FES BRIEFING

DEBATING RESETTLEMENT

A Guide through Political Claims about Resettlement and Complementary Pathways

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A growing number of Member States of the European Union (EU) have committed themselves to directly admit refugees from first countries of asylum through resettlement and other related programmes. In such programmes, admission states offer safe access and temporary or permanent protection to a limited number of persons whom they consider to be in need of humanitarian protection. In contrast to asylum, resettlement and similar programmes are voluntary commitments by admission countries and not codified in international law. With such programmes come political claims and expectations about their necessity or advantages. Yet in practice, matters are often more complex than the political rhetoric suggests.

According to the United Nations High Commissioner for Refugees (UNHCR), resettlement should target particularly vulnerable refugees, e. g., people with legal, physical or medical needs; survivors of torture or violence; women, children and adolescents at risk; people with a lack of foreseeable alternative solutions or no other means to reunite with their family. So-called "complementary pathways" – such as humanitarian admission, private sponsorship, or education pathways – allow for more flexible admission criteria, which may also take other considerations than only humanitarian into account.

Resettlement and complementary pathways are high on the political agenda in international, European, and national debates about refugee protection. In order to better navigate these debates, the following short analysis examines three major political claims about resettlement. With respect to these three claims, it also analyses the potential risks and benefits and provides recommendations.

FIRST CLAIM: RESETTLEMENT AND OTHER ADMISSION PROGRAMMES PROVIDE SAFE AND LEGAL PATHWAYS FOR REFUGEES, THEREBY OFFERING AN ALTERNATIVE TO DANGEROUS AND IRREGULAR MIGRATION.

Resettlement can be a life-saving instrument of protection, particularly for refugees who continue to be in a vulnerable situation in first countries of asylum and have no other options to seek protection. However, resettlement can only offer a solution for a very small fraction of refugees in addition to regular asylum as, thus far, resettlement places are scarce: currently, less than one percent of the 82.4 million people who are forcibly displaced worldwide can be resettled.[1] Available places cannot even accommodate all the particularly vulnerable refugees in need. In 2019, around 1.4 million refugees were considered in need of resettlement, but only 63.726 were resettled.[2] Amidst the COVID-19 pandemic and resulting travel restrictions, UNHCR's calculated resettlement need of approximately 1.44 million for both 2020 and 2021 respectively could hardly be addressed. For 2022, UNHCR estimates a resettlement need of 1.47 million individuals, underscoring the continuous need to increase admission capacities.[3] Importantly, scaling up refugee admission programmes is not only a question of political will but also of resources and logistics. The implementation of resettlement is a complex, transnational process involving various state and non-state actors, and therefore, requires considerable resources.

Recently, some admission countries and the EU have promoted refugee admission programmes not only as safe pathways but also as means to "fight irregular migration" and the "business model of smugglers".[4] There is, however, no scien-

1 UNHCR. 2021. Figures at a Glance. Available: https://www.unhcr.org/figures-at-a-glance.html [08 November 2021].

2 UNHCR. 2020. More Resettlement Needed as Only 4.5 Per Cent of Global Resettlement Need Met in 2019. Available: https://www.unhcr.org/news/press/2020/2/5e3a81c04/resettlement-needed-only-45-cent-global-resettlement-needs-met-2019.html#:~:text=or%20regional%20site-,More%20resettlement%20needed%20as%20only%204.5%20per%20cent,resettlement%20needs%20met%20in%202019&text=Out%20of%201.4%20million%20refugees,UN%20Refugee%20Agency%2C%20last%20year [08 November 2021].

3 UNHCR. 2021. Projected Resettlement Needs 2022. Available: https://www.unhcr.org/protection/resettlement/60d320a64/projected-global-resettlement-needs-2022-pdf.html [08 November 2022].

4 See e. g.: European Commission. 2016. Managing the Refugee Crisis, EU-Turkey Statement. Available: https://ec.europa.eu/commission/presscorner/detail/en/MEMO_16_3218 [08 November 2021].

tific evidence that supports this claim. Even if the number of resettlement places significantly increased, people would still seek asylum. Framing resettlement as an alternative to asylum undermines the objective that resettlement should be an addition and complementary to the individual right to seek asylum. Further, this rhetoric obscures the fact that it is admission countries' and the EU's restrictive migration and border regimes that make refugees' mobility irregular, and therefore, costly and dangerous in the first place.

Recommendation: Admission countries should increase the availability of resettlement and complementary pathways. Places need to be additional and complementary to individual asylum.

SECOND CLAIM: RESETTLEMENT AND OTHER REFUGEE ADMISSION PROGRAMMES SIGNAL SOLIDARITY TO FIRST COUNTRIES OF ASYLUM AND HAVE A "STRATEGIC USE" FOR THE BROADER REFUGEE PROTECTION REGIME.

Resettlement is a contribution to global responsibility-sharing and has the intended purpose of signalling solidarity to first countries of asylum that host disproportionate numbers of refugees. UNHCR and states often claim that admissions from these countries can have a "strategic use" for the global refugee regime: even comparatively small numbers of refugee admissions are a sign of solidarity towards first countries of asylum and incentivise them to keep their borders open and/or provide better assistance to the refugees they already host. However, the evidence of such an effect is mixed. Studies point out that the concept of "strategic use" often remains loosely defined and the number of admissions would need to be more significant to maximise protection benefits in countries of asylum.[5]

In recent admissions to Europe, the EU Commission and several admission countries have used the term "strategic" rather in reference to migration control interests. The admission of refugees from Turkey in exchange for cooperation on migration and border control under the EU-Turkey statement of March 2016 is a prime example of this. While this "strategic" choice of regions of admissions has contributed to states' interest in refugee admission pathways, it also bears several risks. First, countries with a large refugee population and high resettlement needs, yet lower numbers of irregular onward migration towards the EU, risk being ignored. Second, using refugee admissions in this way means coupling admissions with border control and return policies. As part of migration agreements with third countries, refugee admission risks becoming a humanitarian fig leaf in an otherwise more restrictive border regime. This undermines the humanitarian character and the original use of resettlement as an instrument of solidarity with third countries. It furthermore contradicts its initial aim to expand protection capacities and stabilise the refugee protection system worldwide.

Recommendation: Resettlement should primarily work as an instrument of solidarity and target countries where the resettlement need is particularly high. Admissions should not be made conditional on migration control.

THIRD CLAIM: RESETTLEMENT AND OTHER REFUGEE ADMISSION PROGRAMMES ALLOW FOR A TARGETED SELECTION OF REFUGEES.

Resettlement and other admission programmes often claim to target "particularly vulnerable" individuals or groups, based on refugees' nationality, age, gender, or medical needs. In formulating selection criteria, admission states often take UNHCR's needs-based recommendations into account. Yet, states also define additional criteria, and the further interpretation of these criteria at the frontline leaves room for discretion. Admission states consider discretionary selection as an advantage and frame it as a way to not only target those with specific needs but also to control who is accessing their sovereign territory. In practice, admission states do indeed make the final decision but UNHCR and NGOs in countries of first asylum are also involved in the identification and pre-selection of cases.

The discretionary selection entails the risk of cherry-picking and prioritising cultural desirability over need. Various admission countries, as well as the EU Commission's proposals for an EU resettlement framework, include integration-related selection criteria.[6] Such criteria can pertain to family links and language skills but also to refugees' adherence to liberal gender and sexuality norms or to their educational background, and may thus be in tension with the objective to target the "most vulnerable".

Moreover, the discretionary character of resettlement and other pathways as well as the highly bureaucratic and lengthy selection process limits refugees' agency and constraints transparency and accountability. In contrast to asylum, refugee admissions are largely top-down processes of identifying and selecting suitable "candidates". With the exception of particular complementary pathways, refugees cannot apply for refugee admission programmes and often the complex assessment process is not transparent to them. As admissions are discretionary, refugees cannot legally challenge a negative decision. Thus, the claim that refugee admission

5 Van Selm, Joanne. 2013. Great Expectations. A Review of the Strategic Use of Resettlement. UNHCR Policy Development and Evaluation Service, Geneva. Available: https://www.refworld.org/docid/520a407d4.html [08 November 2021].

Schneider, Hannah. 2020. The Strategic Use of Resettlement. Lessons from the Syria Context. Durable Solutions Platform, Amman. Available: https://dsp-syria.org/sites/default/files/2020-04/Strategic%20Use%20of%20Resettlement_0.pdf [08 November 2021].

6 Brekke, Jan-Paul, Erlend Paasche, Astrid Espegren and Kristin Bergtora Sandvik. 2021. Selection Criteria in Refugee Resettlement. Balancing Vulnerability and Future Integration in Eight Resettlement Countries. Institute for Social Research, Oslo. Available: https://hdl.handle.net/11250/2758744 [09 November 2021].

programmes target "particularly vulnerable" refugees remains a promise, with limited possibilities of legal or political scrutiny.[7]

Recommendation: Resettlement and other refugee admission programmes should primarily prioritise based on refugees' needs. Fostering transparency, e.g., through comprehensive monitoring and evaluation of programmes, can help to assess who gets access and to which extent programmes focus on particularly vulnerable refugees.

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7 Welfens, Natalie & Yasemin Bekyol. 2021. The Politics of Vulnerability in Refugee Admissions under the EU-Turkey Statement. Frontiers in Political Science. Refugees and Conflict. Available: https://doi.org/10.3389/fpos.2021.622921 [09 November 2021].