# The Law and Policy of Refugee Cities: Special Economic Zones for Migrants

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## INTRODUCTION

Migration is quickly becoming one of the most pressing issues of our time. Conflict, persecution, natural disasters, and economic inequality are driving people from their homes in record numbers.

Meanwhile, traditional responses to mass migration are becoming increasingly inadequate. Humanitarian assistance and border policing are ineffective and costly over the long term because they fail to address the root causes of migration.[1] Barriers to the labor market, both legal and socio-economic, prevent migrants from contributing to the economic development of the countries hosting them and force them into dependency.[2]

Recognizing this, some countries are exploring pragmatic pathways toward integrating migrants into economies. The special economic zone ("SEZ") concept offers one potential path forward. SEZs are designated areas designed to promote development through a distinct policy and administrative framework. They can serve as vehicles for initiating beneficial policies when political obstacles stand in the way of nationwide reform.

Refugee cities would be a type of SEZ designed to facilitate migrant integration. They would be special-status jurisdictions in which displaced people—who would otherwise be barred from working—can be employed, start businesses, access finance, and rebuild their lives. Applying principles from SEZs, refugee cities could help countries benefit from migrants' presence in a politically realistic manner. They could also deliver high-quality infrastructure, foreign direct investment, and improvements to the business environment.

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1 *See infra* Section I(A).

2 *See infra* Section I(B).

Refugee cities would also serve as a pathway for countries to come into closer alignment with international law. Under the Convention and Protocol Relating to the Status of Refugees ("Refugee Convention" and "1967 Protocol," respectively), refugees are entitled to relatively strong rights regarding property, employment, and entrepreneurship.[3] However, most countries' domestic legislation falls well short of these rights.

This article explores these gaps to show how refugee cities could fill them by creating designated areas in which refugee rights are respected and the policy benefits of migrant integration are achieved. Part I provides the background of the global migration situation. Part II discusses the evolution and role of SEZs. Part III explains the refugee-cities concept and its policy benefits. Part IV analyzes international and domestic law pertaining to refugees, including a special focus on Turkey.

## I. BACKGROUND OF GLOBAL FORCED DISPLACEMENT

Forced displacement is a growing major global concern. By the end of 2016, the United Nations High Commissioner for Refugees ("UNHCR") reported 65.6 million people were forcibly displaced by persecution, conflict, violence, or human rights violations.[4] Included in that total are 22.5 million refugees,[5] 40.3 million internally displaced persons ("IDPs"),[6] and 2.8 million asylum seekers.[7] Moreover, 10.3 million people were forcibly displaced during 2016 alone, meaning that twenty people were forced to flee their homes every minute that year.[8]

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3 *Protecting Refugees: questions and answers*, UNHCR (Feb. 1, 2002), http://www.unhcr.org/afr/publications/brochures/3b779dfe2/protecting-refugees-questions-answers.html [http://perma.cc/XY46-Z396].

4 UNHCR, GLOBAL TRENDS: FORCED DISPLACEMENT IN 2016, at 2 (2016), http://www.unhcr.org/5943e8a34.pdf [http://perma.cc/5CCH-HMCT]. Actual numbers of displaced persons, including refugees, are probably much higher than the numbers provided in this section due to the number of people who would qualify as refugees, but are undocumented and thus not counted in official tallies. *See* Roger Zetter & Héloïse Ruaudel, *Refugees' Right to Work and Access to Labor Markets – An Assessment, Part I: Synthesis* 11 (KNOMAD Study 2016) (noting, for instance, that the Iranian government estimates 1.4 million to 2 million undocumented Afghans are within its borders, beyond the 979,400 documented refugees, and that there are an estimated 175,000 undocumented refugees in Venezuela, compared with only 5000 who are documented).

5 UNHCR, *supra* note 4, at 2. "Refugees" generally includes people who have been forced to leave their country because of a well-founded fear of persecution and includes people who fall under the definition of refugee under international treaties, people granted complementary forms of protection and temporary protection, and people in "refugee-like situations." *Id.* at 56.

6 *Id.* at 2. "Internally displaced persons" are people who have been forced to leave their homes but have not left their country. *Id.* at 56.

7 *Id.* at 2. "Asylum seekers" are those who have applied for international protection in a country, but whose refugee status is yet to be determined. *Id.* at 39.

8 *Id.* at 2.

Developing countries hosted a growing majority of the world's refugees.[9] The top ten refugee hosting countries at the end of 2016 were:

- Turkey – 2.9 million
- Pakistan – 1.4 million
- Lebanon – 1 million
- Iran – 979,400
- Uganda – 940,800
- Ethiopia – 791,600
- Jordan – 685,200
- Germany – 669,500
- Democratic Republic of the Congo – 452,000
- Kenya – 451,100[10]

Lebanon hosted the highest number of refugees relative to its population, with one in every six people in the country being a refugee.[11] Jordan (one in eleven) and Turkey (one in twenty-eight) were the next two highest.[12]

Fifty-five percent of refugees came from three countries: Syria (5.5 million), Afghanistan (2.5 million), and South Sudan (1.4 million).[13] Syrians also made up the largest number of forcibly displaced persons (12 million, including 6.3 million IDPs).[14] Sixty-five percent of the Syrian population were forcibly displaced as of the end of 2016, a higher proportion than any other nationality.[15]

The year 2017 saw a major surge in Rohingya refugees fleeing ethnic cleansing campaigns in Myanmar. Between August 25th and September 30th of that year, over 600,000 Rohingya were driven out by reported human rights atrocities.[16] Bangladesh hosted approximately 800,000 Rohingya refugees as of October 4, 2017 in refugee camps and makeshift settlements that were

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9 *Id.* (observing that eighty-four percent of refugees under UNHCR's mandate (14.5 million out of 17.2 million) are hosted in developing countries and twenty-eight percent are in less developed countries (4.9 million)).

10 *Id.* at 14–16.

11 *Id.* at 3.

12 *Id.*

13 *Id.*

14 *Id.* at 6.

15 *See id.*

16 *Rohingya Refugee Crisis*, UN OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, https://www.unocha.org/rohingya-refugee-crisis [http://perma.cc/ WKG7-YKNT] (last visited Nov. 27, 2017); *see also* Jeffrey Gettleman, *Rohingya Recount Atrocities: 'They Threw My Baby Into a Fire,'* N.Y. TIMES (Oct. 11, 2017), https://www.nytimes.com/2017/10/11/world/asia/rohingya-myanmar-atrocities.html (reporting stories of gang rape, murder, and home burnings from Rohingya survivors).

straining to provide basic services like water, healthcare, shelter, and sanitation.[17]

A. Responses to Refugees

The international response to refugee situations has evolved over the last several decades. After massive displacement caused by the Second World War, the newly created United Nations formed the UNHCR and adopted a treaty, the 1951 Refugee Convention, obligating member states to respect certain minimum standards of treatment of refugees. Since then, the UNHCR's main objective has been to ensure the international protection of refugees and to seek permanent solutions to their problems.[18]

Traditionally, the UNHCR's focus was on providing short-term humanitarian aid through emergency shelters, food, water, and medical care.[19] Over time, the UNHCR increasingly shifted to emphasize "durable solutions" for refugees.[20] The three durable solutions are: voluntary repatriation to the refugee's home country, resettlement to a third country, or integration into the host country.[21]

However, in recent years, the UNHCR has increasingly recognized that durable solutions are often only a remote possibility for refugees.[22] Conditions in their home country often do not improve for many years, making repatriation impossible in the near future. Only a small portion of the global refugee population are accepted for resettlement in third countries,[23] and few of the major refugee-hosting countries are willing to meaningfully integrate refugees into their societies.

As a result, most refugees remain displaced for many years, often in isolated refugee camps or informal settlements. As of the end of 2016, 11.6 million refugees (two-thirds of the total) were in "protracted refugee situations," generally lasting five years or more.[24] Of that number, 4.1 million people were in refugee situations lasting twenty years or more.[25]

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17 *Rohingya Refugee Crisis*, *supra* note 16.

18 OFFICE OF INTERNAL OVERSIGHT SERVICES, EVALUATION OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES 3 (2015).

19 *Id.*

20 *Id.* at 4.

21 *Id.* at 5.

22 UNHCR, *supra* note 4, at 24.

23 In 2016, 189,300 refugees were resettled into thirty-seven countries. *Id.* at 3. The U.S. admitted the largest number at 96,900. *Id.*

24 *Id.* at 22. "Protracted refugee situations" is defined as situations where 25,000 or more refugees from the same nationality have been in exile for five consecutive years or more in a given asylum country. *Id.*

25 *Id.*

To address this reality, the UNHCR has been seeking to identify new approaches to refugee situations, including "complementary pathways," which countries have implemented when durable solutions are not possible.[26] Examples of current complementary pathways include private sponsorship programs, labor schemes, family reunification programs, talent registers, and education programs.[27]

B. Refugees' Access to the Labor Market

The vast majority of refugees are prevented from working, both de jure and de facto.[28] In addition to legal restrictions, which are discussed in Part IV, refugees face restrictive policies and practices like forced encampment or bureaucratic and expensive processes for obtaining work permits.[29] They also face socio-economic barriers impacting the freedom to work and the ability to assimilate, such as xenophobia and discrimination, language difficulties, inadequate access to the courts, and lack of vocational training for refugees who need to develop new skills.[30] As a result, most refugees work in the informal sector and under relatively poor conditions where they have less of a positive impact on the economy than if they were allowed to work formally.[31]

These barriers exist despite evidence that allowing refugees, and other immigrants to work tends to bring significant net economic benefits to host countries. Over the medium-term to long-term, refugees tend to raise wages, create jobs, stimulate commerce, fill gaps in the labor market, and increase cross-border trade.[32] Refugees represent a major underutilized labor force that could make significant contributions to the economies hosting them if activated.[33] Additionally, work would enable them to develop skills and capital to facilitate their return to their home countries and would help advance the UN's 2030 Sustainable Development Goals to end poverty and fight inequality.[34]

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26 *Id.* at 24, 29.

27 *Id.* at 29.

28 ASYLUM ACCESS & THE REFUGEE WORK RIGHTS COALITION, GLOBAL REFUGEE WORK RIGHTS REPORT: TAKING THE MOVEMENT FROM THEORY TO PRACTICE 5 (2014) [hereinafter ASYLUM ACCESS].

29 *Id.*; Zetter & Ruaudel, *supra* note 4, at 14–19.

30 ASYLUM ACCESS, *supra* note 28, at 5; Zetter & Ruaudel, *supra* note 4, at 20.

31 Zetter & Ruaudel, *supra* note 4, at 26.

32 *See, e.g.*, *id.*; *see also* ASYLUM ACCESS, *supra* note 28, at 8; OECD, *Is migration good for the economy?* (May 2014), https://www.oecd.org/migration/OECD%20Migration%20Policy%20Debates%20Numero%202.pdf [http://perma.cc/345C-LQAL]; ALEXANDER BETTS ET AL., REFUGEE ECONOMIES: RETHINKING POPULAR ASSUMPTIONS (2014), https://www.rsc.ox.ac.uk/files/files-1/refugee-economies-2014.pdf [http://perma.cc/E5EQ-UBVZ].

33 Zetter & Ruaudel, *supra* note 4, at 4.

34 *Id.*

## II. SPECIAL ECONOMIC ZONES HISTORY AND POLICY FUNCTIONS

An SEZ can be generally understood as a designated geographic area designed to promote economic development through a policy and administrative framework that is somehow different from the typical policy and administrative frameworks surrounding it.[35] The legal and regulatory regime is the most central aspect to an SEZ; their geographic, administrative, and infrastructural characteristics are also important, but less so.[36] The SEZ concept can include a wide variety of special-status jurisdictions going by different names from ancient to modern times, including free trade zones, export processing zones, freeports, and even semi-autonomous city-states.[37]

In recent years, new attention is being placed on the role of SEZs as vehicles for policy and structural transformation, such as by helping catalyze growth in new industry sectors or overcoming political roadblocks to beneficial legal reforms.[38] SEZs often also serve as industrial parks by providing facilities, infrastructure, and services designed to cater to certain types of businesses.[39] However, an increasing number are mixed-use or urban, in character.[40]

### A. History of Development

Modern SEZs emerged out of several historical precedents. The island of Delos functioned as a free zone during the Greek and Roman empires by serving as a place where goods could be stored and exchanged free of local prohibitions and taxes.[41] Medieval and Renaissance-era city-states, such as those in the Hanseatic

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35 *See* Gokhan Akinci & James Crittle, *Special Economic Zones: Performance, Lessons Learned, and Implications for Zone Development* 2–6, 9–22 (World Bank Foreign Investment Advisory Service, Working Paper No. 45869, 2008) (referring to SEZs as "geographically delimited areas administered by a single body, offering certain incentives . . . to businesses [within it]" and noting how they enhance competitiveness through special policy, regulatory frameworks, and administration); *see also* Claude Baissac, *Brief History of SEZs and Overview of Policy Debates*, *in* SPECIAL ECONOMIC ZONES IN AFRICA: COMPARING PERFORMANCE AND LEARNING FROM GLOBAL EXPERIENCE 23 (Thomas Farole ed., 2011) (defining SEZs as areas where the "rules of business are different from those that prevail in the national territory," generally with more liberal policies and more effective administration); Lotta Moberg, The Political Economy of Special Economic Zones (2015) (Ph.D. dissertation, George Mason University) (defining SEZs as "areas where a government allows for different rules to apply than the rest of the country").

36 Baissac, *supra* note 35, at 24–25 (2011) (observing how some SEZ programs—as in the case of "single-factory zone" programs—do not even have a designated geographic area; instead companies can acquire SEZ status while being located anywhere in the country).

37 Akinci & Crittle, *supra* note 35, at 9–12.

38 *Id.*

39 *Id.*

40 *Id.*

41 Baissac, *supra* note 35, at 31–32.

League, had almost complete autonomy from the ruling powers around them and provided spaces for free trade and commerce.[42] Colonial-era chartered territories and trading posts were independently administered by state-backed private companies.[43] Some of these trading posts emerged in the modern era as prosperous city-states and freeports, including Singapore, Hong Kong, and Macau.[44] These also could be characterized as a type of SEZ.[45]

In the early twentieth century, free-trade zones ("FTZs"), or "free zones," existed near major international transit points, offering exemptions from tariffs for trade-related activities, including warehousing, packaging, sorting, exhibition, and sales.[46] In 1934, the United States adopted the Foreign Trade Zones Act,[47] which created these types of zones to mitigate the damaging impact of high tariffs under the protectionist trade policies prevailing just before and during the early Great Depression under laws like the Smoot-Hawley Tariff Act.[48] FTZs were deemed outside the customs territory of the country, which meant businesses could import foreign products and sell them in foreign markets duty free, and only pay customs duties if and when products were sold in the domestic market.[49]

FTZs evolved in the mid-twentieth century by opening up more to manufacturing industries, instead of remaining restricted to trade activities.[50] The starkest early example was the Shannon Free Zone (1959) which applied the FTZ model to a wide area located next to a major airport and offered ready-built industrial infrastructure and facilities, dedicated administrative support, and investment incentives.[51]

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42 *Id.*

43 *Id.*

44 *Id.*

45 *See* Akinci & Crittle, *supra* note 35, at 14–16 (identifying Hong Kong, Macau, and Singapore as city-wide freeport SEZs).

46 Baissac, *supra* note 35, at 32. Notably, however, the FTZ at the Port of Cadiz included substantial industrial production, even featuring one of the first Ford Motor Plants in Europe. *Id.*

47 Foreign Trade Zones Act, 19 U.S.C.A. § 81a (1934).

48 Tariff Act of 1930 (Smoot-Hawley Tariff Act), 46 Stat. 590; *see also* Baissac, *supra* note 35, at 32.

49 Akinci & Crittle, *supra* note 35, at 9, 52; *see also, e.g.*, WORLD CUSTOMS ORG., GLOSSARY OF INTERNATIONAL CUSTOMS TERMS 17 (2013) (defining "free zone" as "a part of the territory of a Contracting Party where any goods introduced are generally regarded, insofar as import duties and taxes are concerned, as being outside the Customs Territory"); 19 U.S.C.A. § 81c (2003) (describing the U.S. Customs territory as distinct from the FTZs).

50 Baissac, *supra* note 35, at 32.

51 *Id.* As another example of a growing openness of FTZs to manufacturing, in 1950, the United States amended the Foreign Trade Zones Act to allow for manufacturing activities. *Id.* However, this did not result in much manufacturing activity until an April 12, 1980 ruling from the U.S. Customs Service changed the formula for calculating the tariff

The Shannon Free Zone model was copied and spread throughout developing countries under the name "export processing zone" ("EPZ") from the 1960s to the 1990s.[52] For developing countries, EPZs were tools for stimulating export-led industrial development, which boosted employment and labor productivity, diversified the economy, generated foreign exchange, attracted foreign direct investment, and facilitated technology transfer.[53] EPZs also had an important function as policy incubators—they served as pilots for trade liberalization in the midst of protectionist import-substitution regimes, which generally prevailed in developing countries at the time.[54] Over time, EPZ programs grew increasingly open to a wider range of business activities, to linkages with local businesses outside the EPZs, and to domestic sales, as opposed to an exclusive focus on exports.[55]

China took a monumental step in shaping the nature of SEZs in the early 1980s, when several local officials sought to boost economic growth in their jurisdictions by designating areas as free-market enclaves.[56] The idea was an outgrowth of the Open Door reforms, which began in the late 1970s as a controlled experiment of market-based reforms.[57] In 1980, the country designated four "special economic zones" (perhaps the first use of the term now used generically), which spanned large city-sized areas and granted a wide range of free market policies affecting finance, labor, foreign investment, and trade.[58] Many of these SEZs, especially Shenzhen, experienced explosive growth in investment, wages, population, and living standards.[59]

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applied to finished products sold from an FTZ to the domestic market so that domestic parts and labor were excluded from the value. *A Brief History of the U.S. Foreign-Trade Zones Program*, FOREIGN-TRADE ZONE RES. CTR., http://www.foreign-trade-zone.com/history.htm [http://perma.cc/M8N8-SV89] (last visited Dec. 3, 2017).

52 Baissac, *supra* note 35, at 33.

53 *See generally* THOMAS FAROLE & GOKHAN AKINCI, SPECIAL ECONOMIC ZONES: PROGRESS, EMERGING CHALLENGES, AND FUTURE DIRECTIONS (Thomas Farole & Gokhan Akinci eds., 2011) (evaluating the performance of SEZs in various countries).

54 *Id.* (describing policy incubation as an important dynamic benefit of SEZs around the world).

55 Baissac, *supra* note 35, at 28.

56 Moberg, *supra* note 35, at 92–93.

57 Douglas Zhihua Zeng, *How Do Special Economic Zones and Industrial Clusters Drive China's Rapid Development?*, *in* BUILDING ENGINES FOR GROWTH AND COMPETITIVENESS IN CHINA: EXPERIENCE WITH SPECIAL ECONOMIC ZONES AND INDUSTRIAL CLUSTERS 1, 8–9 (Douglas Zhihua Zeng ed., 2010) (noting how Chinese Premier Deng Xiaping referred to the choice to only open certain segments of the economy to the market as "crossing the river by touching the stones").

58 *Id.*

59 *Id.* As an example, Shenzhen's GDP grew by fifty-eight percent per year between 1980 and 1984, and its GDP per capita grew from under $100 at formation to over $25,000 in 2016. *Shenzhen (Guangdong) City Information*, HKTDC RES. (Aug. 30, 2017), http://china-trade-research.hktdc.com/business-news/article/Facts-and-Figures/Shenzhen-Guangdong-City-Information/ff/en/1/1X000000/1X09VT4H.htm [http://perma.cc/7BB3-KU5G].

Beginning largely in the 1990s, zones in Latin America initiated another major shift in the nature of SEZs.[60] Whereas previous zones were primarily government-driven projects, SEZs began to increasingly rely on private-sector companies to finance, own, develop, and provide services to users.[61] This model has allowed the state to concentrate its resources on providing effective regulation, ideally through a dedicated SEZ regulatory authority that independently performs or coordinates many of the functions of government in a streamlined fashion.[62] In general, anecdotal evidence suggests that SEZs managed by private-sector companies or public-private partnerships have delivered higher quality services and facilities, better social and environmental outcomes, and higher financial returns at a lower cost than government-run SEZs.[63]

B. Function of SEZs

While SEZs can bring static benefits such as employment generation and foreign direct investment to an area, their greatest potential is in delivering dynamic benefits, especially long-term structural transformation, upgrades to domestic economy capacity, and changes to nationwide policy.[64] Examples of countries that have achieved these dynamic benefits in a very noticeable way include Mexico, Costa Rica, Dominican Republic, China, South Korea, Taiwan, and Mauritius.[65]

Many, if not most, SEZs have failed to achieve significant dynamic benefits; some may have even been counterproductive. For instance, rather than serving as catalysts of good policy, some SEZs may have acted as "pressure valves" that allow elites to avoid or delay nationwide reform by diverting social movements and isolating their impact to zones.[66] Many SEZs impose economic costs that exceed their benefits, primarily when SEZs rely heavily on the public sector for financing or operation or on massive tax

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It grew from a fishing village of 300,000 people to over fourteen million people today, many of them young people from rural areas in search of opportunities. *See* Da Wei David Wang, *Continuity and Change in the Urban Villages of Shenzhen*, 4 INT'L J. CHINA STUD. 233, 233–56 (2013). Many of the original fishing villagers became landowners in the city, profiting from the city's success. *Id.* at 246.

60 Baissac, *supra* note 35, at 37.

61 *Id.* (noting how this shift was driven by the need to limit government spending and to regenerate stagnate free zone programs).

62 Akinci & Crittle, *supra* note 35, at 5.

63 *Id.* at 45–47.

64 *See id.* at 32; *see also* THOMAS FAROLE, SPECIAL ECONOMIC ZONES IN AFRICA: COMPARING PERFORMANCE AND LEARNING FROM GLOBAL EXPERIENCE 3–16 (2011).

65 *See* Thomas Farole & Gokhan Akinci, *Introduction*, *in* SPECIAL ECONOMIC ZONES: PROGRESS, EMERGING CHALLENGES, AND FUTURE DIRECTIONS, *supra* note 53, at 1, 8; Akinci & Crittle, *supra* note 35, at 26, 36.

66 Akinci & Crittle, *supra* note 35, at 4, 34, 42.

breaks to attract investment.[67] Numerous reports have observed that many SEZs have not performed well at advancing beyond low-wage/low-skill jobs, stimulating local economic activity, or promoting labor and environmental performance.[68] SEZs have generally been successful at job creation and access to income for women, though there have been significant problems with pay equity, denying women access to attain higher paying positions, discriminatory working conditions, and sexual harassment.[69]

SEZs are becoming increasingly important vehicles for wide-ranging reforms.[70] Previously, their primary function was to reduce tariff barriers between countries.[71] Today, with overall effective tariff rates very low worldwide, their primary value is in easing other constraints in the investment climate through reducing unnecessary regulatory barriers, streamlining customs inspection and compliance procedures, facilitating human development (especially skills), easing access to investment approvals and business licenses, delivering reliable infrastructure, and improving access to work visas for foreign workers.[72] Generous tax incentives no longer offset disadvantages in these areas.[73]

## III. REFUGEE CITIES CONCEPT

The refugee cities concept is an evolution of the SEZ model. Whereas traditional zones have prioritized tax reductions, customs exemptions, business registration and licensing, and similar measures, refugee cities would prioritize migrant integration.[74] In refugee cities, migrants could legally work, operate their own businesses, access goods and services, have

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67 *Id.* at 32–34, 39, 45–47.

68 *See, e.g.*, Sheba Tejani, *The Gender Dimension of Special Economic Zones*, *in* SPECIAL ECONOMIC ZONES: PROGRESS, EMERGING CHALLENGES, AND FUTURE DIRECTIONS, *supra* note 53, at 247, 262–72; Int'l Labour Office, *Report of the InFocus Initiative on Export Processing Zones (EPZs): Latest Trends and Policy Developments in EPZs*, at 3–9, ILO Doc. GB.301/ESP/5 (March 2008); Int'l Labour Office, *Labour and Social Issues Relating to Export Processing Zones: Report for Discussion at the Tripartite Meeting of Export Processing Zones–Operating Countries,* at 47, ILO Doc. TMEPZ (1998). However, SEZs may perform better, in relative terms, than non-zone businesses and performance appears stronger in privately managed and geographically demarcated SEZs, as opposed to publicly operated zones and "single-factory" zones scattered throughout the country. Akinci & Crittle, *supra* note 35, at 17.

69 *See* Tejani, *supra* note 68, at 269–70; *see also* Int'l Labour Office, *Report of the InFocus Initiative on Export Processing Zones (EPZs): Latest Trends and Policy Developments in EPZs*, *supra* note 68, at 4–7.

70 Akinci & Crittle, *supra* note 35, at 6, 42–43.

71 *See id.* at 13.

72 *See id.* at 57–58.

73 *See id.* at 49.

74 *See* REFUGEE CITIES, REFUGEE CITIES: EXPANDING OPTIONS FOR DISPLACED PEOPLE THROUGH SPECIAL ECONOMIC ZONES 4 (Nov. 2016), https://refugeecities.files.wordpress.com/2016/11/refugee-cities-concept-paper-november-2016.pdf [http://perma.cc/9ZKR-2AKU].

property rights, and enjoy other rights and privileges ordinarily denied to them.[75] Ideally, refugee cities would also include aspects of well-performing SEZs, such as an effective and efficient regulatory system, private-sector investment, and trade facilitation.[76] However, they would also go beyond these elements, offering diverse, multi-use urban areas, support for entrepreneurs and small-sized and medium-sized enterprises, healthcare, trauma counseling, education, financial assistance, and other support in collaboration with international organizations and non-governmental organizations.[77]

## A. Benefits of Refugee Cities

### 1. Host Countries

For countries hosting large numbers of refugees, refugee cities convert a perceived problem into an economic growth opportunity.[78] Since these countries cannot keep migrants outside their borders for both practical and political reasons, they must decide how they will handle migrants.[79] If they house migrants in typical camps without economic opportunities, the migrants will tend to drain public resources and possibly become more prone to radicalization and violence.[80] The migrants will also tend to find ways to leave or avoid the camps and instead work in the informal sector "where they have less of a positive impact on the economy than if they were allowed to work legally."[81] On the other hand, efforts to allow refugees to work anywhere in the country face overwhelming political resistance, especially due to the fear that they will take away employment opportunities from citizens.[82]

Refugee cities would help countries realize some of the potential benefits of refugees[83] by designating new spaces where

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75 *See id.* at 6–7.

76 *See id.*

77 *See id.* at 8.

78 *See id.* at 6.

79 *See id.*

80 *See generally* Rebecca Horn, *Exploring the Impact of Displacement and Encampment on Domestic Violence in the Kakuma Refugee Camp*, 23 J. REFUGEE STUD. 356 (2010) (analyzing the connection between refugee camp residents' structural conditions and domestic violence); *see also* BARBARA SUDE ET AL., LESSENING THE RISK OF REFUGEE RADICALIZATION 3 (2015), https://www.rand.org/content/dam/rand/pubs/perspectives/PE100/PE166/RAND_PE166.pdf [http://perma.cc/9KWK-J6ZD] (discussing the connection between refugee camp conditions and radicalization).

81 REFUGEE CITIES, *supra* note 74, at 6; *see also, e.g.*, BETTS ET AL., *supra* note 32, at 5.

82 *See* Zetter & Ruaudel, *supra* note 4 (studying twenty countries hosting seventy percent of the world's refugees and observing a general reluctance to ease restrictions on refugees' ability to work).

83 *See* BETTS ET AL., *supra* note 32, at 16–20 (covering the economic benefits of allowing refugees to enter the labor market).

refugees can work and start businesses, and where new foreign investment can be brought in, without competing for existing resources in existing spaces.[84] Host populations could also live and work in the new spaces and benefit from the opportunities and infrastructure developed there.[85]

Refugee cities are better tools for accomplishing the goals of refugee camps. Host countries often use refugee camps to cluster refugees to facilitate aid distribution, avoid competition for jobs, and more easily locate and, eventually, repatriate them.[86] Camps often do not accomplish this goal well, however, since refugees often avoid them because of the few economic opportunities there.[87] Refugee cities can reverse this trend by attracting migrants rather than repelling them.[88]

2. International Community and Aid Agencies

Refugee cities can also offer the international community a more cost-effective response to refugee crises than existing humanitarian methods. International organizations traditionally respond to mass migration with food aid, tents, water, basic security, and emergency medical care.[89] Refugee cities would offer these services, while also creating a platform for migrants to become self-supporting.[90] Private capital can be invested in real estate, businesses, and infrastructure and can generate returns from these productive assets.[91] Donor institutions can simply facilitate and abet this investment through technical support, investment guarantees, and monitoring and evaluation.[92]

For developed countries, such as in Europe, that are weary or fearful of migrants passing through refugee hosting countries and entering their territory, refugee cities could provide refugees with other attractive areas for settling.[93] Rather than attempting to find opportunities in an advanced economy, they can find opportunities in the countries hosting them.[94]

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84 *See* REFUGEE CITIES, *supra* note 74, at 6–7.

85 *Id.* at 4.

86 *See* MILICA Z. BOOKMAN, AFTER INVOLUNTARY MIGRATION: THE POLITICAL ECONOMY OF REFUGEE ENCAMPMENTS 134–36 (2002).

87 *Id.* at 98.

88 *See* REFUGEE CITIES, *supra* note 74, at 6.

89 *See* U.N. ECONOMIC & SOCIAL COUNCIL, EVALUATION OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES 4 (2015).

90 *See* REFUGEE CITIES, *supra* note 74, at 3.

91 *See id.* at 1, 4.

92 *See id.* at 7.

93 *See id.* at 6.

94 *See id.* at 4.

3. Benefits for Businesses and Investors

Refugee cities can also open up new markets and underutilized talent pools for foreign and domestic investors.[95] Refugees and other migrants are perhaps often among the most motivated and enterprising workers,[96] and yet their abilities are normally withheld from the labor force.[97] Businesses in a refugee city could benefit from their abilities, as well as from other regulatory and business environment reforms introduced from the SEZ concept.[98]

4. Benefits for Refugees

Most importantly, refugee cities allow migrants themselves an often-rare opportunity to benefit themselves and their families through their own work.[99] They can earn income, experience the psychological benefits of meaningful work, and, perhaps, help rebuild their home countries from a better position than if they had lived in a refugee camp.[100]

B. Progress

Significant strides are being made toward developing migrant-inclusive SEZs or refugee cities. Several projects I have consulted on are, as of the date of publication, underway in Africa (primarily the transit countries of Northern Africa) with support from European governments desiring to provide alternatives for migrants who are otherwise seeking refuge and opportunity within Europe.

Jordan has also made significant strides toward developing migrant-inclusive SEZs. In 2016, Jordan formed a trade agreement with the European Union that intends to attract EU-oriented investors to Jordan's SEZs in order to employ both Syrians and Jordanians.[101] The agreement grants manufacturers in eighteen of Jordan's industrial zones concessionary access to the European common market if at least fifteen percent of their

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95 *See id.* at 7.

96 *See, e.g.*, *Personal Income of Migrants, Australia, 2009–10*, AUSTRALIAN BUREAU OF STATISTICS (June 9, 2017, 11:30 AM), http://www.abs.gov.au/ausstats/abs@.nsf/mf/3418.0 [http://perma.cc/3C8X-VW8U] (analyzing economic activities of humanitarian migrants in Australia and observing above-average rates of income and entrepreneurship).

97 *See* Zetter & Ruaudel, *supra* note 4, at 4.

98 *See* REFUGEE CITIES, *supra* note 74, at 4.

99 *See id.* at 8.

100 *See id.*

101 *See* European Commission Press Release IP/16/2570, EU-Jordan: Towards a Stronger Partnership (July 20, 2016), http://europa.eu/rapid/press-release_IP-16-2570_en.htm [http://perma.cc/V778-NCKP].

employees are Syrian refugees.[102] The agreement covers fifty-two product groups and will last for ten years.[103]

Also, in 2016, the World Bank launched a $300 million Program for Results Loan to improve Jordan's investment climate, attract investment, implement labor market reforms, and allow the Syrian labor force to further Jordan's economic growth.[104] There is a special focus on supporting trade facilitation, investment promotion, and Syrian entrepreneurship activities in existing SEZs.[105] Disbursements are linked to transparency requirements ensuring compliance with good labor practices.[106]

Jordan set a global target of bringing 200,000 Syrian refugees into the formal labor market and began issuing work permits free of charge to Syrians for a three-month period.[107] It also removed the requirement for holding a valid passport to obtain a work permit, a requirement that was impossible for many Syrians to fulfill.[108] Instead, Ministry of the Interior identification cards now serve as a substitute for a passport.[109]

The King Hussein Bin Talal Development Area ("KHBTDA"), one of Jordan's SEZs, has been identified as a strong option for allowing refugees access to the labor market.[110] KHBTDA is located nearby the Za'atari refugee camp in Mafraq, which houses roughly 80,000 Syrian refugees.[111]

## IV. LAW APPLICABLE TO REFUGEES

The laws applicable to refugees depend on the countries in which they find themselves. International law pertaining to refugees is relatively well-developed; however, the strongest rights are conferred under treaties to which countries may or may not be a party. Even if they are parties, the countries may have

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102 *Id.* (stating that after three years, the threshold will rise to twenty-five percent, and the agreement modifies the rules of origin applicable to qualifying products so that they are eligible for the same benefits applied to least-developed countries under the Everything but Arms Agreement).

103 *Id.*

104 *See* The World Bank Group, *Jordan – Economic Opportunities for Jordanians and Syrian Refugees Program-for-Results Project,* at 1–3, Report No. 108201-JO (Sept. 2, 2016), http://documents.worldbank.org/curated/en/802781476219833115/pdf/Jordan-PforR-PAD-P159522-FINAL-DISCLOSURE-10052016.pdf [http://perma.cc/6GQ3-DJZ5].

105 *Id.* at 5.

106 *Id.* at 82.

107 *Id.* at 4.

108 *Id.*

109 *Id.*

110 Bethan Staton, *Jordan Experiment Spurs Jobs for Refugees*, NEWS DEEPLY: REFUGEES DEEPLY (July 25, 2016), https://www.newsdeeply.com/refugees/articles/2016/07/25/jordan-experiment-spurs-jobs-for-refugees [http://perma.cc/7M7D-GBWW].

111 *Id.*

made reservations regarding certain provisions, thereby limiting their applicability.

Domestic legislation varies greatly across countries. In most cases, it falls well short of international law, particularly in those countries hosting most of the world's refugees. Migrant-inclusive SEZs, or refugee cities, could help countries move significantly closer to alignment with the standards under international law in designated areas.

This Part analyzes both international law and domestic law. Regarding domestic law, it provides a general overview of countries hosting large refugee populations and then takes a more specific look at the law pertaining to refugees in Turkey—the largest host of refugees.

## A. International Law

While certain standards are enshrined in customary international law and in general treaties regarding humanitarian law and human rights (such as the Geneva Conventions), the most specific and protective sources of international law pertaining to refugees is the Convention and Protocol Relating to the Status of Refugees.[112] States that are parties to the Refugee Convention are obligated to certain minimum standards of treatment toward refugees within their borders.[113] To qualify as a "refugee" entitled to protection under the Convention, a person must be outside the country of his or her nationality and unable to avail him-or-herself of the protection of that country[114] because of a well-founded fear of persecution "for reasons of race, religion, nationality, membership in a particular social group, or political opinion."[115]

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112 Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 150, http://hrlibrary.umn.edu/instree/v1crs.htm [http://perma.cc/KV3T-5BBF] [hereinafter 1951 Refugee Convention]; Protocol Relating to the Status of Refugees, Jan. 31, 1967, 606 U.N.T.S. 267, http://hrlibrary.umn.edu/instree/v2prsr.htm [http://perma.cc/8NXC-JDQG]. When the 1951 Refugee Convention was adopted, it only applied to people displaced by events occurring before January 1, 1951 (i.e., because of World War II). 1951 Refugee Convention, art. 1(A)(2). Furthermore, states had the option of either applying it only to people displaced from events in Europe or from anywhere in the world. *Id.* art. 1(B)(1). However, the 1967 Protocol amended the 1951 Convention by removing the date restriction. Protocol Relating to the Status of Refugees, art. 1.

113 *See generally* 1951 Refugee Convention, *supra* note 112 (providing wide-ranging obligations regarding the treatment of refugees).

114 *Id.* art. 1(A)(2). Stateless persons are also protected. For them, "country of his [or her] nationality" is effectively replaced with country of his or her place of habitual residence. *Id.*

115 *Id.* There are certain types of people explicitly excluded from protection under the Refugee Convention. This includes people who can now receive protection from the country of their nationality. *Id.* art 1(C)(5). It also includes people receiving assistance from agencies of the UN other than the UNHCR. *Id.* art 1(D). For example, Palestinian refugees who receive assistance from the United Nations Relief and Works Agency for Palestine Refugees in the Near East ("UNRWA"). UNHCR, *Revised Statement on Article 1D of the 1951 Convention* (Oct.

There are 145 states party to the Refugee Convention.[116] Among those members hosting the largest numbers of refugees as of the end of 2016 are Turkey (2.9 million),[117] Iran (979,400),[118] Uganda (940,800),[119] Ethiopia (791,600),[120] Germany (669,500),[121] Democratic Republic of Congo (452,000),[122] and Kenya (451,100).[123] Notable non-members of the 1967 Protocol with large refugee populations include: Pakistan (1.4 million),[124] Lebanon (1 million),[125] and Jordan (685,200).[126] Additionally, Bangladesh, which began hosting a sudden influx of Rohingya refugees in the last half of 2017, is not a party to the Refugee Convention.[127]

The Refugee Convention contains several provisions that are relevant to the refugee cities concept, including rights to property, work, residency and movement, and administrative facilities. These are discussed below.

1. Rights to Property

First, refugees have the right to property. Article 13 requires states to "accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances,[128] as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and

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2009), http://www.unhcr.org/4add88379.pdf [http://perma.cc/Q7UV-3Q9Z]. War criminals and others who have committed serious non-political crimes are also not protected. 1951 Refugee Convention, *supra* note 112, art. 1(F).

116 1951 Refugee Convention, *supra* note 112. There are 142 countries party to both the Refugee Convention and the 1967 Protocol. *Id.* The United States is a party to the 1967 Protocol only. *See* Protocol Relating to the Status of Refugees, *supra* note 112.

117 Protocol Relating to the Status of Refugees, *supra* note 112; *see also* UNHCR, *supra* note 4, at 14.

118 Protocol Relating to the Status of Refugees, *supra* note 112; *see also* UNHCR, *supra* note 4, at 15.

119 Protocol Relating to the Status of Refugees, *supra* note 112; *see also* UNHCR, *supra* note 4, at 15.

120 Protocol Relating to the Status of Refugees, *supra* note 112; *see also* UNHCR, *supra* note 4, at 15.

121 Protocol Relating to the Status of Refugees, *supra* note 112; *see also* UNHCR, *supra* note 4, at 15.

122 Protocol Relating to the Status of Refugees, *supra* note 112; *see also* UNHCR, *supra* note 4, at 16.

123 Protocol Relating to the Status of Refugees, *supra* note 112; *see also* UNHCR, *supra* note 4, at 16.

124 *See* Protocol Relating to the Status of Refugees, *supra* note 112 (not listing Pakistan as a state party); *see also* UNHCR, *supra* note 4, at 14.

125 *See* Protocol Relating to the Status of Refugees, *supra* note 112 (not listing Lebanon as a state party); *see also* UNHCR, *supra* note 4, at 15.

126 *See* Protocol Relating to the Status of Refugees, *supra* note 112 (not listing Jordan as a state party); *see also* UNHCR, *supra* note 4, at 15.

127 *See* Protocol Relating to the Status of Refugees, *supra* note 112 (not listing Bangladesh as a state party).

128 For the meaning of "in the same circumstances," see *infra* note 135.

immovable property."[129] Consequently, if a country generally allows aliens within its borders to purchase land, own shares of stock in a company, or lease real estate, it must also allow refugees this same right.[130]

Treatment "not less favourable than that accorded to aliens generally" does not include rights that are only given to aliens by legislative reciprocity,[131] nor treatment conferred because of special economic and customs agreements between nations.[132] Therefore, refugees can only enjoy those rights that are accorded to aliens in the absence of reciprocity requirements or special agreements.[133] However, many commentators consider the right to acquire movable and immovable property as now recognized by customary international law, which would make refugees entitled to the right even if the country's laws condition the right upon reciprocity.[134]

2. Rights to Work

Secondly, refugees have the rights to work and to operate their own businesses. These rights are included in Articles 17, 18, 19, and 24 of the Refugee Convention.

Article 17 of the Refugee Convention covers wage-earning employment. It states in the first paragraph that "[t]he Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances,[135] as regards the right to engage in wage-earning employment."[136] Commentators assert that "wage-earning employment" includes all kinds of employment that are not self-employment or a "liberal

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129 1951 Refugee Convention, *supra* note 112, art. 13.

130 Atle Grahl-Madsen, Commentary on the Refugee Convention 1951: Articles 2-11, 13-37, art. 13 (Oct. 1997), www.unhcr.org/3d4ab5fb9.pdf [http://perma.cc/V7UW-9X7Y]. This article includes the right to receive compensation in the case of expropriation, which is now enshrined in customary international law as well. *Id.*

131 That is, rights conditioned on the alien's home state conferring similar rights. *Id.*

132 *Id.*

133 *Id.*

134 *Id.*

135 "In the same circumstances" is understood as including any requirements (such as to length and conditions of residence) that aliens would have to fulfill to enjoy the right in question, except for those requirements that a refugee is incapable of fulfilling by virtue of being a refugee. 1951 Refugee Convention, *supra* note 112, art. 6. So, requirements such as education, examinations, membership in associations, length of residency, financial solvency, etc., that are generally imposed on aliens would need to be fulfilled by refugees as well. Grahl-Madsen, *supra* note 130, art. 6, cmt. 3. However, for requirements the refugee is incapable of fulfilling, such as, potentially, the inability to produce a certificate of nationality or to produce a certificate of graduation from a university in the home state, the state must provide other means of satisfying the requirements. *Id.*

136 1951 Refugee Convention, *supra* note 112, art. 17.

profession" (two categories treated in Articles 18 and 19, respectively), including work in factories, agriculture, offices, sales, domestic work, and virtually all other industrial or service sector occupations, including state employment.[137]

The standard of "most favourable treatment accorded to nationals of a foreign country" goes beyond the standard expressed for property rights (at least as favorable as treatment "accorded to aliens generally").[138] It requires states to give refugees the same rights regarding employment as are given to any other aliens, even if they are given in the context of a special relationship with another state or under international agreements.[139] The purpose of this requirement, as expressed by the French delegate to the Convention, was to not deprive refugees of the support that could have only been obtained by the work of their home government, since refugees, by their very nature, are denied such support.[140]

On its face, this paragraph would appear to give refugees the same rights to receive work permits or visas as any other alien. Refugees would be subject to the most lenient requirements and standards for such permits or visas as are imposed on foreign nationals from other countries.[141] This would include work visas that are otherwise only issued on the basis of reciprocity.[142] Refugees would benefit regardless of whether their own government issues such visas or permits.[143]

The second paragraph of Article 17 goes further by requiring states to exempt refugees from "restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market" if they have completed three years' residency in the country or if they have a spouse or children who are nationals of the country.[144]

This paragraph has its origin in earlier conventions pertaining to refugees in 1933 and 1938, in which similar paragraphs were drafted, despite the economic depression at the time—a period in which lawmakers became especially concerned with protecting nations' jobs for their own nationals.[145] It was felt that such restrictions should not apply to refugees who had a

137 Grahl-Madsen, *supra* note 130, art. 17, cmt. 4.
138 1951 Refugee Convention, *supra* note 112, art. 17.
139 Grahl-Madsen, *supra* note 130, art. 17, cmt. 3.
140 UN Economic & Social Council, *Ad Hoc Committee on Statelessness and Related Problems, First Session: Summary Record of the Thirteenth Meeting*, REFWORLD (Feb. 6, 1950), http://www.refworld.org/docid/40aa1cc34.html [http://perma.cc/4JNB-MXFK].
141 Grahl-Madsen, *supra* note 130, art. 17.
142 *Id.*
143 *Id.*
144 1951 Refugee Convention, *supra* note 112, art. 17.
145 Grahl-Madsen, *supra* note 130, art. 17, cmts. 1, 5.

special link to their country of refuge.[146] Based on his reading of the history of this paragraph, commentator Grahl-Madsen asserts that the requirement of three years' residency is to be interpreted as broadly as possible, even including individuals who have not had the status of refugees for the entire period of their residence, individuals whose presence has not been legal, and individuals who have spent short periods travelling or visiting other countries.[147]

The second paragraph only lifts restrictions that intend to prevent competition for domestic jobs.[148] Measures that restrict employment of foreign nationals for other purposes, such as national security, are not affected by this paragraph.[149]

The third paragraph of Article 17 requires states to "give sympathetic consideration" to giving refugees the same right to wage-earning employment as nationals, especially refugees who came to the country as part of labor recruitment programs or immigration schemes.[150] This provision obligates governments to undergo a good faith process in which they consider fully integrating refugees into the nation's labor market.[151] It does so with extra force if the country attracted the refugees under the promise of having the right to work.[152]

The effect of Article 17 is that states must place refugees on par with the most favorably treated foreign nationals when it comes to the right to employment—or better, if the refugees have lived in the country for three years or have a spouse or children who are nationals.[153] In this latter case, the refugees are not held back by restrictions imposed on the employment of foreign nationals for the purpose of preserving jobs for the country's own citizens.[154] States must also favorably consider fully assimilating refugees into their labor market, giving them national treatment.[155]

Article 18 extends similar, but slightly different, rights to self-employed refugees. It requires states to:

> [A]ccord to a refugee lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to

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146 League of Nations Doc. G.A. C.2/1933 (1933).
147 Grahl-Madsen, *supra* note 130, art. 17, cmt. 7.
148 *Id.* art. 17, cmt. 5.
149 *Id.*
150 1951 Refugee Convention, *supra* note 112, art. 17(3).
151 JAMES HATHAWAY, THE RIGHTS OF REFUGEES UNDER INTERNATIONAL LAW 763 (2005).
152 Grahl-Madsen, *supra* note 130, art. 17, cmt. 12.
153 *Id.* art. 17.
154 *Id.*
155 *Id.*

> aliens generally in the same circumstances,[156] as regards the right to engage on his own account in agriculture, industry, handicrafts, and commerce and to establish commercial and industrial companies.[157]

The range of activities covered under this provision is the broadest possible.[158]

The term "lawfully in their territory" does not include the "staying" component that is in other articles using this phrase, such as was seen in Article 17.[159] This suggests that short-term visitors and persons merely travelling through the state are covered, provided they are refugees and their presence is legal.[160]

Additionally, the standard of treatment is potentially lower than the standard for wage-earning employment in Article 17. It is the same as was observed for the right to property: "[A]s favourable as possible . . . [but] not less favourable than that accorded to aliens generally in the same circumstances."[161] Therefore, if the country generally allows aliens to be self-employed in the absence of reciprocity or special arrangements with other states, the country must grant the same rights to refugees.

Article 19 provides similar rights to refugees in "liberal professions."[162] States must "accord to refugees lawfully staying in their territory who hold diplomas recognized by the competent authorities of that State, and who are desirous of practicing a liberal profession, treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances."[163]

According to Grahl-Madsen, the term "diploma" is to be understood as "any degree, examination, admission, authorization, completion of course which is required for the exercise of a profession," such as admission to the bar (for lawyers).[164] The term "liberal profession" is intended to include persons who act on their own in an occupation that requires certain qualifications, such as an advanced degree or license.[165] Lawyers, doctors, dentists, engineers, architects, and probably scientists would be included.[166]

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156 For the meaning of "in the same circumstance," see *supra* note 135.
157 1951 Refugee Convention, *supra* note 112, art. 18.
158 Grahl-Madsen, *supra* note 130, art. 18, cmt. 4.
159 *Id.* art. 18, cmt. 2.
160 *Id.*
161 Grahl-Madsen, *supra* note 130, art. 13(II).
162 1951 Refugee Convention, *supra* note 112, art. 19(1).
163 *Id.*
164 Grahl-Madsen, *supra* note 130, art. 19, cmt. 3.
165 *Id.* art. 19, cmt. 4.
166 *Id.*

Finally, Article 24 requires states to extend to refugees many of the same labor and social security protections as nationals. This includes covering them under any laws or regulations dealing with remuneration, work hours, overtime, holidays, child labor, apprenticeship and training, work-related injury, maternity, sickness, disability, and unemployment.[167]

3. Residency and Movement

Third, refugees have rights pertaining to residency and movement within the territory. Article 26 requires each state party to "accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances."[168]

The right to choose a residence and to move about freely is distinct from the right to employment in Articles 17–19. To the extent that the country limits rights to employment to certain areas, that would not technically affect the right of refugees to move throughout the country or settle outside those areas, even though it might do so in practice.[169] Conversely, if the country requires aliens generally to only reside or travel in certain areas, this would also apply to refugees, even if they have the technical right to be employed anywhere in the country in accordance with Article 17.[170]

4. Administrative Facilities

Fourth, states are required to provide administrative assistance to refugees. Article 25 obligates states to arrange for administrative assistance to be provided to refugees when they would normally only be able to obtain that assistance from a foreign country.[171] This includes documents and certifications like birth, marriage, and death certificates, affidavits, and divorce judgements (or substitute instruments); it also includes broader forms of assistance, such as correspondence, investigations, and counselling.[172]

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167 1951 Refugee Convention, *supra* note 112, art. 24.

168 *Id.* art. 26.

169 Grahl-Madsen, *supra* note 130, art. 26, cmt. 5 (observing that "in so far as there are restrictions on the freedom to seek whatever employment one might desire, the right to choose one's place of residence may be restricted in fact though not in law").

170 *Id.* art. 26, cmt. 6 (describing situations in which immigrants are only admitted on the condition that they remain in certain regions of the country and how such restrictions would apply to refugees as well).

171 1951 Refugee Convention, *supra* note 112, art. 25.

172 Grahl-Madsen, *supra* note 130, art. 25, cmts. 1–2.

Relatedly, Articles 27 and 28 obligate states to allow access to identity papers[173] and travel documents,[174] respectively. Article 34 requires states to facilitate the assimilation of refugees, to expedite naturalization proceedings, and to reduce as far as possible the charges and costs of such proceedings.[175]

Refugee cities can be well-positioned to fulfill these requirements concerning administrative assistance by adopting mechanisms employed by SEZs, such as one-stop shops and special dedicated regulatory authorities. Such mechanisms can greatly streamline administrative approvals both onsite and online,[176] which would help overcome the procedural burdens and delays that currently face refugees.[177]

5. Additional and Blanket Rights

Other relevant protections in the Refugee Convention include the right of association,[178] free access to the courts,[179] housing,[180] education,[181] and welfare.[182] Several of the protections for refugees are considered so fundamental and reaffirmed in other international instruments that they are considered customary international law.[183] These include

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173 1951 Refugee Convention, *supra* note 112, art. 27 (giving the right to identity papers to any refugee "who does not possess a valid travel document").

174 *Id.* art. 28 (requiring states to issue refugees documents for the purpose of travelling outside their territory, subject to certain specified exemptions and restrictions).

175 *Id.* art. 34.

176 *See supra* notes 62–64 and accompanying text.

177 *See infra* note 207–210 and accompanying text (discussing the bureaucratic hurdles, costs, and delays associated with refugee status determinations, work permit applications, and other procedures).

178 1951 Refugee Convention, *supra* note 112, art. 15 (granting lawful refugees the most favorable treatment accorded to nationals of a foreign country regarding non-political and non-profit-making associations and trade unions).

179 *Id.* art. 16 (conferring free access to the courts of law to the same degree as nationals for refugees who are habitual residents (including legal assistance) and, for non-habitual residents, to the same degree as nationals of the country of habitual residence).

180 *Id.* art. 21 (according to lawful refugees "treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances" as regards housing laws, regulations, or other public agency controls).

181 *Id.* art. 22 (providing refugees the same treatment as nationals as regards elementary education and "treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances," as regards non-elementary education).

182 *Id.* art. 23 (securing for lawful refugees the same treatment as nationals as regards "public relief and assistance").

183 *See* UNHCR, *Introductory Note by the Office of the United Nations High Commissioner for Refugees*, *in* CONVENTION & PROTOCOL RELATING TO THE STATUS OF REFUGEES 3 (2010), http://www.unhcr.org/3b66c2aa10.pdf [http://perma.cc/9HW3-HDTZ].

the principle of non-refoulement,[184] non-penalization,[185] and non-discrimination.[186]

Finally, the Refugee Convention contains a requirement for states to "accord to refugees the same treatment as is accorded to aliens generally," unless other articles require more favorable treatment.[187] This blanket requirement covers all those benefits that aliens generally might enjoy that are not mentioned in the Refugee Convention.[188] The phrase "aliens generally" means that the requirement excludes benefits conferred under special arrangements with other countries or benefits granted on the basis of reciprocity.[189] This would naturally include all those rights provided under customary international law, such as the right to leave the territory of the state, protection from confiscation of property without compensation, and the right to not be expelled without cause.

Moreover, refugees enjoy any benefits to aliens that are conditioned on legislative reciprocity after three years' residence.[190] This means that benefits that are only conferred upon foreign nationals if those individuals' home states confer similar benefits on nationals of the other state, are available to refugees, notwithstanding the refugee's home state's policies.

### B. Domestic Laws Pertaining to Refugees

Domestic law is typically far more restrictive toward refugees than the Refugee Convention. Even though many of the countries hosting large numbers of the world's refugees are parties to the convention, few fully apply key rights, especially work rights. Common concerns supporting these restrictions are the fear that refugees will decrease the supply of jobs available to citizens, strain and distort an already weak labor market, reduce wages and working conditions, encourage refugees to claim citizenship, and pose security risks.[191]

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184 1951 Refugee Convention, *supra* note 112, art. 33. "Non-refoulement" is a prohibition on expelling or returning refugees against their will to any territories where they fear threats to life or freedom. UNHCR, *supra* note 183, at 3.

185 1951 Refugee Convention, *supra* note 112, art. 31.

186 *Id.* art. 3.

187 *Id.* art. 7(1).

188 Grahl-Madsen, *supra* note 130, art. 7, cmt. 2.

189 *See supra* note 32 and accompanying text. Grahl-Madsen, however, notes that reciprocity requirements may not apply at all if the benefits are ones that a country is prepared to grant to any alien and any number of aliens (as opposed to ones conferred on the basis of a particularly close relationship), since these are effectively a form of retaliation against the refugee's home state, but transmitted through the refugee, who has no power to affect his home state's policies. Grahl-Madsen, *supra* note 130, art. 7, cmt. 5.

190 1951 Refugee Convention, *supra* note 112, art. 7(2).

191 Zetter & Ruaudel, *supra* note 4, at viii, xi.

Turkey is one example. The vast majority of forcibly displaced people within it do not meet the technical definition of "refugee" and thus do not have access to the rights granted by the Refugee Convention. Nevertheless, Turkey has made progress since the beginning of the Syrian refugee crisis at modifying its legal framework to extend more rights to refugees.[192] The refugee cities approach could help advance these efforts.

1. Overview of Domestic Law

The legal framework for refugees in many countries has weaknesses in terms of the ability to obtain formal status as refugees and, for those who do obtain refugee status, the protections conferred to them.[193] Inability to obtain formal status and protection as refugees leaves these individuals, such as Eritrean refugees in Sudan and Colombian refugees in Venezuela, vulnerable to roundups, detention, and refoulment.[194] Refugees who are not granted formal status as refugees are sometimes given other classifications, such as temporary protection.[195]

Only seventy-five of the 145 states that are party to the Refugee Convention formally grant refugees the right to work.[196] Half of the states have declared full or partial reservations to the rights to work conferred in Articles 17–19, usually imposing similar restrictions as states not party to the Refugee Convention.[197] Only a few countries have refugee and labor legislation that specifically refers to a refugee's right to work.[198] Others, such as Chad, Ecuador, and India, handle refugees under the same provisions applicable to foreigners generally.[199]

Many countries impose restrictions on the sectors refugees can work in. Prohibiting refugees from working in security and defense, as well as government employment generally, are fairly common.[200] Many countries go further, such as requiring that no qualified nationals be available to work in the particular sector.[201]

Other legal limitations supplement restrictions on the right to work, such as restrictions on owning property, mobility,

192 *See id.* at 15, 33.
193 *Id.* at 11.
194 *Id.* Also noting that failure to make refugee status determinations skews official counts of refugees because people who would otherwise receive refugee status are often left undocumented and thus uncounted. *Id.*
195 *Id.* at 12.
196 *Id.* at 4–5.
197 *Id.*
198 *Id.* at 12 (noting the United States and Uganda as examples).
199 *Id.*
200 *Id.* at 13.
201 *Id.*

accessing credit, opening a business, opening a bank account, and entering into contracts.[202] Many countries restrict refugees from employment-related rights and benefits, such as social security, unemployment and disability insurance, and general labor rights, as in the case of stateless Palestinians in Jordan.[203]

There are exceptions. Uganda's 2006 Refugee Act provides a legal framework for refugees that is strongly oriented toward social and economic integration.[204] The Act aligns with the Refugee Convention and provides freedoms to work, operate businesses, access courts, receive an education, move and reside freely throughout the country, and own property.[205] The United States is similar.[206]

Beyond legal hurdles, countries' policies and practices often impose major constraints on employment.[207] There is significant confusion over where paperwork must be filed and whether obtaining refugee status is sufficient to work or whether an additional work permit is required.[208]

The processes for refugee status determinations, processing paperwork, and issuing permits and licenses are often slow, complex, costly, and burdensome.[209] In many countries, refugees must first obtain a job offer from an employer before they can obtain a work permit, as in Lebanon and Zambia.[210] Some countries are removing or simplifying these hurdles.[211] In 2016, for instance, Jordan provided a three-month period in which it would waive fees for twelve-month work permits for Syrian refugees, and Turkey permitted Syrian refugees to apply for work permits if they

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202 *Id.* at 13, 16. For example, Pakistan requires refugees to have a Pakistani partner in order to own real estate or a business. *Id.* at 13. Ecuador and Turkey limit access to financial institutions. *Id.* Bangladesh prohibits refugees from accessing credit, engaging in trade, and owning property. *Id.* Refugees in India and Sudan are prohibited from purchasing land. *Id.*

203 *Id.*

204 *See* UGANDA: THE REFUGEES ACT 2006 (May 24, 2006), http://www.refworld.org/docid/4b7baba52.html [http://perma.cc/56G6-UYDF].

205 *Id.* § 29; Refugee Law Project, *Critique of the Refugees Act* 3 (2006), https://www.refugeelawproject.org/files/legal_resources/RefugeesActRLPCritique.pdf [http://perma.cc/LJ4M-KZXX]; *see also* WORLD BANK GROUP, AN ASSESSMENT OF UGANDA'S PROGRESSIVE APPROACH TO REFUGEE MANAGEMENT (2016) (describing and assessing the impact of the law and policy affecting refugees in Uganda).

206 *See* Zetter & Ruaudel, *supra* note 4, at 12–13.

207 *See id.* at 15.

208 *Id.* at 12, 15 (observing that in the U.K. and U.S. a work permit is not necessary if a person has been determined to be a refugee, but noting how many countries are different).

209 *Id.* at 15.

210 *Id.*

211 *Id.*

were in possession of temporary identity cards and resided in Turkey for six months.[212]

2. Turkey

Turkey currently hosts the world's largest refugee population at approximately 3.7 million as of 2017, and is a primary route for Syrians and Iraqis to reach Europe.[213] The EU has been providing substantial assistance to Turkey to stop illegal or informal entry of these migrants into Europe.[214]

Turkey is a party to the Refugee Convention, yet counterintuitively, few, if any, of its refugees are actually protected by the Convention.[215] This unusual situation arose from the fact that the primary impetus and focus of the Refugee Convention was the large number of displaced people in Europe after World War II.[216] Therefore, when the Refugee Convention was adopted, its member states had the option of limiting its scope to only people displaced by events in Europe or extending coverage to refugees from anywhere in the world.[217] Turkey was one of a few states that limited its scope to Europe, and expressly continued this limitation when it adopted the 1967 Protocol.[218] As a result, the only people technically under the protection of the Refugee Convention in Turkey are those who have fled European nations.[219] Nearly all of Turkey's refugee population is from non-European countries, especially Syria and Iraq.[220]

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212 *See id.* at 15. *But see* Wendy Zeldin, *Turkey*, *in* REFUGEE LAW AND POLICY IN SELECTED COUNTRIES 256, 273 (The Law Library of Congress, Global Legal Research Center, Mar. 2016) (noting that, in practice, less than three percent of Syrian refugees have been issued work permits under this policy because they have been deemed "unqualified").

213 European Commission, *European Civil Protection and Humanitarian Aid Operations: Turkey*, http://ec.europa.eu/echo/files/aid/countries/factsheets/turkey_syrian_crisis_en.pdf [http://perma.cc/RPN7-TZWA] (last updated Jan. 10, 2018).

214 *Id.*; *see also, e.g.*, *EU-Turkey Joint Action Plan: Implementation Report* (Feb. 10, 2016), https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/managing_the_refugee_crisis_-_eu-turkey_join_action_plan_implementation_report_20160210_en.pdf [http://perma.cc/56MS-XJQ3] (pledging €3 million in assistance for measures aimed at curbing irregular migration); Council of the EU Press Release 144/16, EU-Turkey Statement (Mar. 18, 2016) (arranging that for every Syrian returned to Turkey from the Greek islands, one Syrian will be resettled from Turkey to the EU).

215 Zeldin, *supra* note 212, at 256.

216 UNHCR, *supra* note 183, at 2.

217 *See id.* art. 1B(1) (providing states the option of interpreting the scope of Article 1 as applying only to persons displaced by events in Europe or in any nation).

218 *See* UNHCR, STATES PARTIES TO THE 1951 CONVENTION RELATING TO THE STATUS OF REFUGEES AND THE 1967 PROTOCOL 5 (Apr. 2015) (observing that Turkey expressly maintained its declaration of geographic limitation).

219 Zeldin, *supra* note 212, at 261.

220 *Id.*

Nevertheless, Turkey has substantially adjusted its domestic legislation to protect refugees in recent years and collaborates with UNHCR.[221] The 2013 Law on Foreigners and International Protection ("LFIP")[222] extended protections to categories of forcibly displaced people not meeting the strict Eurocentric definition of "refugee," including "conditional refugees" and persons covered under "subsidiary protection" and "temporary protection."[223] UNHCR works with the Ministry of the Interior to conduct status determinations and attempts to resettle refugees into third countries.[224] Generally speaking, the legal framework is geared to prevent integration of refugees and toward a temporary status, with eventual resettlement in a third country or repatriation as the goal.[225]

The LFIP created several classifications into which asylum seekers can fall. First it created the following classifications of persons entitled to "international protection status":

(1) Refugees, which are foreigners who, "as a result of events *occurring in European countries*," cannot avail themselves of the protection of the country of their nationality or of former residence because of a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group, or political opinion.[226]

(2) Conditional Refugees, which are foreigners who, "as a result of events occurring *outside European countries*," cannot avail themselves the protection of the country of their nationality or of former residence because of a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group, or political opinion.[227]

(3) Beneficiaries of "*subsidiary protection*," which are foreigners who cannot qualify as a refugee or conditional refugee, but if returned to their country of origin or former residence would face the death penalty, torture, inhuman or degrading treatment, or serious threat of indiscriminate violence from armed conflict.[228]

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221 *Id.*

222 Law on Foreigners and International Protection (Law No. 6458) (Apr. 4, 2013) (Republic of Turkey) (unofficial English translation), http://www.goc.gov.tr/files/files/eng_minikanun_5_son.pdf [http://perma.cc/KY8Y-H3RW] [hereinafter LFIP].

223 *Id.* art. 61–63.

224 Zeldin, *supra* note 212, at 261.

225 As an example, refugees, conditional refugees, and beneficiaries of subsidiary protection and temporary protection are explicitly exempted from receiving long-term residence permits. LFIP, *supra* note 222, art. 42(2).

226 *Id.* art. 61 (emphasis added).

227 *Id.* art. 62 (emphasis added).

228 *Id.* art. 63 (emphasis added).

Persons who apply for and receive international protection status must undergo lengthy procedures and are entitled to several rights specified in the LFIP.

However, given the realities of mass migration, particularly of Syrians, and the attendant difficulties of satisfying the procedural requirements of international protection applications for each one, the LFIP added an additional category—*Temporary Protection*.[229] Temporary protection status is more immediate than the categories of international protection and does not involve the same procedures and rights as the international protection categories.[230] Beneficiaries of temporary protection are those "foreigners who have been forced to leave their country, cannot return to the country that they have left, and have arrived at or crossed the borders of Turkey in *a mass influx situation* seeking immediate and temporary protection."[231]

Syrians, who compose the vast majority of asylum seekers in Turkey, have been placed under temporary protection as a group, due to the large influx of them in recent years.[232] Non-Syrian asylum seekers are generally processed under one of the international protection categories by the UNHCR.[233]

The Temporary Protection status is further defined in the Temporary Protection Regulation.[234] Beneficiaries of temporary protection receive basic-needs assistance, including social services, translation services, IDs, travel documents, access to primary and secondary education, and the opportunity to receive work permits.[235]

People under temporary protection are typically required to live in designated reception and accommodation centers. These centers are managed by the Turkish Disaster and Emergency Management Authority and the Turkish Red Crescent, rather than by the UNHCR.[236] Camps reportedly have markets, reliable heating, religious services, communications infrastructure, psychosocial support, banking, and other services.[237] Residents are given three meals a day and electronic cards preloaded with funds for personal needs.[238] Residents are also covered under the

229 Zeldin, *supra* note 212, at 261–63.
230 *Id.*
231 LFIP, *supra* note 222, art. 91(1) (emphasis added).
232 Zeldin, *supra* note 212, at 261–63.
233 *Id.*
234 Temporary Protection Regulation (Oct. 22, 2014) (unofficial English translation), http://www.goc.gov.tr/files/files/temptemp.pdf [http://perma.cc/9V29-HQZ5].
235 *Id.* art. 26–32.
236 Zeldin, *supra* note 212, at 270.
237 *Id.*
238 *Id.*

country's social security and medical insurance programs.[239] Premium payments are at least partially covered by Turkey's Directorate General of Migration Management, though recipients are expected to contribute in full or in part in proportion to their financial means.[240]

Asylum seekers have limited access to the labor market. Persons who apply for international protection, as well as persons given conditional refugee status, may apply for a work permit six months after their international protection application was filed.[241] Persons who acquire refugee status or subsidiary protection status are automatically eligible to work, either in self-employment or regular employment, with their identity document substituting for a work permit.[242] However, such persons are subject to the general laws pertaining to foreign workers, which requires, among other things, for businesses to have at least five Turkish citizens as employees for every foreign worker.[243] Additionally, the LFIP states that refugees' and subsidiary protection beneficiaries' access to the labor market may be restricted concerning certain sectors, professions, lines of business or geographical areas for a period when necessary because of "the situation of the labor market," "developments in the working life," and employment-related "sectoral and economic conditions."[244] However, no such restrictions apply to refugees and subsidiary protection beneficiaries who have resided in Turkey for three years or have a spouse or children with Turkish citizenship.[245]

Persons under temporary protection may similarly apply for a work permit six months after being registered.[246] In addition to the general requirements regarding the issuance of work permits, temporary protection workers cannot make up more than ten percent of the Turkish citizens employed at a business, unless the employer can prove there is no qualified Turkish citizen in the province who can perform the job.[247] In practice, the government has deemed all but three percent of Syrian refugees as "unqualified" for work permits because they "do not have an identity card . . . [and their] professions are unknown."[248]

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239 *Id.*
240 *Id.*
241 LFIP, *supra* note 222, art. 89(4).
242 *Id.*
243 *Id.*
244 *Id.*
245 *Id.* This exemption from labor market restrictions is analogous to Article 17(2) of the Refugee Convention, which would apply anyway to refugees. The LFIP extends the exemption to subsidiary protection beneficiaries. *Id.*
246 Zeldin, *supra* note 212, at 272.
247 *Id.* at 272–73.
248 *Id.* at 273.

## CONCLUSION

Refugee cities provide a pathway for refugee integration and alignment with international norms in the face of political resistance to countrywide integration. They apply the most important feature of SEZs—their ability to overcome roadblocks to beneficial policy reforms—to address one of the most pressing global concerns and help countries benefit from, rather than be burdened by, migrants.

A refugee city would serve as a demonstration area where the benefits of extending international law pertaining to refugees would be tested. They would serve as a complementary pathway that helps achieve the UNHCR's objective of integrating refugees into host economies—one of its "durable solutions"—in a designated geographic area. They would also help realize the policy benefits of integrating migrants into the formal economy.

Within refugee cities, countries could extend rights to property that fulfill Article 13 of the Refugee Convention. Residents of a refugee city could have formal rights to land, such as a lease, and rights to movable property. At the same time, countries could address reluctance to make refugees permanent by setting time limits and expiration dates on leases, business licenses, or work permits. When the expiration date occurs, the country will have enabled refugees to return home on a much better footing then they would have been on otherwise.

Countries could also extend rights to work and self-employment that match Articles 17–19 of the Refugee Convention. This would mean refugees would have the most favourable treatment accorded to foreign nationals, with restrictions designed to protect the domestic labor market removed for those who have lived in the country for three years or have a spouse or children who are nationals. Alternatively, refugees could be placed on par with nationals, fulfilling the aspirations of Article 17, paragraph 3.

Refugee cities could streamline regulatory functions through dedicated regulatory authorities and one-stop shops to enable a more efficient processing of residents' status determinations and applications for work permits. These mechanisms would overcome the current backlog in countries like Turkey and others facing large refugee influxes. Refugee cities could also fulfill the blanket obligation to treat refugees with at least the same treatment as is accorded to aliens generally in Article 7 of the Refugee Convention.

For the developing countries currently hosting the overwhelming share of migrants, refugee cities would transcend the traditional refugee camp model. They would be spaces in which international legal norms align with both political realities and good policy and drive economic and social progress.