



uOttawa

Addressing Inequities in the International Refugee Regime:
Exploring Burden Sharing Strategies to Improve Refugee Protection

Brianna Lessard
7699378

University of Ottawa
Graduate School of Public and International Affairs
Supervisor: David Petrasek

Sunday November 20th, 2016
FINAL COPY

ABSTRACT

Host countries are often forced to assume responsibility for most of the burden related to refugee crises and protracted refugee situations, despite wide participation of United Nations (UN) member states in the international refugee regime. This paper will explore whether the UN should create and implement an official burden sharing agreement in order to more equitably address refugee crises and protracted refugee situations, and if so, what style of burden sharing agreement would be most effective. After identifying and defining key terms and concepts, I will analyze the 1951 Convention and how refugee protection has been inadequate due to inequitable sharing of the refugee burden. I will use the Syrian refugee crisis and refugee situation in Tanzania as case studies. Two burden sharing policy options will be assessed in this paper: a global, pre-established scheme suggested by James C. Hathaway, and a regional, ad-hoc scheme modeled after the Comprehensive Plan of Action for Indochinese Refugees. I will finish by recommending the option that I believe will provide the best burden sharing strategy for the international refugee regime.

TABLE OF CONTENTS

Abstract	2
Table of Contents	3
Tables	4
List of Acronyms & Abbreviations	4
Introduction	5
Chapter 1: Defining the Issues	9
1.1 International Legal Treaties	9
1.2 Breaking Down the Problem	12
1.3 Building the Solution	14
Chapter 2: A More Equitable Approach to Burden Sharing	19
2.1 Examining the 1951 Convention relating to the Status of Refugees	19
2.2 Convention Unfulfilled: The Inadequate Provision of Refugee Rights	23
2.3 Exacerbating Refugee Problems: Inequitable Distribution of the Burden	26
Chapter 3: Case Studies	31
3.1 Syrian Refugee Crisis	31
3.2 Refugees in Tanzania	37
Chapter 4: Policy Options	44
4.1 Global and Pre-established Scheme	44
4.2 Regional and Ad-hoc Approach	53
4.3 Recommendation	59
Conclusion	63
Bibliography	65

TABLES

Table 1: Top Six Host Countries	27
Table 2: Top Six Wealthiest Countries	27

LIST OF ACRONYMS & ABBREVIATIONS

1951 Convention = Convention relating to the Status of Refugees (1951)

1969 Protocol = Protocol relating to the Status of Refugees (1969)

AU = African Union

CPA = Comprehensive Plan of Action

GDP = Gross Domestic Product

LFIP = Law on Foreigners and International Protection (Turkey)

OAU = Organization of African Unity

SE = South East (Asia)

TRP = Temporary Protection Regulation (Turkey)

UDHR = Universal Declaration of Human Rights (1948)

UN = United Nations

UNHCR = United Nations High Commissioner for Refugees

US = United States

WWII = Second World War / World War II

Introduction

With the increasing number of conflicts in the past several decades, there has been a rapid growth in refugees worldwide, with 2015 seeing the number of forcibly displaced persons surpass 65 million.¹ Nearly a third are refugees, who are those forcibly displaced outside the borders of their home country, and the majority of those (16.1 million) fall within the context of the 1951 Convention relating to the Status of Refugees and under the United Nations High Commissioner for Refugees' (UNHCR) mandate. Within that group, there is also an estimated 6.7 million refugees in 27 different host countries around the world living in 32 individual protracted situations (2015).² It has become increasingly difficult to reach a decisive solution among states for addressing the challenge created by the rising number of refugees and without a plan, the problem will only become greater, especially as refugee crises evolve into more protracted situations.

Despite the majority of the members of the United Nations (UN) committing to the refugee protection principles from the 1951 Convention relating to the Status of Refugees, there has been a tradition of doing the minimum required. The Convention is a legally binding international treaty, but does not require states to act until refugees have crossed into their territory. Any steps taken outside of this context are optional, although the Convention's Preamble expresses the wish for international cooperation, as the UN's representatives who crafted the text recognized that it would be the only way to solve the refugee problem.³ There have been cases where states have even resorted to shifting the

¹ UNHCR, *Global Trends: Forced Displacement in 2015*, 20 June 2016: 2.

² UNHCR, *Global Trends: Forced Displacement in 2015*, 20 June 2016: 20.

³ UNHCR, *The Refugee Convention, 1951: The Travaux Préparatoires Analysed with a Commentary by Dr. Paul Weis* (1990): 18.

responsibility onto others, by creating restrictive legislation such as tighter visa policies and tougher refugee recognition procedures, and in some, even pushing refugees away.⁴

As a result of the lack of burden sharing and decreasing interest of donor states to provide financial aid, states of first asylum have become overburdened by the significant number of refugees. The differences are stark – the top six refugee host countries, home to just under half the world’s refugees, are some of the poorest,⁵ while the top six wealthiest host less than ten percent.⁶ Developed countries have a poor record in regards to picking up the slack, as resettlement is slow and the UNHCR constantly underfunded, leaving host states to face refugee crises alone. As a result, host states are generally unable or unwilling to respect the elements of the 1951 Convention, which means refugees are often confined to camps or live without status in urban centres, denied the rights granted to them as refugees.

In this paper, I will investigate whether the UN should create and implement an official burden sharing agreement in order to more equitably address refugee problems, which includes refugee crises and protracted refugee situations, and if so, what style of burden sharing agreement would be most effective. I will argue that the creation of a burden sharing agreement is necessary not only to cope with refugee problems, but also to ensure adequate refugee protection standards, both in accordance with the 1951 Convention and to supplement it, through a more equitable division of responsibility.

⁴ Eiko R. Thielemann, "Why Asylum Policy Harmonisation Undermines Refugee Burden Sharing," *European Journal of Migration and Law* 6 (2004): 54.

⁵ World Development Indicators Database, "Gross Domestic Product 2015," *World Bank*, last updated: 11 October 2016, <http://databank.worldbank.org/data/download/GDP.pdf>

⁶ UNHCR, *Mid-Year Trends 2015*, 18 December 2015, accessed 27 September 2016: 7, <http://www.unhcr.org/statistics/unhcrstats/56701b969/mid-year-trends-june-2015.html>.

In the first chapter, I will highlight and define key concepts and issues related to the content of this paper. I will first examine the international legal treaties that serve as the basis for the international refugee regime. I will then provide the official definition of the key elements of the refugee problem, including the terms refugee and protracted refugee situation, and briefly look into the causes, challenges, and consequences. Finally, I will explain the concept of burden sharing as well as the three durable solutions of resettlement, local integration and voluntary repatriation.

The second chapter will include an analysis of the rights granted to refugees in the 1951 Convention and the 1967 Protocol, which have been inadequately protected due to the fact that refugees exist mostly in developing states. The practice of developed states to provide little financial and humanitarian aid has meant that, in a system built upon the assumption of international cooperation, the countries of first asylum are forced to bear the brunt of the cost. Consequently, refugees are often denied the rights outlined in the 1951 Convention as states are unable or unwilling to grant them, further exacerbating refugee problems. With a burden sharing agreement and more equitable management of refugee crises, it is possible that these rights could be better protected.

The third chapter will address two case studies. In the first, I will present the Syrian refugee crisis, which has recently reached protracted status and has affected numerous states. The second case study is Tanzania, a single state that has played host to refugees for several decades. After briefly explaining the situation and outlining legislation and practices regarding refugees in each case, I will present the impact they have had on the protection of refugee rights. I will then explore how an official burden sharing agreement

could have improved the response to refugee problems, examining why a more equitable approach to refugee problems is necessary to address protracted situations.

I will present two possible policy options for burden sharing among UN member states in the fourth chapter. The first is a global sharing strategy proposed by James C. Hathaway and R. Alexander Neve that relies on pre-established roles. The second is a regional and ad-hoc scheme that follows the example of the Comprehensive Plan of Action (CPA) for Indochinese refugees. While explaining each option, I will take a critical look at both the positive benefits and negative shortfalls.

Lastly, I will weigh my analysis of each policy option and identify which one I believe would do the most to address the responsibilities of states in regards to the 1951 Convention, and build on it to meet the needs of refugee host states, while remaining realistic about the political landscape and capabilities of states.

Chapter 1: Defining the Issues

In order to build an argument for a more equitable approach to burden sharing in the UN, it is important to provide an understanding of the key concepts and issues. First, I will explain the relevant international legal treaties, and then I will break down the key terms associated with refugee problems, before delving into the many aspects of a solution.

1.1 International Legal Treaties

The notion of **human rights**, which is the basis for refugee rights, became prevalent during the Second World War and has since evolved. For the purpose of this paper, I will refer to Donnelly's definition of human rights, which are "the rights one has simply because one is human."⁷ The Universal Declaration of Human Rights (UDHR), adopted by the UN General Assembly in 1948, outlines a basic but significant universal bill of rights. Article 1 states, "all human beings are born free and equal in dignity and in rights"; and Article 2 ensures that there is no "distinction of any kind" between people of different races, sex, religion, colour, nationality, etc.⁸ The UDHR outlines key human rights that, at the time, were important and acted as a base for conventions that followed.

In regards to refugees, these rights and others were elaborated and outlined in the **1951 Convention relating to the Status of Refugees** and the **1967 Protocol relating to the Status of Refugees**. The first is a multilateral treaty that provides a definition for refugee, and outlines the rights entitled to those who are granted asylum and the responsibilities of the host state. The **1951 Convention** is a guideline for what should happen after a person seeks asylum, a right that is granted in Article 14 of the UDHR, which states, "Every one

⁷ Jack Donnelly, *International Human Rights*, Boulder, CO, USA: Westview Press (1998): 18.

⁸ Article 1 and 2, United Nations Declaration of Human Rights, 1948.

has the right to seek and to enjoy in other countries asylum from persecution.”⁹ It included a time frame on those who could be considered a refugee – those who became refugees “as a result of events occurring before 1 January 1951” – as well as the possibility for geographic restrictions to either Europe, or Europe and Elsewhere.¹⁰ The **1967 Protocol** removed this timeframe as well as the geographic restrictions as the number of refugees continued to increase, especially in Asia, Africa, and Latin America. As of April 2015, there were 145 states parties to the 1951 Convention and 146 states parties to the 1967 Protocol.¹¹

The Convention’s Preamble, in recognition of the need for international cooperation, encourages states to act in the case of refugee crises. This is shown explicitly in paragraphs 4 and 5 of the preamble: “Considering that the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the UN has recognized the international scope and nature cannot therefore be achieved without international co-operation,” and “Expressing the wish that all States, recognizing the social and humanitarian nature of the problem of refugees, will do everything within their power to prevent this problem from becoming a cause of tension between States.”¹² However, the preamble is merely a tool for interpreting the Convention and is not legally binding, unlike the text of the Convention, which is legally binding international law.¹³ As a result, despite the inclusion of such language

⁹ Article 14, United Nations Declaration of Human Rights, 1948.

¹⁰ Article 1, Convention Relating to the Status of Refugees, 1951.

¹¹ UNHCR, “States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol,” *UNHCR.org*, last updated 17 April 2015, <http://www.unhcr.org/protect/PROTECTION/3b73b0d63.pdf>.

¹² Preamble, Convention Relating to the Status of Refugees, 1951.

¹³ UNHCR, *The Refugee Convention, 1951: The Travaux Préparatoires Analysed with a Commentary by Dr. Paul Weis* (1990): 32.

encouraging cooperation, there is no obligation for states to act in the event of a refugee crisis or protracted refugee situation. The obligation only comes into effect if refugees cross into a states' territory.

As in all international treaties, states parties can make reservations to articles that may go against their national interests or the fundamentals of their national identities. However, this right to make reservations is not always extended to every article in a treaty. In the case of the 1951 Convention, Article 42.1 declares that “at the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1, 3, 4, 16(1), 33, 36-46¹⁴ inclusive.”¹⁵ The first five articles that are excluded from reservation are related to the rights of refugees and are as follows:

- **Article 1:** Definition of the term “refugee”
- **Article 3:** Non-discrimination
- **Article 4:** Religion
- **Article 16.1:** Access to Courts
- **Article 33:** Prohibition of Expulsion or Return (“refoulement”)

These rights are all considered fundamental and protected, but the last one, non-refoulement, is seen as especially non-derogable, meaning inviolable under any circumstances, and essential to the refugee regime.¹⁶

¹⁴ Articles 36 through 46 are largely administrative articles found at the end of most UN conventions.

¹⁵ Article 42.1, Convention Relating to the Status of Refugees, 1951.

¹⁶ UNHCR, *Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention Relating to the Status of Refugees and Its 1967 Protocol* (26 January 2007): 5, <http://www.unhcr.org/4d9486929.pdf>.

1.2 Breaking Down the Problem

Article 1 of the 1951 Convention, as amended by the 1967 Protocol, provides the definition of a **refugee** as “a person who owing to a 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 his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”¹⁷

Although this definition is a solid starting point, many groups have built upon it to create definitions more appropriate for their experiences. For example, the **1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa** added another parameter – “The term “refugee” shall also apply to every 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.”¹⁸ This paper will utilize these definitions, but I recognize that they are no longer adequate to define all refugees in the 21st century, as refugees of climate change become an increasing concern.

Prior to classification as a refugee, a person seeking refuge in another country is known as an **asylum seeker**. An asylum seeker is someone who has left his or her home country for fear of persecution, has applied for asylum in another and is waiting for his or her

¹⁷ Article 1, Convention Relating to the Status of Refugees, 1951.

¹⁸ Article 1.2, OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969.

request to be processed.¹⁹ Unless otherwise stated through domestic laws, an asylum seeker is not guaranteed the same rights awarded to a refugee in the 1951 Convention and if applicable, related domestic legislation. Refugee rights are tied to the status, which is granted by a national body or the UNHCR once it is determined that the asylum seeker meets the criteria in the definition. During times of mass refugee flows, however, there is not always the opportunity to individually assess asylum seekers. As a result, they are often given refugee status until proven otherwise.²⁰

Mass movements of refugees generally result in large populations of people moving into neighbouring countries. Some continue moving, but initially, the majority of refugees stay in countries of first asylum. Refugee camps are established to host these people and are not often considered a long-term solution. However, as is the case in a growing number of refugee crises, these camps become permanent fixtures in refugee host states.

Protracted refugee situations, as these are known, occur in response to “political action and inaction, both in the country of origin (the persecution or violence that led to flight) and the country of asylum.”²¹ Oftentimes, the reason behind the movement of refugees is not resolved, preventing refugees from returning home, and in the host countries, refugees rights are usually restricted, often confining them to camps and preventing them from working.²² These conditions, rather than encourage a long-term solution, create long-term problems for all parties involved.

¹⁹ UNHCR, “Asylum Seekers,” *UNHCR.org*, accessed 7 August 2016, <http://www.unhcr.org/asylum-seekers.html>.

²⁰ UNHCR, “Asylum Seekers,” *UNHCR.org*.

²¹ UNHCR, *Protracted Refugee Situations*, 10 June 2004, EC/54/SC/CRP.14, accessed 8 August: 1, <http://www.refworld.org/docid/4a54bc00d.html>

²² *Ibid.*

The definition employed by the UNHCR to identify when a refugee crisis becomes a protracted refugee situation is when “refugee populations of 25,000 persons or more... have been in exile for five or more years in developing countries.”²³ The number of protracted refugee situations grows each year, representing 41% of refugees under the UNHCR’s mandate in 2015.²⁴ Factors that have contributed to this increase include the declining interest from donor states in low-profile refugee problems, regional insecurity, and an increase in longstanding intrastate conflicts, among other things. Without addressing the root causes linked to refugee problems, plans to address them are limited in their successes and host countries are faced with the long-term burden of a protracted crisis. Not only have these situations become more common, but the number of years during which a refugee situation is protracted has risen significantly since the early 1990s; the average duration of a protracted situation was 26 years as of the end of 2015.²⁵ Life goes on in these camps, even if it is restricted, and as a result, second and third generations of refugees are born, contributing to the growing number.

1.3 Building the Solution

During the drafting of the 1951 Convention, the participating UN member states made it clear that international cooperation was the only way to successfully deal with refugee problems, that one state could not find a solution alone.²⁶ From this emerged the concept of **burden sharing**, also known as responsibility sharing and solidarity, “in which States take on responsibility for refugees who, in terms of international refugee law, would fall

²³ Ibid, 2.

²⁴ UNHCR, *Global Trends: Forced Displacement in 2015*, 20 June 2016: 20.

²⁵ UNHCR, *Global Trends: Forced Displacement in 2015*, 20 June 2016: 20.

²⁶ UNHCR, *The Refugee Convention, 1951: The Travaux Préparatoires Analysed with a Commentary by Dr. Paul Weis* (1990): 16.

under the protection of other States or assist other States in fulfilling their responsibilities.”²⁷ When refugees spill into other countries, it is then the responsibility of the receiving state to protect them, based on the principle of non-refoulement and other rights granted in the 1951 Convention. Considering the fact that many issues that generate refugees, such as war and political instability, occur largely in developing regions, the responsibility to protect refugees often falls disproportionately onto a small number of surrounding states.²⁸ In some situations, mostly those that generate significant international media attention, “other States may volunteer to share these burdens,” either via resettlement or financial assistance.²⁹ However, states are not legally obligated to partake in burden sharing schemes. States that are not directly affected by the refugees may agree to share the burden for a variety of reasons, be it reciprocity, membership in an international institution, fairness, or the “need to avert... a political crisis.”³⁰

A key tool used by developed states is the use of financial assistance as their contribution to burden sharing – providing money allows humanitarian groups within the affected area or the receiving states themselves to better deal with the refugee influx, and the donors can generally avoid taking in refugees. However, financial assistance can only go so far. This is where the three **durable solutions** come in. Resettlement, voluntary repatriation, and local integration are all methods used in the face of refugee problems, the outcomes of which are considered durable if used correctly. Each has had its own moment in the spotlight, when it was the preferred solution of the international community.

²⁷ Kathleen Newland, “Cooperative Arrangements to Share Burdens and Responsibilities in Refugee Situations short of Mass Influx,” *Migration Policy Institute* (2011): 1.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

Resettlement, as mentioned above, is one of the burden sharing tools employed by states to assist receiving states in dealing with the refugee burden. According to the UNHCR, it is the “transfer of refugees from an asylum country to another State that has agreed to admit them and ultimately grant them permanent settlement.”³¹ Despite the use of resettlement in some high profile cases, such as the resettlement of Indochinese refugees and even the Syrian refugee crisis today, it is generally only available to a very small percentage of refugees. Very few states are involved in the resettlement program run by the UNHCR – the United States, Canada, Australia, and the Nordic countries accept only a certain number of refugees every year due to immigration policies and security concerns, among other things.³² Resettlement is an important durable solution and a key tool for the inclusion of developed states in physical burden sharing.

A second durable solution is **voluntary repatriation**, which is when the refugee makes the decision to return to their country of origin.³³ It gained popularity by the late 1980s, and the 1990s were declared the “Decade of Repatriation” by the UNHCR in an effort to increase the use of repatriation as a durable solution.³⁴ Although it is preferred as a long-term solution, it can only be undertaken if the conditions in the country of origin are safe and the return is based upon consent.³⁵ Fleeing is not an easy choice for refugees and ideally they would be able to return home. However, with the increasing durability of conflict and instability in many developing parts of the world, it is not necessarily a

³¹ UNHCR, “Resettlement,” *UNHCR.org*, accessed 6 September 2016, <http://www.unhcr.org/resettlement.html>.

³² UNHCR, “Resettlement,” *UNHCR.org*.

³³ UNHCR, “Solutions,” *UNHCR.org*, accessed 7 September 2016, <http://www.unhcr.org/solutions.html>.

³⁴ Megan Bradley, *Refugee Repatriation: Justice, Responsibility and Redress*. Cambridge: Cambridge University Press (2013): 5.

³⁵ UNHCR, “Voluntary Repatriation,” *UNHCR.org*, accessed 7 September 2016, <http://www.unhcr.org/voluntary-repatriation-49c3646cfe.html>.

viable option. Some refugees may not even have the desire to return to their home country after a certain amount of time, especially new generations of refugees that have never been to their homeland.³⁶ In some cases, states and the UNHCR have misused repatriation, forcing refugees to return to their home country without their consent and regardless of if that country is actually safe for them. For example, the decision of the Kenyan government to close the Dadaab refugee camp has led many Somali refugees to return to Somalia, despite the lack of security, out of fear they will eventually be forced to do so as well as fear of prosecution by Kenyan police in the wake of attacks.³⁷

The third and final durable solution is **local integration**, which entails the gradual permanent integration of refugees into their host societies, as opposed to ‘temporary’ camps, where they rely on the state and the UNHCR to meet their basic needs, or temporary settlement in segregated communities, where they may become self-sufficient until they can be repatriated.³⁸ Local integration allows for greater economic and social inclusion and an opportunity for refugees to create new lives for themselves in their host countries.³⁹ They are given legal status, granting them greater rights including those outlined in the 1951 Convention, and some are eventually granted citizenship.⁴⁰ This is often seen as a last resort solution, for refugees who are unable to take advantage of the two solutions defined above. Unfortunately, increasing security concerns of host states

³⁶ B. S. Chimni, “From Resettlement to Involuntary Repatriation: Towards a Critical History of Durable Solutions to Refugee Problems,” *New Issues in Refugee Research*, Working Paper No. 2, UNHCR: Geneva (May 1999): 4-5.

³⁷ Amnesty International, *No Place Like Home: Returns and Relocations of Somalia's Displaced*, 19 February 2014, AFR 52/001/2014: 26, <http://www.amnesty.ca/sites/amnesty/files/no-place-like-home-2014.pdf>.

³⁸ Karen Jacobsen, “The Forgotten Solution: local integration for refugees in developing countries,” *New Issues in Refugee Research*, Working Paper No. 45, UNHCR: Geneva (July 2001): 7-8.

³⁹ UNHCR, “Local Integration,” *UNHCR.org*, accessed 11 September 2016, <http://www.unhcr.org/local-integration-49c3646c101.html>.

⁴⁰ Jeff Crisp, “The local integration and local settlement of refugees: a conceptual and historical analysis,” *New Issues in Refugee Research*, Working Paper No. 102, UNHCR: Geneva (April 2004): 1.

has led them to become reluctant to use local integration as a solution. For many host states, repatriation remains the goal for refugees, even as conflicts and instability drag on.

Chapter 2: A More Equitable Approach to Burden Sharing

World War II (WWII) triggered significant changes on the international level, including the creation of the UN and the drafting of the UDHR. It also generated millions of refugees across Europe. As the international community had embraced the protection of human rights, they also decided that a convention was required to protect the rights of refugees. From this, the 1951 Convention was born, an international treaty created on the basis of international cooperation – on states working together to protect refugees and to support host countries. However, this is generally not the case. In this chapter, I will outline the most significant rights in the 1951 Convention before arguing that refugees are not being given these rights, largely as a result of the inequitable burden placed on countries of first asylum.

2.1 Examining the 1951 Convention relating to the Status of Refugees

Although the 1951 Convention was initially created to serve a singular purpose, to protect European refugees after WWII, the rights and responsibilities it outlines have become universal. If fully respected, they have the potential to address refugee problems by providing refugee protection, the potential to pursue a dignified life, and a way to move forward, rather than protract.

Prior to WWII, a universal definition for refugee had not been agreed upon on the international stage. Including an agreed upon definition of the term ‘refugee’ in article 1, albeit a very general one, was an important step for establishing the international refugee protection regime. With this definition, states and the UNHCR could officially determine which asylum seekers qualified as refugees. Article 1 also identifies whom the 1951

Convention will not apply to as well as when it may no longer apply, creating set boundaries for the scope of the term.⁴¹ Since then, some states and regional organizations have recognized the general nature of the definition and have drafted their own definitions to supplement the official one. Found in the first chapter after the definition are the rights to non-discrimination and the freedom to practice religion (articles 3 and 4), non-derogable rights that were borrowed almost directly from the UDHR; its influence is evident throughout the text of the 1951 Convention.

Article 16, which dictates “A refugee shall have free access to the courts of law on the territory of all Contracting States,” is another non-derogable right in the 1951 Convention.⁴² Free access to courts does not mean that refugees are exempt from the monetary costs of going to court (although article 29 declares that refugees shall not be charged fees higher than those paid by nationals⁴³); the article’s primary meaning is that refugees shall not face excessive barriers in regards to accessing the court law, that they should have access equal to nationals.⁴⁴ By granting this right, the 1951 Convention gives refugees some legal power and the ability to fight for or defend themselves, which in turns helps to preserve some of their dignity.

The third chapter contains some of the most important and unique elements of the 1951 Convention, which are also vital to maintaining the dignity of refugees and encouraging their independence, ideally preventing a protracted situation. Article 17 declares that refugees that have been granted asylum will be given the same rights as other foreign

⁴¹ Article 1, Convention Relating to the Status of Refugees, 1951.

⁴² Article 16, Convention Relating to the Status of Refugees, 1951.

⁴³ Article 29, Convention Relating to the Status of Refugees, 1951.

⁴⁴ UNHCR, *The Refugee Convention, 1951: The Travaux Préparatoires Analysed with a Commentary by Dr. Paul Weis* (1990): 97.

nationals to seek wage-earning employment in the host country.⁴⁵ It does allow for states to protect their national labour markets, but there are a few exemptions that allow some refugees the right to seek employment as well as a limit the severity of restrictions on all refugees.⁴⁶ Article 18 gives refugees the right to engage in self-employment, at least to the same extent as other foreigners living in the state, which can give refugees a viable alternative to wage-earning employment in regards to becoming self-sufficient.⁴⁷ For refugees who have pursued higher education and liberal professions, article 19 provides that refugees with recognized diplomas should be given at least the same level of freedom to seek employment in those areas as other foreigners, if not better.⁴⁸

Just as the articles concerning employment had no international legal precedence, many of the articles in chapter 4 concerning welfare stemmed from new ideas and were a significant addition to the 1951 Convention.⁴⁹ Article 21 deals solely with the topic of housing, declaring that refugees should be given treatment at least as favourable as that given to foreign nationals when it comes to securing accommodation in the host country.⁵⁰ This allows refugees to find houses or apartments in cities where they may have better chances at finding work and establishing a life, as opposed to living on the streets or in a camp. Another very important right is found in Article 22, which concerns education. States parties to the 1951 Convention are to provide refugees with the same access to elementary education as nationals, ideally ensuring that the education of

⁴⁵ Article 17, Convention Relating to the Status of Refugees, 1951.

⁴⁶ UNHCR, *The Refugee Convention, 1951: The Travaux Préparatoires Analysed with a Commentary by Dr. Paul Weis* (1990): 99.

⁴⁷ Article 18, Convention Relating to the Status of Refugees, 1951.

⁴⁸ Article 19, Convention Relating to the Status of Refugees, 1951.

⁴⁹ UNHCR, *The Refugee Convention, 1951: The Travaux Préparatoires Analysed with a Commentary by Dr. Paul Weis* (1990): 115.

⁵⁰ Article 21, Convention Relating to the Status of Refugees, 1951.

children is not stalled for too long and that generations of refugees do not miss out on education. States should also grant the same level of access permitted to foreign nationals in regards to subsequent levels of education.⁵¹ The rights detailed in these two articles are vital for the success and independence of refugees in their host countries.

Another right borrowed almost directly from the UDHR is article 26, which declares that host states must allow refugees at least the same freedom of movement within their borders.⁵² This is meant to give refugees the right to settle in a location that suits their needs. The two following articles are very important for the facilitation of refugee freedom of movement. As many refugees are often forced to flee their homes, they may find themselves without identification or passports. Article 27 and 28 state that host countries must provide refugees with identity papers and travel documents, respectively. In addition to facilitating movement, legitimate identification saves refugees from the difficulties of being unable to prove their identity.⁵³

The final right I will make note of is not one granted to refugees, but to host states. Article 9 reassures states that during extreme circumstances, such as war or a rise in terrorist activities, they are entitled to prioritize national security and employ temporary measures while considering the case of an asylum seeker.⁵⁴ However, to protect refugees from exceptional measures employed by states to protect national security, such as large-scale internment, article 8 declares that states must not apply these measures simply

⁵¹ Article 22, Convention Relating to the Status of Refugees, 1951.

⁵² Article 26, Convention Relating to the Status of Refugees, 1951.

⁵³ UNHCR, *The Refugee Convention, 1951: The Travaux Préparatoires Analysed with a Commentary by Dr. Paul Weis* (1990): 151.

⁵⁴ Article 9, Convention Relating to the Status of Refugees, 1951.

because of their nationality.⁵⁵ Together, these articles ensure that host countries are still able to protect themselves all the while protecting refugees from discrimination.

2.2 Convention Unfulfilled: The Inadequate Provision of Refugee Rights

Despite the legally binding nature of the 1951 Convention, reality does not meet expectations. Although human rights law is built upon non-discrimination, attitudes and policies around the world suggest that it is a difficult goal to achieve. Some state partners of the UNHCR resettlement programme have tried to make policies that discriminate either by ethnicity, religion, or other, taking advantage of the general nature of the definition of refugee.⁵⁶ Governments in Canada and Australia, for example, were both criticized in 2014-2015 for alleged preference of religious minorities, such as Christian Syrian refugees.⁵⁷ The reaction to the Syrian refugee crisis (also known as the European migrant crisis) is another example of widespread discrimination against Syrians and refugees from the Middle East and Africa. Europe has seen the rise of populism and discrimination against refugees, out of fear not only that they threaten the cultural makeup of those countries, but also out of fear of terrorism.⁵⁸ Especially in a post-9/11 world and with regular attacks by extremists, Western states have seen the perception of Muslims as terrorists and associated fear grow, even if Muslim refugees are fleeing the

⁵⁵ Article 8, Convention Relating to the Status of Refugees, 1951.

⁵⁶ Laura Lynch, "Canada considers prioritizing religious minorities in Syria refugee resettlement," *CBC News*, 12 December 2014, <http://www.cbc.ca/news/politics/canada-considers-prioritizing-religious-minorities-in-syria-refugee-resettlement-1.2870916>

⁵⁷ Michael Safi, "Calls to prioritise Christian refugees are discriminatory – Australia's grand mufti," *The Guardian*, 8 September 2015, <https://www.theguardian.com/australia-news/2015/sep/09/calls-to-prioritise-christian-refugees-are-discriminatory-australias-grand-mufti>

⁵⁸ Judith Sunderland, "Fear and Loathing of Refugees in Europe," *Human Rights Watch*, 8 February 2016, <https://www.hrw.org/news/2016/02/08/fear-and-loathing-refugees-europe>.

very terrorists who orchestrate the attacks.⁵⁹ This crisis has been central to many elections, as it has been in Germany,⁶⁰ and discrimination has been reflected in policies. For example, many central and eastern European states have erected fences around borders and mass detained refugees.⁶¹ As a result, refugees are often forced to remain in countries of first asylum where they can face discrimination in other ways.

The right to work, meant to encourage the self-sufficiency of refugees, is one often ignored by host states as it is not a non-derogable right and they are entitled to place a reservation, as many did when they ratified the convention. Although in some cases the reservation was withdrawn, while in others it was overlooked as states allowed refugees to work, there are still many institutional barriers faced by refugees.⁶² Works permits are incredibly difficult to obtain in countries of first asylum, many of which as developing states have large percentages of unemployment. In Egypt, for example, there is high unemployment among refugees, as employers are required to prove that there are no Egyptians to fill the position ahead of granting a work permit.⁶³ Refugees in Turkey face a similar problem – they can apply for work permits, but there are many bureaucratic hurdles and criteria to meet. For example, Turkish employers must ensure that at least 90% of their workforce is made up of Turkish people, unless there are absolutely no

⁵⁹ Adam Taylor, "The Islamic State wants you to hate refugees," *The Washington Post*, 16 November 2015, <https://www.washingtonpost.com/news/worldviews/wp/2015/11/16/the-islamic-state-wants-you-to-hate-refugees/>.

⁶⁰ Anton Troianovski, "Populists' Advance in Germany Jolts Europe," *The Wall Street Journal*, 5 September 2015, <http://www.wsj.com/articles/merkel-stands-by-refugee-policy-after-election-loss-1473078641>.

⁶¹ Krishnadev Calamur, "European Refugee Crisis: A 'Systematic' Violation of Human Rights," *The Atlantic*, 22 October 2015, <http://www.theatlantic.com/international/archive/2015/10/czech-republic-un-human-rights-refugees/411862/>

⁶² UNHCR, *The Refugee Convention, 1951: The Travaux Préparatoires Analysed with a Commentary by Dr. Paul Weis* (1990): 107.

⁶³ Library of Congress, "Refugee Law and Policy: Egypt," *LOC.gov*, accessed 24 September 2016, <https://www.loc.gov/law/help/refugee-law/egypt.php>.

qualified Turkish nationals to fill the position.⁶⁴ Without work permits, refugees often turn to the informal economy, where wages are unfair and employers can take advantage of refugees' lack of power. The common trend among host states to prevent refugees from working in the local economy is detrimental to both refugees and host states, as the inability to become self-sufficient leads to a greater burden on the state.

In regards to providing for the welfare of refugees, host states also have difficulty meeting the standards of the 1951 Convention. Although the majority of host states have no institutional barriers to primary education,⁶⁵ there are others, be it the lack of facilities or educators to serve the rising number of refugee children, the cost of fees, or the language barriers and years already out of school.⁶⁶ According to a UNHCR report, only half of the world's elementary age refugee children were able to attend school in 2015 - less than 2 million refugee children were getting primary education.⁶⁷ As refugees are displaced for longer periods of time, children can go their whole lives without education, especially as access to secondary education is even more limited with attendance at 9.2 per cent of refugee children in 2015.⁶⁸ This is detrimental for any independent future they may have as well as the future of their home countries, should they ever return. The provision of housing faces a similar problem in relation to the overwhelming number of refugees. Host states establish camps in which to house refugees, but they often become

⁶⁴ Library of Congress, "Refugee Law and Policy: Turkey," *LOC.gov*, accessed 24 September 2016, <https://www.loc.gov/law/help/refugee-law/turkey.php>.

⁶⁵ UNHCR, *Missing Out: Refugee Education in Crisis*, September 2016, accessed 25 September 2016: 18, <http://www.refworld.org/docid/57da83714.html>.

⁶⁶ *Ibid*, 4.

⁶⁷ *Ibid*, 8.

⁶⁸ *Ibid*, 8. There are 550,000 refugee youth in secondary school out of 6 million refugee children, which is 9.2%; if considering only secondary school age children, there are 550,000 in school out of 2.5 million adolescents, which is 22%.

overcrowded and unsanitary.⁶⁹ Those who seek out homes in urban areas do not always do so legally and as a result, are at risk for discrimination, arrest or abuse, which further erodes the dignity of refugees.⁷⁰

2.3 Exacerbating Refugee Problems: Inequitable Distribution of the Burden

With the rights of the 1951 Convention left unfulfilled, refugee protection has been seriously lacking. The most significant reason for this is the extremely inequitable distribution of the financial and physical burden of handling refugee problems. The 1951 Convention was built upon international cooperation but more often than not, it is the developing state, the poor state, and the state in the unstable region that is left with the overwhelming responsibility of dealing with refugee flows. Referring to data published by the UNHCR and the World Bank for mid-2015, the top six host countries hold only 2.1% of the world's wealth yet host 46% of its refugees (Table 1).⁷¹ Contrast this with the top six wealthiest countries that control 56.6% of the world's wealth, but only host 8% of the world's refugees (Table 2).⁷² These figures do not take into account the thousands of asylum seekers who are also in those states and in need of protection. With such a drastic difference, it can be no surprise that the top host states are at overcapacity and unable to meet the standards of refugee protection that were built upon international cooperation. If the physical or financial burdens associated with refugees were more equitably

⁶⁹ Human Rights Watch, "Greece: Refugee "Hotspots Unsafe, Unsanitary," *Human Rights Watch*, 19 May 2016, <https://www.hrw.org/news/2016/05/19/greece-refugee-hotspots-unsafe-unsanitary>.

⁷⁰ UNHCR, "Urban Refugees," *unhcr.org*, accessed 19 November 2016, <http://www.unhcr.org/urban-refugees.html>.

⁷¹ World Development Indicators Database, "Gross Domestic Product 2015," *World Bank*, last updated: 11 October 2016, <http://databank.worldbank.org/data/download/GDP.pdf>.

⁷² UNHCR, *Mid-Year Trends 2015*, 18 December 2015, accessed 27 September 2016: 7, <http://www.unhcr.org/statistics/unhcrstats/56701b969/mid-year-trends-june-2015.html>.

distributed among states, there would be a greater chance of success in regards to applying permanent solutions.

Table 1: Top Six Host Countries

Country	Number of Refugees (millions)⁷³	GDP (2015) (millions USD)⁷⁴
Turkey	1.84	718,221
Pakistan	1.5	269,971
Lebanon	1.2	47,103
Iran	0.98	425,326
Ethiopia	0.7	61,537
Jordan	0.66	37,517
6.9 million refugees out of 15.1 total (46%)		
2.1% of world GDP		

Source: World Bank (2015) and UNHCR (2015)

Table 2: Top Six Wealthiest Countries

Country	Number of Refugees⁷⁵	GDP (2015) (millions USD)⁷⁶
United States	267,222	17,946,996
China	301,057	10,866,444
Japan	2,419	4,123,258
Germany	250,299	3,355,772
United Kingdom	117,234	2,848,755
France	264,972	2,421,682
1.2 million refugees out of 15.1 total (8%)		
56.6% of world GDP		

Source: World Bank (2015) and UNHCR (2015)

One state alone cannot find a solution, yet it has become the sole responsibility of host states to care for refugee populations within their borders. Developed states have become

⁷³ UNHCR, *Mid-Year Trends 2015*, 7.

⁷⁴ World Development Indicators Database, "Gross Domestic Product 2015," 1-4.

⁷⁵ UNHCR, *Mid-Year Trends 2015*, 16-19.

⁷⁶ World Development Indicators Database, "Gross Domestic Product 2015," 1.

less interested in accepting refugees and many have even taken action to ensure that they do not have to follow through on their commitment to the 1951 Convention. Numerous states have put into place policies that make entry less attractive to refugees, such as sanctions on illegal human smugglers, “pre-inspection measures... to check documents prior to embarkation,” and visas.⁷⁷ During the current refugee crisis in Europe, countries have implemented even greater barriers, including the erection of fences along borders, pushing refugees away from borders, using detention to prevent them from applying for asylum, and other measures. As countries are not legally required to care for refugees until they are within their borders and classified as such, some have used the power they have to prevent refugees from becoming their responsibility. Developing states and countries of first asylum, on the other hand, rarely have the ability to do the same, as many often do not have total control over their border areas. By forcing refugees back and making it harder for them to claim asylum in developed countries, they become the burden of countries of first asylum, both physically and financially.

Developed states, unlike countries of first asylum, are able to preserve their ability to control their intake of refugees through the official resettlement scheme run by the UNHCR. There are 33 countries that offer resettlement via UNHCR, including the United States, Canada, Australia, Norway, and the United Kingdom, which are the top five recipients.⁷⁸ Resettlement is a valuable permanent solution for refugee problems, but is rarely used – less than one percent of refugee cases are submitted for resettlement and even fewer are actually resettled each year.⁷⁹ At this rate, resettlement is not a viable

⁷⁷ Alice Edwards, “A Numbers Game: Counting Refugees and International Burden Sharing,” *The University of Tasmania Law Review* 32:1 (2013): 11.

⁷⁸ UNHCR, *Resettlement Fact Sheet 2015*, 14 April 2016, <http://www.unhcr.org/524c31a09>.

⁷⁹ UNHCR, *Resettlement Fact Sheet 2015*, 14 April 2016, <http://www.unhcr.org/524c31a09>.

option for permanently addressing refugee problems; rather, it perpetuates the inequitable distribution of the refugee burden. If resettlement were used to help a greater number of refugees, the physical burden on countries of first asylum could be relieved, thus helping to better protect refugees.

States tend to rely heavily on the UNHCR to run refugee programs in host countries, increasing their budget substantially, from US\$ 300,000 in 1950 to a high of US\$ 5.3 billion in 2013.⁸⁰ They are funded “entirely by voluntary contributions, with 86 per cent from governments and the European Union,” “six per cent from other inter-governmental organizations and pooled funding mechanisms,” “six per cent from the private sector,” a “limited subsidy (two per cent) from the UN budget for administrative costs, and accept in-kind contributions.”⁸¹ Unfortunately, the UNHCR generally does not have sufficient funding to cover costs when need outpaces the available resources. The UNHCR prepares budgets twice a year, re-evaluating programme needs and then appealing to member states for pledges. Because pledges are voluntary, it is often the case that donor states pledge higher than they may be able to afford only to fail to deliver the full amount of funding to the UNHCR.⁸² As a result, by the end of 2015, “33 UN appeals were only 42 per cent funded, and UNHCR’s voluntary contributions stood at just 40 per cent of its current budget for 2015.”⁸³ The financial support provided by UN member states, largely those developed states that can afford to give, is only a small fraction of what is required to meet the needs of refugees, much less enough to support a permanent solution. With

⁸⁰ UNHCR, “Figures at a Glance,” *UNHCR.org*, accessed 27 September 2016, <http://www.unhcr.org/figures-at-a-glance.html>.

⁸¹ UNHCR, “Figures at a Glance,” *UNHCR.org*.

⁸² UNHCR, “Global Focus: Financials,” *reporting.UNHCR.org*, accessed 27 September 2016, <http://reporting.unhcr.org/financial#tabs-financial-contributions>.

⁸³ *Ibid.*

the UNHCR consistently underfunded and ‘donor fatigue’ setting in, it is no surprise that refugee protection has fallen to the wayside when the majority of refugees are found in poor states.

Due to the inequitable division of the refugee burden, most countries of first asylum are unable or unwilling to observe the rights laid out in the 1951 Convention. As hosts are often developing countries, they are not always able to provide for their own citizens much less refugees. The immense costs of hosting refugees can mean that host states are unable to afford measures that enforce refugee protection, or they have become angry with developed states that come across as indifferent and do not take their fair share of the burden, refusing to deal with refugee protection out of spite. If there was a more equitable approach to burden sharing in regards to refugees, an agreement that shared the responsibility amongst more or all states, refugee protection could improve substantially and the number of refugees worldwide could be gradually addressed.

Chapter 3: Case Studies

In this chapter, I will look at two case studies in which the inequitable burden on countries of first asylum has significantly hindered refugee protection and the possibility of a permanent solution. The case studies are the Syrian Refugee Crisis (2011 to present) and the protracted refugee situation in Tanzania (1972 to present).

3.1 Syrian Refugee Crisis

Background

In 2011, the Arab Spring rippled across North Africa and the Middle East, including Syria, where pro-democracy protests held by civilians faced a violent crackdown by the Syrian government. Over the course of the year, the country became embroiled in civil war with rebel forces fighting against the oppressive force of the government.⁸⁴ This compounded with the expanding presence of the Islamic State and the country fell into chaos and violence amounting to significant war crimes.⁸⁵ By mid-2015, at least 250,000 Syrians had been killed, with UN special envoy for Syria Staffan de Mistura unofficially estimating a death toll of 400,000 in 2016.⁸⁶ Well into its sixth year, the conflict has displaced nearly 12 million, of which over 4.8 million are refugees.⁸⁷

Major hosts are those that share borders with Syria, including Turkey, Lebanon, Jordan, and Iraq, which have cumulatively welcomed around 96% of Syrian refugees registered

⁸⁴ BBC News Middle East, "Syria: The Story of the Conflict," *BBC.com*, 11 March 2016, <http://www.bbc.com/news/world-middle-east-26116868>.

⁸⁵ BBC News Middle East, "Syria: The Story of the Conflict," *BBC.com*, 11 March 2016.

⁸⁶ Al Jazeera, "Syria Death Toll: UN Envoy estimates 400,000 killed," *Aljazeera.com*, 23 April 2016, <http://www.aljazeera.com/news/2016/04/staffan-de-mistura-400000-killed-syria-civil-war-160423055735629.html>.

⁸⁷ UN Office for the Coordination of Humanitarian Affairs, "Syria Crisis: Regional Overview – About the Crisis," *UNOCHA.org*, accessed 1 October 2016, <http://www.unocha.org/syrian-arab-republic/syria-country-profile/about-crisis>.

with the UNHCR.⁸⁸ It should be noted that in a refugee crisis such as this, the numbers are fluid and many do not register, creating gaps in the data available through the UNHCR. Although not all who have registered have remained, as a small percentage of Syrian refugees have pushed onwards, using dangerous and deadly means to get to greater Europe and their chosen destination. They have joined flows of refugees and migrants from other countries in the Middle East and Africa, heading towards the safety and prosperity of Europe. According to the UNHCR, between April 2011 and August 2016, just over 1.1 million Syrians applied for asylum in European countries.⁸⁹

Laws and Practices

Turkey is the primary host of Syrian refugees, with over 2.7 million registered. The situation in Turkey is especially interesting, as it only recognizes people who are fleeing from conflict in Europe as refugees.⁹⁰ However, Turkey provides asylum seekers with temporary protection and some rights related to education, health care, social services, and employment until the UNHCR determines they are refugees. Asylum seekers are allowed to stay in Turkey based on the assumption that they will eventually be resettled or repatriated.⁹¹ In this case, applying these policies has been difficult, as the large numbers crossing into Turkey has made it difficult to keep up with resettlement.⁹² As such, refugees are staying in Turkey for longer periods of time.

⁸⁸ UNHCR, "Syria Regional Refugee Response: Inter-agency Information Sharing Portal – Regional Overview," *data.unhcr.org*, accessed 1 October 2016, <http://data.unhcr.org/syrianrefugees/regional.php>.

⁸⁹ UNHCR, "Syria Regional Refugee Response: Inter-agency Information Sharing Portal – Europe: Syrian Asylum Applications," *data.unhcr.org*, accessed 1 October 2016, <http://data.unhcr.org/syrianrefugees/asylum.php>.

⁹⁰ Library of Congress, "Refugee Law and Policy: Turkey," *LOC.gov*.

⁹¹ Ahmet İçduygu, "Syrian Refugees in Turkey: The Long Road Ahead," *Migration Policy Institute* (April 2015): 5.

⁹² *Ibid.*

In the beginning, Turkey opened its borders and committed to provide basic humanitarian needs including food, shelter, and education.⁹³ They erected camps along the border to accommodate the mass influx, but these were soon overwhelmed and refugees populated urban centres, many living in worse conditions. In 2013, the Turkish government adopted the Law on Foreigners and International Protection (LFIP) to create a better framework for dealing with legal and irregular migration as well as humanitarian.⁹⁴ The LFIP outlined the policies of the state in regards to international protection and added a group called subsidiary temporary protection, in which Syrians are placed.⁹⁵ In late 2014, Turkey published the Temporary Protection Regulation (TPR), a document that expanded on Article 91 of the LFIP, which addressed temporary protection in the case of mass influx.⁹⁶ The TPR formalized what had already been done for the mass influx of Syrian refugees in regards to basic humanitarian needs.

The reaction in Europe has been significantly different, as a large wave of Syrians joined the existing flows of refugees and migrants. Needless to say, Europe was not prepared for an influx of hundreds of thousands of refugees and migrants. Generally, the burden of processing asylum claims had been placed largely on countries of entry, notably Greece and Italy. The initial reaction across all of Europe was mixed, but soon a backlash driven by fear, racism and populism developed. Germany was one of the preferred destinations and in September 2015, Chancellor Angela Merkel announced that they would not put a

⁹³ UNHCR Turkey, *Information Notice Regarding Syrian Nationals Seeking International Protection*, 23 November 2011.

⁹⁴ Rebecca Kilberg, "Turkey's Evolving Migration Identity," *Migration Policy Institute*, 24 July 2014, <http://www.migrationpolicy.org/article/turkeys-evolving-migration-identity>.

⁹⁵ *Ibid.*

⁹⁶ Republic of Turkey Ministry of Interior Directorate General of Migration Management, 'Article 91,' *Law on Foreigners and International Protection*, English Translation (2014), <http://mhd.org.tr/assets/law-on-foreigners-and-international-protection.pdf>.

limit on asylum claims, declaring a de facto open door policy.⁹⁷ Merkel attempted to push Europe towards a better way of dealing with the burden, but the backlash within individual states has so far prevented much progress. For example, backlash in Germany has grown significantly since then and populist parties have gained considerable popularity, threatening the power of Merkel's political party in elections.⁹⁸ The rise of populism has been reflected in numerous other European states as hostility towards refugees and migrants increased. Fear of uncontrolled flows of migrants and refugees led the countries along the Balkan migrant route to close their borders in the spring of 2016, many building fences and organizing patrols.⁹⁹ Tens of thousands of refugees and migrants were trapped between borders and sleeping in the streets, with many living in terrible conditions in overflowing camps in Greece.

Inequitable Burden Sharing

In this case, the numbers alone show how the burden has been inequitably placed on countries of first asylum. Despite intentions to meet the humanitarian needs of refugees in Turkey, the sheer number of refugees and the significant lack of funding provided to the UNHCR has meant that refugee protection is inadequate. The government spent \$7.6 billion supporting the now 2.7 million refugees from the beginning of the crisis up until September 2015; assuming they spend at least \$1 billion per year, costs would have

⁹⁷ Frank Jordans, "No legal limit to number of asylum seekers Germany can receive: Merkel," *CTV News*, 5 September 2015, <http://www.ctvnews.ca/world/no-legal-limit-to-number-of-asylum-seekers-germany-can-receive-merkel-1.2549664>.

⁹⁸ Philip Oltermann, "Angela Merkel's party beaten by rightwing populists in German elections," *The Guardian*, 6 September 2016, <https://www.theguardian.com/world/2016/sep/04/mecklenburg-vorpommern-german-anti-immigrant-party-strong-regional-election-exit-polls-merkel>.

⁹⁹ Stelios Bouras, "Balkan Countries Completely Seal Off Migrant Trail as Part of EU Plan," *Wall Street Journal*, 9 March 2016, <http://www.wsj.com/articles/macedonia-completely-closes-border-with-greece-to-migrants-1457521754>

neared \$9 billion in mid-2016.¹⁰⁰ On the other hand, the international community, through the UNHCR and other organizations, has provided only a small fraction of the funding for refugees in Turkey. In 2015, the UNHCR projected a budget of nearly \$340 million to support its programmes in Turkey, yet only \$103 million was made available by member states.¹⁰¹ This imbalance in funding for Syrian refugees is not isolated to Turkey – it appears in each host state, to varying degrees.

Turkey has faced serious challenges in regards to meeting the basic needs of Syrian refugees – camps are over capacity with only a small percentage of refugees living there, leaving the vast majority to provide for their own accommodation, often in makeshift structures or overcrowded unsanitary apartments.¹⁰² The provision of social assistance has been poorly implemented, as it is left to the “discretion [of] relevant authorities” and many “government agencies at the provincial level do not have the resources to meet the subsistence needs” of Syrian refugees.¹⁰³ Furthermore, Syrian refugees are not permitted to fully integrate into Turkish society, preventing them from achieving any sense of self-reliance.¹⁰⁴ The right to work is severely limited - “between 2012 and February 2016, [only] 7,500 Syrian refugees (out of a population that had reached over 2.7 million by 2016) had received work permits.”¹⁰⁵ Consequently, most Syrian refugees have had to find work in the “informal economy, where they are at risk of unfair or exploitative

¹⁰⁰ Reuters World News, “Turkey spent \$7.6 billion hosting 2.2 million Syrian refugees,” *Reuters*, 18 September 2015, <http://www.reuters.com/article/us-mideast-migrants-turkey-idUSKCNORION720150918>.

¹⁰¹ UNHCR, “Global Focus: Turkey,” *reporting.UNHCR.org*, accessed 2 October 2016, <http://reporting.unhcr.org/node/2544?y=2015#year>.

¹⁰² Amnesty International, *No Safe Refuge: Asylum-Seekers and Refugees denied effective protection in Turkey*, EUR 44/3825/2016, (June 3 2016): 24-25.

¹⁰³ *Ibid*, 26.

¹⁰⁴ *Ibid*, 23.

¹⁰⁵ *Ibid*, 30.

working conditions.”¹⁰⁶ Without equitable burden sharing, refugees in Turkey have been deprived of adequate refugee protection.

Despite their relative wealth, the countries of Europe have also failed in regards to refugee protection. In 2015, the European Commission proposed a refugee relocation system in order to alleviate the burden on Greece and Italy by relocating 160,000 refugees across EU member states within 2 years.¹⁰⁷ However, less than 6,000 people had been relocated a year later due, in part, to a lack of cooperation from some EU states and reluctance from others.¹⁰⁸ With the number of people in Greece and Italy steadily growing following border closures, refugee rights have increasingly been left unprotected. In Greece, nearly 60,000 refugees are trapped and living in camps reported as unsanitary and refugees are often made to sleep on the floor. The camps are also unsafe, especially for vulnerable groups, and fights break out often.¹⁰⁹ The 2016 EU-Turkey Readmission Agreement also left refugees vulnerable to refoulement as the EU agreed to resettle Syrians in return for Turkey accepting refugees from Greece who have not applied for asylum or have been rejected.¹¹⁰ By choosing not to accept their fair share of the burden, European countries have failed in protecting refugee rights.

Had there been an established burden sharing agreement before the start of the Syrian refugee crisis, it is possible that it could have been addressed long before it became protracted. From the beginning, resettlement plans could have been in place to distribute

¹⁰⁶ *Ibid*, 30.

¹⁰⁷ European Commission Migration and Home Affairs, “Relocation and Resettlement – State of Play Factsheet,” *European Union*, 28 September 2016, http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/20160928/factsheet_relocation_and_resettlement_-_state_of_play_en.pdf.

¹⁰⁸ *Ibid*.

¹⁰⁹ Amnesty International, *Our Hope is Broken: European paralysis leaves thousands of refugees stranded in Greece*, EUR 25/4843/2016 (September 22 2016): 4-5.

¹¹⁰ BBC News, “Migrant Crisis: EU-Turkey deal comes into effect,” *BBC.com*, 20 March 2016, <http://www.bbc.com/news/world-europe-35854413>.

refugees within the international community and adequate funding could have been made available to ensure that refugees were receiving proper protection and provision of rights in countries of first asylum. This could have prevented the stream of Syrian refugees into Europe, as there would have been improved temporary protection and better chances at resettlement. The guidelines of a burden sharing agreement could have ensured better response time to the outflow of Syrians, especially as the Turkish government recognized it as a mass influx early into the crisis. In cases where the conflict responsible for generating refugees is complicated and difficult to resolve, a burden sharing agreement could be essential to preventing a refugee crisis in countries of first asylum.

3.2 Refugees in Tanzania

Background

Due to its proximity to conflict-ridden countries such as Rwanda, Burundi and the Democratic Republic of the Congo (DRC), Tanzania has been a host to refugees for decades. From 1960 to 1993, “Tanzania hosted about 400,000 refugees spread over 20 settlements throughout the country.”¹¹¹ The refugee population was formed primarily of Rwandans and Burundians, who fled countries rife with ethnic conflict between Hutus and Tutsis. Some 120,000 fled Rwanda during the Revolution of 1959-1961, escaping into neighbouring countries like Zaire (now the DRC) and Tanzania, followed by nearly half a million more over the next two decades.¹¹² In 1972, over 200,000 Burundians fled

¹¹¹ Sreeram Sundar Chaulia, “The Politics of Refugee Hosting in Tanzania: From Open Door to Unsustainability, Insecurity and Receding Receptivity,” *Journal of Refugee Studies* 16:2 (June 2003): 148.

¹¹² UN Outreach Programme on the Rwanda Genocide and the United Nations, “Rwanda: A Brief History of the Country,” *UN.org*, accessed 4 October 2016, <http://www.un.org/en/preventgenocide/rwanda/education/rwandagenocide.shtml>.

into Tanzania to escape ethnic persecution by the government; this population eventually became one of longest protracted refugee situations in Africa.¹¹³

With the year 1993 came a mass influx of refugees from Burundi, Rwanda and the DRC, as approximately 1.5 million refugees streamed into Tanzania over the following 7 years.¹¹⁴ The start of the Burundian Civil War in 1993 caused approximately 700,000 Burundians to flee into neighbouring countries, the majority to Tanzania. These were followed by nearly 250,000 Rwandans who fled to Tanzania in early 1994 during the Rwandan Genocide.¹¹⁵ The First and Second Congo Wars, which lasted from 1996 to 2005, resulted in slightly fewer than 65,000 Congolese crossing into Tanzania to find refuge.¹¹⁶ This would not be the last mass influx of refugees; between April 2015 and September 2016, serious political unrest and human rights abuses have forced over 165,000 Burundians to flee into Tanzania.¹¹⁷ The number of refugees in Tanzania fluctuated over the past several decades as many returned home, but for some, particularly Burundians, the situation became protracted.

Laws and Practices

Tanzania's policies have changed significantly over the past half-century, reflecting not only the change in leadership but also the shifting international scene. Under President Julius Nyerere, Tanzania enjoyed over two decades of an open door policy for refugees inspired by the principles of humanism – placing special emphasis on the dignity of

¹¹³ Jessie Thomson, "Durable Solutions for Burundian Refugees in Tanzania," *Forced Migration Review* 33 (September 2009): 35.

¹¹⁴ Chaulia, "The Politics of Refugee Hosting in Tanzania: From Open Door to Unsustainability, Insecurity and Receding Receptivity," 148.

¹¹⁵ UNHCR, "Great Lakes Chronology," *Refugees Magazine* 110, 1 December 1997, <http://www.unhcr.org/publications/refugeemag/3b69278116/refugees-magazine-issue-110-crisis-great-lakes-great-lakes-chronology.html>.

¹¹⁶ UNHCR, *Congolese Refugees: A Protracted Situation* (2014), <http://www.unhcr.org/558c0e039.pdf>

¹¹⁷ European Commission Humanitarian Aid and Civil Protection, "Burundi Refugee Crisis," *European Commission*, May 2016: 2, http://ec.europa.eu/echo/files/aid/countries/factsheets/burundi_en.pdf.

refugees – and pan-Africanism – believing that “concern for fellow Africans [should know] no geographical limits.”¹¹⁸ More practically, Nyerere recognized that in joining the labour force, refugees could help with the development of the economy.¹¹⁹ Under this policy, the rights of the 1951 Convention were fulfilled as Burundian refugees who arrived in 1972 were granted land to farm, allowing them to become self-sufficient and integrated in the local economy.¹²⁰ Rwandan refugees from this time were also granted land and by 1985, 34,000 Rwandans became naturalized citizens.¹²¹ Although Tanzania’s policies changed following Nyerere’s departure, the 1972 Burundian refugees were also given a chance at citizenship. In 2007, the Tanzania Comprehensive Solutions Strategy (TANCOSS) was adopted and the 1972 Burundian refugees were given the option to voluntarily repatriate or naturalize in Tanzania.¹²² Some chose to voluntarily repatriate but over 75 per cent chose to naturalize, with the UNHCR reporting that by the end of 2015, nearly 153,000 Burundian refugees had been officially granted citizenship, with the rest soon to follow.¹²³

With the debt crisis and the liberalization of the economy in the 1980s, Tanzania was forced to re-evaluate its refugee policy. Reduced spending schemes imposed by the IMF and World Bank meant that the state could no longer enable refugees to become self-

¹¹⁸ Chaulia, “The Politics of Refugee Hosting in Tanzania: From Open Door to Unsustainability, Insecurity and Receding Receptivity,” 154-155.

¹¹⁹ *Ibid*, 156.

¹²⁰ Jessie Thomson, “Durable Solutions for Burundian Refugees in Tanzania,” 35.

¹²¹ Barbara Borst, “Longtime Refugees Grateful for Citizenship,” *Huffington Post*, 24 October 2015, http://www.huffingtonpost.com/barbara-borst/longtime-refugees-gratefu_b_8298438.html

¹²² Amelia Kuch, “Naturalisation of Burundian Refugees in Tanzania,” *Forced Migration Review* 52 (May 2016): 63.

¹²³ UNHCR, “Global Focus: Newly Naturalized Tanzanians and 1972 Burundian Refugees,” *reporting.UNHCR.org*, accessed 4 October 2016, <http://reporting.unhcr.org/node/3416>.

sufficient and integrated into the local economy.¹²⁴ At this point, Tanzania's policy reverted to confining refugees to "geographically isolated and socially segregated makeshift camps" that served only the basic needs of refugees and were supported by international aid.¹²⁵ This shift in policy was reflected in the response to refugees of the conflicts of the 1990s. With such a mass influx of refugees, providing temporary protection in camps was likely the most practical at the time. Beginning in the early 1990s, Tanzania's refugee policy became increasingly hostile, as Rwandan refugees were given an ultimatum to repatriate in 1996, and 1993 Burundian refugees were forced to return between 1997 and 2001.¹²⁶ The beginning of the 21st century saw greater securitization globally and Tanzania was no exception. The perception of refugees as "threats to national security" has coloured Tanzania's policies.¹²⁷ There have been greater restrictions placed on refugees and they have placed a greater emphasis on repatriating refugees quickly.¹²⁸

Inequitable Burden Sharing

Tanzania has witnessed a decline in the quality of refugee protection following several government actions including the restrictions placed on refugees. The most serious offence has been the violation of the prohibition on refoulement. For example, Tanzania and the UNHCR forced hundreds of thousands of Rwandans to return to Rwanda

¹²⁴ Chaulia, "The Politics of Refugee Hosting in Tanzania: From Open Door to Unsustainability, Insecurity and Receding Receptivity," 160.

¹²⁵ Ibid, 161.

¹²⁶ Ibid, 161.

¹²⁷ Ibid, 162.

¹²⁸ Gil Loescher and James Milner, "The Long Road Home: Protracted Refugee Situations in Africa," *Survival* 47:2 (2005): 158.

involuntarily in 1996, despite fears of persecution.¹²⁹ Furthermore, Tanzania has turned away from the durable solution of local integration through the restrictions placed on refugees in camps. Refugees in Tanzania have become fully dependent on international funding as they are prohibited from working in surrounding villages, restricting their ability to become self-reliant, and barred from travelling more than 4 kilometres from their camps, restricting their freedom of movement.¹³⁰ Quality of life in the camps has suffered greatly, especially with the influx of refugees from Burundi starting in 2015. According to Médecins Sans Frontières (MSF), by July 2015 the camps, originally home only to nearly 65,000 Congolese refugees, were operating beyond capacity, causing a shortage of accommodation, clean water and sanitary facilities.¹³¹

The changes in Tanzania's policies can be attributed to the changing role of the international community, as well as the lack of burden sharing. The increasing pressure in the 1980s from the West to liberalize and cut spending on government programs resulted in a significant drop in refugee protection. Tanzania went from utilizing one durable solution to none at all, cutting costs of refugee protection to please the West but suffering, as the international community did not make up for the burden through assistance. While there is no official reporting of expenditure on refugees in Tanzania, it is unlikely that the amount is sufficient to meet the needs of refugees. Donor fatigue has been a significant problem over the course of the years, as developed countries lost

¹²⁹ Beth Elise Whitaker, "Changing priorities in refugee protection: the Rwandan repatriation from Tanzania," *New Issues in Refugee Research*, Working Paper No. 53 (February 2002): 2.

¹³⁰ *Ibid*, 159.

¹³¹ Rachel Marsden, "Tanzania: Services in Nyarugusu refugee camp 'stretched beyond their limits'," *Médecins Sans Frontières*, 8 July 2015, <http://www.msf.org/en/article/tanzania-services-nyarugusu-refugee-camp-%E2%80%98stretched-beyond-their-limits%E2%80%99>.

interest in protracted refugee situations, resulting in a decrease in available funds.¹³² Consequently, the UNHCR operations in Tanzania are consistently underfunded, as is in line with the overall trend. In 2015, only 40% of the UNHCR's budget in Tanzania was funded and with the number of refugees tripling due to the addition of Burundians, the shortage was felt even more severely than before.¹³³ While the UNHCR works in partnership with a few dozen governments and non-governmental organizations to provide for the basic needs of the refugees in Tanzania, in times of sudden crises, they are unable to meet the demands without greater burden sharing from the international community, be it physical or financial.

If an established burden sharing agreement had been implemented at any point over the past several decades, many refugees could have been provided with better refugee protection. Tanzania started out strong before 1985, utilizing the durable solution of local integration and eventually naturalization. However, without assistance and in an undeveloped economy, it was unsustainable. A burden sharing agreement back in the 1990s could have helped Tanzania tremendously in the face of hundreds of thousands of refugees. With greater financial burden sharing, Tanzania could have been less desperate to repatriate them quickly and commit mass refoulement of refugees. With increased resettlement, the burden on Tanzania could have been alleviated. With the renewed exodus of refugees from Burundi in 2015, a burden sharing agreement could have been used to quickly address the crisis through the durable solutions and improved temporary protection. Tanzania's policies may not have become so restricted and the securitization of refugees could have been limited had there been greater international cooperation.

¹³² Loescher and Milner, "The Long Road Home: Protracted Refugee Situations in Africa," 159.

¹³³ UNHCR, "Global Focus: United Republic of Tanzania," *reporting.UNHCR.org*, accessed 5 October 2016, <http://reporting.unhcr.org/node/2517?y=2015#year>.

In both the Syrian refugee crisis and the refugee situation in Tanzania, there has been significant movement of refugees across borders that has placed a heavy burden on host countries. These hosts, generally poor and developing, have been largely expected to deal with refugee crises on their own. Consequently, both case studies have seen refugee crises become protracted and host countries overwhelmed, leading to the decrease in the quality of refugee protection, with refugees confined to unsanitary, overcrowded camps or deprived of their independence and dignity. With a burden sharing strategy, much of the strain and the negative effects on refugees could have been avoided or addressed with haste upon recognition of a crisis. These cases are just two of many examples of situations where a burden sharing agreement could have been used to ensure greater involvement of the international community. This would have created a more equitable refugee regime, thus improving refugee protection and leading to the success of durable solutions. Without the adoption of a burden sharing agreement that makes efficient use of the 1951 Convention and the durable solutions, refugee crises will continue to escalate. The developed world cannot avoid its share of the burden forever, as evidenced by the flow of refugees into Europe from the Middle East and North Africa; these case studies show that burden sharing is necessary to address refugee problems before they become impossible to control.

Chapter 4: Policy Options

Addressing the inequitable nature of the international refugee regime and the low quality of refugee protection requires a change in the way the international community faces refugee crises. With respect to the intentions of the creators of the 1951 Convention, there must be greater international cooperation otherwise the problem will never be resolved. The introduction of an official burden sharing agreement that works in tandem with the 1951 Convention could provide the framework necessary for states to successfully use durable solutions in the face of refugee problems. Actively addressing problems could allow for better observance of refugee rights and would avoid individuated responsibility. In this section, I will present two policy options for burden sharing among UN member states, assessing the potential for each as a pragmatic, realistic solution. The options are first, a global, pre-established scheme, and second, a regional ad-hoc approach. To finish, I will provide a recommendation for the option that I believe would be the best for refugee protection, while also realistic about the capabilities of states.

4.1 Global and Pre-Established Scheme

The first option, proposed by James C. Hathaway and R. Alexander Neve in “Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution-Oriented Protection” (1997), is a collective and global sharing strategy that relies on pre-established contributions. In recognition of the inequitable distribution of the refugee burden among states, the authors suggest a “shift to a solution-oriented temporary protection of refugees, conceived within a framework of common but differentiated

responsibility among states.”¹³⁴ This approach is designed to promote a standardized system of sharing within groups of states called “interest convergence groups.”¹³⁵ There are four membership levels associated with these groups: the ‘**inner core**,’ the ‘**outer core**,’ ‘**situation specific involvement**,’ and ‘**non-state organizations**.’

The ‘**inner core**’ are states “with the strongest reasons to cooperate by reason of their shared vulnerability to refugee flow.”¹³⁶ They are often responsible for temporary protection, as their proximity increases the possibility of repatriation. These states face the real risk of one day dealing with refugees. The ‘**outer core**’ are states whose involvement includes financial support and “more managed forms of responsibility sharing,” like resettlement in cases of special need (i.e. unaccompanied minors, women and minorities facing serious oppression and violence, those traumatized by torture¹³⁷) or if repatriation is no longer viable.¹³⁸ The motivation behind their participation lies with the increasing concern that policies used to deter asylum seekers will not be effective long term.¹³⁹ This has become especially clear as deterrence measures across Europe have become powerless as a disincentive for refugees and migrants.

States that prefer ‘**situation specific involvement**’ provide assistance in certain cases, such as those where they feel a connection to the refugee population, perhaps based on ethnicity or religion; those where the state feels responsible for the exodus; or those where “public opinion demands a response.”¹⁴⁰ These states would contribute in the same

¹³⁴ James C. Hathaway and R. A. Neve, "Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution-Oriented Protection," *Harvard Human Rights Journal* 10 (1997): 118.

¹³⁵ *Ibid*, 143.

¹³⁶ *Ibid*, 190.

¹³⁷ *Ibid*, 181.

¹³⁸ *Ibid*, 192.

¹³⁹ Hathaway, "Making International Refugee Law Relevant Again," 192.

¹⁴⁰ *Ibid*, 195.

way as the ‘outer core.’ The involvement of ‘**non-state organizations**,’ such as the UNHCR and other inter- or non-governmental organizations, is critical as they have experience working on the ground and are better able to assess the needs of refugees. Cooperating with a burden-sharing scheme could give these organizations better access to refugees and to financial support.¹⁴¹ These levels enable states to choose the commitment they wish to make in an effort to maximize participation and resources.¹⁴²

Ideally, this system would be universal and the costs associated with refugee protection would be covered by a larger number of states, reducing the costs faced by each one.¹⁴³

As I have pointed out above, there are numerous ways for states to participate. States can provide the temporary protection, receive refugees eligible for resettlement, provide financial assistance, or a combination of these things.¹⁴⁴ To ensure these roles are filled quickly when called upon, this burden-sharing scheme is based on a pre-established framework for the division of responsibilities and burdens.¹⁴⁵ With respect to the principle of common but differentiated responsibility, contributions can be determined in a variety of ways, all the while taking into account the strengths and capacities of each state.¹⁴⁶ For example, factors determining allocation could include per capita GDP, percentage of arable land, and prior contributions, among others.¹⁴⁷ If successfully pre-determined and respected, the system of distribution could be an effective way to ensure

¹⁴¹ Ibid, 198.

¹⁴² Ibid, 190.

¹⁴³ Ibid, 187.

¹⁴⁴ Ibid, 145.

¹⁴⁵ Ibid, 201.

¹⁴⁶ Hathaway, "Making International Refugee Law Relevant Again," 208.

¹⁴⁷ James C. Hathaway, "A Global Solution to a Global Refugee Crisis," *European Papers* 1:1 (2016): 97, http://europeanpapers.eu/en/system/files/pdf_version/EP_ej_2016_1_8_Agenda_James_C_Hathaway.pdf

preparedness in the face of a refugee crisis, especially if, as suggested by the authors, ‘outer core’ states ensure a designated fund is consistently ready to go.¹⁴⁸

Hand in hand with the greater burden sharing on a universal level is the move towards an international system of administration for refugee protection.¹⁴⁹ Currently, most states have their own domestic systems of status determination and refugee processing. Hathaway suggests that the refugee regime would be better served by an international system run by the UNHCR, in which the organization would be responsible for allocating refugees and funds to participating states, as well as assessing refugee status.¹⁵⁰ This system would end the necessity for costly domestic processing and the money could instead be dedicated to funding the universal burden sharing system; a more equitable distribution of the costs could then lead to savings overall.¹⁵¹

In order for this burden sharing scheme to function, Hathaway also suggests that although refugees have the right to seek asylum and non-refoulement, they are not guaranteed the right to choose where they are granted “protection for the duration of risk.”¹⁵² Some refugees escape their countries with specific destinations in mind to build new futures, but the migrant crisis in Europe has shown that the flow of refugees across numerous states can lead to significant problems and eventually, retaliation in the form of closed borders and other methods. With this burden sharing solution, states outside of the region of origin can choose to transfer refugees to alternative safe third countries for processing

¹⁴⁸ Hathaway, "Making International Refugee Law Relevant Again," 209.

¹⁴⁹ Hathaway, "A Global Solution to a Global Refugee Crisis," 98.

¹⁵⁰ *Ibid*, 98.

¹⁵¹ *Ibid*, 98.

¹⁵² *Ibid*, 99.

by the UNHCR, which would then, in its revitalized role, allocate refugees to member states chosen for temporary protection.¹⁵³

This burden-sharing option is solution-oriented, focusing primarily on successful repatriation with resettlement and local integration as alternative solutions in case of special needs or after a period of five years, a duration suggested as a reasonable time limit for temporary protection, as it is “long enough to facilitate solutions, yet short enough to be... humane.”¹⁵⁴ In order to “anticipate and facilitate viable repatriation,” there must be respect for social structures and refugee communities’ collective identity; development of skills and resources through education and employment; the promotion of ties with communities in the country of origin to ease reintegration; and lastly, confidence building through “reliable and meaningful information about the conditions in the country of origin.”¹⁵⁵ Only through temporary protection that encourages the continuing development of refugee communities can repatriation actually be a realistic and durable solution.

If the proposed burden-sharing strategy were used efficiently and effectively, it could be beneficial for refugee protection and would address the inequitable distribution of the burden. First, the explicit focus on the use of durable solutions and the encouragement of refugee self-sufficiency is key for the improvement of refugee protection and the overall success of burden-sharing. Burden-sharing can only bring about an end to refugee problems if it can successfully foster solutions – otherwise, refugee problems would continue to stall. Second, increased support from ‘outer core’ states would reassure ‘inner core’ states that they can accept refugees without the risk of individuated

¹⁵³ Hathaway, "Making International Refugee Law Relevant Again," 145-146.

¹⁵⁴ *Ibid*, 182.

¹⁵⁵ *Ibid*, 172-173, 176, and 179.

responsibility, thereby promoting greater access to asylum.¹⁵⁶ Those who flee to ‘outer core’ states would also have improved access to asylum, as these states would have the option to send asylum seekers to a safe third country for processing, rather than face hostile immigration policies. Third, this would further benefit ‘outer core’ states, as the knowledge of being sent to a safe third country would deter fraudulent claims.¹⁵⁷ In turn, there would be less need for extensive deterrence policies, freeing up funds that could be re-directed towards supporting refugee protection.¹⁵⁸

Fourth, increased involvement of the UNHCR can alleviate the pressure on individual states and the uniformity that would come with centralization would also improve refugee status determination and protection. Fifth, resettlement would also better serve the needs of refugees due to commitments to resettle in certain cases, eliminating “relative wealth and mobility” as deciding factors.¹⁵⁹ Lastly, the international refugee regime has suffered from a lack of effective oversight mechanisms. However, collectivized responsibility encourages governments to keep each other accountable through the “built-in incentive to take an interest in the ways refugees are treated in other states.”¹⁶⁰ For ‘inner core’ states to receive funding from the ‘outer core,’ there must be tangible evidence of respect for refugee protection, because in order for ‘outer core’ states to end their hostile policies towards asylum seekers, there must be a safe third country for them to go. As ‘outer core’ states try to avoid violating the principle of non-refoulement, they then have a vested

¹⁵⁶ Hathaway, "Making International Refugee Law Relevant Again," 148.

¹⁵⁷ Hathaway, "Making International Refugee Law Relevant Again," 148.

¹⁵⁸ *Ibid*, 148.

¹⁵⁹ *Ibid*, 148-149.

¹⁶⁰ *Ibid*, 149.

interest in enforcing refugee rights.¹⁶¹ If every state takes responsibility for its share of the burden, everyone has the chance to benefit from collectivized responsibility.

There may also be some challenges associated with this burden sharing scheme, especially as the effective implementation and use of a collective burden sharing system is a high expectation for sovereign UN member states. It is difficult to expect developed states to relinquish some control and to fully cooperate with others; a collective strategy would have to come forward at the right moment in order to garner support. This is especially true as state governments and politics generally operate on a short-term basis, and are often reactionary in regards to policies. As a result, governments are less likely to consider long-term issues, especially if they have not encountered them yet. For Europe, the risk of facing a refugee crisis from the outside was minimal until the Syrian refugee crisis, which left them with ineffective legislation that limited their ability to successfully deal with it. Realistically, it is unlikely a collective strategy would have succeeded in the past because developed states rarely face the risk of dealing with a refugee crisis. However, with the move to explore burden-sharing agreements in the UN in reaction to the Syrian refugee crisis, this system could now be a possible model for UN member states, except for the fact that this crisis has also caused deep divisions between states.

For developing states that already host the vast majority of refugees, supporting a collective system would allow them to benefit from the funding that this system would require of the 'outer core,' as well as the set plan for the provisions and duration of temporary protection. Developed states could be motivated to participate because the strategy prioritizes temporary protection in the region of origin and would enable states to redirect refugees without violating non-refoulement. Furthermore, it would address a

¹⁶¹ *Ibid*, 149.

concern held by many citizens of developed countries, which is that the social fabric of their states would be negatively affected by the arrival of people with different cultures. This fear has led to the rise of populism in many countries. A collective system could address these concerns as refugees would be processed elsewhere, gradually deterring irregular flows of refugees that overwhelm society. Developed states could then continue to manage immigration of refugees through resettlement. Countries in the region have less control over irregular migration, but when there are many possible host states, factors like “physical security,” “functional compatibility,” “cultural harmony” and “geographical proximity” can be considered by the UNHCR when relocating refugees for temporary protection after processing.¹⁶² This would hopefully ensure the stability of internal politics and improve treatment of refugees.

However, the plan to move refugees from country to country for processing and temporary protection can be controversial. Despite the absence of the explicit right to temporary protection in the country of asylum, it remains unclear as to whether or not refugees have the right to stay where asylum is claimed. Many refugees are committed to reaching their desired destinations, so what is to prevent them from simply leaving their assigned location of temporary protection and continuing their journey? Unfortunately, it has been shown that states are willing to violate human rights in order to stop the movement of refugees. Additionally, is it realistic to believe states would be willing to take on quotas of refugees assigned by the UNHCR? The situation in Europe has shown that many states are unwilling to cooperate with the redistribution plan developed by the EU, signalling that a universal system may also face roadblocks from uncooperative

¹⁶² Hathaway, "Making International Refugee Law Relevant Again," 204.

states.¹⁶³ The scheme has also been criticized as a “state-centric model that moves refugees around as best suits states.”¹⁶⁴ Although the creation of a more centralized and streamlined approach could be beneficial for the quality of refugee protection, it may also allow states to continue shirking their responsibilities.

This burden-sharing strategy is built on ensuring that ‘temporary protection’ remains temporary for the sake of quality of life for refugees, recognizing that regardless of the length of the crisis, at some point refugees must be able to have a sense of permanency. Although repatriation is the goal, resettlement remains a fall back option in the case that returning to the country of origin within the reasonable timeframe of approximately five years is not possible. However, more often than not, conflicts and the causes of refugee crises last much longer than five years.¹⁶⁵ This could make securing a commitment from potential resettlement states difficult, as they would be fully aware that with the long duration of conflict, temporary protection would not truly be temporary. The longer a refugee has to establish roots and build a life, the less willing they will be to return when the situation finally does become safe.¹⁶⁶ This presents a serious challenge for this burden-sharing option and suggests that a serious focus on addressing the root causes of refugee crises would also need to be adopted, which is complicated in its own right.

Another barrier to the success of this approach is that it relies on states not only to organize and agree on a pre-established framework, but also to follow through on

¹⁶³ Bill Frelick, “Political Realities Challenge Refugee Reform,” *opendemocracy.net*, 9 March 2016, <https://www.opendemocracy.net/openglobalrights/bill-frelick/political-realities-challenge-refugee-reform>

¹⁶⁴ Geoff Gilbert, 16 September 2015 (11:38), comment on James Hathaway, “Moving Beyond the Asylum Muddle,” *European Journal of International Law* (blog), 14 September 2015, <http://www.ejiltalk.org/moving-beyond-the-asylum-muddle>

¹⁶⁵ Bill Frelick, “Political Realities Challenge Refugee Reform,” *opendemocracy.net*, 9 March 2016.

¹⁶⁶ Bill Frelick, “Political Realities Challenge Refugee Reform,” *opendemocracy.net*, 9 March 2016.

commitments. The UN operates largely on a system of accountability through peer pressure, sanctions and other soft enforcement mechanisms, a strategy that does not always bring success in the way hard enforcement measures would. If a state wants to violate an agreement or deviate from the norm, the UN can only hope that the isolation caused by peer pressure and sanctions convinces the offending state to revert back to the norm. If states were to seriously commit to collective burden sharing and follow through on commitment, it could be the strategy needed to address refugee problems. However, there is always the risk that one or some states would choose to end their commitment and cause a domino effect within the entire burden-sharing system.

4.2 Regional and Ad-hoc Approach

The second option looks towards a regional and ad-hoc strategy for burden sharing. This approach is a reactionary measure, in which states come together to create a solution to a refugee crisis after it has begun, customizing the role of each participant according to the needs of the specific crisis. In order to provide a clear picture of the parameters and outcomes associated with this type of strategy, I will present the Comprehensive Plan of Action (CPA) for Indochinese refugees as an example. This agreement was created in 1989 to specifically address the flow of refugees from the former French colonies of present-day Vietnam, Laos, and Cambodia.

I will first provide some background on the Indochinese refugee crisis that took place for nearly 30 years after the 1975 fall of Saigon. Initially, China took on the responsibility of resettling many of the refugees that fled to South East (SE) Asia, as many of them were

ethnic Chinese targeted by Vietnam's new communist policies.¹⁶⁷ After four years had passed, the countries of SE Asia began to turn away asylum seekers, triggering an international response.¹⁶⁸ The precursor to the CPA was the 1979 Geneva Conference, during which 65 governments came together to provide increased funding for the UNHCR and to more than double resettlement pledges from 125,000 to 260,000.¹⁶⁹ This system functioned well for nearly ten years and led to the resettlement of more than 450,000 Indochinese refugees in third countries. However, when faced with increased arrivals in 1987-88, third countries no longer wished to promote "open-ended resettlement" and asylum seekers became subject to greater scepticism.¹⁷⁰

To address this, the 1989 Geneva Conference brought together 70 governments in order to re-evaluate the situation and create the CPA, a new regional agreement that would better suit the needs of those involved.¹⁷¹ The CPA built on the 1979 agreement to develop a system that would use durable solutions to meet specified objectives, which included the reduction in "clandestine departures" and the promotion of the Orderly Departure Programme, a program that enabled refugees to leave safely and legally; the provision of asylum until the determination of refugee status, done according to international law; the resettlement of asylum seekers granted refugee status in addition to those Vietnamese deemed prima facie refugees before the 1988 or 1989 cut off dates; and the repatriation and reintegration of asylum seekers denied refugee status.¹⁷² Although the

¹⁶⁷ UNHCR, "Chapter 4: Flight from Indochina," *The State of the World's Refugees*, New York: Oxford University Press (2006): 82.

¹⁶⁸ *Ibid*, 83.

¹⁶⁹ W. Courtland Robinson, "The Comprehensive Plan of Action for Indochinese Refugees, 1989-1997: Sharing the Burden and Passing the Buck," *Journal of Refugee Studies* 17:3 (2004): 319.

¹⁷⁰ *Ibid*, 320.

¹⁷¹ *Ibid*, 320.

¹⁷² *Ibid*, 320.

vast majority of first asylum countries were not party to the 1951 Convention at the time, they worked with the UNHCR to process refugees and determine status, providing refugees with the right to an interview, an interpreter and a second opinion.¹⁷³

Through numerous disincentives, such as media campaigns and the end of repatriation assistance after 1991, the flow of refugees eventually slowed to an inconsequential number.¹⁷⁴ This enabled resettlement and repatriation to decrease the number of asylum seekers under temporary protection in host countries, which led to the end of the crisis aspect of the situation. Over the course of the CPA, which was completed in 1996 after it was determined that the objectives had been met, over half a million refugees from Vietnam and Laos were resettled to third countries.¹⁷⁵ In total, over 3 million people from Indochina sought asylum in neighbouring countries and by 1996, 2.5 million of them had been resettled and 500,000 repatriated and reintegrated. The use of a regional, ad-hoc strategy like the CPA was an effective solution for the Indochinese refugee crisis.

When looking at the CPA as an example of a regional and ad-hoc burden sharing agreement, there are several benefits to consider. First, this kind of strategy is individualized to each refugee crisis, which means that it is customized to the situation and takes into account the various needs and factors associated with it. This allows for flexibility within the burden-sharing system as state commitments can change to meet the objectives of the agreement. Second, because of its customization, this system can address the concerns of all those involved and balance politics with the needs of refugees. The creation of a multilateral partnership that takes into account the needs of

¹⁷³ UNHCR, "Chapter 4: Flight from Indochina," *The State of the World's Refugees*, New York: Oxford University Press (2006): 85.

¹⁷⁴ *Ibid*, 85.

¹⁷⁵ *Ibid*, 85.

participating states in addition to refugee protection could work for everyone. Third, the creation of a steering committee composed of the UNHCR and representatives of contributing governments provides an oversight body that can ensure objectives are being met and when they, put an end to the process.¹⁷⁶ The possibility of a time limit creates an incentive to achieve the goals of the agreement and provides the participating states with a way to end their commitment when needed.

Fourth, in the case of the Indochinese refugee crisis, the use of disincentives was important for getting control of the flow of refugees and ensuring that most asylum seekers after 1989 were actual refugees that used official channels like the Orderly Departure Programme. These disincentives greatly reduced the number of people fleeing during the 1990s. Fifth, the CPA made sure to involve the countries of origins like Vietnam, making them key players in the strategy. Cooperation from these states allowed for the safe return and reintegration of rejected asylum seekers, as well as the success of the Orderly Departures Programme.¹⁷⁷ Finally, the CPA made good use of two durable solutions, resettlement and repatriation, which was assisted in large part by the effective processing of asylum seekers in the region of origin, as well as the commitments of third states to resettle in a short time frame. This was beneficial to refugees and countries of first asylum, as temporary protection was limited to a short period of time.

Although there were clearly benefits to the CPA and it was widely considered a success, there are also several shortfalls associated with this style of burden sharing that could limit its potential as a go to for addressing all refugee crises. The CPA was strongly

¹⁷⁶ W. Courtland Robinson, "The Comprehensive Plan of Action for Indochinese Refugees, 1989-1997: Sharing the Burden and Passing the Buck," *Journal of Refugee Studies* 17:3 (2004): 321.

¹⁷⁷ UNHCR, "Chapter 4: Flight from Indochina," *The State of the World's Refugees*, New York: Oxford University Press (2006): 89.

supported by the United States (US), lending it the political sway of a world superpower. The US was invested in this process, taking in by far the largest number of Indochinese refugees at over 800,000.¹⁷⁸ The deep involvement of the US can largely be explained by the dynamics of the Cold War, as the US was helping refugees of communism; in the case of Vietnam, it was a communist government the US had lost a war to, creating a sense of responsibility for these refugees. A major commitment from the US or future superpowers is unlikely to be easily replicated, which could greatly diminish the potential of a regional and ad-hoc burden sharing agreement. Further, the CPA relied on the involvement and cooperation of countries of origin for its success; what are the alternatives should the countries of origin be unable or unwilling to cooperate? Without cooperation or an improvement of the situation within the country of origin, there can be no guaranteed safe repatriation, which would make any attempts at repatriation against the rule of non-refoulement.

The perspectives of developed states have shifted dramatically, something that was seen even during the CPA. This strategy was almost defined by its use of resettlement, but by the end, third countries were exhausted and the focus since the mid-1990s has been largely on repatriation. A strategy that relies on the goodwill of states and not guaranteed commitments could mean that mass amounts of refugees would have nowhere to be resettled and could be turned away by countries of first asylum. The question of how to provide temporary protection in this situation becomes more difficult to answer. The uncertainties associated with an ad-hoc agreement are a major shortfall in regards to addressing refugee crises.

¹⁷⁸ UNHCR, "Chapter 4: Flight from Indochina," *The State of the World's Refugees*, New York: Oxford University Press (2006): 99.

As this style of agreement is reactionary, this generally will mean it is also too late to prevent an actual crisis. It takes time to decide when to address a refugee problem, to find enough participants, and to create a plan, especially if there is no super power pushing it along. The first Geneva conference for Indochinese refugees did not occur until 1979 – four years after the flow of refugee began. Granted, China and the US were taking many of the refugees fleeing during that time, but again, there will not always be superpowers willing to take on that role. In the case of China, the refugees it resettled were largely ethnic Chinese – however, in most cases, refugees are not of the same ethnicity as possible hosts. Further, in some crises, like the Syrian refugee crisis, millions of people can flee in less than four years, creating a massive crisis that will take much longer to address. This is especially the case now, with repatriation as the preferred solution.

Refugees require temporary protection for longer time periods, as the causes of refugee flows are often long lasting internal conflicts or political oppression. By the time a strategy is devised, there may already be hundreds of thousands or upwards of a million refugees in temporary protection and the quality of said protection would not have been guaranteed during that time. Related to this is the impression that regional, ad-hoc systems like the CPA consider only the needs of states and efficiency, not refugee protection. This was clearly demonstrated during the time frame of the CPA in Hong Kong, a first asylum state that became impatient with the small amount of voluntary repatriation and began to force refugees to return. The UNHCR eventually became party to this strategy, as pressure from Hong Kong caused the line between voluntary and involuntary became blurred.¹⁷⁹

¹⁷⁹ UNHCR, "Chapter 4: Flight from Indochina," *The State of the World's Refugees*, New York: Oxford University Press (2006): 85.

4.3 Recommendation

When considering these options, I believe that the first – the global, pre-established scheme – would be the best for improving refugee protection, while remaining pragmatic about the interests of states. In this section, I will explain my recommendation by weighing each option against each other, and then exploring how the recommended strategy could be applied.

I will first address the main issues covered throughout this paper – the quality of refugee protection, the distribution of the burden, and the use of durable solutions. The first option makes refugee protection a priority, arguing that repatriation can only be a viable solution if refugees are allowed to develop and thrive, rather than stall. As repatriation is the solution of choice for the international community, it would be good for their security and immigration interests if they were to support high quality temporary protection. The second option has no clear strategy for the use of durable solutions nor the quality of temporary protection. Due to the reactionary nature of this option, the quality of protection is unlikely to change much, and the changing preferences of states regarding durable solutions makes it difficult to ensure effective use. In regards to the distribution of the burden, the first option makes a stronger effort to equitably distribute the burden, working with a larger group of states and building on their strengths and capacities. The second option continues to rely on the goodwill of states and the burden remains firmly on a small group of states. When considering these three issues, the first option would clearly be better suited to addressing them.

In addition, the first option creates positive incentives for third country states to participate in the scheme, building on their desire to control immigration by giving them

a better policy direction in return for funding. The varying levels of participation do allow for some flexibility in participation depending on the specific refugee crisis, which can accommodate the interests of states while still ensuring a certain level of commitment. The second relies on national interest or political will, neither of which are consistent. The participation of the international community in the second option would remain much on the same level as it is now, which does little to improve burden sharing.

While I do believe the first option would be the better of the two in regards to burden sharing, there are some concerns about the option suggested by Hathaway. The controversial aspect of moving refugees from country to country throughout the entire process can present a challenge for human rights. However, as the vast majority of refugees do not leave their region of origin, this aspect of the strategy would only affect the small percentage of refugees that leave it. If this option was adopted, a plan could be organized to address concerns. Hopefully, after implementation, the number of refugees leaving the region of origin would diminish as the quality of protection within it would erase any need to leave. The second option, modelled after the CPA, does not necessarily allow for much choice either, as the fate of refugees relies on the goodwill of participating states. In the case of the Indochinese refugees especially, countries of first asylum refused to house them long-term, and resettlement was done with greater concern for state interests than those of refugees. This is a challenge that would have to be addressed during any negotiations for a burden sharing agreement.

Another potential issue associated with the first option is that as conflicts become longer and longer, protection is becoming more permanent than temporary. This could lead to hesitation among host states to accept refugees as there is a decreasing chance of

repatriation as time goes on, especially as Hathaway suggest five years as the most humane time period for temporary protection. In order for this burden sharing strategy to succeed, this challenge would have to be addressed and the international community may also have to make greater efforts to address root causes of refugee crises. While this may not have been an issue with the CPA for Indochinese refugees, as the focus was primarily on resettlement, it is likely that this problem would also affect the success rate of regional solutions. Regardless of the burden sharing method, a solution would have to be developed in order to secure state participation. Perhaps this concern would lead to a greater emphasis on addressing the root causes of refugee crises, contributing to the improvement of refugee problems overall.

Realistically, it may be difficult to implement either of these options because of the lack of commitment often demonstrated by many UN member states. However, I believe it is important to have an established, global system in place, because even if it only achieves half of what it has set out to do, it is still better than the status quo. Also, the first option has a system of accountability built in, which can encourage states to keep up their part in the system. In addition, the UN has developed many internal accountability tools that could ensure states abide by their commitments in regards to a burden sharing agreement. Many developed states try to avoid breaking international law, and should they agree to this type of burden sharing agreement, they would have even greater incentive to follow it should they wish to see benefits from the scheme. Any states that attempt to avoid their responsibilities without a valid explanation could face pressure from their partners and from within the UN. The second option simply does not have this kind of accountability, leaving states to act as they have been, largely to the detriment of refugee protection.

When compared side by side, the first has more positives that would ultimately benefit the system as a whole. However, it should be noted that without an example of the first strategy in which to ground any analysis, any benefits and shortfalls are presumed; it will take real life application to see the true results.

Conclusion

On its own, the 1951 Convention has been insufficient in providing a solid framework for addressing the problem of refugees, especially as the burden is placed largely on countries of first asylum. These countries have been made to host the majority of refugees and to cover the bulk of the costs as developed countries have retreated from any international responsibilities. Without contributions from wealthier developed states, the UNHCR has been unable to truly deliver quality programmes for refugee protection. As a result of the inequities, the existing standards and legislation have failed in the basic mandate of providing refugee protection and have made poor use of durable solutions, contributing to the creation and exacerbation of protracted refugee situations.

Both the Syrian refugee crisis and the refugee situation in Tanzania have shown the extremely inequitable division of the burden created by the expectation of individualized responsibility. Refugees in both cases have suffered as host states have been unable to unwilling to provide adequate protection and the resources to foster self-sufficiency, creating protracted refugee situations that leave refugees in limbo for too long. A burden sharing agreement could have gone a long way to avoiding a protracted situation and ensuring that refugee rights from the 1951 Convention were respected.

The international refugee regime needs a new approach to addressing refugee problems, the quality of refugee protection and the inequitable distribution of the burden. The global, pre-established strategy suggested by Hathaway and the regional, ad-hoc scheme modeled after the CPA for Indochinese refugees are two possible burden sharing systems that could be implemented as a solution. While both have positive and negative aspects, this paper recommends the first option as most likely to address the inequities of the

existing approach to refugee problems and the quality of refugee protection, while recognizing state interests.

The quality of refugee protection would improve considerably under a global, pre-established scheme and the existing refugee problems could gradually be addressed, in addition to those in the future. In some cases, elements of the CPA could be integrated into the recommended strategy; a pre-established scheme does not necessarily mean rigid and it may need to make customized assessments in addition to the guaranteed contributions. This strategy would also ensure a more equitable division of the burden associated with refugee burdens, better facilitating the use of durable solutions. It takes time to address the root causes of refugee problems, and as such, the international community would do better to have a strategy that can plan for numerous eventualities and tackle the problem right away, rather than one that is reactionary and may not have the ability to successfully deal with a refugee crisis.

BIBLIOGRAPHY

- Amnesty International. *No Place Like Home: Returns and Relocations of Somalia's Displaced*. 19 February 2014. AFR 52/001/2014. Available at: <http://www.amnesty.ca/sites/amnesty/files/no-place-like-home-2014.pdf>
- Amnesty International. *No Safe Refuge: Asylum-Seekers and Refugees denied effective protection in Turkey*. 3 June 2016. EUR 44/3825/2016. Retrieved from: <http://www.refworld.org/docid/575137984.html>
- Amnesty International. *Our Hope is Broken: European paralysis leaves thousands of refugees stranded in Greece*. 22 September 2016. EUR 25/4843/2016. Available at: http://www.amnestyusa.org/sites/default/files/greece_campaign_digest_web_single.pdf
- Al Jazeera. "Syria Death Toll: UN Envoy estimates 400,000 killed." *AlJazeera.com*. 23 April 2016. <http://www.aljazeera.com/news/2016/04/staffan-de-mistura-400000-killed-syria-civil-war-160423055735629.html>
- BBC News. "Migrant Crisis: EU-Turkey deal comes into effect." *BBC.com*. 20 March 2016. <http://www.bbc.com/news/world-europe-35854413>
- BBC News Middle East. "Syria: The Story of the Conflict." *BBC.com*. 11 March 2016. <http://www.bbc.com/news/world-middle-east-26116868>
- Borst, Barbara. "Longtime Refugees Grateful for Citizenship." *Huffington Post*. 24 October 2015. http://www.huffingtonpost.com/barbara-borst/longtime-refugees-gratefu_b_8298438.html
- Bouras, Stelios. "Balkan Countries Completely Seal Off Migrant Trail as Part of EU Plan." *Wall Street Journal*. 9 March 2016. <http://www.wsj.com/articles/macedonia-completely-closes-border-with-greece-to-migrants-1457521754>
- Bradley, Megan. *Refugee Repatriation: Justice, Responsibility and Redress*. Cambridge: Cambridge University Press, 2013.
- Calamur, Krishnadev. "European Refugee Crisis: A 'Systematic' Violation of Human Rights." *The Atlantic*. 22 October 2015. <http://www.theatlantic.com/international/archive/2015/10/czech-republic-un-human-rights-refugees/411862/>
- Chaulia, Sreeram Sundar. "The Politics of Refugee Hosting in Tanzania: From Open Door to Unsustainability, Insecurity and Receding Receptivity." *Journal of Refugee Studies* 16:2 (June 2003): 147-166.

- Chimni, B. S. "From Resettlement to Involuntary Repatriation: Towards a Critical History of Durable Solutions to Refugee Problems." *New Issues in Refugee Research*, Working Paper No.2. UNHCR: Geneva (May 1999): 1-21.
- Crisp, Jeff. "The local integration and local settlement of refugees: a conceptual and historical analysis." *New Issues in Refugee Research*, Working Paper No.102. UNHCR: Geneva (April 2004): 1-8.
- Donnelly, Jack. *International Human Rights*. Boulder, CO, USA: Westview Press, 1998.
- Edwards, Alice. "A Numbers Game: Counting Refugees and International Burden Sharing." *The University of Tasmania Law Review* 32:1 (2013): 1-19.
- European Commission Migration and Home Affairs. *Relocation and Resettlement – State of Play Factsheet, European Union*. 28 September 2016. Retrieved from: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/20160928/factsheet_relocation_and_resettlement_-_state_of_play_en.pdf.
- Frelick, Bill. "Political Realities Challenge Refugee Reform." *Opendemocracy.net*. 9 March 2016. <https://www.opendemocracy.net/openglobalrights/bill-frelick/political-realities-challenge-refugee-reform>
- Gilbert, Geoff. 16 September 2015 (11:38). Comment on James Hathaway. "Moving Beyond the Asylum Muddle." *European Journal of International Law* (blog). 14 September 2015. <http://www.ejiltalk.org/moving-beyond-the-asylum-muddle>
- Hathaway, James C. and R. A. Neve. "Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution-Oriented Protection." *Harvard Human Rights Journal* 10 (1997): 115-211.
- Hathaway, James C. "A Global Solution to a Global Refugee Crisis." *European Papers* 1:1 (2016): 93-99. Available at: http://europeanpapers.eu/en/system/files/pdf_version/EP_eJ_2016_1_8_Agenda_James_C_Hathaway.pdf
- Human Rights Watch. "Greece: Refugee "Hotspots Unsafe, Unsanitary." *Human Rights Watch*. 19 May 2016. Available at: <https://www.hrw.org/news/2016/05/19/greece-refugee-hotspots-unsafe-unsanitary>
- İçduygu, Ahmet. "Syrian Refugees in Turkey: The Long Road Ahead." *Migration Policy Institute* (April 2015): 1-18.

- Jacobsen, Karen. "The Forgotten Solution: local integration for refugees in developing countries." *New Issues in Refugee Research*, Working Paper No.45. UNHCR: Geneva (July 2001): 1-41.
- Jordans, Frank. "No legal limit to number of asylum seekers Germany can receive: Merkel." *CTV News*. 5 September 2015. <http://www.ctvnews.ca/world/no-legal-limit-to-number-of-asylum-seekers-germany-can-receive-merkel-1.2549664>
- Kilberg, Rebecca. "Turkey's Evolving Migration Identity." *Migration Information Source*. 24 July 2014. Accessed 2 October 2016. <http://www.migrationpolicy.org/article/turkeys-evolving-migration-identity>
- Kuch, Amelia. "Naturalisation of Burundian Refugees in Tanzania." *Forced Migration Review* 52 (May 2016): 63-65.
- Library of Congress. "Refugee Law and Policy: Egypt." *LOC.gov*. Accessed 24 September 2016. <https://www.loc.gov/law/help/refugee-law/egypt.php>
- Library of Congress. "Refugee Law and Policy: Turkey." *LOC.gov*. Accessed 24 September 2016. <https://www.loc.gov/law/help/refugee-law/turkey.php>
- Loescher, Gil and James Milner. "The Long Road Home: Protracted Refugee Situations in Africa." *Survival* 47:2 (2005): 153-174.
- Lynch, Laura. "Canada considers prioritizing religious minorities in Syria refugee resettlement." *CBC News*. 12 December 2014. <http://www.cbc.ca/news/politics/canada-considers-prioritizing-religious-minorities-in-syria-refugee-resettlement-1.2870916>
- Marsden, Rachel. "Tanzania: Services in Nyarugusu refugee camp 'stretched beyond their limits'." *Médecins Sans Frontières (MSF)*. 8 July 2015. <http://www.msf.org/en/article/tanzania-services-nyarugusu-refugee-camp-%E2%80%99stretched-beyond-their-limits%E2%80%99>
- Newland, Kathleen. "Cooperative Arrangements to Share Burdens and Responsibilities in Refugee Situations short of Mass Influx." *Migration Policy Institute* (2011): 1-11.
- Oltermann, Philip. "Angela Merkel's party beaten by rightwing populists in German elections." *The Guardian*. 6 September 2016. <https://www.theguardian.com/world/2016/sep/04/mecklenburg-vorpommern-german-anti-immigrant-party-strong-regional-election-exit-polls-merkel>
- Organization of African Unity (OAU). *Convention Governing the Specific Aspects of Refugee Problems in Africa*. 10 September 1969. 1001 UNTS 45. Available at: http://www.achpr.org/files/instruments/refugee-convention/achpr_instr_conv_refug_eng.pdf

- Republic of Turkey Ministry of Interior Directorate General of Migration Management. 'Article 91' - Law on Foreigners and International Protection. English Translation. 2014. <http://mhd.org.tr/assets/law-on-foreigners-and-international-protection.pdf>
- Reuters World News. "Turkey spent \$7.6 billion hosting 2.2 million Syrian refugees." *Reuters.com*. <http://www.reuters.com/article/us-mideast-migrants-turkey-idUSKCN0RI0N720150918>
- Robinson, W. Courtland. "The Comprehensive Plan of Action for Indochinese Refugees, 1989-1997: Sharing the Burden and Passing the Buck," *Journal of Refugee Studies* 17:3 (2004): 319-333.
- Safi, Michael. "Calls to prioritise Christian refugees are discriminatory – Australia's grand mufti." *The Guardian*. 8 September 2015. <https://www.theguardian.com/australia-news/2015/sep/09/calls-to-prioritise-christian-refugees-are-discriminatory-australias-grand-mufti>
- Sunderland, Judith. "Fear and Loathing of Refugees in Europe." *Human Rights Watch*. 8 February 2016. <https://www.hrw.org/news/2016/02/08/fear-and-loathing-refugees-europe>
- Taylor, Adam. "The Islamic State wants you to hate refugees." *The Washington Post*. 16 November 2015. <https://www.washingtonpost.com/news/worldviews/wp/2015/11/16/the-islamic-state-wants-you-to-hate-refugees/>
- Thielemann, Eiko R. "Why Asylum Policy Harmonisation Undermines Refugee Burden Sharing." *European Journal of Migration and Law* 6 (2004): 47-65.
- Thomson, Jessie. "Durable Solutions for Burundian Refugees in Tanzania." *Forced Migration Review* 33 (September 2009): 35-37.
- Troianovski, Anton. "Populists' Advance in Germany Jolts Europe." *The Wall Street Journal*. 5 September 2016. <http://www.wsj.com/articles/merkel-stands-by-refugee-policy-after-election-loss-1473078641>
- UN General Assembly. *Universal Declaration of Human Rights*. 10 December 1948. 217 A (III). Available at: <http://www.refworld.org/docid/3ae6b3712c.html>
- UN General Assembly. *Convention Relating to the Status of Refugees*. 28 July 1951. 189 UNTS 137/ [1954] ATS 5. Available at: <http://www.unhcr.org/3b66c2aa10>
- UN High Commissioner for Refugees (UNHCR). "Asylum Seekers." *UNHCR.org*. Accessed 7 August 2016. <http://www.unhcr.org/asylum-seekers.html>

- UN High Commissioner for Refugees (UNHCR). “Figures at a Glance.” *UNHCR.org*. Accessed 27 September 2016. <http://www.unhcr.org/figures-at-a-glance.html>
- UN High Commissioner for Refugees (UNHCR). “Local Integration.” *UNHCR.org*. Accessed 11 September 2016. <http://www.unhcr.org/local-integration-49c3646c101.html>
- UN High Commissioner for Refugees (UNHCR). “Resettlement.” *UNHCR.org*. Accessed 6 September 2016. <http://www.unhcr.org/resettlement.html>
- UN High Commissioner for Refugees (UNHCR). “Solutions.” *UNHCR.org*. Accessed 7 September 2016. <http://www.unhcr.org/solutions.html>
- UN High Commissioner for Refugees (UNHCR). “Urban Refugees.” *UNHCR.org*. Accessed 19 November 2015. <http://www.unhcr.org/urban-refugees.html>
- UN High Commissioner for Refugees (UNHCR). “Voluntary Repatriation.” *UNHCR.org*. Accessed 7 September 2016. <http://www.unhcr.org/voluntary-repatriation-49c3646cfe.html>
- UN High Commissioner for Refugees (UNHCR). “Global Focus: United Republic of Tanzania.” *Reporting.UNHCR.org*. Accessed 5 October 2016. <http://reporting.unhcr.org/node/2517?y=2015#year>
- UN High Commissioner for Refugees (UNHCR). “Global Focus: Newly Naturalized Tanzanians and 1972 Burundian Refugees.” *Reporting.UNHCR.org*. Accessed 4 October 2016. <http://reporting.unhcr.org/node/3416>
- UN High Commissioner for Refugees (UNHCR). “Global Focus: Turkey.” *Reporting.UNHCR.org*. Accessed 2 October 2016. <http://reporting.unhcr.org/node/2544?y=2015#year>
- UN High Commissioner for Refugees (UNHCR). “Global Focus: Financials.” *Reporting.UNHCR.org*. Accessed 27 September 2016. <http://reporting.unhcr.org/financial#tabs-financial-contributions>
- UN High Commissioner for Refugees (UNHCR). “Syria Regional Refugee Response: Inter-agency Information Sharing Portal – Regional Overview.” *data.UNHCR.org*. Accessed 1 October 2016. <http://data.unhcr.org/syrianrefugees/regional.php>
- UN High Commissioner for Refugees (UNHCR). “Syria Regional Refugee Response: Inter-agency Information Sharing Portal – Europe: Syrian Asylum Applications.” *data.UNHCR.org*. Accessed 1 October 2016. <http://data.unhcr.org/syrianrefugees/asylum.php>

- UN High Commissioner for Refugees (UNHCR). *Global Trends: Forced Displacement in 2015*. 20 June 2016. Accessed 14 August 2016. Available at: <http://www.refworld.org/docid/57678f3d4.html>
- UN High Commissioner for Refugees (UNHCR). *Resettlement Fact Sheet 2015*. 14 April 2016. Retrieved from: <http://www.unhcr.org/524c31a09>
- UN High Commissioner for Refugees (UNHCR). *Congolese Refugees: A Protracted Situation*. UNHCR.org. 2014. Retrieved from: <http://www.unhcr.org/558c0e039.pdf>
- UN High Commissioner for Refugees (UNHCR). "Great Lakes Chronology." *Refugees Magazine* 110. 1 December 1997. Retrieved from: <http://www.unhcr.org/publications/refugeemag/3b69278116/refugees-magazine-issue-110-crisis-great-lakes-great-lakes-chronology.html>.
- UN High Commissioner for Refugees (UNHCR). *Missing Out: Refugee Education in Crisis*. September 2016. Accessed 25 September 2016. Retrieved from: <http://www.refworld.org/docid/57da83714.html>
- UN High Commissioner for Refugees (UNHCR). *Mid-Year Trends 2015*. 18 December 2015. Accessed 27 September 2016. <http://www.unhcr.org/statistics/unhcrstats/56701b969/mid-year-trends-june-2015.html>
- UN High Commissioner for Refugees (UNHCR). *States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol*. UNHCR.org. Last updated 17 April 2015. <http://www.unhcr.org/protect/PROTECTION/3b73b0d63.pdf>
- UN High Commissioner for Refugees (UNHCR). *Protracted Refugee Situations*. 10 June 2004. EC/54/SC/CRP.14. Accessed 8 August 2016. Available at: <http://www.refworld.org/docid/4a54bc00d.html>
- UN High Commissioner for Refugees (UNHCR). "Chapter 4: Flight from Indochina." *The State of the World's Refugees*. New York: Oxford University Press (2006): 79-103.
- UN High Commissioner for Refugees (UNHCR). *Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention Relating to the Status of Refugees and Its 1967 Protocol*. 26 January 2007. Accessed 8 August 2016. Retrieved from: <http://www.unhcr.org/4d9486929.pdf>

- UN High Commissioner for Refugees (UNHCR). *The Refugee Convention, 1951: The Travaux préparatoires analysed with a Commentary by Dr. Paul Weis*. 1990. Retrieved from: <http://www.refworld.org/docid/53e1dd114.html>
- UN High Commissioner for Refugees (UNHCR) Turkey. *Information Notice Regarding Syrian Nationals Seeking International Protection*. 23 November 2011. Available at:
http://archiv.proasyl.de/fileadmin/proasyl/fm_redakteure/Newsletter_Anhaenge/181/UNHCR_Turkey_Syrian_Information_Note_Nov_2011.pdf
- UN Office for the Coordination of Humanitarian Affairs (UNOCHA). “Syria Crisis: Regional Overview – About the Crisis.” *UNOCHA.org*. Accessed 1 October 2016. <http://www.unocha.org/syrian-arab-republic/syria-country-profile/about-crisis>
- UN Outreach Programme on the Rwanda Genocide and the United Nations. “Rwanda: A Brief History of the Country.” *UN.org*. Accessed 4 October 2016. <http://www.un.org/en/preventgenocide/rwanda/education/rwandagenocide.shtml>
- Whitaker, Beth Elise. “Changing priorities in refugee protection: the Rwandan repatriation from Tanzania.” *New Issues in Refugee Research*, Working Paper No.53 (February 2002): 1-16.
- World Development Indicators Database. “Gross Domestic Product 2015.” *World Bank*. Last updated: 11 October 2016. Available at: <http://databank.worldbank.org/data/download/GDP.pdf>