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# Beyond Access: Refugees' Rights and Justice at Work

#JusticeForAll Series on Justice for Refugees



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**PATHFINDERS**  
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## About Pathfinders Grand Challenge on Justice

5.1 billion people—two thirds of the world's population—lack meaningful access to justice. To achieve SDG16+ and deliver equal access to justice for all by 2030, we need to put people at the center of justice systems and move from words and planning to action and implementation.

The Pathfinders' Grand Challenge on Justice acts as an impact hub, convening countries, civil society, and multilateral and regional organizations to close the justice gap by accelerating action on people-centered justice. The Grand Challenge provides a platform to exchange innovative practices on data collection, evidence-based policy making, and effective use of resources to bridge silos and transform justice systems in preventing and resolving people's common justice problems.

The Grand Challenge is an initiative of the Pathfinders for Peaceful, Just and Inclusive Societies, a cross-regional impact hub of 46 member states, as well as partners across international organizations, civil society, and the private sector committed to advancing the Sustainable Development Goal targets for peace, justice, inclusion, and equality (SDG16+). The Pathfinders is hosted at New York University's Center on International Cooperation.

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## About this Publication

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**Cover Photo:** Flyer for a play about labor rights in Malaysia. The play was staged by Parastoo, a professional, community-funded refugee theatre company in Malaysia that raises awareness about issues affecting refugees. Courtesy of Emily E. Arnold-Fernández.

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# Executive Summary

Work plays a central role in the lives of refugees. When work is just, it offers economic power, personal agency, and often a sense of meaning, purpose, or even identity. The Sustainable Development Goals (SDGs) recognize the importance of justice in relation to work. Goals 8 (decent work and inclusive economic growth) and 10 (reduced inequality) are only possible when work is just.

Too often today, however, refugees have access to work only in conditions of grave injustice. Wage theft, sexual assault, and other workplace violations are common. Restrictions on refugees' access to authorized work push them into informal, unregulated employment where justice is inaccessible. These problems show us that, to achieve SDGs 8 and 10 for refugees, we must also achieve SDG16.3: Promote the rule of law at the national and international levels and ensure equal access to justice for all.

This is easier said than done. Little diagnosis has been made to uncover the reasons refugees and their descendants, particularly in the Global South, frequently experience intergenerational poverty and an endemic lack of economic power despite widespread participation in income-generating work. While recent research has overturned a persistent myth that refugees are merely marginal economic participants,<sup>1</sup> almost no analysis has been done on the global economic systems and power structures that affect refugees' labor market participation and entrench poverty—the very antithesis of the SDGs' promise to “Leave No One Behind.”<sup>2</sup>

This paper represents a first attempt to fill that gap in knowledge. In doing so, it also aims to lay a common foundation for solutions to the justice problems refugees face in the labor market. It also supports the thesis that ensuring access to justice in the workplace for refugees can facilitate mutual gains, uphold human rights, and support the achievement of the Sustainable Development Agenda.

Exploitation of refugee workers is rampant around the globe, as are other rights violations that impede refugees' access to just work. Meanwhile, the barriers to achieving justice for refugee workers are myriad and complex. Among the simpler obstacles are misinformation and underinvestment: refugees' rights related to work and the benefits of refugees' access to just work are widely misunderstood. As a result, existing justice mechanisms are underused, and both labor rights enforcement and access to justice for refugee workers are under-resourced.

More complex is the political economy that entrenches refugee poverty and exploitation. Refugees are among those who often lack the legal infrastructure needed for justice: legal identity and formal or regularized work. Meanwhile, governance gaps mean worker protections are weak. States, already underinvesting in worker rights enforcement, have even less incentive to protect refugee workers who are not nationals or constituents. At the same time, global supply chains and other labor markets are often structured and (un)regulated in ways that reward and even rely on exploitation, such that individual employers often cannot feasibly reject injustice if they are to remain profitable.

Displacement-focused donors and multilaterals, sometimes lacking a nuanced understanding of these dynamics, have at times acquiesced in or endorsed initiatives that, in practice, funnel refugees into exploitative jobs (See Box 1; FN i). This results in adverse incorporation: Refugees are incorporated into their host communities only on terms that extract disproportionate value from their efforts, entrenching them in inescapable poverty. This is the very opposite of justice—and contrary to the purpose of the SDGs.

To prevent this, the exploitation of refugee workers must be made unprofitable. Doing so requires including refugees in existing state laws and justice systems that safeguard work-related rights. In many cases, it also requires strengthening legal protections and justice mechanisms for workers generally.

These changes will require collective action by states, donors, multilaterals, and NGOs, including refugee-led organizations and workers' associations, ideally with the support of private sector allies. The forces incentivizing the exploitation of refugee workers are powerful. To resist them, host states, donors, civil society, and the private sector must commit to centering justice over myopic understandings of nationalism, short-term outlook, and/or profits. In practical terms, this means:

- 1. States should include refugees in work rights protections and strengthen those protections by investing in labor enforcement and effective justice mechanisms.**
- 2. Donors and multilaterals should earmark funds to support labor inspection and legal empowerment for refugee workers and focus on improving refugees' access to rights and justice in the places where they already work.** They also should urgently amend existing refugee labor market participation initiatives to add labor rights enforcement and access to justice. Refugees should be supported to join or form unions.
- 3. NGOs and the United Nations High Commissioner for Refugees (UNHCR) should make broader use of existing legal instruments and justice mechanisms,** particularly the International Covenant on Economic, Social and Cultural Rights (which grants many refugees a full and immediate right to work) and its Committee, as well as opportunities for domestic and regional strategic litigation.
- 4. Private sector actors should endorse robust labor rights and justice mechanisms and bear the burdens, risks, and costs of combating injustice against refugee workers.**

Achieving the systemic transformation needed to ensure justice for refugee workers will not be easy. It requires many actors, working in concert, to insist on justice as a foundational principle of development efforts involving refugees. But it is necessary if the world is to succeed at meeting the SDGs.

SDG16's call for justice for all cannot be an afterthought or an add-on in displacement response. This is not a moral exhortation in favor of rights and justice; it is a recognition that pragmatically, any approach that begins by accepting exploitative, extractive conditions will entrench endemic poverty and make the pathway to achieving all of the SDGs far steeper.

# 1 Work, Refugees, and (In-) Justice

Work plays a central role in the lives of most people. When work is just, it offers economic power, personal agency, and often a sense of meaning, purpose, or even identity. SDG8 recognizes the importance of justice in relation to work, calling for “sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all.” SDG10, which seeks to “reduce inequality within and between countries,” reinforces this importance when it prioritizes income growth for the bottom 40 percent, who are most likely to experience work-related injustice and the adoption of wage and social protection policies that can only be effective when accompanied by access to justice.

Reaching SDG8 and SDG10, therefore, requires achieving SDG16. Without access to justice, the objectives of reduced inequality, inclusive economic growth, and decent work for all cannot be achieved—particularly for marginalized communities, among them refugees. This critical connection was recognized in 2019 by the UN Special Rapporteur on the Human Rights of Migrants, Felipe González Morales, when he said:

*“Migrant workers and refugees don’t usually have access to justice, and so the lack of [work] rights has more of a negative impact on them than on the general population.” Felipe González Morales, United Nations Special Rapporteur on the Human Rights of Migrants, 2019.*

Since the onset of the COVID-19 pandemic, barriers to access to justice and decent work have only grown, increasing the challenges to achieving all SDGs, including Goals 8, 10, and 16.

For refugees, work is especially important. Indeed, “without the right to work, all other rights are meaningless,” in the words of Louis Henkin, the US drafter of the 1951 Refugee Convention. Economic power, personal agency, and social as well as legal identity are frequently lost or lessened when refugees are forced to flee their homelands. After leaving a familiar life and arriving in a land of exile, refugees may find just work—that is, decent work in which justice is integral throughout the lifecycle of the work experience—to be restorative as well as an economic necessity.<sup>3</sup>

Too often today, however, refugees only have access to work in conditions of grave injustice. Although the Refugee Convention prioritizes a wide range of work-related rights, and a plethora of other instruments establish workers’ rights, including those who are refugees, today many of these rights are honored mainly in the breach. Justice gaps<sup>4</sup> abound throughout the lifecycle of a refugee’s experience with work:

- Restrictions on movement that impede access to labor markets.
- Barriers to accessing legal status and documentation, a prerequisite to safe and authorized work.
- Discrimination in hiring.
- Injustice in the workplace, from wage theft to sexual assault and beyond.
- Retaliation against those who dare to complain about injustice or ask for improvement in their working situations.
- Instrumentalization of refugees’ immigration or work authorization status to coerce them into tolerating injustice at all stages of the work lifecycle.
- Justice mechanisms that are inaccessible or expensive, cumbersome, and slow to resolve refugees’ work-related justice problems.

This paper takes aim at these pernicious gaps, seeking to expose the intertwined roots of injustice against refugee workers in order to catalyze discussion about systemic solutions among key stakeholders.

**Despite the scope of the problem, little analysis has been conducted to date.<sup>5</sup> This paper forms a starting point for a long-overdue discussion.** As such, it focuses primarily on two types of injustice:

1. Injustices that refugees experience in the workplace, such as wage theft and payment delays, unsafe working conditions, harassment based on race, gender, or immigration status; sexual assault, and the use of immigration enforcement-related threats to deter or retaliate against complaints; and
2. State-imposed injustices related to refugees' choice of work, including restrictions on movement, work permit requirements, and sector limitations for refugee workers.

It is important to remember that these are by no means the only types of injustice experienced by refugee workers or prospective workers; they also face injustices related to legalized or unchallenged discrimination in hiring, as well as overt and covert constraints on their rights to organize and collectively bargain for improved wages and working conditions.<sup>6</sup> While the paper does not extensively address these additional work-related justice gaps, all are worthy of further investigation.

Intended to provoke discussion rather than provide comprehensive answers, the paper is part of a global conversation launched by Pathfinders for Peaceful, Just and Inclusive Societies. Pathfinders is an initiative that aims to breathe life into SDG16's promise to "promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels" and to support people-centered justice solutions.<sup>7</sup>

This paper is structured in several sections. The first three sections define the parameters of the problem, discussing the conditions in which most refugees work, the ways refugee status and identity interact with the phenomenon of workplace injustice, and the inadequacies of existing justice mechanisms for refugee workers.

The fourth section illuminates the contrast between these realities and the work-related rights of refugees under international law—rights that are widely misunderstood even among refugees and their advocates and allies. The fifth section discusses the political economy that gives rise to the vast chasm between refugees' work rights in international instruments and their experiences of work—what we call a justice gap.

The final section offers recommendations to key actors on the changes needed to bridge this chasm, closing the justice gap for refugee workers and creating a viable pathway to achieving the SDGs.

## 2 Refugees At Work: The Relationship Between Informality and Injustice

Around the world, few refugees work in what is typically considered the "formal sector"—the segment of the economy monitored or regulated by the government.<sup>8</sup> This is particularly true in the countries that host the largest numbers of refugees. In Turkey, the country hosting the most refugees (3.8 million), only 1.5 percent of the working-age refugee population worked in the formal economy as of 2019.<sup>9</sup> In Colombia, which hosts the second-largest refugee community (1.8 million), 87 percent of Venezuelans have a regularized immigration status or are on a pathway to obtain it,<sup>10,11</sup> but access to lawful status and access to work permits have not led to significantly greater formal labor market participation by displaced Venezuelans.<sup>12</sup> In Uganda, hosting the



third largest refugee community (1.5 million) and long touted as a beacon of refugee work rights, refugees find obtaining permits to formalize their work difficult.<sup>13</sup>

Instead, most refugees work in the so-called “informal sector.” This term conflates a wide range of work experiences ranging from sole proprietor entrepreneurship to wage-earning work in small and large businesses to illicit work in unlawful industries to virtual slavery. What these experiences have in common, however, is an absence of government regulation or oversight. As the Task Force on Justice noted, most workers in the informal economy—an estimated 2.1 billion people worldwide—“operate outside the purview of labor laws,” which “limits their ability to stand up against exploitation and abuse.”<sup>14</sup>

Refugees’ working experiences can embody both positive and negative consequences of informality, sometimes simultaneously. In Uganda, for example, refugee farmers sell to nationals who transport their crops to markets across the country and beyond, generating resources that provide a buffer against the unreliability and inadequacy of humanitarian aid.<sup>15</sup> At the same time, refugees have little or no access to justice when middlemen steal their crops, promising payment and then reneging.<sup>16</sup> Similarly, putatively wage-earning work in a large business, which in theory offers a pathway to economic well-being can, in reality, represent virtual slavery, such as that which has been widely documented in the fishing industry in Southeast Asia.<sup>17</sup>

Refugees may be solo entrepreneurs working in unlawful industries, such as the sex work industry, or undertaking work that is illicit to some degree, such as driving a taxicab or car for hire without required registration. However, such decisions often are born of economic necessity: Refugees’ choices to undertake illicit work can reflect limited options or unjust state restrictions on refugees’ access to formal work.<sup>18</sup>

In the informal sector, and even in many jobs that purportedly fall within the formal sector, refugees frequently face wage theft, discriminatory pay, unsafe conditions, overlong hours, and harassment and abuse, including sexual abuse.<sup>19</sup> This is true even in countries such as Uganda and Colombia, which have relatively strong policy frameworks that, in theory, should regulate refugees’ working experience and facilitate their integration into “decent work” free from exploitation.<sup>20</sup> In countries that limit refugees’ labor market access to only a few sectors, as Jordan did until 2021, these sectors tend to have high levels of exploitation.<sup>21</sup> Limitations that restrict refugees primarily to traditionally male-dominated sectors, as in Lebanon (where Syrian refugees may work only in construction, sanitation, or agriculture), can exacerbate exploitation for refugee women by forcing them into unauthorized, unprotected informal work.<sup>22</sup> The situation is even worse for refugees in countries that do not currently facilitate refugees’ labor market integration at all, such as Thailand and Tanzania.<sup>23</sup>

Wage theft and other compensation-related abuses are especially prevalent across contexts. For example, the non-governmental organization (NGO) Asylum Access reports that its refugee clients regularly report workplace injustice, which has prompted the organization to provide legal empowerment services on this issue. In one illustrative instance, Asylum Access Malaysia helped refugee workers successfully challenge attempted wage theft by employers who used Malaysia’s March 2020 COVID-19 pandemic lockdown as an excuse to withhold workers’ wages earned in prior months. This left the refugees without the payment they were owed, just as they also lost their ability to work for the foreseeable future.<sup>24</sup> In Jordan, a 2016 study of Syrian women workers by the labor rights NGO Tamkeen found that 71 percent were not registered for social security by their employers as mandated by law, while 59 percent were not paid legally-required overtime.<sup>25</sup> Even in the operations of UNHCR and among some NGOs that aim to support refugees, refugee workers are often paid below minimum wage and denied other work-related rights.<sup>26</sup>

Harassment, including sexual and racial harassment, is also common. In Thailand in 2019, for example, a refugee affiliated with Asylum Access described frequent reports by other refugees in Bangkok about the verbal and physical abuse they experienced at work, including stories of one notorious employer known as “Mr. F— You” based on his penchant for yelling epithets at refugee workers. In the same year, in a Refugees International report on Turkey, refugee women workers reported sexual harassment, sometimes widespread: one young

woman working in textile factories was harassed from the time she started work at age 13. She had worked in ten different factories, changing jobs often to escape abuse. “I realized that all the places are the same,” she reported.<sup>27</sup>

These examples provide just a few illustrations of the widespread wage theft, sexual harassment, and other abuse that refugee workers face today across myriad contexts. The collective efforts of diverse stakeholders are needed to mainstream refugees’ labor rights in displacement response efforts and national economies.

### 3 Refugee Status and Identity Magnifies Workplace Injustice

Refugees generally experience the same types of injustice as other workers in the same or similar jobs but at greater levels. In part, this is because refugees are perceived, often accurately, as having less power to hold their employers accountable. Even where justice systems support accountability, a refugee may face more damaging repercussions if they contest injustice—including deportation back to a country where their life is at risk. In some states, the only sectors in which refugees are permitted to work are also those where exploitation is most prevalent. Construction, agriculture, and domestic work, three sectors commonly open to refugees either formally or through lax enforcement of legal prohibitions, routinely appear on “top 10”-type lists of sectors where exploitation is endemic.<sup>28</sup>

Refugees also tend to experience additional distinct types and instances of injustice connected to their refugee status or identity. Although refugees are not the only group who experience disproportionately higher rates of injustice at work, workplace injustice is concentrated among workers who are marginalized, as refugees often are.<sup>29</sup> Research has documented the widespread exploitation and abuse of migrant workers—some of whom likely meet the legal definition of “refugee” despite not identifying or being identified as such.<sup>30</sup> Low-wage, low-power national workers often are exploited as well, particularly those working informally.<sup>31</sup> For example, a January 2021, a six-country study of informal workers in the domestic and construction industries found that wage theft and underpayment, sexual harassment, and lack of social security were common across the multiple countries and industries examined.<sup>32</sup>

Even in some formal sector jobs, worker injustice can be common, particularly in countries that seek to attract global investment by offering cheap production at the bottom of the supply chain and often tacitly or overtly permit wage theft, overwork, and unsafe working conditions.<sup>33</sup> In better-paid formal sector jobs, sexual harassment remains prevalent.<sup>34</sup> While these problems affect many workers, refugees are among those particularly at risk.<sup>35</sup> Refugees with multiple marginalized identities, such as refugee women, LGBTQIA+ refugees, or refugees with disabilities, may face more varied and/or more serious work-related injustices.

In sum, the intersection of injustice and refugee identity can be understood in four categories:

1. **Refugee workers may have less power to challenge injustice in the workplace because of their legal status.** In many countries, refugees cannot access, or face significant barriers to access, a legal status that allows them to lawfully stay in the country. This creates a risk that an employer—or customer, creditor, landlord, or other person with whom they transact business as part of their employment—could report them to immigration authorities, which could subject them to incarceration, internment, expulsion, or refoulement (unlawful forcible return). Refugees whose status does not permit lawful stay in a country of refuge cannot safely challenge injustice at work.

2. **Refugee workers may have less power to challenge injustice in the workplace if they are not legally permitted to work.** This may be due to a blanket prohibition on refugees working or because of position, sector, documentation, or other restrictions that bar them from legally working in the job they hold. Similarly, refugee workers may have less power if the legality of their permission to work is uncertain or unclear in law or practice or if they or their employers believe the law does not provide clear and certain permission to work.<sup>36</sup> Even where a refugee is lawfully staying in a country of refuge and, therefore, is not subject to negative consequences from immigration authorities, they may be at risk of negative consequences if they are working without legal authorization or when such authorization is uncertain or unclear. This, too, impedes their ability to safely challenge injustice at work.
3. **Refugee workers may have less power to challenge injustice in the workplace as a result of discrimination based on their refugee status or identity.** Even when refugees attempt to assert rights and access justice, they may be unable to do so. Reports of state authorities refusing to accept or investigate refugees' complaints of injustice because of their status or identity are common across a wide range of geographies and issue areas, including work. Discrimination against refugees seeking to access justice also occurs on the basis of related characteristics such as national origin or race. In comparison with nationals, refugees also may face a greater risk of retaliation, including harassment, sexual abuse, or job loss, if they attempt to challenge injustice.
4. **For refugee workers, simply accessing work is sometimes fraught.** Refugees continue to face state-imposed movement restrictions in 31 of 51 countries included in the 2022 Global Refugee Work Rights Report, which covered 87 percent of the global refugee population. That report also found that in practice, at least 49 percent of the world's refugees live in countries where their movement is significantly restricted in practice.<sup>37</sup> When simply being outside a camp, settlement, or reception or detention center is unlawful, this creates an additional deterrent for refugees attempting to access justice.

## 4 Without Access to Justice, Workers Lack Remedies

To prevent and redress workplace injustice—that is, to successfully complete a “justice journey” as conceptualized in the Justice For All report—refugee workers need not only the protection of robustly enforced labor laws but also access to justice mechanisms that are effective, easy to navigate, timely, and fair.<sup>38</sup> Existing justice mechanisms for refugee workers are deeply inadequate at best. In many cases, they are non-existent.

On the one hand, refugee workers face unique barriers to justice by being refugees. They are among those who, in the words of the Task Force on Justice, may be “excluded from the opportunities the law provides” because they lack access to “basic ‘legal infrastructure’” such as legal identity and formalized work.<sup>39</sup> Where refugees lack documentation of their legal identity or permission to work, they are almost always excluded from labor justice mechanisms designed for authorized workers.<sup>40</sup> (Malaysia is a rare, perhaps unique, exception: Some Malaysian government bodies, although not all, hold that Malaysia’s labor laws protect unauthorized workers and adjudicate claims accordingly.)<sup>41</sup>

Compounding the problem, refugees may be at risk of incarceration or refoulement if they seek justice. For example, according to Chr. Michelsen Institute (CMI), in refugee workplaces in Jordan, “when workplace inspections occurred, it was frequently the Syrians who were punished. Syrian workers who were caught working illegally by the [Ministry of Labor’s] inspectors were detained and sent to Azraq refugee camp, and, in

some cases, they were deported back to Syria.”<sup>42</sup> While other non-national workers may also face incarceration or deportation, the threat of refoulement is particularly dire for refugees because forcible return threatens their safety or freedom.

Even where refugees can lawfully work, many have limited access to legal empowerment, which “provides the foundational set of tools and strategies by which those in need of justice are able to make use of the law and the rights it confers.” As discussed in *Legal Empowerment: From Accompaniment to Justice*, the legal empowerment available to refugees often excludes support to address justice problems in the workplace. This means refugees have little or no access to legal information, advice, support, and representation that could help them successfully navigate informal or formal dispute resolution processes to resolve injustices at work. Additionally, the legal empowerment available to refugees is often restricted to information provision and bureaucratic accompaniment. Neither of these modes of legal empowerment is significantly effective at obtaining redress for rights violations. Similarly, neither mode offers a means of addressing structural or systemic injustice.<sup>43</sup>

On the other hand, labor justice is frequently elusive for workers generally, especially those who are not citizens. State labor enforcement mechanisms are drastically underfunded almost everywhere; even in the wealthy United States, “an employer would have to operate for 1,000 years to have even a 1 percent chance of being audited by Department of Labor inspectors,” according to one study.<sup>44</sup> Meanwhile, on average, low-income countries had only one labor inspection per year per 10,000 workers.<sup>45</sup> Beyond capacity constraints, enforcement can fall short in other ways, too: A study conducted in Kenya, for example, indicated that many refugees say that they do not feel safe reporting labor violations, and the government has taken little action to make their labor reporting system accessible or safe for refugees.<sup>46</sup> These inadequacies can signal to refugee workers that the state does not prioritize refugee labor justice, and can thus deter them from utilizing the justice mechanisms that do exist.

Workers who do utilize justice mechanisms bear disproportionate costs and burdens. A worker who experiences injustice at work not only bears that economic burden but also must take on the responsibility of pursuing a remedy, including proving the injustice occurred (even though the employer, not the employee, holds documentation such as records of payment and hours worked) and seeking enforcement of a favorable judgment. As suggested by the Institute for Business and Human Rights, a better justice system would place the burden on the employer, who is more powerful and better resourced, to prove that they paid the promised wages timely and in full, in accordance with the law. Where injustice is proven, the state—also better resourced than an individual worker—would immediately issue compensation and then pursue recovery of those funds through an enforcement action against the employer.<sup>47 48</sup>

Particularly where non-citizen workers attempt to access justice, they face a myriad of barriers. The Institute for Business and Human Rights outlined these barriers in the context of labor migrants seeking justice for wage theft as follows:

*Migrant workers rarely recover unpaid wages because the system is stacked against them at each of the three stages in the wage recovery process. First, most migrant workers are unlikely to file a claim. Many fear that doing so will result in deportation, job loss, or other forms of retaliation. For others, it is difficult or impossible to lodge a claim, especially if they are about to leave the country or have already returned home. Second, if a claim is filed, the burden generally rests with workers to prove they were not paid. Government agencies are slow to respond and lack resources to investigate. Court processes are cumbersome, and employers know informal dispute resolution processes will generally yield unfair outcomes because workers accept a fraction of what they are owed. Third, many workers who obtain successful rulings never actually receive their wages because employers frequently liquidate, disappear, or simply refuse to pay and any consequences for noncompliance with a judgment will not be commercially significant.<sup>49</sup>*

Refugees, like labor migrants, confront labor justice systems that lack a people-centered foundation and thus make their justice journeys more challenging: Making a complaint puts a refugee worker at grave risk, as deportation will refole them back to a place where their safety is at risk. Even refugees whose refugee status has been acknowledged are at times refoled. For example, in 2015, Jordan refoled some Syrian refugees caught working without authorization, even though they had prima facie recognition<sup>50</sup>; Malaysia also has deported refugees despite pending applications for recognition by UNHCR<sup>51</sup>. For those who are able to bring a complaint without immediate immigration-related retaliation, meeting the unbalanced evidentiary burden remains difficult because refugee workers lack social, economic, and political power vis-à-vis their employers. Further along the justice journey, even when a refugee worker successfully obtains a judgment in their favor, they still face challenges recovering state-ordered compensation from their erstwhile employer and may choose to settle for an unfairly small amount rather than risk getting nothing.

## 5 Refugees' Work Rights and Rights as Workers

Despite the prevalence of injustice against refugee workers, on paper, they, in fact, hold a wide range of work-related rights. Work rights specific to refugees are codified in the 1951 Refugee Convention, but refugees' rights as workers also derive from a number of other international sources: the International Covenant on Economic, Social and Cultural Rights (also known as the Economic Covenant, one of the pair of seminal human rights legal instruments in the post-WWII era); the International Labour Organization (ILO) conventions setting forth acceptable labor practices; and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Together, these instruments represent a theoretical source of broad work rights protections for refugees. **Indeed, in over 160 states that are party to the Economic Covenant, refugees have, in principle, a full and immediate right to work.**

### 5.1 Work rights in the refugee convention

Often misunderstood in the forced displacement response sector, the Refugee Convention provisions on work arguably provide more ample work rights than even many refugee advocates realize.<sup>52</sup> The Convention begins by stating in Article 17(1) that refugees seeking jobs shall be accorded “the most favorable treatment” given to other foreign nationals. In essence, if any foreigners are granted full access to the labor market, refugees must also be granted such access.<sup>53</sup>

Many states, seeking to protect citizens' access to jobs, only allow their own nationals to fully access the labor market. Under Article 17(1), this would appear to be a permissible reason to limit refugees' labor market access as long as other foreigners were similarly restricted. However, the Refugee Convention goes on to state, in Article 17(2), that restrictions imposed “for the protection of the national labor market shall not be applied” to a refugee who has lived in the country for three years or whose spouse or child is a national. Thus, under the Refugee Convention, refugees must have full access to the labor market, equal to nationals, provided they have set down roots in the country either by staying for three years or binding themselves to the country through marriage or progeny.<sup>54</sup>

By specifying that a state cannot impose restrictions “for the protection of the national labor market,” the Refugee Convention does permit an exception for labor market restrictions that are not protectionist in nature. For example, a state could bar non-nationals, including refugees, from accessing certain jobs on national security grounds. In practice, however, such restrictions are likely to be far narrower than most limitations today imposed

on refugees' labor market access, which tend to bar refugees from labor market access entirely or channel them into a few sectors considered undesirable by nationals. Such restrictions almost always are intended explicitly or implicitly to protect nationals' access to jobs, in violation of the Refugee Convention and in contradiction to the SDGs' commitment to inclusive development.

Beyond labor market access, the Refugee Convention also provides a range of other work-related rights for refugees. Of note, refugees are granted the same rights as nationals with regard to wages, working hours, overtime and holidays, social security for workplace illness or injury, and collective bargaining.

## 5.2 Refugees' rights as workers in other instruments

Even where a state is not party to the Refugee Convention or has made reservations that limit refugees' work rights, refugees may still be legally entitled to a wide range of work rights. Central to this entitlement is the Economic Covenant, which establishes “the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts,” and the right to “just and favorable conditions of work,” which includes fair wages sufficient to provide a decent living, equal pay for work of equal value, safe and healthy working conditions, equal opportunity for promotion, and rest and leisure including paid holidays and limits on working hours.<sup>55</sup> 165 states are party to the Economic Covenant with no relevant reservations.<sup>56</sup>

Recent interpretations have confirmed that, in these states party to the Economic Covenant, refugees have an immediate and unambiguous right to access decent work.<sup>57</sup> Among the most widely misunderstood elements of refugees' work rights is the comprehensive nature of this right.

While states may “progressively” realize Covenant rights, the UN Committee charged with interpreting the Covenant has been explicit that states must immediately honor “minimum essential levels” of rights.<sup>58</sup> In particular, the right to non-discrimination is “immediately applicable and is [not] subject to progressive implementation” and “is directly applicable to all aspects of the right to work.”<sup>59</sup> Specifically, this means:

*States parties are under the obligation to respect the right to work by, inter alia, ... refraining from denying or limiting equal access to decent work for all persons, especially disadvantaged or marginalized individuals and groups.*<sup>60</sup>

Refugees are among those the Committee considers disadvantaged or marginalized.<sup>61</sup> The Committee has also confirmed that Covenant rights apply to non-nationals—including refugees—“regardless of legal status or documentation.”<sup>62</sup> Indeed, the Committee has been explicit: “States parties should enact legislation enabling refugees to work, and under conditions no less favorable than for nationals.”<sup>63</sup>

Another widespread misunderstanding about refugees' work rights revolves around the Economic Covenant's provision that “developing countries” may “determine to what extent they would guarantee the economic rights... to non-nationals” (art 2.3). Contrary to widespread belief, this provision does not permit such countries to deny work rights to refugees. This, perhaps a counterintuitive interpretation, is a result of three factors.

First and centrally, access to work is a social as well as an economic right. Among other reasons, “work—even where that is not required to survive—is indeed an important component of human dignity.”<sup>64</sup> Thus, it cannot be limited, as even low-income countries cannot choose to deny social rights to non-nationals.<sup>65</sup>

Second and perhaps more persuasively, as a limitations clause, this provision must be applied “subject to the requirements of necessity, reasonableness, and proportionality” and cannot violate other rights, such as the universal prohibition on inhuman or degrading treatment. Denying access to work is not only unnecessary,

unreasonable, and disproportionate—particularly given the ample evidence that allowing refugees to work boosts national economies—but also constitutes inhuman and degrading treatment in any state that does not provide alternative subsistence (for example, via the inclusion of refugees in a state welfare system).<sup>66</sup>

Finally, this provision was never intended to apply to refugees. Rather, “the purpose of article 2.3 was to deal with non-nationals who, as a result of colonialism, control certain aspects of the economy in development states”—for example, to allow newly-independent states to nationalize property held by nationals of their former colonizer.<sup>67</sup>

The Economic Covenant also provides for a range of rights at work: Fair wages, including equal pay for work of equal value, at rates that enable a “decent living;” safe and healthy working conditions; limits on working hours and provisions for rest and holiday; and the right to collectively organize and to strike, among other aspects of “just and favorable conditions of work.”<sup>68</sup> These rights are inherent to “everyone, without distinction of any kind,” the interpreting Committee has stated, adding explicitly that “the right applies to all workers in all settings [including] migrant workers [and] refugee workers.”<sup>69</sup>

Beyond the work rights set forth in the Economic Covenant, ILO has negotiated a wide range of international instruments that safeguard work-related rights, from prohibitions on forced labor to obligations to maintain adequate labor inspection systems to safeguards for particular groups such as domestic workers. As with other international legal instruments, ILO conventions apply to refugee workers alongside other workers.

Between the Economic Covenant, the Refugee Convention, and other instruments, therefore, most refugees are entitled under international law to broad labor market access, just and favorable conditions of work, and the right to organize and bargain collectively, with far fewer limitations than is often supposed by host states, multilateral actors, and refugee advocates.

## 6 The Political Economy of Injustice at Work

International law offers refugees broad protections against workplace injustice. Why, then, is injustice against refugee workers so prevalent? The answer lies in the political economy of refugees, work, and justice.

As leading forced labor scholar Genevieve LeBaron and her colleagues have demonstrated in detail in their meticulously-researched report, “Confronting Root Causes,” forced labor and other exploitation in global supply chains “is a structural phenomenon that results when predictable, system-wide dynamics intersect to create a supply of highly-exploitable workers and a business demand for their labor.” These dynamics include:

1. A group of workers deprived of material and social resources and denied rights and legal status is excluded from full labor protections and/or subject to restrictive mobility regimes.
2. A private sector, comprising an increasingly smaller number of increasingly powerful corporations, outsources business components and imposes time and cost pressures on suppliers, fragments labor standards oversight and enforcement, and encourages irresponsible practices.
3. Governance gaps result from governments passing weak laws, under-investing in labor standards enforcement, or relying on ineffective non-government monitoring systems “riddled with conflicts of interest” that neglect the spaces and sources most likely to reveal evidence of exploitation.<sup>70</sup> Such dynamics are at play in refugees’ collective experiences of work.

## 6.1 Profitability can encourage or demand injustice

Like other migrant workers and low-power national workers, refugee workers are caught in an economy that, at present, rewards their mistreatment. Work-related injustice creates economic benefits for many parts of the private sector, locally and globally.

An expanding body of research has shown that the exploitation of workers in global supply chains is not a matter of occasional bad actors but instead is an integral aspect of their existence. For many, profitability depends on worker exploitation. In the global economy, workers' susceptibility to exploitation is a feature, not a bug.<sup>71</sup>

Employers outside of global supply chains can also face pressures to cut costs, which in turn creates a strong incentive in favor of exploitation. Even UNHCR, when acting as an employer, pays many interned refugees less than minimum wage (see footnote v).<sup>72</sup> At times, such pressures are driven by real or perceived competition. The result is a "tragedy of the commons" in which even a well-intentioned private sector actor may struggle to remain financially viable while rejecting exploitative practices.

At the same time, refugees are particularly susceptible to economic roles where exploitation occurs. Because so many refugees lack the 'legal infrastructure' of legal status and rights, they represent for employers a source of unprotected (and therefore cheaper and more compliant) labor, vulnerable to the very dynamics LeBaron describes.

## 6.2 Governance gaps mean refugees lack work rights

Refugees' susceptibility to exploitation is enhanced when host states fail to uphold refugees' work-related rights in practice. Unfortunately, many do: Over half the world's refugees live in states where, in practice, they encounter significant limitations on their work rights.<sup>73</sup>

- States that prevent refugees from accessing some or all of their rights as workers do so in a variety of ways:
- Restricting refugees' free movement or location of work (by interning refugees in camps or allowing them to work only in limited geographic areas such as Special Economic Zones);
- Limiting the sectors in which refugees are permitted to work (as Lebanon does);
- Excluding refugee workers from worker rights protections (by exempting them from, e.g., minimum wage requirements or the right to form unions);
- Failing to robustly apply and enforce worker rights laws vis-à-vis refugee workers or in sectors where large numbers of refugees work;
- Using immigration and policing systems to intimidate refugees into accepting injustice (for example, through workplace immigration raids or by using labor inspectors to enforce immigration rules);
- Imposing legal or administrative barriers to employment or entrepreneurship, such as requiring a separate work permit or business license in addition to a refugee residence visa or identification document.

All of these measures, and more, represent state-imposed barriers that impede refugees' access to just work.<sup>74</sup>

Several factors contribute to states' tendencies to impose such barriers. First, responsibility for refugee policies tends to reside in state agencies responsible for immigration enforcement. The overall mandate of such bodies typically involves limiting or controlling immigration, not facilitating social integration among a diverse populace.



Labor ministries tasked with designing policies that create fair, inclusive economies and enforcing worker rights often are not granted full authority to set rules regarding refugees' labor market participation and may be consulted about refugee-related work policies only as an afterthought.

Second, some government officials, particularly those outside labor and finance ministries, still hold the mistaken belief that allowing refugees to work is detrimental to the labor economy — the so-called “lump of labor fallacy.”<sup>75 76</sup> In fact, refugees tend to expand labor economies when permitted to work: One study found that refugees had “significant positive effects on GDP” within three to seven years.<sup>77</sup> Persistent misconceptions about refugees' impact on labor markets, however, can prompt states or communities to resist the inclusion of non-nationals, including refugees, in authorized work and/or workplace protections. Such misconceptions also can add a false veneer of rationality to xenophobic views, increasing their political traction.

Third, states drastically underinvest in worker rights enforcement and justice for all workers, as described above. The existing enforcement and justice mechanisms tend to focus on safeguarding the rights of nationals and, to a lesser degree, the rights of migrant workers whose home states sometimes advocate for their protection. Refugees lack both of these advantages. They typically hold little or no political power (for example, they cannot vote), and thus, host government representatives do not see them as constituents. They also, by definition, come from states that are unable or unwilling to protect their interests. As a result, host states typically do not prioritize solutions to refugees' work-related problems, resulting in what LeBaron calls “governance gaps” — weak laws, weak enforcement, and limited or no access to justice.

### 6.3 Donors and NGOs push work authorization, but not work rights infrastructure

Meanwhile, a dramatic rise in the numbers of refugees and other forcibly displaced people in the Global Majority, coupled with a declining appetite among Global North governments both to fund humanitarian aid and to open their own doors to refugees, has spurred these governments to push for refugee “self-reliance” within host countries. Multilateral institutions such as UNHCR and the World Bank have joined the call, as have a range of international NGOs and private sector donors.<sup>78</sup> Believing that this so-called “self-reliance” will reduce demand for humanitarian funding and may curtail onward migration to the Global North,<sup>79</sup> these actors are highly motivated to expand opportunities for refugees to generate income in the places they initially seek refuge. The simplest way to achieve this at scale is for host states to grant work authorization to refugees.

Accordingly, these actors now widely advocate for refugees' “labor market access” or to “let refugees work.” Multistakeholder initiatives such as the Jordan and Ethiopia Compacts, the International Development Association (IDA) Window for Host Communities and Refugees, and the Global Concessional Financing Facility offer highly concessionary loans and other economic and diplomatic incentives to host states that grant work authorization to refugees. Under pressure to quickly move refugees into employment, these initiatives tend to support the creation of jobs in sectors and spaces with high levels of injustice.<sup>80</sup> They may overlook the importance refugees place on work rights and on agency in relation to work. They also frequently fall short of demanding (and funding) a robust enforcement and justice infrastructure to prevent and address work rights violations, vital to effectively upholding refugees' rights at work.

Moreover, too narrow a focus on refugees' formal work authorization overlooks the reality that many refugees already work—albeit in informal, unprotected jobs. When donors and investors inject large sums into initiatives designed to provide formal access to limited sectors of a labor market for small percentages of the refugee population, refugees already working in other sectors (with or without authorization) are left out of donor efforts entirely. As a result, both refugees already working informally and those funneled into structured formal initiatives are left without adequate enforcement and remedy for work rights violations. The consequence of this oversight is, as LeBaron describes, the exploitation of refugee workers.

## 6.4 Lacking input from workers and labor scholars, initiatives are dangerously flawed

The donor governments, multilaterals, NGOs, and private sector actors pushing for refugee work authorization in host states argue that work can increase refugees' power, agency, and well-being. This argument sounds intuitive but misses an essential element of nuance, reflecting the need for these actors to engage much more substantively with labor scholarship and, importantly, to include worker representatives in discussions about refugees and work.

It is true that the benefits of work are embraced by refugee communities and borne out by substantial evidence, but only with a critical caveat: such benefits do not derive from all work, but only from just work.<sup>81</sup> In donor-driven discussions about refugee work authorization, this distinction largely goes unacknowledged. Thus, the push to “let refugees work” without corresponding investments in work rights becomes a recipe for employer impunity.

At times, the failure to emphasize the importance of worker rights represents a deliberate but misguided advocacy strategy: displacement response actors sometimes erroneously believe refugee-hosting countries will begin to embrace refugees' access to work only when that work is shown to benefit employers by providing a source of cheap, compliant labor.<sup>82</sup> They argue that, once a country has authorized refugees to work, improvements in refugees' work rights may follow.<sup>83</sup>

The history of labor movements around the world illustrates, however, that exploitative work rarely transitions to just work without massive struggle and sometimes deadly consequences.<sup>84</sup> When donors and other displacement response actors overlook this evidence, they invest in the wrong strategies. Instead of promoting government- and private-sector-led initiatives that channel refugees into jobs without protections, they should invest in refugee-led worker organizing to improve wages and working conditions, and in legal empowerment that activates existing work rights and/or supports broader advocacy strategies.

Insisting on refugee work rights as an integral aspect of refugee labor market participation is critical; the probable consequences of failing to do so are dire. Improvements in workers' rights tend to be rare and inadequate, even in rampant conditions of egregious exploitation.<sup>85</sup> Those improvements that do occur often require an inciting tragedy, such as the Triangle Shirtwaist fire or the Rana Plaza collapse.<sup>86</sup> Donors can proactively recognize and mitigate this risk by centering work rights protections in all labor market participation efforts.

Refugee integration into host economies is not axiomatically positive.<sup>87</sup> Rather, because refugees have been robbed of power—material assets and social and political capital—by the forces that caused their unwilling displacement, they are at significant risk of adverse incorporation: inclusion in a system that enables those with greater power to extract disproportionate value from their efforts.<sup>88</sup> Such disproportionate value extraction entrenches refugees in poverty, denying them the opportunity to rebuild power and participate equitably in the global economy.<sup>89</sup> This is the very opposite of justice—and contrary to the purpose of the SDGs.

## 6.5 Refugees' allies overlook opportunities

While governance gaps and refugees' lack of legal infrastructure are significant problems, refugee advocates and allies can also advance refugees' work rights by significantly expanding their use of governance measures and justice mechanisms that do exist.

In the forced displacement response community, deep misconceptions about refugees' work rights persist. Most refugee advocates—and the donors who fund their work—have little familiarity with the Economic Covenant and the rights it affords refugees. When they do consider the Economic Covenant, these advocates tend to believe its worker protections do not apply to refugees, at least in countries outside the Global North. Thus, the

Covenant’s strong, unambiguous, immediate work rights for refugees are almost entirely overlooked.

While refugee advocates tend to be more familiar with the Refugee Convention, many still assume it provides only limited work rights for refugees. For example, a recent *Journal of Refugee Studies* article on the Jordan Compact, which created a new work permit system for certain refugee workers, described the Refugee Convention as having “noticeable limitations” on the right to work, noting:

*Special provision is accorded to refugees who have a special tie to their country of asylum, such as refugees who have completed three years of residence, are married to a national (and have not abandoned their spouse), or have a child who is a national (emphasis added).<sup>90</sup>*

By describing this provision as applying only in “special” circumstances, the article implies exceptionality, but in reality, nearly 80 percent of the world’s refugees lived in their host countries for three years or more as of 2021.<sup>91</sup> In most states that have accepted the Refugee Convention, therefore, most refugees cannot be barred from the national labor market, with narrow exceptions (e.g., national security posts)—but few advocates realize this.

When advocates lack knowledge about refugee work rights, there are a myriad of implications for achieving SDGs 8, 10, and 16. At a basic level, host government officials typically look to refugee advocates, particularly to UNHCR country operations, for guidance about refugees’ legal rights. When advocates are misinformed, government officials are too. This has a particularly detrimental impact on government divisions that might otherwise be disposed to uphold refugees’ work rights, such as judiciaries and labor rights enforcement agencies. It also means erroneous host government assertions about refugees’ work-related rights—such as claims that a government has no obligation to grant work authorization or enforce work rights for refugees—go uncorrected in multi-actor displacement response discussions.

In addition to ensuring refugee work rights are mainstays in discussions with host governments, refugee advocates can make greater use of international justice mechanisms, such as submissions to the Committee on Economic, Social and Cultural Rights<sup>92</sup> or a state’s Universal Periodic Review by the Human Rights Council,<sup>93</sup> to advance these rights. While these and other treaty mechanisms are slow and imperfect, they currently represent an underutilized avenue for pressing host governments to honor their international law obligations to refugee workers. Domestic strategic litigation is similarly underutilized, particularly in states that have domesticated the Economic Covenant or whose legal system does not require the domestication of international legal instruments.<sup>94</sup> Donors likewise can familiarize themselves with the full scope of refugees’ work-related rights in the Economic Covenant, the Refugee Convention, and other instruments and significantly increase funding for refugee work rights litigation in domestic or international forums.

## 6.6 Union exclusion and a lack of resources stymie refugee organizing

What of refugee workers themselves? In theory, they—like other workers—could organize and collectively bargain for their rights. For example, refugees working in an industry could join other workers in unions or similar associations to increase their power vis-à-vis employers and collectively create counter-pressure against the downward time and cost pressures in the private sector. Through these unions, they also could lobby their host governments to close work rights governance gaps. Alternatively, refugees could form their own unions.

In practice, however, refugee workers face a variety of barriers to organizing. Some of these barriers are legal: Refugees’ rights to unionize, like other work rights, often are restricted. Even where these rights are protected in law, refugees frequently fear harassment by the authorities should they attempt to organize.<sup>95</sup>

Other barriers are social. Many unions and workers’ associations exclude refugee workers. National workers’

groups may exclude refugees due to anti-refugee or xenophobic biases and/or because they perceive refugees as competitors for jobs. Migrant worker groups also may perceive refugees as competitors, believe refugees are “unfairly” seeking both humanitarian aid benefits and wage-paying jobs or fear that including refugees will dilute their advocacy on issues specific to migrant workers, such as recruitment practices. Refugees also may hesitate to align with migrant workers: migrant workers often remain connected with their home country, sometimes even seeking the help of their home government to address work rights violations, while refugees may have fled persecution by that same government.

Refugees also face barriers to forming their own unions. Organizing around the legal status of workers, rather than a common workplace or industry, is complicated. It is also less effective: If refugees in a textile factory are mistreated, a strike by refugee teachers is unlikely to pressure the factory owner to improve conditions. Moreover, refugee-led organizations generally have difficulty securing resources; less than one percent of the USD 30 billion in global humanitarian funding goes directly to refugee-led organizations.<sup>96</sup>

## 7 Advancing Justice for Refugee Workers

Between refugees’ work rights on paper and their experiences of work lies a massive chasm, a justice gap of epic proportions. To close it, both refugees’ lack of legal infrastructure and host states’ governance gaps must be addressed. If these twin lacunae are remedied, employer calculations about competitive pressure will shift—and exploitation will become unprofitable. Only when exploitation is unprofitable will justice for refugee workers become sustainable.

To close the justice gap for refugee workers, therefore, those with the power to do so must transform the conditions under which refugees work.

### 7.1 States must restore refugees’ legal infrastructure and close the governance gap

Refugee-hosting states are the primary actors with the responsibility, power, and authority to create pathways to justice for refugee workers. States are also the actors best equipped to unilaterally enact effective change. State action is at the center of any viable solution to achieve justice for refugee workers.

- 1. Host states should fully extend existing work rights protections to refugee workers.** To build a foundation for justice, host states should ensure refugees have access to the “legal infrastructure” of state-recognized legal identity and documentation<sup>97</sup> and that refugee workers are adequately protected by labor laws — even when they work without authorization.

Refugee workers should enjoy the same minimum wage, maximum hours, and workplace safety protections as other workers. Workplaces that include refugee workers should be subject to labor inspection, which should enforce worker protections, not immigration laws. Refugee workers should be able to lodge a complaint with the appropriate government agency or tribunal without fearing employer retaliation or immigration enforcement. Ideally, any worker, including those who are undocumented or unauthorized, should be able to access all work-related justice mechanisms.<sup>98</sup>

The benefits of instituting this recommendation are significant. Many host states already have some worker

rights protections in law, as well as enforcement and justice systems for upholding those rights. While these laws and systems are at times insufficient, extending existing rights (and the mechanisms for upholding them) to refugees and other workers puts all workers on a level playing field, preventing downward pressure on wages and working conditions and benefitting national workers—as well as contributing to a more equitable national labor economy overall.<sup>99</sup> It also avoids indirectly rewarding unscrupulous employers while penalizing those who uphold rights and treat workers fairly.

Moreover, most refugee-hosting states already have a legal obligation to extend work rights to refugees under the Economic Covenant. Host state labor ministries, judiciaries, and legislatures—the governmental entities responsible for work rights, rule of law, and crafting of legislation—should step forward and assert the importance of domesticating these international legal obligations into national law.<sup>100</sup>

2. **Host states should strengthen worker rights protections and worker justice systems.** Even where refugees are theoretically protected by national law, national mechanisms for upholding and enforcing their work rights must be made far more accessible and responsive. This includes both *sua sponte* state action to meaningfully ensure the rights of those workers most likely to be exploited, including refugees, and effective and timely justice mechanisms by which refugee workers can obtain redress for work rights violations.
  - a. Crucially, states must adequately invest in appropriate labor enforcement, which is currently deeply lacking in most countries.<sup>101</sup> In particular, states must invest specifically in enforcing the work rights of refugees. The impact of inadequate enforcement does not fall equally: Refugees are one of the groups most likely to suffer for a variety of reasons, including xenophobia among enforcement officials, perceptions of refugees as threatening the livelihoods of national workers, and lack of social and economic power. Refugees also face danger when states allow or encourage inspectors to threaten refugee workers with immigration enforcement instead of upholding their work rights.<sup>102</sup> Refugee workers must be protected from retaliation, including, in particular, refoulement .
  - b. States should ensure justice mechanisms effectively serve workers' needs in practice. States that already have strong labor enforcement, including formal justice mechanisms responsive to refugee workers, should ensure these serve refugees' justice needs effectively in practice. Too often, adjudication systems for complaints brought by workers are slow and cumbersome, creating a heavy burden for many refugee workers, who are more likely to work in low-wage jobs and live from paycheck to paycheck.<sup>103</sup> States also should protect workers from retaliation, particularly refugees; while retaliation can mean job loss or blacklisting for nationals, for a refugee, it can also mean deportation to a place where their life is at risk.<sup>104</sup> By strengthening labor enforcement and streamlining justice mechanisms, states can play a central role in achieving justice for refugee workers.

Effectively addressing these issues will benefit not only refugees but all workers. As LeBaron and her colleagues emphasize: “Where labor law is effectively enforced, and where businesses face consequences and penalties if they are caught,” workers’ rights violations “become a lot less viable as a business model.”<sup>105</sup> This means not only that exploiting refugee workers is not profitable but also that nationals or other more privileged workers are not forced to compete on an unequal playing field where hiring exploitable refugees is more profitable than hiring better-protected national workers.

## 7.2 Donors and multilaterals should center justice in refugee labor market initiatives

Donor governments and multilateral institutions have already shown they can influence host state behavior, both directly and indirectly. Incentives from donors, brokered by multilaterals, have been a leading catalyst of host state policy changes that have opened new labor markets for refugees. Despite their weaknesses, the Jordan and Ethiopia Compacts (see Box 1) contributed to those governments' respective decisions to provide formal work avenues for refugees. This reversed entrenched precedent and expanded global conversations about refugees and work. Beyond host states, donor investments have also encouraged NGOs and private sector actors to expand programming on job training and placement for refugees.

1. **Donors and multilaterals should center justice in their investments.** Work rights, not just the right to work, should be the lynchpin of any investment to facilitate refugee economic participation, with specific funding for the mechanisms that make those rights a reality: Labor rights enforcement and access to justice for refugee workers.
  - a. **Donors and multilaterals should earmark funds to improve and expand state labor inspection agencies and legal empowerment for refugee workers,** including legal accompaniment, worker organizing, and strategic litigation. Such funding should be a required component of any initiative to facilitate or shape refugees' participation in any labor market. Projects should be monitored to ensure they do not lead to adverse incorporation.
  - b. **Donors and multilaterals should invest in improving refugees' access to rights and justice in their current jobs.** Instead of projects that funnel refugees into sectors where rights violations and injustice are prevalent, donors should invert their focus and prioritize justice for refugee workers in the jobs they already have. This includes supporting refugee worker organizing and advocacy to demand work rights, funding legal empowerment and access to justice for refugee workers, and leveraging investments (such as the IDA Window for Host Communities and Refugees and the Netherlands Prospects Project) as incentives for host states to extend work rights, labor enforcement, and justice systems to refugees. Refugees already widely engage in work. Donors and multilaterals can push to ensure this work is just.
  - c. **Donors and multilaterals must urgently amend existing commitments to add justice mechanisms.** Commitments like the Netherlands' Prospects Project, the Jordan and Ethiopia Compacts, and projects under the IDA Window for Host Communities and Refugees must be amended to include funding and technical support for improved labor rights enforcement and access to justice for refugee workers. As quickly as possible, donors and multilaterals should pivot away from supporting projects that rely on refugees working in sectors or locations—such as Special Economic Zones—where injustice is rampant (see Box 1).

Such changes offer a myriad of benefits. Centering justice in refugee labor market participation initiatives will prevent adverse incorporation and avoid undermining sustainable development. It will reduce workplace injustice for refugees and contribute to greater justice for all workers.

Additionally, such changes will serve an essential risk reduction function for donors and investors: As currently implemented, many refugee labor market access initiatives are one exposé away from headlines that accuse a donor government or multilateral of putting refugees in sweatshops. By investing a portion of project funds in labor rights enforcement and access to justice, donors and investors will insure their overall investment while ensuring justice for refugee workers.

## 2. Refugees should be supported in forming or joining unions or other workers' associations.

Supporting refugee worker organizing, either by supporting refugees to join existing workers' associations or funding the creation of refugee-led associations, would help build a new component of the justice system for refugees and other marginalized workers, controlled by refugee workers.

Unions and other worker-led associations are among the most effective mechanisms for achieving justice for workers.<sup>106</sup> While existing workers' associations too often exclude refugees, supporting refugee workers to organize themselves and their fellow workers creates a pathway toward more inclusive unions—and thus inclusive justice. Further, refugee-led unions and similar rights-focused mutual-aid associations are likely to have a strong interest in advocating for other systemic reforms that will enable access to justice for their constituents.<sup>107</sup>

Supporting refugee worker organizing will also help donors achieve other commitments. In the 2016 Grand Bargain, 21 of the top 25 humanitarian donors pledged to direct 25 percent of funding to local and national organizations,<sup>108</sup> but so far have struggled to meet this target.<sup>109</sup> A few forward-thinking private foundations have funded initiatives designed by refugees to support refugee-led organizations, but most major humanitarian donors, including states, have yet to take part.<sup>110</sup> By investing in refugee-led associations—at even a small fraction of the cost of existing investments in refugee labor market initiatives—donors will contribute to reaching their Grand Bargain localization commitment while investing in an important and so far overlooked tool for helping refugee workers access justice.

## 7.3 NGOs and UNHCR should leverage existing justice mechanisms

Refugee advocates, particularly refugee-serving NGOs and UNHCR, have an array of tools available that could help them advance justice for refugee workers.

1. **UNHCR and NGOs should make broader use of existing legal instruments, particularly the Economic Covenant.** UNHCR and NGOs should take every opportunity to educate host governments about their legal obligations under the Economic Covenant, particularly the obligation to regularize refugees' labor market participation and extend full work rights protections to them. While some host governments may resist this interpretation despite its strong foundation, most rely on UNHCR to articulate international legal standards applicable to refugees. Further, consistent NGO and UNHCR insistence that host states must understand and comply with the international standards to which they agreed will help build a culture of respect for law, rights, and justice.
2. **NGOs and UNHCR should use existing justice mechanisms more frequently to uphold refugees' work rights.** Given the prevalence of exploitation of refugee workers, NGOs and UNHCR should use every opportunity to seek vindication of refugees' work rights through international justice mechanisms. Opportunities include submissions to the Committee on Economic, Social and Cultural Rights<sup>111</sup> and other treaty bodies that review state adherence to international obligations and the Universal Periodic Review of host states by the Human Rights Council<sup>112</sup>. Similarly, NGOs and UNHCR should fully use regional and domestic strategic litigation. Such litigation will be most effective when implemented in broader, holistic campaigns to transform refugees' work-related rights into reality.

Where these mechanisms have been used, they have had an impact. Indeed, the Committee on Economic, Social and Cultural Rights' unambiguous stance that refugees must be allowed to work

immediately and on par (or better) than nationals is the product of an NGO campaign that first socialized the existence and importance of refugee work rights, then briefed and advocated to the Committee to secure the current legal interpretation.<sup>113</sup> Challenges to the violation of refugees' work rights in domestic courts, for example, in Jordan and Malaysia, have secured wins for refugee workers. Using "soft" justice mechanisms such as the Universal Periodic Review process and pledge processes surrounding the Global Compact on Refugees have increased incentives and secured concrete commitments from governments such as Ethiopia and Thailand to better implement refugees' work rights.

## 7.4 The private sector should support systemic solutions

While individual private sector actors can contribute to just work by hiring refugee workers fairly and equitably, the private sector can best support justice for refugee workers at scale by relinquishing power. Because worker exploitation is a structural phenomenon, ending injustice for refugee workers requires structural reforms to make injustice against them unprofitable. Endorsement of, or at least neutrality towards, these structural reforms is the best way for the private sector to advance justice for refugee workers.

1. **Private sector actors should endorse robust legal protections, state enforcement mechanisms, and comprehensive access to justice for refugee workers.** Private sector endorsement of worker rights laws, along with enforcement and justice mechanisms, has the potential to play an outsized role in convincing host governments to enact these protections for refugee workers. At a minimum, private sector actors should avoid the temptation to advocate for replacing enforcement and justice mechanisms with voluntary commitments or social auditing systems, given that these have been repeatedly revealed to be ineffective in practice.<sup>114</sup>
2. **Private sector actors should proactively agree to bear the burdens, risks, and costs of combatting injustice at work.** At an absolute minimum, this means rejecting disparate terms of work (such as so-called "incentives" below minimum wage) for refugee workers. It also means refusing to engage in hiring discrimination, even where hiring refugees is more expensive, more difficult, or higher risk because of refugees' legal status. For example, an employer may have to pay a work permit fee, structure a hiring contract differently, or absorb the risk of hiring someone with uncertain work authorization to employ a refugee worker—such measures should be undertaken voluntarily and consistently so as not to discriminate against refugee workers. Further, private sector actors should budget and take responsibility for ensuring and proving compliance with work rights and for acting promptly and proactively to remedy and recompense any violations.

These recommendations will bring a range of medium- and long-term benefits, even as they may entail some short-term costs. Robust legal rights and enforcement and justice mechanisms for workers will mean exploitation is no longer profitable, rewarding employers who treat workers well. Moreover, as the world continues to pursue the SDGs, business models that depend on exploitation may face increased reputational harm. More broadly, enhancing access to justice makes worker rights meaningful, reducing labor market inequality. This, in turn, lowers the risk of conflict and increases the stability of the business environment.<sup>115</sup>

In addition to the recommendations above, private sector actors should gracefully relinquish outsized power in discussions of refugees and work. The strongest advocates for just work for refugees will always be refugee workers and prospective workers themselves. Refugees should be equitably represented in all multistakeholder discussions around refugees and work, such that they are on terms of at least equal power with other participants. Workers—both those who are refugees and those who are not—also should be represented. This



means that multi-stakeholder efforts to increase refugees' economic power by expanding or improving their labor market participation must exercise caution when involving private sector actors. In particular, employers should not have a louder voice in refugee labor market participation discussions than workers' associations—representing both refugee and non-refugee workers—and refugee communities themselves.

## Conclusion

Achieving the systemic transformation needed to ensure justice for refugee workers will not be easy. This analysis offers an understanding of the justice problems that refugees face in the labor market and the overlooked tools at our collective disposal to address them. However, ensuring justice for refugee workers will require many actors, working in concert, to insist on justice as a foundational principle of development efforts involving refugees.

SDG16's call for justice for all cannot be an afterthought or an add-on in displacement response. This is not a moral exhortation in favor of rights and justice; it is a recognition that pragmatically, any approach that begins by accepting exploitative, extractive conditions will entrench endemic poverty and make the pathway to achieving the SDGs far steeper.

Instead, all actors must center justice for refugee workers. Together, we must prioritize investment in refugee workers' justice journeys, insisting that work rights for refugees become more than words on paper. Such efforts are imperative to reach the SDGs and improve development outcomes for all.

## Box 1: The Jordan and Ethiopia Compacts: Work Without Justice

The World Bank-brokered compacts in Jordan and Ethiopia, intended to address work authorization and labor market access for refugees, have proven problematic in practice. Although touted as innovations in refugee economic inclusion, they sought in part to remove refugee workers from their existing communities and place them in manufacturing facilities in special economic zones that are widely documented as rife with abuse<sup>116</sup> —“so much so that in India, they have been dubbed ‘special exploitation zones’” one critic reports.<sup>117</sup>

Workers in Jordan’s special economic zones have frequently been subjected to wage theft, passport seizure, poor ventilation and plumbing, and other violations, according to complaints documented by work rights NGO Tamkeen and others.<sup>118</sup> Meanwhile, garment workers in the Ethiopian special economic zones (called industrial parks in Ethiopia) were receiving the lowest base wage of any garment-producing country when the Ethiopia Compact launched in 2019—wages so low that workers “cannot afford decent housing, food, and transportation.”<sup>119</sup> In both Jordan and Ethiopia, labor unions and NGOs<sup>120</sup> have been excluded from these zones.

Compounding these problems, neither compact addressed this exclusion or made any provisions for refugee workers to have access to justice. For example, “the formulation of the Jordan Compact and the conditions of work permits... fail to offer mechanisms to communicate grievances against employers,” a reflection of “unequal power dynamics and a legislative framework that is seemingly un navigable for most refugee groups” that leaves refugees “unable to engage in formal grievance mechanisms with the Jordanian state,” according to a 2022 assessment by the Overseas Development Institute’s Humanitarian Policy Group and the Jordanian NGO Arab Renaissance for Democracy and Development (ARDD).<sup>121</sup>

These outcomes illustrate the importance of embedding access to justice in any effort to improve refugees’ participation in the labor market. The Compacts represented an innovative approach but overlooked a crucial component: Building better employment pathways for refugees requires building justice pathways alongside.

## Box 2: Resourcing Access to Justice: A Critical Need

Compounding the barriers to justice for refugee workers, access to justice is woefully underfunded overall. Despite the integral role of access to justice in achieving SDGs 8 and 10, among others, SDG16 was—unlike other goals—launched as an unfunded mandate: “On the day the SDGs were announced, most of them were accompanied by major financial commitments... On access to justice, no one pledged a penny,” Vivek Maru, head of the access to justice NGO Namati, wrote.<sup>122</sup> For refugees, like other marginalized communities, justice needs to continue to far outstrip available funding.<sup>123</sup>

In the displacement response sector, some legal empowerment services do receive funding. However, much of the legal empowerment available to refugees tends to focus on only a few limited modalities, chiefly information and bureaucratic accompaniment, as described in my April 2022 companion paper for Pathfinders, *Legal Empowerment: From Accompaniment to Justice*.<sup>124</sup> This can help refugees transact ordinary life activities that require state involvement or endorsement, such as registering births. Where injustice is prevalent or recurring, however, more is needed:

*[Information and accompaniment] largely fail to challenge the systemic injustice that is often inherent in bureaucratic mechanisms or their absence. Because such limited programs fail to utilize the full range of legal empowerment modalities, they are unable to respond when bureaucratic accompaniment fails to achieve justice, either in a particular instance or as a systemic failure.*<sup>125</sup>

The lack of funding for other access to justice modalities has many causes, but it is partly a result of donors’ misunderstanding of the scope of rights that inhere to refugees, particularly in relation to work. When both advocates and donors incorrectly believe refugees have only limited work rights, donors will fail to invest in programming that could hold governments accountable to their commitments under the Economic Covenant, the Refugee Convention, and other relevant instruments.

Donors can and should invest more substantially in justice modalities that could remedy systemic injustices for refugees. This includes funding strategic litigation in both domestic and regional courts to uphold host states’ obligations under the Economic Covenant and/or the Refugee Convention. It also includes funding other collective or impact litigation that could eliminate major barriers to justice, such as internment, labor market exclusion, and weaponization of immigration enforcement by employers. One essential and underfunded vehicle is the Global Strategic Litigation Council for Refugee Rights, a broad coalition of most of the major refugee justice organizations around the world that has developed thoughtful strategies to leverage justice systems across jurisdictions to expand justice for refugees at scale.<sup>126</sup> These strategies should be comprehensively resourced.

Comprehensive resourcing is critical to ensuring collective and impact-focused justice modalities are successful. Too often, donors that fund impact litigation will support a single impact lawsuit or submission to a treaty body without investing in the accompanying advocacy and communications efforts needed to enhance the likelihood of success. Moreover, to truly leverage justice mechanisms for transformative improvements in justice at scale, donors should invest in multi-year efforts that first introduce and socialize understanding of a state’s legal obligations among lawmakers and justice institutions before bringing litigation (accompanied by complementary advocacy and communications efforts) before those newly-sensitized institutions. Moreover, addressing systemic injustice often requires a series of multiple legal and advocacy actions to uphold and sustain the shifts in state action that create a stronger justice environment. Donors should provide consistent, long-term investment in such comprehensive strategies if they are serious about achieving SDGs 8, 10, and 16 for refugees.

### Box 3: The Prospects Problem: Access to Work Without Access to Justice

The Prospects initiative, a EUR 500 million by the government of the Netherlands, has a laudable goal: improving the economic prospects of refugees in the Middle East and the Horn of Africa. Access to employment is a primary focus of the project, alongside education and prevention of irregular migration.

Prospects supports the work of five multilateral organizations: UNHCR, UNICEF, ILO, IFC, and the World Bank. In theory, UNHCR and ILO are responsible for ensuring decent work. Together with UNICEF, they are also responsible for what is termed the "protection" of refugees— a somewhat controversial term with variable meanings in the sector, but often understood to include human rights. The World Bank and IFC are primarily responsible for market development and public and private investment promotion.

The initiative appears to present an ideal opportunity to expand refugee workers' access to justice, for example, by increasing the availability of legal advice and support. Its current formulation, however, does not provide for this.<sup>127</sup> At the same time, refugee workers are consistently at grave risk of injustice across myriad geographies and work contexts, as described throughout this paper. While refugees' access to labor markets and livelihoods is a common theme in Prospects materials, empowering refugees to redress rights violations at work is not currently discussed.<sup>128</sup>

To be sure, ILO's responsibilities under Prospects include promoting "decent work." However, ILO does not directly engage in or support access to justice for individual workers. Rather, its mandate is facilitating dialogue and advising on labor policy among its constituents—governments, employers, and worker associations. Because worker associations rarely represent refugees and are indeed often hostile to refugees' labor market participation, this approach leaves refugees with no voice in discussions of labor rights policy, even as they are bereft of support to access justice individually.

Similarly, while UNHCR is mandated to safeguard refugees' human rights, its role in Prospects is focused on documentation and legal status, not on rights at work.<sup>129</sup> World Bank's Prospects projects are dictated by government development plans, and refugees generally are not included as stakeholders in the development of those plans. IFC's focus is de-risking initial investments in refugee and host communities to "provide demonstration... on commercial viability of refugee-focused investments," with no provision for ensuring commercial viability can co-exist with just work.<sup>130</sup>

The Prospects initiative urgently requires an amendment to include access to justice for refugee workers. Until it does, the initiative risks condemning refugees to adverse incorporation, where refugees are compelled to work in unfair situations that mire them in perpetual poverty, "preventing them from accumulating wealth or achieving long-term economic security."<sup>131</sup>

To remedy this, the Netherlands should consider enhancing Prospects with supplemental funding for access to justice interventions. Such interventions should include, at a minimum, expansion and training of labor inspectorates and legal empowerment for refugee workers, including funding to support refugees in using labor dispute mechanisms, organizing among themselves, or with other workers to collectively bargain, and undertaking strategic litigation. In the long term, the Netherlands and other donors should pledge that any future initiative that promotes refugees' access to labor markets will include dedicated funding to expand labor enforcement and help refugees access justice for work rights violations.

## Endnotes

- 1 Alexander Betta, Naohiko Omata, and Olivier Sterck, “Transnational blindness: International institutions and refugees’ cross-border activities,” *Review of International Studies* 47 no. 5 (April 28, 2021): 714–742, <https://doi.org/10.1017/S0260210521000164>; Alexander Betts et al., *Refugee Economies: Forced Displacement and Development* (Oxford: Oxford University Press, 2016), <https://doi.org/10.1093/acprof:oso/9780198795681.001.0001>.
- 2 Two efforts that suggest the need for such a diagnosis include Heaven Crawley’s brief article responding Betts’ and Collier’s proposals on Special Economic Zones in Heaven Crawley, *Refugee Economics* (London: Nature, 2017): 26–27; and Evan Easton Calabria and Nao Omata’s critical assessment of the way “self-reliance” is conceptualized in Evan Easton Calabria and Nao Omata, “Panacea for the refugee crisis? Rethinking the promotion of “self-reliance” for refugees,” *Third World Quarterly* 39, no. 8 (2018): 1458–1474, <https://www.tandfonline.com/doi/abs/10.1080/01436597.2018.1458301>.
- 3 We use the term “just work” in this paper to describe an experience of work that is characterized by justice throughout its lifecycle—that is, in seeking work, contracting for work, working itself, and ending a work relationship. The work itself must perform be “decent work,” defined as “work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, and freedom for workers to express their concerns, organize and participate in the decisions that affect their lives,” as well as “equality of opportunity and treatment for all women and men.” See, International Labour Organization, “Decent Work,” <https://www.ilo.org/global/topics/decent-work/lang--en/index.htm>. “Just work” is also not limited or marred by other experiences of injustice, such as exploitation or harassment in job search process or in the workplace; movement restrictions that prevent or limit access to freely chosen work; or injustice in the termination of work or in the experience of accessing social protections.
- 4 A justice gap occurs when people are deprived of justice, either because they have a justice problem that they cannot solve, or because they are cut off from social, economic, or political opportunities provided by the law. See, Pathfinders for Peaceful, Just and Inclusive Societies, “Justice for All: Report of the Task Force on Justice,” NYU Center on International Cooperation, 2019, <https://www.sdg16.plus/resources/justice-for-all-report-of-the-task-force-on-justice>; See also Emily Arnold-Fernández, “Refugee Legal Empowerment: From Accompaniment to Justice,” NYU Center on International Cooperation, May 4, 2022, <https://cic.nyu.edu/resources/refugee-legal-empowerment-from-accompaniment-to-justice>.
- 5 Various organizations including the World Bank Group, Asylum Access, the Center for Global Development and Refugees International have conducted research on the state of refugees’ access to work rights in law and practice (Asylum Access, *Global Refugee Work Rights Report*, 2014; Roger Zetter and Héloïse Ruadel, “Refugees’ Right to Work and Access to Labor Markets: An Assessment,” World Bank, KNOMAD, and others, 2016, <https://www.knomad.org/publication/refugees-right-work-and-access-labor-markets-assessment-part-1>; Asylum Access, Center for Global Development and Refugees International, “The 2022 Global Refugee Work Rights Report,” August 2022, <https://asylumaccess.org/2022-global-refugee-work-rights-report/>). While these reports provide important data about the prevalence of work rights violations for refugees, none engages in significant analysis of underlying causes. One 2019 study by Solidarity Center and CIVICUS analyzed barriers to refugee and migrant worker labor organizing, but did not significantly examine underlying causes of other work rights violations. (Solidarity Center and CIVICUS, “Freedom On The Move: The Civic Space of Migrant Workers and Refugees,” October 2019, <https://www.civicus.org/index.php/freedoms-on-the-move>.)
- 6 Asylum Access, Center for Global Development and Refugees International, “The 2022 Global Refugee Work Rights Report;” Solidarity Center and CIVICUS, “Freedom On The Move.”
- 7 United Nations, “Sustainable Development Goals.” 2015, <https://sdgs.un.org/goals/goal16>.
- 8 This paper uses common definitions of formal and informal sectors, which differ from the technical definitions

used by the International Labour Organization (ILO). The ILO defines the informal sector much more narrowly, considering only household-level, unincorporated businesses with low levels of organization. International Labour Organization, “Resolution concerning statistics of employment in the informal sector,” adopted by the Fifteenth International Conference of Labour Statisticians, January 1993, [https://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/normativeinstrument/wcms\\_087484.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/normativeinstrument/wcms_087484.pdf).

9 Asli Demircuc-Kunt, Michael Lokshin and Martin Ravallion, “A new policy to better integrate refugees into host-country labor markets,” Center for Global Development, November 25, 2019, <https://reliefweb.int/report/turkey/new-policy-better-integrate-refugees-host-country-labor-markets#:~:text=A%20refugee%20who%20wants%20a,Turkey%20will%20use%20that%20option.>

10 The efforts of the Colombian government in regularizing a massive displaced populations should not go unrecognized: In January 2021, less than half of Venezuelans in Colombia held a recognized immigration status (Press Release, “Labor market access and integration: A key element for livelihoods and economic inclusion of Venezuelans,” UNHCR, January 2021, <https://reliefweb.int/report/colombia/labor-market-access-and-integration-key-element-livelihoods-and-economic-inclusion-0>). In February 2021, the government expanded regularization pathways via a statute that created ten-year regularization status for existing undocumented Venezuelan migrants, estimated at one million people, called the Estatuto Temporal de Protección para Migrantes Venezolanos (ETPV), and enabled access to formal work and healthcare services (Nate Edwards, “Colombia’s Support for Venezuelan Migrants and Refugees,” NYU Center on International Cooperation, September 14, 2022, <https://cic.nyu.edu/resources/colombia-support-venezuelan-migrants-refugees>).

11 R4V, “Colombia, Cifras Clave,” October 31, 2022, <https://www.r4v.info/es/colombia>.

12 Jennifer Gordon, “Decent Work for displaced people: Lessons from the experiences of Venezuelan migrant and refugee workers in Colombia and Brazil,” ILO, January 2024, [https://ilo.org/wcmsp5/groups/public/---americas/---ro-lima/documents/publication/wcms\\_906738.pdf](https://ilo.org/wcmsp5/groups/public/---americas/---ro-lima/documents/publication/wcms_906738.pdf). Dany Bahar et al., “Give me Your Tired and Your Poor: Impact of a Large-Scale Amnesty Program for Undocumented Refugees,” *Journal of Development Economics* 151, no. 1 (2023), <https://doi.org/10.1016/j.jdeveco.2021.102652>; Ana María Ibáñez et al., “Life Out of the Shadows, The Impacts of Regularization Programs on the Lives of Forced Migrants,” World Bank, February 2022, <https://openknowledge.worldbank.org/server/api/core/bitstreams/e49492ac-ea1d-4245-93a2-e317dfa8e682/content>.

13 Asylum Access, Center for Global Development and Refugees International, “The 2022 Global Refugee Work Rights Report.”

14 Pathfinders for Peaceful, Just and Inclusive Societies, “Justice for All.”

15 Alexander Betts et al., “Refugee Economies: Rethinking Popular Assumptions,” Refugee Studies Centre, June 2014, <https://www.rsc.ox.ac.uk/files/files-1/refugee-economies-2014.pdf>.

16 For example, refugee advocate Bahati Kanyamanza has, in various presentations, recounted his father’s experiences with such a theft, and his struggles—and failure—to access justice. The prevalence of such justice problems is hinted at by the establishment of entities such as Kyangwali Progressive Farmers Ltd, founded in 2010 by refugees to enhance predominantly refugee farmers’ collective bargaining power (Betts et al., “Refugee Economics”).

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[public/---ed\\_norm/---declaration/documents/publication/wcms\\_214472.pdf](#) (listing reports of similar issues as of 2013).

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21 The Jordan Compact, signed in February 2016, permitted refugees to work in construction, agriculture, and manufacturing, all of which are industries with a high prevalence of exploitation. (“What is forced labour?” *Anti-Slavery*, 2022, <https://www.antislavery.org/slavery-today/forced-labour>; Center for Global Workers’ Rights, “Organizing Informal Workers To Win: Lessons from Informal Domestic and Construction Workers In Six Countries,” University of California at Los Angeles, January 2021, [https://irle.ucla.edu/wp-content/uploads/2021/03/Organizing-Informal-Workers-to-Win\\_-Lessons-from-Informal-Domestic-and-Construction-Workers-in-Six-Countries.pdf](https://irle.ucla.edu/wp-content/uploads/2021/03/Organizing-Informal-Workers-to-Win_-Lessons-from-Informal-Domestic-and-Construction-Workers-in-Six-Countries.pdf)). As of July 2021, Jordan allows refugees to work in the sectors open to non-Jordanians—including services and sales; crafts; skilled agriculture, forestry, and fishery; plant and machine engineering; and so-called “basic industries.” (Press Release, “Jordan issues record number of work permits to Syrian refugees,” UNHCR, January 25, 2022, <https://www.unhcr.org/en-us/news/press/2022/1/61effaa54/jordan-issues-record-number-work-permits-syrian-refugees.html>).

22 Operational Data Portal, “LEADERS for Sustainable Livelihoods consortium, “Dignity At Stake: Challenges to Accessing Decent Work in Lebanon,” UNHCR, May 31, 2019, <https://data.unhcr.org/en/documents/details/69774>.

23 Asylum Access, Center for Global Development and Refugees International, “The 2022 Global Refugee Work Rights Report.”

24 Asylum Access, “Malaysia: Court defends refugee worker rights in landmark ruling,” February 1, 2023, <https://asylumaccess.org/malaysia-court-defends-refugee-worker-rights-in-landmark-ruling/>.

25 Tamkeen Fields for Aid, “The Work Conditions of Syrian Refugee Women in Jordan,” *Human Trafficking Search*, 2016, <https://humantraffickingsearch.org/wp-content/uploads/2017/08/The-Work-Conditions-of-Syrian-Refugee-Women.pdf>.

26 Refugees hired by UNHCR and international NGOs at below-minimum wage are called “incentive workers.” A 2014 UNHCR discussion paper described the situation thusly: “In many contexts, refugees are engaged by UNHCR and by partners [i.e., international NGOs that receive funding from or otherwise collaborate with UNHCR] as ‘incentive workers’ to undertake jobs...both within and outside camps. Such work is often characterized as volunteering rather than employment and the compensation described as an ‘incentive,’ which is generally lower than a wage and is intended to acknowledge the volunteer’s effort but not provide full compensation for their labour...Incentive workers are engaged for a wide variety of tasks, including school teachers, translators, community outreach workers, health workers, sanitation and construction workers, security guards, cleaners, distribution clerks, and office staff.” UNHCR, “Which Side Are You On? Discussion Paper on UNHCR’s Policy and Practice of Incentive Payments to Refugees,” Policy Development and Evaluation Service, 2014, <https://reliefweb.int/report/world/which-side-are-you-discussion-paper-unhcr-s-policy-and-practice-incentive-payments>. As of 2020, UNHCR was still using underpaid refugee “incentive workers.” Charles Mballa et al, “UNHCR and Partner Practices of Community-Based Protection across Sectors in the East and Horn of Africa and the Great Lakes Region,” UNHCR and Population Council, 2020, <https://svri.org/sites/default/files/attachments/2020-11-05/Protection%20across%20sectors%20EHA%20GLR.pdf>.

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September 2019, <https://www.refugeesinternational.org/reports/2019/9/18/insecure-future-deportations-and-lack-of-legal-work-for-refugees-in-turkey>.

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30 Jared Ferrie, “U.N. says Rohingya refugee girls sold into forced labor in Bangladesh,” Reuters, October 17, 2018, <https://www.reuters.com/article/us-bangladesh-refugees-trafficking/u-n-says-rohingya-refugee-girls-sold-into-forced-labor-in-bangladesh-idUSKCN1MR15Z>; E. Stoakes, et al, “Revealed: How the Thai fishing industry trafficks, imprisons and enslaves,” Guardian, July 20, 2015, <https://www.theguardian.com/global-development/2015/jul/20/thai-fishing-industry-implicated-enslavement-deaths-rohingya>. The Myanmar government’s ongoing persecution and genocide against Rohingya people means that most would have met the definition of “refugee” when each of these articles was written.

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32 Center for Global Workers’ Rights, “Organizing Informal Workers.”

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34 Women in News, “Sexual Harassment in the Media,” World Association of News Publishers, July 12, 2021, <https://womeninnews.org/wp-content/uploads/2021/07/20210712-Low-Res-Sexual-Harassment-Report.pdf>, which documented the high prevalence of sexual harassment of women in media jobs—likely to be formal sector employment—in South Africa; Institute for Women’s Policy Research, “Sexual Harassment and Assault at Work: Understanding the Costs,” October 2018, <https://iwpr.org/iwpr-publications/briefing-paper/sexual-harassment-and-assault-at-work-understanding-the-costs/>, summarized research on sexual harassment in US workplaces, including in the military and among faculty and staff in academia, both of which involve formal sector jobs.

35 While research that comprehensively examines workplace abuse of refugees specifically (distinct from other migrant workers) remains limited, a substantial body of research reveals widespread workplace exploitation of migrants, at least some of whom clearly appear to meet international definitions of a refugee (for example, Rohingya workers in Indonesia and Thailand, Venezuelan workers in Colombia and Panama, and others).

36 Asylum Access, Center for Global Development and Refugees International, “The 2022 Global Refugee Work Rights Report.”

37 Ibid.

38 Pathfinders for Peaceful, Just and Inclusive Societies, “Justice for All.”

39 Arnold-Fernandez, “Legal Empowerment,” citing Pathfinders for Peaceful, Just and Inclusive Societies, “Justice for All.”

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41 Caitlin Wake, “‘Turning a blind eye’: The policy response to Rohingya refugees in Malaysia,” HPG Working



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44 Gordon Lafer, “The Legislative Attack on American Wages and Labor Standards 2011-2012,” Economic Policy Institute, October 31, 2013, <https://www.epi.org/publication/attack-on-american-labor-standards>.

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46 Interviews from author’s fieldwork in August 2023, on file with author.

47 The Institute for Business and Human Rights provides detailed and specific recommendations for improving justice systems to address the injustice of wage theft. In suggesting that a state issue compensation to a wronged worker and then seek to recover those funds from the wrongdoing employer, for example, they propose states could charge a “recovery fee” which could serve as a revenue source to support state enforcement efforts. To ensure states can recover these costs, they suggest making principal contractors or top-of-supply-chain businesses jointly liable for the compensation due to workers because of work rights violations, or withdrawing or withholding necessary licenses and permissions from a rights-violating business until a judgment is paid.

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49 Ibid.

50 Refugee Council USA, “At the Breaking Point: Refugees in Jordan and Egypt,” March 2015, <https://rcusa.org/resources/at-the-breaking-point-refugees-in-jordan-and-egypt/>.

51 “Malaysia Deports Myanmar Asylum Seekers Despite Dangers Back Home: Sources,” Reuters, October 19, 2022, <https://www.reuters.com/world/asia-pacific/malaysia-deports-myanmar-asylum-seekers-despite-dangers-back-home-sources-2022-10-19/>; UNHCR, “Briefing Note: UNHCR deplores continued deportation of Myanmar asylum-seekers from Malaysia,” October 25, 2022, <https://www.unhcr.org/uk/news/briefing-notes/unhcr-deplores-continued-deportation-myanmar-asylum-seekers-malaysia>; Asylum Access, “Amnesty International Malaysia and Asylum Access Malaysia Welcome Court Decision to Grant Leave for Judicial Review of Deportation of Myanmar Nationals,” March 9, 2021, <https://asylumaccess.org/aam-courtgrantsleaveforjudicialreview/>.

52 The Refugee Convention applies to the 146 states that are parties to it, although a number of these states have lodged reservations that limit the application of Article 17 or other work-related provisions. Among the five countries currently hosting the largest numbers of refugees—Turkey, Colombia, Uganda, Pakistan, and Germany—only Pakistan is not party to the Convention (UNHCR 2022; UN Treaty Collection).

53 Refugee Convention Article 17 applies to refugees “lawfully staying” in the country. While this term sounds as if it might exclude many refugees, it applies to virtually all non-transient refugees. Those whom the state (or, arguably, UNHCR) has formally recognized as refugees; those holding other indefinite residence status such as temporary protection, a humanitarian visa, or a migrant worker visa; and those for whom the state has failed to promptly adjudicate their claims, or failed to remove them after their stay has exceeded non-resident time limits (for example, the time limit for a tourist visa). (See: James C. Hathaway, *The Rights of Refugees Under International Law* (Cambridge:

University of Michigan Press, 2021). Article 17 also specifies that the treatment required is that of the most-favored foreign nationals “in the same circumstances;” this means a refugee can be required to meet any prerequisites that would ordinarily apply, unless by virtue of their refugee status they are unable to do so. (See the UN General Assembly, Resolution 429, Refugee Convention, A/Res/429, 6, (December 14, 1950), <https://www.unhcr.org/us/about-unhcr/who-we-are/1951-refugee-convention>).

54 Hathaway, *The Rights of Refugees*.

55 UN General Assembly, Resolution 2200A, International Covenant on Economic, Social and Cultural Rights, (December 16, 1966), A/Res/22/00/A, 27, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.

56 Ibid.

57 UN Committee on Economic, Social and Cultural Rights, General Comment No. 18: The Right to Work, (February 6, 2006), E/C.12/GC/18, 6; <https://www.refworld.org/legal/general/cescr/2006/en/32433>; UN Committee on Economic, Social and Cultural Rights, General comment No. 20: Non-discrimination in economic, social and cultural rights, (July 2, 2009), E/C.12/GC/20, 2.2, <https://www.refworld.org/legal/general/cescr/2009/en/68520>. This committee is responsible for interpreting the Economic Covenant.

58 UN Committee on Economic, Social and Cultural Rights, General Comment No. 3: The Nature of States Parties' Obligations, (December 14, 1990), E/1991/23, 2.1, <https://www.refworld.org/legal/general/cescr/1990/en/5613>; [E/C.12/GC/18](https://www.refworld.org/legal/general/cescr/2016/en/122360); [E/C.12/GC/20](https://www.refworld.org/legal/general/cescr/2016/en/122360); Penelope Mathews, *Re-working the Relationship between Asylum and Employment*, (London: Routledge, 2012).

59 E/C.12/GC/18; Mathews, *Re-working the Relationship*.

60 E/C.12/GC/18, 3.2, “Specific Legal Obligations.”

61 UN Committee on Economic, Social and Cultural Rights, General comment No. 23 (2016) on the right to just and favourable conditions of work, (April 7, 2016), E/C.12/GC/23, <https://www.refworld.org/legal/general/cescr/2016/en/122360>; “Because of their often precarious status, [refugees] remain vulnerable to exploitation, discrimination and abuse in the work place, may be less well paid than nationals, have longer working hours and more dangerous working conditions.”

62 E/C.12/GC/20.

63 E/C.12/GC/23.

64 39 Minister of Home Affairs and Others v Watchenuka and Others (010/2003) [2003] ZASCA 142, [2004] 1 All SA 21 (SCA) (28 November 2003) (Watchenuka). Watchenuka is a seminal case from the South African Supreme Court of Appeals. The principle that work is a social right connected with rights to human dignity and private life also has been recognized by various other bodies responsible for interpreting international human rights law.

65 Mathews, *Re-working the Relationship*.

66 Mathews, *Re-working the Relationship*, 111, citing Adam, Limbuela, and Tesema v. Secretary of State for the Home Department, (2005) UKHL 66, (2006) 1 AC 396.

67 Mathews, *Re-working the Relationship*, 112, citing EVO Dankwa, “Working Paper on Article 2(3) of the International Covenant on Economic, Social and Cultural Rights,” *Human Rights Quarterly* 9, no. 2 (May 1987): 245.

68 A/Res/22/00/A, 3.

69 E/C.12/GC/23.

70 LeBaron et al., “Confronting Root Causes.”

- 71 Connell, “Wage Theft and Migrant Workers;” Migrant Justice Institute, “Migrant Workers’ Access;” LeBaron et al., “Confronting Root Causes;” “A 2016 report by the International Trade Union Confederation analyzed the global supply chains of 50 TNCs with a combined revenue of USD 3.4 trillion and found that only 6 percent of their global supply chain workforces were directly employed. Of the remaining 94 percent, large swathes were in non-standard employment.”
- 72 Helen Morris and Frances Voon, “Which Side Are You On? Discussion Paper on UNHCR’s Policy and Practice of Incentive Payments to Refugees,” UNHCR, 2014, <https://www.unhcr.org/media/whos-side-are-you-discussion-paper-unhcrs-policy-and-practice-incentive-payments-refugees>; Charles Mballa et al., “UNHCR and Partner Practices of Community-Based Protection across Sectors in the East and Horn of Africa and the Great Lakes Region,” UNHCR and Population Council, 2020, [https://knowledgecommons.popcouncil.org/departments\\_sbsr-rh/1310](https://knowledgecommons.popcouncil.org/departments_sbsr-rh/1310).
- 73 Asylum Access, Center for Global Development and Refugees International, “The 2022 Global Refugee Work Rights Report.”
- 74 Ibid.
- 75 Despite being debunked in 1891, the idea that national economies have a fixed number of jobs—the “lump of labor fallacy”—remains deeply entrenched, sometimes fostered by governments or political parties.
- 76 “Lump of labor fallacy,” Wikipedia, [https://en.wikipedia.org/wiki/Lump\\_of\\_labour\\_fallacy](https://en.wikipedia.org/wiki/Lump_of_labour_fallacy); Brennan Hoban, “Do Immigrants “Steal” Jobs from American Workers?,” Brookings, August 24, 2017, <https://www.brookings.edu/blog/brookings-now/2017/08/24/do-immigrants-steal-jobs-from-american-workers>.
- 77 Hippolyte D’Albis, et al., “Macroeconomic evidence suggests that asylum seekers are not a “burden” for Western European countries,” *Science Advances* 4, no. 6 (June 20, 2018), <https://www.science.org/doi/10.1126/sciadv.aag0883>.
- 78 Press Release, “EIB President pledges support for ‘Jobs Compact’ in Ethiopia tackling migration and refugee challenge,” European Investment Bank, September 21, 2016, <https://www.eib.org/en/press/all/2016-212-european-investment-bank-president-pledges-support-for-jobs-compact-in-ethiopia-tackling-migration-and-refugee-challenge>; Paul Collier and Alexander Betts, “Why denying refugees the right to work is a catastrophic error,” *The Guardian*, March 22, 2017, <https://www.theguardian.com/world/2017/mar/22/why-denying-refugees-the-right-to-work-is-a-catastrophic-error>.
- 79 Press, “EIB President,” However, “today there is no consensus in economic theory or empirics that supports the idea that increasing foreign investment and trade will decrease emigration.” Jennifer Gordon, “Investing in Low-Wage Jobs Is the Wrong Way to Reduce Migration,” *Foreign Policy*, January 28, 2019, <https://foreignpolicy.com/2019/01/28/investing-in-low-wage-jobs-is-the-wrong-way-to-reduce-migration>.
- 80 Examples include the Jordan Compact, which allowed refugees to be paid less than minimum wage and adopted a kafala system, an approach widely recognized as abusive because it ties workers to a single employer; and the Ethiopia Compact, which sought to channel refugees to jobs in industrial parks where labor unions and NGOs were barred. Despite multilaterals and donors heralding these compacts as major accomplishments for refugees, neither initiative included or supported access to justice for refugee workers, prospective workers, or their families (see Box 1).
- 81 LeBaron et. al, “Confronting Root Causes;” Asylum Access, Center for Global Development and Refugees International, “The 2022 Global Refugee Work Rights Report.”
- 82 Alexander Betts, *The Wealth of Refugees* (Oxford: Oxford University Press, 2021), discussing importance of providing incentives for employer investment.

83 An example of a “work first, rights later” mindset can be seen in UNHCR’s first Global Strategy for Livelihoods in 2014, which emphasizes that when refugees can work “legally,” they benefit their host countries and communities. In identifying relevant actors, however, the strategy does not include unions or other workers’ associations, nor does the document mention access to justice. (Division of Programme Support and Management, “Global Strategy for Livelihoods 2014-2018,” UNHCR, <https://emergency.unhcr.org/sites/default/files/UNHCR%2C%20Global%20Strategy%20for%20Livelihoods%202014-2018.pdf>).

UNHCR has since acknowledged a need to focus not only on livelihoods but also on rights at work and has begun including the term “decent work” in its strategies. Access to justice and justice mechanisms, however, remain largely absent from discussions of refugee labor market access. (UNHCR, “Refugee Livelihoods and Economic Inclusion - 2019-2023 Global Strategy Concept Note,” [https://www.unhcr.org/publications/operations/5bc07ca94/refugee-livelihoods-economic-inclusion-2019-2023-global-strategy-concept.html#\\_ga=2.117473423.728272715.1667415730-1919438505.1644357188](https://www.unhcr.org/publications/operations/5bc07ca94/refugee-livelihoods-economic-inclusion-2019-2023-global-strategy-concept.html#_ga=2.117473423.728272715.1667415730-1919438505.1644357188)).

84 International Trade Union Confederation, “2022 ITUC Global Rights Index,” 2022, <https://www.globalrightsindex.org/en/2022>; Trinity College of Arts and Sciences, “Labor Movements,” Duke University, <https://socialmovements.trinity.duke.edu/movements/labor-movements>; Research Working Group on World Labor, “Global Patterns of Labor Movements in Historical Perspective,” *Review* (Fernand Braudel Center) 10, no. 1 (Summer 1986): 137–155, <http://www.jstor.org/stable/40241051>.

85 Murphy, “Hidden Chains,” International Labour Organization, “Employment Injury Insurance in Bangladesh,” <https://www.ilo.org/global/topics/geip/projects/bangladesh/lang--en/index.htm#:~:text=Since%20the%20Rana%20Plaza%20disaster,and%2027%20lost%20their%20lives>, (“Since the Rana Plaza disaster [five years before time of writing], no fewer than 109 accidents have occurred. Among these, at least 35 were textile factory incidents in which 491 workers were injured and 27 lost their lives. In the absence of a well-functioning labour inspection system and of appropriate enforcement mechanisms, decent work and life in dignity are still far from reality for the vast majority of workers in the garment industry and their families.”).

86 Occupational Safety and Health Administration, “The Triangle Shirtwaist Factory Fire Account,” United States Department of Labor, 2011, <https://www.osha.gov/aboutosha/40-years/trianglefactoryfireaccount>; Hilda Solis, “What the Triangle Shirtwaist fire means for workers now,” *The Washington Post*, March 18, 2011, [https://www.washingtonpost.com/opinions/what-the-triangle-shirtwaist-fire-means-for-workers-now/2011/03/15/ABVAFis\\_story.html?utm\\_term=.a4304e16b22c](https://www.washingtonpost.com/opinions/what-the-triangle-shirtwaist-fire-means-for-workers-now/2011/03/15/ABVAFis_story.html?utm_term=.a4304e16b22c); Adva Saldinger, “5 years after Rana Plaza, worker safety has improved, but more remains to be done,” *Devex*, April 24, 2018, <https://www.devex.com/news/5-years-after-rana-plaza-worker-safety-has-improved-but-more-remains-to-be-done-92606>; Elizabeth Paton, “After Factory Disaster, Bangladesh Made Big Safety Strides. Are the Bad Days Coming Back?,” *New York Times*, March 1, 2020, <https://www.nytimes.com/2020/03/01/world/asia/rana-plaza-bangladesh-garment-industry.html>.

87 Easton-Calabria and Omata.

88 Richard Heeks, “Digital Inequality Beyond the Digital Divide,” *ICTs for Development* 28, no. 4 (July 7, 2022): 688–704, <https://doi.org/10.1080/02681102.2022.2068492>.

89 LeBaron and her co-authors describe the dynamics of adverse incorporation thus: “[W]hen people are compelled to undertake wage labor on bad terms, this can entrench their poverty and vulnerability by preventing them from accumulating wealth or achieving long-term economic security. The dynamics of adverse incorporation are circular, which means that while poverty shapes people’s vulnerability to exploitation, their exploitation also reinforces their inability to escape poverty;” LeBaron et al., “Confronting Root Causes.”

90 Amanda Gray Meral, “Assessing the Jordan Compact One Year On: An Opportunity or a Barrier to Better Achieving Refugees’ Right to Work,” *Journal of Refugee Studies* 33, no. 1 (March 2020): 42–61, <https://doi.org/10.1093/jrs/fez074>.

- 91 There were 25.9 million refugees (not including asylum-seekers) around the world at the end of 2018. A total of 1,197,200 returned home or were resettled in 2019, 2020, or 2021. 24,702,800 neither returned home nor were resettled during that period. In 2021, there were a total of 31.5 million refugees including displaced Venezuelans (whom UNHCR counts separately); 24,702,800 is 78.4 percent of that total. (UNHCR Global Data Service, “Global Trends: Forced Displacement in 2021,” UNHCR, 2022, <https://www.unhcr.org/en-us/publications/brochures/62a9d1494/global-trends-report-2021.html>); UNHCR Global Data Service, “Global Trends: Forced Displacement in 2020,” UNHCR, 2021, <https://www.unhcr.org/en-us/statistics/unhcrstats/60b638e37/global-trends-forced-displacement-2020.html>); UNHCR Global Data Service, “Global Trends: Forced Displacement in 2019,” UNHCR, 2020, <https://www.unhcr.org/en-us/statistics/unhcrstats/5ee200e37/unhcr-global-trends-2019.html>); UNHCR Field Information and Coordination Support Section, “Global Trends: Forced Displacement in 2018,” UNHCR, 2019, <https://www.unhcr.org/media/unhcr-global-trends-2018>.
- 92 The Committee on Economic, Social and Cultural Rights reviews implementation of the Economic Covenant by each state party, every five years, raising concerns about implementation of the Covenant and recommending specific remedial action. The Committee also interprets the Economic Covenant and, in twenty-six states that collectively host around 1.5 million refugees, may hear complaints from individuals whose Covenant rights have been violated. (UN OHCHR, “Committee on Economic, Social and Cultural Rights: Introduction to the Committee,” <https://www.ohchr.org/en/treaty-bodies/cescr/introduction-committee>).
- 93 The Universal Periodic Review (UPR) involves a review of each state’s human rights record by its peer states, who then issue a set of recommendations to improve the human rights performance of the state under review. The UPR is conducted under the auspices of the Office of the United Nations Human Rights Council. (United Nation Human Rights Council, “Universal Periodic Review,” <https://www.ohchr.org/en/hr-bodies/upr/upr-main>).
- 94 “Domestication” is the process of explicitly incorporating international legal obligations into domestic law. Some states require that international law be domesticated before national courts can apply it.
- 95 Solidarity Center and CIVICUS, Solidarity Center and CIVICUS, “Freedoms On The Move.”
- 96 Asylum Access, “Building Equitable Partnerships: Shifting Power in Forced Displacement,” December 2021, <https://asylumaccess.org/new-position-paper-building-equitable-partnerships/>; Solidarity Center and CIVICUS, Solidarity Center and CIVICUS, “Freedoms On The Move,” finding that “the lack of resources is...a major limitation” that prevents refugee workers from exercising their rights to organize and form associations.
- 97 States party to the Refugee Convention have a legal obligation under Article 25 to render “administrative assistance” to refugees, which includes provision of identity documents.
- 98 Malaysia, not generally extolled as having a strong record of positive treatment for refugees, has emerged as a leader in this regard. All workers, regardless of legal status in the country or authorization to work, are protected by labor rights laws, which are enforced by labor inspectors and a labor tribunal.
- 99 International Labour Organization, “Chapter 7: Monitoring the Effects of Minimum Wage,” Minimum Wage Policy Guide, [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---travail/documents/genericdocument/wcms\\_508532.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/genericdocument/wcms_508532.pdf).
- 100 The domestication of refugees’ work rights into national laws is slowly improving: the 2022 Global Refugee Work Rights Report found that 62 percent of refugees worldwide live in countries where national legal frameworks adequately guarantee work rights, at least on paper.
- 101 LeBaron et al., “Confronting Root Causes.”
- 102 Asylum Access, Center for Global Development and Refugees International, “The 2022 Global Refugee Work Rights Report.”
- 103 Migrant Justice Institute, “Migrant Workers’ Access.”

- 104 Ibid.
- 105 LeBaron et al., “Confronting Root Causes.”
- 106 Center for Global Workers’ Rights, “Organizing Informal Workers.”
- 107 Refugee-led organizing is far from unprecedented. The history of labor organizing is replete with examples where workers first organized in structures other than formal unions, such as mutual aid and nationality-based groups, but ultimately made common cause to win rights and other wage and workplace improvements from employers. (Aaron Goings and Gary Kaunonen, *Community In Conflict: A Working-class History of the 1913-14 Michigan Copper Strike and the Italian Hall Tragedy*, (East Lansing: Michigan State University Press, 2013).
- 108 Financial Tracking Service, “Humanitarian Aid Contributions 2023,” UNOCHA, <https://fts.unocha.org/home/2023/donors/view>; Inter-Agency Standing Committee, “Grand Bargain Signatories,” November 1, 2023, <https://interagencystandingcommittee.org/grand-bargain-official-website/grand-bargain-signatories>.
- 109 This commitment, often described as “localization,” is part of what is known as the Grand Bargain, adopted at the World Humanitarian Summit in 2016. (Inter-Agency Standing Committee, “More support and funding tools for local and national responders,” <https://interagencystandingcommittee.org/more-support-and-funding-tools-for-local-and-national-responders>).
- 110 The Resourcing Refugee Leadership Initiative (RRLI), a coalition of refugee-led organizations that raise funds and distribute grants to peer-vetted refugee-led organizations, is one of the largest funders of such organizations—but has yet to hit its fundraising target of USD 40 million or to receive significant funds from any government, even as governments remain the primary funders of refugee assistance worldwide (RRLI, *What We Do*, <https://www.refugeeslead.org/what-we-do>). By contrast, the Equality Fund, launched in 2019 to support grassroots women’s rights organizations around the world, boasted an initial Canadian government investment of USD 220 million (Equality Fund, “Let’s Talk About Feminists and Investing,” January 24, 2023, <https://equalityfund.ca/investment/lets-talk-about-feminists-and-investing/#:~:text=That's%20why%20the%20Equality%20Fund,re%20building%20a%20feminist%20powerbase>).
- 111 See endnote 92.
- 112 See endnote 93.
- 113 Asylum Access, “Submission by Asylum Access and the Refugee Work Rights Coalition to the Committee on Economic, Social and Cultural Rights on Draft General Comment to Article 7: The Right to Just and Favourable Conditions of Work,” 2015, <https://www.ohchr.org/sites/default/files/Documents/HRBodies/CESCR/Discussions/2015/AsylumAccess.pdf>.
- 114 LeBaron et al., “Confronting Root Causes,” *supra* at note 4.
- 115 Gudrun Østby, “Inequality and political violence: A review of the literature,” *International Area Studies Review* 16, no. 2 (2013): 206–231, <https://www.prio.org/publications/7072>.
- 116 Lorenzo Cotula, and Liliane Mouan, “Labour Rights in Special Economic Zones: Between Unilateralism and Transnational Law Diffusion,” *Journal of International Economic Law* 24, no. 2 (June 2021): Pages 341–360, <https://doi.org/10.1093/jiel/jgab012>.
- 117 Heaven Crawley, “Why jobs in special economic zones won’t solve the problems facing the world’s refugees,” *The Conversation*, April 6, 2017, <https://theconversation.com/why-jobs-in-special-economic-zones-wont-solve-the-problems-facing-the-worlds-refugees-75249>; Cotula and Mouan, “Labour Rights in Special Economic Zones;” Shaddin Almasri, “The Political Economy of Nationality-Based Labor Inclusion Strategies: A Case Study of the Jordan Compact,” *Middle East Critique* 30, no. 2 (2021): 185–203, <https://doi.org/10.1080/19436149.2021.1911459>; “The [Jordan] Compact did little to address genuine job creation or social protection, focusing on boosting permit numbers while worsening non-Syrian migrant and refugee access to protection in formal work.”

- 118 Shareefeh Al-Qatarnah and Abdullah Bataineh, “Workers’ Rights in the QIZs in Jordan,” *Employee Responsibilities and Rights Journal* 33, no. 3 (December 2021): 1–26, <https://doi.org/10.1007/s10672-021-09370-6>; Ana Ibañez Prieto, “Migrant workers at factory file complaint, cite safety, rights violations,” *Jordan Times*, September 13, 2018, <https://jordantimes.com/news/local/migrant-workers-factories-file-complaint-cite-safety-rights-violations>; Cindy Huang and Kate Gough “The Jordan Compact: Three Years on, Where Do We Stand?,” Center for Global Development, March 11, 2019, <https://www.cgdev.org/blog/jordan-compact-three-years-on>.
- 119 Paul M. Barrett and Dorothee Baumann-Pauly, “Made In Ethiopia: Challenges in the Garment Industry’s New Frontier,” NYU Stern Center for Business and Human Rights, May 2019, [https://issuu.com/nyusterncenterforbusinessandhumanri/docs/nyu\\_ethiopia\\_final\\_online?e=31640827/69644612](https://issuu.com/nyusterncenterforbusinessandhumanri/docs/nyu_ethiopia_final_online?e=31640827/69644612)
- 120 Since the creation of the Ethiopia Compact in 2019, workers in at least one industrial park have gained permission to organize. More in: Bersabeh Gebre, “Industrial Parks Finally See Labor Unions Emerge,” *Fortune* (Addis), September 18, 2021, <https://addisfortune.news/industrial-parks-finally-see-labour-unions-emerge/>; IndustriALL, “Massive Job Losses Reverse Union Gains in Ethiopia’s Hawassa Industrial Park,” July 21, 2022, <https://www.industriall-union.org/massive-job-losses-reverse-union-gains-in-ethiopia-hawassa-industrial-park>. In Jordan, workers’ organizing rights remain highly limited, with no recognized unions formed since 1976. (Freedom House, “Freedom in the World 2022: Jordan,” 2022, <https://freedomhouse.org/country/jordan/freedom-world/2022>.
- 121 Amanda Gray Meral, Marcus Langley, Veronique Barbelet, “Inclusion and exclusion in urban refugee displacement in Jordan (HPG Working Paper),” ODI, March 23, 2022, <https://odi.org/en/publications/inclusion-and-exclusion-in-urban-refugee-displacement-in-jordan/>.
- 122 Vivek Maru, “Only the Law Can Restrain Trump,” *Foreign Policy*, March 9, 2017, <https://foreignpolicy.com/2017/03/09/only-the-law-can-restrain-trump-legal-aid-barefoot-lawyers/>.
- 123 Pathfinders for Peaceful, Just and Inclusive Societies, “Justice for All,” “More than 5 billion people are deprived of justice;” Hiil, “Poverty and Access to Justice 2021,” 2021, <https://www.hiil.org/wp-content/uploads/2021/10/Hiil-report-Poverty-and-Access-to-Justice-web.pdf>, “.the poor receive significantly worse outcomes on their justice journeys;” Press Release, “Is Development Worsening the Justice Gap?,” Hiil October 26, 2021, <https://www.hiil.org/news/is-development-worsening-the-justice-gap/>: “Poor people receive worse outcomes for their legal problems. The formal and informal justice systems deliver fewer resolutions. The legal problems that poor people encounter have a greater impact on their lives.”
- 124 Arnold-Fernandez, “Legal Empowerment.”
- 125 Ibid.
- 126 Zolberg Institute, “Global Strategic Litigation Council for Refugee Rights,” <https://zolberginstitute.org/initiatives/gslc/>.
- 127 International Labour Organization et al., “Global Vision Note,” [https://www.ilo.org/wcmsp5/groups/public/---dgreports/---ddg\\_p/documents/publication/wcms\\_740035.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---ddg_p/documents/publication/wcms_740035.pdf).
- 128 Netherlands Ministry of Foreign Affairs, “Improving prospects for refugees and migration cooperation,” 2019, <https://www.dutchdevelopmentresults.nl/2019/theme/prospects-for-refugees-and-migration-cooperation>; Ibid., Kingdom of the Netherlands, “Prospects: Improving prospects for refugees and host communities,” *Global Compact on Refugees*, 2021, <https://globalcompactrefugees.org/sites/default/files/2021-11/PROSPECTS%20Factsheet.pdf>.
- 129 Netherlands Ministry of Foreign Affairs, “Improving prospects for refugees and migration cooperation;” Kingdom of the Netherlands, “Prospects.”
- 130 International Finance Corporation, “Blended Finance Facility for Refugees: The Prospects Initiative,” [https://www.ifc.org/wps/wcm/connect/topics\\_ext\\_content/ifc\\_external\\_corporate\\_site/bf/focus-areas/refugees](https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/bf/focus-areas/refugees).
- 131 LeBaron et al., “Confronting Root Causes.”