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The international governance of refugee work: reflections on the Jordan compact

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Abstract

For the past 70 years, separate international regimes have governed the economic lives of refugees and labor migrants. The United Nations High Commissioner for Refugees (UNHCR) oversees all aspects of refugee resettlement, including livelihoods, while the International Labor Organization (ILO) is charged with addressing the labor rights of migrants. This division has become increasingly problematic as international actors have sought to move refugees into employment arenas from which they have been largely excluded since the end of WWII. This article uses a case study of the 2016 EU-Jordan Compact to illustrate the risks inherent in positioning refugees as workers in the absence of a commitment to a rights-based approach. The Compact was negotiated between the European Commission, the World Bank, and the Government of Jordan, in consultation with the UNHCR; the ILO played no role in crafting the agreement. It sought to place 150,000 Syrians in Jordanian garment export manufacturing jobs, replacing an existing migrant workforce in an industry notorious for low pay and poor conditions. This effort quickly foundered. Instead, large numbers of Syrian refugees have been channeled into informal employment in construction and agriculture in Jordan, where they and migrant co-workers face pervasive violations of labor standards. Without decent work as a central goal, the Compact ultimately concentrated some of the world's most vulnerable workers in some of its least desirable jobs. To protect refugees and others alongside whom they labor, the article argues, refugee employment initiatives must be accompanied by attention to decent work from the outset. At the international level, this should include a critical role for the ILO, in recognition of its extensive expertise with the establishment and enforcement of labor standards for all workers.

Keywords Governance · Refugee · Livelihoods · ILO

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Introduction

For the past 70 years, separate regimes have governed the transnational movement of refugees and labor migrants. The post-World War II Refugee Convention established a widely-accepted international legal framework and corresponding set of institutions to ensure that refugees would receive temporary protection and humanitarian assistance in other countries—but not the right to work there. The regulation of labor migration, meanwhile, has been set out in international instruments that are largely ignored by governments of destination nations, which prefer to make their own rules. The split is replicated among academics. The refugee regime is the subject of a literature concerned with the role of the United Nations High Commissioner for Refugees and international NGOs, while the study of migration governance in law and the social sciences addresses the structures that manage so-called voluntary migration, with an emphasis at the global level on the International Organization for Migration and the International Labor Organization.

This division has become increasingly problematic as international actors have sought to move refugees into the employment arena from which they have been largely excluded since the end of WWII. Today, the mantra in the world of refugee governance is “self-reliance,” with an emphasis on initiatives that would allow refugees to support themselves, rather than depending on humanitarian aid. Reflecting this shift, the 2018 Global Compact on Refugees lists self-reliance as one of its four primary objectives. Access to waged work in host countries has emerged as a key intervention in this context. Since 2016, the EU-Jordan Compact and the Ethiopia Jobs Compact have encouraged the integration of refugees as workers in those host country labor markets, with a particular emphasis on export manufacturing.

This new emphasis has not, however, been accompanied by a meaningful change in the governance structure of the international refugee regime to incorporate actors with expertise in decent work matters. The Jordan and Ethiopia compacts were designed by the UNHCR, the World Bank, and European and host country governments, with only marginal input from the ILO or other institutions with expertise in labor rights. Both countries’ export sectors are dominated by garment production, an industry notorious for its lack of compliance with internationally recognized labor standards. Yet—not surprisingly, given the absence of a central role for the ILO—neither compact emphasizes livable wages or the need to address decent work deficits. In Jordan, where implementation is underway, the work available to refugees has been plagued by low wages and poor working conditions.

This article uses a case study of the EU-Jordan Compact to illustrate the risks inherent in moving forward with new refugee work initiatives in the absence of a commitment to a rights-based approach at the level of international governance as well as on the ground. It also touches on the Ethiopia Jobs Compact, implementation of which has been delayed, allowing at least in theory for incorporation of lessons learned in the Jordanian context. The article calls for an integrated regime

to govern situations where refugees will be treated as workers, one that puts the ILO's expertise with the establishment and enforcement of labor standards on an equal footing with the UNHCR's experience in humanitarian crises, and incorporates institutions charged with the establishment and enforcement of labor standards on the national and local levels as well.

In a parallel way, the article argues that refugee governance scholarship has yet to fully grapple with the governance issues that arise once refugees are regarded as workers, especially as to the conditions of their employment. While there is a substantial body of research on issues related to the governance of decent work for labor migrants, it has no parallel in the context of refugee employment. Most of the academic treatment of refugees as workers in the field arises in the Global North context, and focuses largely on employment as an aspect of integration (for examples, see Bloch, 2008; Brell et al., 2020). A smaller set of scholars examine the labor precarity of asylum applicants awaiting a determination of their status in the Global North (as an example, see Jackson and Bauder, 2014). Yet only a tiny percentage of the world's refugees live in the Global North. The vast majority of the world's refugees reside temporarily in host countries in the Global South (UNHCR, 2019), and lack legal access to the labor market. Here, the principal focus of the literature has been on the importance of work to refugee self-reliance, and on the political, financial, and institutional arrangements necessary to facilitate the opening of host labor markets (as examples, see Asylum Access, 2014; Betts, et al., 2017; Betts & Collier, 2015; Jacobsen & Fratzke, 2016; Zetter & Ruaudel, 2016, 2018).

Decent work until recently has rarely been mentioned in relation to refugees in the Global South. In the past few years, scholars have begun to highlight the tensions between security, sovereignty, and protection motivations underlying the drive towards refugee employment (see, for example, Fakhoury, 2019; Panizzon, 2017; Ramsay, 2020), and to explore how refugee employment policies have played out at the host country level, with particular emphasis on the Jordan Compact (Gordon, 2019; Hartnett, 2018; Lenner and Turner, 2019; Morris, 2020; Razzaz, 2018). However, little has been written on the structures of governance required to establish and enforce meaningful labor protections for refugees as workers. As more refugees begin to work in host countries, there is an urgent need for examination of the arrangements necessary to ensure that refugee employment initiatives are designed and carried out in ways consistent with decent work for the refugees themselves and for others in the relevant labor markets, whether migrants or host country citizens. This article addresses that gap, with particular attention to governance at the international level.

The article offers a historical perspective on refugees and work, combined with a qualitative analysis of institutional competency in the context of refugee work policies in the current moment, focusing on the roles of UNHCR and the ILO. It draws on the author's field research between January 2018 and July 2019, including interviews and observations carried out during research trips to Jordan, Ethiopia, Bangladesh, and Mexico, as well as extensive review of original documents and secondary sources. While this article uses the implementation of the Jordan Compact as its central case study, with additional reference to the developing situation in Ethiopia,

the author's field and desk research regarding other countries' experiences with the employment of refugees inform the conclusions and recommendations offered here.

Constructing a firewall between refugees and economic migrants¹

Refugees have not always been excluded from the labor market. Following World War I, the United Nations prioritized employment as a determinant of refugee resettlement, with refugees treated as economic actors, much like labor migrants (Easton-Calabria, 2015, 2017; Karatani, 2005; Long, 2013). The International Labor Organization, or ILO, founded in 1919, played a critical role in this resettlement process. It managed the movement of refugees to countries with available jobs, and monitored their working conditions (Easton-Calabria, 2017). Its refugee response during this period included efforts to improve labor standards for all workers, not just refugees (Skran, 1995). In negotiations over the creation of the modern refugee regime at the end of World War II, the ILO proposed to continue and expand this role, integrating its oversight of job placement and working conditions for refugees and labor migrants alike (Long, 2013). Ultimately, however, the post-WWII regime sidelined the ILO and strictly separated forced and economic migrants (Karatani, 2005; Long, 2013).

The 1951 Refugee Convention (hereinafter "Refugee Convention") sought to address the humanitarian needs of refugees, with an emphasis on protection but not employment. It has been ratified by 145 countries. The Refugee Convention created an international refugee management system, with the United Nations High Commissioner for Refugees (UNHCR) at the helm. The UNHCR would coordinate with international non-governmental organizations and national governments to deliver humanitarian relief on the ground. With regard to economic migration, in 1949 the ILO adopted Convention 97 on Migration for Employment, which sets out basic rights and protections for labor migrants. However, this Convention has been ratified by only 50 countries, including few major destination nations. As opposed to the situation with refugees, no corresponding international governance mechanism or infrastructure was established for economic migration. Its management was left to individual countries or regions.

The Refugee Convention grants refugees rights and protections denied to economic migrants. Signatories must allow refugees to enter and remain until they are accepted by another country for permanent resettlement, can return home, or are granted the right to full local integration. In the long term, the system seeks to move refugees toward one of these "durable solutions," although in practice they have materialized only for a tiny fraction of the world's refugees. Most live in tenuous situations in host countries neighboring their home, largely in the Global South.

In exchange for offering temporary shelter, host countries are allowed to protect their economies: they do not have to allow refugees to access the labor market on the same terms as citizens. The Refugee Convention does require signatory countries to

¹ This and following sections are adapted from and expand on Jennifer Gordon, *Refugees and decent work: Lessons learned from recent refugee jobs compacts* (ILO Employment Working Paper No. 256, December 2019).

“accord to refugees lawfully staying in their territory the most favourable treatment accorded to *nationals of a foreign country in the same circumstances*, as regards the right to engage in wage earning employment” (Refugee Convention, Article 17, paragraph 1). But a number of major host countries are not signatories, and the majority of countries that signed the Refugee Convention did so with reservations as to the work requirement. Even those host nations that ostensibly permit refugees to access work permits rarely make them available in practical terms. More common is the absence of any affordable form of work permission for refugees, together with limits on freedom of mobility (Asylum Access, 2014; Zetter & Ruauadel, 2016).

Despite their exclusion from legal employment, refugees have found ways to engage in economic activity. The options for most refugees during the second half of the twentieth century were limited to participation in a UNHCR cash-for-work program or charitable livelihoods initiative, or self-employment in the informal economy. In cash-for-work programs, the UNHCR pays refugees for time spent on tasks that most often take place within the camps where they reside (for a typical example, see UN Women, 2015). Refugee livelihoods programs are largely small-scale schemes involving crafting or small-plot cultivation and marketing, funded through grants from UNHCR or non-governmental organizations. Historically, such efforts have not produced enough income for refugees to support themselves. (Ayoubi & Saavedra, 2018; Jacobsen & Fratzke, 2016; and Skran and Easton-Calabria, 2020 offer critiques of past practices in the refugee livelihoods field.) Outside of these programs, refugees have created their own economic opportunities, whether through resale of goods inside camps or unauthorized business activity or work informally for wages outside of the camp economy (Betts et al, 2017).

To the extent that refugees without work permits find waged employment in the host country’s informal economy, the issues they face are nearly identical to those encountered by undocumented migrants and others engaged in informal work (see, for example, Leghtas, 2019). In these parallel contexts, the ILO, some host country labor ministries, trade unions, and advocates have developed a wealth of expertise about impediments to decent conditions for migrant workers and others in the informal economy, and ways to address them. Many of these lessons have immediate relevance for refugees. But throughout the second half of the twentieth century and into the 21st, there was little or no communication between actors in the world of workers’ and migrants’ rights and those in the world of refugees.

Bricks fall from the firewall: the Jordan compact and the emergence of the refugee self-reliance paradigm

The strict division between refugees and economic migrants persisted for over fifty years after the Refugee Convention’s signing. While development-oriented approaches to refugee relief cycled in and out of favor, the idea of waged work for refugees was not on the table (Easton Calabria, 2017). At the turn of the twenty-first century, however, “refugee self-reliance” emerged as a new paradigm in the field (Zetter & Ruauadel, 2018; for a critique, see Easton-Calabria & Omata, 2018). A few years later, the EU, as well as the UN and international non-governmental

organizations, began calling for host countries to demonstrate “resilience,” understood as the ability to contain refugees within their borders while using their presence as a development opportunity; and for individual refugees to be similarly “resilient,” demonstrating economic resourcefulness in response to their own displacement. (Anholt & Sinatti, 2020; Badarin & Schumacher, 2020.) In this context, development again became closely tied to refugee policy, and financial institutions and development organizations entered into partnerships with humanitarian organizations to achieve self-reliance and resilience goals. The World Bank, the United Nations Development Program, and others began new collaborations with the UNHCR and with refugee host governments (Easton-Calabria, 2017; ICVA, 2018). Much of this activity focused on entrepreneurship, which in the refugee context often means running businesses serving other refugees in camps.

If refugees were truly to become self-reliant, however, a significant number would need to move beyond livelihoods initiatives and small-scale entrepreneurship to gain access to the host country labor market as workers. As national governments and international organizations considered proposals to give refugees work permits in host nations, a conflict emerged. Allowing refugees to access formal employment in their first host countries (almost all located in the Global South) was advanced by the countries that largely fund the refugee regime (almost all located in the Global North) as a win–win solution. Developed countries tended to support the idea of allowing refugees to work in host countries, not least because they hoped that refugees with jobs would be less likely to leave to seek opportunities on wealthier shores. But the less-developed nations that host 84% of the world’s refugees were often resistant (ILO, 2016b; UNHCR 2019). Some host nations noted the irony that institutions dominated by the United States and Europe would call for economically struggling countries in the Global South to give refugees work permits while being unwilling to do the same themselves. Other host countries indicated some openness to the proposal, but only if countries from the Global North significantly increased aid and other benefits (ILO 2016b).

The Syrian refugee crisis broke the logjam. With the onset of the armed conflict in Syria in 2011, millions of Syrians fled to neighboring Turkey, Lebanon, and Jordan. This outpouring received little international attention until 2014, when large numbers began leaving these host countries in search of greater security and economic opportunity in Europe. With hundreds of thousands of desperate refugees arriving by sea and land, the EU found itself in the middle of a humanitarian and political maelstrom.

In late 2015, two Oxford academics proposed that a large-scale program to employ Syrians in Jordan could provide relief to refugees while stemming their exodus to Europe (Betts & Collier, 2015; Economist, 2016; Luck, 2016; Sengupta, 2016). The Jordan Compact came together quickly thereafter. Through the Compact, signed in early 2016, the European Commission and the World Bank promised the government of Jordan up to two billion dollars in aid and loans in exchange for creating job opportunities for 200,000 Syrians. Three-quarters of these positions were to be located in Jordan’s existing garment export sector, via job creation spurred by trade incentives offered to employers with first 15%, and later 25%, of Syrians as a proportion of their workforce. The plan was coupled with an effort to increase the

number of Jordanians working in the industry, which had previously been almost entirely dependent on migrant labor (European Commission, 2016). The UNHCR was consulted in the final stages of the design of the Compact (Barbelet, et al, 2018). Although labor was central to this proposal, and the ILO office in Jordan was already working with Syrian refugees in the field, the ILO was not involved in the high-level negotiations (Gordon, 2019; ILO, 2018).

The Jordan Compact was immediately lauded as a paradigm-changing response to a refugee crisis. As soon as implementation began, however, it was clear that the garment employment plan was deeply flawed. A trial job training and placement program in 2016 targeting 2000 Syrians ended with few if any ultimately employed by garment factories (Lenner and Turner, 2019). Three years after the full program was launched, despite massive investment of time and resources by the signatories, as well as UNHCR, UNDP, ILO, and scores of international organizations and Jordanian civil society groups, fewer than 500 Syrians actually work in the garment industry (Agulhas Applied Knowledge, 2019). To say that Syrian refugees rejected garment work despite their desperate circumstances is a powerful indictment of conditions in the industry. The alternatives open to them largely lay in construction and agriculture, informal industries in which many were already employed prior to the Compact, both characterized by pervasive decent work deficits. Some 45,000 Syrian permit holders labor in these industries today (Government of Jordan, 2018).

Efforts to place Syrians in the garment industry revealed a fundamental mismatch. Syrians in Jordan rejected the low wages and exploitative working conditions on offer in the special economic zones as inadequate to meet their and their families' basic needs in Jordan. On the factory owners' side, in light of cost pressures from the global garment brands and retailers that they supplied with products, employers saw refugees as a poor substitute for their existing low-wage workforce of South Asian migrant women present in Jordan on temporary visas. The refugees were entitled to somewhat higher pay, were available for fewer hours, and could leave the job without endangering their right to remain in the country, all of which increased the expense of employing them—without addressing the refugees' fundamental concerns (Gordon, 2019; Lenner and Turner, 2019; Razzaz, 2018). Both of these perspectives could have been ascertained in advance, had the international actors designing the compact consulted refugees, garment employers, or the ILO, which had operated the Better Work program in the Jordanian garment industry since 2008. But the compact was a labor market intervention that had been crafted in spite of the structure of the labor market and the realities faced by refugees, not in response to them.

Decent work deficits played a critical role in the failure of the garment industry plan (Gordon, 2019). From the outset, the Jordan Compact was structured in a way that set the stage to put refugees in bad jobs. It planned to place most Syrians in special economic zones in an industry notorious for low wages, long hours, and sexual harassment. To avoid competition with Jordanian workers, the Jordanian government restricted the remainder of Syrian permit holders outside the garment industry to jobs in migrant-heavy sectors with high levels of informality (Razzaz, 2018). It tied refugee work permits to individual employers, which—as migrant workers and their advocates have long argued—creates a situation ripe for exploitation. It

continued legally-mandated wage differentials between foreign workers and Jordanians, meaning that refugees would be paid less than their Jordanian counterparts, although more than migrant workers laboring in the same industry (ILO, 2018). Some of these concerns were partially addressed during the implementation period following the intervention of the ILO and non-governmental organizations, but new ones emerged. For example, rather than focusing inspections on detecting and remedying labor law violations, the Jordanian Ministry of Labor deployed the inspectorate to check work permits at job sites (Kattaa et al., 2018; Razzaz, 2018).

Furthermore, as to migrant workers, the Compact created the ultimate decent work deficit: no jobs at all. Migrants who had long worked in Jordan did not figure into the political calculations that led the European Union to fund the employment of Syrian refugees in Jordan. Nor did the interests of their home country governments. States that relied on remittances from large numbers of migrants in Jordan had no role in the negotiation of the Jordan Compact, but the fate of their citizens abroad would be deeply affected by a shift in the workforce from migrants to refugees. Given Jordan's stagnant economy, employment was a zero sum game: as employers in construction and agriculture hired refugees, they displaced migrant workers from Egypt, Iran, and elsewhere who had previously held those positions (Hartnett, 2018; Lenner and Turner, 2019; Wahba, 2018). From the EU's perspective, there was no down side to this shift, and the EU saw no need to mitigate it. Of course, from the perspective of the migrant workers themselves, and of origin country governments that counted on remittances from migrants in Jordan to bolster their GDP, things looked quite different. As Lenner and Turner recount, the Government of Egypt had the geopolitical clout to push back on Jordanian efforts to shut Egyptian migrants out to make room for Syrians. Migrants from other countries were less fortunate.

The EU noted many of these issues in its 2019 review of the Compact's implementation (Agulhas Applied Knowledge, 2019). Since then, COVID has severe impacts on the Jordanian economy and on the garment industry in particular. To date, there has been no assessment of the Compact since the beginning of the pandemic in March 2020 (Agulhas Applied Knowledge, 2020; ILO, 2021).

A second, smaller scale compact with the government of Ethiopia was also signed in 2016. The Ethiopia Jobs Compact promised 100,000 new jobs in the country's emerging garment export industry, of which 30,000 would be set aside for Eritrean, Somali, Sudanese and South Sudanese refugees already in Ethiopia (European Commission, 2018; United Kingdom Department for International Development, 2020). One of the principle attractions of the Ethiopian garment industry for foreign investors is that pay in the sector is the lowest in the world (Barrett & Baumann-Pauly, 2019). Although, unlike the Jordan Compact, the Ethiopia Compact included decent work goals and required changes in domestic law to address labor standards concerns, conditions in the export zones appear to be inadequate to attract refugee workers. Implementation of the Ethiopia Compact was delayed. In light of the debacle in Jordan and survey evidence indicating that refugees in Ethiopia, too, were unwilling to work for the wages paid in garment factories in industrial parks, the parties amended the agreement to shift the focus from export factories to other sources of refugee employment (Gordon, 2019).

Lessons for the governance of refugee work

The results to date of the Jordan and Ethiopia Compacts sound a warning note about the creation and management of refugee employment initiatives under the current refugee governance regime, in isolation from decent work initiatives targeting other workers in the same labor markets.

With regard to international governance, the obvious partners in an effort to bridge the gap between decent work programming and refugee relief are the ILO and the UNHCR. Each brings significant strengths to such an effort. The ILO is unique among United Nations organizations in its tripartite structure, with representation by governments, trade unions, and employers. Its expertise relates to labor standards and their enforcement, and by extension to labor markets and labor market institutions more generally. For its part, the UNHCR's core competence is in refugee relief and resettlement, shifting emphasis over time between humanitarian and development-oriented responses to refugee needs (Easton-Calabria, 2017; Long, 2013). Yet from 1951 through at least 2015, the ILO played no significant role in refugee initiatives (Gordon, 2019; Long, 2013). Instead, following the outlines of the structure established in the wake of WWII, the UNHCR—together with development agencies and the World Bank—has been in the lead role, even as to refugee employment.

In the academic literature on global migration governance, the strengths and weaknesses of the UNHCR and the ILO are almost never assessed in relation to each other. (For an exception, see Garnier, 2014.) This is presumably a reflection of the historical framing of refugees as non-workers; in a world where that line is never breached, there is little overlap between the expertise of the two agencies and thus no ground for comparison. Instead, each is generally compared to the International Organization for Migration, or IOM. The IOM was founded in 1959 as a transportation logistics agency to address post-WWII displacement (IOM). It did not become part of the United Nations until 2016. It currently plays a major role around the world both in managing both refugee relief and migration, with a particular emphasis on temporary labor migration programs. The IOM is frequently criticized by scholars and advocates by contrast with the ILO for its lack of a rights-based approach to temporary migrant worker programs and to migration more generally (Crepeau & Atak, 2016; Guild, Grant, and Groenendijk, 2020; Piper, 2017); and by contrast with UNHCR as well as the ILO for its failure to incorporate human rights norms into its principles, for being donor-driven and project-based, and for favoring government over migrant and refugee interests and needs despite its win–win–win rhetoric (Georgi, 2010; Patz & Thorvaldsdotir, 2020).

A direct comparison between the UNHCR and the ILO is essential to understand why the ILO must take a leadership role in refugee work programs. Simply put, where labor market participation for refugees is concerned, the UNHCR lacks the necessary experience, tools, and scope of mandate to make decent work a central focus. Its primary mission is humanitarian and service-oriented. This perspective has a series of ramifications when it comes to refugees as workers.

One is that refugee employment is framed as an opportunity for firms to take voluntary action for the public good (for examples, see Huang & Graham, 2019; Tent, nd). Yet a labor market is an economic system, not a charity. To be sure, during the Syrian crisis, some firms promised to hire refugees as an element of their corporate social responsibility. But to date, most companies have failed to deliver even on very modest refugee employment commitments. IKEA's collaboration with the Jordan River Foundation to employ Syrian women making decorative pillows for sale in IKEA stores is one example of an effort that is much-publicized but ultimately very small in scale (Malik et al., 2018).

In a related way, the UNHCR's focus on subsistence-level refugee relief has resulted in programming that tends to view any job as a good job, with little or no attention to pay rate and working conditions. One response might be to expand the UNHCR's mandate to explicitly encompass an emphasis on decent work as an aspect of refugee protection. While important, such an expansion still would not address the fact that refugees are the sole beneficiaries of the UNHCR's protection mandate. A siloed approach to work for refugees fails to take into account the labor-related concerns of others who are similarly situated. This has been starkly illustrated in the case of the Jordan Compact, where the plan to encourage Syrian refugees to seek employment in Jordan was carried out without regard to its impact on the large number of migrant workers already present in the sectors designated for Syrians. In a labor market, it is impossible to intervene on behalf of one group of workers in a sector without significantly impacting all others, because whether employers will hire a new group of workers depends on how they are positioned relative to others. Inserting a large new group of workers at the bottom of a labor market, without sufficient attention to labor rights and standards, has damaging impacts on all already employed there or hoping to find employment.

Actors other than the UNHCR—from the ILO to host governments, trade unions, and other workers' organizations—are in a better position to consider how best to integrate refugees into the labor market with all workers in mind. Fundamentally, to ensure that refugees are not abused on the job and also that they do not undermine the situation of other workers, a *right to work* for refugees must be accompanied by the same *rights at work* as any other individual. For refugees to enter the labor market in large numbers and under decent conditions, refugee work must thus be planned and implemented by actors drawn not only from the humanitarian assistance framework, but from the ILO and other institutions and advocates experienced in the defense of low-wage workers' rights, including migrant and informal workers. Refugees must also have the right to form and join trade unions. Together with ILO leadership, both government engagement from the top down and worker-led enforcement from the bottom up are necessary to make these rights real.

At the international level, the ILO is the only agency with the expertise to design initiatives that place refugees on the same footing with regard to decent work as others in the labor market. Largely sidelined from issues of refugee employment since the 1951 Refugee Convention, the ILO formally returned to the field in 2016, when it approved a new set of guidelines for the access of displaced people to host labor markets, followed by a recommendation on decent work for refugees and others in crisis situations the next year (Gordon, 2019;

ILO, 2016a, 2017). The Global Compact on Refugees endorses the idea of work rights for refugees and specifically references the role of the ILO in designing and implementing such efforts (Global Compact on Refugees, 2018).

There are positive signs with regard to engagement between the ILO and other international actors. The ILO has a new plan of action related to refugees as workers, and has begun work with refugees on the ground in a number of countries (ILO, 2017). In July 2016, the ILO signed a Memorandum of Understanding with the UNHCR committing to increased cooperation between the agencies on refugee issues, followed by agreement on a more detailed plan of action (ILO and UNHCR, 2016, 2017). Furthermore, the UNHCR, the World Bank, and other institutions on the refugee side have taken steps to acknowledge that the ILO has important contributions to make as refugee employment initiatives are designed and implemented. For example, the ILO is a participant in the new Prospects Partnership, a Netherlands-funded initiative that also includes the UNHCR, UNICEF, the International Finance Corporation and the World Bank, seeking to increase the education, training, protection, employment and livelihoods opportunities of refugees and host communities (Government of Netherlands, 2019). How much power the ILO will have in such contexts, however, remains to be seen.

The re-engagement of the ILO in matters of refugee labor is only the first step. As the Jordan and Ethiopia Compacts illustrate, the EU and individual donor governments are powerful actors in the field, pursuing refugee employment in host countries primarily as a deterrence strategy to dissuade refugees from seeking work in Europe (Fakhoury, 2019; Panizzon, 2017, 2018; Ramsay, 2020). The ILO is not well positioned to oppose the terms on which the EU undertakes such efforts, critical as such opposition may be. Likewise, the ILO is rarely at the table when host governments seek to use refugee work access as a source of leverage in negotiations with the EU and other actors over aid and additional benefits (Tsourapas, 2019).

Once the ILO has been recognized as a critical actor by other organizations in the field, however, it can serve in a coordinating and advising role with regard to the road ahead. An effective governance regime for refugee work must engage deeply with labor ministries in host countries, not just the ministry in charge of refugees or humanitarian efforts. It is the ILO that has these relationships already. Such a regime must incorporate non-governmental workers' rights organizations, including trade unions in the industries where refugees and migrants are clustered. Again, the ILO's tripartite structure puts it in a position to convene these actors. Beyond trade unions, worker centers, informal workers' organizations, and other workers' rights NGOs are particularly important players. They have critical insights to offer based on their hard-learned experience overcoming obstacles to decent work for migrant and informal workers, with whom refugee workers have much in common. Engagement at all of these levels is necessary to achieve the whole-of-government and whole-of-society approaches called for in the 2018 Global Compact for Migration and Global Compact on Refugees.

Conclusion

At its founding a century ago, the ILO was charged with seeking employment opportunities in host countries for refugees, and helping to oversee their working conditions alongside those of migrant workers. Following World War II and the signing of the 1951 Refugee Convention, the ILO lost its role in refugee resettlement, which was consolidated under the new UNCHR. At the same time, refugees shifted from being seen as economic actors to individuals in need of humanitarian assistance and protection.

At the turn of the twenty-first century, as the pendulum shifted back toward a focus on self-reliance, refugees once again became potential workers, facing many of the same issues as their migrant counterparts. And yet when it comes to international governance, “refugee” and “migrant” continue to be treated as mutually exclusive categories, governed by separate accords and agencies. The most recent evidence that the division persists came with the drafting of the Global Compact for Safe, Orderly, and Regular Migration and the Global Compact on Refugees. As these accords were being negotiated, trade unions and migrants’ rights organizations advocated for a unified approach to the labor of non-citizen workers across the two accords (Gordon, 2018). These calls were not heeded, and the two developed on entirely separate tracks. Both were signed in 2018. While the Compact on Migration devotes significant attention to labor rights and protections, the Refugee Compact—which advocates for employment as a part of refugee self-reliance—barely mentions them.

The Jordan Compact illustrates the perils of a disregard for decent work in the context of refugee self-reliance initiatives. The Compact sought to place Syrian refugees in Jordanian export manufacturing, an industry known for low pay and poor working conditions, and largely staffed by migrant workers. Its planners expressed the hope that new trade preferences would create more jobs in the sector, but if not, the plan was for the refugees to replace the migrants. In the event, this did not happen, as Syrians rejected the terms on offer and manufacturers preferred to continue with their less costly and more compliant migrant workforce. Instead of the garment industry, refugees have found employment in the limited number of other low-wage sectors open to them, chiefly in informal jobs in agriculture and construction. In these contexts, also characterized by severe decent work deficits, they work alongside and compete with a different group of migrants.

This article argues that one important step in protecting refugee workers—and others in the labor markets where they are employed—is to bring the ILO back into the governance of refugee work, as an equal partner to the UNHCR. The UNHCR’s sole focus on refugees, and its lack of a decent work mandate, are institutional features that hamper its ability to ensure that refugee employment fulfils its promise to put refugees in a position to become “self-reliant,” and to do so without disadvantaging local or migrant workers. An effective approach to refugee work on a large scale requires a governance system that is oriented towards workers’ rights in the context of the entire labor market. Alongside the

UNHCR and newer development and financial actors in the refugee field, it must elevate the ILO, together with national and local actors with expertise in labor market interventions, the establishment and enforcement of labor rights, and the particular challenges faced by mobile workers on the job. With such a framework in place, the system will be better positioned to design interventions that integrate refugees alongside local and migrant workers in ways that advance progress toward decent work goals for all.

Declarations

Conflict of interest The authors declare that they have no conflicts of interest.

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