UNHCR's humanitarian engagement following military intervention and failed state-building in Afghanistan and Iraq. On the other, it contributed to a growing fear of Islam across the developed world. Whereas previously Europe had been relaxed about allowing entry to Muslims fleeing Bosnia and Kosovo during the 1990s, 9/11 unleashed a political toxicity around the admission of Muslim refugees.

In the global North, UNHCR has faced a growing challenge to the core tenets of the refugee regime. Fear of immigration, the structural collapse of manufacturing jobs, and post-2008 austerity measures have contributed to a resurgence of popular nationalism in the liberal democratic world, with significant implications for refugees. In the South – from Kenya to Thailand – UNHCR has similarly started to encounter states prepared to engage in copycat defiance of refugee law, increasingly threatening to close their borders or expel refugee populations.

In a multipolar world of populist nationalism, UNHCR is struggling to reinvent itself. Throughout the post-2015 European refugee crisis, it has lacked visible influence at a political level, being reactive to major changes in Europe and elsewhere rather than proactively driving the agenda. There can be no doubt that many of the organization's staff do extraordinary work, saving lives every day. But to continue to be relevant in a changing world, UNHCR will need to fundamentally update its business model. The organization excels in the areas on which it focuses – providing humanitarian aid in camps and legal advice to governments – but these are no longer the primary skills needed to ensure refugee protection in the twenty-first century.

The problem is in part that UNHCR has not had the opportunity for systematic reform. Its primary mechanism of historical adaptation has been what might be called panic legacies. It has adopted emergency responses to address particular crises, and these have often then become ossified as permanent responses. Over time, these legacies of ad hoc response have deepened like coastal shelf. And yet despite this layering, core elements of the organization's role and mandate have never been subjected to serious reflection by member states. Examples of these legacies can be found in UNHCR's own relationship to each of the three broad types of gaps we discussed above.

In terms of models, the most obvious example of an ad hoc response that has become entrenched is camps. As we have explained, camps were

not a significant part of the UNHCR toolkit for the first three decades of its existence. UNHCR gradually started to use them in South-East Asia in the early 1980s because it needed to temporarily house people leaving Vietnam and Cambodia in host countries that were not signatories of the 1951 Convention and from which rapid resettlement to the West was anticipated. But with UNHCR facing a near crisis of funding and relevance by the late 1980s, an initially exceptional approach was rolled out as UNHCR expanded its 'care and maintenance' role. By the early 1990s, this was the dominant policy response to mass influx: from the movement of Iraqis into Turkey in 1991, to Somalis entering Kenya after 1991, to Rwandans entering Tanzania in 1994. Camps quickly overshadowed prior settlement options. The organization does now have a Policy on Alternatives to Camps but there remains a significant gap between policy and practice.[20]

In terms of people, a similar story can be told of how UNHCR's 'population of concern' has evolved. Take for example victims of natural disaster. In the aftermath of the Asian tsunami of 2004, the UN Secretary-General asked UNHCR to stand in and provide assistance in Sri Lanka and Indonesia. UNHCR made clear that this was an 'unprecedented' and exceptional move, stating that what it was doing was outside its mandate. And yet the exception soon became the rule. Over the next six years it took on a further six similar roles in Pakistan, Myanmar, the Philippines, Pakistan again, Sri Lanka, and Haiti.[21] By 2010, the High Commissioner at the time was regarding the practice as policy, and UNHCR was effectively the lead agency for protecting people displaced by natural disasters. But this left UNHCR with a responsibility that it has been poorly resourced to meet. It donors and staff have subsequently wondered if this was a rational move for an organization struggling to meet the needs of its primary constituency.

In terms of providers, UNHCR's current funding model is also a panic legacy that has become dysfunctional. Its single-year government-driven funding model is the product of historical contingency. In a world in which predictable, multi-year funding is needed, the primary source of refugee funding remains the 'annual voluntary contribution'. UNHCR writes an annual appeal outlining its budget. After much bilateral discussion, governments commit to fund part of the budget – usually just for one year – whether on an earmarked or an

unearmarked basis. Each year the cycle repeats. The approach leads to huge unpredictability and wasted resources. Unsurprisingly, it too is an anachronistic legacy of the past, and initially began because the UNHCR of the 1950s was created with only a temporary mandate and with extremely limited government support. This is a tragedy when other, more predictable financing models are now so widely used in other sectors. Such mechanisms include catastrophic risk financing through government-backed catastrophe bonds, public–private partnerships based on a user-fee model or guaranteed annual subsidy, and political-risk insurance – all of which are used elsewhere to encourage business investment in contexts of uncertainty.[22]

CRISIS AND THE OPPORTUNITY FOR REFORM

So although the global refugee regime has historically adapted, it has done so incrementally and conservatively, following a broadly path-dependent trajectory. The core elements conceived after the Second World War – the 1951 Convention and UNHCR – remain significantly unaltered since their creation. At no point has there been a systematic or fundamental reflection on whether these institutions need to be reformed or updated, and if so how far.

We are not suggesting that either the 1951 Convention or UNHCR should be abolished. Nevertheless, the 1951 Convention fails to adequately answer the most basic contemporary questions on 'who to protect', 'how to protect', and 'where to protect', offering a lack of guidance on the dominant refugee policy challenges of the twenty-first century. Meanwhile, UNHCR is increasingly struggling to fulfil its underlying purpose: to facilitate collective action on protection and solutions for refugees.

Globalization, urbanization, climate change, state fragility, greater opportunities for mobility, the rise of China, the changing nature of conflict, the role of the internet and social media, new technologies, the growth of regionalism, the shift from Cold War bipolarity to uni-polarity to multipolarity, to name just a few of the factors, have all radically altered the nature of the forced-displacement challenge, as

well as the opportunities available to states to collectively provide protection and solutions. But at no point has there been a thorough reflection on how this radically changed world should shape institutional redesign in the refugee regime.

The inertia may be partly justified through experience. A perennial challenge within the United Nations is the belief that nothing can really change. At least not quickly. No specialized agency has ever disappeared. Reform moments – such as the UN reform process of the early 2000s – yielded disappointingly slow and incremental change. Furthermore, the sheer number of states within the UN General Assembly, and the reality that for most of the UN's history – the Cold War and twenty-first century, at least – its main security body, the Security Council, has been blocked and sclerotic, make the UN reform route appear limited. But this should certainly not be an indelible hindrance to change in the refugee regime.

The gross inadequacies of the inherited system became increasingly apparent. In other areas of international policy, crisis has led to root-and-branch institutional reform. For example, the currency crisis of 1971 led to the end of the fixed-exchange-rate regime. The refugee regime, ossified over several more decades than any other part of the post-war international architecture, is at last under pressure. A Danish professor of law, Thomas Gammeltoft-Hansen, has suggested that European governments are experiencing a 'paradigm crisis' in which for the first time they are starting to recognize that the system may be broken beyond repair.[23]

The political will to reform the system may at last be building. European heads of state have repeatedly met at the highest political levels to try to rebuild the internal and external dimensions of a Common European Asylum System. The UN General Assembly convened its highest-profile meeting ever on refugees on 19 September 2016 and this was followed a day later by a US Presidential Summit on Refugees. Never before have the political aspiration and the inherent need for reform been so significant, and yet across all of these meetings a corresponding policy vision has remained wanting.

To date, the predominant political response to the Syrian refugee crisis has not been a rethink of policy: it has been panic. Prepare for headless chickens.

3

The Panic

Europe's politicians were faced with a global upsurge in displacement, but most evidently an escalating refugee situation due to the continuing violence in Syria. Having inherited a global refugee regime that was incapable of reacting adequately, what they needed was a swift and decisive new approach. Instead, political responses were so inept that they ensured a mounting crisis. Policies have lurched back and forth between the headless heart and the heartless head. In this chapter we recount the stages of this saga.

A central argument of this book is that the series of events we describe need not have led to the terrible outcomes that unfolded with the seeming inevitability of a tragedy. Hence, our story starts not with the first wave of refugees, but with the adoption of policies that created avoidable vulnerabilities. What became, literally, a Greek tragedy, began as a Brussels farce.

MAKING THE TINDER BOX: SCHENGEN

Refugees are defined by flight across a border. But while the rules that define borders are central to refugee policy, refugee policy is not central to the rules that define borders. In 1999, the European Union incorporated border regulations into its legal framework, giving scarcely a thought to the practical implications for the flow of refugees.

The Schengen Area removed all border controls within a vast area of Europe. Though not quite coincident with the EU (it included Norway, which was not in the EU, and excluded Britain and Ireland, which were), it was widely regarded as a flagship political symbol of

European unification: a visible expression of 'ever closer union'. But border controls are not just symbols: they are practical measures. Their removal had two substantive effects, the implications of which would later become fully apparent. One was that anyone (citizen or not) could move between member countries without any scrutiny. The other was that entry to the entire area would be determined by the policies and implementation capacities of each of those countries with an external border. Italy became known as 'Schengen's soft underbelly'.

While the impetus for Schengen was a noble aspiration among political elites for a united Europe, there was an extraordinary disconnection between the will to implement the outcome and the will to make it workable. This vast area was created without either an agreement on common external immigration policies or the creation of a common external border police. An emotive political vision overrode the rather obvious practical requirements without which it exposed the entire area to potential dangers: Europe had made a tinder box.

In order to support Schengen, the European Union tried to create something approximating a shared asylum and immigration policy. Intellectually, it was understood that freedom of movement within the common area would only be sustainable if immigration standards and practices could be harmonized. The Commission gradually negotiated a Common European Asylum System (CEAS) – a series of common criteria for qualification (who is a refugee?), adjudication (how do we determine who is a refugee?), and reception (what rights should asylum-seekers and refugees receive?). The aim was to avoid a 'race to the bottom' in terms of standards, reduce the likelihood of refugees engaging in 'asylum shopping', and ensure no one state ended up with a disproportionate share of refugees because of its having more generous policies.

That was the theory. In practice, the system was dysfunctional from the start. States adopted different asylum standards. Recognition rates for different nationalities, the required duration of residency before asylum-seekers would be allowed to work, and social-security entitlements, for example, all varied markedly across Europe. Governments thereby continued to compete with one another to divert, deter, and deflect unwanted asylum-seekers. Most damaging of all, the removal of internal border controls created a classic weakest-link problem. The

entire Schengen Area of 500 million people became as porous as the most open of the countries with external borders. Such a border might be unusually open either because the immigration policies of its government were more generous than those of others, or because in practice its controls were less effective.

While talking the language of harmonization, governments anticipated that it would not work in practice. Realizing that the weakest-link problem potentially exposed them to open borders, the most powerful states took defensive action. A new rule was agreed in 1990, came into force in 1997, and was gradually adapted thereafter through major updates in 2003 and 2013: the Dublin Regulation. It prescribed that the first European country in which an asylum-seeker arrived should either provide permanent haven to them or send them back, according to whether they met the agreed criteria. In effect, the weakest-link problem was to be solved by the rule: if you let them in, you keep them. At the time, frontline countries like Italy and Greece were persuaded to accept these rules because arrival numbers were relatively low and because they believed they had more to gain in other areas of intra-EU bargaining.

Governments with particularly generous welfare systems, such as in Denmark and the Netherlands, were concerned that in the absence of some rule on allocation all those admitted would gravitate to them. But the new rule was hardly an equitable one. As a map of Europe will rapidly reveal, member states were differentially exposed to the arrival of asylum-seekers. Whereas the southern countries had long borders across the Mediterranean from fragile states, and eastern countries bordered the new states of the former USSR, Germany had no external borders whatsoever. In addressing the weakest-link problem, the new rule had done so in a way that also assigned the entire burden of asylum to these frontline countries. Unsurprisingly they complained. The Commission met their complaints through a new fund to compensate them: the European Refugee Fund. Unfortunately for the frontline states, there was never more than a token amount of money in it. Incontrovertibly, a rule had been adopted which favoured the most powerful member countries.

Internal borders having been dismantled, there was evidently the problem of enforcing the Dublin Regulation. A registration system was introduced, feeding into a new Europe-wide database that revealed an

asylum-seeker's country of arrival. But as with the common asylum system itself, this depended upon state-by-state compliance. Frontline states sought to cheat the broken system by 'waving through' refugees without recording their details in the European database. The system of registration, intended to enforce the Dublin Regulation, which was itself a response to the presumption that there would be non-compliance with the common asylum policy, lacked an enforcement system. The practice of 'waving through' became the Achilles heel of the system.

Waving through was not the only type of opportunistic practice induced by the Schengen Agreement. The lack of a common migration policy created an unseemly incentive for individual governments to sell the right of entry to the Schengen Area. The opportunity was duly taken. For example, Portugal introduced a scheme whereby for €500k of investment in Portuguese property, anyone could get entitlement for themselves and their children to live in the Area. Wealthy Chinese apparently bought these entitlements so that their children could study in prestigious locations such as Paris. The government of Malta sold the right to settle in the Area at a slightly higher price (€650k). Both have recently been undercut by Hungary, which is offering permanent Schengen residence for €360k. These opportunistic practices were in stark contrast to the noble vision that had motivated Schengen. They were a trivial symptom of the larger problem: fine rhetoric was not a substitute for attention to reality.

Beyond mercenary considerations, some states had generous rules of entry. For example, Spain adopted a rule that anyone arriving on its territory – notably, people on boats from Africa reaching the Canaries – would receive the right to permanent residence after forty days unless expelled. Since there was no capacity for expulsion within such a timeframe, it implied open access to the Schengen Area for anyone able to travel illegally by boat to the Canaries. Ireland had a rule which is estimated to have entitled some 40 million non-Irish people to Irish passports, and hence to residence anywhere in Schengen.

Obviously, a border-free area requires a common external force to police its borders. A real federal state such as the USA has one, but the EU adopted the symbol of borderless passage without the necessary supporting organization. The EC assembled a quasi-volunteer frontier force, Frontex, by drawing on various national forces. But it

is a proto-agency that would take many years to build into something equivalent to those of Canada or the USA. Currently, it is tiny and barely serious: as explained to us by an EU official, at Christmas 2015, a time of massive border pressure in Greece from the influx of refugees and migrants, the staff of Frontex simply went home for a week's holiday, leaving their posts unmanned. As a practical matter, this left border policing and migrant processing in the hands of the national administrations of those countries with external borders.

While Frontex fell far short of being equivalent to a national border force such as those of the USA or Britain, its task was an order of magnitude more demanding. Europe borders on two of the world's most conflict-prone regions: the Middle East and North Africa. Further, adjoining each of these troubled regions are other zones of instability: Central Asia, the Sahel, and the Horn of Africa. The gate-keepers for these enormous populations are Turkey, Morocco, Algeria, Tunisia, Libya, Egypt and Syria. The prospects of all of them being continuously cooperative and effective are negligible. The EU tried repeatedly to develop bilateral partnerships and 'neighbourhood policies' in its attempt to develop an 'external dimension' to its asylum and immigration policy. But these frequently fell short, delivering neither managed migration nor the adequate protection of refugees.

This made the weakest-link problem acute because Europe had its very own failing nation-state: Greece, easily reachable from Turkey, but also via Crete from North Africa. In 2011 Greece's then Prime Minister, George Papandreou, had astonished his fellow European heads of government by warning them that the Greek public sector was corrupt to the core. By 2015, with its economy having contracted by a catastrophic 25 per cent, the government in charge of coping with this nightmare, including the reform of deeply flawed public services, was an untested party of the radical left, Syriza. The tinder box was fully prepared, ready for a spark.

THE SPARK

The spark duly came in the form of the poignantly named 'Arab Spring'.[1] A young Tunisian who had a market stall became so

frustrated that he set fire to himself and died of his burns. The match struck by Mohamed Bouazizi on 17 December 2010 became the equivalent of the bullet fired by the assassin Gavrilo Princip which killed Archduke Franz Ferdinand and triggered the First World War.

The southern coast of the Mediterranean had long been under the control of a monarchy in Morocco, and three dictators in Tunisia, Egypt and Libya. All had a substantial military capacity, and therefore maintained effective control of their borders. Morocco, Tunisia and Egypt were pro-Western and so naturally cooperative in preventing organized people-smuggling. Libya, under the eccentric regime of Colonel Gaddafi, was ostensibly anti-Western, but needed various forms of European assistance and as a quid pro quo was also effectively suppressing people-smuggling.

Bouazizi's act triggered mass protests, first in Tunisia, and then in the other two dictatorships. All three regimes were swiftly toppled by pro-democracy movements. However, what began as a call for democracy rapidly transmuted into violent religious and ethnic sectarianism. In Tunisia and Egypt elections were won by Islamic parties that found democracy a useful stepping stone to power, but had little interest in building a modern democratic state with checks and balances. In Egypt this triggered a backlash by means of a military coup, returning the state to a repressive autocracy. Fearing the same fate, the Tunisian government gradually softened its Islamic stance and began to share power with other groups. As in Egypt, the society faced a high level of terrorism, but the government managed to retain practical control.

In contrast, despite electing a moderate government, Libya erupted into ethnic violence. As warlords took control of pockets of territory, the Libyan state collapsed, losing control of most of the country, including the capital city. As a minor by-product of this descent into chaos, government control of the coast evaporated: there was no government. This opened the southern coast of the Mediterranean to the people-smuggling business. In a way that was analogous to the external borders of the Schengen Area, control of the southern coast of the Mediterranean posed a weakest-link problem. The people-smugglers just needed a chink in the armour to get into business. Anyone who could reach Libya and had the money was now going to be able to get on a boat for Europe.

Nevertheless, the barriers to reaching Europe illegally remained

significant. The most proximate part of Europe for people-smugglers was the tiny island of Lampedusa, which belonged to Italy. But even to reach Lampedusa involved a substantial sea crossing, making it dangerous and expensive. Further, Libya had only a small population and as a result of vast oil resources its people were not living in poverty. Hence, the demand for places on boats from Libyans wanting to reach Europe was going to be modest. Despite this, the people-smugglers knew that they could build a promising business: their potential market lay to the south of Libya, where there was an ocean of poverty – the countries of the Sahel and beyond them the highly populated states of West and Central Africa. The potential market from this vast pool of people was, however, also limited. To get to the coast the physical barrier of the Sahel, and the dangers involved in crossing such a large and lawless area, had to be surmounted. Between the sea passage and traversing the Sahel, both risks and costs were high. The high costs were constraining precisely because the societies south of Libya were so poor. In practice, the people choosing to use the smugglers would be disproportionately risk-taking, namely young men, and disproportionately affluent.

As the people-smuggling industry scaled up, the Italian authorities began to face difficulties. By August of 2011, nearly 50,000 mainly young male immigrants originally from across Africa arrived on the island of Lampedusa from Tunisia and Libya. Italy in 2011 was a foretaste of what was soon to happen in Greece.

THE ROMAN PROLOGUE

Crossing the Mediterranean in small boats is dangerous, and so the first and most appalling consequence of the new exodus was that thousands drowned. In response, the Italian government mounted a rescue operation, *Mare Nostrum*. Once it had rescued them on the open sea, the Italian navy had no choice but to bring the migrants ashore in Italy. Inadvertently, it was providing a free service to the people-smugglers, and this had an evident potential to be gamed. By towing a dinghy packed with migrants out to sea and abandoning it, the people-smugglers could deliver people to Europe more cheaply, and without taking the risk of prosecution involved in trying to reach the Italian shore.

The numbers involved in both people-smuggling and *Mare Nostrum* jointly escalated during 2014, and 100,000 people were rescued from boats and brought to shore by the Italian navy. The *reductio ad absurdum* of *Mare Nostrum* would have been for the Italian navy to run a free ferry service from the coast of Libya to Italy. Instead, in November 2014 the Italian government suspended *Mare Nostrum*: the heartless head replaced the headless heart. Thereafter, due to these intrinsic contradictions, rescue operations were sometimes scaled up, and sometimes scaled down, depending upon public interest. In April 2015 the inevitable catastrophe hit the media. More than 700 people drowned in two days: the most dramatic demonstration of heartlessness that had been seen to date. Panic took over.

Meanwhile, for those who reached Lampedusa, whether directly on boats run by people-smugglers or courtesy of the Italian navy, what befell them? The people crossing were from a range of countries: some refugee-producing, others less obviously so: Eritrea, The Gambia, Senegal, Somalia, Mali, and Nigeria, and there were a growing number of Syrians. Once they arrived on Italian territory, the Dublin Agreement rules required that the Italian government should register all asylum-seekers and thereafter either give them the right to remain in Italy or return them to their country of origin. Either way, the new arrivals did not have the right to move to other Schengen countries. Although the Italian economy was large, it was in no state to absorb an influx of workers: between 2007 and 2015 Italian per capita incomes declined by 11 per cent. Young Italians were emigrating from Italy in droves to find work in Northern Europe, and the young immigrants to Italy often had the same aspirations.

However, whereas young Italians were free to work anywhere in the EU, the rules of the Dublin Agreement meant that people arriving spontaneously from North Africa were not free to go anywhere beyond Italy. Thus, were it to adhere to EU rules, Italy would consequently gradually lose young Italians, who would be replaced by young Africans. While this was not a package of rules likely to appeal to the Italian government, there were two loopholes.

One critical loophole was that since there was no policed border between Italy and the neighbouring Schengen countries of France and Austria, there was no on-the-ground way of enforcing the

condition that people crossing from Libya should remain in Italy. In practice, migrants could move anywhere in Schengen. Once in France, Germany or one of the other Schengen countries their prospects would be more limited than those for Italians. They would need to avoid official recognition: once on the bureaucratic radar screen, their registration would be traced and they would be returned to Italy. Hence, they would not, legally, be able to work: to survive, they would be limited to informal self-employment, below-minimum-wage jobs in the service and agricultural sectors, and crime.

The migrants needed to find unregulated work, and by far the least regulated labour market in Europe was in Britain. Not only was it only lightly regulated, but, unlike the rest of Europe, Britain had no national identity card, and no requirement to register habitation. But Britain was not in the Schengen Area and between it and Schengen was the English Channel. This is why an encampment grew alongside the Calais boarding point for the Channel Tunnel: thousands of young migrants waited there to be smuggled into Britain in lorries. As controls were tightened, the people-smuggling spread along the French coast.

While the first loophole depended upon the ingenuity of individual migrants, the second loophole depended upon the behaviour of government officials. Evidently, the Dublin Agreement rules gave the Italian government little incentive to register the migrants. If they were left unregistered, once they had left Italy for a more promising economy, they could not be returned. The official process incorporated into the Dublin Agreement was that all migrants would be fingerprinted at the point of arrival. With the single entry point of Lampedusa this was entirely feasible, but in practice Italian officials were lax in adhering to the regulations. It is doubtful that enforcement was a high priority for the government. Officialdom was assisted in this process by the migrants themselves, many of whom learnt to hamper any process whereby they might be returned to their country of origin by destroying their papers and refusing to reveal where they were from. De facto, such migrants were able to remain wherever they had reached by the time they encountered officialdom.

While the flow of migrants from Libya to Italy eventually became substantial, it took a long time to build up. It did not trigger a crisis until November 2014, with the suspension of *Mare Nostrum* and the ensuing

increase in the number of drownings. The scale of the inflow was constrained by the difficulties posed by the natural barriers. Further, although the primary host society was Italy, the migrants spread themselves across the vast Schengen Area: relative to the host population they were a drop in the ocean. The Italian government complained about its disproportionate burden, but other governments saw the Dublin Agreement as an essential defence: without it, the countries of Southern Europe would have very little incentive to control their borders. Even the impact of that drop in the ocean was softened because the migrants were largely confined to working illegally. They stood at traffic lights washing car windows, busked on the metro, and sold flowers in the street. Nor did they have ready access to Europe's generous array of social services. None of this was very threatening to ordinary European citizens.

The initial exodus across the Mediterranean to Italy was an early effect of Bouazizi's self-immolation. Returning to the analogy with Princip's bullet, the period from 2003 (when the updated Dublin Regulation came into force) to 2014 (when its contradictions became unmanageable) was equivalent to the disastrous interval between Princip's shot on 28 June 1914 and the end of July. In each case panic took over: August soon arrived.

THE SPARK SPREADS TO SYRIA

The protests of the Arab Spring did not engulf the entire Middle East. Just as unrest in Morocco never grew to a level that threatened the state, so all the other monarchies of the region remained in place: in Jordan, Saudi Arabia, Dubai, the UAE, Qatar, Kuwait, and Bahrain. Only the last of these experienced serious protests. Evidently, although autocratic, the monarchies of the Middle East had significant on-the-ground legitimacy. The dictatorships were a different matter. Had Saddam Hussein still been ruling Iraq he would probably have faced a major uprising. As it was, Iraq was already in such disorder that there was little left for the Arab Spring to disrupt. The remaining Arab autocracy was Syria. The Assad family had tried to turn itself into a de facto monarchy by passing the succession on to the son of the first autocrat. But monarchy rests upon an entirely

different belief system from autocracy, and so Assad II struggled to gain legitimacy beyond his own Alawite minority.

If Ben Ali in Tunisia, if Mubarak in Egypt, if Gaddafi in Libya, why not Assad? More and more people took to the streets. In Tunisia and Egypt the regimes had cracked simply by weight of the numbers on the streets. This did not happen in Syria because, like Gaddafi, the regime tried to tough it out. Given Gaddafi's fate at the hands of the enraged population, this was a decidedly risky strategy. Had the Assad family astutely evaluated their prospects at this moment they would have flown to a political haven where, supported by the fortune they had amassed abroad, they could have maintained their shopaholic lifestyle. Gaddafi's tough-it-out strategy had failed because France and Britain had persuaded a reluctant President Obama to provide air cover for the rebels and freeze the regime's bank accounts. But Syria was perhaps just too close to Iraq. By 2011 American intervention in Iraq had been recognized as disastrous: a 'never again' lesson had been absorbed. President Obama was extolling the strategy of 'leadership from behind', and 'pivoting to Asia'. So, as the Arab Spring began to unravel in Tunisia, Egypt and Libya, the West decided to sit Syria out.

Even without Western military intervention, the Assad regime gradually lost control of territory. But as in the other Arab Spring revolutions, the conflict evolved into highly fractured sectarian and ethnic rivalries. The Sunni wanted to be free of the Alawites; the Islamists wanted to overturn the secular Baathist regime; the Kurds wanted independence from the Arabs; and the Iraqi radical Islamists of ISIS wanted to create a Caliphate that spanned the border. Against them, the Alawites feared that defeat would make them the victims of ethnic cleansing; the Christians feared that an Islamic state would persecute them; and Hezbollah, the regime-supported armed movement that had succeeded in expelling Israel from Lebanon, saw regime preservation as a vital interest. Beyond these groups, the three main regional powers, Iran, Saudi Arabia and Turkey, were each drawn in. What had begun as a democracy protest escalated into an internationalized civil war.

As the regime's military position deteriorated, it resorted to increasing atrocities against the civilian population. President Obama issued a 'red line' against chemical weapons. Assad's forces were sufficiently desperate to cross that line; the international community proved to be

sufficiently wary of any involvement for the red line to turn yellow: there was no response. Nevertheless, beset by a wide assortment of armed rebel groups with varying agendas, by the summer of 2015 the regime was sliding into military collapse. Had it continued for another few weeks the interest of the Syrian military would have overwhelmingly been to oust Assad in a coup and reach a deal with the more moderate rebels and the USA to prevent the prospect of far worse. Instead, Russia intervened on the side of the regime with substantial military force that decisively changed the balance of power.

By their nature, armed rebel groups operate outside the constraints of international rules of war. By temperament and desperation, the same was true of the Assad regime. In consequence, the armed groups were brutal not only to each other but to civilians. Sieges and starvation became standard tactics. Between the onset of the conflict in 2011 and 2015 around 10 million people, half of the entire Syrian population, had fled their homes to escape violence. This magnitude of displacement was exceptional even by the dismal standards of civil war. For example, in the other contemporaneous global emergency, the civil war in South Sudan, displacement has affected around a quarter of the population; in Somalia, which has the third-highest proportion of the population displaced, it is just under a quarter. That some of those displaced would seek safety outside Syria's borders was both inevitable and appropriate. Cumulatively, around half of them did so: by 2014, 4 million people had left Syria, being transformed in legal terms from internally displaced people to refugees in the process.

THE SYRIAN REFUGEE CRISIS PHASE I (2011–14): THE HEARTLESS HEAD

Where did these 4 million people go? Syria has a coast and five land borders. The coast is in the Alawite region of the country, firmly under the control of the regime, and so not a route for refugee flight. The land borders are with Turkey, Iraq, Jordan, Israel, and Lebanon. Of these, the border with Israel was heavily fortified by the Israeli army and effectively impassable by refugees. Israel has adopted a strict 'no Syrian refugees' policy, although it has discreetly provided

medical assistance at the border, with its army screening the injured on the Syrian side, and hospitals in its border towns offering care. By 2011 Iraq was so beset by violent disorder that it was not a credible haven for refugees, although it did host some camps for Syrian Kurds. Further, eastern Syria, which bordered on Iraq, was only lightly populated and so not a major region of refugee flight. This left Turkey, Jordan and Lebanon as the most feasible destinations.

From the perspective of refuge each had advantages and disadvantages. Like Syria, Jordan and Lebanon have Arab populations and are Arabic speaking. In terms of religion, Jordan and Turkey are best suited, both being predominantly Sunni, whereas Lebanon is a delicate mix of Shia, Sunni, and Christian. In terms of socio-economic absorptive capacity, Turkey was in a class of its own, with both by far the largest population and by far the largest and most rapidly growing economy. In terms of government capacity, both Jordan and Turkey had competent, unified governments that were firmly in control of their territory. In contrast, the structure of the Lebanese government reflected its own long period of civil war, with power delicately shared between different factions. In consequence, it had very little capacity for coherent responses to new challenges.

However, the flight to refuge is not equivalent to normal migration. People flee mass violence as families, not individually. They take as many of their possessions as they can carry, and travelling in large numbers they probably have to resort to informal means of transport. This makes physical proximity more important than other considerations. The country that was most proximate to those parts of Syria which were both heavily populated and affected by conflict was Turkey. In consequence, out of the over 4 million refugees, around half went to Turkey, with roughly a million going to Jordan and a million to Lebanon. Our numbers are rounded off partly because they are constantly changing, but also because many of the numbers are disputed. The flight to refuge is, by its nature, an informal process that is only sporadically documented.

Refugees, being international, become an international responsibility. This responsibility is shared between the first countries in which refugees arrive, which have a direct duty to provide a haven, and all other governments, which collectively have a duty of assistance.

As implied by our discussion above, the capacities of the three haven countries differed considerably. Cumulatively, Turkey received most of the refugees, but in most respects it was best placed to cope with them. It had a competent government, a large and booming economy, the same religion as the refugees, and since Ottoman times it had a tradition of being a multi-ethnic society. Although the influx to Jordan was in absolute terms smaller than that to Turkey, proportionate to its population of just 6.5 million it was far larger. Its economy was much smaller, and less robust. Whereas Turkey was heavily integrated into the global economy, most notably through a trade agreement with the EU, the economy of Jordan was dominated by the public sector, financed by aid and subsidies from the Arab oil economies. Further, while Jordan had a unified and competent government, it rested on the monarchy supported by marital ties to the major clans, which as we have noted was the only system of government in the Middle East to have practical legitimacy. Syrian refugees, coming from a radically different social and political system, could not readily be integrated into this structure. Lebanon was an order of magnitude more stressed by the refugee influx than the other two countries. Its fractured government implied that it had very limited capacity to respond to refugee needs; while its fractured society, with its precarious peace, could potentially be destabilized by a radical change in the balance of the population between the three major religious groups.

These differences in refugee flows and in national capacities suggested that the international response orchestrated by UNHCR would need to be correspondingly differentiated. UNHCR might be most urgently needed in Lebanon given that it hosted over 1 million refugees against the backdrop of a total population of just over 4 million. But weak governance and Lebanon's reluctance to open camps given its past experience of hosting Palestinians since 1948 and its complex relationship with Syria meant that, in practice, the overwhelming majority of Syrians were tolerated and de facto integrated, particularly in the informal economy and impoverished urban areas. Lebanon was therefore a poor fit for UNHCR's standard emergency-driven approach of delivering humanitarian assistance in camps. To all intents and purposes, civil society provided the bulk of the response.

In Turkey, UNHCR's role has also been limited. Less than 10 per

cent of the country's Syrian refugees have been in several government-run camps, with UNHCR's role being limited to the delivery of core relief items and support during the winter months. The overwhelming majority of the urban Syrian population have had no contact with UNHCR. Its role has mainly focused on offering targeted support to the most vulnerable 5 per cent through cash assistance, and basic services like counselling and interpretation.[2]

In the event, UNHCR engaged primarily in Jordan. It was directly involved in setting up camps across Jordan, the largest, Za'atari, being close to the Syrian border. To finance its activities, UNHCR appealed to the international community for emergency contributions. As the numbers of refugees accumulated between 2011 and 2015, the need for financing evidently grew. But the emergency-style funding model of UNHCR did not lend itself to the mounting and long-lasting nature of what was required. Donors prefer to make pledges for situations that are new and hence newsworthy. As donors lost interest, contributions began to dwindle. For example, in 2014 the German government halved its contribution. By the spring of 2015 the UNHCR response to the Syrian refugee situation was facing a financial crisis and its modest payments to the refugees in its camps had to be reduced. By that stage, just 35 per cent of the UN's $1.3bn Syrian regional refugee response plan was funded.[3]

Instead, the financial burden increasingly fell upon the governments of the haven countries. As 'middle-income countries', all three hosts were locked out of traditional development assistance opportunities. The Jordanian government financed this by emergency borrowing: as a result, the stock of public debt rose from 70 per cent of GDP in 2011 to around 90 per cent by 2015. It sensed that it was hitting the buffers of the possible. Clutching at straws, the royal think tank invited the two of us to come to Jordan.

In retrospect it is now widely accepted that the failure of the international community to support the haven countries at an appropriate scale and in a timely fashion was both morally shaming and a catastrophic practical mistake. Assessed ethically, we see it as an example of the *heartless head*. Assessed on the conventional public policy metric of costs and benefits, it was not only heartless – it was *headless*: the subsequent costs arising from it have exploded beyond measure.

Evidently, the financing model of UNHCR was not adequate for a protracted and worsening refugee situation such as unfolded in Syria. Yet, more seriously, its model of humanitarian care provided in camps also proved grossly deficient. Even in Jordan, where UNHCR relied most heavily on the camps, they were ignored by a large majority of the refugees.

The fundamental weakness of the UNHCR approach was that it was best suited to the exceptional conditions that had applied in the immediate period before it was established. Like the fable about generals, UNHCR was, literally, fighting the previous war. In the Europe of the late 1940s, with the fighting over, masses of displaced hungry people were trying to return to their homes or reach new ones. Camps were needed to feed them and provide shelter while relatives were traced, and transit arranged. In other words, refugee status was temporary. In contrast, Syrian refugees were not in post-conflict transit: they were waiting for peace to return. In this they were typical of the recent global refugee experience: the usual period of refugee status is now nearly twenty years. This reflects the altered nature of the violence itself. When UNHCR was established, the refugee situation had arisen from an international war, whereas almost all recent refugee situations have arisen due to civil wars. Historically, on average international wars have lasted only six months. In contrast, the average civil war has been much longer, with estimates ranging from seven to fifteen years.

If a family are going to be refugees for over a decade, their priority is not emergency food and shelter. It is to re-establish the threads of normal family life, anchored materially by a capacity of whoever is the breadwinner to earn a living. The camps run by UNHCR met the basic material needs of refugees, but they provided few opportunities to earn a living. Consequently, they left families bereft of autonomy.

The inability of refugees to earn a living within the standard UNHCR approach was not only psychologically diminishing for the refugees, but also highlighted the lack of viability of the financing model. Paying for 4 million refugees to live without work for ten years was manifestly unsustainable. Even at a cost of only $1,000 per refugee per year, which would have implied a drastic reduction in lifestyle relative to Syrian pre-refugee conditions, the bill would have amounted to $40bn. Since the Syrian refugee situation was just one of many, the

approach was completely unfeasible. Financially, the only reason it did not break down earlier was itself a devastating critique: refugees overwhelmingly bypassed the camps.

In Jordan around 85 per cent of refugees went to live in cities. Even in the cities, Syrian refugees were not officially permitted to work. But, like many developing countries, Jordan had a large informal economy. In practice, if people were sufficiently desperate, they could work illegally, either as an employee at a wage below the official minimum, or scratching a living in informal self-employment. The same pattern emerged in Turkey: some refugees went to the camps, but most entered the informal urban economy, which abounded with opportunities. In Lebanon, the pattern was yet more dramatic: camps were not established and so the entire refugee influx was absorbed informally. Many refugee households must consequently have experienced a substantial fall in their income as a result of their flight. Often, living standards could be cushioned for a while by depleting assets, but as the conflict persisted this gradually became unsustainable, and many refugees understandably faced mounting anxiety.

In effect, in this phase by far the most useful mechanisms for meeting the needs of the refugee exodus from Syria were the informal economies of the neighbouring countries. They provided the income-earning opportunities which refugees, using their own initiative, grasped: the informal private economy was the lifeboat. In contrast, official policies were constraining. The haven governments prevented all but a handful of refugees from working legally, whereas UNHCR camps were located far away from possible job opportunities.

Necessity is the mother of invention: the next phase built on the ingenuity of refugees.

THE SYRIAN REFUGEE CRISIS PHASE II: THE NEW LAMPEDUSA (NOVEMBER 2014–AUGUST 2015)

By 2014, the 4 million refugees who had fled to the haven countries were safe but poor. In the informal sector their prospects were limited. As the conflict back home escalated it became evident that there

would be no early return. Understandably, the more footloose and enterprising among the refugees began to think of ways of improving their prospects. A thousand miles along the Mediterranean coast such a prospect was already on offer, provided by the people-smuggling industry operating out of Libya. As with crossing the Sahara, the journey was risky and expensive, but some young Syrians began to try it.

But reaching the economic opportunities of Northern Europe via a thousand-mile journey along the coast, followed by a long and expensive boat journey to Lampedusa, was wildly inefficient. After *Mare Nostrum* was suspended in November 2014 it also became much more dangerous. After the high-profile tragedies of the mass drownings in April 2015 even the people-smuggling industry must have started to worry that its business model was becoming unviable.

Yet an equivalent European island was just a few miles from where 2 million refugees were already living. Lesbos, a small Greek island just off the coast of Turkey, became the new Lampedusa as people-smugglers spotted the new market opportunity and relocated.

The rules of the Dublin Agreement had limited Lampedusa to being a legal gateway only to Italy. As we discussed above, although the Italian economy was large, it was contracting at an alarming rate and so the prospects of earning a living were poor. This drawback applied far more powerfully to Lesbos than to Lampedusa. According to the same rules, Lesbos would have provided a legal gateway only to Greece.

However, while the Italian economy was contracting, the Greek economy was in free-fall. Whereas the Italian economy contracted by 11 per cent during 2007–15, the Greek shrank by 25 per cent. Formally, Greece was a normal member of the EU: keen on acquiring all the trappings of that status, it had adopted the euro, joined Schengen, and signed the Dublin Agreement. But in practice Greece was a failing state: corrupt, bankrupt, and poor, with the government having fallen into the hands of a new party of the extreme left. As the Greek economy collapsed, so too did its asylum system. In a little-noticed court case of 2011, an Afghan asylum-seeker had challenged the application of the Dublin Agreement to Greece. He had reached Belgium having been first registered in Greece. Following the Dublin

rules, the Belgian and Greek authorities duly arranged his return to Greece, where he faced destitution and homelessness.[4] The argument put to the European Court of Human Rights was that Greece was in no position to fulfil its obligations: its government had signed up to something that it could not deliver.

This was not the only European court case of this period that hinged on facing the reality of the Greek situation. Both the German Constitutional Court and the European Court of Justice were agonizing over the same fundamental issue, but in the context of the credibility of Greek commitments to repaying further debt. The European Court of Human Rights took the view that regardless of what the Greek government had signed, it was in no position to live up to its commitments, and so refugees could not be returned by Belgium to Greece. This was the decision of a court, not the policy of European governments: if material circumstances changed, governments could revert to enforcing the Dublin Agreement.

Whether Greece was the only legal destination opened by the Lesbos crossing or the gateway to the Schengen Area was, however, absolutely crucial. If the choice facing enterprising refugees was between working informally in the Turkish economy or in the Greek, it was no contest: Turkey's economy was not only much larger than Greece's, it was one of the most rapidly growing economies in the world.

But since the borderless Schengen Area in practice made it relatively easy for migrants to Italy to evade enforcement of the Dublin Agreement, perhaps it might make it easy for arrivals to Greece? Like Italy, Greece was in Schengen. Perhaps the Greek authorities would emulate the Italian authorities and be lax over fingerprinting those arriving on the boats. Perhaps, given the ramshackle condition of the Greek public sector, islands such as Lesbos would not be equipped with functioning fingerprinting machines and those arriving could swiftly move on towards the border with Macedonia before encountering such a machine. Perhaps, following the ruling of the European Court of Human Rights, the governments of Northern Europe would not try to return people to Greece. Such may well have been the calculations of the first refugees embarking for Lesbos.

Once the people-smuggling industry started to open up the route to Lesbos, it expanded rapidly. Partly, as we have discussed, it offered

a huge reduction in both risks and costs relative to the long route via Libya, but this coincided with other changes. The situation in Syria was deteriorating: ISIS had invaded from Iraq and constituted a force of exceptional brutality towards ordinary people. Not only were rebels becoming an order of magnitude more violent, but in August 2013 the increasingly desperate Assad regime had resorted to chemical weapons. This crossed a 'red line' warning that had been issued by President Obama to protect civilians in rebel areas. Yet with military action facing widespread political dissent across Western societies, the red line had proved to be unenforceable. This effectively licensed the regime to use any means to intimidate those civilians it deemed to be its enemies, opening the way for mass barrel-bombing. As their assets depleted, and as the prospect of peace in Syria receded, for many refugees it became time for a change of plan. As one refugee is reported to have said on arriving on Lesbos: 'Syria is finished.'

But perhaps the major reason why the flow of refugees to Lesbos increased so strikingly was that the dynamics of registration were straightforwardly unstable. The more people who chose to cross the sea from Turkey to the proximate Greek islands, the more the Greek border force was overwhelmed. The more overwhelmed the force became, the better the individual refugee's chance of continuing unhindered on to the prosperous economies of Northern Europe. But the better this chance, the stronger the incentive for people to make the crossing. The stronger the incentive, the more people came, further overwhelming the border force.

There was, however, one remaining impediment: whereas Italy had contiguous land borders with other Schengen countries so that migrants could reach virtually the entire Schengen Area without needing to cross a policed border, Greece had no contiguous border with any other Schengen country. To reach the rest of the Schengen Area, it was necessary to pass through a series of small non-EU states in South-East Europe, notably Macedonia and Serbia. The rising number of people trekking from Lesbos on route for Northern Europe needed passage through these countries. Like Greece, they themselves did not offer enticing economic opportunities. Their governments thus had little to lose from allowing the refugees to pass through their territories, as long as their northern borders remained open. But

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necessarily, the Schengen countries adjacent to these states, Hungary and Austria, had to have a border force checking the papers of those who entered from these non-EU countries.

Hungary, which was the most convenient route, and hence the one initially chosen by most refugees, is a small country that is poor by European standards. Its capacity to absorb an influx of people, whether of those formally seeking asylum, or those simply hoping to find informal work, is limited. Further, by the time enterprising Syrians had reached Hungary, they had travelled a thousand miles from Lesbos. By continuing only 150 miles further they would reach Germany, the largest and fastest-growing economy in Europe. Opportunity beckoned, and so people pressed on. Hence, the influx through Hungary's borders was only an issue of transit, not of permanent settlement.

However, both Hungary and Austria have played a distinctive historical role in Europe. Sometimes individually, and sometimes jointly, for centuries they had self-identified as Europe's bulwark against Islamic conquest. Famously, Vienna had been besieged by the Ottomans and held out. Hungary celebrated its heroic role as a small country resisting the might of the Ottoman Empire. Such histories matter for national identity. Just as the legacy of the French Revolution still lies at the core of French commitment to *liberté, égalité* and *fraternité*, and the memory of National Socialism haunts Germans, so Hungarian and Austrian identities are influenced by their past response to Muslims in Europe. Faced with a rapidly mounting and disorderly influx of refugees, many Hungarians fell back psychologically on that historic role.

President Orbán, leading a party of the centre-right, faced pressure from a party of the right which was keen to espouse this role as its cause. A recent analysis by the political scientist Sergi Pardos-Prado finds that across Europe if parties of the centre-right adopt liberal policies on immigration they heavily lose support to parties of the extreme right.[5] Whether for fear of losing power, or because of genuine belief, in June 2015 President Orbán announced that Hungary would build a fence to prevent illegal entry to the European Union through its territory. As the Hungarian authorities constructed this fence, the initial response of refugees was to switch to Croatia. The Croatian authorities promptly directed the refugees to their own

border with Hungary. In response, Hungary began to extend its border fence. There were also ugly scenes during which irate and frustrated refugees tried to force their way through the barrier, attacking members of the Hungarian border force with blocks of concrete from a nearby building site, and being met by tear gas and baton charges. In response, the refugee flow moved to Austria as the potential conduit. Austria's initial response was to welcome the new arrivals, knowing that nearly all would soon be in Germany.

By August 2015 thousands of people were arriving at the German border, and Hungarian authorities continued to use a heartless rhetoric. So what should the German authorities do? The question inevitably arrived on the desk of Chancellor Merkel.

THE SYRIAN REFUGEE CRISIS PHASE III: THE HEADLESS HEART (SEPTEMBER 2015–DECEMBER 2015)

On what the German authorities should do with arriving Syrians, the rules of the European Union were clear. Germany had no external EU borders and so anyone arriving in Germany should have already been registered in some other member country. On the principles of the Dublin Agreement they should be returned there. Even if Greece had failed to register them, or was deemed to be unfit for them to be returned there, people could only reach Germany via Hungary or Austria and so should have been registered there. Neither country could credibly be regarded as incapable of providing asylum: neither was in the same league as Greece. Austria was at this stage warmly welcoming refugees who sought asylum, and while the Hungarian authorities were denying transit to Germany, they offered to provide asylum in Hungary itself to those who applied. Had Germany returned refugees to Austria and Hungary the influx may have subsided: neither was as alluring as Germany.

But while the national folk narrative in Hungary was that of the bastion against Islam, that in post-Nazi Germany was of living down the past. This had repeatedly been manifest in German policy. For example, in 2011 when Colonel Gaddafi's threat to hunt down the rebels in their

cupboards had prompted the UN Security Council to invoke the right of the international community to intervene militarily to protect Libyan citizens, Germany had shown its opposition to this by abstaining in the Council's vote on the question.[6] This was not due to Germany's superior ability to forecast what would happen, but to the German horror of military action. If bombing had a special meaning in Germany, refugees were even more emotive: Germany had been responsible for creating a refugee exodus, and in the post-war period many Germans had themselves been refugees. In living down the past, welcoming refugees who were arriving at Germany's doorstep fitted the folk narrative.

Chancellor Merkel had initially taken a tough stance on refugees. On German television she had told a young Palestinian refugee that she would not be allowed to remain in Germany: the child had promptly burst into tears, something that had not been well received by viewers. Nor was this the only occasion when Chancellor Merkel had taken a tough stance. In the negotiations with the Greek government during the recent debt crisis in Greece she had been depicted in the Greek press as a latter-day Hitler. That crisis had also confirmed Chancellor Merkel as by far the most powerful politician in Europe. Ostensibly, the responsibility for debt negotiations rested with the European Commission, the European Council, and the European Central Bank, but the head of the new Greek government had flown not to Brussels but to Berlin, and negotiated directly with Chancellor Merkel.

The German national narrative of living down the past and the Chancellor's personal sense of political authority came together in what was soon seen as a sensational decision. In late August 2015, Chancellor Merkel decided that Germany would no longer adhere to the rules of the Dublin Agreement: the refugees reaching Germany would be permitted to remain rather than being sent back to Hungary. It is now clear that this decision had been meant not to be public but an operational rule for border officials. Consequently, the Chancellor consulted neither her colleagues in the German government nor the Commission and other European leaders before the announcement was made. Inevitably the decision rapidly became an international sensation. In her now famous 'Wir schaffen das' speech, she proclaimed: 'Germany is a strong country – we will manage.'[7] The speech was noble but it was soon to have unintended consequences.

As refugees began to switch from Hungary to transit through Austria, Chancellor Merkel and the Austrian Chancellor announced on 4 September that Austria would provide official transit through to the German border, where refugees would be welcome to seek asylum. The subsequent patterns of movement suggest that this announcement influenced the calculus of migration for three distinct groups of people.

First, for those Syrians who were already refugees in their neighbouring havens, it made onward migration more attractive. Syrians in Jordan, Lebanon, and Turkey had all imposed greater restrictions on Syrians from October 2014. Many Syrians in the neighbouring countries were struggling to access work and basic services, depleting savings and capital. Sending a family member to Europe offered a lifeline. By the end of July 2015, nearly 375,000 Syrians had already claimed asylum in Europe. Although the movement was already under way, Germany's policy change accelerated the trend: the number had nearly trebled by the end of the year, with Germany the primary destination.[8] However, the barriers of risk and cost remained: the offer of asylum did not come with any means of reaching Germany beyond a bus ride across Austria: it amounted to 'Wir schaffen das…provided you can swim'. Had Germany's objective been to provide safe passage, it would surely have also provided humanitarian visas to allow people to fly directly from Bodrum to Frankfurt, rather than risking their lives on rickety boats.

Second, for those Syrians who had remained in Syria, for whatever reason, exit now looked less dismal. Subject to surmounting the barriers, those who left could now look forward to the prospect of new lives in Germany rather than a scratched existence in the informal economies of their neighbours. In August 2015 the military situation of the Assad regime deteriorated further as it lost Palmyra to ISIS. This panicked the Alawite population into the prospect of defeat and mass slaughter, and so some of them decided to leave: refugees from both sides of the conflict headed for Germany.

In September President Putin decided to intervene militarily in support of the Assad regime by heavily bombing the major rebel-held areas. This radically changed the balance of military power, enabling the Assad regime to begin reconquering rebel areas. The offer of a new life in Germany made it considerably more likely that military action against rebel civilians would induce them to leave Syria. Inadvertently, this may

have encouraged the Assad regime to intensify the violence. Although this is a strong claim, it is supported by work by Harvard researcher Kelly Greenhill, which shows how dictators frequently use forced emigration as a strategic tool.[9] Facing a Sunni population that was implacably opposed to him, he may have decided to use his new military strength to encourage Sunni flight: ethnic cleansing became feasible. President Putin had his own reasons for encouraging such an exodus to Germany. Chancellor Merkel had been leading the European imposition of economic sanctions against Russia to penalize the Russian military intervention in eastern Ukraine, and Putin knew that a mass influx of Syrian refugees into Germany would rapidly weaken Chancellor Merkel's political position.

As both Syrian refugees in Turkey and Syrians who had previously decided to remain at home took up the opportunity to cross to Greece, the Greek authorities became yet more overwhelmed: between August and November around half a million Syrians crossed to Lesbos. Whether due to a lack of capacity or to reluctance, only a quarter of these arrivals were fingerprinted by the Greek authorities.

Third, this in turn opened up opportunities for refugees and migrants from around the world. If border forces were unable or unwilling to register and screen extra-legal arrivals, and lacked an effective capacity to return those that were not eligible for asylum, then refugees would not in practice be distinguished from other migrants at the point of arrival. This exposed the Schengen Area to the vastly larger pool of would-be immigrants from poor countries around the world. A breakdown in border controls therefore placed a growing burden on the behind-the-border capacity to send back migrants who were not eligible for asylum. In practice, return faced both practical and legal impediments: if migrants destroy their papers their nationality cannot be established, and many countries are judged not to meet the governance standards required for return.

Turkey bordered Iran, which bordered Afghanistan and Pakistan. In the second half of 2015, around 200,000 Afghans trekked across Iran, Turkey, and the Balkans to reach Northern Europe.[10] From around the world, hopeful migrants flew to Turkey and bought places on boats for Lesbos. The German authorities were themselves unable to manage the number of arrivals: everyone was allowed in, even if they could not be registered, and those that chose to disappear from official view were able

to do so. As the migrants trekked through the conflict-damaged countries of South-East Europe, initially the concern of the local population was to speed their passage: a much displayed image shows a sign with an arrow, pointing along the road. Written in English, it said simply 'Germany'. But soon it occurred to local people that if migrants from many different countries could move to Germany, they could do so themselves: why not follow their own signs? By December around 300,000 unregistered migrants were estimated to be living in Germany.[11]

Faced with the rising influx, Chancellor Merkel urged other European countries to take some of those who had arrived in Germany. Since her initial invitation had been given unilaterally, anything beyond moral suasion would be contentious. Nevertheless, the Chancellor asked the Commission to establish a formula for relocating refugees across the EU. For the Commission, the evident need for coordinated action coincided with a natural desire to extend its mandate, and so it obliged. In September, the President of the Commission, Jean-Claude Juncker, outlined the plan: to relocate 160,000 refugees directly from Greece and Italy equitably across EU member states. Thus was created a Schengen legal structure which stripped nationality of significance for citizens of member states, while defining the rights of Syrian refugees by an assigned pseudo-nationality. In arriving at this paradox of removing nationality from nationals, while creating it for non-nationals, the Commission perhaps itself crossed a boundary: between reality and the surreal.

Faced with some countries' reluctance, Chancellor Merkel first threatened recalcitrant governments with reductions in EU-budget structural funds. Since this would have contravened EU rules the threat was not pursued, but that it was made suggested mounting desperation. Instead, the Council made a historic change of procedure. Hitherto, all contentious Council matters had required unanimity, but in adopting a rule to apportion refugees to other member states, the objections of five governments were overridden. The power of the Chancellor had reached its apex. Nevertheless, the rest of the EU dragged its heels and there was no appetite to implement the relocation deal.[12]

But the Schengen Area effectively became borderless. Anybody who was able to reach Turkey now stood a reasonable chance of reaching Germany and remaining there: some because they would be permitted to do so; some because they could in practice not be

returned; some because they could stay below the official radar screen. By the end of 2015 over a million people had arrived in Europe, of whom only around half were Syrian. While the scale of the increase took the authorities by surprise, it could clearly have been anticipated. Young people around the Middle East were linked by social media that generated waves of imitated behaviour. It had fuelled the Arab Spring and now it fuelled the youth exodus.

But there was a yet more powerful factor at work. As the numbers rose and the border chaos deepened, it was evident to anyone not in thrall to their own rhetoric that the situation would not be permitted to continue. Regardless of the generous signs saying 'welcome' held by young Germans at Munich railway station, and regardless of Chancellor Merkel's Obama-style refrain of 'We can do this!', border controls were sure to be reimposed. Would-be migrants around the world could readily tell that it was now or never. In this respect, the stampede of people was analogous to what happens during capital flight: once it starts, the smart thing for each individual is to move as fast as possible.

THE SYRIAN REFUGEE CRISIS PHASE IV: THE RETURN OF THE HEARTLESS HEAD (JANUARY 2016–?)

Within Germany, Chancellor Merkel's decision had meshed with the folk narrative of living down the past. Nor was the influx of people seen as a threat to jobs: the German economy was booming and short of workers. Germans were also understandably unconcerned by the Chancellor's exceptional power vis-à-vis the rest of Europe. But outside Germany it was a different matter.

Only in Sweden was there a remotely comparable folk narrative: having stayed out of both world wars, Sweden carved out a post-war international role as a haven for asylum-seekers. Like Germany it adopted an open door. But even in Sweden the result was a massive popular backlash: a new party of the right became the largest party in the country, and the government, a coalition of the other parties, swiftly reversed policy. In order to defray the cost of the migrants who had reached Sweden the government *halved* its aid budget. In effect, millions of very poor people

around the world were going to pay for the Scandinavian-level benefits offered to the thousands fortunate enough to have reached Sweden. But by the end of 2015 Sweden abruptly closed its borders: it shut the door.[13]

This had an immediate knock-on effect. The route to Sweden was through Denmark, where the folk narrative was radically different. Denmark had experienced an unprecedented upsurge in Islamic violence in response to a cartoon in a provincial newspaper. The mutual incomprehension between secular Danes and devout Muslims had left a widespread wariness of further immigration from the Muslim world. Denmark promptly closed its borders and introduced a rule of confiscation of all assets above €1,000 in the possession of refugees. Though widely criticized in the international press, an equivalent policy was promptly adopted by Switzerland.[14]

In Eastern Europe, a strongly Christian culture made some wary of Islam, a prejudice reinforced by folk memory. Poland's 'never again' sentiment was not 'welcome refugees' but 'fear German hegemony'. Being ordered by Chancellor Merkel to accept Syrian refugees whom she had unilaterally invited to Germany played into this fear.

Poland was not exceptional. With many European economies still in recession, and widespread popular wariness of Islam, all other European governments quietly mutinied against the new Commission rule that reassigned refugees to them from Germany. A year after Juncker's relocation plan, less than 5 per cent of the proposed quota had actually been moved. Far from expanding its mandate, the Commission lost legitimacy.

A sad turning point in popular discourse occurred as a result of New Year celebrations in Cologne, when a large group of young Muslim men displayed aggressively misogynistic behaviour towards young unaccompanied women. This would not have made much impact, except that the local authorities, rather than trying to curb the behaviour, tried to suppress its coverage in the media, further exacerbating public anxiety. A similar saga occurred in Sweden, with both incidents opening a new line of discourse: could such a large influx of refugees be integrated into German and Swedish society? 'We can do it!' started to provoke the question: 'How?'

Predictably, even the German government began to discuss quantitative limits, despite the adamant opposition of the Chancellor.

Germany's President, a former Lutheran pastor, contradicted her, suggesting that they were both necessary and morally legitimate.

As the prospect of a closure of the German border loomed, the policies of the transit countries changed, just as Denmark had responded to the change of policy in Sweden: none wanted to be caught with refugees on their territory. In Austria, policy was completely reversed and the Chancellor resigned. By the summer, a presidential election revealed the nation to be precisely and catastrophically polarized. By the final round of voting both mainstream parties had been eliminated, leaving the choice between candidates from the Greens on the far left and a party with neo-Nazi roots on the far right. The vote divided 50–50 and the second round – rerun after electoral irregularities – ended in a narrow majority for the Greens. More quietly, controls were reintroduced along many of the borders between Schengen countries: de facto, Schengen had fallen apart.

Faced with this upsurge in popular disquiet, Chancellor Merkel recognized the need for a change of policy. However, she was not prepared to reimpose border controls, and turned to the EU to collectively find an alternative pathway. But one by one each of the EU's main institutions fell into irrelevance. The Parliament was marginalized from the outset. In theory it has shared competence on Justice and Home Affairs issues; in practice, the Council has routinely bypassed it by addressing the crisis under 'emergency measures'. The Commission, under pressure to do something, had spent much of its political capital on getting the unworkable September 2015 relocation deal done and thereafter became sidelined. From that point, it was effectively an intergovernmental game, and the Council was the only EU institution that really mattered.

But among member states, no agreement could be reached on an 'internal solution' to replace the dysfunctional Dublin Agreement. The chosen solution was therefore to 'outsource' border controls to non-EU governments. Initially the objective was to try to close the Western Balkan route by persuading the government of Macedonia to block passage from Greece. But soon the solution came to be seen as persuading the Turkish government to block passage from its ports to Lesbos.

By January, the Turkish Prime Minister was being sweet-talked into toughening exit. But sensing that his Prime Minister was playing a strong hand too gently, President Erdoğan dismissed him and raised the level of

Turkish demands. In March, the Commission was in the late stages of negotiating directly with President Erdoğan when a different deal was announced: it had been struck in secret parallel negotiations between President Erdoğan and Chancellor Merkel. To cover the embarrassment, the Commission duly rubber-stamped their agreement.

Its content was that Turkey would indeed tighten controls on exit, cracking down on the people-smugglers. But the crucial Turkish commitment was far more dramatic. Henceforth, anyone making the journey from Turkey to Greece would be returned to Turkey and accepted by the Turkish government. This step, the return to Turkey of anyone making the journey, evidently eliminated the point of making such a journey. In parallel, Merkel had already colluded to close the Balkan route. The combined result was that the Aegean exodus promptly and abruptly stopped.[15] From the perspective of Chancellor Merkel, the solution had the additional advantage of not requiring any change of policy by Germany itself; anyone actually reaching Germany's borders would still be welcomed. Consequently, there need be no admission that the earlier policy had been a mistake.

By this time the German debate about capping the inflow had swung so heavily in favour of a cap. Merkel could not impose one domestically, and so introduced one to the EU-Turkey deal: a 72,000-refugee limit to the number of Syrians to be resettled to the EU from Turkey.[16] Even with a cap, the policy could still be presented as something approximating an open door. But since people could no longer reach the German border by trekking from Turkey, the open door was moot: the Chancellor had just closed the door that mattered. A relieved German populace was forgiving of this sleight of hand: the folk narrative of welcome need not be called into doubt.

The policy of returning migrants and refugees to Turkey also applied to those currently in Greece. But unlike the policy of returning a future inflow that would not materialize, this posed a substantial practical challenge: how would Europe's cumbersome legal procedure for return be feasible for the many thousands of people currently transiting through Greece, especially in view of the inadequacies of the Greek bureaucracy? The Greek Prime Minister, Alexis Tsipras, who had not been party to the negotiations, was alert to their possible consequence, declaring that Greece was not prepared to be 'a warehouse for human

souls'. The word 'warehouse' indicated that Greece was most definitely not prepared to provide haven on its own territory, while 'souls', religious vocabulary not typical of his Marxist ideology, played to the European conscience. It was too late for conscience: those in Greece would be deemed collectively to be returnable to Turkey, which would in turn be deemed a sufficiently decent environment to be a safe destination. To emphasize his power, President Erdoğan announced on the day of the agreement that in Turkey the words 'democracy' and 'human rights' were meaningless. He did not need to resort to the usual diplomatic ambiguities used to mask embarrassments.

In order to get what she needed, Chancellor Merkel had to pay a high price. President Erdoğan recognized that he was dealing with someone whose political survival was at stake, and he had a temperament to ruthlessly exploit his advantage. Partly what President Erdoğan wanted was money. Chancellor Merkel had already agreed to €3bn in an earlier attempt to persuade him to be cooperative. He was now promised a further €6bn. But money was merely the small change of the deal. Its crux was political.

For nearly a century, the thrust of Turkish policy had been to distance itself from its Ottoman past as hegemon in the Middle East. Atatürk had charted a secular, European future. The final step in that process would evidently be membership of the European Union, a step that Europe had been reluctant to countenance. President Erdoğan had steadily distanced himself from this longstanding policy: he saw Turkey as the well-governed Islamic lodestar for a troubled Middle East. But he was also proud. While he did not want Turkey to be European, he most definitely did not want this determined by a rejection of Turkey by Europe. So President Erdoğan insisted on reopening the stalled accession negotiations. While Chancellor Merkel agreed, Erdoğan knew that the accession process was lengthy and so such an offer might well be dismissed by his people as yet another incredible promise. He needed a here-and-now policy change that would be recognized by ordinary Turks as a victory. His demand was for visa-free travel in Schengen for all Turkish citizens. Other European governments baulked at this step, but the Commission itself agreed. At the time of writing it is still officially on track to being implemented, although following a series of terrorist attacks in Turkey, the EU-Turkey deal is precarious.

THE BALANCE SHEET TO DATE

The European policies that have shaped the Syrian refugee disaster have lurched between the headless heart and the heartless head. Panic is not too strong a word to describe what happened: each step was a reaction to the unanticipated consequences of previous actions which turned out to be blunders. The cumulative legacy was a series of misfortunes.

While the refugee issue shot to the top of the European agenda, its content was all about Europe rather than about refugees. Which country should accept how many refugees; which country was closing its borders; what should be expected of those refugees in Europe; which European politicians should be taking which decisions? Syrian refugees themselves suffered the neglect of the heartless head. While a small minority reached Germany, the vast majority remained in the neighbouring havens, where they have received little international support. Indeed, the cultural clashes and political polarization which accompanied the influx had the sad consequence of reducing the sympathy of many Europeans for the plight of the displaced. Such sympathy is the key resource on which refugees need to rely. This loss will ultimately make the task of constructing a system which properly responds to refugee needs more difficult.

The European Union has been permanently and radically weakened. Its mechanisms and rules were repeatedly ignored by member states. The authority of the Commission was undermined by its attempt to impose directives on national governments that were seen as illegitimate. The Schengen Area was de facto dismantled. Europe's border controls were outsourced, on humiliating terms, to a non-European state with an authoritarian leader. But, most dramatically, the political representation of the refugee crisis directly contributed to Brexit: the permanent withdrawal from the European Union of one of Europe's major states. The evidence for this conclusion is stark: the 'Leave' campaigners deployed two hard-hitting messages. One was a poster depicting the exodus across South-Eastern Europe and two words: 'Breaking Point'. The other was the slogan 'Take Back Control'. Both communicated the message that the authorities of the

European Union had lost control of the borders, something that was difficult to dispute. The message visibly shifted the opinion polls. For Leave voters, migration and sovereignty were the most salient issues.[17]

The final legacy of European decisions concerning the refugee crisis may still be in its early stages. In recent months there has been an upsurge in terrorism. The terrorist attacks have focused on France and Belgium, but Germany has also been targeted. The preferred target seems to be young people having fun: a pop concert; a children's roundabout. The attacks are spectacularly barbaric: shortly before these words were being written in rural Brittany, in neighbouring Normandy an 86-year-old priest had his throat cut in front of his congregation. People have become fearful and angry. The attacks are not being perpetrated by refugees. But a widespread public perception has emerged that the upturn in terrorism is connected to Europe's immigration chaos.

Faced with this legacy, Chancellor Merkel has defiantly and bravely declared that Germany will continue to welcome refugees, albeit that it is now somewhat hypothetical. She argued repeatedly on television that 'it was the right thing to do'.[18] While some might interpret this as the familiar reluctance of a politician to admit to a mistake, a more charitable interpretation is that this is the voice of moral courage in the face of a wider systemic failure.

Did Chancellor Merkel do the right thing? We explore this ethical question in the next chapter.

PART II: THE RETHINK

opportunity to work, to support themselves and their families. The key is to ensure that the option to work is voluntary and that employment practices meet basic standards. Given the combination of international-organization oversight, media scrutiny, and the reputational concerns of large corporations, the risk of abuse is remote. Exploitation and abuse seem far more likely under the status quo whereby refugees work illicitly in the informal sector with no recourse to law or public scrutiny. Our approach is one that seeks to increase opportunities and choices for refugees, not to impose additional constraints.

REMAKING THE FUTURE

If politicians are not willing to defend what has actually happened, they face a choice. The default option is for them to hunker down and turn their attention to something completely different. The refugees have stopped coming to Europe: out of sight, out of mind. We know where this leads: to the inevitable mishandling of the next unanticipated crisis. Algeria? Kabul? Ukraine? Neither we nor anyone else can predict. But should global strategy simply be to count on there being no further refugee surges? Would any politician seriously defend such an approach?

So the approach that has been in place for decades has demonstrably failed, and we need another one. The alternative to the politics of the ostrich is to embrace change. Our politicians now need to pay sufficient attention to rethinking refugee policy for it to actually get changed. That change cannot be cosmetic.

In this book we have tried to formulate an alternative, using both our hearts and our heads. We are well aware of the gulf between ideas and actions. Getting from the pages of a book to actions that make a difference at scale for refugees will depend upon champions who overcome the inertia, self-interest, and cynicism by which the status quo has been preserved. Only in moments of crisis can changes to the international system be made, and so the scale of the challenge should not be discouraging but galvanizing. We hand over to you.

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INTRODUCTION

1. This ratio is a broad estimate extrapolated from the Cologne Institute for Economic Research's estimate of the public-sector resource allocation to refugees in Germany and UNHCR's Annual Budget data on resource allocation to support refugees in host countries of first asylum. The Cologne Institute estimates that federal expenditure in Germany on 1 million refugees in 2016–17 will be $54.3bn. Meanwhile, in the same year, UNHCR will have an annual budget of around $6.5bn for a refugee population of concern of 16.1m (although in practice only a proportion of this funding is focused on refugees). This gives a ratio of 135:1. This ratio comes with three caveats: (i) these numbers are estimates based on limited available data; (ii) they include only costs incurred through public expenditure and do not account for the benefits or returns from refugees' economic contributions; (iii) they do not by themselves imply that the funding could or should simply be reallocated. We include them to show how relatively little money is supporting protection in the main safe-haven countries. See, for example, Russia Today, 'Asylum Seekers to Cost Germany €50bn within 2 Years – Forecast' (1 February 2016), https://www.rt.com/news/330869-germany-migrants-50bn-cost.

1. GLOBAL DISORDER

* Although 21.3 million is the highest figure reported by UNHCR in any year since the Second World War, the way it has calculated its 'refugee' numbers has changed. The headline figure now includes the approximately 5 million Palestinian refugees, which were excluded from UNHCR's previous peak figure of 17.5 million during the Bosnia crisis in 1992. See, for example, the Economist, 'Daily Chart: The World's Refugee Crisis: Past and Present', http://www.economist.com/blogs/graphicdetail/2016/05/daily-chart-21.

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9. See, for example, Ian Bremmer and Preston Keat, *The Fat Tail: The Power of Political Knowledge in an Uncertain World* (New York, 2010: Oxford University Press).

10. By 'honeypot' country, we mean a high-income economy, defined by the World Bank as one with a GNP/capita above $12,475 in 2015.

11. Calculated in terms of the aggregate total of the number of refugees hosted for each year across the period 1975–2015, excluding the Palestinians, whose situation is somewhat distinctive because of their quasi-permanent presence.

2. THE TIME-WARP

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4. See, for example, Gil Loescher, *UNHCR and World Politics: A Perilous Path* (Oxford, 2001: Oxford University Press).

5. For example, other than these definitional adjustments, both the African and Latin American regional agreements otherwise simply adopt the 1951 Convention framework. Moreover, even in many of the African signatory countries to the OAU Convention, the 1951 'persecution'-focused definition is regularly used instead of the the wider 'serious disturbances to public order' definition.

6. This argument is made expecially effectively by James Milner in relation to Africa. James Milner, *Refugees, the State and the Politics of Asylum in Africa* (Basingstoke, 2009: Palgrave Macmillan).

7. Alexander Betts, *Survival Migration: Failed Governance and the Crisis of Displacement* (Ithaca, 2013: Cornell University Press).

8. Matthew Price, *Rethinking Asylum: History, Purpose, and Limits* (Cambridge, 2009: Cambridge University Press).

9. Alex has also grounded this idea in the related ethical concept of 'basic rights' in Betts, *Survival Migration*.

10. Serious physical harm would still be subject to interpretation. We would argue that it would include arbitrary deprivations of liberty as well as forms of psychological as well as merely physiological harm. It would thereby include most of the circumstances currently recognized as falling within the scope of 'persecution' but would be far less ambivalent about flight from conflict, natural disaster, and state fragility, for example.

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3. THE PANIC

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