

Why resettlement quotas cannot replace asylum systems

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Resettlement is an important element of refugee protection worldwide. However, it is fundamentally different from territorial asylum systems. Resettlement should complement the reception of asylum seekers but should never replace it.

Time and again, ideas to phase out the right to asylum in its current form circulate among politicians, experts and even academics in a number of European countries. Some believe that the 1951 Refugee Convention is outdated and that the right of individuals to seek asylum within the territory of a receiving ('destination') country (or at the border) should be abandoned. Instead, they propose new systems of resettlement-like admissions of refugees directly from third countries. This would mean that European countries themselves would choose which and how many refugees they receive, and from where, rather than having to receive those who make their way to Europe on their own. This in essence would be a form of 'externalisation', whereby people are deterred from seeking asylum within a destination State's borders.

Critics of the current asylum system have a point when they argue that the European Union's common asylum system and the way it is implemented across the bloc's Member States and other European countries has serious shortcomings. Because of visa requirements, carrier sanctions, various types of deterrence strategies and even physical barriers and pushbacks, it has become almost impossible for people in need of protection to reach the territory of the EU Member States in safe, legal and orderly ways. Many have to rely on human smugglers, often risking their lives on dangerous journeys. Depending on where in Europe they arrive, they then face huge variations in protection prospects, types of asylum procedures and reception conditions. A further problem, mainly from governments' perspectives, is that although many asylum seekers do not qualify for protection in accordance with the Refugee

Convention or supplementary national asylum laws, enforcement agencies find it hard to return them to their countries of origin. Last but not least, responsibility sharing in receiving asylum seekers and processing their protection claims is highly inequitable, with some countries undertaking a much larger share than others, making this a topic that causes political divisions between different EU Member States.¹

It is as a result of these problems and the deep political frustration they have caused that various radical ideas have gained traction in the asylum and migration debate. In the United Kingdom, Denmark, Sweden and other countries, some politicians, experts and scholars propose that the right to seek asylum inside the EU should be abolished entirely, and that asylum should only be sought from outside the EU. (In Denmark, a certain version of this idea is already official government policy and has prompted strong criticism.²) Those who are found to be in need of protection, or at least some of them, might then be offered a transfer to Europe by means of resettlement or similar arrangements. It is often argued that this would prevent irregular journeys and make it possible for European countries to focus on the most vulnerable individuals. A further argument is that receiving societies in Europe might be more willing to offer refugees protection if they were able to choose the beneficiaries.

Examining the arguments

Resettlement and similar humanitarian admission schemes are well-established and crucial elements of refugee protection worldwide, including in Europe.³ Yet they are fundamentally different from

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territorial asylum systems based on the Refugee Convention. For various reasons examined below, the one system therefore cannot replace the other.

Firstly, from a political perspective, there are few indications to suggest that resettling more refugees means there will be fewer asylum seekers or that the political appetite for resettlement grows when the number of asylum seekers decreases. Since the migration ‘crisis’ of 2015–16, the number of new asylum seekers in Europe has decreased drastically – not least because of harsher deterrence measures at the EU’s external borders, migration deals with neighbouring countries (such as Turkey or Libya) and, perhaps, more hostile policies within Member States. According to the logic of those who argue for a different refugee protection system, reduced numbers of asylum applicants would mean that more refugees could be accepted via resettlement. In reality, however, this has not happened. We see that even if some EU countries have recently increased their quotas, the number of resettled refugees they are accepting falls far short of the number of people requesting asylum within Europe or at the EU’s external borders. In 2019, for example, approximately 21,300 individuals were resettled to Member States of the EU, while 206,000 received a positive decision at the first stage of their application for asylum. Including statuses granted in appeal procedures, the number of positive asylum decisions is likely to be even higher. Thus, only one in ten individuals, probably fewer, receive protection in the EU via resettlement, and asylum remains by far the primary protection system.⁴ (The year 2020 should not be used for comparisons because the COVID-19 pandemic made resettlements more difficult or impossible because of travel bans and closures of migration offices.)

Eurostat data also show that there is no clear pattern over time. After 2016, some countries such as Sweden, Germany and France raised their resettlement quotas for 2017–19. Others like Austria, Belgium and the Baltic States also increased their pledges or introduced new resettlement initiatives, only to reduce or abandon them

later. Denmark, which used to regularly resettle refugees, suspended refugee resettlement in 2017, 2018 and 2019.

This shows that, notwithstanding commitments made by some countries to increase their resettlement efforts, the system is unstable as governments are free to step up and scale down these programmes as they please. Such choices often do not correlate with the evolution of the asylum situation or the global need for resettlement. Even in a country like Sweden, there is no guarantee that politicians will continue to uphold the current level of resettlement admissions, which is relatively high. As public opinion changes, so can government preferences, and so can resettlement commitments. Consequently, quota systems are dependent on political will rather than any objective need to provide long-term solutions for refugees. By contrast, the right to asylum has no quantitative limits or quotas.

Secondly, the idea that public support for refugees would increase if national governments could select which individuals, and how many, they want to accept is presumptuous and paternalistic. Who has the knowledge and right to decide which are the most serious refugee situations or which individuals have the greatest need to be offered a safe future in Europe? Also, some conflict areas with acute refugee crises can be too dangerous for officials to access in order to carry out their resettlement missions, and it is highly uncertain that they would find those individuals who face the most serious threats. Furthermore, asylum is not only for people fleeing from armed conflicts or other situations that are visible and reported on in the media; refugee status is primarily intended for individuals facing political persecution, and where and how this happens is often hidden from our eyes.

Politicians also sometimes complain that most asylum seekers who arrive in Europe are (young) men and that we need a new system that focuses on women, children and particularly vulnerable groups. However, the unbalanced gender distribution among asylum seekers in Europe is not a result of the Refugee Convention but of attempts to evade

it by deterring asylum seekers and making Europe inaccessible. If available pathways were safer and/or if there were opportunities to apply for protection or humanitarian visas from abroad, the proportion of women, children or elderly people would almost certainly increase. If we were serious about the gender balance, we would also offer wider possibilities for family reunification in the EU. Resettlement is an important tool in this sense as well, precisely because it serves as a complementary pathway. It is a selection system where receiving countries for example can accept entire families. But we cannot base the entire global protection system on which individuals are pitied most by residents of receiving countries.

Thirdly, it is not clear why abandoning the right to asylum in Europe would stop dangerous irregular crossings and deaths at sea. Europe struggles to return rejected asylum applicants and other people with no legal right to stay in the EU to their countries of origin. This means that even if people who arrive on irregular routes would have no right to apply for, or receive, asylum, European countries might still not be able to remove them. As long as there is still a chance, however small, to remain in Europe, with or without access to asylum or permits to stay, some people might still risk their lives to get there.

Last but not least, abandoning territorial asylum systems based on the Refugee Convention would set a dangerous precedent and could trigger a chain reaction that ultimately risks damaging the global refugee protection system. Current externalisation efforts in the EU are already having this effect on countries bordering Europe. If rich European countries think they can evade the Refugee Convention and only resettle some individuals according to their shifting preferences, why should poorer frontline countries in other parts of the world not do the same? The more countries that follow such a path, the more the responsibility to admit and process asylum seekers would increase for those countries who remain committed to offering asylum and to keeping their borders open to those who flee. We

could even end up with a situation where all countries only want to admit resettled refugees – and no asylum seekers. However, in such a situation, resettlement would become impossible as well, because the concept of resettlement is based on refugees being selected in countries where they have fled to, not in their countries of origin.

Conclusion

If we want a workable protection system for refugees, we have no choice but to defend the current basis of refugee protection and to work on innovative ways to improve it, for example by offering safe and legal pathways through humanitarian visas or complementary pathways. Resettlement is an extremely useful and valuable protection tool as well, not least in the context of global responsibility sharing. Existing resettlement programmes and related humanitarian admission or private/community sponsorship systems should therefore be improved and expanded, and new ones be introduced to open up more alternatives to risky irregular journeys. But resettlement programmes cannot be used as a justification of abandoning the right to apply for, and receive, asylum in destination countries. Resettlement is a complementary system, not a substitute for territorial asylum.

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This article is written in a personal capacity.

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