



# How to Save the U.S. Refugee Admissions Program

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Headquarters

**International Crisis Group**

Avenue Louise 149 • 1050 Brussels, Belgium

Tel: +32 2 502 90 38 • Fax: +32 2 502 50 38

[brussels@crisisgroup.org](mailto:brussels@crisisgroup.org)

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# Principal Findings

**What's new?** Through various forms of bureaucratic strangulation, the Trump administration is working to squeeze the life from a program that has helped resettle three million refugees in the U.S. since 1980.

**Why does it matter?** The current administration's hostile approach is slashing the world's resettlement capacity, leaving more displaced people stuck in overburdened host countries next to war zones, and hobbling a tool that the U.S. has used to help manage the prospect of instability in those countries.

**What should be done?** The Trump administration should set a refugee ceiling within range of the historical norm and work to reach it. Proponents of resettlement should hold the administration to reasonable goals. Future administrations will need to take steps to put resettlement on a more sustainable political and operational footing.

## *Executive Summary*

At a time when long-running conflicts are driving global refugee numbers to record levels, the U.S. is stepping back from its traditional role as the mainstay of global refugee resettlement. President Donald Trump's administration has cut the country's annual intake of refugees by more than half, and is hobbling the U.S. refugee resettlement program through a combination of politically motivated suspensions, expanding requirements and malign neglect. This policy is both wrong and wrong-headed. The U.S. administration should stop throwing obstacles in the way of its own resettlement operations, set an admissions ceiling within range of past levels and put its weight behind reaching it.

Some countries – like Pakistan, Turkey and Uganda – have borne much of the burden of the 21st century's enormous refugee flows because they border conflict zones. Recently, Germany and Sweden decided for a period of time to admit very significant numbers of asylum seekers who flooded their borders during the Syrian refugee crisis. By comparison, the number of refugees resettled every year – in other words, given the chance to relocate from the countries where they first found refuge to receiving states where they will start whole new lives – is relatively tiny. Historically, very few countries have had the capacity and the political will to reach out and offer to resettle refugees from far-off regions. But even if the numbers are always small, and well short of what the UN recommends, resettlement can be an important tool. It helps remove refugees from places where they could be the spark for igniting violence, provide an extra level of protection to the especially vulnerable and find homes for waves of migrants denied asylum in the region from which they come. The U.S. is by far the largest country engaging in refugee resettlement. It cannot shirk its commitment without badly eroding global capacity.

Unfortunately, there is little reason to believe the White House will heed this call. Having run for president on a deeply anti-immigration platform – and having taken specific aim at Syrian refugee resettlement during his campaign – President Trump has approached cutting refugee admissions like the fulfilment of a campaign promise. Certainly the anti-immigration hardliners who have been managing the president's policy on refugee resettlement – led by his senior adviser Stephen Miller – have worked with campaign-like intensity to hurt the program. The administration has planted hardliners in the agency offices responsible for resettlement, reassigned long-term professionals who make the program run, imposed dilatory suspensions and burdensome new requirements, suppressed reasonable arguments in support of the program, and amplified misleading statistics that denigrate it.

The contrast with prior administrations is jarring. For decades, the U.S. commitment to refugee resettlement was a point of pride for administrations of both the Republican and Democratic parties, who saw it as serving both strategic and humanitarian interests – whether in providing refuge to Hungarian dissidents, Indochinese boat people, Soviet Jewry, Sudanese orphans or Kosovar victims of ethnic cleansing. Both the George W. Bush and Barack Obama administrations sought to keep the program strong even when post-11 September 2001 laws and security protocols threatened to strangle it in red tape.

While one would expect a restrictionist administration like President Trump's to take a very different approach to immigration than its predecessors, the hard focus on refugee resettlement is nevertheless revealing. From a purely economic or security perspective, resettlement is not an issue that warrants topping even an immigration sceptic's priority list. Resettled refugees tend to be solid contributors to the economy over the medium and long term. They do not come in sufficient numbers (an average of 80,000 annually since 1980) to generate meaningful job competition for existing American workers. And notwithstanding a handful of sensationalised cases and the reality that no form of immigration will ever be zero-risk, the program is too rigorously scrutinised to be a preferred channel for would-be security threats.

But the opinion leaders who now shape the White House immigration agenda are not consumed exclusively with narrow economic and security concerns. They are also driven by a view that the ethnic and cultural diversification brought about by the landmark 1965 Immigration and Nationality Act – which ended a national-origin quota that encouraged migration by northern and western Europeans (and discouraged nearly everyone else) – has changed America for the worse. President Trump's own comments pining for higher migration from Norway, and vulgarly disparaging global south countries, are of a piece with this agenda. It is this anti-diversity logic through which the administration's hardline approach to refugee resettlement should also be viewed.

Not everyone inside the U.S. government fully shares the animus against resettlement, however. In 2018, career civil servants fought internal battles to counter falsehoods and half-truths being peddled by immigration hardliners inside the administration. This year, the Department of Defense is reportedly playing a lead role, arguing both for a respectable ceiling that is consistent with U.S. wealth, capacity and humanitarian traditions, and advocating for the admission of Iraqis who placed their lives at risk helping the U.S. armed forces. Outside pressure from all corners – Congress, the press and civil society – strengthens the hand of those who fight for resettlement from the inside at the same time as it can help stop meritless arguments advanced by opponents from settling into received wisdom.

At the same time, it is important to look toward the future, and how an administration committed to resettlement might put the program on a stronger, more sustainable footing. One key objective should be to shore up political and popular support. During the Cold War, political elites supported resettlement as a mechanism for embarrassing the Soviet bloc and bringing anti-communist defectors into the U.S. The disappearance of that grand strategic rationale has made resettlement more politically vulnerable. Thus, when the executive branch wishes to resettle a group of refugees whom, rightly or wrongly, Congress and the public regard as posing a particular security risk, it must bend over backwards to prepare the ground with Congress and explain how it is protecting the American people. Congress and the public react poorly to sudden changes in policy, as President Barack Obama's administration learned the hard way during the Syrian refugee crisis.

The other key point is operational. Even before the Trump administration layered on new requirements, administering the resettlement program had become absurdly cumbersome. The vetting process for refugees has been aptly compared to a Lego house – a haphazard jumble of often ill-fitting, sometimes redundant pieces. Reviewing the

entire security check process to eliminate duplication, appointing a senior civil servant to oversee it and bringing together in a single location officers from different agencies who play a role in the refugee vetting process could make it much more efficient and effective. These steps could help the U.S. reinvigorate its resettlement efforts amid a global displacement crisis that shows no sign of abating.

**Washington/Brussels, 12 September 2018**

# How to Save the U.S. Refugee Admissions Program

## I. Introduction

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In recent years, conflicts in Afghanistan, South Sudan, Syria and elsewhere have helped displace more people than at any time since World War II.<sup>1</sup> While the majority of the world's 68 million displaced persons remain inside their countries of origin, 25 million of them have fled across borders seeking refuge from violence or persecution.<sup>2</sup>

The burden of sheltering and supporting these 25 million refugees is far from evenly distributed. By far the greatest weight falls on states that abut conflict zones and that themselves often have small economies, fragile political systems or histories of internal violence.<sup>3</sup> Wealthy donor states have traditionally offered some support to help host countries bear this burden. This may be because they were a party to the conflict that caused the crisis, or because they in general feel a sense of moral responsibility to help address humanitarian emergencies, or because they see it as in their strategic self-interest to provide this assistance. Often, the latter boils down to a desire to keep conflict and violence from spreading, humanitarian and economic costs from spiralling, and the resulting waves of migration from reaching their shores.<sup>4</sup>

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<sup>1</sup> See UN High Commissioner for Refugees (UNHCR), "Figures at a Glance" (as of 19 June 2018), which notes that 57 per cent of the world's refugees come from Afghanistan (2.6 million), South Sudan (2.4 million), and Syria (6.3 million). See also Jean-Marie Guéhenno, "Conflict is key to understanding migration", Carnegie Europe, 13 March 2016.

<sup>2</sup> See UNHCR 2018 figures. While the global refugee figure of 25 million includes both Palestinian refugees who fall under the mandate of the UN Relief and Works Agency (UNRWA) (4.9 million) and refugees who fall under the mandate of UNHCR (19.9 million), in general UNHCR statistics do not reflect refugees who fall under the UNRWA mandate. Accordingly, wherever UNHCR statistics are cited in this report, they should be understood not to include UNRWA refugees unless otherwise noted.

<sup>3</sup> According to UNHCR statistics, the top five refugee hosting countries in the world are Turkey (3.5 million), Uganda (1.4 million), Pakistan (1.4 million), Lebanon (1 million) and Iran (979,400). Ibid.

<sup>4</sup> The body of scholarly work that associates the presence of large numbers of refugees in a host country with increased risk of conflict or violence has tended to focus on four theories: 1) the introduction of refugees can upset ethnic balance in a destabilising way (I. Salehyan and K. S. Gleditsch, "Refugees and the Spread of Civil War", *International Organization*, vol. 60, no. 2 (2006), p. 335.); 2) the presence of refugees can create or exacerbate economic tensions and put strain on community resources (M. Weiner, "Security, Stability and International Migration", *International Security*, vol. 17, no. 3 (1992), pp. 91-126.); 3) "refugee warriors" can use camps as staging grounds for attacks against either the host country and/or the country of origin (A. R. Zolber, A. Suhrke, and S. Aguayo, *Escape from Violence: Conflict and the Refugee Crisis in the Developing World* (New York, 1989), pp. 275-278); and 4) refugee-sending nations may violate the sovereignty of refugee-receiving nations in pursuing grievances against those who have fled (I. Salehyan, "The Externalities of Civil Strife: Refugees as a Source of International Conflict", *American Journal of Political Science*, vol. 52, no. 4 (2008), pp. 787-801). A growing body of research also notes the prevalence and under-reporting of gender-based violence and the targeting of children and adolescents within refugee populations ("Violence in the city: a systematic review of the drivers of violence against displaced populations in urban crisis and post-crisis settings", International Rescue Committee, Janu-

Most commonly, donor governments help blunt these risks by furnishing assistance to refugees in camps – lowering the economic cost of the refugees to the host government and its citizens and the friction that this cost can cause. Increasingly, donors also look for ways to subsidise host government efforts to encourage refugee self-reliance, by allowing refugees to earn a living or educate their children in local schools. But there is also a third means of support – used in a much more targeted way – that can help relieve the burden on host governments while also providing transformative assistance to the most vulnerable refugees. And that is to resettle refugees who have abandoned hope of returning home and give them a fresh start somewhere else.

Because only a tiny number of the world’s refugees gets resettled every year – usually fewer than 200,000 people out of millions – sceptics have questioned whether resettlement serves an important purpose.<sup>5</sup> It does. Sometimes resettlement is the best way to de-escalate a situation where the presence of refugees could spark conflict or violence, as was the case when the U.S. airlifted thousands of Kosovar refugees out of Macedonia in 1999. Sometimes it is the only way to protect a group that is being denied asylum by countries closer to home, as was the case with the Indo-chinese “boat people” after the Vietnam War. Sometimes resettlement is a way of bringing to safety a refugee who is particularly vulnerable because of illness, age, gender, sexual orientation or a traumatic history that involves rape or torture. And sometimes resettlement is important as a gesture of solidarity with a state that is stretching to its limits in order to protect the vulnerable inside its borders.

A big challenge for global resettlement efforts today is that the U.S. is pulling back. As by far the largest country that regularly engages in resettlement, the U.S. has for years been the mainstay of these efforts, taking more than half of the refugees identified as priorities for resettlement by the Office of the UN High Commissioner for

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ary 2017). Not all scholarship, however, finds a connection between refugee populations and violence in host countries. See Y.-Y. Zhou and A. Shaver, “Do Refugees Spread Conflict?”, 23 January 2018, at <https://ssrn.com/abstract=3107830> or <http://dx.doi.org/10.2139/ssrn.3107830>, which finds that refugee sites do not increase the risk of conflict in a host country and that in cases where refugees cluster in a single province there may actually be a reduction in the risk of new conflict because of “increased state presence and humanitarian efforts”. Crisis Group’s own fieldwork has often examined the risk that large refugee populations introduce or exacerbate the risk of violence or conflict or introduce challenging issues into the negotiation of peace agreements. See, for example, Crisis Group Africa Report N°20, *Burundian Refugees in Tanzania: A Key Factor in the Burundi Peace Process*, 30 November 1999; Crisis Group Middle East Report N°77, *Failed Responsibility: Iraqi Refugees in Syria, Jordan and Lebanon*, 10 July 2008; Crisis Group Middle East Report N°84, *Nurturing Instability: Lebanon’s Palestinian Refugee Camps*, 19 February 2009; Thibaud Lesueur, “CAR: The Fate of Refugees in Southern Chad”, Crisis Group Commentary, 10 November 2014; Crisis Group Europe Report N°248, *Turkey’s Syrian Refugees: Defusing Metropolitan Tensions*, 29 January 2018; and Crisis Group Asia Report N°296, *The Long Haul Ahead for Myanmar’s Rohingya Refugee Crisis*, 16 May 2018.

<sup>5</sup> The largest number of refugees submitted for resettlement by UNHCR in the last twenty years – 163,000 – came in 2016. See UNHCR, “UNHCR Resettlement Data”, at [www.unhcr.org/en-us/resettlement-data.html](http://www.unhcr.org/en-us/resettlement-data.html). While UNHCR pre-screens and submits to receiving countries the great majority of refugees who are resettled, some countries, including the U.S., allow certain populations to be referred through other channels.



Refugees (UNHCR).<sup>6</sup> No longer. While a candidate, Donald Trump ran on an anti-immigration platform that criticised U.S. refugee policy. Now that he is in office, his administration has slashed resettlement numbers to historical lows. As U.S. resettlement numbers have plunged, so have worldwide numbers. UNHCR, which plays a clearinghouse role for the bulk of resettlements around the world (75 per cent in 2017), was required to cut its referrals by more than half last year; it attributed these cuts to “a decline in resettlement quotas”.<sup>7</sup> If the U.S. makes further dramatic cuts, global numbers will almost certainly reflect them.<sup>8</sup>

Recognising the importance of a healthy U.S. refugee resettlement program to global resettlement efforts, this report explores how the U.S. resettlement program came to be, thrived and declined – and how it might be placed on a sustainable footing for the future. It explores the historical roots of refugee resettlement in the U.S. since World War II, analyses how it became politicised during the 2016 presidential campaign and examines the extraordinary pains the Trump administration has taken to diminish it.<sup>9</sup> It analyses arguments that have been used to attack the program and draws on lessons learned to suggest ways in which the program might be revitalised within its existing legal architecture but on firmer operational and political ground. The report is based on more than three dozen conversations, discussions and interviews with former Bill Clinton, George W. Bush and Barack Obama administration officials, former and current Trump administration officials, humanitarians and other experts. The authors, who previously worked for the U.S. government, also drew upon first-hand knowledge of certain events described in the report. Research was conducted primarily in Washington.

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<sup>6</sup> See UNHCR, “Resettlement Data”, at [www.unhcr.org/en-us/resettlement-data.html](http://www.unhcr.org/en-us/resettlement-data.html). While the U.S. takes by far the largest number of refugees for resettlement in absolute terms, it is not the top resettling country on a per capita basis. In 2017, the top three countries for resettlement on a per capita basis were Monaco (0.59 resettled refugees per 1,000 inhabitants), Norway (0.53/1,000) and Sweden (0.34/1,000). Rounding out the top ten were Luxembourg (0.31/1,000), Canada (0.24/1,000), New Zealand (0.21/1,000), Finland (0.20/1,000), Australia (0.16/1,000), Iceland (0.14/1,000) and the Netherlands (0.13/1,000). The U.S. ranked thirteenth with 0.08 resettled refugees per 1,000 inhabitants. See UNHCR, “UNHCR Projected Resettlement Needs 2019”, p. 79, at [www.unhcr.org/en-us/protection/resettlement/5b28a7df4/projected-global-resettlement-needs-2019.html](http://www.unhcr.org/en-us/protection/resettlement/5b28a7df4/projected-global-resettlement-needs-2019.html).

<sup>7</sup> UNHCR, “Global Trends: Forced Displacement in 2017”, at [www.unhcr.org/globaltrends2017](http://www.unhcr.org/globaltrends2017).

<sup>8</sup> Experts note that as U.S. resettlement falls other countries are not compensating by increasing their numbers. Crisis Group interviews, representatives of an organisation that tracks global resettlement, September 2018.

<sup>9</sup> The historical discussion in this report draws primarily upon the following sources: Deborah E. Anker and Michael H. Posner, “The Forty Year Crisis: A Legislative History of the Refugee Act of 1980”, 19 *San Diego Law Review* 9 (1981); Lawyers Committee for Human Rights, “The Implementation of the Refugee Act of 1980: A Decade of Experience”, March 1991; U.S. Citizen and Immigration Services, “Refugee Timeline”, at [www.uscis.gov/history-and-genealogy/our-history/refugee-timeline](http://www.uscis.gov/history-and-genealogy/our-history/refugee-timeline); Kathryn M. Bockley, “A Historical Overview of Refugee Legislation: The Deception of Foreign Policy in the Land of Promise”, 21 *North Carolina Journal of International Law and Commercial Regulation* 253 (1995); and Alexander Betts and Paul Collier, *Refuge: Rethinking Refugee Policy in a Changing World* (Oxford, 2017).

## II. A Brief History of U.S. Refugee Resettlement from World War II to the Obama Administration

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### A. *From World War II to Vietnam – The “Half-Open Door”*

When World War II ended in 1945, the U.S. was not a welcoming country to most immigrants. During the first quarter of the 20th century, the U.S. Congress created a restrictionist edifice of laws, tests and quotas designed to discriminate against populations it deemed to be potentially damaging to the social and economic fabric of the U.S. – including southern and eastern Europeans, Jews and Asians.<sup>10</sup> While World War II did not bring down this edifice, it opened fissures in it. Humanitarian concern for Holocaust survivors, strategic concern for European stability and, most enduringly, a desire to embarrass Washington’s new Cold War rivals in the Soviet bloc all motivated surges of resettlement activity in the period following the war.<sup>11</sup>

Between the end of World War II and 1980, the U.S. resettled between 1.4 and 1.5 million refugees.<sup>12</sup> Resettlement efforts focused initially on Europe.<sup>13</sup> Though they grew to include refugees from locations like China, Cuba and Vietnam, there remained

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<sup>10</sup> In 1917, Congress had imposed a ban on immigration from most of Asia and the first-ever literacy test on prospective immigrants to the U.S. The test’s primary purpose was to discriminate against southern and eastern Europeans and to tilt the scales in favour of bringing into the country northern and western Europeans. The “quota acts” of 1921 and 1924 created a system that allocated entry slots according to national origin. Congress did not repeal the national-origin quota system until 1965. For an overview of the evolution of U.S. immigration policy in the first quarter of the 20th century, with a particular focus on the impact of the bipartisan Dillingham Commission, whose recommendations are reflected in the restrictionist legislation of the period, see Katherine Benton-Cohen, *Inventing the Immigration Problem: The Dillingham Commission and its Legacy* (Cambridge, Mass., 2018).

<sup>11</sup> Jewish-American groups helped crack open the door to resettlement by arguing that Holocaust survivors could not possibly be expected to return home; they needed a fresh start. These and other humanitarian concerns helped prompt the Truman administration to authorise 40,000 entry visas for displaced Europeans at the end of 1945. Congress did not support this effort. Its first resettlement legislation, the Displacement Act of 1948, used cutoff dates and geographic limitations to discriminate against Jews. See Bockley, *op. cit.*, p. 261, citing Gil Loescher and John A. Scanlan, *Calculated Kindness: Refugees and America’s Half-Open Door, 1945 to the Present* (Oxford, 1986), pp. 4-7. See also Directive by the President, 22 December 1945, reprinted in Department of State Bulletin, 23 December 1945, p. 13; U.S. Citizenship and Immigration Services (USCIS) Refugee Timeline, p. 2; and Anker and Posner, *op. cit.*, pp. 13-14. (“Technical cut-off dates precluded the issuance of visas to ninety percent of the displaced Jews who entered Germany, Austria and Italy.”) On the Cold War motivation for refugee resettlement, see Bockley, *op. cit.*, pp. 261-262, drawing on Loescher and Scanlan, *op. cit.*, pp. 19-24; Anker and Posner, *op. cit.*, p. 14 (“The emphasis in these measures was less on broad humanitarian goals than on giving encouragement and support to anti-communists.”)

<sup>12</sup> Anker and Posner, *op. cit.*, p. 63.

<sup>13</sup> Just as the U.S.’s domestic resettlement practices aligned with its Cold War objectives, so the U.S. guided emerging international refugee law in the same direction. Under U.S. pressure, both the 1950 international statute creating the UNHCR and the 1951 UN Convention Relating to the Status of Refugees focused on displacement in Europe, with a particular emphasis on facilitating migration from communist eastern Europe to the west. The Convention only became a universal instrument through the adoption of a 1967 Protocol that eliminated geographic and certain other limitations. The U.S., which was not a party to the 1951 Convention, acceded to the Protocol in 1968. See Betts and Collier, *op. cit.*, pp. 36-41.

a common theme: America would be a haven for anticommunists fleeing repressive governments. Because U.S. immigration law did not include a standing mechanism for bringing refugees into the country, or even recognise the concept of “refugee”, resettlement was done largely ad hoc. Faced with a displacement crisis in Cuba or Hong Kong or Hungary, the president might borrow against existing quotas to issue visas, or rely on Congress to create “non-quota” visas (which were generally time-limited and available only to people fleeing communism in certain countries or areas).<sup>14</sup> Or he might direct the attorney general to use his “parole” authority (a discretionary power to admit aliens on a temporary basis) to bring in the desired group.<sup>15</sup>

Over time, parole became the favoured tool, but because it was by definition temporary, Congress generally had to pass legislation creating a pathway to citizenship for each group paroled in. A full twenty years after the end of World War II, the Immigration and Nationality Act of 1965 eliminated the national-origin quota system and created a modest standing authority to admit refugees. In practice, however, the annual number of places it created proved far too paltry, and successive administrations continued to rely extensively on parole for large-scale resettlements.<sup>16</sup>

Such was the status of U.S. law and policy when the U.S. pulled its troops out of Vietnam in 1975, and began an enormous, decades-long resettlement effort that to this day dwarfs its other post-World War II resettlement efforts, and that also heralded the launch of the U.S. refugee resettlement program in its current form.<sup>17</sup>

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<sup>14</sup> For example, the Refugee Relief Act of 1953 created 200,000 time-limited, non-quota admissions slots for those fleeing from communist or communist-dominated countries in Europe and the Middle East. USCIS Refugee Timeline, *op. cit.*, p. 4.

<sup>15</sup> The Immigration and Nationality Act of 1952 gave the attorney general the power to “in his discretion parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States”, 8 U.S.C. § 1182(d)(3) (1952) (later amended). The Dwight D. Eisenhower administration relied on a patchwork combination of congressionally created visa slots and parole to admit 21,500 Hungarians who fled their country after the Soviet Union crushed a U.S.-backed revolt in 1956. Anker and Posner, *op. cit.*, p. 15. In 1962, the Kennedy administration created a Hong Kong parole program that, over the course of four years, admitted 15,000 Chinese refugees who had fled mainland China to Hong Kong. USCIS Refugee Timeline, *op. cit.*, p. 5. The Kennedy, Johnson and Nixon administrations relied on parole to admit, in the aggregate, more than 300,000 Cuban refugees. USCIS Refugee Timeline, *op. cit.*, pp. 5-8; Anker and Posner, *op. cit.*, pp. 16-20.

<sup>16</sup> The Immigration and Nationality Act of 1965, which abolished the national-origin quota system, created a standing authority to resettle between 10,200 and 17,400 refugees per year. The authority applied only to political refugees who had fled communist countries or the Middle East (and were now in non-communist countries) and victims of certain natural disasters. Anker and Posner, *op. cit.*, pp. 17-18.

<sup>17</sup> Of this number, approximately 900,000 came from Vietnam and most of the rest from Cambodia and Laos. See chapter four, “Flight from Indochina” in UNHCR, “The State of the World’s Refugees 2000”, 2000, at [www.unhcr.org/3ebf9bado.pdf](http://www.unhcr.org/3ebf9bado.pdf).

B. *The Boat People, the Refugee Act of 1980 and  
Slipping the Cold War Tether*

Roughly 1.5 million South East Asian refugees resettled in the U.S. between 1975 and 2004.<sup>18</sup> The core initiative was called the Orderly Departure Program.<sup>19</sup> UNHCR organised it in 1979, after Indonesia, Malaysia, the Philippines, Singapore and Thailand (the five nations then making up ASEAN, or the Association of Southeast Asian Nations) announced that they would no longer allow refugees to claim asylum on their territory and began stopping boats from landing on their shores. Under the Orderly Departure framework, regional governments committed to afford temporary asylum to the boat people, Vietnam committed to prevent illegal departures and permit authorised ones, and donor governments, including the U.S., committed to accelerate resettlement efforts.

The massive Indochinese resettlement effort formed the backdrop for Congress to enact the transformative Refugee Act of 1980, which it had been deliberating for more than a decade. This Act released resettlement from its Cold War tether.<sup>20</sup> It gave the president the authority to set the ceiling for refugees on an annual basis (in consultation with Congress) based on humanitarian concerns and national interests and regardless of whether they were seeking refuge from communism. Participants had to be refugees as defined by international law and not barred by some other feature of U.S. immigration law. Resettled refugees could become lawful permanent residents after one year, and acquire U.S. citizenship five years after that.<sup>21</sup>

The transition from a Cold War to a more global focus did not happen instantly.<sup>22</sup> Well into the 1990s, former Soviets and South East Asians continued to be by far the

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<sup>18</sup> U.S. Department of State, “Fact Sheet: Refugee Admissions Program for East Asia”, 16 January 2004, at <https://2001-2009.state.gov/g/prm/rls/fs/2004/28212.htm>.

<sup>19</sup> The first wave of resettlement began immediately before the fall of Saigon, when the U.S. organised the evacuation of 130,000 people at particular risk because of their association with the South Vietnamese government. The second wave began in 1978, when large numbers of Vietnamese began taking to the high seas to seek refuge elsewhere. By 1979, the five ASEAN members announced that they were no longer in a position to accept “boat people”, implying that they would push back boats that attempted to land on their shores (a practice that had already begun). UNHCR “State of the World’s Refugees 2000”, op. cit., pp. 81-90.

<sup>20</sup> In a 1970 hearing about a possible new legislative framework, Senator Ted Kennedy stated that: “A comprehensive asylum policy for refugees is long overdue. We should ... broaden the definition of a refugee from its present European cold war framework to include the homeless throughout the world – in South America, southern Africa and elsewhere”. Proposed Amendments to the Immigration and Nationality Act: Hearings on H.R. 9112, H.R. 15092 and H.R. 173370 Before Subcommittee No. 1 of the House Committee on the Judiciary, 91st Congress, first Session (1970), p. 87.

<sup>21</sup> See Refugee Act Summary at Appendix A.

<sup>22</sup> In 1990, the Lawyers’ Committee for Human Rights observed in a briefing paper that the allocation of resettlement slots ten years after the enactment of the Refugee Act of 1980 “reflects the same ideological and geographic preferences that refugee admissions prior to the Refugee Act of 1980 reflected”. Lawyers Committee for Human Rights Briefing Paper, p. 29. Throughout the 1980s, Vietnamese refugees coming through the Orderly Departure Program formed the vast majority of admissions, with eastern Europeans fleeing the collapsing Soviet bloc a close second. Congress also put its thumb on the scale. In 1990, it enacted the Lautenberg Amendment, which lowered eligibility requirements for Jews and certain other minority populations from the Soviet Union, Vietnam, Laos and Cambodia.

leading beneficiaries of the U.S. resettlement program. After 1995, however, Vietnamese resettlements began to tail off, and non-Russian European resettlements (a consequence of the Balkans conflict) began to climb. So did African resettlements. The Clinton administration also used resettlement to help defuse regional and ethnic tensions in the Balkans in 1999. When a Serbian ethnic cleansing campaign forced tens of thousands of ethnic Albanian Kosovars to flee into fragile Macedonia, UNHCR looked to the U.S. and others to help share the burden. Operation Open Arms brought thousands of mainly Muslim refugees from Kosovo to Fort Dix, New Jersey, where they underwent medical and criminal background checks before being resettled as refugees.

This, then, was the hopeful landscape for U.S. refugee admissions in 2000. African admissions were finally on a par with former Soviet and European admissions.<sup>23</sup> The program was proving a useful tool for helping address complex humanitarian and foreign policy crises. It was a promising, expansive foundation from which to build the program in the new century. And then the 11 September 2001 attacks changed everything.

### *C. 11 September and Its Aftermath*

The terrorist attacks of 11 September 2001 shattered America's fleeting post-Cold War sense of safety, reoriented it to a whole new category of security threats and changed its tolerance for risk in ways that continue to reverberate throughout U.S. foreign policy, including in the U.S. refugee resettlement program.

Throughout the Cold War, U.S. resettlement efforts were both buoyed and constrained by a common sense that they served a core strategic interest of the U.S. Political elites promoted, or at least tolerated, the admission of refugees fleeing communism who might otherwise (rightly or wrongly) have aroused security concerns and would certainly have been turned away under the restrictionist immigration rules of the period. The question that the 11 September attacks raised was whether these same elites would continue to support the program if it was not underwritten by a Cold War strategic logic. As one former senior official who worked in the Obama White House suggested:

Before the '90s, the United States' primary adversaries were all state actors, and resettlement was an easy tool to use to reinforce our foreign policy objectives. You took the persecuted from bad states, or you tried to relieve pressure on the countries we were trying to build relations with. Once we started focusing on non-state actors as the big threat, the foreign policy concept around resettlement became as complicated as our foreign policy goals.<sup>24</sup>

But this new political vulnerability did not emerge right away. Indeed, the story of the U.S. refugee resettlement program in the period following the 11 September attacks

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<sup>23</sup> In 2000, the Program admitted 15,103 from the former Soviet Union, 22,561 from Europe and 17,561 from Africa. In 2001, admissions for those three regions were 15,978, 15,794 and 19,020, respectively. See Department of State, Refugee Processing Center, WRAPSNET website, "Historical Arrivals Broken Down by Region (1975-present), at [www.wrapsnet.org/admissions-and-arrivals](http://www.wrapsnet.org/admissions-and-arrivals).

<sup>24</sup> Crisis Group interview, former U.S. senior White House official, August 2018.

is instead one of resilience.<sup>25</sup> The program endured a complete shutdown in the months after the attacks.<sup>26</sup> It continued to operate despite the imposition of a cumbersome new requirement that the State Department obtain “security advisory opinions” from the Federal Bureau of Investigation (FBI) and other agencies for applicants from certain countries.<sup>27</sup> And it survived the enactment of laws that perversely disqualified refugees from entering the country because of “support” that terrorists had extorted from them at gunpoint or for providing assistance to the U.S. in its Cold War proxy fights.<sup>28</sup>

Had the Bush administration been intent on diminishing the program, mere bureaucratic inertia would have done considerable damage. But it was not. It kept its annual refugee ceilings close to normal levels – never lower than 70,000 per year – signalling its commitment to resettlement. Congress did not push back.<sup>29</sup> And senior leaders across the departments and agencies worked together on untying operational knots that had formed as the result of sudden changes affecting the program. The

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<sup>25</sup> According to the WRAPS Admissions Summary, total admissions were 27,131 for fiscal year 2002 and 28,400 for fiscal year 2003. See WRAPSNET website at [www.wrapsnet.org/admissions-and-arrivals](http://www.wrapsnet.org/admissions-and-arrivals).

<sup>26</sup> “Immigration after 9/11: The view from the United States”, remarks by Arthur E. Dewey, assistant secretary for population, refugees and migration to the American Society of International Law, 3 April 2003, at <https://2001-2009.state.gov/g/prm/rls/2003/37906.htm>.

<sup>27</sup> The U.S. Citizenship and Immigration Services has described the Security Advisory Opinion as a “State-initiated biographic check conducted by the Federal Bureau of Investigation and intelligence community partners. Security Advisory Opinion name checks are initiated at the time of pre-screening ... for the groups and nationalities designated by the U.S. government as requiring this higher level check”. “Fact Sheet: Refugee Security Screening”, U.S. Citizenship and Immigration Services, 3 December 2015.

<sup>28</sup> Starting in 1990, changes to U.S. immigration law created legal barriers to admitting persons who were deemed to have engaged in certain very broadly defined “terrorist activities”, including through the provision of “material support” to terrorist organisations. Initially, the latter term referred exclusively to a group formally designated by the U.S. government as a “Foreign Terrorist Organization”, but following 11 September 2001, Congress expanded this category to include non-designated groups that met certain statutory criteria. In part because the provisions were so vague and sweeping, immigration authorities hesitated for some time before implementing them, but beginning around 2005 they started in earnest to apply them to the refugee and asylum programs. This broad area of barriers to immigration became known as the “Terrorism-Related Inadmissibility Grounds”. Crisis Group interview, U.S. official, August 2018. See also Melanie Nezer and Anwer Hughes, “Understanding the Terrorism-Related Inadmissibility Grounds: A Practitioner’s Guide”, *Immigration and Nationality Lawyers Handbook* (2009-2010 edition), p. 577; for discussion of the impact of the PATRIOT Act (2001), the REAL ID Act (2005) and related legislation on the admissibility of refugees. Because there was no “duress” exception in this body of law, people who were victims of terrorism – such as Colombian villagers forced to pay extortionate “vacuna” taxes to guerrillas – could find themselves suddenly barred from the refugee program on “material support” grounds. And because groups that engaged in political violence were deemed terrorist organisations, Burmese groups that the U.S. had long supported and groups that had fought alongside the U.S. in the Vietnam War were suddenly branded terrorist organisations and their members and supporters barred from entry. *Ibid.*

<sup>29</sup> Crisis Group interview, U.S. official, July 2018. “U.S. Annual Refugee Resettlement Ceilings and Number of Refugees Admitted, 1980-Present”, Migration Policy Institute, at [www.migrationpolicy.org/programs/data-hub/charts/us-annual-refugee-resettlement-ceilings-and-number-refugees-admitted-united](http://www.migrationpolicy.org/programs/data-hub/charts/us-annual-refugee-resettlement-ceilings-and-number-refugees-admitted-united). See the graph in Appendix B.

assistant secretary for the State Department's Bureau of Population, Refugees and Migration brought inter-agency counterparts together in a joint task force to work on "refugee admissions problem solving".<sup>30</sup> The Secretary of State and Secretary of Homeland Security used their newly-minted exemptive authorities to undo some of the perverse legal effects created by new terrorism laws.<sup>31</sup> And the Pentagon threw its weight behind an expansion of the program to make it easier for Iraqis who had aided U.S. forces to participate, in part by sharing stories of individuals who had served alongside them in theatre.<sup>32</sup>

Eight years after the 11 September attacks, the resettlement program had survived its biggest test to date. Even without a Cold War strategic narrative to buoy it, the White House and Congress stood by U.S. resettlement efforts. Certainly it still faced steep challenges – including a growing and haphazard matrix of security checks that one former U.S. official compared to a "Lego house".<sup>33</sup> But a strong sense of the program's humanitarian and strategic benefits was sufficient to sustain it in the face of headwinds generated by the 11 September events. Indeed, with the Bush administration's quiet support, the resettlement program actually managed to grow, letting in fifteen hundred more refugees in 2009 than the Clinton administration had admitted in the year prior to the attacks on the World Trade Center and the Pentagon.<sup>34</sup>

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<sup>30</sup> Dewey, "Immigration after 9/11: The view from the United States", *op. cit.*

<sup>31</sup> Crisis Group interview, U.S. official, July 2018. As a response to the terrorist attacks of 11 September 2001, Congress and the Bush administration worked together to reorganise U.S. government components focused on homeland security into a single agency, the Department of Homeland Security. Each of the secretary of homeland security and secretary of state, in consultation with the attorney general, has the power to exempt groups and individuals from certain legal bars that might otherwise prevent them from participation in the refugee resettlement program. U.S. Citizenship and Immigration Services, "Terrorism-Related Inadmissibility Grounds Exemptions", at [www.uscis.gov/laws/terrorism-related-inadmissibility-grounds/terrorism-related-inadmissibility-grounds-exemptions](http://www.uscis.gov/laws/terrorism-related-inadmissibility-grounds/terrorism-related-inadmissibility-grounds-exemptions).

<sup>32</sup> Crisis Group interview, U.S. official, July 2018.

<sup>33</sup> Crisis Group interview, former senior White House official, August 2018.

<sup>34</sup> The admission figures for 2000 and 2009 were 73,147 and 74,654, respectively. Because fiscal year 2009 began in the Bush administration and finished in the Obama administration, the 2009 figure can be regarded as a joint achievement, though the lion's share of credit likely belongs to the outgoing administration, since, as a result of lengthy processing times, much of the work that goes into the program's performance in any given fiscal year happens before the year actually begins. See Appendix B.

### III. Political Football Season: The Obama Years and the Syrian Refugee Crisis

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During the Obama administration, the bipartisan support that had made the Refugee Act of 1980 possible, seen the resettlement program through its boom years of the 1980s and 1990s, and then sustained it through the aftermath of 11 September came apart at the seams.

For the first six years of the administration, resettlement efforts were much like they had been under Bush. The administration wanted to be successful at resettlement and put considerable resources into getting results. There were setbacks. In 2011, the FBI apprehended two Iraqi refugees in a highly publicised sting operation in Bowling Green, Kentucky, which caught the attention of some members of Congress.<sup>35</sup> Around the same time, mushrooming security checks created massive processing delays, which drove admissions down below the level of 60,000 in each of 2011 and 2012.<sup>36</sup> But as in the Bush administration, senior-level attention and intensive working-level troubleshooting were sufficient to keep the program on more or less an even keel. In the words of one former White House official: “We just managed it”.<sup>37</sup>

Starting in the middle of Obama’s second term, however, Syria presented an increasingly difficult challenge. As the civil war raged and the number of Syrian refugees ballooned from 1.5 million in mid-2013 to nearly four million in mid-2015, the U.S. government was pulled in two directions.<sup>38</sup> On one hand, some senior officials felt that in the midst of a humanitarian crisis of this magnitude, the U.S. had both a moral responsibility and a strategic interest in opening its doors to at least some Syrians – particularly given the strong sense that Washington had done little to end the war.<sup>39</sup> They argued that some admissions would be a way to show solidarity with both the countries adjoining Syria that were absorbing an enormous influx of refugees, and with the U.S.’s European allies, which were also beginning to see large numbers of refugees appearing on their shores.

Other officials, however, worried that the U.S. had not fully thought through the implications of taking refugees from a country that was so full of armed non-state actors. While there was some precedent, in that the U.S. was already taking refugees

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<sup>35</sup> Crisis Group interview, U.S. government official, May 2018.

<sup>36</sup> Most significantly, these checks included the expansion of a new vetting procedure called the “Interagency Check” or “IAC”, which was layered on top of a vetting system that now included UNHCR screening interviews, USCIS screening interviews, Security Advisory Opinions (for certain individuals), a State Department consular database check, an FBI fingerprint check, biometric checks and a medical check. Crisis Group interview, U.S. government official, July 2018; written testimony of USCIS Refugee, Asylum and International Operations Refugee Affairs Division Chief Barbara Strack and USCIS Fraud Detection and National Security Associate Director Matt Emrich for a Senate Committee on the Judiciary, Subcommittee on Immigration and the National Interest hearing titled “Oversight of the Administration’s FY 2016 Refugee Resettlement Program: Fiscal and Security Implications”, 1 October 2015. For the 2011-2012 numbers, see Migration Policy Institute, “Annual Refugee Resettlement Ceilings”, *op. cit.*

<sup>37</sup> Crisis Group interview, former White House official, August 2018.

<sup>38</sup> UNHCR, “Operational Portal: Refugee Situations, Syria Regional Refugee Response”, at <https://data2.unhcr.org/en/situations/syria>.

<sup>39</sup> Crisis Group interview, former senior White House official, August 2018.



from Syria's neighbour, Iraq, the situations were different. The U.S. had invaded and occupied Iraq. This fact meant that the U.S. government felt both a sense of responsibility toward Iraqis who had helped it and held a deep repository of information about the Iraqi population and, more specifically, potential Iraqi threats.<sup>40</sup> Neither factor was present in Syria. Officials who were hesitant about resettling Syrians did not necessarily think that the risk was unmanageable (though some were concerned, especially about information gaps) but they did express concern about the blowback they would get from Congress, the press and the public.<sup>41</sup>

Torn between doing very little and doing something about Syrian resettlements, the Obama administration swerved between the two positions. Until September 2015, the cautious approach prevailed. When the UNHCR asked Washington to commit to take half of the Syrians that it was preparing to refer for resettlement (a commitment that might have been in the 6,000 to 8,000 person range), the White House declined to greenlight the request.<sup>42</sup> Syrian admissions remained a mere trickle, and in 2015 the U.S. had resettled only about 1,500 Syrians by summer's end.

But early that September, the administration changed course dramatically. That is when Human Rights Watch published a photo of the lifeless body of Alan Kurdi, a three-year-old Syrian refugee who had drowned off Turkish shores en route to Europe.<sup>43</sup> The heartbreaking image galvanised a massive sympathetic reaction, as well as pressure on the administration to do more.<sup>44</sup> Members of Congress, refugee advocates and former administration officials, including presidential candidate Hillary Clinton, pressed for huge resettlement increases. The U.S., they argued, should take 200,000 refugees overall (a number not seen since the aftermath of Vietnam) including 100,000 Syrian refugees.<sup>45</sup>

The administration decided it had to do more. Denis McDonough, the White House chief of staff and a strong supporter of resettlement (which he had first encountered through his church's support for Vietnamese refugees as a boy growing up in Minnesota) was a particularly strong advocate, believing not just in the strategic and humanitarian benefits of the program, but that it has been "overwhelmingly successful" in bringing to the U.S. people who have made enormous contributions to American life.<sup>46</sup> Even with active support at the highest levels of the West Wing, however, the resettlement program ran up against practical limits. It lacked the staff to interview, vet and find welcoming new homes for more than 100,000 unexpected refugees in

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<sup>40</sup> As one former White House official put it: "Syria was Iraq without the hook created by our involvement, and without the information that came with it". Crisis Group interview, U.S. official, July 2018.

<sup>41</sup> Crisis Group interview, former senior White House official, August 2018.

<sup>42</sup> Crisis Group interview, former senior White House official, August 2018.

<sup>43</sup> Bryan Walsh, "Alan Kurdi's story: Behind the most heartbreaking photo of 2015", *Time*, 29 December 2015.

<sup>44</sup> Michele Kelemen, "Many question why the United States isn't taking in more Syrian refugees", National Public Radio, 9 September 2015.

<sup>45</sup> "National and local organizations send letter to President Obama urging action on the Syrian refugee crisis", Refugee Council USA, 18 September 2015.

<sup>46</sup> Explaining his support for resettlement, McDonough told Crisis Group that "refugees, from the Manhattan Project to the present, are a part of the United States' story .... The refugees who come through the program are highly successful, and their cost to taxpayers is very small". Crisis Group interview, former White House Chief of Staff Denis McDonough, 25 May 2018.

the given time. The White House pressed the State Department to consider a grand gesture like the Clinton-era airlift of thousands of Kosovars to Fort Dix but it became clear that this would not work in a post-11 September world. Security agencies would not risk bringing thousands of Syrians onto U.S. territory with checks still pending. So instead of a grand gesture, the Obama administration settled on a goal that seemed more within reach, raising overall admissions for 2016 from 70,000 to 85,000 and committing that at least 10,000 of these resettled people would be Syrians.

Several current and former officials interviewed by Crisis Group suggested that the September 2015 about-face on Syrian refugees hurt the resettlement program politically. One official noted that setting refugee targets in such a public way made the process seem politicised and opened the door to political attacks.<sup>47</sup> Another former official said the very fact of the flip-flop was unhelpful because it raised questions about how an administration that had previously seemed worried about the security risks posed by Syrians could suddenly profess to be comfortable.<sup>48</sup> The better approach, suggested one official, would have been to commit to take 7,000 or 8,000 Syrians – roughly the number that the UN was pressing the U.S. to accept earlier in the year and a volume the program was more prepared to handle. “That could have been done”, suggests the official, “without the announcement or the public pressure it created”.<sup>49</sup>

Whether that is true, however, is hard to know. Even at lower numbers, dissenting voices within the administration would likely have surfaced, such as when FBI Director James Comey shared his concerns about the lack of information about Syrian candidates for resettlement with Congress in October 2015.<sup>50</sup> Moreover, even if the administration had managed the politics differently, the program’s plans for Syrian admissions would likely have hit headwinds after the ISIS-inspired terror attacks in Paris on 13 November 2015, particularly because the assailants included individuals who were reported to have snuck into the European Union (EU) disguised as refugees.<sup>51</sup>

Whether or not it might have been possible to blunt the criticism, the fact is that after September 2015, the program became politicised in an unprecedented way. Despite significant effort, the Obama administration was never fully able to bring the issue under its control. Texas and Indiana sued to keep Syrian refugees away. Members of Congress introduced legislation that would have crippled the program’s ability to resettle Iraqis and Syrians. Current and former U.S. officials recall difficult conversations with both Democrats and Republicans from very different parts of the country and with very different constituencies – members of Congress like Sheila Jackson Lee, a Democrat from Texas, and Dutch Ruppersberger, a Democrat from Maryland,

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<sup>47</sup> Crisis Group interview, U.S. official, June 2018.

<sup>48</sup> Crisis Group interview, former senior White House official, August 2018.

<sup>49</sup> Crisis Group interview, U.S. official, June 2018.

<sup>50</sup> Crisis Group interview, U.S. official, May 2018. Comey stated that “there’s good news and bad news. The good news is we have improved dramatically our ability as an inter-agency, all parts of the U.S. Government, to query and check people. The bad news is our ability to touch data with respect to people who may come from Syria may be limited. That is, if we don’t know much about somebody, there won’t be anything in our database”. The full transcript of the hearing where Comey shares his testimony is available at [https://judiciary.house.gov/wp-content/uploads/2015/10/114-55\\_97262.pdf](https://judiciary.house.gov/wp-content/uploads/2015/10/114-55_97262.pdf).

<sup>51</sup> See Paul Cruickshank, “The inside story of the Paris and Brussels attacks”, CNN, 31 October 2017.

and governors like Sam Brownback, a Republican from Kansas.<sup>52</sup> Even some traditional supporters of resettlement warned the administration that their constituents could not understand why it was important to resettle Syrians and that it was “ruining the program”.<sup>53</sup> On the campaign trail, candidate Trump began stumping on a platform that involved sending Syrian refugees home.<sup>54</sup>

The administration’s second-term push to expand resettlement yielded some palpable benefits for the program.<sup>55</sup> Increasing overall intake by 15,000 refugees in a single year required innovation. The U.S. Digital Service – a team of information technology professionals working out of the White House – fanned out across the government to help make the process work better. They developed new algorithms and computerised archaic paper processes.<sup>56</sup> For the first time, key offices from different agencies created a fusion cell where they sat together and untangled knotty problems.<sup>57</sup> The Department of Homeland Security authorised a new airport to serve as a port of entry to handle all the flights that would be coming in and hired new staff for its “refugee corps” to interview candidates for admission.

In all these ways, the Obama administration left the resettlement program operationally stronger than it had been when it came into office. The admissions ceiling it set for 2017 – 110,000 refugees – was ambitious but agencies and NGO partners were working hard to reach it.<sup>58</sup> But those operational gains had been swamped by political setbacks. The program had been whipsawed between humanitarians who wanted to see Vietnam-era levels of generosity and security-centric immigration hawks with precisely the opposite impulse. As the thrashing increased the program’s visibility, it also increased its exposure. Refugee resettlement, which had for decades depended on the quiet support of political elites for its survival, was now in the cross-hairs of a political movement that in November 2016 was elected to the White House.

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<sup>52</sup> Crisis Group interviews, current and former U.S. officials, May and June 2018.

<sup>53</sup> Crisis Group interviews, current and former U.S. officials, May and June 2018.

<sup>54</sup> “Donald Trump: ‘I would send Syrian refugees home’”, BBC, 1 October 2015.

<sup>55</sup> Crisis Group interview, U.S. government official, June 2018.

<sup>56</sup> Crisis Group interviews, former U.S. government officials, May and August 2018.

<sup>57</sup> *Ibid.*

<sup>58</sup> Crisis Group interviews and email exchanges, refugee resettlement NGO representatives and current and former U.S. officials, May-September 2018.

#### IV. Bureaucratic Strangulation – Refugee Resettlement in the Age of Trump

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Donald Trump's election to the presidency created a once-in-a-generation opportunity for some of the most aggressive immigration restrictionists in American political life, like Alabama Senator Jeff Sessions and his aide, Stephen Miller, to assume positions of power and advance legacy-defining changes in U.S. law and policy.

The administration's immigration hardliners have been guided in their work by pundits and institutions once regarded as well outside the political mainstream, like the Washington-based Center for Immigration Studies and the provocative political author Ann Coulter.<sup>59</sup> Their objectives go beyond the draconian policing of illegal immigration and dramatic tightening of channels for legal immigration. They also seek to address the effects of what they regard as the flawed core of modern immigration law and policy, namely the Immigration and Nationality Act of 1965.<sup>60</sup> That legislation ended the national-origin quota system that governed immigration to the U.S. since the early 1920s, ending preferences for northern and western Europeans, and opening immigration channels to a much broader and more diverse population. Restrictionist opinion leaders like Coulter see the 1965 Act as a mistake that upset the country's traditional Anglo-Saxon ethnic and cultural makeup.<sup>61</sup> Some seek to stem the tide by changing the law to emphasise "skill-based migration" and ending certain preferences for prospective migrants with family members already in the country.<sup>62</sup> Coulter expresses her anti-diversity sentiment this way:

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<sup>59</sup> The Center for Immigration Studies, which characterises itself as a "low immigration, pro-immigrant" think tank, has a mixed reputation in Washington policy circles. The Southern Poverty Law Center has labelled it a "hate group" (a label that the Center vehemently disputes as an effort to silence its expression of political opinions), citing among other things its historical ties to John Tanton (a controversial anti-immigrant activist who in 1975 authored a paper called "The case for passive eugenics"), its occasional circulation of writings by racist and anti-Semitic authors (which it subsequently disclaimed as inadvertent) and its hiring of a researcher whose work seeks to demonstrate that immigrants have a lower IQ than the general population. For a discussion of the debate surrounding this label, see Amy Sherman, "Is the Center for Immigration Studies a hate group, as the Southern Poverty Law Center says?", *Politifact*, 22 March 2017; Mark Krikorian, "How labeling my organization a hate group shuts down public debate", *The Washington Post*, 17 March 2017; and Southern Poverty Law Center, "Center for Immigration Studies", at [www.splcenter.org/fighting-hate/extremist-files/group/center-immigration-studies](http://www.splcenter.org/fighting-hate/extremist-files/group/center-immigration-studies).

<sup>60</sup> In 2015, Coulter and Miller reportedly collaborated with Steve Bannon on an immigration white paper that became the foundation for many of candidate Trump's positions (and which Coulter publicly described as the "greatest political document since the Magna Carta"). See Asawin Suebsaeng, "Ann Coulter, Stephen Miller helped write Trump immigration plan", *The Daily Beast* (undated), [www.thedailybeast.com/ann-coulter-stephen-miller-helped-write-trump-immigration-plan](http://www.thedailybeast.com/ann-coulter-stephen-miller-helped-write-trump-immigration-plan); Joshua Green, "Attack, attack, attack", *New York Magazine*, 10 July 2017. Regarding the 1965 Act, see, for example, Ann Coulter, *Adios, America: The Left's Plan to Turn Our Country into a Third World Hellhole* (Washington, 2015); "Panel transcript: 1965 Immigration Act 50 years later", Center for Immigration Studies, 3 October 2015; Mark Krikorian, *The New Case Against Immigration: Both Legal and Illegal* (New York, 2008).

<sup>61</sup> See, generally, Coulter, *Adios, America*, op. cit. and "Panel transcript: 1965 Immigration Act 50 years later", op. cit.

<sup>62</sup> Christopher Wallace, "Immigration: Why Trump wants to change the act that led to decades of unintended consequences", *Fox News*, 3 August 2017.

Even when Third World immigrants aren't trying to blow up the First World, as in Boston, ethnic "diversity" is all downside. Members of the same ethnic group know each other, care about each other, help each other. Leaving aside the exciting parts of diversity, such as terrorism, civil wars and ethnic cleansing, the greater the diversity, the higher the transaction costs. Even after almost four centuries together, blacks and whites haven't yet achieved what anyone would regard as perfect harmony.<sup>63</sup>

Critics of the administration's approach to immigration have seen in these positions the echoes of a racist past, and noted that restrictionist rules overturned by the 1965 legislation might well have blocked the immigration of some leading hardliners' own families.<sup>64</sup>

Nevertheless, these views clearly animate President Trump's own thinking about immigration. They also help explain the administration's antipathy to the refugee resettlement program, which emerged in the post-1965 period of immigration law, and was designed to project a welcoming message to vulnerable people from every region of the world. The administration has on occasion spoken bluntly about the motivation behind its restrictionist policies (for example, when Trump simultaneously embraced the idea of taking immigrants from Norway and derided the idea of taking them from what he described as "shithole" countries in the global south).<sup>65</sup> But it has generally tried to couch its justifications for shrinking the resettlement program in more conventional arguments that may have a better chance of capturing popular support. It has argued that refugees pose an outsize security risk and an economic burden, and contended that program officers are desperately needed for other purposes. Generally, these claims have been based on incomplete or misleading information.

#### A. *Cut, Freeze, Delay, Ignore*

The Trump administration's first big swing at the refugee resettlement program came in the form of a 27 January 2017 executive order. The order (a somewhat sanitised version of the odious "Muslim ban" that candidate Trump had promised on the campaign trail) slashed the 2017 refugee admissions ceiling from 110,000 to 50,000, barred nationals from seven Muslim-majority countries from entering the U.S., suspended all refugee admissions pending a 120-day review of security procedures and singled out Syrian refugee admissions for indefinite suspension.<sup>66</sup> Although litiga-

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<sup>63</sup> Coulter, *Adios, America*, op. cit., p. 64.

<sup>64</sup> See David S. Glosser, "Stephen Miller is an immigration hypocrite. I know because I'm his uncle", *Politico*, 13 August 2018. Glosser suggests that Trump and Miller have, in their rhetoric, echoed "the insults and false accusations of earlier generations against these refugees to make them seem less than human".

<sup>65</sup> Josh Dawsey, "Trump derides protections for immigrants from 'shithole' countries", *The Washington Post*, 12 January 2018.

<sup>66</sup> Executive Order, "Protecting the Nation from Foreign Terrorist Entry into the United States", 27 January 2017. Because of a Supreme Court order that preserved the ability for relatives with a "bona fide" relationship with previously settled refugees to access the Program, notwithstanding the slashed cap, the actual intake for fiscal year 2017 slightly exceeded 50,000. The total number for the fiscal year was 53,716. See [www.wrapsnet.org/admissions-and-arrivals](http://www.wrapsnet.org/admissions-and-arrivals).

tion forced some modifications, and delayed the freeze and review until June 2017, the January order set forth the basic contours of the Trump administration's approach to refugee resettlement.

Officials interviewed for this report who participated in the review process saw it as politically motivated and believed that its purpose was to throw sand in the gears of the resettlement process.<sup>67</sup> In that respect, the effort was largely successful. Just the fact of the 120-day freeze was enough to cause major delays. Because the medical checks that a refugee requires in order to travel to the U.S. are good only for two or three months, many candidates in the approval "pipeline" had to go back and redo major parts of their applications when the four-month freeze lifted, virtually guaranteeing that admissions would be affected well into 2018. Indeed, the freeze was so effective in causing widespread, rippling dysfunction across the program that advocates wondered whether the administration had purposefully chosen a 120-day period with this outcome in mind.<sup>68</sup>

But the freeze was only the beginning of the story, because the review produced recommendations that then needed to be followed. While the administration never published the review's full findings and recommendations, a partial picture has emerged through interviews and court filings. It is clear that the recommendations were wide-ranging and applied to every phase of the refugee processing pipeline.<sup>69</sup> It is also reported that the first round of recommendations did not go far enough for the White House. Briefed just days before they were to be finalised, Chief of Staff John Kelly and Stephen Miller reportedly reacted with frustration, and pressed agencies to develop more stringent suggestions that would (in the words of a former official) "placate" what appeared to be a West Wing desire to make vetting more "extreme".<sup>70</sup> And, finally, it appears that the West Wing apparently was not fully mollified. Shortly after the 120-day review wrapped, the administration announced a 90-day supplementary review that looked at eleven countries in particular, and that resulted in an additional expansion of security advisory opinion requirements.<sup>71</sup>

The net effect of imposing all these new requirements was, predictably, additional delay and confusion.<sup>72</sup> At similar moments during the Bush and Obama administrations, the State Department's refugee bureau had sounded the alarm, and the White

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<sup>67</sup> Crisis Group interviews, former and current U.S. officials, May 2018.

<sup>68</sup> Crisis Group interview, NGO representative, May 2018.

<sup>69</sup> *John Doe v. Trump* and *Jewish Family Service of Seattle v. Trump*, Civil Action No. 2:17-cv-00178-JLR and No. 2:17-cv-01707-JLR (copy of filings on file with Crisis Group). As part of its filing, the government included sworn declarations from Kelly Gauger, the acting director of the Admissions Office in the Bureau of Population, Refugees and Migration at the Department of State and Jennifer Higgins, the associate director of the Refugee, Asylum and International Operations Directorate at USCIS. Exhibit two of the Higgins Declaration itemises recommendations that have been implemented in the application process, the interview and adjudication process, and the vetting and systems checks process.

<sup>70</sup> Crisis Group interview, former U.S. official, May 2018.

<sup>71</sup> *Ibid.*

<sup>72</sup> See the Higgins Declaration, *op. cit.*, noting that "these reviews and enhancements have lengthened processing times for some cases and slowed admissions". The Higgins affidavit also states that "relatively few approval refugee cases have received cleared results under the new Security Advisory Opinion procedures".

House had become involved to get the program back on track. Under the Trump administration, however, the opposite was true. Rather than engage to unclog the system, hardliners in the White House and across the agencies assumed a pose of exaggerated deference to the sources of delay.

The FBI reportedly became a particular problem. Two officials familiar with the program suggested that, as of May 2018, the FBI was processing, on average, about five security advisory opinions a week, contributing to a backlog of roughly 95,000 cases.<sup>73</sup> Part of the problem is likely linked to a relatively recent operational requirement that the FBI review 300 databases – only two of which are its own.<sup>74</sup> But another problem seems to be that no one is pushing the FBI to move more quickly. When NGO representatives raised a concern about the FBI's slow throughput with Andrew Veprek, the Miller protégé recently installed as a deputy assistant secretary in the State Department's refugee bureau, he reportedly suggested that it was not the State Department's place to question the vetting agencies about their work. "I couldn't believe it", said one of the representatives. "I've been in a million meetings with State Department staff where they could and did question vetting agencies about the process and why they weren't moving fast enough".<sup>75</sup>

Another U.S. official with first-hand knowledge of the vetting process confirms that the sclerotic pace is a feature rather than a bug as far as the administration's immigration hawks are concerned. "Whenever problems arise, there's no interest in resolving them", said this official. "They're tickled pink".<sup>76</sup>

### B. *Lowering the Ceiling*

Under the Refugee Act of 1980, the president annually determines the admissions ceiling for the coming fiscal year, which begins on 1 October. Consistent with this schedule, the Trump White House began in the late spring of 2017 a process of determining its ceiling for 2018. It was clear from the outset that hardliners like Stephen Miller wanted to lower the ceiling considerably, but the process did not go smoothly.

Within the White House, refugee admissions had traditionally been considered a humanitarian and foreign policy issue. The National Security Council thus took the lead in the ceiling determination process, relying on the State Department's refugee bureau to do most of the work. But in what one official called a "hostile takeover", Miller moved responsibility in the spring of 2017 to the Domestic Policy Council, which he helped chair, and asked the Department of Homeland Security to take the lead over from the State Department.<sup>77</sup>

The Department of Homeland Security, however, was ill equipped for the task. Part of the problem seemed to be political: there was apparent distance between hardliners who were charged with developing the number like Gene Hamilton (a former

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<sup>73</sup> Crisis Group interview, U.S. official, June 2018.

<sup>74</sup> Crisis Group interview, U.S. official, May 2018. Note that the FBI's expanded database search protocol dates back to the end of the Obama administration, though problems with exaggerated processing delays emerged only during the Trump administration.

<sup>75</sup> Crisis Group interview, NGO representative, May 2018.

<sup>76</sup> Crisis Group interview, U.S. official, July 2018.

<sup>77</sup> Crisis Group interview, former U.S. official, May 2018.

colleague of Miller's from Sessions' office) and the more moderate Elaine Duke, who moved from deputy to acting secretary when John Kelly became the White House chief of staff at the end of July.<sup>78</sup> At meeting after meeting, Homeland Security representatives struggled to produce a number. They floated ideas, retracted them and broached others.<sup>79</sup> An official who tracked the process over the course of roughly three months said the department ventured the number 40,000, retracted and replaced it with a proposal of 25,000, appeared to suggest (through a White House staffer) a range between 15,000 and 20,000, and finally arrived back at 40,000. Conveniently, the last figure was within close reach of the 50,000 that the State Department and Pentagon had recommended in an apparent effort to keep the program stable at the number Trump had himself set in January 2017. The agencies split the difference to arrive at the figure of 45,000, which the president adopted.<sup>80</sup>

That number, however, turned out to be an illusion. While administrations have generally set ceilings with the idea of reaching them, and have historically come close to doing so (except in exceptional circumstances, such as the years after the 11 September 2001 attacks), the Trump administration made no such effort.<sup>81</sup> The effects of the 120-day freeze and the new vetting requirements piled up. And by the summer of 2018 it appeared that refugee admissions for that year would fall well short of 25,000 refugees – several thousand below the number admitted in the year following the 11 September attacks and the lowest in the history of the resettlement program.<sup>82</sup>

A looming question now is what the ceiling will be for the coming year. For some time, watchers of U.S. resettlement have speculated that Miller and his allies would use the program's woeful 2018 performance as a reason to lower the ceiling further in 2019. And yet there are reports that the hardliners are facing resistance from Secretary of Defense James Mattis, who has reportedly supported a cap of 45,000. Mattis's position may in part reflect a traditional perspective that resettlement serves U.S. humanitarian and strategic interests, but it also likely reflects the Pentagon's view that the promise of resettlement enhances its ability to recruit local partners.<sup>83</sup> The Pentagon is reportedly especially concerned about a steep dropoff in resettling Iraqi refugees who have helped U.S. forces. So far, Mattis was reported to be backed by Secretary of State Mike Pompeo. The arrest of Omar Ameen, a suspected ISIS fighter who appears to have slipped through vetting procedures in 2014 to enter the country as an Iraqi refugee and was arrested in August, will likely make Mattis's advocacy more challenging.<sup>84</sup>

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<sup>78</sup> Crisis Group interview, former U.S. official, May 2018.

<sup>79</sup> Ibid.

<sup>80</sup> Ibid.

<sup>81</sup> See Appendix B.

<sup>82</sup> Nahal Toosi, "Trump's refugee crackdown plans put Pompeo on the spot", *Politico*, 8 August 2018.

<sup>83</sup> Crisis Group interview, former U.S. official, August 2018.

<sup>84</sup> Crisis Group interview, U.S. official, August 2018. For background on Ameen case, see Zusha Elinson, "Iraqi refugee accused of being former ISIS fighter", *Wall Street Journal*, 17 August 2018. Iraq has sought Ameen's extradition. There are no reported allegations that he has committed a violent crime in the U.S.



### C. *Incomplete or Misleading Justifications*

*Security justification.* One way the White House has sought to justify its restrictive approach to resettlement has been to suggest that refugees pose an outside security risk.

It set the tone for this line of argument in a 6 March 2017 executive order, which stated that the attorney general counted “more than 300 persons” who had entered the U.S. as refugees and were the subject of FBI terrorism investigations.<sup>85</sup> A U.S. official with a deep counter-terrorism background describes the use of this statistic as highly deceptive and intended to frighten. This official noted that the administration did not provide the information that would be required to assess it meaningfully, observing that it “didn’t talk about the total number of counter-terrorism investigations the FBI has open; nor did it put the figure in the context of the total number of refugee admissions; nor did it mention that the vast majority of investigations are closed with no further action”.<sup>86</sup> This official estimated that if there were 300 investigations, between ten and twenty might lead to a deportation and roughly three might result in prosecution. A piece published by the libertarian (and generally pro-immigration) Cato Institute offered a similar analysis and estimated that 300 investigations might result in a single conviction.<sup>87</sup>

In fact, the administration’s own analysis suggested that its alarmism about security risks was over-cranked. A former White House official describes a meeting of senior national security officials at the White House in 2017 at which the National Counterterrorism Center began to present a report it had prepared about why terrorists are unlikely to use refugee admissions as a channel for gaining access to the U.S.<sup>88</sup> According to this account, as the Counterterrorism Center shared its findings, a senior Department of Justice official jumped in to say that the attorney general disagreed. When reminded that the FBI (a part of the Justice Department) had participated in the process that produced the report, she simply restated the attorney general’s objection, offering no meaningful analysis.<sup>89</sup> At that point, the exchange scuttled the presentation. The message coming out of the meeting, said the former official who shared this account, was that when working on refugee resettlement policy, “facts weren’t going to matter”.<sup>90</sup>

*Economic justification.* The administration has also tried to portray resettled refugees as an economic burden.

In the spring of 2017, the White House commissioned a report by the Department of Health and Human Services in March to study refugee-related costs.<sup>91</sup> To make

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<sup>85</sup> Executive Order, “Protecting the Nation from Foreign Terrorist Entry into the United States”, 6 March 2017.

<sup>86</sup> Crisis Group interview, U.S. official, May 2018.

<sup>87</sup> David Bier, “Supposed FBI investigations into refugees shouldn’t scare you”, *CATO at Liberty*, Cato Institute, 8 March 2017, at [www.cato.org/blog/supposed-fbi-investigations-refugees-shouldnt-scare-you](http://www.cato.org/blog/supposed-fbi-investigations-refugees-shouldnt-scare-you).

<sup>88</sup> Crisis Group interview, former U.S. official, May 2018.

<sup>89</sup> Crisis Group interview, former U.S. official, May 2018.

<sup>90</sup> *Ibid.*

<sup>91</sup> Presidential Memorandum, “Implementing Immediate Heightened Screening and Vetting of Applications for Visas and Other Immigration Benefits, Ensuring Enforcement of All Laws for Entry

clear what the White House wanted the report's authors to conclude, Stephen Miller convened a meeting in the West Wing's Roosevelt Room where, according to a former White House official, he told representatives from the Department of Health and Human Services and the State Department: "The president believes that refugees are too expensive, so we're going to talk about the process around this report. This report shall not embarrass the president".<sup>92</sup>

During the course of the meeting, however, a senior representative of the State Department's refugee bureau argued that in order to present a balanced and credible picture the study should look at both costs and economic benefits created by refugees. It was not well received. After the meeting, Miller reportedly asked White House officials, "Who was that? He's clearly not on our page".<sup>93</sup> Although not immediately following this meeting, this State Department official was subsequently relieved of refugee-related responsibilities and assigned to review Freedom of Information Act requests before receiving an onward assignment.<sup>94</sup>

Ultimately, the Department of Health and Human Services prepared a draft report that weighed the costs of its resettlement support programs against the benefits that refugees produced for the economy, and found a net benefit to the economy of \$63 billion over the period 2005-2014.<sup>95</sup> The administration pulled the plug on the report before it could be conclusively debated, leaving restrictionist allies outside government to attack a leaked copy in the press.<sup>96</sup> It then pushed Health and Human Services to replace it with a one-sided report that looked exclusively at its expenditures on refugees without considering their economic contributions.<sup>97</sup> The department complied.

*Personnel justification.* A third White House justification for slashing the refugee program concerns Department of Homeland Security personnel.

By way of background, the Department of Homeland Security faces a huge backlog of claims from individuals who crossed into the U.S. and asked for asylum. Hundreds of thousands of claims have reportedly piled up and need to be adjudicated.<sup>98</sup> In order to start getting rid of the backlog, the department moved 100 personnel from

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into the United States, and Increasing Transparency among Departments and Agencies of the Federal Government and for the American People", 6 March 2017.

<sup>92</sup> Crisis Group interview, former U.S. official, May 2018.

<sup>93</sup> Ibid.

<sup>94</sup> Ibid.

<sup>95</sup> Julie Hirschfeld Davis and Somini Sengupta, "Trump administration rejects study showing positive impact of refugees", *The New York Times*, 18 September 2017.

<sup>96</sup> Steven Camarota, "Leaked report suffers significant flaws", *National Review* (online), 21 September 2017.

<sup>97</sup> Ibid.

<sup>98</sup> The *New York Times* has reported an administration source pegging the backlog number at 700,000 cases. Julie Hirschfeld Davis, "White House weighs another reduction in refugees admitted to U.S.", *The New York Times*, 1 August 2018. A former U.S. official suggests that the backlog can be attributed to 1) soaring receipts of new asylum applications; 2) the need to assign asylum staff to time-sensitive "credible fear" screenings for border crossers, in lieu of handling affirmative asylum applications; and 3) the diversion of asylum officers to assist with overseas refugee processing to meet the ambitious resettlement goals in the last two years of the Obama administration. Crisis Group interview, former U.S. official, August 2018.

Homeland Security’s “refugee corps”, which interviews refugee applicants overseas to assess their eligibility for resettlement, and assigned them to the asylum beat.<sup>99</sup> The administration has suggested that this personnel issue is weighing heavily on its assessment of the refugee ceiling.<sup>100</sup>

But while the asylum backlog is a legitimate problem, current and former officials agree that it is not a legitimate justification for cutting the refugee ceiling.<sup>101</sup> A former official notes that the decision to move the refugee corps personnel came *after* the administration had already decided to lower the refugee ceiling, at which point having a refugee corps capable of handling 110,000 admissions did not make sense. Moreover, this official notes that these 100 employees cannot by themselves eliminate the asylum backlog, a task that would require exponentially more new personnel.<sup>102</sup> Another official reported hearing that the Office of Management and Budget had tried to point Homeland Security toward funding it could use or obtain to hire more personnel for asylum adjudication without diverting employees from the refugee corps but that the department declined.<sup>103</sup>

The bottom line is that the shifting of refugee personnel to address the asylum backlog was neither necessary nor sufficient to that task, and could be reversed to meet the needs of the refugee resettlement program if the administration were interested in boosting admissions.

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<sup>99</sup> Crisis Group interviews, former U.S. official, May and August 2018.

<sup>100</sup> See, for example, Davis, “White House weighs another reduction in refugees admitted to U.S.”, *op. cit.*

<sup>101</sup> Crisis Group interviews, current and former officials, spring and summer 2018.

<sup>102</sup> Crisis Group interview, former U.S. official, August 2018.

<sup>103</sup> Crisis Group interview, former U.S. official, May 2018.

## V. Reconstructing the Program

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The U.S. refugee resettlement program is down but not out. It can be saved. The Refugee Act of 1980 is stable so the legal architecture is secure.<sup>104</sup> There remains enough expertise inside the government to run the program. The rationales for keeping it healthy have not changed. The question is one of political will: can the Trump administration be persuaded to pull back from its destructive agenda with respect to the program? Or will a future administration have to revive refugee resettlement?

The current administration should and, if it so desired, could still step up. Instead of striving so mightily to strangle refugee resettlement, it should set a ceiling that is closer to the norm, certainly not lower than the 45,000 figure it chose for 2018. Then it should put in the effort required to achieve it. It should empower the National Security Council staff to run inter-agency meetings to troubleshoot, identify redundancies among the vetting requirements, ensure adequate staffing of the program and push agencies like the FBI to move through their caseload more quickly. And the White House should recommission the reports and presentations that it stifled in 2017 about the economic benefits of refugee resettlement and the relative security of the refugee resettlement program and fairly reflect these perspectives in its public communications.

In any other recent administration, these recommendations would be controversial only for their lack of ambition. After all, admissions at the level of 45,000 would be the fourth worst showing since 1980 (the worst being 2018 and the second and third worst being the two years following 11 September 2001). But under the political circumstances that may be a necessary feature. It would allow President Trump credibly to tell his base that he shrunk the program while pointing out to progressive critics that the difference between 45,000 and the numbers Obama achieved during several of his years in office is not that great.<sup>105</sup> While it seems unlikely that an administration that has poured such extraordinary effort into diminishing refugee resettlement will reverse course even modestly, civil society and members of Congress should not let the government off the hook. They should remind the public that such goals are both reasonable and achievable and should work to prevent the often outlandish claims about resettlement from the administration and its allies outside government from settling into received wisdom.

In the event that it falls to a future administration to restore refugee resettlement, however, there are some broader lessons to be learned that could help put resettlement on a more sustainable footing for the future. One is the political lesson learned by the Obama administration as it grappled with Syria, which is that Congressional and public support for resettlement are both important and cannot be taken for granted. Part of the challenge is that the Cold War rationale for resettlement, which for years won the cooperation of political elites in resettling communist defectors, is long gone and has never been replaced by a driving strategic rationale of similar force. Another is that risk tolerance has shifted in the post-11 September era. While there may be no reliable playbook for securing public support for admitting a population like Syrians, the Obama experience at least offers some guideposts. Easing into

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<sup>104</sup> Crisis Group email exchanges, senior Democratic congressional staffers, August 2018.

<sup>105</sup> See Appendix B.

Syrian admissions gradually, and in measured consultation with Congress, might have put the administration on a better path toward success than pivoting from a trickle to a highly publicised commitment to admit 10,000.

Second, a new administration seeking to get the program back up on its feet is going to have to pay attention to the operational side of the house. In its current form, the vetting pipeline is simply too cumbersome, duplicative and demanding of senior-level attention. The agencies that run the process – the State and Homeland Security Departments, along with multiple vetting agencies – all have different missions and authorities. They duplicate efforts, struggle to communicate and can be effectively coordinated only through very senior-level White House engagement, which is difficult to sustain over long periods of time.

Current and former officials offered several ideas for improving the system that could make a significant difference. One that had strong support was to bring the different U.S. government components that work on refugee admissions together in a single building – a fusion centre – so that they could collaborate, share information, develop informed judgments about cases and in general keep problems from mounting. A former senior White House official emphasized the importance of having vetting officials and intelligence agency representatives in the same physical space to unscramble questions as they arise. The same former official suggested empowering a senior civil servant – someone outside the White House – to oversee the process. “There are ten agencies in the mix and if any one of them goes off kilter the whole process goes off kilter”, said this former senior official. “If you really want the program to work, then put someone at the helm over all of them and give them the power to sort things out”.<sup>106</sup>

The process itself also needs revision. A former official noted that multiple agencies often review the same database for no apparent reason. It “just slows the whole thing down”, said this former official, who also lamented that there was no person with the judgment and authority to say, “FBI, you check only against this”.<sup>107</sup> Another former official said the deeper problem is that “we haven’t built a refugee review process. We’ve grafted onto intelligence and law enforcement processes that already exist and say that we have a refugee process. We should figure out what we’re looking for and build a system that does that”.<sup>108</sup> Whether or not a full system redesign is realistic, a new administration serious about revitalising the program should take a hard look at the possibility.

Finally, former officials had only praise for the work of the U.S. Digital Service in helping the program reach its goals in 2016. Because the Digital Service was seen as belonging to no one agency, it was an unusually effective broker of compromises. More importantly, it brought expertise that U.S. officials simply did not have. Its employees developed throughput models, figured out how to sequence cases more efficiently and came up with ways to transfer information inside the hydra-headed vetting apparatus more quickly. The Service or its successor should be involved with refugee admissions every year – mapping out how to achieve the program’s goals from day one and working to troubleshoot problems throughout the year.

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<sup>106</sup> Crisis Group interview, former senior White House official, August 2018.

<sup>107</sup> Crisis Group interview, former U.S. official, August 2018.

<sup>108</sup> Crisis Group interview, former senior White House official, August 2018.

## **VI. Conclusion**

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The architects of the U.S. refugee resettlement program wanted a way for the U.S. to bear its fair share of a refugee burden that fell disproportionately on less fortunate states, straining scarce resources and sometimes creating a risk of conflict or violence. Over time, the program they created has helped more than three million people start new lives in the U.S. and has won the support of successive Republican and Democratic administrations, which saw its overlapping humanitarian and strategic benefits. It has succeeded and even thrived despite some very significant challenges. Until now.

The welcoming message that the refugee resettlement program sends to vulnerable people all around the world – and that for years U.S. political leaders, diplomats and soldiers have seen as an asset – appears in the minds of the Trump administration to be a liability. This administration clearly prefers the message that President Trump sent when he spoke disparagingly of countries in Africa and Latin America while extolling Norway and when his administration brutally caused parents to be separated from their children at the U.S.-Mexico border. It is a message of standoffishness and hostility toward all but the small handful of countries that were favoured by the defunct national-origin quota system of the mid-20th century.

For proponents of refugee resettlement this set of facts is daunting. But there is still good reason to insist that the administration set serious and responsible resettlement goals that are consistent with historical norms, explain why these are achievable and in U.S. interests to pursue, and rebut the false and misleading information that the White House and its allies are using to discredit the program. If not now, then in a future administration, there will be an opportunity to restore the program, and it is not too early to shore up congressional and public support. A bright future may still be in the cards for the U.S. refugee resettlement program. It cannot begin soon enough.

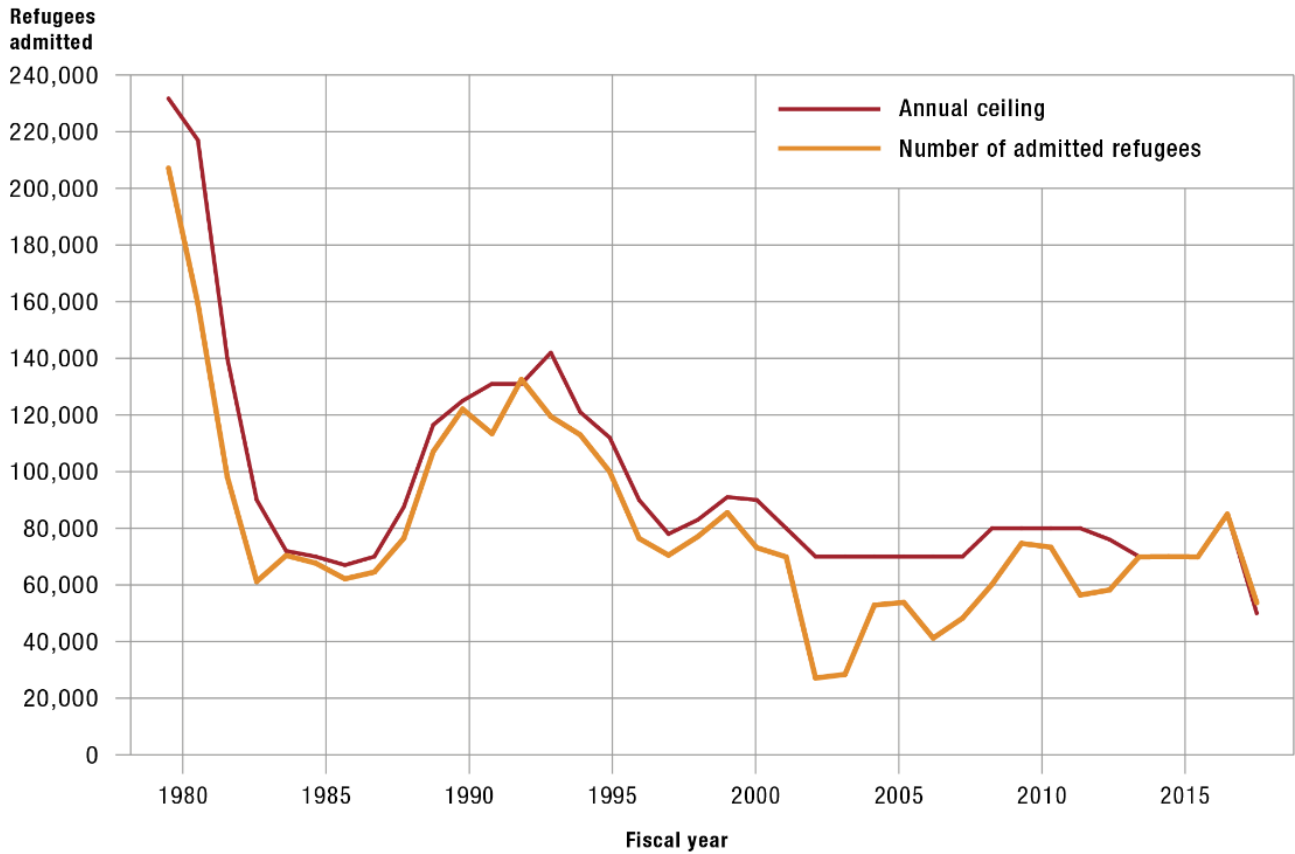
**Washington/Brussels, 12 September 2018**

## Appendix A: Key Aspects of the Refugee Act of 1980 relating to Refugee Resettlement – What Does It Do?

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1. Declares that it is the **“historic policy of the United States”** to respond to the urgent needs of refugees through:
  - humanitarian assistance for their care and maintenance in asylum areas,
  - efforts to promote opportunities for resettlement or voluntary repatriation, and
  - **aid for necessary transportation and processing, admission to this country of refugees of special humanitarian concern to the U.S., and transitional assistance to refugees in the U.S.**
2. Defines as its **objective** to provide a **permanent and systematic procedure for the admission to this country of refugees** of special humanitarian concern to the U.S. and for the **effective resettlement and absorption of those refugees who are admitted**.
3. Consistent with 1951 Refugee Convention and its 1967 Protocol **defines “refugee”** as a person who has **fled his or her country of nationality** (or if the president so determines, in consultation with Congress, a person still inside said country) who has been **persecuted** or has a **well-founded fear of persecution** on account of **race, religion, nationality, membership in a particular social group, or political opinion**.
4. Provides for the annual **refugee admissions ceiling** to be **a number determined in advance of each fiscal year by the president in “appropriate consultation” with Congress** that is justified by **humanitarian concerns or otherwise in the national interest**.
5. Provides for the president to determine that **emergency admissions** above and beyond the annual ceiling are required (and fix a twelve-month ceiling for such admissions) following appropriate consultations.
6. Permits **refugee spouses and children** to participate in the program even if they do not themselves meet the definition of “refugee” – but requires that they be charged against the annual ceiling.
7. **Establishes** the position of **U.S. Coordinator for Refugee Affairs** (a role recently played by the Assistant Secretary of State for Population, Refugees, and Migration) and **the Office of Refugee Resettlement** at the Department of Health and Human Services – and created mechanisms for providing transitional support to refugees upon arrival in the U.S.

Appendix B: U.S. Annual Refugee Resettlement Ceilings and Admissions



Source: Migration Policy Institute (MPI) Data hub. <http://migrationpolicy.org/programs/data-hub>



## Appendix C: About the International Crisis Group

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The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 120 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries or regions at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international, regional and national decision-takers. Crisis Group also publishes *CrisisWatch*, a monthly early-warning bulletin, providing a succinct regular update on the state of play in up to 70 situations of conflict or potential conflict around the world.

Crisis Group's reports are distributed widely by email and made available simultaneously on its website, [www.crisisgroup.org](http://www.crisisgroup.org). Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board of Trustees – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policymakers around the world. Crisis Group is chaired by former UN Deputy Secretary-General and Administrator of the United Nations Development Programme (UNDP), Lord (Mark) Malloch-Brown.

Crisis Group's President & CEO, Robert Malley, took up the post on 1 January 2018. Malley was formerly Crisis Group's Middle East and North Africa Program Director and most recently was a Special Assistant to former U.S. President Barack Obama as well as Senior Adviser to the President for the Counter-ISIL Campaign, and White House Coordinator for the Middle East, North Africa and the Gulf region. Previously, he served as President Bill Clinton's Special Assistant for Israeli-Palestinian Affairs.

Crisis Group's international headquarters is in Brussels, and the organisation has offices in seven other locations: Bogotá, Dakar, Istanbul, Nairobi, London, New York, and Washington, DC. It has presences in the following locations: Abuja, Algiers, Bangkok, Beirut, Caracas, Gaza City, Guatemala City, Hong Kong, Jerusalem, Johannesburg, Juba, Mexico City, New Delhi, Rabat, Tbilisi, Toronto, Tripoli, Tunis, and Yangon.

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**September 2018**

## Appendix D: Reports and Briefings on the United States since 2018

### **Special Reports**

*Exploiting Disorder: al-Qaeda and the Islamic State*, Special Report N°1, 14 March 2016 (also available in Arabic and French).

*Seizing the Moment: From Early Warning to Early Action*, Special Report N°2, 22 June 2016.

*Counter-terrorism Pitfalls: What the U.S. Fight against ISIS and al-Qaeda Should Avoid*, Special Report N°3, 22 March 2017.

### **United States**

*Deep Freeze and Beyond: Making the Trump-Kim Summit a Success*, United States Report N°1, 11 June 2018 (also available in Chinese and Korean).

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Former Director of Policy Planning at the U.S. Department of State, Deputy Assistant to President Obama, and National Security Advisor to Vice President Biden

**Lawrence H. Summers**  
Former Director of the U.S. National Economic Council and Secretary of the U.S. Treasury; President Emeritus of Harvard University

**Helle Thorning-Schmidt**  
CEO of Save the Children International; former Prime Minister of Denmark

**Wang Jisi**  
Member, Foreign Policy Advisory Committee of the Chinese Foreign Ministry; President, Institute of International and Strategic Studies, Peking University

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Former Board Members who maintain an association with Crisis Group, and whose advice and support are called on (to the extent consistent with any other office they may be holding at the time).

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