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**SPONSORSHIP SYSTEM AND SYRIAN REFUGEES:
PROMOTING EXPLOITATION AND ABUSE.**

**To which extent the *Kafala* system can be considered
a form of human trafficking and the increasing vulnerability of Syrian refugees in
Lebanon.**

Thesis
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ABSTRACT

The overall idea of this research is to analyse the effects of the sponsorship system on Syrian refugees residing in Lebanon. Through the inquiry of the *Kafala* system from a legal definition and through the assessment of the policies, the paper will prove that this system can be assimilated to a form of human trafficking.

Taking into consideration the precarious legal status of Syrian refugees and the controversial measures adopted by the General Security Forces in the last couple of years, we will analyse the new registration measures and the role of the sponsor as such.

In particular, the research will take into consideration the period following the year 2014 when the government changed and adopted more restrictive measures. It will specifically focus on the new entry and residency requirements stressing on the relationship between Syrian refugees and *kafeels* (sponsors).

The paper will explore the reasons behind the implementation of this system, considering the security concern, and the consequences on the livelihoods of Syrian refugees.

The research will conduct an assessment on the legal status of Syrian refugees in Lebanon in light of the recent regulatory changes and argue that these measure leave many of them in a deeply precarious position.

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Chapter 1. Introduction

In 2011, at the outset of the Syrian conflict, many Syrians fleeing violence and war took refuge in Lebanon. Its proximity to Syria, together with the country's long history of work migration, would soon make Lebanon one of the main destinations for Syrian refugees.¹

Overall, the long established open border policy of Lebanon towards Syrian nationals had been allowing the movement of Syrians in the country for the purpose of employment but when the socio-political conditions for migrant workers changed after the Civil War, the informal economy became truly exploitative and coercive towards Syrian immigrants.

With an estimated number of 1.6 million registered refugees from Syria, Palestine, and Iraq, Lebanon – a country of 4.4 million inhabitants – has nowadays the highest per-capita concentration of refugees worldwide.²

Among these are nearly 1.1 million Syrian refugees and 42,000 Palestinian refugees from Syria. This makes Lebanon one of the most affected countries since the outbreak of the Syrian crisis in 2011.

Syrian refugees are nowadays hosted in over 1200 locations across Lebanese territories.³ Stating the latest UNHCR report the Beqaa and the North of Lebanon host the highest number of refugees with 361,104 individuals in Beqaa and 252,369 in the North. Meanwhile, 280,170 of them are found in the area of Beirut and Mount Lebanon whilst 117,723 reside in the South.⁴

Lebanon, a country with an already fragile governance system, has had an ambiguous approach to Syrians seeking protection in the country.⁵ Thirty years of Syrian military presence has moreover influenced Government policies towards refugees from Syria, as has the country's long-term Palestinian refugee presence.

¹ Lebanon Support, 'Formal Informality, Brokering Mechanisms, and Illegality. The Impact of the Lebanese State's Policies on Syrian Refugees Daily Lives', 2016, p.7. Available from: http://civilsociety-centre.org/sites/default/files/resources/formal_informality-brokering_mechanisms-illegality-ls-2016_0.pdf (accessed 8 June 2017).

² ECHO, 'ECHO Factsheet – Lebanon: Syria crisis (ECHO) – February 2016', Reliefweb, 2016. Available from: <http://reliefweb.int/report/lebanon/echo-factsheet-lebanon-syria-crisis-echo-february-2016> (accessed 28 March 2017).

³ UNHCR, 'Syria Regional Refugee Response', Inter-agency Information Sharing Portal, 2017. Available from: <http://data.unhcr.org/syrianrefugees/regional.php> (accessed 2 June 2017).

⁴ Ibid.

⁵ N. Yassin, T. Osseiran, R. Rassi and M. Boustani, 'No Place to Stay? Reflections on the Syrian Refugee Shelter Policy in Lebanon', Issam Fares Institute, AUB and UN-Habitat, Beirut, 2015. Available from: https://www.aub.edu.lb/ifi/publications/Documents/research_reports/20150907_noplacetostay.pdf (accessed 10 June 2017).

In the early stages of Syrian displacement in fact, Lebanon adopted an overall open borders and “non-encampment” policy. These policies were not the result of any particular, intentional government approach to Syrian refugees, but they *de facto* led to the government having no strategy at all to respond to the influx of refugees. This fact initiated different and sometimes contradictory responses within government agencies and municipalities alike.⁶

The refugee issue is highly politicized in Lebanon, and one of the reasons explaining the reluctance of the Lebanese government’s towards recognising the Syrian refugees status can be explained on the one hand by Lebanon’s previous refugee experience with Palestinians, and on the other one by the conflicting political attitudes towards the conflict in Syria. The diverging approach to refugees was particularly evident firstly in the debate on the establishment of refugee camps, and secondly by the so called “disassociation policy” developed by the then Prime Minister Nagib Mikati in mid-2012.⁷

Overall, Lebanon’s historic links to Syria, the collective fear of repeating the history of Palestinian refugees, and the divergent interpretations of the Syrian conflict, are all factors that contributed to avoid adopting a systematic and coherent protection approach or policy.⁸ Despite having an open border policy towards Syrian immigration, alleged mounting strain on Lebanon’s economy and infrastructure moved the Council of Ministers to adopt a new policy on Syrian displacement in October 2014, which was implemented from January 2015 onwards⁹.

One of the stated goals of the so called “October Policy” was to decrease the number of Syrians in Lebanon by reducing access to the country and encouraging return to Syria.

This initiative is currently being implemented through the issuance of the General Security Office’s new set of entry requirements for Syrians and new rules for Syrian nationals already

⁶ M. Janmyr, ‘The Legal Status of Syrian Refugees in Lebanon’, *Issam Fares Institute for Public Policy and International Affairs*, No 33, 2016, p. 7. Available from: https://www.academia.edu/23869114/The_Legal_Status_of_Syrian_Refugees_in_Lebanon_Working_Paper_IFI_American_University_of_Beirut (accessed 3 June 2017).

⁷ Janmyr, p. 70.

⁸ ALEF, ‘Two years on: Syrian Refugees in Lebanon’, ALEF and PAX Christi, 2013, p. 13. Available from : <https://alefliban.org/publications/two-years-on/> (accessed 4 June 2017).

⁹ Lebanon Support, ‘Formal Informality, Brokering Mechanisms, and Illegality. The Impact of the Lebanese State’s Policies on Syrian Refugees’ Daily Lives’, 2016, pg. 4. Available from: http://civilsociety-centre.org/sites/default/files/resources/formal_informality-brokering_mechanisms-illegality-ls-2016_0.pdf (accessed 10 June 2017).

in Lebanon applying for and renewing residency permits in December 2014.¹⁰

For the first time since its establishment, the Lebanese State now imposes restrictive measures on the entry of Syrian nationals into the country.¹¹

Lebanon is not part of the 1951 Convention relating to the Status of Refugees,¹² nor does it have any national legislation dealing with refugees. Syrian refugees thus have no status other than the one afforded as Syrian nationals in general. They are furthermore not referred to by Government authorities as “refugees” but as “displaced” persons, a less historically- and legally loaded term.

1.1 Methodology

This research is based on 4 months of field research conducted in Lebanon in 2017, including approximately 15 semi-structured interviews with Syrian refugees of different ages (approximately between 15 and 60 years old) in the region of the Beqaa Valley, and several interviews with Government authorities, lawyers and United Nations (UN)/non-governmental organisation (NGO) workers in Beirut. In particular, the local and international organisations who accepted to cooperate with me include: UNHCR, the Norwegian Refugee Council (NRC), the Danish Refugee Council (DRC), the International Center for Migration Policy Development (ICMPD), Caritas, Alef, Arc-en-ciel, Lebanon Support, Human Rights Watch, the International Organisation for Migration (IOM) and many other national actors as well as the International Security Forces (ISF).

The paper begins with a general overview of the Lebanese Government’s refugee response since the beginning of the Syrian conflict in 2011, and continues with an elaboration of Lebanon’s relationship with the international refugee law regime and the United Nations High Commissioner for Refugees (UNHCR). Following these first two chapters the paper analyses the national legislation in place in the country of Lebanon concerning refugees and compares the legal status of Syrians prior to the new regulations imposed by the Government in 2015. Deepening the research with a detailed overview on the changes in regulations which took place after 2015, the analysis considers the challenges faced by Syrian refugees.

¹⁰ Janmyr, p. 59.

¹¹ G. Frangieh, ‘Lebanon Places Discriminatory Entry Restrictions on Syrians’, Legal Agenda, 2015. Available from: <http://english.legal-agenda.com/article.php?id/4679&folder/4articles&lang/4en> (accessed 10 June 2017).

¹² *Convention relating to the Status of Refugees*, United Nations, Treaty Series, vol. 189, Geneva, 1951, p. 137. Available from: <https://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20V/V-2.en.pdf> (accessed 10 June 2017).

With the evolution in the entry requirements and renewing of the residency permit issued by the Lebanese government, most Syrians have been negatively affected and are now living illegally in the country.

This paper will be structured in several chapters based on the different subjects and related sections. The core issue of the research will be analysed in the last two chapters and will deal with the problematic related to the sponsorship and human trafficking mechanisms.

The reader should take into consideration that some information may have been missed or misinterpreted due to the translation process occurred during the interviews conducted in the refugee camps. In addition to that, the limited time available to conduct this research and the impossibility to build a relationship of trust with the interviewees, may also have affected the reliability of the information.

The issue of the sponsorship of Syrians is relatively new and sensitive and it has been challenging to gather information about this arrangement. However, thanks to the commitment of many International Organisations' workers, most of whom directly interviewed, I have gathered information which greatly enriched this research and guided it towards a more comprehensive approach.

Despite all, the sample size and design is particular to the region, Lebanon, in relation to the Syrian refugee issue.

1.2 Objectives

The overall idea of this research is to analyse the effects of the sponsorship system on Syrian refugees residing in Lebanon. The main objective however is to prove that the sponsorship system is enhancing exploitation and abuse towards Syrian refugees and that this structure does not improve their legal status. The final idea that will be presented is that the sponsorship system can be defined as a form of human trafficking.

In this sense, our conclusions will underline the need to abolish the *Kafala* system and will advocate for a regularisation of the legal status of Syrian refugees in the country.

Taking into consideration the precarious legal status of Syrian refugees and the controversial measures adopted by the General Security Forces in the last couple of years, we will analyse the new registration measures and the role of the sponsor as such. In particular, the research will take into consideration the period following the year 2014 when the government changed

and adopted more restrictive measures. Through the inquiry of the *Kafala* system from a legal definition and through the assessment of the policies, the paper will focus on the difference between the sponsorship system and the sponsorship relationship.

The paper will explore the reasons behind the implementation of this system, one of whom has been detected as the need to address the national security concerns, and the consequences on the livelihoods of Syrian refugees.

As the sponsorship system leaves many of Syrian refugees in a deeply precarious position, it moreover enhances their vulnerability. Therefore the risk to be exploited and abused increases. Instead of being a tool to address the threat of security and the fight against terrorism, the sponsorship system is more likely to be a mean of coercion and exploitation.

Referring at a local and international level to the Conventions and International Treaties who protect refugees and victims of human trafficking, the paper will explore the nature of the trafficking in persons (TIP) and will compare it to the case of Syrian refugees in Lebanon.

In essence, the paper seeks to prove that:

1. The system of sponsorship reinforces the inequality between Syrians and *kafeels* and encourages the exploitation of refugees;
2. Because of its nature and dynamics, the sponsorship system can be considered a form of human trafficking.

Reflecting on the necessary measures to adopt for the future, in regards of the Syrian refugees' situation, the paper will eventually advocate for the withdrawal of the *Kafala*.

Considering the International Cooperation as an important tool of crisis resolution, it will try to prove that more coordination and support between the state parties might help manage the crisis in a more efficient way.

1.3 Document Structure

After assessing in Chapter 1 the methodology used for the research and the objectives that the paper aims to verify, Chapter 2 begins with providing an overview of the Syrian refugee response in Lebanon. Furthermore, Chapter 3 analyses the legal framework protecting Syrian refugees at the international and local level. In this Chapter, the International Refugee Law is analysed together with other International Conventions and Treaties protecting refugees' rights. Moreover, it studies the Lebanese position towards the protection of refugees and its agreement with International UN Agencies, such as the UNHCR. Chapter 4 is a brief review

of the Lebanese national legislation and the legal status of Syrians prior to the outbreak of the war and especially prior to the new 2015 regulations. Chapter 5 presents the changes in regulations after 2015, analysing in details the entry requirements, the renewing and maintaining residency requirements and the particular situation of Palestinian refugees from Syria. Chapter 7 presents the core of the paper, analysing the sponsorship system as a whole and then focusing on the case of sponsorship for Syrian refugees. Considering the sponsorship system from a human rights perspective, the Chapter defines it as an exploitative and abusive mechanism. Chapter 8 deals with the second core issue, namely the human trafficking aspect and analyses it from an international legal point of view and then on a more regional level. In this Chapter we will present the idea that the sponsorship system can be considered a form of human trafficking.

Chapter 2. Overview of Syrian Refugee Response in Lebanon

Given the geographical proximity and the political, economic and social relations between the two countries, it is not surprising that Syrians have chosen Lebanon as a country of refuge after the outbreak of the war. Lebanon, which has always received hundreds of thousands of Syrian workers, most often with their families, has always considered their work as indispensable for the country's economy.

However nowadays, “both Syrian refugees and Lebanese residents are suffering from the effects of an unregulated labour market,” says Mary Kawar, Senior Employment Specialist at the ILO Regional Office for the Arab States (ROAS).¹³ “The large supply of low-wage Syrian workers causes further deregulation and expands informal employment resulting in downward pressures on wages and the deterioration of working conditions. In turn, this negatively affects Lebanese host communities and refugees.”¹⁴

The ever increasing number of refugees weighs on the capabilities of the Lebanese community, which is poor and lacks the resources and adequate economic, educational and sanitary infrastructures.¹⁵ The host communities' economic situation is difficult and the

¹³ ILO, ‘Assessment of the Impact of Syrian Refugees in Lebanon and their Employment Profile’, ReliefWeb, 2014. Available from:

<http://reliefweb.int/report/lebanon/assessment-impact-syrian-refugees-lebanon-and-their-employment-profile> (accessed 3 June 2017).

¹⁴ ILO, ‘Assessment of the Impact of Syrian Refugees in Lebanon and their Employment Profile’.

¹⁵ Interviews with Bashir Osmat and Antoine Haddad, Secretary General of the Democratic Renewal Movement Beirut, 14 May 2012, from N. Hala, ‘Syrian Refugees in Lebanon: the Humanitarian Approach under Political

refugees constitute a heavy burden. The relatively low level of educational attainment of Syrian refugees implies that competitive pressures are concentrated in low-skill sectors. The concentration of competition in this sector has only been exacerbated by labour market policies that make refugees' access to higher-skill jobs even more difficult than for low-skill ones. The high level of informality in the Lebanese economy does not facilitate the integration of Syrian refugees in the host countries' formal labour markets. Conversely, the refugees' prevalent skills profile, favours a further expansion of the informal sector.¹⁶ Around half of the Lebanese economies is operated on an informal basis. The Syrian refugee population in working age easily ends up being employed informally, as informality is “an intrinsic feature of low-skill and labour intensive sectors in Lebanon”. Policies restricting their access to formal employment reinforce this trend.¹⁷

However, the arrival of Syrian refugees in Lebanon has been also a supportive element for the output of the country. Refugees in fact, even if poor, are additional consumers, boosting demand with immediate effect, in particular for basic necessities. This triggers a supply response for the basic goods in question and related services, such as retail trade and transport. If over time refugees would be better integrated into the economy their contribution to output would be amplified and would be less dependent on social transfers and hence become more sustainable. Therefore, having a job can act as an incentive for Syrian refugees to stay in their host country beyond the duration of the armed conflict at home.¹⁸

For this reason and many more, prolonging the stay of refugees is not necessarily politically attractive to host governments, in particular in the short term. Thus, there is also a political-economical argument for gradualism and careful management when opening up the labour market; until now, Lebanon does not possess a structure to receive and support refugees, especially over the longer term.¹⁹ Consequently, it seems that the country has had

Divisions', *MPC Research Report 2012/13*, European University Institute, 2012, p. 18. Available from: <http://cadmus.eui.eu/handle/1814/24835> (accessed 3 June 2017).

¹⁶ L. Errighi and J. Griesse, 'The Syrian Refugee Crisis: Labour Market Implications in Jordan and Lebanon', p. 21. Available from: http://publications.europa.eu/resource/ellar/878f00db-4405-11e6-9c64-01aa75ed71a1.0001.02/DOC_2 (accessed 10 June 2017).

¹⁷ Ibid.

¹⁸ L. Errighi and J. Griesse, 'The Syrian Refugee Crisis: Labour Market Implications in Jordan and Lebanon', p. 8.

¹⁹ Ibid.

an ambiguous approach toward the more than one million Syrians seeking protection since 2011. Due to the fact that Lebanon did not ratify the Convention relating to the Status of Refugees 1951 nor its Protocol 1967, Syrian refugees are not protected as such once in the country. The ambiguity of the Government response was exacerbated with the coming into power of the then Prime Minister Najib Mikati, who in mid-2012 established a policy of neutrality towards the events in Syria under the label of the “disassociation policy”.²⁰ However, as reported in the article about the legal status of Syrian refugees, “pretending to be neutral, the policy adopted the point of view of the most powerful – the Syrian government – and was referring to traditional links between main political components of the Lebanese government with the Assad regime.”²¹

This policy aimed to preserve the delicate balance between the various political groups within Parliament and the coalition government that were unable to come to agreement. One strand of this disassociation policy was the enforcement by Mikati of the use of “displaced persons” (*nazihoun* in Arabic) as a legitimate terminology rather than “refugees” (*lajoun*).

As a result, the Lebanese government nowadays executes a disassociation policy on refugee matters, speaking of “displaced people” instead of “refugees”, and focusing on Lebanon being a “country of transit, rather than asylum.”²² The Government, in fact, rejects in principle the integration of refugees in the country.

A motive for the ongoing refusal of an official refugee status can be traced back to the prolonged Palestinian displacement.²³ One explanation for this lies in the strong association of “refugee” with Palestinian; “displaced” then appears suggestive of a less permanent status.

²⁴

Distinguishing post March-2011 Syrian refugees from other Syrians present in Lebanon is a difficult issue which the government is trying to address. “A Syrian in Lebanon cannot be

²⁰ Janmyr, p. 7.

²¹ Ibid..

²² UNHCR, ‘Beyond Humanitarian Assistance? UNHCR and the response to Syrian refugees in Jordan and Lebanon, January 2013-April 2014’, 2015, p. 98. Available from: <http://www.unhcr.org/5551f5c59.pdf> (accessed 10 June 2017).

²³ S. Dallal, ‘Shifting Conceptions of Refugee Identity and Protection: European and Middle Eastern Approaches’, Routledge, 2014. Available from:

https://papers.ssrn.com/sol3/Data_Integrity_Notice.cfm?abid=2475132 (accessed 10 June 2017).

²⁴ Ibid.

really a refugee because he is able to work. We must also distinguish between civilian refugees and militant refugees, who have come to create military bases”.²⁵

The exact proportion of civil refugees and militant refugees in Lebanon is not known. This overlapping consistently complicates the situation both at the level of services supplied and at the level of assistance and security.²⁶

The office manager of the Syrian National Socialist Party in Tripoli specifies that currently in Tripoli, “there are 10,000 refugees of whom 3,000 to 4,000 are manipulated by Islamist organisations to cause trouble in the region and come together as great Islamic political forces. They have come from calm regions such as Tall Kalakh and Hama to create troubles, they are armed, and sometimes they members of secret services. They are charged with crimes and flee justice; it seems that sometimes they move to Lebanon under cover as poor refugees. Those refugees are marginalised in Tripoli, but those who work for the secret services obtain aid from the political parties and the Islamist forces present in the area.”²⁷

Indeed, for these reasons the Lebanese Government considers the growing number of Syrian refugees in the country to be a serious threat to security, political, economic, and social stability and therefore it has accordingly enacted laws and policies that treat Syrian refugees as undesirable foreigners.

In March 2013, Prime Minister Mikati resigned, and in February 2014, a new Government was formed. Not long after, this new Government closed 18 unofficial border crossing points that had previously been tolerated.²⁸ In October of that same year, two important steps were taken. The first one was in May 2014 when the Lebanese Government accepted to cooperate with some United Nations Agencies, such as UNDP, UNFPA, UN-Habitat, UNHCR, UNICEF, UNIDO, UN-OCHA, UNOPS, UN-RCO, UNRWA, URDA and many more local and international actors. The aim of the Lebanon Crisis Response Plan (LCRP) was to support Lebanon in handling the refugee crisis and “to stabilise the country during this challenging period”.²⁹ The LCRP focused on delivering humanitarian assistance to Syrian

²⁵ Interview with Abdallah Bou Habib, former Ambassador of Lebanon in the US, Director-General of Isaam Fares Center for Lebanon, Sin el Fil, 18 May 2012, from N. Hala, ‘Syrian Refugees in Lebanon: the Humanitarian Approach under Political Divisions’, p. 16.

²⁶ Interview with Bassam Al Hashem, Member of the Founding Committee and Spokesman for the Free Patriotic Movement, Beirut, 6 June 2012, from Hala, p. 17.

²⁷ Hala, p. 17.

²⁸ M.A. Nayel, ‘On the Struggle of Syrian Refugees in Lebanon’, Jadaliyya, 2014. Available from: <http://www.jadaliyya.com/pages/index/17306/on-the-struggle-of-syrian-refugees-in-lebanon> (accessed 10 June 2017).

²⁹ UNOCHA, ‘Overview of 2015 Response Plans for Syria Crisis’, 2015. Available from:

displaced persons as well as Lebanese and Palestinians most vulnerable communities while expanding plans to invest in Lebanese services, economies and institutions.

In October of the same year, the Ministry of Interior and the local Municipalities proposed and approved the application of the “Policy Paper on Syrian Refugee Displacement”. This document sets out three express goals regarding “displaced” Syrians in Lebanon³⁰:

1. Reducing the numbers of Syrian refugees in the country by reducing access to territory and encouraging Syrian nationals to return to Syria;
2. Ensuring security by *inter alia* increasing regulation of the Syrian population in Lebanon, providing additional support for municipality police and requiring municipalities to undertake regular statistical surveys;
3. Easing the burdens on “its economy, infrastructure, and to ensure security”,³¹ but also to limit informal employment structure.

At the level of the first objective, humanitarian criteria will only apply in “extreme humanitarian cases”³² which basically refer to: unaccompanied or separated children with a parent already registered in Lebanon, persons with disabilities with a relative already registered in Lebanon, persons with urgent medical needs for whom treatment in Syria is unavailable, and persons who will be resettled to third countries.³³ In spite of this, General Security officers at border crossings seem to be making arbitrary and discriminatory entry determinations for Syrians. This includes withdrawing the refugee status from Syrians who return to Syria, as this implies that their case no longer qualifies as an “extreme humanitarian case”.³⁴

As for the second objective with regard to “keeping the displaced population under control,” the guidelines used to keep the Syrian population under control by adopting rigid residency

https://docs.unocha.org/sites/dms/Syria/Overview%20of%202015%20Response%20Plans%20for%20Syria%20Crisis_150322.pdf (accessed 27 March 2017).

³⁰ CLDH, ‘Legal Challenges faced by Refugees from Syria in Lebanon’, Beirut, 2016, p. 12. Available from: http://www.rightsobserver.org/files/Legal_challenges_for_refugees_from_Syria_2016_-_web.pdf (accessed 5 June 2017).

³¹ Lebanon Support, ‘The conflict context in Beirut; the social question, mobilisation cycles, and the city’s securitisation’, Conflict Analysis Report, 2015, p. 23. Available from: http://webcache.googleusercontent.com/search?q=cache:Sp1AVa2_HzoJ:data.unhcr.org/syrianrefugees/download.php%3Fid%3D10150+&cd=3&hl=it&ct=clnk&gl=lb (accessed 10 June 2017).

³² Inter-Agency Coordination Lebanon, ‘Monthly Dashboard April 2015’, Reliefweb, 2015. Available from:

³³ Ibid.

³⁴ ALEF, ‘Trapped in Lebanon. The alarming human rights and human security of Syrian refugees in Lebanon’, p. 19.

conditions. The latter conditions deemed impossible to satisfy resulting in approximately 67% to 70% of Syrians lacking regular residency papers.³⁵

The third objective regarding the protection of the Lebanese labor force has had equally damning consequences. The Ministry of Labor memo regarding the work restrictions affecting Syrian labor resulted in Syrians working irregularly, which further affected work conditions and increased exploitation.³⁶

In addition, this Policy Paper intended to expand the humanitarian response to include “a more structured developmental and institutional approach benefiting Lebanese institutions, communities and infrastructure” and promote securitisation measures in terms of restriction for Syrian refugees.³⁷

The Policy Paper approved by the Government in October 2014 became effective in January 2015 aiming at controlling not only the access of refugees from Syria to the country but mainly their residence in Lebanon.

When the question concerning the government’s position in relation to the Syrian crisis was raised during a meeting held with the new State Minister for Refugees Affairs in March 2017, the authority strongly confirmed that the priority of Lebanon towards the refugees’ situation was primarily that of guaranteeing national security. As the Lebanese population and the sovereignty of the country are considered at risk because of the refugees’ presence, the priority of the new government, established in December 2016, will be to fight against terrorism and to implement a set of new measures aimed at preventing the phenomenon of radicalization.³⁸

Lebanon does not have enough resources nor infrastructure to effectively cope with the large flow of displaced persons causing the need for financial assistance and international support. The Minister of Refugees Affairs highlighted the fact that the prolonged Syrian occupation left the Lebanese population in fear and created hostility towards the Syrian population as a

³⁵ C. Alsharabati and J. Nammour, ‘Survey on Perceptions of Syrian Refugees in Lebanon: Full Report’, Université de Saint Joseph, Beirut, 2015. Available from:

<http://www.sciences-po.usj.edu.lb/pdf/Presentation%20EN.pdf> (accessed 10 June 2017).

³⁶ Ministry of Labor, ‘Related to the duration of processing of documentation at the department of the affairs of Syrian workers in in the Ministry of Labor’, decision no. 1/130, 2015. Available from: <http://goo.gl/v1AM15> (accessed 29 April 2017).

³⁷ K. Gebar, ‘The Syrian Crisis & its Implications on Lebanon Social, Economic, Political and Security Challenges and Potential Solutions’, Université Saint Joseph, 2015, p. 8. Available from: <http://www.sciences-po.usj.edu.lb/pdf/The%20Syrian%20Crisis%20%20its%20Implications%20on%20Lebanon%20-%20Khalil%20Gebara.pdf> (accessed 10 June 2017).

³⁸ Interview with Mou'een el-Meherbi, State Minister for Refugees Affairs, Beirut, 21 March 2017.

whole.

The Lebanese government's policy of "dissociation" has been deliberately ambiguous so as to allow flexibility in its response as well as to preserve the country's delicate political balance. The authorities are systematically dealing with Syrian refugees, considering them as temporary visitors and tourists. Since its introduction, the policy introduced category-based restrictions on border access and movement within the country in an effort to ensure that the displaced return to Syria or move on to other countries.

While various ministries have diverse interpretations of the arrangement, it appears that the hidden motive is to increase the hardship of refugees and encourage their departure from the country.³⁹ Major concerns with regard to the impact of such policy on human and refugee rights are highlighted by restrictions on the freedom of movement and the right to work.⁴⁰

Both regular and ad hoc checkpoints manned by the Lebanese Armed Forces (LAF), General Security Office (GSO), Internal Security Forces (ISF) and other security forces, including political parties, act to limit movement in certain areas and check the legal status of Syrian refugees passing through.⁴¹ Syrian refugees who have lost or never had legal status are scared to move around the country due to fear of arrest or detention. Considerably more men than women are subject to arrest and problems at checkpoints, and it is therefore not uncommon for men to stay at home while women and children move around to work or to do necessary chores.⁴² An International Labor Organization (ILO) report in 2015 claimed that many Syrian refugee children are engaged in the worst forms of child labor, such as bonded labor in agriculture or street-based work in urban centers, to support their families.⁴³

For many Syrian refugees, remaining in Lebanon brings about a most precarious legal position. They are deprived of the rights enjoyed by legal residents in Lebanon, including enrolment in public schools, opening a bank account, and acquiring lawful employment. Obtaining civil documents such as birth certificates also requires valid legal status and most Syrians in the country do not hold a valid one.⁴⁴ Considering a recent UNHCR' assessment,

³⁹ ALEF, 'Trapped in Lebanon.', p. 19.

⁴⁰ Ibid.

⁴¹ HRW, 'I just wanted to be treated as a person: how Lebanon's residency rules facilitate abuse of Syrian refugees', Beirut, 2016, p. 16. Available from: <https://www.hrw.org/report/2016/01/12/i-just-wanted-be-treated-person/how-lebanons-residency-rules-facilitate-abuse> (accessed 3 June 2017).

⁴² Janmyr, p. 73.

⁴³ HRW, p. 3.

⁴⁴ Amnesty International, 'Pushed to the Edge', London, 2015, p. 24. Available from: <https://www.amnesty.org/en/documents/mde24/1785/2015/en/> (accessed 3 June 2017).

70 percent of Syrian refugees in Lebanon fall below the poverty line and rely on aid to survive, while nearly 90 percent are trapped in a vicious cycle of debt.

This dire economic situation is fueled by the inability of most Syrian refugees to access the formal labor market. Those registered with UNHCR are prohibited from working in Lebanon and must sign a no-work agreement when they renew their residency.⁴⁵ Furthermore, the job opportunities for Syrians, apart from being limited because of the lack of freedom of movement, are also restricted to jobs that are perceived as non-desirable for Lebanese such as cleaning, agriculture, construction, and janitorial work.⁴⁶ Informal work dominates Syrian refugee employment with nine out of ten Syrian refugees in Lebanon employed without a formal contract. One out of two refugee workers in Lebanon also reported suffering from back and joint pain or severe fatigue as well as extreme cold or hot conditions. Almost two-thirds of Syrian refugees reported exposure to dust and fumes in the workplace.⁴⁷

To summarise, the October policy has not only endangered the life of Syrian refugees, depriving them of basic rights, but also implicitly advocates that the “displaced” return to Syria or move on to other countries.

Chapter 3. The Legal Framework Protecting Refugees

As this research aims to examine the legal status of Syrian refugees in Lebanon and assess the level of protection they are guaranteed, it seems useful to consider the International and National Legal Framework protecting the rights of refugees.

From a universal point of view, human rights particularly relevant to refugees include: the right to life, liberty and security of person; the right to freedom from torture or cruel or inhumane or degrading treatment or punishment; the right to freedom of movement and residence within the borders of each state; the right to freedom of thought, conscience and religion; the right to freedom of opinion and expression; the right to a standard of living adequate for the health and wellbeing of the person and their family, including food, clothing,

⁴⁵ HRW, p. 2.

⁴⁶ Lebanon Support, ‘Syrian Refugees’ Livelihoods. The Impact of Progressively Constrained Legislations and Increased Informality on Syrians’ Daily Lives’, 2016, p. 9. Available from: <http://civilsociety-centre.org/sites/default/files/resources/syrianrefugees-livelihoods-ls2016.pdf> (accessed 10 June 2017).

⁴⁷ ILO, ‘Assessment of the Impact of Syrian Refugees in Lebanon and their Employment Profile’, ReliefWeb, 2014. Available from: <http://reliefweb.int/report/lebanon/assessment-impact-syrian-refugees-lebanon-and-their-employment-profile> (accessed 3 June 2017).

housing, medical care and necessary social services; the right to education; freedom from discrimination; and respect for the unity of the family.

These rights are set out in the International Covenant for Civil and Political Rights (ICCPR), International Covenant for Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC) and other International treaties. The Refugees' Convention 1951 gives refugees additional specific rights, including: the right not to be returned to their country of origin if their safety cannot be assured; the right to be accorded in many respects the same treatment as the citizens of the country in which they are given refuge; and the right not to be penalized for illegally entering a country if they request asylum.

3.1 The International Refugee Law and other International Covenants

Refugees are defined and protected in International Law. The 1951 Refugee Convention and its 1967 Protocol as well as other legal texts, such as the 1969 OAU Refugee Convention (Organisation of African Unity), remain the cornerstone of modern refugee protection.

The 1951 Convention defines who qualifies as a refugee and outlines the basic rights that states should guarantee. One of the most fundamental principles laid down in International Law is that refugees should not be expelled or returned to situations where their life and freedom would be under threat.⁴⁸

Article 1(A)(2) of the 1951 Convention defines a refugee as an individual who “as a result of events and owing to well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”⁴⁹

The OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, adopted in 1969, is of major importance for several reasons. It contains a broadened refugee definition and important provisions relating inter alia to asylum (Article II), voluntary repatriation (Article V), and to the prohibition of subversive activities by refugees (Article

⁴⁸ A. Edwards, ‘UNHCR viewpoint: ‘Refugee’ or ‘migrant’ – Which is right’, Geneva, 2016. Available from: <http://www.unhcr.org/news/latest/2016/7/55df0e556/unhcr-viewpoint-refugee-migrant-right.htm> (accessed 19 May 2017).

⁴⁹ *Convention relating to the Status of Refugees*, *ibid.*

III). It also provides (Article VIII) that the Convention shall be the effective regional complement in Africa to the 1951 UN Convention relating to the Status of Refugees.

As early as 1963, the Organization of African Unity (OAU) determined that a regional refugee Convention was needed, which would take account of the specific aspects of the refugee problems encountered in that continent. The text of the new Convention was adopted in 1969. It referred to the 1951 Convention as “the basic and universal instrument relating to the status of refugees”. The new Convention was not intended to supersede, but to complement it. This was an important addition. It meant that persons fleeing civil disturbances, violence and war are entitled to claim the status of refugee in states that are parties to this Convention, irrespective of whether or not they have a well-founded fear of persecution.

However Lebanon did not sign any of the previously mentioned Conventions as well as other International Covenants such as the Convention Relating to the Status of Stateless Persons (1954), which defines the standards of treatment to be accorded to stateless persons (the same as those for refugees) and the Convention on the Reduction of Statelessness (1961), which seeks mainly to avoid statelessness at birth, by granting the nationality of the acceding state to persons born in their territory who would otherwise be stateless.

Another important instrument of protection of the rights of refugees is the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War (1949) which contains an article (No 44) dealing with refugees and displaced persons. The Protocol Additional (1977) provides specifically (Article 73) that refugees and stateless persons shall be protected persons as defined in Parts I and III of the fourth Geneva Convention.

The mentioned Convention has been signed by the country of Lebanon in December 1949 and ratified in July 1951, except that it signed and ratified the two Additional Protocols only in July 1997.

3.2 The Lebanese Position Towards Refugees: IDPs and the MOU

Lebanon, like many states in the Middle East, is not a signatory to the 1951 United Nations Convention relating to the Status of Refugees, nor its 1967 Protocol.⁵⁰ As we mentioned

⁵⁰ HRW, ‘I just wanted to be treated as a person: how Lebanon’s residency rules facilitate abuse of Syrian refugees’, Beirut, 2016. p. 9. Available from: <https://www.hrw.org/report/2016/01/12/i-just-wanted-be-treated-person/how-lebanons-residency-rules-facilitate-abuse> (accessed 10 June 2017).

before, the main argument for the prolonged refusal of Lebanon to sign those Conventions is the old but still ongoing Palestinian issue in the country.

Refugees are not recognised as such but instead defined and treated as “displaced persons”, seeing the word displaced has a milder and more temporary connotation. The usage of the term “displaced” may also be seen as an attempt to circumvent any obligations and privileges owed to these individuals by virtue of their refugeehood. As one Government official explained during a reported interview, “from the Government’s perspective, the refugee is more difficult because he has rights. Displaced have less rights”.⁵¹

As from an International point of view, the Guiding Principles on Internal Displacement (1998) holds internally displaced persons (IDPs) to be “persons or groups of persons who have been forced to flee, or leave, their homes or places of habitual residence as a result of armed conflict, internal strife, and habitual violations of human rights, as well as natural or man-made disasters involving one or more of these elements, and who have not crossed an internationally recognised state border”.⁵²

As for the case of refugees, the need to leave their homes is due to reasons of war, civil conflict, political strife, and/or human rights abuses. The main difference between refugees and IDPs stems from the fact that the latter supposedly remain within their own country and do not cross an international border. For this main reason, they are not considered eligible for protection under the same international system as refugees because they are not considered as such under either the 1951 Convention or the 1967 Optional Protocol.

The Lebanese excuse of considering Syrian refugees as IDPs in order to avoid guaranteeing them rights and services turns out to be a complete sieve. Displaced persons in fact would have moved within a country without crossing an international border while Syrians refugees have clearly moved into a different country.

⁵¹ Confidential interview, Government official, Beirut, 18 Apr. 2016, from Janmyr, p. 61.

⁵² United Nations Commission for Human Rights, ‘Internally displaced persons Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission on Human Rights resolution 1997/39’, 1998. Available from: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G98/104/81/PDF/G9810481.pdf?OpenElement> (accessed 2 June 2017).

A statement by an official at the Ministry of Social Affairs (MOSA), coherently reflects this atmosphere when he admits that: “We are not creating an alternative home. Lebanon will not be the comfortable option”.⁵³

Whether we consider Syrians as IDPs or refugees, the country of Lebanon is not signatory of the Convention relating to the Status of Refugees, therefore limited protection and assistance is provided. By way of customary international law, Lebanon is inter alia bound by leading principles of refugee protection, such as the principle of *non-refoulement*. This principle is generally considered to be the cornerstone of International Refugee Law in that it prohibits refugees from being returned or expelled to places where their lives or freedoms could be threatened. Additionally, Lebanon has ratified the major international human rights instruments and the principles of international human rights law are also embedded in the Lebanese Constitution. In fact the Preamble of the Lebanese Constitution of 1926 (as amended in 1990) explicitly states that “Lebanon is [...] a founding and active member of the United Nations Organisation and abides by its covenants and by the Universal Declaration of Human Rights”. It moreover asserts that “the Government shall embody these principles in all fields and areas without exception”.⁵⁴ Of particular interest, this would include Article 14, Universal Declaration of Human Rights and the Right to seek Asylum which specifically states that: “Everyone has the right to seek and to enjoy in other countries asylum from persecution”.⁵⁵ However Lebanon does not have a formal domestic refugee legislation in place, and therefore refugees and asylum seekers are treated based on immigration laws such as the *Law Regulating the Entry and Stay of Foreigners in Lebanon and their Exit from the Country* of 1962. This law includes six articles concerning the right to apply for asylum and for the Refugees Status in Lebanon (Article 26). This outdated law foresees the creation of an asylum granting a Committee composed by different ministries; however for more practical reasons, Lebanon has adopted the alternative practice of Status Refugee Determination processes set up by UNHCR.

The ad-hoc Lebanon’s policy towards refugees since the start of the Syrian conflict is in fact centered almost entirely on its 2003 Memorandum of Understanding (MOU) with the UN

⁵³ Interview with Mr. Makram Malaeb, MOSA representative, Beirut, 25 June 2013, from ALEF, ‘Two years on: Syrian Refugees in Lebanon’, ALEF and PAX Christi, 2013, p. 45. Available from : <https://alefliban.org/publications/two-years-on/> (accessed 4 June 2017).

⁵⁴ Janmyr, p. 7.

⁵⁵ The *Universal Declaration of Human Rights*, Article 14. Available from: http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf (accessed 4 June 2017).

Refugee Agency, UNHCR, which emphasizes that refugees in Lebanon are not entitled to remain permanently and must be resettled.⁵⁶

While entering the Lebanese territory, the only official guarantee against arrest and deportation that Syrians possess is their time limited entry papers, stamped by the General Security, and the UNHCR's Registration Certificate granted upon registration for humanitarian assistance purposes.⁵⁷ Registering with the leading UN refugee agency represented the way to be provided with a resettlement programme and a “UN refugee status”. This recognition allowed refugees for accessing specific social services covering in particular healthcare, education, support, and protection. However, being registered with UNHCR meant the impossibility to work legally in Lebanon and therefore rely exclusively on the humanitarian aids provided by the institution.

Although the Lebanese government has thus far cooperated with UNHCR and dealt with the Syrian influx from a humanitarian perspective, commitment is restricted to an unofficial cooperation framework between UNHCR and the government. There are no legal guarantees for protection, which exposes Syrian refugees to the risk of reinterpretation and/or revocation of status at any given time.

Chapter 4. National Legislation and Legal Status of Syrians prior to 2015

“Lebanon was built with Syrian muscles” declared an elderly Lebanese in the early 1990s. He was referring to the hundreds of thousands of semi-skilled and unskilled Syrians who have worked in Lebanon on a temporary basis in construction, agriculture, manufacturing and services since the mid-twentieth century.⁵⁸

Before the 1975-1990 civil war, Syrian labor was hardly a controversial topic in Lebanon. It was natural that the "Switzerland of the East" would attract manual workers from less well-off neighbors. The Lebanese economic miracle required inexpensive, unskilled labor, which, for various reasons, could not be supplied from within Lebanon. Thus Syrians made up about a third of the working population of Lebanon but they were considered temporary migrants who worked hard for low wages and did not press collective demands or seek to

⁵⁶ UNHCR, ‘Universal Periodic Review: Lebanon’, 2016. Available from: <http://www.refworld.org/pdfid/4bcd705e2.pdf> (accessed 27 April 2017).

⁵⁷ ALEF, ‘Two Years on: Syrian Refugees in Lebanon’, p. 12.

⁵⁸ J. Chalcraft, ‘Of Specters and Disciplined Commodities: Syrian Migrant Workers in Lebanon’, Issue 236, Middle East Report, 2005, p. 28. Available from: <http://www.merip.org/mer/mer236/specters-disciplined-commodities> (accessed 10 June 2017).

make a permanent home in Lebanon.

In 1991, the new Lebanese regime announced the official removal of most travel restrictions between the two countries. As Lebanon's post-war reconstruction boom gained steam in the early 1990's, a variety of subsequent agreements were implemented which made it possible for Syrians to cross over the border virtually undetected. By 1994, Syrian workers were a nearly pervasive presence in the streets of Beirut.⁵⁹

The Bilateral Agreement for Economic and Social Cooperation and Coordination between Lebanon and Syria implemented in 1991, during the 1950s and all along the Syrian occupation of Lebanon, ensured free movement of goods and people as well as freedom of work, residence, and economic activity for nationals of both countries. Workers from Syria were usually employed in the informal agricultural and industrial sectors, mainly in the rural areas of the Beqaa Valley, Akkar, and the South of Lebanon. According to Lebanese economic experts, in 2001 the Syrian labor force was distributed as follows: construction (39%), seasonal agriculture (33%), municipal and sanitation jobs (20%), services, including street vendors and taxi drivers (8%) and industry (2%).⁶⁰

Syrians used to move to Lebanon because wages were several times higher than at home and the overall informal economy, made by their illegal work, was providing income for the Lebanese society on one side and allowing Syrians to improve their lives on the other.⁶¹ In this regard, the Lebanese conditions to enter the country for Syrian national previous 2015 (when the government changed its policy towards entrance and residency permits) was to arrive at the border, receive a stamp which represented a sort of visa for the duration of 6 months and renewable for free for another 6 months, and the ability to renew their residency permit after a year for a fee of 200\$.

Overall the ease of access to the country, the bilateral agreement providing free movement of goods and people, and the well established relationship between supply and demand in the two countries, were all factors that contributed to the maintenance of an “open border” policy towards Syrian nationals moving back and forth to Lebanon.

Even after the Syrian crisis, the Lebanese labour market continued to benefit from Syrian labour. The big influx of refugees had in fact increased demand, created an inflow of aid

⁵⁹ Gary C. Gambill, ‘Syrian Workers in Lebanon: The Other Occupation’, *Middle East Intelligence Bulletin*, Vo. 3, No. 2, 2001. Available from: https://www.meforum.org/meib/articles/0102_11.htm (accessed 4 June 2017).

⁶⁰ Ibid.

⁶¹ Chalcraft, p. 31.

money, and led to increased productivity. Still today, Syrians are a cheaper workforce and Lebanese employers do not have to pay taxes or social security for them.⁶²

However, as the wave of Syrian workers into Lebanon tends to benefit commercial elites who own businesses that require unskilled labor, the Lebanese working class have suffered tremendously from the entry of Syrian workers. The presence of Syrian workers apparently hurt the overall economy of the country because very little of the money earned remained in Lebanon. Unlike Lebanese workers, Syrian laborers were not required to pay taxes and did not have to pay for work permits. As stated in the report written by Gary C. Gambill in February 2001 for the Middle East Intelligence Bulletin, “Syrian workers remit around \$4.3 billion from Lebanon to Syria every year”. Discouraging them from spending their wages in Lebanon, the Assad regime has encouraged its workers to earn money in Lebanon but to spend it in Syria, for instance making it illegal to send Lebanese durable goods back to Syria. At a certain point in time the influx of Syrian workers into Lebanon has been perceived as “nothing short of a movement toward Syrian colonization of Lebanon”⁶³ which, together with the resentment against the Syrian occupation, has generated in the first years of the twenty first century, sporadic attacks on Syrian workers. This violence has also been organized in pursuit of political objectives as we can see in the rise of a terrorist group called Citizens for a Free and Independent Lebanon (CFIL) which has launched a series of attacks against Syrian workers.⁶⁴ The Syrian refugees in Lebanon have aggravated political, economic, and security challenges, impairing major drivers of economy, such as trade, banking, tourism, and decreasing job opportunities.⁶⁵ Stating the figures of 2015, one-third of young Lebanese laborers were unable to find work competing in a particularly intensified informal sector that contributes to more than 56% of total employment. It has become more difficult to even acquire jobs with low salaries, dramatically impacting labor market standards.⁶⁶ These factors

⁶² Lebanon Support, ‘Syrian Refugees’ Livelihoods. The Impact of Progressively Constrained Legislations and Increased Informality on Syrians’ Daily Lives’, p. 15.

⁶³ Habib C. Malik, ‘Between Damascus and Jerusalem: Lebanon and Middle East Peace’, The Washington Institute for Near East Policy, 1997, p. 42. Available from: http://www.washingtoninstitute.org/uploads/Documents/pubs/PP_45_BETWEEN_DAMASCUS_AND_JERUSALEM.pdf (accessed 4 June 2017).

⁶⁴ Gary C. Gambill.

⁶⁵ UNDP, ‘About Lebanon. 2015’, UNDP, 2013. Available from: <http://www.lb.undp.org/content/lebanon/en/home/countryinfo/> (accessed 10 June 2017).

⁶⁶ United Nations, ‘Lebanon Crisis Response Plan 2015-2016’, United Nations, 2014. Available from: http://reliefweb.int/sites/reliefweb.int/files/resources/2015-2016_Lebanon_CRP_EN.pdf (accessed 10 June 2017).

have exhausted public spending and have tested Lebanon's economic, social, and political resilience. Moreover, since 2011 the rising demand and restricted supply of accommodations are contributing to soaring rental prices affecting poor Lebanese who are unable to cope with this rise.⁶⁷

In conclusion, we can point out the Syrian presence in Lebanon has been in the last two centuries an important and controversial issue. A large number of Syrian workers have moved to Lebanon looking for working opportunities in the past causing damage to the Lebanese economy. As G.C Gambill defines in his report: "1.4 million penniless Syrian workers who have flooded into Lebanon in recent years have swept away the promise of a brighter future [for Lebanese nationals] by virtually monopolizing many unskilled professions". Therefore it is not surprising that when the Syrian crisis erupted and many Syrian refugees fled their country looking for safety, many Lebanese welcomed them with suspect and mistrust.

Chapter 5. Changes in Regulations 2015

After the outbreak of the Syrian Civil War and the huge flows of Syrians seeking refuge and protection in Lebanon, the hosting country changed its government and took more restrictive measures concerning the entry and exit of Syrians. The closure of eighteen irregular entry points along the border between Lebanon and Syria marked the introduction of stricter policies by the Government of Lebanon (GoL).

In December 2014, Lebanon's General Security issued a new set of entry requirements for Syrians and rules for Syrian nationals already in Lebanon applying for and renewing residency permits; Palestinian refugees from Syria are not included. These new requirements are being implemented as of 5 January 2015. In January of the same year the General Security issued further regulations concerning entry, residency renewal and permits of stay. These new regulations are an implementation of the first provision stated in the "Policy on Syrian Displacement" and adopted in October 2014 aiming to dissuade and prevent Syria's refugees from seeking protection in Lebanon.⁶⁸

⁶⁷ UNHCR, 'Independent Program Evaluation of UNHCR's Response to the Refugee Influx in Lebanon and Jordan', Brussels, Belgium, 2015. Available from: <http://www.unhcr.org/research/evalreports/5551f5c59/independent-programme-evaluation-ipe-unhcrs-response-refugee-influx-lebanon.html> (accessed 10 June 2017).

⁶⁸ Janmyr, p. 66.

5.1 Entry Requirements

While a bilateral agreement in force since 1994 previously served as the guiding principles regarding the treatment of Syrian nationals in Lebanon, on 31 December 2014 Lebanon's General Security introduced new criteria regulating the entry of Syrians into Lebanon.⁶⁹

The previous arrangement, which governed the procedures concerning the entry of Syrian nationals in Lebanon until 2015, allowed nationals from each country to enter "visa-free," with only a national identification card. As of 5 January 2015 a visa is required to enter Lebanon from Syria, a major change from relatively unrestricted border crossing between the two countries in the past.

The regulations, issued on 31 December 2014, provide a list of six types of visa categories, which include tourism, education, medical treatment and business. All of these categories require specific documents, including proof of hotel bookings for tourists and appointments for those seeking medical treatment, in order to meet the requirements and have their visa approved by the Ministry of Social Affairs and the Ministry of Interior.⁷⁰ Syrians owning real estate in Lebanon or having assured a Lebanese sponsor can also access the country.

On 13 January 2015, Lebanon's General Security published an addendum in which additional categories for entry were detailed. The directive identified that would be allowed to enter the country: holders of Lebanese residency permits and their family members; spouses of Lebanese nationals; children of Lebanese women; wives of Palestinian refugees registered in Lebanon; as well as holders of residency permits in other Arab or foreign countries and holders of residential rental agreements. Such agreements include a housing commitment by landlord or a certificate from local notaries (*Mukhtar*). Syrian nationals who fulfill these criteria are granted short-term, temporary residence.⁷¹

The Social Affairs Minister, Rashid Derbas, during an interview with The Daily Star in January 2015, was reported as saying that the new visa requirements for Syrians had the aim to distinguish visitors from those seeking refugee status at the official border crossings.

⁶⁹ ALEF, 'Trapped in Lebanon.', p. 21.

⁷⁰ Amnesty International, 'Lebanon: New entry requirements for Syrians likely to block would-be refugees', MDE 24/002/2015, 2015. Available from: <http://www.amnesty.ca/news/lebanon-new-entry-requirements-syrians-likely-block-would-be-refugees> (accessed 4 June 2017).

⁷¹ Amnesty International, 'Denied refuge Palestinians from Syria seeking safety in Lebanon', MDE 18/002/2014, 2014. Available from: <https://www.amnesty.org/en/documents/MDE18/002/2014/en/> (accessed 25 April 2017).

Quoting his words, “to implement the new security measures, we have to organize the entry and exit of Syrians,” stressing that the policy was the sole way to differentiate between refugees and other travelers.⁷² According to Lebanon’s General Security Office, which issued the decree, exceptions have been made for humanitarian cases in coordination with the UN Refugee Agency, UNHCR. A statement from the Ministry of Social Affairs reported that “extreme humanitarian cases” would still be granted entrance to the country and the criteria to assess such cases were being drafted by the ministry. Nevertheless, this unclear and vague policy underlines the risk that many potential refugees may be denied access to safety in Lebanon.⁷³

The aforementioned criteria would be applied to the humanitarian cases whom the Social Affairs Ministry spokesperson Hala al-Helou defined as “vulnerable individuals”, intending with that expression those severe medical cases, people with severe disabilities and children at risk who have family in Lebanon.⁷⁴ The extremely small number of Syrians who were granted protection in Lebanon within these categories since January 2015 is a strong indication that the criteria are not meant to represent an adequate response to the massive flow of Syrians trying to access the country.

The majority of the refugees interviewed by the Norwegian Refugee Council during an assessment on the consequences of limited legal status that were equal to 66%, reported having entered Lebanon through official borders and possessing identity documentation. However, almost one third of the interviewees (29%) reported not being able to enter officially despite being in possession of identity documentation and the remaining 5% reported not being in possession of any identity documents and therefore having entered Lebanon through unofficial border crossings. The 29% who reported not being able to enter through official borders despite having the required documents, have expressed the main reasons being: personal safety, fear of military conscription, and fear of arrest.⁷⁵

⁷² S. Kullab, ‘Regulations unclear regarding humanitarian cases: UNHCR’, The Daily Star, Beirut, 2015.

Available from:

<http://www.dailystar.com.lb/News/Lebanon-News/2015/Jan-05/283056-regulations-unclear-regarding-humanitarian-cases-unhcr.ashx> (accessed 4 June 2017).

⁷³ Amnesty International, ‘Lebanon: New entry requirements for Syrians likely to block would-be refugees’.

⁷⁴ S. Kullab, ‘Regulations unclear regarding humanitarian cases: UNHCR’.

⁷⁵ NRC, ‘The Consequences of Limited Legal Status for Syrian Refugees in Lebanon’, Lebanon, 2014, p. 11-12.

Available from:

<https://www.nrc.no/globalassets/pdf/reports/the-consequences-of-limited-legal-status-for-syrian-refugees-in-lebanon.pdf> (accessed 5 June 2017).

5.2 Renewing and Maintaining Residency

Renewing a long term residency permit in Lebanon after the approval of the January 2015 measures has become even more complicated. In order to be allowed long-term residency before May 2015, Syrians must have been registered with UNHCR and signed a “pledge not to work.” Even though being registered with the UN Agency was providing some sort of protection, many were the refugees not willing to be included in the programme due to the need to sign a pledge not to work. The pledge not to work, which was lately replaced by a “pledge to abide by Lebanese law” in July 2016, prevented Syrian refugees from working legally in the country. Discussions are still ongoing as to the implementation of these procedural changes. However, the government has not yet made a public announcement about the pledge to abide by the Lebanese law and therefore most refugees are not aware of the change in policy.⁷⁶

In April 2015, giving the reason that a new mechanism for registration was to be established (*de facto* just enhancing the restrictive measures for the entry and residency of Syrians), the Lebanese Government requested from UNHCR to suspend registering refugees from Syria.⁷⁷ Specifically since 6 May 2015 UNHCR is not conducting any more registration of Syrian refugees.

After stopping the registration of Syrian refugees then, the measures of renewal and maintenance of the residency permit changed consistently. Under the January 2015 residency regulations, refugees applying to renew their residency permits are sorted into two categories: those registered with UNHCR, the United Nations refugee agency, and those who are not and must find a Lebanese sponsor to remain in the country legally. Human Rights Watch found that prohibitive paperwork requirements and fees, combined with arbitrary application of the regulations, effectively bar Syrians in both categories from renewal. Almost all refugees interviewed by HRW said they could not pay the 200\$ annual renewal fee for any Syrian age 15 or over – a prohibitively large sum for most, given that UNHCR reports that 70 percent of Syrian refugees in Lebanon fall below the poverty line and rely on aid to survive. Most refugees told Human Rights Watch that the renewal process is itself abusive and arbitrary. Many refugees registered with UNHCR reported that officials still asked them to provide a sponsor, even though the regulations do not require it. Refugees and aid workers also said

⁷⁶ Interview with the Ministry of Social Affairs by Amnesty International, July 2016, Beirut.

⁷⁷ CLDH, ‘Legal Challenges faced by Refugees from Syria in Lebanon’, p. 11.

that some government employees use the renewal process to interrogate Syrians about security issues.⁷⁸

Collecting all the required documents, paying the fee and even recuperating the identification documents, is considered an almost impossible task for Syrian refugees. Therefore, many usually ended up becoming illegal in the country. “These residency regulations are making life impossible for refugees in Lebanon and are pushing them underground. The last thing Lebanon needs is a large, undocumented community living at the margins of society, at heightened risk of abuse,” Nadim Houry, Deputy Middle East Director, affirmed.⁷⁹

As from the new regulations of 2015, Syrians who have been living in Lebanon for a year or more and have to renew their residency permit are required to pay a fee of 200\$ and provide in addition four other documents, namely: a personal pledge of responsibility signed by the Lebanese sponsor; a housing commitment signed by the landowner indicating where they reside and certified by the local *Mukhtar*; the lease agreement also stamped by a *Mukhtar*; a copy of ID document of the landowner or tenant; their ID or passport; the exit and entry cards. The same rules apply to any Syrian not registered with UNHCR. Being asked to present a pledge of responsibility signed by a Lebanese national means that the Syrian individual should provide him/herself a person holding a Lebanese citizenship who commits to sponsor them. The sponsorship can be provided either for an individual or for a group of Syrians. In this last case, the sponsorship is represented by a pledge of responsibility signed by a registered entity that hires a number of Syrian nationals.⁸⁰ In addition to the pledge of responsibility, Syrians are required to provide proof of residence and other documents from the *Mukhtar*, always along with the 200\$ fee (which is valid as a 6 months’ residency visa and renewable for free for 6 more months).⁸¹

As stated by the United Nations High Commissioner for Refugees, after 2015 the Lebanese Government has also defined the requirements that Lebanese nationals, willing to become a

⁷⁸ HRW, ‘Lebanon: Residency Rules Put Syrians at Risk’, Beirut, 2016. Available from: <https://www.hrw.org/news/2016/01/12/lebanon-residency-rules-put-syrians-risk> (accessed 17 June 2017).

⁷⁹ Ibid.

⁸⁰ Amnesty International, ‘Lebanon. Submission to the UN Committee on Economic, Social and Cultural Rights’, 59th Session, 2016, p. 10. Available from: <https://www.amnesty.org/en/documents/mde18/4435/2016/en/> (accessed 10 June 2017).

⁸¹ UNHCR, ‘Q&A on New Entry & Renewal Procedures for Syrians in Lebanon’, 2016. Available from: <https://www.refugees-lebanon.org/en/news/35/qa-on-new-entry--renewal-procedures-for-syrians-in-lebanon> (accessed 5 June 2017).

sponsor, should fulfill. In particular he/she will be requested to undertake specific obligations which vary depending on the purpose of entry for Syrian nationals. Specifically the entry in the country can be related to reason of visit, work or not for work purposes. With regard to the case of Syrian refugees, usually the entry is related either to reason of work or not for work and therefore we will only analyse these two cases. In the event of a request of entry for work, the Lebanese sponsor should sign a pledge of responsibility at the General Security Office (GSO) and pay a fee of 200\$ per person above 15 years old, valid for a 6 months residency permit. In addition the sponsor is required to apply for a work permit from the Ministry of Labor. In the case of an entry not for work, the sponsor should also sign a pledge of responsibility at the GSO and pay the fee of 200\$ per person above 15 years old. The difference consists in the fact that he/she is not requested to apply for a work permit and therefore the Syrian national will not be able to work in the country.⁸² The Lebanese national (including his family members) can only sponsor one Syrian national and his/her family unless the Lebanese sponsor is a business company. In that event, he/she can sponsor more than one Syrian and family at a time. In addition to all these procedures, the GSO is expected to conduct an investigation to verify the need of the sponsor for Syrian workers.

Before January 2015 Syrian nationals with expired residency permit were asked to leave the country before they could renew. They would briefly leave the country and then return back. Respondents from the Beqaa region, for example, used to go directly to the border in order to renew their legal residency permit because it was cheaper and easier to reach. They stopped due to fear of arrest and harassment on the way back by both Lebanese nationals and authorities. After 2015, instead, due to the change in renewal regulations and the enhancement of border controls, Syrian refugees have stopped this practice.

Given the particular status that Syrian nationals hold after the outbreak of the war, namely being considered as refugees and not as mere migrant workers, the request of leaving the country of Lebanon in order to re-apply for an entry visa clearly violates the principle of *non refoulement* to which Lebanon is bounded.⁸³

5.3 Palestinian Refugee from Syria (PRS)

The population of Palestinian Refugees from Syria is economically vulnerable. Their

⁸² Ibid.

⁸³ CLDH, 'Legal Challenges faced by Refugees from Syria in Lebanon', p. 14.

livelihood status differs from the general Syrian refugees. By law, Palestinian refugees from Syria do not enjoy the same rights of employment as Syrians. Moreover, unlike Syrians, Palestinian refugees from Syria “lack the informal social networks related to employment” that Syrians have managed to build as foreign labourers. Unemployment rates among the Palestinian refugees from Syria is very high (around 90 per cent) with strict legal restrictions imposed on their employment and mobility. The majority have no Lebanese income and the few that are employed (10 per cent) work as labourers, with wages typically ranging between 100\$ to 300\$ per month. Women make up only 10 per cent of those employed. Finally, and most importantly, PRS are not served by the UNHCR but rather by UNRWA, United Nations Relief and Works Agency for Palestine Refugees in the Near East, which suffers from prolonged under-funding and poor resources.⁸⁴ Established by the UN General Assembly in December 1948, this Agency provides assistance to Palestine refugees in Jordan, Lebanon, Syria and Israeli-occupied territories. It must be noted, however, that when Palestinian refugees are outside the UNRWA area of operations, they fall within UNHCR’s mandate, like any other refugee.

Chapter 6. Consequences of 2015 Regulations of Legal Status

The Syrian refugee crisis in Lebanon worsened in 2014 and as a response, the Lebanese authorities began to develop methods of controlling the entry of Syrian nationals into the country. When the country’s General Directorate of State Security published a list of circumstances in which Syrian nationals may be granted entry, the concept of “pledging responsibility” became commonplace in addition to the already existing employer sponsorship. The consequence of this request is that Syrian nationals’ legal presence in the country is very much tied to the will of the Lebanese individual sponsoring them or pledging responsibility for them. Therefore, the sponsorship concept transformed work relations and came to be applied to more general forms of social relations, including “guest-host” relation.

⁸⁵ Regardless of their legality, these measures have differentiated Syrians present in Lebanon into three groups which are specifically: Syrians who are financially well-off and can use their capital or their real estate in Lebanon to meet residency requirements; Syrians who

⁸⁴ ILO, ‘Assessment of the Impact of Syrian Refugees in Lebanon and their Employment Profile’.

⁸⁵ N. Saghieh, ‘Manufacturing Vulnerability in Lebanon: Legal Policies as Efficient Tools of Discrimination’, Legal Agenda, 2015. Available from: <http://legal-agenda.com/en/article.php?id=3068> (accessed 5 June 2017).

successfully legalize their status through Lebanese sponsors, whom sponsors however gain the right to control the legal status of these Syrians in Lebanon and therefore, the ability to exploit them; and Syrians who are totally unable to enter Lebanon or stay in the country lawfully. The latter group remain unregistered and invisible to the Lebanese authorities and as a result are extremely vulnerable. Being unable to enjoy the most basic rights due to fear of prosecution, they are susceptible to the worst forms of abuse and exploitation.

These measures demonstrate, as Nizar Saghieh proposes in her analysis, that the Lebanese authorities have adopted a policy that can rightly be called “manufacturing vulnerability”. The aim of this policy, which seeks to bring the numbers of refugees down, results in the deprivation of various groups of their fundamental rights in order to reject their presence and facilitate their exploitation.⁸⁶ In this regard, a high number of Syrians interviewed by different NGOs stated that they have not been able to renew their legal residency permit because the person who offered to sponsor them suddenly refused, without providing any valuable explanation. Those beneficiaries have reported to a local NGO that they were often victims of exploitation from their sponsors, who used to confiscate their ID documents, promise to pay for their sponsorship and eventually fail to, or change their mind without providing explanations. Furthermore, the cost of the sponsor is a currently reported issue by the interviewed Syrian refugees: in fact the total cost of a legal permit renewal per individual, including the 200\$ fees, the expenses for the necessary documents and for the sponsor, ranges between 600\$ and 1400\$.⁸⁷

Because of the new requirements for entry and residency in Lebanon and the high costs of the whole procedure, refugees often adopt mechanisms which often lead them to added risks. Some of these measures adopted by Syrian refugees, whose permits have expired or who have entered Lebanon irregularly, are: returning to Syria and trying to re-enter Lebanon through an official border crossing in order to get another entry visa free of charge; paying high prices for retrieving identity documentation from Syria; buying fake documentation; or just using other people’s documents.

Because of the high cost of the visas, many families prioritise the renewal of the residency only for the main income-earner in the family, usually a male member of the household. This often leaves the other members of the family without legal stay documentation. The

⁸⁶ Ibid.

⁸⁷ CLDH, ‘Legal Challenges faced by Refugees from Syria in Lebanon’, p. 18.

unaffordable cost of visas is therefore considered one of the main reasons why they are not able to normalise their stay in the country.⁸⁸

6.1 Rejection of Presence

While border management and control of the national territory remain central elements in the policy of the Lebanese Government, almost 70% of Syrian refugees in the country do not hold a valid legal stay due to increasing restrictions and greater obstacles. This situation leaves them subject to harassment and violence, and considerably restricts their freedom of movement, searching for employment and enjoying decent livelihoods.⁸⁹

Besides international cooperation, methodical and indirect measures have been implemented by the Lebanese government intending to reject and exclude Syrian refugees.

In May 2014, for instance, the government imposed new border restrictions on Palestinian refugees coming from Syria. Under the new regulations, 40 Palestinian refugees in Lebanon were forced to return to Syria while those PRS who were attempting to enter Lebanon through an official border were denied entry.⁹⁰

Moreover, the Ministry of Interior announced that the Lebanese Government should no longer consider Syrian refugees who go back to Syria for short visits as refugees. In August of that year the Council of Ministers announced that all Syrians without legal residency status, namely those willing to return to their country, would be exempt from overstay fines until the end of 2014. Such a step would encourage those willing to return to Syria to do so without the challenge of covering the fines.⁹¹

During an interview conducted by the BBC in September 2016, the Interior Minister's adviser for Municipal Affairs stated that: “it is an illegal move [to encourage refugees to return to Syria] but reality is one thing and the law is another. Our role is to balance the reality of people's fears against the law. We're always looking for the middle ground.”⁹²

⁸⁸ Forced Migration Review, ‘The Syria crisis, displacement and protection’, Issue 47, University of Oxford, Refugee Studies Center, 2014, p. 17. Available from:

<http://www.fmreview.org/sites/fmr/files/FMRdownloads/en/syria/syria.pdf> (accessed 5 June 2017).

⁸⁹ C. Healy, ‘Desperation leaves Syrian refugees open to exploitation’, ICMPD, 2015. Available from: <https://www.icmpd.org/news-centre/news-detail/desperation-leaves-syrian-refugees-open-to-exploitation/> (accessed 5 June 2017).

⁹⁰ Amnesty International, ‘Denied refuge Palestinians from Syria seeking safety in Lebanon’, 2014. Available from: <https://www.amnesty.org/en/documents/MDE18/002/2014/en/> (accessed 29 April 2017).

⁹¹ UNHCR, ‘UNHCR Lebanon Protection Update’, 2014.

⁹² R. Ruhayem, ‘Syrian refugees living in fear as Lebanon tightens its laws’, BBC News, Beirut, 2016. Available from: <http://www.bbc.com/news/world-middle-east-37260994> (accessed 17 May 2017).

On the basis of security issues municipal police have been repressing Syrian refugees while local authorities have been imposing curfews and restriction of movements. Ghida Frangieh, a lawyer working with the non-governmental organisation Legal Agenda, said that municipalities had no authority to impose curfews, either on Lebanese citizens or foreigners. Yet municipalities across the country have persisted in this practice with no consequences. As noted by Human Rights Watch and the Norwegian Refugee Council, the implementation of forced curfews by the municipalities violates not only human rights but also Lebanese domestic law.⁹³ The law of municipalities stipulates that municipal police are responsible for ensuring security in their respective jurisdictions with the support of the Internal Security Forces. However, the law does not adequately delineate the respective roles of the Ministry of Interior and Municipalities (MOIM). As asserted by the Minister of Interior, municipalities do not have the legal ground to enact security measures without coordination and approval by the MOIM. Especially when these measures disobey the authority of the Internal Security Forces (ISF).⁹⁴ However, security forces frequently carry out raids inside refugee camps. This practice usually results in mass arrests that eventually turn into detention. Syrian refugees are not able to access a court of law because of the lack of legal status and therefore they are automatically detained. The time intercurring between the detention and the final release can vary from a few hours to days or even weeks. The main reason behind this practice of conducting raids in the camps is usually cloaked by claims of security threats and the fight against terrorism. In August 2016, as The Daily Star reported, the Lebanese Army raided a Syrian refugee camp in the area of Masharih Al-Qaa, the same area where eight suicide bomb attacks happened in June of that same year, only a few kilometers from the Syrian border. Also, in February 2017, security forces raided a camp located off the Siniq River in the southern city of Sidon. As reported by the newspaper, seven Syrian nationals were taken into custody on suspicion of residing in Lebanon illegally and having expired work permits. The arrested suspects were given a grace period to register or renew their paperwork or face

⁹³ HRW, 'Lebanon: At Least 45 Local Curfews Imposed on Syrian Refugees', 2014. Available from: <https://www.hrw.org/news/2014/10/03/lebanon-least-45-local-curfews-imposed-syrian-refugees> (accessed 29 April 2017).

⁹⁴ The Daily Star, 'Aley vigilantes enforce night time curfews on Syrians', 2013. Available from: <http://www.dailystar.com.lb/News/Local-News/2013/Apr-08/212903-aleyvigilantes-enforce-nighttime-curfews-on-syrians.ashx#axzz2PrAPqCUB> (accessed 25 April 2017).

detention due to security concerns.⁹⁵ The Lebanese military involvement was justified from one side as a precautionary measure, and from the other as a necessity to “inspect the camps, confiscate weapons, and round up suspects and terrorists.” Different sources interviewed by the local newspaper had opposing opinions regarding the real motive behind the conducted raids.⁹⁶

A high protection concern for Syrian men, particularly, was detected in many parts of the country. Syrian labourers, some of whom have families registered with UNHCR, are subjected to discrimination by citizens and municipal police officers.⁹⁷ “They raided the compound, searched houses and rounded up 45 of us”, one young man living in the Abo Majed Camp told me while I was interviewing Syrians living in Beqaa. “They keep Syrians and especially young people for hours or days in their detention centers and then release them without giving back their personal documents”, he continued, “ and in this way, they ensure that those youth are not able to go anywhere”.

Usually in these situations they are released soon after being detained, but the insecurity of living illegally affects every aspect of their lives.⁹⁸

The reality for refugees is that the residency policy, coupled with the arrangements imposed by municipalities, have left Syrians defenceless and at a continuous risk for their livelihood. Because of a general tendency to blame refugees collectively for security problems, Lebanese security forces often adopt abusive and invasive measures for checking on Syrians. This increases their vulnerability and worsens their already precarious situation.

6.2 Facilitating Exploitation

Research has furthermore confirmed that limited legal status for Syrian refugees increases the risk of abuse and exploitation, and decreases their ability to seek redress and access to the justice system.⁹⁹ These same risks are arguably embedded in the sponsorship system for

⁹⁵ The Daily Star, ‘Security forces raid Syrian makeshift camps’, Pressreader, Lebanon, 2017. Available from: <https://www.pressreader.com/lebanon/the-daily-star-lebanon/20170207/281625305041351> (accessed 5 June 2017).

⁹⁶ G. Obeid, ‘Army raids Syrian refugee camps Masharih Al-Qaa home to large number of people who fled the conflict’, The Daily Star, Pressreader, Lebanon, 2016. Available from: <https://www.pressreader.com/lebanon/the-daily-star-lebanon/20160806/281565175143799> (accessed 5 June 2017).

⁹⁷ ALEF., “Two Years on: Syrian Refugees in Lebanon”, p. 26.

⁹⁸ R. Ruhayem, ‘Syrian refugees living in fear as Lebanon tightens its laws’.

⁹⁹ NRC, ‘The Consequences of Limited Legal Status for Syrian Refugees in Lebanon’, Beirut, 2014. Available from:

Syrian nationals, which seemingly builds upon Lebanon's system of sponsorship for other migrants. Under the pretext of sponsorship, Syrian refugees can thus be subject to Government-sanctioned exploitation.¹⁰⁰

Characteristic of this *Kafala* or sponsorship system is that the legal relationship between employer and employee "appears most analogous to a parent and child, or alternatively, master and slave or servant".¹⁰¹

Refugees in Lebanon seeking to renew their residency are frequently questioned about whether or not they have been working. When faced with a rejected residency application, they are forced to search for a sponsor instead. Moreover, it seems that after the entry into force of the new regulations in 2015, many are the attempts to prevent Syrian refugees from renewing their permits of stay. The Lebanese Municipalities and the General Security employees in charge of the refugees matter, have often been detected applying discriminatory rules. Some of the examples can be tracked in the direct experience of Syrian refugees who either live in the capital or in the camps.

Abu Talal, 58 years old, who I interviewed in the refugee camp of Allowies in the Beqaa, for instance, has tried several times to go to the General Security's Office (GSO) in order to renew his expired UN papers. However, once arrived at the office he was denied the renewal on the basis of his age. He was specifically told that because he was not yet 60 years old he should have waited 2 more years before being able to renew his papers and in the meantime it would have been advisable for him to secure a *kafeel*. There is no legal basis that allows these kind of discriminatory treatment, nor there is any GS directive that states the necessity to be 60 years old in order to renew the permit of stay. Clearly enough, this approach tends to confuse Syrian refugees, who are never sure about the possibility to renew their papers, and avoid regularising refugees in Lebanon.

As reported by the NRC during my interview, lately in time the General Security has been implementing another unfair practice, known informally as the practice of "checking hands." This practice seems to consist in rejecting the renewal of papers to those Syrians who are "young enough" to work. It is obviously unclear what "young enough" means, but refugees

<https://www.nrc.no/globalassets/pdf/reports/the-consequences-of-limited-legal-status-for-syrian-refugees-in-lebanon.pdf> (accessed 10 June 2017).

¹⁰⁰ Janmyr, p. 75

¹⁰¹ M. Kagan, 'We live in a country of UNHCR' The UN surrogate state and refugee policy in the Middle East', Research Paper No. 201, UNHCR, Geneva, 2011. Available from: <http://www.unhcr.org/4d5a8cde9.pdf> (accessed 10 June 2017).

have reported to the NRC that those between the age of 15 and 35 are often denied the renewal of papers. This denial is based on the GS assumption that these refugees are young and strong enough to work and therefore do not need to renew their papers but instead should secure themselves a sponsor. This practice clearly violates any international and national law and leave Syrian refugees at the mercy of GS employees. 28 years old, Mohammed from the same Allowies camp, has faced this experience. When going to the GS to renew his residency permit he was firstly physically checked and then denied the renewal. The basis for this denial were based on the assumption that his hands were “ruined” and therefore were showing that he was working. Because of this assumption, he was told to find a *kafeel* and work for him.

While Lebanon publically adheres to the principle of *non-refoulement*, it has been argued that the country evades this principle by also engaging in what it is called a practice of “legal deportation”. This consists of the issuance of deportation orders and informing refugees they must leave Lebanon immediately.¹⁰² As a practical example, Mohammad, a 27-year old student living in Beirut, experienced this while renewing his residency permit in May 2017. “I was told I should have found a sponsor and because I had an issue with one of those, at the moment of the renewal I did not have one. They gave me a card for exiting Lebanon and asked me to leave the country before 10 days. It was valid for just 10 days [leave Lebanon in 10 days]. Until now it’s the same thing, I have no papers or anything. I hope I will find a sponsor soon”.¹⁰³

This practice has been explained by a Government official to be a middle ground: “Sometimes compromises have to be done: one example is the issuance of deportation orders for illegal residency – the CAT [Convention against Torture] says we cannot deport, but our law requires it. So we do not deport but we issue deportation orders. This way we are respecting our own national laws but not breaching our international obligations”.¹⁰⁴

In Article 3.1 of the CAT, one can note that “No State Party shall expel, return (*refouler*) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture”.¹⁰⁵ Lebanon has not yet ratified the CAT but

¹⁰² G. Frangieh, ‘Lebanon Places Discriminatory Entry Restrictions on Syrians’, The Legal Agenda, 2015. Available from: <http://legal-agenda.com/en/article.php?id=679&lang=en> (accessed 22 May 2017).

¹⁰³ Ibid.

¹⁰⁴ Janmyr, p. 73.

¹⁰⁵ *Convention against torture and other cruel, inhuman or degrading treatment or punishment. Adopted by the General Assembly of the United Nations on 10 December 1984*, No. 24841, p. 115. Available from:

has acceded it in 5 October 2000. However, as stated previously by a government official, the Lebanese law affirms that irregular migrants, asylum seekers, and refugees should be charged with violations of Lebanese criminal law on account of their irregular status.¹⁰⁶

Article 8 of the Lebanese Constitution provides that "No one may be arrested, imprisoned, or kept in custody except according to the provisions of the Law. No offense may be established or penalty imposed except by Law."

The domestic legislation that governs refugees in Lebanon is essentially the *Law Regulating the Entry and Stay of Foreigners in Lebanon and their Exit from the Country*, which was enacted in 1962 and contains provisions for the treatment of irregular immigrants, refugees, and asylum seekers. The relevant provisions of this Law are articles 26, 31, and 32. Article 26 stipulates that: "Any foreigners who is subject of pursuit or has been convicted for a political crime by a non-Lebanese authority or whose life or freedom is threatened because of political considerations may ask for political asylum". Article 31 stipulates that: "If a decision to expel a political refugee has been made it is not permissible to deport such refugee to the territory of a state where his life or freedom are not secured". Pursuant to Article 32, foreigners who entered Lebanon illegally can be imprisoned for one month to 3 years and/or fined.¹⁰⁷

Even if seeking asylum then, as stated in Article 32, criminal charges and penalties, including imprisonment, are applied to those convicted of entering Lebanon without authorization.

Interestingly enough, it seems that Lebanese Law does not provide a specific framework concerning the practice of administrative detention for non-citizens in an irregular status. Lebanon employs this system with regularity. The only reason provided in the Law that leads to the administrative detention of a non-citizen is a threat to national security or public safety. Quoting the words of the Global Detention Project in the field of Lebanese Immigration Policies, "according to Article 18 of the Law of Entry and Exit, the director general of General Security is authorised to detain a foreigner with approval of the public prosecutor until his/her deportation". Moreover, as defined in Article 17: "a removal order can be issued

<https://treaties.un.org/doc/Publication/UNTS/Volume%201465/volume-1465-I-24841-English.pdf> (accessed 5 June 2016).

¹⁰⁶ Global Detention Project, 'Lebanon Immigration Detention Profile', 2014. Available from: <https://www.globaldetentionproject.org/countries/middle-east/lebanon> (accessed 5 June 2017).

¹⁰⁷ Library of Congress, 'Refugee Law and Policy: Lebanon', 2016. Available from: https://www.loc.gov/law/help/refugee-law/lebanon.php#_ftn5 (accessed 5 June 2017).

to a non-citizen on the grounds that his/her continued presence is a threat to general safety and security”. However, no standard policy is given with respect to the detention and criminal prosecution of non-citizens who cross Lebanese borders in an irregular manner. According to the Lebanese Institute for Democracy and Human Rights, most Syrian refugees do not enter through legitimate border crossings and are thus susceptible to arrests, trials, and violations. Lawyers at the institute have argued that “some judges in Lebanese criminal courts even issue verdicts against Syrian refugees for violating Lebanese residency regulations or other legal grounds and some Attorney General Offices have begun to refer refugees to criminal courts”.¹⁰⁸ Asylum seekers are reportedly frequently subject to the same treatment as irregular migrants. In its submission to the UN Universal Periodic Review mechanism, UNHCR reported that long-term detention of refugees, including children, was common in Lebanon. Several cases where multiple arrests and trials were carried out for “illegal entry” offences were in blatant violation of Article 182 of the Penal Code, which states that a person shall not be tried more than once for the same offense. Former detainees, including refugees and undocumented migrants, reported ill treatment by security forces during arrest and incarceration.¹⁰⁹

Syrians are facing discrimination, mistreatment and are heavily exposed to many forms of exploitation, given their lack of legal status in primis and their qualification of refugees. From the Government side but also from Lebanese citizens, Syrians have been mistreated and abused and one of the clearest examples of this mistreatment is perpetuated by the sponsorship system.

Chapter 7. The *Kafala* System

The *Kafala* (Sponsorship) System emerged in the 1950’s to regulate the relationship between employers and migrant workers in many countries in West Asia. It remains the routine practice in the Gulf Cooperation Council (GCC) countries of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates (UAE), and also in the Arab states of Jordan and Lebanon. The sponsorship system’s economic objective was to provide temporary, rotating

¹⁰⁸ Global Detention Project, ‘Lebanon Immigration Detention Profile’.

¹⁰⁹ Ibid.

labour that could be rapidly brought into the country during economic booms and expelled during less affluent periods.¹¹⁰ Under the *Kafala* system a migrant worker's immigration status is legally bound to an individual employer or sponsor (*kafeel*) for his/her contract period. The migrant worker cannot enter the country, transfer employment nor leave the country for any reason without first obtaining explicit written permission from the *kafeel*. The worker must be sponsored by a *kafeel* in order to enter the destination country and remains tied to this *kafeel* throughout his/her stay. Often the *kafeel* exerts further control over the migrant worker by confiscating his/her passport and travel documents. This situates the migrant worker as completely dependent upon his *kafeel* for his/her livelihood and residency. The power that the *Kafala* system delegates to the sponsor over the migrant worker has been likened to a contemporary form of slavery. "Contemporary slavery", is from definition: "the complete control of a person, for economic exploitation by violence or the threat of violence."¹¹¹ A linking factor between the varied forms of contemporary slavery is the role that poverty plays in creating vulnerability. As stated in one of the last reports of The Freedom Fund: "Syrian refugees in Lebanon find themselves in an increasingly desperate situation, struggling to survive and vulnerable to myriad forms of exploitation, including slavery and trafficking".¹¹²

The sponsorship serves a social purpose by emphasizing the temporary nature of a migrant worker's presence in the country, so that even if the worker is present for a long time he/she doesn't acquire the rights of citizenship. In all the GCC countries and also in Lebanon, the Ministry of Interior rather than the Ministry of Labour is responsible for managing migrants' employment in addition to the sponsor. This structure contributes to the securitisation of migration and denies migrant workers the protection of domestic labour laws and the opportunity to enter a labour dispute process to address complaints.¹¹³

During the migrants' stay on the Lebanese territory, he/she remains under the sponsorship of that person or entity. When the sponsorship is terminated, so too is the right to remain legally in the country.¹¹⁴

¹¹⁰ Migrant Forum in Asia, 'Reform of the Kafala (sponsorship) System', Policy Brief No. 2, 2017, p. 1. Available from: <http://www.ilo.org/dyn/migpractice/docs/132/PB2.pdf> (accessed 5 June 2017).

¹¹¹ J. Guay, 'The Economic Foundations of Contemporary Slavery', *Human Rights & Human Welfare Journal*, University of Denver, 2008, p. 72. Available from: <http://www.du.edu/korbel/hrhw/researchdigest/slavery/economic.pdf> (accessed 10 June 2017).

¹¹² The Freedom Fund, 'Struggling to survive: Slavery and exploitation of Syrian refugees in Lebanon', p. 5.

¹¹³ Ibid.

¹¹⁴ Caritas Lebanon, 'Legal Protection for migrant workers and refugees', Beirut, 2016, p. 2. Available from:

Ironically, the *Kafala* system is based on an ancient Bedouin idea of protecting foreign guests. In practice, though, the *Kafala* system gives a disproportionate level of power to the employer. Abuses are therefore very frequent and those sponsored have little recourse to claim their rights.¹¹⁵

As previously described, the sponsorship system is a common long-lasting practice applied in Lebanon in relation to the issue of migrant domestic workers (MDW), but the *Kafala* system for Syrian refugees comprises, instead, a different category of foreigners and a different legal status as well. Therefore it seems useful at this stage to analyse the similarities/differences interconnecting between the two cases.

The sponsors of MDW are expected to assume financial and legal responsibility for their workers while they are present in the country. That means, as stated in one of the reports published by the Lebanese NGO Kafa (enough) Violence & Exploitation, that the migrant worker cannot enter the country, transfer employment nor leave the country for any reason without first obtaining explicit written permission from his/her *kafeel*.¹¹⁶ This fact seems to correspond to the case of Syrian refugees where the relationship between *kafeel* and sponsored is the one of total dependency and lack of liberty. As the same NGO reported in another publication interviewing several legal experts on the issue of the *Kafala*, “the sponsorship system is not a legal system rooted in one specific law but rather a combination of different regulations that comprise the sponsorship system itself”. Some of these legal provisions may be found in the 1962 Foreigner’s Law, the 1949 Labor Law, the 1932 General Contractual Obligations Law, and the Lebanese Penal Code.¹¹⁷

More in practice though it seems that the sponsorship system consists of General Security regulations accompanied by requirements issued by the Ministry of Labor.

7.1 The Sponsorship system for Syrian refugees

Starting from April 2015 the entry and stay in the country is totally relegated to the figure of the sponsor. Both in the cases of “entry for work” and “entry not for work,” the applicant should sign a pledge of responsibility at the General Security Office (GSO) and pay a 200\$

<http://english.caritasmigrant.org.lb/wp-content/uploads/2014/11/Legal-Protection-for-Migrants-Refugees.pdf> (accessed 10 June 2017).

¹¹⁵ Ibid.

¹¹⁶ Migrant Forum in Asia, ‘Reform of the Kafala (sponsorship) System’.

¹¹⁷ K. Hamill, ‘Trafficking of Migrant Domestic Workers in Lebanon A Legal Analysis’, KAFA, Beirut, 2011. Available from: <http://www.kafa.org.lb/studiespublicationpdf/prpdf37.pdf> (accessed 5 June 2017).

per person above 15 years old fee for a 6 months residency permit for the persons and their family. The sponsor should apply for a work permit from the Ministry of Labor in case requested.¹¹⁸ Syrian refugees already residing in the country and who have been registered with UNHCR before January 5th can renew their residency permit without having to secure a Lebanese sponsor. They are required to pay a fee of 200\$ per person above 15 years of age and provide select documents (ID, previous entry cards, pledge not to work, housing commitment signed by the landowner or tenant, lease agreement stamped by a *Mukhtar* certifying that the landowner or tenant is the signatory to the housing commitment, Copy of ID document of the landowner or tenant, 3 photos and 3 copies of the above documents). Those who did not register with UNHCR previous the 5 of January 2015 can only renew their residence if they secure a Lebanese sponsor and pay the annual renewal fee of 200\$ per person above 15 years of age.

The results of the latest research carried out by the Lebanese Centre for Human Rights in 2016 shows that despite and because of the regulations implemented in 2015, which require sponsorship for workers and the “pledge not to work” for refugees registered with UNHCR, the majority of Syrian refugees who can manage to work, work illegally and go against the Lebanese decision.¹¹⁹ The pledge not to work for those refugees registered with UNHCR firstly leads to Syrians being completely dependent on aid assistance and at an increased risk of not accessing work opportunities, with the aggravating circumstance of being pushed towards informal and exploitative labour.¹²⁰ Indeed, the pledge comes in addition to a general reluctance to grant work permits. Syrians in Lebanon are currently only permitted to work in three sectors: agriculture, construction, and environment (formerly referred to as “cleaning”). The reason behind this constraint is that: “these are the chosen fields because Lebanon views these fields as necessary and because Syrians are experts in these fields,” a Government representative stated.¹²¹

Historically Syrians have always been employed in the illegal market in Lebanon, especially working in construction and agriculture. They have always represented a significant

¹¹⁸ UNHCR, ‘Q&A on New Entry & Renewal Procedures for Syrians in Lebanon’.

¹¹⁹ Ibid.

¹²⁰ Inter-agency Coordination Lebanon, ‘Livelihoods Sector: Mid-Year Dashboard: June 2015’, United Nations Development Programme, 2015. Available from: <http://reliefweb.int/report/lebanon/education-sector-mid-year-dashboard-inter-agency-coordination-lebanon-june-2015> (accessed 5 June 2017).

¹²¹ Janmyr, p. 9.

workforce, constituting between 20 to 40 per cent of the total Lebanon's labour force. The difference, now as refugees and not migrant workers, results in having limited legal status which increases the risk of abuse and exploitation, and decreases their ability to seek redress and access justice.¹²² Sponsors, employers, citizens and any other Lebanese actor can represent a threat for their safety, where the use of violence, threats, debt bondage and coercion against them can easily go unpunished. Therefore we can safely assume that new regulations seem to make Syrian refugees more vulnerable within an informal economy.

Overall the new procedures for renewal of residency permits are so onerous and expensive that many people are unable to complete them. The difficulty in collecting all the required documents, the cost of the procedure and the volatility of the sponsorship system, which is very much relegated to the informal level, do not allow many Syrians to regularise their stay.

After an interview conducted by myself with the Specialist on International Legal Counseling Assistance (ICLA) of the Norwegian Refugee Council (NRC), Mrs Tina Gewis, I was informed that lately the NRC has been detecting an increased tendency in pressuring Syrians towards sponsorship and an overall refusal of delivering residency permits.¹²³ The first problem resulting from pushing Syrians to secure a sponsor, is the informal fee that they are asked to pay to the person in charge of their sponsorship. Human Rights Watch discovered that some Lebanese nationals charge refugees up to 1,000\$ for sponsorship and moreover the General Security, in many cases, requires sponsorship even for refugees registered with UNHCR.¹²⁴

A second issue identified by the NRC is the fact that many Syrians end up asking to be sponsored by their landlords or employers because not all of them have connections with Lebanese individuals. Therefore, the risk is to be bound by a double submissive relationship: if any trouble occurs between the two parts, Syrians are constrained on the legal side and on the housing/work side as well.

Being compelled to the same person for various aspects of refugees' lives, allows for an increase in abuse and exploitative measures.

¹²² NRC, 'The Consequences of Limited Legal Status for Syrian Refugees in Lebanon', Beirut, 2014. Available from: <https://www.nrc.no/resources/reports/the-consequences-of-limited-legal-status-for-syrian-refugees-in-lebanon/> (accessed 5 June 2017).

¹²³ Interview with Tina Gewis, ICLA Specialist, Norwegian Refugee Council, Beirut, 3 May 2017.

¹²⁴ HRW, 'Lebanon: New Refugee Policy a Step Forward. Open the Door to Legal Status for All Syrian Refugees', Beirut, 2017. Available from: <https://www.hrw.org/news/2017/02/14/lebanon-new-refugee-policy-step-forward> (accessed 5 June 2017).

A related issue that appears to be soon challenged in Lebanese courts is the extension of the *Kafala* system for Syrian nationals. Several lawyers have pointed out that the application of this system to Syrians is a breach of domestic law as it, on the one hand, breaches the previously mentioned bilateral agreement with Syria, and, on the other, has no legal basis whatsoever.¹²⁵

Through my conducted research, I have found that the *Kafala* system for Syrians is often assimilated to the one of MDW. Some of those workers I interviewed seemed all the more sceptical towards the idea of a sponsorship system for Syrian refugees. Being very much relegated to the informal level, the sponsorship system allows for misinterpretation and misunderstanding. This is the reason why, when asked about the *Kafala* for Syrian refugees, some workers were sure that only UNHCR was taking care of them. Some were reluctant to accept the idea that Lebanese nationals could be engaged in exploitative practices and take advantage of the position of vulnerability of Syrian refugees in the country while others were simply convinced that the sponsorship system was just helping refugees entering and residing in the country legally.

It seems that many are not aware yet of the consequences of the sponsorship system and are reluctant in facing the exploitative nature of the system. The *Kafala* system for Syrians is not something that we can compare with the *Kafala* for MDW. The main difference is due to the reason behind the implementation of this system. In the case of MDW the motive is a mere working necessity while for Syrian refugees the idea behind the sponsorship concerns the so called “security issue”. It seems that after the outbreak of the Syrian war and the birth of the Islamic State, many Syrians moving to Lebanon have been identified as dangerous terrorists. Some of them were detected hiding inside the refugee camps and from there organising attacks. The security concern deriving from the Syrian conflict increased as radical Islamists set off car bombs in several neighbourhoods in Beirut from July 2013 until January 2014, killing innocent people and injuring hundreds.¹²⁶ When asked about their perception of security, Lebanese nationals identified as major concerns: physical insecurity (96%), the war in Syria (95%), the threat of Syrian refugees (91%) and Israel (88%). Lack of security, terrorist acts, basic living needs, unemployment and risk of civil wars were also identified as

¹²⁵ Ibid.

¹²⁶ H. Wannis, ‘Security Threat Perceptions in Lebanon’, International Alert, 2014. Available from: <http://www.alnap.org/resource/20115> (accessed 17 June 2017).

challenges to safety and security in the survey conducted by International Alert.¹²⁷

For these reasons, the need to track the movements and verify the identities of Syrians entering the country has increased later in time. The sponsorship system is therefore conceived as a tool for assuring that those Syrians, claiming to be refugees, do not constitute a threat for the Lebanese national security.

Under the sponsorship system, Lebanese citizens are responsible for monitoring the Syrians they sponsor, turning into what Nizar Saghieh define as “security auxiliaries”. Tying a Syrian national’s legal presence in the country to the will of the Lebanese individual sponsoring him/her, is a tool to manage the Syrian refugees’ presence and ensure the movement of people who can be easily tracked by the government. The sponsorship system helps strengthen the security forces’ ability to monitor migrants by “forcing the sponsor to cooperate with the authorities, to report resignations, and perhaps even to prosecute the workers themselves.”¹²⁸ On the pretext of security threats, the government seems to turn Lebanese sponsors into “guardians of national security” allowing them to adopt any kind of measure, no matter how exploitative it is.

7.2 The Sponsor and the Figures of Authority

Increased formalisation leads to increased dependency within work relations. This has been mainly expressed in relation to three main figures of “authority;” the landlords, the *shawish* (the chief of the refugee camp), and the *kafeel* (sponsor). These authorities represent a threat for Syrian refugee and often their relationship is based on mistreatment and exploitation.

As journalists from Reuters affirmed: “We have received reports of alleged abuse by landlords such as bribes and labor in exchange for signing the housing commitment.” This happened to Amer, a 31-year-old Syrian who works in a restaurant in Beirut. He lives in a two bedroom apartment with four others and has been unregistered for three months. When he asked the landlord to sign a rental contract, the latter replied: “I can't do it, if I sign a rental contract, I will have to pay the municipality and taxes, it will cost me. Or you can pay me double the rent.”¹²⁹ Most of the money which refugees are able to collect is usually paid right

¹²⁷ Ibid.

¹²⁸ N. Saghieh, ‘ Manufacturing Vulnerability in Lebanon: Legal Policies as Efficient Tools of Discrimination’.

¹²⁹ O. Holmes, ‘New restrictions in Lebanon mean Syrian refugees live in fear’, Reuters, Beirut, 2015. Available from: <http://www.reuters.com/article/us-mideast-crisis-lebanon-refugees-idUSKBN0N819Z20150417> (accessed 18 May 2017).

back to the landlord in the forms of rent and other necessary expenses. Particularly in the cases of refugees living in informal settlements, landlords exert power when rent cannot be paid, knowing that Syrian refugees are not able to move to another place.

The second figure of authority is the *shawish* who is usually a Syrian refugee acting as a mediator between the landowners, the refugees, NGOs, and security services.¹³⁰ This individual may sometimes force people, including women and children, to work somewhere inside the refugee camp, especially in the fields but also in the shops or farms. In return, Syrians do not have to pay the rent but instead their salary is paid through the *shawish* (who gets a percentage of their salary). Controversially enough, the *shawish* is also the person who protects many Syrians against being fired or not getting paid, while also being responsible for aid distribution from NGOs. Most of the time Syrians do not feel forced to work because the *shawish* is “one of them” and he is the one capable of negotiate with the authorities.¹³¹ According to an ILO interviewee, the *shawish* will then receive the child’s wages from the employer before returning a portion to the child. Not only involved in child labour though, the *shawish* takes a large proportion of refugees payment in lieu of rent. In other words, working in the fields is a condition of living on that land and the refugee has no choice but to participate.¹³² Refugees are therefore forced to maintain a positive relationship with their *shawish*. It is unlikely to find Syrians ready to accuse their *shawish* because he is the one often responsible for their, or their children's employment. This reluctance in denouncing harassments and abuses conducted by the *shawish* is defined by the strong relationship that ties the *shawish* with the NGOs, delivering services and humanitarian aids to refugees, and the security forces.

Syrian refugees are therefore compelled to maintain good relationships with their *shawish* and this fact put them in a position of extreme vulnerability. While interviewing refugees in the Allowies Camp, situated in the Beqaa region, one could notice that the *shawish* was always described as a positive and helpful presence inside the camp, and all those interviewees I have gathered during my visit, have never mentioned being exploited or

¹³⁰ Lebanon Support, ‘Crisis & Control, (In)Formal Hybrid Security in Lebanon’, Beirut, 2016. Available from: <http://lebanon-support.org/sites/default/files/LS-ActivityReport2016-online.pdf> (accessed 10 June 2017).

¹³¹ Lebanon Support, ‘Syrian Refugees’ Livelihoods. The Impact of Progressively Constrained Legislations and Increased Informality on Syrians’ Daily Lives’, p. 25.

¹³² The Freedom Fund.

abused by their *kafeels*. As most of the interviews have been conducted inside the tent of the *shawish*, we have reason to believe that the interviewees were not sincere with us, nor have been able to honestly express themselves in regard to their relationship with both figures of authorities (intending both the *shawish* and the *kafeel*).

The third figure of dependency is the *kafeel*. Syrian workers are highly dependent on the *kafeel* because he/ she is the person who can provide them the legal status they need. The relationship between Syrian refugees and sponsors is very unbalanced. In order to avoid being arrested with the accuse of not holding valid residency permit, refugees rely completely on the *kafeel* as the only way to guarantee themselves a legal existence in the country. Refusing to become an official *kafeel*, deny the option of legal residency for many Syrians, who should be entitled to legal papers. The only option they are left with is to turn to the black market and look for a *kafeel* who can sign the pledge of responsibility on a fake basis, in fake working facilities.¹³³ The *kafeel* can be a Lebanese national, or a Lebanese employer. In any case, he/she has to sign a “pledge of responsibility” that holds him/her accountable for the Syrian’s legal acts, criminal acts included. This clearly discourages many from becoming a *kafeel*, and puts those who do become one in a position of power, as the Syrian would not have legal status without the *kafeel*. Because of this position of power, *kafeels* often require high fees for their services, fees that can range from 200 to 1000\$ per person, just for being a *kafeel*. “I tried to renew my residency on the basis of UNHCR registration at the General Security in Zahle, but they told me it doesn’t work according to that basis and that I have to find a *kafeel*. So I tried to find one, but the *kafeel* wanted a lot of money. Who can pay this, especially if you have a family and you have to pay for them as well?”, stated a Syrian refugee interviewed by Lebanon Support.¹³⁴

Syrians’ legal status depends completely on the *kafeel*. Therefore, it seems that the figure of the *kafeel* is the most dangerous within all and can place refugee at greater risks of being exploited and abused.

7.3 The Exploitation of Syrian Refugees

¹³³ Lebanon Support, ‘Formal Informality, Brokering Mechanisms, and Illegality. The Impact of the Lebanese State’s Policies on Syrian Refugees’ Daily Lives’, 2016. Available from: <http://civilsociety-centre.org/resource/formal-informality-brokering-mechanisms-and-illegality-impact-lebanese-state%E2%80%99s-policies> (accessed 17 June 2017).

¹³⁴ Ibid.

Having interviewed a multitude of refugees living in different camps in the Valley of Beqaa, especially the Abo Majed Camp and the Allowies Camp, I have heard countless stories of exploitation and abuse.¹³⁵ 22 years old Husama, who was very eager to be interviewed and to share his story with me, told me he lost nearly 500\$ in the process of looking for a sponsor. In fact, he was told by a friend who acted as a *wasit* (a sort of reference), to go to Baalbek and there meet the *kafeel* he had found for him. The *wasit* asked Husama for a payment of 300\$ and confiscated his documents. After that amount, the *wasit* asked for another 150\$ in order to finalise the procedure and promising Husama the return of his identity documents. *De facto*, after 5 days of no answer from the *kafeel* nor from the *wasit*, Husama returned to Abo Majed Camp with no legal status and no hope for his future. The only way he can assure not to be arrested at the checkpoints now is to disguise his Syrian accent and pretend to be a Lebanese citizen. Until now, probably due to his ability to speak the Lebanese dialect and due to his physical features, he has been able to transit in and out of Beirut almost everyday for work. The risk of being caught and sent to prison or even forced to leave the country is an ever present reality.

Ahmad, 46 years old, has 5 children and a wife and can not afford to pay the fee of 200\$ for any of his family members and therefore lives illegally in the camp. As he told me, he can not afford a *kafeel* and therefore lives in the camp without working and deals with the distress of having to hide from the army every time they conduct a raid. Even though he did not seem to be concerned about his situation (as he considered himself old enough not to work), he is very worried about his oldest children, who will turn 15 soon and will have no possibility to work without a sponsor.

Ramiz, 39 years old, has been living in Lebanon for 3 years without documents or legal papers because he can not afford to pay the 200\$. The last time he went to the GSO to ask for advice, he witnessed his documents being confiscated and was told he could retrieve them after paying the fee.

More numerous are the stories of Syrian victims of this system which involves not only the refugees and their *kafeel* but also GSOs and state departments.

As the sponsorship arrangements need to be renewed on an annual basis, for instance, refugees continue to be vulnerable beyond the expiry of their initial sponsorship contract.

¹³⁵ Interview with Husama, Beqaa Valley, 9 April 2017 (with the support of Sawa Organisation).

In the contest of illegality and exploitation that characterises the *Kafala* system for Syrians, a black market for the sale of sponsorships has unsurprisingly opened up. As one Lebanese lawyer confirmed: “You can buy a sponsorship today, for between 500\$ and 1000\$. It’s very common.”¹³⁶ Some Lebanese nationals are found even sponsoring up to 6 Syrians a time, considering the sponsorship system as an easy form of income.

Some refugees have reported a positive experience with their *kafeel* in terms of feeling protected from a legal standpoint and having freedom of movement. However, this is usually true in cases where the Syrian and the Lebanese national already know each other. One example is the case of 25 years old Hassan, who has been sponsored since his arrival in Lebanon and thanks to a previous acquaintance in the country, has been able to legally live in the country and continue his studies. The same happened to Obayda, 28 years old, coming from Syria with an artist visa and living in the country for almost 2 years now.¹³⁷ One more example is the case of Abu Shiraz, from the Abu Majed camp in the Beqaa, who is 50 years old and has been married with his Lebanese wife since the outbreak of the war. He has been able to apply for all the papers and has received a residency permit for 3 years. He was able to go back and forth from Syria and was even able to open a small shop inside the camp. However he can not own lands and can not leave any property to his 6 kids.

In most cases, Syrians are forced to endure very harsh conditions while tied to their sponsors and the reality shows that most refugees feel less optimistic regarding an improvement of their situation when they are related to a *kafeel*.

Refugees with limited legal status reported experiencing exploitation when it came to renting apartments or seeking other forms of shelter. Reportedly, landlords rented their properties to refugees with limited legal status without a tenancy agreement and evicted them when they got a tenant that would pay more. In other cases, neighbours reportedly harassed refugees by cutting off the water supply from their flats or attacking them in their tents at night.¹³⁸ These incidences allow sponsors to act indiscriminately and arbitrarily because they know the Lebanese authorities deem refugees without valid paperwork as illegal. Many of the refugees are at constant risk of arrest and detention therefore are less likely to report the abuses.¹³⁹ Moreover, due to the lack of legal status, no civic court takes into consideration claims from

¹³⁶ Janmyr, p. 76.

¹³⁷ Interview with Syrian nationals in Beirut, April 2017.

¹³⁸ Ibid.

¹³⁹ Caritas Lebanon, ‘Legal Protection for migrant workers and refugees’, p. 2.

the refugee's side. Many of them reported they could not approach the police to report crimes or incidents due to the fear of being arrested. Several of these cases have been detected especially in the North of Lebanon and in the Beqaa where the concentration of Syrian refugees is higher. As a result, access to justice for Syrian refugees with limited legal status is compromised. This, in turn, limits their ability to seek redress and leaves them most exposed to exploitation, abuse and violence.¹⁴⁰

Human Rights Watch's research specifically indicates that "the sponsorship system increases Syrians exposure to harassment, exploitation and abuse, and facilitates corruption and therefore can consider a modern form of slavery".¹⁴¹ In particular, as also confirmed in the report of The Freedom Fund, "exploitation happens in two ways. Either halfway into the year, the employer might threaten to undo the sponsorship unless the Syrian pays more money [...] Or when the second year comes along and it is time for the sponsor to renew the papers, he can ask for more money or threaten not to renew the sponsorship."¹⁴²

Lack of legal residency permits which then causes lack of safety, limited movement and increased economic limitations leads to a vicious cycle that prevents refugees from eventually reside legally in Lebanon.¹⁴³ More than 73% of the 1,256 refugees interviewed in a recent Norwegian Refugee Council assessment reported that freedom of movement was the main challenge they faced directly related to their lack of legal status.¹⁴⁴ Additionally, the International Labour Organization (ILO) has estimated that only about 2000 Syrians residing in Lebanon are currently holding official work permits whereas 95% working mainly in the agricultural (and construction) sector are operating in illegal status.¹⁴⁵

Creating a sort of "guest-host" relation, the system of sponsorship allows an increase of exploitative dynamics and worsens the social and legal situation of refugees. When the sponsorship is terminated, refugees are unable to stay in the country legally. In some cases they have to risk going back to their country in order to re-apply for a new sponsorship.¹⁴⁶ This practice places them at even greater risk. In this regard, the country of Lebanon may be accused of pushing Syrian refugees to return to their country, clearly violating the principle

¹⁴⁰ NRC, 'The Consequences of Limited Legal Status for Syrian Refugees in Lebanon', p. 17.

¹⁴¹ HRW, 'I just wanted to be treated like a person'.

¹⁴² The Freedom Fund, 'Struggling to survive: Slavery and exploitation of Syrian refugees in Lebanon'.

¹⁴³ HRW, 'I just wanted to be treated like a person. How Lebanon's Residency Rules Facilitate Abuse of Syrian Refugees', p. 19.

¹⁴⁴ Forced Migration Review, 'The Syria crisis, displacement and protection', p. 17.

¹⁴⁵ Interview with Tina Gewis, ICLA Specialist, Norwegian Refugee Council, Beirut, 3 May 2017.

¹⁴⁶ The Freedom Fund, 'Struggling to survive: Slavery and exploitation of Syrian refugees in Lebanon', p. 18.

of *non refoulement*. Therefore, the sponsorship system is not only extremely dangerous but also legally actionable in this respect. Promoting overall measures of discrimination and denial of basic rights, the *Kafala* system seems to indicate that the Lebanese government is “aiming to strip various groups of their fundamental rights in order to reject their presence and facilitate their exploitation”.

The policy of sponsorship is not only strengthening the Lebanese authorities’ ability to intervene and reign arbitrarily but, in many cases, also puts victims of such a policy at the mercy of other people. The affected groups are left with two solutions: they either leave Lebanon, or accept exploitation.¹⁴⁷

Chapter 8. Human Trafficking - International Framework

As defined, human trafficking is “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. The consent of the victim to the intended exploitation is irrelevant”.¹⁴⁸ This explanation is taken by the Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children, also known as the Palermo Protocol, from the place in which it was drafted in 2000 (Italy). It is considered the most important and universal agreed document on the protection of victims of trafficking. Historically speaking, the first attempt to address the crime of trafficking was made explicit in 1979 with the elaboration of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) where in Article No 6 is stated that: “States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women”. The concept was mentioned again in the Convention for the Right of the Child (CRC) in 1989, where at Article No 35 is reported: “States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form”.

¹⁴⁷ N. Saghieh, ‘Manufacturing Vulnerability in Lebanon: Legal Policies as Efficient Tools of Discrimination’.

¹⁴⁸ OHCHR, *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*, Article 3(a). Available from: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx> (accessed 6 June 2017).

Eventually in 2000 the UN Convention against Transnational Organised Crime was drafted, together with its two Additional Protocols. The Protocol against Smuggling of Migrants and the so called Palermo Protocol. The importance of this last Covenant relates to the fact that it provides, for the first time, an official international definition of trafficking in persons (TIP). It addresses the need to pressure State Parties to adopt legislative and other measures to criminalize the TIP and to define the parameters for the protection and assistance of the victims.

The main purposes of the mentioned Protocol are: to prevent and combat trafficking in persons paying particular attention to women and children; to protect and assist the victims of such trafficking, with full respect for their human rights; and to promote cooperation among States Parties in order to meet those objectives. As the definition states, to be able to consider a person victim of trafficking, it is necessary that all the elements are present, namely the purpose (exploitation), the means (threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits) and the actions (recruitment, transportation, transfer, harbouring or receipt of persons). Only in the case of a minor (any person below 18 years old) the purpose of exploitation itself is enough to acknowledge that the person is a victim of trafficking.

Under the UN Protocol, as previously mentioned, the consent of the victim is irrelevant to the conviction of the trafficker. For the purposes of implementing the obligation, the question of voluntariness is essential, as it also must be considered in the context of the meaning of coercion and forced labour. The “position of vulnerability” is defined as “any situation in which the person involved has no real and acceptable alternative to submit to the abuse involved.”

Coordination with immigration authorities is very important, as the evidence of the victim/worker may be critical. A victim/worker who is still in a vulnerable position with regard to administrative status or whose consent has been manipulated, is unlikely to cooperate with the authorities.¹⁴⁹

¹⁴⁹ ILO, ‘Human Trafficking and Forced Labour Exploitation Guidelines for Legislation and Law Enforcement International Labour Office’, Geneva, 2005, p. 22. Available from: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_081999.pdf (accessed 7 June 2017).

Due to the extension and the danger of the TIP, which earns a profit of roughly \$150 billion a year worldwide for traffickers and includes around 45.8 million people in 167 countries (given a recent ILO statistic), a strong cooperation between State actors and non State actors is very much needed in order to exchange information and good practices.

It is considered qualified trafficking “when the victim is a child, when adoption is used for purposes of sexual exploitation or forced labour, when the crime is committed against three or more persons or carried out by three or more persons conspiring together, when the offender is a guardian of the victim or a public officer, a member of the military or law enforcement agency, when the person is recruited to engage in prostitution with the military or law enforcement agencies and when the offended party dies, suffers mutilation, becomes insane or contracts HIV/AIDS due to or during the act of trafficking”.¹⁵⁰

According to a May 2014 report from the International Labor Organization (ILO), an estimated 21 million victims were worldwide trapped in modern-day slavery. Of these, “14.2 million (68%) were exploited for labor, 4.5 million (22%) were sexually exploited, and 2.2 million (10%) were exploited in state-imposed forced labor”. Other forms of human trafficking include domestic servitude, forced marriage, recruitment of child soldiers, petty crimes, begging, and organ harvesting. Simply to enrich the research with some up-to-date data, “55% of trafficking victims around the world are women and girls and 45% are men and boys. 15.4 million victims (74%) are aged 18 or older, with the number of children under the age of 18 estimated at 5.5 million (26%)”.¹⁵¹

Although trafficking seems to imply people moving across continents, most exploitation takes place close to the victim’s home. Data shows that intra-regional and domestic trafficking are the major forms of trafficking in persons. In fact, according to the same ILO report mentioned above, TIP does not always involve travel to the destination of exploitation: 9.1 million victims who are involved in forced labor (44%) moved either internally or internationally, while the majority, 11.8 million (56%), were subjected to forced labor within their place of origin.¹⁵²

The Conventions No 29 and No 105 (1957) are the primary ILO instruments aimed at the

¹⁵⁰ Ibid.

¹⁵¹ Human Rights First, ‘Human Trafficking by the Numbers’, 2017. Available from: <http://www.humanrightsfirst.org/resource/human-trafficking-numbers> (accessed 6 June 2017).

¹⁵² Ibid.

prohibition and elimination of forced or compulsory labour, and each has been ratified by more than 160 member states. According to the ILO Declaration on Fundamental Principles and Rights at Work of 1998, “all ILO member states have an obligation, even if they have not ratified the ILO Conventions in question, to respect, promote and realize the principle of the elimination of all forms of forced or compulsory labour”.¹⁵³

Article 1.1 of Convention No. 29 requires that States Parties “suppress the use of forced or compulsory labour in all its forms within the shortest possible period”. This comprises forced labour exacted by public authorities as well as by private persons. The definition of forced labour is found in Article 2.1: “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”. A second ILO instrument on forced labour, Convention No. 105, was adopted in 1957. While Convention No. 29 provides for the general abolition of compulsory labour, Convention No. 105 requires the abolition of any form of forced or compulsory labour in five specific cases. The one that most concerns our research is number five which advocates for the abolition of forced labour as: “a means of racial, social, national or religious discrimination”.¹⁵⁴ Today, forced labour is almost universally recognized as a crime. However, it is yet rarely prosecuted and victims often are not able to seek legal redress, as for the case of Syrian refugees.

8.1 Lebanese experience and forced labour

Along with Conventions No 105 and 29, both ratified by Lebanon in June 1977, Convention No 182 was yet another fundamental ILO instruments for the protection of the rights of victims of forced labour. Moreover, the Arab Charter on Human Rights states at Article 31 that: “Free choice of work is guaranteed and forced labour is prohibited”, therefore defining the duty of the State Parties to abide by this dictate. Lebanon eventually ratified this Charter in November 2013. Above all, though, the Palermo Protocol which has been ratified by Lebanon in October 2005, supplements the United Nations Convention against Transnational Organized Crime providing an international instrument for the prevention, suppression and punishment of trafficking in persons (TIP).

In relation to the mentioned Protocol, in 2011 Lebanon adopted the Law 164 “Punishment for

¹⁵³ ILO, ‘Human Trafficking and Forced Labour Exploitation Guidelines for Legislation and Law Enforcement’, p. 17.

¹⁵⁴ Ibid.

the Crime of Trafficking in Persons.” As noted by NGOs and human rights activists, the legislation is an important first step to address human trafficking. Although it does not fully comply with the 2000 UN Palermo Protocol.¹⁵⁵ Some of the main concerns include: victims of trafficking who lack residency papers are referred to the General Security for prosecution for breach of immigration law; victims of trafficking can be arrested and detained for crimes associated with being trafficked; the legal burden in court is on victims to prove through evidence that s/he is a victim of trafficking, rather than on the alleged perpetrator to prove that s/he is not guilty. Other gaps in implementation of the law include the fact that trafficking cases in Lebanon are generally limited to matters involving sexual exploitation, which overlooks other forms of trafficking such as forced labour.¹⁵⁶ The failure to pay a worker the statutory minimum wage does not constitute forced labour. However, action to prevent the worker from leaving the workplace will normally come within the ambit of forced labour. The following six elements point to a forced labour situation. Usually two or more of these elements are imposed on a worker in a combined fashion: physical or sexual violence; restriction of movement of the worker; debt bondage; withholding wages or refusing to pay the worker at all; retention of passports and identity documents; threat of denunciation to the authorities.¹⁵⁷

In accordance with the provisions of Law 164, forcing a person to participate in any of the following acts shall be considered exploitation: legally punishable acts; prostitution or exploitation of the prostitution of a third party; sexual exploitation; beggary; enslavement or actions similar to slavery; forced or compulsory labour, which can include the forced or compulsory recruitment of children for use in armed conflicts; forced involvement in terrorist acts; the removal of organs or tissue from the body of the victim. In the Article 586.1 is stated that: “the crimes shall be punishable in accordance with imprisonment for a period of five years and a penalty of between 100 to 200 times the minimum official limit for wages in the event that these actions are committed in exchange for monetary sums or any other benefits, or in exchange for the promise of granting or receiving the same. Imprisonment for a period of seven years and a penalty of between 150 to 300 times the minimum official limit for

¹⁵⁵ The Freedom Fund, ‘Struggling to survive: Slavery and exploitation of Syrian refugees in Lebanon’, p. 20.

¹⁵⁶ Ibid.

¹⁵⁷ ILO, ‘Human Trafficking and Forced Labour Exploitation Guidelines for Legislation and Law Enforcement’, p. 20.

wages in the event that these actions are committed through the use of deception, violence, force, threat, or influence over the victim or his family members.”¹⁵⁸

The lack of training and human capacity in detecting victims of trafficking at the border but also inside the country, might be considered as an issue which impedes the recognition and referral of the cases on a judiciary level. Therefore it becomes more difficult to condemn and prosecute traffickers and to protect and assist victims. According to Lebanese law No. 164, after being identified, victims of trafficking are placed in safe shelters provided by Civil Society Organizations like Caritas and Kafa where they can benefit from psychological and medical assistance. When interviewed, the director of the police department for “Combating Human Trafficking and Protecting Conduct”, Lt. Colonel Johnnie Haddad, confirmed that especially after 2014 “the cases (of TIP) started to expand in our archive in terms of numbers of victims and criminals”.¹⁵⁹ In his opinion, refugees are a very vulnerable category of society and are likely to get involved in illegal acts. Syrians become ideal victims because they suffered the war and had to leave their country and are in a weakened state because “they have hungry families and need money, therefore it is easy for them to get trapped”.¹⁶⁰

Overall statistics show an increase in trafficking cases for forced labour in the last years. Large migration flows and continuous wars are fueling the growth of this trend.¹⁶¹ Furthermore, impoverishment, lack of income, poor working conditions, lack of access to services, and absence of assistance for survivals of sex abuses are the identified vulnerabilities to trafficking in persons arising from the Syrian war.

Very severe forms of exploitation and trafficking are becoming commonplace, committed by organised criminal networks but also at a lower level, involving fathers, mothers, husbands, extended family, acquaintances and neighbours. Worst forms of child labour, child trafficking for labour exploitation, exploitation through begging and trafficking for sexual exploitation,

¹⁵⁸ ILO, *Law on punishment for the crime of trafficking in persons*, 2011. Available from: http://ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=89807&p_country=lb&p_count=117 (accessed 10 June 2017).

¹⁵⁹ Interview with Lt. Colonel Johnnie Haddad, head of the Human Trafficking Department in the ISF, Beirut, 10 April 2017.

¹⁶⁰ Ibid.

¹⁶¹ ICMPD, ‘Targeting vulnerabilities. The impact of the Syrian War and Refugee Situation on Trafficking in Persons’, Briefing Paper, 2016, p. 11. Available from: https://www.icmpd.org/fileadmin/ICMPD-Website/Anti-Trafficking/Targeting_Vulnerabilities_EN_SOFT.pdf (accessed 10 June 2017).

have always affected migrants before the war but post war has resulted in increased cases among Syrian refugees, stated one of the latest ICMPD reports.¹⁶²

The aim of this Chapter will be to analyse the forms of forced labour and their relationship with the Syrian refugees, demonstrating that the sponsorship system which promotes forced labour among refugees, can be defined as a form of human trafficking itself.

To clarify the concept, forced labour “refers to situations in which persons are coerced to work through the use of violence or intimidation, physical restrictions on movement or by more subtle means such as accumulated debt, confiscation of identity papers or threats of denunciation to immigration authorities.”¹⁶³ Forced labour, contemporary forms of slavery, debt bondage and human trafficking are closely related concepts. Most situations of slavery or human trafficking are, however, covered by the ILO’s definition of forced labour.

Until now no systematic data has been collected on the extent of forced labour among adult Syrian and Palestinian Syrian refugees in Lebanon, but according to two of the Syrian refugees interviewed by the ILO, “forced labour is now so widespread that it constitutes the norm”.¹⁶⁴

8.2 The Sponsorship System as a Form of Human Trafficking

The sponsorship system is promoting exploitation and forced labour and there is an urgent need to acknowledge that. Moreover, once we realise that forced labour is considered a form of human trafficking, and knowing that the sponsorship system is promoting forced labour, we can assume that sponsorship itself is a form of human trafficking.

In the analysis of the *Kafala* as a system which increases the vulnerability of Syrian refugees, it is fundamental to reflect on the difference between the concepts of sponsorship system and sponsorship relation.

We cannot forget to mention that when talking about sponsorship and human trafficking, it is necessary to distinguish between the system itself, meaning the institution, and the sponsorship relations between sponsor and the “beneficiary”. In its early incarnation in the

¹⁶² Ibid.

¹⁶³ ILO, ‘Migration Glossary for Middle East Media’, 2017. Available from: http://www.oit.org/beirut/information-resources/WCMS_552778/lang--en/index.htm#F (accessed 18 June 2017).

¹⁶⁴ ILO, ‘The meanings of Forced Labour’, 2014. Available from: http://www.ilo.org/global/topics/forced-labour/news/WCMS_237569/lang--en/index.htm (accessed 6 June 2017).

1930s, the sponsorship system was said to derive from “the best tradition of Arab hospitality.” Nowadays, unscrupulous *kafeels* exploit the system.¹⁶⁵ As the sponsorship system became a lucrative business, the main issue became the restrictions that the *Kafala* imposed on Syrians’ lives. In fact, one could argue that it prohibits any mobility on part of the worker unless approved by the *kafeel*. The problem emerging is therefore not the system as a whole but the relation established between a Lebanese citizen, who is in general responsible for the visa and the legal status of the Syrian, and a legally and economically vulnerable Syrian refugee. Therefore we can conclude that the system itself is not necessarily abusive (as some of the reported interviews demonstrate) but it can create opportunities for exploitation and human trafficking.

How can we assert that the *Kafala* relationship is a form of human trafficking then? The first step in this analysis is to have a look at the different terms and definitions. As reported by the United Nations Office on Drugs and Crimes, forced labour takes place: “when a person is coerced to work through the use of violence or intimidation, or by more subtle means such as accumulated debt, retention of identity papers or threats of denunciation to immigration authorities”.¹⁶⁶ This definition of forced labour is *de facto* what the sponsorship relationship is. Many Syrian refugees are in fact obliged to work, threatened by violence or intimidation; their papers are confiscated; and they are told they will be reported to the police if they do not follow the orders of their sponsor.

As for the concept of trafficking in persons (TIP), reporting once again the definition of human trafficking, we can assert that it is: “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. The consent of the victim to the intended exploitation is irrelevant”.¹⁶⁷

Sponsorship fits the definition very well, especially when it comes to the “means” used by the traffickers (who can all be found in the *Kafala*) and the purpose of the relation linking them,

¹⁶⁵ A. Khan, ‘Why it’s time to end kafala’, The Guardian, 2014. Available from: <https://www.theguardian.com/global-development/2014/feb/26/time-to-end-kafala> (accessed 16 June 2017).

¹⁶⁶ UNODC, ‘Trafficking for Forced Labour’, 2017. Available from: <http://www.ungift.org/knowledgehub/en/about/trafficking-for-forced-labour.html> (accessed 14 June 2017).

¹⁶⁷ OHCHR, *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*, Article 3(a).

which is exploitation. The sponsorship relation is abusive and enhances exploitation of Syrian refugees on the basis of their vulnerability and lack of legal redress. “By means of the threat or use of forced or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”, exactly defines the dynamic elapsing between sponsors and Syrian refugees.

Having said that, the only counter-argument to such a qualification concerns the actions of “transportation, recruitment, harbouring and receipt” of victims. When analysing cases of trafficking in persons (TIP) is important to verify if any transportation and receipt of persons has occurred. However, in the delicate case of Syrian refugees, the situation is particular and therefore we might need to drift away from the word-for-word definition. In fact, we might assume that the Syrian war represents the “trafficker” and therefore consider that the “transporter” is the belligerent situation. In other words, the war is the reason why victims had to move to another country and this is why, even though there is not a person in charge of transporting and transferring refugees to Lebanon, they can still fit into the definition of victims of TIP. However, legally speaking this argument seems to be quite weak, and therefore should be taken into consideration only as a starting point in the analysis of the issue. Further research is very much needed in order to inquire and assess the “nature” of the recruitment of Syrian refugees for the purpose of exploitation and whether or not a networks of traffickers is present on the Lebanese territory.

The concepts of forced labour and human trafficking as previously defined, needs to be enriched with the analysis of those forms of human trafficking which most relate to the case of sponsorship. The movement of people for the purpose of forced labour usually involves “an agent or recruiter, a transporter, and a final employer, who will derive a profit from the exploitation of the trafficked person. In some cases, the same person carries out all of these trafficking activities”.¹⁶⁸

Human trafficking and forced labour are, no doubt, all around the world. Particularly in Lebanon, the demand for cheap labour coinciding with large numbers of refugees arriving in the country along with increasingly restrictive visa regulations has diminished the possibility of providing safe channels for legal labour migration. In this scenario, as defined by the UNODC: “private recruitment agencies, intermediaries and employers have taken advantage

¹⁶⁸ UNODC, ‘Trafficking for Forced Labour’.

of the situation and attracted potential migrants [and refugees as well] into exploitative employment”.

In the particular case of the *Kafala*, the intermediaries may play several roles, including *wasit*, *kafeel*, the employer, the landlord, and even the *shawish*. Considering these figures of authority, it is important to define what exactly are the relationships between those aforementioned intermediaries and Syrians, and understand how abusive these relationships are.

As for landlords and *shawishes*, they are the ones who more often keep refugees tied in debt bondage and oftentimes withhold part of their salary along with mistreatments and harassments. As for the employers, they usually threaten to cancel sponsorship at anytime and force Syrians to work in unsafe conditions, paying them lower wages or harassing them as well. Once again the dynamic is the same of the landlords and *shawishes*, and represents the threat of rendering refugees vulnerable and dependent on their sponsors in order to enhance their profit and their control over Syrian refugees.

However we consider that the most abusive figures of authority are those of the *wasit* and the *kafeel*, who most negatively affect the life of Syrian refugees. As we stated in previous chapters, withdrawing personal documentation and therefore leaving Syrian refugees with no legal status, constitute the major issue for refugees in Lebanon. With no legal status they can not move freely in the country, they can not look for a job and can not seek redress in case of abuse. Remaining vulnerable to the decisions and the will of the *kafeel* especially, Syrians are more easily involved in human trafficking dynamics. Thus the relationship between these kinds of intermediaries and Syrian refugees is much more negative and risky than the others.

Going back to the definition proposed by the UNODC, what we are not able to analyse sufficiently in this research is the role of “private recruitment agency”. What we can only report is that in the specific case of migrant domestic workers there is a specific agency responsible for the recruitment of Lebanese sponsors and migrant workers and this same agency is in charge of the whole procedure of selection, transportation and, in theory, monitoring of the worker and sponsor’s relationship. However for Syrian refugees there is no specific agency coordinating the recruitment of Syrian “workers” or Lebanese sponsors. This means that Syrian refugees who apply for sponsorship are left alone in the hands of single nondescript individuals. Both in the cases of individual or corporate sponsorship, the main

requirement is a signed document pledging responsibility for the Syrian refugee and a 200\$ fee for each person. What is not required instead and moreover not monitored, is how - and if- the Syrian refugee will need to pay back this fee. In a few words, there is no agency that conducts the assessment of the relationship between Syrians and their sponsors and therefore there is no monitoring of these relationships and transactions.

In this regard, the Lebanese sponsor is able to withdraw his sponsorship at any time without having to give explanations to the sponsored refugee, for instance. He/she can decide to ask for more money just for the fact of being a *kafeel* or can mistreat and abuse the refugee without facing legal consequences. On the other side, the Syrian refugees is not able to complain about the perpetrated harassment, can not leave his/her *kafeel* without losing legal status and perhaps personal documents, and is overall bound to a vicious cycle. The fact of not being able to refer to any specific agency also means that for the law enforcement it can be quite difficult to track those lebanese sponsors who are mistreating Syrian refugees and consequently prosecute them. Sponsors are *de facto* acting in the country in a totally autonomous way and most of the time they are able to decide on their own the rules of this sponsorship relation.

Within the *Kafala* system, we encounter two dominant types of exploitation mechanisms: bonded labour and involuntary servitude. One is the use of a bond, or debt, to keep a person in subjugation, as is the case of the relationship with *shawish* or landlord, usually. This is referred to in law and policy as “bonded labour” or “debt bondage” and is included as a form of exploitation related to trafficking in the United Nations protocol on trafficking in persons (TIP). Many workers around the world fall victims to debt bondage “when they assume an initial debt as part of the terms of employment, or inherent debt in more traditional systems of bonded labor”.¹⁶⁹ In the sponsorship system Syrians find themselves often compelled to debt bondage for different reasons. The sponsor in fact, who can also be the employer or the landlord in some cases as e analysed before, would drive the Syrian he/she is sponsoring into forced labour in return of the rent or the work permit for instance. A recent assessment conducted by The Freedom Fund organisation found that almost 80% of Syrian refugees in Lebanon had debts of more than \$200, while 40% had debts of more than \$600. As refugees go deeper into debt, the risk of slavery and trafficking rapidly escalate.¹⁷⁰ With surging prices

¹⁶⁹ Ibid.

¹⁷⁰ The Freedom Fund, p. 19.

for food and rent, coupled with the heavy costs associated with residency renewals and the sponsorship fee, refugee families can quickly fall into debt. To cope with their increasingly dire financial situation, Syrian refugees reduce the size and frequency of their meals, beg, go into debt and search for employment that is often dangerous or exploitative.¹⁷¹

In particular, forced labour usually takes the form of Syrian refugees being required to work for little or no money as a condition of their rent, as expressed by some refugees interviewed by the International Labour Organization. Refugees living in tented settlements for example, are often required to work in the surrounding fields owned by the landlord as a condition of living on that land. Moreover, landlords of apartment buildings, garages and storages in towns and cities can require Syrian refugees to work, for little or no pay, in return for staying in the building.¹⁷² “The *shawish* and the landlord will ask that the whole family work. The child gets paid US\$3.33, woman US\$5, man US\$12-15” a Syrian refugee woman living in the Beqaa Valley reported to The Freedom Fund.¹⁷³

The second form is the so called “involuntary servitude” and: “people become trapped in involuntary servitude when they believe an attempted escape from their conditions would result in serious physical harm or the use of legal coercion, such as the threat of deportation. Victims are often economic migrants and low-skilled labourers who are trafficked from less developed communities to more prosperous and developed places”. Many victims experience physical and verbal abuse and may perceive themselves to be in captivity.¹⁷⁴

Also in this second case of TIP, we can recognise the characteristics of the sponsorship system. Victims, in this case Syrian refugees, are low-skilled labourers, who arrive to a more developed country such as Lebanon due to war. They indeed experience physical and verbal abuse and they are kept tied to their sponsor as long as him/her wants to, on the threat of the possible deportation and return to Syria. Many Syrians interviewed by Human Rights Watch admitted that their sponsors had threatened to cancel their sponsorship if they refused to undertake certain tasks while others reported that employers are easily getting away with paying lower wages, harassing employees in the workplace, or forcing employees to work in unsafe conditions because they know that refugees lack legal redress.¹⁷⁵ Therefore as the

¹⁷¹ Ibid.

¹⁷² The Freedom Fund, p. 14.

¹⁷³ The Freedom Fund, p. 15.

¹⁷⁴ Ibid.

¹⁷⁵ HRW, ‘I just wanted to be treated like a person. How Lebanon’s Residency Rules Facilitate Abuse of Syrian Refugees’, p. 22.

latest ICMPD study shows, more and more families have no alternative for survival other than situations that could be defined as exploitation and trafficking in national and international law.¹⁷⁶ And the sponsorship system, as a form of forced labour, can be considered as well a form of human trafficking.

Unfortunately, very few cases of trafficking of Syrian refugees have been identified by the competent authorities until now. As reported by the International Security Forces (ISF) who have been working on the issue of identification and referral of TIP's cases, the number of identified Syrian victims of human trafficking was around 12 people in 2015 and 75 in 2016. The perpetrators were both Lebanese (15 in 2015; 8 in 2016) and Syrian nationals (11 in 2015; 12 in 2016). Of these group of offenders, only 14 (in 2015) and 6 (in 2016) of them have been sanctioned.¹⁷⁷ Interestingly enough, these trafficking cases mentioned in numbers, are all referring to cases of sexual exploitation clearly demonstrating that the Lebanese capacity is until now omitting other forms of trafficking, such as forced labour.

Despite demonstrating the inadequacy of the Lebanese law system (intending with law system the laws themselves, the law enforcement and the judgement), these data of extreme confidentiality, highlights also the lack of implementation of the anti-trafficking law.

Even though in 2011 Lebanon adopted Law 164 Punishment for the Crime of Trafficking in Persons, many NGOs and human rights activists noted that, the legislation does not fully comply with the 2000 UN Palermo Protocol. In particular, they stressed the fact that: victims of trafficking who lack residency papers are referred to the General Security for "prosecution for breach of immigration law"; victims of trafficking can be arrested and detained for crimes associated with being trafficked (this is the case for women convicted of performing sexual favours); the legal burden in court is on victims to prove through evidence that they are victims of trafficking, rather than on the alleged perpetrator to prove that he/she is not guilty.

¹⁷⁸ As an IOM respondent declared, when interviewed for The Freedom Fund report, "it is too costly and difficult for the victim of TIP to speak in front of a judge and it is even harder if

¹⁷⁶ ICMPD, 'New research: How are the war in Syria and the refugee crisis affecting human trafficking?', 2016. Available from: <https://www.icmpd.org/news-centre/news-detail/new-research-how-are-the-war-in-syria-and-the-refugee-crisis-affecting-human-trafficking/> (accessed 15 May 2017).

¹⁷⁷ Confidential interview conducted with the ISF Department for Human Trafficking, Beirut, 12th May 2017.

¹⁷⁸ The Freedom Fund, 'Struggling to survive: Slavery and exploitation of Syrian refugees in Lebanon', p. 20.

she/he is viewed as a criminal because she/he doesn't have proper [residency] documentation."¹⁷⁹

We are afraid this research has not been able to analyse the role and the possible presence of a network of traffickers involved in the sponsorship of Syrian refugees in Lebanon. Given the restricted time at our disposal and the limited availability of resources and capacity, we have not been able to deepen our paper on this matter. Until now though, no article or report has been published on the matter.

Overall, as stated by the President of the Beirut Bar Association's Institute for Human Rights, Elisabeth Sioufi, "a comprehensive anti trafficking response which involves a good and efficient coordination between the different stakeholders working on the issue is needed".¹⁸⁰

The surveillance and the monitoring mechanisms in place at the National level are not enough to tackle the issue and moreover there is not sufficient number of Association dealing with the protection and assistance of victims of TIP. What Mrs Sioufi underlined during her intervention is that Lebanon need to take into consideration the TIP more seriously and therefore work harder on: the legal recognition of victims; the creation of a dedicated Agency dealing with the issue in coordination with the Cabinet and the different Ministries; the implementation of new procedures, developed perhaps during organised trainings with all the Lebanese Security Forces; the collection and publication of national data related to the numbers and the features of the TIP in Lebanon, possibly developed not only by NGOs but by the Lebanese Government itself.¹⁸¹

And we can conclude asserting that as the victims of trafficking need more legal recognition, the *Kafala* of Syrian refugees needs to be recognised and addressed as a form of TIP as soon as possible and the victims of this exploitative system need to be monitored and protected. More data and more investigation on the matter are needed but what needs to be changed urgently is the approach towards the sponsorship system and the Syrian refugees issue.

The sponsorship system is largely exploitative to Syrian refugees as many end up as ideal victims for different forms of slavery and human trafficking.

Conclusions & Recommendations

¹⁷⁹ Ibid.

¹⁸⁰ ICMPPD workshop on Human Trafficking, Beirut, 28-30 March 2017.

¹⁸¹ Ibid.

The aim of the research was to prove that the *Kafala* for Syrian refugees is indeed an exploitative and abusive system which can be even assimilated to a form of human trafficking. The issue of the sponsorship system has been analysed through a policy assessment and its implications. As legal courts do not deal with the issue of sponsorship, our approach did not concentrate much on the legal aspect but more on the impact of such system on the victims.

The crucial point this research was the identification of the nature of the relationship between sponsors and Syrian refugees. Syrians' legal presence in the country is very much tied to this relationship as the withdrawal of the sponsorship leaves them without legal status and renders them easily subjects to abuse. After the new regulations implemented by the GoL in 2015, Syrians have been gradually "encouraged", through the adoption of discriminatory and unlawful measures, to secure themselves a sponsor.

We have tried to underline in this paper that in the analysis of sponsorship we need to distinguish between the system of the *Kafala* on one side and the sponsorship relationship on the other. The sponsorship system in itself is not necessarily abusive (as some of the reported interviews demonstrate) but it can create opportunities for exploitation and human trafficking. The crucial point in our analysis was the discovery that the sponsorship system, establishing an exploitative relationship between Syrians and sponsors, reinforces their inequality.

On the basis of security concerns, the adoption of the sponsorship system has been justified by the need to monitor the Syrian presence in the country. However, no evidence that this system has actually solved the issue, has been found. Therefore we might assume that this was just an excuse.

In our opinion, the *Kafala* remains only an exploitative system which aims to produce inequality and strengthen the abusive power of the *kafeel*.

In the conclusion of this research we have been able to prove the negative impact that the sponsorship has on Syrian refugees and therefore we can strongly advocate for its withdrawal.

Refusing to recognise the status of "refugees" to Syrian nationals, who moved after the outbreak of the war, Lebanon is enhancing the vulnerability of those refugees residing in its territory. Overall there is a strong need for the implementation of a new legislation protecting

Syrian refugees especially addressing the issue of their legal status. In adopting a legislation concerning non-nationals, whether these are migration laws, labour codes, social security laws or general human rights laws, the country of Lebanon should take into account that refugees must be protected and should be granted the enjoyment of the rights relating to their status.

As Amnesty International affirmed, “all asylum-seekers and refugees from Syria are in extreme need of international protection [...]”.¹⁸² Focusing exclusively on the return element of the crisis while neglecting the protection issue raises concerns about the extent of which the government is able to deal effectively with one of the largest refugee crisis in contemporary history.¹⁸³ Regularising the status of Syrian refugees and providing access to formal employment, are some of the first steps that Lebanon needs to tackle as a matter of urgency. We strongly believe in the necessity to abolish the Kafala system for migrant domestic workers but especially for Syrian refugees. A clear policy managing entry and residency permits for Syrian refugees need to be developed.

The flow of Syrian refugees residing in the country is not likely to decrease any time soon. The latest measures adopted by the Lebanese Government have only created more difficult procedures and resulted in refugees entering and residing in the country illegally. Their vulnerability is a risk for their own lives but also for the peaceful coexistence with the host communities.

It is fundamental that the state acknowledges the severity of the problem of human trafficking and implements a more sustainable and holistic approach for the assistance and protection of victims. It is necessary for Lebanon to work more on the legal recognition of victims of TIP and strengthen the response of law enforcement with adequate investigation, good coordination and a strategic plan of common and effective procedures. It is advisable for the country of Lebanon to develop institutions, laws and policies that are more closely aligned with international human rights standards and which concretely address slavery and human trafficking. This will deliver benefits to the country and make it an example to others that are facing the same refugee crisis.¹⁸⁴ Considering the International Cooperation as an important

¹⁸² Amnesty International, ‘Lebanon: New entry requirements for Syrians likely to block would-be refugees’.

¹⁸³ ALEF, ‘Refugees and Asylum Seekers’, *Annual Report 2016. The Situation of Human Rights in Lebanon*, Beirut, 2016, p. 31. Available from:

https://alefliban.org/wp-content/uploads/2017/03/ALEF_AnnualReport_2016.pdf (accessed 10 June 2017).

¹⁸⁴ The Freedom Fund, ‘Struggling to survive: Slavery and exploitation of Syrian refugees in Lebanon’.

tool of crisis resolution, more coordination and support between the state parties is needed should be enhanced in order to manage the crisis in a more efficient way.

Lebanon should actively attempt to stop forced labour occurring in the country, by implementing substantial crime prevention programmes, particularly in the form of workplace inspections. In order to be successful, in the fight against forced labour the State's administrative laws should provide some security to the workers and ensure that unacceptable working conditions will not result in immediate punishment or in the forms of expulsion and deportation. New instructions to law enforcement agencies and prosecutors should be provided in order to guarantee the protection of victims.

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