

# اللاجئون شركاء

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LEBANON'S DISCRIMINATORY POLICIES TOWARDS SYRIAN  
REFUGEES AND ITS VIOLATION OF NATIONAL AND  
INTERNATIONAL LAW

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**Founded in 2018, Refugees=Partners is an independent research-based initiative implemented in coordination between the Lebanese Economic Association (LEA) and the Syrian Centre for Policy Research (SCPR), aims at countering negative sentiments against refugees in Lebanon and encouraging policy reforms that protect their right.**

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## Lebanon's Discriminatory Policies Towards Syrian Refugees and Its Violation of National and International Law

### Introduction

The presence of Syrian refugees has been a source of contention throughout the MENA region. This is especially the case in Lebanon, a country that is host to the largest number of displaced refugees per capita in the world.<sup>1</sup> Though initially maintaining an open border policy between 2011 and 2014, the escalation of the Syrian conflict and the subsequent steady influx of Syrian refugees to Lebanon, have led the Government of Lebanon (GoL) to adopt a more austere approach to Syrian refugees by invoking stricter entry restrictions and harsh legal residency requirements.<sup>2</sup>

This shift in the approach to refugees was also accompanied by a populist and “toxic public discourse spearheaded by politicians”<sup>3</sup> and has served to perpetuate tensions between Syrian refugees and host communities, such that local Lebanese municipalities have enforced discriminatory curfews and evictions on Syrian refugees since 2012.<sup>4</sup>

In addition, the GoL has recently initiated an alleged forced return policy of Syrian refugees, where the officers of the General Directorate of the General Security Office (GSO) are coordinating with the authorities in Damascus to repatriate Syrian refugees in “safe zones”.<sup>5</sup>

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<sup>1</sup> World Bank (Spring 2017), Lebanon Economic Monitor Spring 2017: A Call for Action. Retrieved from <http://documents.worldbank.org/curated/en/568551493132224115/pdf/114552-v1-WP-PUBLIC-4-26-7AM-47p-LEM-Spring-2017.pdf>, p. 4.

<sup>2</sup> Carnegie Middle East Center (April 16, 2018), “Policy Framework for Syrian Refugees in Lebanon and Jordan”, retrieved from [carnegie-mec.org: https://carnegie-mec.org/2018/04/16/policy-framework-for-refugees-in-lebanon-and-jordan-pub-76058](https://carnegie-mec.org/2018/04/16/policy-framework-for-refugees-in-lebanon-and-jordan-pub-76058).

<sup>3</sup> Ibid.

<sup>4</sup> Mourad, L. (March 2017), “Inaction as Policy-Making: Understanding Lebanon’s Early Response to the Refugee Influx,” *Refugee and Migration Movements in the Middle East*, retrieved from: [https://pomeps.org/wp-content/uploads/2017/03/POMEPS\\_Studies\\_25\\_Refugees\\_Web.pdf](https://pomeps.org/wp-content/uploads/2017/03/POMEPS_Studies_25_Refugees_Web.pdf), p. 53.

<sup>5</sup> Atallah, S. & Mahdi, D. (October 2017). “Law and the Politics of “Safe Zones” and Forced Return to Syria: Refugee Politics in Lebanon”, *Lebanese Center for Policy Studies (LCPS)*, retrieved from: [https://www.lcps-lebanon.org/publications/1515749841-lcps\\_report\\_-\\_online.pdf](https://www.lcps-lebanon.org/publications/1515749841-lcps_report_-_online.pdf).

According to Human Rights Watch (2018), the arbitrary policies and discriminatory regulations and practices implemented by the Lebanese government and local municipalities, respectively, are in violation of the international law of refugee rights and human rights.<sup>6</sup>

The aim of this paper is to shed light on the rights granted to Syrian refugees under international law, and to compare them to Lebanese law. It also seeks to expose the unlawfulness of the policies implemented and practiced by the Lebanese government and authorities, as well as municipalities, such as the installation of curfews and evictions on a local municipal level, and harsh restrictions on obtaining legal residency, stricter border policies, and forced return on a national level. It will then conclude that the punitive, discriminatory, and unlawful methods that the Lebanese government, authorities, and municipalities have used to cope with the influx of Syrian refugees could be seen as part of a larger strategy to create an unwelcoming and unbearable environment for Syrian refugees as a means of forcibly returning them to Syria.

The paper will first delve into the international law of refugee rights and identify its compatibility with the Lebanese legal frameworks. It will then explore the policies and practices that the Lebanese government, the General Security, the local municipalities, and the Internal Security Forces (ISF) have implemented and enforced to deal with Syrian refugees, and to shed light on the way in which these methods potentially violate both national and international law.

### **Lebanon's Legal Frameworks for Addressing Syrian Refugees**

The legal framework that guides the international protection of refugees is amended in the 1951 Convention Relating to the Status of Refugees, and its 1967 Protocol. The 1951

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<sup>6</sup> Human Rights Watch (April 2018), "Our Homes are Not for Strangers" Mass Evictions of Syrian Refugee by Lebanese municipalities." <https://www.hrw.org/report/2018/04/20/our-homes-are-not-strangers/mass-evictions-syrian-refugees-lebanese-municipalities>; Khawaja B. (July 2018), "Refugee Rights in Lebanon Not Up for Debate: Lebanon Cannot force returns without contravening international law", retrieved from hrw.org: <https://www.hrw.org/news/2018/07/04/refugee-rights-lebanon-not-debate>.

Convention stipulates the principle of “non-refoulement,” which prohibits the forcible return or expulsion of refugees to places where their lives and freedoms could be threatened, and it also forbids the rejection of displaced persons that seek admission to safety at borders under all circumstances.<sup>7</sup>

However, Lebanon did not ratify the 1951 Convention and its 1967 Protocol,<sup>8</sup> and continuously has reiterated that it is not a signatory and that “it is not a country of asylum, let alone a country of resettlement.”<sup>9</sup> Nevertheless, the principle of “non-refoulement” is considered to be a principle of customary international law that *inter alia* binds all states to compliance regardless of whether or not they sign the convention.<sup>10</sup>

Lebanon has ratified numerous other international human rights law instruments,<sup>11</sup> thus, Lebanon’s Constitution states that it is subject to the principles of the Universal Declaration of Human Rights (UDHR) and will abide by the United Nations (UN) and its principles.<sup>12</sup> The Preamble of the Lebanese Constitution states: “Lebanon is [...] is a founding active member of the United Nations Organization and abides by its covenants and by the Universal Declaration of Human Rights.” It asserts: “the Government shall embody these principles in all field and areas without exception.” This is inclusive of Article 14 (1) of the UDHR that

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<sup>7</sup> UNHCR, Convention and Protocol Relating to the Status of Refugees, retrieved from <https://cms.emergency.unhcr.org/documents/11982/55726/Convention+relating+to+the+Status+of+Refugees+%28signed+28+July+1951%2C+entered+into+force+22+April+1954%29+189+UNTS+150+and+Protocol+relating+to+the+Status+of+Refugees+%28signed+31+January+1967%2C+entered+into+force+4+October+1967%29+606+UNTS+267/0bf3248a-cfa8-4a60-864d-65cdfece1d47>, Article 33, p. 30.

<sup>8</sup> UNHCR, State Parties to the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol, retrieved from <http://www.unhcr.org/protection/basic/3b73b0d63/states-parties-1951-convention-its-1967-protocol.html>.

<sup>9</sup> United Nations (2014), CEDAW/C/LBN/4-5, retrieved from: <https://nclw.org.lb/wp-content/uploads/2017/10/CEDAW-Fourth-and-Fifth-Periodic-Report-Lebanon.pdf>, para 266; and UN, & Government of Lebanon. (January 2014). Lebanon Crisis Response Plan 2015-2016, retrieved from: <https://reliefweb.int/report/lebanon/lebanon-crisis-response-plan-2015-16-year-two>, p. 4.

<sup>10</sup> UNHCR, 1951 and 1967 Convention, *ibid* 8, p. 4.

<sup>11</sup> For example, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1465 UNTS 85, 10 Dec. 1984 (entry into force: 26 Jun. 1987); International Covenant on Civil and Political Rights, 999 UNTS 171, 16 Dec. 1966 (entry into force: 23 Mar. 1976); International Covenant on Economic, Social and Cultural Rights, 993 UNTS 3, 16 Dec. 1966 (entry into force: 3 Jan. 1976). For a list of ratifications see: [https://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=96&Lang=EN](https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=96&Lang=EN).

<sup>12</sup> Government of Lebanon (September 21, 1990), *Lebanon: Constitution*, retrieved from: <http://www.refworld.org/docid/44a24a674.html>, Preamble, Article B.

states: "Everyone has the right to seek and enjoy in other countries asylum from persecution."<sup>13</sup>

However, despite the fact that Lebanon is a signatory of a number of international human rights law instruments that constitutionally have a precedent over national law, these laws are rarely practiced in national courts.<sup>14</sup> This seldom practice of international human rights law is also accompanied by a lack in national legislation regarding refugees, primarily due to political deadlock.<sup>15</sup>

Due to the lack of national legislation, the legal status of Syrians fleeing the conflict is "ambiguous" and "precarious."<sup>16</sup> Officially, the GoL refers to Syrian "refugees" as "displaced persons" or "nazihoun" instead of refugees or "lajioun", and paradoxically "reserve[s] its sovereign right to determine their status according to Lebanese laws and regulations."<sup>17</sup>

In addition, the GoL "rejects", in principle, the integration of refugees, and does not consider itself a country of asylum, but one of transit.<sup>18</sup> This was asserted in Lebanon's 2014 report on the Convention on the Elimination of All Forms of Discrimination Against Women, which stated: "Lebanon has not signed the Convention relating to the Status of Refugees (1951) and Lebanon is still considered a transit country not a destination country"<sup>19</sup>, and in the LCRP (2014) "let alone a country of resettlement."<sup>20</sup> This is also reinforced by the concept of "tawteen" that is mentioned in the Preamble of the Lebanese Constitution, that

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<sup>13</sup> United Nations (December 10 1945), Universal Declaration of Human Rights, retrieved from un.org: <http://www.un.org/en/universal-declaration-human-rights/>.

<sup>14</sup> Janmyr, M. (2017), "No Country of Asylum: 'Legitimizing' Lebanon's Rejection of the 1951 Refugee Convention", retrieved from: <https://academic.oup.com/ijrl/article/29/3/438/4345649>, and ALEF – Act for Human Rights (September 2013), "Two Years On: Syrian Refugees in Lebanon", retrieved from alefliban.org: <https://alefliban.org/publications/two-years-on/>.

<sup>15</sup> Janmyr, M. (2016), "Precarity in Exile: The Legal Status of Syrian Refugees in Lebanon," *Refugee Survey Quarterly* 25 (5), retrieved from: <https://academic.oup.com/rsq/article/35/4/58/2609281>.

<sup>16</sup> Ibid 15.

<sup>17</sup> UN, & Government of Lebanon. (January 2019). Lebanon Crisis Response Plan 2017-2020. Retrieved from: <https://reliefweb.int/report/lebanon/lebanon-crisis-response-plan-2017-2020-2019-update>, p. 4.

<sup>18</sup> Janmyr, M. (2016), *ibid* 15; Janmyr, M. (2017), *ibid* 14; and TRANSTEC and UNHCR (2015), *Beyond Humanitarian Assistance? UNHCR and the Response to Syrian Refugees in Jordan and Lebanon January 2013 – April 2014*, Brussels, retrieved from: <https://reliefweb.int/sites/reliefweb.int/files/resources/5551f5c59.pdf>.

<sup>19</sup> United Nations (2014), *ibid* 9, para 266.

<sup>20</sup> UN, & Government of Lebanon, *ibid* 9, p. 4.

prohibits the permanent settlement of non-Lebanese citizens in Lebanon, such that Syrian refugees and foreigners are governed by the same domestic law, without any distinctions.<sup>21</sup>

The GoL's categorization of Syrian refugees as "displaced persons" rather than the "historical loaded" term "refugees" and its subsequent assertions that Lebanon is not a "final destination" is considered to be part of a "disassociation policy". This "disassociation policy" approach to refugees stems from two factors; the first is Lebanon's experience with the prior and protracted presence of Palestinian refugees for over 70 years. In such, labeling Syrian refugees as "displaced persons" is less suggestive of permanence.<sup>22</sup> The second factor, which also includes the motivation to avoid the ratification of the 1951 Convention, is that if Lebanon recognizes Syrian refugees as such, it would need to bear more burdens, and more specifically, economic and political burdens.<sup>23</sup>

However, by not ratifying the 1951 Convention, by disassociating from the "historically loaded" term of "refugee", and by making no distinction between Syrian refugees and foreigners, Lebanon can avoid obligations and privileges owed to such individuals.<sup>24</sup> In addition, with the growing number of Syrian refugees in Lebanon, the GoL has perceived the Syrian refugees as a threat to its national security, economic, and social stability, and has enacted laws and implemented policies that treat Syrian refugees as undesirable foreigners.<sup>25</sup>

In this paper, the laws and policies implemented by the GoL, the General Security Office (GSO), the Lebanese municipalities, and the Internal Security Forces (ISF) have been taken into consideration and limited to harsh regulations on obtaining residency, restrictions on entry, and forced return on the national level, and curfews, and evictions on a municipal level, respectively.

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<sup>21</sup> Janmyr, M. (2016), *ibid* 15; Janmyr, M. (2017), *ibid* 14.

<sup>22</sup> Janmyr, M. (2016), *ibid* 15.

<sup>23</sup> Janmyr, M. (2016), *ibid* 15; Janmyr, M. (2017), *ibid* 14.

<sup>24</sup> Al-Saadi, Y. (February 2015), "Restrictions, perceptions, and possibilities of Syrian refugees' self-agency in Lebanon", retrieved from daleel-madani.org: <http://cskc.daleel-madani.org/content/restrictions-perceptions-and-possibilities-syrian-refugees-self-agency-lebanon>.

<sup>25</sup> Janmyr, M. (2016), *ibid* 15.

## The Unlawful Policies and Regulations Against Syrian Refugees in Lebanon

Since the outbreak of the Syrian conflict, the steady influx of Syrian refugees into Lebanon has led the GoL to adopt a “disassociation policy” approach to the crisis as well as the refugees. Lebanon’s response policy to refugees and “the Syrian situation is not governed by law, but by security policy,”<sup>26</sup> such that not only are Syrian refugees denied their rights as protected persons, but also are treated as “security threats,” concerns, and risks.<sup>27</sup>

The portrayal of Syrian refugees as a “security threat” has facilitated and resulted in the implementation of unlawful and discriminatory policies and regulations at the national and local municipal level, which violates national and international law. It has also served to reinforce Lebanon’s evasion of its obligations and “responsibilities”<sup>28</sup> towards refugees. In addition, another means through which Lebanon has avoided its responsibility towards refugees is by “decentralizing” and “informalizing” the security approach to refugees to municipalities.<sup>29</sup>

### 1. Discriminatory Practices by Local Municipalities

The decentralization of the authority over Syrian refugees to local Lebanese municipalities came as a direct result of both the lack of national legislation on refugees and the desire to avoid the responsibility through a “laissez-faire approach”.<sup>30</sup> However, the significant increase in the population (i.e. due to Syrian refugees) in municipalities throughout Lebanon has put a strain on their infrastructure, and has led to the implementation of discriminatory policies, such as curfews and evictions, that have fueled tensions between Syrian refugees

<sup>26</sup> Janmyr, M. (2016), *ibid* 15.

<sup>27</sup> Janmyr, M. (2016), *ibid* 15; Mourad, L. (2017), *ibid* 4; Carnegie Middle East Center (2018), *ibid* 2; Janmyr, M. and Mourad, L. (January 8 2018), “Modes of Ordering: Labeling, Classification and Categorization in Lebanon’s Refugee Response,” retrieved from: <https://academic.oup.com/jrs/advance-article/doi/10.1093/jrs/fex042/4792968>; and Taslakian, P. (June 12 2016), “Curfews and human rights within the Syrian context in Lebanon”, retrieved from lb.undp.org: <http://www.lb.undp.org/content/dam/lebanon/docs/Governance/Publications/PEACE%20BUILDING%2012th%20web%20p11.pdf>.

<sup>28</sup> Mourad, L. (2017), *ibid* 4; and Atallah, S. & Mahdi, D. (2017), *ibid* 5, p. 20.

<sup>29</sup> Mourad, L. (2017), *ibid* 4.

<sup>30</sup> Atallah, S. & Mahdi, D. (2017), *ibid* 5, p. 30.

and host communities.<sup>31</sup> In addition to exacerbating municipalities' infrastructure, several isolated incidents, such the August 2014 fighting in Aarsal, has prompted municipalities to view Syrian refugees as "threats", and has considerably contributed to the enforcement and implementation of prejudiced policies.<sup>32</sup>

Though Syrian refugees *de facto* under the authority of municipalities, the discriminatory policies implemented fall outside of the scope of municipalities' legal authority, potentially rendering them unlawful.<sup>33</sup> The legal authority or jurisdiction of Lebanese municipalities is outlined in Article 74 of the provisions of the Municipal Act, decree no. 118/1977, which states that the role of the municipality is "ensuring security through the municipal police in its capacity... in the event of any crime or any disturbance of public security."<sup>34</sup> As such, the role of municipalities is to maintain public order, and more specifically public security and safety. In its administration of public order, Lebanese municipalities must also maintain a balance between public security and safety with fundamental rights and liberties.<sup>35</sup>

Thus, the implementation of curfews and the enforcement of mass evictions in municipalities is potentially unlawful and raises serious questions about violations of the fundamental rights and liberties of Syrian refugees in Lebanon.<sup>36</sup>

In 2014, Human Rights Watch (HRW) reported that at least 45 municipalities throughout the country have implemented curfews explicitly directed at Syrian.<sup>37</sup> The curfews that have been enforced consist of laying banners around villages and towns banning Syrians from movement from evening to early morning, effectively putting in place discriminatory curfews within their geographical boundaries, and limiting Syrians' movement under the

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<sup>31</sup> Atallah, S. & Mahdi, D. (2017), *ibid* 5, p. 5.

<sup>32</sup> Human Rights Watch (October 3, 2014), "Lebanon: At Least 45 Local Curfews Imposed on Syrian Refugees", retrieved from hrw.org: <https://www.hrw.org/news/2014/10/03/lebanon-least-45-local-curfews-imposed-syrian-refugees>.

<sup>33</sup> Mourad, L. (2017), *ibid* 4; and Atallah, S. & Mahdi, D. (2017), *ibid* 5, p. 5.

<sup>34</sup> Government of Lebanon, The Municipal Act Decree Law No.118. 1977, retrieved from interior.gov.lb: [www.interior.gov.lb/oldmoim/moim/DOC/Municipal\\_Act\\_Eng.doc](http://www.interior.gov.lb/oldmoim/moim/DOC/Municipal_Act_Eng.doc).

<sup>35</sup> Taslakian, P. (2016), *ibid* 27.

<sup>36</sup> Human Rights Watch (2014), *ibid* 32.

<sup>37</sup> Human Rights Watch (2014), *ibid* 32

guise of security measures. A recent study in 2017 found that this number rose to 142.<sup>38</sup> Municipal authorities justify this practice by stating that it is a preventive measure to “security threats,” and a reaction to “problems” such as: “an increase in the number of Syrian residents, the gathering of groups of Syrians, complaints that strangers were seen roaming in the streets, and the fighting incidents among Syrian refugees as well as acts of theft.”<sup>39</sup>

The practice and implementation of curfews, specifically targeting both Syrian nationals and refugees, not only infringes on their rights as protected persons, but also violates their basic human rights, such as being free from arbitrary arrest, and freedom of movement, association, and assembly, that are mentioned in the Lebanese Constitution, Article(s) 8, 9 and 13,<sup>40</sup> the Universal Declaration of Human Rights (UDHR) (Article(s) 9, 13(1) and Article 20(1)),<sup>41</sup> as well as the International Covenant on Civil and Political Rights (ICCPR) (Article(s) 9(1), 12(1), 21, 22(1)),<sup>42</sup> which Lebanon has ratified in 1972.<sup>43</sup> The practice of curfews discriminately targets both Syrian nationals and refugees, and as such violates Article 4(1) of the ICCPR that states: “In time of public emergency...State Parties...may take measures derogating from their obligations under the present Covenant...provided that such measures...do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.”<sup>44</sup> As such, the enforcement of curfews that explicitly target Syrian refugees is considered “unlawful” under both national and international law.

In addition to curfews, the practice of mass evictions of both Syrian nationals and refugees also constitutes a violation of national law and international law. Similar to the phenomena of the implementation of curfews, the mass evictions of both Syrian nationals and refugees have been a result of numerous isolated incidents. This was especially the case in

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<sup>38</sup> Mourad, L. (2017), *ibid* 4.

<sup>39</sup> El Helou, M. (2014), “Refugees under Curfew: The War of Lebanese Municipalities against the Poor”, *The Legal Agenda*, retrieved from: <http://legal-agenda.com/en/article.php?id=3052>.

<sup>40</sup> Gouvernement of Lebanon (1990), *ibid* 12.

<sup>41</sup> United Nations (1945), *ibid* 12.

<sup>42</sup> United Nations (December 16 1966), International Covenant on Civil and Political Rights, retrieved from: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

<sup>43</sup> ICCPR (1966), *ibid* 11.

<sup>44</sup> United Nation (1966), *ibid* 42, Article 4(1).

September 2017 in the municipality of Mizyara, in North Lebanon, where a Syrian national was accused of raping and murdering a 26-year-old Christian woman in her home, which resulted in a violent mass eviction of at least 800 Syrian refugees by the municipal police and Internal Security Forces (ISF).<sup>45</sup>

A significant number of municipalities have also undertaken the mass expulsion of Syrian refugees through both violent and non-violent means in the following respective villages and towns: Bcharre in Northern Lebanon, Temnine al Tahta in Baalbeck-Hermel, Rayak and Zahle in the Bekaa Valley, and Hadath in Beirut-Mount Lebanon.<sup>46</sup> In 2017, the UNHCR tracked and estimated that municipalities in Lebanon have evicted approximately 13,200 Syrian refugees, while 32 percent of refugees are at risk of being evicted.<sup>47</sup>

In their 2018 report on the mass evictions of Syrian refugees, HRW found no legitimate justification for these expulsions, neither a court order nor a government sanction pressing the issue. HRW concluded that expulsions that were documented in their report have been unjustifiably nationality-based or the result of religious discrimination. In addition, the documented expulsions were impermissible in which the municipalities' have violated the UDHR and the International Covenant on Economic, Social and Cultural Rights (ICESCR).<sup>48</sup> The UN Committee on Economic, Social, and Cultural Rights (CESCR)'s General notes on the right to adequate housing (Article 11.1) prohibits the forced eviction of any person, citing it to be a gross human rights violations, which guarantees protection from forced eviction.<sup>49</sup> By failing to provide a legitimate justification, the current wave of undertaking evictions is considered unlawful and impermissible, and violates both national and international law. To illustrate, the Preamble of the Lebanese Constitution states: "Lebanon is [...] is a founding active member of the United Nations Organization and abides by its covenants and by the Universal Declaration of Human Rights."

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<sup>45</sup> Human Rights Watch (2018), *ibid* 6.

<sup>46</sup> Human Rights Watch (2018), *ibid* 6; and UNHCR (2017), Eviction of Syrian Refugees 2017 Infographic, retrieved from: [http://www.unhcr.org/lb/wp-content/uploads/sites/16/2018/04/Evictions-Dashboard\\_Mar18.pdf](http://www.unhcr.org/lb/wp-content/uploads/sites/16/2018/04/Evictions-Dashboard_Mar18.pdf).

<sup>47</sup> UNHCR (2017), *ibid* 46.

<sup>48</sup> Human Rights Watch (2018), *ibid* 6

<sup>49</sup> UN Committee on Economic, Social and Cultural Rights (CESCR) (May 20 1997), General Comments No. 7: The right to adequate housing (Art. 11. 1): forced eviction, retrieved from: <http://www.refworld.org/docid/47a70799d.html>.

In addition to the implementation of unlawful curfews and policing Syrian refugees through “maintaining public order”, Lebanese municipalities surpass their jurisdiction or legal authority by enforcing laws that have been passed at the national level, such as the 2017 Decision No. 1/41 issued by the Ministry of Labor concerning the definition of professions restricted to Lebanese citizens, and the Decision No 1/179 that restricted Syrian nationals to working in three sectors: environmental i.e., garbage and recycling, construction, and agriculture.<sup>50</sup> These decisions have prompted municipalities in Dahieh, a southern suburb of Beirut, Aley in Mount Lebanon, Baysarieh in Saida, Dekwaneh in Metn, Hadath in Baabda, Asgqout in Keserwan, and Naameh in the Chouf district to take initiative to forcibly close down businesses run by Syrian nationals, citing their lack of legal work permits as a justification.<sup>51</sup> Another justification for these decisions on a national level was to alleviate pressures on the Lebanese Labor Market, where wages have been driven down by the presence of Syrian nationals and refugees.<sup>52</sup>

However, the legal status of Syrian nationals and refugees is both “precarious” and “ambiguous” due to the lack of legislation on a national level, the General Security’s restriction on residency, and the adoption of a “laissez faire” and “disassociation policy” approach towards the Syrian refugees.

## 2. Discriminatory Practices by National Authorities

As stated above, Syrian refugees are governed by the same domestic immigration laws as other foreigners, with no special status as protected persons. The source of this immigration law is the 1962 Law Regulating the Entry and Stay of Foreigners in Lebanon and their Exit from the Country, which includes six articles relating to asylum. Article 26 of the 1962 Law

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<sup>50</sup> Ayoub, L. (May 29 2017), “Lebanese Municipalities: Regulating Refugee Presence is “Our Jurisdiction””, *The Legal Agenda*, retrieved from: <http://legal-agenda.com/en/article.php?id=3689>.

<sup>51</sup> Ibid 50.

<sup>52</sup> The Daily Star (April 7 2017), “Refugee’s impact on the job market unclear”, retrieved from: <https://www.pressreader.com/lebanon/the-daily-star-lebanon/20170407/281522225941507>.

states the following: “Every foreigner who is persecuted or sentenced for a political crime outside Lebanon, or whose life or liberty is threatened on account of political activity, may apply for asylum in Lebanon.”<sup>53</sup> In addition, Article 31 of the Law provides for the “non-refoulement” of former political refugees. The Law also features a “process” for applying for asylum in Lebanon. However, only a single applicant has ever been granted asylum through this process.

Prior to January 2015, the legal entry and exit of Syrian nationals in Lebanon was governed by an “open border” policy, a policy that is based on a 1993 bilateral agreement between Syria and Lebanon. Syrians that entered an official border into Lebanon with a valid Syrian identity card or passport were given “an entry stamp” or “an entry coupon” that grants legal residency for an initial period of six months (for free), and could be renewed free of charge for an additional six months.<sup>54</sup> However, after one year, Syrian refugees were required to renew their residency at a cost of \$200 per person/per year for everyone 15 years of age and above. Syrian refugees violating the Law of Entry and Exit through unofficial entry or expiry of legal stay would be subject to arrest, prosecution, and deportation.<sup>55</sup>

In October 2014, Lebanon’s Council of Ministers adopted a comprehensive policy on Syrian displacement, with the explicit goal of decreasing the number of Syrians in Lebanon by reducing access to territory and encouraging returns to Syria.<sup>56</sup> This was accompanied by the General Security Office (GSO)’s installation of a new set of entry requirement for Syrians and new rules for Syrian nationals already in Lebanon applying for and renewing residency permits in December 2014.<sup>57</sup>

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<sup>53</sup> Government of Lebanon (July 10 1962), Loi du 1962 réglementant l'entrée et le séjour des étrangers au Liban ainsi que leur sortie de ce pays, retrieved from: <http://www.refworld.org/docid/3ae6b4f30.html>.

<sup>54</sup> Janmyr, M. (2016), *ibid* 15; Janmyr, M. (2017), *ibid* 14; TRANSTEC and UNHCR (2015), *ibid* 18.

<sup>55</sup> Janmyr, M. (2016), *ibid* 15; and TRANSTEC and UNHCR (2015), *ibid* 18.

<sup>56</sup> Council of Ministers of Lebanon (October 23 2014), Policy on Syrian Displacement, retrieved from: <http://legal-agenda.com/en/article.php?id=679&folder=articles&lang=en>.

<sup>57</sup> Frangieh, G. (January 22 2015), “Lebanon Places Discriminatory Entry Restrictions on Syrians”, *Legal Agenda*, retrieved from: <http://legal-agenda.com/en/article.php?id=679&folder=articles&lang=en>.

The implementation of these requirements took place in January 2015, such that in order to qualify for entry, a Syrian must have a Lebanese sponsor, own real estate in Lebanon, or the purpose of their travel must fall under one of the following categories: tourism, business, study, transit, medical treatment, or visa application at a foreign embassy.<sup>58</sup> Syrians applying for tourism must show proof that they have a hotel reservation and possession of \$1000 or proof of ownership of real estate in Lebanon.<sup>59</sup>

In addition to the preliminary, and strict draconian entry restrictions, the GSO implemented harsh requirements and restrictions on residency, where residency permits are granted at the discretion of the GSO. The requirements for residency includes: paying a \$200 fee, a housing commitment (certified copies of a lease agreement or real estate deed), certified attestation from a *mukhtar* (village leader) that the landlord owns the property, and present a valid ID or passport, as well as entry slip and return card.<sup>60</sup> The GSO distinguishes between displaced Syrians as ones that are registered with the UNHCR and those that are not. Refugees that are registered with the UNHCR must also provide a pledge not to work, signed in the presence of a notary. UNHCR registration corticated, proof of their financial means such as bank statements, documents showing money transfers or proof of charitable or UN support, such as World Food Programme (WFP) prepaid cards.<sup>61</sup>

However, it should be noted that these entry restrictions and residency requirements only apply to Syrians, and not all foreigners seeking entry into Lebanon, and thus are discriminatory. Not only do these regulations violate the bilateral agreements between Lebanon and Syria, but also Lebanese laws that grant Syrian citizens privilege to enter and reside in Lebanon, as well as freedom of movement between the two countries in exchange for reciprocal privileges granted to Lebanese nationals by Syria. These regulations also violate international law that prohibits the denial of the right of movement and residency within the border of states (UDHR Article 13(1) and ICCPR Article 12(1)).

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<sup>58</sup> Ibid 58.

<sup>59</sup> Ibid 58.

<sup>60</sup> Janmyr, M. (2016), ibid 15.

<sup>61</sup> Janmyr, M. (2016), ibid 15

Due to the costliness of \$200 on Syrians, numerous Syrian nationals and refugees cannot fulfill the requirement, and are subject to arrest and detention, such that the restrictions on residency both hinder the mobility of Syrians in and out of Lebanon and within Lebanon. Syrian refugees' difficulty to fulfill specific obligations, such as the annual residency fee of \$200, has served as a major impediment to their ability to work, to seek health care, to register marriages and births, to send their children to school, and has perpetuated their poverty and has increased their vulnerability. According to the 2018 annual Vulnerability Assessment for Syrian Refugees in Lebanon, 73 percent of the Syrian refugees registered with the UNHCR do not have legal residency and 69 percent of refugees' households live under the poverty line.<sup>62</sup>

Additionally, the strict entry restrictions and the practically unachievable residency requirements impede the return of Syrian refugees that have been in Lebanon for more than a year. In order to be able to return, Syrians must have a legal residency permit or \$200 at the border, otherwise they are at risk of being imprisoned or detained.<sup>63</sup>

While the Lebanese government and authorities have made it explicit that they do not want additional Syrians to enter Lebanon and seemingly advocate for their return, their approach to residencies has been a counterintuitive technique to facilitating the return of Syrians.

Yet in March 2017, the GSO announced that it would waive the \$200 residency fee for Syrian refugees that were registered with the UNHCR prior to January 1, 2015, or have received residency through their UNHCR certificate at least once in 2015 or 2016.<sup>64</sup> Nevertheless, HRW (2017) found that excluding refugees that are not registered with the UNHCR further marginalizes Syrian refugees and increases their vulnerability.<sup>65</sup>

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<sup>62</sup> UNHCR, UNICEF, & WFP (2018). Vulnerability assessment of Syrian refugees in Lebanon 2018. Retrieved from data.unhcr.org: <https://data2.unhcr.org/en/documents/download/67380>, p. 1-2.

<sup>63</sup> Carnegie Middle East Center (2018), *ibid* 2.

<sup>64</sup> Human Rights Watch (February 14 2017), Lebanon: New Refugee Policy a Step Forward, retrieved from [hrw.org](http://hrw.org): <https://www.hrw.org/news/2017/02/14/lebanon-new-refugee-policy-step-forward>.

<sup>65</sup> HRW (2017), *ibid* 64.

In addition, on February 8, 2018, Lebanon's high administrative court, the State Council, issued a ruling stating General Directorate of the General Security violated national law in excess of its legal limit and that it is subject to judicial oversight.<sup>66</sup> It also stated: "General Security may return to applying the directives in force before 2015, whereby Syrians were allowed to enter Lebanon irrespective of the reason for entry and were granted six-months, renewable permits."

HRW also asserted that the GSO's waiver came amid discussions of the forced return of Syrian refugees, such that "this policy risks cementing a category of refugees without residency who would be highly vulnerable to any forced returns."<sup>67</sup> HRW contended forced return is "illegal" under international law, whether or not Syrians have legal residency or are registered with the UNHCR, especially since the establishment of "safe zones" in Syria is not possible due to the ongoing violence.<sup>68</sup>

In 2017, The U.N. High Commissioner for Refugees Filippo Grandi had also stated that he "doesn't see in Syria the conditions" to create safe zones.<sup>69</sup>

Nevertheless, in 2017 President of the Republic of Lebanon, Michel Aoun, officially requested that the international community assists in the establishment "safe zones" in Syria for refugees to return to.<sup>70</sup> In August 2018, President Aoun tasked the General Security Directorate Major Abbas Ibrahim with contacting the Syrian regime and to follow up on refugee returns to Syria, which prompted Major Ibrahim to call on the Syrian refugees to

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<sup>66</sup> Saghieh, N. and Frangieh, G. (March 26 2018), "Regulating Entry and Residence Conditions for Syrians: A Legal Victory in Lebanon", *Legal Agenda*, retrieved from: <http://legal-agenda.com/en/article.php?id=4286>.

<sup>67</sup> HRW (2017), *ibid* 64.

<sup>68</sup> HRW (2017), *ibid* 64.

<sup>69</sup> Reuters (February 3 2017), "UNHCR chief says safe zones would not work in Syria", retrieved from: [https://www.reuters.com/article/us-mideast-crisis-syria-unhcr/unhcr-chief-says-safe-zones-would-not-work-in-syria-idUSKBN15I2CO?utm\\_source=34553&utm\\_medium=partner](https://www.reuters.com/article/us-mideast-crisis-syria-unhcr/unhcr-chief-says-safe-zones-would-not-work-in-syria-idUSKBN15I2CO?utm_source=34553&utm_medium=partner).

<sup>70</sup> Reuters (February 3 2017), "Lebanese president calls for safe zones in Syria for refugees", retrieved from: <https://www.reuters.com/article/us-mideast-crisis-syria-aoun/lebanese-president-calls-for-safe-zones-in-syria-for-refugees-idUSKBN15I1WQ>.

come to the directorate's offices to register to return.<sup>71</sup> Since then, the General Security Office (GSO) as well as Hezbollah have set up centers to both register and coordinate the return of refugees to different areas, "safe" areas, in Syria.<sup>72</sup> According to GSO estimates, approximately 50,000 Syrians have been "voluntarily" and "successfully" returned to safe areas in Syria in 2018 alone, with 25,000 being assisted by General Security, and 25,000 of which have returned by their own volition.<sup>73</sup>

However, the GSO's numbers on Syrian refugees returns differs from that of the UNHCR, such that the UNHCR recorded the spontaneous return of 14,496 in 2018,<sup>74</sup> 8,900 of which were shared by the GSO.<sup>75</sup> Nevertheless, the UNHCR has repeatedly emphasized that their number may not reflect the actual number of spontaneous refugees returns to Syria.<sup>76</sup>

The UNHCR has stated that certain displaced Syrians in neighboring countries are gradually returning to areas where they feel safe.<sup>77</sup> The UNHCR has also stressed that returns by their very nature are meant to be voluntary and dignified, and in line with the principles of international law, and it will only begin to facilitate the returns of refugees when it deems that areas in Syria meet the "Protection Threshold" conditions that ensures safety of returnees.<sup>78</sup>

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<sup>71</sup> The Daily Star (August 27 2018), "General Security head welcomes Syrian refugees return initiatives", retrieved from: <http://www.dailystar.com.lb/News/Lebanon-News/2018/Aug-27/461296-general-security-head-welcomes-syrian-refugees-return-initiatives.ashx>.

<sup>72</sup> IRIN (August 20 2018), "Pressure to return builds on Syrian refugees in Lebanon", retrieved from: <https://www.irinnews.org/news-feature/2018/08/20/return-syrian-refugees-lebanon-hezbollah>.

<sup>73</sup> Reuters (September 25 2018), "Fifty thousand Syrians returned to Syria from Lebanon this year: official", retrieved from: <https://www.reuters.com/article/us-mideast-crisis-syria-lebanon-refugees/fifty-thousand-syrians-returned-to-syria-from-lebanon-this-year-official-idUSKCN1M510M>.

<sup>74</sup> UNHCR (January 31 2019). Syria Regional Refugee Response: Durable Solutions. Retrieved from: [https://data2.unhcr.org/en/situations/syria\\_durable\\_solutions](https://data2.unhcr.org/en/situations/syria_durable_solutions).

<sup>75</sup> This number includes 5,596 individuals who UNHCR has verified as having spontaneously returned on their own, as well as 8,900 individuals who have been matched against the UNHCR database from the GSO lists of organised group returns. The total number of individuals on lists shared by the GSO in 2018 amounts to 11,133 individuals, and the matching process is ongoing.

<sup>76</sup> UNHCR (2019), *ibid* 74 & UNHCR (November-December 2018). Durable Solutions for Syrian Refugees. Retrieved from: <https://data2.unhcr.org/en/documents/download/67359>.

<sup>77</sup> UNHCR (March 7 2019), "High Commissioner for Refugees visits Syria, assesses humanitarian needs", retrieved from unhcr.org: <https://www.unhcr.org/news/press/2019/3/5c81221a4/high-commissioner-refugees-visits-syria-assesses-humanitarian-needs.html>.

<sup>78</sup> UNHCR (February 2019), Comprehensive Protection and Solutions Strategy: Protection Thresholds and Parameters for Refugee Return To Syria, retrieved from unhcr.org: <https://data2.unhcr.org/en/documents/download/63223>

The dignified return of refugees under the UNHCR's "Protection Threshold" within the confines of international law was also reiterated at the Brussels III Conference. The conference also highlighted the fact that return is an individual right and is to be exercised at the time of any returnee's choosing.<sup>79</sup>

However, it has frequently been reported that Syrian refugees are reluctant to return to Syria, out of fear of the regime's reprisal and of being detained by the regime for evading military conscription, and escalating hostilities.<sup>80</sup> There is a reasonable doubt to believe that some refugees are being forcibly returned by the General Security and are arguably not voluntarily.

As stated previously, Lebanon cannot forcibly return Syrian refugees from Lebanon to Syria without violating the principle of "non-refoulement" under international law.

### **Conclusion: Lebanon's Legal Obligations Towards Syrian Refugees**

Lebanon has long refused to ratify the 1951 Convention Regarding the Status of Refugees, and has failed to adopt provisions and laws to cope with refugee influxes, while maintaining an approach of "non-commitment" to national refugee law.<sup>81</sup> Jordan is another country of interest, since it also hosts a significant number of Syrian refugees. However, the distinction between Lebanon and Jordan is that the response plan to the influx of 659,000 Syrian refugees was established early on, since it is unhindered by political deadlock.<sup>82</sup>

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<sup>79</sup> European Council/Council of the European Union (March 14 2019), "Brussels III Conference on 'Supporting the future of Syria and the region': co-chairs declaration", retrieved from: <https://www.consilium.europa.eu/en/press/press-releases/2019/03/14/brussels-iii-conference-on-supporting-the-future-of-syria-and-the-region-co-chairs-declaration/>

<sup>80</sup> Carnegie Middle East Center (2018), *ibid* 2; Reuters (2018), *ibid* 74; The Guardian (August 20 2018), "'We can't go back': Syria's refugees fear for their future after war", retrieved from: <https://www.theguardian.com/world/2018/aug/30/we-cant-go-back-syrias-refugees-fear-for-their-future-after-war>; Gulf World News (June 28 2018), "For Syrian refugees, fear of conscription prevents return home", retrieved from: <https://gulfnews.com/world/mena/for-syrian-refugees-fear-of-conscription-prevents-return-home-1.2243621>; The New Arab (July 29 2018), "Hundreds of Syrian refugees return home from Lebanon despite safety fears", retrieved from: <https://www.alaraby.co.uk/english/news/2018/7/29/hundreds-of-syrian-refugees-return-home-from-lebanon>, UNHCR (March 17 2019), 5th regional survey on refugee return perceptions and intentions March 2018, retrieved from: <https://data2.unhcr.org/en/documents/download/68443>.

<sup>81</sup> Janmyr, M. (2017), *ibid* 14.

<sup>82</sup> Carnegie Middle East Center (2018), *ibid* 2.

Nevertheless, Lebanon's "non-commitment" to refugee rights does not negate its ratification and responsibility to uphold the principles embodied in its Constitution, the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR). As such, the GoL as well as its security agencies are violating the principle of "non-refoulement" by both restricting displaced Syrians' entry as well as forcibly returning them to supposed "safe zones."

The GoL must ensure that it abides by the principle of non-refoulement in its promotion and facilitation of the return of Syrian refugees, such that the return of Syrian refugees should be voluntary, dignified and in line with the principles embodied in international law.

In addition, Lebanon's "disassociation policy" approach to refugees by decentralizing authority to *ad hoc* bodies such as municipalities and the General Security Office (GSO) is considered unlawful<sup>83</sup>, where the Lebanese government must "shoulder its responsibility in setting Lebanon's refugee policy after it has neglected to do so for [seven] years."<sup>84</sup>

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<sup>83</sup> Mourad, L. (March 2017), *ibid* 4; and Saghieh, N. and Frangieh, G. (2018), *ibid* 66.

<sup>84</sup> Saghieh, N. and Frangieh, G. (2018), *ibid* 66.

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