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## SLAMMING THE GOLDEN DOOR: CANADA-U.S. MIGRATION POLICY AND REFUGEE RESETTLEMENT\*

Robert Falconer

### SUMMARY

Canada must prepare itself for the repercussions from dramatic changes to U.S. refugee and immigration policy. One change includes further cuts to the U.S.'s longstanding refugee resettlement program. The other change, already announced, could mean that the U.S. will effectively compromise its reciprocal role in the Canada-U.S. Safe Third Country Agreement.

As the U.S. cuts back its intake of refugees, the issue of Canada's obligations to its international partners concerning refugees will surge to the forefront. Last year, Canada was the world leader in refugee resettlement, the program that relocates vulnerable refugees to Canada after being selected and vetted abroad. As the U.S. retreats from its own program, Canada will be forced to decide how many more refugees it can accept. This will be more than a question of humanitarianism. Instead, the shutdown's potentially divisive effects will encompass questions of stress on Canadian public finances, communities and non-profits, along with the bigger political picture of trade, foreign policy and national security.

Not only does the contemplated shutdown mean that the U.S. will be abandoning the millions of people stuck in Third World refugee camps, waiting to go somewhere else, but it will also leave in the lurch the U.S.'s international partners who traditionally house these people. Future U.S. administrations may not be able to quickly restore its place as the world's leader on refugee resettlement, as cuts take their toll on longstanding refugee resettlement agencies charged with receiving and resettling refugees. Adopting Canada's private sponsorship model may be one method of restoring America's place in the world.

\* This research was financially supported by the Government of Canada via a partnership with Western Economic Diversification.

The other policy change came into effect in July 2019, when the U.S. Department of Homeland Security announced that migrants who pass through another country before arriving at or within the U.S. will be barred from claiming asylum in the U.S., with few exceptions. In September, the U.S. Supreme Court upheld the bar for the U.S./Mexico border. This ruling is temporary while lower-court battles play out over the policy. However, if the policy becomes permanent, Canada will have to decide whether or not to continue to designate the U.S. as a safe third country for refugees seeking asylum.

The Canada-U.S. Safe Third Country Agreement allows for refugees transiting from the U.S. into Canada, and vice-versa, to be returned to the other country to have their asylum claim processed. The agreement is founded on the most basic of international refugee policy principles—that of not placing asylum-seekers in danger by returning them to their countries of origin. Instead, the new policy will send refugees seeking asylum in the U.S. back to their home countries, regardless of the danger to them of persecution or torture at home.

Refugee advocacy groups in Canada are currently challenging Canada's agreement with the U.S. at the Federal Court on this and other bases. Should they be successful there would be an immediate impact on Canada's asylum system. It would cause an increased number of claims at the border from previously ineligible asylum seekers coming from the U.S., who would have previously been sent back to the U.S. The ramifications of such a change would include further clogging of an already backlogged Canadian asylum system and increased strain on federal and provincial finances. Tensions between the two countries, already chilled due to issues of trade, would also be worsened. The incoming government after the Oct. 21 federal election in Canada could now be faced with some tough decisions to make about its relationship with the U.S. as one of its first orders of business.

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## CLAQUER LA PORTE DORÉE : POLITIQUE MIGRATOIRE CANADO-AMÉRICAINNE ET RÉINSTALLATION DES RÉFUGIÉES\*

Robert Falconer

### RÉSUMÉ

Le Canada doit se préparer aux répercussions des importants changements apportés à la politique américaine en matière d'immigration et de demandes d'asile. Un des changements prévoit de nouvelles coupes dans le programme américain de réinstallation des réfugiés de longue date. L'autre changement, déjà annoncé, pourrait faire en sorte que les États-Unis compromettent la réciprocité dans l'Entente sur les tiers pays sûrs entre le Canada et les États-Unis.

Alors que les États-Unis réduisent l'accueil de réfugiés, la question des obligations du Canada envers ses partenaires internationaux concernant les réfugiés passera au premier plan. L'année dernière, le Canada était le chef de file mondial de la réinstallation des réfugiés sélectionnés et approuvés à l'étranger. Alors que les États-Unis se retirent de leur propre programme, le Canada devra décider du nombre de réfugiés supplémentaires qu'il peut accepter. C'est plus qu'une question humanitaire, car l'effet potentiel des coupures se traduira par un stress sur les finances publiques canadiennes, sur les collectivités et sur les organismes à but non lucratif. Sans compter les répercussions sur le contexte politique du commerce, des affaires étrangères et de la sécurité nationale.

Non seulement la fermeture envisagée signifie que les États-Unis abandonneront des millions de personnes à leur sort dans les camps de réfugiés du tiers monde, mais cela laissera également dans l'embarras les partenaires internationaux des États-Unis qui hébergent habituellement ces personnes. Les prochaines administrations américaines pourraient ne pas être en mesure de restaurer rapidement la place de leader mondial des États-Unis pour la réinstallation des

\* Cette recherche a été soutenue financièrement en partie par le gouvernement du Canada via Diversification de l'économie de l'Ouest Canada.

réfugiés, car les coupures pèsent sur les organismes chargés de recevoir et de réinstaller les réfugiés de longue date. L'adoption du modèle canadien de parrainage privé pourrait être une façon pour restaurer la place des États-Unis dans le monde.

L'autre changement de politique est entré en vigueur en juillet 2019, alors que le département américain de la sécurité intérieure annonçait que les migrants qui traversent un autre pays avant d'arriver aux États-Unis ne pourront pas demander l'asile aux États-Unis, à quelques exceptions près. En septembre, la Cour suprême des États-Unis a maintenu le cap pour ce qui est de la frontière entre les États-Unis et le Mexique. Cette décision est temporaire, le temps que les tribunaux inférieurs se prononcent sur diverses causes. Cependant, si la politique devenait permanente, le Canada devra décider de continuer, ou non, de désigner les États-Unis comme un tiers pays sûr pour les réfugiés qui demandent l'asile.

L'Entente sur les tiers pays sûrs entre le Canada et les États-Unis permet aux réfugiés qui transitent des États-Unis vers Canada, et vice versa, d'être renvoyés dans l'autre pays pour que leur demande d'asile y soit traitée. L'Entente se fonde sur le principe fondamental de la politique internationale concernant les réfugiés : ne pas mettre les demandeurs d'asile en danger en les renvoyant dans leur pays d'origine. Au lieu de cela, la nouvelle politique verra les réfugiés qui présentent une demande d'asile aux États-Unis renvoyés dans leur pays d'origine, quel que soit le danger pour eux de persécution ou de torture.

C'est d'ailleurs sur cette base, entre autres, que les groupes de défense des réfugiés au Canada contestent actuellement l'Entente canado-américaine devant la Cour fédérale. S'ils réussissaient, cela aurait un impact immédiat sur le système d'asile du Canada. Cela entraînerait une augmentation du nombre de demandes à la frontière de la part de personnes auparavant inadmissibles, qui autrement auraient été renvoyés aux États-Unis. Les ramifications d'un tel changement incluraient un encrassement supplémentaire du système d'asile canadien déjà en souffrance, ainsi qu'une augmentation de la pression sur les finances fédérales et provinciales. Les tensions entre les deux pays, déjà refroidies en raison de problèmes commerciaux, s'en trouveraient également aggravées. Le nouveau gouvernement après les élections fédérales canadiennes du 21 octobre pourrait se trouver face à des décisions difficiles à prendre quant à sa relation avec les États-Unis comme l'un de ses principaux partenaires.

## INTRODUCTION

In the past few weeks, the United States has either announced or considered noteworthy changes to refugee and asylum policies. On July 15, 2019, the Department of Homeland Security announced that migrants who pass through another country before arriving at or within the United States will be barred from claiming asylum there, with few exceptions. On July 18, 2019 Politico reported that the Trump Administration was preparing to slash refugee admissions for the 2020 fiscal year (Hesson 2019), a report that was partially realized in a September 26<sup>th</sup> decision by the White House to reduce the ceiling on refugee resettlement from 30,000 in 2019 to 18,000 for the coming year (White House 2019). This continues the trend of previous reductions in 2017 and 2018, the latter of which resulted in Canada surpassing the United States to resettle more refugees than any other country in the world. Both of these policy changes may have significant implications for Canada. This communiqué will focus on U.S. retreat from refugee resettlement, while a second communiqué focuses on the U.S. asylum bar.

## REFUGEE RESETTLEMENT: CANADIAN LEADERSHIP

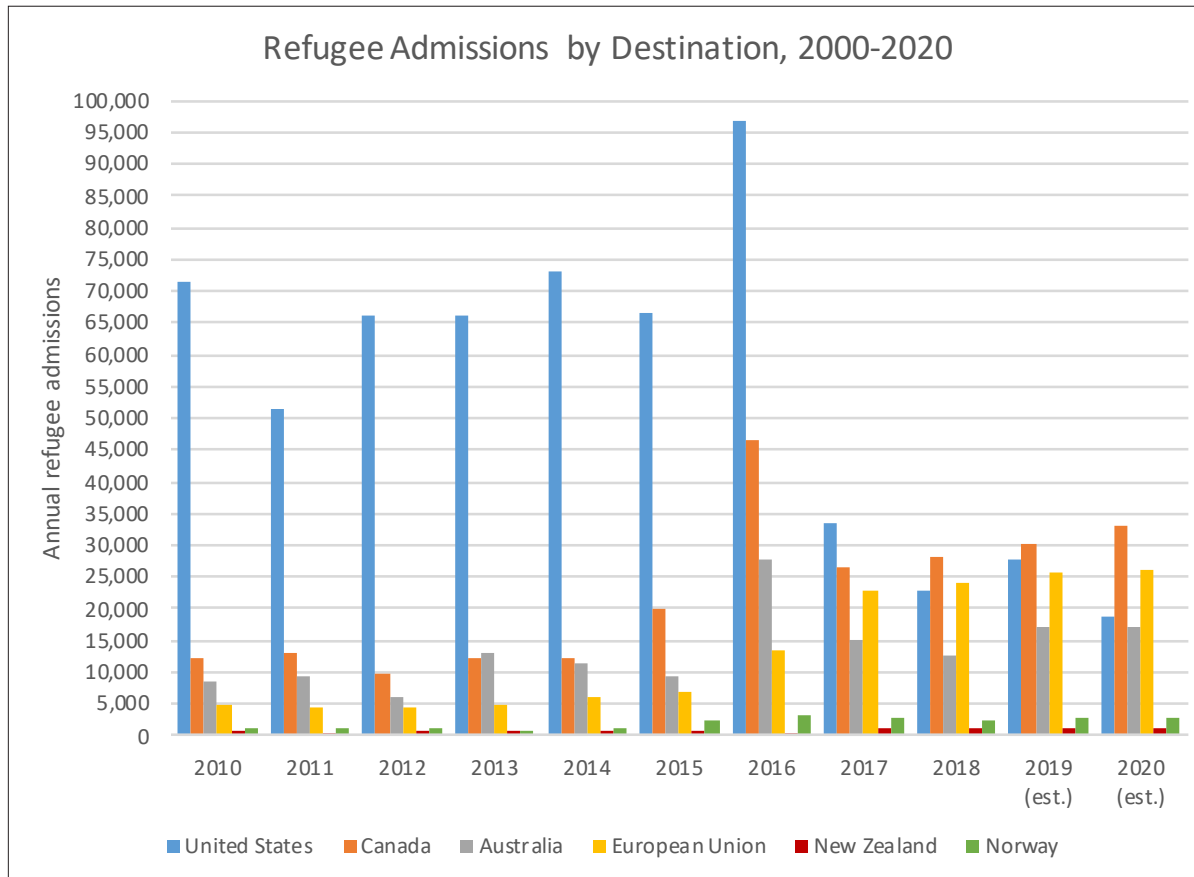
In 2018, Canada passed the U.S. to become the world leader in refugee resettlement, the program that relocates vulnerable refugees to Canada after being selected and vetted abroad (UNHCR 2019b).<sup>1</sup> Canada will likely remain in this position given U.S. cuts to refugee admissions and Canada's own targets for refugee resettlement. In the 2019 calendar year, the U.S. is on track to resettle approximately 27,900-29,700 refugees (Refugee Processing Center 2019; author's own calculations), while Canada is on track to resettle approximately 28,900-31,700 by the end of December (IRCC 2018; author's own calculations). A larger shock is looming for the 2020 calendar year, with the newly announced cap on refugee admissions and previous history suggesting the U.S. may receive as little as 17,400 refugees (Refugee Processing Center 2019), while Canada expects to resettle 31,700 refugees under its current targets (IRCC 2019). For the foreseeable future the face of global refugee resettlement is Canadian. Figure 1 shows U.S. cuts and Canadian hikes to refugee resettlement.<sup>2</sup> It also shows the responses by other jurisdictions to gap created by U.S. cuts. The European Union has been filling some of the gap left by the U.S., but the response has not been uniform. Some EU members, particularly the United Kingdom, France and Germany, have increased their refugee resettlement intakes (UNHCR 2019b). Other states like Denmark and Austria have shuttered their refugee resettlement programs (Ibid.). The reduction in U.S. resettlement activity has implications for Canada, other resettlement countries, and other countries hosting millions of displaced persons in camps and cities.

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<sup>1</sup> The UNHCR has identified an estimated 1.4 million persons as being in need of urgent resettlement in another country. Returning a refugee to their home country, or settling them in the country where they first fled after leaving home, takes priority over resettlement to a country like Canada. Resettlement is reserved for refugees who are seen as the most vulnerable or difficult to care for by their countries of temporary asylum.

<sup>2</sup> Source: Author's calculations from the UNHCR Global Trends report (2019b). The estimate uses resettlement country targets where available, or holds them constant compared to previous years where unavailable.

**FIGURE 1: REFUGEE ADMISSIONS BY DESTINATION, 2010-2020**

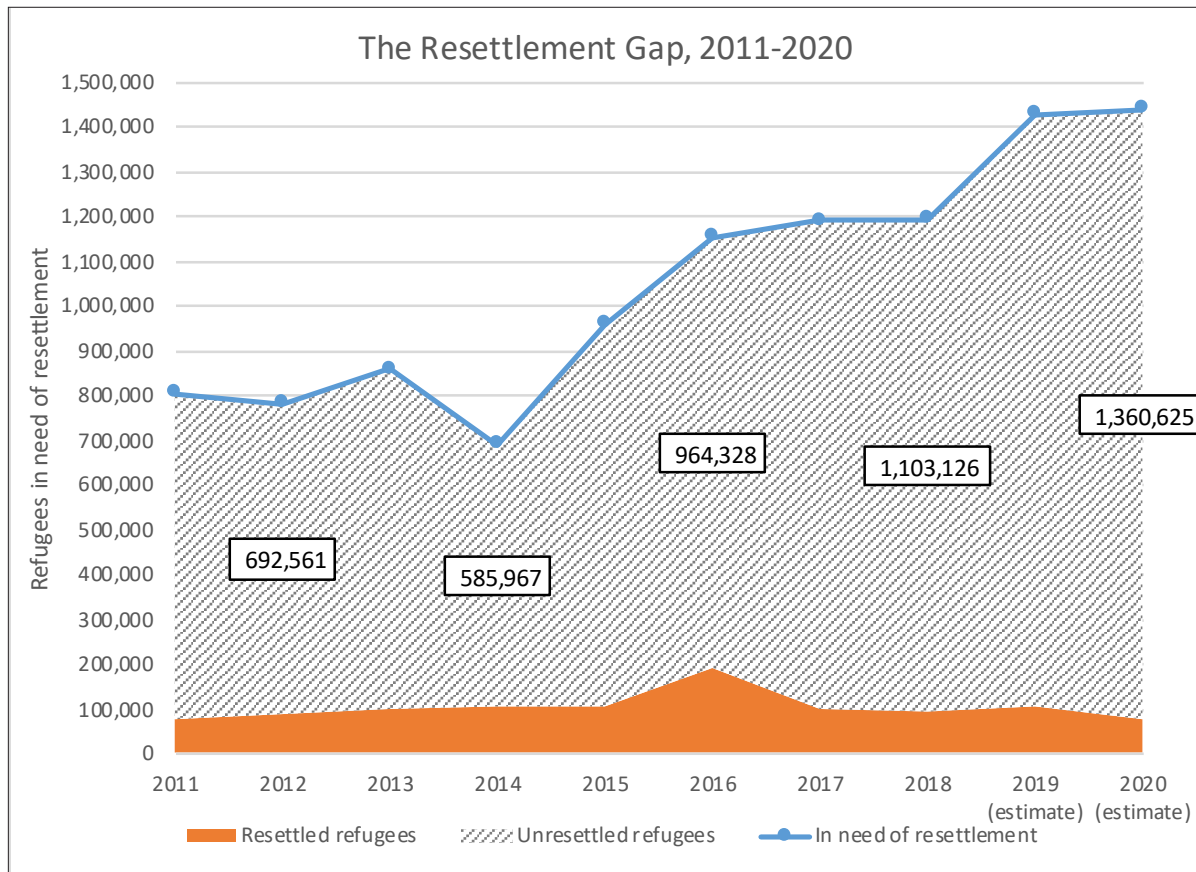


## THE REFUGEE RESETTLEMENT GAP

Refugee resettlement generally targets the most vulnerable refugees, with the UNHCR preferring to repatriate refugees to their home countries, or integrate them in neighbouring countries to which refugees may have fled (Harkins 2012). If repatriation or local integration are too costly, dangerous or impractical, the UNHCR recommends them for resettlement in countries like Canada. The difference in the number of refugees identified for resettlement, and the number actually resettled, is referred to as the resettlement gap (UNHCR 2018). Figure 2 shows a gap of approximately 1,103,000 in 2018.<sup>3</sup> Under a U.S. withdrawal from refugee resettlement, we can expect it to grow to 1,323,000 in 2019, and 1,360,000 in 2020. This will leave a large number of the most vulnerable refugees in precarious situations, and place significant pressure on the countries hosting them in camps and cities. A change in U.S. Presidents may not immediately resolve the issue, as the support infrastructure from refugee resettlement agencies in the United States is fiscally squeezed by these reductions. Restoring them to functionality may take time. Future U.S. administrations may wish to consider Canada’s private refugee sponsorship program as a means of jumpstarting its own refugee resettlement program.

<sup>3</sup> Source: Author’s calculations from the UNHCR Global Trends report (2019b) and Projected Resettlement Needs report (2018). The estimate uses resettlement country targets where available, or holds them constant compared to previous years where unavailable.

**FIGURE 2: THE REFUGEE RESETTLEMENT GAP, 2011-2020**



## RESETTLEMENT AND SECURITY

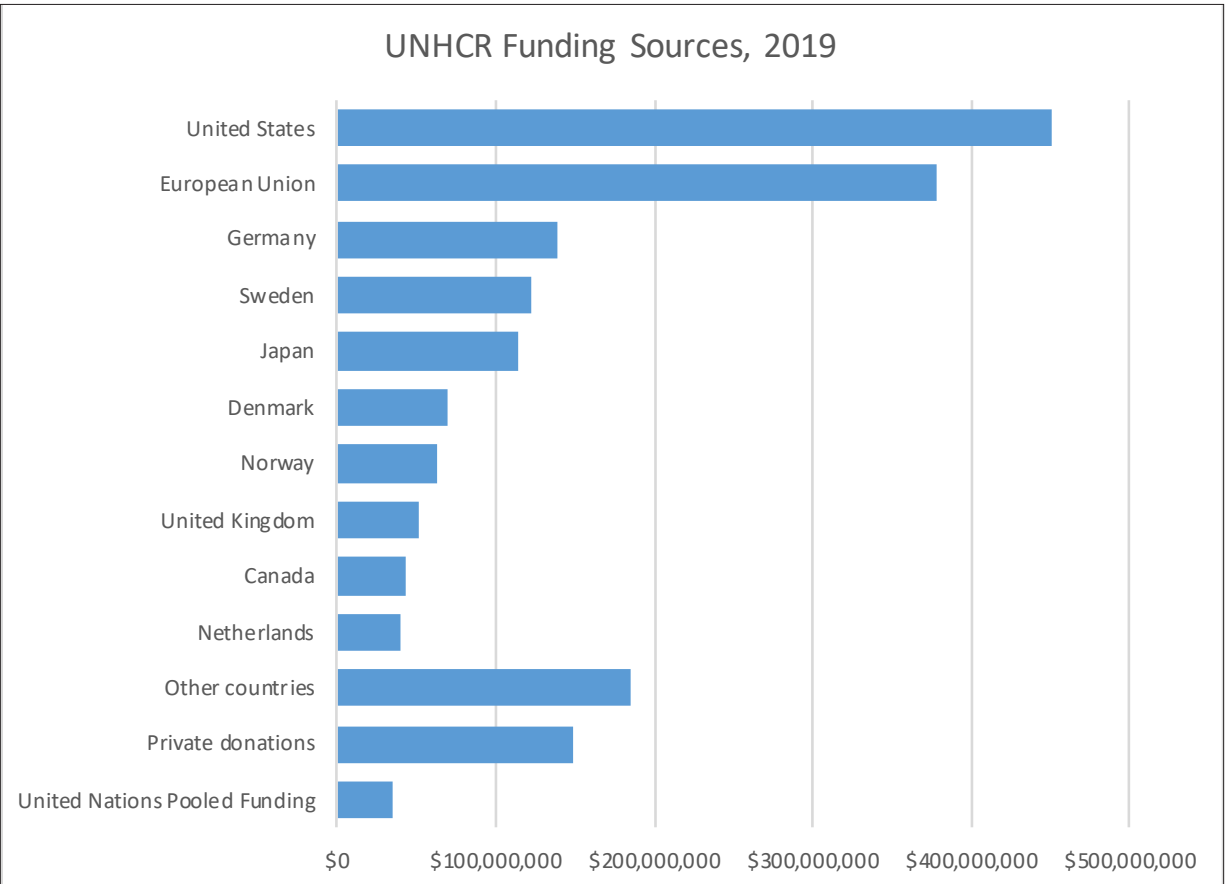
Refugee resettlement is also a foreign policy instrument (Stirk 2016). Matthew La Corte of the Niskanen Center (2018) has outlined how refugee resettlement advances the foreign policy interests of countries like Canada and the U.S. Refugee resettlement acts as a limited safety valve for allied countries like Turkey hosting millions of refugees and shows a willingness to stand in solidarity with them, something even the U.S. State Department recognizes.<sup>4</sup> U.S. withdrawal from refugee resettlement also cedes an important area of influence. This influence supports positive international perceptions of the U.S. as a safe place for refugees and dissidents in authoritarian regimes, and allows the U.S. to encourage the opening and broadening of refugee resettlement programs in other countries (Falconer 2019). For these reasons the refugee resettlement program has, until recently, received bipartisan support from both Democrats and Republicans in the United States. Canada may not have the same ability or clout when it comes to relieving pressure on allied states or broadening the refugee resettlement program.

<sup>4</sup> The memo in question states “in certain locations, the prompt resettlement of politically sensitive cases has helped defuse regional tensions.” This view is not an isolated one in foreign policy-related agencies, with one former official stating that “resettlement initiatives ... [support] the stability of our allies and partners that are struggling to host large numbers of refugees.”



One final speculative element includes UNHCR financing. The U.S. has recently chosen to end financial assistance to UNHCR-adjacent agencies, shutting down its support for the United Nations Relief and Works Agency for Palestinian Refugee in the Near East (UNRWA) (U.S. Department of State 2018). Whether or not the U.S. ends UNHCR financing in addition to refugee resettlement remains to be seen. Denmark, for example, remains a top donor to the UNHCR (2019a) despite shutting down its refugee resettlement program in recent years. As shown in Figure 3, the U.S. currently represents about 37 per cent of the UNHCR’s funding for 2019 and has consistently maintained the top funding spot in previous years.<sup>5</sup> Given the agency’s role in managing and supplying refugee camps globally, drastically reducing the UNHCR’s funding could put far more pressure on it than reducing refugee admissions, resulting in a potential humanitarian crisis as the agency and partner countries struggle to house, feed and care for millions of displaced persons.

**FIGURE 3: THE REFUGEE RESETTLEMENT GAP, 2011-2020**



<sup>5</sup> Source: *Contributions to the UNHCR*, UNHCR 2019.



## MOVING ON MIGRATION

U.S. refugee policies have shifted rapidly under the Trump administration. These past weeks have marked further shifts in U.S. refugee policy. The purpose of these policy shifts has been to restrict the entry of asylum seekers and refugees into the U.S. These policy changes represent a significant shift in U.S. backing for a refugee resettlement program that has enjoyed bipartisan support over the past 40 years. These changes have major implications for Canada that may need to be confronted as we move into a federal election campaign. The issue of Canada's obligation to its international partners, refugees, and to its own population may become a wedge issue. Some parties may see an advantage in trumpeting our global leadership in refugee resettlement, even if it's primarily due to U.S. cutbacks, choosing to highlight this leadership as an example of Canadian values and principles of humanitarianism and multiculturalism. They may slam their opponents who disagree with the number of refugees admitted to Canada as being xenophobic, whether warranted or not. Other politicians may choose to emphasize the notion that Canada has no place in leading in this area, and needs to seek new partners or reduce the number of refugees coming here, citing the stress on public finances, communities and non-profits that comes from refugee resettlement, whether real or imagined. It is possible that the media and the public will conflate the arrival of resettled refugees with the arrival of asylum seekers across the border. The issue has the potential to polarize Canadian discourse around a topic that goes beyond simple humanitarianism and delves into issues of foreign policy, trade and national security for Canada and the world. The choices Canada makes as a result of U.S. cuts to refugee intake have the potential to positively or negatively affect the lives of people living in refugee camps, waiting to go somewhere else, our international partners housing them, and our own attitude toward refugees here in Canada.

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### **About the Author**

**Robert Falconer** is a researcher with The School of Public Policy, and holds a master's degree in public policy. His current research examines immigrant and refugee policy, and includes issues such as asylum system reform, refugee resettlement and retention of immigrants in various Canadian cities and towns.

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