We propose a ‘matching system’ that simultaneously gives refugees some choice over where they seek protection and respects states’ priorities over refugees they can accept.

Syrians fleeing the current conflict have been repeatedly told that they cannot ‘choose’ the state in which they seek long-term protection. In Australia, the idea that asylum seekers are ‘shopping’ for the best sanctuary forms a persistent part of the rhetoric around keeping them out. In these and other cases, the premise is that it is unjustifiable for refugees to be allowed some choice over where they seek protection. The consequence enshrined in the Dublin Regulation is that refugees may apply for asylum in only one European Union country.

From the perspective of states, refugee flows are chaotic, unpredictable and widely regarded as socially disruptive and destabilising. Everyone recognises that the Dublin Regulation, which seeks to address this by placing the obligation to render asylum on the first EU country an asylum seeker reaches, is not fit for purpose. In parallel, there is an urgent need to design systems to overcome the political deadlock among European states over asylum.

The ‘Refugee Match’

We propose a system which can both give refugees choices over where they are to be protected and enable states to manage the sharing of responsibility for granting asylum in a way which is equitable and efficient.¹ The way in which we allocate students to schools, junior doctors to hospitals and kidneys from living donors to recipients is by ‘matching’ the two sets. Refugees need to be ‘matched’ to states in precisely the same way in order for them to be protected. Furthermore, we want a system which participants on both sides will want to participate in, which will best satisfy their preferences and desires, and which will do so in a manner that is equitable and transparent. It could even give states currently unwilling to share responsibilities additional incentives to get involved.

Concretely, in our proposal, states and refugees submit their preferences – about which refugees they most wish to host or which state they most wish to be protected in – to a centralised clearing house which matches them according to those preferences.

¹. UNHCR Refugees/Migrants Emergency Response – Mediterranean
http://data.unhcr.org/mediterranean/regional.php


Refugees, in principle, could submit their preferences from anywhere, saving them the risk of a dangerous journey and the extortion of people smugglers. This system involves no payment, works where there are quotas or other constraints, and can be made to work so that it is:

1. comprehensive – all refugees within the system are hosted somewhere (with quotas agreed by participating states adding up to the total number of refugees seeking places ‘in the marketplace’)
2. stable – refugees and countries do not end up dissatisfied with their choice and wanting to ‘re-match’ by undertaking secondary movements
3. efficient – no refugee can be made better off without making at least one other refugee worse off.

Finally, it can be made ‘safe’ for states and refugees to honestly reveal their true preferences.

Beyond this, there is a lot to be determined. It would be for the designers of the system to decide which refugees the match would apply to, and what sorts of preferences states and refugees were allowed to express. For example, the system could be designed to allow states to identify priority categories based on skills gaps; this might be useful in persuading states in Eastern Europe with labour shortages to participate. There may be some reason why states would wish to decide in advance that the refugee populations they take must meet some ‘distributional’ requirements. For example, states could collectively pre-commit to taking a diverse population of refugees and this feature can be built into the system. The designers of the system would face many choices in order to meet whatever set of goals was decided upon. Our claim is only that, whatever those goals are, a matching system will deliver these goals better than the current system.

It is very unlikely that all states will have the same preferences. Even if all states ended up ranking refugees in the same way, the clearing house would still be an improvement on the status quo, as the preferences of the refugees themselves would become the deciding factor in determining who went where.

However, there are a variety of principles which could be used in trying to determine who will be prioritised, given practical and political limits on how many refugees can be taken in. For example, the UK government has stated that its priorities are determined by greatest need and an assessment of where the UK can singly make the greatest difference. On the other hand, the governments of Slovakia, Poland and the Czech Republic have all signalled a willingness to take more refugees but only if they are Christians. Whether these principles are seen as discriminatory or as largely uncontroversial, the point is that different states are already free to rank these principles differently, and other states might rank the same refugees differently; for example, it would be eminently reasonable for Brazil and France to prefer Lusophone and Francophone refugees respectively.

Similarly, refugees will have a variety of preferences. There are abundant reasons to believe that the preferences of refugees are as heterogeneous as they themselves are. Currently, refugees must prioritise reaching the location where they feel they are most likely to be protected. In consequence, we know relatively little about the choices refugees would make if they knew they were guaranteed protection somewhere. We would like to find out.

Using a matching system per se does not dictate which principles states are allowed to use in ranking refugees, and the clearing house could permit or forbid the use of any criteria. Just as matching for doctors should not allow hospitals to engage in racist hiring practices, the clearing house would only allow states to rank refugees based on criteria which are compatible with the principles and goals of the 1951 Convention, and maybe other sets of principles.

Of course, in order to actually solve refugee crises, states would have to accept enormous inflows of refugees and find a way to resolve the ongoing conflagration in Syria and elsewhere. Matching systems,
such as the one we propose here, are never
the total solution to the various issues
they seek to address. They are merely a
substantial improvement on the status quo
within the constraints of what is politically
palatable, and may give states incentives to
relax these constraints. Although matching
mechanisms cannot make states behave
morally, they will nonetheless improve
the situation for refugees, whether or not
states can be made to act in accordance with
their legal and moral obligations. This is
therefore a pragmatic proposal in the spirit
of those who argue that states will contribute
towards efforts to protect refugees when
they recognise a relationship between the
rights of refugees and their own interests.

The Refugee Match is a realistic,
pragmatic, quickly implementable and
just improvement on much of the current
international refugee regime. A matching
system, which respects the preferences
and choices of refugees and the priorities
of states, can better protect the human
rights of the vulnerable, and increase the
likelihood that states will participate in
sharing responsibilities for the international
protection of refugees. Any system which
genuinely upheld the rights of refugees would
have to start by respecting their choices.
Asylum seekers ought to be able to choose the
states where they want to spend their lives.
The Refugee Match would be a good start.

Will Jones william.jones@qeh.ox.ac.uk
Departmental Lecturer, Refugee Studies Centre,
University of Oxford www.rsc.ox.ac.uk

Alexander Teytelboym
alexander.teytelboym@inet.ox.ac.uk
Research Fellow, Institute for New Economic
Thinking at the Oxford Martin School, University
of Oxford www.inet.ox.ac.uk


---

Legal and practical issues raised by the movement of people across the Mediterranean

Guy S Goodwin-Gill

The movement of people is a phenomenon we must learn to live with and to manage as best we can in the interests of all. Among other matters, this will require states dealing with each other on a basis of equity and equality, rather than outmoded and unrealistic expectations of sovereign entitlement.

‘Irregular migration’ is largely a product of the late twentieth century, reflecting the desire of certain states to impose (their) order on the movement of people across borders. ‘Irregular migration’ is, currently at least, little represented in international law. The irregular migrant, like the regular migrant, is not defined by international law other than by reference to his or her common humanity.

Nor does international law prescribe what states shall do (as opposed to what they may not do), when confronting this product of their own idiosyncratic view of the migrant on the move. More particularly, there is a solid legal framework governing the actions of states in and outside their territory which is not supplanted by the fact that control of migration – the core decisions about entry, residence and removal – falls within the sovereign competence of the state.

However, traditional unilateralist assumptions regarding state competence have proven inadequate as a basis for dealing with today’s humanitarian issues and have closed off thinking about new, urgently needed approaches. Today, there is a new reality, the product of a dynamic in relations between states that has been generated in part by globalisation and in part by inescapable facts – for example, the fact that migration cannot be ‘managed’ unilaterally, let alone turned