

## **The Geopolitics of Refugee Studies: A View from the South**

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In the post-1945 period the policy of Northern states has moved from the neglect of refugees in the Third World, to their use as pawns in Cold War politics, to their containment now. The paper explores in these shifting policy contexts the geopolitics of knowledge production in the field of refugee studies. The arrival of the 'new asylum seekers' in the 1980s signalled the expansion of refugee studies. A 'new approach' took shape which critiqued the established positivist approach to refugee law and created the myth of difference (the idea that great dissimilarities characterized refugee flows in Europe and the Third World). It advocated the rejection of the exile bias of refugee law; reliance on the solution of voluntary repatriation; and responsibility of the state of physical origin. In legitimizing the 'new approach', a key role, so far ignored, has been played by the knowledge production and dissemination functions of UNHCR.

In the post-1945 period the policy of Western states has moved from the neglect of refugees in the Third World to their use as pawns in Cold War politics to their containment now (Shacknove 1993; Chimni 1994, 1995). Within these shifting policy contexts, this paper explores the relationship between the interests of hegemonic states; strands of refugee studies literature, in particular international refugee law; and the policies and practices of UNHCR, which is both a key site of production of knowledge as well as the principal international agency in charge of offering assistance and protection to refugees. In brief, the paper looks at the geopolitics of knowledge production in the field of refugee studies.

I contend that between 1950 and 1989 the consensus in the West around Cold War aims encouraged a relatively depoliticized discourse in refugee studies. The Cold War construction and interpretation of the 1951 UN Convention on the Status of Refugees (hereafter the '1951 Convention') coupled with the non-political character of UNHCR's mandate, encouraged and legitimized this depoliticized discourse. The positivist approach which dominated international refugee law in these decades, with its emphasis on the separation of the legal and political spheres, represented the perfect embodiment of this depoliticized discourse. The pre-eminent position international refugee law acquired within refugee studies in these years is also

explained by the fact that as long as the Cold War lasted, its humanitarian language assumed an autonomy which, from the beginning of the sixties, extended in its spatial reach to even non-Cold War refugees in the Third World. A contrary move on the part of the Western world would have generated internal contradictions affecting the stability of the global regime too crucial to high politics to rock. The regime's legitimacy was of such great significance that it compelled the removal of the chronological and geographical limitations of the 1951 Convention by the adoption of the 1967 Protocol relating to the Status of Refugees; this expansion was arrived at against a background of attempts to adopt a regional convention in Africa (Holborn 1975:185–86).

The arrival in the North, since the early eighties, of the 'new asylum seekers', initiated a process of rethinking. Once the Cold War ended, and the refugee no longer possessed ideological or geopolitical value, the rethinking translated into a series of restrictive measures which, together with those introduced earlier, constitute today what has been called the non-entrée regime. The conflict in former Yugoslavia merely hastened the distancing of the Northern states from the Cold War regime which centred around the 1951 Convention. The ensuing 'paradigm shift' called for, in academic and institutional terms, a critique of the positivist approach, a reconfiguration of fundamental elements of the regime, a reinterpretation of the past, a concern for internal consistency and a quest for legitimacy.

The 1980s and 1990s are a period of rapid growth for refugee studies; the 1980s coinciding with the 'increased' arrival in the West of refugees from the Third World and the 1990s with the end of the Cold War. In a survey of research in the field, written around 1990, Adelman notes 'the explosive growth of articles and books on this subject in the last ten years' (Adelman 1995:140). In the second edition of his well-known work, *The Refugee in International Law*, Goodwin-Gill mentions 'the extraordinary growth in refugee studies, literature and case law' in the period since 1983 when the first edition was published (Goodwin-Gill 1996:xi). It was in these years that the foundations for a paradigm shift in international refugee policy and law began to be laid *inter alia* through the creation of the myth of difference: the nature and character of refugee flows in the Third World were represented as being radically different from refugee flows in Europe since the end of the First World War. Thereby, an image of a 'normal' refugee was constructed—white, male and anti-communist—which clashed sharply with individuals fleeing the Third World.

The myth of difference went hand in hand with an internalist interpretation of the root causes of refugee flows which squarely laid the blame at the door of post-colonial societies and states, underestimating the significance of external factors. What followed was the advice to reject the exilic bias of international refugee law as it was entirely unsuited for providing assistance and protection to refugees from the Third World. A new approach, couched in the language of human rights, was articulated. It called for providing assistance and protection

to refugees in the region of origin, and contended that the appropriate solution to refugee flows from the Third World was voluntary repatriation, inaugurating the repatriation turn in refugee studies (Coles 1988). The rejection of the exilic bias also legitimized the non-entrée regime which came to be consolidated after the end of the Cold War: Western states portray the non-entrée regime as being composed of measures which merely seek to check abuse of refugee status by individuals seeking a better life in the affluent North. Coupled with the growing inability of impoverished Third World states to carry the burden of refugees, the new approach led to the increasing acceptance of involuntary repatriation and a focus on in-country protection and internally displaced persons (IDPs).

This policy and conceptual matrix has necessitated the transformation of UNHCR, the principal international agency for the protection of refugees. In the process of legitimizing this transformation, as well as in justifying the larger goals of the paradigm shift (as opposed to policies of individual states), the knowledge production and dissemination functions of the organization are playing a significant role. Unfortunately, this dimension of the functioning of UNHCR has received no attention.

The rest of the paper elaborates the understanding just sketched.

### **The Politics of Cold War and the Depoliticization of Refugee Law**

International refugee law has long occupied centre stage in refugee studies. Its scholarship has been dominated by a positivist tradition which limits the possibility of engagement with politics. This tradition views international law as an abstract system of rules which can be identified, objectively interpreted, and enforced. The domain outside the system of rules is designated as politics, which may assume the form of either the language of power or morality<sup>1</sup>. Two pre-eminent examples of work in the positivist tradition are Grahl-Madsen's *The Status of Refugees in International Law* (1966) and Goodwin-Gill's *The Refugee in International Law* (1983). On the very first page of his book Grahl-Madsen articulates the principal assumption which informs this tradition. He writes:

This is a work of Law...To be sure, legal rules do not exist in a vacuum...However, direct reference to the humanitarian, social, political, economic, and cultural, and other non-legal aspects of the problems caused by the presence of refugees will only be made when this is apt to give us a better understanding of rules of law (Grahl-Madsen 1966:1).

Goodwin-Gill's work may also be located within this tradition; reading his book one would not even be aware of the Cold War origins of the 1951 Convention or the Office of the UNHCR.

The positivist tradition in international refugee law has exercised enormous influence. Three reasons account for this. First, it remains a dominant tradition of international law scholarship, particularly in Europe. Second, a principal

agent of dissemination of international refugee law is UNHCR. The positivist tradition which separates law from politics was ideally suited to its non-political mandate (Zolberg *et al.* 1989:272). It was not surprising, therefore, that Goodwin-Gill's book was recommended the world over by UNHCR officials. The third, and principal, reason was that the positivist approach was best suited for Cold War politics. It systematically eschewed the language of politics and confronted the Soviet critique of refugee law and UNHCR with the neutral language of humanitarianism.

Since the early 1980s, but in particular since the end of the Cold War, the central role played by the discipline of law in the constitution of refugee studies has increasingly come to be questioned and challenged. The present High Commissioner has 'proclaimed her disdain for lawyers' (Goodwin-Gill 1996a:9) who continue to express their adherence to principles and norms which were the constitutive features of international refugee law in the years of the Cold War. The attack has come from two different directions. First, international refugee law has been critiqued for its distance from the life world of refugees. Refugee voices, it is contended, should have been an integral element in the interpretation and implementation of the international refugee regime (Aleinikoff 1992:134–138). While this view represents legitimate criticism (and led to the establishment of the Refugee Studies Programme at Oxford in 1982) (Black 1990:22–23), it is being currently mobilized to displace cardinal principles and norms of international refugee law. More specifically, the reference to refugee voices has been employed to legitimize a particular perspective on solutions to the global refugee problem, as is explained later in the paper.

Second, refugee lawyers have been accused of upholding principles which are completely out of tune with historical and political realities. For example, as late as the end of the 1980s leading scholars like Goodwin-Gill were still focusing on the limitations of the 1951 definition (Goodwin-Gill 1990:33–34). Law and legal scholarship, it was therefore contended, had become 'increasingly divorced from reality' (Coles 1988:212) and 'lost its relevance and utility' (Adelman 1995:148). Indeed, lawyers' obstinate refusal at times to endorse pragmatic solutions was an obstacle in legitimizing the paradigm shift:

... legal theorists and practitioners, need to escape the clutches of a Kantian propensity to insist on assessing the developments in the legal regime provided to protect refugees from categorial imperatives indifferent to the historical circumstances, and the moral and ethical tensions that permeate the refugee issue, and the historical and empirical conditions in which the problem is mired (Adelman 1995:152).

In response to these charges Goodwin-Gill has recently observed:

Lawyers do look back. This is often resented, particularly when they drag forth principles that fail to fit the fashions or the policy agenda of today's administrators. Lawyers frustrate action, tell you what you can and cannot do with people; and not surprisingly administrators in government and elsewhere

may be tempted to sideline those whose training and experience, ideally at least, are rooted in principle. So it is reported that the US Department of State has gone out of its way to find a new legal adviser willing to argue, despite several decades of practice, that *non-refoulement* does not after all include non-rejection at the frontier ... (Goodwin-Gill 1996a:10).

In this spirited defence of principled lawyers, Goodwin-Gill has rightly identified the source of resentment to be the transformed policy agenda. What is frustrating, however, is the fact that this did not compel him to look back and deconstruct the dominant position of refugee law and lawyers in the Cold War years. In the same way as the transformed policy agenda is the source of tension today, it was Cold War politics, and not principles, which was the source of harmony in the past. To declare today that the decision in *Sales v. Haitian Refugee Centers* is 'a demonstrable example of triumph of politics over principle' (Goodwin-Gill 1996a:4) is to forget that the 'principle' itself, or at least adherence to it, also represented the triumph of politics.

The deconstruction of the dominance of refugee law within refugee studies in the Cold War years is essential because its depoliticized approach had serious practical and theoretical consequences. First, activists and non-governmental organizations (NGOs) in the West concentrated their effort entirely on improving refugee determination procedures as opposed to being alert to, and developing the resources and capability to mobilize against, political strategies of states. The shortcomings of this approach became evident once states started taking measures to prevent access to the improved procedures. Indeed, the obsession of refugee advocates with improved procedures allowed policy makers to lay the blame for the non-entrée regime at their doors (Martin 1988:14). For after all, went the reasoning, it is they who prevented consensus on realistic standards, thwarted speedy procedures and made returns politically costly (Martin 1988:10; Weiner 1995).

Second, it led, according to Coles, a principal critic of the positivist tradition, to 'a process of intellectual fragmentation':

... [the] consideration of the refugee problem became increasingly detached from consideration of human rights problems generally as well as other wider problems, such as those of justice, peace or development. This was mainly because consideration of those other problems posed awkward questions that challenged some of the main assumptions behind the statement of the positive law relating to refugees and behind much of action taken in regard to the refugee problem. Consequently, the refugee problem came to be seen by many as *sui generis*, to be considered in the light of its own (i.e. arbitrarily determined) purposes and principles and not in relation to more general purposes or principles (Coles 1988:212).

While the particular use to which Coles puts the non-fragmented approach needs to be contested—which is to justify the move away from the exilic bias of the 1951 Convention—his methodological critique is not without merit. For instance, by a refusal to engage with the question of the politics and ethics of

refugee policies, legal scholarship disarmed itself when it came to questioning the non-entrée policies. The concern with merely stating the law meant that it did not have the resources to address the tension that exists between the rights of states to regulate movement of people and those whose life and liberty are at risk (Adelman 1995:152). International law, one hardly need add, cannot resolve this question and achieve closure from within itself.<sup>2</sup>

On the other hand, the limited challenge refugee law and lawyers can offer through a fragmented approach is met through the interpretive process. The failure of the positivist tradition to fully appreciate the role of interpretation in legal decisions, especially the critical role of power on entering the terrain of conflicting interpretations, engendered the false belief among refugee activists and NGOs that the law could be used to protect refugees even in the changed historical context of the post Cold-War period (see generally, Koskenneimi 1989). But as has transpired, not only the principle of *non-refoulement* (the cardinal principle of international refugee law) has been given new meaning, but also the definition of refugees contained in the 1951 Convention.<sup>3</sup>

The harmonization process in Europe saw the positivist methodology taken to its logical conclusion with Eurocrats framing the law in secrecy, away from democratic pressures (D'Olivera 1994:277; Hathaway 1993:719; Frankenberg 1993:372). The idea that the harmonization process represented the realm of expertise and was beyond politics allowed laws to be framed without the participation of people's representatives or NGOs.

What I am presenting here is not a facile political critique of law which reduces the legal to the political or social, but a conception of legal scholarship which is committed to an inclusionary politics as an integral part of its effort to state and expound the law. The disciplinary demarcations which the positivist tradition mandates occlude this possibility and disarm it in the face of power. As Held has recently observed: 'For too long the concerns of political theory, political economy, international relations and international law have been kept separate, with persistently disappointing outcomes' (Held 1995:ix). It is therefore particularly unfortunate that Third World scholars have continued to write in the positivist tradition (eg. Muntarhorn 1992).

### **The Myth Of Difference: Toward a Policy of Containment**

The move away from the exilic approach and the accompanying set of principles and norms which had been observed for decades is usually justified through stressing the differences between refugee flows in Europe and the Third World; that is, the historical and political context which refugee law and lawyers are accused of being blind to.

The myth of difference has been part of the refugee studies discourse from the very beginning; refugees were present in the Third World when the 1951 Convention was drafted but were not viewed as being of concern (Cells 1989:189). But in the period of the Cold War this non-concern was subsumed within a strategic vision which dictated that refugees possessed ideological and

political value. However, by the 1980s the argument of difference was already being cited as the basis for reconstructing refugee law. In the context of 'new asylum-seekers' Martin wrote:

there are *genuine elements of novelty* in the *new phenomenon* that are crucial to our understanding. And they are differences which in the end may force us—the West and the world community as a whole—to rethink the exact meaning of, and appropriate level of ambition for, refugee law in the final decades of a crowded and violent century (Martin 1988:8; emphasis added).

A number of novel features were noted to contend that post-1960 refugee flows represented a radical departure from the past. First, it was pointed out that the post-1960s crisis represented, in terms of numbers, a break from the past; there is constant reference in the literature to the enormous magnitude and the unprecedented nature of the contemporary crisis (Smyser 1985; Gordenker 1987:49–59; Zolberg *et al.* 1989:227; Loescher 1993:75; UNHCR 1996; Spencer 1995:2). Second, it was said that European refugees satisfied the individualist criteria of political persecution as against refugees in and from the Third World. Third, reference was made to the fact that the revolution in the transport and communications system made the old regime anachronistic as it removed the '*natural barriers to movement* that kept the numbers of direct asylum seekers tolerably low and thereby shielded the West from having to confront certain fundamental tensions' (Martin 1988:8; see also Hocke 1989:40).<sup>4</sup> Fourth, it was alleged, as Zolberg *et al.* have noted, that in contrast to refugees from Europe, most of the asylum claims made by non-Western asylum seekers were spurious, representing a thinly disguised movement of economic migrants rather than political refugees (Zolberg *et al.* 1989:278). Fifth, it was pointed out—as has also been noted by Zolberg *et al.* (1989:230)—that Third World refugees, unlike European refugees, are uprooted by internal and not international conflicts, and for this the post-colonial state was solely responsible. Sixth, it was contended that the fact that the 1969 OAU Convention departed from the 1951 Convention was a clear recognition that the refugee situation in the Third World was different from that which had prevailed in the North.

Having articulated these differences, the proponents of the difference thesis, through a curious twist of argument which came close to suggesting that an individual deliberately invited upon herself the events which turned her into a refugee, went on to represent the refugee status as a privileged status:

We tend to think of refugees as among the world's most unfortunate persons—exposed to dangers and persecution at home, then cruelly uprooted to seek an uncertain fate outside the country of their birth. But paradoxically, to be a 'refugee' today—to fall into the class of persons whom the world community is prepared to treat under that potent label—is also to assume a position of privilege (Martin 1988:9; see also Zolberg *et al.* 1989:270).

Martin then went on to defend the restrictive practices of Western governments:

... an important percentage of those who now move directly are people who would not have chosen to leave home, troublesome as their economic and political prospects might be there, if they thought they were moving to a camp in Honduras or the Sudan rather than the greater benefits available in most Western countries. The motives of *these* new asylum seekers, whatever their deeper merit, do not carry the same connotation of specialness that built and sustains the unique provisions for refugees, at least in the eyes of much of the public in Western nations (Martin 1988:10–11).

Thereafter he attacked refugee advocates for their critical stance:

Refugee advocates are sometimes too ready to dismiss the new suspicions as the outgrowth of xenophobia and racism in the West, and to act as though it could all be remedied if only government officials had the courage to confront all such manifestations. To be sure, xenophobes and racists have exploited the phenomenon for their own efforts at political gain. But it is not enough, in the current climate, simply to denounce such movements and argue for expansive new notions of who is entitled to refugee status (*ibid.*:11; see also Weiner 1995).

Once the Cold War ended, and refugees were no longer welcome in the North, the myth of difference was invoked to justify the institutionalization of the non-entrée regime (elements of which, such as visa requirements, were already being put in place before the end of the Cold War). By producing the image of a 'normal' refugee—white, male, anti-communist—a clear message was sent to the population with regard to the 'new asylum seeker': that asylum seekers were here for no good reason, that they abused hospitality, and that their numbers were too large (Frankenberg 1993:370–71; Mortimer 1997). It merely confirmed xenophobia. There is thus a dialectic between state action and the rise of xenophobia (Caloz-Tschopp 1997:169 and 175), a theme which has received scant attention.

Claudena Skran is the rare refugee studies scholar who has challenged the myth of difference. Skran writes:

... the notion that the contemporary refugee crisis is unique lacks a historical perspective and neglects this important fact: mass refugee movements are neither new nor exclusive to specific regions. They have been an enduring and global issue throughout the twentieth century. Before the Second World War, the European continent experienced refugee flows similar to those taking place in Eastern Europe and the developing world today. Those refugee movements began in the early twentieth century, when the Balkan wars forced several hundred thousand people to flee their homes. The two World Wars caused even more disruption. The Second World War alone displaced a staggering number of people—more than thirty million. Even during the relatively peaceful Inter-war Period, millions of people became refugees, including Germans, Poles, Hungarians, Russians, Greeks, Turks, Armenians, Bulgarians, Jews, Italians, and Spaniards. In 1926, for instance, an estimated 9.5 million were considered refugees. While the number of



refugees is approximately the same as that of the refugee population of 1980, it is a proportionally larger figure because the world's population doubled in the mean time (Skran 1995:4–5; see also Marrus 1990:53–54).

Skran is also critical of the understanding that European refugees are fundamentally different from non-European refugees in as much as the typical European refugee is said to have been an individual escaping political persecution or inter-state war, whereas the Third World refugee is part of a mass influx fleeing political and economic breakdown brought on by civil war or social unrest. According to Skran:

...the differences between European and non-European refugees have been greatly exaggerated. Certainly, Cold War refugees tend to fit the profile of an individual facing political persecution. These refugees, however, constituted only a fraction of European refugees in the twentieth century. In fact, there are remarkable similarities between the refugee movements of inter war Europe and those taking place in the developing world since 1945 and in former Communist countries since the collapse of the Soviet Union (Skran 1995:5).

She attributes this to the fact that mass refugee movements in the twentieth century have been generated by 'common historical processes' (ibid.). First, there was the transformation of a world of empires into a world of nation states (ibid.:18–19); in particular, 'when multi-ethnic empires have been transformed into homogeneous nation-states, mass refugee movements have been an unfortunate by-product' (ibid.:5). Second, following Marrus, she refers to the development of highly destructive military technology and the advent of total war which has affected entire populations (ibid.). The consequence is that 'modern conflicts—be they interstate wars, such as the First and Second World Wars, or internationalized civil wars, such as the Salvadorean or Nicaraguan civil wars—are very likely to produce large numbers of refugees' (ibid.; see also Marrus 1990:52–53).

While Skran is on the mark on these counts her reference to 'common historical processes' is restrictive. First, she neglects to bring to the problem a historical perspective which critiques the myth of difference in the backdrop of migration flows in general. As Widgren points out:

Popular European belief seems to be based on the conviction that the present rate of intercontinental movements of immigrants is unprecedented in history. This is completely wrong. Taking a 200-year perspective from 1800 to 2000, by far the peak of migration was reached during the years 1845–1924, when 50 million people, mainly Europeans, moved to the Western Hemisphere at a time when world population counted only somewhat more than one billion. The total number of Africans and Asians who moved (or were moved as seven million slaves) to other continents during the period 1500–1960 is estimated at only 15 million... Europe's role as a major sending partner compared with other continents was maintained up to the 1970s... Thus it is only in the last two decades that the OECD region as a whole has started to experience net

immigration and each of the non-OECD regions net emigration (Widgren 1990:752).

This historical picture is sufficient correction to the talk about 'natural barriers' which had in the past kept Third World refugees from arriving in the West. To put it differently, the contemporary struggle for global space is not a new phenomenon. A critical feature of the last three centuries has been the discovery of 'new' spaces or the subjugation of old spaces. The non-entrée regime merely represents a new phase in the struggle over global space in the period after decolonization and the end of the Cold War. In this phase the barriers to the mobility of oppressed human beings are justified through representing certain spaces as 'filled' and others 'empty'. Undergirding it is a dialectic of globalization, present since the sixteenth century, in which one part of the globe grows poorer and depleted while the other becomes richer and replete. To be sure, the revolution in transport and communications technology does allow people to arrive quickly, but their numbers are relatively few, and they were even fewer when the myth of difference began to be constructed. According to Marrus, 'new refugees who appeared in 1985 constituted less than 0.005 per cent of the West European total' (Marrus 1990:49). Further down the road, in 1991, Sudan alone was hosting more refugees than the number of asylum applications received by Western Europe and North America (*World Refugee Survey* 1992:32-33). The total number of applications received by the North peaked in 1992 when it received 808,900 applications (*World Refugee Survey* 1997:12). The ratio of refugees to host populations in that year was 1 : 10 in the case of Malawi as compared to 1 : 686 for Netherlands, 1 : 869 for Germany, and 1 : 3,860 for the United Kingdom (*World Refugee Survey* 1992:32-33). At the end of 1996, at a time when the number of applications in the North were coming down, Iran alone was host to 2,020,000 refugees, Jordan to another 1,362,500 and Guinea to 650,000 (*World Refugee Survey* 1997:11).

Second, Skran does not recognize that much of the displacement from the beginning of the twentieth century—'the century of the refugee'—has been caused by the geographical spread of capitalism and the politics of imperialism. This is true of both the displacement caused by the two world wars and the anti-colonial struggles of the 1960s. It is in the latter context that the OAU Convention was adopted (Chimni 1998:6-7). To turn this fact around now and make it the basis of a restrictive regime—for example, by treating the broader definition of refugee contained in the OAU Convention as proof that refugee flows in the Third World are different—is absurd. Moreover, many of the conflicts leading to mass refugee flows in recent years can themselves be traced either to the legacy of imperialist politics or to its pursuit in the contemporary era, a theme to which I will return shortly.

Third, Skran too readily admits that the Cold War refugee fits the profile of individual persecution as opposed to refugees fleeing Third World countries. This is a case yet to be proven. For example, in the case of individuals fleeing

the 1956 events in Hungary it is admitted 'that every individual asylum seeker would not have been recognized, had the application for refugee status been determined at another time and on an individual basis' (Melander 1990:146). There has been, in other words, no serious exercise to determine whether those fleeing the former Socialist bloc countries were not leaving for mixed motives or simply for a better life in the West.

My argument in all this is not that there are no differences between refugee flows in Europe and in the Third World. Of course there are differences. Indeed, every refugee differs from another in the circumstances which force her to flee. The contention is merely that the differences which have been propagated are self-serving and refugee studies has done little to combat this.

### **Exonerating Imperialism<sup>5</sup>: Root Causes of Refugee Flows**

Internal to the construction of the myth of difference is the idea that the root causes of refugee flows in the Third World are markedly different from the causes which led to displacement of refugees in Europe. Until recently, however, the issue of causes of refugee flows received little attention, although the matter was discussed in the Special Political Committee of the United Nations General Assembly in the 1980s. An important reason for this was, as has been rightly noted, 'the political paralysis of the bi-polar world':

In the receiving countries of the West, anyone arriving from the Soviet Union or one of its allies was automatically granted some form of asylum; no detailed scrutiny of their reasons for leaving was felt necessary. In the Third World too, it was almost impossible to address the causes of flight if the source country could call on the protection of one of the superpowers—and almost all could to some degree (UNHCR 1993:8–9).

It is symptomatic that the 1951 UN Convention did not contain any specific reference to the responsibilities of the country of origin. But with the end of the Cold War, Western States have averred that 'prevention is preferable to cure', throwing 'the spotlight on the conditions and events that force people to flee' (UNHCR 1993:9). And it comes as no surprise that in the discussion of the causes of refugee flows the focus has been on internalist explanations (Zolberg 1989:264–65), for externalist explanations apportion blame between the state from which refugees flee and states responsible for authoring policies or undertaking action leading to the outflow of refugees. This in turn generates pressure on the latter States to assume responsibility and take refugees in. While internalist explanations are relevant, they are one-sided and do not capture the complex reality of the root causes of refugee flows.

Two examples of widely disseminated, albeit unsustainable, purely internalist explanations will suffice. First, take the case of Rwanda. Instead of looking at the complex social and economic realities which led to the mass killings, the Western media have sought to portray the genocide in Rwanda as an open and shut case of ethnic conflict (Chossudovsky 1997:1787). But as

Chossudovsky has persuasively argued, it was the 'deterioration of the economic environment which immediately followed the collapse of the international coffee market and the sweeping macro-economic reforms by the Bretton Woods institutions [which] exacerbated simmering ethnic tensions and accelerated the process of political collapse' (Chossudovsky 1997:1787). Indeed, Prunier has described Rwanda as a classical case of dependency syndrome. Likewise Petras and Vieux, Chossudovsky, and Woodward have shown that the policies recommended by international financial institutions created the conditions in which ethnic hatred could be mobilized in former Yugoslavia (Petras and Vieux 1996:9-12; Woodward 1996:12-14; Chossudovsky 1997a). Petras and Vieux have also highlighted the role played by selfish Western diplomacy in creating conditions conducive to conflict in former Yugoslavia (Petras and Vieux 1996). After undertaking an examination of the socio-economic realities in former Yugoslavia, Somalia and Rwanda, Chossudovsky concludes:

The world community should recognize the failure of the dominant neoliberal system and take cognizance of the destructive impact of the economic reforms. While the international donor community cannot be held directly responsible for the outbreak of civil war in Yugoslavia, Somalia and Rwanda, the evidence nonetheless confirms that the macro-economic reforms imposed by international creditors in all three countries, played a crucial role in fostering the collapse of state institutions and creating a situation of social and political divisiveness (Chossudovsky 1997:1788).

In a pioneering article, Gibney has looked at the reasons why scholars have failed to address the international dimension of the causes of refugee flows. Among other things, he has singled out 'the unexamined assumption in both international law and in political theory that has given nations license to treat their own citizens and citizens of other countries by vastly disparate standards' (Gibney 1991:87). Consequently, 'nations have treated (and been allowed to treat) citizens of other countries in a manner that would violate their own domestic standards. This, in turn, has helped lead to much of the human carnage that marks the world today' (*ibid.*). As Brilmayer has pointed out, there is no philosophical justification for a state to employ different standards for the treatment of citizens and peoples of other countries (Brilmayer 1989:28, cited in Gibney 1991:87). Thus, Gibney concludes, 'if it would not be permissible to pursue policies at home that would somehow bring about large-scale refugee flows (or internal displacement), it should not be permissible to do so in other countries' (*ibid.*:95).

The refusal to take an externalist view of the causes of refugee flows has meant, first, that the exilic bias in international refugee law has been easily undermined and replaced with repatriation as the only solution to the global refugee problem. For if the state of physical origin alone is responsible for refugee flows then other countries would appear to have no obligation to resettle those fleeing inhumane conditions. At best other states had the

obligation of offering 'temporary protection'. Second, it has led to efforts to develop the international law of state responsibility so as to apply to the state of physical origin alone (Lee 1986; International Law Association 1993). Third, it has facilitated the shift of focus from refugees to IDPs as well as to the justification of the idea of humanitarian intervention.

The last decade has witnessed the call for a 'new agenda for democratic theory' (McGrew 1997:231) which has come to question the central assumption that nationals of other states can be treated differently from one's own. Central to the new democratic theory is 'a critical enquiry into the necessity, desirability, and possibility of "global democracy"—that is, democracy beyond borders'. It recognizes that:

the heart or 'deep structure' of the modern system of nation-states can be characterized by a striking tension between the entrenchment of accountability and democratic legitimacy inside state boundaries and the pursuit of power politics outside such boundaries (Held 1995:73).

The new democratic theory calls for 'the extension of democracy beyond the nation-state to bring to account those global and transnational forces which presently escape effective democratic control' (McGrew 1997:232). It squarely rejects the internalist explanation for this is overly deferential to the boundaries of nation-states, refusing to come to terms with the idea that external social forces often crucially shape internal policies of states. To recognize this fact of course means to take the idea of global distributive justice seriously. This is an idea which leading Western thinkers find difficult to endorse (Rawls 1993; Walzer 1997:127–28).

The internalist explanation exercises a powerful hold even on critics of current restrictive western practices. This has led to the strange marriage of radical criticism with alternative visions which are far more compromised than the one which is the subject of critique. The work of Hathaway exemplifies this contradiction. He is among the ablest critics of the Western bias in the global refugee regime, in particular the fractured view of human rights it embodies. He has pointedly noted the current emphasis on voluntary repatriation in contrast to the exile bias in the past, coined the term 'non-entrée regime' to focus on the restrictive practices of states, and taken UNHCR to task for going along with the policies of powerful donor countries. Yet since his vision of a reformulated regime rests on an internalist explanation, he ends up proposing a solution which is far worse than the one he has critiqued. Hathaway recommends that 'a system for sharing out the duty of refugee protection should be formulated on the basis of each party's resources and absorptive capacity' and thus a state could fulfil its obligations towards refugees either through admitting people or by transferring resources in exchange for this (Hathaway 1991:127; Hathaway and Neve 1997:198–207). Apart from the fact that by endorsing the refugee-resource transaction Hathaway turns the refugee into a commodity which can be 'traded' on the world market, the proposed scheme allows hegemonic states to turn to their advantage structural inequities

constructed and sustained by them. 'Global apartheid' is the phrase which readily springs to mind to describe this scheme (see Richmond 1994).

The solution Hathaway offers is not new. It has been advocated by others (Den Hond 1988:50-51). It has also been rejected by others. It comes as no surprise that Zolberg *et al.*, who argued against an internalist explanation of the causes of refugee flows, wrote (two years prior to the Hathaway proposal):

The moral obligation of the North to share the global asylum burden rests on its enormous resource capabilities relative to those of the South and on the transnational dynamics of social conflict in the contemporary world, which at least to some degree makes the North coresponsible for the upheavals in the South ... the rich countries cannot buy themselves out of a first asylum role simply by providing generous financial assistance to those developing countries that carry most of the first asylum burden ... (Zolberg *et al.* 1989:279).

What Hathaway did not appreciate was that once the internalist explanation is accepted, it opens those who aspire to persuade hegemonic states to accept an alternative regime, to the ravages of realism. It was inevitable then that as the Hathaway reformulation project went along, it slowly abandoned its positive features, which include the dismantling of the non-entrée regime. The scheme has now adopted the language of 'unavoidable reality of the international system' (Hathaway and Neve 1997:199).

#### **The Repatriation Turn in Refugee Studies and the Politics of Solutions**

The internalist explanation of the root causes of global refugee flows is tied in a self-evident way to the advocacy of repatriation as the principal solution to the global refugee problem. It focuses attention on the responsibility of the state of physical origin to create conditions for the return of refugees.

There are three traditional durable solutions to the refugee problem: resettlement in third countries, local integration, and voluntary repatriation. In the past, the industrialized countries have advocated resettlement as a solution, introducing the exile bias in international refugee law. Indeed, it was the West which, in the period after the Second World War (in what has been described as the 'first "modern" debate' (Zolberg *et al.* 1989:272), preferred resettlement to repatriation as a solution (Stoessinger 1963). Even when the policy of repatriation was formally adopted by the International Refugee Organization (IRO) at the insistence of the Soviet Union, the solution of resettlement prevailed in practice. For by then the question of solution to the international refugee problem had become an integral part of the Cold War.

The arrival of the 'new asylum seekers' initiated a rethinking which led to the questioning of the exile bias of international refugee law (Coles 1988). The end of the Cold War has seen this questioning inscribed in practice which is inching towards legitimizing involuntary repatriation.

Great stress is today laid on the solution of voluntary repatriation which is described as the ideal and the most desirable solution. While between 1912 and

1969 nearly 50 million Europeans sought refuge abroad and all of them were resettled (Marrus 1990:54), at present the solution of resettlement is proposed only in the context of refugees having special needs.<sup>6</sup> It is today offered to less than one per cent of the world's refugees (Loescher 1993:148). Resettlement has, in other words, been replaced by voluntary repatriation as the ideal solution.

A survey of the literature reveals that voluntary repatriation is recommended as the best solution from two different perspectives. The first is the perspective of the Northern States whose favouring the solution of voluntary repatriation is clearly self-serving. The second is the more theoretical perspective elaborated by Coles and others which contends that the exile bias in traditional Northern thinking is not only unrealistic in view of the nature of the contemporary refugee problem, but also 'inhumane' (Coles 1989; Frelick 1990:444). In this light Coles has, since the early 1980s, called for discarding the positivist approach to refugee law as it has failed to rethink the exile bias, and attempted to develop instead 'a new approach to the refugee problem' to be 'based on human rights' (Coles 1988:216-17). Central to the new approach is the idea that 'the goals of separation and alienation, which animated so much of the approach of the past, should be recognized as contrary to both individual human interest and the well-being of societies, particularly in today's conditions' (ibid.).

The problem with this understanding is that once voluntary repatriation is presented as *the* humane solution it is pursued even when it is not appropriate (Chimni 1991). Researchers such as Bascom (1994), Harrell-Bond (1989), and Rogge (1994) have pointed out that the solution of voluntary repatriation has not been adequately researched and that there are situations and contexts in which it is far from being the ideal solution. According to Bascom, for example, 'what is being promoted as the most desirable solution to refugee crises is a poorly understood social and spatial phenomenon' (Bascom 1994:226). Indeed, these writers have levelled the same charge against Coles and others as the latter did against the practitioners of the positivist approach, namely, of being divorced from ground realities. For instance, according to Harrell-Bond:

in the case of voluntary repatriation in Africa there are no published research data which could be used to test the assumptions which govern current policies and practices of governments and international agencies (Harrell-Bond 1989:43).

In other words, it is abstract theorization, rather than evidence on the ground, which is the basis for constructing an idealized image of the solution of voluntary repatriation (Sepulveda 1996). What this theory attempts to do is to turn to its advantage the legitimate critique that refugee lawyers are far removed from the lifeworld of refugees. This move helps present the solution of voluntary repatriation as one which the refugees themselves desire most.

What may be termed the *repatriation turn* in refugee policy was not then a product of extensive studies of the complex issues involved, but the outcome of

a marriage between convenient theory, untested assumptions and the interests of states. It is not entirely surprising, therefore, that new concepts have been advanced from time to time to justify repatriation in less than conducive conditions. These include the ideas of spontaneous repatriation, safe return and imposed return.

Coles was among the first to talk about 'the magnitude and rapidity of the occurrence of spontaneous return' (Coles 1988). It takes place, we are told, without any of the features of advance planning which characterize organized repatriation. The decision-makers in this instance are refugees themselves. It is contended that a majority of the refugees who return home repatriate spontaneously (Stein and Cuny 1991). But the concept of spontaneous repatriation raises a number of questions which await a suitable response: Are there alternative ways of defining spontaneous repatriation? How does one determine whether refugees are repatriating spontaneously or under pressure? Are there particular refugee groups who tend to return even when conditions do not seem appropriate to outside observers? Should the wishes of spontaneously repatriating refugees be respected under all circumstances? What should be the role of UNHCR where spontaneous repatriation is concerned? Should it facilitate it without ascertaining whether the repatriation is voluntary or coerced? There is little legal guidance in these respects for UNHCR other than the statement in Executive Committee Conclusion 40 that 'action taken to promote organized voluntary repatriation should not create obstacles to the spontaneous return of refugees', although further guidelines have been spelled out recently (UNHCR 1996a). My purpose in raising these questions is not to challenge the fact that spontaneous repatriation takes place. It is only to draw attention to the immense attraction the idea holds for those who would like to give involuntary repatriation a human face through representing the decision to repatriate as a voluntary decision taken by the refugee, ignoring its links with the regressive policies of host states and the international community.

Opportunity for further innovation came with the crisis in former Yugoslavia. The concept of voluntary repatriation received fresh interpretation in the context of the temporary protection regime: it has been replaced with the notion of safe return (Goodwin-Gill 1996:275-76; Jean 1997:50-51). Most recently, the idea of imposed repatriation has been aired. It brings out in the open the discussion of circumstances in which involuntary return is justifiable. It is not yet clear what those circumstances are to be. But it is clear that the cardinal principle of *non-refoulement* is being redefined through legitimizing involuntary return.

### **The Politics of Legitimation: The Knowledge Production and Dissemination Functions of UNHCR**

In the corpus of literature which constitutes refugee studies there is little reflection on the role of UNHCR in sustaining a particular vision of world



order. While legal experts have concerned themselves with UNHCR, the discussion has, given the dominance of the positivist approach, largely been confined to the rules of law which govern its legal status, structure and functioning, with matters of power and influence left to political scientists (Goodwin-Gill 1996; Schermers and Blokker 1995:4-9). A key omission has been the failure to study the ideological or legitimization or, to put it differently, the knowledge production and dissemination functions of UNHCR. The ideological or legitimization functions of UNHCR assume many forms. First, the organization represents its institutional field and concerns to the outside world. Second, it actively promotes norms of international behaviour which facilitate the realization of its objectives. Third, it frames issues for collective debate and proposes specific policy responses. Fourth, it identifies key points for negotiation in order to fill gaps in the normative framework and to adjust to changes in the external environment. Finally, it evaluates the policies of member states from the standpoint of its mandate and concerns. But the dominance of the positivist legal approach, both outside and inside UNHCR, has meant that the knowledge and dissemination functions of UNHCR have received little attention.

In contrast to the formalist approach, I want to suggest that to make sense of the functioning of international organizations we need to locate them within the larger social order, in particular the historical and political contexts in which they originate and function. Such an approach contends that only when a coalition of powerful states are persuaded that an international organization is the appropriate form in which to defend their interests is it brought into existence, and that organization survives only if it continues to serve these interests (Murphy 1994:25, 44; Cox 1996:124-44). But that is not to say that the establishment and functioning of the organization go uncontested. Indeed, precisely because the vision and need of the organization are contested there is the quest for legitimacy. Towards this end, the knowledge production and dissemination functions of the organization are steered by the dominant coalition of states. When circumstances demand that this vision be transformed, the production and diffusion of new ideas play a crucial role in overcoming resistance both from within and outside the organization. Hegemonic states recognize, to put it differently, that international organizations are arenas 'in which norms and convergent expectations about international behavior are developed' (Finnemore 1993:594).

In the case of UNHCR the evidence points to the critical influence exercised by a coalition of powerful Northern states from the very beginning. The vision of UNHCR in the Cold War era was legitimized through emphasizing a fractured conception of human rights and the organization's non-political character. Presently, the coalition is in the hot pursuit of a global agenda in which the burden of asylum is to be carried by the poor states in the international system. A new focus on the knowledge production and

dissemination functions of UNHCR has been invited. As a recent UNHCR document puts it:

At a time of rapid change in the nature of refugee problems and policies, it is essential for UNHCR to develop a better understanding of the environment in which it operates and to enhance the capacity for strategic planning. To do so, UNHCR needs to undertake a more systematic policy analysis and improve its access to the thinking done outside of the organization (UNHCR 1996:1).

In January 1996, the post of an Assistant High Commissioner was created and given *inter alia* the task of 'developing a research capacity within the Office and with strengthening UNHCR's cooperation with external research institutions'. To help the Assistant in this task, the High Commissioner in March 1996 decided to reorganize and strengthen the former Centre for Documentation on Refugees and establish a new Centre for Documentation and Research (CDR). The new CDR is to be 'engaged in policy research, analysis and dissemination' (*ibid.*).

The concepts which have already emanated from UNHCR in the post-Cold War era—in-country protection, preventive protection, the right to remain, temporary protection, closer cooperation with the Security Council—coupled with ideas that UNHCR has gone along with—safe havens, safety zones—have sought to operationalize the vision of containment of the powerful donor countries. While some of the individual elements have not found acceptance, the general strategy of containment they represent will be, I fear, systematized into a coherent vision through research and dissemination. It will, among other things, seek to justify the need to transform UNHCR from 'a refugee organization into a broadly-based humanitarian agency' (UNHCR 1995:48), which manifests itself in 'the growing operational involvement of UNHCR and its partners within the country of origin' (*ibid.*:47). The vision is to be elaborated in collaboration with Northern academic and research institutions, more or less to the exclusion of those located in the Third World, and is to be disseminated through in-house publications such as *Refugee* and *The State of the World's Refugees*.<sup>7</sup>

The point made here is not that the new emphasis on research and policy analysis is an unwelcome development in itself. Rather, that the new emphasis is inextricably linked to the new realities faced by UNHCR in the post-Cold War era. It is these new realities which control and define the agenda of research and policy analysis. As Ogata wrote in her foreword to the first *State of the World's Refugees*:

The pages that follow seek to define the current agenda of refugee protection. They attempt to analyse the issues that the international community urgently needs to address in coming to grips with the challenges of the refugee problem in the post-Cold War era (UNHCR 1993:iii).

A central feature of the post-Cold War era is that refugees are no longer welcome in the North, and UNHCR is being forced to come to terms with

this. To face this development the organization has had to either advance or go along with ideas and policy options which suit the powerful Northern states. Having done so it is compelled to justify these ideas and policies to the rest of the international community (Southern states, NGOs, academics, activists) through attempting to reconcile them with its mandate and the core principles and norms of international refugee law. It is this need to justify its current policies and practices which explains the new focus on research and analysis. It also explains why UNHCR is an uncritical consumer of concepts and theories which support a particular (Northern) vision of the global refugee order.<sup>8</sup>

However, all this does not mean that international organizations like UNHCR do not possess a will of their own. Once brought into existence they possess a degree of autonomy from the states which have established them. First, the role of an international organization is to be a guardian of the larger interests of the coalition which establishes and sustains it, not the individual interests of its members. This often brings the organization in confrontation with even its more powerful members. Second, UNHCR is bound by its mandate and committed to core protection principles embodied in international refugee law, and is also proud of its organizational history (marked by two Nobel peace prizes), which drive it to take issue with states which fail to live up to their international obligations. Thus, UNHCR has displayed moments of 'proud autonomy'—its *amicus curiae* brief in the US Supreme Court being just one example. However, in the absence of a powerful oppositional coalition, the organization cannot be expected to bear the burden of confronting members who control its lifeline. The experience of UNESCO and UNCTAD confirms this thinking; in the wake of the collapse of a Third World coalition, both have metamorphosed from being pro-Third World thinking organizations to supporting a 'neutral' vision of a new world order.

### **Some Final Observations**

The arrival of the 'new asylum seekers' in the 1980s signalled the expansion of refugee studies. The transformed geography of refugee flows invited, among other things, a focus on the historical, political and cultural contexts in which the post-war international refugee regime had originated and the new situation. A myth of difference was engendered: the idea that great dissimilarities characterized the volume, nature and causes of refugee flows in Europe and in the Third World. It has been my contention that these differences are vastly overstated. The myth was engendered in order to establish an environment in which some key features of the post-war regime could be undermined. The advocates of change were, however, frustrated by the dominant positivist law approach which, even as it accepted the myth, continued to invoke the letter and spirit of the 1951 Convention. The positivist approach did not possess the internal resources to argue in favour of change, of whatever kind. This led to

persistent calls for displacing and re-ordering the boundaries of scholarly inquiry.

The methodological critique of the positivist approach was sound. But the 'new approach' became, thanks to the founding myth of difference, complicit in the strategy of containment pursued by the rich Northern states. Instead of calling on them to pursue a more liberal asylum policy, the 'new approach' articulated a set of policy proposals which justified restrictive measures. The proposals included the rejection of the exilic bias of international refugee law; a nearly sole reliance on the solution of voluntary repatriation; and an emphasis on the responsibility of the state of physical origin. The end of the Cold War, and the consequent loss of interest in the refugee, signalled the arrival of the 'new approach'.

It has been the burden of this paper to argue that the 'new approach' needs to be replaced by a 'new new approach' which is rooted in the principles of solidarity and internationalism and which takes cognizance of the externalist explanations of the growing North-South divide. Of course, the proposed approach will need to reject the positivist approach to international refugee law, as it does not possess the means to respond to the tension between the right of sovereign states to specify admission rules and the needs of people whose life and freedom are at risk. But, unlike the proponents of the 'new approach', the 'new new approach' will not use this rejection as a move to justify exclusionary policies. It will deconstruct and debunk the myth of difference, and will take cognizance of the history of imperialism, in particular the role this has played over the centuries in the forced displacement of people. The 'new new approach' will favour genuine dialogue to arrive at a consensus on the changes to be introduced in the post-war regime. It will be especially sensitive to the currently distorted international division of intellectual labour. Thus, it will not view the Third World as an empty space in the field of knowledge to be filled by Western thinking and concepts. In other words, the 'new new approach' will embrace a conception of legal scholarship which has the potential of articulating a comprehensive and humane response to the contemporary refugee problem through dialogue.

An important participant in the dialogue will without doubt be the Office of the UNHCR. In the past, in view of the dominance of the positivist approach, the organization's ideological functions have received scant attention. Having omitted the categories of power and influence from its vocabulary, the positivist approach ended up merely describing the rule matrix which governs the functioning of UNHCR. It never concerned itself with the knowledge production and dissemination functions of UNHCR which are today playing a crucial role in legitimizing the 'new approach'. The discrediting of the positivist approach, coupled with other factors such as the influence of rich Northern states which control the financial lifeline of the organization, the absence of sufficient human and material resources, the prejudice against doing theoretical work, and the absence of coherent alternative frameworks, has meant that few

challenges have been posed to the hegemony of the 'new approach' thinking within UNHCR. The sooner such a challenge is posed, both from within and outside, the greater the chances of establishing a legal regime which will offer effective assistance and protection to refugees.

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1. H. L. A. Hart has noted that the expression 'positivism' has been used to express one or more of the following contentions:
  - (1) that laws are commands of human beings; (2) that there is no necessary connection between law and morals, or law as it is and law as it ought to be; (3) that the analysis or study of meaning of legal concepts is an important study to be distinguished from (though in no way hostile to) historical inquiries, sociological enquiries, and the critical appraisal of law in terms of morals, social aims, functions, etc; (4) that a legal system is a 'closed logical system' in which correct decisions can be deduced from pre-determined legal rules by logical means alone; (5) that moral judgements cannot be established, as statements of facts can, by rational argument, evidence or proof ('non cognitivism in ethics') (Hart 1970:253).
2. The positivist tradition, it is also worth adding, not merely constructed inter-disciplinary but also intra-disciplinary boundaries with its refusal to take cognizance of developments in other branches of international law with a bearing on the global refugee problem. Thus, for example, the call for a New International Economic Order (NIEO) and the struggle to codify it received little attention. Currently, the fact that in the last decade almost all constraints on the movement of capital and services, in contrast to human beings, are being removed through prescribing an appropriate set of norms is rarely mentioned in the legal literature.
3. Refugees fleeing the former Yugoslavia have been denied refugee status by authorities and courts in the West through precisely the interpretive moment (David:1995). The decision of the US Supreme Court in *Sale v Haitian Centers* (113 S.Ct 2549 1993) redefined the scope of the principle of *non-refoulement*.
4. This thesis was endorsed by the then High Commissioner for Refugees, Jean-Pierre Hocke, in his lecture at Oxford University in 1986: 'Beyond Humanitarianism: The Need for Political Will to Resolve Today's Refugee Problem', later published in Loescher and Monahan 1989:40.
5. 'Imperialism' is used here to indicate the totality of relationships between the North and the South by which exploitation and domination is sustained: for justification of such a view see Patnaik (1997:183). Imperialism is often equated with colonialism so as to contend that it is a thing of the past. But as Magdoff has observed, 'the identification of imperialism with colonialism obfuscates not only historical variation in colonial-metropolitan relations, but makes it more difficult to evaluate the latest

transformation of the capitalist world system, the imperialism of the period of monopoly capitalism' (Magdoff 1978:119).

6. This is, however, presented in a positive light: 'Resettlement remains a valid option for smaller numbers of refugees, although I must stress its increasing importance as an essential tool for sensitive protection cases' (UNHCR 1997:1).
7. The present author—with other academics from the South—is a member of the External Research Advisory Committee (ERAC) of UNHCR. However, in my view, ERAC has practically no impact on the thinking of UNHCR.

What I am propounding here is not a conspiracy theory, but first, the simple thesis that the thinking of international organizations is shaped by its more powerful members, especially if they control its financial lifeline. Second, that the dominant ideology tends to present itself as the common sense of the age and therefore often goes uncontested.

As regards the charge of exclusion of Third World academic institutions, it would be erroneous to state that UNHCR has any deliberate policy of not collaborating with them. Indeed, at a policy level perhaps the contrary is true. Yet it is my impression that UNHCR mostly collaborates with institutions located in the North rather than in the Third World. Several factors account for this. Let me mention two. First, it is so much easier at a practical level to deal with Northern academic institutions given their physical location, their excellent communication infrastructure, and access to funds. Second, there is the general assumption that the centres of academic excellence are in the North. While there is no denying their presence in the North, it would be preposterous to believe that there are no such centres in the South.

8. For example, UNHCR has in recent years relied *inter alia* on the language of security to recommend solutions to the global refugee problem (UNHCR 1995). The concept of security it has deployed is uncritically borrowed from Northern states and scholars seeking to justify a paradigm shift in global refugee policies (Chimni forthcoming). Likewise, the relationship of UNHCR to human rights has been unthinkingly borrowed from the writings of Northern scholars (Chimni 1997).

- ADELMAN, H. (1995) 'Refugees: A Conceptual View of Current Research and Towards a Research Framework for the 1990s', in Ong Jin Hui *et al.* (eds.) *Crossing Borders: Transmigration in Asia Pacific*, Singapore: Prentice Hall, 140–154.
- ALEINIKOFF, T. A. (1992) 'State-centered Refugee Law: From Resettlement to Containment', *Michigan Journal of International Law* 14(1):120–139.
- BASCOM, J. (1994) 'The Dynamics of Refugee Repatriation: The Case of Eritreans in Eastern Sudan', in Gould, W. T. S. and Findlay, A. M. (eds.) *Population Migration and the Changing World Order*, New York: John Wiley and Sons.
- BLACK, M. (1990) 'No Particular Place to Go', *Oxford Today: The University Magazine* 2(3):22–23.
- BRILMAYER, L. (1989) *Justifying International Acts*. Ithaca, NY: Cornell University Press.
- CALOZ-TSCHOPP, M. (1997) 'On the Detention of Aliens: The Impact on Democratic Rights', *Journal of Refugee Studies* 10(2):165–180.
- CELLS, J. (1989) 'Responses of European States to *de facto* Refugees', in Loescher, G. and Monahan, L. (eds.) *Refugees and International Relations*, Oxford: Clarendon Press:1187–1215.
- CHIMNI, B. S. (1991) 'Perspectives on Voluntary Repatriation: A Critical Note', *International Journal of Refugee Law* 3(3):541–547.
- (1994) 'The Language of Protection and the Reality of Rejection: End of Cold War and Crisis in Refugee Law', in Saksena, K. P. (ed.) *Human Rights: Perspective and Challenges*, New Delhi: Lancer Books.
- (1995) 'Globalization and Refugee Blues', *Journal of Refugee Studies* 8:298–99.

- (1997) 'UNHCR and Human Rights', comments circulated in the External Research Advisory Committee of UNHCR.
- (1998) 'The Law and Politics of Regional Solutions: The Case of South Asia', paper presented at a Conference of Scholars and other Professionals working on Refugees and Displaced Persons in South Asia held in Rajendrapur, Bangladesh from February 9–11, 1998.
- (forthcoming) 'The Global Refugee Problem in the 21st Century and the Emerging Security Paradigm: A Disturbing Trend', in Anghie, A. and Sturgess, G. (eds.) *Legal Visions of the 21st Century: Essays in Honour of Judge Christopher Weeramantry*, The Hague: Kluwer Law International.
- CHOSSUDOVSKY, M. (1997) 'Economic Reforms and Social Unrest in Developing Countries', *Economic and Political Weekly* July 19:1786–1788.
- (1997a) *The Globalization of Poverty*, Goa: The Other India Press.
- COLES, G. J. L. (1988) 'The Human Rights Approach to the Solution of the Refugee Problem: A Theoretical and Practical Enquiry', in Nash, A. E. (ed.) *Human Rights and the Protection of Refugees under International Law*, Nova Scotia: Institute for Research on Public Policy:195–221.
- (1989) 'Approaching the Refugee Problem Today' in Loescher, G. and Monahan, L. (eds.) *Refugees and International Relations*, Oxford: Oxford University Press:373–410.
- COX, R. W. (with SINCLAIR, T. J.) (1996) *Approaches to World Order*, Cambridge: Cambridge University Press.
- DAVID, U. (1995) 'Refugees from Bosnia and Herzegovina: Are they Genuine?', *Suffolk International Law Review* 18:53–131.
- DEN-HOND, M. (1988) "'Jet-Age Refugees": In Search of Balance and Cooperation', in Martin, D. (ed.), *The New Asylum Seekers: Refugee Law in the 1980s*, Dordrecht: Martinus Nijhoff:49–56.
- D'OLIVERA, H. U. J. (1994) 'Expanding External and Shrinking Internal Borders: Europe's Defence Mechanisms in the Areas of Free Movement, Immigration and Asylum', in O'Keefe, D. and Twomey, P. M. (eds.) *Legal Issues of the Maastricht Treaty*, London: Chancery Law Publishing:261–278.
- FINNEMORE, M. (1993) 'International Organizations as Teachers of Norms: the United Nations Educational, Scientific, and Cultural Organization and Science Policy', *International Organization* 47:565–597.
- FRANKENBERG, G. (1993) 'The Alchemy of Law and Strangeness', *Recht en kritiek* 19:362–372.
- FRELICK, B. (1990) 'The Right to Return', *International Journal of Refugee Law* 2:442–448.
- GIBNEY, M. (1991) 'U.S. Foreign Policy and the Creation of Refugee Flows', in Adelman, H. (ed.) *Refugee Policy: Canada and the United States*, Toronto: York Lanes Press:81–114.
- GOODWIN-GILL, G. (1983) *The Refugee in International Law*, Oxford: Clarendon Press.
- (1990) 'The Benigno Aquino Lecture in Human Rights. Refugees and Human Rights: Challenges for the 1990s', *International Journal of Refugee Law* Special Issue:29–37.
- (1996) *The Refugee in International Law*, Oxford: Clarendon Press, Second edition.
- (1996a) 'Refugee Identity and the Fading Prospect of International Protection', paper read at the Conference on Refugee Rights and Realities, Human Rights Centre, University of Nottingham.
- GORDENKER, L. (1987) *Refugees in International Politics*, New York: Columbia University Press.
- GRAHL-MADSEN, A. (1966) *The Status of Refugees in International Law*, Leyden: A. W. Sijthoff.
- HARRELL-BOND, B. (1989) 'Repatriation: Under What Conditions is it the Most Desirable Solution for Refugees? An Agenda for Research', *African Studies Review* 32:41–69.
- HART, H. L. A. (1970) *The Concept of Law*, Oxford: Clarendon Press.
- HATHAWAY, J. C. (1991) 'Reconceiving Refugee Law as Human Rights Protection', *Journal of Refugee Studies* 4:113–131.
- (1993) 'Harmonizing for Whom? The Devaluation of Refugee Protection in the Era of European Economic Integration', *Cornell International Law Journal* 26:719–737.
- HATHAWAY, J. C. and NEVE, R. A. (1997) 'Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution-Oriented Protection' *Harvard Human Rights Journal* 10:115–211.
- HELD, D. (1995) *Democracy and the Global Order*, Cambridge: Polity Press.
- HOCKE, J. P. (1989) 'Beyond Humanitarianism: The Need for Political Will to Resolve Today's Refugee Problem', in Loescher, G. and Monahan, L. (eds.) *Refugees and International Relations*, Oxford: Clarendon Press.
- HOLBORN, L. W. (1975) *Refugees: A Problem of our Time*, Methuchen: The Scarecrow Press.

- INTERNATIONAL LAW ASSOCIATION (1993) 'The Cairo Declaration of Principles of International Law on Compensation to Refugees', *American Journal of International Law* 87:157-159.
- JEAN, F. (1997) 'The Plight of the World's Refugees: At The Crossroads of Protection', in Médecins Sans Frontières, *World in Crisis*, London: Routledge:42-57.
- KOSKENNEIMI, M. (1989) *From Apology to Utopia*, Helsinki: Finnish Lawyers' Publishing Co.
- LEE, L. (1986) 'The Right to Compensation: Refugees and Countries of Asylum', *American Journal of International Law* 80:532-567.
- LOESCHER, G. (1993) *Beyond Charity: International Cooperation and the Global Refugee Crisis*, New York: Oxford University Press.
- MAGDOFF, H. (1978) *Imperialism: From the Colonial Age to the Present*, New York: Monthly Review Press.
- MARRUS, M. R. (1990) 'The Uprooted: An Historical Perspective' in Rystad, G. (ed.) *The Uprooted: Forced Migration as an International Problem in the Post-War Era*, Lund: Lund University Press:47-57.
- MARTIN, D. A. (1988) 'Introduction' in Martin, D. A. (ed.) *The New Asylum Seekers: Refugee Law in the 1980s*, Dordrecht: Martinus Nijhoff Publishers.
- MCGREW, A. (1997) 'Democracy beyond Borders? Globalization and the Reconstruction of Democratic Theory and Politics', in McGrew, A. (ed.) *The Transformation of Democracy*, Cambridge: Polity Press:231-265.
- MELANDER, G. 'Refugee Policy Options—Protection or Assistance' in Rystad, G. (ed.) *The Uprooted: Forced Migration as an International Problem in the Post-War Era*, Lund: Lund University Press:137-157.
- MORTIMER, E. (1997) 'The Treatment of Asylum Seekers', *Journal of Refugee Studies* 10(2):199-208.
- MUNTARBHORN, V. (1992) *The Status of Refugees in Asia*, Oxford: Clarendon Press.
- MURPHY, C. N. (1994) *International Organization and Industrial Change: Global Governance since 1850*, Cambridge: Polity Press.
- PATNAIK, P. (1997) *Accumulation and Stability Under Capitalism*, Oxford: Clarendon Press.
- PETRAS, J., and VIEUX, S. (1996) 'Bosnia and the Revival of US Hegemony', *New Left Review* 218:3-26.
- RAWLS, J. (1993) 'The Law of Peoples', *Critical Inquiry* 20:37-68.
- RICHMOND, A. H. (1994) *Global Apartheid*, Toronto: Oxford University Press.
- ROGGE, J. R. (1994) 'Repatriation of Refugees', in Allen, T. and Morsink, H. (eds.) *When Refugees Go Home: African Experiences*, UNRISD.
- SCHERMERS, H. G., and BLOKKER, N. M. (1995) *International Institutional Law: Unity within Diversity*, The Hague: Martinus Nijhoff Publishers.
- SEPULVEDA, D. C. (1996) 'Challenging the Assumptions of Repatriation: Is it the Most Desirable Solution?' Unpublished paper on file with the author.
- SHACKNOVE, A. (1993) 'From Asylum to Containment', *International Journal of Refugee Law* 5:516-33.
- SIMPSON, J. H. (1939) *The Refugee Problem: Report of a Survey*, London: Oxford University Press.
- SKRAN, C. (1995) *Refugees in Inter-War Europe*, Oxford: Clarendon Press.
- SMYSER, W. R. (1985) 'Refugees: A Never-Ending Story', *Foreign Affairs*, 64:154-168.
- SPENCER, M. (1995) *States of Injustice: A Guide to Human Rights and Civil Liberties in the European Union*, London: Pluto Press.
- STEIN, B. N. and CUNY, F. C. (1991) 'Repatriation under Conflict', *World Refugee Survey* 15-21.
- STOESSINGER, G. (1963) *The Refugee and the World Community*, Minneapolis: University of Minnesota Press.
- UNHCR (1993) *The State of the World's Refugees: The Challenge of Protection*, New York: Penguin Books.
- (1995) *The State of the World's Refugees: A Search for Solutions*, Oxford: Oxford University Press.
- (1996) Global Strategy Paper: UNHCR strategy towards 2000.
- (1996a) Guidelines on Voluntary Repatriation.
- (1997) Opening Statement by the United Nations High Commissioner for Refugees at the Forty-eighth Session of the Executive Committee of the High Commissioner's Programme.



- WALZER, M. (1997) 'An Interview with Michael Walzer', *Theory, Culture and Society* 14(1):113–130.
- WEINER, M. (1995) *The Global Migration Crisis*, New York: Harper Collins College Publishers.
- WIDGREN, J. (1990) 'International Migration and Regional Stability', *International Affairs* 65.
- WOODWARD, S. L. (1996) *Healing the Wounds* Geneva:12–14.
- WORLD REFUGEE SURVEY (1992) Washington DC.
- (1997) Washington DC.
- ZOLBERG, A. R., SUHRKE, A., and AGUAYO, S. (eds.) (1989) *Escape From Violence: Conflict and Refugee Crisis in the Developing World*, New York: Oxford University Press.