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## OPINION OF A SCHOLAR

# THE GLOBAL REFUGEE CRISIS: A SEARCH FOR SOLUTIONS

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International solutions must be found to alleviate the misery of the millions of displaced refugees in the world today. Currently, fifteen million men, women, and children are uprooted from their homes and find themselves in an alien, often hostile environment, as unwelcome guests in a foreign country, and as international charity claimants suffering a loss of personal dignity and often losing all hope of ever returning to their homes. If the world does not act with urgency to deal fairly with this crisis, the sheer magnitude of numbers involved could make any future solution impossible.

Those of us who enjoy the comforts of secure homes, safe countries and economic well-being have to resolve the problem of the homeless lest it engulf our own lifestyle. It is not solely a matter of charitable humanitarian concern. It is a question of self-interest and self-preservation. It would be a tragic mistake for us to assume that this is really not our problem. Throwing aid money at the crisis will certainly not decrease its intensity, however much it may satisfy our own consciences. Serious international efforts have to be made to create a secure, financially stable life for the millions of frightened, deprived men, women and children in Third World nations. Without this coordinated, dedicated effort on a global scale, the democratic way of life so prized in North America and Western Europe, and the relative economic comfort of a considerable proportion of the population, will have little chance of survival.

Although there is almost universal agreement on the causes of refugee movements, there is no such consensus on solutions to the problem. Wars,

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famine, natural disasters, and political repression have all generated mass flight. The intensity of the causes and the scale of suffering have a direct bearing on the size of the refugee flow. A number of refugee specialists have suggested a coherent policy of dealing with the root causes of these mass movements to prevent them before they occur by working to alleviate conditions in the country of origin. In *Human Rights and Foreign Policy*,[1] Julia Häusermann points out that the international relief agencies have not been given a mandate to deal with "the root causes of flight."[2] Häusermann asserts that "[t]he causes of involuntary displacement may be considered in three time frames: historical factors, underlying causes and the immediate reasons for flight."[3]

These causes, both long and short-term, have to be considered by the international community when any relief measure is implemented. If, for example, the country of origin is experiencing political and economic instability which is likely to continue for some time, keeping refugees in limbo for years in camps may not be the best solution. If, on the other hand, the root cause was an isolated incident of brief duration, refugee relief should be geared toward the encouragement of voluntary repatriation through the process of open communication and information about conditions in the home country.

The linkage between root causes and relief measures needs to be stressed. The point is not to repatriate forcibly; that would be against the internationally acknowledged principle of non-refoulement. The point is rather to assess the nature of the root cause that led to the refugee flow and determine whether the refugee individual would be better off living temporarily in the primary receiving State, or whether a country of final resettlement should be sought. The only other option is repatriation, and that has to be a decision made voluntarily and without pressure by the refugee.

While assessment of root causes may not be all that complex, formulating a linkage that would consider the interests of the individual refugee as primary is fraught with potential problems. As any refugee expert will assert, the refugee crisis is one of the most politicized of all internationalized issues. The minute a person flees across a border and seeks refuge, he becomes a pawn in a high stakes game which considers foreign policy, strategic aims, economic interests, and indeed almost any other consideration as taking precedence over the refugee's human rights. All the principles of international law are bent to accommodate these considerations. This is the main reason why that flight across a border can lead to an exile lasting years, a life in limbo, and even displacement that can become permanent.

If one solution to this problem is prevention, the implementation of this also poses some difficulties. Häusermann endorses the idea of international consideration of "potential displacement."[4] She also proposes "[t]he continued

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1. HUMAN RIGHTS AND FOREIGN POLICY (D. Hill, ed. 1989).
2. *Id.* at 140.
3. *Id.* at 141.
4. *Id.* at 153.

development of . . . regional mechanisms"[5] as an "effective method of addressing the problem of gross violations giving rise to large-scale displacements."[6]

However, Leon Gordenker, in his contribution to *Refugees and International Relations,* asserts that "[o]n further examination, . . . the idea of early warning presents some thorny difficulties."[7] Gordenker explains the reluctance of the officials serving with the United Nations High Commissioner for Refugees ("UNHCR") to predict refugee flows. "It is based on a fear that the government of a country from which refugees have come would resent such a focus as impugning its humanitarian nature."[8] Also, "[t]he government most likely to receive the refugees might complain that the forecast had singled it out as the easiest point of asylum, encouraging immigration in its direction."[9] Gordenker explains the likely consequences of incorrect predictions and warns that "[s]uch errors would be highly likely, given the uncertainty of the information."[10] A related difficulty may ensue if such forecasts are perceived by governments as an infringement or encroachment on "the forbidden preserve of immigration policy."[11]

Gordenker suggests that there are ways to cope with these serious problems. "These risks can be reduced by operating the early warning system in accordance with the best professional standards."[12] Resort to modern technology via the extensive use of satellites could be helpful in assessing refugee flows at an early stage.[13] Methodical analysis might give the forecasts credibility. Refugee experts and researchers might be able to predict a problem prior to its occurrence. Gordenker also proposes a "coalition of interested organizations—whether scientific, private, governmental, or inter-governmental—to sponsor a modest permanent organization."[14]

While these ideas have merit, the issue of political sensitivity in the country where the problem originates would still remain. One of the reasons why refugee crises are rarely resolved is because the mass flow of people is inevitably viewed internationally as a reflection on the political or economic policies of the country of origin. The originating country then feels itself put on the defensive and often refuses to cooperate to ameliorate conditions in order to allow for voluntary repatriation. There is also a perception of hostility towards the refugee by his national government based on the assumption that the refugee has voted with his feet,[15] as the saying goes, to denounce his government. This

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5. *Id.* at 154.
6. *Id.*
7. REFUGEES AND INTERNATIONAL RELATIONS 355 (G. Loescher & L. Monohan, eds. 1989).
8. *Id.* at 359.
9. *Id.*
10. *Id.*
11. *Id.* at 366.
12. *Id.* at 368.
13. *Id.* at 364.
14. *Id.* at 370.
15. HUMAN RIGHTS AND FOREIGN POLICY, *supra* note 1, at 135.

attitude stems from the fact that the refugee situation involves notions of culpability and responsibility which, though they may be ethically and morally justifiable, do little to resolve the serious problems or to alleviate the human misery which has occurred.

One reason for emphasizing the responsibility of the country of origin relates to the post World War II definition of a refugee where "[p]ersecution was adopted as being the essential characteristic of the . . . refugee."[16] As Gervase Coles explains in a very well-written essay, the persecution factor was meant to refer to:

> European asylum-seekers, the majority of whom were from Eastern Europe. Although the extension of the concept of persecution to include political opinion as well as religion and race made it quite broad, it was generally considered that the number of persons eventually involved would pose no problem since it was a time of renewed immigration to the prospering continents of North America and Australia. Neither was the judgmental and polemical character of such a definition, when applied across an entire range of circumstances, seen as posing a serious problem, since it was the time of the Cold War, when such an approach would serve, from the Western point of view, as a useful way of stigmatizing the communist regimes of Eastern Europe as persecutors.[17]

In his excellent analysis, Coles explains some of the problems resulting from such an approach. First, "if the entire refugee problem was now to be seen as one of persecution, it was inevitable that countries of origin would not co-operate in any way."[18] Second, this approach guaranteed that "the only solution possible for the refugees would be permanent external settlement."[19] Third, "[n]ot surprisingly, many non-Western countries either rejected the Western approach or regarded it as relevant only to the European refugee situation."[20]

The traditional definition of refugee has little relevance in the context of an enormous global crisis of mammoth proportions. Attempts by governments in receiving States to force refugees to prove persecution have only served to enmesh the already harassed victim in a tangle of bureaucratic red tape and administrative regulations. In the State recently known as West Germany, "torture *per se* does not suffice for refugee status. Only when . . . the torture . . . [is] politically motivated, is there reason to grant refugee status."[21] Coles emphasizes "the futility of trying to define a refugee by a particular motivation

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16. REFUGEES AND INTERNATIONAL RELATIONS, *supra* note 7, at 374.
17. *Id.* at 374-75.
18. *Id.* at 375.
19. *Id.*
20. *Id.*
21. HUMAN RIGHTS AND FOREIGN POLICY, *supra* note 1, at 173.

for departure,"[22] and appears to agree with Häusermann and a number of other authors in stating that "[i]f the refugee problem is to be solved, the solution must basically be sought among those adverse conditions."[23]

Coles highlights a crucial aspect of the problem with "solutions" to the refugee crisis. He is very critical of and deems it "profoundly wrong—that the prevailing international approach to the refugee problem should continue to have an exile bias."[24] The "exile bias" has stressed the need for external solutions with temporary or permanent settlement in a foreign country instead of voluntary repatriation. The need for coordination and cooperation with the originating country has not been explored with the vigor such an approach requires. Indeed, this attitude has on occasion led the originating country to abandon its obligations to those of its nationals who have fled on the assumption that they will become another State's problem.

The Western preference for the persecution orientation has indeed colored refugee solutions. As Gil Loescher in *Human Rights and Foreign Policy* has explained, "[r]efugee policy, like human rights policy, can be used to embarrass or destabilize enemy governments."[25] The persecution orientation has resulted in a difference in approach toward claimants for refugee status on the basis of the relationship of the originating country to the receiving country. This has been evident in United States policy. The reluctance of the U.S. government to accept as refugees persons fleeing from El Salvador in the 1980s was probably because the government of that country shared a close relationship with the United States government. The U.S. government accordingly maintained that the Salvadorans were not bona fide refugees but were economic migrants, a position which has drawn criticism from the United Nations High Commissioner for Refugees.[26] Mark Gibney and Michael Stohl have studied the question of human rights and U.S. refugee policy and have concluded that, "[a]s a general rule there is little relationship between the level of political terror in other societies and U.S. refugee/asylum policy with regard to individuals from these countries."[27]

Angela delli Sante, in her study of conditions in El Salvador, and United States' responses to these conditions, points out that, though in El Salvador 60,000 civilians were massacred between 1979 and 1985,[28] "[t]he U.S. government has refused to recognize . . . Salvadorans as refugees."[29] Delli Sante estimated that "in 1981, of 16,000 Salvadorans apprehended in the United States, 10,500 were returned to El Salvador."[30]

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22. REFUGEES AND INTERNATIONAL RELATIONS, *supra* note 7, at 385.
23. *Id.* at 397.
24. *Id.* at 389.
25. HUMAN RIGHTS AND FOREIGN POLICY, *supra* note 1, at 133.
26. OPEN BORDERS? CLOSED SOCIETIES? 156 (M. Gibney ed. 1988).
27. *Id.* at 172.
28. REFUGEE LAW AND POLICY 90 (V. Nanda ed. 1989).
29. *Id.* at 100.
30. *Id.*

If a viable solution to the refugee crisis is ever to be implemented, the first requirement will clearly have to be a drastic shift in attitudes. This could involve, first, less emphasis on the persecution orientation as part of the definition of a genuine refugee. Second, receiving States and donor nations must acknowledge that friendly States can also produce refugees. The notion that only an enemy government can be a persecutor is completely anachronistic and must be discarded. This idea has generated serious human rights violations and has unfortunately tainted the entire process by which humanitarian concern is effectively implemented. Third, the emphasis on external resettlement has in the past precluded the possibility of working with, rather than against, the country of origin. Exile bias has to be re-evaluated with greater emphasis on voluntary repatriation through the coordinated creation of conditions that are conducive to return. Admittedly, this may not always be possible, but more efforts have to be made by allowing U.N. agencies to develop avenues of rapprochement with the originating country even while they dole out relief to the refugees.

It is evident that the UNHCR is already moving in that direction.[31] Sadruddin Aga Khan, former High Commissioner for Refugees, produced a report in 1982 in which he opined that "the planning process pertaining to a refugee situation had to be solution orientated from the beginning."[32] The implementation of that concept would go far in the direction of finding remedies that are permanent rather than band-aid measures of temporary relief which do not address the fundamental problem of displacement.

While the need for an international resolution of this crisis may appear self-evident, the urgency of the problem can only be grasped from a reading of some very relevant contributions in *Refugees and International Relations.* The extent and range of human suffering have been searingly described by some of the contributors.

Geneviève Camus-Jacques asserts that "refugee women are a forgotten majority."[33] While numerically, indications are that women and girls dominate today's refugee groups,[34] this numerical superiority is not reflected in a proportionate influence exerted by women in refugee camps which are still male-dominated. As refugees, women face specific problems, difficulties that cry out for urgent solutions. First, the "feminization of global migrations"[35] has forced women to become heads of households in traditional societies which normally reject such a role for women. Frequently, the woman and children are all that is left of the family unit, especially as adult males tend to be prime targets for government or terrorist violence. Camus-Jacques explains that "[r]efugee women encounter specific problems regarding protection, assistance, and participation

31. REFUGEES AND INTERNATIONAL RELATIONS, *supra* note 7, at 385.
32. *Id.* at 398.
33. *Id.* at 141.
34. *Id.*
35. *Id.* at 142.

in decision-making."[36] The safety factor was brought to the world attention by the news stories about the plight of Vietnamese boat people, particularly women at the hands of pirates. The UNHCR estimates that between 1980 and 1984 at least 2,400 women were raped by pirates.[37]

> Only 43 percent of the women abducted since 1982 are known to have survived. In their desire to humiliate the whole group, Thai pirates generally violate these women in front of their families and other boat companions. Women of all ages are raped. In 1983, for example, the ages of the victims ranges from 9 to 67 years. The physical and psychological effects are often disastrous and can lead to complete mental breakdowns.[38]

Women are not even safe in refugee camps. The general chaos which precedes and accompanies refugee flows makes women and young girls particularly vulnerable. Violence is not the only problem. Discrimination in food distribution can lead to undernourishment for women.[39] Health problems, stress,[40] lack of free time to acquire skills for employment,[41] the burden of caring for children in an alien environment where even language may become a major obstacle—these are briefly the plight and ordeal of refugee women.

Camus-Jacques proposes a few practical solutions to some of these problems. She suggests that the statistics and research on refugees should be gender specific so that women and their concerns become "visible in data collection."[42] She advocates "[i]mproving provisions for the physical safety of refugee women in flight, in camps and in urban areas."[43] Camus-Jacques believes that the definition of refugee should "include the victims of oppression and discrimination on the basis of their sexual status."[44] Aid and relief organizations should ensure that women get a fair share of food and other necessities,[45] as well as the opportunity for training and education,[46] in areas like health care,[47] so that women can assist each other. Most important of all would be to ensure "refugee women's participation in decision-making"[48] and to encourage women's

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36. *Id.* at 145.
37. *Id.* at 146.
38. *Id.*
39. *Id.* at 148.
40. *Id.*
41. *Id.* at 149.
42. *Id.* at 153.
43. *Id.*
44. *Id.* at 154.
45. *Id.*
46. *Id.*
47. *Id.*
48. *Id.* at 155.

organizations.[49]

It is tragic and ironic that refugees, men, women, and children often find themselves in as much or greater danger of physical violence in the countries to which they have fled as in their home States. Elly-Elikunda Mtango discusses the problem of armed attacks on refugee camps; camps where "[t]he culprits can be countries of origin, countries of asylum, or armed groups within these countries."[50] A Tanzanian diplomat who has worked with the UNHCR, Mtango supports the idea of "a new refugee instrument to deal more specifically with the problem of the physical safety of refugees—in particular the protection from military or armed attacks."[51]

Armed attacks have become a serious concern though few of these incidents generate media attention. The 1982 massacre by Lebanese Phalangist forces of Palestinians in the camps of Sabra and Shatila became an international incident largely because the territory was under Israeli military control at the time of the massacre. Israeli reluctance to punish the perpetrators intensified the hatreds and antagonism that so mark and mar politics in the troubled Middle East.

The justification for armed attacks on refugee camps has often been that the camps function as guerrilla bases and therefore that the attacks are "justifiable as legitimate acts of self-defence."[52] Be that as it may, the largely civilian population of refugee camps bears the main brunt of such attacks, and this fact has prompted a number of countries to suggest that U.N. bodies, receiving countries and refugees should work to "ensure that the civilian and humanitarian character of the camps and settlements is maintained."[53]

Mtango rejects the idea of self defense as a form of justification for armed attack and argues that "the right of self-defence in international law contemplates action against States only;"[54] that reprisals against civilians cannot be excused,[55] but that the exercise of a right to self-determination through the process of fighting a war of national liberation could justify the military activities of Palestinian, Namibian and South African refugees.[56] This view is likely to be considered controversial in the West.

Less controversial are Mtango's detailed proposals to ensure the protection of refugees. He emphasizes the civilian character of refugee camps, calls for international condemnation of armed attacks, forbids reprisals, and recommends that "[c]ountries of asylum or refuge should not tolerate within their borders activities of refugees which are contrary to the purpose and principles of the United Nations."[57] Mtango concludes by suggesting that "[i]n the final analysis,

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49. *Id.*
50. *Id.* at 88.
51. *Id.* at 89.
52. *Id.* at 98.
53. *Id.* at 100-01.
54. *Id.* at 107.
55. *Id.* at 108.
56. *Id.* at 110.
57. *Id.* at 116-18.

the question is as moral as it is legal."[58] One might suggest instead, that in the final analysis, the question is as political as it is legal.

Politics unfortunately pervades most aspects of this issue, none more blatantly than the current practice of detaining refugees in conditions similar to and sometimes worse than those reserved for convicted criminals. Arthur Helton, Director of the Political Asylum Project for the Lawyers Committee for Human Rights, explores the problems associated with the detention of refugees. He believes that "[d]eterrent measures are not only questionable under international law but are also inappropriate as a response to current patterns of refugee flows."[59] Underlying the concept of deterrence is the idea that refugees must be punished for having fled from their countries.[60] It is a means of "immigration control."[61] Helton is very critical of detention and its consequences.

> Deterrent measures such as detention . . . do not stop the movement of people across borders; at most, they tend to divert flows elsewhere, and are likely to inspire defensive action in return among other States wishing to avoid refugee influxes. A policy of detention is wholly antagonistic to the development of international solidarity. Rather, it tends to maximize hostility and unilateral behavior among nations, with helpless individuals arbitrarily victimized by governments competing to initiate deterrent measures.[62]

Helton feels that this is an imposition of "arbitrary abuse on large numbers of individuals,"[63] and "[w]hile perhaps attractive to the authorities of the country as an expedient, short-term diversion of the problem, detention is both destructive over the long term, as a way of dealing with refugees, and unworthy as an anti-humanitarian measure."[64]

The move to detain refugees springs from governmental and public fears in receiving countries about the unknown. The refugees are perceived as a threat because they are aliens; because they have "foisted" themselves on the host country; because their political affiliations might endanger peace and security in the receiving State; and also because their presence poses economic problems in insecure job markets where refugees might compete for jobs with the local population. There has been a growing resentment against the huge expenditure involved in feeding, clothing, and housing a large influx. The budgets of a number of receiving nations have been strained by refugee movements, movements for which the populations of these States feel no responsibility and

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58. *Id.* at 120.
59. *Id.* at 136.
60. *Id.* at 137.
61. *Id.*
62. *Id.* at 139.
63. *Id.* at 140.
64. *Id.*

for which they do not understand why they should have to bear the social and financial burden.

The present international reluctance to come to grips with the refugee crisis is likely to increase rather than decrease the negative reaction in receiving States and consequent violations of the human rights of refugees. The delay in the implementation of a fair solution on the basis of international law has already resulted in the proliferation of deterring legislative and administrative measures in countries of primary and ultimate settlement. Deterrent measures have a habit of spreading as they deflect refugee flows from a more restrictive receiving State to a more liberal one. In the long term, national legislation will curtail the rights of refugees and make a mockery of the protection they are accorded by international law. Johan Cels agrees that "[t]he adoption of deterrent policies has deflected refugee movement from one country to another."[65] Roy McDowall echoes this by asserting that visa restrictions also result in "deflection rather than solution."[66]

The international failure to create durable long-term solutions has resulted in countries of primary asylum in Southeast Asia adopting policies of humane deterrence to avoid being "drowned" by refugee flows.[67] This approach has been aimed at deterring certain groups from leaving their homelands by punishing refugees with a severely restricted, draconian life in the camps. However, as Dennis McNamara of the UNHCR points out, "there is little historical evidence to support the contention that the majority of refugees are deterred even by the threat of inhumane treatment on arrival—which they have too often received—when the need to leave their own country has been compelling."[68]

In an article in *Human Rights and Foreign Policy,* Cels demonstrates that "compassion-fatigue"[69] has also affected Western Europe's attitude towards refugees. For example, extensive programs for resettlement in Europe and North America have "created a pull-effect by which numbers of Cambodians and Vietnamese left their homelands for primarily economic reasons."[70] While this view is debatable, it is the prevailing opinion in governing circles in a number of countries. In 1987, Benoit Bouchard, then Canadian Minister of Employment and Immigration, suggested that seventy percent of refugee claimants in that year would be economic migrants.[71] The Canadian government's response to the refugee crisis was to pass the Refugee Reform Act and the Refugee Deterrents and Detention Act in 1988,[72] aimed at restricting and deterring refugees from choosing Canada. David Matas, a Canadian lawyer and refugee expert, has

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65. *Id.* at 196.
66. *Id.* at 182.
67. *Id.* at 125.
68. *Id.* at 123.
69. HUMAN RIGHTS AND FOREIGN POLICY, *supra* note 1, at 168.
70. *Id.*
71. HUMAN RIGHTS AND THE PROTECTION OF REFUGEES UNDER INTERNATIONAL LAW 21-22 (A. Nash ed. 1988).
72. Panjabi, *The Legal Implications of the Refugee Crisis*, 23 VAND. J. TRANSNT'L L. 876 (1990).

written very critically about these legislative measures.[73]

The Federal Republic of Germany restricted refugee status determination with its 1982 Asylum Procedure Law. The law hastened the process of asylum applications, reduced the possibility for judicial review, and legislated in favor of an early ejection of applicants who failed requirements.[74] Although refoulement is contrary to the principles of international law, it is apparently being practiced routinely by some States. In his study of European policies,[75] Bruce Bailey concludes that "politicization of refugee policy by individual States is, at best, a short-sighted response to more long-term changes. In reacting to the often xenophobic domestic demands for restrictions on refugees and immigrants, governments are ignoring the causes of the increased flow of refugees."[76]

Jonas Widgren's contribution to *Refugees and International Relations* contains a statistical analysis which is extremely helpful in explaining one reason for the anxiety in Western Europe over refugee inflows. Unemployment in Western Europe rose from nine million in 1979 to nineteen million in 1985.[77] Widgren believes that economic problems and increasing pressure by refugees have generated xenophobic tendencies in Western Europe.[78] This defensiveness could be fueled by the growing realization that "[t]he proportion of the world's population living in the developed countries has fallen from one-third in 1960 to one-quarter in 1985."[79] The crippling debt burden of Third World nations,[80] the fact that approximately "60 million young people enter the labour markets of the least developed countries in the world each year,"[81] and that "[c]urrent military expenditures represent well over 5 percent of total world output"[82] offer some explanation of the dimensions of the problem. That military expenditure should be more than twenty-five times official development assistance aid to poor nations[83] explains why poverty plays such a role in the creation of refugee flows and why any solution has to address the crucial issue of world poverty. The world's population increases by "over one million every five days with nine-tenths of this increase in the poorer countries of the Third World,"[84] a grim statistic which underscores the urgency with which an international solution must be found for the refugee crisis.

Widgren endorses the idea that "[w]hat the world needs is a kind of new

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73. D. MATAS, CLOSING THE DOORS: THE FAILURE OF REFUGEE PROTECTION (1989).
74. REFUGEE LAW AND POLICY, *supra* note 28, at 58-59.
75. *Id.* at 55-64.
76. *Id.* at 62.
77. REFUGEES AND INTERNATIONAL RELATIONS, *supra* note 7, at 51.
78. *Id.* at 52-53.
79. *Id.* at 55.
80. *Id.* at 57.
81. *Id.* at 56.
82. *Id.* at 57.
83. *Id.*
84. *Id.* at 38.

Marshall Plan—a massive transfer of resources from the North to the South."[85] While this may be a generous and noble proposal, it appears unlikely that the deficit-ridden economies of North America can generate the enormous funding required for such a plan. Democratic government which must answer to their constituencies every few years might not relish the idea of so massive a project, given the pressuring need for basic services at home. Expensive solutions are not likely to be a viable alternative in the present context of a recessionary world economy and the consequences of the war in the Persian Gulf.

If there is likely to be little enthusiasm for a solution that will cost a great deal, is there any area where viable solutions might be possible? Jean-Pierre Hocké, United National High Commissioner for Refugees, has called for a solution which would place the refugee problem in the "context of an international strategy which addresses all of the relevant factors."[86] Hocké proposes that refugee law should encompass "the refugee problem as a whole . . . as a victim-oriented approach."[87] He believes that the refugee problem must no longer be a peripheral issue but that it should be "brought into the mainstream of international concern"[88] so that countries of origin can also become involved in the search for solutions.[89] "The humanitarian objectives and the political will of governments to seek out the root causes of refugee movement must converge. States must be ready to take a collective and reasonable approach to all refugee problems."[90]

It is possible that such an approach, provided it is combined with a genuine desire to implement the proposals, might produce dramatic solutions and some strengthening of the institutional framework to implement those proposals; action which could alleviate the misery of millions. Whether or not the political will exists or can be generated remains to be seen. Collective concern and collective action have been dramatically demonstrated in recent months in the Persian Gulf crisis. The same collective will and a fraction of that international expenditure could resolve the refugee crisis. Unfortunately, the collective will to display the arts of war seems to be easier to formulate than the collective will to implement the arts of peace.

Hocké rejects the attempts by States to pass restrictive legislation, arguing that they must "realize that they cannot simply legislate their way out of the present predicament."[91] If it is universally agreed that voluntary repatriation is the best solution both for the refugee and for the international community, then the world can proceed in the direction of creating conditions to make that alternative possible. The application by all States of human rights principles

85. *Id.* at 58.
86. *Id.* at 39.
87. *Id.* at 41.
88. *Id.*
89. *Id.* at 42.
90. *Id.*
91. *Id.* at 44.

would be an important first step. It is the callous disregard of human rights that is the ultimate root cause of most of the misery, deprivation and violence which plague this planet.

The possible linkage of development aid as an incentive to a State upholding human rights would go far in the direction of creating conditions conductive to repatriation. Katarina Tomasevski's recent publication of *Development Aid and Human Rights*[92] explores this issue and attempts "to make the linkage between human rights and development aid explicit."[93] S. Alex Cunliffe proposes that "the use of foreign aid more as a 'reward' to States whose human rights record is judged to be relatively unblemished, rather than as a 'weapon' against repressive regimes."[94]

Jacques Cuènod offers interesting insight into the practical aspects of solutions. He discusses a number of "Principles for Action in Developing Countries" formulated in August 1984 by a panel of refugee experts and endorsed by the Executive Committee of the UNHCR later that year.[95] This formulation of principles includes commitment to the idea that "[r]efugee problems demand durable solutions" and to the "complementarily between refugee aid and the development assistance."[96] As the developing countries host over ninety percent of the world's refugee population,[97] an appropriate linkage between refugee aid, development assistance and human rights implementation would be a positive step in the right direction.

The role that human rights can play in the solution of the refugee problem has been emphasized by a number of writers. In *Human Rights and the Protection of Refugees Under International Law*, G.J.L. Coles states that "there is now a general convergence of interests in favour of the development of a new approach to the refugee problem to meet today's circumstances. Such an approach should be both principled and pragmatic. . . . [I]t can only be one based on human rights . . . ."[98] Coles argues that the past "goals of separation and alienation" should be replaced by a commitment to "reconciliation and restoration."[99]

Though it is obvious that "[n]o single answer will solve every refugee problem,"[100] it is equally clear that among experts the emphasis is now on the encouragement of voluntary repatriation as being in the best interest of the refugee.[101] Guy Goodwin-Gill supports this alternative, provided there is

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92. K. TOMASEVSKI, DEVELOPMENT AID AND HUMAN RIGHTS (1989).
93. *Id.* at xiv.
94. HUMAN RIGHTS AND FOREIGN POLICY, *supra* note 1, at 125.
95. REFUGEES AND INTERNATIONAL RELATIONS, *supra* note 7, at 233.
96. *Id.* at 233-235.
97. *Id.* at 245.
98. HUMAN RIGHTS AND THE PROTECTION OF REFUGEES UNDER INTERNATIONAL LAW, *supra* note 71, at 217.
99. *Id.*
100. REFUGEES AND INTERNATIONAL RELATIONS, *supra* note 7, at 270.
101. *Id.* at 283.

adequate security for returning refugees.[102] Fred Cuny and Barry Stein, however, emphasize that "[a]lthough voluntary repatriation is more common than is generally realized, it is by no means easy to achieve."[103]

The prospects for reparation of Palestinians uprooted in 1948 appear dim. Arabs who fled from the territories occupied by Israel in 1967 still await return to their homes. Whether or not the eventual peace after the Gulf War will include some resolution of the Palestinian displacement remains to be seen. Cuny and Stein demonstrate the serious need for solutions: "There are still Palestinian refugees from the 1940s; Eritrean and Rwandese refugees from the 1960s; [and] Indo-Chinese, Saharawi, Burundian, Afghan, and Ogaden Somalis from the 1970s."[104] In some cases such as the Palestinian, the duration of exile has involved generations as children have grown up knowing nothing but refugee camp life. This alienation from their natural environment, far from diminishing their attachment to their homes, has intensified it and has exacerbated the hatred, anger and resentment they feel; emotions that exploded in the Intifada (the Palestinian uprising, largely of young people in the occupied territories). Nor should such emotional attachment and nostalgic longing for a homeland surprise anyone familiar with the centuries-long suffering of the Jewish people and their craving for a homeland where they could be free from persecution and discrimination. The Jews and Arabs are both Semites. Both have connections with Palestine which go back centuries to the distant beginning of civilization in the Near East. Both venerate a common ancestor, Abraham. Today, the descendants of Abraham confront each other as two hostile and seemingly irreconcilable nationalisms, two dedicated liberation movements that have met and collided at the wrong moment in history. Tragically, the international effort to resolve the Jewish diaspora led to the creation of a Palestinian diaspora; this is one reason why solutions to deal with such human problems have to consider the interests of all groups involved.

Third country resettlement was the most favored solution for dealing with exiles from Eastern Europe because it was felt that they could easily fit into Western European and North American society. Hence, the Hungarian exiles who fled in 1956 were quite easily absorbed in Western countries.

Third country resettlement became an alternative for Southeast Asian refugees fleeing from Vietnam, Laos and Cambodia because of political repression and economic deprivation. Robert Bach explains that "[s]ince 1975 roughly two million Southeast Asian refugees have left their countries of origin. The vast majority have been settled outside the region with over 800,000 moving to the United States, over 150,000 each to Canada and Australia and 100,000 to France."[105]

The plight of the Vietnamese boat people aroused much global sympathy and

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102. *Id.* at 281.
103. *Id.* at 294.
104. *Id.* at 295.
105. *Id.* at 315.

also generated criticism about the behavior towards these refugees by countries of initial asylum. Amnesty International "demanded an impartial inquiry into claims that Vietnamese boat people seeking asylum in Hong Kong had been beaten, kicked, seized by the throat and confined to metal 'punishment cells.'"[106] Dennis McNamara provides an explanation for the alleged harsh treatment of Vietnamese refugees in Hong Kong. The residents of Hong Kong were protesting "that Vietnamese entering Hong Kong received better treatment than the many thousands of Chinese from the mainland who had been forcibly refused permission to join relatives in the colony."[107] The Times (London) reported that the harsh policy towards the Vietnamese refugees "proved popular with most Hong Kong Chinese people."[108]

Third country resettlement saved some of the victims from Vietnam. However, this option is fraught with social and economic consequences for the resettlement State. The presence of these refugees has exacerbated racism and xenophobia in a number of cities where they have been relocated. Robert Bach reveals that "in the United States approximately 60 percent of the South-east Asian refugee population settled" between 1982 and 1987 and "live in households that receive public assistance."[109] In forty percent of these households no member has been able to find work.[110]

While the international community seems reluctant and reticent about facing its obligation to find durable solutions to the refugee crisis, the combination of economic deprivation and political repression continue to push people out of their natural environment. While governments dither and debate, the sheer pressure of numbers continues each day to mount. To cope with this pressure and to demonstrate that they are not as callous and uncaring as they may appear to be, some governments in the wealthier countries have resorted to various temporary measures to deal with the immediate, urgent aspects of the problem. It has to be emphasized that these measures which include emergency aid and temporary safe haven cannot solve the refugee problem. At best, for those refugees lucky enough to receive such help, they provide basic human needs and a temporary respite. Randolph Kent has written about emergency aid, commenting that in disaster relief situations, decisions about "which afflicted populations might receive assistance all too frequently become hostages to matters extraneous to the plight of afflicted peoples."[111] According to Kent, the decisions taken are political rather than strictly humanitarian: "whether an emergency involves a sudden mass migration of peoples or a national disaster, politics is regarded as the key determinant of who gets what, when and

106. The Times (London) Jan. 16, 1990, at 7, col. 1.
107. REFUGEES AND INTERNATIONAL RELATIONS, *supra* note 7, at 128.
108. The Times (London) Jan. 16, 1990, at 7, col. 3.
109. REFUGEES AND INTERNATIONAL RELATIONS, *supra* note 7, at 326.
110. *Id.*
111. *Id.* at 84.

where."[112]

The study on temporary safe haven by Dennis Gallagher, Susan Forbes Martin and Patricia Weiss-Fagen similarly reveals the controversial nature of short-term solutions in that implementation of some of these can be guided by "humanitarian criteria . . . and other factors."[113] The United States government's reluctance to recognize as refugees persons fleeing from certain friendly Central and Latin American States is a case in point. Gallagher and his co-authors conclude that "[f]or the most part, the countries of Europe and North America have not developed consistent public policies regarding safe haven."[114]

While governments have failed miserably to formulate and encourage international efforts to resolve this crisis, non-governmental organizations and religious groups have stepped in to give what assistance they can and to generate public opinion about the need for permanent fair solutions to the plight of the displaced. Elizabeth Ferris has explored some of these aspects of Church activity and points out that one consequence of popular opposition to restrictive legislative measures may be an increase in "Church-state tension."[115] Ferris notes the trend now for non-governmental organizations "to address themselves to root causes of refugee flows"[116] and also discusses briefly the sanctuary movement in the United States which sought to protect Salvadoran refugees from refoulement.[117] The sanctuary movement attracted considerable support in the United States from its origins in 1982.[118] Todd Howland and Richard Garcia found that "[b]y fall of 1986, there were already over 300 churches and synagogues that had declared themselves a place of sanctuary in accord with religious traditions."[119] The popularity of the sanctuary movement is indicative of the fact that in the United States, at the popular level, there is considerable concern over the refugee crisis. If this wellspring of popular compassion can be channelled constructively into public debate on a mass sale about the refugee crisis, the ensuing weight of public opinion could have a dramatic effect on the government of the world's greatest democracy. The formulation of cohesive concrete remedies and the will to implement them could be the result of such a public debate across the nation. Given the international influence of the United States, this debate could have a considerable impact on other democratic States like Canada and the United Kingdom. A dedicated commitment by the West to resolving this crisis may well generate positive response among Third World nations who host approximately ninety percent of the world's refugees.[120] Those nations desperately need a resolution of this problem.

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112. *Id.* at 63.
113. *Id.* at 347.
114. *Id.* at 350.
115. *Id.* at 165.
116. *Id.* at 168-69.
117. *Id.* at 170-72.
118. *Id.* at 171.
119. REFUGEE LAW AND POLICY, *supra* note 28, at 185.
120. *See* The Times (London) Apr. 25, 1989, at 14, col. 6.

The first premise would be to agree that "since refugees are a global problem, the search for solutions must also be global."[121] The second equally important premise would be to ensure that any solution enhances the system of human rights and is in accord with its principles. This opinion has attempted to show that restrictive legislative measures, temporary stop-gap approaches, and attempts to deflect refugees to other countries do not stop the refugee flows or ameliorate conditions for those who are already refugees.

Calling refugees "a fourth world," William Shawcross asserts that "[r]efugees are symbols of our time."[122] Refugees are the ultimate victims of all that is worst in this world. They have suffered loss of home, economic deprivation, physical violence, psychological trauma as well as bureaucratic harassment, hostility in receiving States, and a life in exile. The fact that over fifty percent of these victims are children[123] highlights and underscores the need for quick and fair solutions to their plight. That so much suffering is inflicted daily on helpless children is a sorry commentary on the entire human species. We need to remember that despite all the considerations of politics, economics, foreign policy, immigration and the like, the refugees deserved a better fate. At the very least they deserve to be treated with a recognition of their human status. As Coles comments, "the individual is always more than a refugee, for the individual remains a human being."[124]

121. REFUGEES AND INTERNATIONAL RELATIONS, *supra* note 7, at 2.
122. *See* The Times (London) Apr. 25, 1989, at 14, cols. 1-2.
123. REFUGEES AND INTERNATIONAL RELATIONS, *supra* note 7, at 24.
124. *Id.* at 395.