

Access to Durable Solutions

Presentation given by Joanne van Selm
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Ladies and Gentlemen, colleagues:

Last weekend, I was struck by a radio programme I heard about Darfur. One of the people interviewed over the telephone, through an interpreter, was a person from Darfur, now living in a camp in Chad: a refugee. I was listening in the US, and this type of interview may be common there, but it struck me because I – a Brit who spent more than 30 years living in four EU countries – cannot recall ever in Europe seeing or hearing a news programme in which a refugee was interviewed about their current experiences for a full ten minutes – rather than maybe for a few seconds to offer an emotional account of their suffering.

During this interview the man was asked what he hoped the future would bring for his family. He said he wanted to go home. He provided us a clue to thinking about durable solutions. Refugees want to go home – especially when they have first had to flee and the situation back home still seems to be one that can be reversed. This man is probably not thinking about staying in Chad – and, although given the opportunity to tell millions of Americans through this radio programme that he wanted to go to their country through resettlement – the thought clearly had not yet entered his mind as a genuine possibility. He just wanted to go home – to return.

Return is, as you all know, one of the three traditional durable solutions. The others are local integration and resettlement. There has been relatively little attention for these solutions as such in Europe in recent decades. Instead there has been a focus on the asylum system: on people seeking their own solution – perhaps when they give up on ever being able to go home; when they see the life around them in a neighbouring country to their own is not comfortable, or even safe; and when they realize that the opportunities for organized resettlement to one of the eighteen states with a resettlement programme are limited to less than 1 percent of the world's refugees. With transportation options

open; smugglers' services available; and few alternative choices that seem to offer similar long-term hope, some refugees see seeking asylum in Europe as perhaps their only hope for a long-term solution to their need for safety, protection and a future.

In turn, here in Europe, we have focused on the workings of our asylum system: on who we will admit, how, what we will do to protect them and assist them in the first instance, and what we should do in case we decide they are not in fact refugees who need our help.

Whereas in decades past refugee protection involved a whole range of international activities, we have tended towards reducing it to simply asylum policy. I have written about this in the Feasibility Study on Resettlement for the European Commission and elsewhere. In June, Erika Feller (Director of International Protection at UNHCR) made a similar point in her statement to the Standing Committee. Refugee Protection she noted is an umbrella covering many protection and assistance activities. Asylum policy is just a small part of that. It is time, she indicated, for Europe to look more broadly again, while maintaining asylum as an open channel to those who arrive in need of protection. The alternative is, it seems to me, that neither our asylum systems, nor the international protection regime can function in ways that meet our needs, here in Europe, or the needs of refugees.

And let's be clear: when we talk about access to durable solutions we are not talking about an alternative to asylum. We are talking about progressing towards a system in which Europe plays a role in doing what Minister Verdonk yesterday told us Europe should do. We are talking about Europe playing a role commensurate with its international stature in protecting refugees wherever they are – and ensuring more refugees have effective protection by not only focusing on protection here, but also working with countries in regions of origin to promote protection there.

The European Commission's Communication on Access to Durable Solutions provides a solid basis to our discussions today, and to thinking about expanding the EU contribution to refugee protection worldwide, beyond asylum here. That Communication also fits well

in a stream of thought and discussion including UNHCR's Agenda for Protection, Convention Plus, the High Commissioner's Forum, policy developments with regard to resettlement in some of the six Member States which operate such programmes and discussions in those and other Member States about real solutions to forced migration.

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In my time today I want to talk a little about why we need to broaden our focus to refugee protection in its fullest sense and why we need to focus on durable solutions. But, as many of those thoughts are included in the policy brief, which I am sure you have all had time to read, and I don't want to repeat my written words here, I want to turn our attention and discussion also to what we need to do, and how we can implement policies and programmes focused on greater access to durable solutions. I will say a few words on return, but focus mainly on local integration and resettlement.

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Why a renewed interest in durable solutions?

There are some twenty million people in need of protection – at least thirteen million of them are outside their country of origin. Of those thirteen million, at least twelve million are in their regions of origin, and many if not most of them have been refugees for several years already. If they cannot return, and cannot integrate in the countries where they are now, they – and we – have a problem. Either they will in fact remain in their current situation – a matter of political, social and economic tensions in the countries in which they currently live. Or they will need or seek protection further afield. While protracted refugee situations need our attention – because for the refugees involved, after many years with no clear solution it is surely time they got the opportunity to live in stability with prospects for a secure future, new crises also illustrate this situation.

Just this week, UNHCR's release of data on trends in asylum seeking in the west included the information that during the second quarter of 2004, 760 people from Sudan have claimed asylum in the west. Meanwhile 188,000 have sought refuge in Chad, and there are 1 million internally displaced in Darfur. For all concerned both short- and long-

term solutions must be found. We don't and can't know what the future of that crisis will involve – and that illustrates the reasons for which any plan to address protection needs in the region need to be approached with flexibility and the need for policy changes over time in mind.



What does Europe need to do to promote access to durable solutions.

First, we all need to understand what those solutions are. If we talk about return, for example, we have to understand and acknowledge that return has long been the most used, and viewed as the most desirable solution by most actors in our field. We have to realize that while return is what most refugees want, it is not always easy. Return needs to be sustainable to be a durable solution. Intra-regional returns in particular need to be effected at the right time, in the right way and with support structures. Most refugees remain in their region of origin, and so most returns are intra-regional. But it is also likely that if the return does not work out, the refugee will go back to the country of protection in the region – a coming and going which can give rise to instability not only in the refugees' life but also within the countries and societies involved. In thinking about the EU's role in increasing access to durable solutions, therefore, we should think about the support Europe can give to return processes in regions of origin.

Return is the solution most people look for and are able to engage. However, it is not always possible, of course. Then, two alternatives remain: staying for the long-term in a country in the region of origin and moving further away.

An approach to local integration in the region of origin has to start with thinking about ways of making initial protection work in those regions. We also have to understand that countries in regions of origin of refugees frequently do not want refugees to 'integrate' or to stay for very long at all. Although they may have little choice in whether or not refugees start arriving, they can, institutionally or socially, choose to make life uncomfortable for refugees.

Countries on the front line of crises often have little choice about whether refugees arrive. Their governments are, however, able to make significant choices about where those people will live, under what social and economic conditions, and what their legal status will be. The policy choices those governments make are influenced by domestic pressures; relations with the refugees' country of origin; lobbying from other states further away and from international organizations and the roles which those organizations (like UNHCR, but also ECHO, World Food Programme and many NGOs) are willing or seek to play. With many different forces influencing those policy decisions we cannot say that the EU can walk in and say "this is how you should protect people". However, the EU could clearly play a role in sharing policy expertise with the governments concerned; building relationships with those governments on refugee protection related matters and working with the governments to create the capacity for protection to take place.

What would be the wider benefit of Europe playing a role in developing access to durable solutions worldwide? We can quite easily work out what the EU Member States want out of cooperation with countries in the region of origin – including self-interest such as seeking potential impact in the form of reducing secondary migrations and the humanitarian motive about which some may be cynical, but which should be central: ie ensuring protection for more (and in fact for all) refugees. But what do countries in the region want? Host countries might say their interests (if they have any) range from gaining moral and financial support, to gaining an improved infrastructure for their country as a whole, to having the opportunity to demonstrate their own humanitarian credentials and political strength as partners to the EU. How can EU policy-makers and negotiators evaluate the full implications of what those countries say they want out of any partnerships to improve refugee protection? We need to recognize that the motives of countries in the regions differ from the EU's motives – and might sometimes seem incompatible. Or we might all seek the same ends, but formulate the reasons for and steps to those ends in different ways.

It seems certain that before the EU can move beyond the stage of knowing it wants to do more about durable solutions generally, if indeed we can come to that stage, the Member States together will need to meet with and get to know their counterparts in the relevant countries and regions. And since the EU would be making the first move, would it tactically be most sensible to start by dealing with some of the things they want – and turning only to some of what we want at a later stage only? Turning up to negotiate increasing capacity to protect in the region of origin with a draft readmission agreement in hand would seem tactically unwise, for example. Ultimately, the search is for ways in which all (EU, states in the region, other industrialized states and the refugees) win.

I have used the term “capacity building” and it is a term that we hear a lot. But what do we mean by it? We have to think of ‘capacity’ in several different ways: political, social, economic... legal systems... infrastructure... public services – you name it. And we have to think about capacity not only in terms of numbers of refugees or the refugees’ needs, but also in terms of the capacity of a society to absorb or tolerate refugees. We know that our own asylum systems in Europe are under strain in part because our societies appear unwilling or unable to accept newcomers. The proportion of newcomers to host society, suddenly arriving in many regions of origin when there is a crisis next door is exponentially greater than any situation we have seen in an EU Member State in decades.

There is a tendency for assistance in a crisis to focus on the refugees. If we want to think not about short-term assistance, but about building the capacity for local integration to be a possible durable solution should return not become possible, however, we need to think outside of that box.

Let me put it this way: there was an advertisement used by a mobile phone company during the Olympics. They showed a new kid in the swimming team who gets a high-tech swimsuit; flippers – all the gear - and Mark Spitz, who won 7 gold medals in one Olympic Games in the 1970s, as his personal coach. Other kids ask why – and are told “Because he is new”. Well, we’re not here to talk about mobile phone packages, though we all probably recognize this scenario of offers to new customers – and this company

wanted to say they treat all customers the same – new and old. But the ads are also analogous to the way populations of several countries in Africa and Asia might see the arrival of refugees: these newcomers have aid agencies of all kinds running around, setting up shelter, providing food, creating schools and educational programmes – and what does the local population get? Often (though not always) nothing – or very little. That will need to change if the capacity of states in the regions of origin to protect refugees, and ultimately access to the durable solution of local integration, are to increase.

The European Commission has suggested that EU Regional Protection Programmes could be developed, providing a ‘toolbox’ which would include “assistance for improving the local infrastructure’. Those improvements, I would suggest, should not only be designed in such a way as they do not strain the existing infrastructure, but also in such a way that they benefit the local community as much as the refugees and that the wishes of the countries in question are borne in mind. This toolbox approach also includes enhancing protection capacity, which I have already discussed. Also key is that the Commission includes registration schemes in the toolbox. Registering refugees is an essential key to promoting durable solutions. Through early registration, preferably at the time of first arrival after flight from the country of origin, a dossier can be established which includes flight motives, family composition, specifics of dates and, through updating at relevant moments, changes in the situation over time. The information gathered could be useful whichever the ultimate durable solution for an individual refugee. Return within the region could be facilitated through knowing where the person came from (obviously) and who is within the family group (including children born during the period of refuge).

The information would also be essential for the selection of refugees should the third durable solution (resettlement) prove to be necessary:

Why would resettlement be necessary? And **what** is resettlement? There are three reasons for undertaking resettlement: to ensure protection, to provide a durable solution and to show solidarity with first host countries.

We are today focused on the durable solution aspect – so I will say most about that. But let me first, in the interests of understanding what is meant by all the terms, mention the protection and solidarity aspects. Resettlement is a humanitarian approach to refugee protection. A resettlement programme involves the organized arrival of refugees selected outside the country of final destination – with their transportation organized, and with programmes in place to assist in the refugees acclimatization to a new life with status and in safety. Sometimes, resettlement can be a useful tool to both protect some refugees in the country to which they are resettled (hypothetically eg Sweden) and to indicate to the country from which they were resettled (eg Ghana) that they do not face the task of protecting all the refugees on their own. In those cases, resettlement can also encourage the countries in the region of origin to protect more (or do more to protect) refugees who remain there.

But we are most interested in the durable solution aspect of resettlement today. As a durable solution, resettlement has to involve a permanent residence and protected status. It is not evacuation to temporary protection. Resettlement is a departure to a new stable, long-term situation of safety. A person who has been resettled might eventually choose to return to their country of origin years or decades later, when the situation has changed. But that would be an individual choice – potentially made after naturalization even.

A flexible, targeted, situation-specific EU resettlement programme (as proposed by the Commission in its Communication and described as a policy option in the Feasibility Study which I conducted in 2003) would be the completion of a package of measures improving access to durable solutions, if coupled with policies and practices which increase the potential for first protection and later integration in the region of origin and assist in voluntary return to the country of origin where that becomes possible. When resettlement would prove to be useful (in managing movements of people without

protection; in showing solidarity with a host country in the region or in ensuring a full range of durable solutions for all refugees) the registration conducted when the refugee first left their country of origin would prove invaluable. Through knowledge of family composition and location – including extended families – families can be kept intact, and their later integration in a resettlement country enhanced as they can all be resettled either together or over time. Early registration also means that the flight history is known – and so the comparison to any specific selection criteria used in a resettlement programme would be facilitated.



By working on improving access to durable solutions, the EU is taking steps towards a solutions-focused European approach to international refugee protection. In the feasibility study I labeled this a Common European International Protection System, which would include the Common European Asylum System.

I have talked already about capacity building in regions of origin: we must also think about the capacity we would need to build within EU to move to such a solutions oriented approach. One aspect of this would be the need for linked policy-making between Ministries Justice/Immigration; Foreign Affairs and Development. Besides working closely together on policy-making, where policy is implemented by different ministries, all those involved would need to monitor that implementation. Points of tension could arise on issues such as which ministry would take leadership in which area; which ministry would take the lead in implementation; and which ministry gets the necessary resources. We could ask whether we in fact need institutional change to accommodate these issues?

As well as enhancing the EU's institutional capacity to develop and implement these solutions oriented policies, the capacity of the European populations to accept some of their aspects would need to be enhanced. If our populations are reluctant to accept refugees who have sought asylum, will they be ready to accept resettled refugees, for example? Do other aspects, such as working with countries in the regions of origin to help them improve their capacity to protect refugees have to come first, so that our own

EU populations better see and understand the scope of this approach – and the situations from which, and reasons for which, the refugees are being resettled?

And finally, on capacity building here in Europe, closer cooperation between governments and other actors, NGOs and International Organizations is likely to be necessary. To be comprehensive there would need to be operational cooperation, but also more mechanisms for thinking together about how to make the approach work.



Certain key terms come up often in thinking about a future approach to refugee protection which focuses on solution. These include:

- Flexibility;
- Situation specific or tailored;
- Targeted;
- Sustainable; and
- Community willingness

These programmes cannot be static, they would require annual evaluation; monitoring; - and they would need to be renewable.

But before they can be any of that, the potential of such programmes require full discussion, understanding and decisions on the part of Member States and civil society. Having given you some thoughts to get this discussion going, I look forward to hearing your comments and the questions – and answers – you have for each other.