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John Marshall Law School

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Summer 2017

The Sprouting of Human Rights Initiatives in the Midst of a Storm of Resistance to Refugees

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Sarah Dávila-Ruhaak

THE SPROUTING OF HUMAN RIGHTS INITIATIVES IN THE MIDST OF A STORM OF RESISTANCE TO REFUGEES

In response to the atrocities of World War II, the international community promised “Never Again!” Yet the world has turned its back on the humanitarian refugee crisis fomented by massive human rights violations. Millions continue to suffer even as the U.S. and Europe turn these refugees away.¹

But the principle that human rights belong to everybody has animated a community of advocates to effectuate change. This energized spirit of activism amidst a profound humanitarian crisis in Syria and a hostile anti-refugee sentiment in the United States creates a paradox: from human rights violations come human rights initiatives; from xenophobia and anti-refugee sentiment comes human rights and action-oriented initiatives, which seek to protect people by ensuring that they are able to exercise their human rights. These efforts are based on the idea that communities, organizations, and individuals can be agents of change on local, national, and international levels. The focus of this article is on one such project, the Human Rights for Syrians Initiative (HRSI) of the International Human Rights Clinic, a law clinic of which I am the director that seeks to protect the human rights of Syrian refugees in the United States.

Struggles of a Syrian refugee

A writer described the situation he saw in northern Greece, where fifteen improvised camps hold an estimated 55,000 refugees, most of them Syrian families:

I spent the last few days talking to refugees all intending on continuing their journey towards the unknown. Men, women, and children with aches, blistered feet, and injured knees would not be denied their right to continue to search for a safer, more stable home for their families, for jobs, for a warm welcome. Their options are either a trip to the Greek border to Macedonia, either to be successfully smuggled for 800–1000 euros, which they would pay once they had reached Belgrade, Serbia, or to be caught or turned back at the border to walk hours back to the refugee camps.

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In that purgatory, in the camps, they would seek out medical aid, replenish their food and water, and continue by foot to attempt the crossing once more. Many were open about having a smuggler, while others continued as though they had no clue that the borders were shut, that the German Dream that other Syrian refugees had attained was out of sight, at least for a while. Such was the case with the woman who was 5 months pregnant who turned up at our tent after walking 7 hours after being evacuated from Idomeni with her husband. She had not felt the baby move in a day. After a tense hour of examinations, with her husband broken down in tears, paranoid about other men being near our private tent for female patients, but carrying the world on his shoulders, we found the baby to be safe. We told them to return tomorrow for a follow-up. But the baby was not dead. So again they were on the move.²

Emerging initiatives to protect human rights

The Syrian conflict has created one of the worst humanitarian crises of our time, producing horrific human suffering on a wide scale. Millions have been summarily executed, tortured, imprisoned, raped, starved, or bombed with chemical or conventional weapons. However, there are people coming together in humanitarian, grassroots, and other advocacy-oriented initiatives attempting to provide mitigation of the suffering and redress for the wrongs.

Europe has recently been plagued with disturbing scenes of anti-refugee backlash where skinheads have marched, gangs have beaten immigrants and refugees, arsonists have set fire to refugee shelters, and refugees have been forcibly evicted and live in inhumane and degrading conditions.³ Some European politicians have openly talked about how “swarms of migrants” are coming to Europe and have advocated against feeding these refugees.⁴ Racist and anti-immigration policies have resulted in the denial of entry to many refugees, in part due to the European-Turkey deal that returns them to Turkey even after landing on European shores. Many Europeans justify the maltreatment of refugees by arguing for greater security and a blind acceptance of state control of immigration.⁵

On the other hand, many individuals, communities, and organizations have taken this highly charged backlash head-on and sought to combat the racist and anti-refugee movements in order to curb the spread of their influence. These movements have sprouted all over Europe, especially in locations where violence against refugees has taken place. “Because in [recent] years there were a few incidents, attacks.... For us, it’s very important to show that not only Nazis are living here.”⁶

As in Europe, anti-refugee messages have proliferated in speeches, political debates, and rallies in the United States. Several Republican presidential candidates reaped political support in response to their xenophobia, deliver-

ing thinly veiled racist and bigoted speeches exploiting fears of Islamic extremism. Furthermore, governors from both political parties have attempted to refuse Syrian refugees (as well as refugees from other Islamic countries) entry into their respective states. While the governors' positions are not lawful, they complicate the process of resettlement and effectively place roadblocks to the integration of Syrian refugees to their new communities. More recently, the Trump administration has taken a strong anti-refugee position, entering executive orders seeking to suspend the refugee program and preventing the entrance from seven predominantly Muslim countries, including Syria.⁷ Other countries in the same part of the world as Syria, including Kuwait, Oman, Qatar, Bahrain, Saudi Arabia, and the United Arab Emirates, have refused Syrian refugees altogether.

We must first contextualize existing tensions between the international legal framework and the reality of the present crisis caused by the international community's inaction. Only then can we fully appreciate the import of the broader grass-roots movement to mitigate the suffering.

State abdication of responsibility in the face of refugees from other abusive states shifts the burden of alleviating refugee suffering from governments to private actors. States have the responsibility under international law for ensuring the protection of persons in their territory. Grassroots communities, individuals, and NGOs must push states toward responsible and lawful action in this regard.

The refugee crisis has spawned private initiatives seeking to provide justice to those abused by the Syrian government, but these initiatives are largely ignored. Even so, human rights organizations (HROs)⁸ and their advocates have transformed the human rights landscape by publicizing atrocities and shaming and pressuring governments into complying with their human rights obligations.⁹ HROs shape the way in which States engage in the protection of human rights, by mobilizing private individuals and working with local groups.¹⁰ HROs also provide key resources and services that offer refugees access to legal aid and basic human services. HROs as well as social movement organizations (SMOs) attempt to transform public opinion and change policy-makers' positions by providing greater attention to human rights crises. In order for HROs and SMOs to foster human rights initiatives and encourage action, they must mobilize constituents, garner broad public support, and counterbalance and neutralize legal and political antagonists.¹¹

HROs have called upon their home countries to increase refugee resettlement numbers and provide refugees, including those fleeing violence and starvation in Syria, with access to legal and social services. The Human

Rights for Syrians Initiative (HRSI) was created out of the need to mobilize lawyers, law students, and members of the Chicago community to fill a gap of access to legal and social services for Syrian refugees in the United States. Conversations with Syrians in the Chicago area reveal a sense of despair due to the roadblocks they face when navigating the justice system. Moreover, the persistent lack of social services to address their needs to obtain housing, employment, education, health services, and emotional healing adds to their distress. In this regard, HRSI was designed to be an agent of change, mobilizing resources to address the legal and structural deficiencies in the justice system as they relate to Syrian refugees and to ensure the protection of their human rights. HRSI provides representation and advocacy in asylum cases, and provides a robust referral system for a variety of social and legal services. These services are anchored in the holistic, client-centered advocacy model, which seeks to address varied human needs.

Background on the Syrian humanitarian crisis

March 2017 marked the sixth year of the bloody conflict that has scarred Syrians' lives with trauma, suffering, loss, and misery.¹² In March 2011, responding to decades of repression, specifically the arrest and torture of children who painted revolutionary slogans on a school's wall in Daraa, Syrian pro-democracy protests surged.¹³ Syrian President Bashar al-Assad intensified the repression of his authoritarian regime by using torture, arbitrary arrests, and killings to crack down on the opposition. By the end of the summer, his regime had been responsible for the deaths of more than a thousand people who sought democratic reform. Assad attempted to justify these killings as combating "terrorist groups."¹⁴ But anyone opposed to the regime, including those promoting human rights and democracy, were deemed "terrorists."

The detention of journalists and online activists became common practice.¹⁵ Individuals posting comments on social media about the uprising or uploading videos were targeted and punished. By June 2011 Human Rights Watch had reported the systematic practice of extrajudicial killings, arbitrary detentions, torture, preventing medical assistance to the ill and injured, and the military siege of several towns resulting in the deprivation of basic resources to civilian populations.¹⁶ Homs, Damascus, Latakia, Daraa, Idlib, and, of course, Aleppo felt the brunt of Assad's wrath.¹⁷ A man who had been detained and tortured in the Idlib governorate described the horrors that he had endured.

They forced me to undress. Then they started squeezing my fingers with pliers. They put staples in my fingers, chest, and ears. I was only allowed to take

them out if I spoke. The nails in the ears were the most painful. They used two wires hooked up to a car battery to give me electric shocks. They used electric stun-guns on my genitals twice. I thought I would never see my family again. They tortured me like this three times over three days.¹⁸

By 2012, extrajudicial killings, including mass executions, were a common practice by Syrian security forces and pro-government Shabiha (“Shabeeha”) militia. State forces would often lie in wait and murder people as they entered their homes or mosques.¹⁹ In 2013, the Assad regime used chemical weapons on the civilian population; sarin gas, chlorine, and other toxic substances were dropped by aircraft in neighborhoods near Aleppo and Damascus.²⁰

During the course of the ensuing six-year conflict, approximately 1,500 people died from chemical weapon attacks.²¹ Chemical weapons have been used strategically by the Assad regime to quash opposition and displace the civilian population.²² Mohammed Tennari, a doctor in the rebel-held province of Idlib, said “[T]he world knows that chemical weapons will be used against us again and again.” He added, “What we need most is not antidotes—what we need is protection, and to prevent another family from slowly suffocating together after being gassed in their home.”²³

Asaad has also used mass starvation to weaken opposition and control the civilian population.²⁴ Military sieges that have impeded access to food, water, and medical treatment have worsened the issue. For example, a siege in Madaya resulted in the starvation of 20,000 civilians, including children and the elderly.²⁵

[N]ow that the siege has tightened, the doctors we support have empty pharmacy shelves and increasing lines of starving and sick patients to treat. Medics are even resorting to feeding severely malnourished children with medical syrups, as they are the only source of sugar and energy, thereby accelerating consumption of the few remaining medical supplies.²⁶

Starvation has been deployed as a military tactic and has resulted in death and the deterioration in the condition of patients undergoing medical treatment.²⁷ According to the United Nations, by January 2016 there were at least fifteen towns across Syria where 400,000 or more people had been living under siege, the first step toward forced starvation.²⁸ Indeed, sieges followed by starvation have been used throughout Syria as part of a larger military strategy.

The Syrian conflict has morphed into a proxy war with a complex combination of internal and external political alliances.²⁹ The involvement of Russia, United States, Saudi Arabia, Turkey, and Iran—all with opposing interests—has intensified and lengthened the conflict, exacerbated societal divides, and

created power vacuums where non-state actors have taken advantage of the breakdown of the social order. For example, the shortage of Syrian armed forces has resulted in the utilization of foreign militia groups, complicating the interaction between domestic and international actors involved in the conflict.³⁰ This proxy warfare includes the invasion of neighborhoods and localities, bombardment, starvation, extrajudicial execution, targeted killing, arbitrary detention, torture, forced disappearances, the use of chemical weapons, systematic rape, human trafficking, and forced marriages.³¹

There has also been a variety of spillover effects, including border insecurity and a massive outflow of refugees, resulting in the internationalization of the conflict.³² The overall death toll has reached 470,000.³³ Seven million persons have been displaced and there has been an exodus of approximately 4.8 million refugees to neighboring countries.³⁴

Humanitarian disaster

The result has been a full-fledged international humanitarian crisis. For Syrians living in nearly destroyed homes or in displacement shelters, access to medical care, food, water, and sanitation has been difficult to obtain. For instance, the intensified attacks around Aleppo have not only caused high numbers of civilian casualties, they have damaged the entire health care infrastructure,³⁵ creating a widespread systematic medical emergency. More than half of Syria's pre-war population has been killed or forced to flee their homes.³⁶ "This life is worse than death," cries Ahmad al Ahmad, a 79-year old Syrian man who has seen his life upended.³⁷

Many Syrian towns are under the control of Asaad's putative foe, ISIS, and are cut off from humanitarian aid. Many of these families, struggling to survive, have left their hometowns to relocate to marginally safer villages. They have also been separated from one another at checkpoints due to ongoing armed clashes.³⁸ Out of a population of 18.5 million, approximately 6.6 million have been displaced within the country.³⁹

Making a safe journey out of the war-torn regions is nothing less than miraculous. It requires crossing dozens of active battle lines and navigating hundreds of checkpoints, set up by both sides of the conflict, before reaching neighboring countries.⁴⁰ Many rely on smugglers to help them leave Syria in the hope of receiving asylum or protection as refugees. The path to Europe, though highly desirable, is especially difficult. Refugees who have made it there face discriminatory practices, hate crimes, and difficult integration policies, and lack legal protections. Difficulties notwithstanding, approximately one million asylum applications flooded Europe between April 2011 and March 2016.⁴¹

Even when individuals are lucky enough to afford housing in urban centers, many refugees live in filthy, overcrowded quarters. Others are forced to live in refugee camps such as the ones in Idomeni, Greece, where they are interminably in legal limbo. When Dimitris Avramopoulos, the Commissioner for Migration, Home Affairs and Citizenship at the EU Commission visited the Idomeni camp, he acknowledged the abysmal living conditions. “The situation here is tragic. . . . It doesn’t honour Europe.”⁴² Refugees who have made their way to France in the hope of crossing to the UK have experienced similarly degrading conditions at the refugee camps in Calais and Dunkirk. There, many young refugees face sexual exploitation by traffickers. Interviews from these camps reflect the deep trauma that children suffer.⁴³

With the new Europe–Turkey deal,⁴⁴ many Syrian refugees have been deported to Turkey or are stuck in refugee camps. The deal was forged for the alleged purpose of addressing the overwhelming flow of smuggled refugees who pass through the dangerous waters of the Aegean Sea trying to reach safety in Greece. It permits “all new irregular migrants” who arrived on March 20, 2016 or later to be returned to Turkey. In return, EU countries will increase the resettlement of Syrian refugees living in Turkey, accelerate the visa liberalization for Turkish nationals traveling to the Schengen Area (a 26-nation passport-free zone) in Europe, provide additional financial support for the refugee population in Turkey, and re-establish the progression of Turkey’s bid to join the European Union.⁴⁵ This deal provides Turkey greater financial and political growth with respect to its European Union relations, but at the expense of refugees’ lives and safety. In practice, the agreement represents a violation of European Union law, refugee law, and international laws that protect against refugees being returned (“*refouler*”) to a country that they have fled due to fear of persecution.⁴⁶ Amnesty International has documented the surge of illegal mass deportations of Syrian refugees from Turkey back to Syria. The report sheds light on Turkey’s new practice of rounding up and expelling groups of around a hundred refugees, including women and children, and returning them to Syria on a nearly daily basis.⁴⁷

To date, the United States has accepted approximately 12,587 Syrian refugees.⁴⁸ However, recent executive orders by the Trump Administration have sought to temporarily suspend the United States Refugee Admissions Program (refugee resettlement program)⁴⁹ with the pretextual justification of protecting the nation against “foreign terrorists.” The most recent of the administration’s refugee orders provides that, until there is further assessment of the screening and vetting in the resettlement program, it will be suspended because of “the risk of erroneously permitting entry of a national of one of these countries who intends to commit terrorist acts or otherwise

harm the national security of the United States.”⁵⁰ In addition, the Executive Order ostensibly claims that refugees from Syria are not permitted to enter through the program because Syria has been designated as a state sponsor of terrorism. The order reads:

Syria has been designated as a state sponsor of terrorism since 1979. The Syrian government is engaged in an ongoing military conflict against ISIS and others for control of portions of the country. At the same time, Syria continues to support other terrorist groups. It has allowed or encouraged extremists to pass through its territory to enter Iraq. ISIS continues to attract foreign fighters to Syria and to use its base in Syria to plot or encourage attacks around the globe, including in the United States. The United States Embassy in Syria suspended its operations in 2012. Syria does not cooperate with the United States’ counterterrorism efforts.⁵¹

Countries designated as sponsoring terrorism have been classified in the Global Terrorism Database (GTD), which was created by the National Consortium for the Study of Terrorism and Responses to Terrorism (START).⁵² The GTD compiled information from open-source reports and documented acts, including violent acts carried out by non-state actors.⁵³ Furthermore, the GDT used a set criteria to document and classify the “terrorist” activities. These include

(1) The violent act was aimed at attaining a political, economic, religious, or social goal; (2) The violent act included evidence of an intention to coerce, intimidate, or convey some other message to a larger audience (or audiences) other than the immediate victims; and (3) The violent act was outside the precepts of International Humanitarian Law insofar as it targeted non-combatants.⁵⁴

Many advocates view the Executive Order as Islamophobic and discriminatory. “The proposal treated as presumptively suspect a religion practiced by about 1.6 billion people worldwide, nearly a quarter of the globe’s population.”⁵⁵ Moreover, the third prong of the GTD identifies the victims of the violence by non-state actors as non-combatants—that is, the targets of violent acts are civilians, humanitarian workers, and others that are not “engaged in hostilities.” This highlights the very problem that the Executive Order creates: non-combatant refugees are especially vulnerable to violence, but are prevented from reaching safety under the order. The current Executive Order punishes Syrian refugees for their identity and ultimately ignores their vulnerability. As one refugee describes it:

[The Executive Order will] [h]urt a lot of people, innocent people who need immediate help. These people, the majority women and kids. I still remember the hard time and how much we suffered to reach America. I am praying for those who are still looking forward and dreaming of a safe life for their kids.

If we want to make America safe we must recognize that ... refugees are not threatening America, but they help building it and make it even safer place.⁵⁶

The international legal framework protecting Syrian refugees

The Syrian government has plainly failed to protect its people. It has engaged in policies of systematic and widespread use of torture, extrajudicial killings, arbitrary detention, starvation, sexual violence, and chemical weapons against its population, including civilians. In addition, the Islamic State (also known as ISIL or Daesh) has targeted and engaged in violence to eliminate identifiable minority groups, such as Christians, Shia Muslims, and Yezidis.⁵⁷ These systemic human rights violations cannot be measured solely by the loss of life or physical destruction of the country,⁵⁸ one must also consider how the international community is failing its obligations under international law.

Protections during armed conflict

Armed conflict is defined under international humanitarian law as “armed violence between governmental authorities and organized armed groups or between such groups within the State.”⁵⁹ This level of violence can be triggered by issues relating to identity, ethnicity, religion, political influence, and access to resources.⁶⁰ The 1949 Geneva Conventions and later protocols have extensively codified minimum protections for those caught in armed conflict. The extent of its protections, however, are triggered by the nature of the conflict as either international or non-international. International conflicts, which provide the greatest level of legal protection, exist when the violence is between two or more states.⁶¹ Non-international conflicts or internal armed conflicts exist when the conflict is between governmental forces and non-governmental armed groups, or when the violence is exclusively between non-governmental armed groups.⁶² The latter triggers lesser, but nonetheless important, protections of Common Article 3 of the Geneva Conventions.

Syria’s intense fighting between the Assad regime (along with pro-government forces), rebel forces, and the Islamic State constitutes a non-international armed conflict, to which Common Article 3 of the Geneva Convention applies.⁶³ Common Article 3 provides for minimum protections towards persons not actively taking part in the hostilities, such as members of armed forces who are not in combat because they have laid down arms, are wounded, or detained.⁶⁴ They are protected from “cruel treatment,” “torture,” being taken hostage, “humiliating and degrading treatment,” and extrajudicial executions. The wounded and the sick also have the right to be “collected and cared for.”⁶⁵

In addition to protections during times of conflict, human rights law provides an additional layer of inalienable protections in times of conflict or emergency. The right to life is the most fundamental right and cannot be taken away, waived, surrendered, or renounced.⁶⁶ In addition, the rights to be free from torture, slavery, and forced labor are also non-derogable, which means that at no point should a government engage in such practices or allow for non-state actors to violate such rights with impunity.⁶⁷

Internally displaced persons

States have a duty to protect civilians within their territory and to ensure that their rights are protected.⁶⁸ Syrians who have been internally displaced as a result of conflict⁶⁹ have the right to be protected against arbitrary displacement, that is, displacement carried out in a manner that violates their rights to life, dignity, liberty, and security. They are to be protected against direct or indiscriminate attacks, starvation as a method of combat, and, for civilians, their use as military shields.⁷⁰

Moreover, when the national authority is unable or unwilling to protect its people and provide humanitarian assistance, the international community—through international humanitarian organizations and other actors—has the obligation to provide that assistance.⁷¹ Specifically, the international community must “use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the UN Charter, to help to protect populations from genocide, war crimes, ethnic cleaning and crimes against humanity.”⁷² The international community has recognized that if peaceful means—including diplomatic, humanitarian, and other approaches—are inadequate, the United Nations Security Council must come up with a solution on a case-by-case basis and in cooperation with regional organizations.⁷³ The implementation of the responsibility to protect is threefold:

- (1) The State carries the primary responsibility for protecting populations from genocide, war crimes, crimes against humanity and ethnic cleansing, and their incitement;
- (2) The international community has a responsibility to encourage and assist States in fulfilling this responsibility;
- (3) The international community has a responsibility to use appropriate diplomatic, humanitarian and other means to protect populations from these crimes. If a State is manifestly failing to protect its populations, the international community must be prepared to take collective action to protect populations, in accordance with the UN Charter.⁷⁴

Accordingly, the United Nations has demanded a halt to violence and targeting of civilians, noting that it is the government's primary responsibility to protect its people.⁷⁵ This call to stop the violence must be framed within the duty to protect.

Protection of refugees

Syrians fleeing their country in search of safety are considered refugees. As indicated, refugees are persons who are unable to return to their country due to a well-founded fear of "being persecuted because of race, religion, nationality, membership of a particular social group or political opinion."⁷⁶ They are protected from being returned to the country they have fled under the principle of non-refoulement. "No contracting state shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened."⁷⁷

The right of non-refoulement has been widely recognized under international law⁷⁸ and has been expanded to include the "right to seek and be granted asylum."⁷⁹ It is, however, up to nation states to determine whether an individual qualifies as a refugee or how asylum protections exist within the domestic legal system. While asylees are granted protection from refoulement, "the duty of non-refoulement applies whether or not refugee status has been formally recognized."⁸⁰ The obligation of non-refoulement is a cardinal protection enshrined in the Geneva Conventions as well as the Universal Declaration of Human Rights, which reflects its status as a rule of customary international law,⁸¹ in addition to treaty law.

The threshold of "persecution" for purposes of the Refugee Convention is flexible and permits an inference of persecution if there is a "threat to life or freedom on account of race, religion, nationality, political opinion or membership of a particular social group."⁸² It is ultimately left to each state to determine who has demonstrated that they will likely be persecuted.

In the United States, a refugee seeking asylum must show that he or she has a well-founded fear of persecution. A "well-founded fear" of persecution can be proved "so long as an objective situation is established by evidence."⁸³ It is sufficient that the persecution is a "reasonable possibility."⁸⁴ Further protections are anchored in the 1951 Refugee Convention and international human rights law, which provides for the right to work, education, liberty and security of person, freedom of movement and religion, non-discrimination, and equal access to justice.⁸⁵

Refugee law and international human rights law coexist and, more importantly, international human rights law can supplement refugee law by

offering broader protections that are universally recognized. The preamble to the International Covenant on Civil and Political Rights states, “[Whereas] recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.”⁸⁶ These rights are not always protected by states, leaving a vacuum where human rights are violated. Non-governmental organizations, communities, and advocates have sought to narrow this gap of access to justice and human rights through their work.

The role of civil society in bridging the gap of access to justice and the promotion of human rights

NGOs worldwide have worked tirelessly to provide Syrian refugees access to legal aid in addition to providing safety, supplies, shelter, medical help, food, hygiene, water, sanitation, pre-natal and post-natal care for infants, counseling, and temporary schools.⁸⁷ They have also served a critical role in the resettlement process, enhancing access to social services, and assisting in the integration of refugees in local communities.⁸⁸ In addition to these services, NGOs have pledged more than \$400 million for humanitarian relief.⁸⁹ Dozens of NGOs have called upon the European Union and the United Nations to increase resettlement and legal channels for refugees.⁹⁰ Jasper Kuipers, the deputy director of the Dutch Council for Refugees and NGO co-chair of the Annual Tripartite Consultations on Resettlement (ATCR) said, “There is no doubt about it: resettlement saves lives. It prevents deaths at sea and it makes it harder for smugglers to exploit refugees for profits.”⁹¹ Similarly, NGOs have created reception centers in countries to assist asylum seekers.⁹²

Public concern over safety and national security have been a major factor in the reluctance of politicians and communities to support resettlement and integration of Syrian refugees.⁹³ Syrian refugees are often stigmatized and labeled as potential terrorists. Indeed, Islamophobia and xenophobia confront Syrian refugees at every step of their journey to safety and rebuilding their lives.

American NGOs have provided essential services to affected communities, especially Syrian refugees, by delivering lifesaving emergency assistance, food and emergency supplies, transportation of personnel and humanitarian aid, psychosocial support, medical equipment, emergency cash assistance, winterization and cold weather supplies such as heaters, fuel vouchers, floor mats, food, water, sanitation and hygiene, lifesaving vaccinations, child and youth educational opportunities, and shelter.⁹⁴ The majority of these services have been geared to the resettlement process, including cultural orientation

and integration, housing and rent assistance, job training and placement, clothing, food, medical attention, and English language classes.⁹⁵

Yet barriers to justice remain. Unrepresented litigants are at a severe disadvantage. In Jordan, for example, many refugees have not been registered as refugees or are currently awaiting the renewal of their status.⁹⁶ Other barriers include a scarcity of information, knowledge of their rights, medical and mental health assistance, and effective referral systems.⁹⁷ These deficiencies create situations of insecurity, anger, and anxiety, while refugees are unable to access basic services and legal representation. They have difficulty finding safety and coping with the trauma they have suffered. Many do not recognize what aid is available and how to gain access to the UNCHR or domestic system to pursue asylum claims.⁹⁸ According to Sherif Elsayed-Ali, head of Refugee and Migrants' Rights at Amnesty International,

The vast majority of Syrian refugees in Jordan live outside camps in urban areas, and in poverty. Lengthy bureaucratic procedures and additional health care fees pose huge obstacles to those of them requiring medical treatment. The user fees imposed by Jordan may not appear to be high but are unaffordable for most refugees who are struggling to feed their families, and leave many unable to access the critical care they need.⁹⁹

In Lebanon the International Rescue Committee found that refugees were being targeted for abuse and exploitation relating to work. It also discovered that men, in particular, were suffering due to the lack of information, unavailability of services due to standardized vulnerability criteria, and an enduring belief it was impossible for them to get aid.¹⁰⁰

Once in Europe, refugees face shortages of funding and resources, xenophobic sentiments, political oppression, resentment of asylum-seekers, and the general insecurity of the preexisting population.¹⁰¹ Although European governments and institutions are able to support integration programs for refugees, anti-immigrant groups exert significant political pressures and are able to considerably influence policy-makers to keep refugees in their countries of origin.¹⁰² The European Union has expanded operations under Frontex (Frontières extérieures, "external borders")¹⁰³ and Eurosur,¹⁰⁴ the new European Union border control system, to prevent entry into Europe. Michael Juritsch, Eurosur's project coordinator, stated that "Eurosur's main component consists in making a network available with the goal of curbing organized crime and rescuing people who are in distress at sea."¹⁰⁵ While Eurosur has identified rescuing refugees at sea as a main priority for its new project, human rights groups have been critical of Frontex and Eurosur because, they argue, the initiatives do not rescue refugees, but rather deter them from entering Europe¹⁰⁶ while strengthening the idea of a "fortress"

Europe where refugees are unwelcome.

Similarly, refugees in the U.S. face barriers to entry and, once admitted, resettlement. Moreover, “[r]efugees are subject to the highest level of security checks of any category of traveler to the United States.”¹⁰⁷ This process includes a recommendation by United Nations High Commissioner on Refugees and internal domestic screenings with biodata and biometrics that involve the National Counterterrorism Center/Intelligence Community, Federal Bureau of Investigation (FBI), Department of Homeland Security (DHS), and State Department.¹⁰⁸ Syrians, in particular, face even greater barriers to entry. DHS conducts an additional review of Syrian cases during which they may be referred to the USCIS Fraud Detection and National Security Directorate.¹⁰⁹ Consequently, Syrian refugees waiting to be resettled in the United States wait longer and are subjected to a stricter scrutiny than other groups.

Asylum-seekers also face obstacles in accessing essential services. Most social services agencies that serve refugees limit themselves to those who have arrived in the country through an official resettlement program. These organizations are geared towards assisting refugees who qualify with rent assistance, food pantries, public benefits, job training, and cultural sensitivity training. Social services agencies geared towards helping the general population often require proof of public benefits, work history, legal status, and a driving record. The presentation of such records is often impossible for an asylum-seeker who has not arrived through an official resettlement program

Moreover, the asylum process in the United States is fiendishly difficult, requiring the applicant to be physically present in the United States, which however has an incredibly long backlog of applications.¹¹⁰ What is more, asylum-seekers are not permitted to work for 150 days, and may wait up to three years for their applications to be reviewed. “As a result, surviving especially during those first six months (and for however long it takes a person after that to find a job) is a serious material challenge,” says Anwen Hughes, Deputy Legal Director of Human Rights First. Hughes adds that it is “also psychologically draining for applicants who really want to be working, helping their families, and keeping their minds off the problems that drove them here.”¹¹¹ Meanwhile, asylum-seekers are ineligible to receive many government services while awaiting the outcome of their cases.

In addition, the American legal system does not ensure that an advocate or attorney will assist asylum-seekers in the daunting application process. “[T]he alien shall have the privilege of being represented, at no expense to the Government, by counsel of the alien’s choosing who is authorized to

practice in such proceedings. . . .”¹¹² But finding and hiring such an attorney is beyond the means of most asylum-seekers. Since immigration proceedings are civil in nature, indigent asylum-seekers do not benefit from an appointed attorney. The consequences are enormous. *Pro se* asylum-seekers are almost five times less likely to be successful in immigration court than asylum-seekers who have the benefit of legal representation.¹¹³

The absence of a skilled advocate or attorney can prevent the correct completion of the asylum application, including the omission of key facts or failure to invoke protections under the Convention Against Torture. Attending the asylum interview without the assistance of an attorney can be especially intimidating. Asylum-seekers are faced with reliving past traumas while trying to prove their credibility to the asylum officer. During this interview, asylum officers are less concerned about the heart-wrenching stories and instead focus on whether the asylum-seeker is able to prove that he or she has a well-founded fear of persecution. Although there is no requirement that asylum-seekers must prove that they were harmed in the past, they must prove that there is a reasonable possibility that threats to their lives will be carried out.¹¹⁴ That asylum-seekers can manage, on their own, to understand how to conduct themselves, prove their credibility, and deliver their testimony in a way that proves that they have a well-founded fear is nothing short of astonishing. In addition, their traumatic experiences require special guidance and, in some cases, they need mental health professionals to assist them to produce a testimony that is clear, coherent, and hits all the right points to establish a well-founded fear.¹¹⁵ The consequences of failing to prove an asylum case can be disastrous. Asylum-seekers whose cases are denied face detention, torture, forced labor, sexual violence, and possibly death upon their return to their country of origin.

How can we bridge these gaps to ensure that all refugees, specifically asylum-seekers who fail to qualify under official resettlement programs, are protected? Initiatives providing a multi-disciplinary or holistic approach are best able to address a person’s multiple needs. Asylum-seekers may face barriers to justice due to a lack of language proficiency, past trauma, knowledge of the legal system, evidentiary proof to support their claims, and limited access to social services.¹¹⁶ Holistic advocacy can help address these needs.¹¹⁷

The sprouting of initiatives in the midst of suffering and hate: the Human Rights for Syrians Initiative

Humanitarian initiatives are generally rooted in the desire to alleviate suffering. In refugee emergencies, humanitarianism mobilizes the best of us to protect the vulnerable. These initiatives are grounded on the principle

that individuals have rights and are entitled to protection. It is within this framework that HROs engage in work to expose injustice, push for change, provide services to ensure the protection of human rights and push forward for more protections. As the former U.N. High Commissioner Refugees, Sadako Ogata, once put it:

[H]uman rights violations are a major factor in causing the flight of refugees as well as an obstacle to their safe and voluntary return home. Safeguarding human rights in countries of origin is therefore critical both for the preservation and for the solution of refugee problems. Respect for human rights is also essential for the protection of refugees in countries of asylum.¹¹⁸

The Human Rights for Syrians Initiative was created at the Human Rights Clinic, of which I am the director, with the primary objective of protecting the rights of Syrian refugees in the United States. The HRSI advocates directly on behalf of Syrian refugees through international human rights principles. Beyond the principle of non-refoulement, refugees are entitled to a broad spectrum of protections under the 1951 Refugee Convention and other major international human rights instruments. Among other things, HRSI seeks to ensure refugees' rights to be free from cruel, inhuman or degrading treatment, access to justice, employment, non-discrimination, and dignity.¹¹⁹

The HRSI conducts outreach efforts to establish connections with the Syrian, Muslim, and Arab American communities in Chicago in order to promote dialogue between these communities and help them integrate into the broader community. HRSI also seeks to reduce the barriers refugees encounter in obtaining appointments with governmental agencies and navigate their complicated bureaucracies.

In addition, HRSI does not turn any Syrian refugees away. In those instances where the HRSI cannot accept a case, it provides a robust referral system. And, in cases of extreme vulnerability, HRSI engages in direct advocacy to ensure that an attorney will take the case on a pro bono basis. It investigates which legal services are available in the particular state in which the Syrian refugee is located or hopes to be relocated in. Our clients receive a thorough, multi-faceted assessment of their needs. If HRSI determines that a client has needs beyond legal representation—such as housing, medical help, job training or placement—it refers him or her to those that provide the required service. It is a holistic approach. We look beyond the legal case to address the basic human needs of our clients. Part of connecting with them includes trying to understand their struggle to survive the conflict back home, their journey to the United States, and the suffering they endured throughout their ordeal.

HRSI's members feel a legal and moral obligation to provide clients with the tools to be proactive within the judicial system and to ensure that their position of vulnerability after surviving a conflict does not render them defenseless or susceptible to abuse. This provides our clients with a sense of empowerment and an understanding that the protection of human rights belong to the people themselves no matter who they are or where they come from.¹²⁰ Although the duty to protect the rights of refugees belongs to states,¹²¹ HROs and the general public should not remain inert. We all have a role to play.

Many HRSI members have been transformed through their experiences working with refugees. They have begun to understand the impact and profundity of refugee work—that it is significant in protecting human rights, and that they are individual agents of change and human rights defenders. “Working with refugees on an everyday basis has opened my eyes to a world that I really never knew. . . . The war and civil unrest in Syria is not just a news story anymore. Every time I hear about the Syrian crisis I see the faces of the people I have been trying so hard to help.”¹²² Their work has helped them understand the humanitarian crisis, conduct outreach to shape communities’ perception of Syrian refugees in the United States, and emphasize the need to ensure that Syrian refugees are not sent back to the very danger that they have escaped. HRSI members ultimately seek to humanize Syrian refugees and ensure that they are treated as right-holders who are active in their integration. This transformation is key. Promoting the message that refugees are not faceless and nameless victims, but flesh-and-blood human beings vindicating their rights under law, positively affects how our clients view themselves and how they are perceived by the new community into which they are assimilating.

Concluding thoughts

The HRSI has sprouted to life amidst the controversies of the Syrian humanitarian crisis and anti-refugee sentiments in the United States. It has effectively become an agent of change, moving attorneys, advocates, students, and community members into action, to work in synergy to protect the human rights of Syrian refugees. Syrian refugees have been provided, and continue to receive, services for asylum representation and case management to access other social services. Through this work, HRSI is able to represent individuals who have been denied services, who have been neglected, or who would be unable to navigate the judicial system without the legal representation of HRSI members. Syrians have accessed HRSI services from Syria, Turkey, and across the United States. HRSI has been able to deliver a message of

action and urgency regarding the need to prioritize the protection of human rights for Syrian refugees in the United States.

As one HRSI member recently said

I have always tended to believe that we, as members of the human race at large, are all entitled to certain, basic liberties (or rights), notwithstanding our age, religion, race, nationality, political ideology, sexual orientation, etc. In my mind, to fight and advocate for basic, human rights is to fight and advocate for humanity itself.¹²³

It is this core understanding that human rights belong to everybody that animates us as a community of advocates to push and pull states to effectuate change. This energized spirit of activism amidst a profound humanitarian crisis in Syria and a hostile anti-refugee sentiment in the United States indicates a deep paradox—from human rights violations come human rights initiatives.

NOTES

1. This article will use the term “refugee” as it is defined in the 1951 Refugee Convention, where any person who “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion... is unable or, owing to such fear, is unwilling to avail himself of the protection of that country...or unwilling to return.” Although the practice in the United States is to differentiate between the term refugee and asylum-seeker, I will follow the international definition of refugee, therefore including asylum-seekers in the definition of “refugee.”
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5. *Id.*
6. Patrick Strickland, *The Rise of Germany’s Anti-Refugee Right: Opponents Accuse the Alternative for Germany Party of Inciting Violence Against Asylum Seekers*, ALJAZEERA (Apr. 7, 2016), <http://www.aljazeera.com/indepth/features/2016/03/rise-germany-anti-refugee-160331123616349.html>.
7. Exec. Order No. 13780, 82 Fed. Reg. 13209 (Mar. 6, 2017).
8. HROs engage in many different types of activities (such as service provision, community outreach and education, or lobbying state governments), and may not engage at all in the kind of micromobilization campaigns we describe. However, even HROs such as Human Rights Watch that have not traditionally focused their efforts on persuading grassroots activists have increasingly engaged in more “broad-based” strategies. Kyla Jo McEntire, Michele Leiby, & Matthew Krain, *Human Rights Organizations as Agents of Change: An Experimental Examination of Framing and Micromobilization*, 109 AM. POL. SCI. REV. 407 (2015), available at <http://discover.wooster.edu/mkrain/files/2012/12/>

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9. McEntire et al., *supra* note 8.
 10. *Id.*
 11. *Id.*
 12. Rep. of the Indep. Int'l Comm'n of Inquiry on the Syrian Arab Republic, Feb. 11, 2016, U.N. Doc. A/HRC/31/68, 5 (2016) [hereinafter Rep. of the Indep. Int'l Comm'n]. *See also, Over 10,000 Child Refugees 'Disappeared' in Europe*, SYRIAN OBSERVATORY FOR HUMAN RIGHTS (Jan. 31, 2016), <http://www.syriahr.com/en/2016/01/31/43744>.
 13. *Syria: Origins of the Uprising*, BBC (June 8, 2012), <http://www.bbc.com/news/world-asia-17344858>.
 14. Kathy Gilsinan, *How Syria's Uprising Spawned a Jihad*, THE ATLANTIC (Mar. 16, 2016), <http://www.theatlantic.com/international/archive/2016/03/syria-civil-war-five-years/474006/>.
 15. "Security forces have detained journalists and online activists who have reported on the protests or called for further protests. On March 22, security services arrested Louay Hussein, a writer and political activist, at his home in Sehnaya, a suburb of Damascus, for his online activities to promote demonstrations and reforms." *Syria: Security Forces Kill Dozens of Protesters*, HUMAN RIGHTS WATCH (Mar. 24, 2011, 8:39 PM), <https://www.hrw.org/news/2011/03/24/syria-security-forces-kill-dozens-protesters>.
 16. "We've Never Seen Such Horror" *Crimes against Humanity by Syrian Security Forces*, HUMAN RIGHTS WATCH (June 1, 2011), <https://www.hrw.org/report/2011/06/01/weve-never-seen-such-horror/crimes-against-humanity-syrian-security-forces>.
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 18. *Id.*
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 21. KareemShaheen, *Almost 1,500 Killed in Chemical Weapons Attacks in Syria*, THE GUARDIAN (Mar. 14, 2016), <https://www.theguardian.com/world/2016/mar/14/syria-chemical-weapons-attacks-almost-1500-killed-report-united-nations>.
 22. *Id.*
 23. *Id.*
 24. Imposed starvation which deliberately inflicts on a protected group "conditions of life calculated to bring about its physical destruction in whole or in part" is an act of genocide within the Convention on the Prevention and Punishment of the Crime of Genocide art. 2, Jan. 12, 1951, 78 U.N.T.S. 277. It is not clear at this point whether the victims of these atrocities form a protected group within the meaning of the Convention or that the Assad regime harbors genocidal intent. Nonetheless, this and other atrocities against the civilian population, at a minimum, constitute a grave violation of the Geneva Conventions and are war crimes. *See, e.g., Rule 156: Definition of War Crimes*, ICRC, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule156 (last visited on June 16, 2017).

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