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Resettlement, Populism and the Multiple Dimensions of Solidarity: Lessons from US and Canada

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Abstract

Resettlement is the selection and transfer of refugees from a State in which they have sought protection to a third State which has agreed, voluntarily, to admit them. Since resettlement is subject to State planning and control, it is usually immune from current populist narratives that depicts immigration as contrary to national interests. By looking at the experience of both US and Canada, the paper argues that this is not always the case.

Resettlement involves not only an international dimension of solidarity, but also an intra-national one which, in turn, is both vertical and horizontal. The former refers to the role of the subnational units with regard to the selection and the distribution of refugees crossover the country, while the latter relates to the involvement of civil society in some elements of their identification or reception. A lack of coordination among these multiple dimensions of solidarity may result in local resistances that in the long run can influence the enforcement of national resettlement policy.

Keywords

refugees – resettlement – solidarity – populism – federalism

1 The Multiple Dimensions of Solidarity in Resettlement Policy: Some Introductory Remarks

In the current debate about the asylum crisis in Europe, two words are never missing: solidarity and populism.

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Lack of solidarity among EU Member States in the redistribution of asylum seekers is regarded among the threats to the very existence of the EU legal system itself and, especially in those EU countries that are the most exposed to refugees' inflows, it fuels populist political movements that invoke zero tolerance toward migration and that claim the closure of national borders.[1]

Refugee resettlement stands quite apart from this scenario and seems immune from critics even by populist leaders that often purport it as a viable solution to the asylum crisis.

Resettlement is defined by UNHCR as "the selection and transfer of refugees from a State in which they have sought protection to a third State which has agreed to admit them—as refugees—with permanent residence status".[2] It is usually conceived as the main instrument of international solidarity in the field of refugee law.

Although under international law no precise legal commitments exist regarding an equitable burden and responsibility sharing mechanism among all UN Member States in assisting and protecting refugees,[3] nevertheless there

1 Exploring the close relation between populism and immigration is beyond the scope of this article. It is sufficient to note that although a common and shared definition of populism does not exist, scholars have identified some features that usually characterize this ideology. Populism conceives of society as culturally separated into two homogeneous groups—the pure people and the *élite*—whose relations are seen in antagonistic terms. Populist movements have often a leader who acts as the spokesperson of the *vox populi*. They conceive popular sovereignty as literally as government of people, rejecting liberal checks and balances instruments (see Mudde, C. 2004. The Populist Zeitgeist. *Government and Opposition*, vol. 39 (4), pp. 541–563). These elements characterize populist movements in general. However, populist ideology is often associated to other ideologies which may be right or left wing oriented. When populism is combined with right-wing ideologies, the "people" component assumes a monolithic conception and become "nation". Groups that do not belong to the true "people", as it is the case of immigrants, are blamed and seen as underserving beneficiary of welfare state. Moreover, irregular influx of migrants is regarded as a threat to national border controls and ultimately a menace for national sovereignty. See Kriesi, H., and Pappas, T.S. (2016). Populism in Europe During Crisis: An Introduction, in: *European Populism in the Shadow of the Great Recession*. H. Kriesi, T.S. Pappas (Ed.) Studies in European Political Science, 1–22, Rowman & Littlefield International, UK. On the relation between populism and immigration, see Aleinikoff, T.A. (2018). Inherent Instability. Immigration and Constitutional Democracies, in: Constitutional Democracy in Crisis. M.A. Graber, S. Levinson, M. Tushnet (Ed.), 477–493, OUP, Oxford, UK.

2 UNHCR, *Resettlement Handbook* (July 2011), available at www.unhcr.org/46f7c0ee2.pdf, p. 3.

3 The Geneva Convention, in its Preamble, recital 4, recognises that a satisfactory solution to refugee situations cannot be achieved without international cooperation, as the grant of asylum may place unduly heavy burdens on certain countries. See Dowd, R., McAdam, J. 2017 International Cooperation and Responsibility-Sharing and to Protect Refugees: What, Why and How?. *International Comparative Law Quarterly*, 66, pp. 863–892.

is a certain international awareness that some concrete and practical actions should be taken to relieve those States that are the most exposed to asylum seeker inflows.[4] In this regard, refugee resettlement is certainly the most tangible expression of this international solidarity, but other less demanding instruments are also available, such as financial helps or technical support to needy States.

Refugee resettlement seems to fit well even with institutional setting where populist leaders are in office.

The normative premise on which refugees protection is grounded—namely to protect people whose basic fundamental rights are being denied by their own state—cannot be entirely disregarded, especially in countries that are rooted in the western liberal democracy tradition.

Refugees' resettlement is the perfect compromise. It is grounded on the premise that it is the State's authorities which retain the ultimate responsibility for determining the quota of admission and selection. Because of that, refugees' resettlement does not undermine the reliance on national sovereignty and the need to preserve it, one of the key elements in the populist discourse.

Moreover, enforcing a resettlement program strengthens the narrative against irregular migrants: resettled refugees are the "good", those deserving effective protection, while asylum seekers that enter illegally in the host Country looking for a safe haven are seen as abusive and their claims considered with suspicion.

Political support towards resettlement is based also on the fact that it permits not only to meet international expectations regarding refugee burden sharing, but also to pursue national policy interests other than humanitarian concerns. For example, one of the key elements of the notorious EU-Turkey agreement is the famous 1.1 scheme according to which the EU Member States agreed to resettle, for every Syrian readmitted by Turkey from Greek Islands, another Syrian from Turkey to the Member States.[5] In the selection process, priority is given to those persons who have not previously entered or tried to enter the EU irregularly. Some authors highlight that this is an instrumentalization of the EU refugees' resettlement policy, which is turned into a tool for

4 See General Assembly (2018) *Report of the United Nations High Commissioner for Refugees, Global Compact on Refugees, Part. II*, A/73/12 Part II, New York: UNHCR.

5 See EU-Turkey statement, 18 March 2016 in which EU Member States committed to resettle 54,000 Syrians. On the legal nature of the statement, see CJEU, 28 February 2017, Case C-192/16, *N.F. v. European Council*, EU:T.2017:128, in which the Court dismissed the action for annulment on the ground it lacked jurisdiction, as the statement was made by the Heads of State or Government of the EU Member States and by Turkey in their international capacity.

border controls.[6] The same logic was also followed by the Commission's proposal to establish a permanent Union resettlement framework.[7] The proposed regulation excluded from resettlement all "the persons who have irregularly stayed, irregularly entered, or attempted to irregularly enter the territory of the Member States during the five years prior to resettlement".[8]

Nevertheless, even refugee resettlement policy is nowadays increasingly put under pressure. This is clearly the case of US: the Trump election has marked a shift in the American approach towards resettlement policy, with a decrease in the resettled refugees' quota to be admitted yearly and limitations on the admission of refugees coming from certain States, especially Islam majority countries. During the previous Harper conservative government, even Canada, another important world leader in refugee's resettlement, took some steps that diminished its traditional international role in the field.

By comparing the two national experiences, the article highlights that resettlement involves not only an international dimension of solidarity, but also an intranational one that is in turn both vertical and horizontal.

Vertical solidarity refers to the role of subnational units with regard to the selection and the distribution of refugees crossover a country, while horizontal solidarity relates to the involvement of civil society in some elements of the identification, pre-departure, reception or integration process of resettled refugees.

A lack of coordination among these multiple dimensions of solidarity may result in local resistances in the enforcement of the national resettlement policy, which, as the US strongly case reveals, may in the long run influence the national scenario.

6 See Savino M. (2018). Refashioning Resettlement. From Border Externalization to Legal Pathways for Asylum, in: EU External Migration Policies in an Era of Global Mobilities: Intersecting Policy Universes. S. Carrera, L. Den Hertog, M. Panizzon and D. Kostakopoulou (Ed.), pp. 81–104, Immigration and Asylum Law and Policy, vol. 44, 81–104, Brill, Leiden, The Netherlands.

7 European Commission (2016) *Proposal for a Regulation of the European Parliament and of the Council Establishing a Union Resettlement Framework and Amending Regulation (EU) No 516/2014 of the European Parliament and the Council*, COM (2016) 468 final, 13 July 2016.

8 See art. 6 (d) of the Commission proposal.

2 Populism and Refugee Resettlement: the US Experience under the Trump Presidency

US has a long-standing tradition as a leading country in refugee resettlement.[9]

Although US became party to the 1951 Geneva convention and to the 1967 Protocol only in 1968 and a comprehensive program for the screening, admission and resettlement of refugees within the US was not enforced until the adoption of the Refugee Act in 1980, since 1948 onwards a series of statutes have been passed to authorize the admission of refugees from Europe, Asia, Africa and Latin America with a particular focus on those escaping from communist regimes.[10]

According to the 1980 Refugee Act,[11] each year the President sets the annual number of refugee admissions after consultation with the Congress.[12] The number of admissions changes every year, depending on presidential determination. Admissions are allocated according to five world regions namely: Africa, East-Asia, Europe-Central Asia, Latin American and Caribbean, Near East and South Asia.[13]

The selection process starts with an individual referral by UNHCR or a US embassy. Other further channels for selection include groups of special humanitarian concern—identified by the Government—and referrals starting by family members, which correspond to a very tiny proportion of the total number of referrals.

Until 1994, preference was given to those refugees having ties with US of various types such as prior employment with the US government or US company, educational experiences with US, presence of a family member in US. Since 1994, priority is given to vulnerability, assessed according to factors that mirror those used by UNHCR.

Setting aside the humanitarian goal, resettlement policy in US has met traditionally several objectives: it has been a component of the traditional commitment of US towards the defense of democracy and human rights and at the

9 See Martin, D.A. and Aleinikoff, T.A. and Motomura, H. and Fullerton, M. (2013). *Forced Migration Law and Policy*. West Academic Publishing, San Paul, USA, pp. 90–96; Haines, D.W. (2010). *Safe Haven? A History of Refugees in America*. Kumarian Press, Sterling, VA, USA.

10 See Martin et al. 2013, p. 91.

11 Pub. L. No 96–212, 94 Stat 102, codified as amended in chap. 8 U.S.C. whose sections we will refer to hereinafter.

12 See sec. 8 U.S.C. § 1157 (b).

13 See for further details Xi, J.Y., 2017. Refugee Resettlement Federalism (note). *Stanford L. Rev*., 69, pp. 1197–1235, at 1204.

same time it has been used as an instrument of soft foreign policy.[14] Because of that, refugees' resettlement has met the support of both civil society and political institutions.

Trump's presidency has changed this scenario.[15]

Refugees are no more considered as inherently different from irregular migrants and the traditional view of resettled refugees as deserving protection is being replaced by that of a possible threat to national security, especially in the case they come from Islam majority countries.

On January 27, 2017, one week after taking his office, President Trump signed Executive Order 13769[16] that suspended for 90 days the entry of foreign nationals from 7 countries—Iran, Iraq, Syria, Libya Somalia, Sudan, Yemen—that had been previously identified by Congress or prior administrations as posing heightened terrorism risks. The Executive Order also suspended the US Refugee Admissions Program for 120 days, directing the Secretary of State, in conjunction with Secretary of Homeland Security, to review the program application and adjudication process in order to determine what additional procedures should be taken to ensure that those approved for refugee admission do not pose a threat to the security and welfare of the US. The Executive Order also proclaimed the entry of Syrian refugees to be detrimental to national interests and it suspended their admissions indefinitely. Finally, it declared the entry of more than 50,000 refugees in fiscal year 2017 harmful to national interests.

In response to judicial orders that restrained the entry into force of the Executive Order 13769, President Trump revoked and replaced it with Executive Order 13780,[17] which, having regard to resettlement policy, reaffirmed the

14 See also Steinbock, D.J., 2003. The Qualities of Mercy: Maximising the Impact of U.S. Refugee Resettlement. *U. Mich. J.L. Reform*, 36 (3), pp. 951–1006.

15 See Scribner, T., 2017. You Are not Welcome Here Anymore. Restoring Support for Refugee Resettlement in the Age of Trump. *Journal on Migration and Human Security*, 5 (2), pp. 263–284.

16 See Executive Order 13769 of January 27 2017, Protecting the Nation from Foreign Terrorist Entry into the United States, §5(d), 82 Federal Register 8977, February 1, 2017.

17 Executive Order No 13780 of March 6 2017, Protecting the Nation from Foreign Terrorist Entry into the United States, §6(b), 82 Federal Register 13209, March 9 2017. This Executive Order was also challenged before courts which stayed its entry into force. However, in *Trump v. Irap*, 582 US _, (2017) the Supreme Court allowed the Executive Order to be effective with respect to foreign nationals who lacked a "credible claim of a bona fide relationship" with a person or entity in the US. Based on Executive Order 13780, on 24 September 2017, President Trump issued Proclamation No 9645 which placed entry restrictions on the nationals of eight countries presenting inadequate security systems. In *Trump v. Hawai*, 585 US _ (2018), a divided Supreme Court upheld the Presidential Proclamation. See Margulies, P. 2018. The travel Ban Decision and the Twilight of Judicial Craft: Taking

suspension for 120 days of the program, demanding the Secretary of State and the Secretary of Homeland Security to review refugee admissions procedure. It also confirmed the refugee ceiling admission at 50,000 for Fiscal Year 2017.

On October 24, 2017, President Trump issued a new Executive Order specifically directed to refugee admissions.[18] It explicitly provides that the entry restrictions and limitations that apply to foreign nationals wishing to enter US with an immigrant or nonimmigrant visa do not apply to those who seek to enter US through Refugee Resettlement Program.

The 13815 Executive Order recognizes that resettled refugees stand in a different position with respect to the other classes of foreigners as they represent a minor threat for the national security. The order thus resumes refugee admission program subject to certain conditions. It establishes special measures to be applied to some categories of refugees coming from countries that still pose potential threats to the security and welfare of the US. The Secretary of Homeland Security is in charge of determining the countries that present major risks for national security and thus to set the additional security controls.[19] Finally, the refugee ceiling for fiscal year 2019 is set at 30,000, while refugee admission for Fiscal year 2018 totaled 22,491.[20]

Many commentators agree in considering President Trump's measures as clear examples of a populist attitude and islamophobia.[21] In her dissenting opinion in *Trump v. Hawaii* 585 US _ (2018), Justice Sotomayor highlighted that the Court's decision "leaves undisturbed a policy first advertised openly and unequivocally as a 'total and complete shutdown of Muslims entering the United States' because the policy now masquerades behind a façade of national-security concerns ".

Statutory Context Seriously. *Roger Williams Univ. Legal Studies*, Paper No 183, 24 August 2018, ssrn.com/abstract=3238087 40.

18 Executive Order No 13815 of October 24, 2017, Resuming the United States Refugee Admissions program with Enhanced Vetting Capabilities, 82 Federal Register 50055, October 27, 2017.

19 See Bruno A. (2018) *Refugee admissions and resettlement policy* (*Updated December 2018*), Washington, DC: Congressional Research service, available at http://crsreports.congress.gov.

20 For Fiscal Years 2013, 2014, 2015 refugee admission ceilings were set at 70,000. For Fiscal Year 2016 it was increased at 85,000 and for fiscal year 2017, following the Syrian events, the ceiling was further raised at 110,000 by President Obama. However, as noted, the Trump's Presidential order reduce the 2017 ceiling at 50,000. See Bruno A. 2018, pp. 3–4.

21 See McHugh M. 2018. *In the Age of Trump: Populist Backlash and Progressive Resistance Create Divergent State Immigrant Integration Contexts*, Migration Policy Institute, Washington, D.C., USA.

However, it must be noted that the Trump decision to decrease the number of refugees admitted though resettlement and to set restrictions on the entry from certain Countries because of the lack of efficient security controls is rooted in an increasing hostility experienced by some US federate states towards refugee resettlement, which appeared long before the Trump election and his political campaign.[22]

The peak of this resentment has been reached when the Obama administration decided to admit an additional 10,000 refugees from Iraq and Syria during the 2016 financial year.[23] The decision, taken after the Paris terrorist attacks on November 2013, where a fake refugee visa was found near the site of the attacks, triggered the strong opposition of many States Governors. In the weeks after the Paris attacks, 30 governors (29 republican and 1 democrats) objected the practice of refugees' resettlement, asking for its suspension.[24]

The governors' statements emphasized concern for national security and for the additional costs in welfare services that local communities would have to afford in order to integrate these newcomers.

Opposition to federal resettlement policy have been formalized through the adoption of formal orders and even statutes aimed to prevent refugees and asylees to be located on state soil.[25] They do so by placing additional burdens or even stopping the funding for non-profit organizations that administer federal programs for the settlement of refugees.

In some cases, these States' measures have been challenged before courts. Following directives by the Indiana government, according to which no further funding would be available to community-based organization wishing to place Syrian refugees in Indiana, Exodus—a voluntary association which was in charge of placing a Syrian family in Indiana—filed a suit in US District court. The District Court found that the Indiana government directive clearly violated the Equal Protection Clause as it discriminated against refugees on the ground of their national origin.[26] Moreover, the District Court also found the directive illegitimate because of its inconsistency with federal law. By withdrawing federal funding from Exodus, Indiana was intruding upon a field of

22 See Elias, S.B., 2016. The Perils and Possibilities of Refugee Federalism. *American Univ. L. Rev.*, 66, pp. 353–414.

23 See Bruno A. (2016) *Syrian Refugee Admission and resettlement in the United States: in Brief*, Washington, DC: Congressional Research Service.

24 See Elias, supra footnote 22.

25 See Elias, supra footnote 22, at p. 395.

26 *Exodus Refugee Immigration., Inc. v. Pence* 165 F. Supp. 3d 718 (S.D. Ind. 2016) affirmed on October 3, 2016 by the US Court of Appeals for the 7th Circuit. See Elias 2016, at pp. 399–402.

law occupied by the federal action and preventing this from achieving one of its legitimate goals, namely the safe and effective placement of refugees in the Country.

2.1 *The On-going Issue of Immigration Federalism in US: Time for a New and More Effective Role of States in the Resettlement Procedure?*

The hostility exhibited by some federate states towards the implementation of the federal policy on refugee resettlement is certainly due to the polarization that currently characterizes the political debate on immigration in US. However, it is also a consequence of a certain tension between the federal and the state level with regard to the division of powers in relation to immigration.

Despite the lack of a clear clause in the US Constitution granting the federation the power to deal with the entry and the stay of foreigners,[27] the Supreme Court has, at least since the end of the civil war, consistently deemed immigration as a federal reserved power, considering it as "an incident of sovereignty", a feature that belong to the federation.[28] It has thus declared void any state's measure that could interfere with the federal exercise of it.

In the '80 and '90 of the past century, interest by federal units towards immigration has primarily concerned so called alienage law, i.e. the legal treatment of aliens once legally admitted, especially with regard to immigrants' eligibility to state welfare.[29]

In more recent time, however, the increasing influx of irregular migrants led some States to take a more prominent role in the enforcement of federal statutes dealing with the removal of irregular aliens with a view to ease them.[30]

In 2010, Arizona passed the Controversial Support Our Law Enforcement and Safe Neighborhoods Act (SB 1070) creating a new state misdemeanor for being unlawfully present in the state and authorizing state law enforcement authorities to question, detain and arrest those whom they believed to be undocumented immigrant solely on that basis.

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27 On the role of US States in immigration policy in the early century of the US federation, see Neuman, G.L., 1993. The Lost Century of American Immigration Law (1776–1875). *Columbia L. Rev.*, 93 (8), pp. 1833–1901; Motomura H. (2014) *Immigration Outside the Law*, OUP, Oxford-New York, USA, pp. 65–69.

28 See *Chae Chan Ping vs. U.S.* (*Chinese exclusion cases*), 130 US 581 (1889).

29 See Motomura, H., 1994. Immigration and Alienage, Federalism and Proposition 187. *Va. J. Int.l Law*, 35, p. 201; Wishnie, M.J. 2001. Laboratories of Bigotry? Devolution of the Immigration Power, Equal Protection, and Federalism. *N.Y. Univ. Law Rev.*, 76, pp. 493–569; Bosniak, L.S. 1994. Immigrants, Pre-emption and Equality. *Va. J. Intern. L.*, 35 (1), p. 179.

30 See Huntington, C. 2008. The Constitutional Dimension of Immigration Federalism. *Vand.L. Rev.*, 61, pp. 787–853.

In 2012, the Supreme Court stroke down most of the Arizona provisions on the ground that they interfered with the federal power over immigration. For the Court there is no room for any state enforcement role within the federal removal procedure, unless this takes place according to a strict cooperation agreement between federal and state authorities, as explicitly provided by the federal law itself.[31]

Thus, the decision reasserted the primacy of federal law with regard to state law designed to control the inflow of refugees. However, the Supreme Court decision has somehow highlighted the lack of cooperation between federal and regional administrations and, although indirectly, it has called on for more cooperation between the two levels.

The Arizona case could mark the end of the immigration federalism, but this was not the case and States' protagonism in the field continued. As a matter of fact, effectiveness of federal removal procedure relies heavily on informal cooperation between state and federal authorities in order to enforce detainee requests for foreigners subject to deportation. As a reaction to the federal tightening of the removal procedure, occurred since the end of the 2000's, many States and local authorities adopted so called "sanctuary law" policy. Although sanctuary law is a label that covers different situations, we refer to policy measures, sometimes enshrined in statutes, prohibiting local and/or state authorities to enforce detainee requests by federal authorities.[32]

Thus, the irregular migration flow that currently characterizes US has determined different reactions at subnational level, with some States adopting deterrence measures, other favouring more inclusionary policies. However, a common element in both cases seems to be the lack of well settled practices of cooperation mechanisms between state and federal authorities.

One may consider whether the current reaction of some federate states against the federal enforcement of refugee resettlement is related to the new "immigration federalism" described above, reflecting the insufficient involvement of state administration in the federal refugee resettlement practice. Within this context, it is worthy to highlight that President Trump's Executive Order 13780 specifically declared that it is the policy of the executive branch that State and local jurisdictions be granted a role in the process of determining

31 *Arizona et Al. v. United States*, 567 US _ (2012) June 25, 2012.

32 Rodriguez, C. 2017. Enforcement, Integration and the Future of Immigration Federalism. *Journal on Migration and Human Security*, v. 5 (2), pp. 509–540.

the placement or settlement in their jurisdictions of aliens that are eligible to be admitted in US as refugees.[33]

Currently, the federal resettlement program is administered by the Secretary of State and by the Office of Refugee Resettlement (ORR). While the former is responsible for the selection procedure, which takes place out of the Country, the latter is in charge of the reception, integration and distribution of refugees throughout the Country.

The 1980 Refugee Act authorizes the ORR Director to conclude agreements with nine voluntary nonprofit resettlement agencies, known as VOLAGS (short name for voluntary agencies). VOLAGS are called to provide refugees with initial assistance which includes housing, food, clothing, but also English and vocational courses. The expectation of the federal resettlement program is that refugees achieve economic self-sufficiency as quickly as possible.[34]

VOLAGS perform their duties by relying on a nationwide network of 312 affiliated offices in 185 locations. In 33 States the resettlement program is state administered: ORR reimburses States for the full costs of their refugee cash and medical assistance programs. In order to be refund, a State must submit a "state plan" for refugee assistance that meets the various requirements set by the ORR.

In the case a State does not wish to administer the federal program, the so-called Wilson Fish framework applies. Here local resettlement agencies are in charge of financial, medical and employment services for refugees and they are funded directly by the ORR office.

Thus, in the current legal framework, federate States are at best mere conduit for federal funding and access to services.[35]

The lack of a serious effective involvement of State and local administrations in the reception process of refugees has been one of the major flaws of the Refugee Act 1980. Congress has time to time introduced changes to the act in order to guarantee better coordination among the federal agency, VOLAGS and territorial institutions.[36]

33 See Executive Order 13780, sec. 6 d). The Order directs the Secretary of State to examine existing law to determine the extent to which, consistent with applicable law, States and local jurisdictions may have greater involvement in the process of determining the placement or resettlement of refugees in their jurisdictions and shall devise a proposal to lawfully promote such involvement.

34 See chap 8 U.S.C. 1522 (a) (1)(A) (i).

35 See Elias, supra footnote 22, at p. 409.

36 For a detailed history of the Refugee Act 1980 and the Congressional amendments aimed to improve States' involvement in refugee reception, see Xi 2017, pp. 1208–1212.

Indeed, the Refugee Act was not completely silent concerning the role of state and local administrations in refugee reception as it mandated the federal administration "to consult regularly with state and local governments and private nonprofit voluntary agencies concerning the sponsorship process and the intended distribution of refugees among the States and localities".

However, this provision did not prove to be effective: only one year after the adoption of the Refugee Act, States' complaints about the problems faced by local communities to integrate resettled refugees led Congress to investigation and to introduce amendments to the 1980 Refugee Act with a view of ensuring greater coordination among the federal government agency, state and local administrations and the voluntary agencies.

Congress required the ORR director to consult not less than quarterly with States and local administrations.[37] Moreover, a new provision was inserted mandating the ORR director to develop and implement, in consultation with representatives of voluntary agencies and State and local government, policies for the placement and resettlement of refugees within the US.[38]

However, since States and local administrations continued to complain a lack of coordination with VOLAGS, which were considered responsible for not taking into account their suggestions in the distribution process, in 1986 Congress amended again the 1980 Refugee Act.

The new amendments required the ORR director, when developing a distribution and placement plan, to take into account several factors such as the proportion of refugees and comparable entrants in the population in the area, the availability of employment opportunities, affordable housing and public and private resources (including educational, health care and mental health services) for refugees in the area; the likelihood of refugees placed in the area becoming self-sufficient and free from long-term dependence on public assistance; the secondary migration of refugees to and from the area that is likely to occur.[39]

Despite these amendments, it is clear that Congress has never intended the State or local authorities to have a veto in the refugee distribution process. VOLAGS are still full responsible to place refugees in coordination with the federal agency, State and local authority may only provide some inputs for the better enforcement of the programs.

In response to the State and local government opposition against the current federal regulatory framework for enforcing refugee resettlement, some

37 See 8 U.S.C. 1522 (a) (2) (A).
38 See 8 U.S.C. 1522 (a) (2) (B).
39 See 8 U.S.C. 1522 (a) (2) (C).

commentators call for the States and local governments to have a more proactive role. It is suggested that State governors might try to set their own priority in deciding which refugees to welcome rather than limit themselves to oppose refugee distribution when this may turn to impose too great burden on state social welfare. They could do so by pressing the federal government to give in advance information about refugees' profile that need to be resettled. This would permit States to select those refugees that are the most suitable with respect to their economic and social environment.[40]

3 Immigration and Resettlement in Canada: Competing for a Scarce Resource?

The 2015 federal election campaign that led Justin Trudeau, the leader of the liberal party, to be appointed as Canadian Prime Minister was characterized by the pledge to increase the number of Syrian refugees to be resettled in Canada up to 25,000 by the end of 2015.[41]

This choice stood as a reaction to the political position of the former Prime Minister—Stephen Harper—who during his mandate had been blamed for diminishing the role of Canada as a world leader in refugee resettlement.[42] The Harper's Government resettled only 1300 refugees from Syria. Of this quota, only a minimal part was effectively assisted by the government, the most part being privately sponsored.[43]

This was not the only measure that the Harpen's government took with the aim to harden resettlement policy.[44] Since 2011 there has been in practice a cap on the private sponsorship applications that concern the missions in Nairobi,

40 See Elias 2016, cit., 404–406; Xi 2017, pp. 1230 ff.

41 See Hynman, J. and Payne, W. and Jimenez, S. (2016), *The State of Private Refugee Sponsorship in Canada: Trends, Issues and Impacts*, York: Refugee Research Network/ Centre for refugees, Policy brief, December, available at https://refugeeresearch.net/wp-content/uploads/2017/02/hyndman_feb%E2%80%9917.pdf.

42 See Chai Yun Liew J. and Galloway, D. (2015) *Immigration law*, Irvin Law, Toronto, Canada, pp. 240–241. The authors highlight that the Harper's government strategy was to place more emphasis on providing financial assistance to support overseas countries rather than resettlement.

43 See Canadian Council for Refugees (2013) *Canadian Immigration Responses to the Syrian Crisis—Backgrounder*, University of Toronto Press, Toronto, Canada, October, available at http://ccrweb.ca/en/syrian-crisis.backgrounder.

44 Canadian Council for Refugees (2013) *Important changes in Canada's Private Sponsorship of Refugees Program*, University of Toronto Press, Toronto, Canada, January, available at http://ccrweb.ca/en/changes-private-sponsorship-refugees.

Pretoria, Islamabad and the Cairo.[45] Restrictions were also imposed to the ability of group of individuals to sponsor persons not recognized as convention refugees.

The Trudeau government's decision to increase significantly the number of Syrian refugees to be resettled in Canada and the support expressed by Canadians towards this choice and refugee resettlement policy in general stand quite in contrast with the concomitant US experience.

Providing possible explanations for this different approach is not an easy task.[46]

Numbers of immigrants and geography certainly play an important role, since they allow Canada to have almost full control of migration flows. Moreover, in 2004, Canada signed the Safe Third Country Agreement (STCA) with US according to which the responsibility for processing the claims of asylum seekers is allocated to the Country in which the asylum seeker arrives first, on the assumption that both US and Canada are safe country for refugees.[47] The enforcement of this agreement led to a significant decrease of inland asylum seekers applications in Canada.[48] Despite this, the arrival of some "boats people" in 2009 have pushed the conservative Harper government to adopt more severe measures with regard to asylum seekers and to convey the idea that inland asylum seekers are abusive and less worthy of protection than resettled refugees.[49]

Moreover, Canadian refugee resettlement policy has always been highly selective and traditionally the Canadian government has considered it as basically designed to promote domestic economic objectives.[50] This "compassion with realism"[51] model is attested by the fact that among the factors that an

45 In late December 2016, the Department of Immigration, Refugees and Citizenship Canada eliminated the caps on these missions. See Hyndman, J. and Payne, W. and Jimenez, S., 2017. Private refugee sponsorship in Canada, *Forced Migration Review* 54, pp. 56–59, at www.fmreview.org/resettlement, February 2017.

46 See Hiebert D., (2016) *What's so Special about Canada? Understanding the Resilience of Immigration and Multiculturalism*, Migration Policy Institute Washington, D.C., USA.

47 For a critical view on the agreement, see Moore A.F., 2007. Unsafe in America: A Review of the US-Canada Safe Third Country Agreement. *Santa Clara L. Rev.*, 47, pp. 201–283.

48 See Macklin, A. 2005. Disappearing Refugees: Reflections on the Canada-U.S. Safe Third Country Agreement. *Col. Hum. Rts. L. Rev*, 36, pp. 365.

49 See Labman, S. 2011. Queue the Rhetoric: Refugees, Resettlement and Reform. *Univ. of New Brunswick L. J.*, 62, pp. 55–63.

50 See Hathaway, J.C., 2011. Selective Concern: An Overview of Refugee Law in Canada. *McGill Law Journal*, v. 33, pp. 675–715.

51 See Andras, R. (1980), An Historical Sketch of Canadian Immigration and Refugee Policy, in: *The Indochinese Refugee Movement: The Canadian Experience*. H. Adelman (Ed.), Operational Lifeline, Toronto, Canada.

officer has to take into in consideration in order to select a person for resettlement is the ability to become successfully established in Canada. Although the Immigration and Refugee Protection Act (IRPA) 2002 have waived the "successfully establishment" requirement in case the foreign national is vulnerable or in urgent need of protection,[52] sec. 139 of the IRPA Regulation still requires the officer to consider the following factors: the resourcefulness and other similar qualities that assist the applicant in integration in a new society; the presence of relatives; the potential for employment in Canada, given the applicant's education, work experience and skills; the applicant's ability to learn to communicate in one of the official language.[53]

Finally, a further reason that explains the ongoing Canadian civil society support for refugee resettlement policy is the reliance on private sponsorship scheme.[54] Private sponsorship allows certain institutionalized groups of civil society and groups of individual to identify the refugees they wish to sponsor either because the relevant person is member of his family or because he belongs to a group (ethnic or religious) with whom they wish to be in solidarity. Private sponsorship replaces the government in granting assistance up to one year.

3.1 *The Horizontal Dimension of Solidarity: the Private Sponsorship Canadian Model*

In order to qualify as a resettled refugee under Canadian law, an applicant must meet several conditions. First, he must be a foreign national outside Canada and he must be recognized by a visa officer as belonging to either the "Convention Refugees Abroad" class or the "Humanitarian-Protected Person Abroad" class.[55] The former consists of persons who have been determined by an officer to be a Geneva Convention refugee. The latter applies in case the person does not satisfy the refugee Geneva Convention definition, but nevertheless he/she "has been and continues to be seriously and personally affected

52 See Garnier, A. (2018). Resettled Refugees and Work in Canada and Quebec. Humanitarianism and the Challenge of Mainstream Socioeconomic Participation, in: *Refugee Resettlement Power, Politics, and Humanitarian Governance*. A. Garnier and L. Lyra Jubilat and K. Bergstova Sandvik (Ed.), *Studies in Forced Migration*, vol. 38, 118–138, Berghahn Books, New York, USA.

53 See sec. 139, (1), (g), Immigration and Refugee Protection Regulations.

54 See Yahyaoui Krivenko E., 2012. Hospitality and Sovereignty. What Can We Learn from the Canadian private Sponsorship of Refugees Program. *Int. J. Refugee L.*, 24(3), pp. 579–602.

55 See secs. 144 and 146 of the Immigration and Refugee Protection Regulation. For further details, see Baglay, S. and Jones, M. (2017), *Refugee law*, 2 ed., Irvin Law Inc., Toronto, Canada, at pp. 261 ff.

by civil war or armed conflict or massive violation of human right in these countries".[56]

Moreover, any applicant for resettlement will need to satisfy other requirements, namely that there are no reasonable prospects within a reasonable time of a durable solution outside Canada; that he will be able to become successfully established in Canada (although, as noted, a waiver is provided for vulnerable or persons in urgent need of protection); that he is not inadmissible due to the fact he or she is a danger to public health or to public safety.

Applicants are generally prevented from applying for resettlement directly to the Canadian mission without having a prearranged sponsorship.

The sponsor may be governmental or private based. In the former case, individuals are referred to by UNHCR or other designed organizations. UNHCR referrals are usually refugees in urgent need of protection. After the selection procedure and arrival in Canada, Government Assisted Refugees (GARs) are offered resettlement services and income support for up to one year through the Resettlement Assisted Refugee Program which is run by the federation (with the exception of Québec). Resettlement services (which includes reception at port of entry) are provided by service providers organization, under agreement with federal institutions.[57]

As to the private sponsorship mechanism, it has been enforced for the first time during the Indochinese "boat people" crisis of the late '70s when the federal Government agreed to allow Canadian organizations and groups of individuals to privately sponsor the admission of resettled refugees.[58]

Currently, there are three main types of private sponsorship. The first option is the so-called sponsorship agreement holder (SAH). Religious or cultural organizations or other humanitarian agencies of local, regional and/or national scale enter into a sponsorship agreement with the Immigration, Refugees and Citizenship Canada (IRCC) department. In order to sign the agreement, a SAH assumes the responsibility for the refugee's reception and to this end it must provide a detailed settlement plan and fulfill certain financial requirements. The signing of the agreement allows a SAH to avoid the IRCC approval every time it wishes to resettle a refugee. Moreover, SAHs are allowed to resettle persons pertaining to both Convention and Humanitarian Protected Person Abroad classes.

56 See sec. 147, Immigration and Refugee Protection Regulation.

57 Government of Canada, UNHCR Resettlement Handbook, Country Chapters—Canada, Revision February 2018.

58 See Hathaway, supra footnote 50, at p. 685.

The other two forms of private partnership are called respectively community sponsorship and "group of five". The former case consists of an organization that does not enter into previous agreement with a federal agency. Because of that, it is allowed to sponsor annually only two applications. Moreover, a local IRCC office will need to assess the financial and settlement plans for each refugee's application.

"Group of five" sponsorship involves a group of not less than five Canadian citizens or even permanent residents[59] who have arranged to sponsor a refugee living abroad to come to Canada.

Since 2012, community sponsors and group of five may sponsor only conventional class refugees, i.e. refugees who are recognized as such by either the UNHCR or a foreign State. However, in 2015 the federal minister established a temporary exemption for Syrian and Iraqi nationals.

One of the great advantages of the Canadian private sponsorship model is that it allows the relevant institutional group to identify the refugees it wishes to sponsor. Generally speaking, these are members of the family that do not qualify for family reunification or persons that belong to ethnic or religious groups whose promotion is of particular concern to some organizations. In both cases, private sponsorship guarantees a faster integration process, a goal that is in line with the traditional economic oriented approach of Canadian refugee policy requiring refugees to become economically self-sufficient in a short time.

Secondly, private sponsorships provide an additional and autonomous path with respect to government sponsorship resettled refugees. Although the legal framework has evolved in order to regulate some forms of partnership between public and private in refugees' resettlement,[60] it remains that the traditional private sponsorship has developed independently from public financial intervention. This has meant for the private greater autonomy and less pressure by the public authority, although it must be registered some attempts during the Harper conservative government to put a strain on certain private sponsorship schemes.[61]

59 It is worthy of remembering that resettled refugees, once arrived in Canada, acquire a permanent resident status. This means they qualify for sponsoring other refugees for resettlement, determining an "echo" effect.

60 This is the case of the so-called Blended Visa Office-Referred refugee program, introduced in 2013. Here, Convention refugees, referred to Canada by UNHCR, are matched with a private sponsor. The assistance to the refugees is partly afforded by the Government and partly by the private sponsorship.

61 Examples of this political change are the restrictions to sponsor non-conventional refugees, which apply only to community and group of five sponsorship and the caps on

Moreover, private sponsorship mechanism also allows to strengthen the legal position of the applicant during the resettlement procedure which is highly discretionary. Although a rejection by a visa officer of an application seeking resettlement may be challenged before a federal court, access to justice may be difficult to achieve in practical terms. Private partnership may then succour as they have *locus standi* before courts and can provide applicant for legal help.

3.2 *The Vertical Dimension of Solidarity*

The horizontal dimension represented by the private partnership mechanism has proven to be a key element in the successful story of the Canadian resettled refugees' policy and it has helped to maintain a favorable attitude by public opinion towards resettlement even after the Paris attack and the Syrian crisis. It is convenient now to consider to what extent it relates to the vertical dimension of internal solidarity, which involves the role of the subnational territorial units.

The role of the Canadian Provinces with regard to immigration law is different from those played by their American counterparts. Sec. 95 of the Constitution Act 1867 conceives of immigration as a concurrent jurisdiction. This is an exception within the Canadian watertight model of division of powers, due to the fact that, before Confederation was set, Canadian Provinces, relying on their inherent police powers, had already passed statutes regarding immigration, usually forbidding entry to those people that could become a burden upon local welfare.[62]

Concurrent jurisdiction means that in principle both federal and provincial levels are entitled to act in the immigration field. However, in order to safeguard national interest, sec. 95 explicitly provides that the law of a Province "shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada".

Despite this clause, soon after the entry into force of the Constitution Act 1867, Provinces agreed that the federal Parliament would comprehensively deal with immigration and in 1869 the first federal immigration act was passed. Subsequent case law and the outbreak of the World War I definitely shifted the regulatory power to the confederation.

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certain Canadian missions abroad, eliminated only in 2016, which caused indirectly a geographical and racial bias in the resettlement procedure.

62 See Vineberg, R.A. 1987. Federal-Provincial Relations in Immigration. *Canadian Public Administration*, 30(2), pp. 299–317.

Devolution in immigration became again an issue when, with the "quiet revolution", Québec got aware of the importance of immigration for maintaining and developing its distinctiveness as a nation. Québec started to pressure the federal government to devolve it some aspects of the federal immigration policy.[63]

The first two agreements concluded with the Confederation were quite modest, but the Cullen-Couture, signed in 1978, marked a significant step.[64] Under the 1978 agreement, the selection of permanent economic migrants, applying from abroad, was the result of a joint decision-making process and applicants wishing to settle in Québec had to satisfy both federal and Québec's selection criteria. There were two core criteria that permitted an immigrant to acquire the Québec selection certificate: knowledge of French and adaptability.

Québec was also granted the power to select resettled refugees from abroad. The federal government retained the exclusive power to determine whether the applicant qualified as a refugee or as a person in similar circumstances in need of Canada's protection. However, Québec had a veto power: if the applicant wished to establish in Québec, he had to fulfill Québec requirements, which included the capacity to integrate in the Québec society.

The Cullen-Couture agreement was followed and replaced by the McDougall/Gagnon Tremblay agreement in 1991, which is still in force.[65]

The agreement strengthens the power of the francophone Province to select economic immigrants destined to Québec granting the Province the sole responsibility for that. With regard to refugees' resettlement, the 1991 agreement does not alter the previous scheme. However, it adds an important power that was not provided in the agreements before: the full devolution of immigration settlement services, included those services especially tailored for resettled refugees.

Devolution of settlement services was a crucial issue for Québec since the possibility to offer newcomers training services and linguistic courses in French was seen as a necessary step to ensure the preservation of Québec's

63 See Brun H. and Brouillet E. (2002). *Le partage des pouvoirs en matière d'immigration: une perspective Québecoise*, in *Les Mélanges C.A. Beaudoin—Les défis du constitutionalisme*. P. Thibault and B. Pelletier and L. Perret (Ed.), Ed. Yvon Blair, Cowansville, Québec, Canada; Houle, F. (2014). *Implementing Quebec Intercultural Policy trough the Selection of Immigrants*, in: *Immigration Regulation in Federal States*. Springer, Dordrecht, Germany.

64 See Garcea J. (1993) *Federal-provincial Relation in Immigration (1971–1991)*, PhD Thesis, Ottawa: Carleton University.

65 See Kostov, C. 2008. Canada-Quebec Immigration Agreements (1971–1991) and their Impact on Federalism. *American Review of Canadian Studies*, XXXVIII (1), pp. 91–103.

distinct culture and to avoid the risks that immigrants may prefer English rather than French as a vehicle for their integration.

The 1991 Canada-Québec agreement on immigration devolution had a statutory basis, namely sec. 109 of the Immigration Act 1976. According to this provision, the federal minister of Immigration, with the approval of the Governor in Council, may enter into agreement with any Province or group of Provinces for the purposes of facilitating the formulation, coordination and implementation of immigration policies and programs. The provision is today replaced by sec. 8.1 of the Immigration and Refugees Protection Act (IRPA).

The signature of Québec's immigration agreements has been traditionally considered as an expression of asymmetric federalism, by means of which the federal government accepted to accommodate Québec's claim to be a distinct society by granting special powers that the other Provinces did not have. However, the statutory words of the previous Immigration Act 1976 and of the current IRPA section are framed in general terms in a way that the possibility to conclude devolutionary agreements in immigration has always been an open option to all the Provinces.

As a matter of fact, since the signing of the 1978 Cullen-Couture agreement, the federal government pushed the other Provinces to take advantage of the possible decentralization in the field of immigration. This was consistent with the political message that the federal government wanted to convey: devolution in immigration had not to be seen as a federal recognition of Québec's claim towards a distinct society, but as a way to implement the original spirit of section 95 of the Constitution Act 1867, which conceives of immigration as a concurrent jurisdiction.[66]

At the beginning Provinces were quite reluctant to accept the federal offer, but over the years they began to consider immigration crucial for their interests.

The reason for this change relies on the fact that the great majority of newcomers in Canada settled in British Columbia, Ontario and Québec and lived in major cities such as Toronto, Montreal and Vancouver. The immigration influx did not result to be a help for those Provinces facing serious problems of economic growth and of uneven distribution of population in their territory. Moreover, the federal policy with regard to the selection of economic migrants progressively favored highly skilled applicants. This turned into a problem for those Provinces that had a need for low skilled jobs. The combination of these

66 See Garcea 1993, supra footnote 64.

factors favored a trend towards devolution in immigration matters: by 2009 all Provinces entered into agreement with the federal government.[67]

The main outcome of these intergovernmental agreements has been the possibility for the Provinces to set their own provincial immigration selection programs (so called Provincial Nominee Programs—PNP). Each Province haw now the power to select a given number of newcomers, whose amount is previously agreed with the federal government, trough criteria suitable for the relevant Province.[68]

By contrast, with the exception of Québec, selection of refugees for resettlement has never been a relevant issue in the immigration agreements concluded so far. These usually contain some provisions that further detail the obligation, set in sec. 10(1) and 10(2) of the IRPA, according to which it is for the federal minister to consult with the Provinces on immigration and refugee protection policies and on the number of foreign nationals to be admitted as permanent resident.

For instance, the 2015 Canada and British Columbia agreement provides that although the share of refugees to be resettled in the Province is not expected to exceed British Columbia's percentage share of total immigration, flexibility in responding to emerging humanitarian needs is required. Moreover, British Columbia agrees to receive a proportion of refugees who are persons in special need or vulnerable. Canada commits itself to take into account the potential financial impact on British Columbia's social programs resulting from the variation in number of vulnerable resettled refugees.[69] Similar provisions are also present in the other Province's agreements.[70]

Services and financial assistance to government sponsored resettled refugees has always remained a federal duty, with the exception of Québec.

On the contrary, general settlement services had been subject to devolution, until a process of recentralization which started in 2012.

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67 See Paquet, M. 2014. The Federalisation of Immigration and Integration in Canada. *Canadian Journal of Political Science*, XLVII (3), pp. 519–548.

68 See Baglay, S. and Nakache, D. (2014). *Immigration Federalism and Territorial Nominee Programs* (*PNTPs*), in *Immigration Regulation in Federal States*. Baglay, S. and Nakache, D. (Ed.). 95–116. Springer, Dordrecht, Germany; Seidle, F.L. 2013, Canada's Provincial Nominee Immigration Programs, Irpp Study, n. 43.

69 See sec. 4.8 and 4.9 of the Canada-British Columbia agreement. The text of the immigration agreements concluded between Canada and the Provinces are available at https://www.canada.ca/en/immigration-refugees-citizenship/corporate/mandate/policies-operational-instructions-agreements/agreements/federal-provincial-territorial.html.

70 See sec. 9 of the Canada-Ontario immigration Agreement—General Provisions 2017; see sec. 2.15 e 2.16 of the Canada-Manitoba Immigration Agreement, June 2003.

Settlement services include programs that offer reception and orientation services, employment assistance, counseling and language courses. These services are delivered by non-governmental organizations, referred to as service providers organization, through agreement with public authority. They are offered to all permanent residents, a category which includes resettled refugees. Settlement services for permanent migrants are thus complementary to those services offered by the federation to government sponsored resettled refugees in their first year in Canada and they are available to private sponsored resettled refugees as well.

In the 90's, with the aim to reduce the federal deficit, the Canadian government offered the Provinces to manage on their own settlement services for permanent immigrants in change of a federal fiscal transfer. The offer was accepted by British Columbia and Manitoba that since then were responsible for the design, administration and delivery of settlement and integration services.[71]

This meant for the two Provinces a greater flexibility in designing immigrant services specifically tailored to the Province's labour market needs. Moreover, full control of settlement services, coupled with the enforcement of the PNP program that allows the selection of a quota of economic migration, was crucial for a Province as Manitoba that has always faced the problem to retain immigrant population, especially in the less inhabited areas.[72]

This scenario changed abruptly. When in 2010 Ontario asked the federal government to renew its immigration agreement and to have full responsibility for settlement services, as it was the case for Québec, British Columbia and Manitoba, the federal government refused and decided to take back full responsibility of providing immigrant settlement services. It thus withdrew unilaterally from the intergovernmental agreements previously concluded with British Columbia and Manitoba.[73]

A possible explanation for this recentralization relies on the fact that the federation had consistently increased the money destined towards settlement services for immigrants. The full devolution of settlement services to Ontario,

71 See Banting, K. (2012). Canada, in: *Immigrant Integration in Federal Countries*, C. Joppke and F. Leslie Seidle (Eds) pp. 79–112. Mc-Gill-Queens University Press, Montreal and Kingston. Canada.

72 See Carter, R., Morrish, M. & Amoyaw B. 2008. Attracting Immigrants to Smaller Urban and Rural Communities: Lessons Learned from the Manitoba Provincial Nominee Program, *Journal of International Migration and Integration*, IX (2), pp. 161–183.

73 Iain Reeve, W. (2014) *Devolution and Recentralisation in the Canadian Immigration System: Theory, Causes and Impacts*, Ph.D Thesis, Kingston: Queen's University; Paquet, M. (2016), *La Fédéralisation de l'immigration au Canada*, Les presses de l'Université de Montréal Montréal, Canada.

which is by far the first Province of destination for many immigrants, would have implied the transfer of a big amount of money. Moreover, services providers organizations furnish an important link with the different ethno-cultural organizations which are present in Canada. Thus, controlling the funding of these settlement services provider organizations allows the federal government to maintain its leadership in the nation building project.[74]

As a result of this, currently Québec is the only Province that is fully responsible of providing settlement services for resettled refugees and for the other permanent immigrants.

4 Concluding Remarks

The increasing attention that EU and its Member States are paying to resettlement and other complementary safe channels for admission of refugees[75] does not come as a surprise: refugee resettlement is subject to a greater planning and state control than "spontaneous" immigration flows. Because of its strong reliance on state sovereign decisions, refugee resettlement seems immune from current political narratives that usually depict immigration as a threat to national interests.

However, both US and Canada—two traditional world leaders countries in resettlement—reveal that this assumption cannot be necessarily true: the lack or the insufficient involvement and coordination of both vertical and horizontal dimensions of the intranational solidarity can cause strong resistances at local level and influence, in turn, the national political arena.

The restrictions to resettlement policy introduced by the Trump Presidency are rooted precisely in the increasing hostility that many federate states have recently expressed towards the enforcement of federal resettlement policy. American resettlement model has not given any effective power to federate states in the selection and in the decision-making process concerning the internal distribution of resettled refugees. At the same time, private organizations, which are in charge of providing settlement services, are strongly dependent from federal funding and thus they are prone to pursue more national priorities than local ones. Because of that, federate states complain about the fact

74 See Leslie Seidle, F. (2010), *The Canada-Ontario Immigration Agreement: Assessment and Option for Renewal*, Toronto: Mowat Centre for Policy Innovation.

75 See European Commissions (2018) *Directorate-General for Migration and Home affairs, Study on the feasibility and added value of sponsorship schemes as a possible pathway to safe channels for admission to the EU, including resettlement*.

that refugees' internal redistribution is often a matter decided by federal officers and private organizations, with no effective involvement of the territorial subnational units which nevertheless bear the social costs of the integration.

A multi-stake holders and partnership approach is purported by recent international document[76] as a way to ease resettlement policy. However, this objective may be not easily to achieve especially if the national administration, on the one hand, and the subnational units, on the other hand, pursue competing rather than coherent objectives.

The Canadian case is meaningful in this regard. Here, resettlement policy still maintains a high level of support from both political institutions and civil society. There are several reason for that. Canada is affected by irregular migration flows much less than US and this allows public authorities to have great control of the immigration influx in general. Immigration is perceived of as a resource rather than a possible threat, especially for those Canadian Provinces which traditionally face a low rate of population and have problems in attracting and retaining immigrants.

Moreover, unlike the US, private organizations are involved directly in the selection process of the refugees to be resettled and this makes their integration easier in the host communities. Private sponsored refugees are admitted in addition to the quota of refugees sponsored by the Government. While this may turn into an incentive for the Government to externalize resettlement policy,[77] private organizations in Canada are more independent from federal political pressures than their American counterparts and so they are freer to create links with local/regional institutions.

Nevertheless, the management of immigration flows has been recently a source of tension between federal and subnational administrations. Although settlement services specifically tailored to resettled refugees have never been subject to devolution, with the notable exception of Québec, settlement services for permanent migrants—a category that includes resettled refugees—were. Indeed, having full responsibility for designing and programming these services was pivotal for Provinces like Manitoba facing the problem to retain immigrants in the region, especially in the most inhabited areas.

The re-federalisation of migrants settlement services that has recently occurred—again with the notable exception of Québec—may indicate that the federal level wanted to regain control over the nation building process. The

76 See General Assembly (2018) *Report of the United Nations High Commissioner for Refugees, Global compact on refugees, Part. II*, A/73/12 Part II, New York: UNHCR, § 32–33–34.

77 According to the Government of Canada, in 2017, resettled refugees supported by the Government were 9,000, whereas those supported privately amounted to 16,000.

funding of the several private-ethno based organizations that provide settlement services for immigrants was considered a vehicle for national cohesion that federal politicians did not want to leave to Provinces any more.

To give a further example of competing rather than overlapping goals between national and subnational territorial levels in resettlement policy, we may mention the use of "the ability to become successfully established" as a criterion for selecting refugees to be resettled. Some American scholars seem to suggest that the introduction of a criterion as such would better serve the goal to take into consideration social and labour needs of the subnational units, thus avoiding local resistance in the implementation of the federal resettlement policy.

However, transforming resettlement in an instrument of economic migrant selection may enter into conflict with the request of some international actors, notably UNHCR, to pursue a purest humanitarian approach in resettlement by prioritizing the selection of the most vulnerable refugees. The decreasing relevance of the "successfully establishment" criterion in the recent Canadian experience might confirm this.[78]

Resettlement involves multiple dimensions of solidarity, not only at the international level, but also at the internal one. An harmonization among them might prove to be crucial in order to make resettlement effective and to avoid local populist reactions, but practical implementation of it requires the awareness that some form of balancing is needed.

78 See Garnier (2018), supra footnote 52.