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Leading by Example: US Refugee Policy at Home and Abroad

The US refugee policy recognizes that America is a ‘nation of immigrants’ and that welcoming the persecuted was and continues to be a reflection of US identity. At the same time, we must develop an effective system that not only protects refugees but also ensures that none of those we admit into this country will become a destabilizing force. Therefore, supporting the refugees and countries that host them is in the best national interest of the United States. That is why America should lead by example. This policy brief provides recommendations to policymakers in Congress and the Administration as to the best ways to sustain US leadership on refugee issues at home and abroad.

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INTRODUCTION

This policy brief considers four factors that explain when the US chooses to act favorably, consistent with international and domestic laws, to promote the protection of those seeking refuge. We argue that the US chooses to be an active and influential member of the global refugee regime when several conditions come together. First, when there have been strong foreign policy linkages to crises that produce refugees, and the refugees themselves are seen as a manifestation of US policy interests, the US has been more willing to take action and influence the decisions of others. Second, clear and highly visible humanitarian needs help mobilize US leadership. Third, when important domestic constituencies support action to address those needs, the US is more likely to respond and encourage other governments to do so. Fourth, strong Congressional backing of Presidential decisions to exert US leadership facilitates those actions, especially when new resources must be appropriated in support of proactive policies and programs.

US LEADERSHIP AND ITS ROLE IN REFUGEE PROTECTION

The US exerts leadership on refugee issues in two principal ways: as a donor and as a receiving country. In the former case, the US focus is generally on assistance and protection for the millions of refugees and displaced persons who live in developing countries. In the latter case, the focus is on policies regarding admission and stay of those seeking protection within the US. These policies are often seen as positive models for other countries although there are cases – such as US policy of interdicting Haitians¹ and, more recently, the use of US public health legislation to prevent asylum seekers from crossing the border² – that have served as models for deterrence policies

taken by governments in other parts of the world.

US and the International Refugee System

The US remains the largest single contributor³ to international protection and assistance programs for refugees and internally displaced persons (IDPs) through support for the United Nations High Commissioner for Refugees (UNHCR), United Nations Relief and Works Administration for Palestinian Refugees (UNRWA), International Organization for Migration (IOM), United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), World Food Program (WFP) and the principal nongovernmental organizations assisting displaced populations. The US is the largest donor to UNHCR in absolute terms, contributing US\$2.2 billion in 2022, up from 1.04 billion in 2013, and ranked 10th on a per capita basis⁴. The US provides general support as well as earmarked funds for specific programs. Funding for UNRWA varies. The Trump administration withdrew all funding from the agency. Under the Biden administration, the US returned to its status as UNRWA's largest donor⁵, contributing \$338 million in 2021 alone. These numbers do not include the additional hundreds of millions spent on bilateral humanitarian assistance to governments and non-governmental organizations, much of which is spent on displaced persons.

Beyond its funding, the US also exerts leadership via its membership in the Executive Committee (ExCom) of the UNHCR and the governing councils of UNRWA and IOM in addition to its important role as a permanent member of the UN Security Council⁶. ExCom is composed of UN member states who are elected by the Economic and Social Council (ECOSOC). ExCom's reports are submitted directly to the General Assembly; they do not substitute for policy guidance from ECOSOC and the General Assembly but play an important function in advising the High Commissioner,





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reviewing funds and programs, authorizing the High Commissioner to make appeals for funds, and approving proposed budget targets. Since its founding, ExCom membership has grown from 25 when it was established to more than 100 members today⁷.

The US plays an outsized role in ExCom. While it cannot always persuade other governments to follow its lead, the US can often block resolutions that it opposes. As the largest donor, the US has tremendous influence on UNHCR's finances and thus holds sway on issues that directly or indirectly involve funding. More often, though, the United States attempts to influence UNHCR practice through a positive use of its resources and ideas. The US often uses ExCom to announce new initiatives aimed at reforming the way in which UNHCR or its member states operate. For example, at the 2022 ExCom meeting, Julieta Valls Noyes, Assistant Secretary of State for the Bureau of Population, Refugee and Migration of US State

Department, turned the microphone over to Basma Alawee, a former refugee from Iraq and now a US citizen, "as proof of our dedication to elevating refugee voices⁸." During her remarks, Alawee emphasized her hope that "my participation today inspires the collective will of this body, to create similar opportunities for meaningful engagement and partnership for refugee leaders across the world⁹."

US leadership has also been exerted through direct action. For example, President Barack Obama convened a US Leaders' Summit during the 2016 General Assembly¹⁰ meetings to mobilize new commitments to the global refugee crisis. The announcement of this Summit came immediately after the UN General Assembly decided to convene a high-level plenary on Large Movements of Refugees and Migrants on 19 September 2016. While the UN meeting sought to improve multilateral responses to both refugees and migrants, the US initiative focused on three



specific objectives with respect to refugees: 1) to increase humanitarian funding from \$10 billion in 2015 to \$13 billion in 2016 by identifying new donors and increasing donations among existing ones; 2) to double the number of refugees to be resettled by identifying new resettlement countries, expanding the resettlement commitments of existing resettlement countries, and providing other legal channels for humanitarian admission when resettlement does not provide sufficient access; and 3) to facilitate refugee inclusion and self-reliance to “enable refugees to meet their own needs and contribute to communities that host them.”¹¹ In this regard, the US sought and received commitments for more educational and work opportunities for refugees worldwide.

LEADING BY EXAMPLE

The United States exerts leadership through its own policies for the admission of refugees and displaced persons. In some cases, it has been a model for positive policies that promote protection and solutions whereas in others, it has been a model for policies that impede protection.

Refugees and others who need international protection come to the United States in multiple ways. The United States has long resettled refugees, granting them permanent admissions¹² and a pathway towards citizenship. Prior to 2017, the US generally admitted 70 percent of all refugees who were resettled. This record took a substantial hit during the Trump administration and has not fully recovered more than two years into the Biden administration. In FY 2022, the United States admitted slightly more than 25,000 refugees, despite a ceiling on admissions of 125,000.¹³

Each year, the President, in consultation with Congress, determines how many refugees will be

admitted and how that number will be allocated by region. The administration has retained the 125,000 ceiling for FY 2024¹⁴ four priority categories: 1) Individual cases referred by designated entities to the program by virtue of their circumstances and apparent need for resettlement; 2) Groups of special concern designated by the Department of State as having access to the program by virtue of their circumstances and apparent need for resettlement; 3) Individual cases granted access for purposes of reunification with family members already in the United States; and 4) Individual cases from all nationalities who have been referred by private sponsors in the United States, and who receive post-arrival support and services from those sponsors.¹⁵

The fourth priority, private sponsorship, is new for the United States. The program is loosely modeled on the Canadian private sponsorship program. In launching the program, the administration described it as a way to empower “everyday Americans to play a leading role in welcoming refugees arriving through the US Refugee Admissions Program (USRAP) and supporting their resettlement and integration as they build new lives in the United States.”¹⁶

In recent years, the Biden administration has responded to two major refugee crises outside of the regular resettlement¹⁷ program. With the Taliban take-over of Afghanistan, thousands of Afghans with close ties to the United States would have faced considerable danger due to their association with the US. Those granted parole are not entitled to permanent residency and are encouraged to apply for asylum or follow another pathway to permanent status as their temporary parole status only lasts two years, although is renewable.

Under the Uniting for Ukraine parole¹⁸ program, a



person lawfully residing in the United States can sponsor a Ukrainian to be paroled into the United States. The sponsors must demonstrate an ability to support parolees financially and a commitment to assist the Ukrainians in finding shelter, enroll children in school, apply for work authorization, and provide other assistance. Afghans and Ukrainians who are admitted under parole are eligible for certain refugee resettlement services and may benefit from assistance from public and private initiatives to facilitate integration.

The most problematic refugee protection issue in the United States pertains to asylum for those who spontaneously arrive in the country and claim refugee status¹⁹. How the US handles asylum applications arguably affects its influence on refugee protection worldwide. Some of the policies intended to avert the arrival of asylum claimants are in the category of ‘sticks’ designed to deter asylum seekers from seeking entry, including interdiction, mandatory detention, and direct return to home countries without having access to asylum. Other asylum policies are arguably ‘carrots.’ For example, in partial response to a surge in applications for asylum, and recognition of

the dangers to transiting asylum seekers, the United States has put in place in-country processing systems²⁰. There are also presently plans²¹ to set up regional processing centers in Latin American countries to both process refugees through the resettlement system as well as to handle asylum claims.

On the positive side, the United States can be credited with taking leadership regarding other aspects of asylum adjudications. For example, it has been a leader in establishing that fear of persecution by non-State actors can be a basis for asylum if the government of the country of origin is unwilling or unable to protect the applicant. The²² United States was also among the first countries to provide guidance to asylum adjudicators regarding gender-based persecution, issuing guidelines in 1995²³. Because these are guidelines, not laws, however, government authorities have not been consistent in application. During the Trump administration, for example, the Attorney General used his own authority to undermine protections on the basis of gender and non-state actor violence.



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ASSESSING US LEADERSHIP AND REFUGEE POLICY

In general, the United States plays an active leadership role with regards to assistance and protection of refugees and displaced persons. The country remains the largest donor to the array of international organizations with responsibilities in this area. Generally, there has been bipartisan support for these contributions to humanitarian programs. Although in recent years, all funding has seen significant cuts as pressure to reduce government spending has increased, the US budget for refugees has remained largely intact. These levels of funding, not only for UNHCR and other humanitarian agencies, effectively give the United States great power when setting the priorities of these organizations.

US funding provides both multilateral and bilateral assistance, giving some discretion to the international organizations to determine how to best meet the needs of refugees and displaced persons. At the same time, it has earmarked funds²⁴ to encourage these agencies to address what the US perceives as unmet needs, as evidenced by US advocacy for many years for the protection of refugee women and girls.

The United States has pushed initiatives²⁵ to expand protection for other populations at risk, such as migrants caught in crises in their countries of residence. Only a handful of member states have taken on initiatives of this sort—the leadership of Norway and Switzerland on the Nansen Initiative Global Protection Agenda²⁶ for those who cross borders in the context of natural disasters and the effects of climate change comes to mind. In this case, the US government has taken a keen interest, and issued a White House report²⁷ on climate change, migration and displacement, but chose not to take on a leadership role internationally. By contrast, US nongovernmental

organizations and experts played important roles in providing intellectual guidance to the initiatives.

The convening power of the US government has played an enormous role historically and continues to be one of the principal reflections of its leadership within the field. This power does not appear to have diminished. President Biden initiated work on the Los Angeles Declaration on Migration and Protection²⁸, which was signed at the Summit of the Americas in June 2022. It commits signatories “to expand legal migration pathways, support immigrant integration, invest in migration management, and coordinate responses to mass migration movements and displacement crises.”²⁹

Nevertheless, there are reasons to be cautious about US leadership. Whenever resettlement or asylum in the US has been a political football, rather than a testament to humanitarian, foreign policy and domestic constituency interests, US leadership and refugee protection have suffered. Too often, the US fails to practice what it preaches when it comes to protection of refugees and asylum-seekers, undermining its credibility and leadership.

What does all of this mean for US leadership in the refugee regime? By most measures, the US is still the dominant power, whether measured by influence, money or admission levels. Unlike in many other policy spheres, it has often preferred to operate through multilateral approaches in supporting protection and assistance for refugees and other displaced persons. The US government has been supportive of other governments that wish to take the lead in important international initiatives to enhance protection, as discussed above in reference to the Nansen Initiative. That having been said, however, there is little likelihood that major changes in policies or shifts in refugee priorities would succeed without US agreement to these practices.



RECOMMENDATIONS

Executive Branch:

1. The Biden administration should strongly articulate the reasons that policies affirming refugee protection—whether through resettlement or asylum—are in the foreign policy and national security interests of the United States.
2. The administration should impose upon itself the responsibility to do no harm when introducing new regulations or administrative actions that affect access to asylum. When the US does not practice what it preaches about refugee protection, it loses its credibility as well as the leadership it can exercise for the benefit of refugees.
3. For the US to lead by example, the administration should continue to fight against xenophobia and misinformation about refugees here at home and abroad.
4. The US government should continue to show leadership as the international community grapples with the thorny issue of how to respond to displacement caused by disasters and the effects of climate change, which exacerbates forced displacement.
5. The Executive Branch should continue its efforts to engage refugee-led organizations in policy-making on refugee and asylum issues.

US Congress:

6. Congress should continue to appropriate sufficient funds to UNHCR, IOM, and other humanitarian organizations to enable them to assist and protect refugees and displaced persons worldwide.
7. Congress should enact sound reforms that will strengthen the US refugee resettlement program, for example, by placing a floor, rather than a ceiling on the number of refugees to be admitted, as well as ample funds to help refugees become self-sufficient in the United States.
8. Congress should take action to fix weaknesses in asylum adjudication without undermining the ability of people to seek asylum in the United States, for example, by providing the financial and human resources needed to reduce the growing backlogs in adjudication of asylum applications.
9. Congress should enact legislation that clearly recognizes that escape from gender-based persecution and persecution by non-state actors, such as drug cartels and gangs, are legitimate grounds for obtaining asylum and eligibility for refugee resettlement.
10. Congress should provide funds and needed resources to help border communities and states that are receiving and hosting large numbers of asylum seekers in the US.

Refugee Organizations:

11. Refugee advocates should work with members of both political parties to rebuild bipartisan support for refugees. In this context, advocates should work closely with resettled refugees and diaspora groups as they are a natural constituency for supporting US action on behalf of all refugees.



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