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DOORS TO SAFETY: *EXIT WEST*, REFUGEE RESETTLEMENT, AND THE RIGHT TO ASYLUM

Betsy L. Fisher*

EXIT WEST. By *Mohsin Hamid*. New York: Riverhead Books. 2017. P. 231. Cloth, \$26; paper, \$16.

INTRODUCTION

Mohsin Hamid's¹ novel *Exit West* traces the journey of Nadia and Saeed, two refugees fleeing danger who discover magical doors that instantly teleport them across borders and to new lives in safety (pp. 103–04). Though Hamid's doors are fictional, Nadia and Saeed find themselves in a humanitarian crisis that closely mirrors reality. In 2016, the United Nations High Commissioner for Refugees (UNHCR) reported that there were 22.5 million refugees and 65.6 million forcibly displaced people worldwide.² Just as the international community's efforts to assist refugees have left millions without access to safety and human rights,³ so too did Nadia and Saeed struggle to find housing, food, and medical treatment on their journey to long-term safety. They sought safety but often did not find it as they fled west. They faced riot police and nativist mobs who "advocat[ed] wholesale slaughter . . . so much like the fury of the militants in her own city."⁴

This Review assesses states' use of the "doors" of refugee resettlement as a tool to limit asylum claims in their territory and argues that, while refugee resettlement is a critical portion of refugee protection, it must not be used to replace asylum. Part I discusses the doors of *Exit West*. Part II reviews the right of individuals fleeing persecution to seek asylum and the three durable solutions for refugees—voluntary repatriation, local integration, and refugee resettlement—which are inaccessible for all but a few refugees. In Part III, this Review argues that the United States, Australia, and the European Union have used refugee resettlement to limit, or to justify limits on, irregular migration and onshore asylum claims.

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1. Author.
2. UNHCR, GLOBAL TRENDS: FORCED DISPLACEMENT IN 2016, at 2 (2017), <http://www.unhcr.org/5943e8a34.pdf> [<https://perma.cc/WWP5-6K2X>].
3. See *infra* Part II.
4. P. 159; see also p. 127.

I. EXIT WEST'S TELEPORTING DOORS

This Part outlines Hamid's novel *Exit West*, which begins with Nadia and Saeed, two young adults in an unnamed country on the brink of war. The novel's triumph comes in sparse prose full of humanizing details; we meet Nadia and Saeed not as refugees but as individuals with families, studies, and occupations (pp. 3–21). Their experience in war, Hamid tells us, could happen to any of us.

Exit West, nominated for the Man Booker Prize,⁵ imagines that a simple doorway could connect countries and teleport humans instantly across the globe. These doors “could take you elsewhere, often to places far away, well removed from this death trap of a country. . . . A normal door, they said, could become a special door, and it could happen without warning, to any door at all” (p. 72).

Predictably, doors that allow for immediate transportation from place to place are quickly “discussed by world leaders as a major global crisis” and are tracked and observed closely by government surveillance.⁶ Not all doors are as closely guarded: “[D]oors out, which is to say the doors to richer destinations, were heavily guarded, but the doors in, the doors from poorer places, were mostly left unsecured, perhaps in the hope that people would go back to where they came from—although almost no one ever did” (p. 106).

One device proves useless for travel: “[V]isas, which had long been near-impossible, were now truly impossible for non-wealthy people to secure, and journeys on passenger planes and ships were therefore out of the question” (pp. 52–53). States that could offer safety have closed legal pathways to people fleeing from danger, and doors do not spare Nadia and Saeed from refugee camps, hunger, dishonest people smugglers (pp. 106, 113–16), militarized migration controls,⁷ or the arbitrariness of international aid systems.⁸

The doors allow Nadia and Saeed to travel from their home country to a Greek island to London and to the Bay Area, all in less than a year. The two, who started as a young couple and then as partners in their flight to safety, became more distant from each other as they traveled (p. 133). Nadia sought integration and connection with refugees of other nationalities, while Saeed sought solace from their conationals. Both identified as Muslim, but Saeed

5. Ruby Mellen, ‘Dishonesty Comes Through Omission’: An Interview with Mohsin Hamid, FOREIGN POL’Y, (Oct. 17, 2017, 2:34 PM), <http://foreignpolicy.com/2017/10/17/dishonesty-comes-through-omission-an-interview-with-mohsin-hamid-trump-refugees-migration/> [https://perma.cc/9VXF-VNSM].

6. P. 88; see also p. 92.

7. Armed soldiers guarded a building in Greece rumored to house a door. P. 112. And soon after Nadia and Saeed’s arrival in London, armed guards attempted to evict a group of migrants, who “were terrified,” since “most had seen firsthand what the police and soldiers could do.” P. 127.

8. Nadia develops a personal connection with a worker at a clinic, who facilitates Nadia and Saeed’s onward travel to London through a second door. Pp. 117–18.

grew more observant. “[T]he farther they moved from the city of their birth . . . the more he sought to strengthen his connection to it,” and he became more devout, while Nadia “did not pray, and she avoided speaking their language, and she avoided their people” (p. 187). For Saeed, prayer provided its own means of teleportation, a way to connect with his family and his country (pp. 202–03).

By the end of the novel, Nadia and Saeed have arrived in a place where it seems that they are safe and where they can stay, and they part ways. Though the doors could facilitate their return home, Nadia does not return until decades later, when she meets Saeed for coffee (pp. 229–31).

In an interview, Hamid stated that he believes the doors described in his novel are “emotionally true to our current technological reality. You can open your computer and look at somebody via Skype. . . . Or I can step on an airplane, as I did the other day, and within a few hours be in New York.”⁹ Hamid offers hope that empathy can open doors across borders because “[w]e are all migrants through time” (p. 209).

II. REFUGEES’ DOORS TO SAFETY

This Part discusses the challenges that refugees face in accessing a door—that is, in escaping their country and accessing a “durable solution.” *Exit West*’s fantastical doors allow refugees who have access to a door to travel at will to safer or more desirable locations. Reality is this: the vast majority of refugees today live in perpetual limbo—without permanent residence or economic rights and with nowhere else to go.¹⁰ States have prevented asylum-seekers from accessing the state’s territory and, as part of the strategy to limit asylum-seekers or justify limitations on asylum-seekers, opened offshore resettlement programs that accept small numbers of vetted refugees.¹¹ The doors saved Nadia and Saeed from a perilous journey across the Mediterranean Sea. But once refugees have fled from their countries, like Nadia and Saeed, they may face xenophobic violence, be left in legal limbo, and live in absolute poverty without adequate food or shelter (pp. 122–23, 127, 159).

A. *The Right to Seek Asylum*

The Universal Declaration of Human Rights proclaims that “[e]veryone has the right to seek and to enjoy in other countries asylum from persecution.”¹² In turn, the 1951 Convention Relating to the Status of Refugees

9. *Mohsin Hamid’s Novel ‘Exit West’ Raises Immigration Issues*, NPR (Mar. 6, 2017, 5:12 AM), <https://www.npr.org/2017/03/06/518743041/mohsin-hamids-novel-exit-west-raises-immigration-issues> (on file with the *Michigan Law Review*).

10. See *infra* Section II.B.

11. See *infra* Section III.

12. G.A. Res. 217 (III) A, Universal Declaration of Human Rights, art. 14 (Dec. 10, 1948).

(“1951 Refugee Convention”) prohibits states from penalizing “refugees who, coming directly from a territory where their life or freedom was threatened . . . enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.”¹³ International law, including the 1951 Refugee Convention, prohibits “refoulement,” or the forcible return of individuals to persecution.¹⁴ Thus, an individual fleeing from persecution has the right to seek asylum, if necessary through illegal entry, and protection from being forcibly returned until the person is determined not to be at risk or until the risk ends.¹⁵

But it is increasingly difficult to become a refugee—that is, to leave one’s country of origin and to access the territory of another state where one can claim asylum.¹⁶ As was true for Nadia and Saeed, visas are generally “impossible for non-wealthy people to secure” when fleeing danger (pp. 52–53). And as was true for the governments in *Exit West*, any means of irregular border crossing becomes “a major global crisis” (p. 88). Whereas citizens of Germany can travel without a visa to 165 countries, citizens of conflict-torn, refugee-producing Sudan, Yemen, Somalia, Syria, Iraq, and Afghanistan can access 43 or fewer countries without a visa.¹⁷ Tens of thousands of Syrian refugees, for example, remain stranded in the border area between Syria and Jordan, out of reach of humanitarian aid, unwilling to return the dangers of Syria, and prohibited from entering Jordan.¹⁸ This is by design: “The use of visa controls, often enforced by carrier sanctions . . . [means that] jurisdiction over the persons intended to be deterred may never be established.”¹⁹ In other words, states seek to limit individuals fleeing from persecution from accessing their territory, in an attempt to avoid legal obligations to those individuals, including the duty of nonrefoulement.²⁰

13. Convention Relating to the Status of Refugees art. 31(1), July 28, 1951, 189 U.N.T.S. 137 [hereinafter 1951 Refugee Convention].

14. *Id.* art. 33; James C. Hathaway, *Refugees and Asylum*, in FOUNDATIONS OF INTERNATIONAL MIGRATION LAW, 177, 181–82 (Brian Opeskin et al. eds., 2012) (noting that the 1951 Refugee Convention and other complementary international and regional treaties prohibit forcible return of refugees and others in fear of danger).

15. Hathaway, *supra* note 14, at 193.

16. 1951 Refugee Convention, *supra* note 13, art. 1(a)(2) (defining a refugee as a person who “is outside the country of his nationality”).

17. *Global Passport Power Rank 2018*, PASSPORT INDEX, <https://www.passportindex.org/byRank.php> [<https://perma.cc/EPA8-CRSM>] (data as of Oct. 31, 2018).

18. Aaron Magid, *Amman’s Refugee Waiting Game: The Time Bomb on Jordan’s Border*, FOREIGN AFF. (May 24, 2017), <https://www.foreignaffairs.com/articles/jordan/2017-05-24/ammans-refugee-waiting-game> [<https://perma.cc/3KAU-VE8S>].

19. Hathaway, *supra* note 14, at 196.

20. *Id.* at 192–93, 196.

B. *Durable Solutions*

For those who are able to flee from their own country, access to territory may not be enough. Nadia and Saeed were able to escape from their homeland through a door, but only after extensive travel were they able to access long-term legal status and a durable solution. Refugees' humanitarian needs are addressed when they can access one of three "durable solutions": voluntary repatriation, or returning to the refugee's country of origin; local integration, or gaining permanent residence and economic and social rights in the refugee's country of asylum; and resettlement, or legal admission into a country that offers social and economic rights.²¹ A solution is "durable" only if it provides a refugee with physical safety, enjoyment of basic human rights, and long-term legal status in the country.²² For the overwhelming number of today's 22 million refugees, each of these durable solutions is out of reach.²³

First, voluntary repatriations: fewer than 127,000 refugees repatriated to their country of origin in 2015, and even those repatriations were described by UNHCR as occurring "in less than ideal circumstances and against a complex backdrop of ongoing protection challenges."²⁴ Nadia and Saeed knew that they could not return, because "no one returning through a door who was known to have fled [the militants'] rule was allowed to live" (p. 114). But Nadia and Saeed saw some refugees, who were unable to continue their journeys or who were living in absolute poverty, return nonetheless to danger by taking doors known as "mousetraps" (p. 115). Instead of voluntary repatriation, refugees have returned to their countries of origin despite ongoing instability, and some are forced to return because they faced exploitation, debt, and lack of legal protection in their countries of asylum.²⁵

Second, local integration: most refugees live in developing countries close to their countries of origin and where they are not afforded legal pathways to long-term residence or naturalization.²⁶ Nadia and Saeed found

21. UNHCR, *Framework for Durable Solutions for Refugees and Persons of Concern*, U.N. Doc. EC/53/SC/INF.3 (Sept. 16, 2003), <http://www.refworld.org/docid/4ae9ac93d.html> (on file with the *Michigan Law Review*).

22. UNHCR, UNHCR RESETTLEMENT HANDBOOK 32–38 (2011), <http://www.unhcr.org/46f7c0ee2.pdf> [<https://perma.cc/2BKC-XQ8B>] (discussing the necessary requirements for each durable solution, which requires in each instance personal security and access to rights).

23. UNHCR, *supra* note 2, at 2.

24. UNHCR, UNHCR'S STRATEGIC DIRECTIONS 2017–2021, at 7 (2017), <http://www.unhcr.org/5894558d4.pdf> [<https://perma.cc/AEK6-SRVJ>].

25. See, e.g., Kevin Sieff, 'What Other Choice Do I Have?: How Debt-Ridden Refugees Are Being Forced to Return to a War Zone', WASH. POST (Dec. 15, 2017), <http://www.washingtonpost.com/sf/world/2017/12/15/how-refugees-are-being-forced-back-to-a-war-zone-to-repay-their-debts/> [<https://perma.cc/K3HN-LPSX>] (describing Somali refugees in Kenya returning to Somalia because of debt in refugee camps and being caught in conflict upon their return to Somalia).

26. Karen Jacobsen, *The Forgotten Solution: Local Integration for Refugees in Developing Countries* 1 (U.N. High Comm'r for Refugees, New Issues in Refugee Research Working Paper

themselves reliant on their own savings in their country of first asylum and understanding of fellow refugees' desperation and hunger. Instead of benefitting from local integration in countries where they have social and economic rights, refugees have overwhelmingly remained in developing countries where access to employment and residence is often curtailed.²⁷

Recent international-advocacy efforts to improve access to work permits for refugees in Turkey, the country hosting the largest number of refugees, have benefitted few refugees' integration in the legal labor market.²⁸ In 2016, Turkey announced that it would allow Syrian refugees to obtain work permits; it remains unlawful for refugees to work without work permits.²⁹ Extensive requirements and costs, including quotas limiting the number of refugees employed in a firm, have kept work permits and access to the legal labor market out of reach for the overwhelming number of refugees in Turkey.³⁰ A year and a half after the new system was announced, only 14,000 work permits had been issued to Turkey's 3.5 million refugees.³¹ To be sure, Turkey has extended other government services to refugees, including access to health care and public education.³² But most refugees in Turkey do not have access to local integration—or the other durable solutions.³³

In Jordan, international-advocacy efforts resulted in the Jordan Compact, in which Jordan agreed to provide 200,000 work permits to Syrian refugees over several years in exchange for significant international infrastruc-

No. 45, 2001), <http://www.unhcr.org/en-us/research/working/3b7d24059/forgotten-solution-local-integration-refugees-developing-countries-karen.html> (on file with the *Michigan Law Review*) (noting that refugees living in countries of first asylum generally do not have access to work, legal status, or education).

27. See UNHCR, *supra* note 2, at 2, 27–29.

28. See Lauren Frayer, *For Syrian Refugees in Turkey, a Long Road to Regular Employment*, NPR: PARALLELS (Aug. 14, 2017, 4:54 PM), <https://www.npr.org/sections/parallels/2017/08/14/543471407/for-syrian-refugees-in-turkey-a-long-road-to-regular-employment> (on file with the *Michigan Law Review*) (“Turkish government statistics show out of the 3 million Syrians here, fewer than 14,000 had work permits by January—a year into the program.”).

29. IZZA LEGHTAS & ANN HOLLINGSWORTH, REFUGEES INT’L, “I AM ONLY LOOKING FOR MY RIGHTS”: LEGAL EMPLOYMENT STILL INACCESSIBLE FOR REFUGEES IN TURKEY 2, 5 (2017), <https://static1.squarespace.com/static/506c8ea1e4b01d9450dd53f5/t/5a256cd30d92971cbf01879a/1512402132711/Turkey+Report+Final.pdf> [<https://perma.cc/W9LG-YMDS>].

30. *Id.* at 5; Lisa DiCarlo, *The False Assimilation of Syrian Refugees in Turkey*, U.S. NEWS & WORLD REP. (Apr. 11, 2017, 9:32 AM), <https://www.usnews.com/news/best-countries/articles/2017-04-11/the-false-assimilation-of-syrian-refugees-in-turkey> (on file with the *Michigan Law Review*) (noting that, because Turkish employers' incentive for hiring Syrian refugees is the ability to pay them below minimum wage, employers are reluctant to legally hire refugees, leaving refugees in Turkey vulnerable to labor exploitation).

31. LEGHTAS & HOLLINGSWORTH, *supra* note 29, at 2, 5; Frayer, *supra* note 28.

32. Frayer, *supra* note 28 (noting that refugees in Turkey receive free health care and enrollment in public schools).

33. UNHCR, RESETTLEMENT UPDATE: TURKEY (2017), <https://data2.unhcr.org/en/documents/download/59598> [<https://perma.cc/D4PD-QB72>].

tural and financial assistance.³⁴ But, as in Turkey, many employers preferred to pay refugees lower wages than to pay them above the table, and some refugees found that they could make a better living working freelance than when tied to a single employer.³⁵ By December 2017, the government had issued 70,000 work permits, including expired work permits and renewals of existing work permits, which fell short of the Compact's target.³⁶ In Jordan, too, most refugees live without access to local integration or another durable solution.³⁷

Third, refugee resettlement offers a critical opportunity for refugees to obtain legal status in a safe and stable country, but resettlement is available to only a small cohort of refugees each year. In 2016, UNHCR facilitated resettlement of 125,800 refugees to 37 resettlement countries; this number is dwarfed by more than 1.2 million refugees who were expected to need resettlement in 2018.³⁸ States are not required to offer refugee-resettlement programs,³⁹ though the UNHCR encourages states to do so as a means to provide refugees with a durable solution.⁴⁰ To return to Turkey as an example, "[r]esettlement is the most accessible durable solution for the majority of refugees in Turkey . . . [but] less than 1% of the refugee population in Turkey are submitted for resettlement every year."⁴¹

Resettlement programs, which are laudable means of providing refugees with a durable solution, have been used by sponsoring states to limit and to

34. VICTORIA KELBERER, BOS. CONSORTIUM FOR ARAB REGION STUDIES, THE WORK PERMIT INITIATIVE FOR SYRIAN REFUGEES IN JORDAN: IMPLICATIONS FOR POLICY AND PRACTICE 11–12 (2017), <https://www.bu.edu/ioc/files/2017/02/Work-Permit-Initiative-for-Syrian-Refugees-in-Jordan-1.pdf> [<https://perma.cc/T29C-7G2W>]; Daniel Howden et al., *The Compact Experiment: Push for Refugee Jobs Confronts Reality of Jordan and Lebanon*, NEWS DEEPLY: REFUGEES DEEPLY (Dec. 2017), <http://issues.newsdeeply.com/the-compact-experiment> [<https://perma.cc/JJ3C-47K2>].

35. Howden et al., *supra* note 34.

36. *Id.*

37. See, e.g., JORDAN INGO FORUM, SYRIAN REFUGEES IN JORDAN, A PROTECTION OVERVIEW 19 (2018), <https://reliefweb.int/sites/reliefweb.int/files/resources/JIF-ProtectionBrief-2017-Final.pdf> [<https://perma.cc/PG2D-2PVM>] (“[A]ccess to documentation/regularization of status of refugees, unsafe school environment, the restriction on sectors allowed to refugees, but also forced relocation and detention continue to be barriers to a safe, dignified and protection life for Syrian refugees in Jordan.”).

38. UNHCR, UNHCR PROJECTED GLOBAL RESETTLEMENT NEEDS 2018, at 9–10 (2017), <http://www.unhcr.org/en-us/protection/resettlement/593a88f27/unhcr-projected-global-resettlement-needs-2018.html> [<https://perma.cc/9AKU-YCEH>].

39. UNHCR, *supra* note 22, at 36 (“Resettlement is not a right, and there is no obligation on States to accept refugees through resettlement.”).

40. *Id.* at 115 (“The role of [UNHCR] is to . . . advocate for additional resettlement places . . . [and] diversify and expand resettlement opportunities and programmes . . .”); see also Final Act of the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons 4(d), 189 U.N.T.S. 137 (1951) (“The Conference . . . recommends that Governments . . . act in concert in a true spirit of international co-operation in order that these refugees may find asylum and the possibility of resettlement.”).

41. UNHCR, *supra* note 33, at 1.

justify limits on asylum claims—often by citing irregular border crossings or people smuggling.⁴² As with government responses in *Exit West*, states react to restore their ability to control access to their territory. Irregular border crossings, like doors, prevent states from screening individuals outside their territory before entry. However, the next Part argues that resettlement programs are also often intended to ensure that refugees are vetted outside a state's territory, thereby limiting an individual's right to claim asylum and obtain protection from forcible return.

III. RESETTLEMENT AS A TOOL TO LIMIT ASYLUM CLAIMS

Having discussed refugees' limited access to asylum and durable solutions, this Review now addresses states' efforts to limit, or to justify limits on, asylum claims through refugee resettlement programs. Section III.A discusses the ways in which states have used refugee resettlement to avoid their legal obligations to refugees. Section III.B then discusses three case examples: Section III.B.1 examines the United States, which began its policy of deterring domestic asylum-seekers several decades ago by interdicting Haitian asylum-seekers even as it established an offshore resettlement program. Section III.B.2 considers Australia, which diverts maritime asylum-seeker arrivals to the islands of Manus and Nauru, where Australia disclaims international obligations to these individuals, even as Australia maintains a refugee-resettlement program, its preferred method of providing international protection. Finally, Section III.B.3 discusses the European Union, which has worked at great expense to end crossings from Libya and Turkey into Greece and Italy, while opening pathways for offshore refugee screening.

A. Resettlement as a Means to Limit "Onshore" Asylum Claims

States have prevented asylum-seekers from arriving in their territory and lodging claims for international protection.⁴³ Asylum claims in a state's terri-

42. U.S. DEP'T OF STATE ET AL., PROPOSED REFUGEE ADMISSIONS FOR FISCAL YEAR 2015, at iii–iv (2014), <https://www.state.gov/documents/organization/232029.pdf> [<https://perma.cc/S57Q-QUEE>] (stating that the U.S. government would establish a new resettlement program “to reduce unlawful and dangerous migration to the United States”); Chloe Farand, *Emmanuel Macron Says France Will Set up Refugee ‘Hotspots’ in Libya*, INDEPENDENT (July 30, 2017, 1:50 PM), <https://www.independent.co.uk/news/world/europe/emmanuel-macron-france-hotspots-libya-migrants-a7867466.html> [<https://perma.cc/XB7S-L8DT>] (quoting French President Emmanuel Macron promoting a proposed resettlement program because “people avoid taking crazy risks when they are not eligible for asylum.”).

43. Hathaway, *supra* note 14, at 193 (describing “the adoption by many States of ‘non-entrée’ policies, pursuant to which an effort is made to divert refugees away from their jurisdiction by indirect means (such as visa requirements), or by taking action outside their jurisdiction (including on the high seas) to force refugees back to their home State. The latter tactic . . . is proscribed by the Refugee Convention’s attribution of art. 33 duties on the basis of jurisdiction (rather than arrival in a State’s territory) if the result is direct or indirect *refoulement*” (footnotes omitted)); *see, e.g.*, Proclamation No. 4865, 3 C.F.R. 50 (1981), *reprinted in* 8 U.S.C. § 1182, at 168 (2012) (requiring interdiction of Haitian maritime asylum-seekers); *Reagan Or-*

tory are referred to here as “onshore” refugee processing—as contrasted with “offshore” refugee resettlement, or legal pathways for refugee admissions after screening outside the state’s territory. As in *Exit West* (pp. 92, 116), governments establish armed guards and close surveillance to prevent individuals, including those fleeing from persecution, from entering the state’s territory through irregular means.

An individual who receives protection through either domestic asylum or refugee resettlement would access comparable protection: long-term residency, social and economic rights, and a path to naturalization.⁴⁴ Refugees filing a domestic asylum claim can request international protection if they are able to enter the country’s territory,⁴⁵ whereas “offshore” refugee processing allows a state to limit quotas and to set parameters for admission.⁴⁶ Only 125,000 refugees out of more than 22 million refugees were resettled in 2016.⁴⁷ Individuals who request asylum from within a state’s territory may be deported if their claim is unsuccessful, but they will often have other due process protections, including the opportunity to appeal.⁴⁸

ders Aliens Stopped on the High Sea, N.Y. TIMES, Sept. 30, 1981, at A1, <https://www.nytimes.com/1981/09/30/us/reagan-orders-aliens-stopped-on-the-high-sea.html> (on file with the *Michigan Law Review*); Elizabeth Collett, *The Paradox of the EU-Turkey Refugee Deal*, MIGRATION POL’Y INST. (Mar. 2016), <https://www.migrationpolicy.org/news/paradox-eu-turkey-refugee-deal> [<https://perma.cc/C3SS-F2KB>] (explaining the European Union’s agreement with Turkey, in which Turkey would prevent refugees’ onward travel from Turkey to Europe); Matt Siegel, *Australia Adopts Tough Measures to Curb Asylum Seekers*, N.Y. TIMES (July 19, 2013), <http://www.nytimes.com/2013/07/20/world/asia/australia-adopts-tough-measures-to-curb-asylum-seekers.html> (on file with the *Michigan Law Review*) (describing Australia’s policy of routing maritime arrivals to the islands of Manus and Nauru).

44. See, e.g., Jie Zong & Jeanne Batalova, *Refugees and Asylees in the United States*, MIGRATION POL’Y INST. (June 7, 2017), <https://www.migrationpolicy.org/article/refugees-and-asylees-united-states> [<https://perma.cc/22R4-Q6S3>] (“As lawful permanent residents, refugees and asylees have the right to own property, attend public schools, join certain branches of the U.S. armed forces, and travel internationally without an entry visa, and may apply for U.S. citizenship five years after being admitted as a refugee.”).

45. Under the 1951 Refugee Convention, an asylum-seeker has the right to claim asylum in the country in which she is physically present. See JAMES C. HATHAWAY & MICHELLE FOSTER, *THE LAW OF REFUGEE STATUS* 31–33 (2d ed. 2014) (“[F]ailure to claim protection in one’s region of origin or in the first safe country of arrival is not grounds for refusing to recognize refugee status.”).

46. UNHCR, *supra* note 22, at 361 (“Resettlement depends on the willingness of the resettlement country to accept a refugee for legal stay in its territory, in accordance with its laws and regulations.”).

47. UNHCR, *supra* note 38, at 9–10; UNHCR, *supra* note 2, at 13.

48. See, e.g., *Almost Half of Rejected Asylum Seekers in Germany Winning on Appeal*, DW (Jan. 15, 2018), <http://p.dw.com/p/2qsav> [<https://perma.cc/UM8D-Z2Q8>] (noting asylum-seekers’ success in Germany on appeal after receiving negative asylum decisions); Neil Cuthbert & Jiyoung Song, *Removal of Failed Asylum Seekers in Australia: A Comparative Perspective* (Migration & Border Pol’y Project, Lowy Inst., Working Paper No. 2, 2017), <https://www.lowyinstitute.org/sites/default/files/documents/Removal%20of%20failed%20asylum%20seekers%20in%20Australia.pdf> [<https://perma.cc/E5CQ-JXPU>] (describing Australian, British, and Canadian asylum procedures, including the right to claim asylum and removal processes for rejected asylum claims).

Given that most refugees do not have access to any durable solution, it should be unsurprising that many refugees have undertaken dangerous journeys to places like the United States, Australia, or Western Europe in an attempt to access asylum in a country that offers long-term residency and social and economic rights.⁴⁹ In the examples cited below, states have sought to limit desperate individuals from arriving spontaneously in their countries: instead, in states' view, "good" refugees will seek to enter through a legal resettlement channel.⁵⁰ Having erected physical and legal barriers to entry in violation of international law, states open resettlement programs with the promise to open the smallest of doors to prescreened refugees.

To be clear: refugee resettlement is an essential element of any refugee-protection scheme, and refugee resettlement should be supported and drastically expanded to provide vulnerable refugees with a legal pathway to safety in a resettlement state⁵¹—where growing bodies of evidence find economic benefits from resettlement programs.⁵² But refugee resettlement should not come at the cost of the right to seek asylum, a bedrock principle at the heart of the international human rights regime.⁵³ These case studies present three efforts, two state and one regional, to limit onshore asylum while using refugee resettlement as a deterrent and justification for limiting access to asylum.

49. See, e.g., Tharanga Yakupitiyage, *Thousands Still Dying at Sea En Route to Europe*, INTER PRESS SERV. (Jan. 15, 2018), <http://www.ipsnews.net/2018/01/thousands-still-dying-sea-en-route-europe/> [<https://perma.cc/69DN-NPT2>] (noting that, in just one week in early 2018, 160 people were feared to have drowned in the Mediterranean).

50. See, e.g., Maria O'Sullivan, *Questioning the Australian Refugee Model*, NEWS DEEPLY: REFUGEES DEEPLY (Jan. 9, 2018), <https://www.newsdeeply.com/refugees/community/2018/01/09/questioning-the-australian-refugee-model> (on file with the *Michigan Law Review*) (noting that the Australian government views the proper way of seeking refugee protection as applying through the offshore resettlement program).

51. UNHCR, *supra* note 22, at 36 (noting the role of resettlement in promoting individual refugees' access to safety and fundamental rights, providing a durable solution, and providing a mechanism for resettlement states to express solidarity with refugee-hosting countries).

52. See, e.g., CHMURA ECON. & ANALYTICS, *ECONOMIC IMPACT OF REFUGEES IN THE CLEVELAND AREA* (2013), <https://www.hias.org/sites/default/files/clevelandrefugeeeconomic-impact.pdf> [<https://perma.cc/438Y-SATD>]; Julie Hirschfeld Davis & Somini Sengupta, *Trump Administration Rejects Study Showing Positive Impact of Refugees*, N.Y. TIMES (Sept. 18, 2017), <https://www.nytimes.com/2017/09/18/us/politics/refugees-revenue-cost-report-trump.html> (on file with the *Michigan Law Review*) (describing a draft report from the Department of Health and Human Services finding that the "net fiscal impact of refugees was positive over the 10-year period [from 2005 to 2014], at \$63 billion"); William N. Evans & Daniel Fitzgerald, *The Economic and Social Outcomes of Refugees in the United States: Evidence from the ACS 6-7* (Nat'l Bureau of Econ. Research, Working Paper No. 23498, 2017), <http://www.nber.org/papers/w23498> (on file with the *Michigan Law Review*) (finding that resettled refugees contribute, on average, \$21,000 in taxes more than benefits received in the twenty years after admission to the United States).

53. See Universal Declaration of Human Rights, *supra* note 12, art. 14(1); UNHCR, *supra* note 22, at 38 ("By offering an appropriate solution to refugees with individual protection or specific needs, UNHCR seeks to reinforce asylum in host countries by relieving the strain on them, thereby promoting durable solutions benefiting the entire refugee population concerned.").

B. *Case Studies*

1. United States

The United States has long worked to prevent asylum-seekers from landing on its territory and has used refugee resettlement to discourage irregular migration. In the 1980s, waves of asylum-seekers fleeing Haiti attempted the dangerous sea journey to the United States.⁵⁴ U.S. President Ronald Reagan issued a series of executive decisions ordering the U.S. Coast Guard to interdict these vessels and prevent their onward journey to the United States.⁵⁵ In 1993, the Supreme Court held that international obligations, including those derived from the 1951 Refugee Convention, did not apply extraterritorially to Haitian asylum-seekers interdicted by U.S. Coast Guard vessels.⁵⁶ In 2010, in the aftermath of the devastating earthquake in Haiti, then-Secretary of State Hillary Clinton affirmed that interdiction would continue to be U.S. policy: “Our ordinary and regular immigration laws will apply going forward, which means that we are not going to be accepting into the United States Haitians who are attempting to make it to our shores. They will be interdicted. They will be repatriated.”⁵⁷ Individuals seeking international protection were, and are, denied access to U.S. territory.

Yet just one year before President Reagan ordered interdiction of asylum-seekers attempting to arrive by sea, Congress enacted the 1980 Refugee Act,⁵⁸ which established a system for refugee resettlement to the United States.⁵⁹ This system facilitated the resettlement of several hundred thousand refugees during the Reagan presidency.⁶⁰

More recently, resettlement was used explicitly to decrease irregular border crossings to the United States. In 2014, the United States opened a refugee-resettlement program for Central American minors, children who were still in their country of origin but who had a parent with legal status in

54. See *Reagan Orders Aliens Stopped on the High Sea*, *supra* note 43.

55. Proclamation No. 4865, 3 C.F.R. 50–51 (1981), *reprinted in* 8 U.S.C. § 1182, at 168 (2012); Exec. Order No. 12,324, 3 C.F.R. 180–82 (1981).

56. *Sale v. Haitian Ctrs. Council, Inc.*, 509 U.S. 155 (1993).

57. Michael A. Clemens, Opinion, *To Help Haiti's Earthquake Victims, Change U.S. Immigration Laws*, WASH. POST (Jan. 24, 2010), <http://www.washingtonpost.com/wp-dyn/content/article/2010/01/22/AR2010012202274.html> [<https://perma.cc/X5M8-TZ78>].

58. Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 102 (codified as amended in scattered sections of 8 U.S.C.).

59. See 8 U.S.C. § 1157 (2012) (setting a system for annual admission of refugees).

60. See *U.S. Annual Refugee Resettlement Ceilings and Number of Refugees Admitted, 1980-Present*, MIGRATION POLY INST., <https://www.migrationpolicy.org/programs/data-hub/charts/us-annual-refugee-resettlement-ceilings-and-number-refugees-admitted-united> [<https://perma.cc/3GHN-XAVW>] (presenting annual refugee admissions by fiscal year, including the years of President Reagan's presidency).

the United States.⁶¹ The program was explicitly intended to reduce irregular border crossings: “One element in our comprehensive strategy to reduce unlawful and dangerous migration to the United States is the planned establishment of in-country refugee programs for minors in Honduras, El Salvador, and Guatemala.”⁶² By resettling refugees through offshore, screened programs, President Obama’s administration hoped to decrease border crossings and onshore asylum claims.

U.S. government policy under President Donald Trump has shifted to limit both forms of refugee protection— asylum and refugee resettlement. The Central American Minors (CAM) refugee program was canceled in 2017.⁶³ The U.S. government was scheduled to resettle up to 110,000 refugees in its 2017 fiscal year;⁶⁴ but then-recently elected President Trump capped refugee admissions for that year at 50,000,⁶⁵ limited resettlement for fiscal year 2018 to 45,000, and is likely to resettle far fewer.⁶⁶ The United States has aggressively prosecuted asylum-seekers seeking to enter the country without authorization⁶⁷—policy that clearly violates the 1951 Refugee Convention.⁶⁸

2. Australia

Since 2013, Australia has prevented asylum-seekers who arrive by boat and without valid visas from applying for asylum.⁶⁹ Instead, asylum-seekers

61. *In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors – CAM)*, U.S. CITIZENSHIP & IMMIGR. SERVS. [hereinafter U.S. CITIZENSHIP & IMMIGR. SERVS., CAM], <https://www.uscis.gov/CAM> [<https://perma.cc/RTS5-GWB7>] (last updated Nov. 15, 2017).

62. U.S. DEP’T OF STATE ET AL., *supra* note 42, at iii–iv.

63. U.S. CITIZENSHIP & IMMIGR. SERVS., CAM, *supra* note 61.

64. U.S. DEP’T OF STATE ET AL., PROPOSED REFUGEE ADMISSIONS FOR FISCAL YEAR 2017, at ii (2016), <https://www.state.gov/documents/organization/262168.pdf> [<https://perma.cc/CH79-3XKL>].

65. Exec. Order No. 13,769, 3 C.F.R. 272 (2017).

66. U.S. DEP’T OF STATE ET AL., PROPOSED REFUGEE ADMISSIONS FOR FISCAL YEAR 2018, at 6 (2017), <https://www.state.gov/documents/organization/274857.pdf> [<https://perma.cc/XRT2-TB3T>]; Conor Finnegan, *Trump Admits Less than Quarter of Proposed Refugees at Six-Month Mark*, ABC NEWS (Mar. 30, 2018, 4:25 PM), <http://abcnews.go.com/Politics/trump-admits-quarter-proposed-refugees-month-mark/story?id=54123008> [<https://perma.cc/8BRX-3V5F>].

67. HUMAN RIGHTS FIRST, PUNISHING REFUGEES AND MIGRANTS: THE TRUMP ADMINISTRATION’S MISUSE OF CRIMINAL PROSECUTIONS 3–4 (2018), <https://www.humanrightsfirst.org/sites/default/files/2018-Report-Punishing-Refugees-Migrants.pdf> [<https://perma.cc/GGH6-DGDF>] (“CBP officers refer, and DOJ often prosecutes, asylum seekers for illegal entry into or presence in the United States regardless of their intention to seek protection, and no federal district along the border has a policy of exempting asylum seekers from criminal prosecution.”).

68. 1951 Refugee Convention, *supra* note 13, art. 31(1).

69. Lisa Jane Archbold, *Offshore Processing of Asylum Seekers – Is Australia Complying with Its International Legal Obligations?*, QUT L. REV., no. 1, 2015, at 137; Siegel, *supra* note 43.

have been warehoused on the Pacific islands of Manus and Nauru, where they have languished in shockingly inhumane conditions.⁷⁰ In effect, Australia has sought to avoid obligations under the 1951 Refugee Convention toward asylum-seekers by denying refugees access to its territory.⁷¹ When New Zealand offered to resettle 150 refugees living on Manus and Nauru, Australia declined the offer, citing concern that this might encourage future asylum-seekers to attempt the journey to Australia.⁷²

Even as Australia has denied thousands of refugees the chance to claim asylum in its territory, it has maintained a UNHCR-sponsored resettlement program.⁷³ “Successive Australian governments have justified the offshore system by emphasizing that resettlement is the ‘proper’ mode for claiming asylum as it ensures protection is given to those refugees who are most in need.”⁷⁴ This deterrence policy comes at a steep humanitarian—and fiscal—cost. Housing refugees in Manus and Nauru cost Australia nearly \$3.9 billion, in addition to millions paid out in legal fees to those detained, a cost that Australia appears to deem justifiable in the interest of deterring future onshore asylum claims.⁷⁵

3. European Union

In the wake of mass arrivals of asylum-seekers walking across Europe in 2015, the European Union began to take significant steps to fortify its bor-

70. Behrouz Boochani, ‘This is Hell Out Here’: How Behrouz Boochani’s Diaries Expose Australia’s Refugee Shame, *GUARDIAN* (Dec. 4, 2017, 12:30 AM), <https://www.theguardian.com/world/2017/dec/04/this-is-hell-behrouz-boochani-diaries-expose-australia-refugee-shame> (on file with the *Michigan Law Review*); ANDREW & RENATA KALDOR CTR. FOR INT’L REFUGEE LAW, FACTSHEET: WHO IS LEGALLY RESPONSIBLE FOR OFFSHORE PROCESSING ON MANUS AND NAURU? (2018), http://www.kaldorcentre.unsw.edu.au/sites/default/files/Factsheet_Legal%20responsibility%20offshore_11.08.08.pdf [<https://perma.cc/5TQB-9YTG>].

71. However, states are responsible for their action no matter where it occurs. Because Australia has funded and overseen the detention of asylum-seekers on Manus and Nauru, advocates and scholars have submitted that Australia is liable for human rights abuses occurring there. See Hathaway, *supra* note 14, at 196; AMNESTY INT’L, ISLAND OF DESPAIR: AUSTRALIA’S “PROCESSING” OF REFUGEES ON NAURU 44–46 (2016), <https://www.amnesty.org/en/documents/asa12/4934/2016/en/> [<https://perma.cc/8PMR-VCHY>].

72. Eleanor Ainge Roy, *Jacinda Ardern Denies Report that Asylum Offer Led to Surge in People Smuggling*, *GUARDIAN* (Jan. 22, 2018, 11:40 PM), <https://www.theguardian.com/world/2018/jan/23/jacinda-ardern-denies-report-that-asylum-offer-led-to-surge-in-people-smuggling> [<https://perma.cc/K5KK-CVXG>]; Paul Karp & Eleanor Ainge Roy, *New Zealand Seeks Deal with Australia to Resettle Manus and Nauru Refugees*, *GUARDIAN* (Nov. 16, 2017, 9:48 PM), <https://www.theguardian.com/australia-news/2017/nov/17/new-zealand-and-png-could-do-deal-on-refugees-peter-dutton-says> [<https://perma.cc/VL8D-AKUR>].

73. *Resettlement*, UNHCR, <http://www.unhcr.org/en-us/resettlement.html> [<https://perma.cc/T3P6-MNRT>] (stating that only a small number of states, including Australia, take part in UNCHR’s resettlement program).

74. O’Sullivan, *supra* note 50.

75. *Id.*

ders to prevent refugees and migrants from claiming asylum inside the EU.⁷⁶ The EU reached an agreement with Turkey in 2016 to resettle refugees from Turkey to the EU, but the goal of this resettlement program was not to expand refugee protection.⁷⁷ EU states would return new asylum-seeker arrivals from the EU to Turkey, and the EU would resettle refugees directly from Turkey, all with the intent of discouraging irregular migration.⁷⁸ “For [European Union] leaders the objective was clear: to find a way to prevent unchecked arrivals into the European Union.”⁷⁹

As a result of this agreement, tens of thousands of refugees remained trapped in Turkey, in limbo on Greek islands, and trapped in south and central Europe, prevented from moving onward.⁸⁰ “[S]ome Syrian asylum-seekers have been forcibly returned to Turkey without having access to asylum and without being able to appeal against their return, in breach of international law. Others have ‘voluntarily’ returned to Turkey because of the misery on the Greek islands.”⁸¹ Much like Nadia and Saeed’s experience on the island of Mykonos, desperation leads some refugees to return to places where their legal status and safety is uncertain (p. 115). Turkey’s efforts to prevent onward migration from Turkey to Europe have been successful, but as of February 2017, only 3,565 Syrians had been resettled to the EU through the agreement.⁸²

The EU has also expended significant resources to prevent refugees and migrants from reaching Europe by sea routes across the Mediterranean from North Africa.⁸³ EU efforts to prevent maritime arrivals in Europe led to a rapid increase in the number of migrants in Libyan government detention or being held by smugglers in appalling conditions—observers reported seeing “thousands of emaciated and traumatised men, women and children piled on top of each other, locked up in hangars with no access to the most basic

76. EUR. COMM’N, EU-TURKEY STATEMENT: ONE YEAR ON 1 (2017), https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/eu_turkey_statement_17032017_en.pdf [<https://perma.cc/JK48-VQK4>].

77. See *id.* (stating that “EU Heads of State or Government and Turkey agreed on the EU-Turkey Statement to end the flow of irregular migration from Turkey to the EU and replace it with organised, safe and legal channels to Europe”).

78. *Id.* at 2.

79. Collett, *supra* note 43.

80. Nick Squires, *A Year On from EU-Turkey Deal, Refugees and Migrants in Limbo Commit Suicide and Suffer from Trauma*, TELEGRAPH (Mar. 14, 2017, 2:57 PM), <http://www.telegraph.co.uk/news/2017/03/14/year-eu-turkey-deal-refugees-migrants-limbo-commit-suicide-suffer/> [<https://perma.cc/DA25-PPN8>].

81. Kondylia Gogou, *The EU-Turkey Deal: Europe’s Year of Shame*, AMNESTY INT’L (Mar. 20, 2017, 10:20 AM) <https://www.amnesty.org/en/latest/news/2017/03/the-eu-turkey-deal-europes-year-of-shame/> [<https://perma.cc/FMK3-MQF6>].

82. *Id.*

83. See Nima Elbagir et al., *People for Sale: Where Lives Are Auctioned for \$400*, CNN, <https://www.cnn.com/2017/11/14/africa/libya-migrant-auctions/index.html> [<https://perma.cc/HQD8-JBXL>].

necessities, and stripped of their human dignity.”⁸⁴ Migrants report being beaten, tortured, housed in horrific conditions, and sold in a slave market.⁸⁵

EU states are now proposing “hotspots” that would allow them to screen individuals in North Africa for refugee resettlement.⁸⁶ France has announced its intentions to establish “hotspots,” or refugee processing centers, in Libya, Niger, and Chad, because, in the words of French President Emmanuel Macron, “people avoid taking crazy risks when they are not eligible for asylum.”⁸⁷ The program aims both to deter irregular migration and to inform those seeking asylum “that those with legitimate claims of persecution do have a chance for safe passage.”⁸⁸ Critics of this proposal note that offshore refugee screening replaces obligations under international law with voluntary humanitarian gestures. It undermines the institution of asylum and confirms state sovereignty and control over migratory flows. This is to say nothing of the erosion of any agency for the refugees themselves, let alone the likely conditions of hotspots, considering the human rights situation in many of the countries expected to host them.⁸⁹

At the same time, the French government has introduced a new Asylum and Migration Bill that would, if passed, increase the time that onshore asylum-seekers can be detained and criminalize irregular entry into France.⁹⁰ The CAM program in the United States and the EU hotspots in North Africa both aim to reduce irregular border crossings and also provide significant benefits to the individuals resettled through them.⁹¹ It is beneficial to allow people seeking asylum to reach safety without undergoing dangerous journeys. These programs should not, however, be allowed to justify limits on asylum.

84. Agence France-Press, *EU’s Policy of Helping Libya Intercept Migrants Is ‘Inhuman,’ Says UN*, GUARDIAN (Nov. 14, 2017, 1:16 PM), <https://www.theguardian.com/world/2017/nov/14/eu-libya-coastguard-detention-centres-migration-mediterranean-un-zeid-raad-al-hussein> [https://perma.cc/7KDX-HSQ6].

85. *Migrant Slavery in Libya: Nigerians Tell of Being Used as Slaves*, BBC: NEWS (Jan. 2, 2018), <http://www.bbc.com/news/world-africa-42492687> [https://perma.cc/WY2L-X9HR]; Elbagir et al., *supra* note 83.

86. Shani Bar-Tuvia & Marie Walter-Franke, *Why Some E.U. States Want Hotspots in the Sahel*, NEWS DEEPLY: REFUGEES DEEPLY (Nov. 10, 2017), <https://www.newsdeeply.com/refugees/community/2017/11/10/why-some-e-u-states-want-hotspots-in-the-sahel> [https://perma.cc/V4DY-QM9N].

87. Farand, *supra* note 42.

88. Adam Nossiter, *At French Outpost in African Migrant Hub, Asylum for a Select Few*, N.Y. TIMES (Feb. 25, 2018), <https://www.nytimes.com/2018/02/25/world/africa/france-africa-migrants-asylum-niger.html> (on file with the *Michigan Law Review*).

89. Bar-Tuvia & Walter-Franke, *supra* note 86.

90. Hélène Soupios-David, *Op-ed: The French Asylum Bill – A Deeply Unbalanced Proposal*, EUR. COUNCIL ON REFUGEES & EXILES (Mar. 2, 2018), <https://www.ecre.org/op-ed-the-french-asylum-bill-a-deeply-unbalanced-proposal/> [https://perma.cc/GT2T-NGTF].

91. See U.S. CITIZENSHIP & IMMIGR. SERVS., CAM, *supra* note 61; Bar-Tuvia & Walter-Franke, *supra* note 86.

All told, the EU has paid billions of euros to curb migration across the Central Mediterranean and from Turkey into Greece.⁹² EU states' offers to expand resettlement for refugees are, like resettlement policies in the past in the United States and currently in Australia, primarily intended to discourage asylum claims rather than to promote refugees' access to durable solutions.

CONCLUSION

Mohsin Hamid's novel *Exit West* reminds us of refugees' urgent need for doors to safety and the failures of modern asylum systems that prioritize border security over human rights. Hamid's doors allowed refugees from war-torn countries to access safer places without government scrutiny; refugees seeking asylum in places like the United States, Australia, and the European Union, however, find ever-greater obstacles to their own pathways to asylum. Government resettlement programs provide a pathway for only a small number of refugees to access a durable solution even as states build obstacles to domestic asylum claims. States thus fail to uphold their obligation under international law to protect the right to asylum. The Universal Declaration on Human Rights notes that every person has the right to claim asylum from persecution.⁹³ The 1951 Refugee Convention requires signatory states to abstain from criminalizing asylum-seekers in its territory,⁹⁴ and international law prohibits states from forcibly returning individuals to a place where they would face danger or persecution.⁹⁵

Refugee resettlement is a crucial tool to provide refugees with access to safety, and states should drastically expand resettlement programs. But refugee resettlement cannot replace domestic asylum systems. Western states, which host only a tiny portion of the global population of refugees,⁹⁶ forsake their human-rights obligations to the global community and the humanitarian needs of individual refugees when they bar access to asylum on their territory. States must not be allowed to violate the international right to asylum by resettling refugees. Opening the smallest of doors cannot justify building walls.

92. Jennifer Rankin, *EU 'Running Out of Money' to Stop Migrants Travelling from Africa*, GUARDIAN (Oct. 20, 2017, 6:16 AM), <https://www.theguardian.com/world/2017/oct/20/eu-running-out-of-money-stop-migrants-travelling-africa> [<https://perma.cc/3EAS-TM5P>]; Alissa J. Rubin & Jason Horowitz, *European Leaders Look to Africa to Stem Migration*, N.Y. TIMES (Aug. 28, 2017), <https://www.nytimes.com/2017/08/28/world/europe/africa-migrants-europe.html> (on file with the *Michigan Law Review*).

93. This right to asylum, guaranteed in Art. 14(1), is conditioned by Art. 14(2), which denies this protection to individuals who are convicted of "non-political crimes" or "acts contrary to the purposes and principles of the United Nations." Universal Declaration of Human Rights, *supra* note 12, art. 14(2).

94. 1951 Refugee Convention, *supra* note 13, art. 31(1).

95. *Id.* at 33(1).

96. See UNHCR, *supra* note 2, at 2 ("Developing regions hosted 84 per cent of the world's refugees under UNHCR's mandate . . .").