



International Solidarity and the Refugee Crisis: A Comparative Study of Syria and Venezuela

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By

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DECLARATION

I **Adivhaho Londani Marcia Mudanalwo** with student number **19121459** declare that this mini-dissertation submitted in partial fulfilment of the requirements of Master of Laws in Multidisciplinary Human Rights, Centre of Human Rights at the University of Pretoria is my own work and has not been submitted at any other tertiary institution by myself or anyone else. The academic material used in this mini-dissertation has been acknowledged by footnote referencing

DEDICATION

To those who were forced to leave their countries and died in the process or were returned refugees; may the international community see you and uphold your rights.

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This mini-dissertation is the result of the collective efforts of everyone around me who contributed in various ways.

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ACRONYMS AND ABBREVIATIONS

Arab Charter	Arab Charter on Human Rights
Arab Convention	Arab Convention on Regulating Status of Refugees
AU	African Union
Bangkok Principles	Bangkok Principles on the Status and Treatment of Refugees
BPA	Brazil Plan of Action
Cartagena Declaration	Cartagena Declaration on Refugees
Convention	1951 Refugee Convention
EU	European Union
GCR	Global Compact on Refugees
ICC	International Criminal Court
ICESCR	International Covenant on Economic, Social and Cultural Rights
LCRP	Lebanon Crisis Response Plan
MENA	Middle East and Northern Africa
MoU	Memorandum of Understanding
MPA	Mexico Plan of Action
NGOs	Non-government organisation
NY declaration	New York Declaration for Refugees and Migrants
OAU Convention	Organisation of African Unity Convention: Governing the Specific Aspects of Refugee Problems in Africa
PEPFF	Labour-based Regularization Programme
TPS	Temporary Protection Status
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNGA	United Nation's General Assembly

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Chapter 1: Background of the study

1.1 Introduction

In 2023, the world witnessed the highest number of refugees, with 37.6 million recorded refugees, which called for a quest for international solidarity.¹ International solidarity which translates to responsibility sharing within refugee crises entails the provision of protection to refugees through resettlement and financial aid.² This principle has lacked implementation and prioritisation in addressing the refugee crisis,³ because states are resorting to closing their borders rather than offering resettlement to refugees.⁴ Therefore, most developed states respond to the refugee crises by keeping refugees from entering their states. This results in underdeveloped countries hosting most refugees,⁵ consequently overwhelming these host states. As the number of refugees continues to worsen in all spheres of the earth,⁶ responsibility sharing has appeared to be a much-needed response to the crises. The United Nations (UN), aiming to raise awareness on solidarity has held summits and conferences on refugees, emphasising that they are a crisis of solidarity.⁷ One can translate a crisis of solidarity as two-fold: firstly, solidarity should be central in refugee protection, and secondly, refugees only become a crisis when there is a lack of solidarity. Despite the conferences held by the

¹ United Nations High Commissioner for Refugees (UNHCR) <https://www.unhcr.org/refugee-statistics/> (accessed 10 April 2024); as of 2024 there are 43.7 million refugees recorded <https://www.unhcr.org/mid-year-trends> (accessed 30 September 2024).

² S Martin 'International Responsibility-Sharing for Refugees: Perspectives from the MENA Region' (2019) 11 *Geopolitics, History, and International Relations* 67.

³ Martin (n 2) 60.

⁴ N Arya et al 'Refugees in the Global North: Dynamics, dilemmas, and constructive engagement' (2024) *Medicine, Conflict and Survival* 8.

⁵ Arya et al (n 4) 1.

⁶ UNHCR's Global Trends Report 2022, <https://www.unrefugees.org/refugee-facts/statistics/> at the end of 2022, there were 35,3 million refugees, a great increase from 27.1 million in 2021, which is the largest increase since 2012. Leading countries in 2023 experiencing the refugee crisis were Syria (6.5 million), Afghanistan (6.1 million), Ukraine (6 million), Venezuela (5.6 million) and South Sudan (2.2 million) <https://www.un.org/en/global-issues/refugees> (accessed 10 April 2024).

⁷ UN's High-Level Summit on Addressing Large Movements of Refugees on 19 September 2016 <https://refugeesmigrants.un.org/summit> ; International solidarity conference on the Venezuelan refugee and migrant crisis 2019 https://www.eeas.europa.eu/eeas/international-solidarity-conference-venezuelan-refugee-and-migrant-crisis-live-streams_en ; International Conference in Solidarity with Venezuelan Refugees and Migrants and their Host Countries and Communities 2023 https://civil-protection-humanitarian-aid.ec.europa.eu/where/latin-america-and-caribbean/venezuela/2023-international-conference-solidarity-venezuelan-refugees-and-migrants-and-their-host-countries_en#related-links (accessed 16 September 2023).

UN, the lack of international solidarity in refugee crises persists. Thus, this paper addresses the intractable issue of international solidarity concerning the refugee crisis, with Venezuela and Syria as the point of reference. Syria remains a leading country in producing refugees while Venezuela places third,⁸ ultimately being the second country globally in terms of people displaced.⁹ Therefore, the two countries of study have been the highest producers of refugees, and reception from other states has been controversial.¹⁰ Controversial because states have been either less responsive or shifting responsibility, with the crisis in Venezuela also being categorised as a regional migration issue and not a refugee crisis.¹¹ With records at an all-time high,¹² it is imperative to assess the efforts made to ensure every human being gets to experience 'humanness' in human rights.

Venezuela is a global south country in Latin America that is economically unstable. Due to the discovery of oil in the twentieth century that led to wealth generation, large-scale immigration occurred resulting in overpopulation.¹³ This discovery of oil created many opportunities for Venezuelans but also birthed the economic collapse, which is causing the current refugee crisis.¹⁴ Unlike most states such as Syria and Ukraine where refugee crises occur due to civil wars, uncommon factors led to Venezuela's refugee crisis. Factors such as political instability,¹⁵ and economic collapse fuelled by policies that were instituted birthed the crises.¹⁶ Ten years since the beginning of the crisis,

⁸ UNHCR (n 1).

⁹ UNHCR,

<https://www.unrefugees.org/emergencies/venezuela/#:~:text=About%20the%20Crisis%20in%20Venezuela&text=The%20humanitarian%20crisis%20in%20Venezuela.Latin%20America%20and%20the%20Caribbean> (accessed 16 September 2023).

¹⁰ C Abaunza 'The Syrian and Venezuelan Refugee and Migrant Crisis: A comparative analysis of the regional response to large-scale displacement' (2023) 16 *The American University in Cairo: Centre for Migration and Refugee studies* 27, there is no consistency nor uniform response to both crises.

¹¹ As above.

¹² UNHCR's Global Trends Report 2022 (n 8). By mid-2024 there were 43.7 million refugees recorded <https://www.unhcr.org/mid-year-trends> (accessed 30 September 2024).

¹³ I Bruce *The Real Venezuela: Making Socialism in the 21st Century* (2008) xi.

¹⁴ G Rindborg 'Venezuela Oil and Political Instability: A Case Study of Venezuela and its Oil Dependency' Dissertation, Institute for Future Studies, 2018 15 & 18.

¹⁵ B Bull & A Rosales 'The crisis in Venezuela' (2020) 109 *European Review of Latin American and Caribbean Studies* 5; Political factors such as undermining the rule of law and manipulating elections to keep the ruling party (Chavez's) in power.

¹⁶ Bull & Rosales (n 15) 9; economic policies which managed oil prices such as the *Petroleos de Venezuela* (PDVSA) created a fiscal deficit.

refugee numbers seem to uncontrollably increase and in ten years Venezuela has produced 6.1 million refugees.¹⁷

Syria is also a global south country in the Middle East and North Africa (MENA) region that is economically and politically unstable. The political instability intensified in 2011 when a civil war arose, which made it a leading refugee-producing country. What transpired is a result of the Arab Springs protests that the ruling government responded to through violence that escalated into a civil war.¹⁸ In its 14 years of armed conflict, Syria has produced 6.4 million refugees.¹⁹ Based on these two large displacements, this paper assesses the significance of responsibility sharing in refugee crises and what influences divergent responses from the international community. Ultimately, aiming to determine whether the international community has acted in solidarity with Syrian and Venezuelan refugees. In doing so, regional differences in responding to refugee crises will also be considered due to the fact that Venezuela has a better regional response framework than Syria.

1.2 Problem statement

The study of human rights cannot be disconnected from refugees,²⁰ because they are a human rights phenomenon. They are categorised as such mainly because they occur due to factors beyond their control and therefore, deserve to have their rights protected. Venezuela and Syria are the highest refugee-producing countries that require support beyond their borders due to the complexity of the issue, with both having produced more than 6 million refugees.²¹ With 2024 marking more than a decade in both crises, no durable solutions are in place to address the crises, hence it is important to assess what durable solutions can be considered.²² It should be noted that although the two

¹⁷ UNHCR (n 1).

¹⁸ J Shoup *The history of Syria* (2018) 145.

¹⁹ UNHCR (n 1).

²⁰ United Nations High Commissioner for Refugees Geneva Voluntary Repatriation: International Protection (1996); chapter 2 of the UNHCR states that refugee protection is intrinsically linked to human rights through international human rights declarations such as the Universal Declaration of Human Rights (1948).

²¹ UNHCR (n 1).

²² Abaunza (n 10) 27.

crises were birthed by different situations and situated in different regions there are similarities in their reception and progression.²³ This is because the cause of both crises seems to worsen, their refugees are hosted in proximate developing countries, and neighbouring states in the global north have placed barriers for refugees from both countries.²⁴ The stated similarities in reception by other states do not align with the principle of international solidarity which requires all states to protect and accommodate refugees. There is a disinterest in sharing responsibility when it comes to refugees. As already elaborated above, it is imperative to assess the significance of international solidarity in providing durable solutions to refugee crises. Thus, the main aim of this research is to examine how states are responding to the biggest refugee crisis and how responses can be aligned to reflect the spirit of solidarity.

1.3 Research questions

The main question of this study is whether international solidarity has been central in responding to the two biggest refugee crises.

To answer the main research question, the paper looks at the following sub-questions:

1. What duty rests on the international community to act in solidarity when responding to the refugee crisis?
2. How have regions and the international community responded to the two biggest refugee crises?
3. How have the responses reflected international solidarity? (Comparative study)

1.4 Methodology

In answering the research questions aforementioned, desktop qualitative research which entails the use of online resources and the study of literature will be utilised. Qualitative research explores the concept being studied and presents facts in a narrated

²³ Abaunza (n 10) 26.

²⁴ Arya et al (n 4) 8.

form.²⁵ It draws from existing literature on the phenomenon being studied, which is critical in the comparative study of this paper because it will help analyse different responses to refugee crises through the lens of academics.

Focus on the legal obligations imposed on states and the extent to which states carry out their obligations will be vital in assessing international solidarity as a principle in refugee crises. This will draw on the historical context of the two countries of study, and regional and international frameworks utilised in addressing refugee crises. Therefore, reliance will be on primary sources such as UN frameworks, United Nations High Commissioner for Refugees (UNHCR) reports, and treaties. Secondary sources such as academic books and articles will be used to determine the relevant scholarly views on the issue.

1.5 Literature Review

There is a long-standing literature on responsibility sharing as a concept and its application within the refugee crisis. Multiple explanations have surfaced on its relevance and all are in consensus. The general overview of international solidarity has been authored by Okafor, the former independent expert on human rights and international solidarity. He defines international solidarity as an international law principle that serves as an expression of unity within the international community,²⁶ but also acknowledges it as a human right through codification.²⁷ Okafor further notes that this concept entails preventative measures that require states to respect their international obligations; reactive measures that are responses to global challenges; and international cooperation which require states to work together to ensure there is the full realisation of human rights.²⁸ Among researchers who have written on the significance of international solidarity in the refugee crisis, Okafor argues that refugee

²⁵ J Creswell *Educational Research: Planning, Conducting, and Evaluating Quantitative and Qualitative Research* (2012).

²⁶ O Okafor Report of the independent expert on human rights and international solidarity 2023 A/HRC/53/32 UN Human Rights Council 14.

²⁷ Okafor (n 26) 15.

²⁸ Okafor (n 26) 14.

crises are birthed by the lack of cooperation from states.²⁹ This further confirms the UN's statement above, of refugees being a crisis of solidarity.

Although this concept applies in different contexts, its application in the refugee crisis was outlined in the Global Compact on Refugees of 2018 (GCR).³⁰ Some of the prominent scholars on the relevance of solidarity to the refugee crisis are Nicolosi and Momoh.³¹ They argue that the GCR is an important instrument in the refugee crisis, however, it has resulted in unmet expectations regarding a universal system of responsibility-sharing.³² Dowd,³³ and Fonteye argue that refugee documents such as the GCR and the 1951 Refugee Convention (the convention) which is the core document in refugee rights have failed to establish legal obligations on states,³⁴ meaning, responsibility sharing is only visible when a state decides to assist. This was also noted by Hathaway, a leading scholar in international refugee law, who argues that solidarity has not been visible because international law does not allow the receiving state to ask for international cooperation since it is not obligatory.³⁵

In refugee crises, international solidarity encompasses two actions which Boswell has detailed as financial and physical.³⁶ The first is usually funded through UNHCR activities to assist less developed states financially so that they can care for refugees.³⁷ The second form which is physical requires states to distribute the refugees among themselves to share responsibilities.³⁸

²⁹ O Okafor 'The Future of International Solidarity in Global Refugee Protection' (2021) 22 *Human Rights Review* 2.

³⁰ United Nations Global Compact on Refugees 2018.

³¹ S Nicolosi & S Momoh 'International Solidarity and the Global Compact on Refugees: What Role for the African Union and the European Union?' (2022) 66 *Journal of African Law*.

³² Nicolosi & Momoh (n 33) 25.

³³ R Dowd & J McAdam 'International Cooperation and Responsibility Sharing to Protect Refugees: What, Why, and How' (2017) 66 *International and Comparative Law Quarterly* 871.

³⁴ J Fonteye 'Burden-Sharing: An Analysis of the Nature and Function of International Solidarity in Cases of Mass Influx of Refugees' (1983) 8 *Australian Year Book of International Law* 165.

³⁵ J Hathaway 'The Relationship between Human Rights and Refugee Law: What Refugee Law Judges Can Contribute' (1999) *Human Rights and Refugee Law* 82.

³⁶ C Boswell 'Burden-sharing in the new age of immigration' (1 November 2003) Migration Information Source <https://www.migrationpolicy.org/article/burden-sharing-new-age-immigration> (accessed 15 February 2024).

³⁷ As above.

³⁸ As above.

There is sufficient study on the crisis in both Venezuela and Syria. Jubilut, a leading author regarding the refugee crisis in Latin America notes that Latin America has set pace in refugee laws but still struggles with implementation.³⁹ She states that the Venezuelan crisis which is the fastest growing has proved this lack of implementation,⁴⁰ despite solidarity being the center of their laws and guiding principles.

Several authors have written on the refugee crisis in Syria and the state of response to it.⁴¹ Mencütek elaborates on the issues facing Syria and how the lack of regional response in the MENA region intensifies the crisis.⁴² He notes that there is no regional framework as in Venezuela that deals with refugee protection.⁴³ Amongst other authors, Nimer agrees with the lack of solidarity within the region.⁴⁴

In relation to both crises, there is scarce literature on a comparative study. However, both have been extensively studied separately. Authors such as Timothy have compared the regional responses in the two regions of study.⁴⁵ His comparison between Syria and Venezuela's regional response leads him to conclude that the Venezuelan frameworks should be considered in the MENA's regional response if the region wants to improve refugee protection.⁴⁶ Despite the scarcity of literature, a detailed comparative analysis of the two crises was also done by Abaunza.⁴⁷ He focused largely on the causes of both crises, the reception of refugees in neighbouring states, and situations within the host countries.⁴⁸ Although it is worth noting, that the author

³⁹ L Jubilut et al *Latin America and Refugee Protection: Regimes, Logics and Challenges* (2021); L Jubilut *The Cartagena Declaration at 35 and Refugee Protection in Latin America; Jubilut Refugee Protection in Brazil and Latin America – Selected Essays* (2018).

⁴⁰ As above.

⁴¹ D Chatty 'How Syrian neighbours have treated its refugees' (2017) 1116 *University of California Press*; D Byman & S Speakman 'The Syrian Refugee Crisis: Bad and Worse Options' (2016) *The Washington Quarterly* 45; C Timothy 'Improving the Refugee Crisis in Syria: A Comparative Analysis of Regional Refugee Policies' (2017) 40 *Loyola of Los Angeles International and Comparative Law Review*.

⁴² Z Mencütek *Refugee Governance in the Middle East and North Africa by the Arab League* (2019) 171.

⁴³ As above.

⁴⁴ A İçduygu & M Nimer 'The politics of return: exploring the future of Syrian refugees in Jordan, Lebanon and Turkey' (2019) 41 *Third World Quarterly* 419.

⁴⁵ C Timothy 'Improving the Refugee Crisis in Syria: A Comparative Analysis of Regional Refugee Policies' (2017) 40 *Loyola of Los Angeles International and Comparative Law Review*.

⁴⁶ Timothy (n 53) 137.

⁴⁷ Abaunza (n 10) 26.

⁴⁸ Abaunza (n 10) 27.

categorises the Venezuela crisis to be a migrant crisis and not a refugee crisis;⁴⁹ the UN has qualified it as a refugee crisis.⁵⁰ Abaunza concludes that the differences in the causes of the crisis impact the attitude of the international community when responding.⁵¹ In his study, he also found commonality within the two countries being, the vulnerability of their refugees, underfunding of host countries that are also facing their own difficulties,⁵² and a lack of permanent solutions.⁵³ Therefore, there is a basis to study these crises in comparison due to their similarities.

1.6 Chapter outline

This mini-dissertation is structured in four chapters. Chapter one sets the tone of the paper, consisting of the background and purpose behind the study. Further, it explains the methodological approach and reviews literature related to the problem of study.

Chapter two addresses research question one. It explains what international solidarity is, and examines international solidarity within international law to show its significance in refugee crises. Therefore, this chapter explains the laws, terms, and principles relevant to the study.

Chapter three is a case study that analyses and compares the situation in Venezuela to Syria. It does so by addressing research questions two and three. This chapter gives context on the causes of the crisis in Venezuela and Syria. Further, discrepancies between laws and the reception of refugees are analysed to assess the state of responsibility sharing within regions and internationally.

Chapter four concludes the mini-dissertation by summarising the main findings of this research and includes recommendations.

⁴⁹ As above.

⁵⁰ United Nations High Commissioner on Refugees 'Majority fleeing Venezuela in need of refugee protection- UNHCR' (21 May 2019) <https://www.unhcr.org/news/briefing-notes/majority-fleeing-venezuela-need-refugee-protection-unhcr#:~:text=Given%20the%20worsening%20political%2C%20economic,need%20of%20international%20refugee%20protection> (accessed July 2024).

⁵¹ Abaunza (n 10) 26.

⁵² Abaunza (n 10) 28.

⁵³ Abaunza (n 10) 26.

Chapter 2: The relationship between international refugee law and solidarity

2.1 Introduction

The following chapter aims to expand on Kerll's statement that the refugee crisis should never be divorced from the framework of international solidarity.⁵⁴ Throughout this chapter, I will elaborate on international solidarity as a concept and its relation to the refugee crisis. The first part of this chapter analyses the concept of solidarity as defined in the literature, by the United Nations (UN), and within two regional systems, Africa and America. The second part focuses on the application of international solidarity in the refugee crisis and its significance. Lastly, the chapter analyses the two-fold nature of responsibility sharing, which is financial and physical assistance.

2.2 The concept of international solidarity

The complex global issues within society make the relevance of international solidarity unquestionable because isolated efforts have proven inadequate to solve these issues. Therefore, there is a need for multilateral cooperation.⁵⁵ Despite the need for multilateral responses, an author made it clear that the earth might be one, but the world is not,⁵⁶ which reinforces the strength of geographic barriers in crisis resolution and the lack of solidarity.

International solidarity is defined in the report of the independent expert on international solidarity and human rights endorsed by the United Nations General Assembly (UNGA), as an expression of unity in which people enjoy a peaceful international order and protection of human rights.⁵⁷ As a core principle of international law, it aims to promote

⁵⁴ HW Kerll, 'New Dimensions of the Global Refugee Problem and the Need for a Comprehensive Human Rights and Development-Oriented Refugee Policy' (1990) 2 *International Journal of Refugee Law* 237.

⁵⁵ S Puvimanasinghe 'International solidarity in an interdependent world' in *Realizing the Right to Development: Essays in Commemoration of 25 Years of the United Nations Declaration on the Right to Development* (2013) 180.

⁵⁶ Puvimanasinghe (n 63) 179.

⁵⁷ O Okafor, article 1 of the 'Revised draft declaration on the right to international solidarity' A/HRC/53/32 Report of the Independent Expert on human rights and international solidarity to the UN General Assembly (2023) 14.

social justice and equality for all states.⁵⁸ At the center of this concept are people whose human rights should be secured to reach a common goal.⁵⁹ This brings the idea of an international community which Tladi describes as a space of global acceptance where we look beyond our differences when treating each other, which influences states to assist when a state fails to protect its people.⁶⁰ A parallel of this is the African Union's (AU) definition of solidarity being unity and *ubuntu* or "humaneness".⁶¹ Both explanations align because *ubuntu* also promotes interdependence of community over individualism, where we all have a responsibility towards each other. Similarly, Latin America perceives solidarity as a moral and mutual act of protecting and helping those whose human rights were infringed.⁶² The above definitions confirm international solidarity's disconnect from being a binding duty but rather a moral act. This voluntary nature of solidarity has proven problematic in how states respond to the refugee crisis as will be discussed in the next chapter. Although it is voluntary in nature, legal frameworks such as the United Nations Charter (UN Charter),⁶³ treaties like the International Covenant on Economic, Social, and Cultural Rights (ICESCR),⁶⁴ and several declarations have this concept.⁶⁵ All the legal frameworks do not create any binding obligation on states to act in solidarity but rather suggest it as a principle for states to consider when solving global challenges, this was noted in the UN's Charter in

⁵⁸ Okafor (n 66); R Rizki Report of the independent expert on human rights and international solidarity to the UN General Assembly (2010) A/HRC/15/32 UN Human Rights Council 3.

⁵⁹ O Okafor 'Cascading toward "De-Solidarity"? The Unfolding of Global Refugee Protection' (2019) 2 *Third World Approaches to International Law Review* 2. This aligns with Wolfrum's definition of cooperation which he defined as 'voluntary coordinated action of states which takes place under a legal regime and serves an objective' J Delbruck 'The International Obligation to Cooperate—An Empty Shell or a Hard Law Principle of International Law? – A Critical Look at a Much-Debated Paradigm of Modern International Law' in H Hestermeyer & R Wolfrum (eds) *Coexistence, cooperation, and solidarity: liber amicorum Rüdiger Wolfrum* (2012).

⁶⁰ D Tladi 'In Search of Solidarity in International Law' in E Kassoti (ed) *The Principle of Solidarity* (2023) 19.

⁶¹ Nicolosi & Momoh (n 33) 27.

⁶² T Harley 'Regional Cooperation and Refugee Protection in Latin America: A 'South-South' Approach' (2014) 26 *International Journal of Refugee Law* 43.

⁶³ United Nations Charter 1945, Article 1(3) (UN Charter).

⁶⁴ International Covenant on Economic, Social and Cultural Rights 1976, article 2.

⁶⁵ Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the UN Charter 1970, adopted 25 years after the UN Charter. Its preamble confirms the duty states have to protect human rights within the purport and goals of the Charter. According to Article 22 of the Universal Declaration of Human Rights 1948, the realization of economic, social and cultural rights depends on international cooperation.

article 1 and 56.⁶⁶ Although not binding, its inclusion in legal frameworks makes it a legal principle that entails a standard of behaviour expected from society.⁶⁷ This means society is expected to act in solidarity in addressing any social difficulties despite the voluntary nature of solidarity. Solidarity being voluntary means that no customary law duty to cooperate exists and states decide on whether to comply or not, meaning no judicial proceedings can be instituted should a state fail to act in solidarity.⁶⁸ Although no adjudication can arise from lack of solidarity, states have a responsibility to act due to international solidarity being a vertical dimension of solidarity that requires states to rescue a population facing serious dangers that cannot be protected by its own State.⁶⁹ This embodies the duty to protect, where states use their resources to assist communities in grave human rights violations.⁷⁰ Therefore the concept of solidarity closely aligns with the responsibility to protect (“R2P”)’s third pillar which requires the international community to be prepared to take appropriate collective action if a state is failing to protect its population.⁷¹ Hence states are expected to commit to assisting refugees or people facing human rights violations.

2.3 Who is a refugee?

The 1951 Refugee Convention relating to the Status of Refugees (the Convention) which is the main convention on refugees defined and restricted refugees to people who fled due to events in Europe prior to 1951.⁷² However, its 1967 protocol removed this

⁶⁶ UN Charter, preamble & Article 1(3) states that achieving international cooperation when solving “international problems of an economic, social, or humanitarian character” is within the UN’s overarching purposes. Article 56 of the UN Charter obliges states to “take joint and separate action in cooperation” with the UN.

⁶⁷ J Daci ‘Legal Principles, Legal Values and Legal Norms: are they the same or different?’ *Academicus International Scientific Journal* (2010) 110. The former independent experts on human rights also concluded that solidarity is a legal principle due to several international instruments including this principle; V Dandan UN General Assembly’s Report of the Independent Expert on Human Rights and International Solidarity (2013) Human Rights Council A/68/176 (2013) para 17. International instruments such as; preamble of Vienna Declaration, 1993 and Universal Declaration on the Human Genome and Human Rights, article 17.

⁶⁸ Hestermeyer & Wolfrum (n 68) 13.

⁶⁹ L Chazournes ‘Responsibility to Protect: Reflecting Solidarity?’ in R Wolfrum & C Kojimi (eds) *Solidarity: A Structural Principle of International Law* (2009) 102.

⁷⁰ Chazournes (n 78) 103.

⁷¹ ‘Implementing the Responsibility to Protect’ Report of the Secretary General to the United Nations General Assembly (2009) A/63/677.

⁷² The 1951 Refugee Convention relating to the Status of Refugees, article 1 defines a refugee as someone who as a result of events occurring before 1951 is unable or unwilling to return to their country

limitation and made it inclusive of anyone who is unable or unwilling to return to their country of origin due to the fear of persecution arising from race, religion, and political opinion.⁷³ The UNHCR defines a refugee broadly, their definition includes elements in the Convention and extends to anyone who is outside of their country and unwilling to return due to serious threats to life, physical integrity, and freedom.⁷⁴ The definition as per the Convention has not been without fault, fear of persecution which is a key requirement needs to be proven and well-founded, which has never been clearly defined, therefore making it difficult to prove refugee status. However, the judiciary in *R v Secretary of State for the Home Department, Ex Parte Sivakumaran and Conjoined Appeals (UNHCR intervening)*,⁷⁵ held that a well-founded fear requires that, to a reasonable degree an individual cannot continue staying in the country of origin because conditions have become unbearable and there is likelihood of persecution. Proving refugee status has also proven difficult because the wording makes refugee status dependent on the person's statement rather than the situation within their country,⁷⁶ making the convention and the protocol limiting frameworks. Further, the reasons for persecution do not cover most modern causes of refugee movements, including the Venezuelan crisis.

However, two progressive extensions of the refugee definition which map sufficient causes are in the Organization of African Unity Convention: Governing the Specific Aspects of Refugee Problems in Africa (OAU Convention),⁷⁷ and the Cartagena Declaration on Refugees (Cartagena Declaration).⁷⁸ In Africa, a refugee is as per the Convention and extends to “every person who, owing to external aggression,

of origin due to the fear of persecution arising from race, religion, nationality, membership of a particular social group or political opinion.

⁷³ The 1967 Protocol Relating to the Status of Refugees (the protocol).

⁷⁴ The United Nations High Commissioner for Refugees, *Resettlement within UNHCR's Mandate Handbook* (2011) 19.

⁷⁵ *R v Secretary of State for the Home Department, Ex Parte Sivakumaran and Conjoined Appeals (UNHCR intervening)* United Kingdom: House of Lords (Judicial Committee) (16 December 1987).

⁷⁶ The United Nations High Commissioner for Refugees, *Handbook on procedures and criteria of determining refugee status and guidelines on international protection under the 1951 Convention and the 1967 Protocol relating to the status of refugees* (2019) para 37.

⁷⁷ Article 1 of the Organization of African Unity Convention (OAU) Governing the Specific Aspects of Refugee Problems in Africa 1969.

⁷⁸ Cartagena Declaration on Refugees, 1984.

occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality”.⁷⁹ Despite not specifically stating human rights violations like the Cartagena Declaration, this extension remains very inclusive. This refugee definition in the OAU was also included in the Bangkok Principles on the Status and Treatment of Refugees (Bangkok Principles) which states in the Middle East and North Africa (MENA) region have agreed to.⁸⁰ Therefore, countries in the MENA region utilise this definition in determining who is a refugee. Despite the extension in the OAU, the Cartagena has been more progressive and remains a watershed moment for refugee protection in Latin America, due to its definition of refugees which encompass the elements from the convention and its protocol, but also extends to “persons who have fled their country because their lives, safety, or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order.”⁸¹ This is the only refugee definition that includes diverse factors and stipulates human rights violations as a ground for refugee status. It has also been utilised by the Inter-American Court of Human Rights,⁸² which amplifies the commitment in Latin America when it comes to refugee protection.

2.4 International solidarity in refugee crisis

The basis for refugee protection was provided for in the 1933 Convention on Refugee Protection by distinguishing refugees from migrants through an emphasis on refugee protection measures.⁸³ This distinction remains visible in legal instruments and regional

⁷⁹ Article 1 of the OAU Convention: Governing the Specific Aspects of Refugee Problems in Africa.

⁸⁰ Bangkok Principles on the Status and Treatment of Refugees (Bangkok Principles) 1966, Article 1. The Asian-African Legal Consultative Organization (AALCO) produced the Bangkok Principle, Syria is a founding member of the AALCO. The 1994 Arab Convention Regulating Status of Refugees in the Arab Countries which never came into force also had a progressive definition of refugees, including the 1951 convention’s definition plus people fleeing natural disasters or grave events resulting in major disruption of public order.

⁸¹ Cartagena Declaration on Refugees, Conclusion 3.

⁸² *Pacheco Tineo family v Plurinational Bolivia IACHR* (25 November 2013) para 141.

⁸³ Convention relating to the International Status of Refugees 1933, Article 3; J Hathaway ‘The Evolution of Refugee Status in International Law: 1920-1950’ (1984) 33 *International and Comparative Law Quarterly* 357.

responses.⁸⁴ It is justifiable to have this distinction due to the nature of refugees who unlike migrants have been coerced to flee, there is therefore a valid onus for human rights protection when dealing with refugees.⁸⁵ For centuries, refugee movements have remained a global concern because they occur on an international scale,⁸⁶ and international solidarity has traditionally been utilised to respond to refugee crises.⁸⁷ Refugee movements are often triggered by poverty-stricken, war-ridden, and persecuted communities in search of a stable life.⁸⁸ One of the historic events that led to large displacement in 1921 was the Russian Revolution,⁸⁹ where millions of people left Russia in search of a better life. The revolution was a result of political and social change, bred by a socialist government that gained power and caused an economic collapse. This situation mirrors the Bolivian Revolution in Venezuela that resulted in the current refugee crisis due to the economic collapse and human rights violations.⁹⁰

In refugee crises, international solidarity is perceived as a form of burden or responsibility sharing between states.⁹¹ It is defined as such due to the overwhelming pressure refugees place on host countries, therefore requiring states to share the responsibility equally.⁹² However, this is a restrictive way of looking at solidarity, based on the discussion in chapter one on how Okafor views solidarity, it is clear that the nature of solidarity is broad. It requires states to not only protect but also prevent situations giving rise to forced displacements through diplomacy or sanctions. The concept of solidarity is recognised in most refugee frameworks, with the most comprehensive framework for solidarity in the refugee crisis being the 2016 New York

⁸⁴ UNHCR Refugee Protection and Mixed Migration: A 10-Point Plan of Action, 2007, 4; “For people who are found not to be refugees, and for those who do not wish to seek asylum, expeditious return in safety and dignity is usually the preferred response of states”.

⁸⁵ C Hathaway & A Neve ‘Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution-Oriented Protection’ (1997) 10 *Harvard Human Rights Journal* 151.

⁸⁶ O Okafor United Nations General Assembly’s Expert report on international solidarity and refugees (2018) Human Rights Council para 35.

⁸⁷ Nicolosi & Momoh (n 34) 27.

⁸⁸ C Skran ‘The International Refugee Regime: The Historical and Contemporary Context of International Responses to Asylum Problems’ in G Loescher et al (eds) *Refugees and the Asylum Dilemma* (1992) 9.

⁸⁹ Hathaway (n 39) 351.

⁹⁰ J Buxton ‘Continuity and change in Venezuela’s Bolivarian Revolution’ (2019) 41 *Third World Quarterly* 1377; Bolivian revolution was a period of Chavez ruling that was characterised by socialism.

⁹¹ Martin (n 2) 60.

⁹² Martin (n 2) 61.

Declaration For Refugees and Migrants (NY Declaration).⁹³ This declaration aims to close the gap in international refugee law by recognising the importance of responsibility sharing in the refugee crisis and how the international community should respond.⁹⁴ In acknowledging the complexities of the refugee crisis, states declared to provide solidarity to alleviate the demands arising from refugees in the global south countries,⁹⁵ this mirrors the R2P discussed in 2.2 above where states should commit to assisting when a state is failing. Further, the NY declaration set a foundation for the formation of the Global Compact on Refugees (GCR) which aims to improve international law in refugee protection and ease the pressure on host countries. Both the legal framework's aspiration is significant because most refugees can only access geographically proximate countries which are already overwhelmed therefore cooperation can help alleviate this pressure. For such to be realised, the GCR proposes forums for states to discuss the funding and expansion of resettlement areas.⁹⁶ This proposed resettlement expansion is currently being implemented through the third country solutions: roadmap 2030 strategy to ensure there are additional pathways for resettlement among other things.⁹⁷ At the annual consultation of 2024, it was confirmed that some states have progressively introduced alternative pathways,⁹⁸ proving that, although the GCR is a non-binding document some states have actively participated in realising its goals. Despite its foundation on human rights promotion and international solidarity, it only created solidarity platforms and donor conferences which are only effective when states decide to participate, making it sometimes difficult to realise solidarity. This was also concluded by authors who argue that the creation of these voluntary participation platforms has not been too efficient.⁹⁹

⁹³ New York Declaration for Refugees and Migrants (NY Declaration) 2016 A/RES/71/1.

⁹⁴ NY Declaration para 2.

⁹⁵ NY Declaration para 6-8 & 68; This global approach of the NY Declaration was led by Ireland which is an active state in refugee protection. Between 2012 and 2017 it donated more than 70 million towards Syrian refugees.

⁹⁶ Global Compact on Refugees 2018 para 18.

⁹⁷ The roadmap was implemented in 2022 to carry the goals of a former resettlement and complementary pathway strategy. These third country solutions include other legal admission pathways such as "humanitarian admission, family reunification, named sponsorship by communities, and skill-based education or labour opportunities".

⁹⁸ UNHCR, 2024 Consultations on Resettlement and Complementary Pathways (CRCP) Concept Note, Solutions in Action: Advancing the 2030 Roadmap 1.

⁹⁹ L Freier et al 'Refugee commodification: the diffusion of refugee rent-seeking in the Global South' (2021) 42 *Third World Quarterly* 2578.

Regardless of the non-binding nature of most international refugee frameworks, the emphasis on solidarity in refugee matters cannot be ignored. The convention recognises the importance of international solidarity, with paragraph 4 of its preamble speaking on the need for solidarity in granting asylum.¹⁰⁰ It further emphasised solidarity through concepts like *non-refoulement*,¹⁰¹ non-penalization,¹⁰² and non-discrimination in refugee protection.¹⁰³ These principles require states not to return refugees, and they apply once a refugee reaches the first state of asylum.¹⁰⁴ *Non-refoulement* serves as the cornerstone of refugee protection,¹⁰⁵ and due to its nature of being an international customary law rule, all states are expected to uphold this principle even though they are not party to any international treaties.¹⁰⁶ All these measures force states to assist and accommodate refugees, cementing the importance of protecting refugees.¹⁰⁷ The Cartagena declaration also emphasize the need for solidarity through the principle of *non-refoulement*,¹⁰⁸ and seeking assistance from the international community.¹⁰⁹ However, the Cartagena declaration which is non-binding has a greater application in theory than in practice despite most Latin American countries having included it in their refugee legislation.¹¹⁰ The same can be seen in Africa, the AU provides for the right of

¹⁰⁰ The 1951 Refugee Convention relating to the Status of Refugees (1951 Convention), Preamble. Asylum is a temporary form of refugee protection.

¹⁰¹ The 1951 Refugee Convention, Article 33. *Non-refoulement* is the direct return of refugees to the country of origin and any action that risks the return of a refugee "in any manner whatsoever to the frontiers".

¹⁰² The 1951 Refugee Convention, Article 31, this section requires refugees who entered illegally but who can prove persecution, being themselves to authorities, and show good cause to be protected.

¹⁰³ As above.

¹⁰⁴ Hathaway & Neve (n 92) 151; first state of asylum is the country where the applicant was granted refugee status.

¹⁰⁵ N Willie & P Mfubu 'Responsibility Sharing: Towards a Unified Refugee Protection Framework in Africa' (2016) *African Human Mobility Review* 548.

¹⁰⁶ D Bostrom The legal framework for migrants and refugees: An introduction for Red Cross and Red Crescent Staff and Volunteers (2017) 10.

¹⁰⁷ Martin (n 2) 62.

¹⁰⁸ Summary Conclusions on the interpretation of the extended refugee definition in the 1984 Cartagena Declaration, 2013 para 1.

¹⁰⁹ Cartagena Declaration on Refugees, 1948.

¹¹⁰ Annual Report of the Inter-American Commission on Human Rights (1984-85) OAS Doc OEA/Ser.L/V/II.66/doc.10, rev 1, 190-93. The 14 countries which have included this in their national laws are Argentina, Belize, Bolivia, Brazil, Chile, Colombia, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Paraguay, Peru and Uruguay; Summary Conclusions on the interpretation of the extended refugee definition in the 1984 Cartagena Declaration (2013) 2.

non-refoulement and non-discrimination.¹¹¹ However, African states view refugees as a security issue and therefore put measures to restrict their entry.¹¹²

This is against the idea of international solidarity which has been proposed by laws. What solidarity requires is an international community that shares responsibility through the provision of legal pathways to ease accessibility, resettlement, and provision of financial assistance.¹¹³ This is in the purport and spirit of what the GCR aims to achieve in responsibility sharing within the refugee crisis. Resettlement, which is the relocation of refugees from the state of first asylum to a country that has agreed to admit and grant them permanent settlement has proven to be the most effective form of burden sharing.¹¹⁴ The NY declaration proposed an increase in resettlement quotas and states to have resettlement programmes if they have not established one.¹¹⁵ As also a proposed solution under the GCR, it has been within the UNHCR mandate and records show a slight increase in the number of resettled refugees for 2023.¹¹⁶ In 2023 approximately 2 million refugees needed resettlement and the UNHCR made submissions for only 155, 486 thousand refugees of whom only 96, 311 were resettled.¹¹⁷ While the increase in resettlement quota was welcomed in 2022, the actual resettled individuals were far below the people in need of resettlement.¹¹⁸ This shows the challenge and shortfall in resettlement which should be central when responding to the refugee crisis. However, countries rarely prioritise resettlement as an option.¹¹⁹

¹¹¹ The OAU Convention, Article 2(3).

¹¹² Willie & Mfubu (n 114) 555 & 549; The Refugees Amendment Act 11 of 2017 (RAA 2017) in SA changed SA's refugee protection dynamic through restricting access to the asylum regime and reducing rights formerly offered to asylum seekers. Similarly, most African countries have responded by closing their borders e.g Uganda in 2010 returned Rwandan refugees.

¹¹³ S McMonagle 'In solving refugee issues solidarity must come first' (2017) *Policy & Practice: A Development Education Review* 80; financial assistance can entail humanitarian aid and costs of peacemaking.

¹¹⁴ The UNHCR 2023 situation overview <https://reporting.unhcr.org/operational/situations/syria-situation> viable durable solution for Syrian refugees, 2023 saw a rise in departures to the United States.

¹¹⁵ NY declaration para 78.

¹¹⁶ UNHCR <https://www.unhcr.org/media/resettlement-fact-sheet-2023> (accessed 13 October 2024); "UNHCR submitted 155,486 refugees for resettlement in 2023 and 96,311 refugees were resettled; marking an increase in both the number of resettlement requested and those resettled in 2022.

¹¹⁷ As above.

¹¹⁸ UNHCR, projected global resettlement needs 2024, 11 <https://reporting.unhcr.org/unhcr-projected-global-resettlement-needs-2024> (accessed 13 October 2024).

¹¹⁹ McMonagle (n 120) 79; In 2020, 1.4 million refugees were estimated to be in need of resettlement, but only 34,400 were resettled according to the UNHCR Global trends report 42

Although financial assistance is a preferred form of solidarity by states, there has been a decline in financial aid provided to the UNHCR. In 2023 the UNHCR received only 52% of the required funds,¹²⁰ and by September 2024, only 43% had been received,¹²¹ despite the budget plan being slightly less than that of 2023.¹²² There is therefore, a clear lack of international solidarity in the refugee crisis despite the UN and documents like the GCR speaking on the importance of solidarity, responses prove the opposite of what solidarity entails. The international community is silent and rather implementing measures that make it impossible for refugees to find a home away outside their country of origin. With all the legal frameworks, responses from the international community have been staggering. For example, the Syrian crisis has been the biggest for the past 13 years however, most Syrians are still in need of international protection.¹²³

2.5 Conclusion

International solidarity or cooperation in the refugee crisis is the center of refugee assistance. It is a concept that aims to ensure there is enjoyment of human rights, peace, and justice. Every source confirms its voluntary nature which can only be enforced out of moral and societal standards, despite its inclusion in legal frameworks such as the UN Charter. International solidarity places a duty on states based on the principle of the R2P which applies when a state fails to protect its people, giving rise to the need for collective action by other states.

Refugees are defined in the convention as people fleeing their country due to fear of persecution based on five exhaustive grounds namely race, religion, nationality, membership of a particular social group, or political opinion. Due to the changes globally, two regions have expanded this definition to make it more inclusive of new causes of refugee crises. In the AU and Latin America, it includes more factors, such as

<https://www.unhcr.org/sites/default/files/2024-06/global-trends-report-2023.pdf> (accessed 13 October 2024).

¹²⁰ UNHCR <https://reporting.unhcr.org/global-funding-overview-2023> (accessed 14 October 2024).

¹²¹ As above.

¹²² As above. In 2023 the UNHCR budget plan was USD10.929 billion, and in 2024 it is USD10.785 billion <https://reporting.unhcr.org/global-funding-overview-2024> (accessed 14 October 2024).

¹²³ European Union Agency for Refugees

<https://euaa.europa.eu/news-events/international-protection-needs-remain-high-syrian-applicants> (2023) Syria was a leading country seeking international assistance, with 17 700 applications lodged in the EU+ in November 2022 alone (accessed 16 September 2024).

internal conflict, and disturbance of public order, among other factors, which shows the need for a progressive refugee protection system.

The relevance of international solidarity in refugee crises is through its inclusion in documents such as the GCR, the NY Declaration, the OAU Convention, and the Cartagena Declaration. These documents contain concepts of *non-refoulement* and non-discrimination which reflect the spirit of solidarity in refugee crises. *Non-refoulement* as defined in 2.4 above mirrors the duty to protect which is imposed on states in refugee crises. In line with this duty to protect, states are expected to share responsibility, which is two-fold. This entails physical and financial solidarity where states should either offer resettlement to refugees or financial aid. Despite financial aid being a solidarity measure, it is not the most durable and has drastically declined over the years, meaning states have been regressing in international cooperation. Resettlement which entails refugees being relocated to a third country, has been concluded as the most effective solution in the refugee crisis, in 2023 there was a slight increase in resettlement numbers. However, the number of people resettled is far below those that required resettlement. Due to solidarity being non-binding to states, there is a gap within the refugee protection laws and implementation.

Chapter 3: A comparative study of the refugee crisis in Syria and Venezuela.

3.1 Introduction

This chapter aims to analyse and compare the refugee crisis in Venezuela and Syria. It will focus on the historical events leading to the refugee crisis and the frameworks within each region that were implemented to manage the crisis. In doing so, the aim is to identify any differences and areas of improvement in regional responses. Lastly, the international response to each crisis will be analysed to identify any failures and views on responsibility sharing. Therefore, I will assess whether states have been implementing any measures to act in solidarity with Syrian and Venezuelan refugees.

3.2 Venezuela's refugee crisis

3.2.1 Venezuela's history

In 1998 Venezuelans elected Hugo Chavez as their president, following his manifesto of prioritising the poor and eradicating corruption, with the aim of building a socialist state.¹²⁴ Through this, it can be said that his aim was to build a country that would be inclusive and promote social reform. This was also reflected in his 1999 Constitution which came into place through a transparent and democratic process.¹²⁵ His aspirations of human rights protection and promoting equality were short-lived despite having them codified in the 1999 Constitution. This is because his presidential reign became authoritarian with his government becoming power concentrated, which was validated through policies that granted the executive branch all the power in implementing programmes.¹²⁶ This meant his office gained absolute power in all socio-economic activities and financial decisions.

¹²⁴ F Monaldi & M Penfold 'Institutional Collapse: The Rise and Decline of Democratic Governance in Venezuela' in R Hausmann & F Rodríguez *Venezuela Before Chavez: anatomy of an economic collapse* (2014) 305.

¹²⁵ A Brewer-Carias 'The 1999 Venezuelan Constitution making process as an instrument for framing development of an authoritarian political regime' in L Miller (eds) *Framing the State in Times of Transition. Case studies in Constitution Making* (2010) 506.

¹²⁶ P Lea 'The Venezuelan Humanitarian Crisis and the International "Responsibility to Protect:" A Comparison of Libya and Venezuela' (2021) 44 *Suffolk Transnational Law Review* 325.

With oil being the biggest revenue generator in Venezuela, Chavez's frameworks empowered him to control the oil prices of the *Petróleos de Venezuela, S.A. (PDVSA)*, one of the largest state-owned oil companies.¹²⁷ The result of his office having such power was that decisions were made with no transparency or consultation with other branches of government, leading to overbudgeting for social programmes.¹²⁸ In 2001, laws were implemented which gave the state more rights in petroleum transactions, resulting in a catastrophic loss of revenue.¹²⁹ Adding to the financial crisis that was brewing, Chavez's government showed disregard for the laws and human rights protection. All these events led to a collapse in democracy which was denounced by the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights.¹³⁰ Regardless, Chavez's legacy continued and this is proven by Venezuela's degraded health system, recession, and inflation.¹³¹

Since 2014, Venezuela has been experiencing the worst disruption any non-war-ridden country could ever experience; with a complete shift to authoritarianism and dictatorship.¹³² This regime is being carried through by Chavez's successor Maduro who kept Chavez's policies.¹³³ A year after Maduro's election, the state of Venezuela got worse due to the effects of oil prices dropping massively by 59% within seven months.¹³⁴ In response to the economic collapse, Maduro

¹²⁷ Monaldi & Penfold (n 133) 307. The PDVSA "Petróleos de Venezuela, S.A" is the state-owned oil company.

¹²⁸ Monaldi & M Penfold (n 133) 307.

¹²⁹ S Retner 'Venezuela: How a Hydrocarbons Law Crippled an Oil Giant' (2004) 27 *International & Comparative Law Review* 361. Hydrocarbon laws of 2001 resulted in loss of foreign investments with article 22 granting the state 50% participation in petroleum transactions.

¹³⁰ G Candia 'Regional human rights institutions struggling against populism: The case of Venezuela' *German Law Journal* 20 (2019) 148; In *Caso Apitz Barbera and others v. Venezuela* (2008), the court held that the removal of five judges of the Supreme Court by judicial authorities in 2003 failed to respect the requirements of due process that can be accounted for by his complete possession of power. Several cases which led to Chavez withdrawing the jurisdiction of the Inter-American court.

¹³¹ A Rivas 'The socialist collapse' in M Traver *The History of Venezuela* (2018) 182; Chavez passed on in 2013 and in 2014 and Maduro was elected president.

¹³² As above.

¹³³ Candia (n 139) 156.

¹³⁴ Rivas (n 140)184.

increased oil prices and devalued the currency which further negatively impacted the economy.¹³⁵ Despite the economic collapse, human rights violations have been continuously perpetuated by Maduro's administration, since 2014 there have been cases of torture and arbitrary detention which the International Criminal Court (ICC) investigated.¹³⁶ The human rights violations are the government's response to society's protests of dissatisfaction with the state of Venezuela. This response from the government was denounced by human rights NGOs and the United Nations Human Rights Council in Geneva.¹³⁷ In 2024 the same violence is being perpetrated against protestors who are advocating against the irregularities in Maduro's administration of elections among other issues.¹³⁸ This shows the failure of states to address and prevent the causes of the crisis in Venezuela because to date there is no change and the instability persists, which contributes largely to the refugee movements. Since 2014 the state of Venezuela has been inhabitable with 87% of the population living below the poverty line.¹³⁹ There is a widespread lack of food, no access to health care, and violence is uncontrollable, hence society members seek refuge in other countries.¹⁴⁰

As already discussed in Chapter 2, the 1951 Refugee Convention (Convention) excludes Venezuelan people as refugees due to its exhaustive list of who qualifies as a refugee. This definition limits refugees to exclude those who are fleeing from human rights violations or conditions that disturb the public order as seen in Venezuela, unless they can link it to the five exhaustive bases of persecution set out in the Convention.¹⁴¹

¹³⁵ Rivas (n 138) 185; inflation was unleashed, and the regime was compelled to set up more price controls and establish a new currency exchange rate. Consequently, many businesses were forced to shut their doors.

¹³⁶ Situation in the Bolivarian Republic of Venezuela I (2018)
<https://www.icc-cpi.int/venezuela-i#:~:text=On%201%20March%202024%2C%20the.the%20resumption%20of%20the%20investigation%E2%80%9D> (accessed 5 September 2024).

¹³⁷ Rivas (n 140) 185; organisations such as Amnesty International.

¹³⁸ Human Rights Watch 'Venezuela: Brutal Crackdown on Protesters, Voters Killings, Mass Arrests Following Elections' 2024
<https://www.hrw.org/news/2024/09/04/venezuela-brutal-crackdown-protesters-voters> (accessed 5 September 2024).

¹³⁹ D Bahar et al Venezuela: A path out of misery, policy brief (2018) 4.

¹⁴⁰ Rivas (n 140) 188.

¹⁴¹ Handbook on procedures and criteria of determining refugee status and guidelines on international protection under the 1951 Convention and the 1967 Protocol relating to the status of refugees (2019) para 63; Fear of persecution should be on the basis of race, religion, nationality, membership of a particular social group or political opinion.

However, in 2019 the United Nations High Commissioner for Refugees (UNHCR) spokesperson in applying the broad Cartagena definition of refugee confirmed that Venezuelans leaving the country qualify as refugees and therefore deserve international refugee protection.¹⁴² Therefore, Venezuelans should be afforded refugee protection internationally. In the past ten years, Venezuela remains one of the largest refugee-producing countries with 6.1 million refugees.¹⁴³

3.2.2. Regional response in Latin America: Venezuela

As discussed in Chapter 2, Latin America has been perceived as a global model for the refugee protection regime. While countries in the global north are prioritising closing access for refugees,¹⁴⁴ Latin America has implemented a regional response that promotes solidarity. The prioritisation of refugee rights dates to the introduction of the American Convention on Human Rights which outlined the right to asylum and the principle of *non-refoulement*,¹⁴⁵ principles that are key in refugee protection. In 2024, all Latin American states except Cuba ratified the 1951 Convention proving the commitment to refugee protection in the region.¹⁴⁶ This commitment was extended to the Cartagena declaration which not only extended the definition of a refugee but, like the Global Compact on Refugee Protection,¹⁴⁷ also opened a platform for regional meetings that led to the formation of several plans of action to approach the refugee crisis within the region.¹⁴⁸ Most of the plans which came from the regional decade meetings have been well received and utilised as a part of the region's solidarity

¹⁴² United Nations High Commissioner on Refugees 'Majority fleeing Venezuela in need of refugee protection- UNHCR' (2019)

<https://www.unhcr.org/news/briefing-notes/majority-fleeing-venezuela-need-refugee-protection-unhcr#:~:text=Given%20the%20worsening%20political%2C%20economic.need%20of%20international%20refugee%20protection> (accessed 10 July 2024).

¹⁴³ UNHCR (n 8).

¹⁴⁴ Byman & Speakman (n 48) 50; The United States reduced its refugee allotments to record lows during the Trump administration to the fewer than 11,500 refugees resettled in fiscal year (FY) 2021.

¹⁴⁵ American Convention on Human Rights, 1969 article 22; also known as the Pact of San José. In 2024, 25 state parties and 18 states ratified this convention, Venezuela included.

¹⁴⁶ The UNHCR States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol.

¹⁴⁷ Global Compact on Refugees 2018.

¹⁴⁸ The 1994 San Jose Declaration, the 2004 Mexico Declaration and Plan of Action (MPA), and the 2014 Brazil Declaration and Plan of Action (BPA): A framework for cooperation and regional solidarity (Brazil Declaration), L Jubilut *Latin America and Refugee Protection* (2021) 7.

approach.¹⁴⁹ Plans such as the 2004 Mexico Plan of Action (MPA) endorsed by 20 countries established the “Regional Solidarity Resettlement Programme” as a framework for cooperation,¹⁵⁰ through assisting refugees with finding resettlement areas and those stranded at the borders.¹⁵¹ The MPA also advocated for the south-south approach which aims for countries in the global south to find durable solutions to their challenges. By 2007 states like Brazil, Chile, and others implemented and increased their resettlement quotas in line with the commitment of the MPA.¹⁵² The MPA’s proposals were also incorporated into the national constitutions of 15 countries in Latin America.¹⁵³ This inclusion creates a binding obligation on states to protect refugees in Latin America, which is missing in other regional frameworks.

The MPA was replaced by the Brazil Plan of Action (BPA) which aimed to not only find solutions but also address the causes of displacement with the aim to enhance cooperation.¹⁵⁴ This BPA received international support and was seen as a good model which other regions should learn from.¹⁵⁵ Its progressive realisation of solidarity has been implemented through two programmes, the quality asylum, which aims to fasten the refugee determination process,¹⁵⁶ and the borders of solidarity and safety.¹⁵⁷ In line with the borders of solidarity and safety Brazil and Colombia have implemented programmes to provide humanitarian protection to Venezuelans.¹⁵⁸ As a global south country facing challenges as seen in Colombia, it is not the most equipped to deal with refugees but with all the plans and legal framework in place, Latin America has been

¹⁴⁹ Jubilit (n 25) 7.

¹⁵⁰ F Menezes ‘Utopia or Reality’ (2016) 35 *Refugee Survey Quarterly* 122; Chapter three of the MPA developed durable solutions for Latin America, including solidarity cities, borders of solidarity, and solidarity resettlement programme

¹⁵¹ Harley (n 71) 23; countries such as Brazil are points of resettlement.

¹⁵² The UNHCR Mexico Plan of Action: The Impact of Regional Solidarity, 2005 -2007, 58; at the end of 2005 Argentina signed a resettlement agreement and received its first group of refugees.

¹⁵³ These are Bolivia, Brazil, Colombia, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Paraguay, Peru, and Venezuela; Harley (n 71) 27.

¹⁵⁴ Brazil Declaration and Plan of Action 2014, 4; Addressing causes is one of the durable solutions in responsibility sharing as discussed in chapter 2.

¹⁵⁵ Menezes (n 159) 122.

¹⁵⁶ Brazil Plan of Action final Implementation Report 2014-2024, 22 & 38. This programme introduced online systems to process asylum status and countries such as Chile and Brazil have been implementing this. Costa Rica also introduced a temporary special category for Venezuelan refugees whose application for asylum has been denied or remains pending.

¹⁵⁷ BPA final implementation report (n 157) 49.

¹⁵⁸ As above.

able to host approximately 5 million refugees from Venezuela, with Colombia being the largest host with 2.9 million refugees.¹⁵⁹ Despite Colombia hosting a large number of refugees it is currently the second largest country with internally displaced people,¹⁶⁰ meaning it is already overwhelmed and unstable. Due to the crisis in Venezuela being perceived as a migration flow, it has been left for the region to manage,¹⁶¹ hence a large number of Venezuelan refugees in Colombia, Peru, and Mexico.¹⁶²

Colombia as a country that shares land borders with Venezuela has been dealing with the crisis in Venezuela more than other Latin American states. However, it has proven progressive through its incorporation of the refugee definition from the Cartagena declaration in its national legislation.¹⁶³ Further, it has made efforts to integrate asylum seekers from Venezuela through implementing protective measures in phases. In February 2021, the Colombian government announced the creation of the Temporary Protection Status (TPS) programme which started being implemented in 2023,¹⁶⁴ offered to a million Venezuelans for ten-year permits with an option for permanency.¹⁶⁵ Prior to this, it had programmes such as the Labour-based Regularization Programme

¹⁵⁹ Office of the special envoy for the regional response to the Venezuela situation 'About the regional situation in Venezuela'

<https://respuestavenezolanos.iom.int/en/about-regional-venezuela-situation> Colombia hosts (2,9 million), Peru (1,5 million), and other fled to Brazil, Ecuador and Chile (accessed August 2024).

¹⁶⁰ M Camilleri & F Hampson 'No strangers at the gate: Collective Responsibility and a Region's Response to the Venezuelan Refugee and Migration Crisis' (2018) *Centre for International Governance Innovation and Inter-American Dialogue* 12; Colombia is currently the second largest country with internally displaced persons.

¹⁶¹ D Bahar & M Dooley 'Venezuela Refugee crisis to become the largest and most underfunded in modern history' (2019)

<https://www.brookings.edu/articles/venezuela-refugee-crisis-to-become-the-largest-and-most-underfunded-in-modern-history/> (accessed 10 September 2023).

¹⁶² USA for UNHCR The UN Refugee Agency 'Venezuela Crisis Explained' (2024)

<https://www.unrefugees.org/news/venezuela-crisis-explained/> (accessed 10 June 2024).

¹⁶³ Annual Report of the Inter-American Commission on Human Rights (1984-85) OAS Doc OEA/Ser.L/V/II.66/doc.10, 190-93. Colombia is one of 14 countries that included this definition in their national laws.

¹⁶⁴ P Rossiasco & P Narváez Adapting public policies in response to an unprecedented influx of refugees and migrants: Colombia case study of migration from Venezuela, Background paper to the World Development Report 2023: Migrants, Refugees, and Societies (2023); In 2024 2.4 million benefiting from a Temporary Protection Status <https://reporting.unhcr.org/operational/operations/colombia> (accessed 10 August 2024).

¹⁶⁵ R Aldana et al 'Lessons from Colombia's response to Venezuela's forced displacement' (2023) 87 *Albany Law Review* 29.

(PEPFF) which aimed to integrate Venezuelans into the labour market.¹⁶⁶ Such programmes speak on the willingness of Colombia to assist and protect refugees. Overall countries in Latin America have demonstrated commitment to refugee protection. The programmes implemented which entail asylum processing, integration, and resettlement align with responsibility sharing as discussed in Chapter 2. However, despite this strong regional solidarity, some Venezuelans are not acknowledged as refugees and still face difficulty within the states of refuge such as Peru and Chile.¹⁶⁷ These two countries have started imposing restrictions on Venezuelan refugees.¹⁶⁸ This is a factor that justifies the need for international solidarity because this failure to accommodate refugees means an overwhelming number will go to one destination, which seems to be Colombia in this case.

3.3 Syria's refugee crisis

3.3.1 Syria's history

Syria is a country in the Middle East and North Africa (MENA) region that has been war-ridden since 2011, making it the largest refugee-producing country in the world.¹⁶⁹ In July 2011 a free Syrian army was formed to overthrow Assad's government.¹⁷⁰ This was due to the socioeconomic inequalities that arose after the free market policies were introduced by Hafez al-Assad which got worse in Bashar al-Assad's ruling.¹⁷¹ Based on this, society started advocating against Assad's rule, and some of the teenagers who

¹⁶⁶ UNHCR Policy brief A Critical Assessment of the Labour-based Regularization Programme (PEPFF) of Venezuelan Refugees and Migrants in Colombia 2024.

¹⁶⁷ Amnesty International, No one wants to live in hiding: Lack of protection of Venezuelan Refugees in Chile, 2023; some authorities in Chile were returning Venezuelans at the border without affording them any opportunity to apply for refugee status.

¹⁶⁸ N Fernández-Rodríguez & F Frier 'Latin American immigration and refugee policies: a critical literature review' (2024) *Comparative Migration Studies* 3.

¹⁶⁹ Byman & Speakman (n 48) 45.

¹⁷⁰ S Islam and A Rohde The refugee 'crisis' in the Middle East and North Africa factsheet (2017) 5; Shoup (n 18) 145.

¹⁷¹ H Kashan 'An uprising waiting to happen: The Syrian Conflict from the Authoritarian Bargain Perspective' (2016) 20 *World Affairs: The Journal of International Issues* 110; free market policies meant that competition of private companies is unrestricted.

put up anti-government graffiti were arrested.¹⁷² Following the arrest, society members started protests against the ruling party and the army of the current president's authoritarian regime started administering perpetual attacks to intimidate those against him.¹⁷³ This resulted in citizens fleeing for refuge in other countries. Currently, in its fourteenth year since the start of the civil war, there has been a recent surge of violence which shows how far from over the war in Syria is.¹⁷⁴ Whether the international community can protect refugees if no durable solutions are in place remains questionable.

There is no dispute in whether Syrians qualify as refugees based on the definition within the Convention which was discussed in Chapter 2. This is also because the crisis in Syria stems from a common cause of refugee crises, hence a clear consensus on the status of its people. Since 2012 there has been a steep increase in the number of refugees,¹⁷⁵ and as of 2024 6.4 million Syrians are registered as refugees.¹⁷⁶ Conclusively, Venezuela and Syria are facing events that are disturbing the public order and thus resulting in gross human rights violations which qualify their people as refugees.¹⁷⁷

¹⁷² UNHCR, the UN Refugee Agency <https://www.unrefugees.org/news/syria-refugee-crisis-explained/> (accessed 01 August 2024); V Tyyskä et al 'The Syrian Refugee Crisis: A Short Orientation' (2017) *Ryerson Centre for immigration and settlement* 4.

¹⁷³ Byman & Speakman (n 48) 46; "government started violence against public demonstrations in support of teenagers who were arrested for anti-government graffiti in the southern town of Daraa" UNHCR <https://www.unrefugees.org/news/syria-refugee-crisis-explained/#:~:text=The%20Syrian%20refugee%20crisis%20began,the%20southern%20town%20of%20Daraa> (accessed 01 August 2024).

¹⁷⁴ O Albam & A Sewell 'Violence in Syria is on the rise while aid is flagging as the civil war enters its 14th year', 15 March 2024 <https://apnews.com/article/syria-civil-war-anniversary-violence-33c00a3ecc3fb7e1507afbe04c5a1040> (accessed 05 September 2024).

¹⁷⁵ In 2012, there were 729,000 refugees, 2.5 million in 2013 and 5.4 million refugees were recorded in 2017; Shoup (n 18) 147.

¹⁷⁶ UNHCR (n 8).

¹⁷⁷ OAU Convention Article 1 and Cartagena declaration.

3.3.2 Regional response in the Middle East and North Africa region: Syria

The Middle East does not have a regional solidarity foundation as in Latin America, and countries in MENA have relied on separate plans to protect Syrian refugees.¹⁷⁸ There has been a lack of regional coordination and limited will to create frameworks to respond to the crisis.¹⁷⁹ Research concludes that the MENA region strategically chooses not to regulate asylum.¹⁸⁰ This could be because lack of regulation helps states avoid responsibility due to the ambiguity which is left at each state's discretion. Further, there is neither a formally binding treaty to authorise how states have to deal with refugees nor any burden-sharing mechanism as seen in Venezuela.¹⁸¹ Despite the Arab League being the basis for human rights protection and refugee frameworks within the region, progress in protection of vulnerable members has been stagnant. This is proven by the fact that in 1994 a regional refugee convention, the Arab Convention on Regulating Status of Refugees (Arab Convention) was introduced,¹⁸² but due to lack of ratification it has not come into force. Due to a lack of ratification, the region decided to redraft the convention and took it to a committee of representatives in 2012 but it still has not resurfaced. The closest framework to human rights or refugee protection is the Arab Charter on Human Rights (Arab Charter) which was adopted in 2004 and only came into force in 2008 due to lack of ratification.¹⁸³ This partner of poor ratification can be perceived as a lack of willingness to cooperate within the region in protecting human rights. The Arab Charter's goal was to create a regional human rights system that aligns

¹⁷⁸ Mencütek (n 49) 175.

¹⁷⁹ Mencütek (n 49) 171.

¹⁸⁰ P Norman 'Reluctant reception: Refugees, migration, and governance in the Middle East and North Africa' (2020) *International Migration* 7.

¹⁸¹ Mencütek (n 49) 189.

¹⁸² Arab Convention on Regulating Status of Refugees in the Arab Countries Adopted by the League of Arab States, 1994.

¹⁸³ N Azizi 'surviving in Cairo as a closed-file refugee: socio-economic and protection challenges' *International Institute for Environment and Development Working Paper* (2017); M Rishmawi 'The Arab Charter on Human Rights and the League of Arab States: An Update' (2010) 10 *Human Rights Law Review* 169.

with international law and much criticism of its failure has been received. This is because, unlike the Arab Convention, its protection of refugees is only acknowledged through the grant of asylum.¹⁸⁴

Article 1 of the Charter confirms the region's dedication to solidarity however it fails to suggest how to achieve solidarity, making it difficult to implement. The Syrian crisis has exposed how the region systematically fails to prevent the crisis by addressing the cause and also trying to find durable solutions. This is because Syria remains leading in producing refugees. For a region that contributes more than 25% of refugees globally,¹⁸⁵ a well-structured system should be in place. A pressing challenge within the region is also the lack of ratification of legal frameworks concerning refugees; most of the countries in MENA except Turkey did not ratify the 1951 convention.¹⁸⁶ Countries such as Lebanon, Jordan, and Syria, did not ratify the 1951 Convention, making a commitment to the protection of refugees only through the UNHCR Memorandum of Understanding.¹⁸⁷ Despite Turkey having ratified the convention and its 1967 Protocol, it still has the optional geographic limitation within the convention meaning it only recognises refugees who fled from Europe before 1951. This led to its reluctance in recognising Syrians as refugees and only granted Syrians temporary protection in 2014.¹⁸⁸ Therefore, in most MENA countries Syrians are not deemed to be refugees which compromises their protection,¹⁸⁹ and hence states rarely integrate them into their communities.

Despite this lack of regionalism in refugee protection, countries such as Turkey, Syria, and Jordan are members of the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime which has a declaration that encourages

¹⁸⁴ Article 28 of Arab Charter.

¹⁸⁵ Martin (n 2) 62.

¹⁸⁶ M Janmyr & D Stevens 'Regional Refugee Regimes: Middle East' in C Costello et al *Oxford Handbook of International Refugee Law* (2020); countries such as Syria, Lebanon, Jordan, Iraq, Israel, Libya, Algeria, etc.

¹⁸⁷ As above; A memorandum of understanding is an agreement between the MENA region and the UNHCR which sets out ways in which states will cooperate and share responsibility.

¹⁸⁸ İçduygu (n 51) 9.

¹⁸⁹ Chatty (n 48) 337; Lebanon government viewed the refugees as 'guests'.

protection of refugees through temporary protection.¹⁹⁰ This was a very progressive declaration in refugee protection however, regressively, the recent Bali declaration does not stipulate refugee protection through granting asylum but only reference the legal frameworks that prioritise cooperation.¹⁹¹ This shows the challenge within the region in clearly stating the protective role that states should play and leaving the ambiguity for states to decide. Lack of regulation has been concluded as another way of avoiding responsibility sharing.¹⁹²

Although there is a lack of regional solidarity frameworks, countries within the region have implemented separate laws and plans to respond to the Syrian crisis. Due to international barriers placed which will be discussed below, refugees remain within the region, with most of them hosted in Turkey, Lebanon, and Jordan.¹⁹³ Turkey is currently the largest refugee host globally and remains the main destination for Syrian refugees, hosting 3.7 million out of the 6.1 million refugees recorded in 2024.¹⁹⁴ Turkey has actively granted temporary protection for Syrians who came prior to 2011 through its Temporary Protection Regime,¹⁹⁵ while providing refugee camps.¹⁹⁶ Through its commitment, it has been actively granting Syrians more rights and acknowledged their need for protection.¹⁹⁷ However, this could be an influential act from the EU-Turkey deal which requires Turkey to integrate and keep Syrians within their borders, which was also enhanced by the European Commission that advocated for extra protection in the Turkey-Greek border to keep Syrians from entering the EU.¹⁹⁸

¹⁹⁰ Janmyr & Stevens (n 195) 8; Bali Declaration on People Smuggling, Trafficking in Persons, and Related Transnational Crime para 6.

¹⁹¹ As above.

¹⁹² F Rausis 'Restrictive North versus Permissive South? Revisiting Dominant Narratives on the Evolution of the Refugee Regime' (2023) *Journal of Immigration and Refugee Studies*

¹⁹³ Turkey currently hosts 3.7million, Lebanon host 1.5 million; Jordan hosts 710,000 as of 2024.

¹⁹⁴ UNHCR

<https://data.unhcr.org/en/situations/syria#:~:text=This%20figure%20includes%201.9%20million,refugees%20registered%20in%20North%20Africa> (accessed 10 March 2024).

¹⁹⁵ UNHCR <https://help.unhcr.org/turkiye/information-for-syrians/temporary-protection-in-turkey/> (accessed October 2024); the temporary protection regulation came into force in 2014.

¹⁹⁶ İçduygu & Nimer (n 51) 419.

¹⁹⁷ As above.

¹⁹⁸ P Farguez 'Europe Must Take on its Share of the Syrian Refugee Burden, But How?' Policy brief (2014) 12.

Lebanon is the second largest host of Syrian refugees and it has been reluctant to open refugee camps for Syrians,¹⁹⁹ and alternatively has response plans that insufficiently address the crisis.²⁰⁰ In doing so the Lebanese government has implemented the Lebanon Crisis Response Plan (LCRP) co-led by the United Nations since 2015,²⁰¹ which aimed to increase support through donor contributions and other humanitarian assistance.²⁰² Despite these programmes, Lebanon has shown reluctance to develop refugee laws and this is also proven by its collaboration with the UN in most refugee protection roles. As a MoU is the only document utilised between the UN and MENA to commit to refugee protection Lebanon's agreement is that refugees can only be temporarily accommodated while the UN finds areas to resettle them or return them voluntarily.²⁰³ This shows how Lebanon does not consider integration or sharing the responsibility long-term, it rather sees this as a temporary act. Further, voluntary repatriation contradicts the duties placed on Lebanon to protect Syrian refugees, when the violence is still ongoing. While the crisis in Syria shows no sign of getting better, discussions on integration should be happening more than voluntary repatriation. Most of the policies in Lebanon the restrict entry and stay of Syrian refugees through strict requirements,²⁰⁴ such as requiring money to renew a permit.²⁰⁵ Further, more complications were introduced when Lebanon asked the UNHCR to stop registering refugees, which then made it impossible for refugee recognition meaning Syrians had to resort to other reasons to get residence.²⁰⁶ This has resulted in the voluntary repatriation

¹⁹⁹ G Tsourapas 'The Syrian Refugee Crisis and Foreign Policy Decision-Making in Jordan, Lebanon, and Turkey' (2019) 4 *Journal of Global Security Studies* 472; They did not implement any policies to open refugee camps.

²⁰⁰ O Beato 'In Lebanon, young Syrians sleep out in the open to avoid night-time deportation raids' (18 January 2024)

<https://www.thenewhumanitarian.org/news-feature/2024/01/18/lebanon-young-syrians-deportation-raids> (accessed 10 October 2024).

²⁰¹ The Refugee crisis in the Middle East and North Africa factsheet (2017) 7.

²⁰² As above.

²⁰³ T Fakhoury Refugee Governance in Crisis: The Case of the EU-Lebanon Compact, MAGYC Working Paper (2020) 4.

²⁰⁴ Carnegie Middle East Center 'Policy Framework for Syrian Refugees in Lebanon and Jordan' (April 16 2018)

[carnegie-mec.org:https://carnegie-mec.org/2018/04/16/policy-framework-for-refugees-in-lebanon-and-jordan-pub76058](https://carnegie-mec.org/2018/04/16/policy-framework-for-refugees-in-lebanon-and-jordan-pub76058) (accessed 21 September 2024).

²⁰⁵ Tsourapas (n 206) 472 Syrians have to pay 200.

²⁰⁶ Carnegie Middle East Center 'Policy Framework for Syrian Refugees in Lebanon and Jordan' (April 16 2018) [carnegie-mec.org:https://carnegie-mec.org/2018/04/16/policy-framework-for-refugees-in-lebanon-and-jordan-pub76058](https://carnegie-mec.org/2018/04/16/policy-framework-for-refugees-in-lebanon-and-jordan-pub76058) 12.

or illegal stay which motivated the mass deportation to Syria.²⁰⁷ This violation of the principle of non-refoulement and failure to protect refugees in Lebanon was concluded by the court in *M.A & Z.R V Cyprus*.²⁰⁸ The principle of non-refoulement requires states to consider if there is continuous violation of human rights in the state of origin,²⁰⁹ which is the case with Syria. Therefore, the laws in Lebanon promote indirect refoulement which is completely against solidarity.

The MENA region's response and lack of laws encourage voluntary repatriation through strict requirements of visa permits among other things.²¹⁰ While it is understandable that the region is currently facing challenges economically, making it difficult to host Syrian refugees, a clear regional framework that could aid in the distribution of refugees is essential. The lack of legal frameworks has meant that the response to the crisis remains a domestic matter, each state decides on what laws to implement, which has resulted in a lack of burden-sharing and resistance to integrating Syrian refugees.

3.4 Response from the international community

To date, no binding international solidarity refugee system is in place which is highly influenced by the differences in the state's idea of sovereignty or maintenance of peace and security.²¹¹ The International Refugee Regime provides solutions in refugee protection such as voluntary repatriation, local integration in the first country of asylum, and third-country resettlement.²¹² How the international community integrates the solutions usually depends on cultural differences, hence, most refugees are received openly in countries where they share similarities.²¹³ Venezuelans share sociocultural aspects and have Spanish as a common language with Peru and Ecuador which are

²⁰⁷ İçduygu & Nimer (n 51) 418.

²⁰⁸ *M.A & Z.R V Cyprus* ECHR (8 October 2024) para 93 & 94.

²⁰⁹ Committee Against Torture General Comment No. 4 (2017) on the implementation of Article 3 of the Convention in the context of Article 22.

²¹⁰ İçduygu & Nimer (n 51) 421 & 422.

²¹¹ I Hoagland 'The Venezuelan Refugee Crisis: An Analysis of Refugee Policies in South America' (2019) Proceedings of The National Conference on Undergraduate Research (NCUR) 193.

²¹² İçduygu & Nimer (n 51) 416; Integration is a durable solution; Refugee Governance in Crisis: The Case of the EU-Lebanon Compact 4

²¹³ As above.

the other largest hosting countries.²¹⁴ Therefore, refugee protection is mostly cultured and selective.

3.4.1 The UNHCR and financial cooperation

The UNHCR being the agency in refugee protection has served as the foundation of progress in refugee matters. It led the discussions in the formation of the NY declaration and the GCR, therefore, its goals are aligned with the solidarity envisioned in the two frameworks. The UNHCR through its conferences authorised by the GCR has raised funds and aimed to find durable solutions from participating states.²¹⁵ However, the funding provided to the UNHCR has drastically decreased as discussed in Chapter 2. In Venezuela in 2023 the UNHCR required a total of \$ 399.5 million to address the emergency situation in Venezuela and received only \$147,883,898 (37%) of the needed amount, with the USA being the biggest donor.²¹⁶ As of September 2024, Venezuela has received 38% of the required funds.²¹⁷ Although this is the case, most states have rarely participated in funding Venezuela and more funding has been granted to Syria.²¹⁸ In 2023 Syria received 663 million out of the 1.8 billion required.²¹⁹ Despite the crisis in Syria having started three years before Venezuela, in 2020 Syria had received a total funding of 20.8 billion. In contrast, Venezuela had only received 1.4 billion although the number of refugees is comparable.²²⁰ This unequal funding has greatly impacted Venezuela and is unjustifiable because the scale of the crisis is comparable to Syria. However, scholars argue that the funding provided in Syria is largely from the EU based on

²¹⁴ Abaunza (n 10) 12.

²¹⁵ Conference on Pathways for Admission of Syrian Refugees 2016; Global Refugee Forum (GRF) held in 2023; Pledging for the Future: Advancing the Pact for the Future and its Actions through the Global Compact on Refugees summit 2024.

²¹⁶ UNHCR Funding Update (2023) <https://reporting.unhcr.org/venezuela-situation-funding-2023> (accessed June 2024); Syria is most funded and Venezuela is in the bottom 5.

²¹⁷ UNHCR Funding Update <https://reporting.unhcr.org/venezuela-situation-funding-update>

²¹⁸ UNHCR <https://reporting.unhcr.org/dashboards/contributions> ; the USA and EU remain the biggest donors (accessed 27 September 2024).

²¹⁹ UNHCR Financial Overview <https://reporting.unhcr.org/operational/situations/syria-situation> (accessed 30 September 2024).

²²⁰ D Bahar & M Dooley (16 February 2021)

<https://www.brookings.edu/articles/venezuelan-refugees-and-their-receiving-communities-need-funding-not-sympathy/> (accessed March 2024).

their agreement and intention to shift responsibility to states in MENA.²²¹ This has not resulted in solidarity, mainly because most Syrians remain in need of international protection and funding is still insufficient to address the crisis. The UNHCR High Commissioner Filippo Grandi in 2016 stated that, “A tragedy of this scale demands solidarity beyond funding. Put simply, we need more countries to share the load by taking a greater share of refugees from what has become the biggest displacement crisis of a generation.”²²² This speaks to the inefficiency of relying on financial aid with the hope of solving the crises. Furthermore, a 2024 report shows that the funding in Syria has decreased over the years from 60% to 30% in 2023.²²³ This highlights the lack of cooperation globally because countries in the global north like the EU have avoided having refugees enter their borders while using funding as the only form to support Syrians. Funding as already discussed in Chapter 2, is not a durable solution thus, the need to prioritise physical solidarity.

3.4.2 Resettlement and legal pathways

Resettlement has been perceived as one of the most durable solutions within the UN framework. This is because it allows for states to share responsibility equally rather than provide finances to already overwhelmed global south countries. However, states will implement asylum laws and still avoid resettlement through Safe Third Country (STC) laws which shift the responsibility.²²⁴ This does not align with solidarity and refugee protection frameworks. The UNHCR in line with the goals of the GCR has implemented measures in both Venezuela and Syria to assist with resettlement of refugees.

Despite the regional response in Latin America being progressive, the same cannot be said about the international response. This lack of solidarity was highlighted by the

²²¹ İçduygu & Nimer (n 51) 420.

²²² UNHCR

<https://www.unhcr.org/africa/news/press-releases/syria-conflict-5-years-biggest-refugee-and-displacement-crisis-our-time-demands> (accessed 10 August 2024).

²²³ UNHCR

<https://www.unhcr.org/news/announcements/we-are-failing-syrian-refugees-and-communities-hosting-the-m-warns-latest-united> between 2015 & 2018 the funding received was 60% of the estimated, in 2020 it dropped to 40%, and currently it is in 30% (accessed 30 September 2024).

²²⁴ Rausis (n 201) 9.

Colombian Minister who pleaded with society to show solidarity with Latin America as much as they do with Syrian refugees.²²⁵ The UNHCR has implemented programmes with the hopes of assisting Venezuelan refugees.²²⁶ The Regional Inter-Agency Coordination Platform for Refugees and Migrants from Venezuela (R4V), allows for the implementation of the Regional Refugee and Migration Response Plan (RMRP) to bring other states on board in assisting refugees and host countries in South America. Within this programme the UN assisted Venezuelan refugees to get asylum status in the region.²²⁷ Despite this assistance from the UNHCR, it remains insufficient due to it being regional-centred. With more efforts being made, countries in the global north have placed barriers for refugees through laws and policies. Firstly, Venezuelans are not recognised as refugees in the US due to its national definition of refugees, which excludes refugees produced due to economic reasons.²²⁸ Evidently, the Venezuelan refugees have remained mostly in Latin America despite trying to reach the United States (US) because they cannot be protected in the US due to the laws there. In addition to this, between 2017-2020 the US introduced a law that reduced the refugee quotas which had a difference of 86 percent from 2016.²²⁹ However, the current administration has increased its resettlement quotas and aims to resettle 125,000 refugees²³⁰ Although this is the case, most Venezuelans remain stranded and unable to cross borders, this responsibility does not rest on the US alone but other states should also open up access to refugees. For example, some

²²⁵ L Freir et al 'Refugee commodification: the diffusion of refugee rent-seeking in the Global South' 42 (2021) *Third World Quarterly* 2753; states hosting Venezuelans had received only US\$68 per person each year, compared to states hosting refugees from Syria who received \$500–900 per person.

²²⁶ UNHCR <https://reporting.unhcr.org/operational/situations/venezuela-situation#:~:text=The%20revised%20RMRP%20for%202024,Humanitarian%20Country%20Team%20in%20Venezuela%2C> (accessed 30 September 2024).

²²⁷ As above. For example Ecuador, Peru, and the US granted temporary permits to over 200 000 individuals by 2023 (accessed 01 October 2024).

²²⁸ Immigration and Nationality Act (INA), s101(42)(A); refugee "means any person who is outside any country of such person's nationality and who is unable or unwilling to return because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion".

²²⁹ M Clemens The Economic and Fiscal Effects on the United States from Reduced Numbers of Refugees and Asylum Seekers, Institute of Labor Economics Discussion paper (2022) 1.

²³⁰ <https://www.migrationpolicy.org/programs/data-hub/charts/us-refugee-resettlement> (accessed 02 October 2024).

countries outside MENA have been taking in Syrian refugees, for example, Germany in 2023 received 4,500 refugees of whom 3,300 were from Syria.²³¹ This remains an issue because reports show that Germany was the leading country in 2023 in hosting refugees from countries it does not share borders,²³² meaning states resettled a very small number. Even though this is the case, there is a great decline in the resettlement numbers because in 2015 it accepted 500, 000 Syrian refugees. This shows the state of international solidarity in the refugee crisis, responsibility sharing has been decreasing with each passing year. Despite all this, Venezuelan refugees were not among those refugees resettled in Germany which shows the lack of protection for Venezuelans.²³³

The UNHCR and international community in 2015 introduced a Regional Refugee Plan (3RP) in Syria which aims to outline regional needs and enhance cooperation within the region. Through this 3RP, it has raised funds, promoted resettlement, and legal pathways for Syrian refugees.²³⁴ International solidarity requires states outside the region to assist and open resettlement programmes. However, most developed countries are shifting and avoiding responsibility as much as possible.²³⁵ For example, in April 2023, Italy adopted a law that requires asylum-seekers to be detained until their asylum claims are processed and this takes up to two years.²³⁶ This detention process can be seen as a means of deterring refugees from coming to Italy by making it impossible and difficult for refugees to be granted asylum. Further, global north countries have established STC agreements with some global south countries that will accept returned refugees.²³⁷ A point of reference is Turkey and Lebanon which have an agreement with the EU to keep Syrians within their borders. Turkey currently serves as a resettlement country for Syrian refugees from Greece, and due to the EU-Turkey agreement it also has to implement stricter border control for Syrians to remain within its

²³¹ UNHCR (n 42).

²³² UNHCR (n 42). Most of the refugees resettled in Germany were from Ukraine (1.1 million), Syria (705,800), Afghanistan (255,100) and Iraq (146,500); this can be attributed to Germany's constitution which grants the right to asylum among other human rights.

²³³ As above.

²³⁴ Regional Refugee Plan Report 2023.

²³⁵ E Atar 'International Solidarity and Burden-Sharing: The Case of Syrian Refugees, In Political Reflection issue 21 (2019) 32;

²³⁶ <https://cmsny.org/how-europe-closing-doors-to-asylum-seekers/> (accessed 10 August 2024).

²³⁷ Martin (n 2) 66

borders.²³⁸ This agreement has not only been criticised globally but by Turkey itself as a means of responsibility shifting and not sharing.²³⁹ Lebanon also signed an agreement with the EU, the 2016 Global Compact which was initiated with the aim of bringing solutions to the Syrian refugee crisis. Through this compact Lebanon is expected to integrate Syrian refugees within its society in exchange for financial aid from the EU,²⁴⁰ which proves the point that the funding from the EU is a means of responsibility shifting. The pitfall of this compact is its lack of providing long-term solutions but rather temporary solutions.²⁴¹ As much as integration is a solidarity measure, it cannot be durable if it occurs in an overwhelmed state that is being pressured by an agreement to integrate refugees. This, however, is not in line with solidarity due to the fact that it qualifies as a third country agreement, the purpose behind such is to restrict Syrians from entering the EU. In the EU regionalism is a well established norm which the Dublin system introduced since 1990, such a system has emerged as flawed due to its inability to promote resettlement but rather supported burden shifting.²⁴² Kneebone argues that the system within the EU region proves its lack of a responsibility sharing norm.²⁴³ Although it has been argued that regionalism can significantly strengthen international solidarity,²⁴⁴ most regions have failed to have a harmonised regional refugee protection system. Evidently, despite the Bali Process that was led by Australia and Indonesia, the ASEAN region has proved to shift its responsibility, with the UNHCR being the main protector of refugees.²⁴⁵

It has been proven that most host countries do not have sufficient resources and are already overwhelmed, for example in 2024, Iraq hosts more than 300,000 refugees of which 90% are Syrian refugees when already more than a million of

²³⁸ Tsourapas (n 208) 475.

²³⁹ İçduygu & Nimer (n 51) 420.

²⁴⁰ Refugee Governance in Crisis: The Case of the EU-Lebanon Compact (2020).

²⁴¹ As above.

²⁴² S Kneebone & F Rawlings-Sanaei 'Introduction: Regionalism as a response to a global challenge' in S Kneebone & F Rawlings-Sanaei *New Regionalism and Asylum Seekers: Challenges Ahead* (2007) 155.

²⁴³ Kneebone & Rawlings-Sanaei (n 251) 158.

²⁴⁴ J De Andrade 'Regional Policy Approached and Harmonization: A Latin American Perspective' (1998) 10 *International Journal of Refugee Law* 389.

²⁴⁵ Kneebone & Rawlings-Sanaei (n 251) 166.

its population is internally displaced.²⁴⁶ All the plans and agreements in place are evidently not producing solutions because, from the resettlement submissions made as discussed in chapter 2 2.5, Syria was the leading country with 36,315 thousand while Venezuela placed fifth with 9,442 thousand.²⁴⁷ In light of this high resettlement needs, some countries in the global north have been providing legal pathways for refugees in the form of family reunification permits, with Canada and Germany leading.²⁴⁸ From 2010 -2021, 1.8 million permits in the form of legal pathways were awarded exceeding the number of resettlement that occurred.²⁴⁹ Although this is progress, the provision of legal pathways needs to be utilised in conjunction with resettlement because the permanency of resettling makes it a more durable solution than the provision of legal pathways which is often temporary.

Resettlement has been difficult because global north countries have strict visa requirements which the United Nations High Commissioner for Refugees (UNHCR) has expressed concern over because they heighten the risk of refoulement.²⁵⁰ Both European and American procedures allow for refugees whose status is not being highly considered to be removed, creating a high specter for refoulement.²⁵¹ However, this perception that it's the only countries in the global north that avoid refugee protection has been rejected by some scholars. They argue that there has been a restriction on border access for refugees in countries in the global south, specifically in Africa.²⁵² A point of reference could be South Africa and its laws which currently place barriers for asylum seekers.

²⁴⁶ The UN Refugee Agency Iraq Factsheet September 2023 - January 2024, 1.

²⁴⁷ UNHCR (n 122).

²⁴⁸ UNHCR <https://globalcompactrefugees.org/media/safe-pathways-refugees-iii-0> 17 (accessed 10 October 2023).

²⁴⁹ As above.

²⁵⁰ Hathaway (n 92) 120.

²⁵¹ Hathaway (n 92) 122.

²⁵² B Rutinwa The end of asylum: The changing nature of refugee policies in Africa, UNHCR Working Paper 5, 1999

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3.5 Conclusion

Venezuela is a country in Latin America that has suffered economic collapse and violation of human rights. Chavez's governance which was carried through by his successor Maduro gave rise to this state resulting in Venezuela facing events that disturb the public order. Evidently, Venezuela is one of the leading refugee-producing countries. However, it has been manageable compared to most refugee crises due to its regional solidarity which is perceived as a good model. This is seen through the incorporation of refugee protection laws in domestic frameworks, making refugee protection a binding duty to the states. Further, the regional framework led to the formation of refugee protection plans which ensure that asylum processing is easy and countries within the region cooperate in resettling refugees. This has resulted in positive protection of refugees within the region. The dedication within the region is further evident due to all the countries except Cuba having ratified the 1951 refugee convention. Countries such as Colombia have implemented policies to grant permits to Venezuelan refugees and laws to protect them. Although it has an effective regional response plan, the international community has not shown much solidarity either physically or financially with the refugees. It remains the most underfunded crisis and this is because their refugees are perceived as migrants internationally. The funding received to assist the refugees has been greatly low compared to that of Syria and countries have rarely resettled Venezuelan refugees. This has been left to the region to manage and therefore, no solidarity has been shown to Venezuela.

Syria is a country in MENA that has been war-ridden for over 13 years and currently producing the highest number of refugees globally. Due to the violence experienced by society members who were against the ruling party, they had to flee the country and find refuge in neighbouring countries such as Turkey, Lebanon, and Jordan. These countries have had differences in how they respond to the crisis, with only Turkey having ratified the 1951 refugee convention the regional response has been flawed. MENA as a region has demonstrated a failure or rather a strategic unwillingness to implement legal frameworks to respond to the refugee crisis despite its intensity. Unlike Latin America, there is no regional solidarity in the MENA region. Evidently, the lack of a regional

framework that promotes solidarity has been evident and contributed to Syrian refugees trying to leave the region for Europe. With this came STC agreements between Europe, Turkey, and Lebanon to ensure that Syrian refugees do not get to Europe. This behaviour does not align with international solidarity, it is rather perceived as responsibility shifting because then the EU will have no responsibility to protect Syrian refugees.

It is clear that despite all the legal frameworks in place, the international community has avoided sharing responsibility and placed measures that kept refugees within their region. Further, financial assistance and resettlement numbers have greatly decreased over the years, proving a lack of interest in protecting refugees. This does not align with the international solidarity principle and violates the state's duty to protect.

4 Conclusion and Recommendation

With the current refugee statistics proving a steep increase in refugee numbers, refugee protection remains an urgent matter. From the analysis of this paper, it has been established that states have a duty to act in solidarity (share responsibility) when addressing the refugee crisis, which stems from the responsibility to protect (R2P). Although solidarity is an internationally recognised principle, there is a proven lack of binding international refugee laws. However, refugee crises can only be managed if there are durable solutions in place, which international solidarity proposes as voluntary repatriation, resettlement, addressing the causes of the crisis, and *non-refoulement*.

Venezuela and Syria remain the highest refugee producing countries. In Latin America, evidence proves a well established regional response plan to protect refugees from Venezuela. This is done through national laws, response plans, and resettlement programmes which have proven to be successful despite displacement challenges faced by neighbouring Latin American countries. However, the same cannot be said about the MENA region where there are no solidarity plans and Syrians struggle to find asylum or resettlement places within the region. What has resulted from the lack of harmonised regional plans is refoulement from neighboring countries.

Although regional refugee protection (RRP) plans are crucial, the international community needs to share the responsibility if the crises are to be managed. In assessing whether states have prioritised responsibility sharing in managing refugee crises, the responses have proven to be contrary to what solidarity requires. Most states have resorted to implement restrictive laws which make it impossible for refugees to be protected. Evidently countries in the EU, MENA, and ASEAN regions have opted to shift the burden or remain unresponsive to the crises. Further, resettlement and financial assistance have decreased over the years, proving regression in refugee protection. Most global north countries create STC agreements to ensure that refugees do not reach their borders. This form of responsibility shifting is not durable because STC

countries are incapacitated. Although Latin America's approach has encouraged new ways of thinking, there remains no regional responsibility sharing norms in place in most regions, which makes it difficult to share-responsibility and more favourable to shift it. Perhaps it is time to codify and create a regional solidarity norm when it comes to the refugee crisis to help strengthen international responses.

It is clear that refugee problems require a global consensus and cooperation, but the current state of response is far from that. This is because international solidarity was envisioned to be central in solving global issues but it has not been utilised, proven by the lack of both protection and prevention of the crises. The lack of hard laws in regulating refugee matters cannot be an excuse not to protect human rights

Therefore, I recommend that there should be legislative reform. This means that states should implement domestic laws that expand the definitive elements of refugee status because modern refugee producing causes are broad. Further, states should implement binding refugee protection laws, which will promote the creation of a harmonised regional protection system. Both global north and south states should prioritise resettlement programmes or open other legal pathways for refugees to gain access. In the process of accommodating refugees, they should ensure there is global consensus in implementing preventative measures and addressing the causes of the refugee flows. Addressing the cause coupled with resettlement programmes could be favorable because preventative solutions will mean that there will rarely be crises of such intensity in the future. Therefore, states should improve their responses through laws, they should have policies addressing the causes of refugee crises, and share responsibility rather than shift it.

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