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*Refugees and decent work:  
Lessons learned from recent refugee jobs compacts*

Jennifer Gordon

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## Research note from the author<sup>1</sup>

This paper draws on my interviews, observations, review of original documents and secondary research between January 2018 and July 2019. Some of my conversations with individuals engaged in the implementation of the Jordan and Ethiopia refugee jobs compacts occurred during visits to Amman, Jordan in April of 2018 and Addis Ababa and Hawassa, Ethiopia in October 2018; others took place by phone before and after these trips. I also travelled to Bangladesh and Mexico in 2019 to gain a better understanding of the state of refugee work rights in those countries. While the latter discussions are not explicitly referenced in this paper, they make up part of the backdrop that informs my conclusions and recommendations.

In Jordan, my contacts included staff and/or consultants at World Bank, United Nations High Commissioner for Refugees, United Nations Resident Coordinator for Jordan, ILO Better Work and ILO Refugee Response in Jordan, and ILO Lebanon, a Jordanian garment factory owner, and the following NGOs: Arab Renaissance for Development and Democracy Legal Aid; Phenix Center for Informatics and Economics Studies; AFL-CIO Solidarity Center Jordan; Tamkeen Fields for Aid; International Rescue Committee; and the Business and Human Rights Resource Center.

In Ethiopia, my contacts included staff and consultants at the Government of Ethiopia Investment Commission (EIC), World Bank, ILO Ethiopia, the UK Department for International Development (DFID), and the Government of the Netherlands Migration Initiative for the Horn of Africa, as well as academic researchers working in the context of the Ethiopian garment industry and the Ethiopian refugee response. While in Ethiopia in October 2018, I also attended the All-Africa Garment Sourcing Convention being held in Addis Ababa, and accompanied the EIC on tours of two of the country's newest industrial parks, Bole Lemi and Hawassa, where I was able to observe garment work on the shop floor and ask questions of garment firm managers, brand representatives, potential investors, and EIC representatives on site.

The reader will note that the paper discusses the Jordanian case at greater length than the Ethiopian one. This is because implementation of the Jordan Compact was well under way as I did this research in 2018–2019, while the compact in Ethiopia was only in the planning phase. In addition, unlike the Ethiopia Jobs Compact, the Jordan Compact attracted a great deal of attention in policy and academic circles at its inception. I was therefore able to build on documentation produced by others when writing about Jordan in a way that was not possible with regard to Ethiopia. Nonetheless, the Ethiopia Jobs Compact is the only such agreement in place outside Jordan, and even a brief discussion of its concept and early implementation broadens our understanding of the directions that the model may take as it moves across national contexts.

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<sup>1</sup> This paper sets out the views of the author, based on her independent research. It does not represent the opinion of the ILO or any other institution. Work on this paper was funded by Fordham University School of Law and the Open Society Foundations.

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## Author Biography

Jennifer Gordon is Professor of Law at the Fordham University School of Law in New York City. Her research and writing on migration and labour standards in the context of globalization has appeared in numerous academic journals. She has written on these topics for The New York Times, Foreign Policy, and other media outlets. Her book, *Suburban Sweatshops: The Fight for Immigrant Rights*, was published by Harvard University Press. In 2015 the ILO published her working paper *Global Labour Recruitment in a Supply Chain Context*.

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## List of Acronyms

AFL-CIO	American Federation of Labour and Congress of Industrial Organizations
CDG	Centre for Global Development
CRRF	Comprehensive Refugee Response Framework
DFIF	UK Department for International Development
EIC	Ethiopia Investment Commission
EIIP	Employment Intensive Infrastructure Programme
EU	European Union
ICVA	International Council of Voluntary Agencies
IDP	Internally Displaced Persons
ILO	International Labour Organization
INGO	International Non-Governmental Organization
IOM	International Organization for Migration
JOD	Jordanian Dinar
KFW	Kreditanstalt für Wiederaufbau (Credit Institute for Reconstruction)
KNOMAD	Global Knowledge Partnership on Migration and Development
NATLEX	National Labour, Social Security and Related Human Rights Legislation
NGO	Non-Governmental Organization
NYU	New York University
PM	Prime Minister
PROSPECT	Partnership for improving Prospects for host communities and forcibly displaced persons (implemented by International Finance Corporation, ILO, UNHCR, UNICEF, World Bank)
RI	Refugee International
SAIS	School of Advanced International Studies
SEZ	Special Economic Zone
SHARPE	Strengthening Host and Refugee Population in Ethiopia (DFID programme)
UK	United Kingdom
UN	United Nations
US	United States of America
UNDP	United Nations Development Programme
UNHABITAT	United Nations Human Settlements Programme
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
USAID	United States Agency for International Development
WANA	West Asia and North Africa



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## 1. Introduction

Refugees are rarely legally recognized as workers. And yet many regularly work. Inside refugee camps, they trade and sell goods and services to each other and the surrounding community. They may also earn cash from humanitarian organizations for short-term jobs, or grow crops and make crafts to sell.<sup>2</sup> Refugees who live outside camps also work, albeit usually without the right to do so. Most are hired in the informal economy, much like undocumented immigrants.

Work was once central to refugee policy. Between the First and Second World Wars, access to jobs was at the core of assistance to refugees and displaced people in Europe. Organizations including the ILO sought to find work for those displaced by war, and refugee resettlement was guided by economic opportunity. The 1951 Refugee Convention, however, sharply distinguished between refugees and economic migrants, emphasizing protection rather than employment for refugees. For the next 60 years, refugees were rarely recognized as workers.

Today, refugee crises are on the rise, involving more people and lasting longer than ever. More than 20 million refugees worldwide now live outside their home countries,<sup>3</sup> the highest number since the Second World War.<sup>4</sup> The vast majority reside in low- and middle-income countries in the Middle East, Africa, and Southeast Asia.<sup>5</sup> The three “durable solutions”<sup>6</sup> of repatriation to the country of origin,<sup>7</sup> integration in the host country,<sup>8</sup> or resettlement in a third country<sup>9</sup> have not proven possible to implement at a level that would address refugees’ needs. Repatriation is not an option in extended conflicts. Low- and middle-income countries often host refugees for extended periods, but few offer to integrate them on a permanent basis. The world’s developed nations accept only a tiny fraction of the global refugee population for permanent resettlement.

As a result, most refugees today live in a state of long-term limbo. This reality has forced a discussion about alternatives, particularly those that would decrease refugees’ need

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<sup>2</sup> For an overview of refugee work, see Alexander Betts et al., *Refugee economies: Forced displacement and development* (2017).

<sup>3</sup> UNHCR statistics, *Figures at a Glance*, UNHCR, available at [www.unhcr.org](http://www.unhcr.org). This does not include an additional 5.5 million Palestinian refugees or an estimated 3.5 million asylum seekers outside of their countries of origin, nor does it include internally displaced people. See *idem*.

<sup>4</sup> Adrian Edwards, *Forced displacement at record 68.5 million*, UNHCR (19 June 2018), available at [www.unhcr.org](http://www.unhcr.org).

<sup>5</sup> *Global trends: Forced displacement in 2018*, UNHCR (20 June 2019), available at [www.unhcr.org](http://www.unhcr.org). (“Countries in developed regions hosted 16 per cent of refugees, while one-third of the global refugee population [6.7 million people] were in the least developed countries.”)

<sup>6</sup> It is surprisingly hard to find a definition of durable solutions beyond the limited language offered by the UNHCR on its website: “solutions that enable refugees to live their lives in dignity and peace”. *Solutions*, UNHCR, available at [www.unhcr.org](http://www.unhcr.org). In practical terms, durable solutions are those that definitively resolve an individual’s displacement, whether by a return home or by permanent integration in another country. See *Solutions for refugees: Chapter 7*, 186 (UNHCR), available at [www.unhcr.org](http://www.unhcr.org).

<sup>7</sup> The UNHCR defines repatriation as “the free and voluntary return to one’s country of origin in safety and dignity”. *Handbook for repatriation and reintegration activities, One-2* (UNHCR, May 2004), available at [www.unhcr.org](http://www.unhcr.org).

<sup>8</sup> The UNHCR defines integration as a “legal process whereby refugees are granted a progressively wider range of rights and entitlements by the host State that are broadly commensurate with those enjoyed by its citizens. These include freedom of movement, access to education and the labour market, access to public relief and assistance, including health facilities, the possibility of acquiring and disposing of property, and the capacity to travel with valid travel and identity documents. Realization of family unity is another important aspect of local integration.” UNHCR, *Global consultations on international protection/Third track: Local integration*, 2, UN Doc. EC/GC/02/6 (25 Apr. 2002), available at [www.refworld.org](http://www.refworld.org). The UNHCR definition also references economic integration (increasing self-reliance through the “pursuit of sustainable livelihoods”) and socio-cultural integration (adaptation by both refugees and local population) as important facets of the process. *Idem*. The end point of an integration process is the refugee remaining permanently in the host country. *Idem* at 4.

<sup>9</sup> The UNHCR defines resettlement as “the transfer of refugees from an asylum country to another State that has agreed to admit them and ultimately grant them permanent settlement.” *Resettlement*, UNHCR, available at [www.unhcr.org](http://www.unhcr.org).

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for aid and increase their self-reliance.<sup>10</sup> In this context, international organizations have brought the idea of allowing refugees to work in host countries back to the table.<sup>11</sup> The proposal is politically charged. Developed nations have tended to support it, for the hope, among other reasons, that offering refugees greater opportunities where they are will keep them from moving on to wealthier countries. Many host governments have been resistant, pointing out their already vastly disproportionate contribution to the supposedly shared responsibility to provide assistance to the world's refugees. They note the irony of being asked to integrate refugees into their struggling economies when much richer nations are unwilling to do so. Other host states have been more open to discussing economic integration for refugees, albeit in exchange for substantially increased assistance from developed nations.<sup>12</sup>

Before the Syrian armed conflict began in 2011, the international conversation about large-scale refugee access to work as a self-reliance measure had reached an impasse. As the war intensified, more than 5 million Syrian refugees had fled to nearby Turkey, Lebanon, and Jordan. Initially, a relatively small number sought entry to Europe. Over time, however, as the resources of those who had stayed in host countries near home dwindled, hundreds of thousands headed for the European Union. Once the EU became a significant destination, the press closely tracked their dangerous sea and land voyages – and the resulting tragedies – as well as their journeys northward through Europe. One result was two contradictory sets of political pressures: for the EU to take care of the refugees and for it to fence them out.

Allowing refugees to work in the host country appeared to be a way to achieve the EU's protection and exclusion goals at the same time.<sup>13</sup> What broke the logjam was the EU's agreement to provide significant funding in exchange for responsibilities taken on by a host nation. The Jordan Compact was signed in February 2016.<sup>14</sup> Through it, the EU and the World Bank committed to significant financial support for Jordan to provide work opportunities for 200,000 Syrian refugees in the country, alongside increased economic opportunities for Jordanians.<sup>15</sup> Later that year, a related set of actors signed a smaller compact with Ethiopia, to create new jobs for Eritrean, Somali, Sudanese and South Sudanese refugees there, as well as for Ethiopians.

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<sup>10</sup> Self-reliance is a term widely used in the refugee context, albeit in inconsistent ways. The UNHCR defines self-reliance as “the social and economic ability of an individual, a household or a community to meet essential needs in a sustainable manner”. UNHCR Handbook for self-reliance, Book one: Why self-reliance?, 1 (UNHCR, July 20, 2006), available at [www.unhcr.org](http://www.unhcr.org). For a critique of the emphasis on self-reliance for refugees as well as of the disparate conceptualizations and applications of the term, see generally Evan Easton-Calabria and Naohiko Omata, “Panacea for the refugee crisis? Rethinking the promotion of ‘self-reliance’ for refugees”, 39 *Third World Quarterly* 1458 (2018).

<sup>11</sup> The access of refugees and other forcibly displaced persons to the labour market, 18, 27 (ILO, 14 June 2016), available at [www.ilo.org](http://www.ilo.org). Also under discussion is the idea of offering refugees temporary visas for work in other countries, a proposal that has not yet come to fruition. This is mentioned as a possibility in the Report of the UN High Commissioner for Refugees, *Global Compact on Refugees*, 95, UN Doc. A/73/12 (Part II) (2 Aug. 2018), available at [www.unhcr.org](http://www.unhcr.org). For a fuller discussion see Martin Ruhs, “Can labour immigration work for refugees?”, *Current History*, Jan. 2019, at 22, available at [www.migrationpolicycentre.eu](http://www.migrationpolicycentre.eu).

<sup>12</sup> For an insightful analysis of the different strategies pursued by Jordan, Lebanon, and Turkey vis-à-vis the European Union in the context of the Syrian refugee crisis, see Gerasimos Tsourapas, “The Syrian Refugee Crisis and Foreign Policy Decision-Making in Jordan, Lebanon, and Turkey”, *Journal of Global Security Studies*, Vol. 4, issue 4, 464 (2019).

<sup>13</sup> With regard to Syrians in Jordan, the proposal was most prominently made in an influential article published in September 2015: Alexander Betts and Paul Collier, “Help Refugees Help Themselves”, *Foreign Policy* (Nov./Dec. 2015), available at [www.foreignaffairs.com](http://www.foreignaffairs.com). The idea of work rights for refugees in host countries is also endorsed in Section 2.2. Report of the UN High Commissioner for Refugees, *Global Compact on Refugees*, 70–71, UN Doc. A/73/12 (Part II) (2 Aug. 2018), available at [www.unhcr.org](http://www.unhcr.org).

<sup>14</sup> Annex to the Joint proposal for a council decision on the Union position within the Association Council set up by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part, with regard to the adoption of EU-Jordan Partnership Priorities and annexed Compact (19 Sep. 2016), JOIN (2016) 41 final ANNEX 1, available at [data.consilium.europa.eu](http://data.consilium.europa.eu) (hereinafter EU-Jordan Compact).

<sup>15</sup> The EU also signed agreements with the other two major Syrian refugee host countries, Turkey and Lebanon, although neither emphasized access to the labour market to the same extent. See *EU-Turkey statement*, European Council (18 Mar. 2016), available at [www.consilium.europa.eu](http://www.consilium.europa.eu); Decision No 1/2016 of the EU-Lebanon Association Council agreeing on EU-Lebanon Partnership Priorities (11 Nov. 2016), UE-RL 3001/16, available at [www.ec.europa.eu](http://www.ec.europa.eu).

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These two agreements were historical in many ways. The Jordan Compact dramatically increased the share of the financial burden that some of the world's most economically developed nations bore for Syrian refugees, which until that point had fallen heavily on the less-developed countries bordering Syria. Both compacts sought to create employment for local workers as well as refugees, expressing a commendable commitment to improving the health of host country economies as a whole. In exchange, host governments took on substantial political risk to create more generous labour policies towards large numbers of refugees.

In a new approach to refugee livelihoods, both compacts highlighted foreign investment and export manufacturing as the engine of refugee employment. In Jordan, the EU created trade preferences for goods produced for export with refugee labour, seeking to draw new investment to Jordan's export manufacturing zones.<sup>16</sup> This part of the deal was expected to create jobs for up to three-quarters of the 200,000 refugees with permits. The Ethiopia jobs compact linked investment in export-oriented industrial parks to employment for 70,000 Ethiopians and 30,000 refugees. The employment opportunities were presented as a form of refugee assistance, and also an incentive for refugees to remain in their host countries rather than leaving for the EU: a "fence by other means".<sup>17</sup>

The emphasis on trade and export manufacturing as a driver of refugee jobs and a way to keep refugees in host countries was a political framing that appealed to all of the actors involved.<sup>18</sup> Politicians in Europe could hold up the compacts as a way to simultaneously help refugees and exclude them. Furthermore, over time, supporting self-reliance would cost less than humanitarian aid for the same number of people. Development actors and financial institutions hailed the free-market nature of the solution. Host country politicians could reassure their citizens that refugee employment would be limited to less-desirable sectors, while pointing to an influx of much-needed foreign aid that began to address the historical imbalance of responsibility for refugees.

Three years later, the trade-related results have fallen far short of expectations. Today in Jordan, fewer than 500 Syrian refugees work in special economic zones, a tiny fraction of the initial projections. Another 45,000 or so hold permits for work in the national labour market, principally in agriculture and construction.<sup>19</sup> It is not clear if having a permit has improved the conditions under which they work, compared to their employment in those sectors without permits prior to the Compact. In Ethiopia, where implementation of the compact is just beginning, early research made clear that most refugees were unlikely to seek

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<sup>16</sup> In technical terms, this was accomplished by softening the rules about the origin of materials used in the manufacture of goods for export in Jordan, for firms that reached an initial target of 15 per cent Syrian production workers. The relaxed rules opened the door for the EU to import such goods at reduced tariffs. EU-Jordan Compact at 12–13.

<sup>17</sup> Interview with United Nations Development Programme official in Amman, Jordan, 17 Apr. 2018; Somini Sengupta, "If a carrot for Jordan works, Syrian refugees will stay put", *The New York Times* (9 July 2016), available at [www.nytimes.com](http://www.nytimes.com); "Peace, bread and work: Jobs for Syrian refugees help them and their hosts, and slow their exodus", *The Economist*, 5 (2016), available at [www.economist.com](http://www.economist.com) ("Europe's motive is not entirely altruistic. It also hopes that by encouraging employment in Jordan it will slow migration to richer countries. 'Providing hope where refugees already are... is the best assurance that they won't gamble everything, including their lives, to come to Europe,' says Justine Greening, Britain's International Development Secretary."); Taylor Luck, "Syrian refugees: Can Europe help Jordan turn a burden into a boon?", *The Christian Science Monitor* (19 May 2016), available at [www.csmonitor.com](http://www.csmonitor.com) ("European and Jordanian officials alike admit it is a trade-off: improving the lives of Syrian refugees in host countries like Jordan so they do not seek greener pastures in Europe.").

<sup>18</sup> The idea of trade agreements to support refugee employment also appears in the 2018 Global Compact on Refugees. *Report of the UN High Commissioner for Refugees, Global Compact on Refugees*, 71, UN Doc. A/73/12 (Part II) (2 Aug. 2018), available at [www.unhcr.org](http://www.unhcr.org). Similarly, the *Global Compact for Safe, Orderly, and Regular Migration* 18 (13 July 2018), calls for increased foreign direct investment and new trade preferences as a way to reduce migration from origin countries. Available at [www.refugeesmigrants.un.org](http://www.refugeesmigrants.un.org).

There were voices of dissent at the time, noting among other concerns the challenges of absorbing large numbers of refugees into a Jordanian economy that already struggled with high levels of unemployment, and the Compact's reinforcement of the Jordanian government's reliance on foreign aid. See e.g. Taylor Luck, *Jordan's Syrian refugee economic gamble*, Middle East Institute (24 May 2016), available at [www.mei.edu](http://www.mei.edu). These views got little attention in the context of broad praise for the Compact model as a replicable solution to intractable refugee crises.

<sup>19</sup> For a more detailed examination of these work permit numbers, see footnotes 59 and 97, and accompanying text, *infra*. For a more detailed examination of whether permits have led to better working conditions, see Section III.B.2, *infra*.

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out jobs in export factories in industrial parks, and, vice versa, that employers' hiring requirements were a poor match with refugee demographics.<sup>20</sup> The programme is pursuing a range of other formal economic opportunities for refugees instead.

This paper addresses refugee livelihoods – in particular, waged work for refugees – from a labour standards perspective. This is in contrast to the usual approach to refugee livelihoods, in which decent work has not been a focus.<sup>21</sup> The paper presents case studies of the work aspects of the Jordanian and Ethiopian compacts. The lessons learned from these contexts have much to teach us about how to integrate refugees into labour markets in host countries in ways that do not expose refugees to exploitation, or indirectly undermine existing conditions for those already doing the work. Based on these cases, the paper argues that if we are to take refugee self-reliance seriously, we will need to create decent work<sup>22</sup> opportunities – not just any chance to earn money – for refugees and for the others who labour alongside them, including local workers, migrant workers, and internally displaced people. In other words, the right for refugees *to work* must be accompanied by rights *at work*.

Decent work for refugees will not be achieved as an add-on; it must be part of the plan from the beginning. This is particularly true given that many host countries suffer from a lack of decent work unrelated to the presence of refugees. To that end, the paper sets out a series of recommendations for how refugee work agreements could be structured from the beginning to protect and advance workers' rights, including host country nationals and migrants along with refugees. It emphasizes the need to design refugee labour integration programmes only after an analysis of the sectors that offer the potential for decent work in light of the host country's local and national economies and regional and global linkages.

Domestically oriented sectors will be as or more important than those that are tradable. Refugees are likely to continue in informal jobs even once they have the right to work, and the paper emphasizes the importance of efforts to improve wages and working conditions in the informal economy<sup>23</sup> through advocacy and innovative enforcement efforts as part of refugee livelihoods initiatives.

Consistent with the first recommendation of the recent Independent Evaluation of the ILO's Programme of Work in Lebanon and Jordan,<sup>24</sup> the paper advances the ILO as a key actor with a critical role to play in refugee work initiatives, as an equal partner with other

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<sup>20</sup> See *International Development Association Program appraisal document for the Ethiopia Economic Opportunities Program*, 84–86, World Bank, Report No. 126766-ET (4 June 2018), available at [www.documents.worldbank.org](http://www.documents.worldbank.org).

A similar mismatch was evident early in the implementation of the Jordan Compact but did not lead to a shift in emphasis until much later. In Jordan, as I describe below, the mismatch was deeply intertwined with gender. For a description of a failed pilot project that was intended to illustrate the potential for employment of Syrian refugees in Jordanian export zones, see Katharina Lenner and Lewis Turner, "Making refugees work? The politics of integrating Syrian refugees into the labour market in Jordan", 28, *Middle East Critique*, 65, 80–81 (2019).

<sup>21</sup> Traditional refugee livelihoods planning has focused on craft-making and farming within camps, and on microcredit and skills training across settings. (For additional discussion of this issue, see Section II.) Consideration of labour standards has been almost entirely absent in the practical or academic literature on refugee livelihoods, at least prior to the Syrian refugee crisis. Google and Google Scholar searches for "refugee livelihoods and decent work" and for "labour standards and decent work" during the period from 1990 to 2011 revealed almost no substantive discussion of labour standards in refugee livelihoods planning or evaluation. The single exception is a Women's Refugee Commission manual that focuses on compliance with local and international labour standards as one of the hallmarks of a successful refugee livelihoods programme. *Building livelihoods: A field manual for practitioners in humanitarian settings* at 9, 74, Women's Refugee Commission (2009), available at [www.womensrefugeecommission.org](http://www.womensrefugeecommission.org).

<sup>22</sup> The ILO defines "decent work" as "involv[ing] opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men." Decent Work, International Labour Organization, available at [www.ilo.org](http://www.ilo.org). A fuller explanation of the ILO's Decent Work Agenda can be found at ILO Declaration on Social Justice for a Fair Globalization, 9–11, ILO Geneva (10 June 2008), available at [www.ilo.org](http://www.ilo.org).

<sup>23</sup> The ILO defines informal employment as "all remunerative work (i.e. both self-employment and wage employment), that is not registered, regulated or protected by existing legal or regulatory frameworks, as well as non-remunerative work undertaken in an income-producing enterprise. Informal workers do not have secure employment contracts, workers' benefits, social protection or workers' representation." *ILO Thesaurus*, International Labour Organization.

<sup>24</sup> Independent evaluation of ILO's programme of work in Lebanon and Jordan in terms of decent work and the response to the Syrian refugee crisis, 2014–2018, ILO Evaluation Office, xv (Sep. 2018), available at [www.ilo.org](http://www.ilo.org).

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UN agencies, host governments and humanitarian and development actors. To the same end, it calls for meaningful engagement of a broad set of labour-oriented actors at all stages of refugee work initiatives, from conception to design to implementation. These include host country trade unions, host country labour ministries and employers, as well as NGOs that represent and advocate for migrants, refugees, and local workers.

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## 2. Work, the international refugee regime, and the ILO

Refugee policy during the twentieth century swung between an emphasis on finding employment opportunities that would allow refugees to become economically self-reliant, and a humanitarian approach, under which it is the responsibility of states and the UNHCR to fulfill refugees' basic needs.<sup>25</sup>

Prior to the Second World War, refugees were treated much like migrant workers. From its founding in 1919, the ILO played an important role in refugee resettlement. In the 1920s, the ILO was active in matching refugees with jobs in Europe, and making sure that they were not exploited as workers.<sup>26</sup> During the negotiation of the post-war refugee regime, the ILO sought to continue this role.<sup>27</sup> It proposed the founding of an agency under its auspices that would include refugees with other migrants, facilitating labour exchange and addressing the work issues for both groups.<sup>28</sup>

However, political battles in the context of the emergent Cold War led to a different outcome. The 1951 Refugee Convention established a firewall between the refugee and labour migration regimes.<sup>29</sup> The UNHCR was created to attend to the humanitarian needs of refugees, with the United States and Western Europe shaping the new regime to highlight the special need for protection of people from communist countries. At the time, the focus was on guaranteeing refugees asylum in other nations. Later, once large-scale displacement was concentrated in African nations, the encampment model rose to prominence, rather than refugees living and working among host country nationals. This policy addressed host concerns about security and containment, and made it easier to channel UNHCR funding and assistance to large refugee populations.<sup>30</sup> In that context, development took a back seat, and work dropped out of the picture for most refugees unless they returned to their country of origin or were among the small fraction resettled.<sup>31</sup> Humanitarian actors developed "refugee livelihoods" initiatives, but this generally involved skill-building, small-scale farming, marketing, and crafting rather than work for wages.<sup>32</sup>

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<sup>25</sup> Tracing some of this history: see generally Evan Easton-Calabria, "Following the refugees: the World Bank, international loans, and a brief history of refugees and development", 37 *SAIS Review of International Affairs* 3 (2017). For an overview of the development of the modern refugee protection regime, see Roger Zetter, *Protecting forced migrants: A state of the art report of concepts, challenges and ways forward*, 21–29, Federal Commission on Migration (Dec. 2014), available on [www.ekm.admin.ch](http://www.ekm.admin.ch).

<sup>26</sup> Evan Easton-Calabria, *ibid.* 37 *SAIS Review of International Affairs* 3, 14 (2017).

<sup>27</sup> This is reflected in the ILO Migration for Employment Convention (Revised), 1949 (No. 97) and the accompanying Recommendation No. 86, which also apply to refugees. In this regard, Recommendation No. 86 provides in its Annex a "Model agreement on temporary and permanent migration for employment, including migration of refugees and displaced persons."

<sup>28</sup> Katy Long, "When refugees stopped being migrants: Movement, labour and humanitarian protection", 1 *Migration Studies* 4, 17–18 (2013).

<sup>29</sup> Katy Long, *ibid.* 4, 5 (2013). Rieko Karatani, "How history separated refugee and migrant regimes: In search of their institutional origins", 17 *International Journal of Refugee Law* 517, 520 (2005).

<sup>30</sup> Evan Easton-Calabria, "From bottom-up to top-down: The 'pre-history' of refugee livelihoods assistance from 1919 to 1979", 28 *Journal of Refugee Studies* 412, 424 (Sep. 2015).

<sup>31</sup> Katy Long, *ibid.* 4, 19–20 (2013). Uganda, one of the world's largest refugee host countries and also one of its most generous, is frequently cited as one of the major exceptions to the rule. In principle, Uganda offers refugees access to land, work permission, and free movement within the country. For an overview and analysis, see *An assessment of Uganda's progressive approach to refugee management*, World Bank Group (May 2016), available at [www.openknowledge.worldbank.org](http://www.openknowledge.worldbank.org). For an argument that Uganda's policy has been idealized, see Lucy Hovil, "We need a more honest discussion of Uganda's model refugee policies", *Refugees Deeply* (Oct. 2018), available at [www.newsdeeply.com](http://www.newsdeeply.com).

<sup>32</sup> For a list of refugee livelihoods approaches recommended by the UNHCR at the beginning of the twenty-first century, see UNHCR, *Handbook for self-reliance*, Annex 1.13 (2005), available at [www.unhcr.org](http://www.unhcr.org). For a critique of the UNHCR's approach at the time, see Ziad Ayoubi and Regina Saavedra, "Refugee livelihoods: new actors, new models", 58 *Forced Migration Review* 39, 40 (June 2018) ("Traditionally, many livelihoods interventions focused on skills development and subsidies, and were implemented without real analysis of refugee needs and capacities. They lacked the potential to generate real, sustainable impact for refugees, let alone for host communities.") For an overview of the literature and a critique of past practices in the refugee livelihoods field, see Karen Jacobsen and Susan Fratzke, *Building livelihood opportunities for refugee populations: Lessons from past practice*, Transatlantic Council on Migration of the Migration Policy Institute (2016), available

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This shift took refugees out of the ILO's ambit. The ILO had a minor role in a few refugee initiatives from 1951 onwards, largely limited to giving refugees small loans to begin businesses. In labour markets where the ILO was engaged in supporting local or migrant workers, the ILO's initiatives helped refugees to the extent that they were part of the mix already. But with few exceptions, the ILO did not focus on refugees as a distinct group of waged workers for the second half of the twentieth century.<sup>33</sup>

The 1951 Refugee Convention does require signatory countries to grant refugees the right to work,<sup>34</sup> but this promise is largely honoured in the breach. Almost half the 145 countries that have signed the Convention have done so with reservations relating to the work requirement. Meanwhile, 48 other states are not signatories at all.<sup>35</sup> Some countries of first asylum allow refugees to get work permits on paper, but it is rarely easy to do so in practice. More common is the absence of any affordable form of work permission for refugees, together with limits on freedom of mobility.<sup>36</sup>

When the pendulum began to swing back towards refugee self-reliance at the beginning of the twenty-first century,<sup>37</sup> it had been some 80 years since the ILO had played a significant role in refugee situations. Development and financial institutions began to engage with refugee policy to a much greater extent, narrowing what had been a deep divide between the humanitarian and development worlds.<sup>38</sup> The World Bank, UN agencies such as the United Nations Development Programme (UNDP), and private enterprises joined the UNHCR in the new refugee initiatives.<sup>39</sup> As the idea of self-reliance returned, so did proposals to allow

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at [www.migrationpolicy.org](http://www.migrationpolicy.org). See also Evan Easton-Calabria and Naohiko Omata, "Panacea for the refugee crisis? Rethinking the promotion of 'self-reliance' for refugees", 39, *Third World Quarterly*, 1458 (2018).

<sup>33</sup> For historical perspectives on the ILO's engagement with refugees, see Evan Easton-Calabria, "From bottom-up to top-down: The 'pre-history' of refugee livelihoods assistance from 1919 to 1979", 28, *Journal of Refugee Studies*, 412, 417–421 (Sep. 2015); Katy Long, "When refugees stopped being migrants: Movement, labour and humanitarian protection", 1 *Migration Studies* 4, 17–19 (2013). For an account of some ILO initiatives since the 1980s, see Adèle Garnier, "Arrested development? UNHCR, ILO, and the refugees' right to work", 30, *Refugee* 15, 18–19 (2014); Eve Hall, *With an eye to the future: ILO refugee programmes in Africa* 5–14, ILO, Working Paper No. 12 (Apr. 2003) (summary of ILO refugee support in Sudan and Somalia in the 1980s).

<sup>34</sup> Convention and Protocol Relating to the Status of Refugees, arts. 17–19. Article 17, paragraph 1 states: "The Contracting State shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage earning employment." *Idem* at art. 17. The article later urges states to consider treating refugees the same way as citizens. *Idem*.

For an analysis of refugees' work rights under international law, see generally *The Michigan Guidelines on the Right to Work*, University of Michigan Law School (16 Mar. 2010), available at [www.refworld.org](http://www.refworld.org).

<sup>35</sup> Roger Zetter and Héloïse Ruaudel, *Refugees' right to work and access to labor markets – an assessment (Part I: Synthesis)* 5, KNOMAD (Sep. 2016), available at [www.knomad.org](http://www.knomad.org). But see *contra*, Asylum Access reports that "85 per cent of Member States have committed to extend refugees the right to engage in wage-earning employment and self-employment, without reservation." "Global refugee work rights report", *Asylum Access* 4 (2014), available at [www.asylumaccess.org](http://www.asylumaccess.org).

For a current list of state signatories to the Convention and Protocol, see *States parties to the 1951 Convention relating to the status of refugees and the 1967 protocol*, UNHCR, available at [www.unhcr.org](http://www.unhcr.org). For reservations, see *UNHCR accession, succession, ratification of the 1951 Refugee Convention, reservations and declarations*, UNHCR, 6–14, available at [www.unhcr.org](http://www.unhcr.org).

A failure to sign the Convention does not necessarily predict a state's behavior vis-à-vis refugees. Non-signatories have taken in far more refugees than many signatories, although their policies towards them vary widely. Roger Zetter and Héloïse Ruaudel, "Refugees' right to work and access to labor markets: Constraints, challenges and ways forward", 58, *Forced Migration Review*, 4, 5 (June 2018).

<sup>36</sup> "Global refugee work rights report", *Asylum Access*, 4 (2014), available at [www.asylumaccess.org](http://www.asylumaccess.org); Roger Zetter and Héloïse Ruaudel, *Refugees' right to work and access to labor markets – an assessment (Part I: Synthesis)* 4, KNOMAD (Sep. 2016), available at [www.knomad.org](http://www.knomad.org).

<sup>37</sup> See Roger Zetter and Héloïse Ruaudel, "Refugees' right to work and access to labor markets: Constraints, challenges and ways forward", 58, *Forced Migration Review*, 4, 6 (June 2018), citing Syrian crisis as spurring factor.

<sup>38</sup> Although this recent merging of refugee and development policy is frequently referred to as historical, one author argues that "first, efforts to merge refugee assistance with development are far from new, and, secondly, they have not worked". Evan Easton-Calabria, "Following the refugees: The World Bank, international loans, and a brief history of refugees and development", 37, *SAIS Review of International Affairs* 3, 5 (2017).

<sup>39</sup> In 2016, the World Bank designated US\$ 2 billion in concessional loans and grants for low-income refugee host countries and US\$ 1.5 billion in grants to generate US\$ 6 billion in concessional loans for middle-income refugee host countries. *The World Bank and Refugees: An ICVA Briefing Paper* 2 (Mar. 2018), available at [www.reliefweb.int](http://www.reliefweb.int). These were the bank's first major refugee funding initiatives. For a history of the World Bank's engagement with refugees and of the development perspective on refugee crises, see generally Evan Easton-Calabria, *ibid.* 3 (2017).

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refugees to work. But many of these high-level conversations took place without a meaningful ILO presence, at least in the initial phase.

In the meantime, several ILO field offices in countries neighbouring Syria had begun engaging with refugees at the national level. Large numbers of Syrian refugees began working without permits in the Turkish garment industry, and as their numbers in the informal Jordanian and Lebanese agriculture and construction sectors increased exponentially, and child labour surged, ILO field offices responded. They began experimenting with programming for refugees doing waged work, joined forces with humanitarian organizations to reduce child labour, and offered technical advice as governments began considering labour market access for refugees.<sup>40</sup> In the beginning, there was no top-down ILO policy to guide these interventions. It was not until international discussions emerged about an agreement that would seek to place hundreds of thousands of Syrian refugees in jobs in Jordan that the ILO initiated a series of internal meetings in 2015 to address the refugee question agency-wide.<sup>41</sup>

As calls grew from within the ILO and from outside it for the agency to develop a plan for refugee-specific programming, the institution faced some concerns from its tripartite constituents: governments, workers, and employers.<sup>42</sup> Host country governments noted the disproportionate share of the global refugee burden that they already bore, and questioned the fairness of a policy that asked them to open their labour markets as well as their borders to refugees.<sup>43</sup> The ILO worker representatives strongly supported the extension of work rights to refugees,<sup>44</sup> although some local trade unions in host countries feared that refugees would compete with their national members for scarce jobs.<sup>45</sup> Employers generally supported the labour integration of refugees but emphasized the need for the ILO to produce a non-binding document, rather than one that created enforceable obligations.<sup>46</sup>

In July 2016, the ILO signed a Memorandum of Understanding with the UNHCR committing to increased cooperation between the agencies on refugee issues.<sup>47</sup> Later the same month, an ILO tripartite technical meeting adopted the non-binding “Guiding principles on the access of refugees and other forcibly displaced persons to the labour market”, which were approved by the ILO Governing Body for publication and

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<sup>40</sup> For details on these and other ILO efforts related to refugee employment prior to adoption of the Guiding Principles, see *The access of refugees and other forcibly displaced persons to the labour market*, 13, ILO (14 June 2016), available at [www.ilo.org](http://www.ilo.org).

<sup>41</sup> *The access of refugees and other forcibly displaced persons to the labour market*, 13, ILO (14 June 2016), available at [www.ilo.org](http://www.ilo.org). See idem at 17 (referencing the Jordan Compact, which was already concluded by the time this background paper was issued); see also idem at 1 (listing a series of internal ILO discussions beginning in June 2015).

<sup>42</sup> The debates on the ILO’s position are recorded in *Third supplementary report: Outcome of the tripartite technical meeting on the access of refugees and other forcibly displaced persons to the labour market*, Appendix 2, ILO Geneva (5–7 July 2016), available at [www.ilo.org](http://www.ilo.org).

<sup>43</sup> See e.g. statements of the government representatives of Jordan, Lebanon, Turkey, Pakistan, and Algeria during the tripartite meeting, *Third supplementary report: Outcome of the tripartite technical meeting on the access of refugees and other forcibly displaced persons to the labour market*, Appendix 2, 8–15, ILO Geneva (5–7 July 2016), available at [www.ilo.org](http://www.ilo.org).

<sup>44</sup> See e.g. statements of the Worker Vice-Chairperson and the Public Services International (PSI) representative during the tripartite meeting, *Third supplementary report: Outcome of the tripartite technical meeting on the access of refugees and other forcibly displaced persons to the labour market*, Appendix 2, 6–7, 18–19, ILO Geneva (5–7 July 2016), available at [www.ilo.org](http://www.ilo.org).

<sup>45</sup> See e.g. Seyhan Erdoğan, “Syrian refugees in Turkey and trade union responses”, 15 *Globalizations* 838 (18 June 2018), available at [www.tandfonline.com](http://www.tandfonline.com).

<sup>46</sup> Regarding employer support for refugee labour market integration, see statements of the Employer Vice-Chairperson during the tripartite meeting, *Third supplementary report: Outcome of the tripartite technical meeting on the access of refugees and other forcibly displaced persons to the labour market*, Appendix 2, 5–6, ILO Geneva (5–7 July 2016), available at [www.ilo.org](http://www.ilo.org). Regarding employer concerns about a binding document, see e.g. comments of the Employer Vice-Chairperson on specific language in the draft document during the tripartite meeting, *ibid.* Appendix 2, 29, 48, 51, ILO Geneva (5–7 July 2016), available at [www.ilo.org](http://www.ilo.org).

<sup>47</sup> *Memorandum of understanding between the International Labour Organization and the Office of the United Nations High Commissioner for Refugees* (1 July 2016), available at [www.ilo.org](http://www.ilo.org). This was followed by agreement on a more detailed plan of action. See *Joint ILO-UNHCR Letter to All Staff*, ILO and UNHCR (11 Sep. 2017), available at [www.social-protection.org](http://www.social-protection.org).

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dissemination in November 2016.<sup>48</sup> The principles recommend a more balanced global sharing of responsibility for refugees and call for host governments – in consultation with trade unions and employer organizations – to establish policies to give refugees labour market access under conditions that promote economic growth and decent work. A year later, the ILO International Labour Conference adopted the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), which emphasizes the importance of labour market access in crisis situations that include, but go beyond, those that fit the refugee definition.<sup>49</sup>

The lag between the peak of the Syrian crisis and the ILO’s internal process meant that although the ILO was already working to some extent with Syrian refugees in the field, it did not have a strong presence in high-level discussions surrounding the initial negotiation and design of the Jordan Compact and later the Ethiopia Jobs Compact in 2016.<sup>50</sup> Instead, development and financial institutions were in the lead. Neither set of actors has historically seen decent work as part of its mission. The resulting initiatives expanded labour market access for refugees but called at least initially for their employment at the bottom of global supply chains, where wages are very low and workers’ rights are often violated.

As this paper will argue, there is much to be gained from a stronger ILO presence from the beginning in the negotiation and design of refugee work programming, in order to shape refugee labour market access in ways that align with national efforts to advance decent work for all. Now that the ILO’s tripartite constituents of governments, employers, and workers have agreed on Recommendation No. 205 and the related Guiding principles, the ILO has begun to play a more active role in refugee situations around the world.

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<sup>48</sup> *Guiding principles on the access of refugees and other forcibly displaced persons to the labour market*, ILO (July 2016), available at [www.ilo.org](http://www.ilo.org).

<sup>49</sup> *Employment and decent work for peace and resilience recommendation*, 2017 (No. 205), ILO (June 2017), available at [www.ilo.org](http://www.ilo.org). The recommendation also covers migrants in crisis situations and internally displaced people. This recommendation revised the Employment (Transition from war to peace) Recommendation, 1944 (No. 71), adopted in the immediate aftermath of the Second World War, “with a view to broadening its scope and providing up-to-date guidance on the role of employment and decent work in prevention, recovery, peace and resilience with respect to crisis situations arising from conflicts and disasters.” *Idem* at Preamble.

<sup>50</sup> The Independent Evaluation attributed this delay to the following, first among other factors:

“The absence of clear guidance – until the adoption of Guiding Principles (ILO, 2016) in July 2016 and Recommendation 205 in June 2017 – on whether the ILO should be involved in the response to the crisis, the limited investment from the ILO in the early stages and the absence of a specifically designated ILO representative to ‘sit at the table’ to position the ILO as a key player for the response to the crisis, in both countries.” *Independent evaluation of ILO’s Programme of Work in Lebanon and Jordan in terms of decent work and the response to the Syrian refugee crisis, 2014–2018*, International Labour Organization Evaluation Office, 20 (Sep. 2018), available at [www.ilo.org](http://www.ilo.org).

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### 3. The Jordan Compact: A decent work perspective

Through the Jordan Compact, the European Union and individual EU countries, with the support of the World Bank, pledged a package of nearly US\$ 2 billion in grants and low-interest loans to the Government of Jordan. In return, Jordan agreed to take a series of steps to support Syrian refugees within its borders, including access to education and – centrally – employment.<sup>51</sup> It committed to providing 200,000 work permits to Syrians for use in selected occupations, transforming a setting in which Syrian refugees in Jordan had largely been denied permits.<sup>52</sup>

Following the EU's relaxation of its Rules of Origin for Jordan, companies in Jordanian export manufacturing zones that met a hiring target of 15 per cent Syrian refugees would be given access to EU markets at reduced tariffs, so long as they met the EU's other certification requirements.<sup>53</sup> This was intended to attract investment to Jordanian export manufacturing and in turn to lead to the creation of a large number of jobs for refugees.<sup>54</sup>

The European Union's contribution to the Compact was built on the theory that trade incentives could increase refugee employment in Jordan and thus reduce the number of Syrians seeking to relocate to the European Union. This was an intuitively appealing assertion. If trade incentives led to new employment opportunities, wouldn't refugees take these jobs in the host country rather than moving elsewhere in search of work? However, there is little empirical support for the proposition that trade and the jobs it creates will slow onward movement. In fact, contemporary research in the migration context suggests that the dynamics are reversed. Increased trade with low-income countries appears to spur migration

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<sup>51</sup> See EU-Jordan Compact at 6–8. Health care subsidies for Syrians in Jordan were added to the agreement at a later date. The Government of Jordan subsequently withdrew the subsidies, “Jordan: Step forward, step back for urban refugees”, *Human Rights Watch* (25 Mar. 2018, 12.01 a.m.), available at [www.hrw.org](http://www.hrw.org), and reinstated them a year later, *Jordan Fact Sheet*, UNHCR (May 2019), available at [www.reliefweb.int](http://www.reliefweb.int).

The UNHCR currently reports approximately 660,000 Syrian refugees registered in Jordan. Numbers rose sharply between 2011 and mid-2014 but have been essentially stable since then. *Registered Syrian refugees by date*, UNHCR (3 June 2019), available at [www.data2.unhcr.org](http://www.data2.unhcr.org). The Jordanian government, however, calculates that 1.3 million Syrians live within its borders. Suleiman Al-Khalidi, “Jordan’s PM appeals for more aid as most Syrian refugees set to stay”, Reuters (20 Feb. 2019, 11.56 a.m.), available at [www.reuters.com](http://www.reuters.com).

<sup>52</sup> Before the armed conflict in Syria, some Syrians worked in Jordan as migrants under a 2001 bilateral agreement between the two governments. Roger Zetter and Héloïse Ruardel, *Refugees’ right to work and access to labor markets – an assessment* (Part II: Case studies) 86, KNOMAD (Sep. 2016), available at [www.knomad.org](http://www.knomad.org). However, once large numbers of Syrian refugees began arriving in Jordan, they were allowed to live legally in the country but were not routinely granted work permission prior to 2016. Salem Aljuni and Mary Kawar, *The impact of the Syrian refugee crisis on the labour market in Jordan: A preliminary analysis*, 14–15, ILO (2014), available at [www.ilo.org](http://www.ilo.org). The only Syrians eligible for a work permit were those who could demonstrate that they met the requirements that applied to migrant workers in Jordan generally, including legal admission at a formal border – a condition few refugees met. *Work permits for Syrian refugees in Jordan*, 6–7, ILO Regional Office for Arab States (2015), available at [www.ilo.org](http://www.ilo.org).

<sup>53</sup> Although the original agreement with the EU would have increased the percentage of Syrian workers to 25 per cent after two years, see EU-Jordan Compact at 12, it was amended in 2018 to keep the goal at 15 per cent through 2030. An industry and compliance review, Jordan, Better Work, Annual Report (16 Apr. 2019) at 9, available at [betterwork.org](http://betterwork.org); “EU rules-of-origin scheme expanded to include all Jordanian companies”, Jordan Times (18 Dec. 2019), available at [www.jordantimes.com](http://www.jordantimes.com). At the same time, the parties agreed that once work permit numbers reached 60,000, the rules of origin would be extended to all Jordanian firms, not just those in special processing zones. *Ibid.*

<sup>54</sup> Alexander Betts and Paul Collier, “Help refugees help themselves”, *Foreign Policy* (Nov./Dec. 2015), available at [www.foreignaffairs.com](http://www.foreignaffairs.com) (“Jordan offers one place to begin. There, a reconsidered refugee policy would integrate displaced Syrians into specially created economic zones, offering Syrian refugees employment and autonomy, incubating businesses in preparation for the eventual end of the civil war in Syria, and aiding Jordan’s aspirations for industrial development.”)

Alexander Betts and Paul Collier relied heavily on the Ugandan model in their conception of work for Syrians in Jordan. See *idem* at 90. However, the two situations are very different. Critically, Uganda’s refugee labour integration initiatives have been primarily rural and camp-based, involving the grant of plots to individuals or families to farm and sell produce in nearby markets. Alexander Betts and Paul Collier, *Refugee: Rethinking refugee policy in a changing world*, 160–68 (2017). This bears little resemblance to the idea of placing Syrians in manufacturing jobs in Jordanian export manufacturing zones. While Betts and Collier later acknowledged this (*idem* at 168–70), the EU-Jordan Compact itself was based neither on an in-depth understanding of the Jordanian economy in a global context nor on the particular situation of Syrian refugees in Jordan. Katharina Lenner and Lewis Turner, “Making refugees work? The politics of integrating Syrian refugees into the labor market in Jordan”, 28, *Middle East Critique*, 65, 77 (2019).

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in the short and middle term.<sup>55</sup> Nonetheless, the hope that trade-related jobs could keep Syrians in Jordan generated significant support for the Compact.

To make the agreement acceptable to Jordanian citizens, already hosting hundreds of thousands of Syrians (as well as Palestinian and Iraqi refugees) in a context of economic stagnation and high unemployment, the government only allowed Syrians to access jobs that were already open to migrant workers. Although the Compact targeted several manufacturing sectors, garments are Jordan's largest single consumer goods export,<sup>56</sup> and it was on employment for Syrians in the garment industry that implementation focused. The language of the agreement and accompanying documents implied that tens of thousands of new jobs would be created in 18 industrial zones in Jordan through the new trade preferences.<sup>57</sup> But if this growth failed to materialize, the safety valve was the idea that Syrian refugees could be substituted for the migrant workers who made up the majority of Jordan's garment workforce.<sup>58</sup> The remainder of Syrian permit-holders would be allowed to access positions in construction, agriculture, and a mix of low-skill services, largely informal sectors whose labour force for some 30 years before the Syrian crisis was mostly made up of Egyptian men.<sup>59</sup>

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<sup>55</sup> Put in economic terms, in low-income countries trade and migration appear to be complements rather than substitutes. See e.g. Hillel Rapoport, "Migration and Trade", in *Handbook of Migration and Globalisation*, 173, 178, Anna Triandafyllidou ed. (2018); Christopher R. Parsons and L. Alan Winters, "International Migration, Trade and Aid: A Survey" 8, *Migrating out of Poverty*, Working Paper 16 (July 2014).

It is important to note that the empirical research in this area relates to trade vis-à-vis labour migration rather than the onward movement of refugees. Refugees may respond to new job opportunities in a host country in ways different from those that migrant workers do to new job opportunities at home – or their reaction may be quite similar. We simply do not have enough information to know.

<sup>56</sup> Textiles represent nearly half of the consumer goods exported from Jordan; the second-largest category is food products. Author's calculations based on World Bank statistics for 2017: *Jordan product exports and imports 2017*, World Bank, available at [www.wits.worldbank.org](http://www.wits.worldbank.org). The garment industry represented approximately 25 per cent of the country's total exports in 2018. *An industry and compliance review, Jordan*, Better Work, Annual Report (16 Apr. 2019) at 10, available at [www.betterwork.org](http://www.betterwork.org). The vast majority of garment exports are destined for the United States. *Jordan textiles and clothing exports by country 2017*, World Bank, available at [www.wits.worldbank.org](http://www.wits.worldbank.org). See discussion of the origin and structure of the Jordanian garment industry in footnotes 70–71 and accompanying text.

<sup>57</sup> See e.g. "Over the medium term, a significant number of new jobs are expected to be created for Jordanians and Syrian refugees." *Program appraisal document on proposed loan and credit to the Hashemite Kingdom of Jordan, for economic opportunities for Jordanians and Syrian refugees program-for-results*, World Bank (Sep. 2016) at 26, available at [www.documents.worldbank.org](http://www.documents.worldbank.org).

<sup>58</sup> Alexander Betts and Paul Collier, "Help refugees help themselves", *Foreign Policy* (Nov./Dec. 2015), available at [www.foreignaffairs.com](http://www.foreignaffairs.com); Daniel Howden, Hannah Patchett and Charlotte Alfred, "The Compact experiment: Push for refugee jobs confronts reality of Jordan and Lebanon", *Refugees Deeply* (Dec. 2017), available at [www.issues.newsdeeply.com](http://www.issues.newsdeeply.com) ("... Jordan would create 200,000 jobs for Syrian refugees. Around 50,000 of these would be in sectors typically shunned by Jordanians, like agriculture and construction. The rest were to be created in Jordan's Special Economic Zones [SEZs].").

The agreement was amended in 2018 so that once a threshold of 60,000 work permits is reached, the ROOs will cover export production beyond the 18 designated zones. *An Industry and Compliance Review, Jordan*, Better Work, Annual Report (16 Apr. 2019) at 9, available at [www.betterwork.org](http://www.betterwork.org).

For a discussion of the reasons behind the Jordanian garment industry's reliance on migrant workers – reasons that from the outset made the substitution of Syrian refugees for migrant workers unlikely to succeed – see infra Part III, section titled "Not going to happen": A structural lens on the Jordanian garment industry".

<sup>59</sup> See Katharina Lenner and Lewis Turner, "Making refugees work? The politics of integrating Syrian refugees into the labor market in Jordan", 28, *Middle East Critique*, 65, 87–88 (2019); Susan Razzaz, *A challenging market becomes more challenging: Jordanian workers, migrant workers and refugees in the Jordanian labour market*, ILO, Beirut (2017), available at [www.ilo.org](http://www.ilo.org); Allison Spencer Hartnett, "Reflections on the geopolitics of refugees and displaced persons: The effect of refugee integration on migrant labor in Jordan", 52, *Review of Middle East Studies*, 263, 270 (2018); idem at 271 ("Informal arrangements have long governed labor in Jordan's agriculture and construction industries. ... Syrians [are] now being given priority both formally and informally. The restructuring of laws and priorities leaves Egyptian migrants in Jordan more vulnerable to exploitation and deportation.").

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### 3.1 The failure of Syrian employment in export zones

Despite the hope invested in the trade provisions of the Compact, three years later fewer than 500 Syrians are working in the designated industrial zones in Jordan.<sup>60</sup> The number of new jobs created for Syrians in export zones as a result of Compact investments is lower still.<sup>61</sup> In Jordan, the garment export industry is largely staffed by migrant women. As the Compact got under way, the hope was that garment factories would hire large numbers of Syrian women. One impact of the lack of industrial zone employment is the almost complete failure of the Jordan Compact provisions to integrate Syrian women into the Jordanian labour market. Although economic opportunity for women had been an important goal of the Compact,<sup>62</sup> more than 95 per cent of the Syrian permit holders have been male.<sup>63</sup> The Compact's architects had held what turned out to be unrealistic expectations regarding employment opportunities for Syrian women in Jordan.<sup>64</sup>

#### 3.1.1 Why have Syrians not taken garment export jobs? Two perspectives

##### *Only a matter of time: A focus on technical and cultural challenges*

As it became clear during the first year of implementation that few Syrians were taking jobs in the export zones, attention in the field turned to identifying the obstacles.<sup>65</sup> Syrian women were a particular focus of concern, as they had been seen as good substitutes for migrant women in export factories in the initial conception of the Jordan Compact.<sup>66</sup> The issues most often cited on the supply side for their lack of interest in work in the designated zones were the travel distance between most Syrians' homes and the zones, the need for childcare, the lack of relevant work experience among Syrians in Jordan, and a reluctance

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<sup>60</sup> While at the beginning of the Compact implementation period the number of Syrians in export manufacturing positions was closely tracked, as months passed and the number remained low, statistics have become harder to come by. Today, the best approximation is to be had from the Jordan Ministry of Statistics' monthly spreadsheet on work permits. Although neither garment jobs nor export factory employees are broken out separately, employment of Syrians in the zones is almost entirely of women and in the garment industry. Thus, the figure for Syrian women holding work permits for manufacturing positions can be used as a rough guide. (Phone interview with ILO staff person, 21 May 2019, Beirut.) Jordanian Ministry of Statistics work permit spreadsheets, as of 29 May 2019, show that the government issued work permits for manufacturing to 244 Syrian women in 2018, and 186 more in the first five months of 2019. Since the permits must be re-issued annually, the total number of valid permits is below 500.

<sup>61</sup> The report of the EU Independent Mission in March 2019 states that 281 Syrian refugees work in Jordanian export zones in jobs created by the Compact. *Independent Monitor's Assessment Report: Jordan Compact and Brussels Meetings* 15 (7 Mar. 2019), available at [www.ecas.europa.eu](http://www.ecas.europa.eu). Between July 2016 and February 2019, 1019 jobs in total were created by new ROO and enhanced EU market access in the Compact, of which 281 are held by Syrians. Furthermore, as of early 2019, only 13 factories in the zones have met the certification requirements to qualify for exporting to the EU. *EU Independent Mission Report* (March 2019) at 15.

<sup>62</sup> See EU-Jordan Compact at 6, 8, 14.

<sup>63</sup> Jordan Ministry of Statistics work permit spreadsheet as of May 29, 2019. Moreover, few Syrian refugee women in Jordan without work permits are working. Taking both permitted and non-permitted work into account, one survey indicates that only 2 per cent of Syrian women are in full time and 6 per cent in part time employment in Jordan. *The Syrian refugee crisis and its impact on the Jordanian labour market*, 9, WANA Inst. (Mar. 2019), available at [www.mercycorps.org](http://www.mercycorps.org). This should not have come as a surprise: according to the same survey, only 19 per cent of Syrian refugee women now in Jordan were participating in the labour force in Syria before displacement. *Idem*.

<sup>64</sup> Syria and Jordan are characterized by some of the lowest female labour force participation rates in the world. Currently, the rate for Syria is 12 per cent and for Jordan 14 per cent. World Bank, *Labor force participation rate (female) (as % of female population ages 15+)* (Sep. 2019), available at [www.worldbank.org](http://www.worldbank.org). The labour force participation of Syrian women in Jordan should be understood against this backdrop. Nonetheless, the percentage of Syrian women with work permits in Jordan is significantly below even the low rates of employment for Syrian and Jordanian women in their home countries.

<sup>65</sup> Interest in garment manufacturing for export was no higher among Syrian men – but they were never expected to take those jobs.

<sup>66</sup> See e.g. Sean Thomas, Mays Abdel Aziz and Erica Harper, *Forging new strategies in protracted crises: Syrian refugees and the host state economy: Jordan case study*, 55, WANA Institute (Oct. 2015), available at [www.wanainstitute.org](http://www.wanainstitute.org); Katharina Lenner and Lewis Turner, "Making refugees work? The politics of integrating Syrian refugees into the labor market in Jordan", 28, *Middle East Critique*, 65, 82 (2019).

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among Syrians for women to work outside the home in mixed-gender environments.<sup>67</sup> On the demand side, Jordanian export factory managers continued to prefer their current workforce, predominately women migrant workers from South Asia, over Syrians.<sup>68</sup> Firms also struggled to find EU investors and to meet EU export standards.<sup>69</sup> They had limited incentive to make the effort required since the reduction in tariffs for the EU under the Compact is much smaller – and, despite the relaxation of the Rules of Origin, additional EU certification requirements are more stringent – than those already in place for export to the United States, which is the major market for Jordanian export clothing.<sup>70</sup> Many of these obstacles could have been foreseen had trade unions, employers, civil society organizations and refugees in Jordan been consulted on the programme design.

As these challenges were identified, UN agencies, donor governments and international NGOs invested heavily in overcoming them. Since disbursement of payments to the Government of Jordan under the Compact were linked to target numbers of work permits, the bulk of the energy on the ground for the first two years was directed towards increasing permit applications for garment manufacturing. International NGOs have established multiple job training and matching programmes, as has the ILO. Many pilot projects offering free childcare and transportation for refugees wishing to work in the export zones are under way.<sup>71</sup> The ILO and other actors created programmes to support firms applying for EU export certification and sought to help them make contacts in EU markets.<sup>72</sup> And yet, the number of Syrians working in the zones remains nominal.

Key actors within the United Nations assert that once these technical and cultural obstacles are addressed, the trade-driven aspect of the Compact will begin to get off the ground.<sup>73</sup>

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<sup>67</sup> See e.g. Renand Amjad, et al., *Examining barriers to workforce inclusion of Syrian refugees in Jordan*, Better Work, Discussion Paper No. 25 (July 2017), at 51–52, available at [www.betterwork.org](http://www.betterwork.org); *Tailor made: How Syrian refugee women are finding their own way to join the Jordanian economy*, Oxfam, Briefing Note (Aug. 2018), at 13, available at [www.oxfamlibrary.openrepository.com](http://www.oxfamlibrary.openrepository.com).

For a critique of the usual explanations for Syrian women’s lack of engagement with the permit scheme, see Izza Leghtas, “Debunking myths of Syrian women’s absence from Jordan’s labor market”, *Refugees International* (20 July 2018), available at [www.refugeesinternational.org](http://www.refugeesinternational.org).

<sup>68</sup> *An industry and compliance review, Jordan*, Better Work, Annual Report 16 Apr. 2019) at 10, available at [betterwork.org](http://betterwork.org); Katharina Lenner and Lewis Turner, “Making refugees Work? The politics of integrating Syrian refugees into the labor market in Jordan”, 28, *Middle East Critique*, 65, 81–82 (2019).

<sup>69</sup> Katharina Lenner and Lewis Turner, *ibid.* 79 (2019); *Independent monitor’s assessment report: Jordan Compact and Brussels meetings*, 15 (7 Mar. 2019), available at [www.eas.europa.eu](http://www.eas.europa.eu).

<sup>70</sup> At the time the Compact was signed, 81 per cent of Jordanian garment production was destined for the US market. *Jordan textiles and clothing exports by country and region 2016*, World Bank, available at [www.wits.worldbank.org](http://www.wits.worldbank.org). The US remained more attractive as an export destination after the Compact because of existing relationships and familiarity with order specifications, and because its tariff reduction was set at 30 per cent as compared to the 10 per cent offered by the EU via the Compact. Daniel Howden, Hannah Patchett and Charlotte Alfred, “The Compact experiment: Push for refugee jobs confronts reality of Jordan and Lebanon”, *Refugees Deeply* 41 (Dec. 2017), available at [www.issues.newsdeeply.com](http://www.issues.newsdeeply.com). The EU’s requirements for certification are also significantly more stringent than those required for trade with the United States. See e.g. “*European Union country commercial guide: European Union – standards for trade*”, International Trade Administration (19 July 2017), available at [www.export.gov](http://www.export.gov).

Interestingly, there was already evidence before the Compact that companies would struggle to meet EU certification requirements. EU-Jordan Compact at 14 (“... under the existing Jordan-EU Association Agreement, Jordan already has duty-free and quota-free access to the EU market for industrial products, as well as a very wide access for agricultural products. However, Jordanian producers have not yet taken full advantage of this because they are not yet able to meet the rules of origin and the technical standards applied under the Agreement.”).

<sup>71</sup> These and other livelihoods initiatives for Syrians in Jordan have at times appeared to be uncoordinated and duplicative. Author’s observation during field research; *Finding a future: Enhancing sustainable livelihoods for Syrian refugees in Jordan: Perspectives and policies for Jordan’s resilience, stability and development*, 16, ILO (Nov. 2015), available at [www.ilo.org](http://www.ilo.org).

<sup>72</sup> Press Release, ILO, *Ministry of Labour, EU and ILO start cooperation to boost job matchmaking services under EU trade scheme and promote decent working conditions in Jordan* (27 Apr. 2017), available at [www.ilo.org](http://www.ilo.org); Press Release, ILO, “*Made in Jordan*”: *EU trade agreement creates opportunities in manufacturing sector* (11 Jan. 2019), available at [www.ilo.org](http://www.ilo.org).

<sup>73</sup> Author’s interview with high-level United Nations official, Amman, 17 April 2018. The official noted that it took Jordan ten years to build a robust export market for garments in the United States and argued that it is only a matter of time until the EU connection develops to the point where it creates significant employment opportunities. However, such a development would not address the structural issues in the global garment industry that have shaped the preference of garment export factory employers in Jordan for migrant workers over Syrians.

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## *Not going to happen: A structural lens on the Jordanian garment industry*

Other observers are more pessimistic. In a persuasive analysis, they characterize the trade-driven aspect of the Compact as unlikely ever to succeed, because of structural economic issues that shape the garment industry in Jordan.<sup>74</sup> In brief, the low pay and poor quality of the jobs on offer appears to be a critical obstacle to refugees' willingness to work in Jordanian export manufacturing zones.<sup>75</sup> These decent work deficits are the product of the global business model of the ready-made garment industry, and of its adaptation to the Jordanian context, and cannot be changed without a larger shift in the industry overall.<sup>76</sup>

As a middle-income, resource-poor country with relatively high labour costs, Jordan would not typically be considered a competitive country for garment production. Indeed, it only acquired a meaningful clothing export industry when the United States offered tariff reductions and exemption from export quotas as an inducement for Jordan to sign a peace treaty with Israel in 1994.<sup>77</sup> A 1996 US law granting duty-free treatment to products made with a certain percentage of Israeli content in Jordanian or Egyptian "qualifying industrial zones" initiated the process by which garments would become one of the country's largest exports.<sup>78</sup>

But lowered tariffs are not enough for brands to continue to contract with factories in Jordan. Wages, too, must be competitive with other countries. This is essential to the business model of the brands and retailers that drive the industry. When transnational garment brands and retailers choose where to locate their manufacturing around the world, low price and high volume are two of the principal criteria. Brands subcontract most garment manufacturing to firms via a bidding process. To remain competitive, factories must keep their prices low and their turnaround swift. Most of the savings comes out of wages and safety protections for the workers.<sup>79</sup> Cost pressure is particularly strong in a middle-income country like Jordan, where average wages are significantly higher than in other garment-producing countries.

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<sup>74</sup> Susan Razzaz, *A challenging market becomes more challenging: Jordanian workers, migrant workers and refugees in the Jordanian labour market*, 95–97, ILO, Beirut (2017), available at [www.ilo.org](http://www.ilo.org); Jennifer Gordon, "Investing in low-wage jobs is the wrong way to reduce migration", *Foreign Policy* (28 Jan. 2019, 1.00 a.m.), available at [www.foreignpolicy.com](http://www.foreignpolicy.com); Katharina Lenner and Lewis Turner, "Making refugees work? The politics of integrating Syrian refugees into the labor market in Jordan", 28, *Middle East Critique*, 65, 80–84 (2019).

<sup>75</sup> Renand Amjad et al., *Examining barriers to workforce inclusion of Syrian refugees in Jordan*, Better Work, Discussion Paper No. 25 (July 2017), at 44–48, available at [www.betterwork.org](http://www.betterwork.org); *Measuring the impact of refugee labour inclusion on the host state economy*, WANA Institute, Infographic Brief (Apr. 2019), available at [www.mercycorps.org](http://www.mercycorps.org). Other sectors where Syrians have taken jobs, such as agriculture and construction, also have low pay and pervasive violations of decent work standards. This section explores some of the reasons why the garment sector in particular has not been attractive to Syrian refugees in Jordan. The following section addresses decent work concerns related to agriculture and construction.

<sup>76</sup> National-level labour regulation and enforcement are, of course, important factors as well, as is a strong role for independent trade unions. But there is limited room for domestic actors in a given country to raise wages and improve working conditions before the country ceases to be competitive in a context where transnational firms are mobile and have many choices for where to move their production.

<sup>77</sup> Kevin Kolben, "Trade, development, and migrant garment workers in Jordan", 5, *Middle East Law and Governance*, 195, 199–201 (2013).

<sup>78</sup> *Ibid.* 199–200 (2013). The relationship was expanded by the negotiation of the US-Jordan Free Trade Agreement in 2001. *Idem* at 200.

It is important to note that most of the companies that manufacture garments in Jordan are not Jordanian. Rather, they are foreign-owned entities from India, Bangladesh, Pakistan, China, and elsewhere in Asia that relocated to Jordan when the Qualifying industrial zones (QIZs) were established in order to take advantage of the tariff reductions and to avoid hitting the quotas then in place for the export of textiles from each country to the United States. Congressional Research Service, R43202, *Qualifying industrial zones (QIZs) in Jordan and Egypt: Background and issues for Congress*, 5–6 (23 Aug. 2013), available at [www.everycrsreport.com](http://www.everycrsreport.com); Ahmed Farouk Gohneim and Taleb Awad, *Impact of qualifying industrial zones on Egypt and Jordan: A critical analysis*, Annex 3, available at [www.vi.unctad.org](http://www.vi.unctad.org). In a 2013 article, Kolben cites a representative for the Jordanian garment manufacturers' association as stating that 90 per cent of factories in the industry were foreign-owned. Kevin Kolben, "Trade, development, and migrant garment workers in Jordan", 5, *Middle East Law and Governance*, 195, 206 n. 54 (2013).

<sup>79</sup> See e.g. Mark Anner et al., "Towards joint liability in global supply chains: Addressing the root causes of labor violations in international subcontracting networks", 35, *Comparative Labor Law and Policy Journal*, 1, 31 (Jan. 2013).

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The low wages, poor working conditions and lack of opportunities for advancement in garment manufacturing jobs in Jordan are important reasons that most Jordanians themselves do not work in the industry. The Jordanian garment industry's solution has been to bring in migrants from lower-income countries. Currently, 78 per cent of workers in Jordanian export zones are from Bangladesh, India, Sri Lanka, and other South and South-East Asian countries, present on temporary work visas.<sup>80</sup> Most are young women.<sup>81</sup> The treatment of migrant workers in Jordan's garment manufacturing zones led to an international scandal in 2006, when a report by the then-National Labor Committee offered evidence of substantial violations of labour rights in the industry, including physical abuse, wages substantially below the minimum, mandatory overtime with workweeks rising to 100 hours, passport confiscation, and recruitment practices amounting to forced labour.<sup>82</sup>

Following the scandal, ILO and others intervened. In 2008, the ILO launched Better Work Jordan, a programme to work with brands and their subcontracted factories to improve conditions in the Jordanian garment industry.<sup>83</sup> With the support of the Government of Jordan, Better Work has succeeded in addressing many of the most egregious problems in the industry.<sup>84</sup> Nonetheless, its most recent report notes that verbal abuse and hazards to worker health and safety remain common, among other issues.<sup>85</sup> Independent researchers have reported continued poor living conditions, sexual harassment, overtime violations and inadequate pay.<sup>86</sup>

One long-standing concern is the differential in wages between Jordanians and foreign workers. Jordan's wage structure has multiple levels. The minimum wage for Jordanians is currently 220 Jordanian Dinar (JOD) (US\$ 310) per month. For migrant garment workers with temporary visas who live and work in the manufacturing zones, the wage is JOD 125 plus JOD 95 in housing and food per month.<sup>87</sup> For non-Jordanians who work in the zones but do not live there, including Syrians, the minimum wage is JOD 150 per month.<sup>88</sup> This is

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<sup>80</sup> *An industry and compliance review, Jordan*, Better Work, Annual Report (16 Apr. 2019) at 10, available at [www.betterwork.org](http://www.betterwork.org). Other migrant workers come from China, Madagascar, and Cambodia. *Recruitment experiences of South Asian workers in Jordan's garment industry* at 5 ILO Fundamentals (2018), available at [www.ilo.org](http://www.ilo.org).

<sup>81</sup> *An industry and compliance review, Jordan*, Better Work, Annual Report (16 Apr. 2019) at 15, available at [www.betterwork.org](http://www.betterwork.org).

<sup>82</sup> Charles Kernaghan, *US Jordan free trade agreement descends into human trafficking and involuntary servitude*, 21, National Labour Committee, now the Institute for Global Labour and Human Rights (May 2006), available at [www.issuu.com](http://www.issuu.com); Kevin Kolben, "Trade, development, and migrant garment workers in Jordan", 5, *Middle East Law and Governance*, 195, 210 (2013).

<sup>83</sup> *Better work Jordan: Garment industry 1st compliance synthesis report* (20 May 2010) at 1, available at [www.betterwork.org](http://www.betterwork.org). Better Work Jordan has grown considerably in the decade since then, and now encompasses 90 garment factories; it estimates that 95 per cent of workers in the sector benefit from its programmes. *Better Work Jordan holds its eleventh annual stakeholders forum*, Better Work, Blog Post (2 July 2019), available at [www.betterwork.org](http://www.betterwork.org).

<sup>84</sup> *Progress and potential: How better work is improving garment workers' lives and boosting factory competitiveness – A summary of an independent assessment of the Better Work Programme*, ILO (2016), available at [www.betterwork.org](http://www.betterwork.org); Kevin Kolben, *The Jordanian garment industry and Better Work* (ILO Better Work Discussion Paper No. 34, December 2019), available at <https://betterwork.org/our-impact/publications/>. A forthcoming report evaluates the impact of transparency initiatives in Better Work Jordan, largely finding improvements in compliance associated with the public availability of factory assessment results. Transparency had been a part of the initial Better Work programme design in Jordan, but was ended in 2011. It was reinstated in 2017 after it became one of the disbursement-linked indicators triggering the World Bank's payments to the Jordanian government under the Jordan Compact. Raymond Robertson, *Working Conditions, Transparency, and Compliance in Global Value Chains: Evidence from Better Work Jordan* (IZA Institute for Labour Economics, IZA Discussion Paper 12794, November 2019), available at <http://ftp.iza.org/dp12794.pdf>. Robertson found one exception to the general trend of increased compliance: freedom of association and collective bargaining. There, his study revealed a decline in compliance following the re-instatement of transparency. *Ibid* at 23.

<sup>85</sup> *An industry and compliance review, Jordan*, 28–33, Better Work, Annual Report (16 Apr. 2019), available at [www.betterwork.org](http://www.betterwork.org).

<sup>86</sup> On continuing decent work deficits in the Jordanian garment industry, see *Independent monitor's assessment report: Jordan Compact and Brussels meetings*, 11–13 (7 Mar. 2019), available at [www.ceas.europa.eu](http://www.ceas.europa.eu); *Migrant domestic and garment workers in Jordan: A baseline analysis of trafficking in persons and related laws and policies*, ILO Geneva (2017), available at [www.ilo.org](http://www.ilo.org); *Jordan's garment sector: How are brands combatting worker exploitation and abuse?*, Business and Human Rights Resource Centre, 3–5 (2018), available at [www.business-humanrights.org](http://www.business-humanrights.org).

<sup>87</sup> *An industry and compliance review, Jordan*, Better Work, Annual Report (16 Apr. 2019) at 8, available at [www.betterwork.org](http://www.betterwork.org).

<sup>88</sup> *Decent work country programme: The Hashemite Kingdom of Jordan 2018–2022*, 13, ILO (21 Nov. 2018), available at [www.ilo.org](http://www.ilo.org).

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inadequate to cover the cost of living in Jordan. By one estimate, in Jordan “the absolute poverty line for an average-sized family stands, at best, at JOD 410 per month”.<sup>89</sup>

Furthermore, the differences between Syrian women and the migrants they were anticipated to replace turned out to be much more critical than the similarities. Bangladeshi, Sri Lankan, and other migrant women in Jordan have work permits tied to a particular employer under the kafala system;<sup>90</sup> the permits must be renewed annually by the employer for the duration of the work contract, which generally lasts several years.<sup>91</sup> Migrants have housing and food provided by their employers in or near the zones,<sup>92</sup> and cannot bring spouses or children with them or work while pregnant.<sup>93</sup> They may have incurred large debts during the process of recruitment for migration.<sup>94</sup> Their income from work in Jordan goes only to pay off their loans and send remittances home, where the money goes further.

Syrian refugee women, by contrast, mostly arrive in Jordan with their families and reside in Jordanian cities and towns. They are present indefinitely, have some choice about where to reside and whether to work in one of the sectors open to them, and – unless they live in a refugee camp – must spend their money at Jordanian prices to cover food, rent, and other necessities. Although the few Syrians who have taken jobs in export manufacturing zones often receive closer to the Jordanian minimum wage of JOD 220 per month,<sup>95</sup> it is still insufficient to allow them to support themselves and their families in Jordan.

Unless employment pays enough to make a meaningful contribution to these expenses, it is not worth Syrians’ costs in time and money,<sup>96</sup> or the effort needed for Syrian women to confront cultural expectations that they will not work outside the home in mixed gender

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<sup>89</sup> *Decent work in Jordan: Persistent gaps*, 5, Jordan Labor Watch and Phenix Center for Economic and Informatics Studies, Position Paper (Oct. 2018), available at [www.phenixcenter.net](http://www.phenixcenter.net). The Jordanian government sets the poverty line at JOD 814 per capita annually, which is JOD 339 per month for a family of five. <http://www.jordantimes.com/opinion/editorial/what-governments-plan-combat-poverty>.

Amman ranks higher than Stuttgart, Germany; Lyons, France; and Atlanta, United States on the 2018 Mercer Cost of Living Survey. *Mercer’s annual cost of living survey finds Asian, European, and African cities most expensive locations for employees*, Mercer (26 June 2018), available at [www.mercer.com](http://www.mercer.com); see also *Cost of living index for country 2019*, Numbeo, available at [www.numbeo.com](http://www.numbeo.com), on which Jordan as a whole places 37th out of 119 countries in the index.

<sup>90</sup> *Kafala* (meaning “sponsorship”) is a generic term used to refer to the legal regime governing migrant workers in Gulf Countries and also in effect in Jordan and Lebanon, which ties a migrant’s legal status and right to work to a single employer or sponsor for the duration of his or her time in the destination country. For a brief description and critique of the impact of the *kafala* system on labour standards, see *Reform of the kafala (sponsorship) system*, Migrant Forum in Asia, Policy Brief No. 2 (n.d.), available at [www.ilo.org](http://www.ilo.org).

<sup>91</sup> *Migrant domestic and garment workers in Jordan: A baseline analysis of trafficking in persons and related laws and policies*, 3–4, ILO Geneva (2017), available at [www.ilo.org](http://www.ilo.org).

<sup>92</sup> Food and accommodation are provided to migrants by employers. These benefits are considered to cost firms JOD 95 per month per migrant; this figure is used to justify a salary of JOD 125 per month for migrants, as opposed to JOD 220 per month for Jordanians. Author’s interview with ILO staff person, Amman (17 Apr. 2018).

<sup>93</sup> *Migrant domestic and garment workers in Jordan: A baseline analysis of trafficking in persons and related laws and policies*, 21, ILO Geneva (2017) available at [www.ilo.org](http://www.ilo.org).

<sup>94</sup> Bangladeshi women, who make up the majority of migrant workers in Jordanian garment manufacturing for export, pay exceptionally high recruitment costs. For an overview of the problem, see Abul Barkat et al., *The cost: causes of and potential redress for high recruitment and migration costs in Bangladesh*, ILO Country Office for Bangladesh (2014). Available at [www.ilo.org](http://www.ilo.org).

As of 1 Jan. 2019, factories in Jordanian export zones agreed to “zero fees” for workers, meaning in practice that any recruitment fees migrant workers are liable to pay in countries of origin, including Bangladesh, will be paid by employers. *An industry and compliance review*, Jordan, Better Work, Annual Report (16 Apr. 2019) at 24, available at [www.betterwork.org](http://www.betterwork.org): “For a number of years, Better Work Jordan has been citing factories as non-compliant for unauthorized recruitment fees if their workers paid over US\$ 300 in fees. In 2018, Better Work Jordan’s tri-partite Project Advisory Committee decided that the programme will start reporting factories as non-compliant if workers recruited after 1 Jan. 2019 have paid any recruitment fees at all.”

<sup>95</sup> Phone interview with ILO staff person, 21 May 2019, Beirut.

<sup>96</sup> Surveys have repeatedly confirmed that Syrians expect considerably higher wages and lower or more predictable hours in order to be willing to take jobs in the garment industry. See e.g. Åge A. Tiltnes, Huafeng Zhang and Jon Pederson, *The living conditions of Syrian refugees in Jordan: Results from the 2017–2018 survey of Syrian refugees inside and outside camps*, 113, Fafo, Report (Apr. 2019), available at [www.fafo.no](http://www.fafo.no); Renand Amjad et al., *Examining barriers to workforce inclusion of Syrian refugees in Jordan*, Better Work, Discussion Paper No. 25 (July 2017), at 44–49, available at [www.betterwork.org](http://www.betterwork.org).

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environments.<sup>97</sup> Decent working conditions are also important. Yet given the current business model of the garment industry in Jordan, in which a middle-income country is competing with much lower-wage nations for ready-made garment export contracts, meaningful wage increases and improvements in conditions for garment workers seems unlikely.

## 3.2 Larger scale of Syrian employment in other sectors

The permit scheme has had considerably more success in domestically oriented industries than in export manufacturing. Approximately 45,000 Syrians now hold active work permits in Jordan,<sup>98</sup> which, although far short of the 200,000 goal, represents a substantial increase in the number of refugees legally allowed to work as compared to before the Compact.<sup>99</sup> Most work in agriculture, construction, and low-wage services, the bulk of occupations open to them.<sup>100</sup> These are the same sectors in which many Syrians worked without authorization prior to the Compact, raising the empirical question of the extent to which Syrians have benefitted economically from the Compact's work-related provisions.<sup>101</sup>

### 3.2.1 Changes to permit scheme to address concerns of workers and employers

Work permits for Syrians initially tracked Jordan's temporary labour migration requirements: they were tied to a single employer, who was required to apply for a permit on behalf of the worker she or he wished to hire.<sup>102</sup> Fees were quite expensive, ranging from US\$ 170 to US\$ 1270 depending on the sector.<sup>103</sup> Perhaps not surprisingly, Syrian applications for permits were low at the outset. Since then, the ILO, the UNHCR, the World Bank, and civil society organizations have worked with the Jordanian government to make changes in the permit policies that would appeal to more Syrian workers and employers in these sectors.

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<sup>97</sup> Åge A. Tiltnes, Huafeng Zhang and Jon Pederson, *The living conditions of Syrian refugees in Jordan: Results from the 2017–2018 survey of Syrian refugees inside and outside camps*, 113, Fafo, Report (Apr. 2019), available at [www.faf.no](http://www.faf.no) (result of survey of Syrians in Jordan re prospective willingness to accept employment in an export manufacturing zone): “The general picture ... is that a considerable share of Syrians everywhere [in Jordan] would accept employment in an SEZ if they were provided with decent working conditions, normal work hours, and free, organized transportation.” Idem at 132.

<sup>98</sup> *Syrian refugee unit work permit progress report 1*, The Government of Jordan, Ministry of Labor, Syrian Refugee Unit (Dec. 2018), available at [www.data2unhcr.org](http://www.data2unhcr.org). The number appears to have held steady between 2017 and 2019. Idem at 3. In April 2019, the government stopped including an annual figure in its updates, providing data instead for a month-long and four-month period and for the entirety of the programme since 2016. *Syrian refugee unit work permit progress report 1*, The Government of Jordan, Ministry of Labor, Syrian Refugee Unit (Apr. 2019), available at [www.data2.unhcr.org](http://www.data2.unhcr.org).

<sup>99</sup> A recent study found that “around one-third of all employed Syrian refugees report being in possession of valid work permits.” Åge A. Tiltnes, Huafeng Zhang and Jon Pederson, *The living conditions of Syrian refugees in Jordan: Results from the 2017–2018 survey of Syrian refugees inside and outside camps*, 113, Fafo, Report (Apr. 2019), available at [www.faf.no](http://www.faf.no). This is basically consistent with World Bank statistics, which indicate that 110,000 Syrians are working in Jordan, of whom 45,000 hold work permits (Author phone interview with staff person on World Bank Jordan team, DC, 20 June 2019).

<sup>100</sup> *Programme of support to the Jordan Compact*, 12, ILO, Progress Report (2018), available at [www.reliefweb.int](http://www.reliefweb.int).

<sup>101</sup> *Measuring the impact of refugee labour inclusion on the host state economy*, WANA Institute, Infographic Brief (Apr. 2019), available at [www.mercycorps.org](http://www.mercycorps.org) (“It is likely that the work permit programme did not create additional jobs but rather formalized existing jobs and shifted employment from one sector to another.”). As previously noted, the Compact included provisions related to health care, education, and social protection, as well as employment. The author's analysis focuses exclusively on the work-related provisions; assessing the extent to which Syrians have benefitted from the other aspects of the Compact is beyond the scope of this paper.

<sup>102</sup> Susan Razzaz, *Syrian employment in the formal labor market in Jordan: Constraints, regulations, and alternatives* 7–8, prepared for the Program Management Unit of the Jordan Ministry of Planning and Development Cooperation (29 Mar. 2018), on file with author.

<sup>103</sup> Charlie Dunmore, *Work permit boost gives hope to Syrian refugees in Jordan*, UNHCR (19 Apr. 2016), available at [www.unhcr.org](http://www.unhcr.org).

For an updated explanation of the fee schedule, see Susan Razzaz, *A challenging market becomes more challenging: Jordanian workers, migrant workers and refugees in the Jordanian labour market* 35, ILO, Beirut (2017), available at [www.ilo.org](http://www.ilo.org).

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The government waived permit fees for Syrians in 2016.<sup>104</sup> Also important was a move to de-link the work permit from employer sponsorship in both agriculture and construction.<sup>105</sup> Both agriculture and construction are industries where jobs tend to be short term, and workers regularly move between employers. Employer sponsorship was a poor fit with this structure. Employers were reluctant to sponsor permits for workers they did not anticipate having on their payroll for more than a few months. And Syrians feared that sponsorship by a single employer would limit their work opportunities and grant the sponsor too much power.<sup>106</sup>

In mid-2016 the Jordanian government allowed agricultural cooperatives to sponsor mobile permits for farm labour – for Syrians only. In 2017 it made a similar change in the structure of construction work permits, granting the General Federation of Jordanian Trade Unions the power to sponsor Syrians permits transferable within the industry. Permit applications increased as a result.<sup>107</sup> The addition of an official intermediary between worker and employer has, however, raised doubts about the legal responsibilities of the intermediary entities versus those of employers as to the worker’s legal rights.<sup>108</sup> Work permits in remaining occupations open to Syrians do not allow mobility between employers.<sup>109</sup>

Given the scant participation of Syrian women in the work permit programme, and the belief that they would be more interested in economic opportunities that they could engage in from home, the World Bank and international and domestic NGOs also advocated strongly for the government to make it easier for Syrians to run home-based businesses. Previously a Jordanian partner had been required, and for a time in 2018 Syrians had not been allowed to register a home-based business at all.<sup>110</sup> The government made a number of changes in late 2018, including allowing Syrians without Jordanian partners to establish businesses in food processing, tailoring, and handicrafts, areas where Syrian women in Jordan tend to be most economically active.<sup>111</sup> As of June 2019, however, no Syrians have registered home-based businesses. Outreach efforts are under way to encourage them to take that step.<sup>112</sup>

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<sup>104</sup> Susan Razzaz, *ibid* 38, n. 91 available at [www.ilo.org](http://www.ilo.org).

<sup>105</sup> Susan Razzaz, *Syrian employment in the formal labor market in Jordan: Constraints, regulations, and alternatives*, 7–8, prepared for the Program Management Unit of the Jordan Ministry of Planning and Development Cooperation (29 Mar. 2018), on file with author.

<sup>106</sup> Susan Razzaz, *ibid*. All of this is, of course, as true for the migrant workers who dominate these sectors as for refugees.

<sup>107</sup> Susan Razzaz, *ibid*. 7; Jordan Ministry of Statistics work permit numbers for May 2019 (showing increase in construction permit uptake).

Other sectors would also benefit from a mobile permit, but the government has not taken the policy beyond the agricultural and construction arenas. Susan Razzaz, *ibid*. 8.

<sup>108</sup> Phone interview with staff person at Jordanian NGO A (9 Jan. 2018), Amman; Interview with staff person at Jordanian NGO B (18 Apr. 2018), Amman; Susan Razzaz, *ibid*. 7–8.

<sup>109</sup> Susan Razzaz, *ibid*. 8–9.

<sup>110</sup> Significant obstacles remain, however, including licensing fees and other costs, as well as a requirement that “the percentage of Jordanians benefiting from the support given to these works is not less than 70 per cent”. *Syrian refugee unit work permit progress report*, 2, The Government of Jordan, Ministry of Labor, Syrian Refugee Unit (Dec. 2018), available at [www.data2.unhcr.org](http://www.data2.unhcr.org). As of mid-March 2019, no Syrians had registered a home-based business under the new rules. *Independent monitor’s assessment report: Jordan Compact and Brussels meetings* 12 (7 Mar. 2019), available at [www.ceas.europa.eu](http://www.ceas.europa.eu).

<sup>111</sup> *A cabinet decision was issued to allow Syrians to register and operate home-based businesses*, Ministry of Planning and International Cooperation, Government of Jordan (7 Nov. 2018), available at [www.reliefweb.int](http://www.reliefweb.int).

<sup>112</sup> Phone interview with staff member of World Bank Jordan team, Washington DC (20 June 2019). Even after outreach increases awareness, it may prove difficult for Syrians to comply with the regulatory requirements that apply to home-based businesses generally. For example, if the home-based business is located in someone else’s home (as will be the case for many Syrians in Jordan, as most rent their living space), the owner of the property must come forward to permit the use of the property for this purpose. Jordan Ministry of Municipal Affairs, *How to register and license a home-based business in Jordan*, USAID (2017), available at [www.hbbjordan.com](http://www.hbbjordan.com). In the process, the owners must demonstrate that they owe no property taxes. Many owners have not paid taxes in full and so are unable to meet this requirement.

### 3.2.2 Decent work issues in agriculture and construction

The central question about the Jordan Compact from a decent work perspective is whether Syrian refugees have experienced improved income and working conditions following their recognition as legal workers.

There has been little reliable data on the working conditions of Syrians with permits in these sectors, although this is beginning to change. In 2018, for example, the ILO carried out a survey of 1,125 Syrians working in agriculture, 95 per cent of whom held valid work permits, as well as their employers.<sup>113</sup> The possession of a work permit was perceived to have opened up new job opportunities by almost half of the Syrians surveyed. Although 41 per cent felt it offered protection of their labour rights, it is not clear which rights they had in mind in responding to the question.<sup>114</sup> Agriculture in Jordan is a largely informal sector, to which most Jordanian labour standards are inapplicable or in which they are ignored, and employers are not required to contribute to the social security scheme that covers other sectors.<sup>115</sup> The work permit scheme does not challenge these structural issues. Twenty per cent of permit-holders believed they could earn more without a permit.<sup>116</sup> More respondents – 58 per cent – felt that the permit was useful outside work in demonstrating the legitimacy of their presence in Jordan when stopped by the police or security officials.<sup>117</sup>

This survey and other efforts to assess the conditions under which Syrians now labour in Jordan indicate that Syrian work permit holders still face many violations of basic decent work principles. Eighty-two per cent of the agricultural employers surveyed by the ILO – all of whose Syrian workers had permits – reported children under the age of 15 working on their farms.<sup>118</sup> There are no regulations governing health and safety protections for farm workers, whether Jordanians, Syrians, or those from other countries, and few reported being trained or given protective equipment.<sup>119</sup> Most farms had never been visited by a labour inspector, and when inspectors came, the purpose of the visit was often to check on the validity of work permits rather than on compliance with labour standards.<sup>120</sup> It also appears

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<sup>113</sup> Maha Kattaa, Meredith Byrne and Alaa Al-Arabi, *Decent work and the agriculture sector in Jordan: Evidence from workers' and employers' surveys* 6, ILO Regional Office for Arab States (Oct. 2018), available at [www.ilo.org](http://www.ilo.org). This survey updated results from earlier in the implementation process, in 2017. *Work permits and employment of Syrian refugees in Jordan: Towards formalizing the work of Syrian refugees*, 17, ILO Regional Office for Arab States (2017), available at [www.ilo.org](http://www.ilo.org). The earlier survey found some limited improvements in the working conditions of Syrians with permits as compared to those without, including somewhat higher wages, but the results do not demonstrate that the permits were the source of the difference. *Idem* at 55.

<sup>114</sup> The published analysis of this survey does not specify the labour rights in question, referring only to “labour rights.” Maha Kattaa, Meredith Byrne and Alaa Al-Arabi, *Decent work and the agriculture sector in Jordan: Evidence from workers' and employers' surveys*, ILO Regional Office for Arab States (Oct. 2018), available at [www.ilo.org](http://www.ilo.org).

<sup>115</sup> *Idem* at 7. The Jordanian Labour Code was amended in 2008 to call for the issuance of bylaws to detail the application of national labour standards to agriculture, including standards for their “contracts, rest hours, inspection and any other issues concerning their employment.” Law Number 48 of 2008 Amending the Labour Code, Jordan, summarized in English on the ILO’s NATLEX database at [www.ilo.org](http://www.ilo.org). These regulations have not yet been issued. Although the Labour Code is clear that its provisions extend to agriculture, the lack of regulations has opened the door to an argument that agricultural workers are not protected by the standards set forth in the Code. Ana V. Ibáñez Prieto, “Despite labour law, agriculture sector suffers from ‘persistent deficits’ – ILO”, *Jordan Times* (17 Oct. 2018).

<sup>116</sup> *Idem* at 18. This figure represents the Syrian respondents’ perception of their employment prospects, rather than analysis of wage data. A different study found that Syrian permit holders earned on average JOD 50 per month more than those without permits. *Measuring the impact of refugee labour inclusion on the host state economy*, WANA Institute, Infographic Brief (Apr. 2019), available at [www.mercycorps.org](http://www.mercycorps.org). However, other studies have not replicated this result.

<sup>117</sup> Maha Kattaa, Meredith Byrne and Alaa Al-Arabi, *Decent work and the agriculture sector in Jordan: Evidence from workers' and employers' surveys* 18, ILO Regional Office for Arab States (Oct. 2018), available at [www.ilo.org](http://www.ilo.org).

<sup>118</sup> *Idem* at 26 – but note that the same page also gives the figure as 72 per cent (not clear which is correct).

<sup>119</sup> *Idem* at 25.

<sup>120</sup> *Idem* at 26; Maha Kattaa and Meredith Byrne, “Quality of work for Syrian refugees in Jordan”, 58 *Forced Migration Review* 45, 45–46 (June 2018). “Overall, Syrians with work permits do report an increased likelihood of having written work contracts; however, hourly wages, safety provisions and relations with employers are not necessarily any better.”

This practice is not compliant with the ILO Labour Inspection Convention, 1947 (No. 81), ratified by Jordan. One of the primary duties of labour inspection services is to ensure that working conditions conform to the law.

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that most Syrian permit-holders doing agricultural work were paid less than the monthly minimum wage that applies to foreign workers in other sectors.<sup>121</sup>

These ILO findings are reinforced by the results of a survey by the Norwegian Fafo Foundation and the Jordanian government in 2017–2018. After conducting interviews in 7,500 Syrian refugee households, Fafo found high incidences of delayed wages and non-payment, precarious work arrangements, and unsafe working conditions, across a range of occupations.<sup>122</sup>

### 3.2.3 Continuing informality in agriculture and construction

These decent work deficits occur in a context of high levels of informality.<sup>123</sup> The Jordanian economy itself is estimated to be from 45–60 per cent informal, with higher rates for Syrians.<sup>124</sup> Recent World Bank estimates place the total number of Syrians working in Jordan at 110,000, only 45,000 of whom have valid work permits.<sup>125</sup>

Even Syrians with permits often continue to work in the informal economy. Although the ILO and other actors sometimes refer to the issuance of permits to Syrians as “formalization”,<sup>126</sup> the formalization of the status of the workers has not necessarily translated into formalization of the *work*. Syrians with permits continue to work in the largely informal sectors of agriculture and construction, alongside Syrians who have not obtained permits, and migrant workers both authorized and undocumented.<sup>127</sup> The economic structure within which agriculture and construction developed as informal industries providing short-term employment has not changed.<sup>128</sup> As Katharina Lenner and Lewis Turner have pointed out, the assumption that informal jobs will formalize once Syrians bring work permits to them “stands in tension with the long-established dynamics of an informalized labour market, and with the interests of the actors for whom this informalized or semi-formalized system works”.<sup>129</sup>

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<sup>121</sup> Maha Kattaa, Meredith Byrne and Alaa Al-Arabiati, *Decent work and the agriculture sector in Jordan: Evidence from workers' and employers' surveys* 24, ILO Regional Office for Arab States (Oct. 2018), available at [www.ilo.org](http://www.ilo.org). There is no minimum wage for agriculture, so the JOD 150 minimum for non-Jordanian workers in other sectors is the point of comparison.

<sup>122</sup> Åge A. Tiltnes, Huafeng Zhang and Jon Pederson, *The living conditions of Syrian refugees in Jordan: Results from the 2017–2018 survey of Syrian refugees inside and outside camps*, 119, 121, 123, Fafo, Report (Apr. 2019), available at [www.fafono.no](http://www.fafono.no). Reflecting these concerns, the Jordan INGO Forum, “an independent network of international non-governmental organizations (INGOs) implementing development and humanitarian programmes in Jordan,” lists “Boost the decent work agenda” as its first recommendation to the London Initiative 2019. *How to ensure the inclusion of women, youth and refugees? – Jordan INGO forum briefing*, 2 (20 Feb. 2019), available at [www.reliefweb.int](http://www.reliefweb.int).

<sup>123</sup> At the time the Jordan Compact was signed, the World Bank estimated that 90,000–130,000 Syrians were already working without permits in Jordan’s informal economy, largely in agriculture and construction. *Jordan Program for Results* (Sept. 2016) at 54. Before the permit scheme was implemented, the ILO estimated that 99 per cent of Syrians were doing informal work, compared to 50 per cent of Jordanians. Svein Erik Stave and Solveig Hillesund, *Impact of Syrian refugees on the Jordanian labour market*, 63, ILO and Fafo (2015), available at [www.ilo.org](http://www.ilo.org).

<sup>124</sup> Katharina Lenner and Lewis Turner, “Making refugees work? The politics of integrating Syrian refugees into the labor market in Jordan”, 28 *Middle East Critique* 65, 73 (2019). Estimates of the percentage of private sector employment in Jordan overall that is informal range from 44 per cent (UNDP) to 55 per cent (Assad). The World Bank characterizes the Jordanian labour market as 60 per cent informal, with a 70 per cent rate for Syrian workers. Phone interview with staff member of World Bank Jordan team, Washington DC (20 June 2019).

<sup>125</sup> Phone interview with staff member of World Bank Jordan team, Washington DC (20 June 2019).

<sup>126</sup> See e.g. *Programme of support to the Jordan Compact*, 3, ILO, Progress Report (2018), available at [www.reliefweb.int](http://www.reliefweb.int).

<sup>127</sup> “For many Syrians, working informally was a better option than getting a permit. ... In some sectors open to Syrians, like construction, they could make a better living working freelance than as a salaried employee, without the requirement to pay social security.” Daniel Howden, Hannah Patchett and Charlotte Alfred, “The Compact experiment: Push for refugee jobs confronts reality of Jordan and Lebanon”, *Refugees Deeply*, 12 (Dec. 2017), available at [issues.newsdeeply.com](http://issues.newsdeeply.com).

<sup>128</sup> Susan Razzaz, *Syrian employment in the formal labor market in Jordan: Constraints, regulations, and alternatives* 7, prepared for the Program Management Unit of the Jordan Ministry of Planning and Development Cooperation (29 Mar. 2018), on file with author; Katharina Lenner and Lewis Turner, “Making refugees work? The politics of integrating Syrian refugees into the labor market in Jordan”, 28, *Middle East Critique*, 65, 85–86 (2019).

<sup>129</sup> Katharina Lenner and Lewis Turner, *ibid.* 90.

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### 3.2.4 Impact on migrant workers in agriculture and construction

A final decent work issue related to the Jordan Compact is its impact on the migrants who were the principal labour force in sectors where the Compact sought to place Syrian refugees. Unlike in export factories, Syrian men (and women to a lesser extent) were willing to take jobs in agriculture and services; Syrian men also worked in construction. Some had done similar work previously, whether in Syria, Jordan, or elsewhere, and others brought relevant skills from different sectors. For their part, employers in these industries were willing to hire at least some Syrian refugees in place of migrant workers, predominately Egyptian men.<sup>130</sup>

Consistent with the calculations of the Jordanian government, labour market studies done before and after the Compact show that Jordanians by and large did not experience displacement from their jobs or loss of labour market opportunities following the grant of work permits to Syrian refugees.<sup>131</sup> Rather, migrant workers bore the brunt of the competition.<sup>132</sup> Migrants' wages and working conditions have been adversely affected. Egyptians are working for lower wages and longer hours than before the Compact.<sup>133</sup> The Government of Jordan has raised the cost of permits for Egyptians, and for a time it stopped issuing them altogether.<sup>134</sup> The government has also stepped up enforcement against Egyptians without valid work permits, who are now in increased danger of deportation.<sup>135</sup> All of these factors have rendered migrants' work lives more precarious and decreased their access to decent work.<sup>136</sup>

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<sup>130</sup> The influx of Syrians came at the same time as the government sought to reduce the presence of migrants in the labour market. Kirk H. Sowell, *Reforming Jordan's Labor Market*, Carnegie Middle East Center (21 Nov. 2017), available at [www.carnegie-mec.org](http://www.carnegie-mec.org). In Jordan, construction has for decades largely been done by Egyptian men. *An industry and compliance review, Jordan*, Better Work, Annual Report (16 Apr. 2019) at 8, available at [betterwork.org](http://betterwork.org). Nonetheless, according to one survey, 28 per cent of the Syrians currently working in the Jordanian construction industry spent time in Jordan as migrant construction workers prior to the war. Jordan: *Periodic analysis of Syrian workers outside camps*, 6, ILO, UNHCR and World Bank (Oct. 2018), available at [www.data2unhcr.org](http://www.data2unhcr.org). Likewise, the principal agricultural workers have been migrants from Egypt and other countries in the region, including Syrians as migrants prior to the conflict. Susan Razzaz, *A challenging market becomes more challenging: Jordanian workers, migrant workers and refugees in the Jordanian labour market* 21, ILO, Beirut (2017), available at [www.ilo.org](http://www.ilo.org).

The Jordanian government saw a political advantage to replacing migrants with Syrian refugees, as this would shelter Jordanians from the labour market impact of the new arrivals. In reality, the politics turned out to be considerably more complicated. Katharina Lenner and Lewis Turner, "Making refugees work? The politics of integrating Syrian refugees into the labor market in Jordan", 28, *Middle East Critique*, 65, 87–88 (2019).

<sup>131</sup> Jacqueline Wabha, *The impact of the Syrian refugee influx on the Jordanian labour market*, 3–4, Economic Research Forum, Policy Brief No. 32 (May 2018), available at [www.erf.org.eg](http://www.erf.org.eg).

This is not surprising, as the government chose the jobs that Syrians would be allowed to take to concentrate the impact on migrants rather than Jordanians. *EU-Jordan Compact* at 12 (noting the Jordanian government's "intention to allow Syrian refugees to work in a number of sectors where there is little competition with Jordanian workers").

In other countries, where there is more direct competition with locals in the jobs to which refugees have access, the picture is quite different. In Turkey, for example, the influx of Syrian refugees into the informal economy has negatively affected Turkish workers in those sectors. Allison Spencer Hartnett, "Reflections on the geopolitics of refugees and displaced persons: The effect of refugee integration on migrant labor in Jordan", 52, *Review of Middle East Studies*, 263, 265 (2018); Ximena Del Carpio and Mathis Wagner, *The impact of Syrian refugees on the Turkish labor market*, 3, World Bank Group, Policy Research Working Paper No. 7402 (Aug. 2015), available at [www.openknowledge.worldbank.org](http://www.openknowledge.worldbank.org).

<sup>132</sup> Allison Spencer Hartnett, *ibid.* 26; Jacqueline Wabha, *ibid.*

<sup>133</sup> Susan Razzaz, *ibid.* 51.

<sup>134</sup> Katharina Lenner and Lewis Turner, "Making refugees work? The politics of integrating Syrian refugees into the labor market in Jordan", 28, *Middle East Critique*, 65, 87–88 (2019); Daniel Howden, Hannah Patchett and Charlotte Alfred, "The Compact experiment: Push for refugee jobs confronts reality of Jordan and Lebanon", *Refugees Deeply*, 35 (Dec. 2017), available at [www.issues.newsdeeply.com](http://www.issues.newsdeeply.com) ("The compact disrupted Jordan's agricultural market when the government announced a 16-month freeze on new migrant worker permits to try and encourage farms to hire Syrians."). The hiring freeze ended in Oct. 2017, but the government raised the permit cost and required that employers obtain a bank guarantee if they wished to hire migrants other than Syrians. *Idem.*

<sup>135</sup> Allison Spencer Hartnett, "Reflections on the geopolitics of refugees and displaced persons: The effect of refugee integration on migrant labor in Jordan", 52, *Review of Middle East Studies*, 263, 278 (2018).

<sup>136</sup> Allison Spencer Hartnett, *ibid.* 266 (2018).

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### 3.3 The ILO role in the Jordan Compact

After a late start, the ILO in Jordan has become an active participant in the implementation of the Compact.<sup>137</sup> It has played an important advocacy role with the Jordanian government, recommending changes to the work permit programme to better respond to the needs of Syrian workers and their employers, particularly in agriculture and construction.<sup>138</sup> It provided financial and technical support to the agricultural cooperatives and the trade union federation once those institutions were allowed to sponsor mobile permits in agriculture and construction, respectively. It also launched substantial efforts to train and place Syrians and Jordanians in jobs through 13 new Employment Service Centres within Ministry of Labour Directorates across Jordan, including two in the Zaatari and Azrak refugee camps run in collaboration with the UNHCR.<sup>139</sup>

Addressing gaps in decent work in jobs held by Syrians took a back seat to achieving work permit targets during the first two years after the compact was signed,<sup>140</sup> although Better Work Jordan was already in place and would have been in a position to respond to labour standards violations for Syrians, had refugees taken work in the garment industry.<sup>141</sup> Over time, the ILO in Jordan has increased its focus on decent working conditions for Syrians. Through its Employment-Intensive Investment Programmes, it has sought to bring decent work principles into the humanitarian organizations' cash-for-work initiatives, which in the past had often paid very little and offered few labour protections.<sup>142</sup> It has made these programmes available to Jordanians as well as Syrians and reports a much higher percentage of women placed in work via this programme than through the permit process overall.<sup>143</sup> As of 2019, Better Work has expanded its scope in Jordan to include factories in the chemical, plastics, and engineering sectors, which are also included in the revised Rules of Origin under the Jordan Compact.<sup>144</sup>

The ILO has recently been developing initiatives that seek to address decent work violations in other jobs held by Syrian refugees and others in Jordan. Agriculture has been a particular focus for study and is now the site for a new approach to compliance, based on the Better Work model. Construction is next on the radar for study and new compliance

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<sup>137</sup> *Independent evaluation of ILO's Programme of Work in Lebanon and Jordan in terms of decent work and the response to the Syrian refugee crisis, 2014–2018*, ILO Evaluation Office, 20 (Sep. 2018), available at [www.ilo.org](http://www.ilo.org).

<sup>138</sup> See e.g. *Independent evaluation of ILO's Programme of Work in Lebanon and Jordan in terms of decent work and the response to the Syrian refugee crisis, 2014–2018*, ILO Evaluation Office, 20 (Sep. 2018), available at [www.ilo.org](http://www.ilo.org).

<sup>139</sup> Re Employment Service Centres (ESCs) see *Independent evaluation of ILO's Programme of Work in Lebanon and Jordan in terms of decent work and the response to the Syrian refugee crisis, 2014–2018*, ILO Evaluation Office, 20 (Sep. 2018), available at [www.ilo.org](http://www.ilo.org). For the current number of centres, see *Netherlands-ILO Collaboration in Jordan* (June 2019), available at [www.ilo.org](http://www.ilo.org). The ILO reports that its ESCs placed 2,208 Syrians in jobs in 2018, but that retention was only 52 per cent after three months. *Programme of support to the Jordan Compact*, 20, ILO, Progress Report (2018), available at [www.reliefweb.int](http://www.reliefweb.int). In a phone interview, an ILO staff person in Beirut reported recent three-month retention rates of 40–45 per cent (21 May 2019). The ILO has a much better gender balance in job placement than the permit programme overall; 36 per cent of the Jordanians and Syrians placed in jobs via ILO employment centres in 2018 were female. *Programme of support to the Jordan Compact*, 20, ILO, Progress Report (2018), available at [www.reliefweb.int](http://www.reliefweb.int).

<sup>140</sup> *Independent evaluation of ILO's Programme of Work in Lebanon and Jordan in terms of decent work and the response to the Syrian refugee crisis, 2014–2018*, ILO Evaluation Office, 22 (Sep. 2018), available at [www.ilo.org](http://www.ilo.org). The effort to meet the targets included intensive focus on job training and placement.

<sup>141</sup> *Independent evaluation of ILO's Programme of Work in Lebanon and Jordan in terms of decent work and the response to the Syrian refugee crisis, 2014–2018*, ILO Evaluation Office, 28–30 (Sep. 2018), available at [www.ilo.org](http://www.ilo.org). The Government of Jordan mandates that all factories and their subcontractors that export to the United States and Israel work with Better Work Jordan. *An industry and compliance review, Jordan*, Better Work, Annual Report (16 Apr. 2019) at 11, available at [www.betterwork.org](http://www.betterwork.org).

<sup>142</sup> Phone interview with ILO staff person, 21 May 2019, Beirut. This effort was carried out through the ILO's Employment Intensive Infrastructure Programme (EIIP) in Jordan, which as of March 2019 had offered jobs in infrastructure construction and maintenance, among other sectors, to 3,670 Jordanians (51 per cent) and Syrians (49 per cent). *Employment through labour intensive infrastructure in Jordan* (ILO and KFW), on file with author.

<sup>143</sup> Fifteen per cent compared with the number of women with permits overall (4.5 per cent). Phone interview with ILO staff person, 21 May 2019, Beirut.

<sup>144</sup> *2019 Biannual newsletter: A mid-year review 3*, Better Work Jordan (n.d.), available at [www.betterwork.org](http://www.betterwork.org).

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programming.<sup>145</sup> Both target conditions sector-wide, whether the workers are refugees, migrant workers or Jordanian citizens.<sup>146</sup> In this sense, refugees have been the starting point for a new set of ILO decent work interventions that will benefit all low-wage workers in Jordan.

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<sup>145</sup> Phone interview with ILO staff person, 21 May 2019, Beirut.

<sup>146</sup> *Employment through labour intensive infrastructure in Jordan* (ILO and KFW), on file with author.

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## 4. The Ethiopia Jobs Compact: A decent work perspective

Some have suggested that Jordan was simply the wrong testing ground for the idea of using export-oriented industries to create significant employment for refugees in host countries. Perhaps a low-wage country with a substantial garment industry and related natural resources would offer such a programme a fairer chance of success. Ethiopia – the only country other than Jordan where the international community has committed to funding for refugee employment on a large scale – has those characteristics. The Ethiopian government is investing heavily in garment production for export as the vehicle for its promise to move the country towards an industrial economy and middle-income status by 2025.<sup>147</sup> Ethiopia also has a domestic leather industry and significant capacity to scale up its existing cotton production.<sup>148</sup>

Ethiopia is home to more than 900,000 Eritrean, Somali, Sudanese, South Sudanese and other refugees,<sup>149</sup> making it one of the largest refugee-hosting countries in the world, and the third-largest in Africa.<sup>150</sup> Almost all live in camps, usually near their countries of origin.<sup>151</sup> In light of a tenfold increase in the number of refugees in Ethiopia over the course of a decade,<sup>152</sup> the Ethiopian government began planning for a shift in the country's approach.<sup>153</sup> It developed nine pledges to provide greater support for refugee welfare and socio-economic inclusion,<sup>154</sup> including granting refugees the rights to leave camps, access public education, and work, all of which they had previously been denied.<sup>155</sup> It announced these pledges at the 2016 United Nations General Assembly on Refugees and Migrants in New York.

To implement the employment-related aspect of these pledges, the Government of Ethiopia signed the Ethiopia Jobs Compact with the European Investment Bank, the World Bank, and UK DFID.<sup>156</sup> As part of the compact, Ethiopia committed to creating 100,000 jobs

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<sup>147</sup> *Ethiopian industrial development strategic plan (2013–2015)*, FDRE Ministry of Industry (Sep. 2013), available at [www.academia.edu](http://www.academia.edu).

<sup>148</sup> Paul M. Barrett and Dorothee Baumann-Pauly, *Made in Ethiopia: Challenges in the garment industry's new frontier*, 4, 17, NYU Stern Center for Business and Human Rights (May 2019), available at [issuu.com](http://issuu.com).

<sup>149</sup> *Ethiopia country refugee response plan (2019–2020)*, UNHCR, 5 (29 Jan. 2019), available at [www.reporting.unhcr.org](http://www.reporting.unhcr.org).

<sup>150</sup> Number of refugees: *Comprehensive refugee response framework: The Ethiopia model*, UNHCR, 2, n. 1, available at [www.globalcrf.org](http://www.globalcrf.org). Relative size of refugee population: *Global trends: Forced displacement in 2018*, UNHCR 17 (20 June 2019), available at [www.unhcr.org](http://www.unhcr.org).

<sup>151</sup> *Ethiopia country refugee response plan (2019–2020)*, UNHCR, 4–5 (29 Jan. 2019), available at [www.reporting.unhcr.org](http://www.reporting.unhcr.org).

<sup>152</sup> *Informing durable solutions by micro-data: A skills survey for refugees in Ethiopia*, 44, World Bank (10 July 2018), available at [www.documents.worldbank.org](http://www.documents.worldbank.org) (“Refugees’ number has risen tenfold in the last decade, to almost 1 million refugees. Nearly half million South Sudanese refugees settled in Ethiopia in the last 5 years alone. IDP trends are booming too: from an official 258,000 in 2016 the number of conflict-induced IDPs climbed up to an estimated 1.1 million.”).

<sup>153</sup> *Comprehensive refugee response framework: The Ethiopia model*, UNHCR, 4, available at [www.globalcrf.org](http://www.globalcrf.org).

<sup>154</sup> See *Ethiopia, Global Compact on Refugees*, available at [www.globalcrf.org](http://www.globalcrf.org). The Ethiopian government had begun planning to change aspects of its refugee policy well before it committed to these pledges. Tadesse Kassa Woldetsadik, Fasil Mulatu and Jettu Edosa, *Ethiopia's refugee policy overhaul: Implications on the out of camp regime and rights to residence, movement and engagement in gainful employment*, *Journal of Ethiopian Human Rights Law*, 20 (19 June 2019), available at [www.papers.ssrn.com](http://www.papers.ssrn.com).

<sup>155</sup> The one exception was a small number of Eritreans permitted to leave camps and work under the out-of-camp policy. *Ethiopia country refugee response plan (2019–2020)*, UNHCR, 11–12 (29 Jan. 2019), available at [www.reporting.unhcr.org](http://www.reporting.unhcr.org). Ethiopia is one of the pilot countries for the new global Comprehensive Refugee Response Framework, launched at the UNHCR in 2016 and funded by the World Bank.

<sup>156</sup> EU trust fund for Africa, *Ethiopia job compact sector reform and performance contract*, T05-EUTF-HOA-ET-60 (Sep. 2016), available at [www.ec.europa.eu](http://www.ec.europa.eu); DFID, *Ethiopia jobs compact business case and summary* (July 2018), available at [www.devtracker.dfid.gov.uk](http://www.devtracker.dfid.gov.uk).

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in new industrial parks, of which 30,000 would be for refugees.<sup>157</sup> In return, it would receive US\$ 500 million in grants and low-interest loans.<sup>158</sup>

Unlike the Jordan Compact, the Ethiopia Jobs Compact explicitly recognizes concerns about decent work in the country and establishes goals to address them.<sup>159</sup> Among other labour standards issues, it made the passage of revised labour legislation and the establishment of a National Minimum Wage Board two of its expected outcomes.<sup>160</sup>

#### 4.1 Planning for Implementation of the Ethiopia Jobs Compact

Language in the agreement delayed implementation until the Government of Ethiopia amended its refugee law to reflect the nine pledges, and promulgated new regulations to put the new law into effect. It was not until January 2019 that the Ethiopian Parliament passed the required amendment, called the Refugees Proclamation.<sup>161</sup> Some planning for the Compact took place before that date, but no funds could be disbursed until the law was in place. As of July 2019, programmes are beginning to gear up as they await regulatory directives to implement the new law, which will trigger full implementation. The government's interpretation of the Proclamation through these directives will determine whether refugee work rights in practice are expansive or restricted.<sup>162</sup>

This delay has offered the Ethiopian government and other parties to the Compact an opportunity to learn from experiences in Jordan in the interim. In light of the difficulties placing Syrian refugees in garment jobs, the World Bank undertook a survey of refugee skills

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<sup>157</sup> *Ethiopia job compact sector reform and performance contract*, T05-EUTF-HOA-ET-60 (Sep. 2016), at 1, available at [www.ec.europa.eu](http://www.ec.europa.eu).

<sup>158</sup> *Idem* at 1, 4.

<sup>159</sup> The Jordan Compact mentions decent work once, in a sentence on the need to increase the knowledge sector in the country. *EU-Jordan Compact* at 8. Later documents do discuss the role to be played by the Better Work Jordan programme in ensuring decent work; for example, the World Bank has a disbursement-linked indicator relating to increased transparency of reporting on working conditions in manufacturing via Better Work Jordan. *Program appraisal document on proposed loan and credit to the Hashemite Kingdom of Jordan, for economic opportunities for Jordanians and Syrian refugees program-for-results*, 25–26, World Bank and IDA, Report No. 108201-JO (Sep. 2016), available at [www.documents.worldbank.org](http://www.documents.worldbank.org).

Discussion of decent work in the Ethiopia Jobs Compact includes the following: "... job quality across much of the workforce remains a concern, since a high proportion of employment opportunities are still created in the informal economy .

Despite the fact that laws are enacted, the issue of safe work is not adequately addressed due to the lack of resources and too few labour inspectors. Furthermore, issues such as working poverty remain pervasive, with a still high proportion of Ethiopian households earning less than what is necessary to survive, despite having a job. Thus, important challenges persist to improve working conditions, in particular in a context where low wages are often presented as a selling point for foreign companies to invest in Ethiopia, and where social dialogue as a means of promoting industrial peace and productivity remains low." *Ethiopia job compact sector reform and performance contract*, T05-EUTF-HOA-ET-60 (Sep. 2016), at 3, available at [www.ec.europa.eu](http://www.ec.europa.eu). "For industrial development to be sustainable, both environmental and social aspects need to be carefully brought on board. This action has decided to focus on promoting decent work, as already difficult labour conditions could be exacerbated when industrial parks bring workers/inhabitants to the host urban centres, putting pressure on public services such as housing, transport, health facilities, etc." *Idem* at 9. "... the Compact will work towards promoting work that is productive and delivers a fair income, security in the work place, creates platforms for people to express their concerns, etc. Labour and industrial relations will be supported throughout the action." *Idem* at 16.

<sup>160</sup> *Idem* at 26. The revised Labour Proclamation was adopted in July 2019. *Labour Proclamation 1156/2019*, National Legislative Bodies (5 July 2019), available at [www.lawethiopia.com](http://www.lawethiopia.com). In addition to other provisions, the Proclamation sets in motion a process that will lead to the establishment of a Wage Board with trade union, government, and private sector representation. *Idem*, Chapter Two.

<sup>161</sup> *Refugees Proclamation, Ethiopia: Proclamation No. 1110/2019*, National Legislative Bodies (27 Feb. 2019), available at [www.refworld.org](http://www.refworld.org).

<sup>162</sup> For example, the Refugees Proclamation ties refugee work rights to those granted to other foreign nationals in Ethiopia. For most foreign nationals, those rights are quite limited. But for foreign nationals of Ethiopian descent, they are expansive. Which group the government chooses as a model for refugees when it issues the directives will make an enormous difference in their labour market access and their rights. *Work and livelihoods opportunities for refugees in Ethiopia: Promoting access to durable solutions for refugees*, Norwegian Refugee Council, Briefing Note (Feb. 2019), on file with author. Articles 22–38 of the Refugees Proclamation spell out the obligations of Ethiopian authorities to refugees, which relate not only to work rights but to health care, education, driving licenses, mobility, and other issues. *Refugees Proclamation, Ethiopia: Proclamation No. 1110/2019*, National Legislative Bodies (27 Feb. 2019), available at [www.refworld.org](http://www.refworld.org).

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and job interests in Ethiopia in 2017.<sup>163</sup> The findings were striking. The survey revealed that the usual wage at Ethiopian industrial parks – approximately 750 Ethiopian Birr (US\$ 26) per month at the flagship Hawassa industrial park<sup>164</sup> – was below most refugees’ reservation wage; in other words, it represented too low an income to induce them to work.<sup>165</sup> Instead, most refugees planned to seek work in the service sector.<sup>166</sup> Furthermore, industrial park employers indicated that they sought to hire individuals who were young, female, childless, and had an eighth to tenth grade education. The overlap between those demographics and the refugee population was very small.<sup>167</sup>

It is worth noting that Ethiopians themselves appear to have significant concerns about garment jobs in industrial parks. Estimates of turnover levels range from 60 per cent to more than 200 per cent annually.<sup>168</sup> Two recent academic studies show that Ethiopians see garment work as a stopgap option between higher-paying and more flexible opportunities elsewhere, particularly in the informal economy.<sup>169</sup> These concerns should not be surprising. Ethiopia does not have a minimum wage, and its garment workers are the lowest-paid of any in the world.<sup>170</sup> The Ethiopian Investment Commission (a government institution) lists “an abundant workforce at very competitive wages” as the first reason foreign investors should consider opening garment factories there.<sup>171</sup>

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<sup>163</sup> *Ethiopia survey on skills profile of refugees and host communities*, referenced in *International Development Association Program appraisal document for the Ethiopia Economic Opportunities Program*, World Bank, Report No. 126766-ET (4 June 2018), available at [www.documents.worldbank.org](http://www.documents.worldbank.org). For a summary of the survey findings see idem at 84–86; see also *Informing durable solutions by micro-data: A skills survey for refugees in Ethiopia*, World Bank (10 July 2018), available at [www.documents.worldbank.org](http://www.documents.worldbank.org).

<sup>164</sup> This is the base wage. It can be reduced by deductions as penalties for infractions such as late arrivals or can be increased via bonuses for meeting productivity standards and other goals. See “*Ethiopia is a north star*”: *Grim conditions and miserable wages guide apparel brands in their race to the bottom*, 6, 18, Worker Rights Consortium (31 Dec. 2018), available at [www.workersrights.org](http://www.workersrights.org); see also Paul M. Barrett and Dorothee Baumann-Pauly, *Made in Ethiopia: Challenges in the garment industry’s new frontier*, 4, NYU Stern Center for Business and Human Rights (May 2019), available at [issuu.com](http://issuu.com).

<sup>165</sup> Interview with staff person, World Bank Ethiopia team, Washington DC (6 July 2018). See also *International Development Association Program appraisal document for the Ethiopia economic opportunities program*, 86, World Bank, Report No. 126766-ET (4 June 2018), available at [www.documents.worldbank.org](http://www.documents.worldbank.org).

As a point of comparison, the UNHCR reports that refugees who live outside camps in urban areas in Ethiopia “are not able to meet their basic needs with the current income that they receive either from informal work or remittances (average of 2,000 ETB [birr] a month).” *Ethiopia country refugee response plan (2019–2020)*, UNHCR, 12 (29 Jan. 2019), available at [www.reporting.unhcr.org](http://www.reporting.unhcr.org). This is almost three times the industrial park wage.

<sup>166</sup> *Informing durable solutions by micro-data: A skills survey for refugees in Ethiopia*, 36, World Bank (10 July 2018), available at [www.documents.worldbank.org](http://www.documents.worldbank.org). “When asked details about the work refugees and host community members would want to do in the future, an overwhelming majority of both refugees and host community members aspire to continue or start working in the services sector. After services, more men amongst refugees aspire to work in the manufacturing sector as compared to women (16 per cent versus 7 per cent). Similarly, after services, 1 in 4 Eritreans aspire to work in the manufacturing sector, an aspiration which is not largely shared by refugees of other nationalities.”

<sup>167</sup> *International Development Association Program appraisal document for the Ethiopia Economic Opportunities Program*, 86, World Bank, Report No. 126766-ET (4 June 2018), available at [www.documents.worldbank.org](http://www.documents.worldbank.org) (“... considering that the ideal demographic profile for work in industrial parks is young, childless women between 18 and 25, the survey found that of 18,697 refugee women that fit the profile, less than half have the requisite educational requirements required by the industrial parks [6,948]. Additionally, of those with the required educational background only 3,634 would consider a job earning 750 Birr in an industrial park.”). Desired demographics were confirmed by author conversation with staff person of Ethiopia Investment Commission, Hawassa Industrial Park, 5 Oct. 2018, Hawassa Ethiopia.

<sup>168</sup> Author conversation with high-level manager at one of the largest factories in the Hawassa industrial park, 5 Oct. 2018 Hawassa Ethiopia (reporting employee turnover rates of 15–20 per cent monthly). See also Paul M. Barrett and Dorothee Baumann-Pauly, *Made in Ethiopia: Challenges in the garment industry’s new frontier*, 4, NYU Stern Center for Business and Human Rights (May 2019), available at [www.issuu.com](http://www.issuu.com). (Reporting employee turnover at 5 to 10 per cent per month.)

<sup>169</sup> Christopher Blattman and Stefan Dercon, “The impacts of industrial and entrepreneurial work on income and health: Experimental evidence from Ethiopia”, 10, *American Economic Journal: Applied Economics*, 1, 5 (July 2018); Christopher Blattman, Stefan Dercon and Simon Franklin, *Impacts of industrial and entrepreneurial jobs on youth: 5-Year experimental evidence on factory job offers and cash grants in Ethiopia*, xiv, National Bureau of Economic Research, Working Paper No. 25788 (Apr. 2019), available at [www.nber.org](http://www.nber.org); Vincent Hardy and Jostein Hauge, “Labour challenges in Ethiopia’s textile and leather industries: No voice, No loyalty, No exit?”, *African Affairs*, 18–20 (29 Feb. 2019).

<sup>170</sup> *Report: Ethiopia’s garment workers are world’s lowest paid*, CNBC (7 May 2019, 5:47 a.m.), available at [www.cnn.com](http://www.cnn.com).

<sup>171</sup> Ethiopian Investment Commission, *Textiles and garments*, available at [www.investethiopia.gov.et](http://www.investethiopia.gov.et). The Commission also seeks to attract firms to its industrial parks by emphasizing tax incentives and the tariff reductions available to firms producing in the country. See idem.

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The 750 birr monthly wage compares unfavourably to the average wage for so-called unskilled workers in Ethiopia overall, at 1021 birr per month.<sup>172</sup> Indeed, it amounts to just over US \$1 per day, well below the World Bank's "extreme poverty line" of US\$ 1.90 per day, set by reference to "the poverty line typical of the world's poorest countries".<sup>173</sup> In 2018 and 2019, a series of independent reports on the Ethiopian garment industry emphasized the inadequacy of these wages relative to the cost of living in Ethiopia, and also revealed other concerns about decent work in the Ethiopian garment export industry. These include unpaid labour, sexual harassment, high levels of verbal abuse, poor quality, expensive housing distant from the worksite, and a lack of genuine worker representation.<sup>174</sup>

With the information from the World Bank's 2017 survey in hand, the Bank, the Ethiopian government, and donor governments have changed focus. They no longer anticipate that the garment factories in industrial parks will be an important source of refugee employment in Ethiopia.<sup>175</sup> Instead, they will seek other economic opportunities for the 30,000 refugees covered by the Compact, whether in formal waged employment, self-employment, or entrepreneurship.<sup>176</sup> The next two years will see the development of the World Bank-led Economic Protection Pilot, which aims to place the first 10,000 refugees in formal waged employment, self-employment, or entrepreneurship opportunities. Sectors and geographic areas remain to be determined. Further plans will depend on the outcomes and lessons learned through the pilot programme.<sup>177</sup>

Given the experience in Jordan with ongoing refugee employment in informal sectors even as permit-holders, the idea that significant numbers of refugees in Ethiopia will find formal employment seems aspirational. In that country 73 per cent of employment is in agriculture, almost all informal.<sup>178</sup> Outside agriculture, 53 per cent of all employment is informal.<sup>179</sup> The border regions where the vast majority of refugees reside are among the least developed in the nation, with even lower levels of formal work than the national average.<sup>180</sup> To the limited extent that refugees in Ethiopia currently work outside camps, almost all do so informally.<sup>181</sup> Given this reality, it seems unlikely that most of the 30,000

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<sup>172</sup> Yared Seid et al., *Ethiopia: An agrarian economy in transition*, 19, Brookings Institute (Aug. 2016), available at [www.brookings.edu](http://www.brookings.edu).

<sup>173</sup> *There are multiple international poverty lines. Which one should I use?*, World Bank, available at [datahelpdesk.worldbank.org](http://datahelpdesk.worldbank.org).

<sup>174</sup> See "*Ethiopia is a north star*": *Grim conditions and miserable wages guide apparel brands in their race to the bottom*, 6, Worker Rights Consortium (31 Dec. 2018), available at [www.workersrights.org](http://www.workersrights.org); see also Paul M. Barrett and Dorothee Baumann-Paully, *Made in Ethiopia: Challenges in the garment industry's new frontier*, 11–16, NYU Stern Center for Business and Human Rights (May 2019), available at [www.issuu.com](http://www.issuu.com); *Ausbeutung statt fairer Arbeitsplätze [Exploitation instead of fair Jobs]*, (Das Erste television broadcast 18 June 2019), available at [www.daserste.de](http://www.daserste.de). All these reports focus on the Ethiopian garment industry in general, not on refugee issues.

<sup>175</sup> Phone interview with member of the World Bank Ethiopia team, Washington DC, June 2019; phone interview with members of the DFID team, 13 June 2019. (The industrial parks do, however, remain anticipated to provide the projected 70,000 jobs that are to be generated for Ethiopians under the Compact.)

<sup>176</sup> Phone interview with member of the World Bank Ethiopia Team, Washington DC, 6 July 2018; phone interview with two members of the DFID team, Addis Ababa, 13 June 2019.

<sup>177</sup> Phone interview with two members of the DFID Ethiopia team, 13 June 2019, Addis Ababa.

The Ethiopia Jobs Compact is not the only major livelihoods initiative underway in Ethiopia; Strengthening Host and Refugee Populations in Ethiopia (SHARPE) is a separate DFID programme that plans to connect approximately 200,000 refugees with formal and informal opportunities in one of six livelihoods areas (including livestock, agriculture, aquaculture, wood and forestry, and waged labour) in a set of regions as yet to be determined. Phone interview with a third member of the DFID team, 28 May 2019, Addis Ababa; SHARPE – Scoping Report 2017, on file with author. The ILO is not a participating agency in the SHARPE programme. Idem. Interview; see also "Support to refugees and migration programme in Ethiopia: Participating organisations", *Development Tracker* (29 Apr. 2019), available at [www.devtracker.dfid.gov.uk](http://www.devtracker.dfid.gov.uk).

<sup>178</sup> For percentages: Alemayehu Seyoum Taffesse, "The transformation of smallholder crop production in Ethiopia, 1994–2016", in Fantu Cheru et al., eds., *The Oxford Handbook of the Ethiopian Economy* 468, 469 (2019). For the informal nature of Ethiopian agriculture: Mekonnen Manyazewal and Admasu Shiferaw, "Economic policy and structural transformation in Ethiopia", in Fantu Cheru et al., eds., *The Oxford Handbook of the Ethiopian Economy* 137, 145 (2019).

<sup>179</sup> *Informal employment: Ethiopia, as of 2013* (ILO table), available at [www.ilo.org](http://www.ilo.org).

<sup>180</sup> Laura Hammond, "Livelihoods and mobility in the border regions of Ethiopia", in Fantu Cheru et al., eds., *The Oxford Handbook of the Ethiopian Economy*, 269 (2019).

<sup>181</sup> *Ethiopia country refugee response plan* (2019–2020), UNHCR, 12 (29 Jan. 2019), available at [www.reporting.unhcr.org](http://www.reporting.unhcr.org).

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refugees will be accommodated in the formal sector. As implementation moves forward, as in Jordan, it will be necessary to engage with work in the informal economy to move opportunities closer to decent work standards.

## 4.2 The ILO role in the Ethiopia Jobs Compact

The ILO initiated planning on work for refugees and internally displaced people in Ethiopia in 2018, and its substantive engagement on that front has recently begun.<sup>182</sup> With regard to the garment industry, the ILO launched Better Work Ethiopia in 2019.<sup>183</sup> Despite the newness of these programmes, the Ethiopia office is already engaged in supporting the Ethiopian Ministry of Labour and Social Affairs and the Administration for *Refugee* and Returnee Affairs as they prepare directives to implement the work-related aspects of the new Refugees Proclamation. The office is also assessing the labour market in several border regions to identify opportunities for refugees and working with trade unions, employers, and labour inspectors to prepare for the integration of refugees into the workforce. For example, the ILO Ethiopia office recently held a two-day workshop for Ethiopian trade unions and employers on decent work in the context of refugee employment, with the participation of government officials from the labour and refugee ministries.<sup>184</sup>

The ILO is also participating in PROSPECTS, a Netherlands-funded initiative that brings the ILO together with the UNHCR, UNICEF, the International Finance Corporation and the World Bank to increase the education, training, protection, employment and livelihoods opportunities of refugees and host communities. Ethiopia is one of eight countries in the PROSPECTS Programme.<sup>185</sup> Finally, the informal economy in Ethiopia as a whole is under consideration as a new area of focus for the ILO office in Addis Ababa.<sup>186</sup>

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For levels of informality among refugee workers in Addis Ababa specifically, see Alison Brown et al., *Urban refugee economies: Addis Ababa, Ethiopia* 6, International Institute for Environment and Development, Working Paper (Mar. 2018), available at [pubs.iied.org](http://pubs.iied.org).

<sup>182</sup> Phone interview with two ILO staff members, Ethiopia office, 17 June 2019.

<sup>183</sup> *Idem*.

<sup>184</sup> *Refugee access to labour markets and decent work sensitization workshop*, ILO News (15 Oct. 2019), available at [www.ilo.org](http://www.ilo.org).

<sup>185</sup> *ILO signs new agreement with the Netherlands on forced displacement response*, ILO Press Release, 31 Oct. 2019), available at [www.ilo.org](http://www.ilo.org).

<sup>186</sup> Phone interview with two ILO staff members, Ethiopia office, 17 June 2019.

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## 5. Observations and Recommendations

For the moment, the obstacles that the Jordan and Ethiopia Compacts encountered have put a damper on direct duplication of attempts to employ refugees in export processing zones. Nonetheless, the idea is still alive in policy circles, reappearing as each new refugee crisis comes to a head. It has been proposed for the Rohingya in Bangladesh<sup>187</sup> and Central Americans in Mexico,<sup>188</sup> among others. Private actors advocate for the creation of “refugee cities”, special economic zones where individuals fleeing climate change, violence, and poverty would live and work.<sup>189</sup> Indeed, proponents of this approach are currently under contract with UNHABITAT to lay the groundwork for a “sustainable development zone” for internally displaced people in Ethiopia.<sup>190</sup> In Honduras, it has been suggested that a special free-trade zone be established inside the country for citizens who would otherwise migrate to the United States.<sup>191</sup>

Separate from trade linkages, more host countries are now considering or initiating access to work permits for refugees.<sup>192</sup> The “compact model” need not be tied to the idea of trade-as-aid-for-refugees. Instead, it can be understood to stand for the need for donor governments and development institutions to support refugee access to host country labour markets under decent conditions. Defined in this way, it has many positive features that are worth continuing to pursue. To that end, what follows is a series of recommendations regarding the goals and structure of refugee work programmes, based not only on the Jordan and Ethiopia case studies, but also on the author’s and others’ research into efforts to advance decent work for migrants and in the informal economy in other countries.

It is worth considering the applicability of these observations in mixed migration contexts as well. Many host countries receive mixed flows of refugees and migrants together. There is often no bright line between the two groups. People migrate for complex reasons, which often include intertwined economic motives and war- or disaster-related distress. In addition, many refugees may have been migrant workers in the past to the same countries where they now seek protection, or to be following paths worn by earlier migrant workers. Other refugees use migration channels as a route to a solution. Mixed migration is becoming more common as displacement increases because of climate change and other factors. To the extent that countries initiate labour market integration initiatives for mixed flows, the observations and recommendations below may offer a useful starting point.

The overarching principle shaping these recommendations is that work will only offer a “durable solution” for refugees if it is decent work. If decent work is not immediately

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<sup>187</sup> Cindy Huang and Kate Gough, *Toward medium-term solutions for Rohingya refugees and hosts in Bangladesh: Mapping potential responsibility-sharing contributions* 4, Center for Global Development, Brief (Feb. 2019), available at [www.cgdev.org](http://www.cgdev.org); reliefweb.int; Lauren Post, Rachel Landry and Cindy Huang, *Moving Beyond the Emergency: A whole of society approach to the refugee response in Bangladesh* 9-11, Centre for Global Development and International Rescue Committee, Note (Oct 2019), available at [www.cgdev.org](http://www.cgdev.org).

<sup>188</sup> See e.g. Mathieu Tourliere, “Andrés Manuel López Obrador (AMLO) busca frenar a centroamericanos con trabajo en el Tren Maya y otros proyectos” [“AMLO seeks to curb Central Americans with work on the Maya Train and other projects”], *Proceso* (1 May 2019), available at [www.proceso.com](http://www.proceso.com).

<sup>189</sup> Michael Castle Miller, “The law and policy of refugee cities: Special economic zones for migrants, 21 *Chapman Law Review*, 303, 312–15 (2018); *Refugee Cities*, available at [www.refugeecities.org](http://www.refugeecities.org).

<sup>190</sup> Joachim Rücker, Kilian Kleinschmidt and Michael Castle-Miller, *Creating sustainable development zones in Ethiopia* 4, UNHABITAT (Jan. 2019), available at [static1.squarespace.com](http://static1.squarespace.com). This proposal was approved by UNHABITAT and work on it is now under way. Politas Consulting, [www.politasconsulting.com](http://www.politasconsulting.com).

<sup>191</sup> Reihan Salam, “The solution to the caravan crisis is in Honduras”, *The Atlantic* (14 Oct. 2018), available at [www.theatlantic.com](http://www.theatlantic.com).

<sup>192</sup> Access to the labour market is one of the main pillars of the Comprehensive Refugee Response Framework (CRRF) adopted by the United Nations in 2016. *Application of comprehensive refugee responses*, UNHCR (Sep. 2018), available at [www.unhcr.org](http://www.unhcr.org). For more information on specific host country initiatives, see *Two year progress assessment of the CRRF approach: September 2016–September 2018*, UNHCR 30–39 (Dec. 2018), available at [www.reliefweb.int](http://www.reliefweb.int); Cindy Huang and Jimmy Graham, “CGD and RI launch new initiative to expand formal labor market access for refugees”, *Center for Global Development* (20 June 2019), available at [www.cgdev.org](http://www.cgdev.org).

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available, then initiatives to open jobs to refugees should be crafted from the outset to move towards decent work goals, rather than broadly targeting income-generating activity without reference to wages, working conditions or social protection.

## **5.1 The Jordan and Ethiopia case studies offer several practical lessons for how refugee labour market integration programmes can be designed to maximize decent work**

### **5.1.1 Work rights should be granted to the refugee directly, rather than tied to an employer sponsor**

Conditioning the right to work on employer sponsorship increases refugees' vulnerability to abuse. If an individual's right to work is dependent on an employer sponsor, he or she loses that right on leaving the job or being fired. As repeatedly demonstrated in the labour migration context, this creates a fertile environment for labour exploitation.<sup>193</sup> In addition, permits that require employer sponsorship create a market for labour brokers, whose fees add to the financial burdens that refugees already bear.

To avoid this, work rights should be granted to the refugee directly.<sup>194</sup> Refugee-held work rights avoid the power dynamic typical of the *kafala* system<sup>195</sup> and most other low-wage temporary labour migration programmes around the world, under which the migrant's right to work and to remain is tied to continued employment with a sponsoring firm.

### **5.1.2 Work rights should be mobile**

Refugees should maintain the right to work as they move across regions as well as between firms.

As noted above, mobility between jobs is a critical decent work feature, because it allows a refugee to leave an exploitative employer in search of a better one. In addition, in many sectors where refugees are likely to work, short-term jobs are the norm, as in agriculture and construction, among other sectors. A mobile right to work is necessary to match the structure of work in those contexts. Finally, when refugees can look for work across regions, labour markets can adjust to their presence. The opposite happens when refugees' work rights are limited to particular locations in host countries.<sup>196</sup>

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<sup>193</sup> *Employer-migrant worker relationships in the Middle East: Exploring scope for internal labour market mobility and fair migration*, ILO Regional Office for Arab States, White Paper (Mar. 2017), available at [www.ilo.org](http://www.ilo.org); *Reform of the kafala (sponsorship) system*, ILO, Policy Brief No. 2, available at [www.ilo.org](http://www.ilo.org).

<sup>194</sup> As Susan Razzaz has argued in the context of the Jordan Compact, the ideal configuration would be simply to attach work permission automatically to whatever kind of identification the host government offers to refugees. In the case of Jordan, this is a Ministry of the Interior service card, which the government issues to Syrian refugees as an identity document and proof of permission to live outside refugee camps. Susan Razzaz, *Syrian employment in the formal labor market in Jordan: Constraints, regulations, and alternatives*, 10, prepared for the Program Management Unit of the Jordan Ministry of Planning and Development Cooperation (29 Mar. 2018), on file with author. This assumes, of course, that in a given country such an ID card is not itself difficult to procure or tied to employer sponsorship.

<sup>195</sup> See footnote 89, describing the *kafala* system.

<sup>196</sup> The work permit that Turkey created for refugees other than Syrians is tied to the particular city to which the refugee is assigned upon arrival; observers have criticized this feature among others as responsible for the very low uptake of the permits. Izza Leghtas and Ann Hollingsworth, *"I am only looking for my rights": Legal employment still inaccessible for refugees in Turkey* 12, Refugees International, Field Report (Dec. 2017), available at [www.asylumineurope.org](http://www.asylumineurope.org). Syrian refugees must work in the province where they first registered for temporary protection, which creates similar problems. Alan Makovsky, "Turkey's refugee dilemma: Tiptoeing toward integration", *Centre for American Progress*, 18–19 (13 Mar. 2019, 12.01 a.m.), available at [www.americanprogress.org](http://www.americanprogress.org).

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### **5.1.3 The process to access work rights should be simple and low-cost**

The more expensive and complicated it is to obtain or renew permission to work, the less likely refugees (and their potential employers) are to go through the process. Cumbersome requirements create a right on paper that in fact is little used, leaving most refugees as undocumented workers in the informal economy.<sup>197</sup> In addition, a permit priced higher than most refugees can afford creates a market for moneylenders, who often charge high interest rates and demand anything the individual still has of value for collateral. The obligation to pay back a high-interest loan increases refugee workers' vulnerability to abuse both from brokers and employers.<sup>198</sup>

If the goal is to ensure that refugees work legally, simplicity is essential. Ideally, refugees should be allowed to work by virtue of holding an identity card issued by the state.<sup>199</sup> Where this is not politically or logistically feasible, and a permit is required instead, it should be free or very low cost, and the application and renewal process should be easy.

### **5.1.4 Refugees themselves, and workers' organizations that represent them, should be active participants in the design and implementation of labour market integration programmes**

Decent work for refugees will not be achieved solely through top-down planning or by legislating refugee rights at work, although these are important first steps. It is critical to work *with* refugees, not just *for* them, including engaging with them and their organizations from the beginning on all aspects of refugee jobs initiatives.

In a context where permits are required, and where trade unions exist and are allowed to operate independently, they and other workers' organizations may offer a way to distribute permits that provides refugees with information and tools to defend their rights from the moment they begin looking for work. Likewise, trade unions and workers' organizations can support the government in enforcing labour standards where they are violated.

### **5.1.5 For refugee women to benefit from an effort to advance decent work, the programme must be designed with them and for them**

Women – whether refugees, migrants, or nationals – are often in the most vulnerable situations in a labour market, working under the worst conditions. Gender discrimination, including unequal pay between men and women, is widespread. Gender-based violence and harassment, and gender stereotypes about the jobs suitable for men and women, often combined with poverty and caste discrimination, make it particularly difficult for many women to exercise choice regarding the work they do.

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<sup>197</sup> Roger Zetter and Héloïse Ruaudel, *Refugees' right to work and access to labor markets – An assessment (Part I: Synthesis)*, 12, 14–15, KNOMAD (Sep. 2016), available at [www.knomad.org](http://www.knomad.org); “Global refugee work rights report, *Asylum Access* 26, 29, 35 (2014), available at [asylumaccess.org](http://asylumaccess.org).

<sup>198</sup> Jennifer Gordon, *Global labor recruitment in a supply chain context*, 16–17, ILO, Working Paper (24 June 2015), available at [www.ilo.org](http://www.ilo.org); Jean Allain et al., *Forced labour's business models and supply chains* 36, Joseph Rowntree Foundation Report (Nov. 2013), available at [www.jrf.org.uk](http://www.jrf.org.uk); Julia O'Connell Davidson, “Troubling freedom: Migration, debt, and modern slavery”, 1 *Migration Studies* 176, 184 (July 2013), available at [www.academic.oup.com](http://www.academic.oup.com).

<sup>199</sup> One could also link the right to work to possession of a UNHCR identity card. In that case, however, it will be necessary to ensure that asylum-seekers have the right to work while they await a UNHCR determination, which can often be delayed.

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If outreach, skills training, or job-matching programmes are designed without recognition of gender and cultural roles and of the power dynamics they reflect and create, they are unlikely to succeed. Instead, women must be active participants in the design of refugee work initiatives as well as their implementation, and a gender-based perspective is essential at all stages.

## **5.2 Ensuring that refugee workers are not exploited in waged positions requires a different set of actors and approaches than those traditionally engaged in refugee livelihoods initiatives**

### **5.2.1 *To advance decent work in this setting will require intensive collaboration between humanitarian and development actors and those whose expertise lies in the labour standards and migration arenas***

Wage employment is a new context for many humanitarian actors, as is a rights-based approach to livelihoods in general. Humanitarian and development actors have substantial experience with refugee livelihoods programming that focuses on self-employment and entrepreneurship. But large-scale wage work is a new addition to the field.

Prior to the Jordan and Ethiopia Compacts, the humanitarian and labour rights realms have rarely overlapped. This is beginning to change, but broader integration is necessary. The ILO has a leadership role to play here. Decent work for refugees will not be achieved, however, unless all partners in refugee labour market integration initiatives recognize it as a central goal of efforts to place refugees in waged employment.

### **5.2.2 *To date, the focus of refugee work initiatives has been on granting refugees the right to work; to achieve a standard of decency, this must be coupled with rights at work***

Rights are not self-executing, and refugees will require ongoing institutional support to realize them. It is essential that agreements to grant work rights to refugees be tied to support for host governments, and in particular host labour ministries and their labour inspectorates, so that they can ensure that firms employing refugees are doing so in compliance with applicable labour standards. The ILO has an important role to play in this regard. Other core actors in the top-down arena include donor governments; UN agencies including the UNHCR, IOM, and UNDP; international financial institutions; and humanitarian and development organizations.

From the bottom up, there may also be roles for many of these entities. But they are not a substitute for the active participation of host country trade unions, worker and community organizations, and other local NGOs. All of these organizations are potential participants in monitoring for violations of labour standards. Trade unions are uniquely positioned to represent refugees as workers, although they may require support to strengthen their capacity to do so. The presence of legal aid programmes to represent refugees on labour matters (and for legal systems capable of responding to such complaints) will help identify and remedy violations as they occur.

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### **5.2.3 Strategies already developed to advance decent work for migrant workers are highly relevant for refugees**

Guidance on structuring a work visa to minimize labour abuse,<sup>200</sup> addressing fraud and debt during the recruitment process,<sup>201</sup> enforcing workplace rights in a context of informality,<sup>202</sup> and engaging trade unions and other workers' organizations in supporting newcomers<sup>203</sup> are a few among many areas where cross-fertilization will be useful.

## **5.3 Refugee work initiatives should be an integral part of efforts to advance decent work in the host country overall**

### **5.3.1 A labour market is an economic organism; an intervention on behalf of refugees should be designed to advance decent work across the entire organism, not just for its intended beneficiaries**

When refugees work, their economic fates are intertwined with those who work alongside them. Large-scale refugee work initiatives cannot be designed for refugees alone, independent of a focus on decent work for others in the relevant labour market. Introducing a new group of refugee workers will affect other workers in the sector, the bargaining power of employers and the interests of other actors. The inverse is also true: interventions to advance decent work in the labour market overall will also benefit refugees.

It is positive that refugee livelihoods initiatives are beginning to be crafted in ways that minimize direct competition with local workers and seek to provide work opportunities to local residents alongside refugees. Two other groups require consideration in addition to local residents: internally displaced people and migrant workers who arrive just before or alongside refugees. In the absence of state policies to protect them, they are likely to be the most affected by competition from refugees entering the labour market.

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<sup>200</sup> *The American dream up for sale: A blueprint for ending international labor recruitment abuse*, 6, International Labor Recruitment Working Group (Feb. 2013), available at [fairlaborrecruitment.files.wordpress.com](http://fairlaborrecruitment.files.wordpress.com); *General principles and operational guidelines for fair recruitment and definition of recruitment fees and related costs*, 12–14, ILO Geneva (2019), available at [www.ilo.org](http://www.ilo.org); Daniel Costa and Philip Martin, "Temporary labor migration programs: Governance, migrant worker rights, and recommendations for the UN Global Compact for migration," *Economic Policy Institute* (1 Aug. 2018), available at [www.epi.org](http://www.epi.org).

<sup>201</sup> *General principles and operational guidelines for fair recruitment and definition of recruitment fees and related costs*, 13–17, ILO Geneva (2019), available at [www.ilo.org](http://www.ilo.org); Jennifer Gordon, *Global labor recruitment in a supply chain context*, 7, ILO, Working Paper (24 June 2015), available at [www.ilo.org](http://www.ilo.org); Jean Allain et al., *Forced labour's business models and supply chains*, 28–29, Joseph Rowntree Foundation Report (Nov. 2013), available at [www.jrf.org.uk](http://www.jrf.org.uk).

<sup>202</sup> Martha Alter Chen, *The informal economy: Definitions, theories and policies*, Women in informal employment: Globalizing and organizing, Working Paper No. 1 (Aug. 2012), available at [https://www.wiego.org/sites/default/files/migrated/publications/files/Chen\\_WIEGO\\_WP1.pdf](https://www.wiego.org/sites/default/files/migrated/publications/files/Chen_WIEGO_WP1.pdf);

*A guide on labour inspection intervention in the informal economy: A participatory method*, ILO (2018), available at [www.ilo.org](http://www.ilo.org); Deirdre McCann and Judy Fudge, "A strategic approach to regulating unacceptable forms of work," 46 *Journal of Law and Society* 271, 287–89 (June 2019), available at [www.onlinelibrary.wiley.com](http://www.onlinelibrary.wiley.com).

<sup>203</sup> Stefania Marino, Judith Roosblad and Rinus Penninx, eds., *Trade unions and migrant workers: New contexts and challenges in Europe* (2017), available at [www.ilo.org](http://www.ilo.org); see also Janice R. Fine, "New forms to settle old scores: updating the worker centre story in the United States", 66 *Industrial Relations* 604 (2011), available at [www.rjir.ulaval.ca](http://www.rjir.ulaval.ca); see generally Michele Ford, *From migrant to worker: Global unions and temporary labor migration in Asia* (2019).

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### **5.3.2 Refugees should have the same labour and social protections as others and the same opportunity to voice and act on their concerns at work through trade unions <sup>204</sup>**

Treating refugees equally as workers is a matter of human dignity and labour protection for the refugees. It supports human dignity and labour protection for other workers in the same labour market also. In any given sector, a worker is a worker. Employers seek out those who offer the highest level of relevant skill at the lowest wages, whatever label they bear.<sup>205</sup> Allowing refugees to be hired for lower wages than others, for example, or denying them the right to organize and join trade unions, undermines decent work in the host country.

In many host countries, labour conditions for low-wage workers in general are not decent. In such contexts, non-discrimination – that is, integrating refugees in a labour market on equal terms with nationals or migrants, however dire their wages and conditions – is not enough. The right to organize and join trade unions is particularly important here, as it allows refugees to stand alongside other workers in efforts to establish higher standards for everyone.

### **5.3.3 We do not yet know if there are circumstances where trade-based livelihoods initiatives will generate meaningful employment for refugees: to date, domestic sectors appear to be more important drivers of refugee work**

In general, to maximize the possibility of decent work, refugee livelihoods programmes must be designed based on an understanding of the economic logic of the sectors in which refugees will be employed, and their relationship to the local, national, regional, and global economy, including any supply chains of which it is a part.<sup>206</sup>

Given the lack of evidence from Jordan or Ethiopia that trade-driven refugee work initiatives generate employment that is of interest to refugees, programmes should encompass opportunities in the domestic economy.

Where trade continues to be seen as an engine of refugee employment, donor governments and financial institutions should link disbursements to better pay and working conditions and freedom of association in garment and other export industries. They should

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<sup>204</sup> See *Guiding principles on the access of refugees and other forcibly displaced persons to the labour market*, 4, ILO (July 2016), available at [www.ilo.org](http://www.ilo.org). This recommendation goes beyond the 1951 Refugee Convention, which requires signatories only to grant refugees the same work rights as the most favourable treatment given to foreign nationals. The *Convention and protocol relating to the status of refugees*, art. 17. The Convention does urge states to take the position I recommend here but does not mandate it. Idem.

<sup>205</sup> There are several initiatives under way that seek to change this calculation by encouraging companies to hire Syrians and other refugees, often as an aspect of corporate social responsibility. See e.g. *Tent partnership for refugees*, available at [www.tent.org](http://www.tent.org); see also Cindy Huang and Jimmy Graham, “CGD and RI launch new initiative to expand formal labor market access for refugees,” *Center for Global Development* (20 June 2019), available at [www.cgdev.org](http://www.cgdev.org). There may be more interest among employers in hiring highly skilled refugees, but when it comes to the low-wage positions that are available to the bulk of refugees, firms have not responded as hoped. Only a few private firms have affirmatively sought to hire refugees for less-skilled positions, and none of these initiatives have provided work to large numbers of people. See e.g. IKEA’s collaboration with the Jordan River Foundation, which employs 110 Syrian refugee women making decorative pillows for sale in its stores and hopes to raise that number to 400. Ammar A. Malik et al., *For-profit humanitarians: IKEA’s partnership with the Jordan River Foundation*, 6 Center on International Development and Governance, Research Report (Sep. 2018), available at [www.urban.org](http://www.urban.org).

<sup>206</sup> Although my focus here is on waged work, this sort of economic analysis is equally important in self-employment and entrepreneurship-based livelihoods initiatives. For example, too often, refugees are given microloans to allow them to buy, make, or grow products to sell, without regard to whether the market is saturated, and as a result they are unable to profit from their work. Richard Mallett et al., “Livelihoods programming and its influence on secondary migration”, 58, *Forced Migration Review*, 1, 52 (June 2018), available at [www.fmreview.org](http://www.fmreview.org). On the challenges of microfinance for refugees more generally, see Evan Easton-Calabria and Naohiko Omata, *Micro-finance in refugee contexts: Current scholarship and research gaps*, 4–6, Refugee Studies Centre, Working Paper (15 June 2016), available at [www.rsc.ox.ac.uk](http://www.rsc.ox.ac.uk).

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enlist brands in making enforceable commitments to increase wages, safety protections, and worker access to trade unions in their supply chains. In particular, the garment export industry as currently configured in many developing countries does not offer decent work opportunities for most refugees or migrant workers. It thus should only be a focus of refugee jobs initiatives if such a programme is paired with efforts to substantially improve pay and working conditions and to expand trade union representation.

#### **5.3.4 Improving conditions in informal jobs should be an affirmative goal of refugee livelihoods programmes**

The temptation is strong to focus exclusively on the formal economy when discussing refugee employment. Yet in many host countries, this is unrealistic. Most host countries have large informal economies. This is where refugees find work if they are not legally allowed to access the labour market. The experience in Jordan suggests that many will remain in these sectors even once permits become available.

Refugee jobs initiatives should thus plan affirmatively to engage with the host government and workers' organizations in improving the quality of jobs for all workers in the informal economy.<sup>207</sup> Such engagement should acknowledge that work is not formalized by the fact that the worker has a permit. Informal workers will need support to improve safety, job stability, and other working conditions before and during efforts to formalize a sector. The ILO and several NGOs have developed useful policy frameworks, enforcement approaches and organizing models that are tailored to advance decent work goals in informal settings.<sup>208</sup>

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<sup>207</sup> Consistent with this, see *How to ensure the inclusion of women, youth and refugees?*, Jordan INGO Forum Briefing (2019), available at [www.reliefweb.int](http://www.reliefweb.int). The briefing calls for more engagement with refugee employment and decent work programming in the informal sector.

<sup>208</sup> Martha Alter Chen, *The informal economy: Definitions, theories and policies*, Women in informal employment: Globalizing and organizing, Working Paper No. 1 (Aug. 2012), available at [https://www.wiego.org/sites/default/files/migrated/publications/files/Chen\\_WIEGO\\_WP1.pdf](https://www.wiego.org/sites/default/files/migrated/publications/files/Chen_WIEGO_WP1.pdf); *A guide on labour inspection intervention in the informal economy: A participatory method*, ILO (2018), available at [www.ilo.org](http://www.ilo.org); Deirdre McCann and Judy Fudge, "A strategic approach to regulating unacceptable forms of work", 46, *Journal of Law and Society*, 271, 287–89 (June 2019), available at [www.onlinelibrary.wiley.com](http://www.onlinelibrary.wiley.com); Janice Fine and Jennifer Gordon, "Strengthening labor standards enforcement through partnerships with workers' organizations", 38 *Politics & Society*, 552 (2010), available at [www.journals.sagepub.com](http://www.journals.sagepub.com).



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