they may have sacrificed in order to pursue their academic work.”¹⁰⁶⁴

6.6.2.3. Navigating Temporary Visa in Canada

The process of obtaining a visa is a crucial but complex step in securing temporary protection for SAR beneficiaries. In Canada’s immigration system, there is no specific category that reflects the protection needs of at-risk scholars. As one interviewee noted:

“In the scholar protection field, the difficulty is that we don’t actually have such a thing in Canada. We don’t have that wording or concept here. There is no way for us to even identify scholars among certain forced migrant populations like refugees.”¹⁰⁶⁵

Host institutions offer academic contracts and assist scholars by providing necessary information and paperwork, but the decision on whether they meet the visa requirements to enter Canada ultimately rests with IRCC officers, who determine the scholar meet the conditions of Canada’s immigration pathways:

“All we can do as universities is provide the required documentation, such as a letter of employment and a letter of invitation. Scholars then use these documents to apply for temporary visa. They have to visit an embassy or a Canadian reception center where their biometric data is collected. Once all steps are completed, their application is processed and evaluated. However, universities have no control over this part of the process.”¹⁰⁶⁶

At the headquarters, SAR plays an advisory role in the visa application process. Sometimes, they connect Canadian institutions together to share experiences and identify best practices to support scholars.¹⁰⁶⁷ Additionally, through its emergency fund resources, SAR

¹⁰⁶⁴ Interviewee 10, *supra* note 950.

¹⁰⁶⁵ Interviewee 8, *supra* note 987.

¹⁰⁶⁶ *Ibid*, Interviewee 8.

¹⁰⁶⁷ Interviewee 10, *supra* note 950.

headquarters often assists beneficiaries with visa-related costs, such as biometric and application fees.¹⁰⁶⁸

According to the interviewees, scholars come to Canada under a temporary visa, mostly categorized as visiting professors,¹⁰⁶⁹ post-doctoral fellows, and research award recipients.¹⁰⁷⁰ Since academia values international exchange, these categories seem more compatible for SAR committees to draw on to bring scholars to Canada.¹⁰⁷¹ However, each of these categories presents significant challenges, highlighting the fact that they do not fully capture the realities of scholars' lives or the forced nature of their migration journeys.

For a visiting professor position, which is the most applicable category for SAR beneficiaries, applicants need to demonstrate their intention to return to their home countries. The most common advice is to provide a letter from their home institutions confirming this intent.¹⁰⁷² However, obtaining such a letter is not a feasible option for scholars from conflict-affected areas such as Sudan, Gaza, Afghanistan where universities are shut down or controlled by oppressive regimes like the Taliban.¹⁰⁷³ Furthermore, even when such documentation is available, returning may still not be viable for certain groups, such as women and LGBTQ+ scholars, due to continued exclusion from academic institutions or the ongoing risks they face

¹⁰⁶⁸ *Ibid*, Interviewee 10.

¹⁰⁶⁹ In Canadian academic contexts, institutions may use various titles for hosting scholars, such as “visiting researcher,” “visiting scholar,” or “visiting professor.” While these designations can vary by institutions, they generally refer to similar temporary academic appointments that provide institutional affiliation and access to university resources. In this research, interviewees predominantly referred to the term “visiting professor” as a general category for hosting SAR beneficiaries, regardless of the scholar’s specific role or discipline. However, these terms are flexible and depend on institutional practices. See, for instance, “Visiting Appointments” (last visited 21 February 2026), online: *Financial Administration Community Training & Solutions* <www.carleton.ca> [web.archive.org/web/20260505132158/https://carleton.ca/facts/glossary/v/visiting-researcher/].

¹⁰⁷⁰ See “Hire a foreign academic – Exemptions” (last modified 16 October 2017), online: *Government of Canada* <www.canada.ca> [web.archive.org/web/20260115063414/https://www.canada.ca/en/employment-social-development/services/foreign-workers/academic/exemption.html].

¹⁰⁷¹ Interviewee 8, *supra* note 987.

¹⁰⁷² Interviewee 9, *supra* note 969.

¹⁰⁷³ *Ibid*, Interviewee 9.

upon return.¹⁰⁷⁴ In these cases, the issue is not a lack of willingness to leave Canada, but rather the absence of a safe or stable place to return to.¹⁰⁷⁵

Another important limitation of the visiting professor/researcher category is that it comes with closed work permits that restrict scholars' employment to the host institution that issued their contracts. Under this same category, however, their spouses are eligible for open work permits valid for the same duration as the main applicant's visa.¹⁰⁷⁶ This distinction reflects how the current regulations constrain scholars' mobility and their ability to explore academic and professional opportunities within Canada's broader labor market. For instance, if scholars wish to collaborate with other institutions, advance their research works, or take on teaching roles, they are unable to do so under the terms of their closed work permits.¹⁰⁷⁷

Additionally, the visiting professor category may also limit scholars' access to settlement services in Canada. This category is based on the assumption that scholars are temporary residents, financially self-sufficient, and can safely return to their home countries once their academic contracts terminate.¹⁰⁷⁸ However, the lived experiences and protection needs of at-risk scholars do not align with these assumptions. Unlike typical visiting professors, settlement services are often important for SAR beneficiaries, as many do not have home institutions to return to. Similar to other newcomers, they may need to rebuild their lives and establish longer-term stability in Canada, which requires support beyond the academic environment. At the same

¹⁰⁷⁴ SAR has acknowledged gender-based attacks on academic freedom in its Free to Think report and has sought to highlight the severity of these attacks through various events. See "Free to Think: Report of the Scholars at Risk Academic Freedom Monitoring Project" (2024), online: *Scholars at Risk Network* <www.scholarsatrisk.org> [archive.ph/g4ZYy]. Also see "Virtual Panel: Understanding the Gendered Dimensions of Attacks on Higher Education" (19 March 2025), online: *Scholars at Risk Network* <www.scholarsatrisk.org> [archive.ph/h5Tv9].

¹⁰⁷⁵ Interviewee 6, *supra* note 991.

¹⁰⁷⁶ *Ibid*, Interviewee 6.

¹⁰⁷⁷ *Ibid*, Interviewee 6.

¹⁰⁷⁸ *Ibid*, Interviewee 6.

time, their needs may not always align with standard settlement services, which are designed for broader groups of forced migrants with different backgrounds and experiences.

The second potential category that SAR committees may offer is post-doctoral fellowships. Depending on their academic profiles, scholars can be eligible to receive post-doctoral contracts from host institutions. In Canadian universities, one of the most common conditions for admitting post-doctoral fellows is that no more than five years have passed since the completion of their Ph.D.¹⁰⁷⁹ This condition can be a barrier for well-established, experienced scholars with significant teaching and research backgrounds, as they may not meet the time frame for eligibility. Additionally, in certain disciplines, such as law, or in regions like the Middle East, scholars may hold teaching positions with a master's degree, which automatically excludes them from post-doctoral fellowships.¹⁰⁸⁰

The third potential visa category for SAR beneficiaries is the research award recipient. Canada offers temporary visas to certain academic individuals who have received research awards from Canadian institutions or international entities.¹⁰⁸¹ While this pathway is designed for scholars with recognized research achievements, SAR beneficiaries may not have had the chance to obtain such awards. Due to instability in their home countries, they have limited access to competitive academic opportunities or research fundings prior to their displacement. For those who meet the eligibility requirements, this category provides an opportunity to continue their academic work in Canada; however, like the previous categories, it cannot fit the majority of SAR beneficiaries or reflect their protection needs.

¹⁰⁷⁹ Interviewee 9, *supra* note 969.

¹⁰⁸⁰ Interviewee 6, *supra* note 991.

¹⁰⁸¹ See "Hire a foreign academic – Exemptions", *supra* note 1070.

Given the limitations of existing visa categories, many scholars have no option but to enter Canada through regular immigration pathways and, if they meet the legal requirements, apply for refugee status to maintain their legal status. However, as one interviewee noted, the asylum system should not be seen as an alternative immigration pathway for scholars.¹⁰⁸² Not all SAR beneficiaries meet the 1951 Refugee Convention grounds of persecution, and applying for asylum may lead to rejection of their claims and ultimately increase the risk of deportation. While the decision to seek asylum is deeply personal, it can place host institutions in a challenging position: they welcome scholars on temporary visas but often lack a clear process to support their long-term transition.¹⁰⁸³ This situation also becomes ethically complex when institutions are aware or can anticipate that these scholars may later apply for asylum or seek long-term immigration pathways. According to one of interviewees:

“We don’t want to leave them without status but these temporary visa categories are a predicament. What should we do as an institution? Say goodbye to the scholar that you’ve been helping for two years and bring in another scholar? Or we should try to help that scholar transition to what is next, like get them settled somewhere. It is something we’ve been developing as we move forward.”¹⁰⁸⁴

6.6.2.4. Toward a Tailored Immigration Pathway

In SAR committees’ perspective, Canada’s past initiatives demonstrate the country’s capacity to respond to the protection needs of specific groups of forced migrants. Programs such as the Canada-Ukraine Authorization for Emergency Travel (CUAET), the Human Rights Defenders (HRDs), and the Economic Mobility Pathways Pilot (EMPP) highlight the potential to develop similar or dedicated pathways for SAR beneficiaries.

¹⁰⁸² Interviewee 8, *supra* note 987.

¹⁰⁸³ Interviewee 9, *supra* note 969.

¹⁰⁸⁴ Interviewee 6, *supra* note 991.

In response to Russia’s invasion of Ukraine, Canada introduced the CUAET in 2022, to support Ukrainians and their families during the war. The program offers a three-year open work permit, with the option to extend, as well as access to free settlement services (until March 2025), and in-country support, including transitional financial aid and temporary accommodations.¹⁰⁸⁵ A similar initiative for at-risk scholars would provide the flexibility and stability required to rebuild their lives, pursue opportunities out of their host institutions, and participate more effectively into Canadian society. While programs such as the Special Response Fund for Trainees (Ukraine),¹⁰⁸⁶ the Fonds de recherche du Québec,¹⁰⁸⁷ and Research Nova Scotia’s Ukrainian Emergency Research¹⁰⁸⁸ initiative were created in response to the crisis, most were time-limited and reactive in nature.

The HRDs stream in Canada, on the other hand, is a resettlement initiative designed to protect at-risk individuals due to their work in defending human rights and fundamental freedoms. Eligible applicants include teachers, journalists, lawyers, public prosecutors, Indigenous representatives, social movement members, development workers, unionists, and human rights organization staff.¹⁰⁸⁹ Due to the resettlement nature of this stream, applicants must be recognized as a refugee by the UNHCR, be out of their country of origin, and remain without

¹⁰⁸⁵ “Canada extends some temporary measures for Ukrainians” (last modified 27 February 2025), online: *Immigration, Refugees and Citizenship Canada* <www.canada.ca> [archive.ph/pekhk].

¹⁰⁸⁶ Since December 2022, the program is no longer accept applications. See “Special Response Fund for Trainees (Ukraine)” (last modified 6 June 2025), online: *SSHRC* <www.sshrc-crsh.canada.ca> [archive.ph/oDeIF].

¹⁰⁸⁷ “Financial support for Ukrainian and Russian researchers” online: *Fonds de recherche du Québec* <www.frq.gouv.qc.ca> [archive.ph/jE7qm]. This program is now replaced by Science in Exile which has student and researcher streams. See “Science en exil – Students 2025-2026” online: *Fonds de recherche du Québec* <www.frq.gouv.qc.ca> [archive.ph/u6C4T]. Also see “Science en exil – Researchers” online: *Fonds de recherche du Québec* <www.frq.gouv.qc.ca> [archive.ph/FL5L8].

¹⁰⁸⁸ “Ukrainian Emergency Research Support Program Recipients” (last visited 21 February 2023), online: *Research Nova Scotia* <www.researchns.ca> [archive.ph/Vd0cI].

¹⁰⁸⁹ Pippa Cooper & Paul Gready, Guidelines for Universities Hosting Human Rights Defenders, online (pdf): <www.static1.squarespace.com> [archive.org/details/guidelinesforuniversities-feb-2025] at 29.

a durable solution in their host countries.¹⁰⁹⁰ They also have to be referred by designated organizations,¹⁰⁹¹ and SAR Canada has actively worked to become part of the referral network.

As one interviewee noted:

“When I was in the steering committee for SAR Canada, we spent a few years working on a national program. We advocated with members of Parliament, in Global Affairs and a few other places. It ended up when the government decided to create the Human Rights Defenders program because SAR committees in any university in Canada could refer cases to that program. So it was seen as a national program effort. I believe that program needs to be close to its evaluation soon. So I’m looking forward to see what happens and hopefully it will get expanded. Then it could be an avenue for scholars to actually apply through that stream as well.”¹⁰⁹²

The HRDs stream shows potential to serve as a national program for SAR beneficiaries, offering a clear resettlement opportunity with university participation in the referral process. As one interviewee explained:

“Human Rights Defenders is a great example of creating a pathway for a knowledge holder to enter Canada under a specific pathway. We have done it in Canada. I hope that, at some point, we will also recognize scholars and scholarship as an important knowledge pathway and create an immigration route on that basis. But this needs to be supported domestically by more open communities and by specific support for people who bring that knowledge. We do not need more Uber drivers with advanced degrees or medical doctors who bring valuable skills to Canada but end up excluded. That approach denigrates them, excludes them, and doesn’t benefit them, their families, or their well-being, and it certainly doesn’t help Canada.”¹⁰⁹³

Another potential pathway for SAR beneficiaries is the EMPP, a program for skilled refugees and displaced individuals seeking employment in Canada, which is paused at the time of writing this dissertation.¹⁰⁹⁴ Recognized as both a workforce development and humanitarian

¹⁰⁹⁰ “Canada Program - Canada Global Refugee Stream for Human Rights Defenders” (last visited 21 February 2026), online: *Frontline Defenders* <www.frontlinedefenders.org> [archive.ph/YVXP1].

¹⁰⁹¹ “Canada doubles resettlement spaces for human rights defenders” (last modified 21 March 2024), online: *Immigration, Refugees and Citizenship Canada* <www.canada.ca> [archive.ph/cbPUG].

¹⁰⁹² Interviewee 7, *supra* note 1000.

¹⁰⁹³ Interviewee 8, *supra* note 987.

¹⁰⁹⁴ Refugees and Citizenship Canada Immigration, “Closed: Economic Mobility Pathways Pilot”, *supra* note 657.

initiative, the EMPP reduces administrative hurdles, grants job contracts, and access to support services available to other economic migrants.¹⁰⁹⁵ However, similar to HRDs, EMPP requires formal refugee recognition, something that scholars may not fit if they have not left their home country or are unable to give up their passports.¹⁰⁹⁶ In some cases, their precarious situations do not allow them to navigate the lengthy procedure of refugee determination.¹⁰⁹⁷ Additionally, accompanying family members may also pose additional challenges, such as restrictions on inclusion of dependants in the initial application or difficulties with family reunification after resettlement.¹⁰⁹⁸ According to one of the interviewees:

“The refugee pathway takes a long time, but if we can get scholars through the [EMPP] pathway, I think that would be a much better solution for them, in terms of resettlement opportunities, and for Canada, in terms of cost. Refugee resettlement is very expensive because of income replacement but through SAR program, we’re offering the beneficiaries two years of salary, so they don’t necessarily need that income replacement.”¹⁰⁹⁹

Together, these programs demonstrate Canada’s ability to design targeted responses to the protection needs of different population groups. Creating a dedicated visa category for at-risk scholars could fill a critical gap within current immigration system. Such a category would not only ease the workload of refugee applications but also offer a pathway that addresses their protection needs, instead of treating them as generic regular migrants or leading them to seek asylum.

¹⁰⁹⁵ Roberto Cortinovis & Andrew Fallon, “Identifying Criteria for Complementary Pathways to Provide Sustainable Solutions for Refugees: Two Canadian Case Studies” in Sergio Carrera Nunez et al, eds, *Global Asylum Governance and the European Union’s Role* (Cham: Springer Nature, 2024) at 120 & 121.

¹⁰⁹⁶ Interviewee 6, *supra* note 991.

¹⁰⁹⁷ *Ibid*, Interviewee 6.

¹⁰⁹⁸ *Ibid*, Interviewee 6.

¹⁰⁹⁹ *Ibid*, Interviewee 6.

6.6.3. Integration Support

In 2021, UNESCO published a report describing the integration of displaced scientists as a win-win situation.¹¹⁰⁰ The report emphasized that “scientific expertise must not go to waste” and called on governments and other stakeholders to identify highly trained individuals and integrate them into universities, research institutions, teaching hospitals and private enterprises.¹¹⁰¹ By doing so, host countries not only support scientists in preserving their knowledge and living with dignity, but also benefit from their contributions until conditions improve enough for them to return home.¹¹⁰²

In Canada, as noted in the previous section, displaced scholars do not receive government-funded integration services, although such support is crucial for their transition. As noted by a SAR beneficiary at Carleton University, displaced scholars hold highly specialized degrees, training, and expertise grounded in the context of their home countries; however, when transitioning to a new environment, with a distinct economic, political, educational, and cultural landscape, they require support to effectively adapt and contribute their knowledge to the host setting.¹¹⁰³ To address this need, SAR committees across Canadian universities have stepped in by mirroring some of the integration services provided by government or private sponsorship groups.¹¹⁰⁴ As noted by one of the interviewees:

“We cannot expect a scholar to come from location A to Canada and immediately begin writing or conducting research. There has to be time for rest, rebalancing, and re-

¹¹⁰⁰ Peter F McGrath & Edward W Lempinen, “The integration of refugee and displaced scientists creates a win-win situation” (2021), online (pdf): *UNESCO* <www.unesdoc.unesco.org> [archive.org/details/377450eng] at 20–23.

¹¹⁰¹ *Ibid* at 20.

¹¹⁰² *Ibid*.

¹¹⁰³ See the news at “From At-Risk Scholars to Global Advocates – How SAR Carleton Empowers Visiting Scholars to Make an Impact” (15 October 2024), online: *Scholars at Risk Carleton University* <www.carleton.ca> [archive.ph/MUpX1].

¹¹⁰⁴ Interviewee 8, *supra* note 987.

conceptualizing their work in a new context, as well as re-establishing networks or setting up labs, depending on their field.”¹¹⁰⁵

Integration services are typically tailored to scholars’ needs and the resources available at host universities. They may include assistance with housing, navigating administrative procedures, academic mentorship, building social connections, and accessing health and counseling services. As one SAR committee member explained:

“Every scholar’s needs will be different. Some arrive traumatized and require psychological counseling, while others may need medical assistance, such as new glasses. Scholars with families may face additional challenges, like ensuring their children receive support in adapting to their new lives in Canada. Programs must be adaptable to meet these diverse needs effectively.”¹¹⁰⁶

Based on information collected from interviews and the SAR Handbook for Higher Education Partners on hosting scholars,¹¹⁰⁷ this section explores integration services provided by SAR committees in Canada under three categories: immigration and settlement support, academic mentorship, and professional and social integration.

6.6.3.1. Immigration and Settlement Support

To better navigate the visa procedure, a staff or admin member at host institutions serves as the primary focal point, assisting scholars by providing necessary paperwork and following up on their applications. In situations where scholars come from low infrastructure or conflict-affected regions, SAR committees play a significant role in ensuring that the visa applications are completed and submitted properly. According to one of interviewees:

¹¹⁰⁵ *Ibid*, Interviewee 8.

¹¹⁰⁶ *Ibid*, Interviewee 8.

¹¹⁰⁷ Scholars at Risk, “How to Host Scholars at Risk A Handbook for Higher Education Partners” (August 2019), online (pdf): *Scholars at Risk Network* <www.scholarsatrisk.org> [archive.org/details/sar-how-to-host-handbook]. “The handbook collects in one place the best practices of higher education institutions that have welcomed at-risk scholars as visitors since SAR’s founding in 2000.”

“As a university, we ask staff in the international office to provide the support that any visiting researcher would receive when coming to the university, such as assistance with filling out forms. We have helped scholars get their visas faster by advocating with Members of Parliament as well.”¹¹⁰⁸

At some institutions, immigration support may include covering the costs of professional legal assistance for scholars and their families, particularly in complex cases. As one interviewee noted:

“We connect scholars with the immigration law firm that [the university] uses for advising our Tenure Stream International Faculty Members. We work with this firm and pay them to apply for permits for all of our incoming professors and their families. For instance, if a scholar has a family of six, the university covers the cost for the lawyer to handle immigration permits for all six family members, not just the scholar.”¹¹⁰⁹

Similar to other groups of migrants, scholars require settlement services to situate themselves and their families in Canada. SAR committees, particularly those with regular experiences of hosting scholars, are mindful of these needs and work to address them during the transition period. Upon arrival, committee members typically arrange to meet scholars at the airport and assist with their transfer to temporary or permanent accommodations.¹¹¹⁰ Depending on the budget and preferences of the scholars, they help secure various types of housing, including dormitories, off-campus residence, rented apartments or houses.¹¹¹¹ Some SAR committees, particularly those in capital cities like Toronto and Ottawa, provide additional funding beyond their standard salary to cover start-up costs, especially for scholars who arrive as a family with children.¹¹¹² According to one of the interviewees:

¹¹⁰⁸ Interviewee 7, *supra* note 1000.

¹¹⁰⁹ Interviewee 9, *supra* note 969.

¹¹¹⁰ Scholars at Risk, “How to Host Scholars at Risk A Handbook for Higher Education Partners”, *supra* note 1107 at 22.

¹¹¹¹ *Ibid* at 23.

¹¹¹² Interviewee 9, *supra* note 969.

“We are in very close contact with them when they arrive, especially if they come from afar, and we have a subcommittee on hosting. A few professors and I work together to make the experience a little smoother. Through the program, we provide funding for household items, winter attire, and various other necessities, depending on the situation. We also work closely with the networks, whether it’s SAR or SRF, to ensure we are as attentive as possible to their circumstances.”¹¹¹³

SAR committees also assist them in administrative set-ups such as taking social insurance number, opening bank account, and obtaining health card. These efforts allow scholars to feel supported and experience a smoother adjustment upon their arrival in Canada.

6.6.3.2. Academic Mentorship

To better integrate into the academic environment of host institutions, SAR beneficiaries are typically connected with a faculty member who agrees to serve as their mentor. Faculty mentors play a key role in facilitating the scholar’s engagement with their department and the broader university community. They assist in various ways, such as finding office space for scholars, introducing them to colleagues, orienting them to different parts of the university, including the library and research departments, and providing reference materials such as sample syllabi, grading standards, and classroom norms.¹¹¹⁴ According to the SAR Handbook, connecting scholars with an academic or faculty mentor has been an effective factor in improving their job satisfaction, academic productivity, and personal well-being.¹¹¹⁵ According to one of interviewees:

“We have a requirement that the Dean commit to providing scholars an office and inviting them to all departmental activities. We [as the SAR committee], faculty

¹¹¹³ Interviewee 7, *supra* note 1000.

¹¹¹⁴ Interviewee 9, *supra* note 969. Also see Scholars at Risk, “How to Host Scholars at Risk A Handbook for Higher Education Partners”, *supra* note 1107 at 22.

¹¹¹⁵ Scholars at Risk, “How to Host Scholars at Risk A Handbook for Higher Education Partners”, *supra* note 1107 at 22.

members, and their mentors help them in developing their professional and social networks.”¹¹¹⁶

At some institutions, academic mentorship is provided through a group or committee of faculty members that maintains regular contact with SAR beneficiaries. According to one of interviewees:

“In addition to the Scholars at Risk Committee that meets every month, we have a Scholars Care Program, where a couple of committee members meet directly with the scholar once a month to address any questions they might have. We have also designed an intake form, which is a work in progress, but it helps us provide information about other available resources and get a sense of where the scholar is at. Alongside these efforts, the scholars have their faculty hosts, who meet with them regularly as well.”¹¹¹⁷

6.6.3.3. Professional and Social Integration

The primary goal of SAR beneficiaries’ visits is to continue their professional work in safety¹¹¹⁸ and, in the words of one interviewee, “regain a sense of identity and connect with their old selves again.”¹¹¹⁹ To achieve this goal, the SAR Handbook highlights the significance of supporting professional and social aspects of scholars’ lives, encouraging institutions to offer services and skills development opportunities that enable them to continue their work even after the visit ends.¹¹²⁰ In this context, SAR committees in Canada develop specific initiatives or connect scholars with existing resources to support their academic and social integration.

Building on insights from the interviews and an internal evaluation report conducted by Carleton University, several key challenges have been identified that affect scholars’ social and

¹¹¹⁶ Interviewee 9, *supra* note 969.

¹¹¹⁷ Interviewee 6, *supra* note 991.

¹¹¹⁸ Scholars at Risk, “How to Host Scholars at Risk A Handbook for Higher Education Partners”, *supra* note 1107 at 28.

¹¹¹⁹ Interviewee 9, *supra* note 969.

¹¹²⁰ Scholars at Risk, “How to Host Scholars at Risk A Handbook for Higher Education Partners”, *supra* note 1107 at 28.

professional integration. These include limited language proficiency, unfamiliarity with the Canadian academic environment, and barriers to accessing the job market.¹¹²¹ In response to language-related needs, SAR committees adopt different approaches, such as offering structured training courses or leaving it to scholars to improve it on their own. While SAR eligibility criteria require scholars to be able to conduct academic work in a language represented in the network, primarily English, some may still require additional support. Depending on their needs, certain SAR committees offer access to English as a Second Language (ESL) intensive courses to help enhance their language skills.¹¹²²

Scholars come from different cultural and academic backgrounds; they require to become familiar with the norms and expectations of their new academic environment. According to one of interviewees:

“Maybe they were a dean at their institution back home and due to the crisis in their country or conflict, they are now in a very different position in a brand new country. They might be doing work the kind of work they haven’t done in a while under a different title and in a new environment. That is a lot of change for anyone. These abrupt career transitions can be really hard, especially if someone is starting from scratch again after a gap.”¹¹²³

SAR committees, within their available resources, attempt to help their beneficiaries engage effectively in host institutions:

“We enroll all scholars, if they are interested, in a certificate program for university teaching. This program provides an understanding of the Canadian context for teaching and is offered in the Fall and Winter, allowing flexibility for participation.”¹¹²⁴

¹¹²¹ Salem, Fawole & Rahim, *supra* note 972 at 4 & 5.

¹¹²² Interviewee 6, *supra* note 991.

¹¹²³ Interviewee 10, *supra* note 950.

¹¹²⁴ Interviewee 6, *supra* note 991

Sometimes these programs are offered in partnership with non-profit organizations or among universities interested in hosting scholars.¹¹²⁵ Since 2022, for instance, the Royal Society of Canada (RSC) has run the At-Risk and Displaced Academics and Artists (ARDAA) program, in which most host institutions are members and their SAR beneficiaries can participate in the program.¹¹²⁶ ARDAA supports scholars by offering workshops that help scholars meet the expectations of academic life in Canada; explore opportunities within and outside of academia, and build a network for professional development beyond the workshops.¹¹²⁷ The program also offers mentorship opportunities with RSC Fellows and College Members to enhance their knowledge and experience about Canadian academic landscape.

In 2024, Carleton University and the Placement, Preservation and Perseverance: Afghan At-Risk Scholars Activists and Students (PPP) project, funded by IDRC, in partnership with the University of British Columbia, organized a series of workshops to assist scholars in exploring career pathways. The “Academic Advancement and Career Alignment Certificate for New Scholars in Canada” offered targeted trainings for scholars pursuing academic careers, including sessions on building academic credentials, applying for research grants, managing library research, publishing, and research ethics.¹¹²⁸ The program also offered workshops focused on career opportunities outside of academia, such as roles in government and industry.¹¹²⁹ The main reason for including this workshop for exploring non-academic jobs is that:

“In Canada, there are currently more people looking for academic jobs than available job opportunities. We have very few unfilled positions and limited openings overall at

¹¹²⁵ *Ibid*, Interviewee 6.

¹¹²⁶ “Royal Society of Canada on mobilizing to continue research” (12 June 2023), online: *Scholars at Risk Network* <www.scholarsatrisk.org> [archive.ph/GAgFC]. Also see “At-Risk and Displaced Academics and Artists (ARDAA) Program” (last visited 16 February 2026), online: *Royal Society of Canada* <www.rsc-src.ca/en> [archive.ph/Jrh6r].

¹¹²⁷ “At-Risk and Displaced Academics and Artists (ARDAA) Program”, *supra* note 1126.

¹¹²⁸ Salem, Fawole & Rahim, *supra* note 972 at 5.

¹¹²⁹ *Ibid*.

university, often receiving numerous applications for each one. So, in general, finding a job in academia is likely a major challenge.”¹¹³⁰

Another interviewee also noted:

“In fact, higher education in Canada is a very exclusive community. Unfortunately, it is not a community that is particularly open, embracing, or welcoming to new scholars from other places in the world.”¹¹³¹

According to the evaluation report, the workshops were designed to achieve outcomes at three stages for SAR beneficiaries, short-term, intermediate, and long-term impacts:

Short-term Outcomes	Intermediate Outcomes	Long-term Impact
Improved knowledge of Canadian academic practices & research Increased confidence in grants & preparing CVs in the Canadian context Enhance understanding of career pathways in Canada Stronger professional networks within their field of study and related industries Improved job readiness for the Canadian job market	Continued education or professional development opportunities for scholars Career progression and stable academic or professional positions in Canada Social integration into Canadian society through professional and community engagement	Economic integration: Scholars contribute economically through skilled employment and innovation Cultural enrichment with diverse perspectives and experiences Policy influences: Success stories and challenges identified through the program inform policy change

Figure 3. Academic Advancement and Career Alignment Workshop Participant Background Survey¹¹³²

Based on participant feedback, the workshop content was highly relevant to their professional needs. They reported improved understanding of the Canadian academic environment, greater confidence in handling research-related tasks such as grant writing,

¹¹³⁰ Interviewee 6, *supra* note 991.

¹¹³¹ Interviewee 8, *supra* note 987.

¹¹³² Salem, Fawole & Rahim, *supra* note 972 at 16 & 17.

enhanced networking opportunities, and increased awareness of career options outside academia.¹¹³³

6.7. Major Challenges of SAR-Canada Committees

This section focuses on the major challenges of SAR committees in Canada in fulfilling their protection roles at their institutions. Although, as one interviewee explained, “Each member is different. Each section is different. Each scholar is so different and their needs are so different,”¹¹³⁴ the findings presented here are drawn from interviews and reflect common challenges across SAR committees.

6.7.1. Voluntary-Based Support

The nature of being a SAR committee is voluntary or as interviewees referred to it, a ‘side of the desk’ task.¹¹³⁵ While Canadians are not strangers to offering voluntary protection due to the experience of private sponsorship, the voluntary nature of SAR committees’ efforts causes challenges related to invisibility within the institution. Unlike private sponsorship groups, which are formally recognized by Canada’s refugee resettlement system, SAR committee members operate within academic institutions where such work is neither recognized nor considered as part of their official teaching, research, or service duties. In fact, faculty and staff members take on these roles in addition to their full-time academic or administrative responsibilities. As one interviewee explained:

“For most people working in this field, it is the work that is never officially recognized by anyone. So, I believe, we do incredible work by forming committees, bringing in scholars, and doing our best to support them in their next steps. However, none of this is

¹¹³³ *Ibid* at 7–14.

¹¹³⁴ Interviewee 10, *supra* note 950.

¹¹³⁵ Interviewee 6, *supra* note 991. According to one of interviewees, “The reality is, the scholars at risk piece, is often considered a ‘side of the desk’ task, meaning that it’s unpaid work that you do in addition to your regular responsibilities.”

officially considered service work, nor is it classified as teaching or research. All of it is volunteer work, often done on the side of their desks, as they say.”¹¹³⁶

In a voluntary-based model, the quality of protection can vary, as it depends on the time and energy that each committee member dedicates to the program. In some committees, highly engaged members create responsive support systems; while in others limited availability translates into passive forms of assistance. As one of interviewees explained:

“The problem is that the support may vary, as it depends on persons’ involvement. We’ve had some program officers in HR who are highly engaged, believe in the program, and take it upon themselves to be active and responsive with the scholars. However, other program officers are less proactive. So, it really depends on the person or the timing.”¹¹³⁷

The act of supporting at-risk scholars by SAR committees brings significant benefits to universities, including enhancing institutional reputation, increasing diversity among faculty members, and absorbing larger body of students. Institutions need to think about how they can better support the protection efforts of their SAR committees. Providing stable funding resources and fellowship opportunities can be significant steps toward ensuring the sustainability of SAR committees and keeping them motivated to continue their work. According to one interviewee:

“Despite these capacity limitations, I would say we have done a really good job at building the program. What we need now is policy change and an infusion of cash to make it grow.”¹¹³⁸

6.7.2. Absence of a National Hub

One of the significant challenges or potential areas for growth that emerged from the interviews is the absence of a formal national hub to coordinate the work of SAR committees across Canada. The SARCAN was intended to serve as a national hub; however, it lacks an

¹¹³⁶ Interviewee 8, *supra* note 987.

¹¹³⁷ Interviewee 7, *supra* note 1000.

¹¹³⁸ Interviewee 8, *supra* note 987.

organizational structure, such as a centralized office with paid staff. The absence of formalization makes it difficult to represent SAR committee members as a unified body for national funding or federal support.

In the current situation, although SARCAN exists, each committee operates in isolation and in a fragmented manner, as the entire system relies on voluntary contributions of committee members. According to one interviewee:

“We need a national hub with funding, based somewhere, that can handle newsletters, and all the administrative, logistical, and organizational tasks needed to create community. Creating community is a very deliberate act, it does not just happen. People may meet, but they will not just get together to stand in solidarity with one another. This has to be created and there has to be a force behind it.”¹¹³⁹

Another committee member similarly noted:

“I would also like to see some funding allocated to SARCAN as an organization. I believe having a dedicated person(s) to help coordinate the program would be highly beneficial, as it’s currently managed by people with full-time jobs trying to organize activities whenever possible, which is not sufficient.”¹¹⁴⁰

Empowering SARCAN as a national hub would not only enhance collaboration among SAR committees across Canada but also strengthen advocacy efforts to increase institutional participation and develop new partnerships to support scholars. This idea of a national hub or centralized organization is not new. WUSC, for example, combines a centralized organizational structure with student-led local committees across Canadian institutions to coordinate its protection efforts for refugee youth. Similarly, in several European countries, governments have established national programs with dedicated funding to support scholars in exile. As one of interviewee noted:

¹¹³⁹ *Ibid*, Interviewee 8.

¹¹⁴⁰ Interviewee 7, *supra* note 1000.

“We have done some preliminary assessments within SAR in Canada. Although the number of members was growing, the number of institutions hosting was kind of the same because it was only the ones who had money. We do not have a national funding program, unlike France, Germany, Belgium, and Switzerland, where they can simply ask their government, or the agency managing the funding from the government, when they would like to host somebody.”¹¹⁴¹

Furthermore, a national hub can also facilitate the deployment of other forms of support, in particular integration services. A centralized office for SARCAN can serve as a established point of contact for other organizations or even individuals offering service assistance. As one of interviewees noted:

“You can pull on other resources. I can’t tell you how many times I have asked my optometrist for help with things that aren’t covered under our healthcare plan to support scholars who are new to the country. The same goes for medical doctors or how we have utilized English as a Second Language opportunities, particularly for spouses accompanying our scholars.”¹¹⁴²

In short, while SARCAN represents as a national hub, it lacks the structural and financial resources to fulfill the role effectively. Without a formalized national hub, SAR committees remain disconnected, under-resourced, and dependent on the goodwill of individual volunteers.

6.8. Conclusion

This chapter shows that, within the SAR model, the core of protection is related to the protection of academic freedom. As discussed, academic freedom is not a single right but a set of interdependent human rights, including freedom of thought and expression, access to higher education, and the ability to teach and conduct research. When these rights are restricted or violated, scholars may face serious risks that require protection. The consequences of these risks

¹¹⁴¹ *Ibid*, Interviewee 7.

¹¹⁴² Interviewee 8, *supra* note 987.

do not necessarily remain limited to individual scholars; they normally have broader impacts, affecting academic communities, knowledge production, and societal development.

The SAR network brings attention to a category of individuals whose protection needs are not always fully captured by existing legal frameworks within refugee law. In this context, protection is shaped by the nature of the risk and its impact on the ability of scholars to continue their intellectual and professional work. This shifts the focus of protection from formal recognition of status to conditions that enable scholars to sustain their academic lives.

In the SAR network, protection is implemented through partnerships between member institutions and country-based sections, primarily in the form of temporary academic placements. The temporary nature of these placements enables institutions to respond in a timely manner to situations of risk. However, this temporariness can create uncertainty for scholars whose longer-term and professional futures remain unresolved.

While the scope of protection offered through SAR is not equivalent to that provided by states under refugee law, the model demonstrates the significant role of non-state actors, particularly universities and their staff, in responding to the protection needs of at-risk scholars. By enabling scholars to continue their work, SAR highlights how protection can extend beyond physical safety to include the preservation of intellectual engagement and academic contribution.



Figure 4: SAR-Canada member institutions¹¹⁴³

¹¹⁴³ [Canva AI], generated [April 2025], prompt: “Create and image listing all Scholars at Risk (SAR) member institutions in Canada, grouped/distinguished by province.” This figure is also used at Scholars at Risk Conference Safe Havens and Knowledge Networks in Canada. <www.cusjc.ca/scholars-at-risk/sar-faqs> [archive.fo/Cjj8o].

Chapter Seven:

Conclusion

7.1. Overview of the Research

This research examines how higher education pathways, particularly WUSC's SRP and SAR, contribute to rethinking the concept of protection across refugee law, immigration law, and international protection frameworks. It shows that protection in refugee law cannot be understood as a fixed or self-contained concept but is a complex concept that should be approached in light of the legal sources and institutional contexts where it operates. In doing so, the analysis highlights the relational character of protection, demonstrating how its meaning is shaped in practice and closely connected to human rights considerations.

Within this framework, higher education emerges as both a human right and a mechanism through which protection is realized. Its intrinsic and instrumental values lie in enabling forced migrants to access a broader range of rights, including health, employment opportunities, and social welfare. In this sense, post-secondary institutions can be understood as important protection actors, and their initiatives as meaningful mechanisms through which protection is facilitated.

These dynamics become more visible within the Canadian context, where legal structures and institutional arrangements reveal how higher education intersects with existing protection pathways. By narrowing the scope of analysis to WUSC's SRP and SAR initiatives, the research illustrates that higher education functions both as a public good and as an influential pathway that can protect individuals from serious harms. It also demonstrates how these initiatives mobilize resources, ranging from community-based support to institutional partnerships, in response to the needs of refugees and a broader group of academically displaced individuals.

7.2. Synthesis of Arguments

This section synthesizes the main findings of the research, organizing them into two interconnected parts, the protection framework and insights from the case studies. The protection framework in Chapters Two and Four sets out how the concept is understood in international and Canadian law and identifies the different dimensions that shape the concept. Chapter Three focuses on the human rights dimension of higher education and attempts to answer the following question: if protection extends beyond the absence of serious harm and includes fundamental human rights, what role can higher education play? It explains why higher education matters for forced migrants. Building on this foundation, the case studies show how WUSC's SRP and SAR operate within existing legal frameworks and what they contribute to discussions of protection. By identifying features such as peer-to-peer support, empowerment, quality of life, temporary protection, and the protection of academic freedom, the case studies demonstrate aspects of protection that are less visible within legal debates and invite a rethinking of protection by illustrating how these features can be realized through higher education pathways in practice.

7.2.1. Protection Framework

The analysis of protection in Chapter Two and Chapter Four identifies four interrelated aspects of the concept that shape its meaning and how it is understood in practice. First, protection is best understood as a positive concept: it cannot be reduced to simply avoiding persecution; in a fuller sense, it also requires conditions in which individuals are capable of accessing their basic human rights, such as education, healthcare, and work. This positive understanding aligns with the human rights foundation of refugee law and is reflected in the work of UNHCR and legal scholars. They emphasize that the positive attributes of protection

extend beyond the mere presence of physical safety; they also include the conditions for the realization of fundamental human rights.

Second, protection is multi-dimensional and dynamic rather than a single or isolated concept. It takes shape through the interaction of four components: the identification of beneficiaries, the assessment of persecution, the role of protection actors, and the conditions under which protection may be terminated. These components work together in relation to one another; for example, how persecution is understood affects who qualifies as beneficiaries, or the role and capacity of protection actors influence how protection is delivered and experienced. The interpretation of these components is not static; it evolves over time in response to developments in human rights principles.

Third, to meaningfully realize protection in practice, it is not enough to identify its components; it is also necessary to specify the conditions under which it can exist. The quality of protection can be evaluated through several key features: the willingness and ability of protection actors to provide it, and the accessibility, effectiveness, and durability of protection they offer. Together, these features clarify what constitutes protection activity and help determine which actors can be regarded as capable of providing it.

Finally, examining protection through these criteria clarifies that it is not limited to states as providers. The nature of contemporary displacement, including protracted situations and complex mixed movements, requires the involvement of actors beyond states in protection activities. While non-state actors have been criticised for not offering protection at a quality level equivalent to that of states, such critique cannot negate their important role in contributing to the delivery and enhancement of protection in contexts where states' actions are absent, unwilling, or

insufficient. Furthermore, their participation reflects broader practices of responsibility-sharing, through which protection is distributed across different actors and levels.

Together these four dimensions of protection shape the features of the concept and how it is understood in refugee law. A similar understanding of protection emerges in the Canadian context. As discussed in Chapter Four, the structure of the IRPA demonstrates that protection is not merely about physical safety; it also requires that individuals to be able to access their human rights. Furthermore, the meaning of protection in Canada is not static; it is shaped through statutory interpretation, judicial reasoning, and policy frameworks. These factors create a legal environment that is responsive to evolving understandings of protection, including the growing recognition of socio-economic rights as relevant factors in assessing protection needs, even refugee claims.

Within this framework, examining Canadian avenues for implementing protection, particularly private sponsorship of refugees, further shows that it is not confined to the state alone; non-state actors, including civil society, institutions, and even individuals, can contribute to the protection of forced migrants within and alongside the state. These avenues also demonstrate a capacity to adapt in response to evolving global crises.

7.2.2. Insights from Cases

Chapter Five and Six of this research examine WUSC's SRP and SAR as two selected initiatives that implement protection through higher education pathways. The intention is not to compare these cases, as they operate through different mechanisms and support distinct groups of beneficiaries. WUSC's SRP combines resettlement with higher education opportunities to support refugee youth and facilitate their transition to Canada, while SAR works as an

international, U.S.-based network with a Canadian section, offering temporary protection to academically displaced individuals who are not necessarily recognized as refugees.

Despite these differences, both initiatives are implemented within the Canadian context and rely on the involvement of Canadian post-secondary institutions. They share a common rationale, as explained in Chapter Three, that higher education is not only a human right but also a means of accessing other human rights. In WUSC, higher education is identified as a complementary pathway through which refugee youth develop skills and expertise, enabling them to rebuild their lives and access durable solutions. In SAR, this rationale is closely linked to the protection of academic freedom, which is an interdependent human right that includes freedom of thought, freedom of expression, and the right to higher education. In this sense, in both cases, post-secondary institutions function as key sites through which protection is provided, offering a safe environment for individuals to continue their education or research.

Building on this background, the analysis of the cases shows that they have significant potential to contribute to rethinking the meaning of protection in policy and international law. One central insight is that both initiatives reinforce and further develop the positive understanding of protection. They not only bring individuals out of situations of serious harm and place them in Canada, where they can access their fundamental human rights, but also take additional steps to support them in navigating and realizing those human rights in practice. In WUSC's SRP, this approach is reflected in its core of protection as enhancing the quality of life for refugee youth through access to post-secondary education. Based on its strategic plans, WUSC focuses on students' ability to meet their basic needs, access to fundamental services, and secure a minimum standard of living in Canada. In this context, protection is not limited to providing resources, but is closely linked to how they are utilized through offering integration

services and warm support, enabling SRP students to become more self-reliant in shaping their own future and investing in their own capacities.

In the case of SAR, the positive nature of protection is realized through the relocation of at-risk scholars to Canada by means of academic placements within universities. Protection in this context is not limited to removing individuals from risk; at its core, it is centred on preserving academic freedom. Through relocation to Canada, scholars are able to regain their academic identity, reconnect with their professional work, and continue their research or teaching. This reflects an understanding of protection that is tied to the ability to maintain one's intellectual and professional life. At the same time, SAR recognizes that scholars are not a homogeneous group; thus, SAR committees, depending on their available resources, provide individualized integration support, including assistance with visa processes as well as social and academic support. This approach shows that protection, in this model extends beyond physical safety to include the conditions necessary for scholars to re-establish their academic and personal lives in practice.

Another significant insight is that in both cases, protection is realized as a collective effort grounded in partnership among multiple actors. In both cases, beyond the role of the state, protection is provided by a range of non-state actors, including international organizations, national bodies, and civil society. WUSC's SRP partnership model brings together WUSC headquarters, non-governmental organizations in the regions from which refugees are selected, Canadian post-secondary institutions, and students who establish local committees to support their refugee peers' transition. Similarly, SAR coordinates a global network of national sections, member institutions, and committees that facilitate academic placements. These partnership

structures demonstrate that protection, in practice, is not a singular act but a collective effort shaped through collaboration among multiple actors.

The involvement of multiple actors challenges state-centric understandings of protection, even though these actors cannot offer protection at the same level as states. Instead of replacing state protection, they complement it by addressing the protection needs of individuals who are in protracted situations or invisible within existing legal frameworks. In situations like those of SAR beneficiaries, where individuals are forced to relocate, non-state actors shift the focus to groups who do not necessarily fit the refugee definition and face risks that may not fall within the five grounds of persecution. In this context, networks like SAR attempt to address this protection gap within the scope of their capabilities, even if the form and durability of protection they offer are not at the same level as those provided to WUSC's SRP beneficiaries.

It is also important to note that the temporary nature of the SAR protection model does not preclude the possibility of longer-term solutions. In contexts such as Canada, existing immigration pathways provide opportunities to recognize the forced nature of scholars' displacement and to facilitate their access to more durable forms of protection. At-risk scholars who come to Canada each year are limited in number, and their expertise and knowledge contribute to broader social and institutional interests. In this sense, Canada can recognize and include them within the existing immigration pathways such as HRDs, or develop new pathways to better respond to their specific circumstances.

These insights demonstrate that protection can take different forms depending on the needs of specific groups and the actors involved, while still remaining meaningful within its own limits. In this sense, the cases reveal how protection in international law can be understood as dynamic, practice-oriented, and responsive to different contexts of displacement.

7.3. Research Limitations

This research engages with protection and higher education as broader concepts within international law; however, its analytical focus is partly situated within the Canadian context. While the conceptual framework developed in Chapters Two and Three draws on international legal sources, the examination of legal structures in Chapter Four and the analysis of case studies in Chapters Five and Six are limited to Canada. In this regard, the research reflects a combination of international and domestic perspectives, but its empirical findings are grounded in the Canadian context. As a result, the conclusions of this study may not fully capture how similar initiatives operate in other national contexts.

A further limitation arises from the focus on two case studies, WUSC's SRP and SAR initiative as implemented within Canadian institutions. While these initiatives offer valuable insights into how protection is delivered in practice, they do not represent the full range of higher education pathways available to forced migrants. Other initiatives may reflect different approaches to protection that are not captured in this study.

Finally, although the number of key informants was limited to ten, as noted in methodology section, the implementation of these initiatives, particularly SAR, can vary across Canadian post-secondary institutions depending on available resources and institutional practices. A broader set of interviews with SAR and WUSC's SRP committees across Canadian institutions would provide additional perspectives on how these initiatives are implemented in practice.

7.4. Recommendations

This research provides distinct recommendations for policy practice and future scholarship. The first part sets out recommendations based on the analysis of the cases, reflecting

how each initiative can be further strengthened within its existing frameworks, while the second part identifies areas where additional research is needed to deepen and extend the understanding of protection in relation to higher education.

7.4.1. Implications for Policy and Practice

This section is inspired by the experiences of the interviewees, whose efforts keep these initiatives active. One of the significant challenges faced by WUSC's SRP local committees relates to administrative services within post-secondary institutions, such as initial assessment upon receiving SRP profiles, admission procedures, course registration, tuition fee payments, meal plans, and accommodation arrangements. As reflected in the interviews, these tasks often place a heavy workload on local committees as they are complex and time-sensitive, requiring institutional support to be managed effectively. Given the central role of local committees in supporting SRP beneficiaries, such challenges can affect how protection is delivered in practice. To address this issue, institutions can designate a staff member as a focal point for SRP-related procedures. This would reduce the administrative burden placed on student volunteers, improve continuity of the program despite the regular turnover of local committee students, facilitate smoother interaction between staff and local committee members, and contribute to the sustainability of the program within institutions.

In the case of SAR, the interviews point to significant potential for building a more coordinated national structure through the establishment of a formal hub in Canada. With approximately thirty Canadian institutions already participating in the network and SARCAN in place, the groundwork already exists. Formalizing this national hub would bring SAR committees' efforts into a more stable organizational framework with dedicated staff members, who could support coordination and engage in policy discussions with governments and other

stakeholders. A formal structure could strengthen advocacy efforts by providing a collective voice for participating institutions in policy discussions relating to at risk scholars, academic freedom, and immigration pathways. It would also facilitate the sharing of institutional experiences, best practices, and operational resources, thereby reducing duplication of effort across SAR committees. Furthermore, it would support network growth by facilitating the participation of additional institutions and strengthening collaboration among current members, and enhancing international partnerships.

At present, SAR Canada relies on existing immigration pathways and visa categories, such as visiting scholar appointments, postdoctoral positions, and work permit arrangements. This reliance often creates uncertainty and lengthy waiting periods for SAR beneficiaries, as these pathways are not specifically designed to respond to their protection needs or the particular circumstances of at risk scholars. Canada could therefore consider developing a dedicated academic mobility pathway, informed by the experience of the SAR Canada section, to provide a more coherent framework for admission, temporary protection, and academic placement. Such a pathway also could recognize the particular vulnerabilities of at risk scholars while preserving their academic careers and strengthening Canada's capacity to respond to threats against academic freedom through higher education.

7.4.2. Implications for Future Research

One important direction for future research is the inclusion of perspectives of forced migrants who have been participated in these initiatives. While this study has relied on institutional and organizational insights, it does not capture how protection is experienced by beneficiaries themselves. Engaging directly with their experiences would provide a better

understanding of how higher education pathways function in practice, including their strengths, limitation, and longer-term impact.

A further area for future research concerns the evolving role of post-secondary institutions as actors in the protection of forced migrants. This thesis has shown that post-secondary institutions can contribute to protection through initiatives that facilitate access to higher education, provide institutional support, and create pathways for inclusion. Future research could examine this role more explicitly through theoretical frameworks such as social justice, institutional responsibility, or equity in higher education. Such work would contribute to a better understanding of how universities can move beyond their traditional educational mandate and participate more actively in responding to forced migration.

Another area for research would be examining how similar initiatives operate in other national contexts. A comparative analysis of programs such as WUSC's SRP and SAR in other countries could reveal how different legal frameworks, institutional arrangements, and policy environments shape the delivery of protection through higher education. Such work would help situate the Canadian experience within a broader context and offer a clearer sense of what aspects of these models may be transferable.

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Appendix One: Ethics Approval

26/08/2024

Université d'Ottawa

Bureau d'éthique et d'intégrité de la recherche

University of Ottawa

Office of Research Ethics and Integrity

CERTIFICAT D'APPROBATION ÉTHIQUE | CERTIFICATE OF ETHICS APPROVAL

Numéro du dossier / Ethics File Number

S-06-23-8222

Titre du projet / Project Title

Role of Higher Education
Pathways in International
Protection Regime for Forced
Migrants

Type de projet / Project Type

Thèse de doctorat / Doctoral
thesis

Statut du projet / Project Status

Renouvelé / Renewed

Date d'approbation (jj/mm/aaaa) / Approval Date (dd/mm/yyyy)

28/08/2023

Date d'expiration (jj/mm/aaaa) / Expiry Date (dd/mm/yyyy)

27/08/2025

Équipe de recherche / Research Team

**Chercheur /
Researcher**

Affiliation

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Chercheur Principal / Principal
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Appendix Two: Interview Guide

For the purpose of this research, the interview guideline follows a semi-structured format allowing for flexibility by incorporating follow-up or additional questions based on the atmosphere and direction of the interview. Also, there is a potential for multiple, in-depth interviews guided by open-ended questions to enhance the richness of the data collected.

I will begin the discussion by inquiring about the interviewees' roles and experiences within WUSC or SAR Canada to explore their personal journey and engagement with these higher education networks. I will continue the interview by utilizing three main themes to structure the questions and address my topic comprehensively.

The first thematic section delves into the "Perception of Protection through Higher Education Initiatives," aiming to understand the intersection of higher education initiatives and protection in the context of forced migration. The second theme focuses on the "Empowerment, Impacts, and Evaluation Mechanism(s)" of these programs, allowing participants to share insights about how these initiatives contribute to the empowerment of forced migrants while also investigating mechanism(s) for assessing their effectiveness. Finally, the interview guide explores the "Advocacy and Future Prospects" of WUSC and SAR Canada to understand the potential influence of these initiatives on shaping public discourse.

Opening Questions

1. Could you please describe your role within WUSC/SAR Canada networks?
2. How would you describe the vision and mission of WUSC/SAR?
3. What motivated you to become involved with these higher education initiatives?

Thematic Category One: Perception of Protection through Higher Education Initiatives

1. Based on your experience and role what do you think protection means?
2. How does WUSC/SAR at this institution (name of the University) contribute to the protection of forced migrants? Could you elaborate on the specific approaches or stages through which this protection is provided?
3. In your experience, what role do partnerships between academic institutions, NGOs, and other stakeholders play in protection mission? How do these collaborations contribute to revisiting or reshaping the concept of protection?
4. In your experience, what specific challenges or barriers do forced migrants face in accessing higher education opportunities? How does WUSC/SAR address these challenges? In what ways do these challenges differ from those faced by other individuals like international students or visiting scholars?

5. Does WUSC/SAR committee in your institution offer any protection-related assistance both prior to forced migrants' arrival in Canada, (for example, with immigration procedures), and after their arrival, (for example with settlement services)?
6. How do you envision the evolution of higher education initiatives like WUSC and SAR in the future, in terms of their impact on the protection of forced migrants?

Thematic Category Two: Empowerment, Impacts, and Evaluation Mechanism(s) of the Programs

1. How do you see the relationship between higher education and the empowerment of forced migrants? In what ways does education enhance their ability to rebuild their lives?
2. How does access to higher education through WUSC and SAR initiatives impact the lives of forced migrants, particularly in terms of resilience and agency?
3. Could you please share instances where higher education initiatives (WUSC/SAR) have been instrumental in promoting the social integration and inclusion of forced migrants within Canada?
4. How do you think WUSC and SAR facilitate the transition of forced migrants from a position of vulnerability to a more permanent or more secure legal status?
5. From your experience, is there any mechanism to measure or evaluate the success, effectiveness, and impact of the program? If so, what measures do you take to assess the effectiveness of WUSC/SAR programs?

Thematic Category Three: Advocacy and Future Prospects

1. Can you discuss any potential tensions or conflicts of interest that may arise between providing higher education opportunities to forced migrants and the concerns of SAR/WUSC local committees? How were these tensions addressed?
2. What are some potential areas for growth and expansion for WUSC/SAR in the future, and how can they continue to innovate and adapt to changing needs and circumstances?
3. In what ways do WUSC/SAR engage in advocacy efforts? Can you provide examples of successful collaborations or advocacy campaigns in which higher education initiatives have influenced protection-oriented policies or practices?
4. Is there any additional information or perspective you would like to share that I have not addressed in my questions?

Thank you very much for your time and participation. Please let me know if you have any further questions.



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Faculté de droit
Section de common law

University of Ottawa
Faculty of Law
Common Law Section

Appendix Three: Interviewee Invitation Letter

[Insert Date]

Dear *[Participant Name]*:

This letter is an invitation to consider participating in a research project that I am conducting as part of my doctoral degree in Law at the University of Ottawa under the supervision of Professor Joao Velloso and Professor Christina Clark-Kazak. I would like to provide you with more information about this project and what your involvement would entail if you decided to participate.

This research project focuses on rethinking the concept of international protection through tertiary education pathways for forced migrants. To narrow down my topic, I focus on the role of two significant higher education networks: the World University Service of Canada (WUSC) and the Scholars at Risk (SAR) Canada section. While these are both important programs in Canada, there is very little academic literature on either initiative.

Participation in this study is voluntary. It will involve an interview of approximately 1 to 2 hours in length to take place in-person or virtually on Zoom or similar platforms. The interviews will be audio recorded, and in the case of using virtual platforms, the interviews will be video recorded. In the case of video recording, if you prefer to be off-camera, you can turn off your camera while the video recording is in progress. I will conduct the interviews based on your availability. This will occur during or after working hours. It depends on your time schedule and availability for the interview.

You are under no obligation to participate in this study. If you choose to participate, you can withdraw from the study at any time and/or refuse to answer any questions without suffering any negative consequences. Further, if you choose to withdraw, all data gathered until the time of withdrawal will be destroyed. The withdrawal time is approximately before submitting the final draft to the dissertation committee. I will notify you via email when this draft is about to be submitted.

Data collected during this study will be stored on the principal researcher's private laptop and a password-protected and encrypted cloud

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Faculty of Law
Common Law Section

storage service such as OneDrive or iCloud on the Internet. Only the researcher (me) and the supervisors of this project will access the data.

The identifying information collected during the interviews will include your full name, email address, and your respective affiliations with either WUSC or SAR Canada section. This information will be handled with utmost confidentiality and will only be used for the purposes of this research. To protect your privacy and confidentiality, any identifying information provided will be anonymized in the final report. There might be a slight chance that you could be identified through your affiliation or your unique experiences (if applicable), but I will take precautions to avoid using any identifiers.

This study has been reviewed and received ethics clearance by the Office of Research Ethics and Integrity of the University of Ottawa (S-06-23-8222).

For all other questions or if you would like additional information to assist you in deciding on participation, please contact me by email.

I hope that my study's results will benefit you and potential students and scholars who are in situations of forced migration, as well as the broader legal and research community.

I look forward to speaking with you and thank you in advance for your assistance in this project.

Sincerely,

Parisa Azari (She, Her)

Ph.D. Candidate - University of Ottawa

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Appendix Four: Consent Form

Consent Form

Title of the study: Role of Higher Education Pathways in International Protection Regime for Forced Migrants

Invitation to Participate: You are invited to participate in the abovementioned research study conducted by Parisa Azari at the University of Ottawa under the supervision of Professor Joao Velloso and Professor Christina Clark-Kazak.

Purpose of the Study: This study is being conducted as part of the student's doctoral degree in Law at the University of Ottawa. This research is centered around the rethinking of the concept of international protection through higher education pathways for forced migrants. To narrow down the topic, I focus on two higher education networks: the World University Service of Canada (WUSC) and the Scholars at Risk (SAR) in headquarters and Canada section. Despite their significance within the Canadian context, academic literature on either initiative is limited.

Participation: Your voluntary participation will consist of participating in interviews through face-to-face or virtual platforms such as Zoom or Teams. The interviews will be audio recorded, and in the case of using virtual platforms, the interviews will be video recorded to ensure an accurate recording of the responses. In the case of video recording, if you prefer to be off-camera, you have the option to turn off your camera while the video recording is in progress.

The interview is semi-structured with three main themes "Perception of Protection through Higher Education Initiatives," "Empowerment, Impacts and Evaluation Mechanism(s) of the Programs," and "Advocacy and Future Prospects". Based on the direction of the interview, I will ask additional follow-up questions to explore my topic. Interviews will last roughly between one to two hours, depending on your answers. There is a possibility for having multiple, in-depth interview sessions guided by open-ended questions to allow for flexibility in the discussion while ensuring consistency across interviewees. I will conduct the interviews based on your availability. This will occur during or after working hours. It depends on your time schedule and availability for the interview. You will not be named or identifiable in any reports of this study. If I decide to use a quote from you, then the information

will be shared in a suitable format, such as a digital document or PDF file, through your preferred method of communication.

Risks: The identifying information collected during the interviews for this research will include your full name, email address, and your respective affiliations with either WUSC or SAR Canada. This information will be handled with utmost confidentiality and will only be used for the purposes of this research. To protect your privacy and confidentiality, any identifying information provided will be anonymized in the final report. There might be a slight chance that you could be identified through your affiliation or your unique experiences (if applicable), but the researcher will take precautions to avoid using any identifiers.

Benefits: Your participation in this study will contribute to the advancement of knowledge about the significance of protection through higher education for forced migrants. Your participation also provides an opportunity for raising awareness and advocacy efforts to improve access of forced migrants to higher education. The result of this research can help improve the services provided by your networks by identifying areas where improvements can be made and suggesting strategies to overcome barriers to higher education access for forced migrants.

Confidentiality and anonymity: You have received assurance that the information you share will remain strictly confidential. You understand that the contents will be used only for this research and that your confidentiality will be protected. Confidentiality will also be maintained in the treatment of the documents of this study. Each interview will be stored in a password-protected and encrypted format on a private laptop and cloud storage service such as OneDrive or iCloud on the Internet.

You will not be named or identifiable in any reports of this study. If any statement you make during this interview is used in the research report, it will be attributed to an anonymous source.

In case of using virtual platforms for the interview, please use standard safety measures such as signing out of your account, closing your browser, and locking your screen or device when the interview is completed. These measures will help to minimize the risk of security breaches and ensure your confidentiality. For video recordings in virtual platforms, I will also set the expiration timeline for the recaps to be removed from the cloud recordings.

Conservation of data: The data will be kept in a secure manner. All project related contents will be stored on the principal researcher's private laptop.

Additionally, both the contents and audio/video files will also be stored on a password-protected and encrypted cloud storage service such as OneDrive or iCloud on the Internet.

I will use password protection and encryption on any USBs or Word documents that will be used. Once the audio/video recordings are downloaded to the computer, they will also be secured based on password protection. The data will be conserved for five years from the completion of the research. The method of disposal for all data will be secure deletion for the electronic data and shredding for any signed paper consent form. Only the principal researcher and supervisors will have access to the data and any identifying information.

Voluntary Participation: You are under no obligation to participate in this study. If you choose to participate, you can withdraw from the study at any time and/or refuse to answer any questions without suffering any negative consequences. If you choose to withdraw, all data gathered until the time of withdrawal will be destroyed. The withdrawal time is approximately before submitting the final draft to the dissertation committee. I will notify you via email when this draft is about to be submitted.

Acceptance: I, *(Name of participant)*, agree to participate in the above study conducted by Parisa Azari of the Faculty of Law, Common Law section of the University of Ottawa, which research is under the supervision of Professor Joao Velloso and Professor Christina Clark-Kazak.

If I have any questions about the study, I may contact the student or her professors.

If I have any questions regarding the ethical conduct of this study, I may contact the University of Ottawa Office of Research Ethics and Integrity.

There are two copies of the consent form, one of which is mine to keep.

Participant's signature: *(Signature)* Date:

Student's signature: *(Signature)* Date: