

The below paper is part of a collection of papers that have been prepared as part of a process, organized jointly by the Center for Migration Studies of New York (CMS) and the Zolberg Institute on Migration and Mobility at the New School, to identify ways to strengthen the US immigration and refugee protection systems through administrative action. Additional papers in this collection can be read on the Zolberg Institute's website.

Rebuilding the U.S. Refugee Resettlement Program

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Introduction

This paper offers an historic review of the US refugee resettlement program. It spans the colonial era, to the establishment of the first distinct US admissions policies for persons fleeing persecution in 1917, to the creation of the formal US Refugee Admissions Program (USRAP) in 1980, and to the Trump administrations' denigration of and attempts to eviscerate the program. It proposes ways that a new administration can rebuild this crucially important program and put it on more secure footing. In particular, it recommends that a new administration:

- Reframe the discourse on refugee resettlement to emphasize its central importance to the nation's identity and the way it serves the national interest.
- Rebuild the capacity of the federal government to administer the program and the badly depleted community-based resettlement infrastructure that is central to the program's success.
- Hold emergency consultations with Congress to increase refugee admissions in Fiscal Year (FY) 2021, and consult soon after the inauguration with international, state and local, and non-governmental partners to plan FY 2022 resettlement goals, including a robust admissions ceiling and budget.
- Reform and reinvigorate federal consultations with states and localities to ensure their receptivity, capacity and support for refugees, and eliminate the current veto power of states and municipalities over resettlement in their jurisdictions.
- Explore legislative fixes to the refugee admissions process and attempt to depoliticize the process by setting a "normal flow level" that does not require an annual Presidential determination.
- Join the Global Compact on Refugees, which seeks to expand the availability of durable solutions for refugees, and encourage other nations to follow the U.S. example of resettling larger numbers of refugees.

Historical Background

The United States has been a refuge for persons fleeing persecution since the Mayflower landed in Massachusetts with passengers fleeing persecution for their religious beliefs. Resettlement is important not only to save lives but also to serve U.S. national interests.

During the past 70 years, the United States has led the world's efforts to find solutions for refugees through its support for international assistance and protection as well as its willingness to accept refugees through its resettlement program. Through much of this period, the United States has given priority to refugees who have been endangered because of their association with the United States. Resettlement has been used to relocate interpreters and others who risk their lives in support of American soldiers and others deployed overseas; the potential for resettlement has been seen as an important inducement for those who fear that employment by the U.S. military or civilian agencies will place them in danger. Others resettled include family members of those already living in the United States, individuals working for U.S. companies or educated at U.S. universities, people whose safety is threatened in countries of asylum, and those with no hope of a durable solution at home or where they have found first asylum.

U.S. resettlement has been an effective tool in persuading host countries to keep their doors open to refugees and to other countries to resettle their fair share. It has solidified relations with allies who have large refugee populations within their borders and has shown persecutory governments, as well as other nations, that the United States cares about their victims. Refugees have also been beneficial to the U.S. economy. As entrepreneurs they have founded both small and large businesses that employ and serve Americans throughout the country. They have used their scientific and technological know-how to build new industries, as seen in the contributions of Albert Einstein, Sergey Brin (Google) and Daniel Aaron (Comcast). On average, refugees increase their earnings within the first few years after arriving to match the U.S. average, becoming successful taxpayers and contributors to their communities.

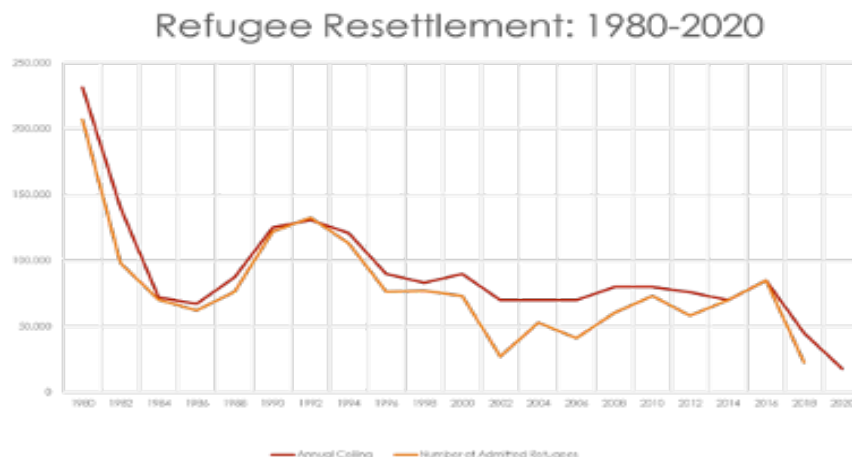
Pre-Trump Status Quo

There were no formal policies related to the admission of refugees as a separate class of immigrant until enactment of the Immigration Act in 1917, which waived its new literacy requirements for admission of persons fleeing religious persecution. Other grounds for exclusion, including public charge, continued to apply to refugees, as did the national origins quotas imposed by legislation in 1921 and 1924. These grounds of exclusion severely restricted the admission of refugees from Nazi Germany in the 1930s. After World War II and the liberation of the concentration camps, exceptional measures were taken through a series of laws (e.g. Displaced Persons Act, Refugee Relief Act, Refugee Fair Share Act) to admit refugees outside of the prevailing national origins quotas and limits on legal admissions. In the 1950s, as the Cold War intensified, administrations used the parole power invested in the Attorney General to resettle refugees from Hungary, Cuban, the Soviet Union and Southeast Asia as an important element of U.S. foreign policy.

Only in 1980 was legislation passed to regularize the process of refugee admissions and the services afforded to those who were resettled. The legislation states that its objectives are “to provide a permanent and systematic procedure for the admission to this country of refugees of special humanitarian concern to the United States, and to provide comprehensive and uniform provisions for the effective resettlement and absorption of those refugees who are admitted.” Under the Act, the number of refugees to be admitted each year is to be determined by the President in consultation with Congress, although no consultation was necessary in the first three years if the number of refugees to be admitted did not exceed 50,000. However, as admissions greatly exceeded that limit, the process of consultation was a feature from the beginning. The

President is to inform Congress as to the “foreseeable number of refugees who will be in need of resettlement during the fiscal year and the anticipated allocation of refugee admissions during the fiscal year.” During the fiscal year, the President is further instructed to inform Congress regarding changes in the worldwide refugee situation, the progress of refugee admissions, and the possible need for adjustments in the allocation of admissions among refugees. At any time, the President may request emergency consultations on increases in resettlement admissions.

Between 1980 and 2017, refugee resettlement had strong bipartisan support in both the White House and the Congress as represented in both rhetoric and action. Refugees were often referred to as those who voted with their feet for freedom. (See Figure 1 for resettlement levels during this period.) In 1980 and 1981, at the height of the Indochinese refugee crisis, ceilings and actual admissions were 231,700 and 207,116, respectively. The mean annual ceiling from 1980 to 2016 was 98,000 and actual admissions averaged 83,000. Variation in the number of refugees admitted to the country was generally a reflection of the changing need for resettlement internationally, although foreign and domestic considerations were always considered. In 2016, recognizing the large increase in the number of refugees and displaced persons worldwide and the particular situation of Syrian refugees, President Obama set the FY 2017 ceiling at 110,000.



Policy Changes under the Trump Administration

Donald J. Trump ushered in a completely new era in refugee resettlement. Unlike his predecessors, President Trump portrayed refugees in a negative light and sought from the beginning to reduce admission levels. Prior to his election, Trump tweeted: “Refugees from Syria are now pouring into our great country. Who knows who they are – some could be ISIS. Is our president insane?”

The first iteration of the travel ban that Trump issued would have put a temporary ban on any refugee resettlement, but court orders enjoined implementation. The administration then tried to reduce the admissions ceiling in FY 2017 to 50,000 (from Obama’s 110,000). Nevertheless, 53,716 refugees in the pipeline were able to resettle in the U.S that year. In FY 2018, Trump set the ceiling at 45,000, which was substantially lower than any refugee ceiling since 1980, but because of processing delays and significant reductions in the admission of Syrian, Somali and other refugees from countries included in the third iteration of the travel ban, the United States admitted only 22,491. Trump set the ceiling for FY 2019 at 30,000, and admissions did reach

that number. For FY 2020, the ceiling was set at 18,000 refugees. Even this low ceiling is unlikely to be reached; as of July 19, 2020, with less than 3 months of the fiscal year left, only 7,848 refugees had been admitted for resettlement. Some of the reduction in admissions resulted from efforts to put in place what the administration called “extreme vetting.” The screening process for refugees already set a very high bar. Under policies in place prior to the Trump administration orders, applicants are referred to the State Department, which establishes if they are of special humanitarian concern to the United States and there are no discernible barriers to admission. Then, the applicant is interviewed by a trained refugee officer in U.S. Citizenship and Immigration Services of the Department of Homeland Security to establish that she meets the criteria for resettlement (including that she has a well-founded fear of persecution on the basis of race, religion, nationality, membership in a particular social group, and political opinion). The interview also solicits documentation and information about any threat the refugee may pose to U.S. national security. Once the refugee clears these hurdles, their biographic and biometric information is screened against the intelligence databases of numerous federal agencies, including the National Counterterrorism Center, Department of Defense, Federal Bureau of Investigation, Department of State, and Department of Homeland Security. Syrian refugees went through extra procedures requiring additional screening and interviews.

It is difficult to determine what additional steps the Trump administration is taking to achieve extreme vetting. The study undertaken on vetting pursuant to the Executive Order suspending refugee admissions determined that screening could proceed for all applicants except for those from 11 countries deemed to be security risks. The latest official description (2018) of the changes made to the vetting system note they “increased the amount of data [the U.S. government] collects on refugee applicants, and more refugee applicants are now subject to higher-level security vetting.”

In a further Executive Order, the President determined that states and localities would have to give written approval of the resettlement of refugees into their jurisdictions before the Voluntary Agencies (“volags”) responsible for reception and placement could assign refugees to these locations. Exceptions were made for spouses and minor children of already resettled refugees. As of January 2020, only the governor of Texas announced that refugees could not be resettled in the state. Forty-two governors responded positively to having refugees resettled in their state in a bipartisan show of support for the program. On January 15, a federal judge in Maryland stayed implementation of the Executive Order.

The cumulative effect of these actions has been to decimate the infrastructure designed to facilitate refugee resettlement in the United States. Two major sets of actors are involved in the resettlement program once refugees are admitted. First, volags join in a cooperative agreement with the State Department to receive refugees on their arrival into the country. They determine where refugees will be placed; ensure that they have shelter, furniture, clothing and other supplies; provide cash support for a limited period; enroll children in school; help the newcomers apply for a Social Security card; provide or refer refugees to employment services; and the myriad other actions needed to encourage integration into American communities. The volags are responsible for the refugees they resettle for a minimum of 90 days but typically extend their assistance beyond this legal limit. The second actors are state government offices responsible for longer-term services, including special cash and medical assistance for refugees who would not otherwise be eligible for the state’s regular welfare programs. Refugees are eligible for this assistance for eight months after arrival. The state programs also fund English as a Second

Language programs, employment services, job training, mental health services, and other programs to address both immediate and longer-term needs. With only a trickle of refugees arriving, it has been impossible for most volags and state agencies to maintain offices and staff in all locations to which refugees might be resettled.

The COVID-19 pandemic has led to still further reductions in refugee admissions. The UN High Commissioner for Refugees (UNHCR) halted departures in March 2020; the United States—citing security concerns—stopped all but emergency admissions and maintained them in place after UNHCR allowed departures. Evidence from prior pandemics indicate that travel restrictions of this type are only effective in stemming the spread of disease by days to several weeks. They can be beneficial if used to implement procedures to screen, test, trace, quarantine and isolate carriers. In the meantime, refugees awaiting resettlement often remain in situations where social distancing is impossible and healthcare systems are lacking in the capacity to treat those who do contract the virus.

Recommendations

1. Reframe the discourse on refugee resettlement

Restoring the positive message of previous administrations will be essential to rebuilding support for generous refugee resettlement programs. The newly elected President should give a major speech on the value of immigration, more generally, and refugees in particular. The speech should strive for the rhetoric used by Ronald Reagan when he talked about John Winthrop’s “City on the Hill”:

[I]n my mind it was a tall, proud city built on rocks stronger than oceans, windswept, God-blessed, and teeming with people of all kinds living in harmony and peace; a city with free ports that hummed with commerce and creativity. And if there had to be city walls, the walls had doors and the doors were open to anyone with the will and the heart to get here. That’s how I saw it, and see it still.... After 200 years, two centuries, she still stands strong and true on the granite ridge, and her glow has held steady no matter what storm. And she’s still a beacon, still a magnet for all who must have freedom, for all the pilgrims from all the lost places who are hurtling through the darkness, toward home.

Forceful imagery of this type should be combined with an explanation of the concrete reasons that resettlement is not just a moral obligation but also in the national interest.

2. Rebuild the federal government’s capacity to manage the resettlement program

Appointment of a well-respected expert on refugee issues to the position of Assistant Secretary of State for Population, Refugees and Migration should be a high priority. When the agency has had such leadership (e.g., James Purcell, Arthur Eugene Dewey, Eric Schwartz, Anne Richards), U.S. interests and the well-being of refugees have been well-served. Similarly, priority should be given to the appointment of an equally well-regarded Director of the Office of Refugee Resettlement. This appointment should go to a refugee who has worked in the field or to someone who has headed up one of the volags or state refugee programs. Such expertise would be invaluable in restoring the integrity of ORR, which lost many of its staff members and much

of its reputation as a result of its activities related to the detention of separated and unaccompanied minors during the Trump administration.

3. Hold emergency consultations with Congress on plans to increase the number of refugees to be resettled during FY 2021

As President Trump is likely to set low admissions numbers for refugees in his FY2021 refugee determination, a newly inaugurated President should use the provisions of the Refugee Act to increase the ceiling on resettlement and seek supplemental appropriations to carry out the intent to raise numbers. The rationale for this increase would be the record numbers of displaced persons in the world, and, in particular, the growth in the number of new refugees from Venezuela and Syria. This action will serve to: (1) demonstrate the new President's commitment to refugee protection and solutions; and (2) give the resettlement infrastructure time and funds to rebuild its capacity to handle large numbers of new arrivals. Consultations with State Department and DHS field staff as well as local resettlement agencies as to their capacity to process and receive refugees is essential in setting the actual number of refugees to be resettled during the remainder of the fiscal year.

4. Begin planning FY 2022 resettlement goals

It will be urgent to consult soon after inauguration with the UN High Commissioner for Refugees, the volags and other nongovernmental organizations concerned with refugee protection, state and local leaders, and members of the Congressional committees that have jurisdiction over the resettlement program on FY 2022 budget and ceilings. The budget process through which funds are allocated to resettlement occurs earlier than the refugee admissions consultation process, making it essential to begin the discussions on future resettlement needs as early as possible. Restoring a process that solicits advice on the need for resettlement from those who work most closely with refugees throughout the world should be a priority so that the President's Determination as to the numbers to be admitted and their allocation can be based on the best information available.

5. Rebuild the field-level resettlement infrastructure

The capacity of the country to maintain the resettlement program depends on the ability of organizations working directly with refugees to perform their duties in a professional manner. Members of the new administration should meet early in the administration with the volags as well as state and local officials on what steps should be taken to rebuild the capacity of U.S. communities to integrate refugees. These consultations should ascertain what role the federal government could play in providing institutional support to resettlement agencies apart from the per capita grant provided to resettled refugees.

6. Reform and reinvigorate consultations with states and localities

Consulting with state and local governments is an essential part of the refugee resettlement program to ensure that refugees are well received and able to integrate into their new

communities. State and local authorities should not, however, have a veto power over resettlement into their jurisdictions. The new administration should reverse the Trump Executive Order while engaging in meaningful consultation with state and local authorities as to their receptivity, capacity and willingness to resettle refugees in their communities. It will be important to listen and respond to concerns, finding ways to address them to ensure the best resettlement experience possible.

7. Review and adjust, as needed, enhanced screening measures and COVID-19 restrictions

The new administration should review the enhanced screening measures that were put in place before and, especially, during the Trump administration to ensure that they do not jeopardize admission of refugees of special humanitarian concern to the United States. The review should include both substantive bars on admission as well as procedures that unnecessarily delay admissions. Based on this review, steps should be taken to put in place and retrain adjudicators on a more streamlined process for screening refugees. The administration should also revisit the admission restrictions related to COVID-19 and put in place screening, testing, tracing, quarantine and isolation procedures that would allow resettlement to resume.

8. Explore legislative fixes to the refugee admissions process and seek to depoliticize the process

Under the Trump administration, the refugee admissions process has been politicized to an unhealthy extent. A program that began as a largely humanitarian initiative—albeit one that also served national interests—has turned into a political football. To some extent, this shift was predictable since requiring an annual Presidential determination of the admission ceiling inevitably brings heightened visibility to the issue. In 1995, the U.S. Commission on Immigration Reform recommended a return to the “normal flow” concept in the Refugee Act of 1980; a Presidential determination would be required only when the need for resettlement exceeded the statutory normal flow level. The original normal flow level of 50,000 represented the average of resettlement in the preceding 20 years. If the same logic is adopted today, the normal flow would be set at 98,000. This would provide a floor on resettlement that would enable the United States to do its fair share of resettlement each year while maintaining flexibility to raise the ceiling when emergencies required additional resettlement.

9. Join the Global Compact on Refugees

The Trump administration refused to sign on to the Global Compact on Refugees, one of only two countries that explicitly chose not to participate. The Compact provides a framework for international cooperation and responsibility sharing in protecting and finding solutions for refugees. One aim of the Compact is to increase the overall number of resettlement slots worldwide to provide durable solutions for more refugees. The United States should take leadership in the next decade in ensuring that this increase occurs by resettling significant numbers of refugees itself and encouraging other governments to follow suit.