

Surge and selection: power in the refugee resettlement regime

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There is an imbalance of power – and a resulting lack of agency for refugees – in the structure of the current resettlement regime. The top-down process of selection also poses ethical dilemmas, as recent surges in resettlement operations show.

Of the three durable solutions, resettlement is often the last option advocated by the UN Refugee Agency, UNHCR, and the last option desired by refugees. Yet in many conflicts there comes a tipping point at which UNHCR works with states to seek resettlement for a select few refugees. Less than 1% of all refugees receive the option to resettle in a third country.

How does a refugee become one of the few? The answer is: refugees usually cannot choose. The current structure of the resettlement regime requires UNHCR to choose refugees first and then to refer them to states. States then decide whether or not to accept them.

The refugee resettlement regime is designed to identify and protect the ‘most vulnerable’ refugees. At its core lies the 1951 Convention definition of a refugee, which UNHCR uses to conduct refugee status determinations and register refugees in countries of asylum. Given limited resettlement places offered by receiving

countries, UNHCR has developed seven prioritisation categories to identify refugees with more serious or urgent protection needs. UNHCR sorts, filters and prioritises refugees in accordance with these categories to make referrals for resettlement to states. The resettlement referral selection process varies by region and UNHCR office, and protection officers may use participatory assessments, the Heightened Risk Identification Tool, or other referrals to identify the most vulnerable refugees for resettlement.

The *UNHCR Resettlement Handbook* states that selection “should not be based on the desire of any specific actors, such as the host State, resettlement States, other partners, or UNHCR staff themselves.”¹ In reality, very few states accept refugees for resettlement on a ‘dossier’ basis, that is, without further scrutiny of individual cases or additional selection criteria. In fact, most states assert their own specific selection criteria, thus creating the final layer of selection in the resettlement regime. Often

underlying these additional criteria are societal and political desires. Some states choose refugees who already speak the local language or have advanced education and professional skills, with an interest in refugees' ability to integrate into society with little assistance. Other states prioritise protecting refugees with urgent medical needs. Some state-specific requirements correspond with political or fiscal calendars in order to meet campaign promises or to match allocated budgets. Some states have resettlement quotas or ceilings, which may be further defined by refugee nationality.

The *Handbook* also emphasises that UNHCR bases selection on the "refugee's objective need for resettlement and not on their subjective desire for it." That resettlement is not a right is often repeated to help convey this message, perhaps so as to reassure states of their sovereignty and to temper the expectations of refugees themselves. Refugees themselves have very little choice in the resettlement system. Refugees usually cannot proactively apply for resettlement. Even refugees selected for resettlement cannot choose to which country they will be resettled. Ultimately, the only agency that refugees possess in the resettlement regime is the choice **not** to resettle if they have been offered resettlement.

As a result, the resettlement regime currently empowers UNHCR and states and leaves refugees without much agency in the decision, despite UNHCR's promotion of self-reliance as a core goal of durable solutions.² This imbalance of power requires more scrutiny, a need that became even more evident in recent efforts for Syrian refugee resettlement.

Surges in resettlement of Syrians

Since 2013, UNHCR has referred over 242,000 Syrian refugees for resettlement or other forms of admission to third countries³ and has employed various strategies to quickly meet states' pledges to resettle Syrians. First, it prioritised sending refugees to resettlement countries with the most urgent resettlement windows. Several states were new to resettlement or had time-sensitive political

commitments, so UNHCR ensured that they received the first arrivals of resettled Syrians.

Several states, including Canada and the United States (US), implemented 'surge' resettlement operations – that is, expedited processing – to resettle especially large numbers of Syrian refugees in short periods of time. In late 2015, the Canadian government expedited the resettlement process for Syrian refugees in Jordan and Lebanon, culminating in the arrival of 25,000 Syrian refugees in Canada. In early 2016, the US followed suit, undertaking a similar surge operation in Jordan.⁴

As part of these surge operations, UNHCR and states applied additional selection criteria to further profile and expedite refugee referrals. The Canadian government prioritised "vulnerable refugees who were a low security risk, such as women at risk and complete families."⁵ The US government also focused on "particularly survivors of violence and torture, those with severe medical conditions, and women and children – consistent with our national security."⁶ Rationales for additional selection criteria ranged from reducing processing times by screening out refugees likely to be barred under exclusion clauses to minimising security risks by selecting families and children over single men of fighting age.

In response to these requests, UNHCR developed 'streamlined resettlement methodologies' to support expedited processing, including the Humanitarian Transfer Programme with Canada and the Simplified Identification Form with the US.⁷ Both governments deployed additional government officials to the surge processing locations to conduct final determinations of individual refugees' eligibility for resettlement.

In addition to the enhanced selection criteria in these resettlement surges, the time and place of the operations served as an additional and unintended selection factor influencing refugees' opportunity for resettlement. From autumn 2015 through summer 2016, resettlement opportunities for Syrian refugees in Jordan and Lebanon drastically increased compared to those

available to Syrian refugees in Turkey and Iraq. This caused a disproportionate increase in probability of selection for resettlement.

Conclusions

Examining power and agency in the structure of the resettlement regime and the use of 'surges' as a resettlement strategy is important in order to inform UNHCR's and states' resettlement policies. Just as states have previously used surge operations to meet exceptional need,⁸ states may continue to use similar strategies – especially as UNHCR plans to refer 170,000 refugees out of the 1.19 million that will need resettlement in 2017. However, the current selection process in the resettlement regime is in direct contradiction to UNHCR's policy of minimising the impact of state preferences on resettlement and of promoting refugee self-reliance as integral to all durable solutions. The resulting ethical question is: do the ends justify the means?

A pragmatic perspective would emphasise the need for selection criteria to narrow down the supply of refugees that is greater than the demand for resettlement from states. UNHCR's current selection criteria constitute the necessary process for the resettlement regime to function within these confines. This methodology is founded on international law and built upon by humanitarian imperative and morality. This selection process does offer a pathway to protection, self-reliance and increased agency for thousands of refugees, so the ends do justify the means.

An ethical analysis, however, reveals that resettlement is no exception to the stark imbalance of power that permeates most of humanitarian assistance. In reality, UNHCR and states reserve the power to choose which refugees are more worthy of resettlement. Refugees have limited or no voice in the decision-making process and no power to proactively apply for resettlement as an option for their future. Instead, their future rests on the political will of UNHCR and states.

UNHCR bears the difficult burden of balancing the interests of states and the interests of populations of concern, and the imbalance of power between the two is in critical need of further examination.

Instead of accepting the status quo because it yields results, resettlement stakeholders should ask how the process of selection can be improved to reflect the common goal of empowering refugees, while acknowledging the sovereignty of states.

As UNHCR and states work together to balance needs for resettlement and political will to welcome refugees amid increasingly antagonistic domestic political environments, they should also work to ensure that power is more evenly distributed. Refugees should no longer be left with such little decision-making power regarding resettlement in a third country. UNHCR should not sacrifice its participatory approaches for the sake of expedience. Instead, it could at least adopt more equal-opportunity strategies for initial selection, where refugees could have equal chances for consideration for resettlement. In recognition of the sovereignty of states, refugees selected for resettlement would still be subject to state-specific requirements; however, UNHCR should encourage states not to narrow selection criteria so much as to be at odds with the intent and purposes of the Refugee Convention.

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This article is written in a personal capacity.

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2. UNHCR (2014) *Finding Durable Solutions* <http://bit.ly/UNHCRGlobalAppeal2014-15> and UNHCR (2005) *Handbook for Self-reliance* www.unhcr.org/44bf7b012.pdf
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5. Government of Canada '#WelcomeRefugees: The first 25,000 – Phase 1' www.cic.gc.ca/english/refugees/welcome/phase1.asp
6. The White House (2015) 'How We're Welcoming Syrian Refugees While Ensuring Our Safety' <http://bit.ly/WhiteHouse2015>
7. UNHCR (2016) *Global Projected Resettlement Needs 2017* <http://bit.ly/ResettlementNeeds2017>
8. For example, the US's history of surge resettlement operations includes 20,000 Hungarian refugees in 1957; 111,000 Vietnamese refugees in 1975; 7,000 Kurdish refugees from Iraq in 1996; and 20,000 Albanian refugees from Kosovo in 1999.