

## Regional Approaches Toward Refugees and Migration Governance in the Middle East

### *Introduction*

From the last century, the Middle East has been a region characterized by a diverse range of migration, forced migration, and statelessness. In 2017, the Arab Middle East was reported to have hosted the total of over 38 million refugees and migrants altogether, the total that represents almost 15% of the total 258 million international migrants worldwide (United Nations Economic and Social Commission for Western Asia, 2019:3; Bathke, 2019). Despite the highest number of forced displacement and migration in the region, particularly in the last two decades, fewer initiatives have been taken by Middle Eastern states toward addressing and developing a practical mechanism on refugee and migration governance. When a small number of domestic legislations and policies have recently been adopted by some countries in the region, only a handful of regional frameworks on refugees exists as of today— these are the 1965 Casablanca Protocol, the 1994 Arab Convention on Regulating Status of Refugees in the Arab Countries, and the 2004 Arab Charter on Human Rights.

Albeit the existence of these regional conventions and norms on refugees, the Middle East still lacks a holistic, practical regional framework on refugee protection and governance—a situation that has in part harbored the poor mechanism of asylum policies and processes across states in the region. Both the failure of many Middle Eastern states to accede to international conventions and protocols on refugees and statelessness, the widespread perception of refugees as temporary, unwanted guests and hence a lack of a comprehensive domestic refugee and asylum policy across many countries in the region, as well as the lack of willingness amongst most states to share the responsibility of assisting refugees and finding a durable solution to forced displacement in the region have by large hindered the development of a robust regional approach on refugee governance and protection.

### *Regional Approaches*

Regional efforts to develop a framework on refugees were initiated from the 1960s when member nations of the League of Arab States convened to establish a set of protocols to respond to the growing number of forcibly displaced persons across the region. The adoption of the **Casablanca Protocol** came in as a response to the increased number of Palestinian refugees in the region. Regarded as one of the most politically fateful refugee waves in the post Second World War, both the 1947 partition of Palestine and the 1948 War that ensued led to the forced displacement of more than 700,000 Palestinians (Lynch & Brand, 2017). To formally acknowledge certain rights for Palestinian refugees in the region, the League of Arab States signed the 1965 Protocol also known as the Protocol for the Treatment of Palestinians in the Arab States. The Protocol “called upon member states to “take the necessary measures” to guarantee to Palestinians full residency rights, freedom of movement within and among Arab countries, and the right to work on a par with citizens” (Human Rights Watch, 2002). The adoption of this protocol neither prevented the exacerbation of forced displacement due to

regional conflicts and civil unrest nor did it guarantee the implementation and enforcement of provisions of the Protocol to protect and guarantee the socio-economic rights of the Palestinian refugees across the region.

Two years after the Protocol came into effect, the 1967 Arab-Israel War led to a new displacement as well as the second displacement of a large number of the 1948 Palestinian refugees who were hosted in neighboring countries—Jordan, Lebanon, and Syria (Lynch & Brand, 2017). Furthermore, the 1975 Lebanese civil war that lasted for over 15 years led to an “exodus of almost one million people” (Pollack & Byman, 2007:139) and internal displacement of thousands of Lebanese and refugees residing in the country. Then, the 1990 Iraqi invasion of Kuwait led to a mass exodus of both Arabs and non-Arab expatriate workers from Kuwait, as well as the expulsion from Saudi Arabia of hundreds of thousands of Yemeni workers (Lynch & Brand, 2017). As accounted by the unfolding of these devastating events, both the escalation of the refugee population and forced migration in the region were exacerbated.

Even after signing the Casablanca Protocol, member nations of the Arab League remained reluctant to implement and enforce the provisions of the Protocol. When few countries have made some efforts to live up to their commitment to support the vulnerable population of the Palestinian refugees, the majority of them have provided limited rights and support to these refugees. For example, Lebanon, while hosting a large population of Palestinian refugees still failed to guarantee their protection and rights including the right to work, the right to movement, and the right to association. Palestinian stateless refugees’ capacities to enter the Lebanese society and its economy on an equitable footing was restricted while their liberty to organize autonomously was undermined (Weighill, 1997:298). Lebanon was not alone in this, other host countries like Jordan also limit the rights of the Palestinian stateless refugees in social security, employment, and movement.

The second regional approach to refugees was **the 1994 Arab Convention on Regulating Status of Refugees in the Arab Countries**. To develop mechanisms to deal with the increased inflow of refugees in the region, member states of the League of Arab States invoked their religious beliefs and principles to agree on a set of general provisions that will ensure the protection of the rights of refugees and regulation of their status (Refugee Survey Quarterly, 2008). Among the important provisions established by the Arab Convention included the one on the definition of a “refugee” along with the standards that can qualify and disqualify one to and from applying for asylum; and a provision that assigned the Secretary-General of the League of Arab States a task to monitor the implementation of this Convention. This Convention came with its limitations, particularly on the implementation and enforcement by the signatory Arab states. The escalation in forced displacement in the Arab Middle East, even after the adoption of the 1994 Convention, proved more challenges to signatory states toward honoring their commitment to assisting refugees.

The third important regional norm to be developed in the Arab Middle East is **the 2004 Arab Charter on Human Rights**. Although the first version of this charter was established by the League of Arab in 1994, it was not until in 2004 that the Arab Charter on Human Rights—one that is by large very consistent with the international norms and standards—came into existence. “The adoption of the Charter symbolized the importance of respect for human rights

both to the Arab world and the League” (Boston University International Law Journal, 2004:147-148). The 2004 Charter was adopted following the increasing criticism by both experts, NGOs, and academics on various deficiencies of the earlier version, as well as the pressure exerted by the international community against the Arab governments pushing them to amend the 1994 Charter (Boston University International Law Journal, 2004:148). Like its earlier version, the 2004 Charter lacked human rights enforcement mechanism and faced some hurdles at its early-stage, including the very low rate of ratification given that one country, Jordan, agreed to ratify it and only five other countries—Algeria, Egypt, Saudi Arabia, Tunisia, and Yemen—were the only ones that had agreed to sign the Charter without ratifying it (Boston University International Law Journal, 2004:149). It wasn’t until March 2008 that the 2004 Charter entered into force after gaining 7 ratifications by Jordan, Algeria, Bahrain, Syria, Libya, Palestine, and United Arab Emirates (Gui, 2009).

### *Implications of Existing Regional Approaches on Refugees in the Middle East*

Over the years, the existence of these regional frameworks and norm on refugees have yielded very little impacts on the treatment and protection of refugees and stateless refugees in the region. Among the key factors that have hindered fruition of a robust and effective mechanism on refugee protection and governance in the region is **the failure of many Middle Eastern states to accede to international conventions and protocols on refugees and statelessness**—these are the 1951 Refugee Convention, the 1954 Convention on the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, and the 1967 Refugee Protocol. As of 2015, five out of all eighteen countries in the Middle East—these are Cyprus, Egypt, Israel, Turkey, and Yemen—were signatories to both the 1951 Refugee Convention and the 1967 Protocol, few of them like Egypt signed on these norms with some reservation (UNHCR, 2015). On the other hand, when Israel and recently Turkey were the only countries in the region to have ratified the 1954 Convention on the Status of Stateless Persons, Israel remained the only country in the region to have signed—without ratification—the 1961 Convention on the Reduction of Statelessness as of the year 2020 (UN Treaty Collection, 2020).

Although certain regional frameworks like the 2004 Arab Charter on Human Rights were developed in consistence with the existing international norms, the failure of most Middle Eastern states, particularly those hosting a large population of refugees like Jordan and Lebanon to accede to the international refugee frameworks has increasingly complicated the process of refugee assistance and protection. Most Arab countries, including those hosting a large population of refugees “do not have domestic laws governing the status of refugees or stateless persons *per se*, but have applied *ad hoc* policies to the waves of refugees that have entered and stayed—some for decades—in their territories” (Akram, 2018:407). As a mechanism of asylum, claims adjudication is reserved to individual states (International Justice Resource Center), states that are not signatories to the existing international refugee norms are not bound by sets of principles that ensure the protection of the rights of refugees and asylum seekers. Protection against the forcible return of refugees to another jurisdiction “when there are substantial grounds for believing that the person would be at risk of irreparable harm upon return, including persecution, torture, ill-treatment or other serious human rights violations” (Office of the High Commissioner of Human Rights) is guaranteed upon those countries who have ratified the 1951 Refugee Convention. Non-signatory countries are not bound by the same principle of non-refoulment hence refugees they host are in danger of being deported to their countries of origin

or other third countries where they are more likely to face torture and other ill-treatment that violate their rights.

Moreover, as countries lack obligation to assist and protect refugees and stateless refugees they host—in part because they are not signatories to the existing refugee norms—it becomes increasingly difficult for these countries to possibly come together—as a region—to develop a robust framework on refugee governance and protection. Taking Europe for example, the regional frameworks on refugees and migration governance among the members of the European Union became possible, in part because most of the countries already had domestic asylum frameworks and were also observing the international norms on refugees. As a regional body, the EU uses frameworks like the Dublin system in its asylum process to determine which member countries are responsible for adjudicating asylum claims (The European Commission). Even though the EU asylum system is not without its flaws, the existence of a regional framework that guides the asylum adjudication process among member countries makes the process more systematic and hence more likely to guarantee the protection of the rights of refugees and asylum seekers.

As the UNHCR's efforts to encourage Middle Eastern countries, particularly Arab states, to ratify the Refugee and/or Stateless Conventions have so far been less successful, there is a need for countries in the region to develop a new, robust regional framework that will ensure a holistic mechanism of refugee protection and governance as well as an efficient enforcement mechanism—one that will mirror the current reality of forced migration and statelessness challenges. Middle Eastern countries need to develop “a regional framework of cooperating that allows refugees free movement and access to employment and services throughout the region. A precedent for such a framework already exists in the 1965 Casablanca Protocol, which was meant to address Palestinian refugee rights (Yahya & Muasher, 2018).

The second factor that has hindered the realization of a robust and effective mechanism on refugee protection and governance in the Middle East is **the widespread perception of refugees as temporary, unwanted guests by host countries**. Even though some countries in the region are historically known for their generosity to host refugees for decades, the current influx of refugees in the Arab Middle East has been met with more uncongenial policy response as “all Arab countries have adopted a nonintegrative policy approach that considers refugees as temporary, unwanted guests; it denies them refugee status and basic rights and considers them to be both a burden and potential threat to the security and integrity of the nation” (Yahya & Muasher, 2018). The reluctance of countries to adopt comprehensive domestic refugee and asylum laws has increased the vulnerability of refugees and stateless refugees as some of them are at the risk of facing forced removal from their host countries, while most of them are likely to remain trapped in a protracted refugee situation. Moreover, the lack of pathways to naturalization or permanent residency in most countries in the region has left refugees and most stateless refugees without any prospect for an adjustment of their status, protection, or full recognition as members of the societies.

Despite the recent rise in the number of domestic legislation by some Middle Eastern states like Egypt and Turkey, geared to address the ongoing refugee crisis and forced migration concerns, the inherent discernment of refugees as “temporary”, and sometimes “unwanted

guests”—among other factors—has thwarted the effective implementation of these domestic legislations (Yahya & Muasher, 2018). In Egypt for example, although the country has recently adopted some laws toward the growing refugee concerns—these include the **2014 Egypt Law on the Protection of Refugees and Asylum as well as the 2016 Anti-Illegal Migration Law**—these laws have yet to fully redress key challenges encountered by refugees and stateless refugees in Egypt (Human Rights Watch, 2016). The inexistence of a comprehensive legal instrument to deal with refugees challenges including limited rights to work, restrictive access to education and public relief and assistance, as well as limited freedom of movement—among others—portrays Egyptians perception of refugees as rather temporary guests who are expected to return to their countries of origin in a little time (UNHCR Global Appeal, 2006; Sadek, 2016).

As countries in the Middle East—including those hosting a large population of refugees—maintain their discernment of refugees only as temporary guests and hence chose to pursue piecemeal domestic legislative initiatives to govern refugees and regulate their legal status, the likelihood of these countries to work toward the establishment of a robust regional framework on refugee become less feasible (Sadek, 2016; Yahya & Muasher, 2018). Comparing the Middle East to other regions like Africa and Latin America, and their regional responses toward forced migration and refugee concerns, it is clear that domestic legal frameworks that address refugees concerns as rather long-lasting than as temporary issues are very likely to spur regional efforts to develop a holistic and effective regional framework on refugees—especially now that the recent trends have revealed the widespread effect of the ongoing global refugee crisis. Existing regional frameworks like the Kampala Convention and Cartagena Declaration which were adopted by the African Union in 2012 and Latin American countries in 1984 respectively, suggest how regional frameworks can be effective at defining the responsibility of states in their protection of refugees and prevention of future forced displacement (Yahya & Muasher, 2018).

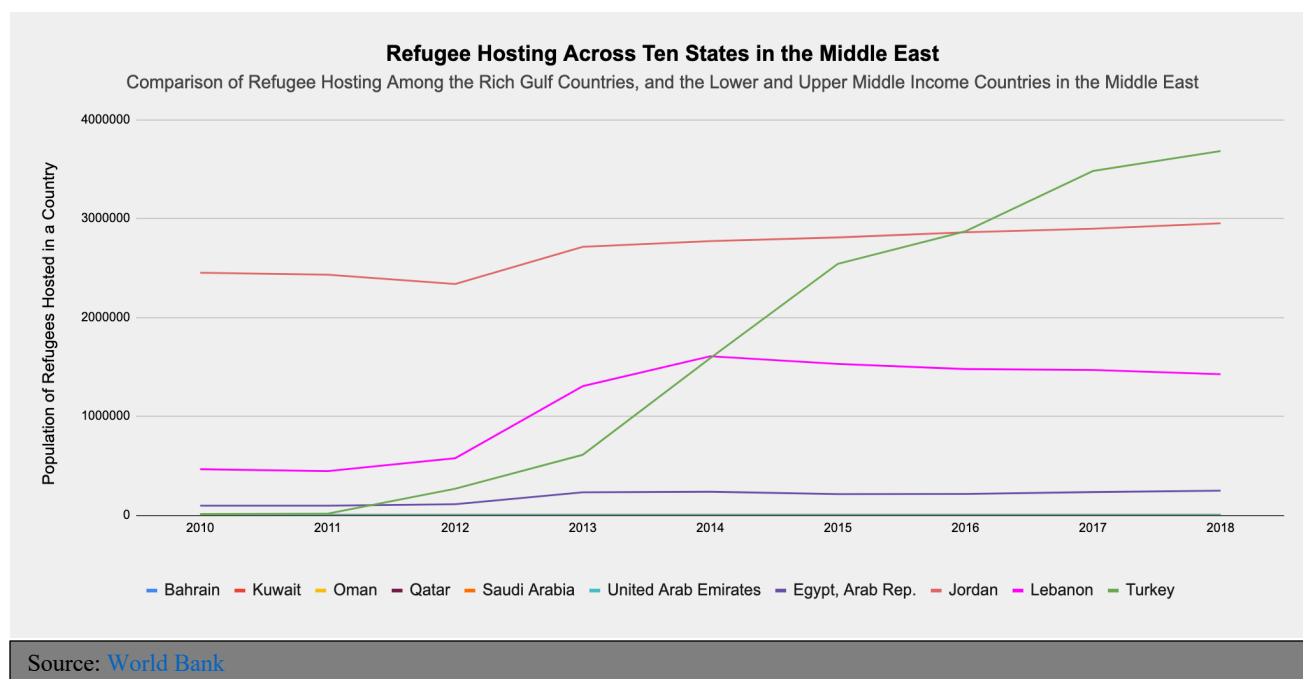
In efforts to develop a holistic, practical regional framework on refugee protection and governance, the Middle Eastern countries need to change their mentality toward refugees and the ongoing refugee crisis—from temporary and fragmentary approaches to a comprehensive and long-term approach. Existing examples of the Palestinian and Iraq refugees who have remained in protracted refugee situations for more than a decade should be taken as a lesson for host countries in the region to reform their response and perception of refugees. Moreover, host governments in the region need to recognize opportunities and contributions that refugees and their descendants can bestow in their countries. The population of refugees in host countries should be perceived as assets rather than a burden. In the last few years, as the global response to the ongoing refugee crisis, host countries like Jordan have received an increased amount of financial support from the international community that can serve their long-term development (Chemali, 2016). Such contribution came in following the increasing presence of refugees, therefore host countries in the region should not altogether ignore the beneficial impacts that their hosting of refugees has and can bring.

The third factor that has hindered the attainment of a robust and effective mechanism on refugee protection and governance in the Middle East is **the lack of willingness among most states to share the responsibility of assisting refugees and finding a durable solution to forced displacement in the region**. In 2018 it was reported that in every 5 refugees in the world,



2 had their origin in the Arab region. The region was also reported as the origin of over 8.7 million refugees under the UNHCR mandate out of a total of 20.2 million (United Nations Economic and Social Commission for Western Asia, 2019:7). Even though the region continues to experience the remarkable inflow of refugees, some Arab countries, particularly the rich Gulf countries, have remained reluctant to share the responsibility of assisting refugees uprooted by the ongoing civil war and conflicts across the region—the most prominent one being the Syrian civil war which as of 2019 had left 6.6 million people living in displacement (Yahya & Muasher, 2018; Global Trends, 2019:18).

Today, Middle East comprises countries that are the top contributors to the world's refugee population—these include Syria which has so far uprooted millions of refugees—and at the same time, countries that are bearing the burden of hosting a large population of refugees—some of which this burden is beyond their financial and infrastructural capacities. Both Turkey, Lebanon, and Jordan were reported to have hosted a large population of refugees as of 2019, each hosted a population of 3.6 million, 910,600, and 654,700 refugees respectively (Global Trends, 2019:18). In contrast, rich Arab countries like Saudi Arabia, the UAE, and Kuwait have solely provided financial support to helping developing-Arab countries hosting a large number of refugees but kept their doors shut from welcoming refugees (Browning, 2015; Yahya & Muasher, 2018). When compared, lower and upper middle-income countries in the Middle East have carried a heavier burden of assisting refugees than the rich Gulf countries. The graph below depicts the population of refugees that have been hosted by rich Arab countries in comparison to those hosted by lower and upper middle-income countries between the years 2010 to 2018. As portrayed below, rich Gulf countries have continued to welcome a very insignificant number of refugees compared to what countries like Egypt, Jordan, Lebanon, Turkey have been doing over the years, throughout the last decade.



The GCC's reluctance to welcoming and hosting refugees in their countries has been justified through the security framing of the refugee crisis—countries associate refugees with terrorism and threat to national security. UNHCR Global Appeal (2006) reported that “national security concerns in the region are testing states’ traditionally tolerant attitude towards refugees and asylum seekers” (226). To a large extent, the aftermath of the Arab Spring and the rise of Islamic State (IS) have played a role in the GCC state’s reluctance to welcoming refugees and their framing of the ongoing refugee crisis as a possible threat to national security. Refugees from Syria, Yemen, and Iraq—who are vast in number compared to other refugee groups in the region—have been perceived as a possible threat to the GCC national security and hence the GCC countries have remained reluctant to welcoming them (Binhuwaidin, 2015; Ragab & Colombo, 2017). Even with recent efforts of GCC countries like Qatar to pass legislation on refugees, the 2018 Qatar Law on Refugees, to allow foreign nationals to apply for permanent residency, the law has not yet materialized to positively impact the fate of refugees in the country (Human Rights Watch, 2018). The Qatar government still lags behind the implementation of the new law to ensure the protection of the rights of refugees and provide them legal status as guaranteed by the law. Early in 2019, the Qatar authority maintained that the infrastructure necessary to implement the 2018 law—this includes the creation of a Committee for Political Asylee Affairs—had not yet been set up (Human Rights Watch, 2019).

In rethinking a more vigorous regional approach to refugee and forced displacement, policymakers in the region need to emphasize the creation of an overarching regional framework that would spur the readiness of most Middle Eastern states to welcoming and assisting refugees. It is also important for the prospective regional framework on refugees to incorporate a burden-sharing mechanism that could potentially impact states positively by enhancing their capacity in providing essential services to refugees and asylum-seekers, improving physical and social infrastructure, as well as boosting economic growth (Yahya & Muasher, 2018). Given the economic impacts of Covid-19 on the GCC states, it is crucial for policymakers in the GCC to rethink its policy approach toward assisting refugees. Brookings (2020) provided that, “The six GCC nations are, with varying degrees, facing steep economic declines as the slowdown in business activity due to the pandemic is amplified by a price drop in hydrocarbons, which are their main source of revenue.” Moreover, an official at the International Monetary Fund projected that the economy of the GCC countries is likely to shrink by 7.6 percent this year (Barbuscia, 2020). Therefore, it is increasingly important for the GCC countries to rethink an alternative way to support refugees in the region, as now their economic focus will be shifted to domestic needs rather than supporting developing Arab countries hosting a large population of refugees.

## **Conclusion**

In conclusion, the existing regional frameworks on refugees in the Middle East, these are the 1965 Casablanca Protocol, the 1994 Arab Convention on Regulating Status of Refugees in the Arab Countries, and the 2004 Arab Charter on Human Rights have not been fully effective at providing a concrete solution to the plight of refugee and forced migration that the region has been experiencing since the last century. The failure of a large number of Middle Eastern states to accede to international conventions and protocols on refugees and statelessness, the widespread perception of refugees as temporary, unwanted guests by many countries in the region, and the lack of willingness among most states to share the responsibility of assisting

refugees, have by large hindered the development of a robust regional approach on refugee governance and protection in the Middle East. To construct a holistic and practical regional framework on refugee and statelessness, policymakers in the region would need to first, exert efforts to develop a new, robust regional framework that will ensure a holistic mechanism of refugee protection and governance; second, to change the temporary and fragmentary approaches toward refugees and adopt a more comprehensive and long-term approach on refugees; third, to incorporate a burden-sharing mechanism that could potentially impact states positively in both social and economic aspects; and fourth, to focus on creating an overarching framework that would encourage states' readiness to participate in welcoming and assisting refugees.



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