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The right to work for Syrian refugee in Jordan: a durable solution?

Would providing the right to work for refugees in protracted situation
be a development opportunity?

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Acknowledgment:

The choice of this topic has been made upon my experience of working in Jordan in 2012-2013 and Syria in 2017. During my field experiences, I have been amazed by the solidarity that I could see among the populations affected by the conflict, solidarity that I did not noticed in Paris. Solidarity and hospitality do not solve poverty and trauma faced into exile but I am deeply convinced that it is a starting point to build upon.

I would like to express sincere gratitude to my supervisor Graham Finlay for his continuous support during the writing process of this master thesis; Orla Ní Cheallacháin for her warm welcome at UCD and her administrative support. I also would like to sincerely thank Clémence for supporting me during the writing process, Celina, Fanny, Etienne and Alma.

Abstract:

This master thesis is trying to seek durable solution for refugees through the necessity to apply Chapter 3 of the 1951 Convention related to the status of refugee: the right to work. I argue that the provision of the right to work could be the durable solution that the hosting countries and the International Community have been looking for. To support this argument, the case of Jordan is being studied and analyzed within this master thesis, as one of the best example to support new policies for durable solutions. However, I will demonstrate that to ensure the efficiency of the new policy through the so-called Jordan Compact, a revision of this agreement will need to be done to ensure that this policy will reach its overall goal: being providing self-sufficiency to refugees being in protracted displacement.

List of Acronyms:

3RP: Regional Refugee and Resilience Plan

AU: African Union

CARE: Cooperative for Assistance and Relief Everywhere

EU: European Union

FAFO: Forskningsstiftelsen Fafo

GDP: Gross Domestic Product

GID: General Intelligence Department

HRW: Human Rights Watch

HRBA: Human Rights Based Approach

INGO: International Non Governmental Organization

ICESCR: International Covenant on Economic Social and Cultural Rights

IMF: International Monetary Fund

ILO: International Labor Organization

ISIS: Islamic State of Iraq and Syria

JRP: Jordan Response Plan

MoI: Ministry of Interior

MoL: Ministry of Labor

MoPIC: Ministry of Planning and International Cooperation

MoU: Memorandum of Understanding

PoC: Person of Concern

PRS: Palestinian refugees from Syria

PLO: Palestinian Liberation Organization

RSD: Refugee Status Determination

RRO: Relaxed Rules of Origin

SEZ: Special Economic Zone

SDG: Sustainable development goals

SPRING: Support for Partnership, Reform and Inclusive Growth

TPR: Temporary Protection Regime

UNHCR: United Nations High Commissioner for Refugees

UNRWA: United Nation Relief and Work Agency for the Near East

UDHR: Universal Declaration of Human Rights

US: United States

WANA Institute

WB: World Bank

WFP: World Food Program

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Syrian Refugees in Jordan - District Level

Syrian Refugees in Jordan by end of March 2018

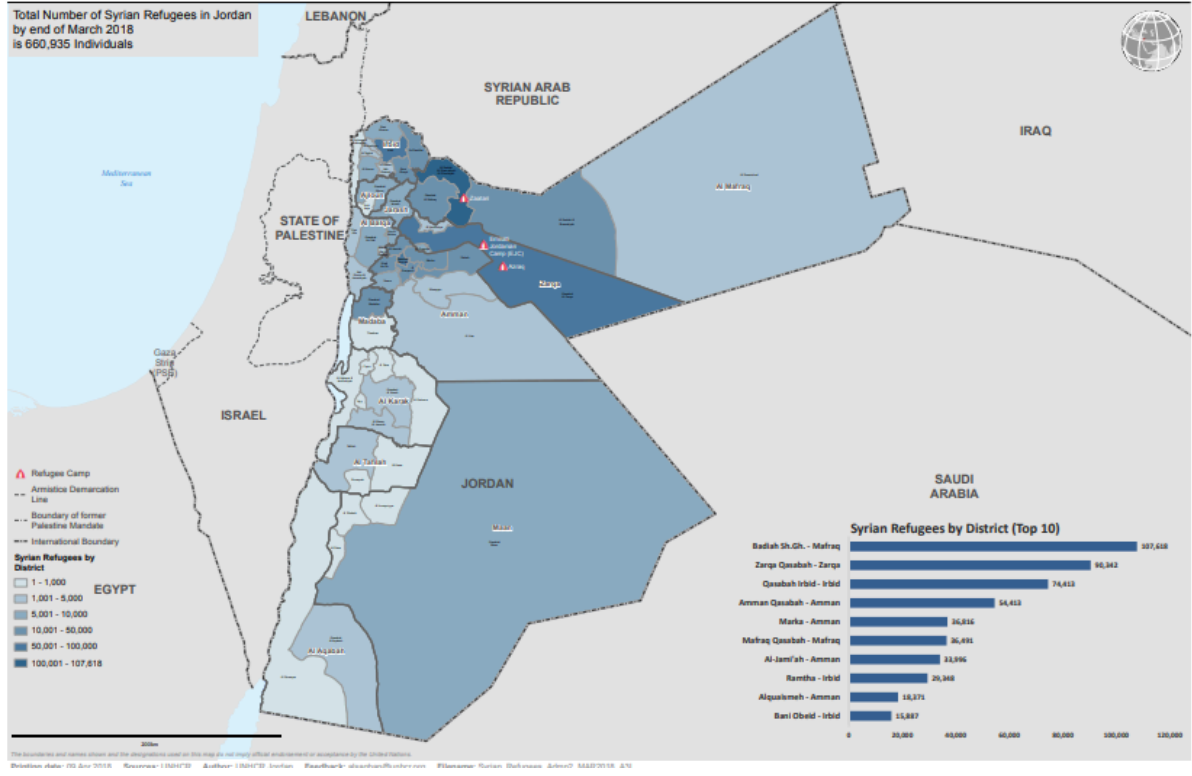


Figure 1 syrian refugees in Jordan

Introduction

When writing the 1951 Convention related to the status of refugees, Louis Henkins declared, “Without the right to work, all other rights were meaningless”. The right to safe and lawful employment for asylum seekers and refugees is a fundamental human right, protected by several International Conventions.¹ Despite this, host countries place strict conditions on displaced persons and refugees entering the territory regarding the right to earn and support themselves, thus preventing them from alleviating their financial suffering, enforcing their impoverishment and entrenching their dependency on humanitarian assistance. Such policies cripple families since statistically a displaced person seeking protection in host countries is likely to remain displaced for an average of 17 years,² putting immense pressure on local economies. At this stage in modern history, the global count of registered refugees and internally displaced persons (IDPs) has reached the highest level since World War II, with a combined figure of over 65,6 million of forcibly displaced people among which, 22,5 million are refugees.³

Turkey, Pakistan, Lebanon, Iran, Ethiopia, Jordan etc...⁴ currently hold some of the highest numbers of refugees worldwide. All of which tend to border the neighbouring country from which the movement is occurring. Typically host countries are also middle to low-income countries with fragile economies who are already recipients of international support, and whose resources and economies are placed under further strain with the incoming population. So far, the International Community has failed to provide sustainable solutions to people seeking protection. Refugees and IDPs displacement goes along with humanitarian crisis but also reflects development failure. Humanitarian response is the main tool used by the International Community to respond to the needs of the refugees. While this step is essential to ensure protection at the beginning of the displacement, humanitarian response does not provide durable solutions and is not efficient in a longer term. Hence, without appropriate opportunity to live a life in the country the person moves to, the person will end up poor, frustrated and will not have the proper capacity to overcome the trauma he/she might have gone through during the exile.

¹ See Chapter 3, part A

² figures available at: <http://www.unhcr.org/en-ie/figures-at-a-glance.html>

³ Ibid (n.2)

⁴ UNHCR, (2016) Global trends in forced displacement in 2015, available at; <http://www.unhcr.org/576408cd7.pdf> Figure 3 p15

Jordan is one of the “top” hosting countries according to UN High Commissioner for Refugees (UNHCR). Surrounded by Palestine, Iraq and Syria, three countries from which people have been forced to flee due to conflicts, Jordan has a long history of hosting refugees due to its relatively stable existence within which relative safety can be ensured. To date, refugees represent nearly 30% of the total population of Jordan.⁵ The different policies Jordan has implemented towards refugees range from total assimilation to breaches in the *non-refoulement* principle including denial of entry, deportation and exclusion of refugees living already on Jordanian territory. The Jordanian government has been changing its policies based on the strain the refugees are putting on its society. With the recent Syrian crisis, Jordan has been a host for 600,000 refugees according to UNHCR and for 1,3 million according to the last census made by the Jordanian government.⁶ Despite the restrictive policies Jordan had implemented since 2016 (closing its border and sheltering refugees in camps), Jordan, along with the International Community have been working on finding a more appropriate durable solution acknowledging that humanitarian assistance is not enough to manage this refugee crisis.

One sustainable solution identified is to allow refugees to earn for their living, enabling them to provide for their family and regain autonomy. If protection is what refugees are entitled to in the first place, freedom of movement and right to work are also part of these rights that have been denied to most through the placement of people in camps and provision of assistance for their survival. Dadaab camp is the best example of a camp policy that has been on going for over 30 years, where more than one generation of people are relying on assistance without being able to live a decent life in autonomy. The Kenyan State and the International Community have been struggling to find an appropriate exit strategy ensuring the population of Dadaab camp could live a decent autonomous life without being dependant on humanitarian assistance. Paul Collier and Alexander Betts have recently pushed for a change in refugee vision, with a switch from the vulnerability thinking to the opportunity thinking.⁷ Their main argument is focusing of the necessity to provide the right to work to

⁵ Mohamed Ghazal, (2016) Population stands at around 9.5 million, including 2.9 million guests, The Jordanian times, available at : <http://www.jordantimes.com/news/local/population-stands-around-95-million-including-29-million-guests>

⁶ *ibid* (n.5)– this discrepancy of figure will be discussed later on in this thesis

⁷ Paul Collier and Alexander Betts, (2017), Why denying refugees the right to work is a catastrophic error, The Guardian, available at: <https://www.theguardian.com/world/2017/mar/22/why-denying-refugees-the-right-to-work-is-a-catastrophic-error>

refugees to ensure they have access to autonomy; but also to use the opportunity of new labour force in a middle-income country to create jobs and economic wealth. This main idea has been implemented through the “Jordan Compact”, a new deal that supports integration policy and changes the way refugees are perceived.

This master thesis will study the case of Jordan and discuss the possibility to provide the right to work for refugees. Would this be a solution to ensure that Syrian refugees in Jordan can live in dignity? By regaining autonomy, will Syrian refugees be able to support the development of Jordan?

To answer to those questions, within the two first chapters of this master thesis, we will demonstrate why Jordan is an ideal country to implement such policy and how Jordan has been dealing with Syrian refugees up to now. In the third chapter we will discuss the right to work of refugees in Jordan through the Jordanian Compact and argue that this agreement by being based on economically vague outcomes is not reaching the expected goal of allowing refugees to live in dignity within the hosting country. By not being based on human rights, this policy also fails as a development measure and refugees find themselves in precarious situations along with vulnerable Jordanians that are paying the price for the economic crisis Jordan is facing. The last chapter of this thesis will be dedicated to recommendations for improving the current agreement but also additional measures that will need to be implemented to ensure that having the right to work allows the other human rights of refugees to be fulfilled.

Chapter I. Jordan: a History of welcoming refugee with different policies

States are quite reluctant to provide the right to work to refugee since they believe that refugee would take the work of their citizens. Governments, for not becoming unpopular and for ensuring its re-election are not allowing refugees to earn for their living despite the fact that access to lawful employment is a fundamental human right and could be an economic opportunity.

Jordan has had different policies regarding allowing refugees to work within its History. Recently, Jordan agreed on the provision of 200.000 work permits to Syrian refugees through the Compact agreement signed between the government and the European Union (EU) and the World Bank (WB). Ensuring self-reliance of the refugee population within the host country could trigger and influence the refugee policies worldwide. The implementation of this policy within Jordan is not surprising since Jordan is the “ideal” candidate to test a new refugee policy. This argument will be demonstrated in this first chapter where we will argue that due to the relative stability of the country and its history of sheltering massive waves of refugees, Jordan is one of the countries where providing the right to work to refugee could be a solution to ensure that other fundamental rights of refugees are respected. This chapter will be divided in two main parts: The first part will demonstrate how Jordan is, despite the whole Middle East crisis, a relatively stable country with a regular economic growth that can have space and need for an additional work force. The second part of this chapter will be dedicated to Jordan’s history of accommodating refugees with a legacy from the Ottoman Empire and two main refugees’ “crisis” in Jordan: the influx of Palestinians and the influx of Iraqis will be discussed.

A. Jordan, a relatively stable country in an unstable environment.

Since its independence and its creation in 1946, Jordan has built a strong constitutional monarchy with first the reign of King Hussein and now the reign of his son King Abdullah II since 1999. The Hashemite Kingdom of Jordan has experienced various political destabilization events since 1946. The wars against Israel in 1948 and 1967, the civil wars in 1970 and 1971 and a civil unrest in 1989 are examples of destabilization events that the

monarchy experienced.⁸ Recently, several factors have threatened the country's stability. The economic situation has deteriorated because of the general instability in region and the 2008 financial crisis. This led to growing anger of the population and protest within the country. During the Arab Spring, Jordan was able to manage the rising anger within its population and find opportunities for reform and for increasing support from the international community.⁹ As a result, Jordan is seen as the safe space in the Middle East. This needs to be well maintained because Jordan is the place of the humanitarian hub for response to the different crisis in the Middle East (Syria, Yemen, Iraq) and has different military bases for preserving security in the area. Jordan is also a place where refugees seek protection from the different conflicts the surrounding countries are experiencing.

a) Jordan's economic profile

Jordan is an upper middle-income country with a Gross Domestic Product (GDP) of \$4,087 per capita.¹⁰ 18.6% of people are unemployed in Jordan.¹¹ The World Bank defines the economic situation of Jordan as:

“Jordan's economy remains in a low-growth scenario with GDP expected to increase by 2.4% in 2018 and 2.5% in 2019 from 2.1% in 2017. Improvements in tourism and mining and quarrying are expected to have driven a timid improvement in growth in 2017; however, the economy remains burdened with ongoing uncertainty in Syria, slow revival of economic cooperation with Iraq, and an economic slowdown in the Gulf Cooperation Council (GCC). In addition, the economy is subject to a slow pace of structural reforms that is impeding a strong recovery in growth.”¹²

Jordan's economy relies on limited sources of income and has few natural resources. Foreign aid, public debt and remittances are the main sources of incomes for Jordan. The country has a strategy to diversify and stimulate its economy towards high value-added economic activity. In parallel, Jordan has done some reforms to expand foreign trade, especially with its neighbors such as Iraq and Syria, and privatized its State-owned enterprise. Between 2004

⁸ Nuri YEŞİLYURT, (2014), Jordan and the Arab Spring: Challenges and Opportunities, PERCEPTIONS, Winter 2014, Volume XIX, Number 4, pp. 169-194;

⁹ Ibid (n.8)

¹⁰ World bank data, GDP per capita, as of 9th of June 2017, available at : https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?name_desc=false

¹¹ Jordan department of Statistic, as of 9th of June 2017, available at: <http://dosweb.dos.gov.jo/>

¹² World bank,(2018) Jordan's Economic Outlook - April 2018;

and 2008, the average GDP growth was of 8%.¹³ According to Ali Fasih and May Ibrahim, the global financial crisis of 2008 and the Arab Springs were challenging Jordan's economy before the spillover of the Syrian conflict.¹⁴

Jordan is a service-based economy with the biggest employer being the public sector (26%)¹⁵ and its economic development strategy relies on knowledge-based economy, which prioritized education and high skilled sectors. This economic strategy counts on the creation of high value jobs that would eventually create other jobs. However, with an unemployment rate as high as 18.6%, Ali Fasih and May Ibrahim argue that Jordan should reorient some investments towards job creation of less value.¹⁶ Strength of Jordan's economy, even though fragile, was to be able to resist to the different crisis it faced. This was possible due to the strong political power and additional support from foreign partners. The West Asia North Africa (WANA) Institute draws attention to Jordan's

“reliance on what is known as ‘external rents’ (...) Jordan's economy is more rent-oriented than growth-oriented. Resource scarcity, and consequent dependence on imports, also means that the economy is highly shaped by exogenous events.”¹⁷

Jordan is a fragile economy evolving in an unstable environment relying on resource from abroad. However, despite this vulnerability, it can be argued that Jordan could be able to accommodate a sudden increase in its population and remain stable through the different internal and external shocks such as the conflicts in the area and the growing discontent within its own population because of the inadequacy between the education of its population (highly skilled) and the employment available (low skilled).

¹³ Shaddin Alhajahmad and Dorsey Lockhart, (2018) Jordan's Recent Economic Performance: Implications for Future Growth, Investment, Refugee Policy and Refugees, WANA Institute;

¹⁴ Ali Fasih & May Ibrahim (2016) The impact of Syrian refugees on the labor market in neighboring countries: empirical evidence from Jordan, Defence and Peace Economics, 27:1, 64-86, DOI: 10.1080/10242694.2015.1055936;

¹⁵ Ibid (n.14)

¹⁶ Ibid (n.14)

¹⁷ Sean D. Thomas, Mays Abdel Aziz, Dr Erica Harper (2015), Forging New Strategies in Protracted Refugee Crises: Syrian Refugees and the Host State Economy: Jordan Case Study, WANA Institute;

b) Foreign support to Jordan

Jordan is highly dependent on foreign aid from the Western countries and the Gulf States.¹⁸ It is estimated that foreign aid averaged \$469.93 million from 2000-2015 and is expected to reach JOD 2.6 billion (\$3.66 billion) or 10 percent of Jordan's GDP by the end of 2015.¹⁹ These supports have been the main scheme Jordan uses to overcome the pressures they are enduring as a result of the crisis in the Middle East. So far, it has worked quite well, since they have been able to raise fund from foreign support on an ongoing basis and it is continuing to work. The United States (US) and Jordan have signed a 5 years Memorandum of Understanding for \$6.375 billion, which represents an increase of 27% of US Aid²⁰. Even though this aid is valuable for Jordan, it also means that Jordan is less independent in terms of foreign policy. The recent declaration of the president of the US Donald Trump regarding the movement of the US embassy to Jerusalem has put Jordan in an uncomfortable position. While being at peace with Israel since 1994, Jordan is a supporter of the Palestinian cause, especially due to the composition of its population (half of the Jordanian population has Palestinian origins). The relationship between the US and Jordan is a constant balance of interdependency. Indeed, the US are also in need of Jordan especially for military purposes. Jordan is hosting more than 2,300 US troops on his soil and has been a strong support in the fight against the Islamic State of Iraq and Syria (ISIS) but also in support to the US-Coalition policy in the Syrian conflict.²¹

The Gulf States are also major financial supporter for Jordan's economy. For instance, they have been supporting Jordan after the Arab Spring with \$5 billion of aid and support to overcome the lack of income Jordan was experiencing.

Finally, the EU is also a main donor for Jordan, as part of the Euro-Mediterranean Agreement. The EU's support is not just economic as they are also supporting Jordan's democratization process via the provision of conditional financing. €488 million was initially allocated during the period 2007-2013. To support the realization of key political and socio-economic reforms in a challenging macro-economic context, the EU made an additional amount of €91 million available for the period 2012-2013, through the Support for Partnership, Reform and Inclusive

¹⁸ Jeremy Sharp, (2018), Jordan: Background and U.S. Relations, Congressional Report Service, available at: <https://fas.org/sgp/crs/mideast/RL33546.pdf>

¹⁹ Ibid (n.17)

²⁰ Ibid (n.18)

²¹ Ibid (n.18)

Growth (SPRING) – focusing mainly on good governance, economic and inclusive growth. They also decided in 2014 to provide a Macro Financial Assistance package of €180 million.²²

Given the instability of the region, the International Community is keen to keep Jordan stable. Jordan has always been a reliable state and its unique geopolitical position within the area has put Jordan as a particular ally for the US, but also for the EU and the Gulf State.

c) Strong monarchy, reforms and protest

When King Abdullah was nominated in 1999, he promised some drastic changes in terms of politics, economic and social matters in Jordan. However, reforms were slow to arrive and little efforts towards democratization are evidence. In addition, economic reforms have been based on liberalization policy through the Washington consensus, which increased inequalities in the country.²³

The Arab Springs were a new challenge for the regime and for the whole region. Between 2011 and 2013, Jordan faced weekly demonstrations protesting against the government, and asking for political and socio-economic reforms. Nuri Yeşilyurt claims that the Arab Springs in Jordan, unlike in its neighboring countries, was a good opportunity for reforming Jordan, opportunity that the monarchy took advantage of.²⁴ The main reasons underlined for the protests were poverty, corruption and unemployment, but also the call for regime change, for more democracy and more freedom of expression. At that time, a large group of Syrian refugees were starting to arrive in Jordan. However, even if the Syrian conflict was having an effect on Jordan's economy, the protests were not against the arrival of Syrians to Jordan. After several electoral and constitutional reforms and some changes in the government, the protests were still ongoing. The King decided to organize general elections in 2012. However, in November 2012, some violent riots erupted due the suppression of subsidies and increase in prices of fuel and flour. General elections were finally organized in January 2013, resulting in a reduction in pro-reform protests in Jordan cities.

²² Press and information team of the EU delegation in Jordan, (2018), Jordan and the EU, EU relations with Jordan, available at: https://eeas.europa.eu/delegations/jordan_en/1357/Jordan%20and%20the%20EU#Financial+Cooperation+with+Jordan

²³ Jean-Loup Samaan (2012), Jordan's New Geopolitics, Survival Global Politics and Strategy, Volume 54, 2012 - Issue 2

²⁴ Ibid (n.8)

The fact that the protest did not result in regime change, like in Egypt or Tunisia is explained by several factors. The first one is the division of the protesters. According to Forskningsstiftelsen Fafo (FAFO)'s report:

“Disparate protesters in Jordan are calling for reform which diffuses the demands. Some protest groups, mainly with tribal affiliations, emphasize economic reforms to improve ordinary people’s standard of living. Other groups, particularly represented by the Muslim Brotherhood, are calling for political reform to better distribute power and gain more influence over politics. These differences have fragmented the protest movement and weakened the potential of pressure for change.”²⁵

This division can be related to the other division among the “East bankers”, the population with Jordanian origins and the “West bankers” the population with Palestinian origins. Nevertheless, between those two groups, several socio economic classes are represented, so that a union among themselves was difficult to envisaged. Several other groups came into the play at this time such as the Muslim Brotherhood who asked for a better representative system and political reforms; some people affiliated to the left parties, who were demanding economic and political reforms but who are against regime change since they believed that the monarchy is the only one capable of keeping the country’s stability.²⁶ The King was able to take the appropriate decisions to ensure that the crisis will not worsen and results in a regime change. The respect for the monarchy does not prevail the existence of opposition, however the monarchy resisted because the different oppositions were not keen to let one or the other win and preferred to keep the regime as it is for stability.

In conclusion, the relative stability of Jordan is mainly due to three different factors. Jordan is a middle-income economic country, which allows some flexibility with regards to increase of population and creation of job opportunities. The second factor is related to the foreign presence and support that Jordan is benefitting from, and the third factor is in link with the strong legitimated monarchy and the internal divisions of the protester groups that have not been able to push for a regime change so far. We have described the economic and political context in which Syrian refugees arrived in Jordan. In the following chapter, we will discuss the impact of those arrivals since the arrival of Syrian refugees had consequences on the

²⁵ Mona Christophersen, (2013), Protest and reform in Jordan, Popular demand and government response, 2011 to 2012 Fafo-report 2013:50

²⁶ Ibid (n.25)

economic situation of Jordan. The history of the population of Jordan is also a factor influencing the fact that Jordan is an ideal country to implement new refugee policy such as providing the right to work.

B. Jordan's History of accommodating refugees: between assimilation and exclusion

a) The Legacy of the Ottoman Empire

i. Refugee commission, refuge code and millet

By the end of the 19th century the Ottoman Empire dealt with many waves of forced migration. The most notable events were the forced migrations of Circassia and Abkhazian in the Caucasus. Those populations were forced to flee by the Tsarist Russia. In total 1.7 million people came to the Ottoman Empire. In order to manage this flow, the Ottoman Empire created a Refugee Code and a Refugee Commission. The Refugee Commission was in charge of coordinating the humanitarian aid including food, shelter, clothing etc... and the Refugee Code was setting the rights of refugees within the Ottoman Empire. In addition, the Sublime Porte, the governing body of the Ottoman Empire, drew up an integration plan encouraging local communities to host and provide hospitality to the new arrivals and providing incentives for self-settlement. These included land to start farming, seeds, animals and money to buy farming equipment. In return, the households who settled could not sell the land for 15 years. This measure was based on the assumption that displacement would be a long-term one and the question of return was not envisaged for those who accepted this deal.²⁷ Most of the settled communities are in what is today Syria, Lebanon and Jordan. This generous attitude of the State is explained by the vision the Sublime Porte was having that the settlement of refugees was a way to keep its land and territory by populating it.²⁸

In addition to the implementation of the Refugee Commission and the Refuge Code, the Ottoman Empire also set the policy of the millet to ensure integration of the new communities. The millet was a local governance mechanism that was encouraging the different ethnic and religious communities to live together. The millet promoted local governance through religion and not through ethnic minority. Even though the Ottoman

²⁷ Dawn Chatty, (2017), The duty to be generous (karam): Alternatives to rights-based asylum in the Middle East, *Journal of the British Academy*, 5 ;177-199

²⁸ Dawn Chatty, (2010), *Displacement and Dispossession in the Modern Middle East*, New York, Cambridge University Press, 2010

Empire recognised Islam as the superior religion, it set a tolerance policy toward Christians and Jews. The millet system organised the different religious communities. This allowed the different communities to live together and organised autonomously. Some millets were ethnically mixed and religiously homogenous, some the contrary. Through this policy, the Ottoman Empire created a multi-cultural and multi-religious community living together peacefully, where participation was allowed for everybody. Dawn Chatty explains the legacy of the millet by arguing that :

*“The deterritorialised aspects of belonging tied to the Ottoman ethno-religious millets laid the foundations for later elaborations of migrations, mainly circular and back-and-forth between relations, co-religionists, colleagues, customers, and creditors in the modern Arab successor states of the Empire.”*²⁹

The linkages that exist among the different communities in the Arab World nowadays illustrate the legacy of the millet. Movements that have occurred within the Ottoman Empire still have some consequences on the composition of the societies and trigger some movements and settlements in the areas where the people will decide to settle. If this system worked well for a time, the pressure from inside and from outside saw the dismantlement of the Ottoman Empire after the First World War put a halt to the system.³⁰

The Ottoman Empire also implemented policy to push out some groups from the Empire, such as the Armenians and other communities who were living in Anatolia. The forced marches and the genocide of 1915-1917 resulted in massive displacement of mainly Armenians who came to settle in the southern provinces of the Ottoman Empire (today Syria, Jordan and Lebanon) during the First World War. Those forced migrations were not managed by the Refugee Commission and received humanitarian assistance through what was starting to be International Non-Governmental Organisation (INGO). But migrations were also managed through the Armenian community that had moved within the Ottoman Empire from what is today Armenia to what is today Syria, Lebanon and Jordan by the end of the 19th century.³¹

²⁹ Ibid (n.28)

³⁰ Ibid (n.27)

³¹ Rochelle Davis, Grace Benton, Will Todman, Emma Murphy, (2017), Hosting Guests, Creating Citizens: Models of Refugee Administration in Jordan and Egypt, *Refugee Survey Quarterly*, Volume 36, Issue 2, 1 June 2017, Pages 1–32, <https://doi-org.ucd.idm.oclc.org/10.1093/rsq/hdx003>

The Ottoman Empire dealt with these migrations in a pragmatic fashion, which was politically favourable to their empire. However, the Refugee Code and the millet left a legacy of hospitality that is still having some consequences today, such as the hospitality of Jordanians towards Syrians.³²

ii. Organisation of the society based on family, lineage and tribes with migration

The organisation of the society in the Arabic world is based on family, lineage and tribes. Among those social groups, solidarity and protection are the key principles. In addition to that, through history with the Ottoman Empire and its dismantlement, people were forced to flee from generation to generation. With the Sykes Picot agreement³³ new borders were drawn which separated families and created movements but also additional linkage in different new countries. Dawn Chatty explains that: “Relatives, close and distant, were spread over a wide region far beyond the confines of the modern nation state and could be called on for support, shelter, and security when needed.”³⁴ In 1924, Jordan became a British protectorate and was called Transjordan including the West and the East part of the Jordan River. All the people living in Transjordan received the Transjordan nationality. Hence, the nationality was defined based on the geography and the territory and not the ethnicity or the religion.³⁵

In addition, Jordan was a deserted area populated of Arab Bedouins where social ties based on tribes is highly important and defines the organization of the Bedouins. Hospitality among the Bedouins is also a key element of their social organization. This hospitality framework from the Ottoman empire policies, the different linkage and from the dismantlement left an heritage in the new modern states created and later on became part of the pan Arab ideology that:

“view Arab people as belonging to a wider Arab nation (al-alam al Arabi) that transcends modern nation-state boundaries, on account of a shared culture, language, heritage and history. As part of this, foreign Arab nationals are ‘broadly perceived as Arab brethren to whom the same type of rights as those accorded to nationals should be granted, with the exception of nationality.’”³⁶

³² Ibid (n.27)

³³ The Sykes Picot agreement is an agreement that was signed at the end of the First World War and agreed on the dismantlement of the Ottoman Empire and shared responsibilities among the UK and France for the protectorate of newly created Syria, Lebanon and Transjordan.

³⁴ Ibid (n.27)

³⁵ Ibid (n.31)

³⁶ Géraldine Chatelard, Oroub el-Abed, Kate Washington, (2009), Protection, Mobility and Livelihood Challenges of Displaced Iraqis in Urban Settings in Jordan, International Catholic Migration Commission, 2009,

The politics implemented by the Ottoman Empire was an inclusive politics towards refugees according to their political and economic interests. Refugees were integrated within the community and were allowed to work. This inclusive policy remained after the dismantlement and was fully embraced by the pan Arabism ideology through hospitality. However, hospitality did not mean that refugees are allowed to work. To a certain extent, one could argue that the hospitality is ensuring that refugees are protected by the hosting State through the implementation of *non-refoulement*, but it does not necessary include a policy of integration through allowing refugees to work and provide for their living. In the following part we will study two examples of refuge management of the Jordanian state.

b) The Palestinian question in Jordan



Figure 2: Annexation of the West Bank by Jordan in 1950

In 1948, 900,000 Palestinians left Palestine following the creation of Israel by the International community.³⁷ In the meantime, King Hussein annexed the West Bank after 2 years of war and Transjordan became the Hachemite Kingdom of Jordan in 1950. With the annexation, Jordan implemented an inclusive policy towards the Palestinians that were living in the West Bank and the one that had settled on the East Bank. Article 3 of the 1954 law

available at: <http://www.icmc.net/pubs/protection-mobility-and-livelihood-challenges-displaced-iraqis-urban-settings-jordan>

³⁷ Oroub al-Abed, (2004), Palestinian Refugees in Jordan, forced migration online; available at: <http://www.forcedmigration.org/research-resources/expert-guides/palestinian-refugees-in-jordan/alldocuments>

states that a Jordanian national is: “Any person with previous Palestinian nationality except the Jews before the date of May 15, 1948 residing in the Kingdom during the period from December 20, 1949 and February 16, 1954.”³⁸ Palestinians in the East Bank and the West Bank of the Hashemite Kingdom of Jordan were thus granted Jordanian nationality.³⁹ By becoming Jordanian nationals, Palestinians were acquiring the same rights as the Jordanians and were consequently allowed to work legally within the Jordanian territory. In parallel, the International Community created The United Nation Relief and Work Agency for the Near East (UNRWA) in 1949. UNRWA was in charge of providing services to the Palestinian refugees. It had a limited mandate in terms of scope of operation and responsibilities. Indeed, at the same period, the UN granted the right of return to all Palestinian refugees through the voting of the UN resolution 194 in 1948. This resolution recognized that

“refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or equity, should be made good by the Governments or authorities responsible”⁴⁰.

In 1948, it was not predicted that Israel would never apply this resolution and that the right of return would still be questioned up to now. Having the Jordanian citizenship for Palestinians that flee in 1948 in Jordan did not remove this right, “Jordanian citizenship has not cancelled the Palestinian right of return or their status as refugees.”⁴¹ However, it is still unclear for the descendant of the Palestinians if this right of return would be granted if it was applied.

To manage this refugee influx the King of Jordan signed an agreement with UNRWA to set different camps to shelter the Palestinian refugees. Palestinians were granted citizenships but were managed separately with a provision of services done by UNRWA such as health and education. UNRWA created a parallel system for public services for Palestinians that will be repeated with the other refugees. “UNRWA’s mandate in Jordan (and the West Bank until 1988) covered at that time 41 per cent of the total number of registered Palestinian refugees, roughly 70,000 Palestinian refugees living in Jordan and 280,000 of the 764,900 Palestinians

³⁸ Ibid (n.37)

³⁹ Ibid (n.37)

⁴⁰ United National General Assembly, A/RES/194 (III) 11 December 1948, 194 (III). Palestine -- Progress Report of the United Nations Mediator

⁴¹ Ibid (n.37)

living in the West Bank.”⁴² It is to be noted that at the same period, the International Community created UNHCR and signed the 1951 Convention on Refugees. UNHCR mandate, signed for three years excluded the Palestinians refugees, so did the convention. Hence, the creation of UNRWA defined a separate system for refugees according to their nationality.

In 1967, during the war between Israel and the surrounding States, Israel occupied the West Bank and some West bankers flew to the East Bank (Jordan of today). It is estimated that 300,000 Palestinians fled to Jordan.⁴³ Those who were fleeing were already having the Jordanian citizenship, however some were arriving from Gaza without Jordanian documents and only Egyptian travel documents. They were also fleeing Israeli occupation.⁴⁴ At this time, the Jordanian government started to apply a less inclusive policy. The Palestinians coming from West Bank who did not have the Jordanian nationality were regularized and registered with UNRWA.⁴⁵ The Palestinian coming from Gaza received a different treatment because Jordan argued that if they were to receive the Jordanian nationality, they would not be able to return to Gaza. At the same time the states of the Arab League (including Jordan) signed the Casablanca Protocol, where it was mentioned that all of the Palestinian refugees were entitled to work, travel and residency in the countries they were fleeing to. The Palestinians from Gaza received a two years passport from the Jordanian government and in 1968 a camp was created close to Jerash. Palestinians from Gaza living in Jordan cannot vote or be employed by the Jordanian government and can only access UNRWA services.⁴⁶ This restrictive policy can be explained by the concerns of Jordan about the number of Palestinian in its territory and the threat this could cause to the stability of the State.

In 1969, Palestinians living in Jordan were getting organized with the establishment of the Palestinian Liberation Organization (PLO) and elected Yasser Arafat as their leader. King

⁴² Rochelle Davis, Grace Benton, Will Todman, Emma Murphy, (2017), *Hosting Guests, Creating Citizens: Models of Refugee Administration in Jordan and Egypt*, *Refugee Survey Quarterly*, Volume 36, Issue 2, 1 June 2017, Pages 1–32, <https://doi-org.ucd.idm.oclc.org/10.1093/rsq/hdx003>, citing ; F. De Bel-Air, *Population, Politique et Politiques de Population en Jordanie, 1948–1998*, Paris, Ecole des Hautes Etudes en Sciences Sociales, 2003, 83. United Nations Conference on Trade and Development (UNCTAD), *Population and Demographic Developments in the West Bank and Gaza Strip Until 1990*, UNCTAD, Report, 1994, 57, available at: <http://unctad.org/en/docs/poecdcsud1.en.pdf> (last visited 17 Mar. 2017) citing M.K. Roof & K.G. Kinsella, 1985, *Palestine Population 1950–1984*, Washington, DC, United States Bureau of Census, 18

⁴³ *Ibid* (n.31)

⁴⁴ Gaza was under the management of Egypt since 1948, Egypt gave travel documents to all Gazan people.

⁴⁵ *Ibid* (n.37)

⁴⁶ *Ibid* (n.31)

Hussein started to get threatened by the establishment of a state within his state. In 1970, the King declared Martial Law and allowed the Jordanian army to intervene against the leaders of the PLO. After a month of civil war, known as Black September, a ceasefire was signed in Cairo. King Hussein proposed several plans to unify Palestine and Jordan to resolve the Palestinian issues but none of those plans were accepted by the Arab League since it would have recognized that a Palestinian state would never be.⁴⁷ The King finally recognized the authority of the PLO and that the West Bank would not be unified with Jordan again. Consequently, the King took some administrative measures and removed the Jordanian nationality from the people who were leaving in the Occupied Palestinian Territories (West Bank). Half a million Palestinians lost their Jordanian passports following the declaration of the 31 July 1988 by King Hussein:

*“Today, we respond to the wish of the PLO, the sole legitimate representative of the Palestinian people and to the Arab orientation [seeking] to affirm the Palestinian identity in all its aspects ... It has to be understood in all clarity, and without any ambiguity or equivocation, that our measures regarding the West Bank concern only the occupied Palestinian land and its people. They naturally do not relate in any way to the Jordanian citizens of Palestinian origins in the Hashemite Kingdom of Jordan. They all have the full rights of citizenship and all its obligations, the same as any other citizen irrespective of his origin”.*⁴⁸

The way the Jordanian authority dealt with the Palestinian refugee had a huge territory motive since it is quite clear that the Jordanian authority gave the Palestinians Jordanian citizenship because the King also wanted to keep the West Bank under its reign. Palestinian refugees, depending on their date of arrival and their origin do not have the same status and not all of them received the Jordanian citizenship that creates a discriminative policy depending on where the person comes from, with different rights and different access to services. Changrok Soh, Yoonjeong You and Youngsoo Yu argue that Jordanian authorities were not that generous with the Palestinian refugees. They wrote that the Jordanian government had been generous with the earlier settlers but that its policy became more restrictive with the rise of the PLO. Jordanian policy towards the Palestinian Refugees from Syria (PRS) was even stricter, but this will be developed later on in Chapter 2. According to them:

⁴⁷ Ibid (n.37)

⁴⁸ Ibid (n.37)

“Jordan has not taken reasonable efforts on local integration among refugees and asylum seekers. Rather, it has pursued contradictory policies for Palestinians in the West Bank area, and went so far as to deprive the West Bank residents of Jordanian citizenship, not to mention that the Jordan government stopped granting citizenship in 1970s.⁴⁹”

Even though their arguments are quite relevant, Jordan is still seen as the country that assimilated the Palestinian population who had lost its land in 1948 in comparison with the situation of Palestinians in Syria or Lebanon for instance.⁵⁰ When it comes to the right to work, the people who received the nationality in 1948 and stayed in Jordan are completely assimilated and enjoyed the same rights to work than any Jordanians. However, the Palestinians who arrived in 1967 and later on, and who were originally Palestinians from the Gaza strip, do not have the same access to services that a Jordanian national have since they were never granted with the nationality. Passports are issued on a 2 to 5 years basis that gives them the right to travel. Moreover, when it comes to the right to work, Palestinians face additional barriers such as the need to renew the passport that is not granted. In addition, some professions, especially working for the state or working in law, are not accessible for them.⁵¹ Human Rights Watch (HRW), in a recent report explains that there is no case where Palestinians have to apply for a work permit like foreigners. However, legally speaking, they should be obliged to do so. The barriers described by HRW are more related to additional bureaucracy to be employed if you are a Palestinian without a definitive passport from 1948 such as the involvement of the General Intelligence Department (GID) that has to give its consent for individuals to work in certain private companies, e.g. banks and other strategic firms.⁵²

The management of the Palestinian case is a sensitive question that has a consequence on the way the Jordanians, but also the people living in the Middle East in general, perceive refugees. In 1948, the International Community had to deal with massive displacement and a

⁴⁹ Changrok Soh, Yoonjeong You, and Youngsoo Yu (2016), Once Resolved, Stay Resolved? The Refuge Policy of Jordan toward Palestinian Refugees, *Journal of International and Area Studies*, Volume 23, Number 1, 2016, pp 1-16

⁵⁰ Marion Couldrey, Dr Tim Morris, (2006), Palestinian in displacement : a case apart ?, *Forced Migration Review*, Refugees Study Center and Norwegian refugee council, available at : <http://www.fmreview.org/sites/fmr/files/FMRdownloads/en/palestine.pdf>

⁵¹ Human Rights Watch, (2010), *Stateless again, Palestinian-origin Jordanians deprived of their nationality*, Human Rights Watch, available at: <https://www.hrw.org/report/2010/02/01/stateless-again/palestinian-origin-jordanians-deprived-their-nationality>

⁵² Ibid (n.51)

specific regime had been built to manage it. In 1951, when the Geneva Refugee Convention was written, Palestinians were not included under this convention and are not recognized by UNHCR as people of concern. As explained above, UNRWA is in charge of the protection of Palestinians. According to UNRWA, Palestinian refugees are defined as

“Anyone whose normal place of residence was in Mandate Palestine during the period from 1st June 1946 to 15th May 1948 and who lost both home and means of livelihood as a result of the 1948 Arab-Israeli war qualifies as a Palestine refugee, as defined by UNRWA, and is eligible for UNRWA registration.”⁵³

UNRWA does not recognize the people who fled after 1967 as Palestinian refugees but as a “displaced person”. If though UNRWA has been encouraged by the General Assembly of the United Nations to include them in their programs, they have a different status.⁵⁴ In a sense, Jordan followed UNRWA and the International Community’s policy towards different regimes for Palestinian refugees.

This leads to the fact that in Jordan the word refugee relates to Palestinian and to a long duration of displacement and includes a right to return that is not applied. As a result, all the other nationalities that came to Jordan to seek refuge are called “guests” and they are likely to return to their home country because they are not refugee and they are coming in the host country on a temporary basis. Victoria Mason explains: “As a result, outside of the Palestinian context, the term has largely been rejected as a descriptor of mobility within the Middle East. As a result of the politics of naming, ‘refugee’, as a term, is also rejected by many Iraqis themselves.”⁵⁵

Thus, the history of the Palestinians in Jordan has been based on politics and opportunities influenced by International regulations from a total assimilation of the Palestinians to exclusion of another part. This policy is also based on the nationality, with a separate system of management and service provision through UNRWA. Hieronymi and Jason analyze the fact that Palestinians were excluded from the universal refugee system “helped maintain the fiction that the Palestinian refugee situation was temporary and would be resolved with the

⁵³ UNRWA and UNHCR, (2007), The United Nations and Palestinian refugees

⁵⁴ Ibid (n.53)

⁵⁵ Victoria Mason (2011), The Im/mobilities of Iraqi Refugees in Jordan: Pan-Arabism, ‘Hospitality’ and the Figure of the ‘Refugee’, Mobilities, Volume 6, 2011, Issue 3 : Mobilities and Forced Migration, Pages 353-373

final elimination of Israel. Importantly, it also averted an obligation to facilitate local integration and third-country resettlement.”⁵⁶

c) The guest framework

After the waves of Palestinians refugees, Jordan had to deal with other nationalities that were coming to seek refuge on its territory, especially Iraqis, but also additional Palestinians fleeing the Gulf Wars. Since Jordan was still not a signatory of the 1951 Convention and unwilling to sign this convention, the government, with some pressures from the International Community, decided to sign a Memorandum of Understanding (MoU) with UNHCR. Within this document, Jordan recognized the right for political asylum. Both parties agree that the definition of refugee should be the one mentioned in the 1951 Convention on Refugees, “without the geographic and time limitations”.⁵⁷ The MoU is mentioning that after six month of stay in Jordan, UNHCR is responsible to provide a durable solution such as re-settlement or repatriation. Re-settlement has been a very small part of the solution proposed by UNHCR to the huge number of refugees and repatriation to the affected countries such as Iraq is most of the time impossible due to the on-going conflicts. Integration is not included as a durable solution, and this will define the way the Jordanian authorities dealt with the Syrian refugees also up to 2016. Surprisingly, article 8 of the MoU mentions: “In order to enable a refugee to provide a living for his family it was agreed to accord a refugee who is legally residing in Jordan to work for his own account whenever the laws and regulations permit.”⁵⁸ However, it is not mentioned in which laws and regulations the access to a work permit is. Thus, it leaves a gap and flexibility for the Jordanian authorities to allow the refugee to work, according to their interest. In the 90’s the Jordanian authorities, without having a domestic law regarding asylum set a framework where “guests” are allowed to stay in Jordan and will receive the protection of the state. Within this framework, protection entails access to Jordanian services (Health and Education), but it does not entail integration in the Jordanian society. Jordan included a *non refoulement* clause in article 21 (I) of its constitution and recognised certain categories of refugees. In addition, the principle of *non-refoulement* is also included in the

⁵⁶ Penelope Mathew, Tristan Harley, (2016), *Refugees, Regionalism and Responsibility*, Elgar Studies in Human Rights P.56

⁵⁷ Memorandum of Understanding Between the Government of Jordan and UNHCR (Apr. 5, 1998), available at <http://mawgeng.a.m.f.unblog.fr/files/2009/02/moujordan.doc>, archived at <https://perma.cc/N28J-MV22t>.

⁵⁸ Ibid (n.57)

MoU signed with UNHCR.⁵⁹ This framework sets how the Jordanian government managed the Iraqis who fled to Jordan at the beginning of the 2000.⁶⁰

d) The Iraqi case

Iraqis fled their country since the dismantlement of the Ottoman Empire. It allowed the creation of linkage between the two states (Jordan and Iraq). During the different Gulf Wars, Iraqis also left their countries but were able to go back to Iraq quite quickly.⁶¹ After the 2003 invasion of Iraq by the coalition led by the US and the UK, Iraqi refugee started to flee to the surroundings countries such as Jordan and Syria. The influx was way beyond what the UN and the International Community had expected. The Iraqis who left in the first year were quite wealthy and were part of the former government of Saddam Hussein and/or part of the army that supported Saddam Hussein.⁶² The influx was bigger after 2005 when most of the Iraqis settled in different cities, hosted by Jordanian families who had links with Iraqis.⁶³ UNHCR did “prima facie” recognition, meaning that Iraqis did not had to go through Refugee Status Determination (RSD). The humanitarian response was implemented to support the needs of Iraqis in Jordan. Another parallel system was built with primary health care center for Iraqi refugees; health center that were different from the one frequented by Jordanians and/or the ones managed by UNRWA for the Palestinians. The International Community was not able to keep up with the growing needs and had difficulties to reach Iraqis in the urban areas where they had settled. To improve the management of the Iraqi refugees, the King launched a royal decree in 2007 allowing access to school and primary health care for Iraqi refugees in the Jordanians facilities. This was perceived as a generous act, but it was also a way to fundraise foreign support for the Jordanian government.⁶⁴ The “guest” policy implemented by the government of Jordan and UNHCR “prima facie refugee” is also explained by the fact that the 1951 definition of refugee in the convention would not have been appropriate. Indeed, the reasons for Iraqi to flee their countries were numerous and not necessary based on “a well

⁵⁹ UN High Commissioner for Refugees (UNHCR), Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights' Compilation Report - Universal Periodic Review: Jordan, March 2013, available at: <http://www.refworld.org/docid/513d90172.html> [accessed 10 July 2018)

⁶⁰ Ibid (n.31)

⁶¹ Ibid (n.27)

⁶² Ibid (n.31)

⁶³ Ibid (n.27)

⁶⁴ Ibid (n.31)

founded fear of persecution”.⁶⁵ Some fled because of socio-economic needs, some were directly persecuted by the regime and needed protection, some were fleeing the general insecurity, some decided to flee after the removal of Saddam Hussein because of fear of retaliation etc...⁶⁶ The system of “guest” sounded more appropriate to ensure that all of the Iraqis that were fleeing violence could come to Jordan. Jordan was in a sense enlarging the definition of refugee and applying the one of the African Union (AU). The AU decided to apply the 1951 Convention with an extended definition of refugees with the adoption of the 1969 Convention related to the Status of Refugees. Within this convention a refugee is a “person fleeing events seriously disturbing public order in either part or the whole country of origin.”⁶⁷ In Latin America, with the Cartagena declaration of 1984, the states also decided to extend the definition of a refugee to people threatened by “generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order.”⁶⁸

The “guest” system enabled the Jordanian government to restrict the entrance of Iraqis according to the “security” threats. In 2005, when suicide bombers targeted three hotels in Amman, the Jordanian authorities restricted its policy of entrance. The attacks killed 60 people and were claimed by Al-Qaeda in Iraq. The suicide bombers were Iraqis.⁶⁹ Following these events, the Jordanian authorities changed their policy drastically towards Iraqis. It began by restricting its entry at the border and in 2007 Iraqis were not allowed to attend public schools and national healthcare system, except if the services were UNHCR funded. In addition, Jordanian authorities restricted the access to the informal work market and business owned by Iraqi.⁷⁰ Victoria Mason argues that:

“given the enormous migrations that Jordan has coped with historically, the refusal to adopt the language of the ‘refugee’ also

⁶⁵ UN General Assembly, Convention Relating to the Status of Refugees, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, available at: <http://www.refworld.org/docid/3be01b964.html> [accessed 13 July 2018]

⁶⁶ Ibid (n.36)

⁶⁷ Organization of African Unity (OAU), Convention Governing the Specific Aspects of Refugee Problems in Africa ("OAU Convention"), 10 September 1969, 1001 U.N.T.S. 45, available at: <http://www.refworld.org/docid/3ae6b36018.html> [accessed 10 July 2018]

⁶⁸ Regional Refugee Instruments & Related, Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, 22 November 1984, available at: <http://www.refworld.org/docid/3ae6b36ec.html> [accessed 10 July 2018]

⁶⁹ Jo Meek, (2006), Couple remember wedding bombing, BBC News, available at <http://news.bbc.co.uk/2/hi/4766726.stm>

⁷⁰ Victoria Kelberer, (2017), Negotiating Crisis: International Aid and Refugee Policy in Jordan, Middle east Policy, Vol. XXiV, No. 4, WiNter 2017, Pages 148-165

suggests an element of asserting state control over the permeability of borders and the mobility of non-citizens. If Jordan were to create a domestic asylum regime, this would arguably open the door for large numbers of foreign Arab nationals (such as Iraqis) to apply for permanent asylum in the Kingdom. The hospitality regime enables Jordan to better control the mobilities of non-nationals.”⁷¹

The Iraqis had then two choices, they could enter as “guests” and would be under the Temporary Protection Regime (TPR)⁷² established by UNHCR or could apply for residency and eventually work permit. The second option was requiring a specific amount of money so that vulnerable Iraqis could not afford this option. As Chatelard points out, the hospitality regime is a “discretionary toleration regime.”⁷³ One other important element of the Iraqi refugees in Jordan is the mobility of Iraqis that were going in and out according to the security situation within their own country.⁷⁴ This was also restricted after the attacks in the hotels in Amman, since the Jordanian authorities did not allowed Iraqis to re-enter Jordan if they had left.

Jordan learnt several lessons from the Iraqi experience. The main one was the need for a proper monitoring of the number of Iraqis present on its territory to understand the pressure they could have upon the public services but also to be able to do fundraising towards the International Community.⁷⁵ Indeed, the impact of Iraqi refugee on the Jordanian society and on the Labor market is still unclear and the fact that most of the Iraqis were self-settled rendered difficult for Jordan to monitor the economic and social effects. In 2005, in order to fundraise additional support from the International Community, Jordan declared that the Iraqis was costing \$1 billion a year saying that they were hosting between 750,000 to 1 million Iraqis. However the total number of Iraqis on Jordan’s territory was controversial. The International Community, after several inquiries recognized between 450,000 to 500,000 Iraqis on Jordan territory. Lewis argues:

⁷¹ Ibid (n.55)

⁷² The UNHCR established a ‘Temporary Protection Regime’ (TPR) on a prima facie basis for all Iraqis. This protection was not providing Iraqis with a legal status but it was more an entry point to receive international assistance. The government of Jordan argues that TPS is not part of the MoU.

⁷³ Géraldine Chatelard, (2009), What visibility conceals: Re-embedding refugee migration from Iraq. In: D. Chatty (Ed) Dispossession and Displacement: Forced Migration in the Middle East and Africa (proceedings of conference) (London: British Academy).

⁷⁴ This was also restricted in 2007 with prohibiting Iraqis to re enter Jordan and posed problems in terms of family separation.

⁷⁵ Lewis Turner, (2015), Explaining the (Non-)Encampment of Syrian Refugees: Security, Class and the Labour Market in Lebanon and Jordan, *Mediterranean Politics*, 20:3, 386-404, DOI: 10.1080/13629395.2015.1078125

“As observed by both UNHCR’s High Commissioner and scholars, the non-encampment of Iraqis made them less ‘visible’ to the international community (Goldenziel, 2013; Guterres, 2007). Camps can turn refugees into a visible and ‘spatially legible population’ (Peteet, 2011: 18) and facilitate the counting of refugees, which in turn can facilitate fundraising (Harrell-Bond, 1998).”⁷⁶

The situation of the Iraqi refugees was similar to the situation of the Syrian refugee notably in terms of status, but also in terms of lack of resilience mechanisms. Indeed the duration of their displacement made them lose their savings and with a very restricted access to work in the formal market prevent them from being self-sufficient. The impoverishment of Iraqi refugees has been documented by several INGOs. It is interesting here to mention that, when the Iraqi situation started to be protracted and the Jordanian authorities were struggling with protection of the Iraqi refugee, the International Community advocated for more durable solutions for the Iraqis in Jordan. Among them, the recommendations were: restoring mobility and allowing Iraqis to go to Iraq time to time without limiting their possibility to come back to Jordan; restoring livelihoods: “Iraqis should be systematically granted the possibility to earn their livelihoods through initiatives operated within Jordan, with a view however to rebuilding the economy and society in Iraq”; prepare condition for return⁷⁷. Hence the debate regarding the provision of the right to work for refugees in Jordan was already ongoing to seek durable solutions for Iraqis refugees. This law was unfortunately not changed for Iraqis refugees even though scholars had already advocated for this solution.

As far as the humanitarian system is concerned, the Iraqis forced migration represented a challenge since it was the first large-scale displacement where refugees were not in a camp and it forced UNHCR and other international agencies to reach out for the refugees in the diverse cities they settled in. The International Community and the INGOs working in Jordan faced additional difficulties in terms of identification of needs and provision of services and consequently, protection was being undermined.⁷⁸

The Iraqi refugees also show to the Jordanian authorities and population that durable solutions when it is not integration are quite difficult to implement, even though integration is far from being easy, but it gives an additional option. As of the last census made, 130,911 Iraqis are

⁷⁶ Ibid (n.75)

⁷⁷ Ibid (n.36)

⁷⁸ Ibid (n.36)

still present in Jordan⁷⁹, among them 65,120 are registered with UNHCR.⁸⁰ In addition, funding for humanitarian crisis is based on the crisis itself, and when it comes to refugees, it is based on nationalities. Funding for Iraqi refugees are less available than funding for Syrian refugees, despite the fact that Iraqis face the same issues Syrians are facing nowadays. This is explained by the duration of their settlement and the fact that the Syrian crisis is under massive media coverage in comparison to the Iraqi refugee present in Jordan. Fundraising for the needs of Iraqi refugees in Jordan is more challenging. If Iraqis have found some coping mechanisms and are considered as the less vulnerable group of refugees in Jordan, they still rely on humanitarian assistance and “are more likely to accept high-risk work to meet food needs.”⁸¹ Jordan has played with the presence of refugee on its territory to fundraise and to collect additional grants from the International Community. In her article, Kelberer concludes by:

“By expanding or retracting refugee rights, Jordan was able to frame its ongoing ability to adequately protect and assist Iraqi refugees as dependent on contributions from the international community. The arrival of the Iraqi refugees increased both U.S. and international aid transfers to Jordan for its role and instigated the pattern of rent-seeking by trading refugee rights for increases in assistance.”⁸²

Lastly, the MoU between UNHCR and Jordan has always been a tension between reality and application, and between respect of Jordanian’s obligations and UNHCR’s obligations enacted in this agreement. Indeed, the MoU is letting refugees stay 6 months to allow UNHCR to find a durable solution. As the durable solution is excluded inclusion, UNHCR was not able to respect this part of the MoU, since repatriation was not possible due to the security situation in Iraq and resettlement was available only to a small portion of Iraqis. On the same level, Jordan did not respect its *non-refoulement* policy, by deporting and/or refusing entry (especially re-entry) to Iraqis on its territory after 2006. This tension will remain and exacerbate for the Syrian’s case.

Mobility in the Middle East has a long history and has always been part of a usual pattern for socio-economic and cultural reasons. Being a “guest” in another country has been build by the

⁷⁹ Ibid (n.5)

⁸⁰ Mennonite Central Committee, (2017) On the basis of nationality: Access to Assistance for Iraqi and Other Asylum-Seekers and Refugees in Jordan

⁸¹ Ibid (n.80)

⁸² Ibid (n.70)

Ottoman Empire and later became part of the Pan-Arab ideology. With its Palestinian and Iraqi history of welcoming guests and refugees, Jordan has been sheltering a huge number of refugees that had impact on its economy but also on its identity especially with the Palestinian assimilation policy. However, the generosity of Jordan has not always been at the heart of its policies towards migration. By not having any legal framework, Jordan is designing different policies towards forced migration, policies that are reflecting opportunities according to the national, regional and international context. Since Jordan does not recognize integration as a durable solution as mentioned in the MoU with UNHCR, Jordan has had a restrictive policy when it comes to allowing refugees to work legally in Jordan. Within the Syrian influx, Jordan re-used the same framework used for the Iraqis with some additions that will be analyzed in the following Chapter.

Within this first chapter, I have tried to show that Jordan has the roots to ensure innovation in terms of refugee policy because of its stability, but also because of its relative openness to refugees. This relative openness is due to cultural and historical factors, but also based on pragmatic and opportunist attitude of the Jordanian State. In the following chapters we will demonstrate that the policy implemented by Jordan to include the Syrian refugee better within their society is a starting point that needs to be improved.

Chapter II. Jordan's humanitarian management of the Syrian refugees

The Syrian crisis started in 2011 with the first events in Deraa, a city located in the South of Syria, with close links with the North of Jordan. People from the two sides of the border were used to go from one country to another for economic, social and cultural purposes. Those links explain the reasons driving Syrians to cross the border to Jordan at the beginning of the Syrian war, but also the relative flexibility of the Jordanian authorities in the first 2 years. In 2011, many Syrians have crossed the border for preventive reasons. The numbers are unclear since at that time neither UNHCR nor the Jordanian authorities were registering the people who were crossing the border. Syrians were welcomed as “guests” under the same regulation as Iraqis were. For the Iraqis, the Jordanian government applied a policy that will be adapted to its own capacity from generosity to restrictions and human rights violations, as discussed in Chapter 1. When the flow was small in 2011 beginning of 2012, Jordan kept an open-border policy. When the flow increased drastically in 2013 and 2014, Jordan's open border policy became more and more restricted. The policy implemented by the Jordanian government changed over time and was adapted to the different events. Jordan did not apply a human rights based policy, but more an opportunist one, as it was done for the previous refugee waves. This policy has been led by the impact the Syrian refugee presence had on the Jordanian economy and society. This Chapter will be structured in two main parts, the first one about the policies implemented by the Jordanian government to manage the refugee influx and the second part will describe the impact the presence of Syrian refugee has on Jordan's economy and society.

A. Jordan's policy to manage Syrian refugee influx from 2011 to 2016

To understand how Jordan managed the influx of Syrian refugees, we will discuss its open border policy and its limitations on entry. Restrictions started with the PRS and were extended to Syrians when the “burden” was too heavy and the Jordanian population started to be affected. Then we will discuss how the Jordanian authorities implemented a more controlled policy to monitor the presence of Syrians on its territory with the implementation of the MoI cards and the encampment policy.

a) An open border policy with some increasing restriction.

The border of Jordan was open to Syrian refugees in 2011 when the first Syrians started to cross it. Since Jordan is not a signatory of the 1951 Convention, Syrians were crossing under the Law of Residency and Foreigners' Affairs. According to this law, Syrians were allowed to cross with only a passport and did not need a visa.⁸³ As mentioned earlier, Jordan has the *non-refoulement* principle in its law, so that the border remained open. People were crossing regularly and irregularly. For the one crossing irregularly their case were processed while in Jordan to ensure that they would have the appropriate papers. This open border policy was implemented at the beginning by the Jordanian authorities thinking refugees would not stay for a long time in Jordan, as the crisis would be solved quickly. In addition, the people who were arriving in 2011-beginning of 2012 were coming to Jordan prepared to join families and/or relatives already living in Jordan. "Most Syrians had kinship ties in northern Jordan or well-established social networks and the hosting of this initial influx was positive."⁸⁴ Beginning of 2012, the flow of arrival increased with some days where the number of people crossing could reach more than 2,000 people.⁸⁵ The crossing of the border was linked with the fighting in Syria. When the situation was highly unsecured, no arrival was registered and when the situation remained calm, people were getting organised to cross the border. The northern local authorities organized different transit sites with the support of the International Community when the flow started to increase to shelter the Syrians who were crossing irregularly. They were sheltered in one of the Northern transit sites for few days before being bailed out by a Jordanian family.

*"Syrians entering Jordan through unofficial border points were received by the Jordanian authorities and hosted temporarily in transit facilities, with the vast majority able to leave these facilities upon presentation of a guarantee of "sponsorship" by a Jordanian citizen."*⁸⁶

Three transit sites were established at that time to absorb the growing flow, one for families, one for single men and one for PRS. The attitude of the Northern municipal authorities along with the Jordanian families being sponsor for the Syrians was supportive and based on the

⁸³ Luigi Achilli, (2015), Syrian Refugees in Jordan: A Reality Check, Migration Policy Centre, European University Institute, Feb. 2015, 3.

⁸⁴ Dawn Chatty, (2017), Syria: The making and unmaking of a refugee State, Hurst and Company, London, p239

⁸⁵ UNHCR, operational portal Refugee Situation, Syrian regional refugee response, available at: <https://data2.unhcr.org/en/situations/syria>

⁸⁶ UNHCR, Revised Syria Regional Response Plan, June 2012, p15 <http://www.unhcr.org/4fec681e9.html>

“guest” philosophy explained earlier.

b) The first restrictions towards the Palestinians refugees from Syria

The PRS were not allowed to be bail out so they were staying in “Cyber City”, the site dedicated to Palestinians and managed by UNRWA. Once this site was full, the PRS were not allowed to come to Jordan anymore and some of them were sent back to Syria. This was the first breach of the *non-refoulement* principle that the government of Jordan did. Jordanian authorities were not keen to receive more Palestinians. Since the beginning restrictions regarding their arrival, their freedom of movements and many cases of deportation have been reported by several Human Rights organisations. This was documented by Human Rights Watch in the report, “Not Welcomed, Jordan’s treatment of Palestinians Escaping Syria”. They mention that the authorities started to deny entry to Palestinians from Syria at the beginning of April 2012. An official policy of non-admittance was declared in January 2013. The Jordanian Prime Minister Abdullah Ensour claimed that PRS should be permitted to return to their places of origin in Israel and Palestine, and that “Jordan is not a place to solve Israel’s problems.” He also stated that:

“Jordan has made a clear and explicit sovereign decision to not allow the crossing to Jordan by our Palestinian brothers who hold Syrian documents.... They should stay in Syria until the end of the crisis.”⁸⁷

This restrictive policy will be extended later on when Jordan will decide to close its border for security reasons. It is already interesting to note that the Jordanian policy is implemented based on nationality, which will have consequences on the right to work for refugees in Jordan.

c) From the bail out system to the Ministry of Interior (MoI) card: a difficult administrative system to increase Jordanian’s authority control over Syrian refugees

The two other sites near Ramtha city (Beshapshe and Stadium) were transit centres for the families and/or single men coming to Jordan. Most of them were quickly sponsored and going to settle in the communities. Some, especially the single men were going back to Syria after a period of “rest” in Jordan. In May 2012, the transit sites were full on a constant basis with less sponsorship possible since the flow was increasing. After the opening of a third transit site

⁸⁷ Human Right Watch, (2014) Not Welcome, Jordan's Treatment of Palestinians Escaping Syria

(King Abdullah Park) that became full in a few days, the Jordanian authorities decided to open a refugee camp with restriction of movement of the refugees.⁸⁸ By 2015, the bail out system was not allowed anymore, and freedom of movements of Syrian refugees was highly restricted for Syrian refugees in the camp.

“The sponsor had to be a Jordanian citizen with no criminal history who was aged over 35 years, married, and a relative of the refugee/s seeking bailout. The sponsor was required to obtain security clearance, file an application with the local municipality, provide documents that showed a family relationship with the refugee/s seeking bailout, pay a fee of JOD 15 (USD 21) for each refugee seeking bailout, and finalise bailout at the relevant refugee camp.”⁸⁹

It is unclear how much the bail out system created an exploitation scheme and how many Jordanian families abused this system. The possibility of exploitation is not documented, but it is likely that Syrian family had to “buy” their bailout more than the fees required by the Jordanian administration. One article published in 2012 in BBC reported:

“Western and Jordanian sources say the "bail-out" system was being abused. They say Jordanian employers looking for labour pretended to be personally connected to Syrians desperate to get out of the transit centres. There are even reports of young Syrian wives being bought for a cheap price, and of young children being abused.”⁹⁰

In addition, while a Jordanian family was bailing out a family, the authorities were keeping the official documentation of the Syrian family.⁹¹ 219,000 documents were confiscated against a bailout up to early 2014 when the practice ended.⁹² The documents were filed and were given back in 2014-2015 if the family would ask for them. The lack of documentation for the Syrian families put them at risk of being arrested and eventually deported back to Syria. Without the appropriate documentation, it is not possible to register a newborn child, apply for a work permit etc... Among the different barriers to be allowed to stay and work

⁸⁸ This is based on my own experience while I was working there

⁸⁹ The International Human Rights Clinic (IHRC) at Harvard Law School, The Norwegian Refugee Council (NRC), (2016), Securing Status Syrian refugees and the documentation of legal status, identity, and family relationships in Jordan, available at : <http://hrp.law.harvard.edu/wp-content/uploads/2015/11/Registering-rights-report-NRC-IHRC-October20151.pdf>

⁹⁰ Lyse Doucet (2012), Jordan struggles with Syrian refugee influx, available at : <http://www.bbc.com/news/world-middle-east-19107575>

⁹¹ Syrian Needs Analysis Project, (2013) Legal status of individuals fleeing Syria, available at: https://reliefweb.int/sites/reliefweb.int/files/resources/legal_status_of_individuals_fleeing_syria.pdf

⁹² Ibid (n.89)

legally in Jordan, the possession of the documentation is one of them, along with the cost that comes with it.

The bail out system was stopped in 2015 and replaced by a new system to be more efficient: the MoI registration and the provision of MoI Card, also called service card. In order to receive a MoI card, several documents had to be produced, documents that many families did not have. When arriving in the community, the Syrian family had to register to the police to receive a MoI card. This card, would allow the family to stay legally in Jordan and access services such as health and education. In addition, the family had to register to UNHCR and receive an “asylum seeker certificate”. This certificate was proving that this family was a Person of Concern (PoC) of UNHCR and that depending on their vulnerability criteria, they would be allowed to receive assistance. None of those cards are recognizing the refugee status, however it legalise the stay of the person on the Jordanian territory and provide a certain type of protection. All the Syrians in Jordan are still considered as asylum seekers. In July 2014, the MoI passed a law stating that any refugees who left the camp without bailout and never registered with UNHCR are ineligible to an asylum seeker certificate or a MoI card. The impact of this system was to authorize the person living out of the camps to be legal and to be protected from an eventual deportation back to Syria and/or to the camp. The possession of this MoI card is determinant to apply for a work permit.

By 2016, according to NRC, 360,000 MoI card had been issued, which does not match the figures of the refugees living outside the camp, which is approximately to 450,000.

“According to NRC’s estimate, as of September 2016, at least 17,000 refugees have left Azraq (of the 55,000 who have registered at the camp) after July 2014 without authorization. In November 2015, UNHCR reported that 160,000 refugees had left Zaatari camp without authorization since the camp opened in 2012, but the number who have left without authorization after July 2014 is believed to be relatively small.”⁹³

As of December 2017, according to the INGO Forum, 403,332 refugees were registered within the community through the Urban Verification Exercise (exercise in which the MoI was providing MoI card even if the Syrians were not having the appropriate documentation), leaving 110,331 Syrians refugees who had not yet completed the process. Those 110,331 are

⁹³ Ibid (n.89)

estimated to be in precarious legal situation and at risk of being deported back to Syria.⁹⁴ However, this figure is based on the UNHCR registration figure of 600,000 refugees and not on the 1,3 millions figures provided by the government of Jordan. In March 2018, the MoI announced that they would launch a new campaign of regularization in September 2018 to ensure that the family who had left the camp illegally and did not come to register within the MoI would do it.⁹⁵ The MoI is flexible towards the population that is not legally allowed to stay in Jordan according to their rule and has made different campaigns to increase registration ensuring that those who come forward would be staying in.

The system implemented by the government of Jordan had two main goals: gain a higher control of the population living outside the camp and ensure that new arrivals would stay in the camp so they do not put more pressure on the host community. This restrictive policy was implemented in reaction to Jordanian's opinion that started to complain about the impact the Syrian refugees were having on the labour market and the rent, impact that will be described more deeply in the second part of this chapter. In addition, Jordan wanted to take over from the International Community to have a higher control, especially on the figures, to ensure improved fundraising outcomes. Lastly, these policies were implemented also after the radicalization of the different groups fighting in Syria and the creation of ISIS. Jordan wanted to prevent any spill over of the Syrian conflict in its territory.

Nevertheless, registration of refugees at UNHCR, the bailout system, the MoI cards are a confusing and highly bureaucratic system that changed in less than three years. The time to receive the information and to complete the administrative steps, the policy was already changing. In addition, Syrians were reluctant to register with any organisation and/or governmental agency for fear of reprisals from the Syrian government in case of return. Many families are still not registered at the MoI which restricts their access to basic services provided by the government of Jordan and to the one provided by the humanitarian organisations, especially for the refugees refusing to register within UNHCR. For the Syrians who crossed the border after 2015, they had no choice than going in Zaatari or Azraq camps

⁹⁴ Jordan INGO Forum (2018), Syrian refugees in Jordan, A protection overview January 2018, available at : <http://testsite.jordaningoforum.org/wp-content/uploads/JIF-ProtectionBrief-2017-Final.pdf>

⁹⁵ Camille Dupire, (2018), Syrian refugees will greatly benefit from regularizing situation, available at : <http://www.jordantimes.com/news/local/syrian-refugees-will-greatly-benefit-regularising-situation%E2%80%99>

with restriction on their freedom of movements.⁹⁶ Restriction on freedom of movement and restriction of access to services are denying basic rights to refugees, but are also restricting their possibility of access to the legal labour market.

In addition to those bureaucratic measures, Syrian who were willing to cross to Jordan after the middle of 2015 started to face denial of entrance and the one who were irregularly on the Jordanian territory and being caught by the police were being deported back to Syria. Several human rights INGOs have documented this.⁹⁷

d) Closing border and restrictions

By the middle of 2013, Jordan closed the border crossing points in the West of the border, the one that were close to the populated area. This created a movement of Syrians willing to leave Syria towards the eastern crossing points. Syrians had to move hundreds kilometres east in the desert and passing through conflict areas as shown figure 3. In July 2014, Jordan also restricted the crossing of people in this entry point.

“the Jordanian military started preventing many Syrians from entering through the eastern border crossing, forcing them to remain just north of a raised barrier of sand, or “berm,” which marks the Jordanian limit of a border zone between Syria and Jordan. The area where the Syrians were stranded is inside Jordanian territory.”⁹⁸

⁹⁶ For instance, in Azraq, if a person needs to go to the hospital in Amman for surgery, this person will be accompanied by a Jordanian policeman from Azraq to Amman, and the policeman will stay with the person up to the end of the medical process to bring him/her back to Azraq

⁹⁷ Human Rights Watch, (2017), Jordan: Syrian Refugees Being Summarily Deported, No Due Process Protection; Risk of Serious Harm

<https://www.hrw.org/news/2017/10/02/jordan-syrian-refugees-being-summarily-deported> or Amnesty International, (2013), Jordan’s restrictions on refugees from Syria reveal strain on host countries, available at : <https://www.amnesty.org/en/latest/news/2013/10/jordan-s-restrictions-refugees-syria-reveal-strain-host-countries/>

⁹⁸ Human rights Watch, (2016), Jordan: 70,000 Syrians Trapped at Border : Resume Food, Water, Medical Care for Asylum Seekers

<https://www.hrw.org/news/2016/07/01/jordan-70000-syrians-trapped-border>

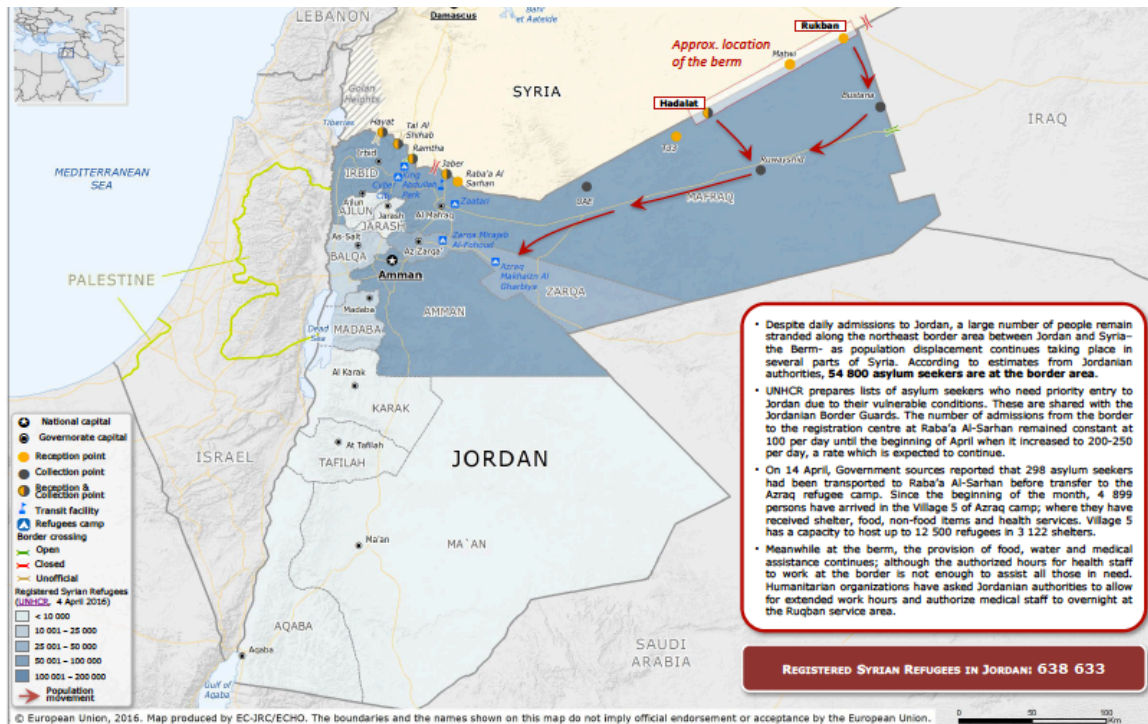


Figure 3: Localisation of the Berm, the border crossing points and the camps

Since then, around 70,000 people are caught in this area, with limited access to humanitarian aid and restriction on entry. In 2015, the Jordanian authorities allowed some people to leave the berm and to seek asylum in Jordan. They were brought to Raba Sarhan, the registration site at the border, and were deported back to Syria without justification. The government of Jordan placed more and more restrictions on access stating that the Syrian refugees were putting too much pressure on the country and that they could not allow any more entry.⁹⁹ With this particular case, where 70,000 people are jammed on the other side of the border since 2015, advocacy and pressure on the government of Jordan did not succeed. Humanitarians had to be creative to ensure assistance: some have been using crane, others have relied on paramilitary groups to deliver humanitarian aid that had a disastrous impact on the humanitarian principles and security of the people assisted. Jordan had transferred some families from the berm to Azraq camp on irregular basis, however they are “detained” in a specific area of the camp with high restriction of their movements even within the camp. The berm is now tainting the Jordanian hospitality.

Massive breach of *non-refoulement* principle has been documented by the different organizations working on the field, and regular reports were published to urge the Jordanian

⁹⁹ Ibid (n.98)

authorities to open its border to the people who were stranded at the border crossing points in the berm. In addition to *refoulement*, the Jordanian authorities were also denying humanitarian organizations to access the berm where families were without access to basic services. At the same time, the government of Jordan had established several camps in the northern border area in Jordan that could accommodate the Syrian families that are willing to cross the border. Despite this, the government of Jordan refusal entry to the majority of the families trapped in the Berm.

e) The encampment policy

By the middle of 2012, the government of Jordan and UNHCR opened the now famous Zaatari camp in Mafraq governorate. The decision to open a camp was based on the drastic increase in daily arrivals and the Jordanian government wanted to have a better control of the refugee population crossing its border. The Jordanian authorities could not cope anymore with the arrival and management of refugees flow, and needed to have a better control on the influx. An average of 600 people were crossing on a daily basis between the 1st of May and the 30th of July 2012, based on UNHCR figures, which by that time was not capturing everybody crossing, because of their overwhelmed situation.¹⁰⁰ From July to December 2012, 1000 people were crossing on a daily basis.¹⁰¹ The refugees who were crossing at that time were coming unprepared and in a more vulnerable situation. Building a camp was also a way to improve the delivery of humanitarian assistance. The second reason for opening the camps, according to Lewis Turner, was also economic. This policy was preventing Syrians to settle in the urban areas and work in the informal labor market.¹⁰² It was a way to show to the International Community that Jordan was welcoming a huge number of refugee and funding was needed to support the management of the refugee influx. Zaatari camp was attracting media coverage and funding and the refugees in the camp were consequently very visible to the International Community and the opinions of the countries from the North. By collecting people in the camps and restricting their freedom of movement, the Jordanian government was putting the responsibility on the International Community to support the cost and the management of the camp. This decision was also based on the Iraqi experience who were not sheltered in camps and were in a sense less visible for the International Community. The

¹⁰⁰ Ibid (n.85)

¹⁰¹ Ibid (n.85)

¹⁰² Ibid (n.75)

Jordanian authorities were never able to know how many Iraqis really came to Jordan. Consequently, advocacy for funds to support the Jordanian state did not work because of the lack of control and information they had on the influx. In addition, the impact of Iraqis on the labour market, formal and informal, was not documented, so that it is not possible to grasp it.

Zaatari camp opened in July 2012. Shortly after, the Emirates opened a private camp close to Zaatari fully funded by the Emiratis, with opaque inclusion criteria. While Zaatari was being filled quickly and extensions were being build in response to the flow, the Jordanian authorities along with the International Community worked on the opening of another camp, in an even more remote area: Azraq camp. As explained above, from 2012 to July 2014, the population of the camp was allowed to go out of the camp based on the bailout system. After 2015, it was not possible to go out of the camps anymore. Refugees who were crossing the border were automatically brought to the camp and received a “proof of registration” issued by UNHCR. This proof of registration gave the family the right to settle in the camp, the right for food basket on a regular basis, health, education etc...Zaatari camps slowly became a new city in Jordan where, even though working is not allowed, everything is available from ice cream to washing machine etc... The main street in Zaatari was quickly renamed “Shams Elysée” in reference to Champs Elysée in Paris and to Syria. The population of the Zaatari camp, trapped, had resilience capacities and were able to create wealth out of nothing: containers were moved and transformed in shops; latrines were dismantled to be reuse in a different manner etc... However, the majority of the refugees did not intend to stay in the camp. Most of them were willing to get out and settle in the community. The construction of Zaatari camp faced many challenges and some riots arise in the winter 2012-2013 mainly due to the bad conditions inside the camp and to the fact that the population did not want to stay in the middle of the desert. Humanitarian workers were facing difficulties to work within the camp and to cope with the daily arrivals and provide decent services. The population inside Zaatari camp went up to 130,000 in 2013, to decrease and stabilise to 80,000 by the middle of 2014. Due to the difficulties faced during the first years in the management of the camp, when the Jordanian authorities decided to open a second camp, the humanitarian community, along with the government decided to plan better this second camp before opening it. The land offered by the Jordanian government was however far from being ideal. If Zaatari camp was said to be in the middle of the desert, Azraq camp is even further away from the cities and services and in the middle of the desert in direction of the border with Iraq in an area where

the climate is worse. By allocating this land, it was clear that the Jordanian authorities wanted to isolate the refugees with limited possibilities to go out of the camp to look for a work opportunity in the informal market for instance. The atmosphere of the two camps are very different as described by Melissa N Gatter in “Rethinking the lessons from Za’atari refugee camp”. She explains that Zaatari camp and Azraq camp are different because they shelter different types of population. In Zaatari camp, the majority of people is from Deraa and arrives in Jordan in 2012-2013, being less affected and having spent less time in the conflict areas. Azraq camp on the contrary, is populated by people originated from different areas of Syria such as Homs, Hama, Damascus and Raqqa. A population that stayed in Syria during a longer time, that is less united and who went through more traumatic experiences such as escaping from ISIS, being caught at the Jordanian border etc...In addition, Azraq camp has been build to ensure that political organization within the camp would be more difficult. The camp is less crowed and the population has limited possibilities to use the resilience capacities than in Zaatari camps, since security has been the main concerns of the stakeholders who build the camp.

“By prioritising organisation and security, Azraq’s humanitarian system has restricted the potential for refugee livelihoods activities. Separating the villages to limit political mobility also interferes with daily routine, making it difficult for refugees to go to the supermarket or to attend meetings hosted by NGOs. Aid workers are also affected, having to wait hours sometimes for transport to travel between villages.”¹⁰³”

During the development phase of Azraq camp, the Jordanian authorities started to restrict its border policy. The opening of the camp could be delayed, so that the International Community and the Jordanian authorities had plenty of time to plan.¹⁰⁴ During the planning and construction of Azraq camp, security was the main concern of the International Community and the Jordanian government. Both of them had different objectives though. The Jordanian government wanted to ensure that the refugees would not be seen and that they would have little link with the host population. The authorities also wanted to have their border secured and to have a better control on the transfer from the border to the camp. On the other hand, the International Community wanted to build a “2.0” camp and eventually to test

¹⁰³ Melissa N Gatter, (2018), Rethinking the lessons from Za’atari refugee camp, syrians in displacement, Forced Migration Review

¹⁰⁴ Sophia Hoffmann, (2017), Humanitarian security in Jordan’s Azraq Camp, University of Bremen, Germany, security and dialogue, Vol. 48(2) 97–112

different ways of aid provision. Refugees are registered and different technologies are used to monitor their needs and their use of the camp facilities. This technology that can be easily compared to Big Brother:

“Humanitarian agencies are eagerly embracing ‘Big Data’ as a way of minimizing distribution costs and staff time. However, their justification that digital humanitarianism gives aid recipients more ‘choice’ and ‘independence’ rings hollow: in a thoroughly surveilled and controlled environment such as Azraq, greater ‘freedom’ to consume in a more individualized way can hardly be considered an enhancement of personal dignity.”¹⁰⁵

After having heard so many critics about Zaatari camp, the humanitarians wanted to build a model camp in Azraq to ensure that donors would be less critical about their work and would continue to provide funds. The decision to open Azraq camp was made at the beginning of 2013, when Zaatari camp was hosting 130,000 refugees and the humanitarian community was struggling to assist everybody and to keep the control and security in the camp.

Azraq camp has finally turned out to be more a prison than a city where it is possible to live, where community cannot be build because the architecture of the camp is made to separate people and to prevent them to organize. By emphasizing that the service provided is all that the refugee needs to live in dignity, the humanitarian organization forgot to ask to the people what they actually wanted. On the contrary, the governance in Zaatari camp was a response to different riots and to the influx coming on a daily basis and suffered from a lot of disorganization and critics,

“But what makes Za’atari work – for a refugee camp – is everything that Azraq has chosen to prevent from the start: organic development, economic opportunity, a sense of community. While Za’atari did not have time to prepare for the arrival of refugees, it has nevertheless grown into a space where there is always something for residents to participate in. Azraq, on the other hand, is designed for waiting: waiting for services, waiting for work, waiting for return.”¹⁰⁶

By putting people in camp, the government of Jordan along with the International Community wanted to have a better control over the population coming to Jordan. If Zaatari camp was more a reaction to the massive influx coming at that time, Azraq camp was more a contingency plan. The more the Syrian conflict was falling into deeper radicalization of the

¹⁰⁵ Ibid (n.104)

¹⁰⁶ Ibid (n.104)

different groups, the more the government of Jordan was restricting its policy to enter and its control over freedom of movement of the population in the camps, this is why Azraq is said to be more a prison than a camp. However, what is still unclear and difficult to understand is that the government of Jordan started to put restriction on entrance at the same time as Azraq camp opened. Consequently, even though the capacity of Jordan to host Syrians is strained, Azraq camp is still far from being full and is hosting only 6,4% of the total registered Syrians.¹⁰⁷ On the nearly 657,628 Syrian refugees in Jordan, it is estimated that 140,002 are living in the camps, 21%,¹⁰⁸ whereas the rest are in majority living in the Northern governorates of Jordan: Irbid, Mafraq and Zarqa.

The more the crisis becomes protracted, the more the camp solutions become less efficient. People are not willing to stay in camp and some people are even asking to be brought back to Syria due to the conditions, especially in Azraq camp.

The camp strategy is costly but allowed Jordan to negotiate with the International Community a responsibility sharing, being that Jordan would agree to allow refugees to come, but the International Community would pay for the construction of the camps and all their running costs. This, in a way underlines that the International Community is not able to provide durable solution that are not integration. Thus, the Jordanian government is putting pressure on the International Community to support the cost of refugees by financing the construction and the management of the camps. This is demonstrated in the will of the Jordanian government to create buffer zones at the border within Syria, where humanitarian should have safe access. The berm described above is a de-facto buffer zone, even though the provision of regular humanitarian assistance has not been possible so far. The main issue is that all those solutions are not durable and sustainable when being thought in parallel of the duration of the conflict.

As a conclusion to this first part of this chapter, we have seen that the policy implemented by Jordan up to 2016 went from a generous policy towards a more and more restrictive one with *refoulement*, deportation and impoverishment of the Syrian population, along with the vulnerable Jordanians. This policy is explained by the impact the massive influx of the Syrian

¹⁰⁷ 46,025 person of concerns, according to UNHCR as of 7th of April UNHCR, operational portal Refugee Situation, Syrian regional refugee response, available at: <https://data2.unhcr.org/en/situations/syria>

¹⁰⁸ Ibid (n.85)

population in Jordan has on the Jordanian economy and society. This impact will be described in this second part.

B. Impact of the influx of Syrian refugees on the Jordanian society and economy

As indicated above, more than 600,000 Syrians are registered within UNHCR, and it is estimated that 1.3 millions Syrians in total are living in Jordan.¹⁰⁹ This discrepancy is highly political and has of course consequences on the impact of the presence of Syrian refugees in Jordan. Since 2001 the Jordanian and Syrian government had a commercial agreement allowing Syrians to come to work legally in Jordan, through a restricted process and only for positions that would not compete with Jordanians. This can explain this variation between the two figures.¹¹⁰ This agreement was not implemented anymore after the outbreak of the Syrian crisis. Syrians who were already present in Jordan could not return to their home country.

Measuring the impact would mean that all data are available and monitored. However, the monitoring of those data were not necessary done before the arrival of refugees, and it is for instance difficult to measure the impact on the quality of the education system with regards to the implementation of the double shift system, where Jordanian pupils are attending the morning shift and Syrian pupils the afternoon one. Also, for some indicators, it is not only the impact of the presence of Syrians on its territory but also the general impact of the conflict in Syria in itself, which had regional economic, political, geopolitical but also demographic impact. The Syrian conflict decreased the regional commerce, impacted drastically the tourist industry and worsened the investment confidence. Within this part we will see the impact of the Syrian crisis on the demography of Jordan and the social cohesion, the impact on the general economy and the impact on the labour market.

a) Demographic impact

The presence of Syrian has changed the demographic composition of Jordan. If we take the Jordanian Census, then 12% of the population in Jordan is Syrian; this figure goes down to 6% if we take the UNHCR figures. Being able to absorb this increase in its population is a

¹⁰⁹ Ibid (n.85) vs. Data from the Jordanian Census

¹¹⁰ However, as we will see later, it is likely that the figures of UNHCR are more accurate, at least in terms of people in need of protection.

challenge for Jordan. Several scholars¹¹¹ have documented the possibility of spill over of conflicts from a country to another, especially when refugee waves are occurring. In the case of Jordan, this has already happen with black September when the Palestinian refugees launched a revolt in Jordan. With regards to the Syrian refugees, if the situation is tense in some areas in-between the population, the conflict did not cross the border so far. As described in the first Chapter, Jordan is a relatively stable country with high attention from the International Community to keep this stability. Social cohesion among the community is fragile, and resentment from the Jordanian towards the Syrians is increasing, especially in link with the perception that refugees are taking the jobs of Jordanians while they are also benefitting from international assistance, but also in link with the increase of prices such as rent. The poverty level of the Syrian refugees is the same as the vulnerable Jordanians, where the vulnerable Jordanians are not necessary benefitting from humanitarian aid. According to the World Bank, 14.4% of the Jordanians live below the poverty line¹¹². To overcome this resentment the Ministry of Planning and International Cooperation (MOPIC) in charge of authorizing every humanitarian project implemented in Jordan had put restrictive rule obliging the international organizations working in Jordan to target 30 to 40% of Jordanian in their programs¹¹³. Then, this was moved to the obligation to draw projects targeting refugees and at the same time projects targeting resilience, meaning vulnerable Jordanians.

The perceptions of the Jordanians are not necessary based on evidence, especially when it comes to employment, however the impact on the economic situation is quite strong. Indeed, Syrians have not been allowed to work up to 2016, so it is less likely that they could “steal” the work of the Jordanians. However, key economic indicators have been affected, showing that the Jordanian’s economy is paying a huge price to the Syrian crisis, this will be develop in the following part.

¹¹¹ see the work done by Oxford Refugee’s studies center, especially the work of Dawn Chatty, Paul Collier and Alexander Betts and the thesis of Elizabeth Adnegard (2014), Jordan: Surprisingly stable, A study of why the massive influx of Syrian refugees has not led to destabilization and internal conflict in Jordan, Master’s thesis in Middle Eastern and North African Studies, Department of Culture Studies and Oriental Languages, University of Oslo, Faculty of Humanities

¹¹² Taylor Luck, (2013), In Jordan, tensions rise between Syrian refugees and host community, Washington Post, available at :

[https://www.washingtonpost.com/world/middle_east/in-jordan-tensions-rise-between-syrian-refugees-and-host-community/2013/04/21/d4f5fa24-a762-11e2-a8e2-](https://www.washingtonpost.com/world/middle_east/in-jordan-tensions-rise-between-syrian-refugees-and-host-community/2013/04/21/d4f5fa24-a762-11e2-a8e2-5b98cb59187f_story.html?noredirect=on&utm_term=.98eb678bca9e)

[5b98cb59187f_story.html?noredirect=on&utm_term=.98eb678bca9e](https://www.washingtonpost.com/world/middle_east/in-jordan-tensions-rise-between-syrian-refugees-and-host-community/2013/04/21/d4f5fa24-a762-11e2-a8e2-5b98cb59187f_story.html?noredirect=on&utm_term=.98eb678bca9e)

¹¹³ Jessica Hagen-Zanker, Martina Ulrichs, and Rebecca Holmes, (2018), What are the effects of cash transfers for refugees in the context of protracted displacement? Findings from Jordan, Social Protection in the MENA countries: prospect for a new social contract, International Social Security Review, Vol. 71, 2/2018

b) Overall macroeconomics impacts

According to the Ministry of Finance of Jordan, its GDP was growing in the period of 2006-2010 at an average annual rate of 15.2% whereas during the period between 2011-2016, the average annual GDP rate fell to 6%. Regarding the public debt, it has risen from 82.8 % of GDP to 92.9% of the GDP in 2016.¹¹⁴ However, those figures did not decrease only because of refugee's influx, but also because of the overall economic impact of the decrease of the commercial exchange between Syria and Jordan and the overall economic crisis that affects the Middle East. According to the MoPIC, since 2016, the overall cost of the Syrian refugee in Jordan is of \$8.6 billion.¹¹⁵ The Jordanian Response Plan written by the Jordanian government and the International Community to present the needs of the Syrian refugees in Jordan and of the Jordanian, underlines different deterioration in the quality of public services such as health, where the existing facilities have registered a growing number of patients despite the numerous health facilities led by the International Community.¹¹⁶ In a country where not all Jordanians has access to health facilities and universal health coverage insurance, the influx of Syrian refugees had consequences: "Health indicator values have decreased in 2015 and significant vulnerabilities still exist for maternal and child health, in addition to a shortage of human resources in the health sector."¹¹⁷ With regards to education, the double shift system has also led to "impacting the quality of education provided to all children."¹¹⁸ The presence of Syrians is also having an impact on the management of solid waste and on the availability of water especially in highly populated areas such as the northern governorate where water consumption have increased by 27%.¹¹⁹

If all those figures show a quite negative impact, it is important to precise that the positive impact of refugee is not measured. Indeed, refugees come with skills and resources. The way Zaatari camp has been developed shows the creativity and economic opportunities created by Syrians.¹²⁰ In addition, refugees come with savings and are a new consumer population that participates to the society. With the arrival of refugees the International Community created

¹¹⁴ Hachemite Kingdom of Jordan, Ministry of Planning and International Cooperation, Jordan Response Plan for the Syria Crisis, 2017-2019, Jordan Response Platform for the Syria Crisis

¹¹⁵ Ibid (n.114)

¹¹⁶ In 2012, at the beginning of the crisis, many health facilities were dedicated to Syrian refugees. With the cut in financing the humanitarian aid, those facilities were not able to run anymore.

¹¹⁷ Ibid (n.114)

¹¹⁸ Ibid (n.114)

¹¹⁹ Ibid (n.114)

¹²⁰ Ibid (n.17)

lot of job opportunities for Jordanians and have bring a lot of funding through grants. The cash transfer program implemented by UNHCR, where vulnerable household receive a monthly grant is injecting a massive amount of money within the Jordanian market. For instance, in 2016, “the Common Cash Facility in Jordan delivered a total of US\$118 millions to some 40,000 refugee families; this represented more than 90% of the cash assistance provided to Jordan’s most vulnerable refugees living outside camps.”¹²¹ It has been shown that cash assistance program was allowing Syrians refugee to secure their shelter by paying the rent and decrease the stress occurred by their situation because of the reception of a regular income. However, the cash transfer program led by UNHCR and other international organization in Jordan is becoming a parallel social protection system based on nationality of the recipient.¹²² If the situation persists, this program should be incorporated within the social protection system already existing in Jordan.

The general economic impact of those programs is not documented. Those programs have as well targeted vulnerable Jordanians based on the MoPIC regulations. Through the cash transfer program, UNHCR is filling the gap of social protection services of the Jordanian government. One particular effect the presence of Syrians on the Jordanian territory had is the pressure on the Labor market. Again, this pressure is not well documented.

c) Pressure on the Labor market

In addition to the pressure on the general economic situation, the environment and the public services, the influx of Syrian refugees had impacted the employment and the labor market, affecting the poorest part of the Jordanian society. The Jordanian Labor market was already weak before the arrivals of Syrians. The arrival of Syrians did not have a massive impact on unemployment since Syrians were not allowed to work legally in Jordan. However, it is likely that the informal market, which is more difficult to capture has been affected. The Ministry of Labor (MoL) estimates that 160,000 Syrians are working illegally in the northern governorates, regions already poor in Jordan¹²³.

International Labor Organisation (ILO) described the Jordanian labor market as segmented between private/public, formal/informal, male/female, Jordanian/foreigners. The public sector

¹²¹ Heidi Gilber, Lois Austin, (2017), Review of the Common Cash Facility approach in Jordan, UNHCR and CALP

¹²² Ibid (n.113)

¹²³ Ibid (n.112)

is the first employer in Jordan, with 35% of the people working for the public sector. The presence of Syrians did not have any impact on the employment within the public sector since they are not allowed to access those employment opportunities. However, their presence impacted the public services by putting additional pressure on them, it is more likely that job had been created to remove some pressure on this, job that had been filled by Jordanians. Half of the private sector is informal. Within the informal sector, vulnerable Jordanians but also vulnerable foreigners are employed. They perform low skilled jobs, received low wages and have a low productivity. ILO also mentions the inadequacy between the labor market and the education system; work opportunities are not matching the employment the youth are looking for. ILO concludes that:

“The labour market is currently locked into a cycle of low wage/low skill/low productivity. Since employers have access to foreign workers willing to work longer hours for less pay, and without demanding social security coverage and other rights granted to them by law, the incentives to invest in higher value added industries remains limited. Moreover, foreign workers are likely to remain more desirable since the legal minimum wage (JD 190 per month) only applies to Jordanian nationals.”¹²⁴

The presence of Syrians had an impact on the growth of the informal sector that was estimated to be of 20 to 25% before the crisis.¹²⁵ It is of course highly difficult to measure the informal sector. What is known is that Syrians, before the crisis, were employed in construction, wholesale, retail trade, manufacturing, agriculture, forestry, fishery, transportation and storage. Within those sectors, the employment of Jordanians was low. Consequently, it is likely that Syrians are occupying positions mostly within the informal sector that Jordanians would not have occupied, but that would be occupied by migrant workers such as Egyptians for the construction sector for instance. The presence of Syrians is likely to increase the economy of the informal sector, where public policy are needed to ensure that this sector is under higher control for security but also for financial reasons since the informal sector does not pay tax to the government.

¹²⁴ Salme Ajluni and Mary Kawar, (2014), The Impact of the Syrian refugee crisis on the labor market in Jordan, a preliminary Analysis, 2014, International Labor Organisation

¹²⁵ Ibid (n.17)

d) Impoverishment of the Syrians and vulnerable Jordanians

According to Cooperative for Assistance and Relief Everywhere (CARE)'s last survey:

“Syrian urban refugees continue to gain their monthly income equally from work and humanitarian assistance (...) Syrian refugees’ expenditures are on average 25% more than their income, while Jordanians’ income-expenditure gap almost tripled between 2016 and 2017 (56 JOD and 123.7 JOD, respectively). Syrian urban refugees, other minority refugees and Jordanian citizens all reported spending half or more of their monthly expenditure on rent. The vast majority – 88.9% of Syrian refugees, 80.9% of Jordanian citizens and 79.6% of other minority families – reported they were in debt.”¹²⁶

To cover the income-expenditure gap, Syrians and Jordanians are relying mostly on borrowing money to family, relationship and/or landlord. When it comes to borrowing money to the landlords, Syrians and Jordanians are at risk of being evicted if the money is not given back and the rent not regularized. There is also a number of Syrians becoming too poor to live in the urban centers that are going to Zaatari camp to settle there even though living in a camp is not what they would desire. One of the other choice Syrians are making while they have become too poor is to go back to Syria.¹²⁷

The massive humanitarian assistance that went to Jordan in 2012-2015 did not allow the Syrian families to cope with the situation they were facing. The more the years were passing and the crisis was protracted, the more the funds were restricted and access to basic services such as food voucher were dependent on World Food Program (WFP) funding that were experiencing shortage. The response to this influx through humanitarian was not enough and did not work to ensure the rights of refugees were respected and fulfilled. The massive cash transfer program is providing a certain protection to the beneficiaries of this type of assistance, but this is not sufficient to ensure a long-term solution.

The hosting government being overwhelmed with the influx focused its policy on security and protection of its own citizen, while the humanitarian community was running after funds to respond to the basic needs of the Syrian refugees. In front of this inextricable situation, in February 2016, the International Community and the Jordanian government signed a Compact

¹²⁶ Care International, (2017), 7 years into exile, How urban Syrian refugees, vulnerable Jordanians and other refugees in Jordan, are being impacted by the Syrian crisis, June 2017

¹²⁷ Ibid (n.126)

agreement that is promoting durable solution and a better integration of Syrian refugees within the Jordanian society by allowing the right to work for certain types of work. This shift in the Jordanian policy will be studied in the third Chapter.

Chapter III. The right to work for refugee, an unfinished reform

The policy shift of the Jordanian government occurred in a specific context of restrictive policies towards the protection of Syrian refugees in Jordan due to the “burden” refugees were on the hosting state. At the same time, Syrian refugees were fleeing to Europe because the situation was becoming unbearable. The “European migration crisis” was the cynical trigger to support durable solutions for refugees in hosting states such as Jordan. The durable solution identified by the International Community was to promote the right to work within hosting countries to ensure that the other rights of refugees would be respected. Within this chapter we will study the international legal framework onto which the right to work for refugee is based on. This will demonstrate that Jordan, even though not part of the 1951 Convention, is bound by international legal framework to protect, respect and fulfill the right to work of refugees. Based on this, we will study the positive and the limited outcomes of the provision of the right to work to refugees within the specific context of the Compact agreement. We will demonstrate that even though allowing Syrian refugees to work in Jordan is one of the most appropriate solution to ensure that they gain autonomy, the way the Compact agreement is designed needs improvement to achieve its ultimate goal.

A. From the right to work to the Compact agreement

a) The right to work for refugees: a legally bounded human rights mentioned in different international conventions

The right to work for refugees is protected in different international treaties. Within the Universal Declaration of Human Rights (UDHR), the right to work is mentioned in article 23. It is also included in the 1951 Convention and the International covenant for Economic Social and Cultural rights (ICESCR). The right to work is seen as a progressive right. Refugees, depending on their status and the duration of their stay will gradually see their economic opportunities facilitated.¹²⁸

The convention makes a distinction between *lawfully in* and *lawfully staying*. This distinction can be understood as depending on the level of attachment and the duration of the stay. As a

¹²⁸Anna Wirth, Cara Defilippis and Jessica Therkelsen, with the assistance of Research Associates Sabahat Adil, Caitlin Phair and Brittany Benavides, (2014), Global refugee work right report, Asylum Access and the Refugee Work Rights Coalition

refugee, the person will gain more rights the more he stays in the country. As an asylum seeker, the person in the country is lawfully in. When the person becomes a refugee, she becomes lawfully staying. This distinction is important with regards to the right to work, since when the person is lawfully in, she is entitled to be self-employed, as mentioned in article 18.¹²⁹ Then, when the person acquires the status of refugee, lawfully staying, the rights of this person increase and should be equal to any national, as mentioned in article 17-1, which grants the person of “the most favorable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.”¹³⁰ In addition, in article 17-2, the Convention mentions that if the contracting state is imposing restrictions on the employment of foreigners to ensure its labor market is protected, this restriction cannot be applied to a refugee who has been resident for at least three years, or to the one who have a spouse or a child who are national of the country of refuge. Finally, it is worth mentioning article 24 of the Convention regarding social security and labor employment protection that should be granted to refugees.¹³¹

This document informs the International Community on the path to be followed and the universal protection that states should provide to refugees where the right to work is fully part. It also shows that during the preparatory work of the Convention, it was clear in the mind of the writers that refugees should be allowed and encouraged to work and humanitarian assistance was never thought to replace the possibility for refugees to earn for their living.

If Jordan is not bound by the 1951 Convention, Jordan is part to the ICESCR. Article 6 of this Convention mentions the “right of everyone to the opportunity to gain his living by work which he freely chooses or accepts.”¹³² This right is applied to “everyone including non-nationals, such as refugees, asylum seekers, stateless persons, migrant workers and victims of international trafficking, regardless of legal status and documentation.”¹³³ Article 6 of the convention has to be understood in correlation with article 2-1, where the state has the obligation to a progressive realization of the rights listed in the convention. Consequently,

¹²⁹ Ibid (n.65) article 18

¹³⁰ Ibid (n.65)

¹³¹ Ibid (n.65)

¹³² UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <http://www.refworld.org/docid/3ae6b36c0.html> [accessed 10 July 2018]

¹³³ UN Committee on Economic, Social, and Cultural Rights, General Comment No. 20, Non-Discrimination in Economic, Social and Cultural Rights, U.N. Doc. E/C.12/GC/20 (2009), para. 30.

Jordan should not refrain from interfering with the enjoyment of the right to work for refugees, should protect the Syrian refugees facing some abuses in the informal market with regards to non-respect of working hours and/or minimum wages etc... Finally, Jordan should take positive actions such as legislating to ensure full access to employment for refugees.

b) Right to work in Jordan for Syrian refugee: the path to the signature of the Jordan Compact

As explained in Chapter 1 and 2, the legal framework for asylum seekers and refugees in Jordan is almost inexistent. Seeing that the crisis was being protracted, that Jordan was implementing more and more restrictions and that the humanitarian funds were reducing, different scholars and members of international organizations along with the Jordanian government launched advocacy and studies based on evidences to show that refugees were not a burden and could be an economic opportunity. It is worth recalling here the article 8 of the MoU signed between UNHCR and the government of Jordan mentioned in Chapter 1, “In order to enable a refugee to provide a living for his family it was agreed to accord a refugee who is legally residing in Jordan to work for his own account whenever the laws and regulations permit.”¹³⁴ Without modifying the MoU, the Government of Jordan and the International Community are trying to fill the legal gap that exists within the MoU with regards to allowing refugees to earn for their living.

In 2015, the WANA institute published a report called “Forging New Strategies in Protracted Refugee Crises: Syrian Refugees and the Host State Economy Jordan Case Study.” The report argued that refugees should not be seen as a burden on the host states but should be seen as an opportunity to seize for development policies. This theory was also developed in collaboration with Alexander Betts and Paul Collier in the book they published later in 2016, “Refuge: Rethinking Refugee Policy in a Changing World”.¹³⁵ The WANA report demonstrates the lack of evidence regarding the contribution of refugees to the Jordanian economy. Indeed, refugees come with skills and resource that can stimulate the expansion of the economy of the host community. The report advocates for new innovative measures that could respond to Jordan’s economic needs, protect the refugees properly and prepare the peace and reconstruction process that Syria will need in the coming years. With regard to the

¹³⁴ Ibid (n.57)

¹³⁵ Paul Collier, Alexander Betts, (2017), *Refuge: Rethinking Refugee Policy in a Changing World*, Oxford: Oxford University Press, 2017.

duration of the conflict and the displacement, supporting the hosting state and the refugees, whose capacities and competences could be wasted, is determinant to the future of Jordan and of Syria. Syrian refugees should be productive so that during the reconstruction process they would be part of the active population. In addition, it was clear that humanitarian funding were not going to last forever, and without a proper conflict resolution it is likely that the donors will reduce the funds available, which was already being noticed from 2015.¹³⁶ Finally, innovative solutions should be proposed to host states to ensure that they would keep their borders open.

The WANA institute proposed to support investment in Jordan that target different companies such as those willing to position themselves for the reconstruction process; companies that had been forced to flee Syria that would want to resume its operations in Jordan to relocate themselves to Syria when the country will be at peace; and companies that could be attracted based on a social responsibility through employment of Syrians and Jordanians.

At the same time, in 2015, after 4 years of conflicts, 4 years of humanitarian assistance with limited outcomes and understanding that the Syrian conflict will not end soon, the Jordanian government and the International Community worked on a different methodology. Consequently, the language changed in 2015, with the publication of the Jordan Response Plan (JRP) 2015. Within this plan, the main objectives were:

“providing protection and emergency humanitarian response to Syrian refugees and to strengthen the resilience of affected Jordanian people, communities and institutions, while at the same time (i) mitigating the ongoing impact of the crisis; (ii) sustaining Jordan’s social and economic stability, and (iii) preserving the critical development gains achieved during previous decades.”¹³⁷

This plan was in line with the regional strategy that went from a humanitarian response to a more development-oriented approach. At the regional level, the International Community published the first 3RP: “regional, refugee and resilience plan”, a series of different action plans that are still on going. The mention of resilience and the acknowledgement that the refugees were falling deeper into vulnerability along with the host community was a first step to work on durable solutions. Jordan was in a position of negotiation with the International Community to increase funding for humanitarian assistance, but also for development

¹³⁶ Ibid (n.114)

¹³⁷ Ibid (n.114)

purposes.

The durable solution identified by different scholars, the International Community and the host country was to consider refugees as a development opportunity and to build upon this assumption. It was also an acknowledgement that the humanitarian response was too short term to alleviate suffering and not providing durable solutions. Consequently, in 2016, the government of Jordan published the first three-year plan. The plan included humanitarian assistance and development programs assisting Jordanians and Syrians at the same time.

c) What includes the compact in Jordan ?

Along with those plans, the Jordanian authorities and the International Community sat at the same table in February 2016 at the London conference and agreed on a Compact agreement. The Jordan Compact is a multi-year grant that brings together humanitarian and development funding under the management of the host government.¹³⁸ The funding agreed is linked to different targets that the Jordanian government has to reach with the support of the International Community through loans and grants. Among the targets set, Jordan should issue 200,000 work permits for Syrian refugees in specific sectors, along with some reforms to improve the business and investment environment in Jordan. In return, the EU agreed to “relaxing trade regulations to stimulate exports from 18 designated economic zones and industrial areas in Jordan, in return for employment quotas for Syrian refugees in these businesses.”¹³⁹ Lastly, Jordan commits to provide additional school places for Syrian children and some vocational training opportunities. This last part of the agreement will not be studied here to stick to the main topic of this work. The acknowledgement that refugees could be a development opportunity is the innovation of this agreement along with the decision to open the Jordanian labor market to ensure that Syrian family could gain autonomy and become less dependent on humanitarian assistance.

B. Mitigated impacts of the Jordan Compact

If the Compact had positive outcomes that will be described in the following section, the success of this agreement is questionable and several limitations will be mentioned hereafter. This part will demonstrate that basing the Compact on economic outcomes is not sufficient to

¹³⁸ Veronique Barbelet, Jessica Hagen-Zanker and Dina Mansour-Ille, (2018), The Jordan Compact Lessons learnt and implications for future refugee compacts, Policy briefing, Overseas Development Institute

¹³⁹ Ibid (n.138)

ensure refugees have access to the labor market and become self sufficient.

a) Positive outcomes

i. A surprising policy shift from the Jordanian government

As seen in the previous chapter, the Jordanian government was not keen in providing sustainable solutions to refugees. According to them, the stay of Syrians in Jordan is either temporary or the responsibility of the International Community to find durable solution and/or to support the assistance of Syrian refugees within Jordan (encampment policy). In a sense, the opening of the Jordanian labor market to Syrian refugee is a small revolution, since this was never done for the previous migration waves that Jordan had faced, apart from the Palestinians that had been totally assimilated.¹⁴⁰ As of January 2018, 87,141 permits were issued, among them 16% were issued for people residing in one of the camps.¹⁴¹ Given the reluctance of the Jordanian government with regards to integration policy towards refugee, this can already be mentioned as a success of the Compact. Another important aspect in the Jordan Compact is the leadership given to the Jordanian government. This leadership was already visible when the Jordanian government led the JRP, but is even more encouraged through the Jordan Compact. Indeed, the government has the role of coordinating the assistance received and is, for instance, in charge of ensuring that there is no duplication among the programs proposed and is also leader in terms of proposed solutions.

ii. A deeper involvement of the development actors

The involvement of the EU and the WB at this level is also a success of this agreement. The Jordan Compact is allowing the government of Jordan and the implementing agencies to develop long-term program to support refugees and the vulnerable host. The opening of additional specific funding mechanisms to middle income countries hosting refugees such as the Global concessional financing facility at the WB is also a positive outcome. The Global concessional financing facility was up to now solely dedicated to low-income countries. It shows that the International Community has taken into account the necessity to support hosting countries while facing refugees' crisis. The acknowledgement of the International

¹⁴⁰ However, as demonstrated in Chapter 1, the Palestinian refugees were integrated mostly because of territory purposes (annexion of the West Bank). It is then difficult to compare the 2 situations.

¹⁴¹ Ministry of Labour Syrian Refugee Unit (2018), Monthly Progress Report 1, Syrian Refugee Unit Work Permit Progress Report January 2018

Community that it is more likely that refugees will better integrate in neighboring countries given the socio-cultural proximity than in countries that would be far away from their country of origin is also a noticeable step. The WB created the Global concessional financing facility in April 2016. This facility proposes to fund programs for refugee in middle-income countries through:

“loans that are extended on terms substantially more generous than market loans. The concessionality is achieved either through interest rate below those available on the market or by grace periods, or a combination of these. Concessional loans typically have long grace periods.”¹⁴²

The WB is funding Jordan \$300 millions through this concessional funding facility. When it comes to EU funds, among the €747 million provided, €439 are funds through concessional loans. Development funds that were dedicated to low-income countries are also made available to countries that are hosting refugees to ensure a greater share of responsibility when it comes to the assistance to refugees. The “rich” countries that are not welcoming a massive number of refugees should support financially the countries that are being directly affected by massive waves of refugees within their countries. Alexander Betts and Paul Collier supported this. They were arguing that because Europe does not want to see refugees in their countries, but also because integration is more efficient in countries that are closer to the countries of departure socially but also economically, the “North” should support financially the hosting countries that are less developed and sheltering the majority of the refugees worldwide.¹⁴³ If the access to additional funding mechanisms is an innovation of this agreement, the mechanism in itself is problematic, but this will be developed in the following part.

iii. An innovative mechanism with the Relaxed rules of origin within the EU

This innovative mechanism is based on a visit Paul Collier and Alexander Betts did in Jordan in 2015. After visiting Zaatari camp, they found that 15 minutes drive away from the camp; there was a Specific Economic Zone (SEZ). Those zones are areas where business is encouraged with specific regulations on business and trade in order to attract investment and increase job creation. The area they visited was operating bellow capacity and two elements

¹⁴² OECD, Glossary of Statistical terms, Concessional Loans, available at: <https://stats.oecd.org/glossary/detail.asp?ID=5901>

¹⁴³ Ibid (n.135)

were missing: investments and workers. Jordan being in the “middle-income-trap” cannot compete with low-income country because of the cost of its labor force (too high) and cannot compete with advanced industrialized countries because of the lack of highly qualified skills. Betts and Collier propose to encourage manufacturing industry to settle within Jordan in those areas where investment is stimulated through tax facilities and flexible labor law. As described by the WANA institute, this encouragement would be based on two motives, one that is strictly speaking related with business and the other one based on the social responsibility of the enterprise. Refugees would be an opportunity of labor force, enterprise would benefit from advantages from the SEZ but also from specific trade agreements with the EU and more generally the North. Paul Collier and Alexander Betts summarize the philosophy as the following:

“European government wants to address a migration crisis; Jordan wants to make the leap to manufacturing and manage a security nightmare; business is seeking new investment opportunity, while also trying to restore citizen respect for modern capitalism; refugees want to work; and just about everyone has a stake in the long-term future of Syria.”¹⁴⁴

According to them, globalization needs to be used at the service of refugees and development of middle-income countries. To this extend, the involvement of the private sector and their necessary encouragement to invest within the SEZ is key in achieving this result. This resulted in specific clauses in the EU agreement where:

“The EU has committed to simplify its rules of origin for a ten-year period for specific goods produced in production facilities located in pre-determined Special Development Zones (SEZ) and Industrial Areas, as long as these are linked to job opportunities under the same conditions for both Jordanians and Syrian refugees (15% of jobs in first two years; 25% thereafter), with the overall aim to reach the target of 200,000 job opportunities for Syrian refugees at Country level, as per the International Compact statement.”¹⁴⁵

¹⁴⁴ Ibid (n.135), p 175

¹⁴⁵ Council of the European Union, Inter institutional File: 2016/0289 (NLE), ANNEX to the Joint Proposal for a COUNCIL DECISION on the Union position within the Association Council set up by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part, with regard to the adoption of EU Jordan Partnership Priorities and annexed Compact, JOIN(2016) 41 final ANNEX 1

As we will see in the following part, the outcome of this innovation is not reaching the level of expectation of Betts and Collier for different reasons, however the involvement of the private sector within this development policy is an important opportunity for job creation for Syrians but also for Jordanians. One of the success stories of this agreement to be mentioned here is in the city of Sahab where Syrian factories have resettled and are hiring Syrians and Jordanians in the SEZ of Sahab. This has been highly encouraged by the municipality. They have seen the positive outcomes of this policy and have supported the implementation at local level. Al Fayhaa Company is hiring 82 Syrians out of 313 employees and claims to be exporting to the EU 40% of its sales under the Relaxed Rules of Origin.¹⁴⁶ If this success story is notable, we will see later on that this was not generalized in Jordan.

b) Limited outcomes

The main outcomes of the Compact that this part will study are the ones regarding the right to work and the creation of employment within the Jordan Labor market. The outcomes regarding the macro-economic structural reforms that the Jordanian government needs to implement will not be studied if it does not concern the right to work of refugees. Among the limited outcomes, some are related to the implementation of the agreement others are related to the evaluation of the situation before signing the agreement. The limited outcomes will be described in the following section by challenging first the funding mechanism and the conditionality in link with it; then the lack of analysis, due to the lack of data of the situation before the agreement; the different barriers the Syrians are facing to access the labor market, including some misperceptions the Syrians are having; the lack of job creation and the different level of implementation at local level to finish by the problem of exclusion of the refugees of different nationalities from this agreement.

i. A questionable funding mechanism

It is important here to keep in mind that the level of debt in Jordan was already very high, as we have seen in chapter 1, where Jordan relies a lot on foreign funding and loans from the International Financial Institutions. With the addition of the Compact agreement, the debt is

¹⁴⁶ Alexander Betts, Ali Ali, and Fulya Memişoğlu, (2017) Local Politics and the Syrian Refugee Crisis Exploring Responses in Turkey, Lebanon, and Jordan, Refugees studies Center

increasing to more than 90% of the GDP.¹⁴⁷ Consequently even though the first outcome of the Jordan Compact is allowing Jordan to fund activities to support Syrian refugees and vulnerable Jordanians, the Jordan Compact also leads to the increase of Jordan's debt. If humanitarian funding were not sufficient, they were providing grants that did not need to be refunded. With the Jordan compact, the Jordanian government has increased its debt level and weakened its economy.

It is important to underline that even though the WANA institute along with Paul Collier and Alexander Betts have argued that providing the right to work to refugees is one of the key to sustainable solutions to ensure Syrian refugees to be seen as a development possibility, the resulting Jordan Compact is a compromise among different stakeholders. It is first a financial agreement, based on economic outcomes and does not include a human-rights component or an objective of improving the life of Syrians and vulnerable Jordanians. Betts and Collier are promoting a more development-based approach that includes :

“employment, enterprise, education, healthcare, infrastructure, and governance: it focuses on both refugees and host communities and builds upon the capacities of both rather than just addressing vulnerabilities.”¹⁴⁸

The funding mechanism of this program is not ensuring that Jordan would become economically stable. This was shown during this year where several protests were organized due to the increase of the prices and the cut of subsidies. The last protests during June 2018 were against the tax reform asked by the International Monetary Fund (IMF). Even though, this IMF agreement differs from the one of the WB and the EU, with the increase of foreign debt, it is likely that Jordan will face additional economic shocks and that its economic situation could worsen.¹⁴⁹ Evan Easton-Calabria in her article “Following the refugee” is also pointing out the unsuccessful previous involvements of the WB in the funding of refugees' crisis. She recalls the story of structural adjustment plans that led to impoverishment of the local population and increase of inequalities and, to a certain extent, increased forced migration. Consequently, Evan Easton-Calabria concludes by asking the question “is the

¹⁴⁷ J.T, (2018), Public debt amounts around JOD 2,3b in 2017, Jordan Times, available at: <http://www.jordantimes.com/news/local/public-debt-amounts-around-jd273b-2017>

¹⁴⁸ Ibid (n.135)

¹⁴⁹ BBC News, (2018), Jordan PM Hani Mulki quits after austerity protests, available at: <https://www.bbc.com/news/world-middle-east-44358039>

World Bank the actor we have been waiting for, or are we instead conflating a very real need with an inadequate institution to respond to both development and displacement? History suggests it may be the latter.”¹⁵⁰ While she does not propose solutions to this, she underlines that we should not be so enthusiastic of seeing the involvement of the WB within the Compact since the support provided by the WB and EU are “just” loans.

ii. Conditionality of the agreement not based on appropriate monitoring mechanisms

The funding mechanisms of the Compact are conditional to achieving some results. Within the WB and EU agreements, the indicator sets are outputs indicators. For instance within the WB agreement, only 2 indicators are in link with refugees, the first one being in link with the provision of work permits and representing 43% of the financing share. However, providing work permit does not mean that the situation of refugees has improved and that the economy of Jordan is growing due to the employment of refugees. The other indicator regarding refugee is also an output indicator, “7% of financing be contingent on 100 in 1000 new businesses being refugee-owned”. This indicator cannot be measured so far, since the regulation towards business for foreigners (Syrians) have not been modified and is for the moment way too expensive for Syrians to be able to register new business within Jordan (cf. part B,a,iii of this Chapter). However, again, this is an output indicator and does not inform the outcome of the measures. The title of this program is “Economic Opportunities for Jordanians and Syrian Refugees”, but the objectives are unclear and without clear objectives, it is highly complicated to define appropriate results and indicators to measure the achievement of the project.¹⁵¹

Even though providing conditional funds can be an efficient manner to control that states are heading towards the appropriate solutions to ensure that refugees become self-reliant, the way the agreement was define does not today allow the International Community and the Jordanian government to measure the outcomes of the Jordan Compact. Consequently, the conditionality of the fund will not support appropriate decision-making. This is added to a structural difficulty faced by the majority of the middle-income countries not having

¹⁵⁰ Evan Easton-Calabria, (2017), “Following the Refugees”: The World Bank, International Loans, and a Brief History of Refugees and Development, SAIS Review of International Affairs, Volume 37, Number 2, Summer-Fall 2017, pp. 3-13 (Article) Published by Johns Hopkins University Press DOI: <https://doi.org/10.1353/sais.2017.0022>

¹⁵¹ Center for Global development, The international rescue committee, (2017) Refugee compacts, addressing the crisis of protracted displacement, Final report of the forced displacement study group.

appropriate data to appraise public policies. This lack of indicator reveals that during the process of designing the Compact agreement Syrian refugees were not included and their needs and wants were not taken into account. This also explains why the objectives are unclear and a result of a compromise between different agenda, excluding Syrians' agenda.

Indeed, the signature of the Compact agreement is based on several individuals that evolve in the same sphere. This is well described by Alexander Betts and Paul Collier in their book where they explain that the success of the agreement and the rapidity of its signature are also based on the links among the people who advocated for. The WANA institute had welcomed Paul Collier and Alexander Betts in its office during their visit and research in Jordan. The WANA institute is supported and funded by King Abdullah's uncle, Prince Hassan bin Talal and headed by Erika Harper, the wife of Andrew Harper, the head of UNHCR at that time.¹⁵² It led to a fast negotiation and signature in a context where every stakeholder needed to find rapidly durable solutions for refugees, especially European actors because of the migration crisis Europe was facing at the same time. However, it also led to the design of an unfinished program with poor indicators and vague objectives.

If the refugees had been consulted, it is likely that they would have pushed for being allowed to work and would have agreed with this statement. Nevertheless, they would probably have argued also for more flexibility with regards to the occupations opened for refugees and for being able to register self-business as a priority compared to being allowed to work in SEZ. The other key actors that were not integrated in the negotiation of the agreement are the Jordanian municipalities that have been a major stakeholder in the organization of the assistance for refugees at the beginning of the crisis and that are directly affected by the Jordan Compact. Their role will be discussed later on in this chapter.

The INGOs were, to some extent, not included in the process especially the Human-Rights INGOs. This led to a financial and economic contract rather than an agreement based on human rights. Allowing Syrian refugees to work is solving one issue, but at the same time as the Jordanian government signed the agreement, it also took some measures, such as closing of the border and the sad management of the berm that are major breaches of human rights. The International Community had a leverage to advocate for the resolution of the berm issue

¹⁵² Katharina Lenner, Lewis Turner, (2018), Making Refugees Work? The Politics of Integrating Syrian Refugees into the Labor Market in Jordan, Middle East Critique, DOI: 10.1080/19436149.2018.1462601

and/or the opening of the border. This leverage was not used and human rights matters were not mentioned in the agreement. In addition, the design of the Compact agreement does not follow the refugee convention and/or mention it. Hence, the solution proposed is not including any of the other rights the refugees are entitled to for instance the right of movement. Adopting a human rights based approach (HRBA) would have allowed the different stakeholders to think through a framework that ensures the inclusion of the different rights and probably ends up with a better solution. The HRBA would propose a proper monitoring mechanism of the implementation of the agreement that could have been based on human rights indicators, adding to socio-economic ones. This would have helped to gain a better understanding of the outcomes of the Compact and consequently conditions the funds on better-defined outcomes.

iii. General lack of data leading to some misinterpretations

The evidences on which the Compact is based are lacking. In Jordan, as well as in most of the low and middle-income countries, states have little means to collect appropriate data, and consequently have difficulties to gather evidences to inform their public policies. More broadly, not having a global analysis framework to assess the needs and monitor the impact is making comparison between countries difficult. In the following sections we will see the main issues that the Jordan Compact is facing due to a problem with the data.

➤ *Problems regarding the numbers of refugees present in Jordan, their gender and their geographical localization*

As mentioned earlier, the discrepancy between the figures of the Jordanian government and the figures of UNHCR is having consequences on the number of work permit needed. The main indicator of the agreement is then problematic. In 2018, the number of work permit provided to Syrian refugees was of 87,141 with only half of it active. The target of 200,000 is far from being reached. Within the 40,000 work permits that are still active, only 4% have been granted to women.¹⁵³ As shown in the table bellow, if we look at the demographic composition of the Syrian refugees population in Jordan, 22,1% are male between 18-59 years old, and 23,5% are female between 18-59 years old.¹⁵⁴ If we take the figures from UNHCR, the total of 45,6% of the refugees' population being in the age to work represents 273,600

¹⁵³ Ibid (n.138)

¹⁵⁴ Ibid (n.85)

people. If we take the Jordanian Census, then this figures goes up to 592,800. However, this does not take into account the fact that in the urban centers, only 400,000 are having a MoI card, thus being able to register for a work permit without being at risk of being deported to Azraq camp and/or back to Syria. On that account, this figures drop down to 182,400 people. Again, this figure does not take into account the fact that among this population; some people will have difficulty to access the labor market because of health issues and/or mobility issues. Finally, if we consider that women are less likely to ask for a work permit, this figure drops down to 88,400 men who are legally allowed to ask for a work permit.

	Total	Working population		
		Male	Female	Total
		22,10%	23,50%	45,60%
UNHCR figures¹⁵⁵	600000	132600	141000	273600
Population with a MoI card	400000	88400	94000	182400
Population living in camps	150000	33150	35250	68400
GoJ figures¹⁵⁶	1300000	287300	305500	592800

Figure 4: Projection of working population

It is worth mentioning here that 30% of the women are headed the household. Without childcare solutions, those 30% of women headed household are not able to work even though they would be in need for a regular monthly salary to support their family.¹⁵⁷ Gender and specific vulnerabilities have not been taken into account in the Compact agreement and led to a misinterpretation of the actual needs of women in terms of livelihood. If they do face sociological and cultural barriers, women also expressed their willingness to work, but not in firms far away from their home.

Finally, among the 600,000 PoC registered within UNHCR, close to 150,000 people are living in the camps among them 68,400 (including men and women) are in the age of working. The people living in Azraq camp face difficulties to access work because of the limitation of their freedom of movement, but also because of the remote area in which the

¹⁵⁵ Ibid (n.85)

¹⁵⁶ Ibid (n.5)

¹⁵⁷ Ibid (n.126)

camp is situated. For this reason, it is less likely that the inhabitants of Azraq camp would apply for a work permit. In addition, the government of Jordan, willing to prevent people living in the camp to move out of the camp, is putting additional barriers on the application of the Syrians living in camps.

“Camp residents, who are more than 20 percent of registered Syrian refugees in the country, also have experienced difficulties in accessing work permits. This is despite initially being, at least implicitly, one of the main targets for the work permits scheme. Different actors involved in governing Syrian refugees, including the Ministries of Interior, Labor, and Planning, have to some extent contrasting agendas, which variously emphasize control over the entry and exit of people and goods into and out of camps, or the economic integration of Syrian refugees.”¹⁵⁸

Indeed, the MoI is concerned by the security of its country and is reluctant to allow movement of people from the camp. The MoL is concerned about the level of unemployment within its country, this explains why the Ministry was hesitant to open the labor market to Syrian refugees living in camps whose needs could be considered as covered by the International Community. Lastly, the MoPIC was worried about the different programs implementing by the international organizations for the management of the camps and the consequences allowing people to work would have over the funds and activities implemented. This explains the difficult situation people in the camps are facing with regards to enjoying their right to work within Jordan despite that they were the first targets of this arrangement, due to the close geographical location of Zaatari camp with one of the SEZ. Some measures such as childcare organization or transportation could be easily organized for the refugees from the camp to the SEZ and encourage the resident of the camps to seek for a job outside the camps.

It is worth mentioning that the calculation has been established on UNHCR figures and not on the figures of the Jordanian Census. If we base the calculation on the Jordanian Census, then, the results shows that the Jordanian authorities are not providing enough work permit. The humanitarian and development community are being reluctant to use the figures from the Jordanian government since they do not necessary trust the Census. Taking the Jordanians Census as a base would in a sense imply a recognition that half of the Syrian refugees are not protected by UNHCR. The debate over the total number of Syrian refugee being in Jordan is having a huge impact on the policy implemented and is highly political. The Jordanian

¹⁵⁸ Ibid (n.152)

government is advocating for additional funds to assist 1,3 million of Syrians whereas the International Community is arguing that only 600,000 are refugees and that the rest of the Syrians are not PoC of the UNHCR, and probably not in need of protection. Importantly, the data from INGOs and UN agencies are available only on registered refugees within UNHCR and unregistered refugees mentioned in reports from INGOs represent a small part of the refugees. One other indication is population having a MoI card that represents only 400,000 people. It is then likely that the number is closer to what UNHCR and the International Community are stating. Consequently, reaching 200,000 work permits for Syrian refugees is already difficult due to the overestimation of the number, and this indicator might need to be reviewed if the Jordanian government wants to reach its objectives.

➤ *Problems regarding the analysis of the labor market – high share of the informal market and misalignment of the skills*

The starting assumption is to use refugees labor force as a development opportunity. Because they come with skills and resource, they could create wealth and participate to the development growth of the hosting country. This would allow the refugees to become self-sufficient and decrease the need for humanitarian assistance. To ensure that this could work, a deep analysis has been made on the labor market by different institutes such as the WANA institute, ILO and FAFO.¹⁵⁹

One of the main information available is that the majority of Syrian refugees are already working illegally in the country. The informal market is generating 44% of the GDP in Jordan.¹⁶⁰ It is estimated that the informal market in Jordan is representing 25% of the economy¹⁶¹ and that between 120,000 to 160,000¹⁶² Syrians are working illegally. Being at risk of exploitation, the Syrian refugees that would need to be protected are those relying on this income sources that are unpredictable. By working within the informal market, Syrian refugees become a competitor to vulnerable Jordanians and migrant workers. Because it is

¹⁵⁹ Sean D. Thomas, Mays Abdel Aziz, Dr Erica Harper, (2015), Forging New Strategies in Protracted Refugee Crises: Syrian Refugees and the Host State Economy: Jordan Case Study, WANA Institute ; Salme Ajluni and Mary Kwar, The Impact of the Syrian refugee crisis on the labor market in Jordan, a preliminary Analysis, 2014, International Labor Organisation ; S Stave and S Hillesund, Impact of Syrian refugees on the Jordanian labour market, International Labour Organisation & FAFO (2015).

¹⁶⁰ Victoria Kelberer, (2017), The Work Permit Initiative for Syrian Refugees in Jordan: Implications for Policy and Practice Joint Research and Policy, Project of the Boston Consortium for Arab Region Studies and the United Nations High Commissioner for Refugees

¹⁶¹ Ibid (n.17)

¹⁶² Ibid (n.160)

informal, very few data are available and it is difficult to base public policies on inexistent data.

In addition, the Jordan Compact is also focusing on the fact that manufacturing factories will settle in SEZ to create job opportunities in this sector. However the figures show that the majority of the work permits have been delivered in the construction sector for 56% and in the agricultural sector for 25%. The two main sectors where Syrians have asked for work permit are sectors where the employment is likely to be seasonal or short term. The manufacturing sector that was supposed to be the most demanding one in terms of labor force is representing only 6%, showing that little investment has been attracted in the SEZ and few employment were created. Moreover, it demonstrates that Syrians have not been hired within those factories or are not willing to work within this sector. Between 2017 and 2018 this situation has changed and there has been a slightly notable growth in demands of work permits within the manufacturing sector, however nothing compare to the two other sectors.¹⁶³

Considering that agriculture and construction sectors are proposing seasonal jobs, employers were not keen to apply for a work permit for a 2 months job. ILO and MoL designed a project forming cooperatives that are in charge of registration of work permits for Syrian refugees. They are then allowed to work for different employers depending on the needs without applying for an additional permits if they were to change employers. The construction sector is studying the possibility to do the same.¹⁶⁴ The agriculture and construction sectors are also sectors that are relying a lot on informal jobs. Thus, this policy is overcoming the barriers to access work permit in those sectors by designing an interesting mechanism to increase protection of Syrian refugees in the labor market. However it shows that the provision of the right to work in itself is not sufficient and that additional measures need to be implemented and adapted to the different sectors. If one imagines that the government of Jordan works on the regularization of all the estimated 160,000 Syrians that are working informally in Jordan it is unlikely that they would reach the 200,000 work permits mainly also because 65,000 people working informally are working in sectors not open to regularization.¹⁶⁵ By doing this, it is true that the protection of workers will be increased and that exploitation will decrease.

¹⁶³ Ibid (n.141)

¹⁶⁴ Ibid (n.160)

¹⁶⁵ S Stave and S Hillesund, Impact of Syrian refugees on the Jordanian labour market, International Labour Organisation & FAFO (2015)

However this will not ensure an increase of jobs available for Syrians and consequently an increase in the autonomy of more families, since this solution would target those that are already working even though in precarious situation.

According to Article 12 of Jordanian labor law, non-Jordanian workers can only be employed in specific sectors that are: agriculture, construction, manufacture, food and beverage and domestic work.¹⁶⁶ For that, they need to possess qualifications that are not available among Jordanians. The different sectors chosen do not fit with the skills of Syrians. For the companies who were willing to hire Syrians, they explained that in the manufacturing industry, it is necessary to be trained and to have a real added value to stay in the company for at least two years. Those employers were not thinking that the investment was worth to make since they see the conflict to be resolve before that.¹⁶⁷

As explained above, the sectors opened to Syrians are sectors already opened to migrant workers. Thus, Syrians are competing with migrant workers such as Egyptians and South-East Asians. Migrant workers are sending all their wages back home and do not intend to live in Jordan on a long-term basis. In a sense they do not contribute that much to the Jordanian society and are not willing to integrate. (It could be said the reverse also, the Jordanian government are not willing to integrate them since they do not contribute to the Jordanian society). It could be argued that it is different when it comes to the Syrians since they would use their wages within the Jordanian market, hence integrating Syrians within those sectors would be better for the Jordanian economy since the wages earned would be spend in Jordan.

The open sectors are well aligned to the sectors the Syrian population was working in before. However, a study made by the WANA institute shows that a significant number of Syrians are working within sectors they have no experience in. Among the 501 people interview during the study, 77% did not have a work permit.¹⁶⁸ Despite the bias of this study (based on a majority of Syrians that do not have a work permit), the misalignment between the skills of the Syrian population and the work they are currently occupying could be seen as an opportunity to learn new skills. It could also be seen as an additional cost for an employer who would need to invest in training for the Syrians to ensure they are productive at their new

¹⁶⁶ Ibid

¹⁶⁷ Dr Erica Harper, (2018), Unpacking (and Re-Packing) the Refugees Compact Experiment: Lessons from Jordan Two Years on, WANA Institute

¹⁶⁸ Shaddin Alhajahmad, Dorsey Lockhart, Katrina Barker (2018), Syrian Refugee Employment Trends in Jordan and Future Perspectives, WANA Institute, SPARK

work. It also shows that some skills will be wasted since Syrians are changing their sectors of activity. In addition, by allowing only those 5 sectors, the Syrians who have qualification in different areas will not be able to find a job aligned with their skills that might be lost after years of exile. This is problematic now, but will also be problematic for the reconstruction of Syria especially for profession within the medical sector for instance.

The manufacturing sector that could have huge needs in terms of low skilled worker does not match with the skills of Syrians. According to UNHCR data on the previous occupation of Syrians, only 1,3% declared working in the manufacturing sector. The manufacturing sector is in need of low skilled worker, however, with the increase in technology within this sector, it is not possible to hire people without providing training. The training needed is costly and employers are not seeing Syrians as a stable population in which they could invest since they are likely to go back to their country when the country will be at peace.¹⁶⁹

Lastly, the Jordanian labor market is segmented by nationalities. The Egyptians working in the construction sector, the south East Asian working in the garment industry or in domestic work and the Jordanians working in the public sector. This schematic vision is based on a reality of the Jordanian market, where adding Syrians to this, with different qualifications makes it difficult for employers to be willing to include Syrians and/or to replace Egyptians by Syrians for instance. The restriction of the sectors is increasing the segmentation of the labor market by nationalities.¹⁷⁰ The creation of job opportunities is a huge challenge that was supposed to be addressed through the SEZ.

Within the Jordan Compact, the Jordanian government committed to regularize self-business owned by Syrians in Jordan. Small progress has been made within this area when it comes to regularization and registration of business. The current law states that to be able to register a business as a foreigner, it is necessary to demonstrate that you are in possession of JOD50,000 on a bank account and that you are in possession of the residency status.¹⁷¹ This is not possible for the majority of Syrians that are in need of autonomy. Hence, the majority of the small business run by Syrians is illegal and cannot be further developed. The total number of small business run by Syrians within Jordan is unclear however by keeping them illegal it

¹⁶⁹ Ibid (n.167)

¹⁷⁰ Ibid (n.152)

¹⁷¹ Lauren Post, Melanie Ward and Amanda Gray, (2017), In search of work: creating jobs for Syrian refugees, The International Rescue Committee

prevents further development and additional creation of job opportunities.

iv. Barriers faced by refugee to obtain a work permit and/or to access the labor market

When the Government of Jordan lifted the obligation to have a residency permit to apply for a work permit only for Syrian refugees and decrease the cost of the work permit, information had to be shared and transmitted to ensure that Syrian refugees, potential employers, but also employees of the MoL would be aware of the new policy. As mentioned in Chapter 2, within 7 years, the regulations regarding the stay of Syrians in Jordan have changed a lot creating confusions for the different stakeholders. In addition, the process to obtain a work permit, even though simplified, took some time to be properly understood. To be able to receive a one-year work permit, the person needs to find a one-year employment and the employer needs to apply for the employee. Then the employee provides the necessary documentation to receive it, including the MoI Card. As mentioned before, the lack of documentation of Syrian refugees is one of the first barriers faced.

In addition, the MoL, responsible for the provision of the work permit, had to adapt its internal policies and processes to deal with the delivery of additional work permits for Syrian refugees and to treat them differently from the other migrants who need to have a residency permit. Additional human resource was necessary and the MoL became another stakeholder included in the management of the Syrian crisis within Jordan. Hence, INGOs, implementing livelihood programs had also to include this new ministry within their agenda and within the whole process of requiring the authorization to implement.¹⁷² The first months after the law had been passed, the MoL faced some confusions while implementing the law such as: confusions regarding the necessity to present a health certificate that was costing 20 to 30 JOD; confusion regarding the sectors in which Syrian refugees were allowed to work; confusion regarding the registration for working in SEZ due to the different legislation etc... The MoL established a Refugee Unit to deal with inspection of working environment and regularization of work permit. A need of capacity building and adaptation of the internal processes to include Syrian refugees is continuing in the MoL and the Refugee Unit.¹⁷³

¹⁷² This process is led by the MoPIC who has the responsibility to authorize every project the humanitarian actors are willing to implement. The MoPIC is coordinating among the different ministries the authorization. Hence to implement a program in the health sector, the authorization is asked to the MoPIC and the MoPIC deals with the MoH

¹⁷³ Ibid (n.160)

The WANA institute explains the lack of demand of work permit based on the unwillingness of employers to pay for the work permit for a labor force they can have for a cheaper price in keeping the Syrians working illegally for their companies.¹⁷⁴ On the other hand, Syrians are reluctant to apply for work permit for several reasons beyond the administrative issues. Indeed they mentioned fear that obtaining a work permit would remove the humanitarian assistance they are receiving. They also believed that if they were applying for a work permit, they would lose their application for resettlement. Finally, they fear that their working conditions will deteriorate because they would not be able to leave the employment when the situation starts to be too abusive.¹⁷⁵ More importantly, Syrians are earning a better salary within the informal sector than the salaries proposed in the manufacturing factories.

“Under the present conditions, many Syrian refugees prefer to work in the informal sector as the benefits of working in factories for many do not currently outweigh the benefits of working in the informal sector. The fact that factories cannot provide attractive wages for Syrian refugees is a central factor pushing refugees towards informal work. On the other hand, the fact that the informal sector is thriving in Jordan is a pull factor, as is the perception of Syrians as being skilled in service sectors, such as restaurants and small-sized businesses.”¹⁷⁶

Lewis and Lenner explain another concerning aspect of the access to work permit: Syrians that have access to a work permit have been buying them. They pay the employer or a broker to receive a work permit to ensure their security at work. This strategy is similar to the bailing out system that was in place up to 2015.

“In order to make Jordan’s policies work in their favor, Syrians are thus shouldering the financial burdens of the new approach. This represents an important continuity with previous policies that left Syrians effectively responsible for paying whatever is needed in order to resolve legal status issues and get access to services in Jordan. While those with better resources have been able to buy themselves some temporary security, many others have been left behind. That some formalization has

¹⁷⁴ Ibid (n.167)

¹⁷⁵ Ibid (n.152)

¹⁷⁶ Renad Amjad, Jaafar Aslan, Emma Borgnäs, Divya Chandran, Elizabeth Clark, Alessandro Ferreira dos Passos, Jaiwon Joo, Ola Mohajer, (2017), Examining Barriers to Workforce Inclusion of Syrian Refugees in Jordan, Better World, Discussion Paper 25, International Labor Organisation, World Bank group, p 47

*occurred does nothing to lessen the conditions of vulnerability that have been created for this latter group.*¹⁷⁷

v. Lack of job creation especially in the Special Economic Zones

In 2013, the Jordan Occupational Projection Model (JOPMOD) planned to create 407,000 new jobs by 2021. Those new employment opportunities would be created in sectors that do not meet the skills of the Jordanians (cf. explanation in Chapter 1). Syrians might be able to fill those positions.¹⁷⁸ One of the solutions proposed to create job is to attract investors in the SEZ. Within Jordan, following several structural adjustments measures in the 90s, 18 Free Trade Zones had been created. The aim of the SEZ was to build regional investment hubs, boost the private sector role in Jordan and ensure that employments are created, especially for Jordanians that are relying mostly on the public sector for employment. The success of those SEZ, before the Jordanian Compact, was already limited. The SEZ are famous for being in need of low skilled workers that are working long hours for low wages under a more flexible labor law that is less protecting. The public sector is still the first employer in Jordan and Jordanians are not working in the SEZ. The attracting effect of investment was low and it did not create the expected spill over effect on local economies. Hence, basing the Jordan Compact on those economic zones that reflects globalization failure is questionable.

As mentioned earlier, within the EU agreement, firms are encouraged to hire Syrians (15% of their employees) to benefit from the simplified RRO clause. Since January 2018, out of the 936 eligible firms to the RRO only 9 firms are benefitting from the EU trade agreement. Indeed, the EU is not the major destination for exports from Jordan. Jordan, in majority sells their goods to the US and to Saudi Arabia. In 2015, prior to the signature of the Jordan Compact, only 6,1% of products were exported to Europe.¹⁷⁹ Hence, even though the firms would be willing to export to the EU, there is a need to create a demand first. Sanal Kumar, Chairman and managing director of Classic Fashion, one of the biggest garment producers in Jordan found the idea unrealistic. According to him, he could make clothes cheaper in Bangladesh, which already have specific tariff with the EU. The reason he is manufacturing in Jordan is to have access to the US market because of a specific commercial deal between the

¹⁷⁷ Ibid (n.152)

¹⁷⁸ Ibid (n.160)

¹⁷⁹ Ibid (n.176)

two countries. The US-Jordan Trade agreement is being more advantageous and more flexible than the one with the EU. However, the social aspect of this measure motivated him. He tried to increase the number of Syrians employed within its firms and have a specific access to the EU market. He wanted to hire 500 Syrians within 1 year. However, only 30 Syrians came to work within its firm, and only 5 are remaining now. He explains this by the lack of transportation available and by the problems of the localization of the factories compared to the places where the Syrians are living.¹⁸⁰

Finally, the most important fact about the SEZ is that the majority of the people working in the factories in those areas are migrant workers. Several exceptions to the Labor law are applied, with regards to working hours, minimum wages... Migrant workers being less protected while being allowed to work only in those zones. They fell under the “kafala system”, meaning they need to have a work permit but also need to be sponsored by an employer to be able to come to Jordan. The same regime is applied for the Syrian refugees. Therefore, the position is in link with the employer and if the person is not happy with the position, the person cannot change employer and stay in Jordan. The “Kafala system” is well known for its exploitative tendency and abuses done by the employer and the lack of protection of the workers. Within Jordan, and especially within the garment industry, exploitation has been reported several times since the existence of the system in the 90’s.¹⁸¹ Even if the situation has improved, the working conditions are still concerning for migrant workers and abuses are still being reported. The profile of migrant workers are mainly coming from South East Asia to work in Jordan and save the money they are earning to send back to their home country. They do have less barrier to access to those SEZ since they do not need to organize for a childcare system and can live directly within the SEZ in dormitories that are dedicated to that. Whereas Syrians are already struggling to access the SEZ (transportation cost) and would need a solution of child care to be able to perform that type of work.

In addition, in some specific sectors in the SEZ, the employers have to fulfill also a quota of Jordanian according to the law (25%). Employers reported struggling with the employment of

¹⁸⁰ Sara Elizabeth Williams, (2017), Jordan looks to turn refugee crisis into economic boon, Irin news, available at :

<https://www.irinnews.org/feature/2017/03/21/jordan-looks-turn-refugee-crisis-economic-boon>

¹⁸¹ ILO, (2017), Migrant domestic and garment workers in Jordan: A baseline analysis of trafficking in persons and related laws and policies / International Labour Office, Fundamental Principles and Rights at Work Branch (FUNDAMENTALS) - Geneva: ILO, 2017.

Jordanians, since they are not willing to work within those areas in those sectors under those specific conditions. Many employers have created other firms out of the SEZ to hire their Jordanian quotas. Adding a Syrian quota to those already existing regulations is putting pressure on the employer and does not improve job creations.¹⁸² It is important to precise here that finally the SEZ are not benefitting to the Jordanian economy, especially the garment sector. Indeed the factories pay little taxes due to their tax exemption status. They are creating employment, but not for Jordanians so that economic migrants have to come to Jordan to fulfill the positions. The multiplier effect expected has been slow since the majority of the workers are sending their remittances to their family abroad and the produced products are sold overseas. If we add to that the different abuses when it comes to Labor rights, it is difficult to imagine that those factories could be the development opportunity for both Jordanians and Syrians. Structural reforms might need to be done before integrating this new labor force. Jordan requested the EU to extend this trade facilitation out of the SEZ that would allow more companies to benefit from the EU rules. This is still under negotiation.¹⁸³

Jordan did not attract any additional investment within the SEZ to open new firms and factories. Syrian firms that could have been attracted by this to relocate their activity have already found relocations. The Western companies are reluctant to settle in Jordan due to the instability of the area. The potential to attract new investors is thus limited.¹⁸⁴ Jordan has structural problems such as being close to conflict areas, with limited access to the sea and limited natural resource. It is also too early to measure properly this outcome, since the market needs to adapt to those new regulations and investing in Jordan to settle new factories takes time. However, it is quite clear that the attraction of the Jordanian market is, so far, quite low and that some measures might need to be added to ensure this innovative idea could be a success, especially towards the working conditions within the SEZ.

vi. A different implementation at local level

Because local politics are responsible for the implementation of International and National policies, it is important to see whether or not the Compact had an outcome on the local level and what differences are notable at local level. This is even more important since the municipalities and/or governorates are in charge of the implementation but are also the first

¹⁸² Ibid (n.176)

¹⁸³ Ibid (n.138)

¹⁸⁴ Ibid (n.152)

actors affected by the crisis with issues raising on a daily basis, such as increase of rent price, increase of unemployment etc... The Jordanian state is quite centralized giving limited financial capacities and autonomy to the municipalities. The national authorities in charge of the Syrian crisis are the Syrian Refugee Affairs Directorate (SRAD) and the MoPIC who manages the relations with the donors and the International Community. Both of them are part of the central government.

At municipal level, the refugees crisis has exacerbated issue that existed prior to the crisis such as “bureaucratic hurdles, lack of capacity among staff, and insufficient means of obtaining financial resources.”¹⁸⁵ However, local authorities are the first regulator for keeping social cohesion among their communities and preventing development of additional conflicts. If they have been welcoming and key actors at the beginning of the crisis, they have been less included within the whole discussion around the Compact. The situation of municipalities varies across the countries. The example of Sahab mentioned in this chapter under part B-a, needs to be compared to other municipalities where the situation is complicated. The inclusion of Syrians in the labor market but also in the general management of the municipalities are dependent on the socio-composition of the city, the links the tribes were having with Syria before the crisis, the level of poverty of the governorate and the percentage of the Syrian population within the governorate. For instance, Mafraq governorate has been highly affected with the presence of Zaatari camp but also the presence of Syrians in the governorate. Almost 160,000 Syrians are residing in Mafraq governorate including nearly 80,000 in Zaatari camp. Due to the links between Syrians and people in Mafraq, solidarity mechanisms have been used and many Jordanian families have been sponsor for Syrians in the area. Ties have also been used with regards to employment of Syrians. Violence has been rare in the area despite the pressure on the labor market and the increase of prices. Some municipalities of the governorate have also been able to raise funds by using the presence of refugees on their territory.¹⁸⁶ However, Syrians remain highly dependent on humanitarian assistance and solidarity mechanisms; employability of Syrians has been low, only 975 work permits have been delivered for Syrians living in the urban centers within this governorate and 4,584 for Syrians living in Zaatari camp. The table bellow shows the discrepancies by

¹⁸⁵ Chatman House and Identity Center and the Columbia Global Centers, (2015), The Role of Local Government in Addressing the Impact of Syrian Refugees: Jordan Case Study- Workshop summary

¹⁸⁶ Ibid (n.146)

governorate comparing the number of people by governorate to the number of work permit delivered. Mafraq governorate sheltering 24% of the Syrian population have delivered only 6% of the total work permits, whereas Zarqa, sheltering 14,6% of the Syrian population have given 18% of the total of the work permits. If this would need to be analyzed deeper and could be the topic of a future thesis, the difference among the governorates can be explained by the different links between the population, but also the willingness of the municipalities to use the Compact as a mean to tackle the daily challenges of sheltering Syrian refugees within their municipalities.

Governorate	Total population ¹⁸⁷	Representation	Population in the age of working	Total work permit issued 2017+2018 ¹⁸⁸	Representation
Amman	194958	29,30%	88901	17730	20%
Mafraq (including Zaatri camp)	162213	24,40%	73969	5559	6%
Irbid	139945	21%	63815	19709	23%
Zarqa (including Azraq camp)	96897	14,60%	44185	15790	18%

Figure 5: Comparison of the provision of work permit and the population by governorate

vii. An exclusive Syrian agreement

The last problem of the Compact since the beginning is that this agreement targets only Syrian refugees. Even though they are representing a bigger part of the refugee population within Jordan, there are other refugees’ nationalities present in Jordan such as Iraqis, Somalis, and Yemenis... Those nationalities do not have the same access to the labor market. The exclusion of those nationalities are illustrating the leverage the Jordanian authorities used to attract funds (Syrian crisis, Syrian refugees etc...), but did not analyze the problem as a whole, preventing refugees to work. It also encourages the design of Jordanian’s policy based on the nationalities, as it has been done for the different waves of refugees within Jordan. In addition, the fact that refugees are dependent on humanitarian funding is valid for Syrians but also for all the other refugees in Jordan that are receiving support from UNHCR based on the funding received. The problem of dependency will remain if they are not allowed to work legally. Having a clear refugee law within the country, based on the 1951 Convention, would

¹⁸⁷ Ibid (n.85)
¹⁸⁸ Ibid (n.141)

be more inclusive for the different nationalities present in Jordan and the Compact agreement would include all the people in need.

To conclude this Chapter, it is quite clear that providing the right to work for refugee as a durable solution and as an opportunity of development is not that simple. The main weakness of the Compact agreement relied within its economic nature. While it is crucial to include economic aspect within the search for durable solution for refugees being in protracted displacement, it is not enough to solve the issue and pluri disciplinarity will be necessary to propose comprehensive solution. In addition, within the 2 years of implementation it is also too early to have a definitive opinion on this agreement and the potential outcomes. However, by being based on a dysfunctional labor market, the Jordan Compact is exacerbating instead of correcting the problems of the labor market in Jordan. Employments for Syrians and for Jordanians are not created, leaving them in the informal market or unemployed. If several challenges and limited outcomes have been underline within this chapter, there are already solutions to improve the Jordan Compact. This will be studied in the last Chapter of this master thesis.

Chapter IV. Recommendations and conclusion

Several recommendations can be done to improve the Jordan Compact. Given the weakness of the current agreement, applying those recommendations will be necessary to see whether or not the adjustment would ensure the self-reliance of the Syrian refugees. In addition, recommendations that are beyond the Compact agreement will also need to be studied and implemented to ensure durable solution.

This is even more important since the Jordan Compact along with the Lebanon Compact¹⁸⁹ are currently being replicated in different countries. Recently an Ethiopian Compact has been signed. This agreement offers \$500 million to build two industrial parks to employ 100,000 people, among whom 30% needs to be a refugee.¹⁹⁰ In addition, the EU plans to sign Compact agreements with 5 countries: Mali, Nigeria, Niger, Senegal, and Ethiopia. Those Compacts will seek durable solutions to reduce the migration flow towards Europe. At the level of the International Community, the UNHCR is working on the Comprehensive Refugee Response Framework and the Global Refugee Compact that came out of the UN Summit on Refugees and Migrants organized in September 2016. Those initiatives are drawing a global framework to manage refugees and migrants crisis. The lessons from the Jordan Compact needs to be included in the coming International Conference that will be organized by the end of 2018 in Morocco to inform appropriate decision making with regards to the search for durable solutions.

A. Recommendations regarding the funding of the programs

The funding of the Jordan Compact should not be done through loans since it will have dramatic effects on its economy in the coming years. If the aim of the Jordan Compact is to reduce the humanitarian funding and increase development while providing sustainable solutions to refugees; the funding should be development oriented and not financially oriented. Countries that are hosting refugees are in majority middle or low-income countries. The financial support to hosting countries should be coming from the International Community through grants in line with their recent engagement for a more responsibility sharing. This was declared in the zero draft, endorsed by the International Community:

¹⁸⁹ The Lebanon Compact was also signed in February 2016 and is tackling the sector of Education. It is the second phase of a program funded by the World Bank since 2013

¹⁹⁰ Ibid (n.171)

“ It is imperative that these countries (hosting countries) obtain the support of the international community as a whole in leading the response. There is an urgent need to broaden the support base in a wide range of areas.”¹⁹¹

B. Adjustment of the objective based on human rights

The philosophy of the right to work is that without this, all the other rights cannot be fulfilled. The objectives of the Jordan Compact, and the future compacts that will be negotiated and signed need to be based on human rights. By being interdependent and indivisible, it is not possible to base a policy only on the right to work, even though having the right to work would increase the application of other rights.

The 1951 Convention along with the International Covenants of Human Rights are the basis on which the Compact needs to be designed. Revising the objectives and expected results of the Compact, would allow the definition of outcomes indicators. Those indicators need to be measured on a regular basis along with the use of funds to increase accountability of the Jordanian government towards Jordanians but also towards Syrians. Focus should be made on the reduction of their level of poverty, but also the improvement of the respect of their rights as refugees. The Sustainable Development Goals (SDG) have been working on different indicators that could be adapted to the Jordan Compact. For instance, “Proportion of population below the international poverty line, by sex, age, employment status and geographical location (urban/rural)” could be the indicator to measure the main objective of the Compact.

After an improved definition of the goals and objectives of the Jordan Compact, along with outcomes indicator, the government of the Jordan should report on a yearly basis the realization of the indicator against the targets and on the spending of the funds. The conditionality of the funds would be based on the reporting done by the GoJ and the results achieved.

C. Organize a consultation of the different stakeholders to reorient the Compact

Since several stakeholders were not consulted before the signature of the agreement, it would be necessary (now that additional information is available) to organize a consultation of

¹⁹¹ UNHCR, The Global Compact on refugees, Zero draft, as of 31st of January 2018, available at: <http://www.unhcr.org/Zero-Draft.pdf>

different participants to readjust the agreement. The consultation should include Syrians, Community Based Organizations (especially the one composed of Syrians that are represented in Jordan), INGOs (humanitarians and human rights oriented), private sectors, and municipalities. Within this consultation, the aim would be to gather information on what is already done and what they think could and/or should be done to increase autonomy of Syrian families. This study, along with the already existing data should provide a comprehensive overview of the existing situation and the possible additional solutions that have not been studied. It would also correct the “economic oriented” aspect of the Compact as it is today. Including a HRBA within this study would support the reorientation of the objectives and the expected results of the Compact. While refugees are being denied of their basic rights, the main result is impoverishment. Reducing their poverty should be the conceptual framework to use. Poverty is a lack of rights and freedoms; not only a lack of income and/or economic resources. In the guideline “*Human Rights and Poverty Reduction; a conceptual framework*”¹⁹², the authors give several recommendations in order to implement a HRBA to ensure that people will be out of poverty. The first step is to increase their freedom of choices. This is done through the right of work but not only.

During this consultation, a gender-based approach to support solutions for women who are willing and needing to work will be important. Several solutions have already been proposed: increase of home-based job opportunities; settle childcare possibilities for women headed households; organize transportation means to the workplace... Allowing self-business to be legal would increase the possibility for women to earn for their living, closer to their home within their community. Lastly, it has been shown that the occupation of women before the conflict are in link with domestic work, service to person such as nurse and / or working in childcare sector or teacher. Revision of the sectors in which Syrians are allowed to work is crucial to the increase of employability of Syrians.

D. Map of the skills and job opportunities

A study has shown that in the northern governorate some skills are needed to support the increase of the population especially at hospital level and in education facilities. Mapping the skills of Syrians and the need in terms of resources by governorate could support the revision

¹⁹² United Nations, Office of the High Commissioner for Human Rights, “*Human Rights and Poverty Reduction ; a conceptual Framework*” ; May 2004

of the sectors to be open to Syrians according to the needs of the Jordanians society.

E. Continue information dissemination and adaptation of law

Since the Jordanian policies have changed quite a lot in a few years of implementation, information dissemination is necessary. Due to the continuous misperceptions of the work permit provision, it is necessary to continue to disseminate this information and update the information disseminated; this would be even more necessary if the Jordanian government changes the law with regard to settlement of self-business.

F. Implement control mechanism

To ensure that the right to work is properly implemented, control mechanisms needs to be effective. If the MoL is in charge of performing control of the legality of the workers and fine the employers that are not respecting the regulations, given the share of informal work, it is likely that the capacities of the MoL needs to be increased. The control of the work site should not only include control of the work permit, but also control of the whole working environment.

G. Develop a more flexible system for self-employment

Already part of the Compact agreement, there has been little move with regards to the possibility to be self-employed. This is a shame since it could allow a better protection for the Syrians already running a business but also increase Jordanian revenue through small taxes. As mentioned earlier, this has specific consequences on women who would more likely work from home if this were legal. This would also encourage self-employment for people with disabilities who face difficulty to move and could also work from home. Framing an encouraging environment for small business without necessary requiring a work permit would allow the existing small business to be out of the illegality and to grow when possible, and hire additional Syrians or Jordanians. This would create a better business climate that could eventually attract investment.¹⁹³

H. Revise the SEZ measures

SEZ measures need to be entirely revised. The main innovation of the Jordan Compact does not meet the requirements, mainly because of the inherent contradictions of the measure.

¹⁹³ Ibid (n.171)

Indeed, this part of the Compact is trying to support the work of Syrians in precarious working environment that has little impact in terms of economic growth and employment. Ensuring the right to work of Syrians should not be implemented at the cost of the other economic and social rights and to increase poverty via low wages. Refugees' economic and social rights should inform policymaking. To ensure this measures work, the Jordanian government should implement several structural measures such as the revision of the working conditions, the provision of public transportation and child care possibilities, but also revise the potential attraction for investment in those areas. Those revisions will take time to be done; this part of the Compact might not reach the expected outcomes.

In addition, increasing the settlement of multinationals in the SEZ that would come because of the flexible labor law and low taxes to settle is not encouraging development as a whole and is using the worst that exists of globalization nowadays. Thus, efforts should be focused on developing small and medium business that can have better outcomes in terms of development than welcoming multinationals companies. They might create profit out of the employment of Syrians or migrant workers, but the Jordanian government, the migrant workers or the Syrian refugees will not be part of this profit unless there is a change in the way the multinationals are working.

I. Adapt the Compact to the local capacities

As shown in the last part, the municipalities have a lot to do within the implementation of the Compact Agreement and with the adaptation of the measures according to their needs. In addition, they do have a local visibility of the situation that would enrich the debate. Some stories have been successful, based on the links among Syrians and Jordanians but also on the willingness of local leader. Those initiatives will need to be studied deeper to see what can be replicated and/or adapted to other situations in Jordan.

J. Towards the renewal of a form of citizenship

In link with the recommendations b. and i., while integration of Syrians within the economy of Jordan is crucial, this needs to be accompanied by integration in the local life. This is even more important that Syrian refugees have no voices since the beginning of their exile. It's been now 7 years that they have lost their citizenship and that they are living in different countries without being able to claim for their rights through political participation. Voting rights would be granted through access to citizenship. While it is nearly impossible for

Syrians to be considered as citizen of Jordan, some additional policies could be implemented to overcome the “guest” status and to increase Syrian participation in the affairs that would have a direct impact on their daily life.

To overcome the “guest” status, the government of Jordan and the International Community should revise the MoU between UNHCR and the government of the Jordan and should reconsider signing the 1951 Convention with the African Union definition within it. This would increase the rights of refugees and improve the possibility of refugees to claim for their rights within Jordanian courts and intensify the obligation of the Jordanian state to respect and implement the rights of refugees.

To increase the participation of Syrians, especially when it comes to political decisions that will have a direct impact on their daily life, consultation throughout the process of design and implementation of the policies, will be the first step. Another possibility would be to include Syrians in the Jordanians institutions that are dealing with refugees: The MoPIC, the SARD, but also the one at municipal and local level.

The governance of Zaatari camp is working pretty well and refugees are represented when it comes to the services delivered in the camp. This system should be extended to the urban areas so that refugees start to be included and considered as part of the community. This could be based on the millet system without the religious consideration and/or through the integration of Syrians at the Local Development Unit at municipal level.

In addition, it is likely that the reconstruction of Syria will start (and has already started) in the neighboring countries where groups are going to organize themselves and prepare for political participation to the reconstruction process. By not anticipating the political participation of Syrians for the reconstruction, but also for their participation in the decision making of measures that have direct impact on their daily life, Jordan might face destabilization events, as seen in the previous history.

Chapter 1 of this master thesis has shown that the Jordanian state is famous for its hospitality framework and for some inclusive policy. The search for durable solutions for Syrian refugees and other nationalities should draw upon those lessons. By drawing a strictly economic agreement, the stakeholders have forgotten the hospitality framework that has been developed since the creation of the state relying on the legacy of the Ottoman Empire. Even though this

hospitality has suffered from a certain “fatigue”, solidarity mechanisms are still being captured locally. This hospitality framework has proven to be successful especially at the beginning of the crisis. Along with economic measures, policies tackling social cohesion based on the hospitality framework are necessary to ensure the conflict does not spill over in Jordan and to encourage integration of Syrians.

K. Remove the nationality criteria of the Compact Agreement

The Compact agreement should not be based on the nationality of the refugee and should include all the refugees present in Jordan. This should be done in parallel with the revision of the refugee assistance system within Jordan to ensure that all nationalities are taken into account based on their needs and not on their nationality. This is in link with the revision of the MoU with UNHCR and the revision of the monitoring system of the Compact agreement.

L. Continue the cash assistance

Social protection needs to be continued despite the fact that refugee could become autonomous with the possibility to earn for their living. Cash assistance program has proven to be successful in terms of access to shelter and reduction of stress and anxiety among the Syrian population. Those programs need to continue to support the most vulnerable refugees. Cash transfer program will have to be revised and embedded within the social protection system implemented by the Jordanian government to ensure ownership and slowly decrease in the management fees of the International Community.

M. Universal revenue for refugees

Finally, because social protection systems through cash transfer have proven to be successful despite their lack of durability. Studying the possibility to design universal revenue for refugee could be a start to rethink refugee assistance. Based on Philip Alston’s recommendation for a basic income to end extreme poverty and relying on the same findings that the humanitarian and development community have failed to provide a solution to refugee crisis; and that this same community lacks of utopia and creativity¹⁹⁴, it is necessary to study innovative solutions that do not rely on World Bank funds and loans.

Nowadays the most vulnerable Syrians and Jordanians are receiving a monthly grant that

¹⁹⁴ United Nations, General Assembly, Human rights Council, Report of the Special Rapporteur on extreme poverty and human rights, A/HRC/35/26, 22nd of March 2017, Conclusion

allows them to survive in Jordan but not to live in dignity. If we were to invest the \$2,6 billion represented by the Jordan Compact into a basic refugee income, Syrian refugees could live during nearly 3 years.¹⁹⁵ To fund this revenue, states should contribute to a common refugee fund. The contribution would be based on the percentage of refugee population within a country. The less the country welcomes refugees, the more the country will contribute to this funding mechanism. This basic revenue would target only refugees. Vulnerable population would be assisted through a mechanism owned by the hosting state.

Of course, there are several drawbacks in this especially the fact that receiving basic universal revenue does not resolve all the issues, and does not mean that all the human rights of the refugees will be systematically respected. It also leaves the refugees in a dependency system. Basic revenue cannot be implemented solely and will need to be accompanied by additional measures such as reinforcement of the infrastructures of the hosting countries or social cohesion policy. However, it would allow refugees to earn regular revenue and eventually invest in livelihood activities. The money received would be directly injected in the Jordanian market, in a sense creating additional wealth. Finally, implementing basic revenue would also remove many intermediaries' in-between refugees and the institutions in charge of the assistance to refugees, hence saving additional money. This solution needs to be evaluated more deeply to support decision-making.

N. Conclusion

Finding a durable solution to protracted displacement is a difficult task. Throughout this master thesis I have demonstrated that providing the right to work to refugees is key to their survival, but that the Jordanian Compact does not fulfill the expectations that were ensuring autonomy and regain of dignity for Syrian refugees but also using refugees as a development policy. The agreement in itself, being based on economic outcomes and not on having a pluridisciplinary approach that would be based on human rights is the main reason for its failure. I have also tried to demonstrate that Jordan is a country with a long-lasting history of welcoming refugees and the Middle East, an area where the population has been moving, forcibly or not, from one country to another; this particularity is an advantage on which public policies should be based. Hence, relations and links among people already exist, solidarities on top of which initiatives have been built and used during this 7 years of exile. The Jordan

¹⁹⁵ This is based on a \$600/month/households

Compact is failing to support those initiatives, but revising this agreement and including a pluri disciplinary approach can achieve the ultimate goal of the Jordan Compact. During the International Conference Brussels II, some improvements have been noticed such as the reduction of deportation during the second semester of 2017 and an inclusive approach within the preparation of the conference where Syrian NGOs were present.¹⁹⁶ This ongoing effort needs to be pursued to ensure Jordan, but also the rest of the countries facing refugees crisis benefit from this agreement.

¹⁹⁶ Jordan partnership paper Conference document, Supporting the future of Syria and the region, Brussels II conference, 24-25 April 2018

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