



**CWS**

# The Future of Refugee Resettlement & Complementary Pathways:

Strengthening Sustainable and Strategic Humanitarian Solutions for Refugees



PHOTO: SHANE NELSON PHOTO

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### **About Church World Service**

*We are a faith-based organization transforming communities around the globe through just and sustainable responses to hunger, poverty, displacement and disaster.*

We have one goal: building a world where there is enough for all. After seven decades moving towards this goal, CWS has the faith and experience to know it's possible. Working around the world, we've seen gardens flourishing in barren land. Migrants and refugees finding home even after every door has been closed. Houses standing strong against nature's worst disasters. That's the power of your compassion at work when it links to human resilience.

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# I. Introduction

One of three durable solutions traditionally available to refugees, third-country resettlement<sup>1</sup> is an important part of the international commitment to refugee protection and support. This commitment has been reaffirmed in recent years in the 2018 Global Compact on Refugees,<sup>2</sup> the first-ever 2019 Global Refugee Forum,<sup>3</sup> and UNHCR's Three-Year Strategy (2019 – 2021) on Resettlement and Complementary Pathways (3YS).<sup>4</sup> Yet many of the estimated 1.4 million refugees in need of resettlement as a durable solution in 2020<sup>5</sup> are unlikely to be resettled. In 2019, only 63,727 (4.5%) of the total 1,428,011 refugees in need of resettlement were resettled.<sup>6</sup>

A wide range of challenges confront the refugee resettlement system, from growing numbers of refugees in need of long-term solutions, to funding deficits, to increasingly restrictive immigration policies of resettlement countries. Resettlement processes have become, in many cases, so administrative and bureaucratic that even refugees selected and approved for resettlement must wait months or years in precarious conditions to be resettled.

The global COVID-19 pandemic has deepened these challenges and will likely continue to constrain opportunities for refugees to secure meaningful protection and durable solutions. Within the first weeks of pandemic-related travel restrictions implemented by UNHCR and International Organization for Migration (IOM),<sup>7</sup> thousands of refugees approved and booked for resettlement travel were unable to depart, and tens of thousands more remained stuck at various stages of resettlement processing. Though pragmatic, this decision was made without significant consultation with resettlement states or civil society partners and resulted in ambiguity about how and when resettlement operations might resume, who has the authority to make such decisions, and what will happen to those resettlement cases already in process.

*What is next for refugee resettlement given these unprecedented challenges?*

This paper seeks to understand contemporary refugee resettlement by analyzing its history, evaluating the assumptions underlying current practice, and exploring opportunities to strengthen the effectiveness and efficiency of refugee resettlement in three key areas: the identification of refugees for resettlement, the international processing of refugees by resettlement countries, and the promotion of alternative migration opportunities, or “complementary pathways,” to provide meaningful protection to refugees in need of resettlement.

## Context

The modern refugee resettlement system is rooted in the 1951 Refugee Convention and subsequent national, regional, and international policy, law, and jurisprudence. While refugees are most easily defined by the cause of their flight from their country of origin (a “well-founded fear of persecution”), the *effect* of this flight is also key to understanding the international response to refugees: in an international system of sovereign states, refugees experience a ruptured relationship with their own country, therefore requiring the legal protection of another.<sup>8</sup>

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1. The UN High Commissioner for Refugees (UNHCR) defines refugee resettlement as “the transfer of refugees from an asylum country to another State that has agreed to admit them and ultimately grant them permanent settlement.” UNHCR (n.d.), “Resettlement”, <https://www.unhcr.org/resettlement.html>.
  2. United Nations General Assembly (2018), Global Compact on Refugees, <https://www.unhcr.org/5c658aed4.pdf>.
  3. UNHCR (2019), “Summary of the first Global Refugee Forum by the co-conveners,” <https://www.unhcr.org/5dfa70e24>. Co-authored by UNHCR and the 2019 Global Refugee Forum co-conveners: the governments of Costa Rica, Ethiopia, Germany, Pakistan and Turkey.
  4. UNHCR (2019), “The Three-Year Strategy (2019 – 2021) on Resettlement and Complementary Pathways,” <https://www.unhcr.org/5d15db254.pdf>.
  5. UNHCR (2019), “Resettlement at a Glance (January – December 2019),” <https://www.unhcr.org/protection/resettlement/5e31448a4/resettlement-fact-sheet-2019.html>.
  6. Ibid. See also UNHCR (2019), “Resettlement Data: Total Submissions and Departures in the Last Five Years,” <https://www.unhcr.org/resettlement-data.html> which notes that less than 8% of the world’s 1.2 million refugees in need of resettlement were referred for resettlement consideration, and less than 6% were resettled, in 2018.
  7. UN News (2020), “COVID-19: Agencies temporarily suspend refugee resettlement travel,” <https://news.un.org/en/story/2020/03/1059602>.
  8. The definition of a refugee is based on an underlying assumption that “a bond of trust, loyalty, protection, and assistance between the citizen and the state constitutes the normal basis of society” and “in the case of the refugee, this bond has been severed.” Andrew Shacknove (1985), Who Is a Refugee? (Ethics, Vol. 95, No. 2, pages 274-284).

The three “durable solutions” aim to solve this fundamental problem by restoring the refugee’s bond with a protective state: through *repatriation* (returning to one’s country of origin, when possible), through local integration (gaining the formal and lasting protection of the country of asylum), or through resettlement (the relocation to another country willing to provide long-term protection).

For refugees, resettlement provides an opportunity to reestablish their lives in safety and dignity. Resettlement countries benefit from refugees’ economic and cultural contributions and can use refugee resettlement as a diplomatic tool to demonstrate burden-sharing and promote political and humanitarian objectives. Resettlement has also been thought to serve as a “strategic” tool by unlocking other durable solutions and serving as a statement of solidarity by the international community to countries of asylum hosting increasing numbers of refugees.<sup>9</sup>

## “ Despite historic and contemporary commitment, refugee resettlement is facing critical obstacles. ”

Throughout the last nearly 70 years, the international community has consistently affirmed its commitment to the international refugee regime and to refugee resettlement. Resettlement countries have adapted and strengthened their programs to meet the needs of changing refugee populations and evolving geopolitics. UNHCR has developed and availed extensive technical expertise to governments to ensure that refugees are registered, supported, and protected – and identified for resettlement when appropriate. IOM has built significant capacity to manage many logistical aspects of refugee protection and resettlement. Civil society and non-governmental organizations have bolstered the system by providing direct services, fostering refugee integration, representing community-based interests, and advocating for just and effective refugee protection and resettlement policy.

Perhaps the greatest recent demonstration of this global commitment can be seen in the 2018 adoption of the Global Compact on Refugees,<sup>10</sup> which followed the first-ever Global Summit on Refugees and Migrants convened by the UN in 2016.<sup>11</sup> Together with the Global Compact for Safe, Orderly and Regular Migration, the Global Compact on Refugees represents significant international commitment, not only to refugees and migrants, but also to safeguarding and improving the global refugee and migration regimes. The Compacts also recognize the limits of the existing international frameworks and aim to address the world’s sizable political changes and 21<sup>st</sup> century challenges.<sup>13</sup> The Global Compact on Refugees and its Comprehensive Refugee Response Framework (CRRF) affirm international commitment to resettlement in particular, noting “expanded third-country solutions” as one of four key objectives for the future.<sup>14</sup> Finally, the Global Refugee Forum provides a new platform for international cooperation, information sharing, and driving forward the objectives and commitments made in the Global Compact on Refugees. In December 2019, over 3,000 representatives of governments, international organizations, civil society organizations, private companies, and foundations attended the first Global Refugee Forum, as well as refugees themselves.<sup>15</sup>

Despite these historic and contemporary commitments, refugee resettlement is facing critical obstacles. While the number of refugees identified by UNHCR as needing resettlement increased from 690,000 in 2014 to 1.4 million in 2021, the availability of resettlement declined.<sup>16</sup> In 2019, due to both increasing resettlement needs and decreasing resettlement availability, only 63,727 (4.5%) of the total

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9. See for example UNHCR (2010), “Position Paper on the Strategic Use of Resettlement,” <https://www.unhcr.org/4fbcfd739.pdf>. However, there is mixed evidence that resettlement has achieved these strategic functions as effectively as it could. See for example Joanne van Selm (2014), “Refugee Resettlement” in Fiddian-Qasbiyeh, Elena, et. al., *The Oxford Handbook of Refugee and Forced Migration Studies* (Oxford University Press), pages 512-524.

10. United Nations General Assembly (2018), Global Compact on Refugees.

11. UNHCR (n.d.), “New York Declaration for Refugees and Migrants,” <https://www.unhcr.org/new-york-declaration-for-refugees-and-migrants.html>.

12. United Nations General Assembly (2018), Global Compact for Safe, Orderly and Regular Migration, [https://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/73/195](https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/73/195).

13. See Elizabeth Ferris and Katharine Donato (2020), *Refugees, Migration and Global Governance* (Routledge) for a thorough analysis of the context in which the Global Compacts were developed.

14. The three additional objectives are: (1) Ease the pressures on host countries and communities; (2) Enhance refugee self-reliance; and (3) Support conditions in countries of origin for return in safety and dignity. See UNHCR (n.d.), “The Comprehensive Refugee Response Framework” <https://www.unhcr.org/new-york-declaration-for-refugees-and-migrants.html#CRRF>.

15. UNHCR (2019), “Summary of the first Global Refugee Forum by the co-conveners.”

16. See UNHCR (2018), “Global Resettlement Infographic,” <https://www.unhcr.org/protection/resettlement/5b28c7c04/global-resettlement-infographic.html> and UNHCR (2020), Projected Global Resettlement Needs 2021, <https://www.unhcr.org/protection/resettlement/5ef34bfb7/projected-global-resettlement-needs-2021.html>.

number of refugees identified as needing resettlement were resettled.<sup>17</sup> As well, the number of refugees referred for resettlement by UNHCR decreased by 50% from 2016 to 2017, from 163,200 to 75,200.<sup>18</sup> Referrals submitted in 2018 and 2019 remained low relative to increasing need, at approximately 81,000 per year.<sup>19</sup> Though statistics are not yet available, it is likely that this downward trend will continue in 2020 and be exacerbated by the COVID-19 pandemic.

The reasons for this “resettlement gap” are many. The volume of refugees requiring protection and support surpasses the practical capacity of existing interventions to address, including resettlement; there are more refugees in more places around the world than at any time since 1951. Resettlement countries’ refugee processing policies and procedures are bureaucratic and vary widely, often requiring significant amounts of time, information, and resources from both resettlement countries and UNHCR. At the same time, UNHCR’s work is frequently constrained by limited funding, challenging political dynamics in countries of asylum and resettlement, and the immense logistical undertaking required to operate in humanitarian contexts. Despite its strength and continued importance, the 1951<sup>20</sup> Convention’s definition of a refugee is narrow and does not account for all of the drivers of forced migration today, such as climate change or generalized violence.<sup>21</sup> Regional agreements and domestic laws have broadened the definition in some areas, but the lack of global consensus around even the legal definition of a refugee challenges the cooperation required for effective refugee resettlement initiatives at the global level. Politically, refugee and migration issues once “marginal to the great issues of war and peace” have been “catapulted into the center ring of the global diplomatic stage,”<sup>22</sup> and even resettlement programs with historic broad-based political support have faced resistance, as well as the spread of xenophobic and nationalistic policies. The significant reduction of the United States Refugee Admissions Program (USRAP) in 2017, in particular, caused a major shock to the international resettlement system and global resettlement numbers, as the US had previously resettled more refugees per year than all other countries combined.<sup>23</sup> As well, despite increases in the number of refugees resettled to European Union (EU) member states since 2015, the EU has struggled to realize established resettlement targets.<sup>24</sup>

Approaches such as labor migration, family reunification, education and employment-based programs, and private sponsorship are being explored anew. These and other “complementary pathways” have been prioritized, alongside resettlement initiatives in UNHCR’s 2019 – 2021 3YS, which sets ambitious goals to expand both resettlement and complementary pathways by 2021 and into the future.<sup>25</sup> Technical assistance is increasingly being provided to countries considering developing or strengthening formal resettlement programs.<sup>26</sup> However, many initiatives remain in nascent stages or lack sustainable funding and institutional support.

Many fundamental questions about resettlement and its goals are being revisited in light of these challenges. What is, and should be, the purpose of resettlement? Who are, and should, be resettled? Why do, and should, countries resettle? How? When? How do, and should, complementary pathways relate?

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17. Ibid.

18. Ibid. Several reasons for this decline in resettlement availability will be explored further in this paper.

19. See UNHCR (2019), “Resettlement Data: Total Submissions and Departures in the Last Five Years.”

20. UNHCR estimates that there are 25.9 million refugees worldwide, of which 20.4 million fall under UNHCR’s mandate and 5.5 million Palestinian refugees fall under the mandate of the United Nations Relief and World Agency (UNRWA). This is in addition to an estimated 3.5 million asylum-seekers (persons seeking recognition as refugees) globally. UNHCR (n.d.), “Figures at a Glance,” <https://www.unhcr.org/figures-at-a-glance.html>.

21. Exploring the limitations of the contemporary refugee system, Alexander Betts and Paul Collier (2017) further reflect on the original purpose of UNHCR, noting the political positions from which negotiating countries approached the question of refugee response and the short-term design of the organization at its founding. *Refugee: Rethinking Refugee Policy in a Changing World* (Oxford University Press).

22. Ferris and Donato (2020), *Refugees, Migration and Global Governance*, page 2.

23. For a history of annual resettlement objectives and actual arrivals to the United States, see Migration Policy Institute (n.d.), “US Annual Refugee Resettlement Ceilings and Number of Refugees Admitted, 1980 – Present,” <https://www.migrationpolicy.org/programs/data-hub/charts/us-annual-refugee-resettlement-ceilings-and-number-refugees-admitted-united>. For further context on the US’ historical importance, see van Selm (2014), “Refugee Resettlement” in Fiddian-Qasmiyeh, et. al., pages 512-524.

24. This includes resettlement from all locations to the EU as well as specific targets established for the resettlement of refugees from Turkey to the EU. See European Commission (2019), “Communication from the commission to the European Parliament, the European Council and the Council – Progress report on the Implementation of the European Agenda on Migration.”

25. See Section III of this paper, which explores complementary pathways in detail.

26. See for example the Resettlement and Integration Technical Assistance (RITA) project of the International Rescue Committee, <https://www.ritaresources.org> and the European Resettlement Network (ERN) <https://www.resettlement.eu/page/about-network>.

## Purpose & Methods

Though it is easy to be disoriented by the complex landscape of refugee resettlement, this tumult also presents opportunities for reform and improvement. Grounded in its experience and technical expertise in the operation of refugee resettlement, CWS seeks to contribute to the growing analysis and debate on the state of resettlement worldwide and its future.

Research on refugee resettlement has often concentrated on macro-level questions of *why resettlement happens* (such as the geopolitics driving global or particular national resettlement policies, the “strategic use of resettlement,” or the receptivity of host communities to resettled refugees); and micro-level questions of *what the results of resettlement are* (such as the integration and cultural experiences of refugee communities in resettlement countries, or of refugees’ experiences navigating selection processes).<sup>27</sup> Less has been written about the operation of the global resettlement system, how resettlement commitments are reached in practice, and the politics and assumptions underpinning its operation.<sup>28</sup>

This study aims to help close this gap by analyzing how resettlement happens and contextualizing three key areas of international refugee resettlement practice: the identification, access, and submission of refugees for resettlement consideration, the processing of refugees by resettlement states prior to their departure, and the promotion of complementary pathways. It describes how these aspects currently function and interrogates how they might function better by asking the following research questions:

*Which refugees are considered for resettlement? How? Why?*

*Which refugees are chosen to be resettled by resettlement countries? How? Why?*

*How do – and should – complementary pathways relate to resettlement? How? Why?*

*What assumptions underpin current resettlement practice in these areas?*

This analysis is informed by CWS’s observations and experiences as a key resettlement partner of the USRAP both overseas and in the United States.<sup>29</sup> It is also based on 23 semi-structured interviews with experts and partners from policy, academic, and practice-oriented perspectives<sup>30</sup> and is rooted in contemporary resettlement and forced migration literature. Of note, though CWS is particularly committed to strengthening resettlement to the United States and will continue to engage in discussions about the future of the USRAP, this study does not focus on any one resettlement program. Rather, it explores global resettlement practice in general in order to make recommendations relevant to all actors involved in contemporary resettlement operations. Finally, it is important to note that this discussion does not focus on the operation of asylum systems, which are the mechanisms through which individuals apply for refugee status after their arrival to a country. Though many resettlement countries may also provide asylum for qualified individuals, this discussion focuses on resettlement programs, or the transfer of refugees from an asylum country to another resettlement country.

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27. For recent resettlement-related literature reviews see Adèle Garnier, Kristin Bergtora Sandvik, and Liliana Lyra Jubilut (2018), “Introduction: Refugee Resettlement as Humanitarian Governance” in Adèle Garnier, Kristin Bergtora Sandvik and Liliana Lyra Jubilut, eds. (2018), *Refugee Resettlement: Power, Politics and Humanitarian Governance* (Berghahn), pages 1-27; and van Selm (2014), “Refugee Resettlement” in Fiddian-Qasmiyeh, et. al., pages 512-524. See also Alexander Betts (2017), *Resettlement: where’s the evidence, what’s the strategy?* (Forced Migration Review No. 54), <https://www.fmreview.org/sites/fmr/files/FMRdownloads/en/resettlement/betts.pdf>.

28. Betts (2017) notes that “the politics [of refugee resettlement] has rarely been examined: how does the ‘resettlement industry’ function, and what are the power relationships and interests that sustain existing practices, globally, nationally and locally?” and suggests examples of hypothesis that could be tested to evaluate many of the commonly proposed functions of resettlement. Garnier, Sandvik, and Jubilut (2018), in Garnier, Sandvik, and Jubilut, eds. (2018), pages 1-27, also note and seek to address this gap through their exploration of the politics of resettlement in several contexts.

29. Church World Service (CWS) is a global leader in international refugee protection and resettlement and has served refugees, displaced persons, and host communities since its founding in 1946. For decades it has operated the Resettlement Support Center (RSC Africa) in sub-Saharan Africa and provided Reception and Placement and other services to refugees upon their resettlement. For more information on key USRAP partners, see US Citizenship and Immigration Services (n.d.), “The United States Refugee Admissions Program (USRAP) Consultation and Worldwide Processing Priorities,” <https://www.uscis.gov/humanitarian/refugees-and-asylum/refugees/united-states-refugee-admissions-program-usrap-consultation-and-worldwide-processing-priorities>.

30. Interviews were held on a non-attribution basis. CWS retains a list of interviewees and interview notes.

# Theoretical Framework

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In exploring how resettlement operations in identification and access, international processing, and complementary pathways function and could be strengthened to meet contemporary challenges, it is first necessary to clarify CWS's position on the purpose of refugee resettlement itself. CWS sees resettlement as a life-saving and humanitarian program able to ensure refugees' fundamental human rights by providing a long-term bond of protection with the resettlement country. This approach, informed by CWS's allegiance to the humanitarian principles of humanity, neutrality, impartiality, and independence,<sup>31</sup> leads to the prioritization of refugees for resettlement according to humanitarian needs throughout resettlement operations. It also leads CWS to promote refugees' participation and authority within resettlement processing. Analysis and recommendations in this discussion will therefore be made with the goal of optimizing resettlement as a humanitarian program.

At the same time, CWS acknowledges the complex political, legal and practical dynamics of the international refugee regime, as well as the political nature of humanitarianism itself. Power and political interests may be difficult to identify but are inexorably linked to humanitarian interests, and refugee resettlement is no exception.<sup>33</sup> As Garnier, Sandvik, and Jubilut describe in their recent volume on refugee resettlement, "the implementation of refugee resettlement requires considerable political resources and near-constant mobilization of international and domestic advocates to persuade decision makers to deploy the instrument [resettlement], and negotiations are often required to settle the size and nature of resettlement contingents."<sup>34</sup> Therefore, while seeking to analyze resettlement's operation as a humanitarian program, this discussion also considers questions of power and authority within the aforementioned three areas of resettlement practice.

The following discussion is divided into three main sections: Resettlement Identification, Access and Submission; International Resettlement Processing; and Complementary Pathways. Complementary pathways are addressed separately (Section III) from the other aspects of resettlement (Sections I and II) in order to analyze each individually and better understand their ideal relationship for the future. The paper concludes by presenting cross-cutting themes and emerging opportunities for advancing humanitarian solutions for refugees.

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31. UN General Assembly resolutions 46/182 (1991) and 58/114 (2004) adopted these humanitarian principles.

32. Though a thorough exploration of the political history of humanitarianism is outside the scope of this paper, see for example Michael Barnett (2011) *Empire of humanity: a history of humanitarianism* (Cornell University Press); Michael Clarke and Brett Parris (2019) *Value the Humanitarian Principles: New Principles For a New Environment* (The Humanitarian Leader, Working Paper 001).

33. See Garnier, Sandvik, and Jubilut (2018), in Garnier, Sandvik, and Jubilut, eds. (2018), pages 1-27 for a more thorough exploration of resettlement as "humanitarian governance," referencing a wide body of literature on humanitarian management and governance and case studies from an international comparative perspective.

34. *Ibid.*, page 6.

## II. Resettlement Identification, Access, & Submission

*Which refugees are considered for resettlement? How? Why?*

This section explores the historical, contemporary, and proposed approaches to three important and interrelated parts of refugee resettlement processing: identification, access, and submission. For the purposes of this discussion:

**Identification** is defined as the *process of determining which categories of refugees are in need of resettlement* from among the millions of refugees around the world. **Access** is defined as the *process by which individuals and/or households are selected for resettlement consideration* from among identified refugee populations. (This is sometimes called “identification” at the local/operational level but is distinct from identification as defined here). **Submission** is defined as the *process by which selected individuals are submitted to a particular resettlement country* through resettlement referrals.



### History

Two dynamics relevant to current practice can be seen in the history of resettlement identification, access, and submission: first, the evolving authority of UNHCR vis-à-vis civil society; and second, the influence of geopolitics on the operation of these important functions.

From roughly the mid-1940s to the mid-1980s, the question of “who should be resettled” was straightforward; resettlement was the preferred durable solution for refugees displaced by large-scale conflicts worldwide as Cold War tensions incentivized mostly Western countries undertaking resettlement to readily accept refugees leaving Communist rule.<sup>35</sup> Perhaps most representative of this commitment was the resettlement of over 1.3 million Southeast Asian refugees to more than 15 countries between 1975 and 1995 through extensive global coordination, civil society advocacy, and several international conferences and agreements.<sup>36</sup>

Created in 1950,<sup>37</sup> part of UNHCR’s statutory mandate is to “provide international protection to refugees and [assist] governments in finding durable solutions for them.”<sup>38</sup> However, non-governmental organizations (NGOs) and other faith-based and secular civil society actors led most aspects of identification, access and submission to resettlement countries throughout these years. The International Catholic Migration Commission (ICMC), for example, was primarily responsible for these functions for refugees being considered for resettlement to the United States through its Orderly Departure Program in the 1970s and 1980s. Whereas

35. B.S. Chimni (2004), *From Resettlement to Involuntary Repatriation: Towards a Critical History of Durable Solutions to Refugee Problems* (Refugee Survey Quarterly, Vol. 23, No. 3).

36. UNHCR (2000), *State of the World’s Refugees*, pages 84 – 85.

37. UNHCR succeeded the non-permanent International Refugee Organisation (IRO), which was created in 1946 to address mass displacement in Europe following World War II and oversaw the resettlement of over 1 million refugees between 1946 and 1951.

38. UNHCR (2011), *Resettlement Handbook*, <https://www.unhcr.org/46f7c0ee2.pdf>, page 11. For a more detailed exploration of UNHCR’s history and role in global politics, see Gil Loescher (2001), *The UNHCR and World Politics: A Perilous Path* (Oxford University Press).

UNHCR led negotiations with the Vietnamese government and facilitated international cooperation, NGOs led identification, access and, submission of individual cases.<sup>39</sup> In another example of civil society leadership, The United States Committee for Refugees and Immigrants (USCRI) began to publish an annual World Refugee Survey Report designed to contribute to global policy discussions about resettlement prioritization, which served as an important tool for civil society and resettlement country planning and advocacy related to resettlement and refugee protection.<sup>40</sup> Civil society groups in resettlement countries also led new and innovative approaches, such as Canada's Private Sponsorship Program, which began in 1979.<sup>41</sup>

The preference for and approach to resettlement waned with changing geopolitics in the 1980s and early 1990s. Resettlement went from being the "only viable durable solution for approximately 1 in 20 of the world's 5 – 6 million refugees" in 1979 to the solution for only 1 in 400 refugees in 1993.<sup>42</sup> This was accompanied by a reprioritization of the three durable solutions, away from resettlement and toward voluntary repatriation and local integration.<sup>43</sup> Resettlement states' approaches to resettlement also changed. Despite resettling large numbers of Southeast Asian refugees, resettlement countries began to question the systems undergirding identification, access, and submission.<sup>44</sup> No longer willing to accommodate large numbers of refugees simply on the basis of their fleeing Communism or Cold War tensions, resettlement states increasingly looked to UNHCR to determine which refugee populations were in need of resettlement globally (identification), whom specifically should be selected for resettlement (access) and to whom/where should these refugees be resettled (submission)? The United States, for example, changed its policy in 1995 to "give priority to referrals submitted by UNHCR as opposed to prioritizing lists of specific groups of concern to the US that could access resettlement directly through one of the State Department's NGO partners."<sup>45</sup>

UNHCR, in turn, reaffirmed its commitment to resettlement throughout the 1990s. It commissioned a 1994 evaluation to examine its global resettlement policy,<sup>46</sup> formalized a consultation process between UNHCR and resettlement states through the Working Group on Resettlement (WGR) and Annual Tripartite Consultations on Resettlement (ATCR),<sup>47</sup> and developed and disseminated technical assistance and resettlement guidelines.<sup>48</sup> This commitment continues to the present day, with resettlement considered by UNHCR to be a "vital protection tool for refugees whose life, liberty or other fundamental human rights are at risk in the country where they initially sought protection."<sup>49</sup>

## Current Practice

The significant numbers of refugees in need of long-term protection makes understanding the current practice of identification, access, and submission particularly important. Together, these functions constitute the first step of resettlement processing and determine which of the world's millions of refugees will have the opportunity to be considered by resettlement countries.<sup>50</sup>

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39. Amy Slaughter (2017), How NGOs Have Helped Shape Resettlement (Forced Migration Review No. 54),

<https://www.fmreview.org/sites/fmr/files/FMRdownloads/en/resettlement/slaughter.pdf>.

40. See, for example, US Committee for Refugees (1977) World Refugee Survey Report, which also notes in its introduction, "The UNHCR could not have made such an accomplishment without the active cooperation of the numerous voluntary agencies who have worked for decades for the relief and rehabilitation of the world's refugees. While governmental aid to refugees frequently is contingent upon a complex set of foreign policy variables and national immigration regulations, the work of voluntary agencies is based solely on human needs." <https://refugees.org/wp-content/uploads/2019/02/1977-World-Refugee-Survey.pdf>, page 3.

41. Government of Canada (n.d.), "Guide to the Private Sponsorship of Refugees Program," <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/guide-private-sponsorship-refugees-program.html>. This program will be discussed further in Section III of this paper.

42. John Fredriksson and Christine Mougne (1994), Resettlement in the 1990s: A Review of Policy and Practice, <https://www.unhcr.org/3ae6bcfd4.pdf>.

43. UNHCR (2011), Resettlement Handbook.

44. The history of this evolving approach, and the role of Southeast Asian resettlement on changing approaches to resettlement, has been documented elsewhere, including: Margaret Piper AM, Paul Power and Graham Thom (2013), Refugee resettlement: 2012 and beyond, <https://www.refworld.org/docid/510faac32.html>. See also UNHCR (2011), Resettlement Handbook.

45. Slaughter (2017), How NGOs Have Helped Shape Resettlement, page 32.

46. Fredriksson and Mougne (1994), Resettlement in the 1990s: A Review of Policy and Practice.

47. See UNHCR (2019) The History of Resettlement, Celebrating 25 Years of the ATCR, <https://www.unhcr.org/protection/resettlement/5d1633657/history-resettlement-celebrating-25-years-atcr.html>, page 9, and UNHCR (2011), Resettlement Handbook, page 51.

48. The first UNHCR Resettlement Handbook was published in 1997.

49. UNHCR (2012), State of the World's Refugees (Oxford University Press), page 75.

50. Of note, this discussion focuses primarily on UNHCR submissions to resettlement countries, as UNHCR is the largest source of submissions. There are other processes by which resettlement countries receive submissions, such as sponsorship or direct applications made by refugees themselves, or referrals from NGO partners directly to resettlement states, which will be addressed later in this section.



**Identification** - the process of determining which refugee populations should be resettled from among the millions of refugees in need of a durable solution.

**Identification** is a process currently led annually by UNHCR. The results of this process are captured in the Global Resettlement Needs document produced annually and released and discussed at the ATRC.<sup>51</sup> The report uses standard methodology for gathering information from each UNHCR country office on resettlement needs, including analysis of data from the *proGres* database and community-based approaches such as participatory assessments and protection analyses. UNHCR also acknowledges estimating resettlement needs in operations with limited available data, and noted that all of these methods, including estimates, were used for the 2020 report.<sup>52</sup> The process of identification relies on assumptions regarding vulnerability that will be further explored when discussing access in the following section of this paper. However, UNHCR notes that each office completes the task of identification with input from other UNHCR services, such as community services and protection, with the objective of ensuring that resettlement is employed both as a protection tool and a durable solutions strategy. According to UNHCR's 2011 Resettlement Handbook, identification is “based on a refugee’s objective need for resettlement and not on their subjective *desire* for it,” and “should not be based on the desire of any specific actors, such as the host state, resettlement states, other partners, or UNHCR staff themselves.” Though NGOs and other UNHCR partners may be involved in identification, UNHCR policy notes that these partners must be “well managed and monitored [by UNHCR] to ensure transparent and consistent identification.”<sup>53</sup> UNHCR therefore not only leads the process of gathering information, but also certifies its legitimacy.

The Global Resettlement Needs report contains summaries of this data by country of origin, country of asylum, and region. It is the starting point for negotiating with resettlement states regarding annual resettlement quotas and targets. Though resettlement states use a variety of approaches to determine their annual resettlement figures, UNHCR's projected needs report paints a picture of the volume of refugees needing resettlement and illustrates the priorities of the organization relative to resettlement.

Many resettlement countries rely on this report as well as their own political interests to establish annual numeric resettlement objectives. These objectives, in turn, contribute to the identification process by driving UNHCR's internal goals for subsequent processing activities (including access and submission) and the corresponding staff modeling and budgetary requests that UNHCR makes, often to the same states committing to resettlement goals.



**Access** - the process by which individuals and/or households are selected for resettlement consideration from among identified refugee populations.

**Access** may also be called “identification” at the local, operational level. For the purposes of this discussion, however, “access” is used to distinguish this distinct step from the global identification process outlined above.

Two important processes must typically be completed in addition to determining access: registration and verification of the refugee’s claim. Registration occurs as soon after the refugee’s arrival to the country of asylum as possible, ideally within the first three months,<sup>54</sup> and involves the collection and recording of basic information about the refugee such as name, age, nationality, and family composition. Refugee Status Determination (RSD) occurs differently in each country context. Formal RSD processes are not a prerequisite for resettlement submission, however, most (though not all) individuals must be recognized as refugees by the country of asylum or UNHCR before being referred for resettlement.<sup>55</sup>

51. UNHCR (2020), Projected Global Resettlement Needs 2021.

52. UNHCR (2019), Projected Global Resettlement Needs 2020, <https://www.unhcr.org/protection/resettlement/5d1384047/projected-global-resettlement-needs-2020.html>, page 60.

53. UNHCR (2011), Resettlement Handbook, page 216.

54. Ibid., page 220.

55. For more information on the varying approaches to RSD and status verification, see Ibid., Chapter 3, “Refugee Status and Resettlement.”

Once registered and determined to qualify as a refugee, an individual or household may be considered for resettlement. The approaches by UNHCR and its partners vary in each operational location, however, four important aspects can be observed: first, the completion of additional screening activities; second, the interaction between resettlement quotas and access; third, the challenge of assessing resettlement needs; and fourth, the periodic use of group-based access.

First, access typically involves additional screening activities to better understand an individual's resettlement needs. Within registration activities are three levels of assessments (Level 1, 2, and 3) designed to gather more and more specific information, with Level 3 registration constituting a profile used to screen for appropriate durable solutions, including resettlement. Whereas the most basic registration process is undertaken immediately upon arrival, or as soon as possible, Level 3 registration often occurs later, due to both competing operational needs and the desire for other UNHCR units to be able to support refugees with particular protection or other concerns.

Second, access procedures are often driven and constrained by the annual resettlement targets or quotas determined by resettlement countries. Each UNHCR office is typically assigned a number of resettlement referrals it should submit for review annually on the basis of available global slots and that country's particular resettlement needs. The number of resettlement slots available to a particular operation often determine the volume and timeline of Level 3 assessments and other access activities, which feed that location's resettlement "pipeline."<sup>56</sup> This requires UNHCR to proceed with resettlement mindful of resettlement countries' numeric, legal, and practical limitations, in addition to its own capacity.

Third, in principle, access is designed to prioritize refugees with the most significant resettlement need.<sup>57</sup> In most locations, there are more refugees in need of resettlement than available resettlement slots. UNHCR therefore relies on particular resettlement submission categories to determine cases *most* in need of resettlement according to their individual situation and the risks they face in the country of asylum: Legal and/or Physical Protection Needs, Survivors of Violence and/or Torture, Medical Needs, Women and Girls at Risk, Family Reunification, Children and Adolescents at Risk, and Lack of Foreseeable Alternative Durable Solutions. The UNHCR Handbook contains instructions for identifying refugees who fit into these categories, thus justifying their individual access to resettlement. However, due to the variance in operational context, the availability of resettlement slots, and the breadth of the resettlement submission categories, it is common that refugees do not, in practice, gain access to resettlement according to their relative need.

Locally, Level 3 profiling may not occur until resettlement slots are available and may stop once a sufficient number of refugees have been determined to be deserving of access rather than continue to ensure that the refugees chosen truly represent the most vulnerable of the entire population. Some especially vulnerable asylum seekers may not be eligible for resettlement at the time Level 3 profiling takes place if they have not completed RSD and their protection concerns are not yet known. Globally, it is difficult to calibrate the nature, urgency, and implications of protection concerns across diverse contexts.

Finally, access may be determined on a group, rather than individual, basis. Typically within the designation of Lack of Foreseeable Alternative Durable Solutions, UNHCR may choose to determine that a group of refugees is unable to access repatriation or local integration and should be referred for resettlement en masse. Recent examples of such group resettlement initiatives include over 100,000 Bhutanese refugees in Nepal resettled since 2007,<sup>58</sup> and Congolese refugees in Africa's Great Lakes region. Some such group submissions have been used to express solidarity with countries of asylum and help

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56. For this discussion, pipeline is defined as the group of cases that are in the process of being considered for resettlement. In this context, the pipeline refers to cases at various stages of identification, access, and submission activities typically led by UNHCR. Resettlement countries can also be seen as having pipelines, which consist of all cases they have received and are considering for resettlement through overseas case processing activities to be discussed in Section II of this paper.

57. UNHCR guidelines state that refugees need resettlement "when they are at risk in their country of refuge or have particular needs or vulnerabilities as detailed [in the UNHCR resettlement handbook]. Refugees without immediate protection risks are also identified in need of resettlement if this durable solution has been determined to be the most appropriate solution for them as part of a comprehensive needs assessment." UNHCR (2011), Resettlement Handbook, page 245.

58. Deepesh Das Shrestha (2015), "Resettlement of Bhutanese refugees surpasses 100,000 mark," (UNHCR website, November 19, 2015), <https://www.unhcr.org/news/latest/2015/11/564dded46/resettlement-bhutanese-refugees-surpasses-100000-mark.html>.

resettlement achieve other strategic functions.<sup>59</sup> It is also common for group submissions to occur more quickly than individual referrals due to simplified procedures.

“ It is common that refugees to not, in practice, gain access to resettlement according to their relative need. ”

In addition to UNHCR, NGOs have also determined refugees' access to resettlement in some locations, such as through direct referrals to resettlement countries by NGO partners in Kenya,<sup>60</sup> identification and access activities for Afghan refugees in Pakistan,<sup>61</sup> and elsewhere. However, the main role that NGOs play in determining access to resettlement is in supporting UNHCR's staff capacity. NGOs such as RefugePoint, the ICMC, Danish Refugee Council (DRC) and CWS operate “deployment schemes” which provide auxiliary staff capacity to UNHCR and are often tasked with access-related activities such as Level 3 profiling. Though employed by NGOs, these staff work under the direction of UNHCR staff and are beholden to UNHCR operational guidance. Therefore, though the importance of this staff capacity in reaching UNHCR's resettlement goals is significant, it is uncommon for NGOs to conduct access activities independently of UNHCR.



**Submission** - the process by which selected individuals are submitted to a particular resettlement country through resettlement referrals.

**Submission** has many similar characteristics to access. UNHCR is responsible for the vast majority of resettlement submissions to resettlement states globally, with NGOs playing an important role supporting UNHCR capacity through deployment schemes. Quotas continue to drive resettlement submissions, as UNHCR's own numeric targets translate during this stage to the actual availability of resettlement slots by resettlement countries with their own unique legal and operational requirements.

Resettlement submissions are most often made to resettlement states in the form of Resettlement Registration Forms (RRFs). RRFs are prepared through a series of resettlement-specific interviews with the refugee and conducted by a skilled UNHCR or NGO-deployed staff person in coordination with other UNHCR operational units such as protection, community services, and health. A complete referral must include an explanation of the refugees' family composition and biographic information, evidence of the valid refugee claim, justification of the refugee's need for resettlement, and exploration of any legal barriers or questions that may arise. In most submissions, biometric information such as fingerprints, iris scans, and digital photographs are also provided. The RRF typically goes through several rounds of internal review at the local and regional levels before being approved and, ultimately, submitted to a resettlement country. In the context of group resettlement, countries may come to an agreement with UNHCR on a specific procedure for submitting members of that group, which may or may not require an RRF to be completed.

As with all other resettlement activities, many logistical barriers challenge submission. UNHCR may lack the staff capacity needed to conduct these detailed interviews. The timing of resettlement countries' selection missions and other in-field activities may overlap, stretching UNHCR's capacity to support processing activities. Security issues or other conflicts may also arise that prevent or challenge UNHCR's resettlement work. Or, a lack of resettlement slots may mean that submissions targets are met early in the year, preventing submission of new – and perhaps more vulnerable – cases until new quotas are availed.

Some vulnerabilities that contribute to a refugee's resettlement needs may make the submission itself more challenging to complete. For example, cases with medical needs may require a Medical Assessment Form (MAF) which must be completed by a medical

59. Joanne van Selm (2004), The Strategic Use of Resettlement: Changing the Face of Protection? (Refuge, Vol. 22, No. 1, pages 39-48), <https://doi.org/10.25071/1920-7336.21316>.

60. Melonee Douglas, Rachel Levitan and Lucy Kimana (2017), Expanding the Role of NGOs in Resettlement, (Forced Migration Review No. 54), <https://www.fmreview.org/sites/fmr/files/FMRdownloads/en/resettlement/douglas-levitan-kiama.pdf> document HIAS and RefugePoint's direct submission of cases to the Canada and the United States as an example of a parallel access and submission program targeting populations living outside of camps in Kenya.

61. Slaughter (2017), How NGOs Have Helped Shape Resettlement.

doctor and can be difficult to obtain quickly. Unaccompanied and separated children may require a Best Interest Assessment (BIA) or Determination (BID) that rely on several interviews by qualified child protection staff. Aligning not only resettlement staff availability, but also protection, medical and child protection staff availability, can be particularly challenging and can delay the submission of cases with particular vulnerabilities that exacerbate their need for resettlement. Combined with pressure to submit cases on short timelines, this can sometimes result in the prioritization of “easier to process” cases, which may or may not align with demonstrated resettlement needs. This is particularly true when it is known that a resettlement country has placed restrictions on particular types of refugees it will resettle, such as on the basis of nationality, religion, or family composition.

## Analysis

The history and current practice of resettlement identification, access, and submission reveal several themes relevant to the ability of resettlement to achieve its humanitarian objectives.

### **Negotiating Authority: UNHCR, Civil Society, and Refugees**

The contemporary operation of resettlement identification, access, and submission prioritizes UNHCR leadership over civil society and refugee participation. Despite the history of various actors’ roles within these functions, current operations are defined by the policies and practices of UNHCR. UNHCR may be well suited for this leadership role due to its geographic scope and international mandate. However, it is worth questioning whether UNHCR’s capacity and methods are sufficient to meet resettlement’s humanitarian objectives.

The strength of UNHCR’s leadership in identification, access, and submission is that resettlement countries have one authoritative point of contact with which to engage. As well, UNHCR’s development of operational guidance and standardization of processes have likely made identification, access, and submission more efficient and less variable across different operations. UNHCR efforts to prevent fraud have also provided some important global consistency.<sup>62</sup>

However, it cannot be assumed that UNHCR is able to be consistently apolitical or humanitarian. A UN agency, UNHCR is beholden to the political interests of states, including many states that participate in resettlement programs. This relationship could either bolster or undermine humanitarian resettlement, depending on the context. Discussing the power of UNHCR in resettlement operations, Garnier, Sandvik, and Jubilut have described a paradox between the “visibility and invisibility” of UNHCR’s authority, noting that “UNHCR’s persuasive power [with resettlement states] often seems mighty when it is in fact constrained by scarce resources and the political environment in which it is involved” at the international level. Therefore, it is necessary to acknowledge the political position of UNHCR and the possible resulting limitations on its perceived objectivity and independence.

The preferencing of UNHCR authority, in turn, limits the power and participation of civil society in identification, access, and submission functions. In contrast to the view of UNHCR as apolitical, civil society is often assumed to be a political actor within the refugee resettlement regime, whose influence must therefore be regulated. Certainly, the breadth of civil society actors means that some may have particular interests such as preferences for the resettlement of certain refugees over others.<sup>63</sup> However, the history of resettlement operations in these functions shows that both resettlement states and UNHCR may also have and promote such interests.<sup>64</sup> Therefore, the role of civil society, and the assumption that it is somehow more or differently political than UNHCR, deserves further examination.

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62. See for example UNHCR (2013), Strategic Framework for the Prevention of Fraud and Corruption, <https://www.refworld.org/pdfid/5433a4e54.pdf>.

63. For example, organizations designed to support refugees from particular countries, religious, or cultural backgrounds, or with particular protection concerns.

64. Such as the issuing of Special Immigrant Visas for Afghans and Iraqis by the United States (see US Department of Citizenship and Immigration Services (n.d.), “Special Immigrant Visas for Afghans and Iraqis – Resettlement Options,” <https://travel.state.gov/content/travel/en/us-visas/immigrate/special-immigrant-visas-for-afghans-and-iraqis-resettlement-options.html>), or the resettlement of refugees from Kosovo despite general resistance to immigration in resettlement countries at the same time, due to familiarity felt between receiving communities and the Kosovans (see Matthew Gibney (1999), Kosovo and beyond: popular and unpopular refugees, (Forced Migration Review No. 5), <https://www.fmreview.org/sites/fmr/files/FMRdownloads/en/kosovo/gibney.pdf>).

Finally, refugees' authority within these functions is limited at present.<sup>65</sup> Refugees' input is required to complete each of these activities, and UNHCR has expressed commitment to refugee participation within resettlement.<sup>66</sup> However, it can be difficult to incorporate refugee participation in practice. Refugees' power is often limited to the use of "small scale acts of resistance that often go unnoticed or unrecognized as such" due to the significant power that UNHCR holds at the local level.<sup>67</sup> The current resettlement system led by UNHCR prioritizes an external assessment of worthiness over the refugee's own internal assessment of his or her own needs.<sup>68</sup> This makes it difficult for refugees to fully participate in the important decisions that will affect their futures. It is therefore worth revisiting the extent to which the prioritization of an 'objective' external assessment could undermine resettlement's humanitarian aims.

“**Refugees' input is required to complete each of these activities... however, it can be difficult to incorporate refugee participation in practice.**”

## Vulnerability and the Challenge of Equitable Needs Assessments

A second theme requiring additional evaluation is the challenge of maintaining consistency across needs assessments within identification, access, and submission activities. Ensuring resettlement's humanitarian function would require these activities to be carried out "on the basis of need alone, giving priority to the most urgent cases of distress."<sup>69</sup> As described, current resettlement policy strives to achieve this objective; refugees are selected for resettlement consideration on the basis of their resettlement need in particular categories. However, these categories are often so broad that far more refugees are identified for resettlement than exist available slots. Therefore, additional subjective judgements are made to determine which refugees, that qualify within a given category, are referred. These judgements risk creating inequity within needs assessments locally and, especially, across geographic operations, and call into question the impartiality of resettlement activities. For example, there is inconsistency in practice regarding the importance of past suffering vis-à-vis current and future risk of suffering: which is more important when determining resettlement need, a refugee's past experiences of suffering, or the future threats of harm they might face without resettlement? Even when guidance exists in these areas, it can be difficult to apply pre-established standards to challenging situations in practice. How can the needs of one refugee family be compared objectively against the needs of another? Even more difficult is determining this at a global level.

The concept of vulnerability also adds complexity. The UNHCR Handbook notes that refugees "must be seen as persons with specific needs and rights rather than simply members of 'vulnerable groups,'"<sup>70</sup> yet resettlement submissions are made on the basis of groups generally thought to be more vulnerable or at risk than others. Study of refugees' experiences relative to their gender, sexual orientation, age, abilities, or class demonstrates the plurality of these experiences and diversity of needs that may exist for different individuals within the same category.<sup>71</sup> However, little guidance exists on how to operationalize assessments in such situations. Beyond introducing subjectivity, conceptualizations of refugees as vulnerable may deepen the inconsistent application of resettlement categories across different staff members or different operational contexts.

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65. For examples of refugees' negotiation of power within identification, access, and submissions functions, see for example Cindy Horst (2006), "Buufis amongst Somalis in Dadaab: The Transnational and Historical Logics behind Resettlement Dreams," (Journal of Refugee Studies, Vol. 19, No. 2, pages 143-157); Kristen Bergtora Sandvik (2011), "Blurring Boundaries: Refugee Resettlement in Kampala – Between the Formal, the Informal, and the Illegal," (PoLAR: Political and Legal Anthropology Review, Vol. 34, No. 1, pages 11-32); Marnie Jane Thompson (2018), "Giving Cases Weight: Congolese Refugees' Tactics for Resettlement Selection" in Garnier, Sandvik and Jubilut, eds. (2018), pages 203-222.

66. See for example UNHCR (2015), "UNHCR-NGO Toolkit for Practical Cooperation on Resettlement: 1. Operational Activities – Participatory Assessments: Definitions and FAQs," <https://www.unhcr.org/4cd40e109.html>.

67. Thompson (2018), "Giving Cases Weight: Congolese Refugees' Tactics for Resettlement Selection" in Garnier, Sandvik and Jubilut, eds. (2018), pages 203-222.

68. However, refugees have also resisted more visibly to advocate for their rights. See for example Barbara Harrell-Bond (2008), "Protests Against the UNHCR to Achieve Rights: Some Reflections," in Katarzyna Grabska and Lyla Mehta (2008), Forced Displacement, (Palgrave Macmillan).

69. Elhra (n.d.), "Humanitarian Principles and Standards," <https://higuide.elrha.org/humanitarian-parameters/humanitarian-principles-and-standards/>.

70. UNHCR (2011), Resettlement Handbook, page 182.

71. Nando Sigona (2014), "The Politics of Refugee Voices," Fiddian-Qasmiyeh, et. al., (2014), pages 369-382.

## Challenges to Programmatic Continuity

Finally, there are many practical barriers to the effective operation of resettlement identification, access, and submission; UNHCR and other resettlement partners face immense operational challenges. Communication across operations, including the sharing of data, is often limited; high staff turnover limits the maintenance of institutional memory and consistency; smaller groups of cases are sometimes more expensive to process than larger groups and may be deprioritized in spite of their resettlement needs; and completing assessments when faced with urgent numeric targets from resettlement states or regional leadership may not be possible. Intensifying these challenges is the practice of single-year resettlement targets and funding. The association of annual budgets with annual targets frequently causes UNHCR to be significantly constrained at the local level to achieve resettlement objectives. This limits the continuity of resettlement programs and makes it difficult to invest strategically in building capacity over time.

## Recommendations

The overarching challenge facing resettlement with regard to identification, access, and submission is the lack of available resettlement slots for an unprecedented and growing number of refugees. States should avail more resettlement slots. However, resettlement cannot, and should not be expected to, be a solution for all refugees. Resettlement actors should consider the current practice of identification, access, and submission through a humanitarian lens and explore new or improved methods to make resettlement better able to serve those most at risk.

- 1. Power within resettlement operations should be renegotiated to clarify the role of UNHCR, elevate the role of civil society, and strengthen the authority of refugees.** Resettlement will always be dependent on the political will of resettlement countries to accept refugees. However, the operation of resettlement activities must achieve significantly more independence from global geopolitical dynamics in order to maintain its humanitarian objectives. As well, sharing authority would help to relieve immense strain on UNHCR by adding manpower and assistance to very labor- and resource-intensive processes.
  - a. UNHCR and States should allow more NGOs to make direct submissions to resettlement countries more often and in more contexts.**<sup>72</sup> Maintaining high standards for resettlement submissions does not require UNHCR to perform these functions singlehandedly. More than augmenting UNHCR capacity, civil society should complement existing functions by establishing new, parallel processes for determining access and making submissions. The structure of these parallel processes should be tailored to individual contexts and could continue to be coordinated by resettlement countries or UNHCR as appropriate. NGOs providing social or legal services to refugees may be particularly well-suited for these functions.
  - b. Humanitarian organizations with knowledge of resettlement should develop metrics for measuring and reporting on the degree to which resettlement serves refugees most in need.** This could also be done by a human rights-focused organization with knowledge of resettlement and distance from its operation. A report, produced annually, could compare the global resettlement needs with actual resettlement achieved to identify areas for improvement. This analysis would go beyond the existing reports of annual resettlement activity to include an intensive review of which refugees identified for resettlement were submitted, and why. The report would also be available to resettlement states determining their resettlement priorities and inform ongoing analysis of resettlement's performance against its objectives.

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72. Other actors, including UNHCR, have advocated for a stronger role for civil society functions in resettlement. See for example UNHCR (2012), "UNHCR Discussion Note: The effective use of resettlement places – trends and concerns related to the capacity of the global resettlement program," <https://www.unhcr.org/uk/51dd500f9.pdf>.

- c. All agencies involved in refugee resettlement should seek, and build into program design, refugee feedback on access, identification, and submission activities. UNHCR, NGO partners, or a refugee-led advisory group should develop and deliver a survey on refugees’ perceptions of the purpose of resettlement and effectiveness of processing activities.** This could be done immediately in partnership with the Refugee Steering Group (RSG) and in coordination with the ATCR. The survey would solicit refugee input on their understanding of existing procedures and views on the authority of various resettlement actors to inform program design. It would also illuminate additional avenues for seeking and incorporating substantive refugee feedback into resettlement operations. Refugee-Led Organizations (ILOs) should also be actively engaged to promote this process.<sup>73</sup> Soliciting this type of feedback will require significant investment of time and resources, as it is difficult to obtain inclusive refugee representation across resettlement operations. However, such feedback should be gained and considered at all stages of resettlement operations.
- 2. Further reflecting this need for increased independence, resettlement funding and planning for identification, access, and submission activities must be divorced from annual resettlement commitments.** Operationally, this is necessary for resettlement partners to maintain operations while quotas are being determined. It would also help submissions be made more consistently to resettlement states after annual commitments have been set. In their leadership role within the resettlement system, UNHCR should call member states to separate resettlement funding from annual resettlement commitments.
- a. UNHCR and NGOs should prepare submissions on the basis of need rather than resettlement availability.** In order to achieve this, UNHCR and NGOs should consider preparing more submissions than resettlement countries have allocated within a given year to boost the sustainability and predictability of the pipeline. This should be balanced against the possibility of giving refugees false hope for resettlement. However, building an active and ongoing pipeline of cases would allow UNHCR and referring agencies to better respond to resettlement country requests for cases. Combined with a refining of the criteria for resettlement (see Recommendation 3 below), this would also allow the refugees most at risk to be prioritized more consistently.
- b. UNHCR and NGOs making submissions should seek, and funders should avail, multi-year financial commitments in response to these submission targets based on humanitarian needs.** Multi-year funding in humanitarian programming is not unprecedented,<sup>74</sup> however it is rare in resettlement operations. Multi-year funding should be availed to UNHCR and NGOs to improve efficiency of operations over time. Such commitments would also bolster the independence of UNHCR and NGOs to advocate for resettlement slots to meet demonstrated resettlement needs, as they would have a better sense of the global pipeline.
- 3. The approach to identifying resettlement needs must be evaluated against the humanitarian principles and reimagined to ensure that resettlement serves the refugees who need it most. People who continue to face urgent or acute threats to their lives or rights in places of asylum should be prioritized for resettlement submission.** The limitations of existing systems to effectively triage all refugees’ needs should be addressed.
- a. Humanitarian organizations with experience in resettlement and/or broader humanitarian programming should initiate a study to evaluate the application of vulnerability criteria across specific resettlement contexts.** This could be done in conjunction with the annual analysis (see Recommendation 1b above), or separately. The study would explore *how vulnerability is currently understood and applied* at the local level and identify gaps in existing policy and procedures.

73. For more recommendations on meaningful refugee participation in refugee response, see for example Global Refugee-led Network (2019), Meaningful Refugee Participation as Transformative Leadership: Guidelines for Concrete Action, [https://asylumaccess.org/wp-content/uploads/2019/12/Meaningful-Refugee-Participation-Guidelines\\_Web.pdf](https://asylumaccess.org/wp-content/uploads/2019/12/Meaningful-Refugee-Participation-Guidelines_Web.pdf).

74. See for example contemporary efforts to improve, streamline, and better coordinate on humanitarian funding, International Council of Voluntary Agencies (ICVA) N.d., “Humanitarian Financing,” <https://www.icvanetwork.org/financing>.

- b. Resettlement countries, UNHCR, and civil society should initiate a working group to evaluate the application of resettlement needs assessments and vulnerability criteria within and across contexts. The working group should include refugee representation.** The variety of perspectives would allow civil society to better support UNHCR to conduct resettlement assessments at the operational level. This is in line with historic initiatives to include civil society expertise in assessing vulnerability, such as UNHCR's partnership with the International Rescue Committee (IRC) in Pakistan in the early 2000s.<sup>75</sup> The working group could function similar to Best Interest Principal processes, in which particular cases are reviewed to ensure appropriate and fair decisions are being made. The group could also analyze the findings of the annual report comparing global resettlement needs with actual submissions (see Recommendation 1b above), to determine its priorities.
- c. UNHCR, NGOs, and resettlement countries should finalize an amended and abbreviated RRF that better addresses refugees' needs in both the country of asylum and eventual country of resettlement.** A brief check list describing the refugee's basic needs should be used to better capture the entirety of the refugee's profile and justification for resettlement submission, while also reducing length. Though significant legal analysis would remain the central part of the RRF, such amendments would allow for increased clarity and ability to compare submissions across geographic operations. It would also allow for more expeditious referral submission processes.

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75. This initiative, called the Durable Solutions Project (DSP), was a "multi-layered referral mechanism" with a "first front-line layer [consisting] of local NGOs with a proven track record of providing assistance to extremely vulnerable refugees." See IRC (2002), *The Durable Solutions Project: Identifying Vulnerable Afghan Refugees in Need of Resettlement*, <https://www.unhcr.org/3d085ed10.pdf>.

## III. International Resettlement Processing

*Which refugees are chosen to be resettled by resettlement countries? How? Why?*

Not all refugees submitted to resettlement countries will be approved by those countries for resettlement. Upon receipt of resettlement submissions, resettlement states have the ultimate authority to determine which refugees they will resettle through a series of “international resettlement processing” activities. These processes occur prior to the refugee’s departure for the resettlement country and include legal and administrative procedures used to evaluate whether or not a submitted refugee will in fact be resettled, as well as mechanisms for preparing for the travel and arrival of selected refugees.

29 resettlement countries received submissions from UNHCR in 2019.<sup>76</sup> Each of these 29 countries conducts resettlement processing according to its own legal, administrative and operational frameworks. Though it is outside the scope of this study to analyze each of these countries’ processes in depth,<sup>77</sup> the following analysis explores the history of international resettlement processing and discusses the four key evaluations made by resettlement countries of refugee applications: **identity**, **status**, **security**, and **suitability** (including integration potential).

### History

The history of resettlement country processes reveals three important trends relevant to contemporary practice. First, resettlement requires the development of domestic policies to enable the receipt, processing, and determination of resettlement applications. Second, though international and regional agreements may influence the creation or form of resettlement programs, each country’s unique interests drive their resettlement systems and practices. Third, this has led to a wide variety of approaches by resettlement countries to resettlement processing.

“ Many factors and interests are considered during the development and implementation of formal resettlement programs. ”

Countries have welcomed people fleeing persecution in various forms throughout history, long before the advent of the modern refugee regime. Yet, as discussed above, current resettlement practice is inexorably linked to the 1951 Convention and the increasingly coordinated international approach to refugee protection and durable solutions. As the international refugee regime formalized its legislation, administration, and operation, so too did resettlement countries begin to formalize their commitments to resettlement through the development of legal, administrative, and operational frameworks over the last 70 years.

The United States, which has historically resettled the most refugees annually, began refugee resettlement activities in the post-WWII era and formalized its modern program with the Refugee Act of 1980.<sup>78</sup> Australia and Canada also resettled significant numbers of refugees through various initiatives since 1950 and began their contemporary programs in 1977<sup>79</sup> and 1978,<sup>80</sup> respectively. In Europe, 20 countries received UNHCR submissions in 2019.<sup>81</sup> Of these, six countries (Sweden, Denmark, the Netherlands, Finland, Ireland and the United Kingdom) developed formal programs between 1950 and 2005,<sup>82</sup> while the remaining 15 began to receive submissions in the last 15 years as the EU also strengthened its legal and political

76. UNHCR (2019), “Resettlement at a Glance (January – December 2019).”

77. For a comprehensive overview of dates, regulatory basis, main selection criteria, and role of UNHCR of the 27 resettlement countries with programs as of fall 2016, see Amanda Cellini (2014), “Annex. Current Refugee Resettlement Program Profiles,” in in Garnier, Sandvik and Jubilut, eds. (2018), pages 253-305.

78. Office of Refugee Resettlement (ORR) (2012), “The Refugee Act,” <https://www.acf.hhs.gov/orr/resource/the-refugee-act>. See also Edward Kennedy (1981), Refugee Act of 1980 (The International Migration Review, Vol. 15, No. 1/2, Refugees Today (Spring-Summer 1981), pages 141-156.

79. Ninette Kelley and M.J. Trebilcock (1998), The Making of the Mosaic: A History of Canadian Immigration Policy (University of Toronto Press).

80. Elibritt Karlsen, Janet Phillips and Elsa Koleth (2010), Seeking asylum: Australia’s humanitarian program, (Commonwealth of Australia, updated 21 Jan 2011), <https://www.rssfeeds.aph.gov.au/binaries/library/pubs/bn/sp/seekingasylum.pdf>.

81. Data from UNHCR (n.d.), “Resettlement Data Finder,” <https://rsq.unhcr.org/en/#6moY>.

82. Delphine Perrin and Frank McNamara (2013), Refugee Resettlement in the EU: Between Shared Standards and Diversity in Legal and Policy Frames, KNOW RESET Research Report 2013/03 (European Council on Refugees and Exiles (ECRE)), [https://cadmus.eui.eu/bitstream/handle/1814/29400/KnowReset\\_RR-2013\\_03.pdf](https://cadmus.eui.eu/bitstream/handle/1814/29400/KnowReset_RR-2013_03.pdf).

commitment to resettlement.<sup>83</sup> Several Latin American countries began to resettle refugees on a formal basis following the 1984 Cartagena Declaration, including Chile since 1999,<sup>84</sup> Brazil and Argentina since the mid-2000s, and Uruguay and Paraguay more recently.<sup>85</sup> Finally, New Zealand has also resettled refugees consistently since 1987,<sup>86</sup> and Japan and South Korea have participated in small resettlement programs at various times.

However, despite the growing number of countries with formalized resettlement programs, this history also demonstrates the autonomy and power that resettlement states have within the resettlement regime. Each country operates from its unique perspective when choosing whether, and how, to resettle refugees. Many factors and interests are considered during the development and implementation of formal resettlement programs, which are often reflected in the legal, administrative, and operational frameworks developed by resettlement states. Some resettlement countries, for example, have established annual quotas, while others have responded on an ad-hoc or situation-specific basis. Some have prioritized refugees of particular national or ethnic background, or on the basis of skills, family composition, persecution experience, or family reunification.

## Current Practice

The diversity of existing resettlement programs and processes makes exploring current practice both challenging and important. With fewer available resettlement opportunities and growing resettlement needs, identifying processing improvements within the disparate and complex system is timely. These processes also matter because they provide the first point of interaction between refugees and the possible resettlement country. This section describes the processes that occur from the time the resettlement country receives the submission to the time the refugee is resettled.

Case processing by a resettlement country begins when it receives the resettlement submission from UNHCR or, rarely, other referring agencies. Upon receipt, most resettlement countries begin a process to evaluate four aspects of the refugee's resettlement submission: **identity**, **status**, **security**, and **suitability** (including integration potential).

**Identity:** Regardless of the amount of in-person contact with the refugee, resettlement countries typically begin resettlement processing by seeking to verify a refugee's legal identity and *confirm that the refugee is who he or she claims to be*. Identification is a hallmark of refugee resettlement case processing, as it is the starting place from which all other evaluations occur.

In almost all cases, identification will first be established by UNHCR or national authorities at their earliest point of contact with the refugee. This typically happens long before any resettlement processing occurs. This ensures that identity remains fixed over the years or decades a person is a refugee, deterring misrepresentation and fraud. Identity is verified through several methods, including examination of identity documents, refugee testimony, and – increasingly – biometric authentication. Resettlement states also frequently utilize information provided by UNHCR as part of the resettlement submission to understand exactly who is being referred for resettlement. By the time a resettlement country receives a submission, the refugee has typically completed multiple interviews and identity verification exercises. The information gathered by resettlement countries is therefore assessed for its internal consistency as well as its consistency with the information compiled and provided by UNHCR or the submission entity. Another element closely related to identification is confirming information on all family members of the resettlement applicant.

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83. The European Resettlement Network (n.d.), "The Policy Framework," <https://www.resettlement.eu/page/resettlement-in-europe>.

84. Chile did not receive UNHCR resettlement submissions in 2018 or 2019.

85. Ana Guglielmelli White (2012), A pillar of protection: solidarity resettlement for refugees in Latin America (UNHCR), <https://www.unhcr.org/4fd5d9c79.html>.

86. New Zealand Immigration (n.d.), "New Zealand Refugee Quota Programme," <https://www.immigration.govt.nz/about-us/what-we-do/our-strategies-and-projects/supporting-refugees-and-asylum-seekers/refugee-and-protection-unit/new-zealand-refugee-quota-programme>.

**Status:** In addition to identity verification, resettlement countries also *evaluate the veracity and quality of the refugee's immigration status* per the resettlement country's own legal frameworks. Though most refugees being considered for resettlement have been verified to be a refugee under the 1951 Convention or subsequent regional agreements by UNHCR or the country of asylum, this status is a necessary but insufficient qualification for resettlement for most resettlement countries.<sup>87</sup> Instead, resettlement countries must verify that refugees qualify for resettlement and durable protection within their own national definitions for legal entry and residence.

**Security:** Building on the evaluations of identity and status, resettlement countries also seek to *ensure that the refugee would not present a security threat* to the resettlement country if resettled. This part of processing (sometimes also called “security vetting”) has garnered increased attention following acts of terror in the United States and Europe by non-state actors, as well as the changing backgrounds of refugee populations in need of resettlement to include those from countries without effective justice and identification systems. Yet security has always been a central part of refugee resettlement processing, and states have continually adapted and improved their security vetting procedures to meet evolving security threats.

**Suitability:** Finally, resettlement states may *assess or seek to enhance the refugee's capacity for success in resettlement* as part of international processing. The idea of “success” in resettlement can be difficult to measure. However, resettlement states commonly seek to understand the barriers that might face refugees upon resettlement to their country and, in some cases, make decisions based on this information. Particular areas of inquiry center on refugees' medical status, integration capacity, family or other connections to the country of resettlement, and orientation and training needs. This type of assessment may occur before or after the other case processing activities noted above.

To assess medical suitability, countries conduct medical examinations, either directly or through a contract with IOM, to ensure that refugees are fit to travel internationally and do not carry any communicable illnesses that could be transmitted to resettlement country populations. Some countries may choose whether or not to accept a resettlement submission on the basis of refugees' future medical needs. In terms of integration capacity, some countries seek to resettle refugees that they feel would integrate most successfully.<sup>88</sup> Finally, international refugee resettlement processing typically involves orientation and training activities to inform refugees about the resettlement process and life in the resettlement country.

These four evaluations are most commonly made through a combination of desk-based analysis and in-person interviews between the refugee and a representative of the resettlement country. Less often, resettlement countries may also evaluate cases without an in-person interview through dossier submissions. Though dossier submissions can sometimes accelerate the processing timeline for urgent cases and are helpful when processing refugees in remote or hard-to-reach locations, they have also been associated with higher rates of denial by resettlement countries.<sup>89</sup>

Countries choosing to interview refugees may use several methods. Many countries conduct *selection missions* to complete interviews with refugees and qualified government employees. Resettlement countries may use consular staff already located at their embassies internationally for this purpose or may send interviewers for short-term trips to countries of asylum. Others may conduct interviews by telephone or video conferencing, though this is less common. Still others require additional data collection as part of their resettlement processing, such as the United States, which funds regional Resettlement Support Centers (RSCs) to collect information and assist refugees to complete legal and administrative documentation required for case adjudication.

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87. Some resettlement countries have also developed programs to accept refugees that do not meet the 1951 Convention definition of a refugee, such as the “in-country” resettlement processing of populations of concern to resettlement governments that remain in their countries of origin. Still, an evaluation is often required to confirm the individual's claim to protection within the guidelines of such initiatives.

88. UNHCR (2012), *State of the World's Refugees*, page 75.

89. Estimated global acceptance rates for dossier submissions in 2017 and 2018 were between 60-70%. See UNHCR (2019) *Projected Global Resettlement Needs 2020*, <https://www.unhcr.org/protection/resettlement/5d1384047/projected-global-resettlement-needs-2020.html>. See also UNHCR (2012), UNHCR Discussion Note: *The effective use of resettlement places*.

Despite the relatively small number of countries with resettlement programs, coordination between them on international processing activities is inconsistent. This often puts UNHCR in the position of having to juggle submissions timelines, interviewing missions, and logistic assistance among multiple countries, which can take time away from other duties such as case identification. Though information sharing has increased through regional and global initiatives to increase resettlement country capacities and increase efficiency, such as the ATRC and regional coordination and technical assistance providers, the four key evaluations of refugee processing are most often conducted by resettlement countries independently of one another.

## Analysis

The history and current practice of international resettlement processing reveal several themes pertinent to the future of resettlement as humanitarian program.

### **Push & Pull: UNHCR and States, Cases and Quotas**

UNHCR and states typically agree on the number and type of submissions to be made in any given year and work to achieve established goals. However, this is not always straightforward. Both UNHCR and states may struggle to define and execute these commitments.

Negotiations regarding annual objectives may be challenged by the position of UNHCR relative to resettlement states that both provide resettlement slots and fund UNHCR's operations. In some cases, states supporting resettlement may push UNHCR to increase submissions. This may have a positive effect on the number of refugees accessing resettlement (if UNHCR is adequately funded and supported to increase its activities), or a negative effect (if pressure to make submissions to one country detracts from UNHCR's ability to submit to other countries, or if funding is insufficient to meet the increased demand). In other cases, states resistant to resettlement may reduce resettlement funding or other support to UNHCR. This, too, may threaten UNHCR's overall capacity to make submissions. It is important to acknowledge the complexity of these negotiations when seeking to strengthen the humanitarian nature of resettlement.

There also exists ambiguity concerning the definition and function of resettlement objectives themselves. Annual objectives may be designated by resettlement states as "targets" (a goal number of cases to be reached) or "quotas" (a limit on the number of cases to be reached). Individual UNHCR operations may also apply these terms inconsistently.<sup>90</sup> This can cause confusion and inefficiency, as each definition warrants a different approach. Targets are generally thought to be more open to re-negotiation based on need, while quotas are considered to be more fixed. An operation aiming to reach a target might conduct more access activities to create a pipeline of cases able to be ready for future submissions. An operation working with quotas, on the other hand, may see the numeric objectives as scarce, and make different decisions regarding eligibility and assessments. Beyond these two categories, it is often unclear whether, and when, resettlement countries are open to renegotiation of their annual numeric objectives, and different resettlement countries have different views and preferences. This causes confusion and may contribute to the inconsistency in the practice of both UNHCR and resettlement countries across resettlement operations.

Similarly, the process through which UNHCR makes submissions to resettlement countries is commonly based on the availability of resettlement quotas by resettlement countries. Annual workplans may, for example, be interrupted if and when a resettlement country avails quotas or plans a selection mission on short notice to UNHCR. This compounds the aforementioned difficulty of UNHCR to maintain a steady and predictable flow of cases to resettlement countries. It also contributes to the tendency of UNHCR and other referring agencies to prioritize cases for submission on the basis of speed or simplicity, which can lead to the deprioritizing of cases with vulnerabilities requiring more time-intensive preparation. Finally, UNHCR and resettlement countries differ in their view of which actor holds primary responsibility for a refugee's

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90. Observed by CWS in various UNHCR operations in Africa.

case after it has been submitted. From UNHCR's perspective, the responsibility for a refugee's case transitions to the resettlement country at the time of submission.<sup>91</sup> Given UNHCR's wide range of responsibilities to refugee communities and countries of asylum that far exceed its resettlement functions, this is theoretically understandable: UNHCR's resettlement funding and staffing are also often based on submissions, rather than departures, of refugee cases for resettlement. Practically, however, most international processing requires significant UNHCR involvement long past the initial submission. In addition to the logistical support UNHCR provides during selection missions, resettlement countries also often refer cases back to UNHCR for additional information, clarification, or protection concerns facing submitted refugees throughout the four stages of evaluation.

## **Operational Challenges**

Summarized in the four stages of identity, status, security, and suitability, resettlement processing can appear simple; each resettlement country with formal programs has developed policies and procedures to guide the completion of these for evaluations, and their efficacy is demonstrated through the successful resettlement of thousands of refugees annually. However, many challenges face resettlement countries conducting international processing. The process can take months or years to complete, leaving refugees waiting in untenable situations and exacerbating pressure on host countries of asylum. Most resettlement programs are bureaucratic, requiring the involvement of multiple government agencies. Before looking to the future, it is helpful to note several of these challenges.

First, UNHCR and other referring agencies devote significant time and resources to develop and maintain a degree of knowledge of each resettlement countries' quotas, submission requirements, and processes. Particularly in light of the frequent rotation of UNHCR staff between duty stations, the variation in resettlement processing between countries further stresses already-limited UNHCR staff capacity. As global resettlement slots have reduced, retaining a cadre of resettlement specialists is also increasingly difficult.

Second, resettlement countries also face myriad challenges when accessing refugees for processing. Resettlement countries often must rely on UNHCR and IOM to support selection missions, requiring significant coordination and causing delays. Refugees can be difficult to access when located in remote geographic locations or insecure environments, affecting transportation, technology, and other vital inputs to processing activities. Resettlement countries must maintain extensive knowledge of the challenges and processing methods in each country of asylum and obtain interpreters to facilitate in-person interviews, visas for resettlement processing staff traveling to countries of asylum for processing, and familiarity with the politics of each refugee situation. They must also develop competency to communicate effectively with refugees despite differences in education, literacy, and cultural and religious backgrounds.

Lastly, each of these processing steps relies on information about an individual refugee or family. Like any bureaucratic process seeking to provide services on the basis of established guidelines, processing efficiency is challenged by the variety of cases undergoing processing at any time. A refugee case submitted for resettlement might change in its composition (through for example marriages, divorces, births, deaths), or may provide confusing or inconsistent information. When information presented by the refugee is incomplete or raises questions, resettlement countries may need to repeat steps, return the submission to UNHCR for clarification, or schedule additional interviews. This not only delays overall case processing but can introduce uncertainty that makes each evaluation process longer or more complex.

## **Refugee Participation, Agency, and Choice**

As in most aspects of identification, access, and submission, international processes are not designed to enable meaningful refugee participation. Certainly, refugees participate in the processing of their cases through interviews,

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91. Ibid.

sharing information with the resettlement country, and choosing to opt out of resettlement during the process if they wish. However, it is the resettlement country guidelines and policies that guide the quality and type of refugee participation within resettlement processes, rather than refugees themselves. Refugees often are ill-informed about the intricacies of resettlement processing and their particular cases. They rarely play a role in determining which country receives their resettlement submission and may not know that they are being considered for resettlement by a particular country until being invited for selection mission interviews.<sup>92</sup>

At the same time, resettlement countries must provide time- and resource-intensive explanations of the complex resettlement process to refugees. This often occurs across significant cultural and linguistic barriers and can be most challenging for refugees with particular needs, such as unaccompanied and separated children and refugees with disabilities or who have suffered violence. These challenges are also exacerbated by refugees' varying levels of education, access to technology, and expectations regarding resettlement itself.<sup>93</sup>

Beyond these challenges in resettlement processing, it is worth questioning whether, in practice, refugees have the ability to *choose* to be resettled at all. Resettlement countries typically expect refugees to have actively consented to resettlement and be active participants in international processes. This is often true; refugees seeking durable solutions are usually willing to be resettled. Many express satisfaction with international processes, particularly when they are approved for resettlement.<sup>94</sup> However, given the lack of opportunities for meaningful participation in decision-making throughout international processing, refugees may lack the ability to give truly informed consent. Furthermore, the idea that refugee resettlement is a choice suggests that refugees have an alternative durable solution available to them. Though refugees can opt out of resettlement (they cannot, in most cases, be compelled to resettle), their ability to remain in the country of asylum depends on that country's willingness to host them and there are rarely opportunities to access alternative durable solutions.<sup>95</sup>

## Recommendations

The fundamental challenge facing international resettlement processing is the complexity and inefficiency of existing approaches, which frequently leave refugees waiting years while their cases are evaluated. The diversity of resettlement programs contributes to the difficulty of operationalizing countries' resettlement commitments. However, the following recommendations could enable resettlement to better achieve its humanitarian objectives.

### “ Resettlement is only as humanitarian as it is efficient. ”

- 1. All resettlement actors must take responsibility for the efficiency of international resettlement processing.** Resettlement is only as humanitarian as it is efficient; refugees in need of a life-saving program cannot afford to wait for unnecessarily slow resettlement processes. Identifying efficiencies while maintaining the integrity of resettlement programs is both necessary and possible.

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92. Of note, in CWS' experience, refugees reuniting with family in a particular resettlement country tend to be more informed about their application and its status and have more information about the resettlement process. Similarly, refugees identified for resettlement through group processes may be better informed about international processes, having learned from the experiences of others in the group. However, neither of these represent systematic efforts to increase participation, nor are they typically built into the design of international processing activities.

93. This is especially true in situations of protracted displacement, in which the indefinite “denial of [refugees' human] rights compounds refugees' vulnerability as they frequently become dependent on dwindling international assistance.” James Milner (2014), “Protracted Refugee Situations” in Fiddian-Qasmiyeh, et. al., page 151.

94. According to surveys conducted by CWS of refugees being considered for resettlement to the United States.

95. Despite the relative lack of literature available on the resettlement process from the perspective of refugees themselves (see for example van Selm (2014), “Refugee Resettlement” in Fiddian-Qasmiyeh (2014), pages 512-524), the limitations of the durable solutions are well noted (see for example Katy Long (2014), “Rethinking Durable Solutions” in Fiddian-Qasmiyeh, et. al. (2014), pages 475-487).

- a. **In conjunction with UNHCR’s multi-year commitment to resettlement submissions (see Section I, Recommendation 2a), resettlement states should consider making multi-year resettlement commitments.** There is no reason why resettlement country commitments could not be made across multiple years to strengthen the predictability – and therefore efficiency – of international resettlement processing. As they already do for annual goals, resettlement countries with multi-year commitments could reserve the right to change their commitments if needed. A current opportunity to test this approach would be to align such commitments to the period of UNHCR’s three-year strategy. Having designated multi-year commitments, resettlement states could devote more attention to improving coordination and programmatic efficiency. As well, UNHCR should continue to clarify how resettlement is prioritized relative to UNHCR’s many other functions. In order to effectively administer multi-year commitments, UNHCR should develop a separate accounting and reporting system to ensure that multi-year resettlement funding is designated for resettlement programming.
  - b. **UNHCR and other referring agency funding should be designed according to *global case processing functions* rather than *submissions or departures* alone.** UNHCR budgets must include capacity to support resettlement countries during selection missions, conduct follow-up case management activities, and manage the pipeline of cases at various stages of international resettlement country processing. For example, UNHCR should allocate annual funding to resettlement case processing activities that is not contingent on resettlement commitments. These are core functions of resettlement processing often overlooked in the preparation of annual budgets. Though it is possible that this would be expensive at first, pursuing efficiency over time would decrease costs in the future, particularly when paired with multi-year resettlement commitments.
  - c. **Resettlement states and UNHCR should continue to invest in technological and process improvements to enhance quality and efficiency of security and identity vetting, such as biometric tools and mechanisms for completing security clearances as quickly as possible.**
2. **In order to further achieve this efficiency, international resettlement processing must be rebuilt on a foundation of coordination among resettlement countries; resettlement countries must not operate in isolation.** Doing so is neither efficient, nor realistic, as the operational challenges visible in resettlement processes demonstrate the scarcity of resources and many logistical barriers. Effective coordination, on the other hand, provides opportunities to improve both the quality and efficiency of international processes for the benefit of refugees and states alike.
    - a. **Resettlement countries should develop a platform for global coordination and information sharing among resettlement states on resettlement operations.** Countries should commit to reducing or eliminating competing demands on UNHCR in regard to missions, or referrals of the same population. This could include both a technological platform for data sharing and analysis and other information sharing mechanisms. States should use the platform to share information on their pipelines, processing plans and timelines, selection mission logistics, and significant policy developments to identify areas for increased efficiency. Such coordination (in addition to the technical platform) could operate alongside existing ATRC activities or be independent; in either case, the platforms should be designed to address the existing gap in *operational, field-level coordination* between resettlement states. Consistent standards and procedures could also be developed regionally, if global coordination is not feasible.
    - b. **Resettlement states should also use this platform to implement best practices on assessing refugees’ ongoing protection needs during resettlement processing.** This effort could build on the working group recommended to analyze and propose better resettlement criteria (see Section I, Recommendation 3).
    - c. **Resettlement states should share resources such as transportation, interpretation, and workspace while conducting selection missions.** Coordinating with each other when planning selection missions could also reduce the burden on UNHCR and IOM to facilitate missions. The United States in particular should avail its significant infrastructure to other resettlement countries or UNHCR, and other resettlement countries should commit to contributing funds to use and maintain existing infrastructure.



## IV. Complementary Pathways

*How do – and should – complementary pathways relate to refugee resettlement? How? Why?*

This final section discusses the relationship between refugee resettlement and complementary pathways. UNHCR defines complementary pathways as “safe and regulated avenues for refugees that complement resettlement by providing lawful stay in a third country where their international protection needs are met,” which “are additional to resettlement and do not substitute the protection afforded to refugees under the international protection regime,” and “include existing admission avenues that refugees may be eligible to apply to, but which may require operational adjustments to facilitate refugee access.”<sup>97</sup> Complementary pathways can therefore be seen as having three general characteristics:

**First**, they are migration pathways through which refugees may seek opportunities and access protection. **Second**, they are distinct from the durable solution of refugee resettlement. **Third**, they typically contain particular admissions criteria, which refugees must meet in order to gain access. The following sections describe the history and current practice of complementary pathways as related to refugee protection and resettlement, explore the assumptions underpinning the contemporary approach to complementary pathways, and provide recommendations for future discourse and programming.

### History

The history of complementary pathways reveals how relatively recently they have gained such significant attention, despite their decades-long existence. It also highlights the novelty of formally associating resettlement with complementary pathways, as these types of mobility channels were traditionally disparate and context specific.

Complementary pathways are not new. It could be said that any refugee who has found protection through fixed-term or permanent migration to a “third country”<sup>98</sup> has accessed a complementary pathway. However, there is limited literature available on the historic operation, quality, and impact of complementary pathways for refugees. Some individuals accessing complementary pathways may qualify as a refugee but be unable to, or choose not to, seek refugee status. Others may access the complementary pathway before receiving refugee status. As well, analysis of complementary pathways has traditionally occurred within immigration-related analysis in the areas of education, labor, or family reunification rather than from a refugee-focused perspective.

Despite their long-standing existence, the refugee protection regime has only recently begun to focus on complementary pathways. They were not discussed in the 1994 UNHCR evaluation of refugee resettlement, the 2011 Resettlement Handbook, or the Global Projected Resettlement Needs reports until 2016. However, all Global Projected Resettlement Needs reports for the last five years have included specific and increasing reference to complementary pathways, and the 2019 – 2021 3YS contains specific complementary pathways targets. Even UNHCR’s Resettlement Service was recently renamed the “UNHCR Resettlement and Complementary Pathways Service.” This increased focus informed – and was informed by – the Global Compact on Refugees, which notes complementary pathways specifically, calling the international community to ensure that they are systematic and sustainable.

97. UNHCR (2019), Complementary Pathways for Admission of Refugees to Third Countries – Key Considerations, page 5, <https://www.refworld.org/docid/5cebf3fc4.html>.

98. The term “third-country” in this context refers to a country that is not the country of origin (“first country”) or country of initial asylum (“second country”). It is worth noting that many refugees travel through or live in more than these three settings, while others may gain access to a complementary pathway before leaving the country of origin. However, this definition is consistent with UNHCR’s use of “third country strategies” to include both resettlement and complementary pathways. See for example Global Compact on Refugees Digital Platform (n.d.), The Three-Year Strategy and CRISP, <https://globalcompactrefugees.org/article/three-year-strategy-and-crisp>.

This contemporary focus has two primary historical drivers. First, academic and policy actors laid important groundwork for considering “the role that migration and mobility might play in improving life in exile and resolving displacement” over the last fifteen years.<sup>99</sup> This discussion came from acknowledgement of the failure of existing durable solutions to meet all refugees’ needs, as well as an understanding of refugees’ variable experiences of migration and desires for the future. From this perspective, resettlement can be seen as one of many migration-based pathways able to provide economic and educational opportunities in addition to legal and physical protection.<sup>100</sup> This view begged the question: might other mobility or migration opportunities be able to provide refugees with lasting and meaningful protection?<sup>101</sup>

The second important historical development was the significant influx of refugees to Europe from 2013 – 2016 and, in particular, migration and displacement caused by the ongoing Syrian civil war. Though the durable solutions were already failing to meet refugees’ needs, this scale of displacement underscored their inadequacy. With displacement on such a massive and global scale, resettlement programs, though important, seemed impossible to implement as the only solution for so many refugees needing sustainable protection. Additionally, overwhelmed by the scale of displacement, some countries receiving large numbers of refugees favored offering temporary relocation opportunities over more permanent resettlement initiatives.<sup>102</sup>

Therefore, the aforementioned discussions regarding mobility gained traction. Several European countries began complementary pathway programs in 2013 and 2014.<sup>103</sup> In 2016 then-UNHCR Assistant High Commissioner for Protection Volker Türk recommended that the international community create complementary pathways for refugees,<sup>104</sup> and UNHCR and the Migration Policy Institute (MPI) co-hosted a roundtable on “Additional Pathways for Refugees: Exploring Potential and Addressing Barriers” to consider how to create or strengthen labor, study, family, and other migration pathways for refugees to obtain protection.<sup>105</sup>

## Current Practice

The contemporary international approach to complementary pathways is organized around UNHCR’s 2019 – 2021 3YS, which (in addition to its three-year goals) aims for the admission of 2 million refugees through complementary pathways by 2028. To achieve this goal, UNHCR and IOM have recently invested in the Sustainable Resettlement and Complementary Pathways Initiative (CRISP) to support countries seeking to advance complementary pathways and resettlement<sup>106</sup> and in 2020 developed a Global Action Plan for the Implementation of the 3YS outlining the responsibilities of UNHCR and other actors.<sup>107</sup>

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99. Long (2014), “Rethinking Durable Solutions” in Fiddian-Qasmiyeh, Elena, et. al. (2014), page 475.

100. As Katy Long, who has written extensively on this subject has noted, “The value attached to resettlement by refugee communities themselves is expressed not just in terms of safety and protection, but often viewed above all as an opportunity to earn money, access education, and migrate legally to the west (Author’s fieldwork, 2012)” Ibid., page 481. CWS has also observed the value that refugees place on economic and educational benefits of resettlement, in addition to those of safety and protection, through its work in the United States and sub-Saharan Africa.

101. See for example Nicholas Van Hear (2003), “From Durable Solutions to Transnational Relations: Home and Exile among Refugee Diasporas,” (UNHCR New Issues in Refugee Research, Working Paper Series No. 83). Additional examples of recent growing focus on complementary pathways include for example UNHCR (2010), “Protection Sensitive Migration as a Complement to Refugee Resettlement”, see citation in Katy Long (2015), From Refugee to Migrant? Labor Mobility’s Protection Potential (Migration Policy Institute).; UNHCR (2012), State of the World’s Refugees, page 89; UNHCR (2014), “Progressing towards Solutions” in UNHCR Global Report 2014, <https://www.unhcr.org/5575a78813.pdf>, page 74.

102. Durable Solutions Platform (2018), Access to Resettlement and Complementary Pathways for Syrian Refugees.

103. Ibid.

104. Türk, Volker (2016), “Prospects for Responsibility Sharing in the Refugee Context.” (Journal on Migration and Human Security, Vol. 95, No. 2, pages: 45-59).

105. UNHCR and MPI (2016), “Key Summary Points” from Additional Pathways for Refugees: Exploring the Potential and Addressing Barriers conference, 11 – 12 Feb 2016, <https://www.unhcr.org/56fa3bcc6.pdf>.

106. See the CRISP Resource Platform for Capacity Building and Partnerships at <https://resettle.org> for more information on CRISP.

107. UNHCR (2020), Global Action Plan for the Implementation of the Three-Year Strategy (2019 – 2021) on Resettlement and Complementary Pathways, UNHCR Resettlement and Complementary Pathways Service, Division of International Protection, UNHCR Geneva.

Current practice understands complementary pathways to include humanitarian admission programs, medical evacuation, family reunification, private sponsorship, and opportunities for labor mobility and education.<sup>108</sup> Within these categories exist dozens or more specific programs, each with its own set of policies and procedures and involving different countries. Various complementary pathways have been initiated, piloted, and promoted in recent years.<sup>109</sup>

Given this diversity, it is difficult to examine each existing complementary pathway. Yet categorizing complementary pathways by type provides a useful analytical framework, particularly for considering their practical relationship with resettlement. As mentioned above, a key characteristic of complementary pathways is that they typically require refugees to meet particular eligibility criteria apart from their refugee status (which itself may or may not be a requirement). Therefore, the following analysis will define and discuss three types of complementary pathways according to the source of access for refugees: humanitarian-based, skill-based, and community-based access.

**Humanitarian-based** complementary pathways include humanitarian admission programs, humanitarian visas, and family reunification.<sup>110</sup> Humanitarian-based complementary pathways sometimes, though not always, operate in coordination with resettlement or family reunification programs. Family reunification and humanitarian parole in the United States, for example, operate in close coordination with the refugee resettlement activities, sometimes providing relocation opportunities for the families of refugees not otherwise identified or eligible for resettlement. Germany, Austria, Ireland, and Switzerland have also operated humanitarian admission programs on the basis of family relationships, and the UK and France have conducted humanitarian admissions in conjunction with their resettlement programs.<sup>111</sup>

In some cases, humanitarian-based pathways allow for faster processing times than traditional resettlement or may have fewer requirements. Some do not require individuals to be registered as refugees – rather, they are admitted purely on the basis of their family relationship to a person who has already arrived in the destination country. Others enable refugees to relocate more quickly than resettlement programs would allow on the basis of a humanitarian need or protection concern. As well, some programs were implemented because they provided time-bound protection<sup>112</sup> or were easier than resettlement programs to establish.<sup>113</sup>

Humanitarian-based complementary pathways still often require UNHCR or other actors to broker access through some type of referral processes. While these might be less arduous than for resettlement processes, they still require time and attention. Therefore, many of the same challenges with regard to UNHCR capacity and logistical challenges seen in resettlement processes may also apply to the processing of humanitarian-based complementary pathways.<sup>114</sup>

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108. NY Declaration, pages 14 and 20. [https://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/71/1](https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/71/1)

109. See for example Durable Solutions Platform (2018), Access to Resettlement and Complementary Pathways for Syrian Refugees, which outlines efforts on each type of complementary pathway through 2018, with a focus on Europe; Talent Beyond Boundaries (TBB) (2019), The Promise of Labour Mobility: How skills can be a passport out of displacement for refugees; Asher Hirsch, Khanh Hoang, and Anthea Vogl, “Australia’s Private Refugee Sponsorship Program: Creating Complementary Pathways or Privatising Humanitarianism?” (Refuge, Vol. 35, No. 2, pages 109-122). <https://doi.org/10.7202/1064823ar>. Government of Canada and UNHCR (2019), The Economic Mobility Pathways Project – Policy Principles and Lessons Learned. RefugePoint and IRAP have also partnered to pilot a family reunification program for unaccompanied and separated children along the Mediterranean route.

110. Family reunification pathways have also been conceptualized as “rights-based” pathways, as the existence of family-based immigration programs gives refugees the “right” to apply for and access them. However, there is no clear consensus worldwide on the right of all refugees to family reunification, nor on the definition of family and the types of relationships that qualify as family (apart from the generally accepted right of unmarried children to reunite with parents whenever possible). Therefore, family reunification is considered here to be a humanitarian pathway, as it is typically on the basis of humanitarian considerations that states offer family reunification schemes.

111. Durable Solutions Platform (2018), Access to Resettlement and Complementary Pathways for Syrian Refugees.

112. The United States’ humanitarian admission program for nationals of Cuba and Haiti, for example, allowed migrants from those countries to enter the United States for a fixed period of time. United States Citizenship and Immigration Service (USCIS), “Cuban Haitian Entrant Program (CHEP),” <https://www.uscis.gov/archive/archive-news/cuban-haitian-entrant-program-chep>. See also Kevin T. Creedon, “Refugee Act of 1980 and the Cuban-Haitian Entrants – Status Pending,” (Suffolk Transnational Law Journal, Vol. 5, No. 2, pages 213-234).

113. Joanne van Selm and IOM (2018), Humanitarian Admission Programmes: Expanding and Increasing Pathways to Protection (European Resettlement Network), <https://www.resettlement.eu/sites/icmc/files/ERN%2B%20Humanitarian%20Admission%20Programmes%20-%20Expanding%20and%20Increasing%20Pathways%20to%20Protection.pdf>.

114. This challenge makes options such as humanitarian visas, for which refugees can directly apply at countries’ consultants or embassies abroad, attractive. Brazil and France have established such programs for Syrians, and the European Parliament has proposed an EU humanitarian visa program. However, there are relatively few opportunities for humanitarian visas to date. See European Parliament (2016), Towards an EU Humanitarian Visa Scheme? cited in Durable Solutions Platform (2018), Access to Resettlement and Complementary Pathways for Syrian Refugees, Section 4.2.

**Skill-based** complementary pathways include opportunities for migration on the basis of employment and education, including labor mobility and educational scholarships and visas. Whereas recent attention on humanitarian-based complementary pathways has focused on building new programs, the majority of recent efforts related to skill-based complementary pathways have aimed to increase refugees' access to *existing* programs.

The employment and educational needs of refugees have been well documented.<sup>115</sup> So too have the many challenges refugees face when trying to access existing labor or educational pathways, such as lack of access to identity and educational history documentation, lack of a country to return to upon the conclusion of a work or study, lack of the funds often required by receiving countries, and lack of information on labor migration or educational opportunities available to refugees in the first place.<sup>116</sup> It is also clear that many refugees possess skills and experience that could benefit both labor markets and educational institutions, and that refugees have in fact made significant economic contributions in countries to which they have relocated. Therefore, skill-based complementary pathways have illuminated an exciting new frontier for the international community and refugees alike.

However, systemic challenges also confront skill-based complementary pathways. Identification of refugees for skill-based pathways is time and labor-intensive. Even excellent recent efforts have been small in scope<sup>117</sup> and require the participation of the private sector in a way that is new to many humanitarian actors. As well, skill-based complementary pathways tend to require more investment from refugees than do resettlement programs. Refugees typically need to submit job or study applications, complete interviews, and possibly pay fees for applications or visas. These additional tasks provide a major opportunity for refugees to participate more fully in choosing their future protection solutions and using important skills to better their lives rather than waiting more passively for resettlement initiated by UNHCR or resettlement states. However, they also introduce additional complexity into a context of already significant power imbalances.

Finally, **community-based** complementary pathways include private or community-based sponsorship initiatives through which citizens, community groups, or other non-profit organizations can agree to sponsor a refugee upon his or her arrival in the third country. Canada's longstanding community sponsorship mechanism is one such example of community-based pathways, though it is technically a component of Canada's refugee resettlement system more than a complementary system situated outside of resettlement.<sup>118</sup> Additional countries have explored and instituted private sponsorship programs in recent years alongside traditional resettlement programs, and many of these efforts are coordinated and documented through the Global Refugee Sponsorship Initiative.<sup>119</sup>

There is also a significant overlap between family reunification and community-based programs, in that family members in third countries may be able to petition for family members to be admitted to the third country and agree to support them upon arrival.

Community-based complementary pathways allow for local communities in third countries to engage more deeply and practically in refugee relocation schemes than resettlement initiatives implemented by third country governments. Such approaches also provide longer-term and more individualized support to refugees arriving in third countries. To the extent that community-based complementary pathways are developed in addition to existing resettlement programs, they can also provide a more sustainable complementarity to resettlement than other complementary pathways that rely on the political will of states to support humanitarian objectives. However, the actual distinction between resettlement and complementary pathways can be blurred. As with humanitarian-based pathways, community-based initiatives may also require significant

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115. See for example UNHCR (2016), *Missing Out: Refugee Education in Crisis*, <https://www.unhcr.org/57d9d01d0> and Karen Jacobsen (2014), "Livelihoods and Forced Migration" in Fiddian-Qasimiyeh, et. al. (2014), pages 99-111.

116. Katy Long (2015), *From Refugee to Migrant? Labor Mobility's Protection Potential*.

117. TBB for example, conducted pilot activities between 2016 – 2019 to understand the extent to which an "employer-driven model of labour mobility" could provide solutions for refugees and displaced persons. See TBB (2020), *Global Evaluation: Labour Mobility Pathways Pilot 2016-2019*, <https://static1.squarespace.com/static/5dc0262432cd095744bf1bf2/t/5ee0d6b0476aed1a04401f25/1591793329868/TBB+Global+Evaluation+2020+Final+%28External%29.pdf>.

118. Cellini (2014), "Annex. Current Refugee Resettlement Program Profiles," in Garnier, Sandvik and Jubilut, eds. (2018), pages 263-264.

119. See Global Refugee Sponsorship Initiative, <http://refugeesponsorship.org>.

effort by UNHCR and traditional resettlement partners on international processing aspects. It has also been noted that community-based programs could detract from government-sponsored resettlement schemes, and that this must be avoided in order to maintain the capacity of existing resettlement programs.<sup>120</sup>

**“ The distinction between resettlement and complementary pathways can be blurred...and several challenges confront the humanitarian nature of complementary pathways. ”**

## Analysis

While complementary pathways represent perhaps the most innovative approach to durable solutions embraced at the global level since the 1950s, the following areas of the contemporary approach to complementary pathways warrant additional analysis.

### Complementary Pathways & Humanitarian Values

In general, complementary pathways are based on refugees' qualifications rather than needs. To the extent that they highlight the agency of refugees to proactively find protection and better their lives, complementary pathways could be a welcome shift away from historical tendency to view refugees as vulnerable and unable to determine their own futures.<sup>121</sup> In this way, complementary pathways contribute to humanitarian goals by contributing positively to the humanization of refugees. However, several challenges confront the humanitarian nature of complementary pathways. For humanitarian-based pathways, the same flexibility that allows for the rapid deployment of some programs may also allow states to dismantle the programs more easily in the future. Skill-based pathways may expose refugees to new protection risks such as exploitative labor practices or cause new protection concerns for families left behind when employable family members migrate. Some complementary pathways also provide temporary rather than permanent protection, making them more politically palatable to resettlement countries than formal resettlement programs, but possibly less protective for refugees in need of lasting solutions. Therefore, it is necessary to consider the relationship between complementary pathways and resettlement, in order to understand how best to provide life-saving solutions for refugees at particular risk.

### Complementary Pathways & Resettlement

Underlying the international community's current approach to complementary pathways is the assumption that these pathways somehow relate to traditional refugee resettlement. Most analysis of this relationship has focused on ensuring that complementary pathways provide additional pathways to protection for refugees rather than undermining resettlement states' resettlement commitments. The extent to which this is true, in practice, remains a question; it is not yet known whether or not states will be willing to continue to operate refugee resettlement programs in addition to promoting alternative migration channels that might be more politically acceptable.

Additionally, it is worth asking whether complementary pathways must be complementary to resettlement at all. Do resettlement and complementary pathways best belong together in the first place? Though the three traditional durable solutions are often discussed together, they are still operationalized as three separate solutions. Are complementary pathways a fourth durable solution, or are they a complement to resettlement? As currently defined, they most often appear to be a complement to resettlement; complementary pathways are frequently thought of as resettlement-like solutions when resettlement is not possible, or alternative pathways to ease the burden on resettlement. As well, they usually involve the relocation of refugees to the traditional "resettlement" countries or those with similar socioeconomic indicators. However, this assumption could be

120. Jennifer Hyndman, William Payne and Shauna Jimenez (2017), Private refugee sponsorship in Canada, (Forced Migration Review, 54), <https://www.fmreview.org/sites/fmr/files/FMRdownloads/en/resettlement/hyndman-payne-jimenez.pdf>.

121. Lisa Malkki (1995), Refugees and Exile: From 'Refugee Studies' to the National Order of Things (Annual Review of Anthropology, Vol. 24, No. 1, pages 495-523).

questioned. What are the advantages and disadvantages, to refugees, of associating resettlement and complementary pathways so closely? How should traditional resettlement actors be involved in developing and strengthening complementary pathways? This is particularly important when considering the role and capacity of UNHCR to invest in complementary pathways given the myriad challenges facing traditional refugee resettlement programs described in previous sections of this paper.

## **The Uncertain Politics of Complementary Pathways**

As well, it is generally thought that complementary pathways could be more desirable to states than traditional resettlement programs. This is logical in some situations such as skill-based pathways in which refugees could meet labor market needs or access existing educational systems. However, this theory is untested. It is not yet known how public opinion or political will could change if workers begin to be viewed as taking locals' jobs or students drop out of their educational programs, for example. How will international perspective change if and when hundreds of thousands of refugees access complementary pathways, as envisioned by the 3-year strategy? Though complementary pathways may be more attractive to traditional resettlement countries in the current political climate, it is important to remember the humanitarian needs of refugees, even as new opportunities for protection are pursued through complementary pathways.

## **The Administration of Complementary Pathways**

Finally, one benefit of complementary pathways is their potential capacity to better meet the wide-ranging skills, abilities and needs of refugees than resettlement alone. This characteristic is often cited by advocates of complementary pathways and is, indeed, an important benefit of programs reliant on more refugee participation. As well, many complementary pathways have the capacity to support refugees beyond their initial placement in the resettlement country by ensuring employment and reunification with family. However, contemporary global practice reveals how much control UNHCR and traditional resettlement states still currently have over the development and implementation of complementary pathways. Rarely initiated by states or local communities as a proactive method to increase commitment to refugees, complementary pathways have often been designed by states as more politically acceptable alternatives to traditional resettlement. UNHCR's role as broker of resettlement has now been extended to complementary pathways. Pilot programs have traditionally been small, with information still being managed by UNHCR or traditional implementing partners. With some exceptions,<sup>122</sup> mechanisms for identification, access and case processing for complementary pathways have been borrowed from resettlement. Though this is understandable for logistical reasons, it is worth questioning whether and how complementary pathways could be designed to better empower refugees to make their own decisions about their durable solutions. Again, it should not be assumed that UNHCR or traditional resettlement partners have the capacity to administer complementary pathways.

It is similarly worth challenging the assumption that complementary pathways will occur within a similar geography to resettlement. Discussion of resettlement and, especially, complementary pathways typically assumes refugees migrating from the Global South to the Global North. With regard to complementary pathways, in particular, this assumption should be questioned. Might complementary pathways be applicable in countries of asylum or between non-traditional resettlement countries, as well? Again, which actors are best placed to be involved in the administration of complementary pathways in the future?

## **Recommendations**

Complementary pathways represent untapped opportunities for refugees to improve their lives through migration. However, uncritical adoption of complementary pathways risks undermining the humanitarian nature of resettlement. The following recommendations are proposed to mitigate this risk and advance both complementary pathways and resettlement in the future.

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122. Such as the employee database model organized by TBB.

1. **Led by UNHCR, the international community and traditional resettlement partners must better distinguish between the purposes of resettlement and complementary pathways.** Complementary pathways must not supplant resettlement in any way, particularly to the extent that resettlement remains available for the most at-risk individuals. In order to preserve the humanitarian objectives of refugee resettlement, complementary pathways must not detract, intentionally or accidentally, from resettlement's support, funding, or effective operation. At the same time, complementary pathways will be more successful if they are intentionally resourced and operated independently from resettlement.
  - a. **Complementary pathways should be seen as an additional solution to explore, rather than as associated with resettlement.** This conceptualization would allow traditional resettlement to remain a distinct solution, with specific funding, organizational, and political investment. It would also create room for non-traditional actors, such as the private sector, to continue to engage in and further develop complementary pathways programming.
  - b. **UNHCR should commission an external evaluation of the 2019 – 2021 3YS upon its conclusion to understand its key achievements and limitations, from the perspective of complementary pathways.** This evaluation should be conducted by an actor with broad expertise in migration and migration research. The evaluation would seek to understand the accomplishments and limitations of the 3YS at the operational level and explore how refugees may be best able to access complementary pathways in the future.
2. **At the same time, UNHCR, states, civil society, and the private sector must intentionally coordinate efforts to increase refugees' access to complementary pathways.** While separating resettlement and complementary pathways, complementary pathways will still benefit from greater coordination and information sharing at the global level.
  - a. **UNHCR should not be the main broker for complementary pathways. Instead, governments and humanitarian actors should equip civil society actors to share information and administer them when necessary.** Refugees should be the brokers of complementary pathways. However, they will require much more information in order to access them, and some outside administration may be necessary. Particularly when refugee status is not a requirement for access, UNHCR does not need to broker refugees' access. Rather, UNHCR's role should be limited to assisting civil society to reach refugee communities with information and support. In addition to being more efficient and empowering for refugees, this approach also protects UNHCR's focus on resettlement.
  - b. **However, UNHCR should play a role in monitoring refugees' access to complementary pathways. UNHCR should develop mechanisms to monitor and report on refugees' access to complementary pathways.** This serves two purposes. First, refugees are likely to look to UNHCR for information about complementary pathways, and may not distinguish between UNHCR and other actors, especially at first. UNHCR should be prepared to share information with refugees, even as they do not directly enable refugees' access. Second, this monitoring would provide a better understanding of how refugees are accessing complementary pathways. UNHCR has a unique "birds eye view" of global refugee populations and can use this perspective to lead information gathering to inform future programming.
  - c. **States and others seeking to facilitate refugees' access to complementary pathways should consider utilizing existing infrastructure and logistical expertise from resettlement actors.** While maintaining separation between complementary pathways and resettlement, all actors should still share resources at the operational level to increase efficiencies and reduce cost.

- 3. UNHCR, states, and civil society must better understand refugees’ desires for, and experiences of, complementary pathways and ensure that complementary pathways are free from exploitation.** Though complementary pathways may naturally require more refugee participation than other solutions, they are not immune from perpetuating the same structural power imbalances that exist within resettlement and humanitarianism more broadly. The international community must commit to building refugee participation into the design of complementary pathways programming from the beginning.
- a. All actors involved in the promotion or administration of complementary pathways should undertake research to understand how refugees – or people with refugee-like protection needs – are accessing, and want to access, humanitarian, skill and community-based migration pathways.** This could be done in conjunction with the survey recommended in Section I, Recommendation 1c, or separately. Practitioners should also partner with academic institutions to ensure a robust theoretical approach that puts complementary pathways into their historical and discursive context.
  - b. All actors administering complementary pathways should be trained in refugee protection, the basic legal and social protection needs of refugees, and the protection mechanisms available in local contexts.** Though they do not need to perform refugee-specific functions, training in these areas would ensure that actors understand the context in which they operate and the unique challenges that refugees may face in accessing complementary pathways.
  - c. All actors and programs supporting refugees to access complementary pathways must adhere to strict safeguarding policies.** Though relevant for all complementary pathways, this is particularly important for skill-based pathways. Any efforts to link refugees with labor or educational opportunities must intentionally safeguard against exploitation and abuse.<sup>123</sup>
- 4. All actors must take a long-term approach to designing and funding initiatives to promote complementary pathways.** Deliberate and sustained commitment by all actors involved in complementary pathways will be required to achieve ambitious global goals. Though complementary pathways are not new, there is still much to learn. Strengthening refugees’ access will require all actors to pilot and refine approaches.
- a. All actors (states, UNHCR, civil society, private sector, academia) must make multi-year programmatic and funding commitments to complementary pathways initiatives and research.** These commitments will allow for sustained and flexible effort over time.
  - b. Funding for complementary pathways must not detract from funding to resettlement.** With increased attention on complementary pathways from resettlement states and UNHCR itself, all actors must commit to maintaining capacities for resettlement.

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123. Ethical recruitment agencies such as The Ethical Recruitment Agency (TERA) are examples of interventions to safeguard migrants seeking employment abroad. See <https://ethicalrecruitmentagency.com/about/>.

## V. Conclusions & Emerging Opportunities

Refugee resettlement is complex and will continue to face both political and operational challenges in the years to come. However, analysis of the current practice of identification, access, and submission, international processing, and complementary pathways reveals opportunities for system-wide improvements. Growing recognition of the benefits of complementary pathways – and new efforts to build and strengthen them – presents an exciting opportunity to increase the avenues available for refugees to find protection through migration. Realizing the ambitious targets set for both complementary pathways and resettlement in the coming years will require focus to be paid to each. It will also require a commitment to the humanitarian needs of refugees over the political interests of resettlement states. Beyond their operational role, UNHCR will need to continue to convene and advocate to resettlement countries to make and achieve resettlement and complementary pathways commitments. In addition to the recommendations made in each technical area of this report, the following emerging opportunities should be considered to bolster resettlement as a humanitarian solution.

### Promoting Holistic Solutions

As previously noted, the results of “strategic” resettlement efforts are mixed and additional evaluation is needed. However, the current scale of global displacement provides an opportunity to revisit resettlement as a tool for providing solutions not only to the refugees who are able to access resettlement, but also to incentivize and open space for other meaningful solutions to entire groups of refugees. Examining the current operation of resettlement reveals opportunities to test, evaluate, and strengthen resettlement’s strategic objectives.

“ Examining the current operation of resettlement reveals opportunities to test, evaluate, and strengthen resettlement’s strategic objectives. ”

Holistic and “ground-up” strategies could be employed: needs assessments to understand both the vulnerabilities and skills of refugees in a particular displacement context; discussions led by civil society humanitarian actors with host countries of asylum and UNHCR to determine the interests of each party and broker agreements on durable solutions; expeditious processing of refugees for resettlement and increasing access to complementary pathways; protection assessments for refugees with particular protection concerns throughout to guide key decisions; meaningful engagement through satisfaction surveys and post-solution feedback loops with refugees accessing solutions.

Sustained financial and political commitment could also bolster resettlement’s strategic objectives. Rather than single-year quotas or plans for resettlement, states could commit to a multi-year strategy in coordination with other humanitarian and private sector actors. UNHCR could commit staff for the same period of time rather than rotate staff or build capacity with short-term contracts. Civil society actors with expertise in both development and refugee solutions could bridge humanitarian and development funding to support refugee and host communities during the multi-year period. All actors could be guided by the same strategic goal of resolving the situation of displacement. Recognizing that no refugee situation is static, the consistency of funding and participation would also allow for operational plans to be adapted over time to meet the strategic goals. Finally, data could be gathered and analyzed throughout the multi-year period to understand the impacts of the intervention for all involved.

## Sharing Authority in Resettlement Operations

As refugee resettlement has evolved, the role of civil society vis-à-vis UNHCR has weakened, as UNHCR and resettlement states have formalized resettlement programming and guidelines. Though this formalization has produced many benefits for refugees and resettlement programs, it has also brought challenges. There now exists a power vacuum in resettlement operations, caused by the prioritization of theoretically objective UNHCR leadership over the theoretically political civil society and refugee-driven involvement. UNHCR geographic scope and technical knowledge make it well-suited to lead many resettlement functions. However, limiting the involvement of civil society and refugees puts enormous pressure on UNHCR and strains its capacity to achieve resettlement's humanitarian objectives.

In light of these challenges, there exists an opportunity to better share authority in resettlement operations. Though immigration and resettlement policy are ultimately determined by political leaders, it is not the sole responsibility of governments to determine how welcoming a society is. Civil society has played an important role throughout history to strengthen or reform national immigration policy and assist in the identification of groups of refugees for resettlement. Civil society also plays a critical role in supporting refugees upon arrival to resettlement countries as non-governmental organizations as well as faith- and other community-based groups provide significant support to refugees as they adjust to life in the resettlement country and access resources and services. This ongoing relationship between civil society and refugee communities remains a resource for learning and bolstering the refugee resettlement system moving forward.

As well, in order for resettlement to achieve its humanitarian objectives, the design and operation of resettlement must involve meaningful input and feedback from refugee communities at all levels. Like many humanitarian initiatives, resettlement is a highly bureaucratic and standardized program that can “be driven by a humanitarian ethos of helping the most vulnerable but in doing so [involve] practices ruling the lives of the most vulnerable without providing them with a means of resources to hold the humanitarians accountable for their actions.”<sup>124</sup> The recent development of the Refugee Steering Group (RSG) and focus on refugee participation at the 2020 Annual Tripartite Consultations on Resettlement (ATCR) represents growing attention to refugee participation in global resettlement. However, it will likely continue to be difficult to gain representative feedback from refugee communities, given the significant differences between them and the multiplicity of refugee experiences. It is therefore important for all actors to solicit refugees' input as often as possible. It is also critical for civil society organizations working in resettlement to help identify ways for refugees to participate meaningfully in the design, execution, and evaluation of resettlement programs, particularly in light of the decreasing availability of resettlement slots.

Finally, all actors could also leverage their enhanced participation and coordination in resettlement operation to revisit fundamental questions about resettlement's purposes, as well as the ideal role for complementary pathways within the durable solutions.

**“ Though immigration and resettlement policy are ultimately determined by political leaders, it is not the sole responsibility of governments to determine how welcoming a society is... civil society and refugees must participate in the design and operation of resettlement and complementary pathways. ”**

124. Garnier, Sandvik, and Jubilut (2018), “Introduction: Refugee Resettlement as Humanitarian Governance” in Garnier, Sandvik and Jubilut, eds. (2018), page 2.

## Using Data to Improve Outcomes

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The contemporary refugee resettlement system is extremely complex, relying on the cooperation of dozens of state, international, and civil society actors employing hundreds of legal and operational policies and procedures to serve millions of people with unique needs. Each of these actors uses its own set of data and information to make programmatic decisions across the resettlement process. This can limit the effectiveness of coordination efforts and obscure a thorough understanding of resettlement needs, processing, and evaluation. Therefore, better, more coordinated data collection and analysis by all resettlement actors would improve the efficiency and equity of refugee resettlement.

Advocates of resettlement programs have sometimes expressed concern that data could be used to criticize program effectiveness. However, even without robust data, resettlement has received significant critique. Rather than threatening resettlement, improved data collection and analysis could reveal ways to improve programmatic quality and efficiency. For example, pipeline-focused analysis of case processing timelines could help to ensure that practice is well coordinated. Evaluating submissions on the basis of family composition, submission categories, and other variables could help improve the consistent application of global policies and priorities. Gathering information on refugees' views and desires for complementary pathways could help inform the future of such programs and their relationship to traditional resettlement.

## Employing Multi-Year Commitments

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Unpredictability in refugee resettlement makes it difficult and more expensive to plan and execute, further exacerbating its many challenges. The annual nature of resettlement planning and funding undermines the effectiveness and efficiency of resettlement; annual rather than multi-year or sustainable funding causes delays by UNHCR and resettlement countries alike to begin operating each year, sometimes resulting in months of lost productivity.<sup>125</sup> Furthermore, the unpredictability and lack of sustainable funding makes maintaining resettlement capacity and infrastructure very difficult. In light of these challenges, a new approach to resettlement planning and funding is required. Resettlement actors should consider not only alternative sources of funding, but also new approaches to financing explored by the broader humanitarian community.<sup>126</sup>

Resettlement is at a crossroads. Many aspects of its operation must be reimagined and rebuilt. It will not be sufficient to tinker at the edges of the established system; rather, comprehensive reforms are required. Rebuilding resettlement to achieve its humanitarian objectives will require it to be **funded** (with predictable, and sustainable commitments), **operated** (to make it more efficient for those who need it most), **led** (with power more widely distributed amongst refugees and civil society), and **organized** (through enhanced coordination among all actors) as a humanitarian program for the 21<sup>st</sup> Century.

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125. CWS has witnessed these delays within its operation of the Resettlement Support Center in Africa (RSC Africa), including their negative effects on staffing levels and institutional capacity for resettlement at UNHCR offices across sub-Saharan Africa.

126. See ICVA, N.d., "Humanitarian Financing." See also Inter-Agency Standing Committee (IASC) (2016), A Grand Bargain: A Shared Commitment to Better Serve People in Need," which outlines the commitments of the Grand Bargain endorsed by donors and aid organizations, including UNHCR and many resettlement countries, in Turkey in 2016. [https://interagencystandingcommittee.org/system/files/grand\\_bargain\\_final\\_22\\_may\\_final-2.pdf](https://interagencystandingcommittee.org/system/files/grand_bargain_final_22_may_final-2.pdf). The Good Humanitarian Donorship (GHD) Initiative also notes multi-year funding modalities as a best practice for humanitarian funding when possible. See GHD (n.d.), "Operational Best Practices – From the 2014-2016 Co-Chairmanship," <https://www.ghdinitiative.org/ghd/gns/best-practices.html>.

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