

University Doctoral (PhD) Dissertation

Dissertation

title

**Bridging Legal Gaps: A Comparative Analysis of Refugee Protection and Asylum Law
in Jordan and Lebanon**

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Aim of the research

The primary aim of the thesis is to critically examine and compare the refugee protection systems of Jordan and Lebanon, focusing on how each country's legal and institutional frameworks correspond—or fail to correspond—with international standards of refugee and asylum law. research is driven by a pressing concern: both countries, despite hosting some of the largest refugee populations per capita in the world, are **not signatories to the 1951 Convention Relating to the Status of Refugees or its 1967 Protocol**. This legal reality raises a central and urgent research question: **How can states that have not ratified the core instruments of international refugee law still be held accountable to the principles they enshrine, particularly the right to asylum, the prohibition of refoulement, and the protection of basic human dignity?**

From this question flows a broader aim: to expose and analyze the **legal gaps** between international obligations and domestic practices, and to assess the extent to which the legal systems of Jordan and Lebanon offer substantive and procedural protections to refugees and asylum seekers. This thesis seeks not only to identify areas of non-compliance but also to understand **why** such gaps exist—whether due to political, legal, institutional, or socio-cultural constraints—and how they can be addressed through reform, reinterpretation, or institutional innovation.

Another aim of the work is to **situate refugee protection within the broader context of human rights**, asserting that refugee status is not a marginal issue of migration policy, but one of fundamental rights. In doing this, shifting the legal discussion away from exceptionalism and emergency responses, and toward the mainstream of international legal obligations. You emphasize that rights such as liberty, non-discrimination, access to justice, and protection from arbitrary detention are not optional or context-dependent—they are codified under universal human rights instruments to which both Jordan and Lebanon are bound, such as the **ICCPR, CAT**, and regional instruments like the **Arab Charter on Human Rights**.

An equally important aim of the thesis is to contribute to the **comparative legal scholarship** on refugee law in the MENA region. While many studies address humanitarian or policy dimensions of the Syrian refugee crisis, this research fills a critical gap by providing a doctrinal legal analysis that is both **comparative** and **normative**. Examining how different legal traditions—civil law, Islamic jurisprudence, and international law—intersect in shaping the refugee policies of Jordan and Lebanon. Through this comparative lens, the thesis aims to produce actionable insights that are relevant not only to scholars but also to policymakers, international organizations, and domestic legal reformers.

In addition to analyzing legal texts and practices, the thesis also aims to give voice to the **lived realities of refugees**, incorporating narrative and empirical data to illustrate how legal gaps translate into practical consequences. Whether it is the denial of legal identity in Jordan, the risk of arbitrary detention in Lebanon, or the threat of forced returns in both countries, it connects legal analysis to human impact. Reaffirm the notion that refugee law is not merely an abstract legal field, but a vital component of international justice and human dignity.

Finally, this thesis aims to **formulate practical and legally grounded recommendations** for bridging the protection gaps identified in the study. By drawing on international best practices, existing regional frameworks, and the jurisprudence of human rights bodies, seeking to propose reforms that are both realistic and legally sound. These recommendations are directed not only at the governments of Jordan and Lebanon but also at international actors, such as the UNHCR and donor states, who must bear part of the responsibility for sustaining and improving the protection framework.

In sum, this thesis is driven by multiple interrelated aims: to diagnose legal shortcomings, to promote alignment with international standards, to enhance the rule of law, and to uphold the fundamental rights of some of the world's most vulnerable populations. Through rigorous legal analysis and comparative inquiry, strive to advance both the academic understanding and the practical realization of refugee protection in Jordan and Lebanon—and, by extension, in the broader Middle Eastern region.

Methodology and Research Structure

The research methodology employed in this dissertation is multidimensional, rooted in comparative and doctrinal legal analysis. A wide array of international instruments—including the 1951 Refugee Convention, the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the Convention Against Torture (CAT)—are juxtaposed with domestic laws, government decrees, and bilateral arrangements such as Jordan's 1998 Memorandum of Understanding (MoU) with the UNHCR and Lebanon's 2003 MoU. The study adopts a descriptive and analytical approach to assess not only the content of these legal instruments but also their effectiveness and limitations in practical application. Furthermore, theoretical perspectives from legal positivism, natural law, and constructivist international relations theory are used to frame the legal pluralism, political pressures, and sovereignty concerns that influence refugee policy in each country.

The structure of the thesis unfolds over five comprehensive chapters. The first chapter introduces the human rights framework within which refugee law is situated, providing an overview of the normative principles of dignity, universality, and non-refoulement. This is followed by an in-depth historical and conceptual exploration of international legal standards and their contested application in Middle Eastern contexts. Chapter Two focuses on Jordan, detailing its partial incorporation of international refugee principles through administrative cooperation with the UNHCR and highlights the legal ambiguities that result from the absence of a formal refugee law. Chapter Three turns to Lebanon, where refugee issues are handled under general immigration law, most notably the 1962 Law of Entry and Exit. This chapter highlights how legal insecurity, discriminatory practices, and arbitrary detention shape the lives of Syrian and Palestinian refugees in particular. Chapter Four offers a direct comparison of the two states, drawing attention to their differing institutional capacities, levels of UNHCR engagement, and human rights protections. The final chapter presents overarching conclusions and a series of targeted recommendations for legal reform and policy harmonization.

While the thesis offers a robust legal analysis, it also acknowledges several limitations. The lack of formal refugee legislation in both countries makes the legal framework fragmented and opaque, complicating efforts to draw definitive conclusions. Moreover, inconsistencies in the availability and reliability of official data—particularly in Lebanon, where access to detention centers and judicial proceedings is restricted—pose challenges to assessing the full scope of refugee experiences. Additionally, the discretionary nature of executive decisions in both states and the absence of institutional transparency further limit the researcher's ability to gauge state compliance with international obligations in a fully objective manner.

Relevance and Scope of the Research

The findings of the dissertation reveal a complex and often inconsistent relationship between international legal obligations and the domestic legal and institutional realities in Jordan and

Lebanon. Through careful comparative legal analysis, each chapter demonstrates how the absence of codified asylum legislation, the reliance on ad hoc administrative mechanisms, and the overriding influence of political and security considerations have undermined the effectiveness of refugee protection in both countries.

In Chapter One, the foundational theoretical and normative framework underscores that the rights of refugees cannot be divorced from broader human rights principles. The research establishes that both Jordan and Lebanon, although non-signatories to the 1951 Refugee Convention and its 1967 Protocol, are nonetheless bound by customary international law and human rights treaties such as the ICCPR and the Convention Against Torture. These instruments guarantee core protections including the prohibition of refoulement, the right to liberty, and access to fair legal procedures. However, the critical analysis highlights that in the absence of national incorporation of these principles, refugee protections remain aspirational rather than enforceable. The chapter also finds that cultural and religious legal traditions—particularly Islamic jurisprudence in Jordan and the confessional legal system in Lebanon—play a significant but often ambivalent role in shaping domestic perceptions of human rights and asylum.

Chapter Two, focusing on Jordan, finds that while the country has not ratified the 1951 Convention, its 1998 Memorandum of Understanding with UNHCR has allowed for a quasi-legal refugee regime to operate. The examination reveals that Jordan's model represents a hybrid system of refugee management: one in which the UNHCR plays a central role in status determination and protection, but without full integration into the domestic legal order. The findings show that although Jordan has made notable humanitarian efforts—especially in the Syrian crisis—refugees remain without a clear legal status under Jordanian law. This results in precarious access to rights such as employment, healthcare, and legal residency. Moreover, refugees who fall outside the UNHCR framework (including unregistered Syrians and non-Syrian refugees) are often treated under general immigration laws, which expose them to detention, deportation, or exclusion. The research further highlights the strain on Jordan's economic infrastructure and public services, which has prompted the government to emphasize burden-sharing responsibilities at the international level, as seen in King Abdullah II's addresses to the United Nations.

Chapter Three presents the most critical findings of the study. Lebanon, unlike Jordan, does not maintain any form of legal or administrative refugee framework beyond general immigration law. The 1962 Law of Entry and Exit is applied to refugees, treating them as irregular migrants subject to arrest, detention, and deportation. The legal analysis identifies multiple instances in which the Lebanese General Security Directorate has violated court orders that mandate the release of detained refugees, reflecting a concerning pattern of executive overreach and disregard for judicial independence. The findings also show that Palestinian refugees face long-standing legal marginalization under a separate administrative regime that denies them property rights and access to over 30 regulated professions. Syrian refugees, although initially welcomed, have been subject to a gradually tightening set of restrictions since 2015, including curfews, forced evictions, and pressure to return under unsafe conditions. Moreover, this study documents systemic violations of the principle of non-refoulement, including summary deportations and returns to Syria, even when individuals face serious risks of persecution or torture. The chapter also includes firsthand accounts and reports from NGOs and UN bodies detailing the substandard conditions in Lebanon's detention centers, especially Adlieh Retention Center, reinforcing the argument that detention practices violate international standards such as the Mandela Rules and UNHCR's Detention Guidelines.

Chapter Four synthesizes the legal and institutional findings of the previous chapters into a comparative analysis that reveals both convergence and divergence. On one hand, both Jordan

and Lebanon are found to fall short of fully implementing international refugee protection standards. On the other hand, Jordan is credited with having a more structured, if limited, engagement with UNHCR and a relatively stable legal environment. In contrast, Lebanon's approach is described as fragmented, reactive, and heavily securitized. The findings show that while Jordan provides a more predictable legal space for UNHCR operations, Lebanon's overlapping legal regimes—comprised of domestic immigration law, confessional legal systems, and informal policy directives—create a legal vacuum that severely undermines the rule of law and the protection of basic human rights for refugees. Furthermore, the comparative analysis reveals that both countries rely excessively on UNHCR to fulfill roles that should be borne by sovereign legal systems. This institutional outsourcing has resulted in legal insecurity, especially when international funding fluctuates or host governments revise their cooperation frameworks.

Additionally, the comparative study uncovers notable legal discrepancies in the treatment of refugee children, stateless persons, and gender-based asylum claims. Neither country has robust mechanisms for the prevention of statelessness, despite being bound by international human rights norms requiring the registration of births and the recognition of legal identity. Women and girls face significant legal barriers in both jurisdictions, particularly in cases involving gender-based violence, family reunification, or discriminatory nationality laws. These findings reflect broader regional challenges regarding the integration of gender-sensitive protections within refugee law.

Another major finding is the limited role of national courts in enforcing refugee rights. In both Jordan and Lebanon, courts rarely serve as effective venues for legal redress due to jurisdictional ambiguity, limited judicial training on international refugee law, and the broader political sensitivity of migration issues. Where progressive rulings have occurred—particularly in Lebanon—they are often ignored or overturned by executive agencies. This undermines the legal principle of access to justice and weakens the credibility of the judiciary in upholding international obligations.

Finally, the research emphasizes the disconnect between policy discourse and practice. While both Jordanian and Lebanese officials publicly affirm their commitment to refugee protection and humanitarian values, domestic legal and administrative practices often contradict these declarations. The lack of transparency in policymaking, the use of emergency decrees, and the absence of parliamentary oversight in refugee affairs have all contributed to a governance model that is more reactive than rights-based. This discrepancy reflects a broader structural problem where international law is rhetorically embraced but domestically unenforced.

Conclusion

The conclusion of the thesis brings together the legal, institutional, and humanitarian dimensions explored throughout the study, and paints a sobering yet constructive picture of refugee protection in Jordan and Lebanon. At its core, the thesis concludes that while both states have demonstrated a degree of humanitarian commitment—particularly through their acceptance of large numbers of refugees—they ultimately fall short of fulfilling the standards set by international refugee and human rights law. This is not due to a lack of effort or goodwill in all cases, but rather due to systemic legal, political, and institutional constraints that have prevented the development of comprehensive, rights-based asylum frameworks.

One of the central conclusions of the dissertation is that the legal status of refugees in both countries remains fundamentally insecure due to the absence of codified national asylum legislation. Jordan's reliance on the 1998 Memorandum of Understanding with UNHCR, while pragmatic and effective to some extent, leaves refugee protection vulnerable to political shifts and offers no guarantee of durable legal status or long-term rights. Lebanon, for its part,

continues to treat refugees through the lens of immigration control, with the 1962 Law of Entry and Exit being applied in a manner that fails to recognize the specific vulnerabilities and rights of asylum seekers and refugees. This legal vacuum allows for widespread practices such as arbitrary detention, deportation, and denial of access to essential services—all in clear violation of international standards such as the principle of non-refoulement and the right to liberty and security of person.

The research also concludes that the operationalization of refugee protection in both states is heavily dependent on international actors, particularly UNHCR. While the agency plays an indispensable role in status determination, service delivery, and advocacy, this reliance reflects a structural outsourcing of state responsibility. In both Jordan and Lebanon, the legal and administrative apparatuses have largely failed to internalize refugee protection obligations. As a result, when international funding is reduced or political priorities shift, refugee protection is the first to suffer. This lack of state ownership over refugee policy has created a system that is unsustainable, reactive, and fragile.

Moreover, this thesis emphasizes the failure of both countries to reconcile international obligations with domestic governance in a manner that upholds the rule of law. In Jordan, the absence of judicial review mechanisms for asylum decisions leaves refugees without recourse in cases of abuse or neglect. In Lebanon, judicial rulings that uphold refugee rights are routinely ignored or overridden by security agencies. This erosion of legal accountability, particularly in the context of the security apparatus, raises significant rule-of-law concerns and perpetuates a climate of impunity regarding violations of refugee rights.

The conclusion also reflects on the broader geopolitical and structural forces that shape refugee policy in the region. Both Jordan and Lebanon face immense socio-economic challenges, including limited public budgets, high unemployment, and weak infrastructure. These pressures are compounded by regional instability, particularly the protracted conflict in Syria, which has overwhelmed national capacities. The thesis argues that while these constraints are real and must be acknowledged, they do not justify the continued legal invisibility of refugees or the abdication of international legal responsibilities.

Importantly, the thesis does not end in pessimism. Instead, it offers a vision for constructive reform. The conclusion stresses the potential for legal harmonization with international standards, not through external imposition, but through context-sensitive reforms that integrate both international law and domestic legal traditions. You highlight opportunities for leveraging existing political commitments—such as Jordan's public discourse on humanitarianism and Lebanon's ratification of certain human rights treaties—as entry points for policy and legal reform. You also propose that civil society, the legal profession, and academia have critical roles to play in pushing for greater transparency, legal clarity, and institutional accountability.

Finally, the conclusion of the dissertation underscores the normative argument that refugee protection is not merely a humanitarian imperative but a legal and ethical obligation rooted in both international and domestic legal orders. By framing refugee rights within a human rights discourse, this thesis challenges the dominant narratives of securitization and exceptionalism that often dominate policy discussions in the region. It advocates for a shift toward durable, rights-based legal frameworks that not only protect refugees but also reinforce the rule of law and democratic accountability in host states.

In sum, this research concludes that while Jordan and Lebanon have demonstrated remarkable resilience and generosity as host countries, their current legal and institutional approaches to refugee protection are fragmented, inadequate, and incompatible with their international obligations. The way forward, as the conclusion makes clear, requires a deliberate, multi-level strategy: one that includes national legislation, judicial oversight, administrative reform,

international support, and public engagement—grounded in the foundational principle that the rights of refugees are human rights, and must be treated as such in law and in practice.

Recommendations

The recommendations emerging from this thesis are deeply rooted in both the normative framework of international law and the lived realities of refugee protection as observed in Jordan and Lebanon. They are framed to address the systemic, legal, and institutional shortcomings identified throughout the study, with a forward-looking perspective on reform, capacity-building, and accountability. They are also tailored to respect the sovereignty and specific socio-political contexts of both countries while urging conformity with binding international human rights obligations.

1. Codification of National Asylum Legislation

The most urgent and overarching recommendation is the need for both Jordan and Lebanon to formally codify refugee protection into national law. Neither state is party to the 1951 Refugee Convention, and both currently operate without a comprehensive domestic asylum law. This legal vacuum leaves refugee protection dependent on ad hoc policy decisions or bilateral agreements with UNHCR, which lack the permanence, clarity, and enforceability of domestic statutes.

In Jordan, where a 1998 Memorandum of Understanding with UNHCR provides a partial framework, codifying a national asylum law would reinforce existing practices, clarify refugee rights and responsibilities, and embed international legal standards (such as non-refoulement and legal identity) into the domestic legal order. In Lebanon, the absence of any formal asylum policy leads to widespread abuses and legal uncertainty; thus, the introduction of a national asylum law is even more critical. Such legislation should define key terms (e.g., asylum, refugee, statelessness), establish procedures for refugee status determination (RSD), prohibit arbitrary detention and deportation, and ensure access to justice and social services.

2. Establish Independent Refugee Status Determination Mechanisms

Both countries rely almost exclusively on UNHCR to conduct RSD procedures, despite the fact that this function should ideally be performed by sovereign states. This research recommends the gradual development of national RSD bodies, staffed by trained legal professionals and supported by transparent procedures, independent appeal mechanisms, and clear timelines. These bodies should coordinate with UNHCR during the transition phase, ensuring compliance with international due process standards and allowing the agency to retain a supervisory and technical role.

Establishing RSD authorities under national law would reduce the dependence on international actors and allow for greater institutional accountability, while also providing refugees with legal certainty, procedural transparency, and protection against arbitrary or discriminatory decision-making.

3. Strengthen Legal Safeguards Against Arbitrary Detention and Refoulement

One of the most serious findings in this thesis is the routine detention and deportation of refugees under immigration law, especially in Lebanon, where the 1962 Law of Entry and Exit is applied indiscriminately to asylum seekers. Both countries must take immediate steps to amend existing laws to reflect the special legal status and vulnerability of refugees.

This requires:

- Explicit legislative prohibitions on the detention of refugees and asylum seekers for reasons related to unlawful entry or stay.
- Adoption of alternatives to detention in accordance with UNHCR's Detention Guidelines and the Mandela Rules.

- Ensuring judicial oversight of any deprivation of liberty, and allowing detainees access to legal representation and interpreters.
- Clear legal protections against refoulement, in line with Article 3 of the Convention Against Torture and Article 33 of the Refugee Convention (as a customary norm).

These measures are essential to upholding the right to liberty, security of person, and protection against inhumane treatment, and to ensuring that detention is not used as a deterrent policy against irregular migration.

4. Institutional Reform and Capacity-Building

The implementation of legal reforms must be matched with stronger institutional capacities. The research recommends targeted investment in training judicial, law enforcement, and administrative personnel on refugee and human rights law. Legal practitioners, including judges, prosecutors, border police, and immigration officers, should receive regular and mandatory training—ideally supported by UNHCR and human rights institutions—on topics such as:

- Refugee status and humanitarian protection
- Gender-based asylum claims
- Rights of stateless persons and vulnerable groups
- Procedural safeguards in detention and deportation cases

Additionally, data management systems and legal aid infrastructure must be improved to track refugee claims, support legal representation, and monitor compliance with judicial decisions. Independent oversight bodies should be established or empowered to handle complaints, monitor detention conditions, and review decisions on deportation or exclusion.

5. Enhance Birth Registration and Prevent Statelessness

Both Jordan and Lebanon host a large number of children born to refugee parents—many of whom face difficulties in obtaining birth certificates due to legal, financial, or documentation barriers. The lack of legal identity not only increases the risk of statelessness but also denies children access to education, health care, and social services.

This thesis recommends that governments, in cooperation with UNHCR and UNICEF:

- Simplify birth registration procedures for all children, regardless of the legal status of their parents.
- Permit late registration and reduce administrative fees.
- Ensure that birth registration does not require legal residency as a precondition.
- Raise awareness among refugee communities about registration procedures and rights.

Legal identity is a fundamental right and a cornerstone of refugee protection—it must not be contingent on immigration status.

6. Combat Discrimination and Promote Social Inclusion

The rise of anti-refugee sentiment, xenophobia, and discriminatory policies—especially in public discourse and local governance—poses a serious challenge to the integration and dignity of refugees. The thesis calls on both governments and civil society actors to:

- Develop public awareness campaigns to combat misinformation and stereotypes about refugees.
- Include refugees in municipal planning and service delivery, especially in health, education, and housing.
- Allow limited legal access to the labor market, especially in sectors where demand is high and local unemployment is low.
- Engage refugee communities in consultation on laws, policies, and local initiatives that affect them.

These steps are critical for preserving the social fabric and for promoting peaceful coexistence between host and refugee populations.

7. Regional Cooperation and Responsibility-Sharing

Finally, the thesis highlights that refugee protection cannot be resolved solely at the national level. Jordan and Lebanon must be supported by stronger regional cooperation mechanisms, ideally under the auspices of the Arab League or a dedicated Middle East Refugee Compact.

This includes:

- Developing a regional legal instrument on refugee rights, drawing inspiration from the African Union and Cartagena frameworks.
- Sharing responsibility through coordinated financial and technical support.
- Encouraging joint advocacy at international forums (e.g., Global Refugee Forum, UNHCR Executive Committee).
- Facilitating cross-border solutions such as resettlement, education, and training partnerships.

This work emphasizes that responsibility for refugee protection must be shared equitably—not only among states, but also between governments, international organizations, and the global community.



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List of publications related to the dissertation

Articles, studies (4)

- Alma'aitah, M. H. F.:** Refugee Protection in Jordan and Lebanon: Legal Frameworks, Service Provision, and Socioeconomic Challenges in a Turbulent Region.
Acta Humana. "Accepted by Publisher", [1-6], 2025. ISSN: 0866-6628.
Level of HAS Committee on Legal and Political Sciences: B
- Alma'aitah, M. H. F.:** Assessing Legal Frameworks for Refugee Issues: A Comparative Study of Jordan and Lebanon.
Jog, állam, politika. 16 (3), 249-262, 2024. ISSN: 2060-4580.
DOI: <http://dx.doi.org/10.58528/JAP.2024.16-3.249>
Level of HAS Committee on Legal and Political Sciences: A
- Alma'aitah, M. H. F.:** The Legal Regulations and Governmental Approaches towards Refugees in Jordan.
Acta Humana. 12 (1), 91-105, 2024. ISSN: 0866-6628.
DOI: <http://dx.doi.org/10.32566/ah.2024.1.5>
Level of HAS Committee on Legal and Political Sciences: B
- Alma'aitah, M. H. F.:** Meera Alma'aitah: The laws and policies regarding refugees in Jordan.
Jog, állam, politika. 15 (3), 79-86, 2023. ISSN: 2060-4580.
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List of other publications

Articles, studies (2)

5. **Alma'aitah, M. H. F.:** Modernity And Democracy.

In: Towards the future : Symposium. Ed.: Siska Katalin, Debreceni Egyetem, Állam- és Jogtudományi Kar, Debrecen, 89-108, 2023. ISBN: 9789634905363

6. **Alma'aitah, M. H. F.:** Refugees and Asylum Seekers: Recognizing their Human Rights.

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Conference presentations (2)

7. **Alma'aitah, M. H. F.:** Refugees Law and Policies In Jordan.

In: A Debreceni Egyetem Szakkollégiumainak II. Tudományos Konferenciája : konferenciakötet. Szerk.: Dajnoki Krisztina, Boros József, Felföldi János, Debreceni Egyetem Gazdaságtudományi Kar, Debrecen, 130-135, 2021. ISBN: 9789634903260

8. **Alma'aitah, M. H. F.:** Journalism and freedom of opinion and expression in Jordan.

In: IX. Interdiszciplináris Doktorandusz Konferencia 2020 / Csiszár Beáta, Hankó Csilla, Kajos Luca Fanni, Kovács Olivér Béla, Mezo Emerencia, Szabó Rebeka, Szabó-Guth Kitti, Pécsi Tudományegyetem Doktorandusz Önkormányzat, Pécs, 296, 2020. ISBN: 9789634295839

By the directives of HAS Committee on Legal and Political Sciences:

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