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SUMMARY

The use of the same terminology in Europe and the US does not mean the actions and policies being described are identical. Nor does it mean either side has a monopoly on good practice. However, greater understanding of what lies behind terms like “resettlement” could be useful to all governments facing a global refugee crisis that is spilling into a worldwide migration phenomenon. As those in need of protection blend with those in search of a prosperous future, the states that can offer protection and better opportunities can best address the similar issues they face by developing an understanding of each others’ methods and vocabulary.

The challenges posed to refugee protection on the two sides of the Atlantic are different. In the US there is a perceived challenge posed by heightened security concerns post-9/11. In Europe, challenges to refugee protection come more from the complexity of mixed migration flows.

This paper seeks to understand the differing approaches to resettlement and its future on both continents. The central questions are:

Would reinvigorating resettlement help to resolve some of the refugee protection challenges faced in the United States and the European Union?

To what extent can resettlement respond specifically to current worldwide protection challenges?

This paper first sets out the basic principles that underlie resettlement programs on the two continents. It then discusses selection processes, the connection between refugees and the welfare state, the role of civil society in both policy-making and in implementation, and the integration of resettled refugees.

Rediscovering Resettlement

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I. Introduction

The description of an individual as a “refugee” is deceptively simple. The intricacies of the definitions applied to the word, under legal understandings of the Geneva Convention, general semantics and the variety of qualifications in between are well known, and the subject of many volumes. Less seriously thought through in recent years has been the implication of the means of arrival of an individual in a host/protecting country on the way in which the term “refugee” is understood and applied to them, even by specialists.

It might be surprising how, for example, a high-ranking US official can stare incredulously when told that European countries generally do not participate in schemes to accept UNHCR-identified refugees for transfer to their territory, and that just seven European countries do conduct resettlement for only some 3,500 refugees in total each year. For that official, people arriving on such programs *are* refugees – so doesn’t Europe have refugees?

Likewise, European officials can react with amazement to the news that the US manages the arrival of significant numbers of refugees, and that the term refugee is largely reserved for people who have been resettled, and not applied to those who sought asylum (who, on acceptance as “refugees” are known as “asylees”).

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This all might seem surprising – but it should not be. The use of the same terminology in Europe and the US does not mean the actions and policies being described are identical. Nor does it mean either side has a monopoly on good practice, or the right definitions. However, greater understanding of what lies behind terms like “resettlement” could be useful to all governments facing a global refugee and displacement crisis that is spilling into a worldwide migration phenomenon. As those in need of protection blend with those in search of a prosperous future, the states that can both offer protection and better futures can best address the similar issues they face by developing at least an understanding of each others’ methods and vocabulary.

This paper explores the issue of resettlement. Resettlement is a well-known phenomenon in the US, and the major means of arrival for refugees in that country. By many definitions it is part of the American ‘dream’ of a welcoming, humane nation of diversity and equality. In Europe, resettlement is certainly known very well by a handful of experts in the Nordic countries, the Netherlands, the UK and Ireland. However, even their colleagues who work on general immigration issues or on asylum know little or nothing about the fact that a few hundred people are pre-selected for entry as refugees to their countries each year. Nonetheless, many politicians and commentators have picked up on at least a vague notion of ‘resettlement’ and imagine it might help them out of the ongoing European ‘nightmare’ of daily arrivals of boats and lorry loads of ‘illegal immigrants’.

Since we are talking about the vocabulary of protection, it is best to state clearly what the authors of this paper mean by resettlement. We mean a method by which a refugee is identified as being in need of protection while outside the country that is conducting a status determination procedure. This is done under an orderly program, but not usually through the individual application for asylum via an embassy overseas.¹ After being selected, the refugee will be transported to the destination state, and arrive with a long-term or permanent residence status, and with no need to enter further immigration or refugee status proceedings which could impact residency (unless new information comes to light which casts doubt on the initial assessment of refugee status). The resettled refugee will be assisted in settling in the destination country, and treated, from the perspective of social, cultural and economic rights and entitlements, in the same way as all other legally resident non-nationals, and often in the same way as nationals of the country.

Resettlement is a durable solution to an ongoing protection need for someone for whom neither integration in a country of first asylum, nor return or repatriation, has proved to be an appropriate outcome. There is no right to be resettled. Resettlement is a protection-oriented tool, by which we mean a tool focused on refugee protection in the sense of the 1951 Convention, although states may add foreign policy, domestic policy or wider humanitarian goals to their program. It is possible that the fullest original protection need may be passed by the time of resettlement.

A resettlement program will have a predetermined, quantitative target, quota or ceiling, and while it might occasionally involve emergency rescue it is not used for humanitarian evacuation for temporary protection, for example. Resettlement programs are more often a matter of policy implementation in the field of refugee protection than a matter that is fixed in a country’s legal approach to immigration matters.

Resettlement is not and cannot be an exclusive solution to refugee protection, but rather is a

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protection strategy that is complementary to, and co-exists with, both the asylum system and any forms of temporary or short-term protective status. Resettlement effectively deals with the immigration of refugees whose status as a person in need of protection with permission to enter the territory has been determined by the state prior to arrival. Typically a resettlement program will be linked to conscious, and conscientious, integration strategies.

We take a number of routes through our exploration of resettlement. The very idea of resettlement as a form of refugee protection is investigated throughout the paper: both at its very basic level as well as in some of the various detailed and deeper levels that different resettlement programs reach. The various resettlement approaches in the North American and European contexts are taken into account: there is no detailed description of any specific policy or program,² but the different approaches all form part of the substance of the discussion. The paper is intended to be forward-looking, while taking account of current practices and dilemmas. The central question is:

Would reinvigorating resettlement help to resolve some of the refugee protection challenges faced in the United States and the European Union?

In explaining the reasons for posing this question it is useful both to describe what we mean by 'challenges' and to explain the project from which this paper is the outcome. The challenges posed to refugee protection on the two sides of the Atlantic are different. In the US there is a perceived challenge posed by heightened security concerns post-9/11. Within the US system this concern with security has most obviously extended to refugees in the context of the resettlement program. There is a concern to scrutinize even more those immigrants who were already most scrutinized simply because they are the easiest people to delay, outside the US.

Contributing to the sense that resettled refugees should be closely examined for any link to a security threat is the fact that they are a group that is 'invited': and one would not want to invite a guest who turned out to be dangerous. In other words, there is a sense that could be described (depending on how generous one wants to be) as one of intense responsibility, or one of bureaucratic timidity. No one wants to be the officer who admits a 'bad' refugee: the easiest way to guard against this is to let no one in. The alternative is to scrutinize and scrutinize forever to pick out the needle in the haystack that might be the problem (and the program's downfall). Many critics see the increased security measures as being misplaced. The security concerns have not translated directly to any greater discussion of the asylum system in the US, so that element of refugee protection is not so much challenged. However, recent challenges posed to the Canadian asylum system are perhaps in part a consequence of the rhetoric in the US, which has blamed the perceived 'soft' approach north of the border for opening a way by which terrorists could enter the whole of North America.³

In Europe, meanwhile, the challenges to refugee protection come more from what could be called the mismanagement of mixed migration flows. EU states seem to reel in turns before the forces of right-wing or anti-immigration parties exploiting fears about immigrant and refugee communities; before constant claims of cheating on the welfare state systems; before repeated evidence of the dangers of smuggling and trafficking; and before rising numbers of asylum seekers, whose ranks are inevitably swollen by those would-be workers who are given no legal alternative to finding the work that is available to them in western European states. European governments have been seeking ways to limit access to asylum, while voicing their desire to uphold their humanitarian traditions. While governments claim that the search for limitations is primarily motivated by a wish to maintain the protection nature of asylum, excluding those who do not need it, refugees have also been kept out of the system that was originally established to regulate their situation. The complex range of measures states have introduced, separately or collectively, in the emerging European Union-level common asylum system seem often only to create more loopholes, more areas for abuse, and ever less access to genuine protection for those who really need it.

Over the last two decades the [US] resettlement program has been largely a mix of (extended) family reunification, foreign policy interests and humanitarianism.

By summer 2002, it had become clear from political debates on both sides of the Atlantic that new thinking was emerging on resettlement and the role it could play in the refugee protection regime. For several years, refugee protection through asylum systems had been the focus of the debate and most “controversial” situations related to refugee protection in the developed world. In Europe, with the process of EU integration on asylum and immigration, the issues of asylum, temporary protection, and barriers to long-term residence for refugees had been the order of the day for most agendas – be they political, operational or academic. In the US, questions surrounding asylum had also, in general, been at the heart of most debate – including discussion on the practices of expedited

removals and detention. During the period of 2000 to 2002, resettlement emerged (or re-emerged) as a topic of great interest and discussion. The way in which it emerged will be described briefly below: the fact that resettlement came up as an important topic of discussion and policy development on both sides of the Atlantic was the motivation to establish this project, with German Marshall Fund assistance, to investigate the transatlantic process of rediscovering resettlement.

As noted above, following 9/11, the US administration immediately threw a security cordon around refugee resettlement. Resettlement was the only form of immigration to the United States that saw instant limitations: even student entry visas, the type most commonly used by the 19 terrorists involved, were not immediately impacted. Firstly, the final weeks of the 2001 program saw ad hoc limitations on specific groups, e.g., Afghans, although the program essentially continued. Secondly, the usual autumn ritual of State Department recommendation, congressional discussion and presidential determination slowed – taking two months longer than usual. In the meantime, actual arrivals of many of the people already selected were postponed, as new security controls were considered. Then, under the 2002 program, new cases were hardly being selected, as the safety of refugee determination staff from the INS was called into question the world over. Over the fiscal year (1 October 2001 - 30 September 2002) as a whole, less than 26,000 of the 70,000 ceiling had been selected for resettlement. In the next bureaucratic program-level round, the ceiling was set at the same 70,000 level, with 20,000 places among them in reserve for ‘contingencies’ rather than dedicated to any particular region or group. While not unusual in designation, this reserve was unusual in size. This led to speculation that it was either there as a means of limiting numbers (so that when less than 50,000 arrive,⁴ it can be explained that the contingency places proved unnecessary) or that they were there in preparation for the aftermath of any eventual war in Iraq, a war nervously anticipated in November 2002. In short, the resettlement system was at least a numerical victim of the events of 9/11: one question is really whether the long-term impact of this slowdown will be negative, or have potentially positive outcomes.

This thought leads us to the reason for the titular suggestion of rediscovering, and associated notion of ‘reinvigorating’ resettlement. For the US the rediscovering might take the form of re-thinking some of the aims of its resettlement program. Over the last two decades the resettlement program has been largely a mix of (extended) family reunification, foreign policy interests and humanitarianism. One question that can be posed at this moment of pause is whether the first two of these three goals remain the most useful for this program. Security interests might be translated into foreign policy goals, but when the security of INS staff on circuit rides is also part of the problem, then the two (security and foreign policy) might part ways.⁵

Meanwhile, in Europe, more states are re-thinking their resettlement programs, or developing them. Most notable among these is the UK, which is starting a resettlement program in 2003. According to the announcements made by the Home Secretary, David Blunkett, this program should target the “the most

oppressed people in the world [who] are too poor to pay traffickers to get to the UK.”⁶ The announcement of the 500-place resettlement program posits protection as central in the program’s goals.⁷ Other European states with resettlement programs also characterize them as protection-oriented, but they are increasingly being focused on integration, and as a consequence, the integration capabilities of the selected population is also being considered as a potential resettlement criterion. That leads to another question for this paper: **what are the protection challenges in the world today, and to what extent can resettlement respond specifically to them?**

1.1 Methodology

With one researcher based in Washington, DC and another based in Lund, Sweden, the aim of this project was to seek understanding of the approaches to resettlement and its future on both continents. Two roundtables were organized, one in Washington and one in Brussels, which both of the researchers attended and led. Each roundtable was followed by a series of interviews with key policy officials. The US roundtable was held first. At that roundtable the main questions were:

1. What advice might US actors have for EU states that either might start a resettlement program from scratch, or that might want to drastically alter thinking on resettlement from small-scale vulnerable caseloads to larger-scale programs?
2. What would US policy-makers and practitioners expect of a Europe that became more seriously engaged in resettlement? Do the US actors perceive EU states as potential partners in resettlement, and if so, in what way (including the question of what the US interest in European development of resettlement might be)?

A background paper was drafted exploring the issue of resettlement from a largely European perspective, and that document provided a basis from which discussion stemmed. Most of the participants had some experience of discussion, cooperation or collaboration with European colleagues. Taking into account the information and approaches obtained from that roundtable, as well as the more in-depth discussions with the policy officials, a new background paper was drafted for the Brussels roundtable that explained the US approach to resettlement, and included some discussion of Europe’s history in this area and US opinions or suggestions with regard to the resettlement “identity” of European states. The main questions for that meeting were:

1. What models of resettlement exist currently in Europe, and have existed over the last 50 years? How much is known about the US resettlement program as another model? How much interest is there in developing resettlement programs further in the EU – and what inspires that interest?
2. How feasible is resettlement as a refugee protection tool for European states? How likely are European states to move beyond small quotas for particularly vulnerable populations to a broader resettlement system? Would such a move be desirable from the standpoint of refugee protection in Europe generally?
3. What issues are at stake in thinking about resettlement in Europe? How deep, and how real, are concerns about issues such as the perception of “good” refugees (as opposed to “bad” asylum seekers) and the policy links made to the desire to combat smuggling?

This paper is the result of the discussions at both roundtable meetings as well as all the interviews (lists of participants and people interviewed are appended to this report), supported by additional research by and discussions between the co-authors.

1.2 Organization of this paper

This paper contains five parts following this introduction. The first part sets out the basic principles that underlie resettlement programs on the two sides of the Atlantic. The second builds on this understanding

of the principles by presenting information on and developing understanding of the selection criteria and procedures that different resettlement countries use. We then turn to the rights and entitlements available to resettling refugees in different states, considering how the different general systems of dealing with welfare assistance, for example, or thinking about employment and employability, impact resettled refugees as a group. The fourth part turns to the role of civil society in resettlement programs, recognizing the value of such actors at various steps in the process, and exploring how they are empowered and employed in different ways in the differing resettlement systems. In each of these four sections the core question of the re-invigoration or rediscovery of resettlement is central. Finally we turn to conclusions and recommendations or options that arise from this study. This format follows those of the two roundtables.

2. Differing perspectives across the Atlantic: basic principles in US and EU resettlement policies

Resettlement can be seen as a method by which state-based societies reproduce themselves. This “reproduction” is both personal and ideological, stretching from mundane aspects such as the potential replenishment of labour forces to the less tangible aspects such as constructing a collective identity. The ways in which resettlement can reflect social identity become particularly clear when comparing US resettlement policies to those of EU governments. Different historical experiences have left their mark on contemporary practices of resettlement, and recalling the significance of these experiences might be helpful in thinking about the future development of this policy area. We shall first reflect on the historical and ideological context in which resettlement is situated, then illustrate transatlantic differences by taking a look at statistics, procedures, core dilemmas and the prospects for mutual learning across the utilitarian-humanitarian divide.

2.1 Historical and ideological context

Historically, immigration is generally positively viewed in the US. This approach is reflected in a number of shared references, and historically cherished values and ideals. Amongst them, we find the celebrated arrival of the *Mayflower*, the idea of the country as a “melting pot” and understandings of what constitutes the “American dream.” While the US displays an open attitude towards immigration, there seems to be a widely held belief that the country has a right to select those who enter the territory and might eventually become Americans. As such, immigration is most often discussed as a phenomenon that should be managed: the state should play a proactive role in selection processes. Resettlement is a way of both providing protection to people in need and ensuring state selection of individuals who will become members of US society. As such, resettlement maintains the humanitarian goals of the United States, combines these with its foreign policy interests, and its role as a country of immigrants. At the same time, it allows politicians to bend to the varying strengths of lobbying power attained by different existing ethnic groups. US resettlement policy can be seen as an attempt to forge together domestic narratives about the historical experiences of immigrant Americans with contemporary humanitarian and utilitarian interests. Resettled refugees may benefit from the positive currents in shared historical references to the role of immigration in making the US into what it is today. These references do, however, also place expectations on the refugees. While not selected on the basis of economic characteristics, refugees are

Immigration is most often discussed as a phenomenon that should be managed: the state should play a proactive role in selection processes. Resettlement is a way of both providing protection to people in need and ensuring state selection of individuals who will become members of US society.

expected to demonstrate initiative and early self-sufficiency. The question of what happens to those who cannot live up to the high hopes placed upon them remains to be answered.

Unlike the US, contemporary European discourse does not focus on how protected strangers can become involved and active citizens. If anything, Europe sees itself as closer to being a continent with a shared emigration experience than one whose identity is critically shaped by immigration. Ideas of the indigenous still provide an important undercurrent in European and, more importantly, (also within the European Union) national self-perception. What is more, since the 1970s at least, Europeans have tended to understand forced migration as primarily concerning the trauma of uprooting rather than connected to the remedy of starting anew in a host society, and enriching it in the process. The focus had been on the cause, and not on any optimism for the individual survivor.

Today, Europe's idea of migration management runs the risk of being reduced to the issue of border control. The EU is still struggling with the development of a coherent and comprehensive immigration policy. What there is of such a policy is being gradually passed eastwards through the process of enlargement, and the prospect of future accession. With the rise of right-wing parties across the continent, the difficulty of combining respect for human rights with concerns about numbers, the widespread portrayal of asylum seekers and immigrants as scroungers, and the seeming inability to either control borders or integrate immigrant and minorities in a way which the majority population finds broadly satisfactory, the field of migration seems to have become something of a European nightmare. The historical heritage of violent population policies in the first half of the past century haunts the continent with barriers, taboos and paradoxes that contemporary policy makers find hard to overcome. The memory of population transfers in the 1920s and eviction and extermination policies by totalitarian regimes in the 1930s still inspires cautiousness, which even enters the humanitarian agenda of refugee protection. In addition, the political class is very aware that populist movements, drawing on xenophobic undercurrents, could exploit any significant increase in resettlement, or in immigration generally.

Immigration is, therefore, tackled in a reactive rather than a proactive manner by EU Member States, with the majority of policy initiatives targeted against the disorderly arrival of asylum seekers (whose ranks may include many who see no other option than requesting asylum in a continent where options for regularized immigration for other purposes are extremely limited).

In most of Europe, the very concept of resettlement is little known by the public, or even by governmental and non-governmental experts on asylum, and has, until recently, been almost entirely absent from the otherwise heated debate on asylum, protection and migration. In spite of restrictive practices, or perhaps because of them, disorderly arrivals remain both the main entry route to Europe and a dominant topic in many electoral campaigns. Europe's politicians are in a very difficult position. The current public measure of migration policy "success" seems to lie in lowering the number of arrivals. This means that any proactive policy that might (as is the case for resettlement), in the first instance, appear to *increase* the number of arrivals is very hard to establish. Indeed, the only way politicians might see an opportunity to "sell" such a policy is by at least implying that it would reduce total arrivals in the long term, although there is absolutely no evidence to suggest that this would be the case. An electorate which has been primarily supplied with information on reactive border controls and the "need" to keep immigrants out, with no regard for protection issues, is unlikely to be brought on board by the fact that resettlement could add an element of quality to EU refugee and immigration policies that is currently lacking.

Among the many issues in Europe, a historical heritage of emigration, a taboo on demographic policies and a quantitative bias in the public debate on protection are perhaps most significant when sounding out the options for a reinforced transatlantic exchange of ideas on resettlement. As will emerge below, they also offer opportunities for complementarity.

2.2 The role of resettlement in US and EU protection systems

Statistics reveal that Europe has been more of a source for resettlement caseloads than a receiver in the last decades. This was true after World War II, and it became true again in the 1990s, with 49 percent of all resettlement arrivals in industrialized states coming from wider Europe between 1992 and 2001.⁸ Numerically, resettlement remains at the margins of European protection practices today. Between 1992 and 2001, the resettlement arrivals in all EU Members totalled 47,000, while the US received 916,000 cases.⁹ This notwithstanding, some European countries have developed highly sophisticated resettlement procedures. The Nordic states have been at the centre of traditional resettlement among EU Member States. Denmark, Finland and Sweden received larger resettlement caseloads between 1992 and 2001 than any other EU Member State.¹⁰ However, none of the three matches the US when it comes to the ratio of resettled refugees per inhabitant.¹¹ This illustrates graphically how dominant resettlement is in the US protection system, while the European states operate it as an elitist practice in two senses. First, it is conceived by bureaucrats without much of a public debate. Second, it is an elite of the presumably most vulnerable refugees that benefit from it, with a strong emphasis being put on medical cases.

When resettlement figures are added to those of accepted spontaneous arrivals, it emerges that the EU and the US grant protection on a roughly comparable level (3.7 admissions per 1,000 inhabitants in the EU between 1992 and 2001, with the corresponding figure for the US being 3.8). In total admissions, Sweden and Denmark still top the list (figures being at 16.6 and 13.8 admitted persons per 1,000 inhabitants), which demonstrates that some countries indeed have managed to maintain progressive resettlement policies in spite of numerically important spontaneous arrivals.¹²

At present, resettlement is undergoing radical change in the US, and old conceptions may quickly lose relevance in the years to come. The US administration started a comprehensive reassessment of its program, which has been deeply affected by the new security concerns of the post-9/11 world. Ironically, this period during which program arrivals have shrunk¹³ (causing concern to many) has provided US policy makers with a moment of reflection on how to make resettlement smarter in protection terms, how to build new partnerships (with UNHCR or other states) and how to accommodate growing concerns about identification of beneficiaries, fraud and security. The most tangible expression of this is the reduction of places (from 70,000 all assigned in FY2002 to 50,000 assigned and 20,000 contingency in FY2003¹⁴) coupled with a refinement of routines and practices. Demands from the non-governmental sector go further, with suggestions for a remodelling of the priority system to enhance its transparency and sensitivity to the most urgent protection needs.¹⁵ (The priority system is explained at length in the section on selection below: in essence it involves three priority categories: P1 are UNHCR referrals; P2 are groups identified by the US and P3 are refugees who are nuclear family members of residents of the US from specified countries.)

The reduction in numbers is a phenomenon to be found in other resettlement countries as well. While actual arrivals in 2001 fell by eight percent on a global scale compared to the preceding year, some EU Member States actually expanded their programs, albeit from a comparatively low base (Denmark and Ireland).¹⁶ In transatlantic comparison, the most significant reduction was registered in Sweden, where arrivals fell from 1,500 in 2000 to 1,090 in 2001 for reasons unrelated to 9/11.¹⁷ Albeit for different reasons, resettlement programs in the US and the EU are now meeting at a crossroads, opening unique opportunities for rediscovering the protective and durable solution core of the term and jointly developing its qualitative aspects.

2.3 Procedural differences

US resettlement can be characterised as highly formal, involving well-established procedures, and very specialized in nature. The program relies on the collaboration of federal, state and local entities, as well as a degree of public-private partnership. By the time a refugee has passed the whole resettlement procedure, she will have been involved (whether she knows it or not) with four different federal agencies:

- The Department of Homeland Security's Bureau of Citizenship and Immigration Services (known as the INS before March 2003)
- The Federal Bureau of Investigation
- The State Department's Bureau of Population, Refugees and Migration, and
- The Department of Health and Human Services' Office of Refugee Resettlement

She will also interact with one or two international organisations (the IOM for transportation at least, and possibly UNHCR), and two voluntary agencies (one case-preparation agency and one concerned with integration in the US; these could in fact be two branches of one agency, and in some cases IOM conducts case preparation, but not integration activities). Parts of this infrastructure are located outside US territory, and the global spread of access points makes this a program with a broad reach.

European programs are highly diverse and no generalizations can be made.

While the importance of non-governmental actors and inter-governmental agencies at various stages of the program must not be underestimated, the key threshold to be passed, without which there is no entry to the US, is Immigration Service

adjudication. Pivotal to adjudication is the Immigration Service interview: a personal encounter between applicant and status determination officer, without which no decision can be taken and no admission will take place. This interview is stipulated in the 1980 Refugee Act, and cannot not be delegated to any non-US governmental entity.

European programs are highly diverse and no generalisations can be made. Some countries employ dossier selection on the basis of suggestions by UNHCR, others favour selection missions to regions of origin, carried out by immigration, refugee protection or integration specialists from their own authorities—and, in the case of Denmark, the addition of an NGO representative. In most, but not all cases, these selection routes are mixed in one system. Individual referrals from embassies also take place on an occasional basis. There is no counterpart to the grid of access points available to the US system, which explains why UNHCR plays a central role in identifying cases and preparing dossiers. Given that the US sees itself as being more exposed to security threats than was previously the case, the question of where staff can and cannot travel plays an important role in the geographic reach of the system. While staff security does matter to Europeans as well, the degree to which personal interviews are necessary is not the same, and neither is the magnitude of security threats to expatriate staff (the UK representing an exception to this rule. Security concerns have played a role in its decision to focus on West, and not East, Africa in its new program). Notwithstanding this, all resettlement candidates for all countries do, since 9/11, go through security screening (often unknown to them).

2.4 Challenges – what is the question to which resettlement might be an answer?

The transatlantic differences depicted above suggest that the US system demonstrates a highly managed, organized and planned approach to protection, shaped and operated by a proactive US administration, and characterised by relatively high admissions ceilings. Conversely, the EU Member States' general focus on refugees as spontaneous arrivals, rather than people to be identified and selected elsewhere, indicates a reactive approach. The passivity of European governments in terms of selecting immigrants, including refugees, is rooted in a broadly felt aversion to demographic or population-oriented policies, and this challenge must be addressed if the path to developing more selective protection systems is deemed desirable.

More specifically, the dilemma of the US resettlement program is that it needs high volumes to work well, while the principle of individual Immigration Service adjudication limits its geographical outreach, through the mere physical impossibility of being everywhere for every individual refugee. Security concerns may inhibit Immigration officers' access to locations where needy cases are present – cases that may otherwise fulfil the formal requirements of the program.

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Given the combined demands of high-volume processing and security in adjudication, the ideal candidate for the US program is a member of a safely accessible group, which is sufficiently large to make processing worthwhile. Hence the program operates with specified groups as the main targets of its largest category (P2). The second-largest category, the P1, has been for individual referrals only. However, a first-ever P1 group of refugees in Côte d'Ivoire was designated, and case preparation started in summer 2003. Groups may be easier to identify as being

generally in need of protection; however, some observers may be concerned that not all individuals who make up a group are in fact equally in need of protection. The US system does, however, involve individual interviews for all members of a designated group (whether P-2 or P-1), and those who do not clearly qualify both as members of the group and as individually in need of protection are not admitted. However, the identification of groups is an area which could potentially leave the US resettlement program vulnerable to manipulation by advocates for particular groups or categories whose members may not conform to the refugee definition in US law (which is essentially that of the 1967 Protocol). An example of this would be the Lautenberg Amendment, which explicitly lowered the bar for certain named groups (Jews from the Soviet Union and Vietnamese) with powerful domestic advocates. Nonetheless, it is important to note that strong domestic interest in certain groups is a major factor in maintaining general domestic support for a strong (including numerically strong) resettlement program, and that a domestic lobby is not a necessary factor in group identification. The recent focus on fighting fraudulent use of resettlement channels and increasing security brought with it a reduction in volumes without altering the basic dilemma described here.

In Europe, the basic dilemma of resettlement is its forced marriage to the number of disorderly arrivals. One of our European interlocutors succinctly stated the European point of view as "Why 'do' resettlement, when refugees come anyway?" Although the qualitative dimension of resettlement is widely acknowledged, a fear of an increasing net protection burden seems to block any discussion on how to move forward to bigger or new programs – both unilaterally and at the EU level.

These diametrically opposed perspectives must be kept in mind, if only to inform a process of mutual learning and, possibly, gradual alignment. In general terms, it is not realistic, in the short-term at least, to expect EU Member States to embrace resettlement to the same degree as the US has done up to now. This notwithstanding, the history of resettlement from Europe provides for legitimate reciprocity demands: the continent could be expected to invest into a system from which it has already benefited in the past (the resettlement of Hungarians from Austria and that of Bosnians from Germany are but two significant cases where western Europe has received assistance in providing protection to fellow Europeans). Materially, the affluent Member States of the EU would be best situated to spearhead such an investment. In this respect, expectations placed on Europe by the US and by other, less affluent countries might converge.

"Why 'do' resettlement, when refugees come anyway?"

2.5 A humanitarian-utilitarian divide?

To be admitted under the US resettlement program, a refugee must be of “special humanitarian concern”¹⁸ to the US. While some observers might gather that this means the US program is supported primarily by domestic policy agendas and foreign policy interests, there is more to it than first meets the eye. A cursory view of the US program gives the impression that kinship or direct family ties and religious groups are major forces behind decisions on admissions to the US program. However, beyond the straightforward search to help those one knows best (which can be both critically viewed, and sympathetically understood) there are other issues that might make a refugee of “special humanitarian concern” to the US. Historical ties, a sense of obligation or guilt,¹⁹ a sense of fairness, a sense of urgency about some human rights violations, and a desire to bolster first asylum opportunities in states neighbouring refugees’ countries of origin are all factors which can cause the US to see the resettlement of certain refugees to be of “special humanitarian concern.” While the power of certain ethnically or religiously based lobbying groups may be maintaining relatively high numbers of places for resettlement from Europe (especially the former Soviet Union), those kinds of advocacy networks are not the only ones at work in bending and shaping the US program, and bringing changes to its selection goals year after year. Also important to a program facing significant domestic pressure to maintain certain numbers is the identification of large groups of refugees – a factor which is leading to gradually greater emphasis on Africa as a major producer of refugees, as it once did to emphasis on the Middle East.

The foreign policy factor is perhaps best illustrated by US actions after its military interventions in Vietnam and Kosovo. In both cases, the administration threw its weight behind large-scale resettlement and evacuation programs, and stimulated other countries to play their part.²⁰ These programs illustrated both the foreign policy impetus behind some programs and the ‘guilt’ factor (both being linked to US war or military intervention) and the desire to stimulate greater acceptance of first asylum (in Thailand and Malaysia in the Indochinese case and in Macedonia in the Kosovar case).

Key, however, is that the importance of both domestic and foreign policy factors should not be taken to imply the reduction of purely humanitarian concerns to zero. After all, resettled persons must fulfil the criteria of the refugee definition, which makes humanitarian need, as well as the fact of the US’s “special humanitarian concern” a starting point for all considerations. Beyond this, the priority system described in the next section provides for a selectivity that does not necessarily reflect a hierarchy of need from a global-egalitarian perspective, but which provides a system for choosing with relative efficiency tens of thousands of refugees who can be protected by the US out of the millions of refugees in the world.

The amalgamation of all of the above-mentioned factors – domestic pressures, foreign policy interests, global view and humanitarian concerns – can be read as strength or weakness. On the positive side, it allows protection issues to profit from the weight of other policy areas. Conversely, humanitarian credibility may be lost when foreign policy or domestic lobby pressure play too prominent a role, and the whole resettlement program may be discredited as a cover-up for utilitarian objectives.

In Europe, resettlement states are motivated first and foremost by humanitarianism. They tend to focus on the refugee’s protection needs over integration concerns, and usually refer to a strict separation between immigration and asylum, between utilitarian and humanitarian concerns.

In Europe, resettlement states are motivated first and foremost by humanitarianism. They tend to focus on the refugee’s protection needs over integration concerns,²¹ and usually refer to a strict separation between immigration and asylum, between utilitarian and humanitarian concerns. The reason for this should not be sought in aspirations to moral purity or superiority, but in the absence of sufficiently strong

domestic pressure groups participating either in public discourse or in specific resettlement related advocacy, and in early decisions made on program size. In fact, even in the existing EU resettlement countries, NGOs and active church groups are much more focused on asylum than on resettlement as a result of the sheer numbers of arrivals involved in each. Focusing on resettlement specifically would be too resource-intensive for many groups, given there are so few arrivals. However, as programs may develop in the coming years, this NGO focus needs to change to keep up with the times, and for NGOs to be part of decisions made on program size and composition.

In the domain of foreign policies, it must be recalled that large EU Member States with strong and visible foreign policy presence are not operating resettlement programs at present (with the UK preparing to break this pattern, albeit on a numerically very limited scale). In turn, those Member States already active in resettlement generally have little foreign policy leverage. As there is no joint resettlement program in the EU at this time, and earlier experiences have shown that consensus on proactive protection policies is hard to achieve,²² the critical mass needed for resettlement to make a difference in foreign policy, or for foreign policy to lead to resettlement, is simply missing.²³

In conclusion, it is fair to describe US resettlement as serving a broader mix of motives than its European counterparts, with a greater visibility of utilitarian ones. However, this would emphatically not imply that reproaches of the US program dealing only with cases promising easy integration (so-called cherry picking) are justified. This myth has emerged in Europe over the years, yet explanations for it are difficult to come by when one considers the admission of the “Lost Boys” of Sudan, the Somali Bantu and countless other groups which, a priori one would appear to be extremely difficult to integrate. In fact, as has been mentioned above, any focus on employment in the US program comes *after* selection and not as a criterion for selection. It could very well be that the amalgamation of humanitarian with utilitarian motives actually leads to a greater gain for humanitarianism than a policy of pure humanitarianism would have achieved. Beyond that, further questions arise:

- Does the accommodation of utilitarian agendas lead to a net gain for protection, or merely to a transformation of resettlement into an elitist system?
- If a mix of motives is considered to bring a net gain for protection, how do we assure that programs are not hijacked by utilitarian agendas in the long run?
- How can refugee resettlement be kept distinct from labour immigration as an entry route, when the final situation of the person arriving is intended by all involved to have similar characteristics in terms of social, cultural and economic participation in the destination state, and in the longer term also political participation achieved through long-term residency and citizenship?
- And, finally, could the identification of joint benchmarks and standards for resettlement needs lend greater credence and legitimacy to resettlement programs, including those backed by a mix of utilitarian and humanitarian motives?

3. Selection criteria

In designing resettlement schemes, a central question is “who to resettle?” The gamut of responses stretches from a measuring of protection need, which requires accurate and up-to-date information on individuals and their situation since the time of their flight, to a selection based on political factors such as integration prospects, foreign policy interests or other. Technically, states need to choose whether they will operate with fixed definitions, ensuring equality of treatment, or resort to more flexible and situation-specific mechanisms of identifying beneficiaries – or, indeed, both. States’ choices can be set out in a grid structured by the choice between legal definitions versus tailor-made categories on one hand, and protection-based criteria maximising the enjoyment of human rights by the individual versus policy based-ones, catering for the interests of the host state on the other. Beyond these principal

choices, it should not be forgotten that the design of procedures themselves always impact on the actual selection, albeit in an indirect and not always intended manner.

In formulating selection criteria, existing definitions of “refugee” in international law would seem to be an obvious starting point. Both the US and most resettlement countries in the EU employ the Convention or Protocol refugee definition as part of their selection process. However, experience appears to suggest that persons whose *protection* needs are in fact quite strong do not necessarily satisfy the international legal interpretations of refugee status, which have chiefly developed in the West in the context of asylum systems following World War II. The most obvious US response has been the lowering of evidentiary requirements for candidates from, for example, the former Soviet Union. Other, including EU states, allow entry of humanitarian categories, mixing definitions of subsidiary protection with the Convention definition for resettlement cases.

There are a number of explanations for this mismatch between refugee law and refugee resettlement policies. First, the 1951 Convention’s definition was not developed for persons whose physical movement from danger or towards a durable solution would be organized by the destination state. This means there may be people in need of long-term protection who are not necessarily refugees according to Article 1a of the Convention. (As an analogy, one could consider the way in which categories and practices of subsidiary protection have emerged in Europe on the basis of the spontaneous arrival of people seeking protection who do not fit the states’ highly developed interpretations of the 1951 Convention definition.)

Second, both the refugee definition and categories of subsidiary protection are generally subject to restrictionist dynamics in domestic law and practice, which are aimed at deterring future arrivals. Thirdly, resettlement is, in all countries, more a matter of policy than of law. While there are legal foundations to the resettlement programs of some countries, ranging from broad descriptions of how a program will operate to a simple statement that the organized arrival of refugees is permitted as one means of effecting broader protection obligations, decisions about who to resettle, where from and how many people to resettle are always open to policy-directed changes. The bottom line is that international law does not require any state to resettle anyone, although it does oblige states not to return anyone who has arrived at their borders seeking protection to a place in which they would be unsafe.

Therefore, governments need to ask themselves whether, in conducting resettlement selection, they wish to prioritise the Convention/Protocol refugee definition, together, where such exists, with any evolving definitions of subsidiary protection. The alternative would be to combine these with other criteria e.g., those about specific groups with ties to the destination state. In other words, they need to consider whether to have criteria to get people to the window, while the refugee definition (including that for subsidiary protection) allows those pre-identified candidates to get through the door. It would theoretically also be possible for resettlement countries to simply opt for starting from scratch, seeking inspiration perhaps in the objectives that lie behind legal categories of territorially applicable international law, but not insisting on replicating the definitions contained in this body of law in their resettlement schemes.

Selection in the US

The US uses a priority system for resettlement selection. There are three priorities in use, labelled Priority (P) 1, 2, and 3. While the general contours of these three categories do not change, their content can. In FY2003 the priority category descriptions are:²⁴

- P1: Compelling protection cases, or refugees for whom no other durable solutions exist and who are referred by UNHCR or, theoretically, a US embassy. Late in FY2003, the US decided to start case preparation work for a new group form of P1. This was in large part an attempt to boost numbers of arrivals on the program. Notably, the UNHCR definition of resettlement is largely congruent with P1. It has gradually developed to cover a broad range of categories and

definitions, including non-urgent cases: “persons facing compelling security concerns in countries of first asylum; persons in need of legal protection because of the danger of *refoulement*; those in danger due to threats of armed attack where they are located; persons who have experienced recent persecution because of political, religious, or human rights activities (prisoners of conscience); women-at-risk; victims of torture or violence; physically or mentally disabled persons; persons in urgent need of medical treatment not available in the first asylum country; and persons for whom other durable solutions are not feasible and whose status in the place of asylum does not present a satisfactory long-term solution.”

- P2: Groups of special humanitarian concern to the US identified by the State Department. P2 status currently applies only to in-country Cubans, Vietnamese and Lautenberg Amendment²⁵ candidates in the former Soviet Union (FSU) as well as Somali Bantus in Kenya, Baku Armenians in Russia and Iranian religious minorities (primarily in Austria during the selection procedures). Discussions are continuing with regard to increasing the number of P2 populations (to include African long-stayers in Russia, mixed marriage Burundians in Tanzania, Congolese in Angola and Kuname Eritreans in Walanibhy camp in Ethiopia).
- P3: Spouses, unmarried children and parents of US citizens and of persons lawfully admitted to the US as refugees, asylees, conditional residents, parolees and permanent resident aliens. The only nationalities eligible for P3 status in FY2003 are Burundians, Congolese (both DRC and Brazzaville) and Sudanese.

In cases of UNHCR referrals to different resettlement countries, the rejection rate is often seen to be quite high. This is largely because UNHCR uses its mandate definition (from UNHCR’s Statute) as the basis for referrals, whereas states, with the exception of Sweden and Norway, tend to use the Convention definition.

In addition to falling under one of these three categories and being within the total and regional annual ceilings, candidates for resettlement in the US must meet the refugee definition in the US Immigration and Nationality Act (which is essentially the definition contained in the 1951 Refugee Convention, as amended by the 1967 Protocol,²⁶ as well as certain persons – specified by the US president – still residing in their country of nationality or habitual residence and those fearing or having suffered coercive population control measures). Furthermore, candidates are examined according to:

- The current refugee situation in the region
- The level of religious freedom in the region
- Prospects for voluntary repatriation or local integration (the other two “durable solutions” advocated by UNHCR)
- Prospects for third-country resettlement outside the region

P1 cases are referred locally, on a regional basis, to Overseas Processing Entities, usually IOM or voluntary agencies, contracted by the US State Department to prepare cases for submission to the Immigration Service. The Overseas Processing Entity (OPE) will look at whether the candidate falls under the priority categories as designated in that particular year, assist the refugee in preparing the correct paperwork and submit cases for authorities’ decisions on resettlement. The OPEs do not play a judgemental role. They may advise the applicant that in their judgement the case may be weak, but they have no official role in excluding or including any individual. The OPE staff prepare the candidate for their Immigration Service interview in the sense of getting them used to the idea of what the interview could mean, but not by coaching them. Based on the personal interview, the Immigration Service will take an authoritative and final decision on the case.

The US currently aims to accept at least 50 percent of all UNHCR referrals. In the past the acceptance rate was substantially lower than this. In cases of UNHCR referrals to different resettlement countries, the

rejection rate is often seen to be quite high in large part because UNHCR uses its mandate definition (from UNHCR's Statute) as the basis for referrals, whereas states, with the exception of Sweden and Norway, tend to use the Convention definition. Moreover, most states use a strict interpretation of that definition, in line with developments through its use in recent years to screen out "bogus" asylum applicants rather than simply to identify people who are refugees.

Priority 2 consists of groups of special concern, to be identified annually by the State Department. Normally, these applicants have to be outside their country of origin, except for those from the former Soviet Union and Vietnam who might be selected through resettlement procedures in their country of origin. The US also conducts non-resettlement program in-country processing in Cuba, and previously did so briefly in Haiti. In the resettlement program, the P2 category candidates also have their cases prepared by an OPE as explained above for P1s.

Priority 3 gives rise to the greatest concerns about, and possibilities for, fraud. This arises specifically in the family relationship claims. A high level of such fraud has been discovered in the last three years. This leads some to suggest that such family ties do not form the optimal route to the selection window, particularly as many of those who commit such fraud are in fact refugees. However, the fact that fraud was discovered in their claim to a family relationship casts doubt even on their eligibility as refugees to the resettlement process.

Our interlocutors in the US observed that programs targeted at certain groups, geographic areas or needs are vulnerable over time both to abuse by people with no real protection need and, more frequently, to people who are genuinely refugees but do not fit any of the entry criteria of location, ethnic origin or family ties. This would suggest that larger resettlement countries which target specific groups would need to rethink their programs at regular intervals to ensure that their targets are indeed groups that are still in need of protection, and that the targeting criteria beyond refugeehood are inclusive of refugees in need of protection in specific locations. For example, it is worth examining how family ties, if used, are cast broadly – though some argue such ties are the most vulnerable area for fraudulent claims by genuine and otherwise excluded refugees; or that not just one ethnic group is included from a specific first host country if other groups are in equal need. Another alternative would be to try to ensure that refugees cannot learn the nature of precise criteria for entry to the program. None of the choices is unproblematic: changing targets is expensive in bureaucratic terms and perhaps not always justified given the continuance of protection needs, and keeping quiet about precise selection criteria disempowers and objectifies the potential resettlement candidate.

Selection by the EU Member States

Most EU Member States with resettlement programs rely on UNHCR for referrals. In principle, this adds an independent pre-selection tier, as candidates must come under the UNHCR mandate and fulfil the agency's own criteria to be considered for resettlement. A number of states operate selection missions on the basis of UNHCR referrals. Sweden has, over the last 10 years, accepted on average some 25 percent of cases on selection missions, and 75 percent of cases directly after UNHCR referral. Finland conducts selection missions based on UNHCR candidates for all referrals, except emergency cases. Generally, selection missions reflect states' wish to add depth to their own selection procedures. Selection competence is typically situated at the central-government level in smaller programs or delegated to an authority where larger volumes are to be processed. Interestingly, Danish selection missions and dossier processing are carried out jointly by the Immigration service and an NGO (the Danish Refugee Council), which gives civil society a voice in the process, while formal decision-taking remains with the authority. The Netherlands has not conducted any selection missions since 1999.

Denmark and Finland require in principle that the candidate must meet the criteria of the refugee convention, while Sweden and the Netherlands also accept persons otherwise in need of protection. Ireland makes no formal requirements of refugee status. In practice, UNHCR selection criteria inspire

most resettlement programs in the EU, and their geographical focus is usually established in close cooperation with the High Commissioner for Refugees.

Member States diverge in their approach to integration prospects as a selection criterion. Denmark does not consider integration capability to be a prerequisite, but rather as a positive factor, assisting in the establishment of bridgeheads between a group of refugees and the host community. While Ireland says it does not look at integration capabilities in the selection process, Finland, Spain²⁷ and Sweden do. Finland's approach is really a communitarian one, as the country seeks to form balanced ethnic groups in selection, focusing on a handful of countries of origin and looking at age, sex, family and education, and seeking to identify "leaders" in those groups. Until recently, Finland only accepted resettled refugees of Afghan and Iraqi origin. To an observer, it is obvious that the laudable objective of social balance must be difficult to reconcile with the formal demand of refugee status in each individual case. At the very least, this tendency towards social engineering is in stark contrast to the individualistic approach in determination procedures for spontaneous arrivals.

The acceptance of resettlement cases with special medical needs is perhaps the best indicator of a qualitative rather than quantitative focus.²⁸ Sweden accepts medical cases only after a match has been made with available resources for treatment in its system. While accepting disabled refugees and medical cases, the Netherlands requires that additional criteria be fulfilled in such cases, one being that there must be reasonable expectations that the candidate will function satisfactorily in a psycho-social sense in Dutch society after treatment. As the Dutch do not operate selection missions, it is hard to see how this criteria can be measured in practice through a basic UNHCR Resettlement Registration Forms (RRFs). Finland, on the other hand, consciously gears its resources at groups requiring increased attention and resources, amongst them disabled and chronically ill persons, while ensuring that others in the resettled group have perceptible leadership credentials.

As European programs are numerically small, and not directly looking for a family relationship as an entry criterion (except in the long-standing UK Mandate Program for 300 people with an existing tie to the UK) the potential problem of applicants' fraudulent behaviour does not arise to the same degree as in the US program. In addition, as applicants pass through the joint door of UNHCR pre-selection, which serves several countries, the applicant as an individual has difficulties in calculating in which country he or she will end up, and hence cannot adapt their narrative to a specific set of selection criteria.

However, UNHCR's referral system to EU states is not blind. The protection officers completing RRF's have knowledge of the programs in different countries, and are actively looking for any family links (this latter because the countries of resettlement seek them out, and refuse applicants who they think may want to be elsewhere at some point because an uncle, cousin or sister is in another state as a refugee or immigrant.) As such, states do need to be sure that all messages about policy changes are filtering down to the field officer level, in order for referrals to match the requirements set out.

Convergence options: referral, selection

The technical details of selection processes have added an important layer to the emerging picture of transatlantic differences. First, the diversity of European programs is potentially mitigated by the unifying effects of UNHCR's role, which acts as a matchmaker once it has identified a person in need of resettlement.²⁹ Since the slowdown in the US resettlement program, the State Department has made a multi-million dollar contribution in earmarked funds for resettlement to UNHCR, and the INS has seconded a significant number of staff, many of whom are working on RRFs for allocation to all countries undertaking resettlement. However, those who do, of course, have a very close knowledge specifically of the US system and requirements. UNHCR referrals under the P1 category make up a minority among total cases under all priorities, which has limited its potential within the US system at large, until the creation in 2003 of the P1 group approach in Côte d'Ivoire.

Nonetheless, many suggest that global resettlement programs would achieve greater coherence if UNHCR were to assume the role of an international pre-selection agency, operating with a single set of selection criteria, at least for a referral part of all programs. This would presuppose that states invest considerable resources in the resettlement work of the agency. It would also require that UNHCR manage a broader change in the institutional reticence towards resettlement that has existed since the 1980s. This reticence is largely based on two factors – and is not agency-wide, although it is significant. The two factors are the way in which many non-refugees were resettled in the latter days of the Comprehensive Plan of Action for Indo-China and the fact that the very resource-intensive resettlement work can put staff in a very difficult position when refugees, desperate to leave a protracted or dangerous situation, pressure any UNHCR staff member and not just Resettlement Officers to help them to leave.

Second, both the US and EU resettlement countries converge in that the refugee definition forms a threshold criterion. On both sides of the Atlantic, exceptions to this rule exist. In the long run, it might be meaningful to establish the definition of a UNHCR mandate refugee as a common threshold criterion for a basic protection need. This would provide a minimum common denominator of global relevance, while not precluding the formulation of additional criteria along domestic preferences. It would also acknowledge the fact that, as UNHCR has indicated, current resettlement needs are most often not related to a pressing and immediate protection need as such (except in emergency cases). Instead, they are related to the fact that protection in the refugee's current situation is not durable in nature, and that no other durable solution (i.e., return or local integration) exists as a likely avenue in the near future.³⁰

Third, it seems that states with large, legal and accepted immigration intakes are more accepting of a significant resettlement program, while states which are smaller inside, and more reluctant to accept immigration generally, are likely to focus their protection-oriented resettlement programs on small numbers. Because the numbers are small, an early decision was taken for those people in most (often medical) need. While this was originally a way of adding value to programs that would be necessarily small, over time, the focus on the very vulnerable refugees with high-cost medical or psychological treatment needs has come to be understood as the reason for keeping the programs in the European states small. However, as European governments start to look towards permitting legal entry of persons in need of protection through more resettlement (and entertain the hope that spontaneous asylum arrivals might thereby decrease) their focus should, in line with the logic which said "small program: then focus on those in most need of expensive, resource intensive care," broaden their programs to include the full range of vulnerable refugees in need of protection and a durable solution. Nonetheless, European programs' existing heavy focus on people in resource-demanding medical need as a high percentage of their caseload should not be totally lost. Where today they might make some 20-25 percent of their 500 to 1,000-place programs available to people in great need, tomorrow they could make 10 percent of a 10,000-person program open to the same very needy candidates and actually help more people.

The fact that the level of inter-state cooperation and coordination is relatively limited remains striking in this overview. While UNHCR could provide a certain harmonisation impulse, the different roles it plays in different country's resettlement programs as well as its notorious lack of resources hamper its unifying potential. What is more, while states on both sides of the Atlantic talk more about resettlement, it is not clear that they all mean the same thing in terms of who would be resettled. Rethinking selection criteria would be crucial to the rejuvenation of resettlement, and the evolving dialogue among states should address a number of issues in this regard:

- Could or should the transatlantic partners agree on a joint protection criterion as a basic entry requirement for referral – e.g., the definition of a UNHCR mandate refugee?
- Do the states on the two sides of the Atlantic regard it as meaningful to have a unified referral system, either in one agency, or in a number of agencies working with the same standards? Could this allow for a mutual representation of states, and eliminate strategic behaviour?

- Is it meaningful to construct a shared transatlantic priority system, or should the partners consciously diverge to allow for specialisation by single countries?
- Would it be meaningful to delegate in-country processing to the state with the most diplomatic leverage vis-à-vis the country of origin or first asylum?
- Should factors such as maximising the security of selection staff be involved in the choice of such a “lead state”?
- Could a mixed system be conceived? This could involve individual states developing their own resettlement priorities for a national program with their own criteria, and their own referral entities, while also offering a number of untargeted places to UNHCR. This would not be dissimilar to the US system, except that there might not be regional ceilings that include the UNHCR cases.
- To what degree should states develop a joint standard for procedures, balancing speed and efficiency against security and quality concerns?

4. Integration, employment and welfare assistance for resettled refugees

The integration of (resettled) refugees is an issue with very stark variations in its handling on the two sides of the Atlantic. A major reason for the differences is variations in the nature of their welfare systems in the broadest sense. In the US there is a very limited welfare system, and the policy with regard to resettled refugees has, since the 1980s, been one of trying to avoid dependency for those who in principle should be able to work. The welfare system is there to support large families, for example, but not a single male refugee who has no impediments to employment. Therefore, voluntary agencies are able to give support to refugees for only four to eight months, and that support is not part of the government-operated welfare scheme. The roundtable discussion in Washington indicated that the vast majority of refugees seem to find employment³¹ – but for those who do not, and who have no access to welfare payments, the situation can be grim.³² There is no discussion in the US currently on changing this system: the self-sufficiency of the refugee in the medium to long-term seems to be the major goal, and the primary sense of the majority of actors, including Voluntary Agencies and NGOs, seems to be that greater access to welfare assistance would not support the attempt to reach that goal.

In all European Union states there is a welfare state “safety net” in place to support refugees, as indeed to support all citizens and other (legal) residents. Refugees (and asylum seekers) enter that system on entry to the country and application for status, although new regulations in some Member States seek to exclude asylum seekers from benefits dependent on factors such as whether or not they requested asylum at the earliest possible moment. The 3,500 potential resettled refugees annually do have access to welfare benefits from the moment of arrival, although again the precise nature of those benefits differs from country to country.³³ While the European welfare systems differ in their implementation and approach, all generally support health care, housing, education and income (through income support or an unemployment benefit). One of the areas which EU governments and NGOs will need to give deep thought to in considering the potential for, and their roles in, resettlement programs is the nature of the link between refugees and the welfare state.

A number of questions come easily to mind:

- Is the “cradle to the grave” approach to welfare assistance in Europe sustainable, in economic, political and social terms? Do new arrivals need, after an initial period of assistance, to be actively encouraged to work and therefore to participate in paying premiums into the welfare system?
- Does the reliance on the welfare system to support refugees, in Europe in particular, encourage dependency, and if so, how problematic is that for the refugees themselves and for the societies in which they live?

- When considering who should be selected as a resettling refugee, and how many, do welfare state concerns either cause a restriction or limitation in numbers (when linked not only to protection need but to particular humanitarian concerns involving medical treatments) or cause particular characteristics to be more desirable (e.g., those individuals who can become self-sufficient in a relatively short period of time – and be net financial contributors to the welfare system within a few years of their arrival)?
- How can the US approach to integration, drawing on the labour market as a primary source, be refined so as not to leave weak individuals and groups in an integration limbo – outside the labour market as well as outside the welfare system? Could a synthesis be imagined, or would that undermine the refugee's motivation to enter the labour market?

Much further research would be needed to provide answers to any of these important questions.

The overriding concern coming out of the discussion at the Brussels roundtable was to ensure that resettled refugees in Europe would not be treated any differently than asylum seekers who achieve refugee status. That would seem to mean no more negative treatment, and no more positive treatment – and that in turn would seem often, and questionably, to be interpreted as meaning no different treatment in spite of the differences in the situation. Interlocutors with experience in assisting resettled refugees and asylum seekers reported seeing differences in their respective situations in general terms. A resettled refugee has refugee status on arrival – a privileged position in many ways when compared with an asylum seeker who may need to go through months of procedures and appeals before reaching the same legal situation. However, this can also be a disadvantageous position for the resettled refugee, in comparison to a person determined to be a refugee after an in-country asylum procedure, if one measures the path of integration from the moment of presence in the host country *with* refugee status.

A refugee who has been an asylum seeker has probably had a year or more to develop knowledge of the host country and society, even if that knowledge has been building in a period that involved the pressure resulting from prevalent negative perceptions of asylum seekers. While in some situations the experience of being an asylum seeker can leave a person reluctant to integrate after achieving status, and while some systems seem actively to promote a type of “dependency syndrome” either through compulsory long-term residence in a reception centre or through denial of the right to work, the individual has accumulated knowledge of the country. That “know-how” (be it of positive or negative origin) can prove important in making the person granted status after seeking asylum seem more likely to integrate well *if integration success is measured from the moment at which status is achieved*. A lingering question for European actors is whether the difference in circumstances of the resettled refugee at the moment of being in the country with refugee status is such that totally equal treatment with a refugee determined as such after a lengthy in-country asylum procedure is in fact discriminatory. And if it is discriminatory, how can non-discriminatory policies be developed which acknowledge the differences in starting points and setting out appropriately differing paths to meet the equal goal of integration with the host society? Research in Sweden suggests that those who were first asylum seekers do integrate more quickly, when measured from the time of being recognised as a refugee.³⁴

The potential for secondary migration between EU Member States is often raised as an issue in discussion on immigration and refugee protection. US actors suggest that settlement of refugees in US states with more generous welfare schemes has decreased – although no one can stop secondary movement to those states. In general, resettled refugees' access to cash assistance and any form of income support, for whatever short period, is limited to the state to which they are first resettled, so secondary migration in search of better welfare benefits does not work, whereas secondary migration in search of greater employment opportunities could of course work. Also, in general, since the welfare reforms of 1996, only people with families who fall into the broad category of families eligible for assistance will receive any assistance beyond their first four to eight months in the country. This means that single refugees or childless couples will have no access to any cash assistance beyond the initial four to eight-month period during which they are supported by state funds via voluntary agencies.

Voluntary Agencies (organized and professional non-profit groups known as volags) report that the vast majority of refugees resettled to the US wish to work. One of the first questions many resettling refugees ask, even during transit and certainly on arrival, seems to be “Can you help me find a job?”³⁵ There is no way of knowing whether this motivation comes from the refugees themselves or is a result of information given to them in orientation sessions prior to arrival – or a combination of the two factors. Certainly, a State Department-commissioned video produced by the Center for Applied Linguistics strongly and repeatedly conveys the message that employment and self-sufficiency are highly valued in US society. But equally certainly, as stated above, the refugees are not selected for resettlement on any economic or employability grounds.

In many of the 50 states, as well as the District of Columbia, the vast majority of resettled refugees also have a job within the first six months after their arrival – in many states 90 percent or more were reported by US participants in this research to have jobs (which is slightly at odds with the statistics noted above). They may not have jobs that reflect either their employment history or qualifications; indeed for many, re-certification to pick up a career in the same field in which they previously worked is a major issue. However, people find work, and then are encouraged to work their way onwards and upwards from that point. Anecdotes retold by people working in refugee assistance are about individuals becoming managers of major chain stores within two years of arrival, even with relatively limited English ability; of people setting up their own businesses using micro-enterprise grants established by the Office of Refugee Resettlement, and employing 10 to 20 people (often fellow refugee arrivals) within a few months or years (e.g., a car-washing business which within a year had a contract from the Postal Service to wash its delivery vans).

The perception in the US at least is that there is a strong desire to see economic integration – while the focus in Europe seems to be more on linguistic and cultural integration. At the same time, many in the US perceive integration in the workforce as being a primary motivator – and a real-world classroom – for learning English and adapting to society. What is more, refugees’ integration in the workforce assists in a general public perception of (resettled) refugees as hard working and genuine pursuers of the American Dream, as well as true participants in the community. Furthermore, many resettled refugees become involved in either employment or voluntary work in the resettlement program services sector – offering assistance to those who follow in their footsteps.

Refugees’ integration in the workforce assists in a general public perception of (resettled) refugees as hard working and genuine pursuers of the American Dream, as well as true participants in the community.

Interestingly, the US resettlement program has no formal requirement for seeking out people who have a seemingly high integration potential – or who have high qualifications. At the time of this project, as right-wing parties had given electoral proof of dissatisfaction with immigrant integration in several countries in the EU, actors there were talking rather more about the contradictory sense they had that refugees should not be resettled *because* they were qualified in an educational sense (and in fact the focus should be on the most vulnerable), but conversely, that pre-identifying integration potential would be important for any European resettlement system. Existing programs in European Union countries do not openly focus on integration potential; in fact, they are generally characterised as focusing on very vulnerable cases and people with potentially high medical or psycho-social needs. Policy makers in Finland indicated in separate research that one should expect a resettling refugee to take at least three years to be even ready to start thinking about employment. In Sweden, integration plans including a build-up to employment seek to sketch out the path for refugees for two and a half years. When these points were raised in the Washington DC roundtable, US volag employees seem amazed at the idea of

having so long to prepare and assist someone in finding initial employment. In the European context there seems also to be far less expectation that a refugee can work their way up through a career-boosting job-chain: rather than just having work, it is seen as important that someone waits to find the right work for them – the most appropriate to their skills and past work experience.

One suggested reason for the focus on economic integration after arrival in the US is that the US resettlement system is predicated on permanent residence as an objective of all involved. That is not to say that all refugees do in fact stay forever. A good many return to their country of origin at some point with a US passport or green card in their pocket. Kosovar refugees are a good example of this. Whereas Kosovars were evacuated from Macedonia to the EU states for temporary protection, those evacuated on the Humanitarian Evacuation Program to the US entered on the resettlement program, meaning they had status as refugees for one year, with automatic conversion to permanent residence (green card) after that year. By 1 May 2000, a third of the 11, 200 Kosovars in the US had either returned or signed up for the repatriation package.³⁶ More than half of the Kosovars granted temporary protection in the EU had also returned.

In Europe, too, resettlement is currently to a permanent status and durable solution.³⁷ As has been noted above, the number of people resettled to European states is limited at the time of writing: the four EU states which have traditionally conducted resettlement programs select some 3,000 refugees annually between them, and the UK and Ireland's programs add some 550 places to this total. This small number of people who arrive with a refugee status, or permanent residence status on the basis of the assessment of their resettlement need, must fit into the broader integration programs created for people who have been through a (potentially lengthy) asylum procedure within the EU state in which they seek protection. As only some 50 percent of asylum claimants receive some status as a result of the refugee claim procedure, the focus of the asylum systems and the rhetoric around those systems is more often on return (of those rejected or no longer in need of a short-term form of protection extended to them at the height of a conflict-induced refugee crisis, for example) and restrictions on entry. With the focus on integration being relatively low, therefore, questions exist as to whether the integration programs that are developed can be wholeheartedly followed or truly effective for integration (i.e., a two-way process between the newcomer and the society around them).

Beyond the restrictive and return-focused rhetoric concerning asylum, with which resettled refugees become confused, the focus is often, rightly or wrongly, on the refugee as a welfare recipient and not as a contributor to the labour force – again because of the focal points of debate about refugees and asylum seekers more broadly (and indeed about immigration more broadly). The fact that existing resettlement programs in the EU states tend to focus on particularly vulnerable cases means that many of the resettled refugees in Europe, in contrast to some in North America, need a high level of individual attention in order to be able to start rebuilding their lives. This approach, or the appearance of such an approach, has the effect of seeming to emphasise the needs of the refugee, potentially relying on their dependency on health and other support benefits to assist and enable them to survive the trauma of the refugee process as a whole, including the impact of their eventual resettlement on their physical and mental health.

A number of questions arise when we consider the place of resettled refugees in a welfare state:

- Since public opinion tends to distinguish very much between a national and a refugee receiving welfare assistance, is it wise to maintain policies that, in their implementation, appear to limit the emphasis on the role of employment in integration? Even where governments might perceive employment as an important factor in integration, to what extent can they reasonably seek to stimulate employers to take on people who have come to the country as refugees, given existing high levels of unemployment generally?
- If the expectation placed on refugees resettling to a state is that they will spend years on welfare benefits, who are the "best" refugees to target in deciding on selection criteria?

Or, inversely, if selection criteria are designed to select refugees who will gain most through resettlement, should welfare provision be altered to encourage rapid insertion in the workforce, and by implication rapid removal from the welfare, income support system?

- Do refugees on welfare feel like they are part of the society in which they are living or are they isolated? What factors other than employment encourage a sense of involvement and belonging? Are we letting refugees down by sustaining dependency?

Perhaps as a result of the construct of the welfare state, municipalities or other forms of local government tend to take the lead in any integration approaches in EU states, and certainly in the provision of services that the public authorities also provide for citizens and other legal residents. Where the NGOs have a role it is most often either in the provision of information about services available from public bodies or in the form of voluntary additional support on a personal level. As such, there is a qualitative difference between the US and European systems. In the US system, the public service system provides money but no active support to the resettling refugees – that support is rather based on private goodwill. In the European system, welfare states provide public benefits according to established levels of rights and entitlements. In the next section we will consider the role of NGOs in resettlement programs.

5. NGO involvement and cooperation with governments and IOs

In the United States the federal government has a chiefly financial role in the integration of resettled refugees. The director of the Office for Refugee Resettlement, within the Federal Department for Health and Human Services, characterises the program as having three pillars. The government departments, including his own, are there to provide and conduct selection, allocation and budgetary resources. They form one pillar. Volags and mutual assistance associations (MAAs) form the other two pillars.³⁸ These two types of entity are barely known in the European context, but are interesting to consider. The volags are organized and professional non-profit groups, many (but not all) associated with major churches and most formed by a central office in the Washington, DC or New York area and affiliates in various states across the country. The headquarters is involved in the weekly meetings to allocate refugees to the 49 participating states (Wyoming does not participate in resettlement as there is no voluntary agency represented there, and unlike Iowa, Wyoming has not taken on the role of a volag itself).

Many of these service providers started their work before being really established as any part of the resettlement program, and did so because the governments (federal and state) simply were not providing services to refugees, who were therefore brought to the country and left to sink or swim.

The affiliates of the volags around the country offer services to refugees, including finding housing, job-training, job-finding, healthcare, and English language classes – and really the whole range of services necessary to set up a new life in the US. Many of these service providers started their work before being really established as any part of the resettlement program, and did so because the governments (federal and state) simply were not providing services to refugees, who were therefore brought to the country and left to sink or swim. Interviewees reported that research suggests that refugees who are given full service on arrival in the US do much better in establishing themselves and integrating into society. Voluntary agencies receive funding for service provision from the government, and from charitable contributions.

There are a variety of schemes for funding their programs, including a matching grant scheme whereby the government matches every dollar raised in other ways, or contributed through unpaid service time.

Mutual MAAs could be described as community-based groups. MAAs are frequently established by people who arrived in the US as resettled refugees and who wish to assist their co-ethnics and others in establishing themselves. MAAs receive some funding from the Office of Refugee Resettlement, and most of the people working for them are volunteers, with the exception of management and key support staff. The MAAs really take on the longer-term integration initiatives. Voluntary agencies are key in the first months after arrival; MAAs are key to the longer term.

A further role for some NGOs in the US context comes prior to arrival in the United States. About 30 percent of people resettled to the US annually are brought to the "resettlement window" via UNHCR referral (P1). Many also get the opportunity to apply for resettlement through family connections. In many cases, a joint Voluntary Agency, or (in the newer terminology) an Overseas Processing Entity (OPE) is involved in preparing the individual's case, as described in Part 2 above. The basic path an individual takes is to:

- Go to a body such as an NGO, IOM or UNHCR, in their country of first asylum;
- UNHCR then completes a resettlement registration form;
- The OPE (those currently involved are IOM; International Catholic Migration Commission; Hebrew Immigrant Aid Society and the International Rescue Committee) assists the refugee in case preparation, ensuring all paperwork is complete and the individual is prepared for interview;
- A Department of Homeland Security officer assesses the case on the merits of the refugee claim and fit with the program. The assessment includes an individual interview;
- IOM then organizes the transportation for refugees (covered by a loan made to the refugee) and completes the necessary medical checks and documentation;
- The volags in New York and Washington, DC meet with the State Department to determine which refugee will go to which state (this allocation meeting takes place on a weekly basis);
- The volag responsible undertakes all service provision to the refugee on arrival, and guides the refugee through the first months in the US with cash assistance, job-seeking assistance etc. The volag is also responsible for collecting the loan repayments to cover the travel expenses;
- The MAAs locally are brought to the attention of the refugees, and the refugees may choose to become involved in community activities.

In the European context there are no similar roles for NGOs as processing entities. The Danish government includes representatives of the Danish Refugee Council on their selection missions and in the dossier review process. However, Sweden, Finland and the Netherlands provide for no such role. In Finland, the Finnish Red Cross becomes involved at the point of the refugees' arrival in the country, as the Red Cross' volunteers form welcome committees to meet refugees on arrival in Helsinki. In Sweden there is no role for NGOs and in the Netherlands the role is restricted to the advice functions of the Refugee Council in the reception facilities. Changes in the voluntary and NGO sectors may be as necessary as changes in government policy if significant resettlement to the EU Member States is to occur.

In the US, both volags and MAAs serve advocacy and lobbying functions beyond their service provision. In general such advocacy is carried out through headquarters, though naturally, at the state level, it will also be a local function of individual groups. However, for many of the groups concerned it is a lesser function than the active participation in service provision. This seems to be in contrast to many of the existing European NGOs. These groups, perhaps due to the role of governments in service provision

through the welfare state system, have a role in ensuring that information about services is available, but in many States, a much lesser role in actually providing those services – and a strong lobbying role. Questions arising from this include:

- In contrast to the US, where NGOs as service providers to refugees came before their official role in the resettlement program, might some European NGOs wish to adapt themselves and stimulate a stronger service provision role from the beginning? Would that be desirable for the NGOs, governments and refugees concerned? In particular, would the receipt of public funding for offering services which might replace currently public service provision be compatible with perceptions of the roles of both governments and NGOs in European societies?
- To what extent do community-based organizations already exist in EU Member States? Can they be stimulated? Are they potentially useful in the European context?
- What role might there be for European NGOs to act as a first level of information and advice in first countries of asylum (or indeed countries of origin) and to prepare cases for Immigration authorities' review and status determination? Would that be a desirable function from the point of view of NGOs and governments?

6. Conclusion

In thinking about resettlement, the governments and others in the EU states are already seeking inspiration in US practices, among others. It is not clear that all EU Member States are looking in the same way, however, not least because they all feel the pressure from differing challenges. Before returning to those challenges, it is useful to note that while the EU governments have, on the surface, the most to gain by considering the positive and negative experiences of the US resettlement program while shaping their own potential new approach to resettlement, this is in fact a moment of mutual opportunity. The US is facing its own challenges, and as part of its response to them is thinking about new ways and means of conducting resettlement, without the Europeans' advantage of few preconceived notions and vested interests. The potential exists for policy makers on both sides of the Atlantic, if they would think together, to design their own, distinct programs, with an international perspective in view. In other words, they could collaborate in strategic thinking about the use of resettlement, without having necessarily to share a single program model.

This report started out with a question:

Would reinvigorating resettlement help to resolve some of the refugee protection challenges faced in the United States and the European Union?

This question was supplemented with the underlying issue of identifying what protection challenges exist, and to what extent can resettlement respond to them?

In the report we have seen that different challenges are faced on the two sides of the Atlantic. In the US, the major challenge to the traditional system of refugee protection and immigration policies comes from the aftermath of the terrorist attacks of 9/11 and the ensuing "War on Terror." Whether the challenge lies in what the 19 terrorists and the masterminds behind them did, or in the perceptions of how their actions might translate into future threats, it is clear that security in terms of knowing and controlling who is entering the US and the full extent of their purpose in entering the country has become the priority that poses serious challenges to the extensive resettlement program. Two types of challenges to the program are particularly pertinent. First, the identity of the refugees is open to questions and uncertainty in some people's eyes, no matter how much scrutiny is carried out (in part because the admission and entry checks and controls on identity can only be as good as the intelligence that gives information about any of the world's billions of inhabitants). Second, the safety of US citizens as staff of the Department of Homeland Security, which now runs the entry and admissions aspects of the program, as well as those

US citizens who staff OPEs, is seen as being at risk in precisely those places through which significant resettlement was previously achieved.

In Europe there are five key challenges to refugee protection:

- The high numbers of asylum seekers;
- The seemingly mixed nature of that in-flow;
- The rise of right-wing parties, or at least parties that play on xenophobic fears;
- The nature of the welfare states;
- The high level of unemployment among the existing population.

No two EU Member States face precisely the same level or combination of these challenges. As such it is impossible to give an overall vision of the situation. It is fair, however, to say that many of the EU states, and the European Commission, see some level of resettlement and cooperation in such a program as potentially of interest and to their advantage.

The idea of expanding on the small resettlement programs in Europe to help in facing some of the protection challenges ahead of the European Union is perhaps a greater challenge than the idea of re-thinking resettlement in the US.

Some points emerge from our discussions.

- Resettlement is no panacea for the perceived asylum crisis in terms of numbers: asylum seekers will still arrive and many will still be deserving of protection.
- It is no solution to smuggling. Unless hundreds of thousands of refugees were to be resettled to developed states annually, those not resettled would still turn to smugglers.
- Resettlement might be to the disadvantage of those genuine refugees who are not selected in, but arrive spontaneously in EU states. Spontaneous arrivals might be considered automatically "bogus," while resettled refugees would have a monopoly on public recognition as "authentic," in spite of protection needs.
- On the other hand, resettlement could facilitate an improvement in perceptions attached to the word "refugee:" invited refugees, by definition, are to be welcomed, and assisted in becoming part of the society in which they have been offered the opportunity to make a new life.
- Resettled refugees and those people determined to qualify for the status of refugee after an in-country determination procedure face similar, but nonetheless different, situations. As such, totally non-discriminatory treatment might best be achieved not by having identical programs for both groups, but by having programs aimed at integration that acknowledge the differing starting points as well as the common goals.
- The perception of a governmental ability to manage the arrivals of refugees could increase – allowing better explanation of the reasons for which managing the arrival of asylum seekers is a different matter.
- By extending their migration/asylum networks to regions of origin and transit, governments improve the quality of the information on which decision-taking in individual cases is centered.
- Resettlement creates a direct rapport between destination state and refugee at the earliest stage of the migration process. It allows states to deliver authentic information directly to the refugees, compared to the inaccurate and profit-driven accounts of human smugglers.

However, a whole series of questions remain open for the EU Member States as they grapple with the issue of resettlement. A number of these have been raised in this report, focusing primarily on the connection between refugees (and immigrants more broadly) and the welfare state; on the role of NGOs in the process of resettlement – both in policy-making and in implementation at the selection and at the integration ends of the program; and on selection processes as such.

Recommendations coming out of this report and the discussion process leading to it include:

- European states should reconsider their underlying aversion to adding criteria beyond the refugee protection need to the selection process for resettling refugees. While protection of the particularly vulnerable is very important, valuable, and should not be cast aside, if numbers for resettlement are to rise, and if resettlement programs are to be successful, then the resettling communities of refugees need to be full communities.
- Accommodate refugees who do not face extraordinary challenges or special needs in broader programs across the EU. The focus on the combination of small numbers of admissions and the most vulnerable leads to resource-intensive integration programs, including a significant level of medical and psycho-social assistance in the European context. This situation is not necessarily conducive to the acceptance of the refugee resettlement programs in EU states. Accommodating people without such special needs could mean that, in actual numbers, at least as many vulnerable people would be protected as is currently the case, but they would form a smaller percentage of larger caseloads.
- The US should focus more strongly on the protection needs of refugees (both vulnerable cases and other refugees) and shift away from historical but increasingly anachronistic caseloads, thereby potentially helping to reinvigorate the resettlement program.
- Register refugees prior to the start of a resettlement program. Security and fraud concerns are very difficult to overcome. However, the process leading to resettlement, of long-term stay in a refugee camp or a non-protective situation in a country of first asylum, followed by intense pre-selection scrutiny by security services, and scrutiny on arrival, make resettlement one of the least likely routes for terrorists. Registration of refugees prior to the start of a resettlement program can provide a useful database of information as preparation for resettlement. Avoiding the “family tie” ticket to the resettlement window could also close off one avenue for relatively easy fraudulent behaviour.

As both the US and the European Union think deeply about the reasons for conducting a resettlement program and the benefits such a program can bring, one other challenge needs to be borne in mind. That is the challenge, in the face of terrorism, and in the face of apparent abuse of the benefits of a generous protection system, of maintaining the humanitarian character of liberal- and social-democratic societies, as they have characterised themselves for centuries. The challenges thrown up by traditional modes of refugee protection might best be met with greater emphasis on protection and durable solutions for those in need. In order to face the different challenges together, the US and European Union Member States, together with others involved in refugee protection, might consider some common approaches.

- UNHCR could assume the role of an international pre-selection agency for one set of resettled refugees, while states add further criteria for non-UNHCR referral programs, e.g., referrals from NGOs (perhaps under UNHCR guidance, but without direct UNHCR involvement). For UNHCR referrals there would be a single set of selection criteria accepted by all states, while for individual state programs there could be other layers of criteria. This would presuppose that states invest considerable resources in the resettlement work of both UNHCR and the NGOs.
- The resettlement countries could identify joint benchmarks and standards for resettlement needs, thereby lending greater credence and legitimacy to resettlement programs, whatever their mix of utilitarian and humanitarian motives.
- The definition of a UNHCR mandate refugee could be adopted as a common threshold criterion for a basic protection need. This would provide a minimum common denominator of global relevance, while not precluding the formulation of additional criteria along domestic preferences. It would also acknowledge the fact that, as UNHCR has indicated, current resettlement needs are most often not related to a pressing and immediate protection need as such (except in emergency cases), but to the fact that protection in the refugee’s current

situation is not durable in nature, and that no other durable solution (i.e., return or local integration) exists as a likely avenue in the near future.

In considering some level of joint approach, the US and EU policy-makers involved should recall that:

- This would permit the development of relationships of solidarity with transit states, including (until capacity has been increased) the candidate states in central and Eastern Europe and the states of North Africa.
- It would permit the strengthening of the block of protecting developed states, allowing for stronger relations on the protection issue, including the development of holistic approaches to protection, and thereby greater widespread solidarity in times where such is necessary.

Our chief conclusions to this project are that more research is needed into the details of resettlement programs and how these could most suitably be developed. The time is ripe for the type of transatlantic exchange on which we have embarked to be taken to greater depth, examining the viability of resettlement as a tool of refugee protection, a method of burden sharing, and a durable solution for a limited number of refugees.

ENDNOTES

¹ Gregor Noll, Jessica Fagerlund and Fabrice Liebaut, *Study on the Feasibility of Processing Asylum Claims Outside the EU Against the Background of the Common European Asylum System and the Goal of a Common Asylum Procedure*, European Commission 2003, available at:

http://europa.eu.int/comm/justice_home/doc_centre/asylum/common/asylumstudy_dchr_2002_en.pdf. Note that in the Canadian system, the resettlement applications used to be processed precisely through applying directly to the Embassy. Since new legislation was introduced in 2002, this is no longer the case, for all candidates, as UNHCR has become a designated referral agency.

² All of the resettlement programs are described in their essential details in the UNHCR *Resettlement Handbook* country chapters, which can also be found, updated, on the UNHCR website: www.unhcr.ch. Each state with a resettlement program also offers descriptions of the latest elements on their websites, e.g., www.state.gov for the US program; www.cic.gc.ca for the Canadian program. The ten traditional countries of resettlement are: US, Canada, Australia, New Zealand, Norway, Sweden, Finland, Denmark, the Netherlands and Switzerland. Emerging countries of resettlement are: Ireland, Iceland, Spain, Chile, Argentina, Brazil, Benin and Burkina Faso. The UK is also starting a 500-place resettlement program. The numbers of places in the emerging countries have been quite low – mostly below twenty per year – or ad hoc, e.g., Spain took 17 resettling refugees in 2001, but has taken none since that time.

³ Canada re-issued its request for a Memorandum of Understanding between the US and itself of the two countries being “Safe Third Countries” between which asylum seekers can be returned if they apply for asylum at the land border between them, having traversed either Canada or the US, respectively. For Canada this is part of the more restrictive measures it wants to apply to asylum seekers, following some of the EU methods and terminology. For the US it would potentially mean the return of a few thousand-asylum seekers each year, as the movement is through the US to Canada rather than vice versa. The US agreed to re-open negotiations and agreed to a text, though at the time of writing it was neither formally signed nor ratified, in return for the other 29 issues in the “Smart Border” package of measures post 9/11. The other measures are not related directly to asylum seekers or refugees.

⁴ By late spring 2003 it was looking likely that the FY2003 numbers would be similar to those of FY2002 at around 25,000.

⁵ The system of INS “circuit rides” under which INS staff in the regions go out on missions to interview candidates for resettlement is to be replaced by a new Refugee Corps of staff who will be based in the US and go out from there to conduct selection interviews. The decision to change the bureaucratic system was made in late 2002, shortly before the resignation of Commissioner Jim Zigler and the absorption of the INS into the new Department of Homeland Security (effective 1 March 2003).

⁶ Article in *The Times of London*, 7 October 2002;

⁷ We refer here specifically to the 500-place resettlement program, and not to the papers leaked in February and March 2003, in which the UK government set out a new vision for refugees which would use resettlement in a markedly different way than that described either in this paper or in its own announcements for a 500-person quota program. In these “Visions” papers, resettlement is referred to rather as the transportation of accepted refugees for protection to the UK from transit or regional processing centers, under a system that would see the asylum procedures within the UK shut down. This does not correspond to our understanding of the term “resettlement.”

⁸ UNHCR, *Statistical Yearbook 2001. Refugees, Asylum-seekers and Other Persons of Concern – Trends in Displacement, Protection and Solutions*, Geneva, October 2002, p. 62.

⁹ UNHCR, *supra*, p. 145.

¹⁰ The Netherlands has a program with a quota equal to that of Denmark, but since 1999 has received few “invited refugees,” as they call resettlement cases. Ireland established a quota for 10 cases in 1999 (receiving 50 or more people each year) and Spain did some ad hoc resettlement in 1999-2001, receiving about two dozen refugees through that route. Norway, outside the EU, has received more resettling refugees than any EU Member State in the last decades.

¹¹ However, if one looks at the ratio of the total of resettled refugees and asylum seekers per inhabitant, the US is clearly bypassed by a number of EU Member States (US: 1 per 1,879; Canada: 1 per 578; Sweden: 1 per 326; the Netherlands: 1 per 479; Finland: 1 per 1,907; UK: 1 per 646).

¹² Opcit. On the other hand, when these governments are held accountable for their participation in non-admission policies blocking the arrival of asylum seekers, they tend to refer to the resettlement system as an alternative. The mere existence of resettlement programs can, it seems, be abused as a fig leaf as well.

¹³ At about 26,000 arrivals, the US program still saw more than seven times the number of arrivals of all the European programs combined.

¹⁴ The proportion of contingency places is remarkable and unprecedented in earlier years, as noted above. Hence we refer to this as a reduction.

¹⁵ B. Frelick, "Rethinking US Refugee Admissions: Quantity and Quality," in US Committee for Refugees, *World Refugee Survey 2002*.

¹⁶ UNHCR, supra note 8, p. 60. The increase in Dutch numbers reported in the *Yearbook* is merely on paper and does not correspond to reality. The Netherlands halted the implementation of resettlement in 1999. The accumulated yearly quota of 500 persons remains unfilled to this date.

¹⁷ In the Swedish resettlement system, the Parliament fixes a budget for the program on a per capita refugee-basis. While that budget is fixed for 1,840 refugees annually, the government is permitted to select a lower number and to use the additional funds for further programs and projects related to refugee protection involving resettlement, but not involving arrival in Sweden.

¹⁸ US Department of Health and Human Services – Office of Refugee Resettlement, Refugee Resettlement Program, "Report to the Congress FY 2000," US Government Printing Office, Washington 2002, p. 3.

¹⁹ This sense is described by Michael Walzer in his seminal work *Spheres of Justice: a defense of Pluralism and Equality* (Basic Books, 1983).

²⁰ A. Hans and A. Suhrke: "Responsibility Sharing", in J. Hathaway (ed.), *Reconceiving International Refugee Law*, Martinus Nijhoff Publishers, The Hague 1997.

²¹ However, several European States are starting to talk more openly about the need to focus on integration-related criteria, not only in the interest of the receiving State and society, but also in the interest of the refugee, who will not have a successful future if he or she really cannot integrate.

²² The abortive attempts of EU Member States to bring about a stable and reliable system of refugee burden-sharing during the Balkan crises in the 1990s illustrate this point, as do the difficult discussions on all of the asylum-related proposed directives since the implementation of the Amsterdam Treaty.

²³ The Humanitarian Evacuation program for *temporary protection* (and not resettlement) of Kosovars from Macedonia in 1999 might be said to be an example of how EU Member States could, under some circumstances, lean more towards a mixing of foreign and refugee policies than has otherwise ever been the case.

²⁴ US Depts. of State, Justice, and Health & Human Services (released by Dept. of State Bureau of Population, Refugees and Migration), op cit. There are two other priority categories – P4 and P5 – for wider family members, but these are not currently in use.

²⁵ The Lautenberg Amendment states that, in their application for resettlement to the US, residents of the Baltic states and FSU who are members of particular categories (Jews, Evangelicals, and certain members of the Ukrainian Catholic or Ukrainian Orthodox churches) and have family members in the US need only show a "credible basis of concern" that they would face persecution.

²⁶ The US is a signatory to the 1967 Protocol, but not to the 1951 Convention.

²⁷ It should be noted that Spain's performance is somewhat uneven. There has not been any resettlement for some two years now. The last caseload consisted of 17 Afghans resettled from Uzbekistan.

²⁸ It should be recalled, though, that European resettlement states operate with a numerical limitation of medical cases, usually at 10 or 20 per year.

²⁹ This "match-making" can, however, go wrong. If, for example, a candidate is put forward to the Netherlands on the basis of a family relationship with someone already there, but is rejected, it becomes difficult for UNHCR to find another state willing to resettle that person, even if they do fulfill the second state's criteria – because there is always the question of why the candidate did not go to the Netherlands (in this example) and whether they will still try to move there.

³⁰ See, e.g., Michael Casasola, 'Current Trends and New Challenges for Canada's Resettlement Program' in *Refuge*, 19 (4) February 2001, pp. 76-83 who notes that in 1999, UNHCR submitted 114 emergency cases for resettlement in total worldwide. In the April 2002 paper "Strengthening and expanding resettlement today: dilemmas, challenges and opportunities", UNHCR states that

“Resettlement serves three **equally** important functions. *First*, it is a tool to provide international protection and meet the special needs of individual refugees whose life, liberty, safety, health or other fundamental rights are at risk in the country where they have sought refuge. *Second*, it is a durable solution for larger numbers or groups of refugees, alongside the other durable solutions of voluntary repatriation and local integration. *Third*, it can be a tangible expression of international solidarity and a responsibility-sharing mechanism, allowing States to help share each others burdens, and reduce problems impacting the country of first asylum.”

Paper for the Fourth meeting of the Second Track of the Global Consultations on International Protection, 25 April 2002, EC/GC/02/7, to be found online at <http://www.unhcr.ch/cgi-bin/texis/vtx/home/opendoc.pdf?tbl=PROTECTION&page=PROTECT&id=3cd15428a>. (Emphasis added to the word “equally”).

³¹ The Office of Refugee Resettlement reported that in 2000, refugees found employment at a *higher* rate than the general population of the US. For refugees who had arrived in 2000, there was, during their first year in the country, an employment rate of 63.8% (68.6% for males and 58.4% for females: those considered in the count are over the age of 16). For refugees who had arrived in 1997, the employment rate in 2000 was 72 percent. Overall labour force participation, adding job seekers to those people with jobs, was 67.5 percent for refugees who had arrived in 2000, and 71.5% for refugees who had arrived in 1997. The unemployment rate for refugees who had been in the country for a year or less was therefore just 5.4 percent. (Office of Refugee Resettlement “Annual Report to Congress” (2000) http://www.acf.hhs.gov/programs/orr/policy/arc_00.htm).

³² Fix, Michael and Jeffrey S. Passel, *Trends in Noncitizen’ and Citizens’ Use of Public Benefits Following Welfare Reform: 1994-1997* Urban Institute, (March 1999) report that refugees remain among the major users of welfare following 1996 reforms. Refugees account for eight percent of the immigrant-headed households in the US, but for 21 percent of immigrant welfare use in 1997. In 1994, 33.3 percent of refugees were welfare recipients in the US: by 1997, after welfare reform which imposed new restrictions on immigrants’ access to public benefits, their level of welfare use was down to 24.5 percent of all refugees.

³³ Sometimes there are “in kind” benefits, such as accommodation in a refugee reception facility rather than income support, for example, or access to a special healthcare service for refugees.

³⁴ National Integration Office, *Bounds of Security: The Reception of Resettled Refugees in Sweden* (Sweden, 2001).

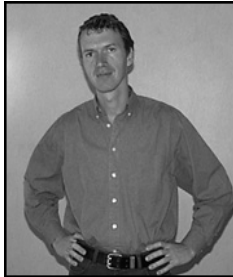
³⁵ In separate research, Joanne van Selm experienced this situation first-hand with Iranian refugees resettling through Vienna to California. Many people working with refugees in the US recount the same phenomenon.

³⁶ http://www.refugees.org/world/articles/chronology_rr01_02.cfm. The inclusion of Kosovars in the resettlement program came only after an outcry when it was suggested that they be sheltered in Guantanamo Bay in the first instance. The Guantanamo option was not used.

³⁷ In the Netherlands a resettled or “invited” refugee is given a temporary status on arrival, but the regulations are clear that the conversion to a permanent residence permit after three years of year-on-year renewal will be automatic. Individual refugees do express concern at the seeming short-term nature of their status on arrival, as they do not necessarily know about the regulations.

³⁸ Director of the Office for Refugee Resettlement, Dr. Van Hanh Nguyen, to the annual resettlement consultations, held in Washington, DC in June 2002.

About the Authors



Gregor Noll is an Assistant Professor of International Law at the Faculty of Law, Lund University, Sweden. Until September 2002, he served as Research Director and Deputy Director General at the Danish Center for Human Rights, Copenhagen, Denmark. He continues to direct the Refugee Research Program, based at the Danish Center for Human Rights within the framework of a collaborative agreement with the United Nations High Commissioner for Refugees. In 2002, Dr. Noll led the research on the European Commission's feasibility study on processing asylum claims outside the European Union.

Additionally, Dr. Noll is the Editor-in-Chief of the Nordic Journal of International Law and a board member of the Journal of Refugee Studies. He has taught international law, human rights law and refugee law at graduate and postgraduate level. In 2000, he published his doctoral thesis on the compliance of the asylum acquis with norms of international law. Dr. Noll has also authored a number of articles, inter alia on the security concept in international law, the problem of gender and persecution, democracy theory and refugee law as well as the return of rejected asylum seekers.

His latest book *New Asylum Countries* co-edited with Prof. Jens Vedsted-Hansen and Prof. Rosemary Byrne deals with the effects of the EU enlargement process on the asylum systems in the new EU Member States.



Joanne van Selm is a Senior Policy Analyst at the Migration Policy Institute where she focuses on refugee protection and international humanitarian response and migration management. She is also a Senior Researcher at the University of Amsterdam's Institute of Ethnic and Migration Studies. Dr. van Selm has published widely on temporary protection, European asylum policy, and other refugee- and migration-related topics. She has recently completed the European Commission's feasibility study on resettlement programs.

Her publications include: *Refugee Protection in Europe: Lessons of the Yugoslav Crisis*; the edited volume, *Kosovo's Refugees in the European Union*; "Refugee Protection in the EU and US After 9/11" in the volume *Refugee Protection, Human Rights and the UNHCR*; and "Perceptions of Afghan Refugees" in the volume *Global Responses to Terrorism: September 11, War in Afghanistan and Beyond*.

She is the Co-Editor of the Journal of Refugee Studies, and President of the International Association for the Study of Forced Migration, for which she developed and chaired the Program of the 7th Bi-annual Conference in January 2001.

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**Is Resettlement a Viable Option for Managing Refugee Arrivals?
A comparison of resettlement policies and prospects in the EU and the US**

Migration Policy Institute, Washington, DC

October 7, 2002

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In October 2003, the United Nations and the Migration Policy Institute released ***No Refuge: The Challenge of Internal Displacement***. Commissioned by the Internal Displacement Unit of the UN Office of Humanitarian Affairs, the book examines current actions to assist and protect internally displaced people—and the obstacles that continue to reduce the effectiveness of those efforts. Moreover, it gives a perspective on the emergence of internal displacement on the international agenda and demonstrates that substantial progress has been made diplomatically and legally.

In November 2003, MPI in conjunction with the Carnegie Endowment for International Peace published ***NAFTA's Promise and Reality: Lessons From Mexico for the Hemisphere***. This report assesses the North American Free Trade Agreement's effects on the quality of life in the region, particularly Mexico, at its ten-year anniversary by examining NAFTA's impact on migration, labor and the environment. Visit our website at www.migrationpolicy.org for a PDF version of the report, or contact us at (202) 266-1940 to order a copy of the report.

The Migration Policy Institute recently completed for the European Commission a study on ***The Feasibility of setting up Resettlement schemes in EU Member States or at EU level, against the background of the Common European Asylum System and the goal of a Common Asylum Procedure***. The report is now available on the web at www.europa.eu.int

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