

**RESPOND**

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### **Global Migration: Consequences and Responses**

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### **Lebanon's Border Regime: Fluid Rigidity, Foreign Interference, and Hybrid Security Assemblages**

Research report

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## About the project

RESPOND: Multilevel Governance of Mass Migration in Europe and Beyond is a comprehensive study of responses to the 2015 Refugee Crisis. One of the most visible impacts of the refugee crisis is the polarization of politics in EU Member States and intra-Member State policy incoherence in responding to the crisis. Incoherence stems from diverse constitutional structures, legal provisions, economic conditions, public policies and cultural norms, and more research is needed to determine how to mitigate conflicting needs and objectives. With the goal of enhancing the governance capacity and policy coherence of the European Union (EU), its Member States and neighbours, RESPOND brings together fourteen partners from eleven countries and several different disciplines. In particular, the project aims to:

- provide an in-depth understanding of the governance of recent mass migration at macro, meso and micro levels through cross-country comparative research;
- critically analyse governance practices with the aim of enhancing the migration governance capacity and policy coherence of the EU, its member states and third countries.

The countries selected for the study are Austria, Germany, Greece, Hungary, Iraq, Italy, Lebanon, Poland, Sweden, Turkey and the United Kingdom. By focusing on these countries, RESPOND studies migration governance along five thematic fields: (1) Border management and security, (2) Refugee protection regimes, (3) Reception policies, (4) Integration policies, and (5) Conflicting Europeanization. These fields literally represent refugees' journeys across borders, from their confrontations with protection policies, to their travels through reception centers, and in some cases, ending with their integration into new societies.

To explore all of these dimensions, RESPOND employs a truly interdisciplinary approach, using legal and political analysis, comparative historical analysis, political claims analysis, socio-economic and cultural analysis, longitudinal survey analysis, interview based analysis, and photo voice techniques (some of these methods are implemented later in the project). The research is innovatively designed as multi-level research on migration governance now operates beyond macro level actors, such as states or the EU. Migration management engages meso and micro level actors as well. Local governments, NGOs, associations and refugees are not merely the passive recipients of policies, but are shaping policies from the ground-up.

The project also focuses on learning from refugees. RESPOND defines a new subject position for refugees, as people who have been forced to find creative solutions to life threatening situations and as people who can generate new forms of knowledge and information as a result.

## Executive Summary

This report seeks to analyse border and migration governance in Lebanon; it provides an overview of legislation and policies concerned with border management and control in Lebanon, by systematically analysing pre-entry controls, controls at the border, internal control regimes, and return policies. Moreover, by examining the role of national and international actors in migration and border management in Lebanon, the report also aims to shed light on geopolitical factors and the impact of foreign interventions to local governance and sovereignty, as well as underlying complex dynamics between security assistance and humanitarian aid in the context of a 'fragile' or 'weak' state. Lastly, the report highlights how border policies and interventions impact refugees' and migrants' lived experiences.

This report is part of RESPOND, a Horizon 2020 project studying multi-level migration governance from 2011-2017 through cross-country comparative research in source, transit, and destination countries in 11 different countries. It is the second in a series of five<sup>1</sup> focusing on Lebanon.

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<sup>1</sup> For the first report, see Lebanon Support, 2018a.

# 1. Introduction

Understanding the construction processes of contemporary modern nation states in the Levantine geographical space, *bilād al-shām*, the configuration of 'imagined communities' (Anderson, 1991:53), and the subsequent erection of physical borders, requires a historiographic exercise. It invites a reexamination of (sub and supra) national histories and trajectories in the context of the Ottoman Empire, beyond a narrow vision of state borders. State building processes (fiscality, justice, public administration) were primarily run centrally in Istanbul. In the frame of the *tanzimat* reforms within the Empire, these were handed to the *mutasarrifiya*, i.e. the autonomous subdivision of Mount-Lebanon (1861-1915). National identifications were multiple, blurred, and evolving (Carol Hakim, 2013:251, cited in Picard, 2016:29). Hence, in the Levant space, a differentiation of national identity based on ethnic characteristics was for a long time irrelevant (Smith, 1986:23-35), leading to challenge many dominant binary historiography narratives setting opposition between Christians and Muslims, or the centre and the peripheries. Physical borders that shape current Lebanon are the fruit of a succession of areas of influence and subsequent colonial mandates in the region. Important milestones are the Anglo-French Sykes-Picot agreement in 1916, drawing the delimitation of what have become national territories within the Levant, and the proclamation of Greater Lebanon in 1920, ahead of the declaration of the Republic of Lebanon in 1926, sealing the separation of Lebanon and Syria (Picard *et al.*, 2016:27). Furthermore, since 1948, the Israeli-Palestinian question has disrupted borders in the region, and especially added strain to Lebanon's southern border.

The establishment of Lebanon's borders, as well as their management, remains complex until today. In 2019, Lebanon hosts the world's highest per-capita number of registered refugees (approximately 1.1 to 1.8 million)<sup>2</sup>, notably from Syria, but also from Palestine, Palestinian refugees from Syria, Iraq, Sudan, and other countries (UNHCR, 2018; European Commission, 2018a; LCRP, 2017:8). The country is also home to a large number of migrant workers (over estimatedly 250,000), particularly from Ethiopia, Bangladesh, the Philippines, and Sri Lanka (Lebanon Support 2018:17). In the light of global 'threats' of migration, notably following the eruption of the Syrian crisis, the influence of global powers on Lebanon's borders reverberates until today. The complexity of border management in Lebanon is exacerbated by Lebanon's politically divided landscape, which sees support by international geopolitical actors with opposing aims, as well as by the hybrid character of formal and informal local security mechanisms involved at the border.

It is in this context that this report seeks to analyse border and migration governance in Lebanon. Defining border management as an 'ensemble of legislation, policies, implementation practices, institutions, and actors that are concerned with defining, conceptualising, and policing of the external border' (Karamanidou and Kasperek, 2018), the report first provides an overview of border determination processes in Lebanon, or the lack thereof, under colonial powers. Then, the report evaluates legislation and policies concerned

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<sup>2</sup> It should be noted that Lebanon also hosts large numbers of unregistered refugees; as Lebanon does not consider itself a country of asylum, refugee registration is mainly conducted by UN agencies (UNHCR and UNRWA). However, little information is available on the frequency with which these numbers are updated. Moreover, as UNHCR registration is not obligatory, many refugees have not registered. Lastly, as has been the case for Syrian refugees in Lebanon since May 2015, UN authorities may be required to suspend registration upon government request (Lebanon Support, 2018a:14).

with border control in Lebanon, by examining pre-entry controls, controls at the border, internal control regimes, and return policies, on the one hand, as well as governance practices, on the other. In doing so, the report aims to analyse an increased securitisation of Lebanon's borders. Lastly, this report analyses a variety of formal and informal actors in border management, their level of cooperation, as well as implementation challenges. A special focus highlights how this context affects the daily lives of (Palestinian) Syrian asylum seekers, refugees, and migrants in the country.

## 2. Methodology

The report relied on an extensive review of the existing literature as well as in-depth fieldwork.<sup>3</sup> Desk research included, notably, the examination of policy documents, newspaper articles, (I)NGO reports, and academic literature on border management in Lebanon. Fieldwork consisted of 79 interviews at the micro-level (60) and meso-level (19), as well as a focus group, all conducted between April 2018 and February 2019. All interviews followed semi-structured interview guides.<sup>4</sup> Lebanon Support did not provide incentives: when necessary, interlocutors were provided with relevant referral contacts for proper assistance. An Information Letter explaining the purpose of the project was read to all interlocutors, who then provided oral or written consent to participate. Interlocutors were assured that their identity would remain anonymous during all phases of the research, unless they explicitly agreed to the public use of their name. Except one interview via Skype, all interviews took place in person. Interviews took place in rural and urban areas in Beirut, Mount Lebanon, southern Lebanon (Saida, Sour), northern Lebanon (Akkar, Tripoli), and the Bekaa Valley (Zahle, Majdal Anjar).

At the micro-level, 60 interviews were conducted with Syrian (56) and Palestinian Syrian (4) refugees arriving to Lebanon after the eruption of the Syrian crisis in 2011. Our interlocutors consisted of 29 male and 31 female interviewees, all aged 18 or above. Interviews mainly took place in Arabic. Ethical considerations during the micro-level interviews highlighted complex dynamics between researchers and our interlocutors, trying to balance a respect for privacy with obligations to obtain the necessary data for the project. Although attuned to local context, including gendered expectations, multi-sited fieldwork offered little opportunity to develop strong and longitudinal relations with our interviewees. Significantly, interlocutors indicated to have been interviewed many times,<sup>5</sup> contributing to a highly distrusting attitude towards research projects. Although the anonymity of interlocutors was ensured at all phases of the research, concerns about data collection and storage, and possible repercussions by security forces have been raised various times. All of this contributed to respondents' cautiousness in answering some questions during interviews.

At the meso-level, 19 interviews were conducted with 5 female and 14 male interlocutors aged 18 or higher. The Lebanon Support team used its extensive network of refugees, civil society actors (activists, lawyers, (I)NGO workers, academics, etc.), UN representatives, security actors, as well as local 'middle men' (broker, landlord, sponsor, etc)

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<sup>3</sup> This report draws on some insights developed by Elizabeth Saleh and Cybele Atmeh in an earlier draft of this report.

<sup>4</sup> The semi-structured guides were developed within the frame of the RESPOND project, and have been used in 11 different countries.

<sup>5</sup> The eruption of the Syrian crisis in 2011 contributed to a myriad of (academic or practitioner) researchers investigating migratory phenomena in Lebanon.



to understand border management processes, as well as who is affected by them. These interviews were conducted in both English and Arabic.

Lastly, a focus group with 9 (meso-level) multi-stakeholders was conducted on 26 November 2018, consisting of lawyers, local and international civil society actors, academics, and practitioners. Feedback has been incorporated into the analysis.

### **3. Developments: Lebanon's borderlands as dynamic spaces**

Lebanon's geographical area consists of approximately 10,400 square kilometres, the majority of which consists of land (10,230 square kilometres), and a small claimed part territorial sea (World Atlas, 2017). To the west, Lebanon's coastline defines a maritime border on the Mediterranean Sea. By land, the Lebanese territory borders with Syria to the north and east (375 kilometre), and Israel to the south (79 kilometre). The issue of Lebanon's borders, which are undelimited and undemarcated until today, is considered 'unusually complex' (Tholens, 2017:872).

#### **3.1 Colonial legacies**

The geographical area of the modern Middle East can be tied back to the Sykes-Picot Agreement (May 1916),<sup>6</sup> which for the first time divided former Ottoman areas, and established boundaries in order to suit the colonial needs of Great-Britain and France in ways that reverberate until today (Meier, 2013; Al Jazeera, 2016).

Border determination processes generally entail three steps (Kaufman, 2004): (i) 'Allocation' of land to a state, (ii) 'Delimitation' of borders in a written document, and (iii) 'Demarcation', by marking the borders on the ground. In Lebanon, only the first phase was completed.

In 1920, under the 'Franco-British Convention on Certain Points Connected with the Mandates for Syria and the Lebanon, Palestine and Mesopotamia', also known as the Franco British Boundary Agreements, Lebanon's preliminary borders were broadly defined, and were later amended by the 1923 Paulet–Newcombe Agreement. Although Lebanon's borders had been delineated on various maps under the French mandate, this delimitation is described by some scholars as a 'negligent French mapping project' (Kaufman, 2004). This, as some discrepancies the mappings' delimitations and practice in reality remained: areas that identified as Syrian became formally part of Lebanon<sup>7</sup>, whereas former Lebanese territories were classified as Syrian.<sup>8</sup> Despite several attempts, formal border determination had not taken place when colonial powers withdrew from the area in the 1940s.

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<sup>6</sup> The Sykes-Picot Agreement was a secret convention between the United Kingdom and France, which concluded the partition of the Ottoman Empire's territories, and led to the division of present-day Iraq, Syria, Lebanon, and Palestine into French- and British-administered areas.

<sup>7</sup> For example, during the 1925 Druze uprising, 'the French army decided to establish a military post in the tiny village of Tufayl in the Qalamoun area on the eastern side of the Anti-Lebanon mountain chain in Syria. [Although the area is formally part of Lebanon, the] residents speak Arabic with Syrian accents, use Syrian currency, their children go to Syrian schools and universities and they buy their goods from nearby Syrian towns and villages, but they vote in Lebanon's parliamentary elections.' (Blanford, 2016).

<sup>8</sup> As was the case with the Sheb'aa farms. See Box 1.

After Lebanon's independence in 1943, the establishment of the state of Israel, and the 1948 Arab-Israeli War, the Armistice Line (also referred to as the 'Green Line'<sup>9</sup>) was set out in 1949 to redraw the borders and formally end hostilities between Egypt, Jordan, Lebanon, Syria, and newly independent Israel (1949 Armistice Agreements). In the Lebanese context, the Armistice line corresponded to the 1923 Paulet-Newcombe line (United Nations Security Council, 1949). Despite these internationally recognised agreements, Lebanon's borders, whether by sea or land, until today, received little significance in the past, and remain highly disputed today.

As such, rather than hard borders referring to physical markings and rigid controls, literature rather refers to Lebanon's 'soft' borders (Tholens, 2017:865): *de facto* 'frontiers', symbolic 'boundaries', or fluid borderlands (Kaufman, 2013; Meier, 2013). These dynamic spaces of historic interaction were divided as a result of colonial interests – which did not necessarily take into account pre-existing social, religious, ethnic, or primordial links. Furthermore, Lebanon's border areas should be analysed against the construction of the states of Lebanon, Syria, and Israel, all of which, motivated by 'contrasting goals [...], interpreted the border according to its own needs' (Ram, 2014:2).<sup>10</sup> In the Lebanese case, governance in these areas has historically been characterised in a context of marginalisation and minimal state presence (Mouawad, 2018:2).

### **3.2 The Blue Line: window-dressing at the Lebanese southern border**

Lebanon's southern border 'at times functioned as a "hard", impregnable border, and at times as a porous frontier subject to settlement, exchange, expansion and cross-border raids' (Kaufman, 2013:75).

Until 1949, Lebanon's southern border areas, divided by the Paulet-Newcombe Agreement, have been described as vibrant areas of continuous interaction and exchange between Lebanon and Palestine based on kinship, economic, or social purposes (Kaufman, 2013; Meier, 2013; Tholens, 2017). However, in 1936, the area became a stronghold for the Palestinian Intifada. The Armistice Line Agreements, signed by both Lebanon and Israel, abruptly led to border closures, affecting individuals in the border areas to a large extent, and uprooting Palestinians who had fled from their homeland (Soueid, 2000; cited in Meier, 2013:360).

Notably in the light of the 1948 Arab-Israeli War, the borders were firmly characterised as a frontline against Israel. Despite several disputes,<sup>11</sup> this relatively stable situation shifted dramatically after the 1967 Six Day War, and Israel's seizure of the Golan Heights in 1967 (see Box 1), bringing together a large variety of actors with opposing motivations – notably the Palestinian Liberation Organisation (PLO), the Lebanese Armed Forces, the Israeli army, and the Lebanese Hezbollah (see Section 5.2).

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<sup>9</sup> Not to be confused with the Green Line that divided predominantly Muslim areas in West Beirut from mainly Christian areas in East Beirut during the Lebanese Civil War (1975-1990).

<sup>10</sup> For example, whereas Israel considered the border region as a frontier, the demarcation of which was necessary for the creation of the state, Lebanon regarded its southern border as peripheral, geographically isolated areas a great distance from its capital Beirut (Kaufman, 2013; Ram, 2014).

<sup>11</sup> Disputes revolved, for example, around territories and settlements, access to water resources, cultivating plants and livestock, and the construction of new roads (Kaufman, 2013).

Following the Israeli invasion in response to PLO resistance operations led from Lebanon's southern border areas, UN Resolution 425 was adopted on 15 March 1978. It called upon Israel to cease its military action and withdraw its forces from Lebanon. Additionally, the resolution facilitated the establishment of UNIFIL (see Section 5.3). Although initially, Israel withdrew its forces after Resolution 425 was passed, the Israeli occupation was expanded during the 1982 Lebanon War. Following various attacks, in May 2000 – more than 22 years after passing Resolution 425 – Israeli troops withdrew from Lebanon's southern areas.

However, formal confirmation of the Israeli withdrawal from Lebanon, in compliance with Resolution 425, is obstructed by the absence of formally demarcated borders. Towards this end, following UN mediations that only succeeded in 2000, the 'Blue Line' was established – referring to the civilian line marked by blue UN barrels (UNIFIL, 2018). As explicitly mentioned, the Blue Line – which differs slightly from the 1949 Armistice Line or 1923 Paulet-Newcombe Line – did not seek to establish an international border (Meier 2013:361), but is rather a coordination mechanism.

However, in reality, the Blue Line *de facto* demarcates the southern 79 kilometre long border with Israel (Tholens, 2017:872). It is praised by some as 'the best available option to alleviate some of the tension in the region' (Kaufman, 2013:220), while others consider it 'reordering and monopolizing a piece of Lebanese sovereignty' (Meier, 2015) with minor attention to the supposed location of international boundaries. Importantly, it leaves several issues unresolved. This includes the Sheb'aa farms (see Box 1) a small area located in the Israeli-occupied Syrian Golan Heights, that falls within Lebanon's international borders, but outside the Blue Line.

### **Box 1: The Sheb'aa Farms Dispute**

The Sheb'aa farms is a roughly 27-square-kilometer strip of land in Lebanon's southern border with Syria. During the French Mandate, although never formally demarcated on the ground, French maps located the Sheb'aa farms within Syrian territory. In reality, however, 'the residents of the area continued to consider themselves part of Lebanon. They paid taxes to Lebanon and conducted all their legal and administrative affairs in [Lebanon] rather than in [Syria]' (Kaufman, 2004).<sup>12</sup> Although such border anomalies were not uncommon throughout the Syrian-Lebanese boundary, notably in the light of Syria's unwillingness to discuss border demarcations confirming Lebanon's independence, the Sheb'aa farms initially received little attention by the Lebanese authorities (*ibid.*).<sup>13</sup>

During the Six Day War (1967), Israel occupied the Golan Heights, and despite objections

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<sup>12</sup> Although this discrepancy was reported to the High Commission in Beirut and amendments were suggested to correspond better with local practice, 'nothing was done to resolve the matter, neither by France, nor by the Syrian or Lebanese governments' (Kaufman, 2004).

<sup>13</sup> First of all, peripheral areas, especially in South-East Lebanon, were characterised as neglected areas. Furthermore – as Lebanon's 15-year Civil War erupted in 1975, soon to be followed in 1976 by 30 years of Syrian occupation, and Lebanon's southern border would become a base for Palestinian guerilla organisations as of 1986 – 'petty issues' such as the Sheb'aa farms were not prioritised by the Lebanese authorities (Kaufman, 2004).

by the international community,<sup>14</sup> it extended its law to the Golan Heights in 1981 – a measure considered tantamount to annexation of the area.

Although on several occasions, Lebanon and Syria had the opportunity to (dis)claim sovereignty over the Sheb'aa farms, it was only on May 4th, 2000, that an official Lebanese claim for sovereignty over the territories has been made (Kaufman, 2014) - which was supported by Syria.<sup>15</sup> However, although Israeli forces left the Lebanese territories in 2000, they did not evacuate the Sheb'aa farms, claiming it as part of the Syrian Golan Heights. The Israeli claim was supported by the UN, that concluded that withdrawal from the Lebanese territories had indeed been completed (Kaufman, 2004).

Further complicating the issue of Lebanon's southern border, are recently discovered gas and oil resources in the Levant Basin of the Eastern Mediterranean (bordering Syria, Lebanon, Israel, Gaza, and Egypt) and adjacent offshore waters. Although Lebanon has ratified the 1982 UN Convention on the Law of the Sea (UNCLOS), an instrument in codifying laws pertaining to maritime sovereignty and cooperation which is generally adhered to by means of customary international law, Israel is not a party. As such, 855 square kilometres of waters are claimed by both Lebanon and Israel.

In sum, until today, in the absence of any agreement between Lebanon and Israel formally outlining the Lebanese-Israeli border, Lebanon's southern border is considered impenetrable, and passing it directly from the Lebanese territories, either by land, sea, or air, is virtually impossible (see Section 4.1).<sup>16</sup>

### **3.3 Intertwined histories and the 'porosity' of the Lebanese-Syrian border**

In contrast, Lebanon's 375 kilometre border with Syria – an 'artificial colonial creation of the 1920s' (Chalcraft, 2009:20) – has never been fully demarcated on the ground either, and is characterised by its historically fluid borderlands (Picard, 2006; Kaufman, 2013).

Consisting of large areas of 'green border' (mountain border, flat border, and river border) the Lebanese-Syrian border has always been challenging to control, and was subject to discussion many times during the 1960s (Kaufman, 2013). Although a border committee consisting of Lebanese and Syrian actors was formed to settle territorial disputes, notably the Sheb'aa farms, their recommendations have not been taken into consideration by either government, nor taken to the United Nations.

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<sup>14</sup> The question of the Golan Heights has received recent media attention, after President Trump of the United States of America has signed a proclamation formally recognising Israeli sovereignty over the Golan Heights in March 2019. In this vein, the American Ministry of Foreign Affairs has replaced the word 'occupied' with 'under control' in reports on the Golan Heights (NOS, 2019).

<sup>15</sup> However, as Kaufman argues, 'Israel views this dispute as a Hezbollah fabrication, invented to continue its armed struggle against Israel' (2004).

<sup>16</sup> The discovery of several tunnels on the Lebanese-Israeli border have increased tensions on the border. Israeli authorities claim the tunnels were dug by Lebanese Hezbollah (al Jazeera, February 2019). UNIFIL corroborated the existence of some tunnels reaching Israeli territory, adding that they constitute violations of Security Council resolution 1701 (BBC, 2018).

Further complicating the demarcation of the Lebanese-Syrian border are the advocates of Greater Syria, who regard Syria and Lebanon as one country, and 'never accepted the notion of an independent Lebanon' (Ram, 2014:2). In line with this ideology, diplomatic relations and demarcations were never established, as these would implicitly acknowledge Lebanon's independence. Furthermore, Syrian forces 'constantly encroached onto the territory, exploiting the ill-defined demarcation of the border between the two states' (*ibid.*). Notably during the Civil War (1975-1990), Lebanon's territories were occupied by Syrian troops. Although initially invited as a 'peace-keeping' force, the Syrian military remained present until 2005 – long after the end of the conflict was formally concluded with the 1989 Ta'ef Accord.

Following Israeli invasion during the Lebanese Civil War, the Lebanese-Syrian border received little attention by the Lebanese authorities, until Israeli withdrawal in 2000 (Kaufman 2014:61). In May 2000, U.N. Secretary General Kofi Annan concluded that an 'official record of a formal international boundary agreement between Lebanon and the Syrian Arab Republic' appeared to be lacking (Now News, 2009).

Until today, Lebanon's border areas have been considered marginalised in relation to areas closer to the capital Beirut. They are characterised by state absence, a lack of 'development projects, [...] political representation, and geographical distance from the political and economic centre' (Mouawad, 2018). As such, the Lebanese border areas have become largely dependent on Syria for 'border trade' (Hutson and Long, 2011) or smuggling (Mouawad, 2018) and, in reality, fell under Syrian control (Mouawad, 2018:5). Adding to this complexity is the fact that central authorities have never fully exercised control over the border areas (Tholens, 2017:872), nor over Hezbollah's intervention in Syria. Consequently, 'a porous Syrian-Lebanese space has re-emerged through the military control of Hezbollah on the two sides of the borders' (Mouawad, 2018:2).<sup>17</sup>

### **3.4 Developments since 2011: militarised borders and restrictive immigration policies**

The eruption of the Syrian conflict in 2011 spurred large numbers of Syrians to seek refuge in neighbouring Lebanon; over 1.1 million Syrians were registered as 'displaced persons' at the UNHCR as of October 2014 (UNHCR, 2019). Still, it should be noted that the number of Syrians in reality is estimated to be around 1.5 or even 2 million (Lebanon Support, 2018a), as many Syrians have intentionally not registered at the UNHCR; as a mobility strategy, out of fear of discovery by the Syrian authorities, or out of mistrust, for example. Additionally, the Lebanese-Syrian border areas have historically experienced large numbers of unregistered circular labor migration (Chalcraft, 2009:2) resulting in the open border policy between the two countries. A taxi company manager gives a rough illustration of this context: 'The first thing you need to know about the borders in Lebanon, is that half of the refugees in Lebanon are registered by the UNHCR and the other half isn't' (Interview, Beirut, 23 November 2018). This large influx of people after 2011 added strain to Lebanon's economy and infrastructure, which was facing challenges long before.

At the same time, between 2011 and 2013, cross-border mobility from Lebanon into Syria could be witnessed, whether through fighters or firearms, in support of either the Syrian

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<sup>17</sup> For more information about Hezbollah's role in Lebanon, see Section 5.2.

regime or the opposition (Mouawad, 2018:7). Moreover, since the eruption of the Syrian conflict in 2011, Lebanon has experienced several armed confrontations from Syria-based groups. Eastern border towns Aarsal and Ras Baalbek had become enclaves for armed groups (ISIS, Jabhat al-Nusra), which only ended in 2017 (Lebanon Support, 2014). As such, combined with the porous character of the borders, these borderlands have been described as a 'safe haven' for extremist groups (Humud, 2018:9). Despite significant threats, this did not halt Syrians from (informally) seeking refuge in Lebanon.<sup>18</sup> All of the above has led to gradual militarisation of the borders, spurring increased support from international actors which seek to 'reinforce' the Lebanese authorities with the tools necessary to defend Lebanon's borders, as well as with humanitarian and development initiatives.

In October 2014, the Council of Ministers adopted a series of restrictive residency policies, published under the name 'Reducing the numbers', in order to halt the influx of Syrians to Lebanon at the border, to encourage returns for Syrians already residing in Lebanon, and to formalise, monitor, and control the presence of those who stayed (Lebanon Support 2016a; Janmyr 2016). In order to implement this policy, the General Directorate of General Security (GSO) enforced new immigration controls at the Syrian border, which effectively made it impossible for Syrian refugees to obtain or renew a legal status (See Section 4.1).

#### **4. Legal Framework: between '*laissez-faire*' legislations and *ad hoc* policies**

Lebanon has not ratified the 1951 United Nations Convention relating to the Status of Refugees, nor its 1967 Protocol; as such, an official 'refugee' status is lacking. Still, by its preamble in the Constitution, Lebanon is bound by the 1948 Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) to provide access to territories and basic temporary protection for asylum seekers wishing to enter Lebanese territories (Lebanon Support, 2018a). Furthermore, by means of customary international law, by peremptory norms under international law (ALEF, 2013), and in compliance with international treaties to which it is a party,<sup>19</sup> Lebanon is committed to respect the principle of *non-refoulement*, prohibiting the forcible return of those whose life, or freedoms, would be under threat.

Domestic migration legislation in Lebanon consists of various provisions from the Lebanese constitution, international treaties, immigration and nationality legislation, and a variety of policies and decrees. Although a Memorandum of Understanding (2003) between the General Security and the UNHCR provides asylum-seekers and refugees with the right to

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<sup>18</sup> Still, it should be noted that instability in these areas cannot strictly be attributed to the Syrian conflict's consequences (Salloukh, 2017; cited in Mouawad, 2018:7). Rather, these areas formed the battleground of a complex conflict, and included a variety of Lebanese and Syrian actors (Mouawad, 2018:7).

<sup>19</sup> This includes Article 3 of the United Nations Convention Against Torture and the International Covenant on Civil and Political Rights (Frontiers-Ruwad, 2013). For an overview of Human Rights treaties signed and ratified by Lebanon, see Lebanon Support, 2018a:37.

temporarily remain in Lebanon,<sup>20</sup> the most important law governing foreign presence is the 1962 Law Regulating the Entry, Stay, and Exit of Foreigners (see Section 4.1; Lebanon Support, 2018a:20).

Although provisions from the 1962 Law Regulating the Entry, Stay, and Exit of Foreigners in Lebanon and their Exit from the Country (Lebanon Migration Law, 1962) constitute a moderate legal framework for political asylum in Lebanon, in reality, it is non-functioning. Moreover, it includes little details on procedural steps; details on 'application procedure (length, steps, interviews, questionnaires, fingerprints, photos, health checks), different actors and their respective responsibilities, or procedures and timeframes following rejection of the asylum application' (Lebanon Support, 2018a:20) are lacking. Furthermore, the law solely applies to those seeking refuge on political grounds (Article 26). A lawyer specialised in migration governance emphasises the need for amendments to the law: 'Can you imagine how much the world has changed since [1962]? How much the region has changed, how much borders have changed, how much movement around the world has changed?' (Interview, Beirut, 9 September 2018) Lastly, a data protection law in Lebanon currently has not been created or enforced.

Lebanon's refugee policy, at least until the influx of Syrian refugees reached its peak with 1.2 million registered Syrians in 2014 (UNHCR, 2019), initially was described as 'a policy of no policy' (El Mufti, 2014). It was characterised by a passive attitude towards the mass influx of Syrian refugees into the country, and minor importance was given to its political, economic, and social effects (Saghieh & Frangieh, 2014). The lack of strategic decision-making should be viewed in a context of political instability in Lebanon which existed prior to the eruption of refugee crises, various (inter)national conflicts and tensions, and long periods of political deadlock without a head of state or an operational government. The development of a coherent framework for migration legislation is further hindered by a lack of updated data on migration,<sup>21</sup> limited political will for structural reforms, and limited coordination between authorities relevant to migration governance. Furthermore, immediate challenges such as threats of terrorism spillovers, severe economic constraints, limited access to water, constrained electricity, and an unresolved waste management crisis, are rendering the development of coherent migration legislation more difficult. In reality, as stipulated in the 1962 Law Regulating the Entry, Stay, and Exit of Foreigners, migration governance largely falls under the discretionary power of security apparatus; the General Security in Lebanon being the main actor governing the entry, residency, and exit of foreigners in Lebanon (Lebanon Support, 2018a).

However, in 2014, after long periods of '*laissez-faire*' policies, some provisions on migration governance have been formulated as *ad hoc* responses to the mass influx of Syrian refugees in Lebanon (Lebanon Support 2018).

#### **4.1 Pre-entry measures: established laws and new constraints**

The 1962 Law on Entry, Stay, and Exit is the main legal provision governing the access, presence, and exit of foreigners in Lebanon. The law contains two articles regarding access

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<sup>20</sup> For more information on challenges related to the Memorandum of Understanding, see Lebanon Support 2018a:22.

<sup>21</sup> In Lebanon, data on asylum and migration are lacking, or inconclusive. See 'The power of data: scarcity of figures safeguarding a delicate sectarian balance' (Lebanon Support 2018a:13)

to Lebanese territories. First, Article 6 stipulates that non-Lebanese wishing to enter Lebanon can only do so through one of the legal posts of the General Security. It also obliges foreigners wishing to seek paid employment in Lebanon to obtain a permit from the Ministry of Labour and Social Affairs. 'Artists' wishing to work in Lebanon must obtain a permit from the General Security (Article 6).<sup>22</sup>

Furthermore, foreigners must provide valid documentation (this entails a passport valid for 6 months beyond the period of intended stay and with two blank pages), as well as a (transit) visa.<sup>23</sup> Article 7 stipulates that tourist visas for nationals of certain countries may be issued for a maximum of 3 months.

Lebanese visas can be obtained by the Ministry of Foreign Affairs and its consulates abroad, at the airport, or at border crossing points by the General Security (Article 6, Law Entry, Stay, and Exit 1962). As such, the law attributes the General Security with the legislative capacity to establish legislation on short-term and long-term visas and residence cards. In principle, the General Security applies a 'white list' of countries that do not require a visa, consisting of 7 Arab countries.<sup>24</sup> In addition, 79 countries (General Security, n.d.) can obtain a cost-free visa of 1 month, extendable to 3 months on arrival,<sup>25</sup> although additional documentation may be required.<sup>26</sup> All other countries are on the 'black-list', meaning foreigners from these countries wishing to enter Lebanon must obtain prior authorisation to enter Lebanon.<sup>27</sup> In order to obtain a visa, one must provide a telephone number, an address in Lebanon, and a return ticket.

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<sup>22</sup> Article 13 of the 1962 Law on Entry, Stay, and Exit defines 'anyone who works in night clubs where alcoholic drinks are retailed, or where variety shows are given to the accompaniment of music, whether food is service[d] or not' as an artist.

<sup>23</sup> Exempted from the list are persona non-grata, those who are not able to provide documentation, and those wishing to pursue employment in Lebanon (including artists), and holders of transit passports.

<sup>24</sup> This applies to members of the Gulf Cooperation Council (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates) and the Hashemite Kingdom of Jordan (General Security, n.d.).

<sup>25</sup> This applies to immigrants from Andorra, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Barbados, Belarus, Belgium, Belize, Bhutan, Brazil, Bulgaria, Canada, Chile, People's Republic of China, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Estonia, Finland, France, Georgia, Germany, Greece, Hong Kong, SAR of China, Hungary, Iceland, Iran, Ireland, Italy, Japan, Kazakstan, Kirgizstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Macau (SAR), Macedonia, Malaysia, Malta, Mexico, Moldova, Monaco, Montenegro, the Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Poland, Portugal, Romania, Russia, Samoa, San Marino, Serbia, Singapore, Slovakia, Slovenia, South Korea, Spain, St. Kitts & Nevis, Sweden, Switzerland, Tajikistan, Turkmenistan, United Kingdom, United States of America, Uzbekistan, and Venezuela (General Security, n.d.).

<sup>26</sup> This applies to immigrants from Algeria, Armenia, Azerbaijan, Belarus, Bulgaria, the People's Republic of China, Comoros Island, Croatia, Czech Republic, Djibouti, Egypt, Estonia, Georgia, Ghana, Hong Kong, Hungary, Iraq, Ivory Coast, Jordan, Kazakhstan, Kyrgyzstan, Latvia, Libya, Lithuania, Macau (SAR), Macedonia, Mauretania, Moldova, Montenegro, Morocco, Nigeria, Poland, Romania, Russia, Serbia, Slovakia, Slovenia, Somalia, Sudan, Tajikistan, Tunisia, Turkmenistan, Ukraine, Uzbekistan, and Yemen (General Security, n.d.).

<sup>27</sup> This notably applies to immigrants from Angola, Bangladesh, Benin Republic, Bosnia, Botswana, Burkina Faso, Burundi, Cameroon, Central Africa Republic, Chad, Chinese Taipei (TW), Comoros Island, Republic of Congo (Brazzaville), Democratic Republic of Congo (Zaire), Djibouti, Eritrea, Ethiopia, Fiji, Gabon, Gambia, Guinea Bissau, Honduras, India, Indonesia, Kenya, Liberia, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Nicaragua, Niger, North Korea, Pakistan, Palau Islands, Philippines, Rwanda, Salvador, Seychelles Islands, Sierra Leone, Somalia, South Africa, Sri Lanka, St. Lucia, St. Vincent & Grenadines, Suriname, Tanzania, Thailand, Togo, Trinidad & Tobago, Uganda, Vietnam, Zambia, and Zimbabwe (General Security, n.d.).



Decree No. 10188 (1962) by the Council of Ministers consists of 28 provisions laying down the conditions for entering, staying or exiting Lebanese territories. It includes transit and stay taxes, and regulations for visas and residence cards, amongst others. Decision No. 320 stipulates the conditions for entering and exiting the Lebanese border posts for foreigners and Lebanese individuals. Specific provisions apply to Palestinians and Syrians wishing to enter or exit Lebanon to neighbouring countries. Decision No. 1 (1970) amended Article 7 of Decision No. 320, and allowed Palestinian refugees in Lebanon to go to Syria with *laissez-passer* passports, without requiring a special permission.

Article 21 (Decree No. 10188 Regarding the implementation of Law No. 0 for 1962) allows, under certain conditions, for 'courtesy residence permits' for the following categories: (i) the children of a Lebanese mother – as the Lebanese nationality is passed only through paternal lines – (ii) the foreign wife of a Lebanese national, (iii) non-Lebanese born in Lebanon, (iv) those of Lebanese descent holding another nationality, and (v) retired diplomats wishing to continue to reside in Lebanon. Decree No. 4186 (2010) grants foreign husbands and children of Lebanese women from a foreign husband the right to have a three-year courtesy residence permit (*iqamet mojamala*) under certain conditions. Lastly, Article 28 allows the Minister of Interior to exempt individuals from using their passports. This was mainly used for foreigners (including Palestinians) wishing to travel between Lebanon and Syria, people in transit wishing to visit Lebanon, tourists, students, athletes, naval (air) staff, *et cetera*.

### **Closing the doors: the Lebanese-Syrian border**

During the 1990s, an open border policy was rationalised between Syria and Lebanon through three bilateral treaties, which until today formally ensure the free movement of goods and people (ii) the right to work and (iii) reciprocal treatment of individuals, as well as the rights and obligations of hosting states Lebanon and Syria (CLDH, 2013; Syrian Lebanese Higher Council, 1991c). In addition, the 1992 Treaty of Brotherhood, Cooperation and Coordination and the 1993 Agreement for Economic and Social Cooperation and Coordination was adopted to administer Lebanese-Syrian relations. Consequently, Syrians, until 2015, could relatively easily enter Lebanon. Those who legally entered Lebanon with a valid passport or identification card received an entry coupon and entry stamp at the border, granting them free-of-charge residency for a period of six months, renewable for another six months. As such, for decades, Lebanon and Syria, two countries with distinctive colonial legacies and contrasting political and economic models, for years maintained open borders that allowed for the flow of cheap 'cash-in-hand' labour from Syria into Lebanon (Chalcraft, 2009).

However, this situation radically shifted following policies adopted by the Council of Ministers in October 2014, and implemented as of January 2015, when the General Directorate of General Security introduced a special entry procedure for Syrian citizens, through a set of categories to legally enter and reside in Lebanon. These included short-term visas (for purposes of tourism, business, shopping, property owners or tenants, study, transits, medical treatment, and appointments with embassies (Lebanon Support, 2016a; 2018a), and long-term residencies (for humanitarian exceptions and migrant workers). The implementation of the 2014 policies also entailed significant costs for Syrian refugees, which include an annual 200 USD renewal fee, municipality costs, and fees for the notary public (Lebanon Support 2016a).

Importantly, although the 'humanitarian' category may seem to qualify for Syrian 'displaced' persons, such a category, in reality, has been lacking: humanitarian exceptions are

considered ‘unaccompanied and/or separated children with a parent already registered in Lebanon, persons living with disabilities with a relative already registered in Lebanon, persons with urgent medical needs for whom treatment in Syria is unavailable, and persons who will be resettled in third countries’ (Amnesty International, 2015:11; Lebanon Support 2016a). Registered Syrians are considered ‘displaced people’, whereas they would be characterised as ‘refugees’ in other countries.<sup>28</sup> However, in May 2015, the Lebanese government has requested the UNHCR to suspend the registration of Syrian refugees as ‘displaced people’ – a decision that is still in place until today (Lebanon Support, 2016d:7).<sup>29</sup> Importantly, those registered or recorded with the UNHCR are prohibited access to the Lebanese labour market through a notarised ‘pledge to not work’, even though offered food and cash assistance has been described as insufficient to make a living (Lebanon Support 2016b).

The only viable option for Syrian nationals allowing for legal, long-term presence in Lebanon, in reality, is under the migrant worker category (Lebanon Support, 2016a). However, following the policies adopted in October 2014, Syrian migrant workers were required to sign a ‘pledge of responsibility’ by a Lebanese national, or employer, who is held accountable for the Syrian’s legal acts. With this, a version of the highly contested *kafala* (sponsorship) system was extended to Syrians.<sup>30</sup> Second, Syrians desiring to enter the Lebanese labour market generally are constrained to work in three realms: construction, agriculture, and ‘environment’. Importantly, those registered as migrant workers were required to deregister from UNHCR, which entails losing access to assistance provided by UNHCR and partner organisations (Lebanon Support, 2016b).

As such, the newly introduced categories clearly distinguished between Syrians registered with the UNHCR, and Syrian migrant workers. A State Council<sup>31</sup> ruling in February 2018 annulled restrictive measures and fees targeting Syrians in Lebanon, noting that the Council of Ministers is the only competent body to amend entry and residency conditions for Syrians, whereas the General Security’s task is limited to implementing these. As such, the State Council calls on the General Security to respect international agreements between Lebanon and Syria, and to guarantee freedom of movement, residence, and work between the two countries (Saghieh and Frangieh, 2018).

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<sup>28</sup> The influx of forced migrants as of 2011 has given way to another kind of porosity between the two borders. When Lebanon officially announced its policy of disassociation in 2014, declaring its stance behind the rhetoric of neutrality *vis-à-vis* the Syrian conflict, the state was in effect continuing its guest approach towards refugees. In describing Syrians as displaced (*nazihoun*) rather than as refugees (*lajjoun*) and claiming Lebanon as a site of ‘transit’ rather than refuge and integration, the policy limited the formal rights of Syrian forced migrants in the country (Lebanon Support 2016a; Janmyr 2016).

<sup>29</sup> As of then, Syrians have been ‘recorded’, rather than registered, as ‘person of concern’ (Lebanon Support, 2016d).

<sup>30</sup> The *kafala* system is not stipulated by law, but rather a combination of customary practices, as well as legal and administrative requirements, implemented by the General Security. Within this system, a worker’s legal status is tied to a sponsor (*kafeel*), and can be withdrawn at any time. The *kafala* system, initially developed for migrant domestic workers, is applied by many Middle Eastern countries, although it remains highly contested by human rights defenders. Being referred to as ‘modern’ slavery, the system puts workers in a vulnerable situation, as sponsors generally exercise considerable control, directly affecting worker’s legal status, mobility, and employment opportunities (Hamill, 2012).

<sup>31</sup> Lebanon’s High Administrative Court.

With regards to Lebanon's southern border, given that a peace agreement with Israel is yet to be signed, Israeli nationals, as well as nationals holding a passport bearing Israeli stamps, seals, or visas are strictly prohibited from entering the country.<sup>32</sup>

## **4.2. Border controls at land and sea**

The 1962 Law of Entry, Stay, and Exit appoints the General Directorate of General Security as the main authority governing foreign presence in Lebanon. Additionally, in response to Israeli invasions in Lebanon, the permanent military force United Nations Interim Force in Lebanon (UNIFIL) was deployed at Lebanon's southern border in 1978 by the UN Security Council (Resolutions 425 and 426, 19 March 1978). In May 2000, 22 years after the adoption of Resolution 425, the Israeli Defense Forces withdrew from southern Lebanon. In order to confirm its withdrawal from Lebanese territories in compliance with Resolution 425, the UN secretary-general indicated the need for clearly marked lines, although, as explicitly mentioned, it did not seek to establish an international border (Meier 2013:361). This led to the 'Blue Line' (see Section 3.2), which *de facto* defined the Lebanese-Israeli border.

After 33 days of war between Hezbollah and Israel, the UN Security Council passed Resolution 1701 on 11 August 2011. By this resolution, which calls upon the international community 'to support the territorial integrity, sovereignty and political independence of Lebanon within its internationally recognized border', UNIFIL's mandate, as well as security assistance, was reinforced to a great extent.<sup>33</sup> It is important to note, however, that Resolution 1701 is not binding.

### **Border surveillance at sea: a fractured and inadequate defence**

Lebanon's maritime border of 225 km contains 12 ports and harbours: Batrun, al Mina, Tripoli, al Naqoura, Antelias, al Zahrani, Beirut, Jbeil, Jounieh, Chekka, Sidon, and Tyre (Mattar, n.d). Foreign boats can arrive and exit through three 'corridors': Port of Beirut, Port of Tripoli, and Port of Sidon.

The coastal areas are guarded by the Lebanese navy, a sub-department of the Lebanese Armed Forces. Although considered 'capable and well-trained' (Global Security, 2013), the Lebanese navy is characterised by its budgetary constraints and its limited capacity and equipment. A border expert explains: 'The navy has a number of ships, although they are limited for what they need to do, and they are aging, and maintenance is a bit of a problem. The other agencies – the ISF, the General Security, and Customs – they all have one or two small boats but [are lacking] training and maintenance – so it's rather ineffective'. As such, Lebanese Naval Forces' tasks largely 'mirror that of a coast guard, more than a traditional Navy' (Global Security, 2013).

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<sup>32</sup> Law 0 of June 6th, 1955 stipulates Israel as enemy country and specifies several boycott measures. In this context, nationals holding Israeli marks in their passport will be rejected from entering Lebanon, and may be subject to arrest, or even detention (Lebanese Ministry of Economy and Trade, n.d.).

<sup>33</sup> 'Including the deployment of thousands more UNIFIL and LAF troops in Southern Lebanon and an expanded variety of operations (UNIFIL, n.d.). These operations encompassed local security, enforcing a ban on all weaponry in the area and, also, humanitarian mine clearing. Monthly tripartite meetings take place between UNIFIL, the LAF and Israeli military to ensure communication and de-escalation of any tensions' (Lebanon Support, 2015).

During various conflicts and interventions, notably during the Civil War, Lebanese Naval bases have been seized or destroyed. Israeli airstrikes during the 2006 War destroyed all three radar stations. In 2018, a few smuggling operations to Cyprus have been reported, involving Syrians, but other nationalities, as well (Lebanon Support, 2018b).

Under UN Security Council Resolution 1701, UNIFIL's mission was expanded in 2006 with a Maritime Task Force charged with assisting the Lebanese Navy with periodical training exercises and daily cooperation. A border expert clarifies UNIFIL's role and authority: 'There is a lot of misunderstanding that the Maritime Task Force is actually the one doing the border management and the border control – but that isn't the case. They have limited powers and they just support the Lebanese. However, their presence is certainly a deterrent to some people.' The border expert concludes: 'The response is not very joined up, [...] What actually is lacking is some kind of strategic approach, so all the agencies can work together and maybe make best use of their sort of limited or rather disparate resources' (Interview, Beirut, 23 January 2019).

### **4.3. Internal Controls: double jeopardy for irregular migrants**

In Lebanon, illegal entry or presence of foreigners is penalised; they are subjected to arrest, penalties, imprisonment, and deportation by the General Directorate of General Security (Chapter IX of the 1962 Law of Entry, Stay, and Exit; the Lebanese Constitution, the Lebanese Penal Code; and the Criminal Procedural Code). Foreigners who have committed criminal offences, or who are considered to pose a threat to public security (Article 17, Law of Entry, Stay, and Exit), can be 'detained and sentenced to expulsion (criminal proceedings), removal (magistrate proceedings), or have their further stay denied (administrative proceedings)' (Frontiers-Ruwad, 2006:16). A lawyer specialised in migration governance explains that refugees and migrants without legal status can be detained and deported through both criminal and administrative procedures:

The problem is that the same violation, namely irregular migration, is both a criminal act and an administrative immigration violation. So you could be detained and sentenced by the court as a criminal - and fined, detained, and deported by the administration, namely the General Security. And some people go through both procedures. I would call this 'double jeopardy' (Interview, Beirut, 18 April 2018).

After being charged with criminal violations related to their status, foreigners face three stages of imprisonment: pre-trial detention; criminal imprisonment upon conviction; and detention while awaiting removal from the country after the completion of sentences (Global Detention Project, 2018). In practice, however, foreigners are systematically kept in detention after completing their sentences. A lawyer specifies: 'Every criminal detention [will eventually lead to] administrative detention by the General Security. [...] Because after every criminal process, there is a review of the legal status by the General Security' (Interview, Beirut, 18 April 2018).

Under the Law of Entry, Stay, and Exit, the following immigration-related violations are criminal violations: 'irregular entry, use of forged identity papers and concealment of identity); remaining in the country following the rejection of a new residence permit and re-entry or exit

via unauthorised posts; continued stay in the country after the issuance of a deportation order on security grounds; irregular re-entry; and non-timely extension of a residence permit' (Global Detention Project, 2018; Frontiers-Ruwad, 2006).

Foreigners found guilty of carrying false identification or lacking proper authorization can be fined, sentenced to up to three years in prison, and served an expulsion order, as per Article 32 of the 1962 Law of Entry, Stay, and Exit (Global Detention Project, 2018). Those who attempt to (re-)enter or exit Lebanon by illegal means, or who remain in the country after being denied a residency permit, can be fined, and/or be charged for criminal imprisonment varying from one week to three months (Article 33). Article 34 stipulates that failure to comply with an expulsion order provides for one to six months imprisonment. Article 35 states that those who have committed a second offence, or who attempt to re-enter Lebanon after expulsion can face an imprisonment sentence of 3 months to 3 years. Foreigners late to apply for a residence permit extension can be fined, and/or sentenced to imprisonment for one week to two months (Article 36).

Although there is a legal basis for the administrative detention of foreigners, it is 'unclear and inadequate' (Global Detention Project, 2018), subjecting migrants and refugees to discretionary decisions by the General Security. The only provision providing for administrative detention of foreigners is Article 17 of the Law of Entry, Stay, and Exit (1962), which stipulates that foreigners posing a 'threat to public security' can be issued an expulsion order by the General Security. In reality, migrants in particular have been systematically reported to be confined in prolonged, and often unjustified, administrative detention for years, sometimes in spite of condemnations by the judiciary (Frontiers-Ruwad, 2010:X; Alef *et al.* 2017:7). This directly contradicts the Lebanese Penal Code, which stipulates that officials who have held an individual arbitrarily without a warrant or court decision can be imprisoned up to three years (Article 368). Under Article 367 of the Penal Code, any official who arrests or imprisons any person in cases other than those provided for by law can be sentenced to forced labour for life.

At the same time, by its Preamble in the Constitution, Lebanon is bound to respect UN covenants and human rights standards outlined in the Universal Declaration of Human Rights (UDHR) in 'all fields and areas without exception'. Thus, Lebanon is implicitly obliged to ensure that 'no one shall be subjected to arbitrary arrest, detention or exile' (Article 9, UDHR), and to safeguard the right to 'seek and to enjoy in other countries asylum from persecution' (Article 14, UDHR). Importantly, as stated by the UN Human Rights Committee, 'illegal entry itself, is not sufficient as a grounds for detention' (Frontiers-Ruwad, 2006:4).

Furthermore, Lebanon has ratified various international human rights treaties,<sup>34</sup> notably the International Covenant on Civil and Political Rights, as well as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which explicitly denounce arbitrary detention, *refoulement*, and outline various procedural safeguards (Frontiers-Ruwad, 2006:14).

International law has become an integral part of domestic legislation, and if sufficiently specific and concrete, it should be prioritised in cases of conflicting legislation (Frontiers-Ruwad, 2006:14). As such, international detention standards have become essential in determining the extent to which detention can be considered 'arbitrary'. Although occasionally used in Lebanese courts, legal experts in migration governance identify international treaties

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<sup>34</sup> CERD (12 November 1971), ICCPR (3 November 1972), ICESCR (3 November 1972), CRC (14 May 1991), CEDAW (21 April 1997), and Convention Against Torture (5 October 2000).

as key tools in ensuring the Lebanese state's compliance with international human rights (Frontiers-Ruwad, 2006:15).

Lastly, trafficking is denounced in provisions in the Lebanese Constitution, the Lebanese Penal Code, and the 2000 UN Convention on Transnational Organized Crime. Furthermore, supplementing protocols prohibit trafficking, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Protocol against the Smuggling of Migrants by Land, Sea and Air; and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition.

One of the most significant steps towards more coherent legislation on anti-trafficking legislation was the adoption of Anti-Trafficking Law No. 164 (2011), which prohibits and penalises all forms of trafficking. In addition, Lebanon has signed a number of bilateral agreements on irregular migration: the Lebanon-Bulgaria Cooperation Agreement (2001) on organized crime, as well as the Lebanon-Cyprus Cooperation Agreement (2002) on organized crime, both of which explicitly denounce irregular migration, human trafficking and forced crimes (MPC, 2013).

### **Internal controls and security measures: increased control following the Prime Minister's assassination**

After the assassination of Prime Minister Rafiq Hariri in 2005, securitisation processes, which gradually appeared to diminish after the end of the Civil War in 1990, intensified again (Fawaz *et al.*, 2012). Perceived threats to political leaders and public buildings, the risk of riots, sectarian clashes, threats to high-end purpose buildings (such as malls, luxurious residential buildings, banks, and hotels), and threats by 'resistance security' actors, led to an increased but fragmented provision of security implemented by a variety of public and private actors with 'blurred' boundaries, which are often difficult to distinguish (Fawaz *et al.*, 2012:180; Lebanon Support, 2016c).

This has resulted in highly visible security mechanisms in Lebanon's daily scenery until today, affecting everyone in the country. They include, although they are not limited to, surveillance mechanisms (cameras, metal detectors, bag searches, car inspections, patrols, and 'observation' stations), mechanisms to control and constrain activities (blocking or narrowing streets in order to slow down traffic flow, profiling of vehicles and pedestrians), or mechanisms to eliminate activities (prohibitions on parking, on photography of buildings or people, blocked phone signals, blocked streets, no parking zones, etc.) (Fawaz *et al.*, 2012). Today, roadblocks, as well as 'armored vehicles and tanks, fortified walls, sand bags, barbed wire, metal barriers, concrete blocks' are considered part of Lebanon's (urban) landscape (Fawaz *et al.*, 2012:177).

Manned checkpoints – in most cases remaining from the Syrian occupation until 2005 – are widespread in Lebanon. Generally, they are placed at the entry of each governorate (*mohafaza*) or district (*caza*), although there are also checkpoints that change locations. Those wishing to pass are subjected to routine military inspections. Their placement throughout the country, notably at the entrance of Palestinian refugee camps outside Beirut, in combination with army raids, increases the risk of arrest and detention, notably of refugees and migrants without legal status.

As will be illustrated in Section 6.3, refugees and migrants find themselves constrained by growing surveillance and increased restrictions.

#### **4.4. Return, detention, and readmission**

Foreigners in violation of the 1962 Law on Entry, Stay, and Exit can be sentenced to 'Exit and Expulsion' (Chapter 9, 1962 Law on Entry, Stay, and Exit). Article 89 of the Criminal Code stipulates that individuals who have completed their sentence, should be released in order to leave the Lebanese territories by their 'own means within 15 days'. In reality, however, foreigners are reported to be kept incarcerated after having completed their sentences (Global Detention Project, 2018).

The 1962 Law on Entry, Stay, and Exit authorises the General Directorate of General Security to impose exit visas when 'considerations of the General Security so require' (Article 15) and to expel any alien who is considered a 'threat to public security' (Article 17). However, evidence or proof of what is perceived to be a 'threat' is not required (Global Detention Project, 2018). In addition, Article 17 stipulates that 'expulsion shall be carried out, either by notification of the person concerned [...] within the time-limit set by the Director of the General Security, or by escorting the unwanted person to the frontier' (1962 Law of Entry, Stay, and Exit). A UNHCR representative critically notes an explicitly established maximum time-limit to administrative detention is lacking: 'it's not specified if it should be 24 hours, if it should be one week, two weeks; there is no limit for this detention' (Interview, Beirut, 20 April 2018). Furthermore, although Article 17 requires the General Security to inform the Minister of Interior after each expulsion and to secure the approval of the public prosecutor, a representative of the UNHCR explains this 'is not necessarily taking place' (Interview, Beirut, 20 April 2018).

Lebanon has signed a number of readmission agreements with Romania (2002), Bulgaria (2002), Cyprus (2002), and Switzerland (2004). Furthermore, the EU-Lebanon Association Agreement (2006), entails provisions on the prevention, as well as control of illegal immigration – and stipulates all parties to readmit nationals illegally present on their respective territories (MPC 2013:4).

### **5. Border management in Lebanon - a hybrid security assemblage**

Lebanon's border establishment processes entailed 'arbitrary division of social groups, and created fluid borderlands where tribal links and cross-border exchanges have rendered non-state governance models resilient and durable' (Tholens, 2017:865). In this context, and backdropped by limited state presence, as well as a '*laiser-faire*' ideology, Lebanon's borders are managed by what can be described as a complex hybridisation between state and non-state authoritative actors (Lebanon Support 2016c; Fregonese, 2012; Tholens, 2017). Hybridity, however, can also refer to the interplay between domestic and external governance and/or international assistance actors (Tholens, 2017:866). Such hybrid approaches, which at times tend to reproduce each other's practices, but moreover, seem to co-constitute each other (Fregonese, 2012), differ greatly from western state models. As such, they create nuanced concepts of sovereignty, territoriality, and domestic legitimacy (Tholens, 2017:866; Meier, 2017). Moreover, hybrid approaches correct conceptions of the Lebanese state – which

operates on all social, economic, and security levels and is nonetheless characterised as a 'weak' state (Lebanon Support 2016c).

Not only do actors working in border management vary in capacity and authority, they continuously 'adopt, negotiate, and reproduce' security concepts and mechanisms to preserve social order, and to pursue (geo)political aims (Lebanon Support 2016c). At the same time, it should be noted that, while this broad variety of actors may suggest common interests, they also entail exclusionary mechanisms which significantly impact the presence of refugees and migrants in the country.

## 5.1. Formal security actors in Lebanon

The eruption of the Syrian crisis in 2011, the consequential mass influx of Syrian refugees into Lebanon, as well as local and regional conflicts, backdropped by global discourses of terrorism, have added strain to Lebanon's borders. This contributed to the militarisation of Lebanon's borders, implemented by a range of security actors, which can be formal or informal; governmental, private, or community-based; commercial or 'volunteer' based – or a hybrid mix. Importantly, rather than tacitly accepting informal practices, formal state security institutions partially rely on them (Lebanon Support 2016c).

It should be noted that state institutions in Lebanon are divided along a power-sharing structure that ensures equal representation of the largest sects in the country, as set out in the 1989 Ta'ef Peace Accord. With regards to border management, Lebanon's formal security systems mainly consist of the General Directorate of General Security (GSO), Internal Security Forces (ISF), and the Lebanese Armed Forces (LAF) (See Box 2).

### Box 2: Lebanese State Actors in Border Management

The **General Directorate of General Security**, under the Ministry of Interior, is the main implementing security and intelligence actor concerned with the legal entry, residence, and exit of foreigners in Lebanon through official border crossing points (by air, land, and sea). As one of the main actors present at the border, it grants visas and residence permits and monitors violations of migration legislation. It has large discretionary authority to take punitive actions in their 'fight against anything that can jeopardize security' (General Security, webpage), such as arrest, detention, or deportation (Lebanon Support, 2018).

The other actor present at the border crossing points is the **Lebanese Customs Administration**, nested within the Ministry of Finance. It consists of the **Customs Brigade**, attributed to control customs by all borders (territorial, maritime, and air space), as well as the **Customs Office**, which is, amongst others, responsible for clearing goods (luggage, cargo, mail) and people crossing the Lebanese borders (ICMPD, n.d.).

As per Decree no. 102 of 1983, the **Lebanese Armed Forces (LAF)** falls under the Ministry of Defense and consists, amongst others, Land Border Regiments and Navy Regiments,<sup>35</sup> It is responsible for surveilling and controlling all border areas between border control posts

<sup>35</sup> However, it is important to note that the observer regiments do not have a defensive traditional military capability (Border Expert, Interview, Beirut, 23 January 2019): its main task is the fight against terrorism.



(Lebanese Army, n.d.). Lastly, the LAF chairs the **Border Control Committee** (ICMPD, n.d.).

In terms of border and migration governance, the **Internal Security Forces (ISF)** – Lebanon’s national police force, nested within the Ministry of Interior – does not have any border capability, but their presence in the vicinity contributes to border surveillance and countering crime, notably trafficking people and goods (Border Expert, Interview, Beirut, 23 January 2019; Tholens, 2017:878). Its main task is enforcing the law on foreigners in Lebanon by taking protective, but also preventive measures. In addition, it takes the lead in criminal investigation and prosecution of cross border offences (ICMPD, n.d.).

Lastly, the **Civil Defense** is a 'public emergency, medical and rescue service that carries out patient transportation, search and rescue activities, fire-fighting response, etc.' (ICMPD, n.d.). Its role is described as 'vital' to ensure safety at the borders, in collaboration with security agencies and health care services, such as the **Red Cross**.

Notably in the light of the Syrian refugee crisis, the General Security and the Lebanese Armed Forces have enhanced their roles in border management in Lebanon. Security apparatus General Security is the main actor overseeing people crossing Lebanon’s borders. Its internal organisation has a clear structure. However, although explicit links between Shi’ite Hezbollah are not explicit, the two entities are considered affiliated (Tholens 2017:878). The LAF, on the other hand, 'have historically been loosely structured, poorly equipped and politically divided, and in some parts of the country, notably in Hezbollah-controlled areas as well as along the Syrian border, are considered to amount to nothing more than an expeditionary force in their own country' (Tholens, 2017:871). Despite this, as will be argued in the next sections, security assistance significantly increased the LAF’s role in securing the border.

However, the presence of formal state actors in border areas remains a point of concern. For example, the ISF is not present in all border areas (Mouawad, 2018:8). The LAF, in turn, only returned to border areas Aarsal and Chebaa as of 2014. Nowadays, despite their presence – which is at times more visible than others – 'control is not complete and these areas remain 'grey zones'' (Mouawad, 2018:8). At the southern border, the LAF remains absent until today, arguing that 'as long as there is no comprehensive peace with Israel, 'the Lebanese army will not act as a border guard for Israel and would not be deployed to the border'' (Meier, 2013:363). State absence in some border areas renders its full sovereignty, as encouraged under UN Resolution 1701, more difficult, leaving space for the emergence of non-state actors.

## 5.2 Complementing non-state security mechanisms

Non-state self-protection mechanisms complementing formal security regimes (*amn dhati*) are historically widespread throughout the country (Lebanon Support, 2016c). Moreover, notably in the context of refugee crises, such mechanisms seem to be on the rise, leading to a 'surveillance assemblage' (Crawford, 2005), referring to the interplay, interdependence, and competition between security actors – all operating in a complex mode of action (Lebanon Support, 2016c).

The south of Lebanon is generally associated with militia strongholds. First, after being expelled from Jordan in 1970, the PLO used Lebanon as a base until it relocated to Tunisia in 1982. Furthermore, after the eruption of the Lebanese Civil War (1975), with Israeli support, the border came under the control of the South Lebanese Army (SLA), consisting of mainly Christian militiamen. As such, Lebanon's southern border areas turned into a battleground between Palestinian and Israeli (proxy) actors.

In the early years of the Lebanese Civil War (1975-1990), Hezbollah emerged with Iranian support, portraying themselves as 'leaders of [armed] resistance to foreign military occupation' (Humud, 2018:13), notably targeting Israeli occupation of southern Lebanon. Although the Civil War was concluded in 1989, the Ta'ef Peace Agreement left room for militias as a cornerstone of state apparatuses in Lebanon. Although the Agreement stipulated 'disbanding of all Lebanese and non-Lebanese militias,' Hezbollah at the time was permitted to maintain their arsenal, notably under influence from Syria (occupying Lebanon between 1976-2005).

Hezbollah has been part of the Lebanese government since 1992,<sup>36</sup> while at the same time considered a terrorist organisation by international actors.<sup>37</sup> Until now, in collaboration with the Lebanese Armed Forces, Hezbollah engages in 'on-off low-intensity confrontations with the Israel Defense Forces (IDF)' (Tholens, 2017:872), which continue to violate Lebanese sovereignty with daily air, maritime and territorial violations (Lebanon Support, 2018b). Today, 'Iranian support for Hezbollah over three decades has created a robust, cohesive and resilient politico-military force, widely considered the strongest in the country' (Tholens, 2017:871; Norton, 2009). In this vein, Hezbollah's armed militia is sometimes depicted as 'more effective than the Lebanese Armed Forces' (Humud, 2018:i). Moreover, along the Syrian border, the Lebanese Armed Forces and Hezbollah have been reported to play a key role in countering infiltration from Syria-based extremist groups, such as the Islamic State and the al-Nusra front (for example Ha'ia Tahrir al Sham), notably in Ras Baalbek and Aarsal.

At the same time, it should be noted that Hezbollah's political and military control along the Lebanese borders, as well as its involvement in Syria, have contributed to its hegemony in a trans-border zone (Mouawad, 2018:10). Its presence on both sides of the border provided Hezbollah with 'leverage to broker local deals that prevent sectarian clashes and secure the party's constituencies in Lebanon', and adds to the porosity of Lebanon's borders (Mouawad, 2018:10).

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<sup>36</sup> Hezbollah became a political party and participated in parliamentary elections in 1992, winning 12 seats for its 'Loyalty to the Resistance' bloc (Hezbollah, n.d.). It currently holds 14 seats (Ministry of the Interior, 2018).

<sup>37</sup> For example, Hezbollah is listed by the United States as Specially Designated Terrorist in 1995, a Foreign Terrorist Organization in 1997, and a Specially Designated Global Terrorist in 2001 (Humud, 2018:30). Furthermore, in March 2016, the Gulf Co-operation Council (GCC) and the Arab League (consisting of predominantly Sunni Muslim countries) have declared Shi'ite Hezbollah a terrorist organisation. The European Union, however, clearly distinguishes Hezbollah's military wing, which is listed as a terrorist organisation since 22 July 2013, from the political party, with which the EU maintains relations until today. At the time of writing this report, Hezbollah has not been listed as a terrorist organisation by the United Nations Security Council, although this is urged by notably Israel since the discovery of four tunnels under the Lebanese Syrian border (BBC, 2018).

### **5.3 Supranational actors**

Lebanon has long been subjected to broader geopolitical influences. It is in light of an international struggle for power by various proxy actors that border management, as well as security assistance must be analysed (Tholens, 2017).

Following Prime Minister Rafiq Hariri's assassination in 2005, Lebanon's political landscape has been characterised by two major political axes; the March 8 Alliance, consisting of political parties supporting the Syrian regime, and the March 14 Alliance, which adopts an anti-Syrian regime stance. The March 8 Alliance includes Shi'a party Hezbollah, which is supported by Syria and Iran creating a major concern for US influence in the region, while the March 14 coalition is supported by Saudi-Arabia (Tholens, 2017:870). Furthermore, literature suggests the Syrian agenda underlies the absence of the Lebanese Armed Forces in Lebanon's border areas (Picard, 2000; Meier, 2013:363).

Against this background, international security assistance in Lebanon increased significantly, notably after withdrawal of Syrian military and intelligence services in 2005, and the 2006 Israeli-Hezbollah war. Today, security assistance is supported by the majority of western embassies in Beirut. Encompassing activities aiming to structure, train, equip, and advise foreign security forces, ranging from short-term trainings to long-term capacity building, Tholens (2017) argues that international security assistance has become 'an important vehicle in the wider Middle East game'. She argues it creates consequences for domestic political influence through support for selected security institutions. To some extent, 'border management has become an umbrella term, encompassing the entire gamut of strategic priorities, including counterterrorism, the fight against organized crime, migration management and protection of territorial sovereignty' (Tholens 2017:869).

This is especially visible through the presence of the United Nations Force in Lebanon (UNIFIL), deployed since 1978 in the Lebanon-Israel-Syria tri-border area, whose mission was strengthened under Resolution 1701.<sup>38</sup> UNIFIL's mandate was not only to ensure the withdrawal of Israeli forces, but also to restore international peace and security, and to assist the Government of Lebanon in restoring control in the area (UNIFIL, n.d). In reality, however, UNIFIL's primary mandate was to provide humanitarian assistance (Meier, 2013:360).

Until today, UNIFIL, supported by United Nations Truce Supervision (UNTSO),<sup>39</sup> is a key actor in the south of Lebanon. Formally, the Ras Naqoura border crossing is operated solely by the United Nations Interim Force in Lebanon and the Israeli Defense Forces. As Meier notes, their presence grants the UN 'eminent authority' over the Blue Line (2013:362).

## **6. Challenges in Implementing Border and Migration controls**

### **6.1 Pre-entry: restrictions and realities**

Many interlocutors have indicated the necessity to leave Syria, for example out of fear of obligatory conscription into the Syrian army (Broker, Interview, Beirut, 3 October 2018) or

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<sup>38</sup> Yet, it is important to note that UNIFIL's mandate, at least between 1982 and 2000, was primarily confined to providing humanitarian assistance, rather than military assistance (Meier 2013:361).

<sup>39</sup> UNTSO is an un-armed UN actor trained to observe and report violations of the agreements of ceasefire, disengagement, etc. (UNTSO, n.d.).

because of deteriorating safety conditions. A female refugee from Aleppo illustrates 'There were bombings on the way [to the Lebanese border], but we were able to cross them thankfully' (Interview, Beirut, 23 November 2018). Another Syrian woman confirms: 'When we left Homs, it was in a very bad state. We couldn't believe that we reached the borders of Lebanon, it was such a relief' (Interview, Majdal Anjar, 10 November 2019).

The majority of Syrian and Palestinian Syrian interlocutors indicated the initial ease of crossing the Lebanese-Syrian border, as a result of the open-border policy between the two countries. This situation changed significantly in 2014, when a series of restrictive policies targeting Syrians in Lebanon was adopted (see Section 4.1). First, as of May 2014, Palestinian refugees from Syria (PRS) were denied entry to Lebanon (Lebanon Support, 2016a). A Palestinian-Syrian refugee illustrates:

[First] we didn't have any problems, because they were letting everyone to pass through the borders easily. That is why, at the time, I was able to go back and forth to Syria in order to see my daughters. [Nowadays] I tried to come to Lebanon several times, [...] but I wasn't able to, because I am Palestinian-Syrian. We are very restricted [in our movement]; we cannot go to many places, we always need a security approval (Interview, Beirut, 14 December 2018).

Other significant restrictions affecting Syrian refugees wishing to enter or reside in Lebanon were adopted by the Council of Ministers on October 23, 2014, which aimed to 'reduce the numbers' of Syrians in Lebanon, and to gain control of their presence (Lebanon Support, 2016a). Following this decision, the General Directorate of General Security enforced new, restrictive immigration controls and imposed fees at the Syrian border as of January 2015 (see Section 4.1), which in effect shut down the borders with Syria for the majority of Syrian refugees in Lebanon.

By the Preamble of the Lebanese Constitution, by means of customary international law, and by virtue of having ratified the United Nations Convention Against Torture and the International Covenant on Civil and Political Rights (Frontiers Ruwad, 2013) Lebanon is committed to, amongst others, the principle of *non-refoulement* (UNHCR, 1977). However, human rights activists argue that being denied access to territories can be regarded as a form of *refoulement*, as well. A border expert explains:

'Many [irregular migrants] are intercepted by the army or by the police. Depending on where they are, they are detained and then would be processed, or they are directly returned to Syria, without actually ever having entered into Lebanon' (Interview, Beirut, 23 January 2019).

A lawyer illustrates similar experiences for refugees already residing in Lebanon: 'We are not actively deporting people; however, it is taking place indirectly by denying people residencies' (Interview, Beirut, 18 April 2018).

A State Council decision in February 2018 annulled the restrictive residency measures targeting Syrian refugees' access to Lebanon, as well as the newly imposed fees,<sup>40</sup> stating

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<sup>40</sup> Although a decision in February 2017 lifted the residency renewal fees, this waiver does not apply to a large number of refugees. This includes all Syrians who are not registered with the UNHCR and all Palestinians from Syria.

that the role of the General Security is confined to *implementing* conditions imposed by the Council of Ministers, rather than establishing them (Saghieh and Frangieh, 2018). However, despite this development, and although Syrian migration to Lebanon is formally governed by the bilateral agreements between Syria and Lebanon, this decision has received little significance. In reality, legal presence for (Palestinian-) Syrians continues to be a challenge until today (Lebanon Support, 2016a; Lebanon Support, 2018).

As a result of the restrictive 2014 policies, interlocutors have informed us that the only viable way to obtain legal residency is under the migrant worker category (Lebanon Support, 2016b), although it subjects Syrians to a version of the *kafala* system, which facilitates abuse and exploitation (see Section 4.1). Furthermore, interlocutors have indicated the difficulty in finding a *kafeel* (sponsor). In fact, research highlights the emergence of informal structures and black market 'solutions' in an attempt to facilitate Syrians' access to legal status. These include fake sponsorships, and usually coincide with unlawful and exorbitant amounts of money requested by 'sponsors' (Lebanon Support 2016a; Lebanon Support 2016b; Lebanon Support 2018a). A male refugee without legal status critically notes:

Once, I spoke to a soldier who had detained me for perhaps the sixth time, and I was fed up. I asked him, 'Don't you know that we are unable to get a *kafeel*? And [still, you] detain us all the time?'. He replied saying that it was not his problem. Then he added, 'I can get you a *kafeel*, but do you have any money?' [...] I don't understand why is he detaining me for something that he knows is expensive and hard to get (Interview, Akkar, 3 October 2019).

Moreover, the inability for Syrians to legally enter or reside in Lebanon has exacerbated irregular migration, which existed long before the eruption of the Syrian crisis. Between the Lebanese and Syrian control posts, a zone of approximately twelve kilometres 'no man's land' exists (see Section 3.3). A border expert explains: 'Irregular migrants leave Syria quite legitimately through the [Syrian] border crossing point, and then they leak, one way or the other, through the [mountain] border into Lebanon – or they attempt to' (Interview, Beirut, 23 January 2019). A female Syrian refugee confirms: 'We knew that it was difficult to get through the Lebanese borders, and that they were not allowing some people to enter. So we crossed the Syrian border legally, with papers and all. But I entered Lebanon illegally through the mountains' (Interview, Beirut, 16 November 2018). A focal person in Majdal Anjar adds that Lebanese authorities are often aware of irregular pathways: 'I even know someone who was told by the General Security at the borders how to re-enter illegally' (Focal Community Person, Interview, Majdal Anjar, 9 December 2018).

Increasingly, Syrians unable to enter Lebanon through one of the official crossings are going through extreme measures to make their way into Lebanon, sometimes with deadly consequences. For example, during exceptionally icy weather of January 2018, thirteen Syrians were found frozen to death along a smuggling route not far from Suweiri (Akman, 2018). By February, the body count had grown to a total of 17 that included 3 children. A UN border expert illustrates the dangerous conditions faced during illegal crossings:

Overall, we can say that for most of those who entered through the mountains, the conditions were harsh. Not only because of the long hours of walking, or the weather, but most importantly, because of the presence of militias at those crossings. [Furthermore], smugglers would take advantage of these people, not only in terms of

stealing, but also harassment, rape and human trafficking. Death in these harsh crossings is either due to the harsh weather conditions or smugglers leaving them to die (Interview, Majdal Anjar, 9 December 2018).

The UN representative adds: 'Refugees have told me they would have to move in certain rhythm to keep up [with the group]. They cannot slack off or relax, so those who are able to walk for long periods can make it. Those who are not, will get lost in the mountains. No one will wait' (Interview, Majdal Anjar, 9 December 2018). A female Syrian refugee in Mount Lebanon describes how this affects various groups of refugees differently:

'For young men, crossing the border illegally isn't that difficult, but for young women with children, it is more tiring. I felt really bad for the seniors on the trip, there were men that were 100 years old. It was so difficult for them to cross' (Interview, Mount Lebanon, 21 October 2018).

A UN representative working at the border explains this contributes to fear of being left behind in the mountains: 'Many refugees told us they got lost in the mountains and did not know how to get back. And of course, there are also smugglers who would steal all their belongings, and leave them behind in the mountains' (Interview, Majdal Anjar, 9 December 2018). A Syrian mother of six children adds: 'I was mostly scared for my kids. I didn't want them to see something that could scare them, like someone [arresting] me and throwing me in jail' (Interview, Beirut, 16 November 2018).

Crossing the border illegally is not only dangerous, but also requires the payment of large sums of money. A Syrian man explains: 'You know how things happen in these situations. You need to pay bribes to get past the borders, that's how it works' (Interview, Beirut, 3 December 2018). Nonetheless, two civil society actors argue that entering legally or illegally will eventually result in the same outcome, as the majority of Syrian refugees are unable to obtain legal long-term residency (Focus group, Beirut, 26 November 2018):

*Participant 1:* Entering [Lebanon] illegally is very risky, people have died entering this way. They also need to pay a lot of money: it is not cheap to enter irregularly.

*Participant 2:* I know, but it is easier for them to enter illegally. Even if they enter legally, they will be illegal, eventually. [...] So, it is the same for them.

A representative of the Civil Defence Forces describes his ambivalent position when Syrians are caught in the mountains:

There are planted bombs [...] on the Syrian side of the mountains [separating Lebanon from Syria], and [refugees] are exposing themselves to this, nonetheless. Either with smugglers or alone, women and children; we are seeing them coming, no matter what. As Civil Defence Forces, we are picking up corpses and injured people and women who are unable to walk anymore in the mountains. [...] We help them, but the people we catch, we have to hand over to the Lebanese government. In our authority, we cannot assist them with the smuggling (Interview, Majdal Anjar, 9 December 2018).

Apart from entering Lebanon illegally, Syrian refugees also spoke of return to Syria via illegal pathways, even if their health situation did not allow for it. A female Syrian refugee married to a construction worker illustrates:

I had to go back to Syria [...], because I got pregnant with my second child and I couldn't give birth in Lebanon. I had to do a C-section [...] and it was cheaper for me to go to Syria and give birth there. So I crossed the borders, again illegally: the same way I did it the first time. But this time I was pregnant (Interview, Mount Lebanon, 21 October 2018).

It should be noted that in order to access goods at more affordable prices, some Syrian communities are paying taxi drivers to transport different commodities from Syria. Taxis, including those with Syrian driving licenses are able to traverse the borders with some degree of ease. As a taxi company manager explains, 'Some people get provisions from their families back in Syria and the other way around. The distance from Lebanon to Damascus is closer than from Damascus to Aleppo, so it makes more sense to be in Lebanon and send assistance to your family in Damascus (Interview, Beirut, 23 November 2018). Significantly, Syrian taxis must pay \$100 to obtain insurance and a permit, are unable to enter the airport, and are only allowed to use limited routes in Lebanon.

## **6.2 At the border**

The two main agencies involved in the border crossing process are the General Security and the Customs Administration. Depending on the border crossing, a number of other agencies are present, such as the Red Cross, Ministry of Social Affairs, or the UNHCR. Although some agencies might have offices at the border, they are not part of the routine border crossing process (Border expert, Interview, Beirut, 23 January 2019). Significantly, many interlocutors, including humanitarian actors, academics, and NGO workers, were unaware of their presence at the border (Focus group, Beirut, 26 November 2018). A UNHCR border representative explains this also applies to Syrian refugees themselves: 'As UNHCR, we do have an office at the border itself. However, 90% of displaced Syrians do not know about this. The issue is that we do not have a strong role at the borders. We can not tell the General Security to allow someone to enter or not. All we can do is monitor' (Interview, Majdal Anjar, 9 December 2019).

### **Lebanon's southern border**

The two remaining border crossings on the Lebanese-Israeli border 'Fatima Gate' and 'Ras Naqoura'<sup>41</sup> remain closed since the Israeli withdrawal from Lebanon in 2000.<sup>42</sup> Access to this border is strictly prohibited and passing it is effectively impossible (see Section 4.1). A border expert illustrates:

There is a clear zone of separation [between the two countries]. There is a strong wire fence: on some places it's concrete, but it's mainly wire. And then there is an access

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<sup>41</sup> Also known as the Rosh HaNikra border crossing.

<sup>42</sup> However, the latter has been used several times to return political figures and activists (Israel), and the bodies of soldiers (Hezbollah, n.d.).

road that runs along the fence. On the Lebanese side, there's very little; there are some old watch towers that are rather unsafe, there are some mines laid [...], and there is some – rather worn out – barbed wire fencing. It's not very professional. In fact, even Lebanese army officers that I've talked to, have actually said that on the Israeli side, they are the ones who got the facilities right – and that the Lebanese lag behind (Interview, Beirut, 23 January 2019).

Lebanon's limited capacity to guard its borders is notably visible through the fact that, until today, the cessation of hostilities between Lebanon and Israel have been violated on a daily basis (Lebanon Support, 2018b).<sup>43</sup> Israeli violations of Lebanese sovereignty, whether through territorial, air, or maritime space, along with heavy artillery exchanges, are still one of the most regular violations until today, with a total number of 4342 violations by the Israeli Army mapped between 2015 and 2018 (Lebanon Support, 2018b).

Although the UN and the broader international community condemn such violations, punitive actions can not be taken, as UN Resolution 1701 is not legally binding (Lebanon Support, 2015). As such, tensions on the Lebanese-Israeli border are ongoing. After Hezbollah – the 'world's most heavily armed non-state actor' (CSIS, 2018) – announced a warning about its growing military capacity (The Daily Star, August 2018), threats against Lebanon and Hezbollah increased in 2018 (Lebanon Support, 2018b). Furthermore, the construction of a controversial wall by the Israeli army has contributed to turmoil at the southern border (The Daily Star, September 2018).

In this context, the Security State Council renewed the UNIFIL's mandate for an additional year on 30 August 2018, reiterating the risks of resurgence of a new violent conflict following violations of the ceasefire (Lebanon Support, 2018c; VOA News, August 2018).

## **The Lebanese-Syrian border**

At the Syrian border, there are five official border crossings,<sup>44</sup> although its mountains have historically experienced irregular migration since the establishment of the state Lebanon. The Lebanese-Syrian border witnessed various episodes of violence resulting from Syrian conflict spillovers. These include, for example, suicide bombings in Aarsal (2017), and led to an intermittent intensification of army operations at the border.<sup>45</sup> Furthermore, in the context of restrictive policies targeting Syrian nationals since October 2014, arrests for illegal stay and entry have been frequent, notably in border areas such as Marjaayoun and Hasbaya (Lebanon Support, 2018d).

Border experts emphasise the poor infrastructure at the Lebanese-Syrian border crossings:

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<sup>43</sup> For an overview of the violations, see Lebanon Support's Mapping of Conflicts, within the Conflict Analysis Project (Lebanon Support, 2018b).

<sup>44</sup> That is, al Arida, al Abbudiyeh, and al Bouqeihia in northern Lebanon, and al Qaa and al Masnaa along the eastern border (Arab News, 2017). Of the crossings, al Masnaa, linking capital cities Beirut and Damascus, is the most used crossing point for individuals and vehicles, whereas al Bouqeihia remains closed.

<sup>45</sup> For instance, in July and August 2017, armed militants have been expelled from Aarsal and Ras Baalbeck by the LAF and Hezbollah. After this period, the LAF has been arresting militants, seizing weapons and dismantling remaining explosive devices (Lebanon Support, 2018d).



There are not enough border crossing points [...] [The existing ones are] badly organized in terms of moving people efficiently, [...] badly connected in terms of information technology, and things like electricity and water don't work very well. The places are not very clean, and there's just not very good infrastructure at border crossings (Interview, Beirut, 23 January 2019).

This significantly limits capacity at the border: 'If the crossing point itself is not in a very good situation, or is even perhaps in the wrong place, then equipment can't always be used to its maximum' (Border expert, Interview, Beirut, 23 January 2019). Moreover, a representative from a human rights organisation describes limited facilities available for asylum seekers, refugees, and migrants at the border: 'Something that is really important and must be available at the borders, is having toilets, food and water when their file is being studied [...] regardless if they are allowed entry, or not' (Focus group, Beirut, 26 November 2018).

However, for passport checks, General Security's equipment is described to be 'as good as you can get globally,' with support from the European Union and Germany (Border Security Representative, Interview, Beirut, 23 January 2019). Still, a diplomat affiliated with the European Union remains sceptical:

Recently, the General Security improved their securitisation, and just a few weeks ago, the airport was provided with biometric fingerprinting machines. Regardless of these developments, in practice, regulations at the borders are not consistently applied. I'll give you an example; I have a Syrian friend artist who left Syria two years ago. As an artist and being a member of a syndicate, he was not in need of an ID card to enter Lebanon. At the Syrian border, everything went smoothly, but at the Lebanese borders, the General Security officer did not recognise that regulation and he was denied entry. My friend had to wait for 4 hours at the borders, until the officer's shift ended so that he could be allowed entry by another officer. If this is the way the Lebanese system works, then biometric scans will not 'improve' border management (Interview, Beirut, 28 November 2018).

In general, passengers wishing to enter Lebanon are subject to a first-line check by the General Security, in order to verify the identity of any person *vis-à-vis* the identity documents presented, the validity of travel documents, and the expiration date of visa or residence permits. A border expert argues:

For Lebanese citizens, I think the first-line check is rather weak, it is essentially reading the Machine Readable Zone (MRZ)<sup>46</sup> and the passport, and if that's ok, the passenger is allowed to proceed. And for a non-Lebanese, a landing card and an exit card has to be completed, and it's certainly my impression [...] that the focus of the officer is making sure that the information on the card is correct – rather than asking any questions, or profiling, or more visually observing the passenger (Interview, Beirut, 23 January 2019).

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<sup>46</sup> Referring to the encoded identity recognition format, usually at the bottom of each passport.

At the same time, the General Security is praised for some of its competence, notably regarding second-line checks, which include determining whether a travel document is counterfeit, examining exit and entry stamps, *et cetera*. Additionally, General Security officers have been reported to be trained to a 'European Union expert level' standard (Border expert, interview, Beirut, 23 January 2019):

The second-line check is extremely efficient. [...] They detect forged documents of people going to Europe. Many more cases than European agencies do, actually. [...] They have trained European border guards and policemen, and even Frontex, on recognising forgeries of Syrian documents, Iraqi documents, or Schengen visas (Interview, Beirut, 23 January 2019).

Forged documents are reportedly mainly detected during preliminary checks at airport security gates, directly after baggage drop-off, before documents are processed at Immigration and Customs. This is because 'there is more time and less pressure on the actual processing of the document' (Border expert, Interview, Beirut, 23 January 2019). The expert underlines that detection capacities can be used for various purposes:

If you have a good system that can log and check the people who are crossing the border, and if your officers are well trained in profiling, they can just as well spot terrorists as they can spot a victim of trafficking, for instance. A modernised border control system, making full use of IT, can better identify suspects, but it could also speed up the clearance process (Interview, Beirut, 23 January 2019).

Lastly, it is noteworthy to emphasise that the border areas are not homogenous, and despite some similarities in their governance, 'security measures vary according to the development of the Syrian conflict on the other side of the border' (Mouawad 2018:9).

### **6.3 Internal controls: arbitrary and gendered treatment**

As a direct consequence of the restrictive residency policies introduced in October 2014 and implemented as of January 2015, 74% of Syrians (VaSyr 2017:13) and up to 90% of Palestinians from Syria (Global Detention Project, 2018) are estimated to be without legal status. In addition, large numbers of migrant domestic workers, notably from Ethiopia, the Philippines, and Sri Lanka, lack legal papers. Hired under the infamous *kafala* system – which ties workers' legal status to their employer – migrant domestic workers' passports are regularly reported to be confiscated by employers, and changing employer often implies losing legal status.

In this context, refugees and migrants are prone to arrest and detention, notably at the country's many checkpoints.

Indeed, a large majority of interlocutors, notably those without legal papers, has experienced mistreatment, abuse, or even arbitrary detention. This has contributed to an atmosphere of fear, and highly affected the mobility of asylum seekers, migrants, and refugees

in the country.<sup>47</sup> Many of our interlocutors indicated to adopt self-limiting measures, such as self-imposed curfews, or even attempting to use Lebanese dialect, in order to not attract attention from state authorities (Lebanon Support, 2016a).

Being susceptible to arrest and detention has added to dependency dynamics. A male refugee without legal status illustrates:

There was this one time, where an army man stopped me, and he acted like it was the best thing he did in his life. He told me to give him my phone. I asked him why: I know my rights as a citizen, and I know that by law, no one can force you to give your phone. But you can't do anything. I told him 'this is my business, not yours'. He ignored me and told me to just give it. He opened my phone and went through it. He searched through everything. He saw my pictures, my messages, everything. At the end he said, 'Yalla go, but renew your permit, okay?' (Interview, Akkar, 3 October 2018).

Importantly, interlocutors have indicated arbitrary treatment by security officers that may vary according to status. A Syrian activist explains: 'Basically, if you have money you can get past the borders. If you can afford a hotel reservation, if you can afford paying for a sponsorship, or if you're paying for education [you can get legal status] – that's how it works' (Interview, Tripoli, 14 November 2018).

Furthermore, many interviewees could not find logic in the way they were treated by security forces. A Syrian activist and journalist based in Tripoli, highlighted that arrest and detention occurs in an incoherent way, 'according to the General Security's mood. Sometimes people get detained for overstaying their visas, and other times not' (Interview, Tripoli, 14 November 2018). Interviewees had also witnessed that the use of social networks and even bribes could help in the release of detainees.

Moreover, interlocutors have indicated different experiences according to gender. Life is particularly challenging for men, who move more frequently outside of the domestic sphere due to social custom. They are particularly prone to arrest when passing through checkpoints across the country, or during army raids. One interlocutor explains that young men in his community adopt various strategies to avoid raids:

There is something particular about the young men who are living in informal settlements: they always wake up for the early morning prayers. Why? Not for religious reasons, but so they can escape the police raids taking place during that time. If they leave at dawn, they would stay there until the sun comes up, because all young men from the ages of fifteen to forty-five, even seniors in some cases, are at risk of getting detained for invalid papers. [...] Imagine, on a daily basis, all these young men at these specific times are not found in their homes. They are all at the mosques instead, seeking protection. This phenomenon can be witnessed in all areas, not just here (Focal Community Person, interview, Majdal Anjar, 10 November 2018).

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<sup>47</sup> Not only has a lack of legal status limited refugees' mobility, access to livelihood opportunities, and social services (Lebanon Support 2016b; 2016c), it has also obstructed opportunities to officially register marriages, divorces, deaths, as well as birth cases – increasing risks of statelessness for newborns.

For many, it was preposterous that there was so much security and border infrastructure put into place restricting their movements. It was apparent that security measures affected peoples' lives in different ways:

There was a case of detainment of an old man in the informal settlement here who had heart problems and was waiting for a surgery for over a year. Unfortunately for him, he got detained on the day of his surgery. We told [the authorities] that he was dying, but they didn't believe us. He stayed imprisoned for hours before they realized that he really was sick. They let him out eventually, because they didn't want him to die in their custody. He missed his surgery that day. They took him, and risked his life – all for not having a valid residency (Focal Community Person, interview, Majdal Anjar, 10 November 2018).

Many interlocutors expressed reluctance to travel far from their dwellings, especially alone, out of fear of arrest. A male Syrian refugee explains: 'When we need to go to Beirut, people agree to go in groups. So if we are caught [at a checkpoint], we can be in a cell together. We can't stand being in prison alone' (Interview, Akkar, 4 November 2018).

Given that men, in line with the narrative associating male refugees with terrorism, are prone to arrest and abuse in public spaces, women and children have notably taken up their roles in providing for the family. Moving from place to place in order to work, to buy groceries, or to get aid, is reported to be significantly easier for them. A female Syrian refugee illustrates: 'My father and my brothers experience challenges, because they were unable to renew their papers. The authorities make it difficult for men, that is why their mobility is more restricted. They cannot go past the Lebanese-Syrian border crossing, [or even] past the borders of the village' (Interview, Majdal Anjar, 10 December 2018).

Although shifting gender roles surely entails an element of empowerment and increasing agency, it also increases other risks, as women and children – notably those without legal status – are more likely to be exploited or (sexually) abused. In addition, domestic violence rates have been reported to increase, due to men feeling 'demasculinized' (Lebanon Support, 2016b). A Syrian man in Akkar explains: 'In general, [mobility] is one of the biggest problems for Syrians in Lebanon, especially men. No one [at the General Security] interferes with women. It is easier for women to move around. [...] Although this is just one problem, it causes a hundred other problems' (Interview, 4 November 2018).

In sum, life can become overbearing when living under fear of police raids, of being stopped at checkpoints, or being interrogated by security informants. Syrian refugees have expressed feelings of weariness, distrust and suspicion due to their exclusion from many aspects in the Lebanese society. Everyday mobility for refugees has become severely restricted, notably due to Lebanon's widespread and highly visible security measures, which can be considered part of a deterrence strategy (Fawaz, 2012). Identified by our interlocutors as places to avoid, as such, checkpoints appear to form *de facto* 'internal borders' in Lebanon. In fact, as some checkpoints can be witnessed in established places, whereas others appear in an *ad hoc* manner in changing places, these 'internal borders' have a fluid character. As such, refugees and migrants are continuously subjected to *de facto* rebordering processes.

A majority of interviewees expressed a strong desire to return home to Syria. When they spoke of home however, it was mostly reminiscing: their home was in a past long gone, in stark contrast with their present reality. Although interlocutors were aware of increasing numbers of Syrians returning to their home country, they also indicated return is not an option

for all. Whereas some are unable to return due to their anti-regime political stance, others have nothing to go back to. That is to say, homes are destroyed and job opportunities are bleak, while returning over official crossings is difficult. Many instead opted to find informal ways back and forth over the border. Meanwhile, Lebanese are able to move freely between the two countries: 'Many Lebanese continue to visit Syria without any trouble. We have Lebanese clients who are still going to Syria for religious reasons, to visit Christian and Muslim sacred places' (Taxi Company Manager, Interview, Beirut, 23 November 2018).

## 6.4 Detention, return, and deportation

Although by means of customary law, illegal entry in itself cannot be considered a base for detention (Frontiers-Ruwad, 2006:4), 45% of all detainees in Lebanese prisons have been detained on account of lacking a legal status (Alef *et al.*, 2017:9).<sup>48</sup> Until today, the 1962 Law on Entry, Stay, and Exit law penalises illegal entry, residency, and exit of foreigners in Lebanon. Although reforms to this law have been proposed and encouraged by human rights actors, until today, amendments appear to be lacking. As such, the 1962 law subjects refugees and migrants not only to criminal incarceration, but also to administrative detention (see Section 4.3), despite violating Article 14 of the UDHR. The wide presence of checkpoints throughout the country, placed at strategic points of passage, or emerging in changing locations, subjects refugees and migrants to continuous risk of investigation. Moreover, interlocutors have indicated that there is no standard policy for being detained for lacking legal status.

The vulnerability of refugees and migrants in prison remains a point of concern for human rights observers, in particular due to the poor conditions in which they are held. Standard Minimum Rules for the Treatment of Prisoners are not met, subjecting them to 'severe overcrowding, insufficient access to food, water and medical assistance, and a lack of bed space' (Global Detention Project, 2018), even though all these conditions are specifically prohibited by the 1955 Internal Rules of Prisons (CLDH 2010:82). Especially underground detention facilities – supposedly temporary holding locations – are highlighted for the lack of natural light or aeration (Frontiers-Ruwad 2015:11). Under these conditions, detainees face prolonged detention, regular ill-treatment, and even torture (Global Detention Project, 2018). What is more, is that access to detainees is described to be difficult for lawyers, and impossible for civil society actors (Frontiers-Ruwad 2015:13). Even though free legal aid is provided for under a 2006 Memorandum of Understanding between the GSO and Beirut Bar Association, 'lawyers must obtain special permission from the General Security' to visit detained clients. Additionally, a 2012 directive increasingly restricted lawyers' access to detention facilities, further impeding detainees' access to legal counselling (Global Detention Project, 2018).

Furthermore, despite having ratified the Convention against Torture (2000), Lebanon has not explicitly criminalised acts of torture, notably psychological torture (Frontiers-Ruwad 2015:4). In fact, torture in Lebanon is described as 'widespread and systematic' (UN Committee against Torture, cited in Frontiers-Ruwad 2015:5). Nonetheless, these practices see minimal governmental oversight, and in-depth public investigations on cases of torture appear to be lacking.

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<sup>48</sup> In 2016, the number of detainees in Lebanon was estimated to be around 6330, 64.7% of whom are in pre-trial detention (ICPR, 2016).

Still, after being detained, refugees have indicated to be eventually released after hours, days, or weeks. A lawyer specialised in migration governance explains this is due to the principle of *non-refoulement*:

What has improved in refugee detention for Syrians, is that we no longer see [prolonged] periods of [criminal, or] administrative detention, that we used to see with the Iraqis, and that we still see with the Sudanese and the non-Syrians. Syrians are detained for shorter periods of time, for screening and processing reasons. And then, they are released – they are not deported and they are not held. The reason why Syrians are released, is [...] because there is [the principle of] *non-refoulement*, and because there is [limited] resettlement as well: they know that not all Syrians will be resettled (Interview, Beirut, 29 January 2019).

This, however, is not the case for non-Syrian migrant workers, who are not only proactively arrested, but also held in limbo in arbitrary administrative detention for undefined periods of time, or even deported. Worryingly, employers withholding travel documents from migrant workers or confining their mobility – common practices within the *kafala* system – have until now not been condemned by the Lebanese judiciary (Ghaddar, Ghattas, 2018). At times, foreigners are reported to outnumber Lebanese nationals in prison (Global Detention Project, 2018).

Indeed, the commitment to *non-refoulement* for Syrians has been confirmed by the Lebanese authorities (Frangieh, 2014), for example during the Brussels II conference on ‘Supporting Syria and the Region’ (Human Rights Watch, 2019). When asked about the deportation of Syrian refugees, some interlocutors, notably from the UNHCR, claimed to be unaware of such practices, at least until 2019. Other interlocutors, however, explicitly argued Syrians have been deported on several occasions. The director of a human rights organisation explains:

There are a lot of Syrian activists being deported from the airport. [...] We know more about activists being deported in 2013 -2014. But at that time, we were not calling it *refoulement* [...] When movement was still easy, [Syrians rejected at the border were] still able to go to Berlin, or wherever they wanted, and get a refugee status there. Now, basically because of more restrictions from the EU side, there are less opportunities for them to go anywhere. So, if Syrians are at the border, and they get deported at 2 AM, the only advice is to go to Sudan, because it is the only country that Syrians can go to without a visa. We cannot tell them to take any plane towards Europe, Turkey or anywhere else, which is the problem now (Focus group, Beirut, 26 November 2018).

A UNHCR representative adds:

There has been a certain trend in the past months: Syrian refugees coming from Syria or Lebanon go to northern Cyprus, hoping to reach the southern part. They take a plane to Turkey, and from there to [Turkish-controlled] northern Cyprus, without a visa. However, when attempting to reach southern Cyprus, they are refouled back to Istanbul, then to Lebanon, and then back to Syria. The problem with that, is that even if they had a valid residency when reaching Lebanon, Lebanon would not allow them to re-enter, because they were *refouled* from Cyprus. In these cases, they leave

directly from the airports. So, there are very few cases that we managed to actually know about. (Focus group, Beirut, 26 November 2018).

Furthermore, a UN border representative explains that in rare cases, deportation occurs during the adjudication of asylum claims:

If a person overstayed his visa, the General Security would detain him for a few hours. If he is a suspect, they keep him in for a few days to interrogate him, then they give him a grace period [to leave the country] and let him go. If he overstays the grace period, they catch him again, and then let him go after an interrogation. However, if he has an adjudication [claim], the authorities would take him to the borderlands, and [...] let him leave. But they would not hand him over to the Syrian authorities (Focal Community Person, Interview, Majdal Anjar, 9 December 2018).

However, in practice, denying refugees legal access to territories undermines the mere principle of *non-refoulement*. Furthermore, fieldwork indicates that Lebanon's restrictive residency policy, as well as the precarious living conditions it induces, have contributed to refugees wishing to return to Syria (Lebanon Support 2016a; Lebanon Support 2016b; Human Rights Watch, 2019).

Lastly, re-entry bans circumvent the *non-refoulement* principle, as well. Refugees who entered Lebanon through unofficial border crossings, or who overstayed their residency, are faced with significant costs when leaving the country, and risk not being able to return to Lebanon. More specifically, refugees who are not registered at the UNHCR,<sup>49</sup> but who entered through an official border crossing after the implementation of the restrictive residency policies (5 January 2015), are required to pay 200 USD per person per year of overstay when leaving the country (UNHCR, 2016). Importantly, they are issued with a one-year re-entry ban. Refugees entering Lebanon through unofficial border crossings, are issued 5 days notice to leave Lebanon, and are required to pay a fine of 633 USD. As over 68 per cent of displaced Syrians and 89 per cent of Palestinian refugees from Syria live below the poverty line of 3.84 USD per person per day (LCRP, 2019), these financial obligations pose significant challenges for the majority of refugees. However, those unable to meet the financial requirements, are issued a permanent entry ban upon departure.

The director of a human rights organisation emphasises a re-entry ban actually prevents returns:

When you put a re-entry ban on Syrians, they will never leave the country, because they do not know if conditions are stable in Syria, yet. [If the government really wished for Syrians to return, they should] tell Syrians that even when they go to Syria, they can re-enter Lebanon. So they do not have to be afraid: they can take the chance (Focus group, Beirut, 26 November 2018).

In fact, some Lebanese authorities have encouraged 'voluntary' returns of Syrian refugees as of 2017 (Lebanon Support 2018a:33). More specifically, since May 2018, the General Security has been organising convoys to facilitate the return of thousands of Syrians.

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<sup>49</sup> It is important to note that in May 2015, the Lebanese government requested to suspend the UNHCR registration of Syrians.

In parallel, the UNHCR has been pressured to adopt a more active role in organising the returns, despite the ongoing conflict in Syria (*ibid.*; Human Rights Watch, 2019).

Most recently, two decisions by the Lebanese authorities have paved the way for the forcible return of Syrians who entered Lebanon illegally, maintaining that the safety situation in Syria is conducive for returns (Legal Agenda 2019). First, on 15 April 2019, the Supreme Defense Council, whose decisions are not publicly made available, reportedly instructed security and military forces in Lebanon to take necessary measures to control irregular entry of Syrian nationals through the land borders.<sup>50</sup> Second, the General Security issued a decision on 13 May 2019 to deport all Syrians entering Lebanon through unofficial border crossings after 24 April, 2019, allowing for the deportation of Syrians based on a verbal order from the Public Prosecution, without Syrians being referred to trial. Furthermore, these deportations seemingly occur without any judicial oversight to prohibit refugees from being returned to places where their lives or freedoms could be threatened (Legal Agenda, 2019).

In this light, 16 Syrians – some of whom registered at the UNHCR – without legal status have been reported to forcibly sign repatriation forms, after which they were deported from the airport (Human Rights Watch, 2019), although the Lebanese government has categorically denied these allegations (Al Jazeera, May 2019). Furthermore, an official security report indicated that state security apparatuses (notably LAF, ISF, and GSO) have repatriated over 300 Syrian refugees between 7 and 20 May 2019 (MTV, 2019). In total, the General Security estimates that over 170,000 Syrian refugees ‘voluntarily’ returned to their country from Lebanon between December 2017 and March 2019 (The Daily Star, 2019a), although nongovernmental organizations working in Lebanon estimate that the number is much lower.

Nevertheless, the national political discourse has been placing increasing pressure on Syrian refugees to return to their home country, which constitutes a violation of international humanitarian principles (Human Rights Watch, 2018). It is noteworthy that local civil society actors, human rights activists, and academics in Lebanon have firmly denounced the scapegoating of and discrimination against refugees, especially in the context of the Lebanese Civil War. They emphasise that hostile narratives are not in line with principles adopted in the Lebanese Constitution, nor with international agreements ratified by Lebanon, and oftentimes rely on inaccurate data and information, as refugees have helped to strengthen Lebanon’s economy (Civil Society Statement, 2019).

## **6.5 Co-operation among sub-national, national and supranational actors**

Border management in Lebanon is characterised by limited coordination between and among actors at the sub-national, national, and supranational level. Data is generally unavailable or inaccessible, and coherent and effective coordination mechanisms are to be further developed. Furthermore, a lack of transparent processes at the border as well as the absence of accountability mechanisms impede refugees’ and migrants’ full access to basic human rights. What is more, is that border management in Lebanon is highly dependent on foreign aid, although a comprehensive strategy is lacking.

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<sup>50</sup> Supreme Defense Council, Decision No. 50 of 14 March 2019.



## Limited coordination within and between agencies

Experts have pointed out the lack of information sharing as one of the key factors impeding effective and efficient border management for the General Security. A representative of the UNHCR explains that as such, decisions are not implemented systematically between different offices of the General Security:

'Basically, when the central GSO issues a decision, it is not necessarily being implemented elsewhere. The follow-up is minimal; not existent anymore, actually. Even when you go to the central GSO office and tell them that another branch is doing something wrong, they will just pick up the phone and claim that they told them off, that's it! There is no investigation, there is no follow-up. And that is a huge issue' (Focus group, Beirut, 26 November 2018).

In particular, the electronic system to gather data has been highlighted as a challenge. First of all, the system does not allow for real-time data-sharing within the General Security. A border expert explains: 'At the moment, it's quite possible that, particularly as a non-Lebanese, you can come in at one [border crossing] point, and in a couple of hours you could leave through a different border crossing point, and no one would know' (Interview, Beirut, 23 January 2019). For this reason, border experts emphasise the need for a new system that will be able to collect this type of data. A border expert implementing a major border management project illustrates:

The new system is all about making the check faster, checking more information, recording the information in a better way so that it can be analysed, and so that it can be exchanged. [The objective is] to have such a system at every border crossing point around the country, and have it linked up; so that it is recorded in real time, collected in real time, and so that there's a two-way exchange of information before all the border posts (Interview, Beirut, 23 January 2019).

Furthermore, the current electronic information system does not yet allow for synchronisation with other national or international interfaces, and legislation to consult international systems for entry controls is lacking in Lebanon. Thus, although relevant information might be available, the General Security is reportedly unable to access it. For example, although an INTERPOL National Central Bureau in Lebanon is hosted by the Internal Security Forces, 'The General Security does not have direct electronic access to INTERPOL databases. Information on stop lists, or from [other] databases, do not reach General Security in real time' (Border expert, Interview, Beirut, 23 January 2019).

Although the new information sharing system will form the basis of improved interface with international agencies, coordination between national agencies remains a point of concern: 'Somehow, [the interface still needs to facilitate that] INTERPOL information can go directly to the General Security and not be... I use my words wisely... held up in ISF' (Interview, Beirut, 23 January 2019). Discussions about improved collaboration between agencies through a Memorandum of Understanding are ongoing, but have not materialized at the time of writing this report.

However, the level of cooperation between the agencies present at the border – described to be minimal – has seen some improvement. A border expert explains: 'At certain

border crossing points, even if they were all located closely together, they simply didn't talk to each other. They didn't even know each others phone numbers. Now they do, and they actively work together' (Interview, Beirut, 23 January 2019). In addition, the agencies, including the Red Cross, have done several simulation exercises at border crossing points – such as attacks, bombs, or fires – collaborating under a 'really clear chain of command, using the standard operating procedures' (Border Security Representative, Interview, Beirut, 23 January 2019).

The establishment of the Border Control Committee, an official body consisting of national and international actors to oversee the coordination of border management (ICPMD, n.d.), was another positive development. However, in reality, it is described to be rather ineffective. As a border expert argues, it is a 'fairly toothless, oversized body, rather than something that actually has any great authority' (Interview, Beirut, 23 January 2019). With regards to sea border management, coherent coordination mechanisms appear to be lacking.

Lastly, border management in Lebanon is characterised by structural financial limitations. In this context, foreign aid, whether under the pretext of humanitarian aid or security assistance, has been on the rise.

### **Blurred lines between international humanitarian aid and security reinforcement**

The significant rise of international humanitarian aid over the past decade has incited a new discourse on its ethics: whether it fosters cooperation or control, and promotes agency or dependence (Slim, 2015). An important subsequent concern is linked to the securitisation of foreign aid. Indeed, with the rise of global security threats, 'governments and international aid agencies have revised their aid strategies to reflect new security concerns and increased aid to strategic conflict-affected countries' (Brown, Gravingholt, 2016). As a consequence, the lines are often blurred between humanitarian and security aid, and 'aid workers frequently work closely with military personnel,' while 'development assistance' is placed alongside 'military instruments' (Brown, Gravingholt, 2016). It is under such a lens that security assistance to Lebanon must be understood.

### **Externalised border controls: the EU-approach**

Since the eruption of the Syrian crisis, the European Union has initiated a series of initiatives to 'support' countries outside Europe in border management. First of all, the 2004 European Neighborhood Policy (ENP)<sup>51</sup> aims at 'bringing the EU and its neighbours closer, to their mutual benefit and interest' (European Union, n.d.). Notably the eruption of the Syrian crisis in 2011, as well as the increased number of refugees and migrants on the move as of 2015, invited for significantly increased financial contributions in border management, and a more securitised approach.<sup>52</sup>In this context, the European Agenda on Migration (European Commission, 2015), and the New Partnership Framework with Third Countries under the European Agenda on Migration (2016) were established.

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<sup>51</sup> The EPI covers Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestine, Syria and Tunisia.

<sup>52</sup> For example, in 2011, the *Global Approach to Migration and Mobility* (GAMM) was created, which encompasses funds covering immigration, asylum, and preventing and controlling illegal migration.

Furthermore, in mid-2018, as part of its European Neighbourhood Instrument (EPI), the European Union announced a 50-million EUR package of which 46.6 million EUR is 'for promoting the rule of law, enhancing security and countering terrorism until 2020' and 3.5 million EUR 'in support of airport security' (Parlementaire Monitor, 2018). Another significant development began in 2013, when the International Centre for Migration Policy Development (ICMPD) launched the Integrated Border Management Lebanon (IBM). This project, supported by the European Union with a budget of 14 million EUR, aims to 'build on existing national and international efforts to strengthen Lebanon's capacity in the management of its land borders' (ICMPD, 2013). Furthermore, under its European Neighbourhood Policy, the European Union reserved 18 million EUR in 2018 for 'promoting the rule of law, enhancing security and countering terrorism in Lebanon' (European Commission, 2018b).<sup>53</sup>

Still, despite significantly increased financial support, cooperation with European border agencies and European institutions such as Frontex or Europol, is yet to be improved. A border expert argues:

There is very little cooperation with Frontex, which has been a frustration. We've been trying [...] to interest Frontex more in Lebanon. I think that they actually missed an opportunity, in that there was a lot that the Lebanese could teach Frontex and the European Union. We have had two or three visits to Frontex [...], but they have been generally a guided tour of the building and a couple of hours of presentation on what Frontex does – without any real understanding of how cooperation can work. [...] However, several General Security document experts went to Frontex and gave them some training and provided information, which I think went into a guide book on forged Syrian documents. So, they do have a dialogue, but it's more on a person-to-person basis rather than anything official (Interview, Beirut, 23 January 2019).

Moreover, such aid, often deceptively framed as well-needed humanitarian support or security assistance, can be analysed as a strategy of migration containment and control (Human Rights Watch, 2016). An EU-Diplomat argues:

'The EU MADAD regional trust fund is supporting the neighbouring countries [...] in the 'Syrian crisis'. The main objective of this trust fund is to stabilize refugees, so that they don't move on to Europe. This is done through 'development projects', such as investments in infrastructure and community-based projects.' (Interview, Beirut, 28 November 2018).

The EU-diplomat continues: 'The EU works with the Lebanese government to ensure that Syrian refugees stay in Lebanon. The EU has provided an immense amount of funding to Lebanon in order to provide economic opportunities to Syrians, and improve their infrastructure' (Interview, Beirut, 28 November 2018).

As such, by establishing and supporting border control systems outside its geographical space, and increasing 'cooperation' with neighboring countries, the EU has

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<sup>53</sup> Stakeholders included the LAF, the Military Courts, the ISF, Municipal Police, The General Directorate of State Security, General Security, the Lebanese Civil Defense, and Lebanese Customs Administration (European Commission, 2018b).

externalised its borders to the Middle East. In this context, Europe's neighbouring countries appear to have turned into 'Europe's new border guards' (Transnational Institute, 2018).

### **Security assistance 'bonanza': a lack of strategy**

Lebanese governance systems have a long history of security-focused approaches, reinforced in the 1950s and 1960s by President Fouad Chehab (1958-1964). In this context, Lebanon's expenditure for security was 'unusually high' in 2017, accounting for 16% of its annual spending (Berthier, Haddad, 2018), and even saw significant increases in 2018 (Citizen Budget, 2018; Arbid, 2018).<sup>54</sup>

The securitised approach is exacerbated by foreign security assistance, which is often provided by individual donor countries, as well, through state-to-state support. For example, in 2018, the United Kingdom added 13 million USD to its initial 110 million USD pledge to support the LAF and the ISF, primarily in securing the Lebanese-Syrian border (British Embassy Beirut, 2018), supported by Germany with 1.5 million EUR (British Embassy Beirut, 2017). Furthermore, the United States' allocated 152.8 million USD security assistance to Lebanon (Congressional Research Service, Lebanon 2018),<sup>55</sup> including military equipment and training for the Lebanese Armed Forces (Addis, 2011).

However, the lack of a coherent coordination framework for security assistance is striking. A border expert explains:

One of the problems, is that [...] so many different actors or donors work on different methodologies – which could be simply about budgeting or about staffing or about program cycle – and it's extremely hard to really genuinely collaborate, and to actually make it effective. There is no real, robust donor coordination in terms of border management (Border expert, Interview, Beirut, 23 January 2019).

As such, donors are able to implement their varying priorities and normativities without coordination. What is more, is that the participation of aid recipient countries is minimal. As Tholens (2017:867) argues, the '*modus operandi* is one in which each donor digs its own niche, supporting 'its' agency among the myriad of security actors'. What is more, the non-transparent and *ad hoc* character of this 'bonanza' of foreign security assistance renders its full analysis more difficult.

For example, in 2019, Ambassador Rampling reaffirmed British support to the LAF as the 'the only legitimate defender of Lebanon' (Middle East Monitor, 2019b). This declaration coincides with Britain's recent decision to ban Hezbollah as a terrorist organization under the auspices that the party's political and military wings are indistinguishable (Middle East Monitor, 2019a). Similarly, the United States' political interest in Lebanon centers around its perception of the LAF as an effective stabilizing force to counterbalance Hezbollah and keep Lebanon's borders free of 'extremists' (US Department of State, 2018). However, following Hezbollah's

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<sup>54</sup> That is, Lebanon's March 2018 budget allocated 2.1 billion USD toward the Ministry of National Defense (Citizen Budget, 2018): a 14% increase from 2017. A 10% increase of 1.1 billion was allocated to the Ministry of Interior and Municipalities. By contrast, the Ministry of Education and Higher Education received almost 1.4 million (Arbid, 2018).

<sup>55</sup> This amount is broken down as follows: 85 million for the Economic Support and Development Fund, 50 million for Foreign Military Financing, 2.75 million for International Military and Education Training, 6.2 million for International Narcotics Control and Law Enforcement, and 8.8 million for Nonproliferation, Antiterrorism, Demining and Related Programs.

success in the 2018 elections, US Secretary of State Pompeo called for a review of Lebanon's military aid due to fear that 'Hezbollah's influential role in the Lebanese government amounts to terrorist control over all state institutions,' including the LAF (Miller, Ruffner 2018).

Thus, security assistance should be viewed in light of a pluriformity of global discourses on security practices. Moreover, Lebanon's already divided political landscape and power-sharing system exacerbates polarized political views and obstructs effective and coordinated migration governance.

## 7. Conclusion

Free movement of capital – be it goods, people, or services – has been one of the cornerstones of economic and cultural globalisation worldwide. Greater movement, temporary or permanently, whether for purposes of tourism, business, education, family reunification, or others, has resulted in increasingly fluid borders for some individuals. At the same time, borders appear to have hardened for other individuals: land, maritime, and air space border surveillance is on the rise, border walls are emerging, and border management actors are equipped with a growing arsenal and innovative control technologies to withstand 'threats' of immigration.

In countries in 'fragile' contexts with 'porous' borders, the international community intervenes in border management practices (Tholens, 2017:870). Indeed, Lebanon's borders – established to identify French and British colonial gains in the Middle East under the Sykes-Picot agreement – until today, are undemarcated and considered porous, rendering their management more difficult. The number of border crossing points in Lebanon are reported to be insufficient and their infrastructure in poor shape. Furthermore, the coordination within and among various agencies active in border management has been described as minimal by our interlocutors. Lastly, Lebanon's borders are reportedly subject to continuous air space and maritime violations on an almost daily basis by the Israeli Defence Forces (Lebanon Support, 2018b). As such, backdropped by mass migration and looming threats of terrorism spill-overs, Lebanon's borders have been increasingly strained.

However, it should be noted that international interventions, although seemingly adopted to strengthen Lebanon's 'territorial integrity, sovereignty and political independence' (UN Resolution 1701), appear to undermine the limits of the control of sovereign Lebanon. Under UN Resolution 425, UN military actor UNIFIL was based at Lebanon's southern border in 1978, and remains present until today. It also allowed for the establishment of the Blue Line, which *de facto* constitutes the border, although it differs from border lines drawn in international agreements (1949 Armistice Agreements; 1923 Paulet-Newcombe line), and leaves several issues, including the Sheb'aa farms, unsettled.

Similarly, international 'assistance' in securing Lebanon's border is on the rise. Although exorbitant donations ensure a stable, increasing flow of financial support through which infrastructures are improved and local border management actors are 'empowered', well-equipped, and 'capacities' are enhanced (ICMPD, n.d), such assistance generally does not occur within a coherent and effective framework. As such, its many actors, notably the European Union, the US, Saudi, and Iran, are able to implement their varying priorities without any regulation or coordination (Tholens, 2017). Logics of international control and border externalisation are exacerbated by Lebanon's politically divided landscape.

However, interventions and security assistance in so-called 'weak' states often fail to take into account the hybrid character of Lebanon's security assemblages, or historical characteristics of border spaces. In particular, they overlook the dynamic and fluid character in border areas, as well as pre-existing links between local communities that supersede formal political boundaries in favour of social or primordial links or cross-border trade, among others. Greatly varying from western state models, the 'existing situation is often one of soft frontiers rather than fixed hard borders' (Tholens, 2017:870).

Thus, global actors and their normativities entering into the local Lebanese context have affected not only the construction of Lebanon's borders, but also their management, until today. Ironically, the relative absence of development projects, as well as the creation of dependency on foreign aid, have contributed to the marginalisation of Lebanon's border areas (Mouawad 2018:15).

It is in this context, that (Palestinian) Syrian asylum seekers, refugees and migrants, after long periods of *laissez-faire* policies, are subject to increased control at Lebanon's external border, whereas an open-border policy used to be in place until 2015. Despite violating human rights enshrined in the Universal Declaration of Human rights that Lebanon is committed to by the Preamble of its Constitution, international customary law, and bilateral agreements, and despite explicit condemnation by the Lebanese judiciary, legal access has become virtually impossible for most refugees coming from Syria. At the same time, a securitised approach has been reported 'to allow the passage of 'desirable' goods and people' (Tholens, 2017:870), similarly to other border regimes elsewhere in the world.

However, singling out foreigners does not stop at the external borders. Our interlocutors have identified Lebanon's many internal checkpoints as places to be subjected to intimidation, violence, arbitrary arrest, and even detention, contributing to a constant atmosphere of fear. The checkpoints thus constitute 'internal' borders, which adopt a fluid pattern, as checkpoints regularly change locations. In this context, the right to mobility appears to be reserved only for few: refugees' daily routine notably revolves around sidestepping authorities, further deepening gaps between them and government officials. Returns, notably through forcibly signed 'voluntary' forms, are on the rise, although circumventing the principle of *non-refoulement*.

In this context, efficient, transparent, and sustainable border management processes should be further developed, that ensure the basic human rights of migrants and refugees. This, first of all, includes the development of a coherent legal framework, as well as ensuring its proper and systematic implementation. Furthermore, it includes the establishment of effective coordination and accountability mechanisms for actors working at the border. While governance of exclusion in Lebanon and other countries may, intentionally or not, make Syrians feel unwelcome, this process of marginalisation is clearly counter-conducive towards a more secure and stable future in the region. In order to actually 'secure' the Lebanese border, safe and sustainable pathways to enter and reside in the country should be prioritised: refugees and migrants should be able 'to arrive through the front door, rather than sneak in through the back' (Stephens, 2019).

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