Identifying Better Refugee Policies for an Evolving Crisis

Mark Rook

Follow this and additional works at: https://repository.upenn.edu/ppe_honors

Part of the Comparative Politics Commons, International Economics Commons, International Humanitarian Law Commons, and the International Relations Commons


This paper is posted at ScholarlyCommons. https://repository.upenn.edu/ppe_honors/38
For more information, please contact repository@pobox.upenn.edu.
Identifying Better Refugee Policies for an Evolving Crisis

Abstract
This thesis attempts to analyze one of the gravest humanitarian challenges of our time, the refugee crisis, and make it accessible. After beginning with some definitional terms, the paper describes refugee policies in seven countries with distinctly different resources and legacies of hosting refugees to determine the state regulations and programs that those countries have relied upon in the past. The countries involved include the haven countries of Kenya and Uganda, the coastal nation of Italy, the inland European countries of Germany and Hungary, and the North American countries of the USA and Canada. All of these countries are scrutinized based on their previous and current institutions, the author’s personal experiences with them, and contemporary literature on refugee hosting. Based on this information, the author offers recommendations for refugee hosting policy to each of these nations and considers the importance of four-part coordination: international coordination, national government coordination, NGO (non-governmental organization) involvement and the private sector, on state-based refugee policies. The paper’s recommendations will be based on ratified international legislation, centralization of hosting, programs based on education, vocational training, employment, and naturalization, and unique factors relevant to each host country.

Keywords
refugee, resettlement, policymaking, institution, NGO, Kenya, Uganda, Italy, Germany, Hungary, USA, Canada, centralization, human rights, naturalization

Disciplines
Comparative Politics | International Economics | International Humanitarian Law | International Relations

This article is available at ScholarlyCommons: https://repository.upenn.edu/ppe_honors/38
Identifying Better Refugee Policies for an Evolving Crisis

Mark Rook

Submitted to the Philosophy, Politics and Economics Program at the University of Pennsylvania in partial fulfillment of the requirements for Honors.

Thesis Advisor: Fernando Chang-Muy

Date of Submission: April 21, 2020
Acknowledgement

I would like to express my heartfelt gratitude first and foremost to Professor Fernando Chang-Muy for his advice and expertise through this truly formidable project. Your course on Refugee Law has fueled my passion for refugee policy and without your guidance, this thesis would not have been possible.

I would like to thank Mary Truong, Falah Hashem, and the employees of the Massachusetts Office for Refugees and Immigrants for treating me as both an employee and a friend over the last two summers.

I would also like to thank the staff and volunteers of the ProjectsAbroad refugee project in Camini, Italy for inspiring my interest in this field.

Lastly, my friends and family deserve thanks for supporting me throughout this process, whether they be near or far.
Identifying Better Refugee Policies

Abstract
This thesis attempts to analyze one of the gravest humanitarian challenges of our time, the refugee crisis, and make it accessible. After beginning with some definitional terms, the paper describes refugee policies in seven countries with distinctly different resources and legacies of hosting refugees to determine the state regulations and programs that those countries have relied upon in the past. The countries involved include the haven countries of Kenya and Uganda, the coastal nation of Italy, the inland European countries of Germany and Hungary, and the North American countries of the USA and Canada. All of these countries are scrutinized based on their previous and current institutions, the author’s personal experiences with them, and contemporary literature on refugee hosting. Based on this information, the author offers recommendations for refugee hosting policy to each of these nations and considers the importance of four-part coordination: international coordination, national government coordination, NGO (non-governmental organization) involvement and the private sector, on state-based refugee policies. The paper’s recommendations will be based on ratified international legislation, centralization of hosting, programs based on education, vocational training, employment, and naturalization, and unique factors relevant to each host country.

Keywords: refugee, resettlement, policymaking, institution, NGO, Kenya, Uganda, Italy, Germany, Hungary, USA, Canada, centralization, human rights, naturalization.
# Table of Contents

**Acknowledgement** ........................................................................................................................................... 3

**Abstract** .......................................................................................................................................................... 4

**Identifying Better Refugee Policies for an Evolving Crisis** ................................................................. 6

**Haven Countries** ........................................................................................................................................ 15

- Uganda ......................................................................................................................................................... 17
- Kenya ............................................................................................................................................................ 31

**Europe** ......................................................................................................................................................... 48

- Germany ....................................................................................................................................................... 49
- Italy ............................................................................................................................................................... 65
- Hungary ...................................................................................................................................................... 84

**The Americas** ......................................................................................................................................... 101

- The United States of America .................................................................................................................. 103
- Canada ......................................................................................................................................................... 125

**Conclusion** .................................................................................................................................................. 146

**Bibliography** ............................................................................................................................................. 152
Identifying Better Refugee Policies for an Evolving Crisis

Refugee hosting has been a global challenge since the end of the Second World War. After one of the most devastating conflicts the world has ever seen, the world was tasked with hosting millions of Jews fleeing Nazi Germany. A top comprehensive policymaking body, the United Nations, led the charge in developing refugee resettlement. In December 14, 1950, the United Nations formed a new agency called the United Nations High Commissioner for Refugees (UNHCR) and gave it the mandate to provide for the protection of refugees and forcibly displaced people and assist in their voluntary repatriation, local assimilation or resettlement to a third country.¹ Soon thereafter, the UNHCR drafted the 1951 Convention Relating to the Status of Refugees, which defined the term “refugee” and identified the rights granted to refugees based on the 1948 Universal Declaration of Human Rights. However, until 1967, the Refugee Convention carried the caveat that refugees could only be granted status as a result of events occurring before 1951.² With the 1967 Protocol Relating to the Status of Refugees, the geographical and temporal restrictions on refugee status were removed so that all those fleeing persecution with sufficient grounds for asylum can be granted refugee status. To this day, 145 countries have ratified the 1951 Refugee Convention and 146 countries have ratified the 1967 Refugee Protocol.

Despite this initial display of international consensus, subsequent years have proven that refugee repatriation, and hosting through integration or resettlement, are far more complex than was previously anticipated. In 2011, the Arab Spring, a series of protests, uprisings, and coups in the Middle East, left millions of people stateless and seeking to flee their countries. In particular,

the Syrian Civil War in 2011 led to such destabilization within the country that many began to call the following mass exodus “the Syrian refugee crisis.” General international guidelines were in place to share the responsibility of hosting newly displaced persons, but the actual international responses to the crisis were disparate and uncertain. Some nations welcomed refugees with open arms, while others shut down their borders. Some nations presented comprehensive policies and programs to host fleeing populations, while others offered very little in the way of support. This thesis will highlight some of the different refugee policies and national programs utilized by different countries in reaction to the Syrian refugee crisis and offer recommendations based on past policy, international legislation, hosting capacity, and contemporary literature on refugee policy. The paper intends to offer a variety of solutions for very different national programs, ranging from haven countries such as Kenya and Uganda, to European countries such as Italy, Germany, and Hungary, and concluding with the overseas resettlement of the United States and Canada. The author’s hope is that these policy recommendations can offer some insight into refugee hosting to allow countries to participate in this international imperative without overburdening their respective nations and allowing refugees to properly integrate and contribute to local economies. The refugee crisis is ever-changing and the world must adapt with it.

However, before entering the intricate field of policy, it’s important to define some basic terms and distinctions upon which this thesis will rely heavily moving forward. The first terms to distinguish are the identities of the people who are the subject of this paper, as it primarily pertains to resettled refugees. The 1951 Refugee Convention defined the term refugee as someone who is unable or unwilling to return to their country of origin “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular
Identifying Better Refugee Policies

social group, or political opinion.” The UNHCR definition is broadly accepted in international law and instituted in the refugee programs of countries that have ratified the 1951 Refugee Convention. Refugees are individuals fleeing conflict or strife in their home countries on the basis of persecution within the five specified categories listed above. Once an individual has been granted asylum in a country and received recognition as someone escaping persecution, they are considered a refugee or asylee.

Refugees are often conflated with a second term, asylum seekers. The UNHCR defines asylum seekers as individuals “whose request for sanctuary has yet to be processed.” Asylum seekers have not yet been granted asylum, but are seeking refugee status in a country on the basis of persecution. Before anyone can be called a refugee, they must first be asylum seekers. However, governments do not grant asylum seekers the same protections as refugees, as their applications have not yet been accepted. Roughly one million individuals apply for asylum each year. For purposes of this paper, asylum seekers are applying for asylum, protection, and integration in the immediate country they fled to. Refugees are in second countries, applying to be refugees to a third country, since the immediate second country they fled to is not allowing them to be fully integrated or get asylum. Once an asylum seeker is granted asylum, they are known as an asylee. Asylees have obtained refugee status in their first country of asylum and possess the same rights as resettled refugees; for that reason, this thesis will use the term refugee to encompass both asylees and resettled refugees frequently.

Finally, this paper must distinguish between refugees and international migrants. Migrants encompass the entire spectrum of individuals who leave their home countries to seek a

---

3 UN General Assembly, “Convention Relating to the Status of Refugees.”
life elsewhere. Refugees fit within this category, but migrants can also leave home for economic reasons or a bevy of other purposes (e.g. to study, to travel/visit, to work). Economic migrants are not eligible for asylum because a lack of money or a search for superior living conditions are not within the definition of “refuge”. Many people fear migrants entering their country because they believe that they are coming to take jobs or simply improve their lives, but refugees have been granted internationally protected status and are fleeing persecution. It is important to keep in mind the distinction between refugees, asylum seekers, and economic migrants over the course of this thesis.

For refugees, the UNHCR has defined three durable solutions in order to allow refugees to rebuild their lives after fleeing persecution. These solutions are intended to provide refugees with the fullest extent of their human rights and grant them opportunities to return to relative stability. The three durable solutions for refugees are voluntary repatriation, local integration, and resettlement. Voluntary repatriation occurs when refugees willingly return to their countries of origin after being granted asylum elsewhere; this can take place after the reason for their initial persecution has lessened or has ceased to exist in their country of origin altogether; with the cessation of conflict, a cessation of refugee status may occur as refugees are allowed to return to their homeland.\(^5\) Local integration occurs when a protracted conflict or persecutory state persists in a refugee’s home country and they are unable to return. In this case, refugee programs exist for refugees to integrate in their new homes and become part of a new community. Lastly, refugee resettlement “is the transfer of refugees from a temporary asylum country to another State that has agreed to admit them and ultimately grant them permanent settlement… Resettlement is

unique in that it is the only durable solution that involves the relocation of refugees from a temporary asylum country to a third country.”

Ideally, refugees would not have to exist because there wouldn’t be factors that cause people to have to flee their homes on the account of persecution based on race, religion, nationality, political opinion or membership in a particular social group. Granting that people face persecution in their home countries, the best case scenario would be for the source of persecution, or root cause, to disappear as soon as possible so that refugees may return home safely. However, the situations that cause asylum seekers to leave home are rarely resolved so easily. In those cases, local integration and refugee resettlement are the next logical durable solutions to institute. This paper specifically deals with providing better policies for resettled refugees and identifying ways for them to acclimate to their new lives.

Furthermore, it is vital to address the misconception that resettling refugees or providing policies and programs for them is necessarily a political issue. Economic migration may be political and hotly debated, but refugees have been recognized as protected individuals under the 1951 Refugee Convention and 1967 Refugee Protocol. All countries that have ratified these international pieces of legislation agree with the principle of non-refoulement, which means that “a refugee should not be returned to a country where they face serious threats to their life or freedom.” In case the 1951 Refugee Convention and 1967 Refugee Protocol seem dated or that the perception on refugees have changed, the United Nations General Assembly unanimously adopted the New York Declaration for Refugees and Migrants in 2016. This Declaration “reaffirms the importance of the international refugee regime and contains a wide range of

---

7 UN General Assembly, “Convention Relating to the Status of Refugees.”
commitments by Member States to strengthen and enhance mechanisms to protect people on the move." All 193 member states of the United Nations have signed this declaration. It led to the 2018 Global Compact on Refugees, which aims to “ease pressure on hosting countries, enhance refugee self-reliance, expand access to third-country solutions, and support conditions in countries of origin for return in safety and dignity.”

Theorists such as Alexander Betts and Paul Collier have further argued in *Refuge: Rethinking Refugee Policy in a Changing World* that humans possess the duty of rescue towards those in imminent danger and that saving a drowning child crying for help is ethically analogous to helping Syrians forced to flee their homes. This viewpoint received great acclaim in the authors’ 2017 publication as establishing a moral and philosophical basis for accepting refugees.

Therefore, it is clear to see that the concept of refugee protection is widely regarded as an international humanitarian imperative. It is necessary to remove to stigma of politics from this field of policy. This thesis does not seek to make bold claims such as open door policies to host refugees, but rather to ensure that realistic measures are taken to ensure that refugees have the opportunity to be self-reliant in their new homes and that they are afforded the full rights guaranteed to them by the 1951 Refugee Convention and 1967 Refugee Protocol. The specific rights guaranteed by those legal documents to be discussed in the following pages are the right to be free from discrimination (Article 3), the right to freedom of religion (Article 4), to right to self-employment (Article 17) and wage-earning employment (Article 18), the right to elementary education and education higher than elementary (Article 22), the right to

---


movement within the country (Article 26), the right to non-refoulement (Article 33), and the
right to seek assimilation and naturalization (Article 34) in the 1951 Refugee Convention.

Now that the purpose and scope of the paper have been clarified, it is prudent to examine
some background statistical information upon which the policy recommendations of this thesis
will be based.

<table>
<thead>
<tr>
<th>Country</th>
<th>Total 2018 Hosting</th>
<th>Intake in 2018</th>
<th>Hosting Plan in Place?</th>
</tr>
</thead>
<tbody>
<tr>
<td>USA</td>
<td>313,241</td>
<td>22,491 (cap: 45,000)</td>
<td>Resettlement federal (ORR), but programs for assistance vary state-to-state</td>
</tr>
<tr>
<td>Canada</td>
<td>114,109</td>
<td>28,000 (cap: 28,000)</td>
<td>Government-assisted refugee programs, private sponsor programs, private sponsorship, clear path to permanent residency</td>
</tr>
<tr>
<td>Germany</td>
<td>1,063,837</td>
<td>4,600 (cap: 4,600)</td>
<td>Work and residency visas, strong educational programs, political issues in integration, difficult but possible citizenship</td>
</tr>
<tr>
<td>Italy</td>
<td>189,243</td>
<td>695** (cap:1000 for 2018/19)</td>
<td>New 2 year integration plan, but undeveloped framework</td>
</tr>
<tr>
<td>Hungary</td>
<td>6,040</td>
<td>0</td>
<td>Anti-immigration campaigns, border hunters, closure of camps and programs, but still minimal support</td>
</tr>
<tr>
<td>Uganda</td>
<td>1,165,653</td>
<td>5,478*</td>
<td>Based around education and land cultivation for subsistence, not integration necessarily</td>
</tr>
<tr>
<td>Kenya</td>
<td>421,248</td>
<td>4,540*</td>
<td>Reliance on UNHCR and NGOs for program development, camp-focused hosting</td>
</tr>
</tbody>
</table>

*Total figure likely much higher
** As of July 31, 2019

All of the data in this chart comes from 2018 World Bank, the UNHCR, and officially
published statistical data from the national governments of these countries, which represents the
most complete and recent data set as of the completion of this thesis.\footnote{Refugee Population by Country or Territory of Asylum.” The World Bank, 2019. https://data.worldbank.org/indicator/sm.pop.refg?most_recent_value_desc=true.} It shows the total number of refugees, total newly resettled refugees, and a brief summary of the hosting plan for each of our countries of focus in 2018. It also shows the 2018 annual refugee caps of the countries that set them and whether those countries reached their caps.

For the resettled refugee totals of Kenya and Uganda, the numbers possess an asterisk next to them to denote that the number of new refugees in these countries is likely much higher due to their status as Haven countries. Refugee resettlement typically indicates refugees moving to a third country, but both Kenya and Uganda are so close to zones of conflict that many asylum-seekers come to the countries directly to seek refugee status. Those figures are not indicated by the UNHCR’s refugee resettlement numbers. Therefore, the Haven countries total intake of refugees is likely much higher than the reported figures above.

The above chart will support proposals offered later in this thesis and lead to some interesting conclusions that highlight how differently each of our 7 countries of focus could approach refugee law and policy.

<table>
<thead>
<tr>
<th></th>
<th>Freedom from discrimination (Articles 3, 4, and 33)</th>
<th>Right to education (Article 22)</th>
<th>Freedom of movement (Article 26)</th>
<th>Right to naturalization and citizenship (Article 34)</th>
<th>Right to work and/or vocational training (Articles 17 and 18)</th>
<th>Benefits for refugees</th>
</tr>
</thead>
<tbody>
<tr>
<td>USA</td>
<td>Green</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
<td>Green</td>
<td>Green</td>
</tr>
<tr>
<td>Canada</td>
<td>Green</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
<td>Green</td>
<td>Green</td>
</tr>
<tr>
<td>Germany</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
<td>Green</td>
<td>Green</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Country</th>
<th>Green</th>
<th>Yellow</th>
<th>Red</th>
</tr>
</thead>
<tbody>
<tr>
<td>Italy</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hungary</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Uganda</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kenya</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Green: The country provides this right/service  
Yellow: The country somewhat provides this right/service  
Red: The country does not provide this right/service

The second chart of this thesis is represented quite differently and constitutes a large proportion of the coming argument. As mentioned, this paper plans to evaluate the rights guaranteed to refugees based on the 1951 Refugee Convention and 1967 Refugee Protocol to ensure that countries are providing for the self-sufficiency of refugees and affording them the rights guaranteed to them in those multilateral United Nations treaties. The primary points of contention in this thesis are those represented by the Yellow and Red blocks of the above chart.
Haven Countries

The first policy areas to explore are Uganda and Kenya, the two haven countries represented in this thesis. Havens are defined by Betts and Collier as states that are not necessarily close to each other, but “they are all close to fragile states.” Primarily located in Africa and the Middle East, these countries are the first options for refugees fleeing their homelands to seek a new haven. Developing countries host 90% of the world’s refugees and haven nations in particular serve as the front line for both incoming asylum seekers and resettled refugees. Unfortunately, “for every $135 of public money spent on an asylum-seeker in Europe, just $1 is spent on a refugee in the developing world.” Shortages in funding and massive asylum seeker influxes present novel challenges for countries such as Uganda and Kenya, which host many of the world’s South Sudanese and Somali refugees. Furthermore, the pervasiveness of refugee camps as a method of hosting present issues for refugee freedom of movement, education quality, and employment opportunities.

There are a number of reasons that haven countries might choose to provide refuge for asylum seekers and resettled refugees outside of humanitarian imperatives. Hosting refugees and asylees can not only serve to provide havens with a monetary boost through the economic participation of refugees, but it can also bring in much needed foreign aid to low and middle income countries. According to 2017 report by Organization for Economic Co-operation and Development, some may perceive refugees to be a net cost on economic and social development in the host country, but refugees can stimulate consumption, “create employment opportunities, and attract aid and humanitarian investments in, for example, infrastructure, which would benefit

---

refugees as well as the society as a whole.” Refugee hosting programs in the developing world are fueled by private sector, NGO, and governmental assistance. For example, outside of general development aid, the World Bank declared in 2019 that it would contribute an additional $2.2 billion for refugees and host communities and an additional $4.7 billion for countries affected by fragility, conflict, and violence as part of its financing of the International Development Association. These funds can obviously provide much better living circumstances for refugees, but they can also strengthen the economic and social institutions of haven countries to better provide for their own citizens as well. With this in mind, this also carries a greater risk of corruption if resources are siphoned into areas other than what was originally intended.

---


Uganda.

Uganda undoubtedly fits the definition of a haven country. Situated between the destabilized nations of South Sudan and the DRC, Uganda has served as a country of first asylum for hundreds of thousands of refugees in the last few years. According to the UNHCR, 62.2% of Uganda’s nearly 1.4 million refugees come from South Sudan, while 28.9% come from the DRC. Additionally, a small number of refugees continue to enter the country via refugee resettlement each year (5,000-10,000, according to UNHCR statistics). To this day, Uganda remains an attractive option for those fleeing persecution due to its comprehensive refugee program, which is shown by the nation hosting more refugees than any other country on the African continent.

However, this wasn’t always the case. Uganda’s history of refugee hosting remains problematic due to its lack of acceptance for refugees of all races and ethnicities in the past. In fact, Uganda didn’t sign the 1951 Refugee Convention until 1976, despite hosting many refugees before that time. Uganda enacted the 1955 Control of Refugees from the Sudan Ordinance to cope with refugees escaping South Sudan before the country gained its independence. In 1960, Uganda signed the Control of Alien Refugees Act (CARA) to give authorities widespread control of refugee populations after Rwandan refugees began to enter the country in wake of the fall of the Rwandan Monarchy. While these pieces of legislation may seem progressive, Uganda

---

focused on “control rather than protection” during this time and aimed to “neutralize the political intentions” of incoming refugees.\(^\text{18}\)

Uganda’s acceptance of refugees took a callous turn in the early 1970s. In the year 1972, Ugandan President Idi Amin announced that “all Asians had 90 days to leave the country.”\(^\text{19}\) A subsequent exodus of 80,000 Asians from Uganda occurred, creating refugees that fled primarily to the United Kingdom. They received only $55 each from the Ugandan government to start their new lives.\(^\text{20}\) After Idi Amin’s removal from his post, approximately 200,000 Ugandan refugees continued to flee the country in the mid-1980s to South Sudan due to “association with the prior regime.”\(^\text{21}\) Most of them managed to return to Uganda in the late 1980s.

Uganda ratified the 1951 Refugee Convention in 1976, but still relied on refugee camps for hosting and placed heavy restrictions on freedom of movement for refugees within the country. In 1987, Uganda also ratified the 1969 Organization of African Unity (OAU) Refugee Convention, which strengthened and modified refugee classification. The OAU Convention expanded the definition of a refugee from someone with a well-founded fear of persecution based on race, religion, nationality, membership of a particular social group or political opinion to include “every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.”\(^\text{22}\) It also expanded rights to asylum

\(^{20}\) Ibid.
and non-refoulement, while establishing a basic system for refugee responsibility-sharing within Africa.

Each of Uganda’s actions seemed to strengthen its refugee program, but the country continued to play a role in the destabilization of African governments into the late 1900s. The Rwandan Patriotic Front (RPF) was formed in Uganda and contributed to the 1990 Rwandan Civil War as well as the 1994 Rwandan Genocide. That conflict led 202,000 Rwandan refugees to flee to Uganda. From 1986 to 2006, Joseph Kony’s Lord’s Resistance Army (LRA) rose up to combat the Ugandan Government’s oppression of northern Ugandans; in response, the Ugandan government required the people of northern Ugandans to leave their villages, leading to a massive rise of internally displaced Ugandans in their own country.

Therefore, it is reasonable to assume that Uganda’s own struggle with internal displacement and persecution has led the country’s citizens to be more welcoming and understanding of refugee populations seeking haven within Uganda into the 2000s. In 1999, Uganda, along with the UNHCR, began to implement a Self-Reliance Strategy (SRS) for refugees. Uganda’s government stated that, “the policy’s core idea was to transform refugees from being a ‘burden’ or mere ‘beneficiaries’ of humanitarian aid, into agents of development.” But Ugandans largely considered the SRS a failure, as local Ugandans derived little benefit from continued refugee-camp-based hosting, regardless of their own financial contributions to help refugees.

---

26 Ibid.
27 Ibid.
Consequently, Uganda developed the Development Assistance for Refugee-Hosting Areas (DAR) policy in 2003 and created a new national Refugee Act in 2006 along with Refugee Regulations in 2010. These acts allowed refugee populations to expand beyond large camps and officially granted them status and rights according to the 1951 Refugee Convention and the 1969 OAU Convention. At last, refugees were granted the right to freedom of movement and the right to work within Uganda. However, many still considered DAR to be a failure because the implementation of recent policies occurred in a manner that was both uneven and inefficient; “For instance, it brought revenue into certain areas over which local leaders had some control, and additional spending power of international staff which boosted local economies.”\(^{28}\) Still, DAR opened Uganda up to international refugee aid, granting the country international status as a champion of human rights and attracting attention from investors.

After signing the New York Declaration for Refugees and Migrants in 2016, Uganda further strengthened its refugee programs with the Comprehensive Refugee Response Framework (CRRF) in 2017, working closely with the United Nations. This progressive development of the Ugandan refugee program relied upon 5 pillars: Admission and rights, Emergency response and ongoing needs, Resilience and self-reliance, Expanded solutions, and Voluntary repatriation.\(^{29}\) The CRRF relies on “the government’s Refugee and Host Population Empowerment Strategy (ReHoPE) – a “transformative strategy” that is meant to “bring together a wide range of stakeholders in a harmonised and cohesive manner to ensure more effective programming.”\\(^{30}\) The overlapping policy frameworks of Uganda have allowed them to create communities like the Bidibidi refugee camp in the north of the country, which has developed a


\(^{30}\) Hovil, "Uganda’s Refugee Policies", 12.
small-scale economy in under one year and experiences a high amount of interaction with local Ugandans. For example, locals are able to use the camp’s health facilities, send their kids to school with Bidibidi, and purchase items from the local vendors within the camp, according to Public Radio International.

To this day, the majority of refugees within Uganda come from South Sudan and the DRC. The origin of Uganda’s refugees has significant implications for the location of refugees within the country. Most of the settlements and communities for refugees from South Sudan are located in the North of Uganda, near the South Sudanese border, while most of the settlements for refugees from the DRC are located in Western Uganda, near the DRC’s border. However, refugees in Uganda still retain the right to free movement within the country, so they can travel to other communities if they so choose.

In the last 50 years, Uganda has slowly shifted from its reliance on emergency aid to refugees in camps to establishing long-lasting solutions for communities of refugees within given districts of the country, allowing refugee populations to participate in the national economy and interact with local Ugandan populations. Notable districts include Yumba, Adjumani, Arua, and Obongi in the North, along with Kyegegwa in the East and Isingoro in the South. This model of hosting provides numerous positive factors for refugee livelihoods and it leads to governmental, NGO, and private sector aid being concentrated in the aforementioned districts of Uganda. Despite the poverty present in northern Uganda, the high quantity of international aid entering those areas has the possibility of providing prosperity for both refugees and local Ugandans.

32 “Country – Uganda.”
The following map by the UNHCR shows the concentration of refugee and asylum-seeker populations in Uganda as of November 2019:

---

33 Figure 1. This image comes from a UNHCR infographic regarding the population and distribution of refugees, asylees, and asylum seekers in Uganda as of November 2019. Image from https://data2.unhcr.org/en/documents/download/72790.
Uganda’s refugee program currently obeys the guidelines of the 1951 Refugee Convention as well as the 1967 OAU Convention. Uganda accepts all asylum seekers regardless of nationality or ethnicity, it grants refugees the right to seek employment and the right to freedom of movement, and it provides “prima facie” asylum for refugees of certain nationalities, meaning that for neighboring areas of conflict like South Sudan and the DRC, the bar has been lowered to acquire refugee status in Uganda. Uganda’s refugee hosting model also contains a number of unique features that differentiates Uganda from its other African counterparts. Most notably, Uganda grants a portion of land to incoming refugee families, which they use for agricultural growth and the construction of local businesses. In Kampala, 21% of refugee businesses owners “said they hire people that are not family members and 40% of those employees are Ugandan nationals.”

According to the U.S. agency for international development, “the marginal benefit of providing land to refugee households results in an additional annual contribution to the local economy of up to $205” per household each year. According to the Refugee Law Project at Makerere University in 2016, basic educational services and vocational training for refugees seem “satisfactory and well-attended.” World Bank reports indicate that, “refugees located in rural settlements, whether on community-owned or gazetted lands, are able to access basic services, receive physical protection, and cultivate land provided to them for self-sustenance.”

35 Ibid.
This land belongs to the Ugandan government and consists largely of reclaimed land from former Rwandan refugees who have returned home. According to Uganda, all refugees who want land are eligible to receive it. Refugees with some income or ability to fend for themselves are self-settled in urban centers.” Over 78% of refugees in rural settlements are engaged in agricultural activities, while 43% of refugees in Uganda hold positions of formal employment. Furthermore, almost 100% of refugees surveyed by the Humanitarian Policy Group (HPG) in Uganda stated that they receive food aid, while 83% of refugees surveyed have reported that they are not struggling to get by. All of these policies are dedicated to creating self-sufficiency for refugees in Uganda and so far, the Ugandan refugee program appears to be succeeding in providing some semblance of normalcy for refugees to either integrate into their host communities or to survive long enough to return home.

In the year 2016, Uganda received $1.6 billion in international development aid to support its programs. Uganda’s total government expenditure in that year was $11.1 billion, though it is unclear how much of that funding went directly to refugees. Some of the estimated costs to run Uganda’s refugee program include $146 million for energy and water, $91 million for ecosystem loss, $30 million for provision of land, $156 million for international humanitarian aid, and $1 billion in remittances to refugees, according to data from UN OCHA FTS, OECD DAC, World Bank remittance data, IMF World Economic Outlook and UNDP. Although the amount of aid going into Uganda’s refugee program is significant, it appears that the Ugandan

---

40 “Uganda’s Progressive Approach to Refugee Management.”
41 Ibid.
42 Poole, “The Refugee Response in Northern Uganda.,” 12.
43 Ibid, 7.
44 Ibid, 7.
government still needs to fund the majority of its own refugee policies. According to Deutsche Welle, Uganda hopes for an economic boost from refugee participation, but only receives one quarter of the development aid they seek to fully fund their refugee program.\(^4\)

Surveys of Ugandan locals’ public perception of refugees also indicate that populations fleeing persecution into Uganda are largely welcomed in the country. According to the International Rescue Committee in a 2018 study, 33\% of Ugandans have interacted with refugees, 89\% of Ugandans believe that Uganda has been a good example of refugee hosting, 81\% believe that the government has hosted refugees “well or very well”, 95\% support government assistance for refugees, 86\% advocate for refugees to be accepted in public schools, 84\% support the self-sufficiency of refugees in Uganda, and 60\% favor refugee integration into local communities.\(^5\) From this data, it is clear that Ugandans support their governments actions in providing new and comprehensive hosting methods for refugees, but there are some responses within the survey that appear less favorable. Only 44\% of Ugandans support refugees gaining citizenship in the country, 27\% of Ugandans see refugees as a burden or a threat, and Ugandans appear generally skeptical towards the idea of full refugee integration.\(^6\) Nonetheless, Ugandan support for hosting vulnerable communities has played a large part in developing the country’s programs for aid.

On the other hand, a number of economic and infrastructural challenges continue to beset hosting in Uganda. Refugees remain primarily in designated settlements and refugees who choose to move to urban communities “continue to be largely excluded from any support beyond


\(^6\) Ibid, 9-10.
Identifying Better Refugee Policies

In theory, all refugees are afforded full legal status and economic benefits in Uganda, but many who leave their settlements forfeit their economic benefits in practice. In northern Uganda, rates of poverty remain high and access to clean water and arable land remains low for agricultural communities. In impoverished settlements like Palorinya, “The settlement’s three sprawling zones are situated more than 20 kilometers away from markets, vocational training centers, and hospitals; poor-quality roads make the journey all the more arduous to complete.” With the arrival of hundreds of thousands of refugees in the last few years, Uganda’s services are struggling to keep up with the massive refugee influx to the country. Even items of aid such as seeds from the World Food Bank have undercut local prices and hurt local economies, while simultaneously discouraging investors.

Furthermore, refugees still rely upon savings from their past lives in their home countries, often being forced to sell off goods to maintain their well-being. Pilot programs for cash transfer in Uganda have alleviated this burden somewhat, but truly large-scale cash transfer to refugees remains difficult to implement due to a lack of trust from international communities for unconditional or multipurpose cash transfers. Public unrest has continued to build as the Ugandan government has begun to cut back on land grants for incoming refugees, recognizing that they need to clear new land or encroach upon existing communities to accommodate new arrivals. Even statistical data to determine where and for what purposes refugee assistance is being provided remains difficult to track. Even for the Ugandan government, interpreting budget

---

49 Coggio, “Can Uganda’s Model Be Sustained?”
50 Ibid.
51 Ibid.
Identifying Better Refugee Policies

information, “and following the execution of the budget through ministries and departments and across national and district-level budgets” has been difficult.53

Finally, Uganda’s own internal struggles have hindered its own refugee programs and its international support. In February 2018, an audit of Uganda’s refugee program revealed that refugee numbers in Uganda had been over-reported and that “funds raised during the 2017 Solidarity Summit were unaccounted for.”54 The backlash from this event led to a number of sponsors pulling support from the Ugandan refugee program and an international reduction of trust in Uganda’s transparency. Meanwhile, European investors have been more concerned with refugee hosting in their own continent and have directed the majority of their funding to European interests instead of helping the millions of refugees situated in Africa. To this day, there is no agreed upon method under Uganda’s CRRF system to track resource contributions for maximum transparency and this is a damning point for investors who are considering providing humanitarian aid.55 Furthermore, the Ugandan Constitutional Court ruled on October 6, 2015, that refugees are eligible to apply for citizenship in Uganda through either registration or naturalization (which requires living in Uganda for 20 years), but most refugees who have applied for citizenship since then have yet to be granted a ruling on their citizenship status.56

To summarize, here is a timeline of Uganda’s relevant ratified refugee legislation for their refugee program:

<table>
<thead>
<tr>
<th>Legislation Year Implemented</th>
<th>Legislation Name</th>
<th>Description of Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1955</td>
<td>Control of Refugees from the Sudan Ordinance</td>
<td>Established a basic refugee program, with numerous restrictions on refugees</td>
</tr>
</tbody>
</table>

53 Poole, “The Refugee Response in Northern Uganda.”, 16.
54 Coggio, “Can Uganda's Model Be Sustained?”
<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1960</td>
<td>Control of Alien Refugees Act (CARA)</td>
<td>Granted control of refugees to local authorities</td>
</tr>
<tr>
<td>1976</td>
<td>Ratification of the 1951 Refugee Convention and 1967 Refugee Protocol</td>
<td>Established the basic definition of a refugee, along with refugee human rights</td>
</tr>
<tr>
<td>1989</td>
<td>Ratification of the 1969 OAU Convention on Refugees</td>
<td>Expanded the definition of a refugee and provided greater leniency for asylum-seekers</td>
</tr>
<tr>
<td>1999</td>
<td>Implementation of the Self-Reliance Strategy (SRS)</td>
<td>Attempted to “integrate services provided to refugees into existing public service structures and make refugee settlements self-reliant by allocating land to refugees and allowing them free access to government health and education services”</td>
</tr>
<tr>
<td>2003</td>
<td>Implementation of the Development Assistance for Refugee-Hosting Areas (DAR) policy</td>
<td>Modified the SRS to improve impacts on host communities</td>
</tr>
<tr>
<td>2006</td>
<td>Passage of the Refugee Act</td>
<td>Created new administrative structures and reinforced refugee citizenship and employment</td>
</tr>
<tr>
<td>2010</td>
<td>Institution of the Refugee Regulation from the Refugee Act</td>
<td>Put the Refugee Act into practice</td>
</tr>
<tr>
<td>2017</td>
<td>Implementation of the Comprehensive Refugee Response Framework (CRRF)</td>
<td>Expanded the Ugandan refugee program, adding more international stakeholders and focusing on refugee self-reliance.</td>
</tr>
</tbody>
</table>

After reviewing the history and scale of Uganda’s refugee program, the country appears to be largely in accordance with the 1951 Refugee Convention. In theory, refugees in Uganda today do not experience discrimination, possess the freedom to travel the country or leave settlements, have access to education, vocational training, and employment opportunities, receive benefits and services from the Ugandan government in the way of land, health services, and emergency assistance, and they are afforded the right to become Ugandan citizens after 20 years.

---

57 Hovil, "Uganda’s Refugee Policies", 5.
of residence. In practice, refugees might lose access to services if they leave their initial settlements and may undergo difficulties in receiving Ugandan citizenship. Nevertheless, the World Bank regards Uganda’s refugee program as one of the most progressive in the world.\(^{58}\) Hence this practice may be in violation of the UN Refugee Convention Articles 26 and 34, regarding the rights to freedom of movement and naturalization.

On the basis of this thesis’ analysis of Uganda’s strengths and weaknesses in refugee hosting, this thesis offers the following policy recommendations:

First, Uganda should develop comprehensive vocational training programs for refugees working outside of agricultural communities. 72% of Ugandan refugees are unemployed and many of them lack the necessary skills training to become an active part of the Ugandan workforce and contribute to the economy.\(^{59}\)

Second, Uganda must invest in improving access to basic services in refugee settlements. Improving road construction and access to clean water not only enables refugees to be more self-reliant, but also improves access to basic services for native Ugandans. Currently, investment in infrastructure in Uganda is under-developed and under-funded.\(^{60}\)

Third, the Uganda Bureau of Statistics (UBOS) must work in conjunction with international actors to produce more detailed and complete records for resource tracking of the Ugandan refugee program. When resource tracking is left incomplete, funds for programs can go missing and lead to corruption scandals, like the fallout of Uganda’s 2017 fund allocation audit. Major gaps exist in tracking of new refugee arrivals as well as refugee program resources and to

\(^{58}\) “Uganda's Progressive Approach to Refugee Management.”


\(^{60}\) Poole, “The Refugee Response in Northern Uganda.”, 3.
allocate program funds accurately, the Ugandan refugee program must account for new populations. Utilizing accountability-based organizations like the UNHCR to verify resource tracking can bolster the trust of international actors to donate more funds to Uganda’s refugee program. In addition, funders should also establish policies and procedures to hold grantee states accountable, and provide training on their accounting methods/software to ensure that the funds are reaching refugee programs.

Fourth, local communities must be more closely involved in refugee program decisions. Many Ugandans themselves are challenged by poverty and lack of access to services, especially in Northern Uganda; they would be more likely to accommodate refugees if they felt their concerns were heard and that they could benefit from the economic success of refugees. If local communities viewed refugees more positively, they would be more likely to welcome them as their own. Establishing forums for community leaders, refugees, and international actors to can clear up communication issues and make all parties feel heard so that more holistic solutions can be made.

Lastly, the African Union must collaborate with Uganda to develop a more cohesive policy for refugee resettlement. Uganda has more refugees than any other African country and needs support from surrounding stable nations to shoulder some of the responsibility of hosting. Taking on refugees is admirable, but it’s for naught if Uganda does not possess the resources to provide for their self-sufficiency.

---

62 Hovil, "Uganda’s Refugee Policies: The History, the Politics, the Way Forward.", 15-16.
63 “Uganda's Progressive Approach to Refugee Management.”
Kenya.

Kenya also serves as a major haven country within Africa. As of December 31, 2019, Kenya hosts 489,747 refugees, according to UNHCR statistics. It is also the country of first asylum for most of its refugees, as 54.5% of Kenya’s refugee population comes from Somalia and 24.4% from South Sudan, two destabilized nations neighboring Kenya. Similarly to Uganda, Kenya also takes on an additional few thousand resettled refugees each year. However, Kenya’s refugee policy appears generally less progressive than that of Uganda, as “conditions in the refugee camps are far from ideal with overcrowding common and a strict encampment policy. In most cases displacement is protracted and refugees remain in the camps for years without freedom of movement and without the opportunity to access higher education, employment or to start businesses.”

Kenya’s history of refugee hosting began in the 1960s. With a small refugee population of a few thousand, no specific refugee laws had been enacted within the country, but “refugees could access work and move freely” under only the purview of the Kenyan government. At last, Kenya signed the 1951 Refugee Convention in 1966 and the 1967 Refugee Protocol in 1981. Despite signing these international pieces of legislation, Kenya made no effort to develop a refugee program at that time. In the 1970s, the country received an influx of Ugandan refugees after the administration of Idi Amin, but even then “they were received well and most of them eventually integrated into Kenyan society” receiving educations and being “allowed to work in formal sectors.”

---

66 Ibid.
In the 90s, Kenya’s relatively laissez faire approach to refugee hosting underwent a dramatic transformation. Hundreds of thousands of refugees arrived from Somalia, Ethiopia, Burundi, Rwanda, and the DRC fleeing civil war, multiplying Uganda’s refugee population about tenfold. In response, the Kenyan government recused itself from refugee hosting, relying instead on UNCHR emergency response construction of refugee camps. The hope of both the Kenyan government and the UNHCR was that these refugees could voluntary repatriate after the cessation of their respective conflicts, making the camps a temporary structure. Neither party had anticipated that additional conflicts would rise up in neighboring countries and make Kenya’s refugee camps a permanent feature of the country. Many refugees were eventually repatriated, at times voluntarily and at times involuntarily, but the camps continued to grow in size due to a continued flow of arrivals.

Violence in western, northern, and eastern Kenya also sprung up in the 1990s, leaving the country to contend with the internal displacement of 400,000 Kenyan nationals within the country. Kenya suddenly had to deal with the internal displacement of its own people and the institution of a refugee program became an afterthought. In fact, Kenya did its utmost to separate refugee populations from native Kenyan population and refugees became a common scapegoat for the dramatic increase of violent crime in Kenya in the 1990s. The country still refrained from instituting any formal programs for refugees, despite signing the 1969 OAU Convention in 1993.

---


68 Ibid.

69 Maina, “Development of Refugee Law in Kenya.”


71 Maina, “Development of Refugee Law in Kenya.”
Kenya finally formulated its own Refugee Act in 2006, establishing its own Refugee Regulations in 2009 to create a national legal framework for refugee hosting and rights. Until this point, refugees in camps possessed little to no rights within Kakuma and Dabaab, the only two refugee camps within the country at that point. The 2006 Refugee Act created certain rights and benefits for refugees within Kenya, including agreements to international OAU and UNHCR definitions of refugees and the establishment of the Department of Refugee Affairs (DRA), the Refugee Affairs Committee, and the Refugee Affairs Board of Kenya.72

However, Kenya’s 2006 Refugee Act created numerous problems for refugees who thought they were promised the full extent of their rights by the act. It only allowed refugees the same rights to work as other “non-nationals” within the country, meaning that they had to apply for conditional “Class-M” work permits accompanied by “a recommendation from a prospective employer, and must be accompanied by a letter from the DRA confirming refugee status” to gain legal employment.73 To further complicate matters, refugees were only allowed to seek work permits from the government in Nairobi, not in refugee camps, and “refugees were required to reside in refugee camps unless they had authorization to live elsewhere.”74 Seeking a work permit was not considered a sufficient reason to leave a refugee camp, so in practice, it was physically impossible for a refugee in Kenya to legally seek formal employment. Refugees could not exit their camps without a “movement pass”, the infringement of which entails a “penalty of a six-month jail term, a fine of 20,000 Kenyan shillings (approximately $200), or both.”75

In 2010, Kenya created a new national constitution. The 2010 Kenyan Constitution decentralized power within the country for most matters, but kept the administration of services

72 Maina, “Development of Refugee Law in Kenya.”
73 O’Callaghan and Sturge, “Against the Odds: Refugee Integration in Kenya.”, 6.
74 Maina, “Development of Refugee Law in Kenya.”
75 Ibid.
for refugees to the national government. It also redefined how refugees might gain citizenship setting requirements that a person must have been a lawful resident for at least 7 years, speaks Kiswahili or another local language, and makes a substantive contribution to Kenya’s development. Refugees rarely meet these requirements and the Kenyan government does not provide naturalization for refugees in practice. To become a lawful permanent resident, refugees must have lived in Kenya for three years and held a work permit for seven years, but attainment of a work permit is a difficult process in Kenya, as will be discussed later in this section.

Kenya’s refugee policy experienced another significant shift during 2011, when over 113,500 Somali refugees fled to the Dabaab refugee camp within an 8 month period, stretching an already thin set of aid resources even thinner. Simultaneously, a series of jihadist group Al-Shabaab militants arrived in Kenya in 2012, kidnapping humanitarian workers and attacking native Kenyans. Anti-refugee sentiment continued to increase until the Kenyan government ordered all refugees living outside of Dabaaab and Kakuma to relocate to those camps and settlements in December of 2012. The Kenyan High Court reversed this decision in July of 2013, but the Department of Refugee Affairs continued to defy the court’s ruling. Violence in Kenya from militant and terrorist forces continued in the next few years, while the government responded with mass arrest, detainment, and deportation of “irregular” migrants, while the UNHCR was unable to access the government’s detainment data. Matters continued to escalate

---

79 Ibid.
80 Ibid.
as the Kenyan government issued a second directive for refugees to move to camps (while over 100,000 refugees continued to live in Nairobi and other urban settlements) and amended the 2006 Refugee Act in December of 2014 to make the national encampment policy permanent. The amendments to the refugee act also placed a limit of 150,000 asylum seekers and refugees permitted to stay in Kenya, when approximately 550,000 resided in the country at the time. Once again, the Kenyan High Court ruled these amendments “unconstitutional” as they would violate the principle of non-refoulement.

Frustrated by constant rejection from the High Court and further incensed by continued attacks by Al-Shabaab, the Kenyan government resorted to even more drastic measures of refugee removal. In May 2016, the DRA ordered the closure of the Dabaab refugee camp “within the shortest possible period.” The closure of the Dabaab camp would have meant the forceful displacement of over 250,000 refugees from the area. Nevertheless, the Kenyan High Court ruled this directive unconstitutional as an act of “group persecution” and a violation of regional, national, and international laws. In response, the Kenyan government has implemented the most aggressive program of voluntary repatriation of Somalis that it could legally create, as it raised $105 million during a Pledging Conference for refugees in Brussels to give cash incentives for Somalis to return home and “66,000 Somali refugees returned between 2015 and the first half of 2017 under a voluntary repatriation agreement signed between the governments of Kenya and Somalia and UNHCR in 2013.”

---

85 Ibid, 9.
86 Ibid, 15.
In response to the Global Compact on Refugees in 2016, Kenya attempted to sign a new bill into law in 2017, simply labelled the Refugee Bill. The bill included references to developing refugee self-reliance within Kenya, but “agreed to remove reference to integration as a possible durable solution for refugees.”88 While this might have been the start of a more progressive Kenyan stance on refugees, politics got in the way once again. The Kenyan president vetoed the Refugee Bill in 2017 and the Kenyan government has just begun to reintroduce it in 2019.

In terms of territory, the concentration of Kenya’s refugees is much easier to define than that of Uganda as Kenya relies primarily upon a few refugee camps and settlements to host refugees. Refugee camps and settlements are located in Garissa County, adjacent to Somalia, in the Southeastern part of the country and Turkana County, which lies next to South Sudan in the Northeastern part of the country. As of December 3189 2019, Garissa County contains 217, 151 refugees in Dagahala, Ifo, and Hagadera within the Dabaab refugee camp; Turkana County hosts 193, 684 refugees in the Kakuma refugee camp, as well as the recently formed Kalobeyei refugee settlement.89 Despite the Kenyan government’s efforts to concentrate refugee populations within these refugee camps and settlements, 78,912 refugees continue to reside in the capital city of Nairobi.90 As might be expected, Dabaab contains almost exclusively Somali refugees, Turkana County contains a majority of South Sudanese refugees, and Nairobi contains a mix of refugee nationalities.91

In practice, the UNHCR’s emergency response to Kenya’s refugee influx in the 90s has become a permanent solution for refugees within the country. Refugees retain the rights granted

88 O’Callaghan and Sturge, “Against the Odds: Refugee Integration in Kenya.”, 5.
90 Ibid.
91 Ibid.
to them by the 1951 Refugee Convention in theory, but in practice they rarely have access to those rights and services. The Kenyan government has tried to forcefully and “voluntarily” repatriate refugees in the last 25 years, but as more continue to arrive, life in a refugee camp has become a long-term policy for settlement. The recent rise of the Kalobeyei settlement within Kenya serves as a prime example of this. In 2013, the UNHCR requested additional land to expand the Kakuma refugee camp, but this land rapidly developed into a vibrant refugee settlement of nearly 40,000 people in less than 4 years. In 2018, the UNHCR developed the “Kalobeyei Integrated Social and Economic Development Programme (KISEDPA), a multi-agency collaboration to develop the local economy and service delivery at Kalobeyei” with the governor of Turkana county to better integrate refugees into the economic life of Kenya.

The following map by the UNHCR shows the concentration of refugee populations in Kenya as of December 2019:

---

93 Ibid.
Figure 2. This image comes from a UNHCR infographic regarding the population and distribution of refugees, asylees, and asylum seekers in Kenya as of December 2019. Image from https://reliefweb.int/sites/reliefweb.int/files/resources/Kenya%20Infographics%20-%20December%20202019.pdf.
Kenya’s current refugee program is in flux and makes it continuously difficult to enact progressive refugee policies. The terror threat of Al-Shabaab has made the Kenyan government wary of allowing newcomers into the country and as a result, the government appears to constantly be at odds with the Kenyan High Court as well as the UNHCR in affording rights, freedoms, and services to refugees. Passing Kenya’s modified 2017 Refugee Bill would significantly strengthen the country’s refugee program, but the issue remains too contentious for any party to make significant headway.

Asylum seekers attempting to enter Kenya have reported harassment at the Kenyan border and laws restrictions on asylum and freedom of movement mean that asylum seekers in Kenya often become classified as economic migrants and deported.95 If an asylum seeker or refugee is found guilty of being an “irregular migrant” under Kenyan law, they are either deported or made to pay a significant fine or a custodial sentence of up to 3 years.96 Nowadays, it is increasingly difficult for asylum seekers to gain refugee status in Kenya. The country recognizes “prima facie” refugees as those coming from South Sudan or South and Central Somalia, who receive an expedited asylum process. Any other asylum seekers must undergo a thorough Refugee Status Determination process that lasts from six months to two years.97 This issue has become further complicated by the DRA’s suspension of registration for refugees in urban areas in Kenya since 2012.98

As mentioned before, employment and freedom of movement continue to be contentious rights in Kenya. Refugees in Kenya can engage in self-employment, informal labor, or low-

96 Ibid.
paying NGO work, but to receive formal employment within Kenya, they must apply for a work permit.\textsuperscript{99} Work permits are exceedingly difficult to receive because refugees must attain a “movement pass” in order to leave their refugee camp or settlement after receiving their refugee identification card upon being granted asylum. While the majority of Congolese and South Sudanese refugees in Kenya who receive employment do so through UNHCR and NGO programs, Somali refugees who participate in the economy are more likely to be self-employed.\textsuperscript{101} Refugees in Nairobi have a higher chance of participating in the Kenyan economy, but in leaving refugee camps or settlements, they give up nearly all UNHCR, NGO, or Kenyan assistance and access to services.\textsuperscript{102}

Within camps and settlements, however, refugees receive benefits in the form of food aid from NGOs and governments around the world. This food assistance typically comes in the form of food rations, but the rations provided are routinely considered “inadequate” to appropriately feed refugee populations.\textsuperscript{103,104} According to the Overseas Development Institute in 2014, “70–80\% of people in both camps [Dabaab and Kakuma] lacked sufficient food assistance to meet their monthly requirements.”\textsuperscript{105} Living standards for refugees vary wildly across Kenya, with refugees in Nairobi generally being better off than refugees in Kakuma due to superior access to basic services like water and electricity.\textsuperscript{106} Overall, native Kenyans have reported significantly

\begin{itemize}
\item \textsuperscript{99} Alexander Betts, “Refuge, Reformed,” Foreign Policy, November 22, 2018, \url{https://foreignpolicy.com/2018/11/22/refuge-reformed-kenya-refugees/}.
\item \textsuperscript{100} Goitom, “Refugee Law and Policy: Kenya.”
\item \textsuperscript{101} Alexander Betts, Naohiko Omata, and Olivier Sterck, “Refugee Economies in Kenya” (Refugee Studies Centre, Oxford Department of International Development, February 2018), \url{https://www.rsc.ox.ac.uk/files/files-1/refugee-economies-in-kenya}, 4.
\item \textsuperscript{102} Ibid.
\item \textsuperscript{103} Betts, “Refuge, Reformed.”
\item \textsuperscript{104} Betts, Omata, and Sterck, “Refugee Economies in Kenya.”, 18.
\item \textsuperscript{105} O’Callaghan and Sturge, “Against the Odds: Refugee Integration in Kenya.”, 20.
\item \textsuperscript{106} Betts, Omata, and Sterck, “Refugee Economies in Kenya.”, 18.
\end{itemize}
higher standards of living and well-being than refugees within the country, especially those in camps.

The discrepancy between Kenyan nationals and refugees continues in the field of education. As of 2003, Kenya guarantees primary education for all children living in the country in theory. But according to the UNHCR in 2017, “primary school net enrollment rate for refugees across camp settings in Kenya is roughly 70 percent for refugees, compared to 85 percent for Kenyan nationals, while secondary school net enrollment rate is 6.1 percent for refugees compared to 47.8 percent for Kenyan nationals.”\textsuperscript{107} Services exist for primary school education in Kenyan refugee camps, but refugees must apply for a movement pass to seek a secondary education elsewhere. This can prove difficult when approval rates for movement passes remain low and refugees must give up access to basic services provided by refugee camp administration programs in order to receive it. Furthermore, primary education in Kenyan refugee camps is taught predominantly in English and Kiswahili, which proves challenging for incoming South Sudanese and Somali refugees who arrive speaking a myriad of other languages.\textsuperscript{108} In Nairobi, however, Community-Based Organizations (CBOs) have arisen to provide vocational training and educational support for refugees. Refugees living in Nairobi receive more years of education, more vocational training, and have better language proficiency in English and Swahili than those in camps.\textsuperscript{109} Therefore, despite missing out on the NGO-based services in refugee camps and settlements, refugees in Nairobi appear to perform better due to a greater access to services and integration to Kenyan society.

\begin{footnotes}
\item[108] Ibid, 28.
\end{footnotes}
Kenya’s public opinion on refugees differs significantly from that of Uganda. According to polls from the International Rescue Committee, 48% of Kenyan nationals have heard in 2018 that Kenya is closing camps and sending refugees home, while 40% have heard that refugees are a security threat; Meanwhile, 90% believe that Kenya has been a good example on how to host refugees and 74% believe that the government has managed to host refugees well or very well.110 It appears that due to the political situation in Kenya and the terror threat of Al-Shabaab, Kenyans appear skeptical of the viability of refugee hosting within the country. In a separate survey, 96% of Kenyan’s believed that the Kenyan government should provide healthcare to refugees, along with 95% for security and safety and 94% for education, but only 72% believed that refugees should get the right to work and 35% though that refugees deserve access to land or citizenship.111 According to these polls of public opinion, Kenyan public opinion appears to align roughly with contemporary Kenyan refugee policy.

While most of Kenya’s refugee camps abide by the same structures they have since their creation in 1991-1992, the Kenyan government has attempted a new method with the Kalobeyei refugee settlement as of 2015. Kalobeyei is an integrated settlement with both refugees and local Kenyans; the result of this system has been higher economic participation of refugees and better access to educational and health services.112 The settlement has also developed a new form of food assistance through a voucher currency called “bamba chakula”, meaning “get your food” in Swahili slang.113 A voucher system allows refugees to choose from the items they can receive for food. Kalobeyei also instituted a market-based cash-for-shelter program that allows refugees to

111 Ibid, 9-10.
112 Betts, “Refuge, Reformed.”
113 Ibid.
choose from the housing they are provided rather than pre-determined living conditions.\textsuperscript{114} Other programs are rapidly popping up in Kalobeyei, like business incubators and a prospective university campus, which would massively improve the institutional strength of the settlement. Kalobeyei remains an experimental settlement for a small proportion of Kenya’s refugees and the refugees within the camp continue to experience difficulties in freedom of movement and obtaining legal work, but its recent successes seem to bode well for future Kenyan refugee integration.

Unfortunately, Kalobeyei’s success story remains a rare bright spot in a highly problematic model for refugee hosting. According to Victor Nyamori, Amnesty International's Refugee Coordinator for East Africa, “Kenya is renowned for its eagerness to support, draft and sign instruments aimed at protecting the rights of refugees and asylum-seekers, but sadly not for implementing them.”\textsuperscript{115} Kenya has signed the 1951 Refugee Convention, the 1967 Refugee Protocol, the 1969 OAU Refugee Convention, and created its own Refugee Act in 2006, but has routinely failed to implement successful refugee policies according to these acts. In fact, Kenya’s response to the terror threat of Al-Shabaab and its own lack of border security have led to direct hostility and backlash towards refugee communities. For the remainder of this analysis of Kenya’s refugee program, it is vital to note that signed international legislation means very little for Kenyan practices of refugee hosting.

Here is a timeline of Kenya’s relevant ratified refugee legislation for their refugee program:

\begin{itemize}
\item \textsuperscript{114} Betts, “Refuge, Reformed.”
\end{itemize}
<table>
<thead>
<tr>
<th>Legislation Year Implemented</th>
<th>Legislation Name</th>
<th>Description of Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1966</td>
<td>Ratification of the 1951 Refugee Convention</td>
<td>Established the basic definition of a refugee</td>
</tr>
<tr>
<td>1993</td>
<td>Ratification of the 1969 OAU Convention on Refugees</td>
<td>Expanded the definition of a refugee and provided greater leniency for asylum-seekers</td>
</tr>
<tr>
<td>2006</td>
<td>Passage of the Refugee Act</td>
<td>Recognized international refugee definitions, defined “prima facie” and “statutory” refugees, established government agencies for refugees, and granted a “right to work” to refugees</td>
</tr>
<tr>
<td>2009</td>
<td>Institution of the Refugee Regulation from the Refugee Act</td>
<td>Put the 2006 Refugee Act into practice</td>
</tr>
<tr>
<td>2010</td>
<td>Creation of a new Kenyan Constitution</td>
<td>Retained refugee affairs to a national agency and established guidelines for naturalization</td>
</tr>
<tr>
<td>2017</td>
<td>Attempted Passage of the Refugee Bill</td>
<td>Would have redefined measures for refugee self-reliance, employment, and land ownership</td>
</tr>
</tbody>
</table>

Upon a superficial review of Kenya’s signed refugee legislation, the country appears to guarantee sufficient rights and services to refugees within its country. However, a deeper dive into the programs, practice, and conflicts of Kenya’s recent history reveals that the country violates the 1951 Refugee Convention, the 1967 Refugee Protocol, the 1969 OAU Refugee Convention, and its own 2006 Refugee Act in a multitude of ways. In the 1951 Refugee Convention alone, the Kenyan government has discriminated against refugees and attempted to prevent them from entering the country, limited access to wage-earning employment, enacted barriers to both primary and secondary education, limited citizenship opportunities, severely restricted free movement of refugees, and attempted to violate non-refoulement by signing directives to expel refugees from the country. Thereby, Kenya has not complied with Article 3, Article 18, Article 22, Article 26, Article 33, or Article 34 of the 1951 Refugee Convention,
nearly all of the international policy measures to be analyzed within this thesis. Furthermore, access to international aid and government assistance remains conditional on remaining within refugee camps and settlements.

On the basis of this analysis, this thesis offers a number of refugee policy recommendations to drastically reform Kenya’s refugee program. The first of these recommendations primarily pertains to refugee programs and policy, while the second involves political will and international cooperation.

In order to fully comply with international guidelines and provide for the self-sufficiency of refugees, Kenya must enact a new Refugee Bill. Refugee Bills have been proposed several times in the last few years, but none have been signed into law. However, a comprehensive and new refugee bill could sufficiently address land rights, education, access to employment, and overall refugee quality of life. This thesis proposes the following inclusions for a new Kenyan Refugee Bill:

First, the bill must establish a more lenient basis for granting movement passes to Kenyan refugees. The right to work is a fundamental part of life, and while it might be too dramatic and unfeasible to immediately do away with refugee camp hosting in Kenya, allowing them the right to travel in order to seek work permits will increase refugee employment in country along with their ability to achieve permanent residency.

Second, the bill must remove the component of making a “substantive contribution to Kenya’s development” from its naturalization requirements. This term is unnecessarily vague and can lead to the arbitrary rejection of citizenship for refugees. To become a permanent resident, refugees must already have held work permits for seven years, so it can be assumed that
they have already made a substantive contribution to Kenya through over seven years of formal employment.

Third, the Kenya government must administer services uniformly to refugees across the country. Suspension of food aid, health services, and government assistance to refugees in Nairobi does not comply with international guidelines and they must receive equal support as those living in camps and settlements.

Fourth, the bill must include provisions for improved education to refugees in camps. Most Somali and South Sudanese refugees do not speak Kiswahili upon entrance to camps and phasing in Kiswahili Language Learner (KLL) programs will allow refugees to attain a legitimate chance at Kenyan citizenship. Furthermore, camps should establish access to secondary education that does not require refugees seeking movement passes and forfeiting access to aid.

Fifth, the Kenyan government should establish more settlements like Kalobeyei within the country to allow the economic participation and gender equality of refugees in Kenya. Including zones similar to special economic zones (SEZs) within the country will lead to the gradual expansion of economic participation within the country and greater integration of refugees. Betts and Collier have already recommended similar measures that have paid dividends for refugees from the Zaatari refugee camp in Jordan.116

Sixth, the bill must encourage refugee departments of the Kenyan government to work more closely with the UNHCR, NGOs, and local refugee networks to develop a more comprehensive system of data collection for refugees within the country. Establishing accurate numbers for refugee registration, refugee income and education levels, and identifying the needs

---

of Kenya’s refugee population will help to build trust with the international community and assist all parties to better identify the distribution of Kenyan refugee aid.

Outside of enacting a new refugee bill, the Kenyan government must make a number of political commitments to refugees all over the country. The government must stop labelling refugees as members of Al-Shabaab or terror threats to the country. Stigmatizing all refugees as dangerous and untrustworthy only turns native Kenyans against refugees and increases tensions within the country. The government must also stop trying to deport refugees from their country and close camps as this damages international good will towards Kenya and reduces the funding that international organizations and countries are willing to give them. Changing Kenya’s political stance will lead to improved public opinion toward refugees, an improved international perception of Kenya, and more aid for Kenyan refugee programs.

It must be noted that many of these measures are only intermediary steps for making refugees fully self-sufficient in Kenya. The purpose of this thesis is to give realistic recommendations for countries to follow international guidelines for refugees, but following the above recommendations represents an important first step in protecting and supporting the nearly half a million refugees currently residing in Kenya.
Europe

Europe has played a diverse role in refugee hosting that has changed tremendously over time. At first, the 1951 Refugee Convention was signed primarily to shelter 60 million displaced Europeans in the wake of the Second World War. At that time, Europe served as both the predominant refugee producer and refugee host of the world. Since then, no European conflicts of that scale have taken place again, and while Europe has encountered many national and international destabilizing conflicts that have produced refugees, European countries have found themselves needing to host those facing persecution more than they have produced them. With the advent of the Syrian refugee crisis, Europe suddenly needed to fulfill its international obligations set 60 years prior to millions of “outsiders.” Although Europe is widely considered the wealthiest part of the world, the continent was much more hesitant in responding to the refugee crisis than Haven countries in the immediate proximity of newly destabilized nations.

The crisis led to a broad spectrum of responses from European countries, each of which held different positive and negative consequences for both refugees and native Europeans. This section will explore three very different countries in Europe with regard to refugee hosting: Germany, Italy, and Hungary. Germany became Europe’s prime example of freely accepting both resettled refugees and asylum seekers through Angela Merkel’s “Wir schaffen das” policy, but open doors led to their own negative consequences when other countries refused to share the burden. Italy primarily encountered asylum seekers travelling by boat to Europe, but this reaction led to overreliance on emergency aid and hosting programs. And Hungary became the classic example of refusing hosting and closing borders, suddenly fearing the change that incoming “outsiders” might bring. All of these responses require vastly different policy recommendations.

Germany.

Germany has become Europe’s primary country for refugee hosting. At the end of 2018, Germany held 1.06 million refugees, the 6th most of any country in the world and the most of any European country aside from Turkey. It was also the third largest donor to the UNHCR in 2018. The majority of refugees in Germany come from Syria, with the 2nd and 3rd most common countries being Afghanistan and Iraq, respectively. Although Germany continues to resettle a few thousand refugees per year (approximately 4,000-6,000, as part of an EU program), their primary intake comes via asylum seeker applications within the country, as Germany receives hundreds of thousands of asylum applications each year, of which 25-50% eventually receive approval.

However, Germany’s history of refugees has not always been so magnanimous. In fact, Germany was once one of the world’s greatest refugee producers. During the Second World War, over half a million Jewish refugees fled Germany due to imminent persecution and after the war, “over 12 million Germans were internally displaced.” Neither the Nazi regime of the 1930s and 1940s and the subsequent Soviet regime in East Germany were keen on accepting foreigners nor were they too concerned with protecting the rights of their citizens. As East German citizens continued to flee from oppressive circumstances, the Soviet government attempted to shut down its borders to prevent Germans from fleeing to the West. On the other hand, West Germany began to accept “guest workers” in order to reduce unemployment in the 1950s and 1960s. The

---

120 MacGregor, “Germany: Refugee Numbers in Context.”
first guest workers came from Italy in 1955, but West Germany soon formed contracts with Greece, Spain, Turkey, Morocco, Portugal, Tunisia, and Yugoslavia as well to supplement German labor shortages. In 1964, “the arrival of the millionth ‘guest worker,’ Rodrigues de Sá of Portugal, was celebrated.”

Despite West Germany’s initial openness, the country’s acceptance of foreigners did not last long. In 1966-1967, an economic crisis put an end to West Germany’s previously consistent growth and many West Germans placed the blame on newly-arrived foreign workers. In 1973, West Germany enacted an “Anwerbestopp”, or recruitment ban on foreign labor to curb immigration. They had hoped that guest workers would eventually return to their countries of origin, but very few acquiesced to voluntary return and many sought permanent residence at their new homes.

West Germany may have closed its doors to economic migrants during the recruitment ban, but maintained its international obligations to accept refugees. Germany signed the 1951 Refugee Convention in 1953 and the 1967 Refugee Protocol in 1969, so the country still had an obligation to shelter those fleeing from persecution. This first took effect for non-Germans in 1978, when the country accepted 40,000 Vietnamese refugees in the aftermath of the Vietnam war. This was merely the beginning for German refugee hosting, as hundreds of thousands of asylum seekers from Poland, Turkey, Iran, and Lebanon came to West Germany for refuge in the early 1980s.

---

124 Ibid.
125 Ibid.
126 Ibid.
127 Bierbach, “A Brief History of Refugees Who Escaped to Germany.”
128 Ibid.
After the fall of the Berlin Wall and the Soviet Union in 1989, Germany ceased to be a producer of refugees entirely. However, more asylum-seekers than ever were entering the country as “a series of ethnically-based wars broke out in the former Yugoslavia, displacing millions of people from the Balkans.”¹²⁹ Reportedly, 80% of the asylum requests in Europe at that time took place in Germany.¹³⁰ The newly reunified nation did not respond positively to this massive influx of refugees and xenophobic attitudes rose as “the admission of refugees was no longer seen as proof of success in global competition among political systems, but appeared instead as an additional burden on the welfare state.”¹³¹ Right wing radicals began to attack the homes of refugees and migrants around the country into the early 1990s. The culmination of Germany’s new wave of anti-refugee sentiment was the “Asylum Compromise”, which decreed that asylum seekers from countries “free of persecution” or that had passed through “safe” third-states on the way to Germany were no longer eligible to apply for asylum. The part of Germany’s Basic Law that included this amendment was Article 16a. Although this new piece of legislation seemed reasonable in theory, it essentially meant that Germany could only accept resettled refugees and not asylum-seekers because all bordering nations to Germany were considered “safe third-states.”¹³² The passage of this directive vastly decreased the number of asylum-seekers entering Germany.

Germany’s prior acceptance of foreigners meant that Germany had a significant refugee population, but services for integration of refugees within the country were lacking. In fact, Germany only guaranteed “jus solis”, or naturalization for people born on German soil, in the

---

¹²⁹ Bierbach, “A Brief History of Refugees Who Escaped to Germany.”
¹³⁰ Ibid.
¹³² “Essay: Migration History in Germany.”
year 2000. Germany’s asylum act was created in 1982 and has been continuously updated from that point, but had still not established clear measures for residence, integration, language-learning, or employment in Germany. The country finally signed many of these measures into law with the passage of the 2005 Immigration Act and the National Integration Plan in 2007. The new legislation “has adopted more than 400 measures and voluntary commitments relating to integration.”\(^{133}\) Modifications to housing programs, permanent residence, and language-training were made at the same time. The 2012 National Action Plan on Integration clarified “reviewable target specifications and regular evaluations… to make integration policy in Germany more binding” in implementing the 2007 Plan.\(^{134}\)

These policy adjustments came just in time for Germany’s biggest policy-based challenge of the 21st century, the Syrian refugee crisis. Hundreds of thousands of asylum seekers came to Europe, shuffled northward to the German border by countries who would not take them, and Chancellor Merkel had to make a decision. Despite a previously stern stance on refugee arrivals, the Chancellor said “Wir schaffen das”, or “we will do it”, and opened the borders to migrants. Germany had expected other countries to follow suit and share the burden, but very few obliged. In just a few months, Germany experienced an influx of 300,000 migrants and subsequently strengthened its border controls.\(^{135}\) Nevertheless, the flow of asylum-seekers northward continued through the fluid European borders created by the Schengen Area. Eventually, the EU made a deal with Turkey to limit asylum-seekers travelling through to Europe and take on the


\(^{135}\) Betts and Collier, *Refuge*, 89.
responsibility itself in exchange with billions of euros and potential membership in the EU.\textsuperscript{136} To this day, Turkey’s EU membership is still being negotiated.

In the meantime, Germany made a slew of legislative adjustments to its refugee program. At first, the German government planned to expand and reinforce refugee programs. On August 1, 2015 the Act to Redefine the Right to Stay and the Termination of Residence re-iterated the 1993 asylum directive, but also defined residence permit specifications for refugees.\textsuperscript{137} On October 24, 2015, the “the Act on the Acceleration of Asylum Procedures entered into force” to speed up asylum proceedings, reform integration measures once again, and replace in-kind benefits with cash benefits.\textsuperscript{138} On November 1, 2015, Germany enacted the Act to Improve the Housing, Care, and Treatment of Foreign Minors and Adolescents to aid young unaccompanied refugees. However, new refugee legislation was also focused toward limiting the incoming asylum seekers to Germany. For example, on February 25, 2016, the German Parliament passed “Asylum Package II”, which decreased the monthly cash benefits of asylees, increased Germany’s capacity for deportation, suspended refugee family reunification in certain cases for two years, and increased the German list of “safe countries”, among other policy alterations.\textsuperscript{139} Simultaneously, the Integration Act of 2016 was enacted in order to improve Germany’s vocational training and employment opportunities for refugees.

Although the number of asylum seekers coming to Germany has continued to decline over the next couple of years, Germany still received 161,900 asylum application in 2018, the most of any European country. Germany released another mixed package of seven refugee laws

\textsuperscript{136} Betts and Collier, \textit{Refuge}, 92.
\textsuperscript{138} Ibid.
\textsuperscript{139} Ibid.
in response to their high number of asylum seekers and still-struggling refugee program in 2019. One of these laws, known as the “Orderly Return Law”, made it easier to deport rejected asylum seekers.\textsuperscript{140} Another, called the residency obligation rule, restricted refugees’ freedom of movement by requiring them to live in given the regions of Germany where they were registered.\textsuperscript{141} The other laws represented positives for refugees and asylum seekers by increasing cash benefits for some asylum seekers, allowing refugees to live in reception facilities longer, and making it easier for skilled foreigners to find jobs.\textsuperscript{142} Overall, Germany’s latest introduction of laws presents a peculiar image to the public: it seems that the country’s government wants fewer unskilled asylum seekers and refugees to enter the country, but it still wants to better integrate some aspects of life for the refugees that it currently has.

With regard to location, Germany has tried to keep hosting adherent to a distribution quota. Germany’s distribution system, called the Königstein distribution quota, is weighted by one-third times “the percentage of the state population as a share of the total population in Germany” plus two-thirds times “the percentage of state tax revenue as a share of the total revenue in Germany.”\textsuperscript{143} Therefore Germany tries to keep an equitable distribution of its 1.1 million refugees around the country based on the population and relative wealth of a given region. Once refugees are have been allocated, states within Germany must distribute the refugees within its borders.\textsuperscript{144} Obviously, this will lead to conflicts between the distribution of refugees by the German state and the goals of refugees.


\textsuperscript{141} Ibid.

\textsuperscript{142} Bathke, “German Policy Package on Migration: What Will Change for Asylum Seekers and Migrants?”


\textsuperscript{144} Ibid.
The following map by the Brookings Institute shows the intended concentration of refugee populations in Germany since 2015:

![Map of Germany's intended refugee concentration.](https://www.brookings.edu/research/cities-and-refugees-the-german-experience/)

Germany’s refugee program has been very cognizant of its weaknesses throughout its development, and despite certain controversial measures and legal statements, the country has made a legitimate effort to fully integrate incoming refugee populations with Germany’s native one. The German government has revamped its refugee policy on numerous occasions in recent history, which makes its current stances very clear to judge, but also makes it very early to accurately judge outcomes for the country’s new refugee policies.

---

145 Figure 3. This image comes from a map by the 2016 Brookings Institute study called “Cities and Refugees: The German Experience” to show Germany’s refugee distribution by region in 2015. Image from https://www.brookings.edu/research/cities-and-refugees-the-german-experience/.
Those afforded refugee protection in Germany receive a residence permit for three years, may obtain a settlement permit after 3-5 years if other conditions are met, “such as the ability to make a secure living and adequate knowledge of German”, have unrestricted access to the labor market, and are entitled to privileged family reunification. Refugees also possess “unrestricted access to the unemployment and welfare package known as Hartz IV [named as such because these were the final set of labor reforms introduced by the “Hartz Committee” led by Peter Hartz], for those who are unemployed or have a low-income job and are in need of assistance” as well as extensive integration courses for language and lifestyle adjustment. Naturalization for refugees in Germany is contingent upon the following factors: staying in Germany for 8 years legally and without interruptions, obtaining sufficient German language skills (meaning at least “B1”, or intermediate level), passing a “naturalization test”, being able to cover costs of living for themselves and their families, and having no past felony convictions. This is the same naturalization process that most foreign nationals in Germany face. Furthermore, “Persons with refugee status… are entitled to take up vocational training as well as school or university education, if they can prove that they have the necessary qualifications” and they may receive the same support for costs of living to do so as German citizens. And while refugees are afforded freedom of travel anywhere in the country, residence rules to maintain equitable refugee distributions mean that “refugees should, as a rule, be obliged to reside in the town or district to which they had been accommodated during the asylum procedure” according to most German

---

146 Katelyn Leader (2019), Article 2, 7.
147 Ibid.
149 Ibid, 122-123.
Germany also possesses strict legal frameworks for refugee non-refoulement, even if it has been made asylum seekers easier to deport through recent legislation.

Despite Germany’s difficulties in managing its asylum seeker influx in the last few years, the country has successfully avoided many of the pitfalls of other countries. First, Germany has had a relatively high political will to host refugees, which means that the federal government was able to reimburse states to the tune of 8.5 billion Euros in 2016 for integration, hosting, and program administration. Fortunately, the German economy is strong enough to support its large refugee population and implement programs without relying heavily on foreign aid. The country also manages to successfully distribute its over 1 million refugees without overburdening populations through its unique quota system, leaving funding decisions and housing allocation decisions to municipal and regional governments. On the other hand, one potential downside of Germany’s funding distribution and delegation of responsibility is that the funding might be used in more appropriate and efficient ways in some regions than others. While some places like Berlin and Hamburg have seen success in coordinating service delivery and finding innovative housing solutions, other places might not have the same success. For example, “the local immigration office in Bavaria has shown a reluctance to grant permits for work or to access to three-year apprenticeships.”

The German refugee program also ramped up its mandatory integration program administration from 2005-2015. During this time, refugee program participation percentage in

---

152 Ibid.
Germany also rose. Integration programs, including German language programs and financial literacy programs, have been shown to improve the performance of young refugees in schooling and to help those in the labor market more easily acquire jobs. Increasing Germany’s budget and administration for refugee programs seems to be necessary because “it took around 20 years for earlier waves of refugees to attain the employment rate of the national population” and refugee unemployment in Germany with the currently hovers around 40%, which is over eight times that of the German population. Germany also used its vocational training programs to increase the number of refugees in apprenticeships in 2017 by 140%, but it remains to be determined if this will be enough to bring the whole population to sustainable levels of living. Vocational programs to guide employment pathways are especially important for Germany’s current employment policy because refugees in the country need to attain an initial work authorization after arrival contingent “on the premise that their employment doesn’t negatively affect the employment prospects of German nationals, EU citizens, or permanent residents.” Therefore, refugees must find avenues of employment that don’t directly interfere with the employment chances of Europeans under current policy.

While Germany is slowly improving its employment rate for refugees, statistics show that 50% of incoming refugees will still be unemployed five years after arrival and that this “percentage is estimated to drop to 25 percent only after 14 years.” Meanwhile, the German government is currently experiencing a labor shortage in both skilled and unskilled labor. To

---

156 Ibid, 153.
158 Ibid.
159 Ibid.
remedy this, Germany has tried to recruit skilled and specialized workers from outside the EU to remedy it on a short-term basis; simultaneously, the country has performed an admirable job of recruiting refugees into vocational training programs to increase the number of refugees working in fields of skilled labor. However, a massive untapped potential still exists for unemployed refugees to perform roles in the labor market because nearly half a million refugees were looking for work in Germany at the end of 2018.\textsuperscript{161} Hiring unemployed refugees for unskilled labor, while educating and providing vocational training for other refugees to fill necessary roles may prove a more effective long-term solution to Germany’s labor shortage than increasing foreign recruitment. The development of refugee vocational training has been a huge boon for refugees in Germany, but many aspects of Germany’s refugee policy still convey mixed signals about refugee employment.

On the other hand, Germany’s educational inclusion of refugees has been an unambiguous story of institutional and program-based development. Over the last 5 years, the country has made primary, secondary, and even tertiary education accessible to refugees. In fact, only five percent of refugee children were not attending school in 2016, though most were enrolled in general primary schools.\textsuperscript{162} It is important to continue emphasizing German language training for refugees to ensure that they are able to continue advancing through the educational system and avoid overreliance on special needs classes. Meanwhile, the German Academic Exchange Service has adopted measures to support refugees as far as tertiary education in Germany through counselling, supplemental funding, and additional advanced language training.\textsuperscript{163} The number of refugees in German universities has reportedly increased 10-fold in

\textsuperscript{161} Trines, “The State of Refugee Integration in Germany in 2019.”
\textsuperscript{162} Ibid.
\textsuperscript{163} Ibid.
the last three years, but it remains to be seen how Germany’s increased language training will continue to support this process.\textsuperscript{164}

The most controversial aspect of German refugee policy, however, is one that does not fall fully under the purview of this thesis. Nevertheless, it bears mentioning the vast discrepancy between Germany’s policy for refugees and for asylum seekers. As mentioned before, Germany’s recent legislation on refugees and asylum seekers has focused primarily on integrating refugees and restricting the capabilities of asylum seekers. The “Orderly Return Act”, which constituted part of Germany’s 2019 refugee policy bundle, restricts asylum seekers’ knowledge of deportation proceedings, gives the government the right to put them into prisons rather than reception facilities, and reduces their maximum time in reception facilities from 18 months to 6 months.\textsuperscript{165} Established asylum seekers who speak German and have found work can temporarily stay in the country and “qualified migrant laborers can now come to Germany for a short time to look for a job without an employment contract”, but leniency for new asylum seekers is lower than ever.\textsuperscript{166} Some reports indicated that the German government discretely separated refugee arrivals by nationality over the last five years to expedite application processing and the strengths of different claims.\textsuperscript{167} In the words of Professor Thomas Groß from the Osnabrück University Institute of Migration Research and Intercultural Studies, “The basic idea [reflected in the new legislation] is that only people who were admitted to Germany in the regular procedure of visa are welcome, but people who came on their own and claimed to be refugees, are not

\textsuperscript{164} Trines, “The State of Refugee Integration in Germany in 2019.”
\textsuperscript{166} Bathke, “German Policy Package on Migration: What Will Change for Asylum Seekers and Migrants?”
\textsuperscript{167} Casey, “The Two Contrasting Sides of German Refugee Policy.”
While this thesis deals with the rights of refugees and not asylum seekers, the new policy package sends the message to potential refugees in Germany that the doors to asylum may be closing rapidly as refugee legislation changes every few years.

Here is a timeline of Germany’s relevant signed refugee legislation for their refugee program:

<table>
<thead>
<tr>
<th>Legislation Year Implemented</th>
<th>Legislation Name</th>
<th>Description of Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1953</td>
<td>Ratification of the 1951 Refugee Convention</td>
<td>Established the basic definition of a refugee</td>
</tr>
<tr>
<td>1982</td>
<td>Ratification of the Asylum Act</td>
<td>Serves as the basis of Germany’s refugee policy</td>
</tr>
<tr>
<td>1993</td>
<td>Passage of the “Asylum Compromise”</td>
<td>Reduced the scope for asylum seekers to apply for asylum in Germany</td>
</tr>
<tr>
<td>2005</td>
<td>Institution of the Immigration Act</td>
<td>Acknowledged Germany as a destination for immigrants</td>
</tr>
<tr>
<td>2007</td>
<td>Passage of the National Integration Plan</td>
<td>Created a national strategy for refugee integration based on over 400 measures</td>
</tr>
<tr>
<td>2012</td>
<td>Implementation of the National Action Plan on Integration</td>
<td>Updated and set specific targets for the National Integration Plan</td>
</tr>
<tr>
<td>2015</td>
<td>Passage of the Act to Redefine the Right to Stay and the Termination of Residence</td>
<td>Reinforced the Asylum Compromise and defined residence permit specifications for refugees</td>
</tr>
<tr>
<td>2015</td>
<td>Passage of the Act on the Acceleration of Asylum Procedures</td>
<td>Sped up asylum proceedings, reformed integration, and switched refugee benefits</td>
</tr>
<tr>
<td>2015</td>
<td>Passage of the Act to Improve the Housing, Care, and Treatment of Foreign Minors and Adolescents</td>
<td>Offered support to unaccompanied refugee minors until adulthood</td>
</tr>
<tr>
<td>2016</td>
<td>Passage of Asylum Package II</td>
<td>Increased deportation measures and lowered benefits for asylum seekers</td>
</tr>
<tr>
<td>2016</td>
<td>Ratification of the Integration Act</td>
<td>Promoted labor market integration through vocational training and employment opportunities</td>
</tr>
<tr>
<td>2019</td>
<td>Passage of Germany’s policy package</td>
<td>Passed 7 separate laws to expedite deportation of asylum seekers, enable</td>
</tr>
</tbody>
</table>

---

168 Brenner and Kessing, “Germany's New Migration and Asylum Legislation?”
Through an abundance of signed legislation, Germany has made numerous commitments to refugee rights and services in the country. Germany generally adheres to the mandates of the 1951 Refugee Convention, hosts more than its global share of refugees, and possesses the resources necessary to provide for them. However, there are two articles of the Refugee Convention that Germany does not fully obey: Articles 3 (non-discrimination) and 26 (freedom of movement). Germany discriminates between asylum seekers based on country of origin via the “Asylum Compromise” because it prevents asylum seekers on the “safe countries” list from applying for asylum in Germany, even if their asylum claims are valid. Germany also uses regional hosting services to distribute refugees and places restrictions on them if they choose to reside elsewhere in the country, though they can travel anywhere they wish. Although the High Administrative Court of North Rhine-Westphalia ruled the residence obligation for refugees unconstitutional in 2018, the other regions of the country continue to use this measure. While neither of these acts explicitly violates the 1951 Refugee Convention per se, these policies could be interpreted as restricting the rights of refugees. Based on German policies toward refugees, the following are some key recommendations:

First, Germany must remove the part of its Basic Law amended by the “Asylum Compromise” (in section 16a) that defines a list of “safe countries” from which asylum seekers cannot apply for asylum in Germany. Preventing persecuted individuals coming from stable countries from applying for asylum is an act of discrimination that may be convenient for German asylum decision-making parties, but does not guarantee equal rights for refugees. For

---

example, a refugee from one of Germany’s neighbors, like Poland, could not apply for first asylum in Germany because all EU member states are considered “safe”, even if they have a valid asylum claim.

Second, Germany must allow refugees to relocate to other areas of the country after their initial residence permit of three years. Ideally, refugees would be able to move where they wish in the country, but distributing refugees across the country ensures that they all receive sufficient housing, programs, and aid. It is within Germany’s rights to distribute refugees to given regions given their high quantity of refugees, but they cannot force them to stay beyond an initial adjustment period. Doing so violates refugee freedom of movement.

Third, Germany ought to standardize program administration as well as the criteria for granting work permits and settlement permits across states. All refugees are not being treated equally if some areas have a vastly higher rate of work permit distribution and greater access to integration programs, or vice-versa. A committee must be created by the German federal government to oversee and standardize regional policies and ensure fair practice for refugees.

Fourth, Germany ought to reinforce its language program administration to ensure that all refugees stand a reasonable chance of attending higher education or obtaining jobs. So far, Germany has shown a noticeable improvement in this area, but too many adult refugees remain unemployed and too many refugee children are forced to attend “special needs” education programs. Increasing funding in this area would pay massive dividends for refugee economic integration and economic contribution to Germany.

Fifth, Germany ought to create more employment programs and networks for unskilled laborers on top of its existing vocational training programs. Together with more advanced language classes, Germany could address its labor shortage by using the nearly half a million
unemployed adult refugees across the country. Vocational training programs are doing well to fit specific gaps in the economy, but a great number of refugees are not able to earn money while there are spots in the labor market that their skills could fill at this moment.

Sixth, Germany should continue to work via international platforms and incentives in the EU to establish an equitable responsibility-sharing system for refugees across Europe. Germany is currently taking on a disproportionate burden compared to the rest of Europe and without any change in international policy or will, the refugee situation in Europe will remain turbulent.

On a final note, Germany is currently experiencing a rightward shift in politics that has damaged asylum seekers’ chances of receiving asylum in Germany. It is nearly impossible to account for future political will, but it is important to note that more rightward shifts in Germany’s refugee policy will necessarily infringe upon the rights of both refugees and asylum seekers in the country. The German government ought to keep in mind its international obligations, their duty of rescue, and the potential economic and social benefits brought by refugees in order to keep another unconstitutional change of policy in check.
Italy.

Italy is another major European host of refugees, but plays a different role from Germany with regard to the refugees and asylum seekers it receives. From the end of 2018, the refugee population in Italy was 189,243. Due to Italy’s status as a European coastal nation, it receives a high number of asylum seekers through the Mediterranean, though the number and country of origin varies from year to year. According to the BBC, the flow of asylum seekers from 2014-2017 consisted of first of those “from Tunisia, followed by Eritrea, Sudan, Nigeria, and Pakistan.” In 2018, those from Pakistan comprised the largest part, followed by Nigeria and Bangladesh. While almost all of Italy’s current refugees were asylum seekers entering their country from either the Mediterranean or Germany who were granted asylum in Italy, the country has signed on to an EU Refugee Resettlement Plan (similarly to most other countries in the EU), setting a goal to resettle 1000 refugees from the Middle East and Africa in 2018/2019; the resettled refugees were meant to come primarily from Syria, Eritrea, Ethiopia, Palestine, and Sudan with Libya, Turkey, Sudan, Jordan, and Lebanon as their countries of first asylum.

It is necessary to make one further distinction before proceeding with respect to Italy’s refugee history and program. Italy’s population of refugee status holders consists almost exclusively of asylees. Still, Italy grants the same refugee status and protection to both asylees

---

and resettled refugees within the country, so this paper will refer to both categories under the umbrella term, “refugee” for the remainder of this section. ¹⁷⁵

Much like Germany, Italy was a country of emigration until the late 20th century. From 1861-1985, over 26 million Italians emigrated from the country, with emigration rates being greater than immigration rates in nearly every decade. ¹⁷⁶ Between 1880 and 1915 alone, 13 million people left Italy voluntarily, predominantly for the Americas and other areas of Europe. ¹⁷⁷ This actually became a source of concern for the Italian government, which instituted a number of laws and measures to control emigration into the mid 1900s. During World War II, the Italian fascist regime reinforced stricter legislation to prevent emigration from the country. ¹⁷⁸ In essence, the Italian government was not even concerned with immigration of any kind compared to its emigration wave leading up to the 1940s.

Italy’s first experience with refugees in the modern era, as with most European countries, occurred in the wake of the Second World War. Immediately after the war, millions of Europeans were displaced and hundreds of thousands of refugees came to Italy, whether they were Jews escaping from Eastern Europe, Spaniards escaping from the regime of Franco, or Italians escaping from ceded territory annexed by Yugoslavia. ¹⁷⁹ Suddenly, asylum legislation became a necessity for Italy and in the new Italian Constitution, Article 10 stated that “foreigners to whom the actual exercise of the democratic freedoms guaranteed by the Italian Constitution is

denied in their own country, shall be entitled to the right of asylum within the territory of the Republic, under conditions laid down by law.”180 While this legislation entailed some vague legal conditions “laid down by law”, Italy finally began to set a humanitarian agenda for asylum seekers. In 1947, Italy renounced sovereignty over its African colonies and an estimated 206,000 migrants came to Italy from Libya, Ethiopia, Eritrea, Ethiopia, and Somalia in the country’s biggest immigrant influx of people from outside of Europe until then.181

Soon thereafter, Italy acquiesced to the 1951 Refugee Convention in 1954, but retained its geographical limitations on refugee rights for decades. Despite ratifying the 1967 Refugee Protocol in 1972, Italy still refused to recognize asylum seekers from outside of Europe or grant them a legal right to work.182 While the Italian government continued to refuse non-European asylum seekers, the UNHCR “was conducting refugee status determination (RSD) under its mandate for non-European asylum seekers, usually through interviews conducted at the airport at the request of the Italian authorities”, effectively performing the Italian government’s refugee obligations.183

In 1990, Italy enacted Law no. 39, also known as the Martelli Law, which abolished Italy’s geographic restrictions on refugee protection, “set out the basic rules for asylum admissions and processing in the country, and created Italy’s first comprehensive immigration legislative framework.”184 One major flaw of the Martelli Law was that it kept all immigration in Italy to an emergency-based approach, failing to create enough reception centers for hosting

---

181 Bonifazi et al., “Italy: The Italian Transition from an Emigration to Immigration Country,” 7.
183 Ibid.
and neglecting to enact proper measures for the deportation of incoming migrants and asylum-seekers. 185 This law was far from perfect, but it formed the basis of Italy’s immigration programs. From this point onward, the UNHCR continued to work closely with the “Italian Refugee Council (CIR) to establish a network of information services for asylum seekers at official arrival points at sea ports and international airports.” 186

Italy began to experience its first major mixed migratory flows from the sea at the same time. In 1991, a tens of thousands of Albanian refugees began arriving on the shores of Puglia in Italy after the collapse of the Soviet Union. The new Italian immigration failed its first test almost immediately as it forcibly repatriated 21,000 Albanian refugees in August after being forced to hold them in a football stadium for days. 187 It was clear that the new Italian migration controls were not yet ready to handle large incoming populations of asylum seekers. Until the late 1990s, the main migrants to arrive in Italy were economic migrants from Tunisia and Morocco as the channel between North Africa and Sicily began to open. 188 Despite relatively few refugees entering Italy at this time, immigration rates had gradually overtaken emigration rates in the country. 189

In 1998, the Italian government made significant progress in guaranteeing refugee rights with the passage of the Turco-Napolitano Law, which separated refugee issues from general immigration issues in the country and began to establish measures for refugee integration in Italy. 190 The country followed this up with the National Asylum Program (PNA) in 2000,

185 Bonifazi et al., “Italy: The Italian Transition from an Emigration to Immigration Country,” 28.  
186 Tennant and Janz, “Refugee Protection and International Migration: a Review of UNHCR’s Operational Role in Southern Italy,” 12.  
187 Bonifazi et al., “Italy: The Italian Transition from an Emigration to Immigration Country,” 78.  
188 Tennant and Janz, “Refugee Protection and International Migration: a Review of UNHCR’s Operational Role in Southern Italy,” 11.  
189 Bonifazi et al., “Italy: The Italian Transition from an Emigration to Immigration Country,” 80.  
190 Scotto, “From Emigration to Asylum Destination, Italy Navigates Shifting Migration Tides.”
creating Italy’s “first, fully fledged national framework for the reception of asylum seekers and refugees.”\textsuperscript{191} The second Berlusconi government continued to advance the creation of the Italian refugee program in 2002, establishing the “System for the Protection of Asylum Seekers and Refugees” (SPRAR) as a national program to oversee Italy’s refugee services, aid with integration support, and to delegate centers and programs to be run by the local municipalities of Italy.\textsuperscript{192} However, establishing SPRAR centers proved too costly to implement quickly, so the Italian government also instituted extraordinary reception centers (CAS) to most the majority of refugees and asylum seekers until SPRAR is fully developed.\textsuperscript{193}

During this time, the UNHCR and an assortment of NGOs continued to aid the Italian government through the Praesidium Project, founded in 2006. The Praesidium project was a collaborative effort between the International Organization for Migration (IOM), the Italian Red Cross, Save the Children, the UNHCR, and the Italian Ministry of the Interior for the purpose of “enabling the provision of information to those who arrived and the identification of appropriate channels for their reception and access to appropriate legal and administrative procedures.”\textsuperscript{194} The Praesidium Project was a breakthrough process for multilateral information-sharing to better allocate funding and improve the country’s capacity to manage mixed migration flows. Unfortunately, the Praesidium Project was discontinued in June of 2015 for newcomers to Italy after reported staff shortages.\textsuperscript{195}

\begin{footnotes}
\footnotetext[192]{Ibid.}
\footnotetext[193]{Ibid.}
\footnotetext[194]{“The Praesidium Project,” Migrants in Countries in Crisis, 2012, https://micicinitiative.iom.int/micicinitiative/praesidium-project.}
\end{footnotes}
Until 2011, Italy had hosted a relatively low number of refugees and asylum seekers compared to the rest of Europe. However, the onset of the Arab Spring meant that tens of thousands of asylum seekers travelled to Italy each year from 2011-2014, a number that multiplied greatly with the onset of the Syrian refugee crisis in 2015. Unlike with Germany, this was not a case of Italy agreeing to take on the refugee crisis as an international commitment. Rather, it was a consequence of Italy’s position as a coastal European nation, stationed as the first country of arrival for hundreds of thousands. According to the Migration Policy Institute, Italy received “154,000 asylum seekers and migrants… in 2015 and 181,000 in 2016.” The Italian reception system was rapidly overwhelmed by the sudden rise in incoming migrants, so the Italian government adopted a novel “hotspot approach” at the end of 2015. “Hotspots” create designated areas of disembarkment in Italy to immediately place incoming asylum seekers into asylum procedure. They essentially represent “rebranded” reception centers that have come under considerable controversy in recent years due to mandatory fingerprinting procedure and subpar living conditions. Furthermore, incoming foreigners’ claims in hotspots are first evaluated by police forces, which human rights lawyers contend is a violation of the right to asylum. According to Amnesty International, police forces in hotspots sometimes use excessive force to identify and evaluate incoming asylum seekers and do not utilize comprehensive measures for accurate refugee status determination.

In 2017, the Italian government implemented a much less controversial measure when it passed the country’s first National Integration Plan for persons entitled to international protection

---

196 Scotto, “From Emigration to Asylum Destination, Italy Navigates Shifting Migration Tides.”
197 Ibid.
199 Ibid, 2222.
in Italy. Under this plan, the Italian government finally implemented a comprehensive policy for developing refugee programs instead of its previous framework for emergency asylum seeker responses. The National Integration plan implemented new protections for vulnerable groups, including women and unaccompanied minors, created programs for social, cultural, vocational, and language-based training services, extended better access to healthcare and housing, strengthened anti-discrimination enforcement, and formed a National Integration Council to ensure that targets were being met.\textsuperscript{201} Perhaps most importantly, the plan intended to move refugees from large reception centers to fair and equal distributed housing across the country, accompanied by a corresponding allotment of funds to each area. With this legislation, Italy had the potential to host one of the most progressive refugee hosting plans in the world.

Unfortunately, Italy mirrored Germany by pairing advanced integration plans with restrictions for new asylum seekers and refugees. In October 2018, the Italian government passed a decree that eliminated asylum seekers grounds for asylum on all bases except for political persecution and war, refusing to give asylum on most internationally decreed humanitarian grounds. This effectively meant that the internationally agreed upon grounds for asylum of persecution basis of race, religion, nationality, political opinion or membership in a particular social group no longer applied in Italy. It also accelerated asylum procedures, excluded asylum seekers from SPRAR centers, and made conditions for obtaining a residency permit more strict.\textsuperscript{202} Accordingly, the SPRAR system was renamed to SIPROIMI, or the “Protection System for Beneficiaries of International Protection and for Unaccompanied Foreign Minors”, which


restricted second tier reception facilities to refugees and those offered subsidiary protection, removing asylum seekers from such protections.

In June 2019, the Italian government signed yet another decree that would allow the “Minister of the Interior to limit or prohibit the entry of non-military and non-governmental vessels in Italian territorial waters.”\(^2^0^3\) This law would effectively make it illegal for asylum seekers to come to Italy through the Mediterranean, if the Minister of the Interior so chooses.

The purpose of the SPRAR system was to ensure that local institutions all accept a small number of refugees and asylum seekers, making Italy’s role in managing increasing mixed migration flows manageable.\(^2^0^4\) However, with local municipalities being able to choose whether or not to allow certain numbers of asylum seekers and refugees, the 2017 National Integration Plan became necessary. While no easily-accessible map exists for Italy’s distribution of refugees as of SIPROIMI, the below map demonstrates that as of 2016, the concentration of refugees and asylum seekers within Italy remained focused in the South, as recorded by the former SPRAR system. It remains to be determined whether this distribution will change notably as the National Integration Plan takes full effect. In the meantime, refugees in Italy live in small and large reception centers, housing provided by civil organizations, and previously abandoned houses provided by small depopulated villages such as Sutera, Riace, and Camini.\(^2^0^5^2^0^6\) To this day, initial housing decisions for both resettled refugees and refugees granted asylum by Italy occur through the discretion of SIPROIMI if they wish to benefit from free housing.


\(^2^0^5\) Ibid, 4.

\(^2^0^6\) Information about Camini’s refugee housing solutions comes from the author’s personal experience volunteering in the town during the summer of 2017.
The following map shows Italy’s distribution of asylum seekers across the country as a function of the total population of each region:

While Italy has a variety of systems in place meant for managing asylum seeker entry and registration, Italy’s initial centers to provide services for refugees are SIPROIMI projects and the subsequent services that it pledges to create, monitor, and sustain are those created by the 2017 National Integration Plan. After either receiving asylum in first-line government reception centers or being resettled from another country, refugees in Italy are entitled to free housing in SIPROIMI projects for an initial 6 months, which may be extended to 12 months if deemed...
necessary to complete the person’s integration trajectory or to care for extraordinary circumstances such as health problems or vulnerabilities. SIPROIMI projects are accommodation facilities that exist in order to offer programs such as “language courses, work integration programs, psychological support, legal counselling and other services” to refugees. SIPROIMI projects dictate in which centers refugees get to live; if a refugee chooses to live elsewhere, they forfeit access to the services and protections of SIPROIMI. After the expiration of SIPROIMI services, refugees may seek public housing (as they have the same rights to public housing as Italian nationals) through the Italian government, social housing via private accommodation facilities owned by catholic or voluntary associations, or they may purchase private housing if they have the financial means to do so. Unfortunately, there is currently no housing solution in place for refugees between SIPROIMI accommodation and acceptance of an application to public or private housing in a municipality. However, the Italian government affords full freedom of movement to refugees within the country and they may choose to reside in any municipality if they can provide for themselves.

Upon receiving refugee status, refugees in Italy are granted 5 year residence permits. These permits are renewable, but require a registered address to be provided to the police, which can be difficult for refugees residing in organization-provided housing because not all Questuras [General Headquarters of Internal Police] “accept an organization’s address as domicile and also the organisations not always allow beneficiaries of protection to use their address.”

---

209 Ibid, 51.
211 Swiss Refugee Council, “Reception Conditions in Italy,” 63.
213 Ibid, 134.
primary reason for the rejection residence permit renewals is the commission of felonies. Residence permits also allow refugees full access to the labor market, including work, public employment, and “the same treatment as Italian citizens in matters of employment, self-employment, subscription to professional bodies, vocational training, including refresher courses, for training in the workplace and for services rendered by employment centres.”214 However, the administration of additional programs to support refugee community involvement and training occur at the discretion of local municipalities and NGO service provision to this day.

Refugees can obtain long-term resident status after residing in Italy for over 5 years and possessing “an income equal or higher than the minimum income guaranteed by the State.”215 Refugees are also afforded additional leniency in case of vulnerabilities for the income requirement, as living in a free dwelling provided by a charity or aid organization can contribute up to 15% of the income requirement.216 Italy does not require refugees to prove their language proficiency for long-term residency nor do refugees have to prove the hygiene and health conditions of their accommodations, unlike other third country nationals. The Italian government also allows access to naturalization for refugees. Refugees may apply for citizenship after five years of uninterrupted legal residence. Other requirements for naturalization include knowledge of the Italian language (at a B1, or intermediate level) and a demonstration of sufficient social inclusion.217 According to the Asylum Information Database, “as evidence of social inclusion, it is usually requested that the income of the last 3 years be equal or higher than the minimum income guaranteed by the State.”218

---

216 Ibid, 137.
217 Ibid.
218 Ibid, 138.
With regard to education, the Italian government supplies refugees with adequate access to primary and secondary education, but so far has failed to utilize the educational measures set out by the National Integration Plan, as has been the case with vocational and language training. According to Italian law, all minors in the country under the age of 16 of any legal status possess the right to education. Meanwhile, refugees or beneficiaries of subsidiary protection have the same rights to education as other non-citizens in Italy. As it stands, Italian law “does not allow the establishment of special classes for foreign students” and advises the administration of Italian language labs, but does not require them.\(^\text{219}\) Therefore, it is primarily the decision of regional and local school boards whether to adjust academic curricula in order to accommodate foreign students. The Italian government has begun to offer scholarships for refugees in tertiary education only as of 2018 for those whose studies were interrupted in their country of origin.\(^\text{220}\) Otherwise, the responsibility of providing additional educational aid and programs to refugees has fallen on NGOs and private actors.

Although the Italian government gives small sums of monthly financial support to asylum seekers until their decisions are rendered, refugees do not receive additional funding from the Italian government as of six months after their asylum decision is rendered.\(^\text{221}\) Consequently, refugees receive the same access to healthcare and social security as other Italian nationals from that point onward. This means that under the new Universal basic income system in Italy, most refugees do not qualify because its provision in Italy requires ten years of legal residence in the country.\(^\text{222}\) Furthermore, in order to receive Universal basic income, applicants must have an


\(^{221}\) Swiss Refugee Council, “Reception Conditions in Italy,” 59.

income below a certain level, have no real-estate above a given value abroad or in Italy, and they must not possess valuable movables. This has proven incredibly problematic for refugees because in recent cases, the Italian National Institute of Social Security (INPS) “even suspended the application of recognised refugees who were unable to show proof of fulfilment of the economic preconditions from their country of origin.”\footnote{Swiss Refugee Council, “Reception Conditions in Italy,” 61.} In practice, Italy has made it incredibly difficult for refugees gain access to social welfare.

Overall, Italy’s refugee program succeeds in securing basic rights for refugees and granting them immediate support through SIPROIMI projects. In many cases, refugees legally have the same access to services as Italian citizens, including education, access to employment, freedom of movement, and more. Many small Italian towns that had become farming villages due to depopulation have benefited from “refugees, who are also thriving in their new environments by opening up businesses, increasing demand for goods, filling homes, and paying taxes” all over the south of Italy.\footnote{Cole McQuirk, “The Reality of the Refugee Crisis in Italy: A Look into the Lives of Illegitimate Refugees and the Unofficial Organizations That Support Them,” (ScholarWorks@UARK, 2018), https://scholarworks.uark.edu/cgi/viewcontent.cgi?article=1038&context=mktguht, 6.} The Italian government has even recently passed it National Integration Plan framework to give better long-term support to refugees through comprehensive programs and switch from their emergency-based hosting approach of the past. If the programs within the National Integration plan could be utilized to improve the housing options, employment opportunities, access to welfare, and access to educational and integration-based programs, the Italy’s refugee program has the potential to be one of the most progressive and noteworthy in the world.
However, the current “Italian system is based on the assumption that people with protection status can and must take care of themselves.”\textsuperscript{225} Italy as a coastal nation has spent so much effort and resources on managing inflows of asylum seekers and migrants that the refugees who have either been resettled to Italy or have been granted asylum within the country are often left ignored. Italy’s primary system to provide services for refugees at the moment is SIPROIMI, which provides comprehensive care, aid, housing and programs through SIPROIMI projects, but only serves refugees for 6-12 months. After that point, refugees must find housing, search for employment, receive an education, apply for social services, and potentially strive for naturalization without government support. Italy’s unemployment rate was 10\% as of 2019 and much higher for youth populations, access to public housing in the country can take up to a few years, and it takes more than 6-12 months of language training to become proficient in a new language.\textsuperscript{226} As a result, the emergency-based Italian approach to hosting has led to massive problems of homelessness, irregular labor, and a lack of integration for refugees across much of the country.\textsuperscript{227}

Furthermore, current asylum seekers arriving to Italy must face an administration that does not want to accept more migrants of any kind. Former Deputy Prime Minister of Italy, Matteo Salvini, was recently ousted from government in September of 2019 and put on trial for illegally preventing over 116 migrants from disembarking in Sicily for close to a week.\textsuperscript{228} During his time as Deputy Prime Minister, Salvini was responsible for passing multiple laws that limited the rights of asylum seekers as well as their ability to land on Italian soil. For instance, renaming

\textsuperscript{225} Swiss Refugee Council, “Reception Conditions in Italy,” 58.
\textsuperscript{226} Ibid, 63, 64, and 71.
\textsuperscript{227} Ibid, 67 and 71.
Identifying Better Refugee Policies

SPRAR for SIPROIMI in October 2018 did more than merely change the name of Italy’s second-line reception facilities; it removed asylum seekers from the second-line of Italian reception altogether, taking away their access to basic rights and services, but leaving some aid such as emergency healthcare. Additionally, limiting the grounds upon which asylum seekers could apply for asylum in Italy constitutes a breach of the 1951 Refugee Convention. And while some small rural villages in Italy are happy to accept refugees to boost their economies, regions such as Friuli-Venezia Giulia restricted access to public housing to those who had not lived in Italy for at least five years, preventing potential refugees from entering.\(^{229}\) On top of that, the regions of Gorina, Ferrara, and Emilia-Romagna forcefully expelled asylum seekers from their territories in 2016.\(^{230}\) Italy’s unwelcoming political climate could serve as a major inhibition to Italian refugee policy moving forward.

Given Italy’s focus on managing asylum seekers and developing asylum seeker policy in recent years, it is especially surprising how poor their reception system for asylum seekers has been. The UNHCR has expressed concerns at the ill-treatment of asylum seekers in reception facilities, including excessive force by police, substandard living conditions, and limited facilities for women and unaccompanied minors.\(^{231}\) The Swiss Refugee Council has commented on the lack of acceptable reception facilities for people with health problems, “and too few adequate treatment options and available accommodation for the mentally ill in particular.”\(^{232}\) In addition, a report from the Journal of Ethnic and Migration Studies has commented on the formation of informal migrant settlements along the coast of Italy over the last decade for those

\(^{230}\) Ibid, 91.
\(^{232}\) Swiss Refugee Council, “Reception Conditions in Italy,” 88.
who either left their reception centers or never entered them in the first place.\footnote{Annalisa Busetta et al., “Measuring Vulnerability of Asylum Seekers and Refugees in Italy,” \textit{Journal of Ethnic and Migration Studies}, May 10, 2019, \url{https://doi.org/10.1080/1369183x.2019.1610368}, 1.} While the Italian government does not recognize these impromptu refugee camps, some NGOs and humanitarian organizations still provide support to them. This shows that the Italian government still requires more funding, better oversight, more comprehensive programs, and a stronger policy framework to support arriving asylum seekers.

Here is a timeline of Italy’s relevant signed refugee legislation for their refugee program:

<table>
<thead>
<tr>
<th>Legislation Year Implemented</th>
<th>Legislation Name</th>
<th>Description of Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1948</td>
<td>Enactment of the Italian Constitution, Article 10</td>
<td>Established Italy’s first asylum law</td>
</tr>
<tr>
<td>1954</td>
<td>Ratification of the 1951 Refugee Convention</td>
<td>Established the basic definition of a refugee</td>
</tr>
<tr>
<td>1972</td>
<td>Ratification of the 1967 Refugee Protocol</td>
<td>Removed geographic and temporal restrictions on refugees*</td>
</tr>
<tr>
<td>1990</td>
<td>Passage of the Martelli Law</td>
<td>abolished Italy’s geographic restrictions on refugee protection, set out the basic rules for asylum admissions and processing in the country, and created Italy’s first comprehensive immigration legislative framework</td>
</tr>
<tr>
<td>1998</td>
<td>Passage of the Turco-Napolitano Law</td>
<td>separated refugee issues from general immigration issues in the country and began to establish measures for refugee integration in Italy</td>
</tr>
<tr>
<td>2000</td>
<td>Creation of the “National Asylum Program”</td>
<td>created Italy’s first, fully fledged national framework for the reception of asylum seekers and refugees</td>
</tr>
<tr>
<td>2002</td>
<td>Implementation of the “System for the Protection of Asylum Seekers and Refugees” (SPRAR)</td>
<td>oversaw Italy’s refugee services, aided with integration support, and delegated centers and programs to be run by the local municipalities of Italy</td>
</tr>
<tr>
<td>2015</td>
<td>Adoption of the “Hotspot Approach”</td>
<td>created designated areas of disembarkment in Italy</td>
</tr>
<tr>
<td>2017</td>
<td>Creation of the National Integration Plan</td>
<td>formulated Italy’s first national refugee integration framework</td>
</tr>
<tr>
<td>2018</td>
<td>Passage of the Decree, “Urgent measures on</td>
<td>accelerated asylum procedures, excluded asylum seekers from SPRAR centers, and</td>
</tr>
</tbody>
</table>
As mentioned previously, Italy offers all basic rights to refugees in theory, but due to an emergency-based approach to hosting, does not provide sufficient programs to help them adjust to their new country. Italy essentially gives refugees the same rights as citizens, but makes them survive on their own at an extremely disadvantaged position to most native Italians. Furthermore, the country restricts the rights and living conditions of asylum seekers, creating an inhospitable environment for migrants of all kinds coming into the country. Of the articles in the 1951 Refugee Convention observed by this thesis, the only one that Italy openly disobeys is Article 33, the right to non-refoulement. Italy’s 2018 decree, “Urgent measures on international protection, immigration, and public security”, restricted the grounds by which an asylum seeker may seek asylum to political persecution and war, unjustly returning asylum seekers applying for asylum on the grounds of race, religion, nationality, or social group membership to their home countries. Any other violations of the 1951 Refugee Convention on the basis of employment, education, freedom of movement, or naturalization, occur not because of laws violating those rights, but due to a lack of adequate programs to ensure those rights. As a result of Italy’s policies toward refugees, here are some key recommendations:

First, it is essential that Italy enacts the 2017 National Integration plan in its entirety. Despite passing the plan nearly three years ago, a 2020 UNHCR report states that “most of the
recommendations and policy measures contained therein have not yet been implemented.”

Enacting the Integration Plan would ensure that refugees have a fighting chance to survive in Italy beyond their first 6-12 months in SIPROIMI projects. For example, administering language training programs to all refugees, as set out in the Integration Plan, would allow minors to perform better in the Italian education system, adults to look for jobs in the formal labor market, and give all refugees a better chance of once day attaining Italian citizenship. Additionally, expanding access to housing by extending “access to the available housing solutions, by making the provision of services homogeneous across the country and developing minimum standards for access to residential services” and expanding social housing for those in informal refugee settlements, as dictated by the Integration Plan, would represent a massive leap in solving Italian refugee homelessness.

Second, the Italian government ought to reform its access to Universal Basic Income for refugees. Whether this takes place by abolishing the five year residence requirement for only those individuals who have taken part in SIPROIMI projects, or simply continuing the stipend given to asylum seekers in the country for those with refugee status, impoverished refugees without access to employment need income to survive until they are able to find work.

Third, the Italian government must repeal the 2018 decree, “Urgent measures on international protection, immigration, and public security”. This decree limits the rights of asylum seekers and violates Article 33 of the 1951 Refugee Convention. Changing the grounds upon which an asylum seeker may apply for asylum is a blatant violation of agreed-upon international legislation and must be remedied.

---

Fourth, the Italian government must repeal the 2019 decree, “Urgent measures concerning public security and order”. Allowing Italy’s interior minister to delay or refuse the disembarkation of migrants of any kind on Italy’s coast is a violation of the right to life and the obligation to “seek and facilitate humanitarian action.”236 As mentioned before, former Italian Deputy Prime Minister Salvetti is currently on trial because he nearly let over 100 migrants die trapped at sea as a direct result of this decree.

Fifth, the Italian government ought to work in conjunction with the UNHCR, International Organization for Migration (IOM), the Italian Red Cross, and Save the Children to reinstate the Praesidium Project. For nine years, the Praesidium Project helped to provide multilateral information-gathering and monitoring of Italy’s reception facilities. It also gave asylum seekers access to legal and administrative procedures so that they could secure their rights and learn how to navigate the Italian asylum system. In 2015, the program was shut down due to staff shortages. However, with adequate funding, a renewed Praesidium project could inform the Italian government on how to improve its reception facilities, advise asylum seekers about their rights, and teach the government, NGOs, and private investors regarding where to allocate funding.

Finally, Italy ought to abolish its “Hotspot Approach” and improve the quality of its reception facilities. The country’s hotspot approach to manage newcomers has severely hindered living conditions for asylum seekers, created questionable practices of identification and law enforcement, and not provided adequate services for the most vulnerable asylum seekers. Italy must provide adequate housing to provide for unaccompanied minors and asylum seekers with physical or mental illness, but those services are not currently in place.

236 “Italy: Revoke Abusive Anti-Asylum Decrees.”
Hungary.

Hungary has performed an entirely different role from Germany or Italy when it comes to refugee hosting. While Germany leaned toward the voluntary acceptance of refugees and Italy accepted refugees as a consequence of its geographical position, Hungary has attempted to reject refugees outright. The refugee population of Hungary as of 2018 was 6,040.\(^{237}\) The country received 468 asylum applications in 2019, only 22 of which were granted refugee status, with refugees from the Middle East encountering a rejection rate close to 100%.\(^{238}\) According to NGO reports, Hungary only allows up to two asylum seekers per day and Prime Minister Viktor Orbán has refused to take part in the EU refugee resettlement program, setting no quota for refugee resettlement.\(^{239}\) Because Hungary contains virtually no resettled refugees, this thesis will once again use the term “refugee” to apply to both asylees and resettled refugees within the country. Over the last decade, Orbán’s administration has used every measure in its power, including legal measures, propaganda, and even physical force to deny migrants of all kinds from entering the country.

It wasn’t long ago that Hungarian refugees relied on the rest of the world for protection. After the Second World War, Hungarian fell under the rule of the Soviet Union as part of the famed “Iron Curtain.” Under the Soviet system of Communism and authoritarian oppression, tensions rose until a Hungarian student protest led to a protest of tens of thousands in the streets of Budapest on October 23\(^{rd}\), 1956. The Hungarian military joined the protests and by October

\(^{237}\) “Refugee Population by Country or Territory of Asylum.”
29 there were signs that the Soviet military was beginning to withdraw from the country. This wasn’t to last, however. On November 4, 1956, Soviet tanks poured back into Hungary and many Hungarian revolutionaries saw that the battle could not be won; within days, thousands of Hungarians were killed in the initial conflict, thousands more arrested, hundreds subsequently executed, and hundreds of buildings were destroyed. Over the next nine weeks, approximately 200,000 Hungarian refugees fled Hungary to Austria and Yugoslavia, charging the newly formed UNHCR with one of its first ever tasks of refugee resettlement. By 1959, the UNHCR had resettled the refugees of the 1956 Hungarian Revolution to over 37 countries, with countries in Europe, North America, South America, Africa, and Oceania welcoming them. By the early 1960s, no Hungarian refugees were left in camps and the UNHCR has its first major success in refugee resettlement.

After the 1956 Hungarian Revolution, the Soviet Union regained its control over the country and enacted strict controls over both immigration and emigration. According to the Migration Policy Institute, “emigration was only permitted in exceptional cases. Immigration was also limited, and tended to be restricted to intergovernmental agreements, family reunification (often with false marriages to obtain immigration papers), and admissions based on political decisions.” While a small number of asylum seekers entered Hungary following the Greek civil war and the 1973 Chilean coup, Hungarian borders stayed restricted and refugee policy had not solidified in Hungary.

241 Ibid.
242 Ibid, 10.
243 Ibid.
245 Ibid.
With the fall of the Soviet Union in 1989, Hungary regained its independence at last and instituted measures to drastically reform its government and economic policies. On March 14 of 1989, Hungary signed the 1951 Refugee Convention and 1967 Refugee Protocol. However, Hungary retained a geographical restriction on the 1967 Refugee Protocol so that it only recognized claims of refugees in Europe. During the mid to late 1990s, the only asylum seekers coming to Hungary were waves of Yugoslavs fleeing armed conflicts and approximately 30,000 Romanian citizens, who were predominantly ethnic Hungarians.\footnote{Juhász, “Hungary: Transit Country Between East and West.”} Still Hungary had a positive migration balance in the 1990s, with tens of thousands of asylum seekers entering and very few Hungarians leaving the country.\footnote{Attila Juhász, Csaba Molnár, and Edit Zgut, “Refugees, Asylum and Migration Issues in Hungary,” 2017, https://cz.boell.org/sites/default/files/hungary_book_aj_book_online.pdf, 7.}

In March 1998, the Hungarian government passed the Act on Asylum. The Act eliminated Hungary’s geographic restriction on asylum-seekers and established the decision-making procedures for refugees and asylees within the country. After the passage of this the Act on Asylum, Hungary began to accept asylum applicants primarily from Bangladesh, Afghanistan, and Iraq over the next few years.\footnote{Juhász, “Hungary: Transit Country Between East and West.”} The government passed yet another legislative package on asylum seekers and migrants in 2002. These new policies aligned Hungary’s policies for residence permits with those of the EU, including “a minimum of three years working and living in Hungary with a residence permit… to obtain a settlement permit” and “eight years of residence… for naturalization.”\footnote{Ibid.} After this alignment, Hungary joined the European Union in 2004.
In 2007, Hungary enacted the Law on Asylum in 2007 and established its Office of Immigration and Nationality. Beyond asylum procedure alone, this law provided the first reception and integration-based services for refugees in Hungary to be implemented by the newly established office. 250 Still, Hungary received a relatively small number of asylum applications at this time, with less than 10,000 applicants per year from 2000-2012. 251 The country retained a relatively low approval rate for these applicants (less than 10% received refugee status) and routinely showed preferential treatment to returning ethnic Hungarians. Despite latent attitudes of xenophobia in the country, Hungary remained in line with its international obligations toward refugees.

With the onset of the Syrian refugee crisis, Hungary quickly changed its tune. In 2013 alone, Hungary received 18,900 asylum seekers, a number that increased to 177,135 by 2015. 252 In a large part, this change occurred because Hungary was a stop on the asylum seeker route to Germany after Merkel had announced that the country was opening its doors. Hungary very quickly found itself becoming overwhelmed with a sudden asylum seeker wave of this magnitude and reacted both promptly and severely. First, the Hungarian government strengthened the Asylum Act in 2013 with a number of amendments to give the Office of Immigration and Nationality more comprehensive grounds for the detention of asylum seekers; NGO’s like the Hungarian Helsinki Committee were concerned that these grounds were too vague and might “fail to carry out a proper individual assessment of the cases before subjecting

---


251 Ibid.

252 Ibid.
an asylum-seeker to detention." When Hungary realized that these amendments did nothing to deter asylum seekers from entering the country, the government enacted a number of more drastic measures in September of 2015. First, Hungary erected a fence along the country’s border with Serbia and Croatia to prevent “irregular migrants” from entering the country, restricting asylum applications to two access points in the country. Second, Hungary criminalized entry through the border fence as punishable by three to ten years in prison. Third, Hungary applied the “safe third country” rule to Greece, Macedonia, and Serbia, meaning that any asylum seeker going to Hungary who passed through any of those three countries must apply for asylum there first, although “no other EU Member State applies a presumption of safety to those countries.” Finally and perhaps most importantly, Hungary declared a “state of crisis due to mass migration” in the two counties bordering Serbia, which allowed Hungary to apply “special rules” to incoming asylum-seekers and ignore certain provisions of the Asylum Act. In addition, Hungary closed its largest reception center for asylum-seekers, which was located in the town of Debrecen.

In March of 2016, Hungary extended its “state of crisis” to the entire country and plans to continue this until at least September of 2020. Three months later, the Hungarian government decided to withdraw integration services to all beneficiaries of international protection, “thus leaving recognised refugees… to destitution and homelessness” and entrusting all integration

---

255 Ibid.
Identifying Better Refugee Policies

programs entirely to NGOs and the private sector.\textsuperscript{258} Furthermore, Viktor Orbán repeatedly rejected the European Union’s program for refugee resettlement. When the EU asked Hungary to resettle 1,294 refugees from Italy and Greece, Viktor Orbán spent 28 million euros on an anti-immigrant campaign instead and when the EU asked Hungary to set a quota for refugee resettlement, Orbán nearly passed a referendum to outlaw EU-mandated settlement, but failed due to a narrow rejection from the Parliament.\textsuperscript{259} After the failure of the referendum, the Hungarian government doubled down on measures for refugee restriction. This included the recruitment of 3,000 “border hunters” to reinforce Hungary’s newly constructed fence as well as the closure of most of the country’s remaining refugee camps.\textsuperscript{260}

Hungary’s strategy to throttle immigration of all kinds was apparently successful, as Hungary received 29,432 asylum seekers in 2016, 3,397 in 2017, 671 in 2018, and only 468 in 2019, while continuing to deny all refugee resettlement.\textsuperscript{261,262} Despite only 300-400 asylum seekers staying in Hungary as of 2017, the country has remained in a state of crisis since that point.\textsuperscript{263} Additionally, the acceptance rate of asylum seekers remains exceedingly low in Hungary, with only 3.1% of asylum applicants gaining refugee status in 2019.\textsuperscript{264} Meanwhile, “in 2019, 11,101 migrants were pushed back from the territory of Hungary to the external side of the border fence and 961 were blocked entry at the border fence.”\textsuperscript{265} Viktor Orbán has effectively managed to insulate Hungary from all potential migrants, declaring incoming Muslim asylum seekers as “Muslim invaders” and striving to keep Hungary’s population “pure”. He is in his

\textsuperscript{259} Goździak, “Orbán Reshapes Migration Policy.”
\textsuperscript{260} Ibid.
\textsuperscript{261} Ibid.
\textsuperscript{263} Juhász, Molnár, and Zgut, “Refugees, Asylum and Migration Issues in Hungary,” 22.
\textsuperscript{265} Ibid, 11.
fourth term as Prime Minister of Hungary and continues to use authoritarian policies to legitimize his power within the country, often against the wishes of the European Union.

Even for refugees and asylum seekers who have somehow managed to gain access to the country, Hungary has made it difficult to find support. Although NGOs estimate that the Hungarian government only allows up to two asylum applications per day, those that enter no longer receive support from foreign NGOs or the Office of Immigration and Nationality. In June 2018, the Hungarian government passed the “Stop Soros” package of bills, which states that any individuals or groups who provide assistance to “irregular migrants” in the country may be subject to imprisonment and any activities “supporting immigration” would be taxed 25%.266 Thereby, charitable donors, organizations, and volunteers are subject to criminal charges for such assistance, though some legal organizations such as the Hungarian Helsinki Committee continue to provide legal aid. In July of 2019, the Office of Immigration and Nationality established in 2007 was abolished in favor of the “National Directorate-General for Aliens Policing” (NDGAP), delegating all asylum matters within the country to a branch organization within the Police.267 In effect, Hungary has endeavored to absolve itself of programs and policies for asylum seekers, refugees, and migrants as a whole.

Asylum seekers coming to Hungary may only enter the country through the two transit zones in the South of the country, Röszke and Tompa, which are only open to accept asylum applications during business hours.268 It is nearly impossible to enter elsewhere because 3,000 “border hunters” routinely patrol a “100-mile-long, four-meter-high, razor-wire-topped fence erected on Hungary’s southern borders with Serbia and Croatia to keep refugees out.”269

266 Goździak, “Orbán Reshapes Migration Policy.”
268 Ibid.
269 Goździak, “Orbán Reshapes Migration Policy.”
Reportedly, the vast majority of incoming asylum seekers are detained in these transit zones and denied access to freedom of movement during that time until a decision in their placement and status is carried out. As of 2019, Hungary maintains two open reception centers (Vámosszabadi and Balassagyarmat), one home for unaccompanied children (Fót), and only one functioning closed asylum detention facility (Nyírbátor), but nearly all incoming asylum seekers are left detained in Röszke and Tompa. After receiving their status determination, asylees may only stay in reception facilities for 30 days before needing to find their own homes; most choose to go to Budapest, as that is where the majority of remaining NGOs and assistance programs for refugees are concentrated. Therefore, while Hungary does give refugees the right to freedom of movement after their status has been issued, most of Hungary’s refugee population lives in Budapest. Hungary’s shelters, reception centers, and asylum facilities are scattered around the country, but most of Hungary’s asylum seekers remain detained in transit zones, as demonstrated by the below map of Hungary’s facilities.

271 Ibid, 72.
272 Goződziak, “Orbán Reshapes Migration Policy.”
For those few refugees in Hungary who are able to gain recognized refugee status, life seldom becomes easier. After refugee status determination, refugees are meant to be issued a Hungarian ID, which must be reviewed and renewed every three years. According to the law, it should take 20 days to issue a personal identification card, but in practice it takes at least one month to do so. As refugees are only allowed to remain in open reception facilities for 30 days, this means that they are often forced out of reception facilities before they receive their personal identification card, restricting access to employment and accommodation until that time. In past, reception centers in Hungary such as Bicske offered accommodation for recognized refugees for a total of six months as they adjust to their new lives, but Viktor Orbán closed those

---

273 Figure 5. This image comes from a map by the International Organization of Migration demonstrating the type and capacity of Hungary’s detention centers and reception facilities in 2016. Image from http://www.iom.hu/migration-issues-hungary.

reception facilities at the end of 2016. As a result of restrictive accommodation laws, the remaining reception facilities in Hungary are currently operating at less than 2% of their capacity. Meanwhile, refugees in Hungary experience almost certain homelessness unless they rely on support from non-governmental civil organizations such as the Menedék Association to provide them with housing, job opportunities, and a chance at integration.

Nevertheless, Hungary does allow its refugees pathways to long-term residence and naturalization. Hungary allows refugees who have lived in Hungary for three consecutive years to apply for long-term residence status. While long-term residence status is indefinite, the documents for the long-term residence permit must be renewed every five years. The requirements for naturalization for refugees are three years of uninterrupted residence in the country, a clean criminal record, their naturalization not being a “threat to public policy or to the national security of Hungary”, and proof that they passed the Hungarian basic constitutional studies exam to demonstrate language proficiency. All of these terms may seem achievable, but both long-term residence status and naturalization primarily require refugees to live in a stable accommodation despite the Hungarian government not possessing any institutions to support housing opportunities for refugees. Furthermore, being a “threat to public policy” is a vague qualification for citizenship, especially in a country with a xenophobic atmosphere and passing the Hungarian language exam is difficult when the government does not provide any supplemental educational services to refugees.

279 Ibid, 111.
Both unaccompanied minors and refugee children with families possess the right to a primary and secondary education in Hungary. However, only a limited number of public schools in Hungary provide access to unaccompanied minors and “there is no official state-funded language learning support for refugee children when entering the school system.”280 As of 2019, even NGO support for language-programs is limited due to the cancellation of the Menedék Association school program.281 Furthermore, with strong anti-refugee sentiment in the country, refugee children often receive ridicule from their peers. Taking all of these factors into account, obtaining a high-quality formal education in Hungary remains practically unfeasible.

Unfortunately, these same barriers exist for adults in the labor market. Adults are entitled to the same vocational training programs as Hungarian nationals and also possess the same access to the labor market by law.282 However, vocational training programs are given in Hungarian and no further assistance for language programs is given by the government. Instead, charities and volunteer organizations are the only institutions that provide language learning opportunities to refugees and they risk punitive action from the government on the basis of the “Stop Soros” bills in doing so.283 This lack of access to educational programs, vocational training, and language programs leads to difficulties in the labor market. Hungarians are unwilling to provide jobs to foreigners, especially when they do not speak Hungarian and haven’t been able to undergo the necessary training to do technical jobs. Although no statistics currently exist for refugee employment in Hungary, NGOs such as the Menedék association have noted

281 Ibid.
282 Ibid.
283 Ibid, 124.
that this leads to refugees being forced into jobs for which they are overqualified, often resorting to sectors such as physical labor.  

With regard to government supplied benefits such as social welfare and healthcare, Hungary once again treats recognized refugees under the same category as Hungarian nationals. On one hand, this means that refugees receive “limited public health care and unemployment benefit, amongst other entitlements e.g. family allowances, sickness and maternity benefits.”

On the other hand, refugees must demonstrate years of residence to apply for public housing and they must show at least one year of employment over a period of three years to make use of job seekers’ benefits. No government programs exist for financial or legal literacy in Hungary and without proper knowledge of the Hungarian language, refugees must once again rely heavily upon the limited assistance of NGOs to familiarize them with Hungary’s welfare and healthcare systems. Before July 2019, it was the duty of the Office of Immigration and Nationality along with the Asylum, Migration, and Integration Fund (AMIF) in Hungary to institute these programs, but with the abolishment of the both the office and calls for funding proposals by the AMIF, Hungary’s refugee programs have effectively ceased to exist. In the words of Gábor Gyulai, director of the Hungarian Helsinki Committee’s Refugee Program, “After the [initial] 30 days [in a reception center], it's the end. You have to leave, and you don't get anything. There is no housing. There is no financial support. There is no schooling allowance. There is no integration support. There is no Hungarian language course or help with finding a job. The state doesn't provide anything”. The UNHCR and humanitarian NGOs have repeatedly brought up

---

286 Ibid.
concerns about Hungary’s refugee program since 2015, but no substantive action has been taken against the country yet.

Taking into account Hungary’s recent policies and measures to divert and deprive asylum seekers and refugees, there is no single policy that can be changed to fix Hungary’s refugee program. Rather, the biggest problem with Hungary’s refugee policy is the political mindset of outright xenophobia that has guided Hungary’s policymaking. Viktor Orbán’s political party, Fidesz, currently holds 116 seats of the 119 in Hungary’s parliament, with no other party holding more than 26.288 This is not likely to change soon. Viktor Orbán has built his nationalist platform over his 16 years as Prime Minister of Hungary upon a fear and hatred of foreigners in favor of the strength of the Hungarian people. Hungary’s refugee policy does not even reflect a disregard for refugees necessarily, but a distaste for anything non-Hungarian. As an example, Hungary accepted over 300 refugees from Venezuela in 2018 as long as they could prove that they were of Hungarian descent.289 These refugees “have been generously received, with enrollment in language classes and accommodation and integration for the first 12 months.”290 Despite any previously signed international legislation, Hungary’s refugee policy is unlikely to change from within in the coming years, at least toward foreigners of non-Hungarian descent.

Nevertheless, here is a timeline of Hungary’s relevant signed refugee legislation for their refugee program:

<table>
<thead>
<tr>
<th>Legislation Year Implemented</th>
<th>Legislation Name</th>
<th>Description of Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1989</td>
<td>Ratification of the 1951 Refugee Convention and 1967 Refugee Protocol</td>
<td>established the basic definition of a refugee and removed geographic and temporal restrictions on refugees*</td>
</tr>
</tbody>
</table>

289 Goździak, “Orbán Reshapes Migration Policy.”
<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>Passage of the Asylum Act</td>
<td>Eliminated the geographic restriction on asylum-seekers and established asylum procedures within the country</td>
</tr>
<tr>
<td>2002</td>
<td>Institution of a legislative package on migrants</td>
<td>Aligned Hungarian refugee policy with that of the EU</td>
</tr>
<tr>
<td>2007</td>
<td>Passage of the Asylum Law</td>
<td>Created Hungary’s first reception and integration-based services for refugees along with the Office of Immigration and Nationality</td>
</tr>
<tr>
<td>2013</td>
<td>Amendments to the Asylum Act</td>
<td>Clarified and increased grounds for the detention of asylum seekers</td>
</tr>
<tr>
<td>2015</td>
<td>Passage of emergency directives on asylum</td>
<td>Erected a fence along the country’s border with Serbia and Croatia, restricted asylum applications to two access points in the country, criminalized entry through the border fence as punishable by three to ten years in prison, applied the “safe third country” rule to Greece, Macedonia, and Serbia, declared a “state of crisis due to mass migration”, and closed the country’s largest reception center for asylum-seekers</td>
</tr>
<tr>
<td>2016</td>
<td>Passage of additional directives for asylum-seekers, refugees, and national security</td>
<td>Extended Hungary’s “state of crisis”, withdrew integration services for refugees, and closed the majority of Hungary’s reception centers</td>
</tr>
<tr>
<td>2018</td>
<td>Implementation of the “Stop Soros” legislative package</td>
<td>Criminalized aid to irregular migrants and taxed support for immigrants of any kind by 25%</td>
</tr>
<tr>
<td>2019</td>
<td>Abolition of the Office of Immigration and Nationality in favor “National Directorate-General for Aliens Policing”</td>
<td>Transitioned all control of migrant matters to national law-enforcement</td>
</tr>
</tbody>
</table>

*Hungary retained a geographic restriction of refugees to Europe

Hungary gives refugees their rights neither in theory nor in practice. Previous Hungarian asylum legislation has endowed the country with a bare skeleton of human rights legislation, but gives them none of the necessary tools for self-sufficiency or integration. Hungary has violated the 1951 Refugee Convention and in 2020 the European Court of Justice declared the country guilty of breaches in the “EU’s asylum laws and basic rights charter” for restrictions on asylum.
and inhumane treatment of asylum seekers, but the country seems unperturbed by and defiant against these rulings. Nevertheless, Hungary has violated Articles 3, 33, and 34 of the 1951 Refugee Convention outright in addition to Articles 18 and 22 in practice. Hungary has violated Article 3 regarding freedom from discrimination by showing preferential treatment to ethnic Hungarian refugees with regard to the provision of integration services and criminalizing aid to non-Hungarian migrants through the “Stop Soros” legislative package. Hungary has violated Article 33 for the right to non-refoulement by returning asylum seekers coming through Greece, Macedonia, and Serbia, detaining refugees in transit zones without adequate access to food, imprisoning and assaulting those who don’t arrive through transit zones, and creating arbitrary grounds for the rejection of asylum seekers via directives passed in 2015 and 2016. The Hungarian government has violated Article 34 by refusing to provide for the assimilation of refugees in Hungary in any way, denying access to integration services in 2016 and resigning matters to do with immigration to police control in 2019. This refusal to accommodate non-Hungarian-speaking refugees with services of any kind has denied them the right to wage-earning employment, education, and naturalization under Articles 18 and 22. As a result of Hungary’s policies and programs for refugees, this thesis offers the following recommendations:

First, the United Nations, the European Union, and national government bodies must hold the Hungarian government accountable for its behavior toward refugees. Hungary has displayed a clear disobedience of international guidelines in its actions along with an open defiance of requests to change its behavior and share the responsibility of refugee hosting. The United Nations and national governments must threaten Hungary with more serious sanctions at this

---

point if the country is to abide by its signed international legislation. If Hungary refuses to comply, it may become necessary for the European Union to remove Hungary’s voting rights if the country continues to abuse international human rights.

Secondly, Hungary ought to repeal all of the asylum decrees mentioned above starting in 2015. Hungary is clearly not in a “state of crisis due to mass migration” and should not be allowed to ignore international obligations on that basis. Hungary must remove its numerous restrictions on asylum seeker applications, stop its refusal of European Union-mandated refugee resettlement, withdrawal of integration services for refugees, indictment of organizations helping immigrants of all kinds, and police management of asylum seekers if it is to follow the 1951 Refugee Convention. All of these directives and laws work directly against the security of international human rights.

Third, Hungary must establish government-created integration services that provide for the self-sufficiency of refugees in the country. Signing into law a new Refugee Law that creates language, financial literacy, educational, and employment programs for refugees in coordination with NGOs for service provision and information-gathering would represent a massive step toward securing a comprehensive framework of rights for asylum seekers and refugees within the country. It would also allow Hungary to take part in the EU refugee resettlement program, as Hungary currently holds a proportionally smaller population of migrants than nearly any other country in the EU.

On a final note, it is important to mention that this thesis’ recommendations for Hungary’s refugee policy are broad and drastic because what the country needs to fulfill its internationally guaranteed promises are massive changes in policy, program, and perspective. At the moment, Hungary possesses more anti-refugee policy than refugee policy. In reality, it is
unlikely that Hungary will change its refugee policies to be less restrictive under the leadership of Viktor Orbán without harsh punitive action toward Hungary on a global scale. Still, Hungary is just merely of many countries currently refusing to fulfill their responsibilities to those escaping persecution and more urgent measures need to be taken toward these countries if the global community is to solve the refugee crisis.
The Americas

While the previous countries discussed in this thesis serve as some of the global hotspots for asylum seeker entry in the 21st century, the Americas are an ocean away from the Syrian refugee crisis. While the Americas have certainly produced refugees of their own through gang violence in El Salvador, Honduras, and Guatemala or the Venezuelan refugee crisis, countries in the Americas that were willing to host refugees have predominantly focused their efforts on refugee resettlement rather than asylum. The most prolific refugee resettlement policies in the Americas have come from the United States of America and Canada, where each possess uniquely different legacies and approaches to hosting. While “the United States has historically led the world in terms of formal refugee resettlement”, the rise of the Trump administration has led to significant cutbacks on refugee admissions and refugee program budgets across the country.292 Canada, on the other hand, has rapidly transformed from a modest actor in the world of refugee resettlement to a global leader in the field under the administration of Trudeau, resettling more refugees than any other country in 2018.293

The United States and Canada both possess deep refugee backgrounds. Both countries began as colonial territories of different countries, and while Spanish and French colonists came for exploration and resources, “much of the initial migration to the North American English colonies was primarily refugees fleeing oppression and persecution.”294 Therefore, much of North America has inherited legacies of refugees who have travelled thousands of miles and

made the continent their permanent home. This distance from home could explain why North American refugee policy tends to concentrate more toward integration rather than repatriation.
The United States of America.

The United States of America represents the quintessential migrant country. It was founded by refugees and grew through diverse flows of migrants over time. To this day, the United States retains programs for refugee resettlement based on a refugee admissions ceiling as well as asylee protection through asylum applications. Based on 2020 data from the Refugee Processing Center of the US Department of State, the United States has resettled 3,449,967 refugees since 1975.295 In 2018, “the leading countries of nationality for individuals admitted as refugees were the Democratic Republic of the Congo (35 percent), Burma (16 percent), Ukraine (12 percent), Bhutan (10 percent), and Eritrea (six percent).”296 Traditionally, the United States has resettled more refugees than it has admitted asylees. From 1980 until 2005, the United States accepted more than 50,000 refugees per year (sometimes over 100,000), while the number of asylum seekers gaining asylum in the country never exceeded 40,000.297 However, under the Trump administration, the United States refugee resettlement program experienced massive cuts to the refugee admissions ceiling while asylee admissions have remained relatively constant. In 2018, the number of individuals granted asylum surpassed the number of resettled refugees for the first time, with 38,687 asylees compared to 22,405 refugees (with a ceiling of 45,000).298 As asylee acceptance and registration remains relatively constant, the United States government has gradually reduced their refugee resettlement program, which used to be the most comprehensive in the world.

---


While the United States was founded in part by Separatist Pilgrims who had fled religious persecution by the Church of England, the term “refugee” was not coined until centuries later. In the first 100 years of the country’s founding, immigration to the United States “remained practically unrestricted” so there was no distinction to be made between categories of protected status. But in the 1880s, Congress created measures to deter some kinds of immigrants and created a protected status category “for those seeking admission ‘to avoid persecution or punishment on religious or political grounds.’” The first few decades of this newly protected status applied to Jews fleeing Europe. According to Ben Saxon’s *A History of Jews*, approximately 2 million Jews reached the United States between 1881 and 1914 under this protected category. However, other immigrants to the United States began to experience the country’s first immigration restrictions as the country set quotas to admissions by country for those who didn’t fit into the protected category, particularly those in the Eastern Hemisphere. With the onset of the Great Depression, quotas for immigration into the United States continued to become more strict, with economic requirements for admission coming into law.

After the Second World War, the United States began to formulate its own measures to host newly displaced Europeans, despite keeping its doors closed through the war. In 1948, Congress passed the Displaced Persons Act (DPA) “to assist in the European reconstruction effort by allowing refugees to resettle in the U.S.” 400,000 displaced persons entered the United States through the DPA even though the country counted admissions against the national origin immigration quota. The United States also refused to sign the 1951 Refugee Convention

---

300 Ibid.
301 Ibid, 657.
303 Ibid.
after its creation as President Truman felt that the DPA was sufficient to respond to the European refugee crisis. Instead, Congress continued to respond to refugee resettlement through ad-hoc measures such as the 1953 Refugee Relief Act, the 1957 Refugee-Escapee Act, and the 1958 Hungarian Refugee Act. The Refugee Relief Act pertained to remaining refugees after the Second World War and the other two acts were in response to the 1956 Hungarian Revolution, as Americans found the fight against communism to be a sufficiently compelling reason to provide shelter for persecuted individuals; these bills allowed approximately 250,000 refugees to enter the United States.\textsuperscript{304}

Fleeing communism proved to be a compelling reason not only for refugee resettlement but also for asylum in the United States. From 1959 until 1962, 200,000 Cuban asylum seekers fled to the United States after the Cuban Revolution.\textsuperscript{305} The United States saw this wave as a Cold War victory and utilized a somewhat informal “passive admissions policy” to accept them. In 1965, Congress realized the impractical nature of accepting refugees on an ad-hoc basis and passed the Immigration and Nationality Act (INA). The act “eliminated national origin quotas and developed a preference system for the admission of immigrants”, with refugees to be admitted as 6\% of annual migrants to the country.\textsuperscript{306} Nevertheless, the United States still only defined “refugees” as those fleeing Communist countries or persecution in the Middle East.

In 1968, the United States signed on to the 1967 Refugee Protocol. By signing the Protocol, countries implicitly agree to the rights and definitions guaranteed in the 1951 Refugee Convention, so the United States agreed to those terms in theory as well. However, the United States continued to deny asylum for those fleeing “friendly regimes”, which included Greeks

escaping the far-right wing military coup of 1967 and Chileans fleeing Pinochet’s regime.\textsuperscript{307}

Nonetheless, the United States still allowed massive influxes of refugees from non-friendly nations. In 1977 and 1978, Congress passed two acts to increase the number of refugees allowed into the country as a result of the Vietnam War.\textsuperscript{308} The United States resettled nearly 300,000 Vietnamese refugees from refugee camps in Thailand, Malaysia, Indonesia, and Australia from 1978-1982.\textsuperscript{309} Despite not technically adhering to the UN definition of a refugee, the United States still played a massive role in easing the Indochinese crisis and contributing to an equitable international system of refugee hosting.

With the Refugee Act of 1980, Congress finally matched the US refugee definition to that of the UN. The Refugee Act of 1980 represented a massive change in refugee resettlement policy for the United States. The act raised the ceiling for refugee admission, stopped counting refugee admissions against the general immigration quota, created a “system for the orderly adjudication of asylum claims”, established the refugee resettlement program and its service provision, and allowed the President to determine the annual quota of refugees (under the review of Congress).\textsuperscript{310} For 1980, the United States set the refugee ceiling at 232,000 and resettled 207,000 refugees.\textsuperscript{311} This act was the piece of legislation that transformed the United States from a country of migrants to the most prominent place for refugee resettlement in the world. The following graph shows the refugee ceiling and resettlement of the United States between 1980 and 2019:

\textsuperscript{309} Ibid.
\textsuperscript{310} Ibid, 23.
However, the United States was criticized thereafter for discriminating against refugees and asylum seekers by country of origin. Reportedly, refugees from communist-controlled countries were given priority over others, particularly those from Eastern Europe and parts of Asia. To further reinforce this standard, the federal government enacted the Lautenberg Amendment as part of the Foreign Operations Appropriations Act to reduce the bar of evidence to acquire refugee status for Indochinese and former Soviet refugees. Nationality-based bias applied to asylum seekers as well. Asylum seekers from Cuba and Nicaragua experienced high rates of asylum grants in the United States during the 1980s, but asylum seekers from El Salvador, Guatemala, and Haiti were routinely denied entry into the country, sometimes without

---

312 Figure 6. This image comes from a graph by Brittany Blizzard and Jeanne Batalova in the Migration Policy Institute describing the refugee resettlement ceiling and number of refugees admitted by the United States between the fiscal years of 1980 until 2019, using US Department of State data. Image from https://www.migrationpolicy.org/article/refugees-and-asylees-united-states.


being granted access to formal asylum procedures. While the United States may have adopted the UN refugee definition in theory, the country held on to its biases against admitting refugees or asylum seekers from “friendly” nations during the Cold War. Preferring certain countries for refugee resettlement may be discriminatory, but denying asylum seekers the ability to fair hearings and resorting to immediate deportation represents a clear violation of the principle of non-refoulement. After the Cold War, American preferential treatment toward refugees fleeing Communist countries appeared to subside, but Congress continued to tighten policy toward asylum seekers.

In 1996, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), which held multiple clauses targeted toward asylum. The act required that asylum seekers submit applications for asylum in the United States within one year of entry, gave immigration officers the power to deport asylum seekers upon entry, and demanded the detention of asylum seekers be detained while their cases are under review. The IIRIRA made it significantly easier for the United States to violate the principle of non-refoulement, even if it did not directly violate the rights of asylum seekers.

For the next 20 years after the IIRIRA, the American refugee program remained relatively stable, aside from some small changes. After the Cold War, the United States raised the annual refugee admission ceiling back above 100,000 per year, which slowly decreased back to approximately 70,000 in 1997. The refugee quota in the United States stayed approximately the same between 2000 and 2015, but the number of refugee arrivals experienced a significant

---

316 Ibid, 27.
drop in 2002 and 2003. Understandably, this drop occurred immediately after 9/11, when President Bush suspended refugee admissions for a few months. As anti-immigrant and anti-Muslim sentiment reached a peak in the United States, the numbers for resettlement remained far away from the admissions ceiling until public sentiment returned to relative stability. Still, the United States remained favorable to non-Muslim refugees as the federal government passed the “Specter Amendment” to the Lautenberg Amendment in 2004, which lowered the evidence required for the refugee resettlement of Iranian religious minorities, escaping persecution on the basis of religion.

With the onset of the Syrian refugee crisis, the Obama administration chose to increase the refugee admissions ceiling to 85,000 and accepted 84,994 refugees in 2016. For the 2017 fiscal year, the Obama administration had planned to raise the admissions ceiling to 115,000 in order to fulfill the United States’ obligations for international burden-sharing, but in its first year, the Trump administration cut the admissions ceiling to 50,000, the lowest it had been since the institution of the Refugee Act of 1980. Simultaneously, President Trump signed an executive order to suspend the US refugee admission program for 120 days, with an additional 90 day travel ban (coined the “Muslim ban”) applying to seven Muslim majority countries, namely Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen. This ban had long-term impacts on the United States’ refugee resettlement program, as the Trump administration continued to reduce the admissions ceiling to 45,000 in 2018, 30,000 in 2019, and only 18,000 in 2020. The xenophobic

---

320 Blizzard and Batalova, “Refugees and Asylees in the United States.”
322 Blizzard and Batalova, “Refugees and Asylees in the United States.”
rhetoric of these laws appeared to work to deter Muslim refugee acceptance in the United States, as the percentage of refugee resettlement by religion of Muslims shrank from 44% in 2016 and 47% in 2017 to 16% in 2018 and 2019.\textsuperscript{323} Furthermore, the Department of Homeland Security began “implementing program enhancements to raise the bar for vetting and screening procedures” for refugees in 2017, increasing the already-lengthy 18-24 month processing time for refugee resettlement even further.\textsuperscript{324} Decreasing the refugee resettlement quota and making the refugee vetting process more arduous has also led to the destruction of many refugee resettlement programs, which now struggle from a lack of budget and new attendance. Therefore, the Trump administration has directly placed barriers upon what was once the most robust refugee resettlement program in the world.

As to persons trying to seek protection once in the US (as compared to refugee resettlement), in lieu of being able to adjust quotas, the Trump administration has hampered asylum seeker applications through a new series of measures over the last three years. The theory behind these measures is that they would act as a deterrent for people trying to seek asylum. The federal administration instituted a policy of child separation from their families for asylum seekers at the US-Mexico border from April 2018 until June of 2018; while this policy was discontinued after two months due to widespread unpopularity, reports indicate that family separation may have continued unofficially long after the fact.\textsuperscript{325} According to Amnesty International, the agency for Customs and Border Protection “has implemented an illegal de facto policy of pushbacks of asylum-seekers along the entire US–Mexico border at official US

\textsuperscript{323} Blizzard and Batalova, “Refugees and Asylees in the United States.”
border crossings” and implemented a policy of indefinite detainment for asylum seekers who do make it to the border.\textsuperscript{326} Also, former United States Attorney General Jeff Sessions tried to limit the grounds by which asylum seekers could gain asylum in the United States in 2018 by telling U.S. immigration courts to stop granting asylum on the basis of domestic abuse and gang violence. Finally, the Trump administration passed the Migrant Protection Protocols which “allows US border officers to return non-Mexican asylum seekers to dangerous locations in Mexico as their claims are adjudicated in US immigration courts” on the basis of section 235 (b) (2) (c) of the INA that allows the Department of Homeland Security to return some asylum applicants to a contiguous country from which they are arriving.\textsuperscript{327} The legality of many of these policies, directives, and measures is under litigation as of the writing of this thesis by organizations such as the American Civil Liberties Union, but they continue to exist as part of American asylum policy to this day.

Within the United States, “arriving refugees are placed in communities based on their needs, factors including family ties, and the receiving community’s language services, health care and housing availability, educational and job opportunities, and cost of living.”\textsuperscript{328} Typically, either the UNHCR, an embassy, or an NGO refers refugees for resettlement to the United States, who are then placed into a given state by the Department of State’s Reception and Placement Program (R&P).\textsuperscript{329} R&P provides initial refugee assistance in the United States, while the Office of Refugee Resettlement (ORR) provides long-term funding for refugee assistance. This funding goes to state and local government departments along with nonprofit resettlement agencies, that


\textsuperscript{328} Blizzard and Batalova, “Refugees and Asylees in the United States.”

then create programs and policies for refugees in each individual state. As such, the federal government only tracks the initial resettlement of refugees because after their first placement, refugees have the right to freedom of movement anywhere in the country and within one year of arrival, they must apply for permanent residency. Therefore, the federal government in the United States determines the placement and funding given to refugees and attempts to maintain an equitable distribution of refugees around the country for their initial placement. The following is a map of initial refugee placement in the United States by state in 2019:

![Refugee Arrivals Map](https://ireports.wrapsnet.org/)

Figure 7. This map comes from statistical data sourced by the author from the Refugee Processing Center regarding refugee resettlement in the United States in 2019. Data from [https://ireports.wrapsnet.org/](https://ireports.wrapsnet.org/).
The stated goals of the American refugee resettlement program, founded in 1980, are to “to provide a uniform procedure for refugee admissions” and “to authorize federal assistance to resettle refugees and promote their self-sufficiency.” By law, the United States has agreed to the UN definition of a refugee and the rights afforded to them. For processing refugees, the United States has instituted another set of criteria: a refugee priority system for admission. Priority 1 refugees are those for whom resettlement is an appropriate durable solution and must be referred by the UNHCR, an embassy, or an NGO. Priority 2 refugees are those protected by the Lautenberg Amendment or the Specter Amendment, meaning that these refugees are of “special humanitarian concern” for the United States and don’t require special referral. Priority 3 involves refugee family reunification to be filed by an eligible relative in the United States. Priority 3 refugees do not require special referral, but Priority 3 processing is limited to either refugees from one of 15 countries or admitted asylees. Nevertheless, all have to first meet the definition of refugee, then be given priority based on their particular circumstance.

After the Bureau of Population, Refugees, and Migration (PRM) in the Department of State identifies a refugee under one of these categories, the Department of Homeland Security’s U.S. Citizenship and Immigration Services (USCIS) agency adjudicates refugee cases. While USCIS conducts refugee background checks and collects biographical information, the Department of Health and Human Services is responsible for checking refugee admissibility on the basis of communicable diseases pertaining to public health. These screenings take place in Refugee Support Centers (RSCs) abroad. As mentioned previously, American processing of

---

332 Ibid, 6.
333 Ibid.
334 Ibid, 6-7.
335 Ibid.
336 Ibid, 8.
refugee resettlement typically takes 18-24 months and ostensibly takes even longer after the federal government further increased the security screening process in 2017. Refugees also must cover their travel expenses for resettlement by obtaining an interest-free travel loan to cover their travel costs that must be paid back within six months of arrival in the United States. Before refugees leave for the United States, they receive a few days of cultural orientation to prepare themselves for life in their new homes.

When refugees arrive into the United States, they are offered a number of forms of cash assistance and benefits to provide for their eventual economic self-sufficiency. For the first 30 days after arrival in the United States, the Reception and Placement Program pays nine non-governmental voluntary organizations (VOLAGs) to provide food, clothing, housing, educational enrollment for children, language classes, employment assistance, and assist with social security card applications. This means that refugees have their housing opportunities provided for them upon arrival through VOLAGs, gaining housing in either existing housing, available public housing, hosting from non-profit refugee NGOs, or settlement with existing family in the country.

After that point, the United States offers Temporary Assistance for Needy Families (TANF) grants for low-income individuals with small children for up to five years and Medicaid for low-income individuals for up to seven years. The federal government also supplies Supplemental Security Income (SSI) to aged, blind, or disabled individuals for up to seven years and the Supplemental Nutritional Assistance Program (SNAP) for food assistance to...

---

338 Ibid.
340 Ibid, 8.
low-income individuals indefinitely.\textsuperscript{341} For refugees who do not qualify for TANF grants or Medicaid, the Office of Refugee Resettlement offers Refugee Cash Assistance (RCA) and Refugee Medical Assistance (RMA) for up to eight months. All of this service provision appears robust, but individual departments or NGOs responsible for refugee issues in each state control how much financial assistance comes with these grants, with states like California and New York offering TANF grants three times higher than Texas and Florida, higher SSI benefits, and Medicaid income thresholds compared to poverty level five to ten times higher.\textsuperscript{342} As such, equal service provision to refugees across states remains relatively uneven in the country.

When refugees in each state do not have access to financial support and programs as refugees in other states, this leads to waves of secondary migration. For example, Haitian refugees in California might move to Massachusetts if they realize that they would receive better access to programs and community support in a different state. In 2012 and 2013, Minnesota received 4000 refugees instead of the original 2000 that it had planned to resettle due to secondary migration.\textsuperscript{343} Secondary migration can lead to an unequitable distribution of refugees around the United States, placing excess responsibility on certain states as a direct result of uneven service provision and program administration.

Refugees in the United States tend not to stay as refugees for long, as the country maintains relatively expedient pathways to lawful permanent residency and later, if they choose, to naturalization. After living in the country for one year, refugee are eligible to apply for permanent resident status after one year and are required to do so.\textsuperscript{344} Once a refugee has been a

\textsuperscript{341} Fix, Hooper, and Zong, “How Are Refugees Faring?”, 8.
\textsuperscript{342} Ibid, 11.
lawful permanent resident for five years, they become eligible to apply for American citizenship. By requiring that refugees apply for permanent residence after one year, the United States is ensuring that not many refugees exist in the ORR system for long, allowing the country to take in a high annual number of refugees. Furthermore, this displays a national willingness to allow refugees to integrate into American society because resettled refugees who have moved overseas are generally unlikely to experience voluntary repatriation to their countries of origin.

Refugees in the United States possess the right to primary and secondary education, with universities and NGOs offering grants and increased opportunities for tertiary education as well. While Refugee Medical Assistance and Refugee Cash Assistance make up the majority of federal funding for refugee programs, state agencies, local agencies, and NGOs are in charge of applying for federal funding for educational and language-based programs for refugees, which may or may not be granted due to budgetary constraints and past program success. One negative consequence of this subjective funding is that refugees possess widely different educational levels between states and significantly different levels of English Language Proficiency. For example, the Migration Policy Institute has found that percentages of refugees holding Bachelor’s Degrees or speaking English proficiently can vary up to 50% between states and over 20% within the same nationality. Refugees might receive access to appropriate rights and benefits, but these advantages do not remain equal for refugees in all geographic locations within the country.

The United States refugee resettlement program not only grants refugees the right to work, but considers it a priority. Approximately half of refugees in resettlement assistance programs find employment within eight months and three quarters of them retain those jobs for

---

345 “Refugee Status – Can It Lead to Citizenship.”
over 90 days. In fact, the Center for Migration Studies (CMS) took a sample of 1.1 million refugees in the United States in a 2016 study, which determined that “the labor force participation and employment rates of the 1.1 million refugees in CMS’s sample exceed those of the overall US population.” This is a massive success for the economic participation of refugees, but the work focused approach of the resettlement program carries certain disadvantages as well. Refugees in the United States have a higher rate of employment than that of native born Americans, but they also possess a higher rate of underemployment, meaning they had a proportionally higher number of individuals with tertiary education performing low-skilled labor. Therefore, a focus on “employment-first” in the refugee resettlement program rather than appropriate vocational training and English language training can limit the future career prospects, language acquisition, and educational goals of refugees. For instance, the “ORR requires refugees to be employed while receiving additional skills training, and limits this training to a year, even though recertification can often take several years to complete.”

Unsurprisingly, studies have found that refugees integrate to the United States to a greater degree the longer that they stay in the country. Individual state agencies such as the Massachusetts Office for Refugees and Immigrants (ORI) have tried to ease the integration process by offering additional programs for refugees that have seen great success in recent years, such as the Financial Literacy for Newcomers Program (FLNP), the Citizenship for New Americans Program (CNAP), and the English Language Training Program (ELT). However, many other states cannot promise neither these same services to refugees, nor the same funding. The Migration Policy Institute has reported that since 2015, “states and localities have become

---

349 Ibid, 16.
increasingly vocal about having greater say so in the resettlement process, and a number have ended state involvement in the provision of refugee services, leaving them to local nongovernmental resettlement agencies.” As a result, the refugee resettlement program relies heavily on the contributions of public-private partnerships with voluntary resettlement agencies, particularly Catholic charities, for both initial support of refugees and subsequent administration of integration services.

The U.S. Refugee Admission Program (USRAP) is a massive and comprehensive system in which multiple agencies in international organizations, federal governments, state and local governments, NGOs, and other voluntary resettlement agencies intertwine to provide resettlement and services for refugees. However, the intricacy and bureaucracy of this communication results in long chains of communication between the different layers of agencies. For example, Mary Truong, ORI Executive Director, mentions that the process from assigning refugee numbers to adjusting program funding requires communication between the PRM and VOLAGs to determine initial accommodation numbers, which are then approved by the ORI, who sends that information back to the PRM, which communicates with the ORR to process and approve that number to send an initial budget back to the ORI according to the number of incoming working adults and the number of refugees served in the prior year. Executive Director Truong mentions that the ORR does a good job of accommodating budget requests and adjustments, though the Office still relies on the federal government for overall funding. In recent years, the ORI has begun to utilize private funding from donors to administer more comprehensive programs such as the Financial Literacy for Newcomers Program, in lieu of additional federal funding.

350 Blizzard and Batalova, “Refugees and Asylees in the United States.”
Additionally, refugee resettlement in the United States has suffered from its recent federal administration. By cutting the refugee admissions ceiling to one tenth of Fiscal Year 2017 quota in 2020, the Trump administration has successfully created a vicious cycle in the country that destroy existing state refugee integration program. When the United States cuts the admissions ceiling for refugees, fewer incoming refugees are able to attend existing programs in the United States. When the federal government sees that attendance is low for existing integration programs, the ORR reduces the budget allowed for those state programs, cancels other integration programs, and lays off excess staff within state-based agencies. This cycle continues every time the refugee admissions ceiling is cut from year to year.

The Trump administration has also tried to eliminate asylum seeker entry by land. The United States currently has a “safe third country agreement” with Canada. A “safe third country agreement means that one nation can return asylum seekers to another if “either the third country that the refugee traveled through was a ‘safe third country,’ and therefore the person should have applied for asylum there, or the third country already granted the person protection and was therefore in effect the ‘first country of asylum.’” In 2019 and 2020, the Trump administration has tried to sign these agreements with Mexico, Guatemala, El Salvador, and Honduras. If these agreements are ratified by these countries, asylum seekers may not pass through them to apply for asylum in the United States and if Mexico signs it, the United States would have safe third country agreements on both of its land borders. With the onset of the coronavirus in 2020, the Trump administration has also denied all asylum seekers entering the southwest border of the

---

352 Ibid.
nation to prevent the spread of the pandemic and placed a halt on refugee resettlement.\textsuperscript{354} It remains to be determined whether the current federal government will lift this ban as the pandemic passes, or make these restrictions a feature of American refugee and asylee policy.

Here is the United States’ relevant signed international legislation on refugees and asylum seekers to date:

<table>
<thead>
<tr>
<th>Legislation Year Implemented</th>
<th>Legislation Name</th>
<th>Description of Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1948</td>
<td>Passage of the Displaced Persons Act</td>
<td>Facilitated the resettlement of post-World War 2 refugees to the United States</td>
</tr>
<tr>
<td>1953</td>
<td>Passage of the Refugee Relief Act</td>
<td>Facilitated the resettlement of remaining post-World War 2 refugees to the United States</td>
</tr>
<tr>
<td>1957/58</td>
<td>Passage of the Refugee-Escapee Act and the Hungarian Refugee Act</td>
<td>Enabled the mass-resettlement of Hungarian refugees after the 1956 Hungarian Revolution</td>
</tr>
<tr>
<td>1965</td>
<td>Implementation of the Immigration and Nationality Act</td>
<td>Eliminated national origin quotas for immigrants and instituted regular refugee resettlement</td>
</tr>
<tr>
<td>1968</td>
<td>Ratification of the 1967 Refugee Protocol</td>
<td>Aligned the US refugee definition with international rights and terms (in theory)</td>
</tr>
<tr>
<td>1977/78</td>
<td>Suspension of the INA admissions cap</td>
<td>Allowed for the resettlement of Vietnamese refugees</td>
</tr>
<tr>
<td>1980</td>
<td>Passage of the Refugee Act</td>
<td>Adjusted the US refugee definition to international guidelines and instituted the American refugee resettlement program</td>
</tr>
<tr>
<td>1990</td>
<td>Enactment of the Lautenberg Amendment</td>
<td>Reduced the bar of evidence to refugee status for Indochinese and former Soviet refugees</td>
</tr>
<tr>
<td>1996</td>
<td>Passage of the Illegal Immigration Reform and Immigrant Responsibility Act</td>
<td>Tightened restrictions on applications for asylum and strengthened the power of immigration officers, and mandated asylum seeker detainment</td>
</tr>
<tr>
<td>2004</td>
<td>Enactment of the Specter Amendment</td>
<td>Reduced the bar of evidence to refugee status for Iranian refugees from a religious minority</td>
</tr>
<tr>
<td>2017</td>
<td>Strengthening of Refugee Vetting Procedures and</td>
<td>Increased DHS screening procedures for refugees</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Event Description</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>Passage of the Travel Ban</td>
<td>Suspended the refugee resettlement program for 120 days, with an additional 90 day travel ban for 11 countries</td>
</tr>
<tr>
<td>2018</td>
<td>Implementation of the Family Separation Policy</td>
<td>Legalized the separation of children from parents at the southern US border</td>
</tr>
<tr>
<td>2019</td>
<td>Passage of the Migrant Protection Protocols</td>
<td>Allowed for the deportation of non-Mexican asylum seekers to Mexico</td>
</tr>
<tr>
<td>2020</td>
<td>Emergency suspension of US southwestern border-crossing</td>
<td>Denied all immigration to the US from the southwest indefinitely due to pandemic protocols</td>
</tr>
</tbody>
</table>

The United States used to be the primary refugee resettlement country in the world, but recent restrictions in programs, policy, and admissions for refugees and asylum seekers have stripped that status from them. The country has also ratified the 1967 Refugee Protocol, meaning that they have agreed to the rights afforded to refugees that were decreed by the 1951 Refugee Convention. Primarily through recent policies, the government of the United States has violated Articles 3 and 33 of the 1951 Refugee Convention. Article 3 is the non-discrimination clause, stating that ratifying states “shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.” Article 33 is the non-refoulement clause, which states that no ratifying state “shall expel or return a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.” The United States has violated Article 3 by instituting a travel ban for refugees from Muslim-majority countries, expressing preferential treatment for refugees from specific religious minorities through the Lautenberg and Specter Amendments, and by increasing screening procedures for refugees from 11 “high-risk countries.” The United States has violated Article 33 by forcefully deporting non-Mexican asylum seekers to Mexico and allowing immigration officers to deport

---

355 Blizzard and Batalova, “Refugees and Asylees in the United States.”
asylum seekers at ports of entry without a fair hearing. Other concerns about the American
refugee resettlement program include massive reductions in the refugee admission ceiling, lack
of access to appropriate vocational training, and poor communication between actors in the
refugee resettlement program. On the basis of these concerns, this thesis presents the following
recommendations for refugee policy and programs in the United States of America:

First, the United States must repeal its 2017 screening restrictions for refugee
resettlement from “high-risk” countries. The American refugee vetting process already takes 18-
24 months on average and the country must place more trust in its Department of State to
appropriately assess refugees without discriminating against Muslim-majority countries through
additional deterrents.

Second, President of the United States ought to raise the admissions ceiling for refugee
resettlement to that of the pre-Trump era (80,000+ per fiscal year) and adjust federal parameters
for determining the ceiling. The country needs to take into account its own hosting capacity
based on NGO support and program availability, while remaining mindful of refugee crises
around the world to perform its role in international burden-sharing.

Third, the United States government must repeal the 1990 Lautenberg Amendment along
with the 2004 Specter Amendment. These pieces of legislation are antiquated and give
preference to “special interest groups” that no longer require lowered barriers to resettlement. If
the government wishes to provide additional exemptions to resettle refugees, it can do so in the
case of a new refugee crisis or massive destabilization when large numbers of refugees need to
be resettled in a short period of time as an exercise of international burden-sharing.
Fourth, the United States government must refrain from instituting additional discriminatory travel bans, like the “Muslim ban”, as these represent a violation of freedom from discrimination and breed xenophobic rhetoric within the country.

Fifth, the United States must amend the 1996 Illegal Immigration Reform and Immigrant Responsibility Act to remove the power of deportation from immigration officers and ensure that asylum seekers receive a fair trial in the United States.

Sixth, the United States must repeal the Migrant Protection Protocols and refrain from deporting asylum seekers to Mexico as they await asylum processing in the United States. Doing so places them in unnecessary danger and violates non-refoulement. The United States does not have a safe third country agreement with Mexico and must respect the rights of asylum seekers.

Seventh, the United States must pass a law that formally prevents family separation at the border and unnecessarily endangering the lives of child asylum-seekers.

Eighth, either the Department of State’s Resettlement and Placement program should contribute more funding to VOLAGs in order to provide integration services for refugees beyond the initial 30 day period or the ORR should to increase funding to state refugee departments to ensure that they can effectively run their refugee programs. 30 days of comprehensive service provision is not enough to allow refugees to integrate to the United States and state refugee programs do not currently possess the funding to provide comprehensive services to refugees for the subsequent 11 months.

Ninth, the ORR ought to remove employment as a requirement for refugees to receive additional skills training and the agency must fund the entirety of vocational training programs. One of the stated goals of the Refugee Act of 1980 was to provide for the self-sufficiency of refugees and they cannot do that if they are not afforded opportunities for career advancement.
Finally, the United States should standardize refugee program provision across the states to ensure that refugees receive equal services regardless of where they live. Certain programs, like employment, citizenship, vocational training, English language training, and financial literacy are vital to integration. Still, the ORR ought to allow state refugee departments and NGOs to propose additional integration programs in order to inspire growth in the refugee resettlement program and include successful programs as part of the national integration service provision.
Canada.

Unlike the other countries examined in this thesis, Canada has always prioritized refugee resettlement over programs for asylum. While Canada routinely takes in less than 15,000 asylees per year,\(^{356}\) the country has resettled more than 20,000 refugees every year since the late 1980s.\(^{357}\) Because Canada’s only land-bordering country is the US, with which Canada has a “safe third country agreement”, resettlement became a more effective method of refugee hosting. Since 1980, “Canada has welcomed 1,088,015 refugees” and as of 2018 the country resettles more refugees per year in total and per capita than any other country in the world.\(^{358}\) In 2018, Canada resettled 28,076 refugees, with over half of them coming from the Middle East.\(^{359}\) While some people may attribute this acceptance of refugees to a federal sense of cultural openness, the country is also unique with regard to its refugee policy due to private refugee sponsorship. In addition to a Government-Assisted Refugees program (GAR), Canada has created a Privately Sponsored Refugee program (PSR), which makes private individuals “responsible for receiving, orienting, and supporting refugees at all stages of resettlement process.”\(^{360}\) The PSR allows citizens to determine refugee resettlement numbers each year through the local population’s willingness and capacity to host; in fact, the PSR resettled two-thirds of Canada’s 28,076


\(^{358}\) Radford and Connor, “Canada Now Leads the World in Refugee Resettlement, Surpassing the U.S.”

\(^{359}\) Ibid.

refugees in 2018.\textsuperscript{361} However, Canada’s private refugee hosting is relatively new and the country took a long time to build up a willingness for international responsibility sharing.

Canada was founded through the union of four established French-British colonies under the rule of the United Kingdom in 1867. Unlike the Pilgrims, these colonists did not share the same refugee roots as the founders of the United States, but the country retained relatively open immigration before and after its foundation. Before 1860, an estimated 30,000 African-American refugees sought sanctuary in Canada as the final stop on the Underground Railroad.\textsuperscript{362} In the decades after that, Canada continued to accept Jews and Doukhobors fleeing Tsarist Russia due to religious persecution.\textsuperscript{363} Therefore, Canada remained a relatively open environment to newcomers immediately before and after its foundation.

With regard to legislation, Canada passed its first Immigration Act in 1869. The act contained no clauses for refugees and remained primarily focused on providing safe travel for immigrants to Canada.\textsuperscript{364} Soon thereafter, Canada began to close its doors to specific populations of migrants with the Chinese Immigration Act of 1885. This act attempted to exclude Chinese migrants by imposing a duty of $50 on each Chinese person entering the country.\textsuperscript{365} Canada continued to increase the duty to $100 per person in 1900 and $500 per person in 1903. Canada continued to reinforce this sentiment with the Chinese Immigration Act of 1923, which effectively limited Chinese immigration to “diplomats and government representatives,

\textsuperscript{365} Ibid.
merchants, children born in Canada who had left for educational or other purposes, and students while attending university or college.\textsuperscript{366}

The country also expanded immigration-based restrictions beyond merely Chinese people with a slew of immigration acts. The 1906 Immigration Act formalized deportation and allowed the government to prohibit any class of immigrants when if was deemed necessary. The 1910 Immigration Act “expanded the list of prohibited immigrants and gave the government greater discretionary authority concerning the admissibility and deportation of immigrants” if they were considered “unsuited to the climate or requirements of Canada.”\textsuperscript{367} Furthermore, the Canadian government amended the Immigration Act in 1919 to deny immigrants from enemy countries, political dissidents, and any immigrant’s “peculiar customs, habits, modes of life and methods of holding property.”\textsuperscript{368} In fact, Canada opposed hosting displaced persons after the First World War entirely. The early 20\textsuperscript{th} century in Canada was characterized by waves of anti-immigrant sentiment shown not only by public opinion, but also all of this legislation, despite Canada’s immigrant legacies. According to the Canadian Encyclopedia, “Xenophobia and Anti-Semitism permeated Canada, and there was little public support for, and much opposition to, the admission of refugees… until after the Second World War.”\textsuperscript{369}

Throughout the 1930s and 1940s, Canadian xenophobia continued to dominate the national perspective. In the 1930s, Canada began to deport unemployed persons, labor activists, and suspected Communists in the wake of the “Red Scare” after the First World War.\textsuperscript{370} Anti-Semitism peaked in 1939 in Canada as the country denied 930 Jewish refugees on the SS St.

\textsuperscript{366} Van Dyk, “Canadian Immigration Acts and Legislation.”
\textsuperscript{367} Ibid.
\textsuperscript{368} Ibid.
\textsuperscript{369} Abella and Molnar, “Refugees.”
Louis seeking asylum on the basis of religious persecution as they fled Nazi Germany.\textsuperscript{371} These refugees were sent back to Germany to face certain death. Canada admitted only 5,000 Jewish refugees during the Second World War and when immigration officials were asked how many Jews the country would admit after the war, their famous response was, “None is too many.”\textsuperscript{372}

After the Second World War, the Canadian government began to receive more pressure both domestically and internationally to fulfill their humanitarian responsibility of hosting displaced persons. In 1946, the Canadian government signed an Order-in-Council that allowed Canadians to sponsor displaced family members in Europe seeking refuge after the war and allow them into the country.\textsuperscript{373} In 1947, Canada began to enact additional ad-hoc agreements in to allow displaced persons to enter the country (much like the United States) in what was called the Displaced Persons movement, which successfully resettled 186,154 refugees to Canada over the course of six years.\textsuperscript{374} The country continued to open access to the country through the Assisted Passage Loan Agreement in 1951, which gave loans to European migrants who could not pay off their travel to Canada to be paid back over the course of two years. These measures were certainly an improvement in Canadian refugee acceptance, but the Canadian Council for Refugees notes that during the Displaced Persons movement, the Canadian government tended to accept refugees based on “economic self-interest, racial prejudice and political bias”, not humanitarian reasons.\textsuperscript{375} Canada’s prejudicial process was revealed when the country chose not to sign the 1951 Refugee Convention. Ministers in the country were reportedly concerned that signing the Convention would outlaw the deportation of potentially dangerous refugees and give

\begin{footnotes}
\footnotetext{371}{Epp, “Refugees in Canada: A Brief History,” 8.}
\footnotetext{372}{Ibid.}
\footnotetext{373}{Ibid, 10.}
\footnotetext{374}{Ibid.}
\footnotetext{375}{Canadian Council for Refugees, “Brief History of Canada’s Responses to Refugees.”}
\end{footnotes}
them additional rights beyond those granted by the Canadian government. After that point, Canada continued to allow European refugee entry on an ad-hoc basis.

In 1952, Canada passed a new Immigration Act that gave the government and the governor-in-council more agency over the admission and deportation of all migrants, allowing the government to keep as much control over migrant flows as possible. While Canada’s immigration policy remained restrictive to non-European foreigners, Canada continued to resettle European refugees. Canada admitted 37,000 Hungarian refugees after the Hungarian Revolution in 1956 as well as 10,975 Czech refugees after the Prague Spring in 1968. Despite continuing xenophobic policies, the Canadian government remained resentful of Communism and accepted refugees fleeing Soviet oppression (much like the United States of America).

However, Canada’s racially biased stance on refugees finally began to change with the introduction of Order-in-Council PC 1962-86. This order eliminated race as a determinant of migrant acceptance and touted “skill” as the primary component for admissibility; nevertheless, “only Canadian immigrants from preferred nations in Europe, the Americas and select countries in the Middle East were permitted to sponsor children over the age of 21, married children and other members of their extended family.” In 1969, Canada ratified the 1951 Refugee Convention as well as the 1967 Refugee Protocol, but had yet to incorporate refugee rights and admissions into its national law. Instead, Canada issued a “Guideline for Determination of Refugee Status” in 1970 to give immigration officers criteria for selecting refugees overseas. Around the same time, Canada accepted its first non-European refugees by resettling a group of

---

376 Canadian Council for Refugees, “Brief History of Canada’s Responses to Refugees.”
377 Ibid.
379 Canadian Council for Refugees, “Brief History of Canada’s Responses to Refugees.”
Identifying Better Refugee Policies

228 Tibetan refugees and developing a “Tibetan Refugee Program” to host them. Tibetan Refugee Hosting opened the doorway to other refugee resettlement, as Canada hosted about 7,000 ethnic South Asians expelled from Uganda under the dictatorship of Idi Amin in 1972, 7,000 Chilean refugees fleeing Pinochet’s regime in 1973, and about 10,000 Lebanese refugees fleeing the Lebanese Civil War between 1975 and 1978. This new trend of refugee hosting efforts appeared to quell Canadian xenophobic sentiment and gave rise to realization that a more comprehensive system for refugee resettlement might be necessary.

In 1976, Canada passed its most significant Immigration Act to date. The Act officially matched the Canadian refugee definition to that of the UN Convention and allowed the government to set refugee quotas each year. Furthermore, the 1976 Immigration Act created Canada’s Refugee Status Advisory Committee and divided refugee resettlement into two categories: government sponsorship and private sponsorship. Later on, Canada would also implement shared government-private sponsorship programs. The Private Sponsorship of Refugees Program (PSRP) began in 1979, after its incorporation into the 1976 Immigration Act, which allowed individuals as well as organizations to resettle and integrate refugees, provided that they host them for one year. The new Immigration Act and Private Sponsorship Program were immediately put into use to resettle refugees after the Vietnam War. Canada’s refugee intake was relatively low after the formation of its resettlement program, but the Vietnam war caused the Canadian government to rapidly extend its government-assisted refugee quota far beyond its allocation of 8,000 southeast Asian refugees in an attempt to match the country’s

---

382 Ibid, 16.
383 Ibid, 17.
private sponsorship. Over the next two years, Canada resettled 77,000 refugees from Southeast Asia, making up 25% of Canada’s total immigration during that time.384

After Canada has secured systems and rights for refugee resettlement, the country also developed its framework for asylum seekers with the creation of the Immigration and Refugee Board of Canada (IRB). Established in 1985 and implemented in 1989, the IRB established that refugee claimants “are entitled to fundamental justice under the Canadian Charter of Rights and Freedoms”, as decreed by the Supreme Court of Canada.385 Canada now began to receive thousands of refugee claimants per year in addition to the tens of thousands of refugees that it would resettle. In 1986, the country also received the UNHCR’s first ever Nansen Medal given to a “people” instead of an individual for the country’s contributions to refugee resettlement. Additionally, Canada also became the first country in the world to pass a national multiculturalism act with the Canadian Multiculturalism Act in 1988, which “sought to protect the cultural heritage of all Canadians, reduce discrimination and encourage the implementation of multicultural programs and initiatives within institutions and organizations.”386 Over a period of 15 years, Canada had gone from a relatively xenophobic nation with a shoddy framework for refugee policy to one of the world’s global leaders in the field.

However, Canada paired its new asylum seeker framework with a number of legal restrictions on asylum seeker entry as a result of the country’s economic recession. In 1988, Canada passed Bill C-84, which “introduced new ‘detention and deterrence’ measures, among them tougher criminal penalties on those who ‘smuggled’ or aided the undocumented” in addition to Bill C-86 in 1993, which “established tougher criteria for asylum, resettlement, and

385 Canadian Council for Refugees, “Brief History of Canada’s Responses to Refugees.”
386 Van Dyk, “Canadian Immigration Acts and Legislation.”
detention, including an expanded list of criteria by which an applicant might be determined inadmissible.”\textsuperscript{387} The country also temporarily placed a “Right of Landing” fee of $975 per adult on asylum seekers travelling by boat in 1995, but eliminated this fee in 2000.\textsuperscript{388} In 2004, Canada also entered into a “safe third country” provision with the United States, effectively eliminating asylum seekers’ right to enter by land because they would have had to apply for asylum in the United States first, which was considered a safe country. Despite all of these provisions and bills, Canada still received up to 40,000 asylum applicants per year in the 1990s, a number which has stayed between 20,000 and 40,000 to date.\textsuperscript{389}

Despite Canada’s attempts to restrict asylum seeker applications, the country continued a robust administration of its refugee resettlement program. The country continued to resettle over 20,000 refugees per year throughout the 1990s, taking in 8,000 Chinese students after the Tiananmen Square massacre, 20,000 Somalis from the Somali Civil War, tens of thousands of Bosnians and 5,000 Kosovars fleeing ethnic persecution in former Yugoslavia, and smaller movements of ethnic minority refugees from Burma and Myanmar.\textsuperscript{390} At this point, refugee resettlement to Canada had remained fairly open, but the events of 9/11 led the Canadian government to rethink its refugee framework. In 2002, Canada implemented the Immigration and Refugee Protection Act to replace the 1976 Immigration Act. The primary effects of this Act for refugees and asylum seekers were the creation of the Canadian Border Service Agency and granting more power to immigration officers, the reduction of government-assisted refugee program quotas, and the development of an appeal process for negative decisions on refugee

\textsuperscript{387} Maria Cristina Garcia, “Canada: A Northern Refuge for Central Americans,” Migration Policy Institute, April 1, 2006, https://www.migrationpolicy.org/article/canada-northern-refuge-central-americans.
\textsuperscript{388} Epp, “Refugees in Canada: A Brief History,” 22.
\textsuperscript{389} Ibid, 21.
\textsuperscript{390} Ibid, 22.
claims, though the latter part took ten years to fully implement.\textsuperscript{391} Most of the measures in the Immigration and Refugee Protection Act were to change the measures for economic migrants, but many of them followed similar guidelines of increasing border security and screenings.

Under Stephen Harper’s Conservative Party leadership, Canada continued to restrict its refugee policy into the early 2010s. In 2012, the Canadian government passed the “Protecting Canada’s Immigration System” Act, which shortened timelines for asylum seeker claims, eased the exclusion of political prisoners and activists from the refugee definition, increased mandatory detention provisions for asylum seekers, and created a list of “safe countries” from which Canada would not accept asylum applications.\textsuperscript{392} Many of these measures were received with both domestic and international disapproval, especially the mention of some asylum claims as “bogus” before the final decision on their case is decided. Canada’s conservative government also cut refugee healthcare benefits in 2015 and refused to set clear resettlement numbers for the 2015 Syrian refugee crisis.\textsuperscript{393} In effect, the political leanings of Canada’s government directly impacted the country’s asylum seeker policy, its refugee resettlement policy, and its refugee service provision.

With the introduction of Justin Trudeau’s more liberal Canadian government in 2015, many of Canada’s conservative refugee policies of previous years were reversed. First, Canada’s federal court overturned Bill C-31’s “safe country” provision in 2015.\textsuperscript{394} Second, Trudeau’s government reversed refugee healthcare cuts and reinstated healthcare for all refugees within the country.\textsuperscript{395} Third, Canada committed fully to its refugee responsibility-sharing for the Syrian

\textsuperscript{391} Epp, “Refugees in Canada: A Brief History,” 24-25.
\textsuperscript{392} Abella and Molnar, “Refugees.”
\textsuperscript{393} Ibid.
\textsuperscript{394} Ibid.
\textsuperscript{395} Ibid.
refugee crisis, resettling 25,000 Syrian refugees by 2016 and becoming the world’s leader for refugee resettlement by 2018. Fourth, the Canadian government partnered with the UNHCR, Open Society Foundations, the Giustra Foundation, and the University of Ottawa to create the Global Refugee Sponsorship Initiative, which sought to strengthen other refugee resettlement programs across the globe. While Canada’s refugee and asylum policy of the last decade has indicated a mixed reaction to hosting, the country’s overall refugee resettlement policies and services remain some of the most progressive in the world to this day.

Due to the structure of Canada’s refugee resettlement program, the country resettles refugees with both government-based distribution and private sponsorship. Privately resettled refugees are taken in by individuals and organizations willing to host them, so the government does not track or set targets for the resettlement locations of those refugees. Government-assisted refugees, however, are resettled in one of 36 communities where Resettlement Assistance Program (RAP) service provider organizations exist.\textsuperscript{396} Refugee resettled through Canada’s shared sponsorship programs like the Blended Visa Office-Referred (BYOR) Program, which represents a collaboration between the Canadian Government, the UNHCR, and private sponsors, are also resettled in one of those 36 communities. Many of Canada’s RAP organizations exist in smaller towns and 13 of them are located in the province of Quebec.\textsuperscript{397} The following is a map of Canada’s RAP service provider organizations where government-assisted refugees are initially resettled:

\textsuperscript{397} “Are Refugees Good for Canada?,” 11.
Immigration, Refugees, and Citizenship Canada (IRCC), a federal department in the country, is responsible for both refugee applications and resettlement assistance. For Canada’s Government-Assisted Refugees (GAR) program, “refugees are referred to Canada for resettlement by the UNHCR or another referral organization” under the conditions of the 1951 Refugee Convention. The Resettlement Operations Center in Ottawa (ROC-O) works in conjunction with the IRCC in order to determine where refugees shall be resettled for the GAR program based on language, relatives, ethnic, cultural, and religious communities, medical needs, and available settlement services. ROC-O then consults with Canada’s International Organization

---

398 Figure 8. This map comes from the Canadian government website in 2017 and shows the country’s Resettlement Assistance Program communities. Data from https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/welcome-syrian-refugees/destination-communities-map.html

for Migration in order to make travel arrangements for GARs and shares information with local IRCC offices to ensure appropriate service provision upon arrival. For GARs in Quebec, the Quebec provincial government determines its own refugees and selection criteria for resettlement in 13 communities within their province under the “Canada–Québec Accord relating to Immigration and Temporary Admission of Aliens” of 1991.\textsuperscript{400}

After a refugee’s arrival, the Resettlement Assistance Program provides basic services and programs to government-assisted refugees, including immediate services for four to six weeks after arrival and financial services for up to one year after entry.\textsuperscript{401} According to the IRCC, the RAP’s services extend to greeting at the airport, temporary housing, help with finding permanent housing, help with registering for mandatory federal and provincial programs, community orientation services, personal finance help, basic life skills support for high needs clients, referrals to other refugee programs, a one-time household start-up allowance, and monthly income support payments “generally based on the prevailing provincial social assistance rates in the province where the refugees settle.”\textsuperscript{402} The approximate sum total of financial assistance for refugees under the RAP is a $905 one time allowance with a $564 loan for house rental and telephone line deposits, in addition to $567-$751 in monthly assistance as of October 15, 2018.\textsuperscript{403} The provision of RAP services to GARs is contingent on them staying in the cities of their service provider organizations, though refugees in Canada have freedom of movement through the country and freedom to live where they choose after they no longer depend on RAP services. Refugees in shared sponsorship programs are also entitled to RAP services.

\textsuperscript{400} Ahmad, “Refugee Law and Policy: Canada.”
\textsuperscript{401} Ibid.
Furthermore, Canada has instituted an Urgent Persons Program (UPP) to resettle refugees in urgent need of specialized assistance due to “immediate threats to life, liberty or physical well-being” for 100 individuals each year; these refugees are also entitled to RAP service provision.\textsuperscript{404}

For the Privately Sponsored Refugee (PSR) program, the sponsors of refugees, meaning groups with an IRCC agreement to sponsor refugees, groups of five Canadians or permanent resident holders, or community sponsors are accountable for service provision to refugees. If private sponsors have not designated a specific refugee to host, the UNHCR or the Canadian Visa Office offer hosting recommendations to them. Approximately two-thirds of private sponsors consist of “organizations that hold agreements with the government for this purpose, termed sponsorship agreement holders.”\textsuperscript{405} PSRs generally do not receive access to RAP services and sponsor parties must take responsibility for refugee service provision. Private sponsor support for refugees tends to vary in Canada because sponsors must fulfill required services under their PSR agreement, but can choose to provide any additional services that they wish.\textsuperscript{406}

The Canadian government also dictates that PSRs must receive a minimum of social assistance and income support equal to that of RAP support. Private sponsors must provide “the refugees with care, lodging, settlement assistance, and support for the duration of the sponsorship period”, which typically lasts for 12 months, but can carry on for up to three years under special circumstances.\textsuperscript{407} While sponsors involved in shared sponsorship programs receive government financial assistance to cover the costs of sponsorship, private sponsors are expected to cover the costs of refugee sponsorship themselves ($13,500-$33,700, depending on family size), but they

\textsuperscript{404} Ahmad, “Refugee Law and Policy: Canada.”
\textsuperscript{405} Ibid.
\textsuperscript{406} Wilkinson and Garcea, “The Economic Integration of Refugees in Canada,” 7.
\textsuperscript{407} Ahmad, “Refugee Law and Policy: Canada”
do receive some in-kind gifts and donations from the government for assistance ($6,000-$9,600 plus clothing, furniture, start-up, school, and food support).\textsuperscript{408}

Outside of RAP services, the Canadian government provides GARs, PSRS, and refugees in shared sponsorship programs with additional services for integration and well-being. The government has made refugees available for the Immigrant Loans Program if they need additional assistance during their travel to the country. The Immigrant Loans Program helps to “cover the costs of medical examination before departing for Canada, acquisition of travel documents such as passports, and transportation to Canada.”\textsuperscript{409} The program takes its roots from the Assisted Passage Loan Agreement in 1951. Additionally, refugees may receive healthcare coverage from the Interim Federal Health Care Program (IFCHP) until they are eligible for provincial or territorial healthcare plans.\textsuperscript{410} Thereby, even non-government-assisted refugees may receive some government support to ease their transition to living in the country.

Canada also standardizes access to permanent residency and naturalization in the country. As soon as the Canadian government determiners that a newcomer is a refugee, they are instantly eligible to apply for permanent residence in Canada as a “Protected Person.” After acquiring permanent resident status in Canada, refugees must fulfill a few additional requirements before they can become citizens. The requirements for citizenship are: living in Canada for three of the five previous years, being a permanent resident for two years, providing proof of proficiency in English or French (to Canadian Language Benchmark 4 in Listening and Speaking), passing the citizenship knowledge test, and paying the $400 application fee (or $100 for minors).\textsuperscript{411}

\textsuperscript{409} Wilkinson and Gareca, “The Economic Integration of Refugees in Canada,” 6-7.
\textsuperscript{410} Ibid, 7.
Furthermore, refugees may count half of their time as a Person of Protected Status into their three year residence requirement and they may request an application fee waiver if the application for citizenship is cost-prohibitive.\footnote{Canadian Council for Refugees, “Applying for Canadian Citizenship.”} While the approval of Canadian citizenship applications often involves long wait times, Canada’s process for refugee naturalization is one of the more forgiving ones as a result of the 2017 Citizenship Act. According to the UNHCR, 89% of refugees in Canada become citizens.\footnote{“Are Refugees Good for Canada?,” 14.}

Both GARs and PSRs also receive access to housing in Canada, but in different ways. In PSRs, sponsors move refugees directly into permanent accommodations, while the RAP houses GARs in temporary accommodations like reception centers or hotels.\footnote{Annette Korntheuer, “Structural Context of Refugee Integration in Canada and Germany,” \textit{Gesis Series} 15 (2017).} GARs also receive assistance in finding permanent housing, although they don’t receive financial assistance in acquiring it. The Transatlantic Council on Migration reports that rising rents in Canada, a lack of housing for larger families in cities, and insufficient financial resources to obtain adequate housing in the country have made it increasingly more difficult for GARs to pay rent for permanent housing while also needing to pay off transportation loans for their arrival.\footnote{Damaris Rose, “Creating a Home in Canada: Refugee Housing Challenges and Potential Policy Solutions,” (Transatlantic Council on Migration, November 2019).} This demonstrates that in some instances, private sponsorship serves Canadian refugees better than the government.

From statistical data in recent years, it appears that this holds true for refugee employment as well. While refugees in Canada possess the right to work, different types of refugees possess different outcomes for employment. According to a 2007 evaluation by
Citizenship and Immigration Canada, PSRs enter the labor market faster than GARs, they are more likely to obtain paid employment, and their earnings are higher than those of GARs. GARs are not helped by the fact that the “level of financial support GARs receive is reduced once they obtain employment earnings equal to or greater than 50 percent of their RAP guaranteed income support.” This gap between refugee employment narrows after three years, but the personalized support provided by private sponsors seems to provide for faster refugee self-sufficiency than RAPs.

Nevertheless, refugees in Canada manage to contribute significantly to economic growth in the country and sometimes obtain better employment outcomes than native Canadians. While more recent refugees to Canada tend to experience difficulties in entering the labor market and initially rely more on social assistance payments than native Canadians, the Transatlantic Council on Migration reports that refugees who have stayed in Canada for over five years can obtain similar employment outcomes to native Canadians. Canadian employers seem initially skeptical of refugee work credentials, Canadian job-matching policy and internship programs have done an adequate job of providing refugees with employment. According to the UNHCR, the refugee unemployment rate in Canada is 9% compared to the 6% of native Canadians, refugees pay more in income tax than they receive in government benefits, 51% of Canadian refugees are employed in high-skilled jobs, and 14.4% of refugees who have stayed in Canada for over ten years are entrepreneurs compared to 12.3% native Canadians. Clearly Canada’s refugee employment system is providing positive outcomes for refugees, despite some unevenness in its administration.

417 Ibid.
418 Ibid, 9-10.
419 “Are Refugees Good for Canada?,” 5, 7, and 9.
Canada also recognizes refugees’ right to primary and secondary education. The Canadian school system attempts to accommodate refugee children as they “fit” in to the existing structures of the country’s educational system, but this often leads to them being placed into grades lower than that of their age group. Because individuals in Canada over the age of 21 must pay for secondary education, refugees placed into the education system into a lower grade could suffer from financial barriers to education in the country. While tertiary education in Canada is not free for refugees, the Student Refugee Program (SRP) has developed in the country as a Sponsorship Agreement Holder with the IRCC to partner with over 95 campuses and help over 2,000 young refugees to gain college education in the country since 1978.

Young refugees come into Canada relying on the country’s programs and services to make them self-sufficient and according to the UNHCR in 2016, the country is successful in providing them with those opportunities, as “refugees who arrived in Canada as children have a higher completion rate of high school, college, university and graduate degrees compared to children born in Canada.”

Furthermore, the Canadian government gives refugees access to the same mainstream public services that Canadian nationals may access, such as “the employment insurance program, social assistance programs, and various pension programs.” While GARs are made aware of these services prior to and after their arrival, PSRs do not always receive knowledge about services for which they might be eligible from the government. Private sponsors have no formalized process for welcoming refugees and according to a report by the Transatlantic

---

421 Ibid.
423 “Are Refugees Good for Canada?,” 15.
Council on migration, “many settlement service providers report that some refugees experience significant problems accessing appropriate services because they are provided inaccurate information by those close to them.”\textsuperscript{425} Private sponsors are given information and resources to aid PSRs upon arrival and PSRs also receive the full-time aid of volunteers in their first few weeks, but the general procedure for PSR arrival appears to require more standardization.

The Canadian refugee service provision has begun to suffer from their increased refugee intake as well. Between 2015 and 2018, Canada accepted over 50,000 Syrian refugees and recently resettled refugees began to encounter long waiting lists and barriers to services like language courses upon their entrance to the country.\textsuperscript{426} According to the Leibniz Institute for Social Sciences in 2016, “British Columbia, for instance, currently has over 5,000 people on its waiting list for English language classes.”\textsuperscript{427} The Canadian refugee resettlement program has clearly suffered after attempting to triple its refugee resettlement numbers in one year during 2016 without increasing its program capacity.

However comprehensive Canada’s refugee resettlement program is, the country’s programs for asylees are lacking. Asylees in Canada typically receive no support or funding from the RAP in Canada unless they “have been identified as refugees with special needs and who have been admitted to Canada as government-assisted refugees.”\textsuperscript{428} Asylees recognized by the Immigration and Refugee Board in Canada receive no special income assistance and must depend on general government benefits for assistance, if they qualify for it.\textsuperscript{429} Furthermore, asylum seekers that enter Canada by land face deportation to the United States due to Canada’s

\textsuperscript{425} Wilkinson and Garcea, “The Economic Integration of Refugees in Canada,” 18.
\textsuperscript{426} Ibid, 19.
\textsuperscript{427} Korntheuer, “Structural Context of Refugee Integration in Canada and Germany,” 95.
\textsuperscript{428} Ahmad, “Refugee Law and Policy: Canada.”
\textsuperscript{429} Canadian Council for Refugees, “Refugees Receive Limited Social Assistance.”
“Safe Third Country” agreement with the US, a measure that might lead asylum seekers to be further detained or deported to Mexico under recent US asylum policy. Asylum seekers attempting to enter Canada in the coming years must be wary of Canadian asylee services and policy, as the current Canadian government has refused to repeal restrictive policies against asylum seekers signed into law by the past conservative government, despite continuing to support measures for refugee resettlement.

The following table shows the Canada’s relevant signed international legislation on refugees and asylum seekers to date:

<table>
<thead>
<tr>
<th>Legislation Year Implemented</th>
<th>Legislation Name</th>
<th>Description of Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1946</td>
<td>Passage of the Order-In-Council on displaced family members</td>
<td>Allowed Canadian citizens to welcome displaced family members from Europe after World War 2</td>
</tr>
<tr>
<td>1947</td>
<td>Institution of the Displaced Persons Movement</td>
<td>Created ad-hoc agreement to selectively welcome post-World War 2 refugees</td>
</tr>
<tr>
<td>1951</td>
<td>Enactment of the Assisted Passage Loan Agreement</td>
<td>Developed a travel loan system for new refugees in Canada</td>
</tr>
<tr>
<td>1962</td>
<td>Passage of Order-In-Council PC 1962-86</td>
<td>Eliminated race as a factor in migrant acceptance, replacing it with “skill”</td>
</tr>
<tr>
<td>1969</td>
<td>Ratification of the 1951 Refugee Convention and the 1967 Refugee Protocol</td>
<td>Established the rights of refugees and removed geographical and temporal limitations on them</td>
</tr>
<tr>
<td>1976</td>
<td>Passage of the Immigration Act of 1976</td>
<td>Matched Canada’s refugee definition to that of the UN, created the Refugee Status Advisory Committee, and developed the country’s refugee resettlement program</td>
</tr>
<tr>
<td>1979</td>
<td>Institution of the Private Sponsorship Program</td>
<td>Created Canada’s program for private refugee sponsorship</td>
</tr>
<tr>
<td>1985/89</td>
<td>Development and Institution of the Immigration and Refugee Board</td>
<td>Created Canada’s system for asylum seeker application processing</td>
</tr>
<tr>
<td>1988</td>
<td>Passage of Bill C-84</td>
<td>Created new “detention and deterrence” measures for asylum seekers</td>
</tr>
<tr>
<td>1993</td>
<td>Passage of Bill C-86</td>
<td>Expanded Canada’s inadmissibility criteria for asylum seekers</td>
</tr>
<tr>
<td>2002</td>
<td>Implementation of the Immigration and Refugee Protection Act</td>
<td>Created the Border Service Agency, strengthened the role of immigration officers, reduced refugee quotas, and</td>
</tr>
</tbody>
</table>
Identifying Better Refugee Policies

<table>
<thead>
<tr>
<th>Year</th>
<th>Event Description</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>Institution of the “Safe Third Country” Agreement Between the United States and Canada</td>
<td>Disallowed asylum seeker applications for those travelling to the Canada by land if they had not applied in the USA first</td>
</tr>
<tr>
<td>2012</td>
<td>Passage of Bill C-31 (the “Protecting Canada’s Immigration System” Act)</td>
<td>Shortened asylum seeker timelines, eased exclusion of political prisoners and activists, increased asylum detention provisions, and (temporarily) created a list of “safe countries”</td>
</tr>
</tbody>
</table>

While the Canadian refugee resettlement program and asylum processing system are imperfect, the country’s programs and policy remain some of the most progressive in the world and obey international guidelines. According to this thesis, Canada does not violate any of the Articles of the 1951 Refugee Convention examined by this thesis. However, the intricacies involved in Canada’s multi-faceted refugee resettlement program require more nuance for the administration of services to PSRs and GARs, as clarified by the following recommendations:

First, the PSR program should mandate that private sponsors attend standardized information sessions about available integration services such as language and vocational training in their signed agreements. Doing so would ensure that PSRs receive the necessary programs that would maximize their opportunities for self-sufficiency.

Second, the GAR program should include a fund for permanent housing acquisition for large families as part of its program administration. Considering the deficiencies in Canada’s current housing market, refugees need assurances that they can live outside of their initial temporary housing if they are to feed their children, repay travel loans, and pay rent before many of them have access to steady income.

Third, the Canadian government should ensure that refugees in Canada have free access to secondary education regardless of age. Refugees should not be deprived of receiving equal
educational opportunities in their new homes due to age restrictions based on their past education.

Fourth, the Canadian government ought to increase its program capacity to ensure that all refugees can receive the integration-based services guaranteed to them. Canada’s recent increased intake of refugees should be accompanied by an increase in the number and size of government-assisted refugee programs.

Fifth, Canada should provide GAR program services to asylees to ensure that they have the same chance at self-sufficiency as resettled refugees, as their rights under the 1951 Refugee Convention have been recognized.

Finally, Canada ought to do everything in its power to encourage other countries to do their part in international responsibility-sharing. Canada’s contributions to refugee resettlement have been admirable, but other countries must emulate their example if the world is to alleviate the current refugee crisis.
Conclusion

Every country in the world possesses its own unique history and challenges of asylum-seeker admission and refugee resettlement. Haven countries like Uganda and Kenya host the majority of the world’s asylees and generally experience minimal involvement in resettlement. Coastal nations like Italy face their own unique challenges in accepting seafaring asylum seekers while staying involved in refugee resettlement. Germany and Hungary, as countries in central and eastern Europe, are encountering new challenges in European refugee resettlement and the extent to which they take on the responsibilities of new crises. The United States and Canada, as historic leaders in global refugee resettlement, endure the pressure of setting global standards for both resettlement and program administration to refugees. These geographic factors heavily influence both the roles fulfilled and policies required by each country.

Similarly, the resources, past immigration laws, and current governments of each country also inform the policies they need to provide for the self-sufficiency of refugees and fulfill their international obligations. Not every country possesses Uganda’s territorial capacity to provide farmland for incoming refugee families, Canada’s domestic goodwill to privately sponsor and resettle refugees, or the United States’ financial ability to administer grant funding and facilitate labor market integration for refugees. Conversely, it is not realistic for Kenya to transition directly from denying refugees the right to work to fully integrating them into the economy without intermediate actions. Italy and Hungary require transformations of both domestic political will and international enforcement of legislation in order to effectively grant refugees their rights. The aim of this thesis is to demonstrate a wide array of policy recommendations that can provoke legislators in other countries to rethink their current refugee programs and reaffirm national commitments to global burden sharing. To summarize, here are the suggested policy
recommendations for Uganda, Kenya, Germany, Italy, Hungary, the United States of America, and Canada:

**Uganda**

1. Develop comprehensive vocational training programs for refugees working outside of agricultural communities
2. Invest in improving access to basic services in refugee settlements
3. The Uganda Bureau of Statistics (UBOS) must work in conjunction with international actors to produce more detailed and complete records for resource tracking of the Ugandan refugee program
   a. funders of the new resource tracking program should also establish policies and procedures to hold grantee states accountable, and provide training on their accounting methods/software to ensure that the funds are properly reaching refugee programs
4. Local communities must be more closely involved in refugee program decisions
5. The African Union must collaborate with Uganda to develop a more cohesive policy for refugee resettlement and incentivize burden-sharing within Africa

**Kenya**

1. Enact a new Refugee bill, which will:
   a. establish a more lenient basis for granting movement passes to Kenyan refugees
   b. remove the component of making a “substantive contribution to Kenya’s development” from its naturalization requirements
   c. administer services uniformly to refugees across the country
d. include provisions for improved education to refugees in camps through Kiswahili Language Learner (KLL) programs and access to secondary education that does not require refugees seeking movement passes and forfeiting access to aid

e. establish more settlements like Kalobeyei within the country to allow the economic participation and gender equality of refugees in Kenya

f. encourage refugee departments of the Kenyan government to work more closely with the UNHCR, NGOs, and local refugee networks to develop a more comprehensive system of data collection for refugees within the country

2. Stop labelling refugees as members of Al-Shabaab or terror threats to the country

3. Stop trying to deport refugees and close existing camps

Germany

1. Remove the part of its Basic Law amended by the “Asylum Compromise” (in section 16a) that defines a list of “safe countries” from which asylum seekers cannot apply for asylum in Germany

2. Allow refugees to relocate to other areas of the country after their initial residence permit

3. Standardize program administration as well as the criteria for granting work permits and settlement permits across regions

   a. create a federal to oversee and standardize regional policies and ensure fair practice for refugees

4. Reinforce its language program administration to ensure that all refugees stand a reasonable chance of attending higher education or obtaining jobs

5. Create more employment programs and networks for unskilled workers on top of its existing vocational training programs
6. Continue to work via international platforms and incentives in the EU to establish an equitable responsibility-sharing system for refugees across Europe

**Italy**

1. Enact the 2017 National Integration Plan in its entirety
2. Reform access to Universal Basic Income for refugees
3. Repeal the 2018 decree, “Urgent measures on international protection, immigration, and public security”
4. Repeal the 2019 decree, “Urgent measures concerning public security and order”
5. Work in conjunction with the UNHCR, International Organization for Migration (IOM), the Italian Red Cross, and Save the Children to reinstate the Praesidium Project
6. Abolish the “Hotspot Approach” and improve the quality of reception facilities

**Hungary**

1. The United Nations, the European Union, and national government bodies must hold the Hungarian government accountable for its behavior toward refugees, potentially removing Hungary’s EU voting rights
2. Repeal all stated federal asylum decrees since 2015
3. Establish government-created integration services that provide for the self-sufficiency of refugees in the country, like signing into law a new Refugee Law that creates language, financial literacy, educational, and employment programs for refugees in coordination with NGOs for service provision and information-gathering

**The United States of America**

1. Repeal the 2017 screening restrictions for refugee resettlement from “high-risk” countries
2. The President of the United States ought to raise the admissions ceiling for refugee resettlement to that of the pre-Trump era and adjust executive parameters for determining the ceiling.

3. Repeal the 1990 Lautenberg Amendment along with the 2004 Specter Amendment.

4. Refrain from instituting additional discriminatory travel bans, like the “Muslim ban.”

5. Amend the 1996 Illegal Immigration Reform and Immigrant Responsibility Act to remove the power of deportation from immigration officers and ensure that asylum seekers receive a fair trial in the United States.

6. Repeal the Migrant Protection Protocols and refrain from deporting asylum seekers to Mexico as they await asylum processing in the United States.

7. Pass a law that formally prevents family separation at the U.S.-Mexican border.

8. The Department of State’s Resettlement and Placement program should either contribute more funding to VOLAGs in order to provide integration services for refugees beyond the initial 30 day period or the ORR should to increase funding to state refugee departments.

9. The ORR ought to remove employment as a requirement for refugees to receive additional skills training and the agency must fund the entirety of vocational training programs.

10. Standardize refugee program provision across the states.

Canada

1. The PSR program should mandate that private sponsors attend standardized information sessions about available integration services such as language and vocational training in their signed agreements.
2. The GAR program should include a fund for permanent housing acquisition for large families as part of its program administration

3. Ensure that refugees in Canada have free access to secondary education regardless of age

4. Increase program capacity to ensure that all refugees can receive the integration-based services guaranteed to them

5. Provide GAR program services to asylees to ensure that they have the same chance at self-sufficiency as resettled refugees

6. Make every effort to incentivize other countries fulfill their obligations for international responsibility-sharing

In the words of Betts and Collier, developing effective refugee policies and programs requires a fine balancing act of the “headless heart” and the “heartless head.” Every nation has the duty to help those fleeing persecution, but the measures to accomplish that must be realistic. Today, the world contains more forcibly displaced people than ever before. The solution to repatriating, locally integrating, or resettling those in need of assistance is neither shirking international obligations, nor admitting all displaced persons without the ability to provide for their self-sufficiency. Instead, rational and well-informed adjustment of policies by states, steadfast support of service provision by NGOs and the private sector, and unyielding advocacy of international organizations for collective action can create a more effective global refugee regime. In the past few decades, multilateral coordination through the International Conference on Central American Refugees (CIREFCA) to provide durable solutions for Central American displaced persons and the Comprehensive Plan of Action (CPA) to resettle Indochinese refugees has proven successful. With all of these measures in mind, solving the Middle Eastern refugee crisis, one of the most severe humanitarian issues of our time, becomes an attainable goal.
Bibliography


Identifying Better Refugee Policies


