
**LEGAL PATHWAYS TO PROTECTION:
TOWARDS THE PROVISION OF SAFE, LEGAL AND
ACCESSIBLE ROUTES FOR REFUGEES AND VULNERABLE
MIGRANTS**

POLICY BRIEF

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TOPLINE MESSAGES:

1. United Nations Refugee Agency (UNHCR) believes there are 65.6 million displaced persons globally of which 22.5 million are refugees. 28,300 people are forced to flee their homes each day due to war or persecution. The International Organisation for Migration estimates that 5,143 people lost their lives in the Mediterranean in 2016, and more than 3,100 in 2017. At present less than 1% of refugees worldwide are safely resettled.
2. There is a global push for legal avenues, e.g. by the European Union and in the context of the Global Compacts on Migration and Refugees. Two principles underlie this call for legal pathways: protection of fundamental rights of individuals and solidarity and responsibility-sharing among states. This includes a duty to protect the 'safety, dignity and humans rights and fundamental freedoms of all migrants, regardless of their migratory status, and at all time.'
3. Legal pathways to protection do exist and there are numerous examples where these have been successfully used to secure the safety and dignity of refugees and vulnerable migrants.
 - a. These pathways can be divided into three categories: resettlement; visas; other provisions.
 - b. Each pathway enables different groups of people to be reached and assisted. Together, the pathways offer a comprehensive and flexible approach for the safe passage of people.
 - c. The pathways can be used for safe passage within Europe and redirect current expenditure on failed attempts to 'keep migrants out' in order to safeguard their lives and dignity.
 - d. At present, the UNHCR resettlement scheme has the greatest capacity.
4. Any comprehensive policy will require a carefully integrated combination of different pathways in order to maximise reach, meet needs of diverse migrant communities and enable quick and flexible responses.
5. Any legal pathways developed should: complement each other; be accessible; adopt a human rights-based approach; include procedural safeguards; respect the consent and agency of beneficiaries; be applied flexibly and in a non-discriminatory manner; provide prospects of settlement and integration; and, be part of broader responsibility sharing frameworks.
6. The development and implementation of legal pathways must not constitute an effort to restrict irregular arrivals or justification for restricting the rights of those who so arrive.
7. The provision of safe and legal pathways is not a panacea; it is one part of the response to a complex and global set of issues. A much broader and more comprehensive response is required, including conflict prevention and resolution, and the strengthening of capacity to host refugees in the region.
8. The primary obstacle to the reduction of the risks faced by migrants when seeking refuge is not a lack of policy of options but a lack of political will.
 - a. Each of the existing pathways is working below capacity due to state-imposed restrictions on the number of migrants benefitting from these schemes
 - b. States can offer safe passage to greater numbers of migrants through existing schemes. E.g. the UK could expand the terms of family reunification to allow children in receipt of protection to apply for reunification. There is also scope to more effectively utilise humanitarian visas.
 - c. The successful implementation of legal pathway measures requires a change in mentality and narrative around migration from one of risk/security to reflection of the contribution to society. Host communities most affected by these policies, in particular, must be better integrated within this process.

1. INTRODUCTION

Much policy and academic analysis over the past few years has highlighted the need to develop legal and safe pathways for those seeking international protection. This is in response to the growing number of individuals losing their lives *en route* to safety – at sea, in the desert and elsewhere – or suffering inhumane conditions on protracted, fractured and dangerous journeys. This situation is the result of a combination of conflict, violence, repression and poverty as push factors, and the inaccessibility of legal pathways to protection in Europe and elsewhere. Legal pathways are avenues for people seeking refuge to travel without having to risk their lives or rely on criminal networks. This can take a number of forms, including resettlement schemes, visas instruments and the use of measures such as family reunification and student and labour migration schemes.

Two interrelated sets of principles underlie the call for legal pathways, as also outlined in the New York Declaration for Refugees and Migrants: firstly, protection of fundamental rights of individuals and, secondly, solidarity and responsibility-sharing among states. As the Declaration reads:

‘We acknowledge a shared responsibility to manage large movements of refugees and migrants in a humane, sensitive, compassionate and people-centred manner’, which means ‘protecting the safety, dignity and human rights and fundamental freedoms of all migrants, regardless of their migratory status, and at all time.’

This entails shifting the understanding of migration management from the reduction of so-called “spontaneous”, i.e. irregular, migration to responsibility-sharing and rights-protection, including the creation and expansion of ‘safe, regular pathways for migration.’ Enabling access to legal pathways will facilitate the protection of migrants’ safety and rights by preventing them from dying *en route* on dangerous journeys. In addition, it will prevent migrants from being subjected to inhumane conditions *en route*, or exploited by smugglers and traffickers. Such conditions are both in breach of fundamental rights and cost governments across the EU considerable expense.

Legal pathways to protection do exist and there are numerous examples where these have been successfully used to secure migrants’ safety and dignity. Existing schemes can be divided into three categories: resettlement, visas and other provisions. The problem remains, however, that existing pathways have been applied too restrictively, lack capacity, or have been ignored altogether. As viable schemes exist, this brief advocates for better use of existing pathways rather than recommend the development of new ones. This means that any new policy can be informed by and build on existing expertise and knowledge, make sensible and calculated projections for timings, costs and numbers, and ensure that schemes are established as efficiently as possible. In addition, the brief argues for an integrated and flexible approach combining a range of pathway options. Such an approach will ensure maximum effect, respond to the diverse needs of those displaced (and of the states offering the pathways) and, in the long term, enable an adequate response to the ever-changing migration landscape. The brief further argues that any expansion, implementation and linking of legal pathways into a comprehensive approach must not constitute an effort to restrict irregular arrivals or justification for restricting the rights of those who so arrive.

The brief is organised as follows. Section 2 sets out the context and outlines the consequences of the inaccessibility of legal pathways. Section 3 introduces and discusses existing schemes in three categories: resettlement, visas and other provisions. Section 4 outlines principles that should

underpin all measures providing legal and safe avenues to protection. Finally, section 5 concludes and offers recommendations. The annex provides additional information about the feasibility of each of these pathways.

The ideas presented in this brief were first discussed at an expert workshop at King's College London on 27 October 2017, co-organised by the Department of War Studies, King's College London and the British Institute of Comparative and International Law. The workshop was attended by academics, policy makers and civil society representatives.

2. CONTEXT

According to the United Nations Refugee Agency (UNHCR) there are 65.6 million displaced persons globally of which 22.5 million are refugees. 28,300 people are forced to flee their homes each day due to war or persecution. The International Organisation for Migration (IOM) reports that 142,913 migrants and refugees entered Europe by sea between January and October 2017, with over 75 per cent arriving in Italy and the remainder divided between Greece, Cyprus and Spain. According to the IOM's Missing Migrants Project, 5,143 people lost their lives in the Mediterranean in 2016, and more than 3,100 in 2017.

Whilst these numbers give an indication of the magnitude of the issue, it does not tell us much about the wider context in which forced displacement takes place, which comprises a complex range of factors and circumstances. The provision of safe and legal pathways is thus to be understood as one part of the response to a complex and global set of issues that require a much broader and more comprehensive response, including conflict prevention and resolution, and the strengthening of capacity to host refugees in the region.

To understand the specific European context in which the need for legal pathways arises, we must look at the development of an idea of migration management whereby borders become increasingly externalised. From the late 1980s onwards, the European Community/Union developed the principle and practice of freedom of movement and the removal of internal border checks. Yet, the other side of the coin of the effort to allow the removal of internal borders was increasing border controls and technologies at the EU's external borders (which therefore becomes the shared border). Moreover, these external borders are being moved yet further from Europe geographically, now taking place beyond its physical borders and through a reliance on external actors. This includes measures such as visa requirements and carrier sanctions. The latter shifts responsibility for carrying out border checks to private companies, including airlines and ferry, bus and lorry companies. In addition, both the EU-Turkey deal and the current collusion between the EU (and Italian in particular) and Libyan authorities is aimed at restricting the outflow of people from non-European territories towards the EU.

Whilst the proliferation of borders outside of Europe, and the increasing obstacles migrants face when moving within Europe, has made it more difficult to travel to, and through, Europe safely and legally, it has not reduced migration levels. Instead, it has pushed individuals and families through more lengthy, expensive, fractured and deathly routes whilst enriching smugglers and traffickers who take advantage of the need for access coupled with the lack of alternatives.

3. LEGAL PATHWAYS

The idea of legal and safe avenues for people to reach asylum is not new. This section outlines existing legal pathways in three categories, which are discussed in turn: resettlement, visas and existing provisions. We discuss how each mechanism works, offer an overview of their comparative advantages and disadvantages, and outline how the various mechanisms can be integrated with one another. Further details regarding the feasibility of each pathway can be found in the Annex.

3.1. RESETTLEMENT

3.1.1 UNHCR RESETTLEMENT

Refugee resettlement is a process whereby refugees are relocated from their country of asylum to a third country which is willing to protect them on a permanent basis. Resettlement strategies can provide a comprehensive response to protracted refugee situations, such as the current Syrian refugee crisis. They also present states with the chance to share responsibility for protecting refugees in overstrained host countries. Once the needs of a refugee (or a group of refugees) have been established according to three levels of priority (emergency, urgent, normal), the UNHCR usually acts as an intermediary in the resettlement process. In 2016, 37 countries participated in the UNHCR Resettlement Scheme. In addition to this, the European Union adopted its own resettlement scheme in 2012. This “European Resettlement Network” is co-managed by the UNHCR, IOM and the International Catholic Migration Commission (ICMC). Resettlement schemes can also be effectively integrated with the relevant host state’s family reunification programme. However, one key stumbling block for refugee resettlement schemes is the paucity of spaces available: in 2015, under 1% of the population of concern to UNHCR was resettled. The process of identifying refugees’ needs is also labour-intensive and subject to all manner of pitfalls such as loss of identity documents and separation from kin.

Key information: predominantly funded by receiving state; associated costs are for interview/selection missions, medical and other checks and pre-departure orientation, exit visas and travel; currently operational in the UK.

3.1.2 HUMANITARIAN CORRIDOR PROJECT: COMMUNITÁ DI SANT’EGIDIO

The Humanitarian Corridor Project currently operates in Italy, France and Belgium, whilst a number of other European countries (Germany, Ireland and Switzerland) have shown interest in replicating this model. In Italy, it is run by the *Comunità di Sant’Egidio*, (a Christian association that is broadly focused on tackling poverty and contributing to peace initiatives), in collaboration with other organisations (including the Federation of Evangelical Churches, the Waldensian and Methodist Churches, the Italian Bishops Conference, and Caritas Italy). In France, it is run by the Protestant Federation of France, the French Bishops’ Conference, Entraide Protestante and Secours Catholique. The programme operates through affiliated organisations sending volunteers to target countries to make direct contact with vulnerable migrants. After an assessment that the migrants are *prima facie*

refugees, the associations send a list of candidates for the programme to the consular authorities of the host country. Once a screening process has been undertaken by the relevant authorities, the governments issue a visa to participants in the programme, which they can use to enter the host country. After arriving in the host country, participants apply for refugee status. The corridors work on the basis of an agreement between the organisations and the authorities of the countries involved. Beyond legal and safe pathways to protection, the programme includes financial, legal, social and integration support in the host country after arrival at least until such time as those receiving protection are able to access mainstream services. In Italy, the costs for these provisions are borne by the churches (funded through the *otto per mille* tax) and private individuals who offer accommodation in their homes in some cases.

Key information: predominantly funded by church organisations; associated costs are for transport, housing, living costs and integration support; scheme takes 5 months to establish (Italy).

3.1.3 PRIVATE SPONSORSHIP

Private sponsorship schemes are processes whereby states enable non-state actors to privately fund and support the resettlement of refugees. Although different models exist, most have these features in common: a) a private actor takes responsibility for providing financial support to a refugee for a period of time; and, b) generally, private actors are able to name the person who they will support in resettlement. Different sponsorship models exist in, for example, Canada, Germany and Australia. Private sponsorship builds communities through enabling private actors to engage with the resettlement process and with the integration of individuals in their host society. Private sponsorship may also provide greater opportunities for family reunion by allowing individuals to sponsor the resettlement of a non-nuclear family member, for whom family reunifications schemes are not available. Private sponsorship programmes can be effectively integrated with UNHCR resettlement. One example of this is Canada's Blended Visa Office Referred Programme, where UNHCR identifies and refers the participants and costs are shared between the private sponsor and the government. However, eliminating the ability of private sponsors to name participants may in some cases reduce the incentive for sponsorship.

Key information: predominantly funded by private actors; associated costs are for travel, housing, education, medical care and living costs

3.1.4 COMMUNITY SPONSORSHIP

Community sponsorship is where host states enable established, non-governmental, community organisations to sponsor and assist the resettlement of refugees within the local area. Community sponsorship schemes have been established in two countries in particular: the UK and Canada. Both schemes entail the sharing of responsibility between government and civil society, and are intended to offer a durable solution for refugees. In the UK, the scheme has been designed to assist predominantly Syrian refugees. Only registered charities can act as sponsors and must make specific financial, administrative and practical commitments. Canada's Blended Visa-Office Referred (BVOR)

programme also shares the cost of sponsorship between government and private community sponsors (who need not be registered charities). Community sponsorship allows refugees to integrate more successfully into the community as communities engage directly in the resettlement process. However, there exist valid concerns about the “outsourcing” of the protection of vulnerable refugees by the state. In addition, a significant commitment is required from individuals and communities who may initially not have the requisite experience or expertise of welcoming and assisting refugees.

Key information: predominantly funded either by states and/or private actors/community organisations (depending on the particular scheme); associated costs are for travel, housing, integration support and basic necessities; scheme is currently operational in the UK, although the scheme was slow to establish

3.1.5 DISCUSSION

Resettlement schemes (and UNHCR Resettlement in particular) remain a vitally important legal pathway to protection. The number of people effectively resettled, however, remains critically low. UNHCR Resettlement is dependent on state commitment to admit people, whilst other schemes rely on the states’ decisions as to the number of people that can benefit from the schemes. In addition, overly restrictive conditions are often imposed on individuals and organisations participating in sponsorship schemes, such as a high financial cost. In addition the UK community sponsorship scheme allows applications from registered charities only whilst only Syrian refugees are eligible for resettlement under the scheme.

Resettlement has some clear advantages both for host countries and resettled persons. Refugees resettled under sponsorship schemes tend to integrate more quickly, partly because of the support they receive from individuals and groups. Sponsorship schemes, as well as models such as humanitarian corridors, also significantly reduce the costs for states partly by passing some of these costs onto the sponsors. Each scheme offers host states the ability to undertake such checks as may be deemed necessary before the transfer takes place.

This said, UNHCR resettlement remains the most effective of these pathways as it can accommodate higher numbers of refugees than other resettlement schemes – the latter depend and remain conditional on the interests, capacities and resources of the individuals, communities and organisations involved. UNHCR resettlement (along with schemes that work with UNHCR to identify vulnerable persons) has the additional advantage of being able to access the most vulnerable groups through the work of the organisation directly in refugee camps. The Humanitarian Corridors scheme also seeks to identify the most vulnerable people through assessment in the field.

It is clear from the summaries above that these various resettlement schemes can work alongside each other and the experiences of the UK and Canada reflect this dynamic. However, resettlement schemes take time to establish and cannot respond adequately to situations of acute need. Hence, as discussed below, a comprehensive approach should combine resettlement schemes with more flexible schemes such as visa instruments.

3.2. VISAS

3.2.1 HUMANITARIAN VISAS

Humanitarian visas operate by granting access to the territory on the basis of a recognised *prima facie* need for protection. The assessment of *prima facie* refugee status is conducted outside of the host state's territory, as is the granting of the visa. This usually takes place at an embassy or consulate in the state of origin or transit country. Once the person has arrived in the territory, a fuller status assessment can be conducted. EU member states are capable of issuing a limited territorial validity visa on humanitarian grounds although uptake has been minimal. To date, the scheme has operated successfully primarily in Brazil and Argentina, who have issued humanitarian visas for Syrian refugees. In addition, Italy and France have issued humanitarian visas as part of the Humanitarian Corridors scheme (discussed above). This pathway depends on functioning diplomatic and consular services in the state of origin (or transit), hence the possibility exists that it will not be available in circumstances where it is most needed – for example, in situations of armed conflict. In these circumstances, the humanitarian visa pathway can be combined with a visa-freezing scheme (for a specific geographical area for a set period of time) for groups of migrants; and, with travel documents for individuals.

Key information: predominantly funded by states; associated costs are for providing consular services, processing of asylum applications on arrival and provision of Convention rights; scheme is straightforward to establish as necessary provisions are already in place

3.2.2 TRAVEL DOCUMENTS

Travel documents – or laissez-passer – can be issued by states to refugees or vulnerable migrants in order to facilitate one-off entry into the territory of the receiving state. These documents are issued under a variety of conditions but the most common reason is a person's lack of travel documentation (e.g. passport). Once the person has arrived in the territory, a full protection status assessment can be conducted under regular procedures. Therefore, this particular legal avenue seems best suited to emergency evacuation situations, where the preliminary processing required for humanitarian visas cannot take place. The use of travel documents is adaptable to various circumstances, due to the *ad hoc* nature of issuing them. In general, however, the lack of predictability as to when a laissez-passer is available means that there is little awareness of this pathway among refugees and vulnerable migrants.

Key information: predominantly funded by states and EU/UN; associated costs are for providing consular services, processing of asylum applications on arrival and provision of Convention rights; scheme is currently operational in the UK

3.2.3 VISA FREEZING

Visa freezing entails the suspension of visa requirements for persons whose country of origin is experiencing significant upheaval or crisis. Visa freezing enables such persons to organise passage to

travel legally to the territory of a host state, so that they may claim asylum. The implementation of visa freezing schemes is relatively straightforward for the host state. There is no need for additional screening outside of the state's territory. These schemes can be limited to discrete areas and/or periods of time, to respond to specific humanitarian emergencies. This pathway can be coordinated with ordinary processes for claiming refugee protection on arrival in the territory of the host state. This would require close cooperation between multiple states to ensure that responsibility is adequately shared so as not to overly strain resources of one particular state. The implementation of this pathway would not preclude the running of normal security checks on individuals.

Key information: predominantly funded by states; associated costs are for processing of asylum applications on arrival and provision of Convention rights; scheme is relatively straightforward to establish but depends on coordination among states

3.2.4 FREEZING OF CARRIER SANCTIONS

EU Directive 2001/51/EC of 28 June 2001 requires the imposition of fines of up to EUR 500,000 on all carriers transporting persons to Europe without requisite visas and/or travel documents. There is no obligation to fine in cases where the persons so transported are seeking international protection. Yet, due to the fact that EU member states implement the Directive in a variety of ways, some only exempt carriers from sanctions where the person is later *successful* in obtaining international protection. Accordingly, carrier sanctions act as a significant disincentive to transporting persons without the required documentation (regardless of the exemptions provided). By freezing carrier sanctions, states would enable people from specific regions at a particular time to book safe passage, even if they do not have the requisite travel documentation. Unlike other visa-related pathways, this option does not require significant additional resourcing by EU member states' consulates and is a flexible measure that can be implemented in emergency situations without much effort and expense. It can also be limited to discrete areas or periods of time with identified conflict/humanitarian emergencies. Freezing carrier sanctions could be coordinated with ordinary processes for claiming refugee protection on arrival in the host state, and with existing post-arrival integration programmes (e.g. those run by Humanitarian Corridors partners). However, successful implementation of this would require careful coordination due to the plurality of private actors (i.e. the carriers) involved.

Key information: predominantly funded by states; associated costs are for processing of asylum applications on arrival and provision of Convention rights; scheme is relatively straightforward to establish but depends on coordination between states and airline/ferry companies

3.2.5 DISCUSSION

Visa restrictions coupled with carrier sanctions and the lack of opportunity to acquire visas for the purpose of travelling to countries of asylum to seek protection are a critical barrier to individuals seeking protection. Although EU Member States can issue national territorially limited visas on humanitarian grounds, they are not required by EU (or international) law to do so.

Humanitarian visas are a key, low-cost and effective tool allowing individuals and families access to protection coupled with the opportunity for states to undertake *prima facie* assessments of the need and eligibility for protection as well as undertaking any necessary screening. Another option that would facilitate legal passage for larger groups, is to freeze visa requirements or to stop the enforcement of carrier sanctions. This would allow individuals and groups from particular areas of emergency – i.e. due to conflict – to travel safely to countries where they are able to seek protection upon arrival. Carriers (such as airlines) would need to be fully clear as to their obligations in this regard so that they do not hinder the accessibility of such schemes.

Humanitarian visas (or the freezing of visa requirements and carrier sanctions) are flexible instruments that can be activated promptly in response to situations of concern as they arise. They would however require the establishment of sufficient asylum processing capacity in the country of arrival and should be accompanied by responsibility-sharing agreements between states.

3.3. OTHER PROVISIONS

3.3.1 STUDENT SCHEMES

Scholarship opportunities to higher education institutions enable refugees to resettle as part of an education programme in the host state. Such a scheme is currently piloted in the EU, whilst more established schemes are operational in the US and Canada. The Canadian Student Refugee Program (SPR), part of The World University Service Canada (WUSC) supports around 130 refugee students annually, and has partnerships with around 80 Canadian campuses. The WUSC has an agreement with Canadian immigration services, whereby refugees arriving under the SPR can become permanent residents. Through fundraising initiatives and close coordination with local actors working in territories with high numbers of refugees, the WUSC sponsors refugee students with no dependants, and for whom no other durable solutions are available, for one year. After the end of the first academic year, the refugees are assisted with fundraising and obtaining scholarships to cover the rest of their studies. These scholarship schemes facilitate access to permanent resident permits and circumvent administrative barriers that young refugees would otherwise face. Since 2016-2017, France and Germany have piloted similar programmes, and in 2016 a similar scheme was launched in the EU, administered through the Higher and Further Education Opportunities and Perspectives for Syrians (HOPES), which offered 400 student visas to refugees. Additional *ad hoc* schemes exist amongst individual institutions, which offer other support (such as fee waivers). However, for the moment, the number of student visas offered remains low and there is a lack of coordination among provisions.

Key information: predominantly funded by educational institutions; associated costs are for scholarships, living stipends, visa applications and travel.

3.3.2 FAMILY REUNIFICATION

Family reunification is widely recognised as being key to the health and well-being of a refugee separated from close family members. The UNHCR promotes and assists with the reunification of families or persons outside their country of origin who qualify as refugees (either according to the 1951 Convention or Paragraphs 6 and 7 of the UNHCR Statute). Countries such as the UK, the United States, France and Germany provide similar family reunification programmes, so that refugees accorded international protection can apply to the host state's authorities to have immediate family members join them and receive the same long-term status. Ordinarily, the requirements are most simple for refugees seeking to be reunited with their minor children and spouses, or for unaccompanied child refugees seeking to be reunited with their parents. However, in the UK, minors cannot request family members to join them under the family reunification scheme. Family members might be living as refugees in a different host state, or may have stayed in the country of origin. Different rules apply in these situations. Policies on family reunification allow basic humanitarian considerations and practical concerns to facilitate refugees' integration into the host society. Importantly, such policies reduce the risk of sexual and/or labour exploitation of female/child refugees, and assist elderly refugees and refugees with long-term medical conditions to access health services more easily. Family reunification programmes are often integrated with resettlement programmes. A critical concern with such schemes is that they are dependent on the interpretation of 'family member' which has been restrictive in various instances.

Key information: predominantly funded by states and UNHCR; associated costs are for legal and visa fees and transportation; scheme currently operational in the UK, although the interpretation of 'family member' is severely restricted.

3.3.3 LABOUR MOBILITY

The UNHCR has suggested that temporary labour migration schemes, specifically designed for refugees, could be created to help achieve greater autonomy and self-reliance. A growing number of emerging economies plan to establish such schemes in coordination with countries that have a labour-force surplus. For the moment, however, such schemes are not envisaged specifically for refugees. The UNHCR's proposed scheme would aid resettlement predominantly through provision of a durable solution for certain refugees fulfilling the labour needs of the host state. A second way in which labour mobility could be used is to encourage states that host large refugee communities and/or camps to open up access to the labour market to refugees. In December 2015, the UNHCR established that around 86% of refugees recently arrived in Greece had a high level of education, either at secondary or university level. There are substantial numbers of engineers, doctors, nurses and teachers among the Syrian refugees living in Jordan, Lebanon and Turkey. Labour mobility could support the adjustment of labour markets to changing economic conditions.

Key information: could be funded by a combination of actors, including states and individuals; costs are associated with visa application and transport; scheme is relatively straightforward to establish

3.3.4 DISCUSSION

The pathways discussed in this section already exist but remain limited especially for people in need of international protection. Whilst refugees are eligible for family reunification, this scheme is often limited to those with refugee status (as opposed to other statuses); is limited by conditions imposed on the sponsor, e.g. regarding income levels or age; and, is based on restrictive interpretations of the term 'family member'. For family reunification to be a real and effective legal avenue to protection, the terminology needs to be broadened and the conditions limited. In the UK, proposals in this regard have been put forward in a Private Member's Bill, which would, amongst other things expand the definition of 'family member' for the purposes of refugee family reunion and give unaccompanied refugee children living in the UK the right to sponsor their family members to join them in the UK. Providing legal aid to applicants would also significantly bolster this pathway.

Labour mobility and student schemes are somewhat different in the sense that these require opening pathways usually considered to be for migrants who are not in need of protection to vulnerable migrants and refugees, and tailoring them to their needs. These pathways offer both a way to increase access to legal pathways and recognition that people seeking refuge are also human beings with agency and the ability and willingness to contribute to society. For instance, labour mobility can be used to address labour shortages and thereby contribute to the economy (as was the case in Spain where a need for more fruit pickers saw the provision of work visas to Colombian refugees). The successful implementation of labour mobility and student schemes requires standardisation and expansion of recognition of qualifications, including provision of alternative recognition of attainment for those who have lost their diplomas or certificates due to fleeing their homes.

People seeking protection are often able and keen to work and/or study. Moreover, active involvement in work or study facilitates integration into the host society, and at low cost to the state. These schemes complement other resettlement schemes discussed in this paper in that whilst resettlement tends to prioritise those most vulnerable, the student and labour mobility schemes focus on those more able, who are in need of protection, yet who are also more capable of self-help.

3.4 CONCLUSION

The overview of legal pathways shows that whilst numerous different schemes exist, these remain inaccessible to most. In addition, a number of other limitations have been identified with each scheme, including long processing times; selectivity; restrictive interpretations; outsourcing of responsibility by the state; and the burden on, and lack of expertise within, community groups and individuals. More generally, what is currently missing, is a flexible and integrated approach: a comprehensive set of responses that can be swiftly implemented in response to particular circumstances whilst also ensuring continuity and sustainability. Such an approach should include a combination of schemes from each of the three categories.

In addition, this flexibility must be accompanied by a broadening of groups seen as potential beneficiaries. In recent years, legal pathways in Europe have typically focused on those displaced by the crisis in Syria; but this should not come at the expense of other groups. Thus, legal pathways

must remain responsive to diverse refugee populations, and should be informed by protection needs and vulnerability.

4. PRINCIPLES APPLICABLE TO LEGAL PATHWAYS

Any proposed measures must abide by the following principles:

- **Complementarity and integration of diversity of measures:** the various options of legal and safe avenues outlined in this document may be implemented alongside each other.
- **Accessibility:** any measures intended to provide legal and safe avenues to protection need to be legally and physically accessible to the target beneficiaries. The process for applying should be clear and simple, awareness should be raised of the opportunities and overly cumbersome requirements that hinder access to these services and procedures should be avoided.
- **Human Rights based approach:** all measures should be implemented in such a manner as to ensure full respect for the rights of all involved. This includes, but is not limited to, respect for the principle of non-refoulement, the right to family life and the principles of non-discrimination.
- **Procedural safeguards:** all measures must have procedural standards in place. Basic rule of law principles should be safeguarded including: accessibility and clarity of criteria, the avoidance of discretion, transparency of decision making, fairness, equality before the law, respect for human rights and the possibility of review of decisions.
- **Consent and agency:** all decisions related to legal and safe pathways should be undertaken in full respect of the will and agency of the individual concerned and should be based on informed consent. Information should be provided in a language and format that the individual understands.
- **Flexibility:** measures should be such as to be able to adapt to changing dynamics in countries of origin and transit and to offer solutions to individuals in need.
- **Non-discrimination:** any measures undertaken in pursuance of legal and safe pathways should be implemented in a non-discriminatory manner on all grounds including but not limited to age, gender, sexual orientation, race, religion or nationality. This requirement should not prejudice the possibility of focusing specific measures on groups that are deemed more vulnerable.
- **Pathway to protection not migration control:** any measure intended to provide legal and safe pathways for individuals to seek protection should not be used as a tool for the exclusion of so-called “spontaneous” arrivals from protection. The rights of those arriving irregularly at the border, including to access the asylum procedure, should be safeguarded.
- **Durable solutions:** any measures intended to provide legal and safe avenues to protection should be coupled with serious consideration as regards the integration of the individuals benefiting from such measures.
- **Responsibility-sharing:** for legal and safe pathways to protection to succeed there is a need for responsibility sharing between states at the sub-regional, regional and international level. Legal and safe pathways are a tool for exercising solidarity both with displaced persons and the states receiving them.

- **Political and public buy-in:** this is critical to the success of such initiatives, although difficult to achieve in the current political climate in Europe and around the world. Information about legal and safe pathways and how they are working should be clearly and honestly communicated to the public in the host country, alongside a conscious attempt to change the negative narrative on migration.

5. CONCLUSIONS AND RECOMMENDATIONS

This document highlights a range of existing legal pathways that can help overcome the challenges of enabling access to protection to refugees and vulnerable migrants across the globe. The provision of safe and legal pathways is one part of the response to a complex and global set of issues. In the European context, legal pathways facilitate the protection of refugees and migrants' safety and rights by preventing them, firstly, from dying *en route* on dangerous journeys; and, secondly, from being subjected to inhumane conditions *en route* including exploitation by smugglers and traffickers.

The further development of these and other legal pathways is not just a matter of protecting vulnerable individuals and communities; it is also a way of disrupting the business model of smuggling, meeting legal and humanitarian obligations, showing solidarity with other states, and creating a strong narrative about Britain's place in the world. Each scheme outlined here presents specific benefits and drawbacks, and we have argued that no single scheme should be adopted on its own. Rather, what is required is a comprehensive approach that can be targeted and adapted to different situations whilst also ensuring continuity and sustainability. In addition, we need to think of how to operationalise legal pathways that exist in theory but have not been accessible in practice, such as humanitarian visas and 'freezing' schemes.

RECOMMENDATIONS:

We do not seek to recommend developing new pathways but rather to make better use of existing schemes. These schemes have been tested elsewhere and adopting them would benefit from the lessons of such previous experience. A number of schemes are already operational in the UK, including resettlement and community sponsorship. The way forward must consist in developing and combining these schemes to create a flexible and integrated approach that enables the use of different instruments at different times. The challenge is to develop an approach that includes a comprehensive mechanism and that is still flexible enough to respond to different scenarios as they arise.

Current resettlement schemes (UNHCR and community sponsorship) work but could be expanded to better respond to demand. This includes loosening restrictions on family reunification processes. In addition, existing schemes could be complemented with a scheme modelled on the Humanitarian Corridor project, which would enable further civil society engagement in resettlement processes and, as such, facilitate integration of refugees in society – and at low expense to the state. Whilst such a scheme would depend on active engagement of, and close collaboration with, a number of civil society organisations, both interest and capacity exist within UK civil society to develop such a scheme.

In addition to expanding resettlement schemes, the adoption of visa instruments should be explored. One of the main benefits of visa schemes including humanitarian visas is their flexibility;

these measures can be activated promptly in response to situations of concern as they arise. Moreover, particularly schemes such as visa freezing and carrier sanctions freezing can facilitate the swift movement of larger groups of people in emergency situations. The necessary provisions and agreements for such a scheme should be put in place so that it can be swiftly implemented when needed.

Finally, the application of student and labour mobility schemes as a channel for providing legal avenues to protection for refugees and vulnerable migrants should be explored. These schemes complement other resettlement schemes in the sense that they target those more capable of self-help rather than the most vulnerable. As such, these schemes recognise the active agency of people seeking protection, including professional and academic skills and experience. In addition, the labour mobility scheme can be used to address labour shortages whilst both schemes facilitate active engagement – and thus integration – into the host society, at low cost to the state.

The success of the implementation of legal pathways requires a number of other issues to be considered. First, for the purpose of respecting the right to asylum, one must ensure that the implementation/expansion of legal pathways does not lead to a restriction of irregular arrivals or the rights of those so arriving. More broadly, the implementation of such measures requires a change in mentality and narrative around migration from one of risk/security to a reflection of the contribution to society as acknowledged by the New York Declaration. Such measures must be implemented transparently, in full compliance with international and domestic law (both substantive and procedural) and will benefit from partnerships with a broad range of civil society actors including migrant community organisations, refugee rights groups, religious groups, academic institutions and others.

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ANNEX: FEASIBILITY OF LEGAL PATHWAYS

Questions:

1. Does this pathway currently exist/is it operational elsewhere?
 - Which organisations are involved in the process?
 - How does it operate?
 - How successful is the pathway?

2. What is the timeline for implementing the pathway? What is the timeline for resettlement of an individual?
 - How long does responsibility to the recipient last?
 - What happens after the reasons behind the application have receded?

3. Which partners are required to make this pathway work?
 - How are these partners to be integrated?
 - What is the obligation of government infrastructure?

4. On the basis of which criteria are eligible migrants identified?
 - How and where are people identified?
 - How are people's post-arrival needs identified and managed? Whose responsibility is this?

5. How many persons can be accommodated via this pathway and what is this number dependent on?
 - Is there a minimum number required to make the pathway feasible
 - How does this related or compare to provisions via other routes (including, but not limited to, numbers involved)?

6. What are the costs associated with the legal pathway?
 - Who is expected to bear these costs?

7. What drawbacks are associated with this pathway?

QUESTIONS	UNHCR RESETTLEMENT	HUMANITARIAN CORRIDORS	PRIVATE SPONSORSHIP	COMMUNITY SPONSORSHIP	HUMANITARIAN ADMISSION
1. Does this pathway currently exist/is it operational elsewhere?	Yes. Resettlement is one of three durable solutions which the UNHCR is mandated to undertake by its own Statute and by certain UN General Assembly Resolutions. In 2016, 37 countries were listed as participating in the UNHCR's Resettlement Scheme.	Yes. The scheme is operational in Italy, France and Belgium. Germany, Ireland and Switzerland has shown serious interest in adopting this pathway.	Yes. The scheme is operational in Germany (German Regional Admission Program)	Yes. This scheme is operational in the United Kingdom, Canada and Australia, in particular.	Yes. A diverse number of humanitarian admission schemes continue to be developed in Europe, particularly in Germany, France, UK and Austria.
Which organisations are involved in the process?	UNHCR usually acts as an intermediary in the resettlement process for host States. A national IOM office may also be involved re. arranging documents, health tests, and liaising with NGOs and local partners who help resettled refugees to integrate.	In Italy , the first humanitarian corridors programme was run by Comunità di Sant'Egidio, Federation of Evangelical Churches and the Waldensian and Methodist Churches. A second programme (a humanitarian corridor from Ethiopia to Italy) is run by the Italian Bishops Conference, Comunità di Sant'Egidio and Caritas Italy. In France , the scheme is run by the Protestant Federation of France, the French Bishops' Conference, Entraide Protestante and Secours Catholique.	The private sponsorship scheme is run by regional governments through funding by private individuals.	In the UK , only registered charities qualify to act as a sponsoring community. The charity must sign a 12-month commitment declaration. In Canada , the refugees are referred to officials by the UNHCR and sponsors must be a group of at least 5 natural persons, a recognised "Community Sponsor", or an official "Sponsorship Agreement Holder". In Australia , a limited number of Approved Proposing Organisations (APOs) can propose participants for Australia's Community Support Programme. Private actors such as individuals, families and community groups are able to make arrangements with APOs, so as to be able to propose and support participants.	Asylum/immigration authorities, who issue visas for refugees under the relevant Humanitarian Admissions Programme. In France , 421 of the refugees arriving on humanitarian visas have received resettlement support/legal assistance by private actors led by the Order of Malta (dioceses/family and local networks/local authorities) and paid for with private resources, culminating in what effectively functions as a private sponsorship arrangement. In Austria , HAP incorporates the possibility for non-traditional actors to propose refugees to be considered by States for admission, as well as make use of pertinent additional criteria on a targeted and responsive basis in order to best meet the protection needs of eligible groups. E.g. Family members already in an EU Member State can play a key role by making referrals to government for admission of extended family members needing humanitarian protection.
How does it operate?	Refugee resettlement is the process by which refugees are allowed to leave a country of asylum and move to a third country that is willing to receive and protect them on a permanent basis. UNHCR has a "group resettlement strategy" for protracted refugee situations (e.g. Syria). The UNHCR's submissions (i.e. recommendations for resettlement) have 3 priority levels - emergency, urgent and normal.	Humanitarian visas are provided to prima facie refugees and vulnerable migrants in Morocco (first programme only), Lebanon and Ethiopia for entry to Italy.	German citizens and permanent residents with Syrian war-affected relatives can sponsor someone for a two-year period by committing to liability for travel and residency expenses, excluding medical care.	In the UK , the Full Community Sponsorship Scheme was launched in 2016 specifically to help Syrians. The government and civil society share responsibility to provide a durable solution for resettled refugees under this scheme. The government pledged to receive 20,000 refugees fleeing conflict under the Vulnerable Person Resettlement Scheme; the Vulnerable Children's Resettlement Scheme refers to 3,000 children/families from MENA region. A sponsored refugee is granted Leave to Remain in the UK and can apply for Indefinite Leave to Remain after 5 years. The Canadian Blended Visa-Office Referral (BVOR) programme pre-dates the UK scheme. This scheme is similar in operation. Under the Community Support Programme, Australia provides 1000 places per year and participants receive permanent residency. The APOs propose participants for the scheme and are liable for costs of application, airfares, medical screening and settlement.	Under a HAP States admit groups of refugee populations in third countries so as to provide temporary protection on humanitarian grounds. An HAP can incorporate several different sub-programmes, e.g. family reunification. Importantly, visas issued on humanitarian grounds may be requested directly by the person needing international protection. This is done outside the receiving State's territories through national embassies/consulates in third countries (with the intent to then apply for asylum/further protection upon arrival in the EU MS). These humanitarian visas do not provide a permanent residence permit; do not imply external processing; and, do not replace resettlement schemes.
How successful is the pathway?	Only 37 States currently participate in this scheme, with varying levels of success and commitment. Canada, Australia and the Nordic countries tend to accept the largest number of resettled refugees annually. The vast majority of refugees who would benefit from resettlement are never resettled; in 2015, only 1% of the 16 million refugees of concern to the UNHCR were resettled.	As of October 2017, 1000 refugees have been transported to Italy through this scheme.	By mid-2017, 23,000 persons had been resettled through this scheme.	The UK scheme is still in its infancy and slow to develop. The more established Canadian scheme has a better record of success. The Australian scheme is also in relative infancy, having been established after completion of a pilot programme which operated from 2013-2017.	HAPs can be flexible and responsive tools, meeting the protection needs of specific groups of individuals. HAP can also allow for an expedited process providing temporary or permanent protection that can enable large numbers of refugees to depart quickly. France has considerably expanded its legal pathways of refugee admissions (esp. in wake of the conflict in Syria), issuing a large number of humanitarian visas, including 4,200 visas for Syrians and 4,700 visas for Iraqis (2012-2016).

QUESTIONS	UNHCR RESETTLEMENT	HUMANITARIAN CORRIDORS	PRIVATE SPONSORSHIP	COMMUNITY SPONSORSHIP	HUMANITARIAN ADMISSION
2. What is the timeline for implementing the pathway? What is the timeline for resettlement of an individual?	This scheme is currently operational in the UK. How long it takes for someone to be resettled depends on the priority level accorded by the UNHCR. E.g. "Emergency priority" = when refugee requires immediate removal, for reasons of health/security; "Urgent priority" = resettlement required for urgent medical reasons/other urgent vulnerabilities, expedited resettlement within six weeks of submission; "Normal priority" = applies to most refugees in need of resettlement, within 12 months of submission. [N.B. UNHCR stipulates that women/children at risk and in need of resettlement should take priority over other refugees who lack alternative, durable solutions.]	The first programme in Italy commenced 5 months after the agreement with ministers was signed: the protocol was signed in October 2015 and the first family arrived in Italy in February 2016. Individual resettlement under this scheme is faster than government-led resettlement. The selection process for persons in need of protection takes 2 to 3 months.	It is not known how long it would take to implement this scheme.	This scheme is currently operational in the UK. It is not known how long it takes for a person to be resettled under this scheme.	It is not clear how long it would take to set up this pathway.
How long does responsibility to the recipient last?	Those resettled are offered permanent settlement.	The integration programme for those resettled runs for between 1 to 2 years after arrival (as determined by each church organisation).	The sponsor's commitment to cover expenses is binding for 5 years if signed pre-July 2016, and 3 years thereafter.	Community sponsors have responsibility for 12 months minimum.	The duration of responsibility is dependent on whether the recipient's asylum/international protection claim is successful upon arrival in the host State.
What happens after the reasons behind the application have receded?	The participating State must undertake to host resettled refugees on a permanent basis. In the UK, refugees resettled under the UNHCR programme arrive with Indefinite Leave to Remain.	Arrivals undergo refugee status determination on arrival, leading to durable settlement.	Beneficiaries are granted a 2-year renewable residence permit and can apply for asylum on arrival.	This scheme is intended to be a durable solution - i.e. permanent settlement. In the UK, refugees can apply for Indefinite Leave to Remain after 5 years; participants in the Australian scheme receive permanent residency upon arrival.	This depends on whether the asylum/international protection application has been successful.
3. Which partners are required to make this pathway work?	A regional UNHCR unit to carry out assessment of resettlement needs and make a submission to potential host State; a State which participates in the UNHCR resettlement scheme.	An MoU was established between Comunità and Italian Government. Comunità is responsible for the initial assessment in partnership with UNHCR, and the church partners provide funding. Italian government make final determination on arrival and provide additional services (health, education etc)	Agreement between individuals and the State, in this case German regional governments	State and community and/or private group sponsors	States and non-governmental/private actors
How are these partners to be integrated?	States voluntarily participate in the UNHCR resettlement scheme. Once the UNHCR has assessed the needs of a refugee to be resettled, there is no need for integration/coordination with the chosen host State's asylum decision-making process.	Travel, accommodation, living costs, integration support provided by Comunità.	Straightforward financial commitment; no additional partners	Overarching responsibility lies with the community organisation responsible. However, the state is required to register community organisations, approve the programme and assess need for/ provide necessary visas on arrival. Most schemes run through the UNHCR in order to access vulnerable persons.	N/A
What is the obligation of government infrastructure?	Domestic government departments relating to home affairs; local NGOs who may help with integration process post-resettlement; public services e.g. education, job centres, healthcare.	Obligation on state to provide health and education services (as mandated by 1951 Convention).	Government has obligation to provide health care as normal; other ordinary state services (education, housing) provided at cost to sponsor	Government has obligation to provide health care as normal.	N/A

QUESTIONS	UNHCR RESETTLEMENT	HUMANITARIAN CORRIDORS	PRIVATE SPONSORSHIP	COMMUNITY SPONSORSHIP	HUMANITARIAN ADMISSION
4. On the basis of which criteria are eligible migrants identified?	Those determined to be prima facie refugees. In addition, there are three categories (see No. 2 above) that determine the priority of different eligible persons.	Vulnerable migrants and those assessed as prima facie refugees	Family link required	Those fleeing conflict, in particular. UNHCR-assisted (for Canada and, to some extent, UK). N.B. Australia: To be eligible, participants must 'align with the regional, global and settlement priorities of the Australian Government' and be 'subject to substantial discrimination amounting to a gross violation of [their] human rights in [their] home country'. Australia gives priority to participants who are between 18 and 50 years of age and have an offer of employment (or a pathway that leads to employment) or personal attributes that would enable them to become financially self-sufficient within 12 months of arrival, as well as participants willing to live and work in regional Australia.	As stated above, the issuing of a humanitarian visa does not constitute an official decision as to international protection needs; is intended as a complement.
How and where are people identified?	UNHCR identifies refugees in need of resettlement; may be in a refugee-camp or other context.	Identified by UNHCR as prima facie refugees in Lebanon and Ethiopia; Comunitá conducts additional vulnerability assessment in coordination with UNHCR	Identified by relatives who are citizens or permanent residents in Germany or Ireland	UNHCR identification; proposal of participants by APOs in Australia.	Consuls/embassies in third countries, is the intention.
How are people's post-arrival needs identified and managed? Whose responsibility is this?	Charities or local organisations/government department officials (depending on country of resettlement) will greet refugees at airport/port. Management of healthcare and educational needs assessed by local partners. Oversight should be maintained by government of the State of resettlement.	Comunitá and partners are responsible for integration programme, including social support	Responsibility of individual sponsor	Community takes considerable responsibility for post-arrival orientation, integration, assistance with education and housing.	Non-governmental actors have become increasingly involved (communities, Order of Malta, charities)...
5. How many persons can be accommodated via this pathway and what is this number dependent on?	Vast majority of those who would benefit are not resettled: 1.2 million persons are estimated to need resettlement in 2018, while 1% of refugees will benefit from resettlement. Number is primarily dependent on participating States' willingness to accept large numbers of resettled refugees, especially in times of crisis (e.g. Syria).	Quota of 1500 for 2015–2018 (Italy); quota of 500 for 2017–2018 (France).	No limit on arrivals, but processing times slow due to resourcing constraints on German missions abroad who process applications.	UK Gov pledged to receive 20,000 refugees fleeing conflict under the Vulnerable Person Resettlement Scheme; Vulnerable Children's Resettlement Scheme refers to 3,000 children/families from MENA region. Australia will receive up to 1000 refugees per year under its scheme.	No limit on arrivals
Is there a minimum number required to make the pathway feasible?	N/A	No	No	N/A	No
How does this relate or compare to provisions via other routes (including, but not limited to, numbers involved)?	N/A	Complimentary to other resettlement programmes, but comparatively small numbers as compared to private and community sponsorship and resettlement.	Complimentary to other resettlement programmes and has potential to offer significant numbers due to low cost to state and lack of cap on arrivals	N/A	N/A
6. What are the costs associated with the legal pathway?	Costs are for interview/selection missions, medical checks and pre-departure orientation, exit visas from country of asylum, travel from the country of asylum and on-arrival services in the new country of resettlement.	Costs are for travel, housing, living/ welfare costs and integration support.	Costs are for travel, housing, living/ welfare costs and integration support.	Costs are for travel, housing, living/ welfare costs and integration support.	As stated above, non-governmental actors have taken on a role in financing travel/taking care of post-arrival needs of those arriving with HAP.

QUESTIONS	UNHCR RESETTLEMENT	HUMANITARIAN CORRIDORS	PRIVATE SPONSORSHIP	COMMUNITY SPONSORSHIP	HUMANITARIAN ADMISSION
Who is expected to bear these costs?	States; UNHCR might provide assistance in particular cases.	Costs borne by churches (funded through <i>otto per mille</i> tax) and private individuals who volunteer their homes in some cases.	Sponsor, except for medical costs which are borne by the state	Canada: Immigration, Refugees and Citizenship Canada (IRCC) and private sponsors contribute financially. Refugees receive financial support from the government for 6 months; the sponsors' responsibility is to provide housing and basic necessities. UK: community groups who sponsor a family must guarantee contribution of £9,000. Sponsors must also provide suitable accommodation for minimum of 2 years. Government subsidises considerable portion of resettlement costs; this reduces personal financial risk for community sponsors. Australia: APOs are liable for costs of application (including visa costs of 19,124 AUD for primary applicant and additional 2,680 AUD for each family member). Also liable for airfares, medical screening and costs of settlement.	State and non-governmental actors
7. What drawbacks are associated with this pathway?	The process of identifying refugees' resettlement needs is very labour-intensive and subject to pitfalls. Loss of identity documents, separation from relatives are prominent in resettlement cases when the refugees in question have fled armed conflict/upheaval in country of origin. It can also be argued that refugee resettlement schemes (including and beyond the UNHCR scheme, e.g. EU resettlement programme) do not alter State-driven refugee politics/policies. E.g. increasing number of resettled refugees has led some countries to reject applications from asylum-seekers arriving through traditional routes.	Identification and prioritisation of 'vulnerable' refugees may be to the detriment of other kinds of refugees who are also vulnerable (eg, adult males)	Significant financial liability for individual sponsor; prioritises family members ahead of those who may be at greater risk.	It can take a considerable amount of time to establish a successful community sponsorship scheme. This can lead to only a small number of refugee beneficiaries of the scheme in the "teething phase". Another drawback is the large degree of commitment required from private individuals/community organisations; the competence of dedication of whom will (no doubt) vary. Fundamental is also the question of "outsourcing" the responsibility of the State towards refugees it hosts - does it fragment responsibility, or personalise responsibility and so make it easier for refugees to integrate and feel at home long-term? In addition, a fundamental concern with the Australian programme is that it does not incorporate the principle of additionality. Instead, participants in the scheme are part of the overall humanitarian intake, which is capped at 16,250 places. This has been criticised by Australian commentators on the basis that the overall effect of the programme is to reduce government costs rather than maximise protection. The combination of the financial burden on individuals and communities in combination with the state's rescinding of responsibility of the care of vulnerable people, especially in the case of Australia, leads to a risk of protection becoming a matter of who can afford it rather than being based on principles of equality and protection for everyone.	Given the nature of such visas as an instrument to facilitate safe arrival in a new country, envisaging the setup of humanitarian admission schemes using visas requires careful consideration of the safeguards and protection standards to be upheld as well as careful planning with regard to the post-arrival reception and integration stages.

QUESTIONS	VISA FREEZING	FREEZING CARRIER SANCTIONS	HUMANITARIAN VISAS	TRAVEL DOCUMENTS
1. Does this pathway currently exist/is it operational elsewhere?	No	No	Yes. This scheme is operational in Brazil and Argentina in particular. See also 'Humanitarian Admission' and 'Humanitarian Corridors' which use humanitarian visas in broader schemes.	Yes. Travel documents are issued by many national authorities as well as the EU and the UN
Which organisations are involved in the process?	State	Airline carriers, ferry companies and State	State	State
How does it operate?	This scheme offers the suspension of visa requirements for defined countries and periods of time, such as in countries with known humanitarian emergencies or conflict areas.	Under this scheme, a government suspends sanctions for airline carriers transporting refugees without proper travel authorisation.	Under this scheme, persons in need of protection undergo preliminary assessment of refugee status in a consulate in their country of origin or transit and obtain a visa to enter the host country for formal processing.	Under this scheme, a government issues <i>laissez-passer</i> to persons who have been granted entry (for various reasons, either humanitarian or for family reunification) but do not have a passport of their own.
How successful is the pathway?	N/A	N/A	Significant numbers have been resettled in Brazil (7000) and Argentina (3000)	It is not clear how many people have profited from this scheme, however, it is an important instrument to facilitate transit for persons identified under other schemes who do not possess travel documents.
2. What is the timeline for implementing the pathway? What is the timeline for resettlement of an individual?	It is not known how long it would take to implement this scheme, however, it should be relatively straightforward to implement. It would be a flexible instrument, enabling persons in need of protection to travel to a country of safety at any time; they would be subject to normal asylum procedures there.	It is not known how long it would take to implement this scheme, however, given that this is directed at stopping punitive measures against carrier organisations (rather than creating something new) this should be quick to implement.	It is not known how long it would take to implement this scheme, however, it should be straightforward to implement given that the possibility of issuing humanitarian visas already exists under the EU visa code. It would be a relatively flexible instrument allowing a person in need of protection to travel to a country of safety after preliminary assessment.	This scheme is currently operational in the UK. It is not known how long it takes for a person to be resettled.
How long does responsibility to the recipient last?	This scheme provides admission only, with those admitted able to apply for asylum upon arrival.	This scheme provides admission only, with those admitted able to apply for asylum upon arrival.	This scheme provides temporary admission only, with those admitted able to apply for asylum upon arrival.	This scheme provides temporary admission only, with those admitted able to apply for asylum upon arrival.
What happens after the reasons behind the application have receded?	N/A	N/A	This depends on whether the asylum/international protection application has been successful.	N/A
3. Which partners are required to make this pathway work?	States, possibly in conjunction with UNHCR. Coordination with airline carriers is also required.	States, airline and ferry industry, in conjunction with UNHCR	States	States and organisations such as EU, UN

How are these partners to be integrated?	Partners such as UNHCR would be able to identify circumstances requiring visa freezing, thus relieving burden on local missions. Airline carriers would likely be subject to increased demand as a result of visa freezing, but minimal coordination needed.	Coordination with airline industry required to ensure industry awareness of suspension, and with UNHCR to assist in identification/screening of prima facie refugees	N/A	N/A
What is the obligation of government infrastructure?	Only obligation is to suspend visa requirements and process asylum claims on arrival	Only obligation is to suspend visa requirements and process asylum claims on arrival	Obligation to provide consular services and preliminary assessment	Obligation to provide consular services and preliminary assessment
4. On the basis of which criteria are eligible migrants identified?	On the basis of nationality and country of departure	Either a blanket suspension or on the basis of country of departure	1951 Convention assessment	Various reasons (humanitarian or for family reunification)
How and where are people identified?	By consular officials in country of departure	By airline/ferry staff or consular officials in country of departure	By consular officials in country of origin or transit	By consular officials in country of origin or transit
How are people's post-arrival needs identified and managed? Whose responsibility is this?	Arrivals apply for refugee status as per usual government processes and with ordinary Convention rights	Arrivals apply for refugee status as per usual government processes and with ordinary Convention rights	Arrivals apply for refugee status as per usual government processes and with ordinary Convention rights	Arrivals apply for refugee status as per usual government processes and with ordinary Convention rights
5. How many persons can be accommodated via this pathway and what is this number dependent on?	No clear limit; could help resettle large groups of people in need of protection	No clear limit; could help resettle large groups of people in need of protection	Significant numbers, but dependent on proper resourcing of consular services	Significant numbers, but dependent on proper resourcing of consular services
Is there a minimum number required to make the pathway feasible?	No	No	No	No

How does this relate or compare to provisions via other routes (including, but not limited to, numbers involved)?	Significant numbers capable of being resettled. Complementary to other routes, and particularly valuable for targeting particular crises.	Significant numbers capable of being resettled. Complementary to other routes, and particularly valuable for targeting particular crises.	Significant numbers capable of being resettled	Significant numbers capable of being resettled
6. What are the costs associated with the legal pathway?	Costs of processing refugee applications on arrival and provision of Convention rights	Costs of processing refugee applications on arrival and provision of Convention rights	Costs of providing consular services, processing refugee applications on arrival and provision of Convention rights	Costs of providing consular services, processing refugee applications on arrival and provision of Convention rights
Who is expected to bear these costs?	Government	Government	Government	Government
7. What drawbacks are associated with this pathway?	The scheme might lead to high numbers of arrivals in a short period of time, which could place pressure on Government resources. This could be alleviated by restricting the visa freeze to defined areas and defined period of time.	The scheme might lead to high numbers of arrivals in a short period of time, which could place pressure on Government resources. This could be alleviated by restricting the alleviation of sanctions to defined areas and defined period of time. Issues associated with requiring airlines to identify prima facie refugees. This might be alleviated through coordination with UNHCR	Refugees may have difficulty accessing countries with functioning consular services.	Refugees may have difficulty accessing countries with functioning consular services. Also currently very little information on when this option is available, so awareness is an issue.

QUESTIONS	STUDENT SCHEMES	FAMILY REUNIFICATION	LABOUR MOBILITY
1. Does this pathway currently exist/is it operational elsewhere?	Yes. A variety of student scholarship schemes are operational in France, Germany, Czech Republic, Japan, Hungary and Slovakia.	Yes. This scheme is operational in many states, including most European states, Canada and the US. The UNHCR, in particular, promotes and supports reunification of nuclear family members.	A growing number of emerging economies have established or will soon establish labour migration schemes with countries which have a labour-force surplus, although these are generally not accessible for refugees.
Which organisations are involved in the process?	Universities that offer scholarships and/or participate in student schemes for refugees; interior ministries.	Relevant states and UNHCR	States
How does it operate?	Student schemes consist of a mixture of <i>ad hoc</i> schemes whereby universities provide grants for vulnerable persons and more coordinated schemes (at national, and regional level). Universities frequently pair up with other community organisations in order to cover provisions/ offer support around studies.	The UNHCR, in particular, promotes and supports reunification of nuclear family members (husband/wife; parents and children; unaccompanied minor children and parents/siblings; or, other dependent members of the family unit). The UNHCR facilitates the reunification of refugee families by obtaining overall cooperation of the States concerned and promoting the adoption of legal measures/criteria which facilitate reunification. In certain circumstances active UNHCR intervention may not be required to reunite families (self-help), e.g. where it is a routine part of a large resettlement operation or where it is not otherwise impeded by administrative or economic obstacles.	The UNHCR has suggested that temporary labour migration schemes could be created to help refugees achieve self-reliance. This could aid resettlement two ways: it is driven primarily by labour market needs; and, it could provide a durable solution for certain refugees. However, the scheme would only suit refugees that can fulfil the labour needs of the host state. Another use of labour mobility (although not strictly a legal pathway) is to encourage states hosting refugees to open up access to labour market to assist with self sufficiency.
How successful is the pathway?	Certain schemes, e.g. countries offering student schemes for refugees from Syria, are in early stages and it is not yet clear how successful these are. Refugees might encounter a number of barriers, e.g. lack of language training in the language of the host country; or, concerns regarding the right to seek asylum being affected by the immigration status attached to student schemes. However, the Canadian scheme (administered through World University Service Canada) indicates the viability of this pathway.	This scheme has helped to reunite many families. For instance, in Germany, around 200,000 Syrians have been granted asylum through family reunification. However, the scheme has a number of problems. The definition of 'family member' is interpreted too restrictively. In addition, demand for family reunification options continues to greatly exceed supply.	There is a growing interest in developing labour migration opportunities for refugees, however, few programmes currently exist.
2. What is the timeline for implementing the pathway? What is the timeline for resettlement of an individual?	It is not clear how long it would take to implement this scheme.	This scheme is currently operational in the UK. Processing times for family reunification tend to be long.	It is not clear how long it would take to implement this scheme. The second option (opening up labour market in region) should be relatively quick).
How long does responsibility to the recipient last?	Responsibility covers the period of education, however, there is some question over what happens after the completion of education. No explicit acknowledgement exists of the right to apply for asylum under these schemes.	Family reunification is intended to be a durable solution, i.e. leading to permanent settlement.	The UNHCR's envisaged scheme would be temporary in nature. There are questions over the extent to which labour mobility schemes could act as a durable solution.

What happens after the reasons behind the application have receded?	It depends on the particular scheme: Some schemes do not make clear the refugee's right to stay after completing their studies; some schemes allow for an asylum-application to be made either during or directly after the studies.	Family reunification is intended to be a durable solution, i.e. leading to permanent settlement.	N/A
3. Which partners are required to make this pathway work?	Local government/NGO actors, relevant educational institutions in host country (and potentially country of origin, if publicising the scheme for students).	UNHCR, interior ministries of States, assistance from NGOs such as domestic Red Cross organisations to help with family tracing.	UNHCR, States (of refuge and of origin/transit).
What is the obligation of government infrastructure?	Housing (if relevant), immigration/asylum services (where relevant).	Asylum decision-makers; obligation of Governments to engage with UNHCR and/or the refugee resident in their country who is requesting reunification with family members abroad.	Primarily the Home Office for visa provision and checks. Role also for Department of Business and Innovation, in determining sectors in need of additional migrant labour. Additional social welfare services required.
4. On the basis of which criteria are eligible migrants identified?	Certain scholarship schemes for refugees (specifically, those designed to aid legal entry to the host State) outline certain criteria (e.g. a scholarship specifically for young Syrian nationals).	Most schemes are restricted to the resettlement of the 'nuclear' family. In addition, some states (including the UK) impose additional restrictions, such as that minors are not eligible to apply for resettlement.	Those who are recognised as refugees under the 1951 Convention or according to the UNHCR Statute. Labour prospects also essential to consider (i.e. does the refugee have the skills/capacity to fulfil the host State's labour needs?).
How are people's post-arrival needs identified and managed? Whose responsibility is this?	Host institution, for the most part (most facilitate access to other services, including health and psycho-social needs)	Variety of ways and it is very country specific. E.g. documentation and access to public services must be ensured; little need for financial support if the family member they are joining is employed/self-sufficient. More in-depth research needed.	There is currently no systematic application of this pathway. Oversight of intergration etc could be taken on by workplace, trade unions or community organisations.
5. How many persons can be accommodated via this pathway and what is this number dependent on?	This pathway will always be restricted in numbers by academic eligibility criteria. Main obstacles are provision of places, scholarships, and the absence of coordination between institutions.	This pathway supplements other pathways due to the necessity of the applicant being already resettled. However, as the German example demonstrates, this can still accommodate substantial numbers of persons. Numbers are dependent on resources made available to claimants (legal aid, support in tracking family) and criteria of family imposed.	Number of persons dependent on assessed capacity of economy to absorb (or its need for) additional labour. However, this could (particularly seasonally) be significant. Programmes that seek to open access to refugees within region could reach significant number, but is dependent on the host state's willingness to open up labour market.
Is there a minimum number required to make the pathway feasible?	No	No	No
How does this relate or compare to provisions via other routes (including, but not limited to, numbers involved)?	Family reunification possibly comes into play; labour mobility also (if refugee finds employment directly as a result of the host State's student scheme). Further research needed.	In many respects this is dependent on other pathways, as for the most part the claimant has have already been resettled.	Family reunification would be the most obvious related pathway (however, unclear how strictly this would be regulated if some States do not intend for refugee labour mobility schemes to be a durable solution.)

6. What are the costs associated with the legal pathway?	Costs include studentships, living stipends, visa applications and travel costs.	Legal and visa fees, transportation costs.	Visa application (although this could be waived) and transport to host country.
Who is expected to bear these costs?	These are predominantly borne by the educational institution, if student scheme includes scholarship and funding. In Canada, community organisations also offer financial support.	In the United Kingdom, for example, legal aid is not currently available to refugee family reunification cases/appeals, and is currently born by applicant or NGO. UNHCR will sometimes bear the cost of travel and documentation for refugees it has directly assisted in family reunification cases. UNHCR also assist applicant to obtain entry visas, exit visas, finance travel, help to trace family members.	Unclear. It would likely be a combination of individual, state, trade unions and community organisations.
7. What drawbacks are associated with this pathway?	Need to ensure that students participating in programs like this do not lose their student visa when they apply for asylum. Currently, a refugee student could have his/her leave curtailed if he/she tries to apply for refugee status because the application for asylum is potentially undermining the very circumstances upon which he/she applied for leave to enter in the first place. Germany is a key exception here as asylum application will not affect student visa.	Currently an unnecessarily restrictive interpretation of the notion of family, which particularly affects non-nuclear family members. In the UK, it also affects minors. In addition, due to the complex nature of migration patterns, it is often hard to track down family members.	Lack of certainty for refugees re how long they will have the right to stay in host State. Questions over what would happen if a refugee participating in a labour mobility scheme loses his/her capacity to work (e.g. through illness/disability).