LEGAL PATHWAYS FOR REFUGEES IN FRANCE: STILL A FRAGILE EVOLUTION

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The number of refugees has never been so high since 1945. Before the Russian invasion of Ukraine, the United Nations High Commission for Refugees (UNHCR) estimated the number of the world's refugees at 25.4 million, with 3.9 million Venezuelans displaced and 4.1 million asylum seekers. But beyond the figures, the stark disparity in hosting refugees is the main feature of the current situation as 86% of refugees live in developing countries. According to the UN data, only 3% of international migrants in high-income countries are refugees and asylum seekers. The former account for 50% of migrants in the poorest countries.[1]

In this context, developing legal and safe pathways becomes crucial in protecting refugees and promoting international solidarity. Legal pathways are programs that enable the safe and orderly transfer of people in need of international protection. This term is generally associated with resettlement/rehabilitation programs whereby States identify and select refugees in a primary country of asylum, and then they host them on their territory to begin a process of integration. Complementary pathways supplement resettlement, including humanitarian admission programs, private sponsorship, family reunification, student refugee admission pathways, etc.

Legal pathways programs have had a turbulent history in recent years. The Trump administration and Covid-19 have significantly affected the number of refugees eligible for resettlement programs. In contrast, the multiplication of crises in Syria, Afghanistan and now in Ukraine have prompted several countries to strengthen their efforts. This is the case of Canada, which has always been consistent in this area, as is the European Union (EU). The so called "refugee crisis" of 2015 has accelerated the process of resettlement in many EU Member States.

France has not been left out of this development. After the sluggish beginnings, it is currently one of the most important supporters and contributors to resettlement in the EU. Since 2015, legal pathways have expanded and diversified in France. Resettlement quotas have steadily increased under the EU resettlement program. Besides these governmental efforts,

1 Nations unies, *International Migration 2020-Highlights*, 2021.

civil society organizations, public interest groups, and universities have mobilized to offer complementary pathways for refugees in some creative ways, although they remain limited. The landscape in France has changed, and a growing number of stakeholders are trying to find solutions for refugees. But, legal pathways still need to be fully rooted in the French asylum system. The American example under the Trump administration proves that there is no such thing as a given in this respect.

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RESETTLEMENT, A FORGOTTEN TRADITION IN FRANCE

The structured operations of hosting refugees – that we call today legal pathways – have profoundly shaped the right to asylum in France. This country played a leading role in hosting Hungarians in 1956, victims of Latin American dictatorships in the early 1970s and then refugees from Southeast Asia. These operations ended when the right to asylum was no longer perceived as a vector of France's foreign policy but as an instrument of its immigration policy. In the late 2000s, France made a modest attempt to revive a resettlement program with the HCR and a humanitarian admission program for Iraqi nationals identified as" persecuted minorities." These programs have been sluggishly implemented by institutional and associative actors who have lost the know-how of the 70s. Above all, these programs are not important enough to be a priority for the State. But everything changed in 2015 when resettlement became a response to the "refugee crisis."

A GROWING AND ASSERTIVE COMMITMENT

Since the summer of 2015, the idea of resettlement has been projected in the framework of the European Union, even though the tasks of selecting, transferring and receiving refugees have still been under the responsibility of the Member States. Based on these European commitments and bilateral solidarity with Lebanon, the French resettlement program aimed at reaching a target of 10,000 people for the 2016–2017 period. This was a substantial quantitative leap, but that has yet to be fully reflected on the ground.

Newly elected, President Macron confirmed France's commitment to target a similar number for 2018–2019. But this time, 10,000 refugees arrived on the territory. France declared it wanted to continue with the same momentum during the World Refugee Forum in December 2019, but COVID-19 seriously hampered this momentum. Nevertheless, France just renewed its resettlement contribution in December 2021, with the same level, for 2022–2023.

At the same time, French civil society is mobilizing itself. In line with the Italian approach, the French government and five faith-based organizations signed a protocol to establish a humanitarian corridor for 500 Syrian or Iraqi refugees in Lebanon. This program is similar in many ways to the Canadian private sponsorship program, as constituent groups welcome, host and accompany refugees identified in Lebanon by partner organizations of this protocol. At the end of 2021, Sant' Egidio and the Fédération Entraide Protestante signed a new protocol with the government allowing this experiment to continue for several more years.

MORE AND MORE STAKEHOLDERS, BUT IN ISOLATION

The change in the scale of resettlement has increased the number of associations providing services on behalf of the State in terms of hosting and integrating refugees and providing them with more visibility before the various social services. This has permitted to better adjust care programs to the needs of the resettled refugees.

The Fédération Entraide Protestante has also succeeded in federating a network of partners around its humanitarian corridor program, including JRS-France, the International Refugee Assistance Project (IRAP), l'Association Nationale des Villes et Territoires Accueillants (ANVITA) and Urgence homophobie. French universities have finally become interested in legal pathways for refugee students. An initial experiment was launched in September 2021 at the University of Clermont-Ferrand, which the Agence universitaire de la Francophonie hopes to extend soon to other universities. A community of players on legal pathways is also emerging in France.

However, this community is too small and isolated to integrate legal pathways in national refugee protection practices sustainably. In the absence of a shared national approach, resettlement, complementary pathways (private sponsorship, university corridors, family reunification, etc.) and the hosting system for asylum seekers are not designed as a single entity in which resources and skills complement and mutualize each other. As such, legal pathways are still perceived as "exceptional" opportunities for accessing protection in France,

including among asylum advocates.

A FLEXIBLE YET UNCERTAIN LEGAL FRAMEWORK

There has been no need for any legislative or regulatory changes to create legal pathways in France. Even though resettlement was mentioned in the 2018 Asylum Act, it remained a prerogative of the Ministry of the Interior, which unilaterally decided on the existence and scope of the resettlement program. In the same way, humanitarian corridors benefited from the State's discretionary power to issue humanitarian visas for those who seek asylum in France. Associations have used this legal loophole to initiate this project.

To date, this situation has incontestably served the deployment of legal pathways better than the other way around insofar as it avoids a parliamentary debate, which is undoubtedly democratic but often toxic on immigration issues in the current political context. Proof of this is the proposals of right-wing and far-right candidates for the 2022 presidential election who call for asylum applications to be filed in Embassies outside French territory. Far from being a plea for legal pathways, these proposals aim, above all, to reduce immigration in total ignorance of the realities experienced by refugees but also by consular posts.

Some will say, "*vivons heureux, vivons cachés*" (happiness is in a secret life). However, the absence of political endorsement makes legal pathways in France extremely fragile. Indeed, they can be challenged at the stroke of a pen. Moreover, it isn't easy to improve these programs when they can vanish overnight. This is not without consequences for refugees either, in the context of humanitarian corridors but also, to some extent, of resettlement; they must go through the asylum procedure upon arrival in France before obtaining refugee status and the associated rights. This creates legal and psychological insecurity and delays the beginning of their integration process in France by several months.

CONCLUSION: WHAT COULD BE THE IMPACT OF THE WAR IN UKRAINE?

The development of legal pathways in France, and more broadly in Europe, is therefore closely related to the "refugee crisis" of 2015. Today, this crisis seems almost negligible compared to what Europe has been experiencing since February 24. It is still too early to draw conclusions, but the war in Ukraine will have a lasting impact on asylum policies.

The tremendous solidarity of Europeans, many of whom open their homes to Ukrainians, is a large-scale experiment in what could be a private sponsorship program. Nevertheless, the British example, which, under public pressure, established a sponsorship program for Ukrainians to avoid unprompted hosting which underscores that legal pathways are not immune from being instrumentalized by public authorities.

Moreover, as one crisis drives out another, it has been noted in France that the hosting of Ukrainians is done to the detriment of resettled refugees, whose arrival rate has dropped again since the spring. One crisis follows another, resulting in ever-increasing flows of displaced persons. Unfortunately, this sad reality is not about to change. France alone, or even the EU, will not be able to find solutions for all situations of forced displacement. Therefore, we must return to the foundation of the global refugee protection system enshrined in the Geneva Convention: international solidarity. Only cooperation between States in Europe, North America and beyond will make it possible to respond to the ever-increasing scale of the issues at stake while involving the non-state actors that are most likely to guarantee the social cohesion of our societies.