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Chapter 1

Who Is a Refugee?

Why Definitions Matter

The definitional problem with which we start is no mere academic exercise but has a bearing on matters of life and death. Although the term *refugee* has deep historical roots, its significance as a legal and administrative category has been vastly enhanced in our own times. The point can be brought home by considering the words that Emma Lazarus used in her poem a century ago:

> *Give me your tired, your poor,*
> *your huddled masses yearning to breathe free*
> *The wretched refuse of your teeming shore. . . .*

Which, among the arrivals thus greeted, were ''real'' refugees? The need for precise categories did not arise under conditions of unlimited immigration, and so the distinction was not made explicit. However, given the growing numbers, restrictive immigration policies, and limited availability of aid, criteria must be established for distinguishing a set of persons deserving priority with respect to asylum and assistance. *Refugee* has become a category on whose basis international organizations and individual states engage in a process of worldwide triage. Refugee status is a privilege or entitlement, giving those who qualify access to certain scarce resources or services outside their own country, such as admission into another country ahead of a long line of claimants, legal protection abroad, and often some material assistance from private or public agencies.

Confusion arises from the fact that *refugee* has acquired a diffuse meaning in ordinary parlance and a much more precise one in legal and administrative jargon. Jacques Vernant observed as far back as 1953 that ''in every-day speech a refugee is someone who has been compelled to abandon his home.'' Such refugees include victims of an earthquake or a flood, as well as of war or persecution. More generally, the emphasis has been on victimization by events ''for which, at least as an individual, he cannot be held responsible.''[1] This is still the emphasis today, as in press references to the victims of famine in Africa as "refugees." When conceptualized in this manner, the term covers a large and varied universe of oppressed, suppressed, malcontent, and poor persons, whose movements can be attributed to conditions commonly considered as "push" factors that produce migrations. But a good indication of why this definition is not satisfactory is the distinction in the press of many Western countries between "genuine" and "false" refugees.

On the other side, the prevailing definition in international law displays an air of considerable precision and, in reference to international migrants, is highly selective. According to the Protocol Relating to the Status of Refugees agreed upon by the United Nations in 1967, the term *refugee* applies to "any person" (but only that person) "who is outside the country of his nationality . . . because he has or had well-founded fear of persecution by reason of his race, religion, nationality, membership of a particular social group or political opinion and is unable or, because of such fear, is unwilling to avail himself of the protection of the government of the country of his nationality."[2] This definition, which also applies to people without nationality in the country of their habitual residence, figures centrally in the statute establishing the Office of United Nations High Commissioner for Refugees (UNHCR), and for this reason the set of persons constituted on this basis are generally known as *statutory refugees*. But among those people who genuinely need refuge and assistance, many do not qualify. Is the triage based on this definition warranted? Or should the definition itself be changed to reflect current realities?

We shall return to the protocol and related matters later in this chapter. For now, we point out only that disagreement on these issues is unavoidable, because defining refugees for purposes of policy implementation requires a political choice and an ethical judgment. Research on refugees is also affected by these considerations and so cannot ignore the underlying problems. If refugees are identified simply as the people who have been recognized as such by the appropriate United Nations agency or the authorities of a particular state, research conducted on this basis will consequently help legitimate the ongoing practices and hence exclude a consideration of policy alternatives that might give refugee status to others whose need is even greater. To counteract this, scholars might adopt what some call an *ethnomethodological* stance and accept the self-definition of all those who claim to be refugees. But although this approach might be valid for some purposes, it too would reduce the usefulness of the resulting study for the formation of refugee policy.

Another possibility is to define refugees on a sociological basis, that is, according to criteria grounded in observable social realities, independent of any determination by official bodies or by the refugee's own claims. But this would just move the problem back one step: What criteria should we use to distinguish "genuine but unrecognized" refugees from "false" ones?

This chapter tries to answer the question Who is a refugee? It begins with an analytic review of the Western historical record, identifying the types of social situations that have led to the labeling of particular groups of people as refugees and to the development of commensurate legal categories. The analysis also indicates why only some populations and not others in similar situations were treated as refugees and thereby how the development of codes reflects broader political considerations and discretionary judgments by state authorities. We then consider current legal codes and practices to help clarify today's controversies and to help justify our position in relation to them.

Classic Refugees

Religious Persecution

Although banishment, flight into exile, and the granting of asylum to strangers in need are practices found throughout history, the appearance in early modern Europe of *refugee* as a noun suggests a new awareness of a distinctive social phenomenon. Originating in France in the late seventeenth century, the word *refugee* is recorded as having been used in 1573 in the context of granting asylum and assistance to foreigners escaping persecution.[3] The date suggests that this phenomenon probably referred to the arrival of Calvinists from the adjacent Low Countries, a region where the Reformation had gained considerable support but whose Spanish rulers were engaged in an all-out repression of religious dissent.[4] The English word *refugee* is derived from the French; ironically, it was first used about a hundred years later in reference to the Huguenots, persecuted Calvinists from France who streamed into England immediately before and after the revocation of the Edict of Nantes by Louis XIV on October 18, 1685.[5]

The case of the Huguenots illustrates particularly well the refugee phenomenon.[6] In the early seventeenth century, France was unusual among the European states in having achieved a relatively peaceful coexistence between a Catholic majority and a Protestant minority, which was based on the Edict of Nantes, enacted in 1598 after four decades of civil war. The edict institutionalized a political compromise between Catholic and Calvinist nobles—the latter then amounting to perhaps one-fourth of the aristocracy—whereby Catholicism was reestablished as the state religion but the Protestants achieved a large measure of political autonomy in an archipelago of fortified cities, complete with their own courts of law and military forces. To clinch the compromise, Henry IV—a Calvinist noble who had returned to Catholicism as a condition for assuming the crown—took on the Calvinist Duc de Sully as his chief minister.

However, with each subsequent step in the consolidation of state power, the Protestants' situation came to be viewed as more anomalous. Religious conformity was imposed on the aristocracy in the late 1620s, and Protestant towns such as La Rochelle were shorn of their defensive walls as well as deprived of their political autonomy. Henceforth, the Reformed community survived at the mercy of the king. By the middle of the seventeenth century, French Protestants were reduced to a minority of from 6 to 8 percent, largely bourgeois in character, except for a rural enclave in the south (Languedoc). Having achieved considerable prominence in the economic and professional sphere, the Calvinist bourgeoisie rallied in support of the monarchy during the mid-century confrontation known as the Fronde. Nevertheless, shortly after seizing power in 1661, Louis XIV set out to eliminate Calvinism from France. This undertaking makes sense only in regard to absolutist ideology, as an effort by the king to achieve what he conceived to be a perfectly unified polity.

The revocation of the Edict of Nantes in 1685 was the capstone of a twenty-year-long systematic attempt to undermine every requirement for the survival of the Reformed community, making it impossible for people to be born, work, marry, or die as Calvinists. Except for the ministers, many of whom were sent into exile, the objective was not to expel the Calvinists from France but to force their return to the Catholic fold. On the eve of the revocation, the Calvinist population numbered about 878,000, down to about 4 percent of the French total. In keeping with the tenets of mercantilism, the state prohibited this valuable population from emigrating. Nevertheless, the Calvinists began to leave the country in the early 1680s, and about 40,000 escaped each year between 1685 and 1688. The total outflow is estimated at 200,000 between 1681 and 1720, nearly one-fourth of the Protestants—and by all accounts, the most affluent part of the community. The exiles scattered widely, with most going to Britain and the Netherlands, some to Switzerland and Brandenburg-Prussia, and a few as far afield as Russia, the British colonies of North America, and the Dutch colony in southern Africa. Among the three-fourths who remained behind, some converted; a small number were sent to the galleys; the southern peasants rose up in rebellion; but most led a quiet double life, quietly going about their secular affairs while surreptitiously participating in "desert" congregations until the dawn of tolerance in the mid-eighteenth century. The surviving community was about half its pre-Revocation size.

What made the Huguenots refugees? First, they were people fleeing a life-threatening danger—with "life" referring to spiritual as well as physical existence—but they constituted something more distinctive than an aggregate of individuals in flight, and the danger they faced was distinctive as well. Their plight stemmed from membership in a religious organization targeted for destruction by the governmental authorities of their own country, in peacetime and without any provocation on their part. Although this persecution may have been rooted in the emergence in Europe of a "persecuting society" that actively repressed all forms of deviance, our own analysis focuses more immediately on the dynamics of absolutist state-formation.[7] As persons whose flight can clearly be attributed to the fear of persecution on account of religion, the Huguenots would certainly qualify as statutory refugees under the current definition. Indeed, they provide a historical model of the classic type of refugees, still relevant today.

How relevant it is, however, is one of the questions that this study seeks to answer. On the occasion of the tricentennial of the revocation of the Edict of Nantes, an unofficial publication of the United Nations High Commission for Refugees (UNHCR) emphasized that this historic movement into exile "had many features in common with the situation of refugees today: emergency assistance, protection, refoulement, pirate attacks on 'boat people' at sea, integration problems, resettlement, repatriation."[8] The article concludes with the observation that the Huguenots "also brought great benefits to their countries of asylum." However, it neglects to point out that most of the people with whom the UNHCR is concerned today do not fit this classic type and that the new types of refugees are much more likely to be a burden than an asset to the receiving countries.

What made the Calvinists refugees was not only persecution by Louis XIV but also their recognition by other countries' political authorities as people to whom asylum and assistance were due. The fact that the term *refugee* originated among the receiving countries highlights an ill-understood but fundamental feature of the phenomenon: For a refugee flow to begin, certain conditions must be met in one or more of the states of destination as well as in the state of origin. People cannot leave their country if they have no place to go—a truism that holds for all types of international migration—and the availability of such a place is in turn largely determined by those who control the places of destination, usually governmental authorities.[9] Should a government be bent on persecuting some target group, the asylum policies of other countries may well determine whether the persecution will lead to a refugee flow or to some other outcome, such as acceptance of severe disabilities by the target group, or even mass murder. The experience of many European Jews during the Nazi era is a tragic case in point.[10]

Asylum was available to the Calvinists because whatever made them unacceptable to their state of origin was, on the contrary, supported by some politically powerful groups elsewhere. Most obviously, they were welcome in states that had established some form of Protestantism as their official religion, or in which fellow Calvinists had achieved significant power. A sense of obligation toward fellow Protestants in distress was undoubtedly a leading motive, and although this might be labeled *humanitarianism*, it should be understood that this humanitarianism was decidedly partisan. Within the conflictual international political arena of the sixteenth and seventeenth centuries, the provision of refuge to foreign Calvinists also was an astute move in the game of statecraft. Moreover, in the dawning age of mercantilism, the prospects of gaining a population renowned for its skills and wealth clearly came into play as well, as the UNHCR article cited reminds us.

Extrapolating from these specific historical circumstances to a more general level, we can think of the classic type of refugee as arising from a broader universe than merely the country within which persecution occurs. This universe contains several interacting political entities—let us call them states—controlling territories and the people they contain and varying significantly from one another with respect to some ideological elements (e.g., religion), thus forming a world characterized by certain pluralist features. One such world was that of the ancient Greek city-states, in which the phenomenon of political exile and asylum appears to have been quite common. Another such world arose in Western Europe in the epoch that we are considering, when the region as a whole experienced major upheavals resulting in the formation of competing national states and religions.

The significance of outsiders in determining whether victims of persecution become refugees is highlighted further by the contrast between what happened to the Calvinists from the Low Countries and France, and the approximately 150,000 Jews forced to leave Spain in 1492 for refusing to convert. Some sneaked into neighboring France, from which Jews had been officially expelled at the turn of the fourteenth century; others moved similarly to the Low Countries or quietly joined correligionists living under the pope's protection in his own states. Many more moved to Portugal, whose sovereign saw in them a golden opportunity for economic promotion, but in a few years, they were expelled from that country as well. Most of the Jews of Iberia scattered among the Muslim states of North Africa and the Middle East, which welcomed them for the wealth and skills they brought and where they joined established communities of their own kind.

Like the Huguenots, the Iberian Jews were faced with a life-threatening danger because of their religion. Banishment from one's own country might be thought of as "social execution," paralleling the notion of "social death" that is central to slavery.[11] However, from the perspective of Christian Europe in the late fifteenth century, the Jews were not "innocent victims" of religious persecution but a people guilty of wrongfully resisting legitimate acts of their sovereign, by adhering to a proscribed religion; they therefore deserved their unhappy fate. But because they would qualify as refugees according to the criteria used in international law today, we can think of them as a classic case of *unrecognized* refugees.

But let us note that this judgment is based on a relativistic view of religion—that is, that all are equally deserving of respect—such as that underlying the notion of religious freedom in the American Bill of Rights and other Western constitutions. Because this is a modern conception of religion, not universally shared even today, the statement that "the Jews of Iberia were unrecognized refugees" is accepted as valid only in the context of specific shared understandings. It is precisely the formation of such a community of discourse, within which certain categories of persons are viewed as refugees, that we are seeking to reconstruct. Its development followed a "Kantian" progression, beginning with particularistic judgments of the sort we have just seen, contingent on the circumstances prevailing in a given country at a given time; to which, over time, other categories were added; and gradually becoming more universalistic until, after World War II, the general criteria for identifying refugees were institutionalized in a body of international law administered by a bureaucratic organization staffed by appropriate experts.

Religious refugees proliferated throughout Europe in the sixteenth and seventeenth centuries. In addition to those cited, major streams included Muslim Spaniards, expelled in a series of waves beginning immediately after the fall of Granada in 1492 and culminating in the deportation of 275,000 people across the Mediterranean in the five years after 1609; German Catholics and Lutherans, involving a series of exchanges of religious minorities at the end of the Thirty Years' War, when the innumerable principalities of the Holy Roman Empire attempted to sort themselves out according to the principle that the ruler's religion determined that of his territory as a whole; and Irish Catholics, beginning in the late sixteenth century, and especially in the mid-seventeenth, when many fled to Spain and France in the face of Oliver Cromwell's attempt to deport them to the waste of Western Ireland (Connacht) or, if they resisted, as indentured plantation labor to Barbados. To these might be added the various groups of Protestant dissenters who came under pressure to relocate from England and Scotland to their sovereign's possessions in the dangerous wilderness of the New World. But refugees were generated even in the New World itself, as when French Acadians were expelled from their Nova Scotia home by British authorities after 1755, with many ending up in Louisiana.

These movements halted by the middle of the seventeenth century, partly because after two centuries of enforcement, most of the states concerned had in fact achieved a high degree of religious homogeneity and also because by then Catholic-Protestant differences had lost their significance in regard to international political conflict. As absolutism gave way to enlightened despotism, religious tolerance became accepted on grounds of principle as well as self-interest. Committed to a doctrine of individual rights, the revolutionary regimes that subsequently emerged in America and France emancipated religious minorities from their remaining disabilities. The absence of religious persecution became the hallmark of "civilized" states, and thus anyone who was so persecuted came to be considered a refugee.

Political Opposition

The conflicts of this new age fostered a new type of refugee flow. In the latter part of the eighteenth century, the West—now encompassing the descendants of Europeans who had settled in North and South America—began experiencing another epochal transformation, extending into the political, cultural, and economic spheres, each of which conditioned the others, and involving once again interpenetration of the domestic and international levels.[12] It was both the age of democratic revolutions and the onset of this great transformation that resulted in the emergence of industrial capitalism as the dominant mode of economic organization. A distinctive feature of the conflicts of this period is that they were fought in the nascent language of political ideology, with the objective of preserving or achieving a particular regime and with status groups—the aristocracy, the bourgeoisie—as the most relevant social categories. This ideological dimension entered the international level as well. By the early 1790s, France was seeking to expand in the name of revolution, and most of the other European states were coalescing to contain France in the name of legitimacy. At the same time, internal political divisions became internationalized: English democrats were viewed as French agents, and French conservatives as the servants of Austria or England.

These new waves of refugees in the West were also recorded in linguistic usage. In English, the old term was put to new use in the late eighteenth century: "Since the revolt in the British colonies in America," noted the *Encyclopedia Britannica* in 1797, "we have frequently heard of American refugees."[13] In France, however, the revolutionary experience gave rise to a new term, *émigré.* Unlike *refugee,* it was a term of opprobrium, imposed by those who disapproved of the people departing.

The total number of refugees produced by the French Revolution has been established at 129,000. On the basis of a population of 25 million, this is a ratio of approximately 5 per 1,000.[14] Of these, 25,000 were members of the clergy, deported for refusing to take an oath of allegiance to the revolutionary constitution. The others consisted of two somewhat overlapping categories: members of the nobility who came under general suspicion during the Terror, regardless of their degree of involvement in the political opposition, and political opponents of successive ruling groups in the various phases of the revolution, or merely those whom they believed to be their enemies. Less well known is that the American Revolution triggered an equivalent movement. Although estimates of the number of loyalists who left for Canada, Nova Scotia, or England run as high as 100,000, R. R. Palmer adopts a more conservative 60,000. On the basis of a population of about 2.5 million (including slaves, some of whom became refugees), this produces a ratio of 24 refugees per 1,000, five times higher than in France.[15]

The refugee flows caused by the revolutionary conflicts of the late eighteenth century differed significantly from the classic type, in that the repression was directed against individuals deemed undesirable or dangerous because of their political opinion—that is, their response to current issues, especially to the objectives to be pursued by the government and the activities carried out to implement them. This reflected the rise of ideology as a major element of political communities, a process initiated by revolutionary challengers, who justified their attacks on the legitimate authority by appealing to higher principles. But revolutionaries breed counterrevolutionaries; in the face of these challenges, defenders of the status established a doctrine founded on principles of their own. As in the case of religious homogeneity for absolutist states, the achievement of these objectives was evidence of political unanimity. Thus, revolutionary and counterrevolutionary regimes were driven beyond the mere neutralizing of opponents to repress systematically any political dissent.

The French Revolution was rapidly internationalized as the new regime launched preemptive moves in preparation for a Europe-wide counterrevolutionary thrust and as involvement in war helped radicalize the regime. With refugees living in what were now enemy countries and participating in operations against France, internal dissent came to be perceived as even more dangerous. As tensions were exacerbated, the domain of repression expanded to encompass *ancien régime* elites as a whole, whose loyalty was questioned because of their position in the social order. The nature of the target thus shifted perceptibly, from a collection of individuals holding certain political opinions to a social group.

Across the Atlantic, the bulk of the outflow consisted of what the American revolutionaries called *Tories,* colonial partisans of continued British rule, many of whom fought on the British side in the war, and they even included some slaves, who were rewarded with manumission. As already noted, from the British perspective there was no doubt that these "Loyalists" were refugees. But considered from a contemporary perspective, their status is more ambiguous. The decision to leave undoubtedly reflected widespread apprehension of what the Americans might do once they came to power, but because the people in question left before having lived under the new regime, there was no opportunity for "persecution" to take place. However, the governments of the several states did confiscate the property of those who emigrated, as revolutionary France later did as well, and in many instances, they enacted laws prohibiting their return. Because the impossibility of returning to one's homeland does provide grounds for claiming asylum, it can be argued that many of the Loyalists would qualify as refugees today.

The outcome in this case was tantamount to repatriation, not only to Britain itself, but especially to what are now the Canadian provinces of Quebec, Nova Scotia, and Ontario, where the Loyalists received large grants of land in exchange for guarding the remainders of the British Empire in North America against its southern enemies and for preparing for the next round of conflict. The fact of having desirable places to go to probably stimulated some departures but also contributed to the ambiguity of the movement, by giving it an element of ordinary migration. Overall, much as the case of the French émigrés foreshadows the initial type of refugee flow produced by successful social revolutions, the American experience anticipates the exodus characteristically triggered by wars of national liberation.

Mirroring the cause of the new flows, the response of states was determined essentially by the orientation of their government. It is noteworthy that the issue of refugee policy precipitated a major political crisis in the new American state. In the 1790s, as the world's only successful revolutionary republic, the United States emerged as a potential place of asylum for defeated European democrats. However, the ruling Federalists viewed the arriving British and Irish political refugees as dangerous "Jacobins" and devised legislative barriers both to restrict their entry and to punish their American friends. The campaign to repeal the Alien and Sedition acts in turn contributed to the triumph of the Jeffersonians in 1800 and helped liberalize the American regime.[16]

The comings and goings of political refugees became commonplace in the West in the nineteenth century. The outcomes of the continual confrontations between revolutionaries and counterrevolutionaries, as well as between national independence movements and imperial authorities—the two often being intertwined—led to new flows of refugees or enabled earlier exiles to go home, as did the French émigrés after the Restoration. Michael Marrus has emphasized that politically determined migration during this period "generally concerned *exiles,* individuals who had chosen their political path, rather than large masses of people torn loose from their society and driven to seek refuge."[17] However, the streams of exiles sometimes became quite large and concentrated in time, showing that crises tended to occur in waves, not only because the political conjuncture of most of the Western countries was affected by common transnational processes such as fluctuations in the business cycle, but also because these countries had become a single network of communication, within which events in one country (e.g., the French Revolution of July 1830) could have instant effects elsewhere (e.g., in Belgium, Poland, and even Canada).

The refugees of this period came mostly from the ranks of revolutionary and nationalist movements, which usually were unsuccessful, at least in the short term; havens were therefore limited to the few liberal regimes. Although they did not hesitate to repress indigenous revolutionaries, the governments of the liberal states were generally tolerant of the exiles, who made few demands on them beyond asylum itself, as long as they stayed out of domestic politics and their presence was compatible with foreign policy. After a time, such refugees tended to go home, but occasionally they were asked to move on.

Among the major flows were the Polish rebels of 1830, inspired by the July Revolution, of whom over 5,000 fled after the insurgency was defeated, mostly to France. Another unsuccessful attempt at gaining independence from the Russian tsars triggered another outflow in 1863. Similarly, many of the defeated French Canadian *rouges,* followers of Papineau who had staged an uprising in 1837–38 on behalf of reform, along the lines of Jacksonian democracy, fled to the United States—as did some English Chartists and Irish nationalists. Although no detailed overview is available, by all accounts the Europe-wide mid-century crisis produced tens of thousands of refugees, originating mainly in France, Germany, Italy, and Austro-Hungary and going mostly to Belgium, Switzerland, the United States, and Britain. There were also intermittent trickles from Italy, Spain, and Russia, amounting to substantial numbers over the course of the century. Following the annexation of their region to Germany, about 130,000 residents of Alsace and Lorraine left home in 1871 in order to remain French, but this constituted another type of refugee movement, which we shall examine in the next section.

In the earlier part of the century, Marrus has suggested, ''the world of political exiles was that of the relatively well-to-do or, at least, of the once well-to-do'' because ''national politics and a long-term investment in the business of revolution were not generally possible for ordinary Europeans.'' Moreover, ''it took some measure of affluence to flee abroad in the first place.''[18] However, these observations are somewhat misleading with respect to Western Europe, where workers and even peasants participated quite early on in radical social and political movements. For activists from the lower classes, the consequences of defeat were more likely to be incarceration, transportation to penal colonies (such as Australia for the Irish and Algeria for the French), and even massacre, as occurred in Paris in June 1848 and again in the spring of 1871. Later, the increased availability of cheap long-distance transportation made it possible for workers to flee as well.[19] Marrus has pointed out, for example, that in the French civil war of 1871 and its aftermath, 20,000 Parisians died; 35,000 were arrested; and about 45,000 fled, ''including men and women from across the social spectrum,'' mostly to England and Belgium.[20] The failure of the Russian Revolution of 1905 also prompted a massive exodus of politically active workers. As there still were few barriers, most of them flowed with the ongoing immigration tide to England, France, and especially the United States. Nevertheless, the lower classes remained less mobile in the twentieth century, as tragically illustrated by the wholesale massacre of peasants after the defeat of the 1932 uprising in El Salvador.

National Minorities and the Stateless

The latter decades of the nineteenth century marked the beginning of a protracted crisis, lasting until the middle of the twentieth century, which propelled refugee issues to the fore of international concern and gave rise to the institutional apparatus that prevails today. This apparatus is characterized by both a resurgence of the classic types—on a much larger scale and under circumstances that rendered their plight more urgent and more difficult to resolve—and especially by the appearance of a largely new type.

Once again, these flows arose as the by-product of a regionwide upheaval.[21] The global expansion of the international political and economic system entailed a dislocation of the economic and political structures that had provided Europe with a century of peace. Its striving to become an economic and political empire—on the scale of Britain, the United States, and Russia—prompted Germany to embark on an expansionist path. The outbreak of World War I in turn exacerbated all existing tensions, including the social and national conflicts among the belligerents.

World War I had especially dramatic consequences for the Russian, Austro-Hungarian, and Ottoman empires, which formed a huge region spanning Europe and Asia and which had been experiencing for some time the familiar tensions and conflicts that accompany the transition from traditional social and political orders, and the transformation of empires into national states. Internationalization came on top of a number of other features that helped make these upheavals particularly serious. The region as a whole constituted a zone of economic "backwardness" in relation to the world of industrial capitalism, deeply affected by the destructive transformations it wrought, but without the benefits of the rapid increase in per-capita income it brought to the early developers. The region contained very large populations, mostly rural and living close to subsistence, that were beginning to increase more rapidly, and the upheavals came at a time when railroads as well as automobiles increased the possibility of moving large masses of troops and civilians over long distances. At the time the refugee-producing conflicts began, the relevant regions were already producing very large outflows of international migrants. Finally, all three empires had heterogeneous ethnic configurations by the standards of the Western European countries where the nation-state as a political form originated. Attempts to remold these configurations according to this model were therefore bound to run into almost insurmountable obstacles.

The war brought about the collapse and dismantlement of both the Ottoman and Austro-Hungarian empires, as well as the collapse of the Russian tsarist regime followed by revolution and civil war, which in turn produced numerous refugees. In addition, attempts by the successor states to "unmix" their nationalities resulted in the identification of minorities as obstacles to be eliminated.[22]

Reflecting on this experience, Hannah Arendt observed in 1951 that "since the Peace Treaties of 1919 and 1920 the refugees and the stateless have attached themselves like a curse to all the newly established states on earth which were created in the image of the nation-state."[23] Her explanation focuses on the "corruption" of the traditional Western doctrine of human rights which, with the proliferation of national states, gave way to that of nationally guaranteed rights. Implied from the outset in the system of nation-states was that "only nationals could be citizens, only people of the same national origin could enjoy the full protection of legal institutions, that persons of different nationality needed some law of exception until or unless they were completely assimilated and divorced from their origin."[24] But this remained hidden from view until the nation-state formula was adopted to organize political life in states containing ethnically mixed populations, often so inextricably interspersed that it proved impossible to form viable, ethnically homogeneous political entities. The gap between the formula and the social realities generated enormous tensions, out of which emerged two "victim groups," the minorities and the stateless.[25]

The minorities were persons insisting on a nationality different from that of the state in which they lived. This different nationality often happened to be that of a neighboring state. As the doctrine of nationally guaranteed rights came to be equated with the notion of rights guaranteed to nationals only, the minorities were thus turned into political misfits.[26]

The stateless were misfits in an even more extreme sense, in that no matter how national or provincial boundaries might be reorganized, they would always remain residual groups who did not belong to any established nation-state or recognized national minority. The proliferation of stateless persons, of whom the most prominent were the Jews, was the culmination of the nation's conquest of the state. This is why Arendt considered them to be "the most symptomatic group in contemporary politics," people who live necessarily "outside the pale of the law" and hence are vulnerable not only in their states of origin but also in the world at large. Others were deliberately reduced to stateless status when a type of state emerged that "would rather lose its citizens than harbor people with different views."[27] The counterpart to the rise of nationality as the exclusive source of rights was thus that "denationalization became a powerful weapon of totalitarian politics."[28]

As a historical account, Arendt's analysis is problematic in a number of ways.[29] Most important, her insistence on the newness of the victim-group phenomenon in the period following World War I is misleading in that, as we have seen, state-formation in the sixteenth and seventeenth centuries also resulted in the targeting of minorities for persecution. Nevertheless, Arendt brilliantly highlights the essentially political dynamics involved. With the qualifications indicated, the emergence of target minorities as a result of the "nationalization of rights" can be seen as an instance of a more general process, whereby the state's choice of an integration formula determines positive and negative categories of persons and its ensuing relationships with these groups. The formula is the construction of a collective identity encompassing the rulers and the majority of the population; its foundation may be religious, racial, or even ideological, as well as national, but each has distinct implications. In early modern Europe, for example, affiliation with one or another Christian denomination was conceived to be a matter of individual will, leading sovereigns to pressure their religious minorities to conform through conversion or abjuration. This also was the case for Islam and can be seen at work today in fundamentalist Iran, which persecutes Muslim heretics. But if religious categories are founded on ascendancy—traditionally conceptualized as "blood"—they are by definition immutable, and therefore the state cannot achieve its objectives by transforming the deviants into persons of the approved mold. In an earlier era, Orthodox Christians could be made into Muslims, but in the twentieth century, Greeks cannot be made into Turks. Under these circumstances, the adopting of a mononational formula by a multiethnic state entails some form of exclusion, either extreme segregation or expulsion. Moreover, interactions among several states striving to achieve this monistic objective tend to invite mutual hostility and endless attempts at unmixing nationalities.

The leading European powers, which formed a rudimentary international political community, undertook to guarantee from the outside the minorities' elementary rights. First devised as a condition for the minorities' support of Romanian independence in 1856, after World War I this method was included in the League of Nations, through minority treaties imposed on the newly created states.[30] However, these treaties were clearly discriminatory, in that only the new states were bound to such obligations; political resentment against the minorities consequently intensified because their very presence forestalled achievement of full sovereignty. For example, after independence Romania denied citizenship to Jews, despite its treaty obligations.[31] Defined as enemies of the nation, the Jews were prohibited from attending state schools, harassed while carrying out their economic activities, and in many cases forced to relocate. Not only did the Romanian authorities deny the Jews protection, but they even encouraged violence against them. Consequently, out of an estimated 200,000, nearly one-third had emigrated by 1914.

Unlike the Jews, most of the refugees associated with the "unmixing of peoples" remained in their original empires, usually moving from what had become a new state, in which they constituted a minority, to another where their nationality was dominant. Most prominent were the population exchanges following the transformation of the Ottoman Empire into a set of states aspiring to become nations, a protracted process that began with the emergence of Greece as an independent state in 1832 after a decade-long war and that is still far from completed, as indicated by ongoing ethnic struggles in Cyprus and Turkey.[32] Internationalized from the start, when the Greek separatists obtained considerable support from various European powers, the resulting conflicts have remained so all along, as indicated by the Turkish invasion of Cyprus in 1974. Beginning with Greeks fleeing the island of Chios to escape massacre in 1822, the series continued with thousands of Bulgarian revolutionaries and Christian peasants leaving Bosnia and Herzegovina in the 1860s and 1870s, and Muslim settlers from Greece and territories annexed by Serbia and Montenegro in 1878. With the onset of nearly continuous war in the Balkans, target groups proliferated and refugees grew into the hundreds of thousands by the eve of World War I.

The population exchanges between Greece and Turkey in the 1920s illustrate the formation of a new type of refugee, stemming from the organization of a largely involuntary unmixing of peoples under the aegis of international law.[33] Background features include the secular migrations of both Greeks and Turks from their respective homelands within the Ottoman Empire to regions inhabited by the other, and the tensions between Turkey and Greece beginning when the latter achieved independence at the expense of the former and became a client state of Russia and Britain, intent on reducing Ottoman power. Committed to the reunion of all Greek nationals, Greece steadily encroached on Turkish territory, and each of these gains in turn precipitated the flight of a part of the local Muslim population.[34] Turkey and Greece then joined opposite sides in World War I, hoping thereby to promote their respective aims. Being on the victors' side, Greece was awarded the remnants of European Turkey except for Constantinople (Istanbul) itself. Encouraged by the Allies, in 1921 Greece invaded Asian Turkey but was defeated by Mustafa Kemal (later "Atatürk") on the outskirts of Ankara. The Turks then pushed the Greeks back to Smyrna, where in September they laid waste to the Greek sections of the city and massacred the population. About one million refugees fled to Greece during the rout and its immediate aftermath.

The Turkish victory consolidated control in the hands of the Kemalist revolutionaries. Viewing the flight of the Greeks as an unanticipated opportunity to promote the transformation of Turkey into a genuine national state, the government not only refused their repatriation—in violation of international law—but also insisted that remaining citizens of the Greek Orthodox faith leave as well. In return, asserting that it had neither the resources nor the land to resettle these refugees, the Greek government demanded the transfer to Turkey of the much smaller Muslim population of Greece, already reduced from 800,000 to about 400,000 in the wake of earlier episodes of "unmixing." This was acceptable to Turkey, because the lands to be vacated by the Greeks would facilitate their resettlement and because they feared Greek reprisals against the Turkish minority concerned. Moreover, the convention establishing the exchange would retroactively legitimize the Turkish government's violation of international law with respect to its Greek Orthodox population.[35] The regrouping of populations helped end the international conflict and the violence. But in contrast with what was being done in similar situations in other parts of Europe, this regrouping was made compulsory, without any pretense of consulting the population concerned. Although few Greek Orthodox adherents remained in Turkey, a large number of Muslims still were living in Greece.

The most tragic of the target groups were the Armenians, who must figure prominently in any account such as this, not only because many of them became refugees, but also because most did not—a fate that befell also most European Jews two decades later and, more recently, victims of violence similarly trapped in Nigeria, Uganda, Indonesia, Kampuchea, and East Timor.[36] Long prominent in Eurasian long-distance trade, the Armenians were divided between the tsarist and Ottoman empires. In the latter, in the last quarter of the nineteenth century they constituted a Christian minority of 1.5 to 2 million, who controlled a large share of the expanding trade and were prominent at the highest levels of government. Although many remained in their Anatolian homeland, while carrying out their economic activities the Armenians scattered throughout the empire, with substantial clusters in most of the towns and cities. Concurrently, influenced by earlier developments in the Greek community, they became a self-conscious national group. However, in the 1870s Sultan Abdul Hamid sought to stem the empire's decline and disintegration, by reinforcing the central authority vis-à-vis the various national communities. This required, among other things, the "ottomanization" of the administration, an objective in which the Armenians emerged as an obstacle. With the onset of conflict between the sultan and the tsar, the Armenians' loyalty also became an issue. Although the victorious Russians imposed on Turkey a treaty affording protection to the Armenians, this merely compounded Ottoman resentment. Tensions were further exacerbated by the steady arrival in Turkey between 1878 and 1897 of Muslim victims of Christian persecution in Greece, Bulgaria, and Serbia, amounting to perhaps one million.[37]

After nearly twenty years of intermittent repression, which in turn further stimulated Armenian aspirations toward national independence, a large massacre took place in the summer of 1894, triggered by the refusal of an Armenian community to pay tribute to the Kurdish chieftain to whom it was obligated. This was the first of a two-year-long series, culminating in the murder of 6,000 Armenians in Constantinople in August 1896. Estimates of the total number of victims range from 50,000 to 300,000, or between 2 and 15 percent of the Armenian population; many of the survivors fled to Russia or Persia. The use of terror was "rational" in that it forced the Armenians to withdraw from public life and thereby enabled Turkey to escape its treaty obligations, as did Romania with respect to the Jews. More massacres carried out by the reformist Young Turks in 1909 prompted the Europeans once again to intervene on behalf of their protégés, but the new guarantees fell by the wayside with the outbreak of World War I. Acting in the name of national security, in 1915 the authorities disarmed all Armenian soldiers, rounded up and deported most of the leaders, and drove masses of people from the Armenian homelands, adjacent to the Russian empire, to arid wastelands in the south, where they were not expected to survive. Massive deportation was not in itself a new method of persecution. The much earlier cases of the Moriscos, Acadians, and Irish come to mind. What was different, perhaps, was the alliance of modern technology and communication that enabled over a short period of time a vast operation of destruction, whose toll amounted to as high as 800,000, or from one-half to two-thirds of the target population. Hundreds of thousands survivors fled north to Russia or south to Syria, with some turning up in Egypt as well.

A third episode began with the collapse of the Russian empire and the onset of the Russian Revolution, which were viewed by the subject nationalities as an opportunity for achieving independence. Among them were the Georgians, Azerbaijanis, and Armenians, all of whom attempted to create republics of their own, to be united in a trans-Caucasian federation. The possibility of an Armenian state fostered a massive outpouring from Turkey, whose population by the end of 1918 was estimated at 1 million, half of whom were refugees from the south. However, the new state was continuously besieged by its neighbors, and in 1921, Turkey and the Soviet Union settled their differences by dividing up the territory between themselves. The refuge thus turned into a trap. Abandoned by their European protectors, refused admission by Georgia and Azerbaijan, another 200,000 Armenians perished as the returning Turks took their revenge. The objective of the new Turkish state was no longer to subjugate the Armenians, but to rid itself of them. About 90,000 were expelled to Greece, where many were massacred by Turkish armies in the subsequent conflict. Others departed over the next few years for the Soviet Union, which in 1926 reported 94,000 foreign-born Armenians.[38] About 125,000 went to Western Europe, of whom half went to France. The United States recorded slightly more than 100,000 arrivals from Asian Turkey between 1910 and 1921, after which—as the result of immigration restrictions—the level was drastically reduced to an average of about 2,500 a year for the remainder of the 1920s.[39]

The distinctiveness of genocide thus arises from the means employed rather than the objective to be achieved. In the cases of the Armenians and the Jews in Nazi-controlled Europe, as with many other minorities before and after them, the objective was to rid the land of their presence. Turkey initially sought to achieve this by terrorizing the Armenians into flight. In Germany, the Nazis similarly sought at first to rid themselves of the Jews by a combination of expulsion (foreign Jews) and the imposition of conditions that would cause them to leave (German Jews). In both cases, when external conditions made emigration impossible, the persecutor resorted to mass murder. Among these external conditions, particularly with respect to the Jews, was the refusal of other states to accept the target population as refugees. This constituted, in effect, collusion with the persecutor in a conspiracy to deny exit.[40]

The Reinstatement of Barriers Against Exit

One of the hallmarks of the twentieth century is the reinstatement of prohibitions against exit, such as were common in the age of absolutism but now implemented by states with a much greater ability to control movement across their borders. The classic case is the Soviet Union.

Initially, the refugee flows generated by the Russian Revolution far exceeded any generated by violent regime changes in earlier historical experience, not only because the state affected had a much larger population than did any of the others, but also because the upheaval took place within the context of the collapse and transformation of the Russian empire, with consequences similar to those in the Ottoman case. The collapse was protracted, brought about by the catastrophic defeats Russia experienced at the onset of World War I.[41] Already reaching about 2.7 million by the end of 1915, the number of internally displaced persons escalated further to 5 million within the next few months.

The seizure of government by revolutionaries a year later precipitated a protracted civil war involving complex shifting alignments of both social groups and nationalities, which were made more violent by substantial foreign intervention in support of the counterrevolutionary camp. As is almost inevitable under conditions of near-subsistence, the upheaval disrupted basic food production and sanitary conditions to the point that the least unfavorable events might precipitate famine and epidemics, as in fact occurred in 1921. This type of situation is commonly encountered in the contemporary developing world as well. In Russia, the ranks of the uprooted were steadily swollen by masses of army deserters; of civilians escaping White or Red terror or just trying to get out of the way of the fighting; and of fleeing minorities, many of whom poured into provinces that were emerging as successor states. Although estimates of refugees originating in Russia ranged at the time up to 3 million, many of them were displaced Poles and Germans, who were merely returning to their homes, located in what had now become a new country. A more realistic assessment is that the Russian Revolution created about 1 million refugees outside the boundaries of the old empire. Many were defeated counterrevolutionaries who initially made their way to Germany and France, where they evoked considerable political sympathy. The United States, which at that time did not distinguish between refugees and ordinary immigrants with respect to admission, recorded about 92,000 arrivals from Russia between 1917 and 1924, after which the new quota system reduced the flow to about 3,000 a year for the remainder of the decade.

By this time, however, the policies of the receivers hardly mattered, as in the mid-1920s the Soviet Union adopted a no-exit policy, which with minor exceptions it has maintained to this day. Consequently, despite the massive initial flows, over the long term the Russian Revolution generated a much smaller number of refugees than probably would have been the case otherwise, as large numbers probably would have taken flight during the murderous collectivization drives and purges of the 1930s. As it was, these produced only a few individual escapes to Poland, Romania, and the Baltic states; the only mass movement recorded is the exodus of Kazakhs to China in 1933.[42]

As Alan Dowty has pointed out, the roots of the Soviet Union's exit policy can be traced back to prerevolutionary Russia, which never had a tradition of freedom of movement, either inside or outside the country, because this was incompatible with the maintenance of serfdom. Although prerevolutionary Marxists advocated lifting such restrictions, Lenin's views of the state "laid the basis for future controls," in that all citizens were to be considered as "hired employees" of the state and to be required to serve it.[43] Adopted later on by many other states, this stance emerged as the common feature of a disparate array of modern authoritarian regimes, including not only those of the Marxist-Leninist persuasion but also Fascist Italy, Spain, and Portugal, as well as Nazi Germany.

The prohibition of emigration can thus be seen as a normal concomitant of state-directed economic autarchy. This was surely the leading motive in the case of Italy and Portugal (as late as the 1960s), as labor-exporting countries that sought to stem emigration in order to maximize the internal supply of labor and thus reduce its price. The need for such controls is even more urgent in the case of states trying to develop by imposing great sacrifices on the current generation. Beyond this, "the Bolshevik attitude toward emigration was also shaped by civil war and foreign intervention. It was feared that those leaving the country would swell the ranks of the White armies and other enemies abroad. From there it was a short step to equating the wish to emigrate with opposition to the socialist state."[44] This is applicable more generally to tense international conjunctures, including the Cold War and more limited regional conflicts such as that between the United States and Cuba.

But the prohibition of emigration also serves more purely political objectives. Because exit is tantamount to "voting with one's feet," an alternative to protest, authoritarian regimes that claim to rest on democratic consent cannot afford such concrete evidence of alienation.[45] Against this background, emigration may be used occasionally to relieve tensions or to rid the state of some unwanted ethnic or national minority. However, permission to leave is usually disguised as expulsion or coupled with humiliating measures, so as to avoid appearing to grant to undesirables a privilege refused to the majority of nationals.

In ancient times, great walls were built to keep invaders out, but in the twentieth century, they have been built to keep people in. This development is at the root of a major dilemma for liberal states. While denouncing such policies as a violation of human rights, liberal states also deplore the intrusion on the international scene of burdensome refugee flows; hence, they tacitly accept such no-exit policies as a solution to a potential problem. This is highlighted by a paradoxical turn of events, whereby the receiving countries sometimes demand that the refugee-generating countries do a better job of preventing victims of repression from leaving.[46] Adopting a relatively open admissions policy is therefore the necessary complement to advocating freedom of exit.

Refugee Crises and the Emergence of an International Refugee Regime

The First European Crisis

With an estimated total of 9.5 million in 1926, the refugee crisis of the post–World War I years reached a magnitude unprecedented in European experience.[47] Although these numbers are roughly comparable to current counts for the developing world as a whole, when the population size of the relevant countries is taken into account, the European crisis stands out as relatively much greater. Fear of these huge flows contributed to a rush to erect protective barriers, but the specter of a world of closed borders in turn stimulated awareness that there were special international migrants who urgently needed protection and assistance.

The Western nations' generalization of restrictive immigration policies in the latter decades of the nineteenth century amounted to the imposition of a new international regime with respect to population movements in the world as a whole, because the countries that might otherwise have generated various types of outflows had no place to send their people. This remarkably uniform process, encompassing such diverse countries as the United States, Britain, and Germany, was the result of an interaction between two distinct dynamics. One was political and reflected efforts by elites to enhance national identity and solidarity in the face of increasing internal and international tensions, in effect the counterpart of the dynamic that fostered the persecution of minorities.[48] The other dynamic was economic and reflected the efforts by indigenous workers to reduce competition that undermined their living, and by welfare agencies to minimize costs.[49]

Restrictive measures were systematized during World War I in response to security concerns and, after the war, in response to revolution and economic depression. In relation to the overall trend, France emerged as a singular exception; as the most important liberal state with relatively open borders, it admitted nearly 1.5 million foreigners in the 1920s, of whom a large proportion was refugees.[50]

Beginning in 1875, the United States enacted increasingly severe prohibitions against immigration from Asia. A proposal to reduce also the new immigration from Europe, by imposing a literacy requirement, was passed by both houses of Congress as early as 1896, only to be vetoed by the president. The restrictionists then fell back on lesser measures, such as increasing entry fees and imposing additional health and "moral" qualifications. However, at the insistence of congressional representatives from concerned constituencies, victims of religious persecution were generally exempted.[51] The closing of the immigration door thus led to a distinction between refugees and ordinary immigrants that had hitherto been absent from American institutional practice. The literacy requirement finally became law in 1917, when wartime hysteria provided the two-thirds congressional majority needed to override the president's veto. Victims of religious persecution were again exempt. Arrivals from Europe and Western Asia, whose number had fallen to a low of 25,000 by 1919, owing to wartime restrictions on exit and the unavailability of civilian shipping, climbed rapidly afterwards, reaching 677,000 in 1921. In that same year, the United States imposed its first quota on European immigration, with an annual cap of 300,000, or fewer than half the current level. This cap was lowered to 150,000 in 1924, with admissions to be allocated through a quota system based on national origins, designed to minimize the number of Eastern and Southern Europeans admitted. Immigrants from Asia were prohibited altogether. Victims of religious persecution were still exempted from some entry requirements but not from the restrictive quota system, nor did the system provide any means to admit refugees on an emergency basis.

It is against this background that a more specialized regime pertaining to refugees emerged. The League of Nations made it possible to develop international institutions to this effect.[52] In the face of the huge outpouring of refugees from Russia, volunteer-service agencies that were trying to alleviate their immediate problems appealed to the League of Nations to establish a central office operating under its authority. Its ad hoc character is clearly indicated by the designation, "High Commissioner on behalf of the League in connection with the problems of Russian Refugees in Europe" (1921). Under the leadership of Fridtjof Nansen, however, the office also assisted displaced Greeks, Turks, and Bulgarians, by means of exchanges worked out with the League's encouragement.

Nansen and the League viewed these tasks as temporary, with the office to be abolished as soon as the people with whom it dealt were resettled or had returned to their homes. However, while the refugee flows were being absorbed, new ones were being generated, as Europe began to experience severe political instability. Nationalist authoritarian regimes became commonplace from the 1920s on, among both old and new states. The Fascist takeover of Italy in 1922 drove many into exile, as did subsequent waves of repression. But except for prominent political individuals, refugees were difficult to distinguish from the usual Italian emigrants.[53] Similar developments took place in Portugal and Spain at the end of the decade. The Nazi victory of 1933 in turn triggered two distinctive refugee streams, political opponents and Jews, with some overlap between the two. The Nazis started by expelling 10,000 to 20,000 recent immigrants from Eastern Europe, mostly to Poland, whose government also persecuted Jewish citizens.[54] German Jews were subjected to increasingly brutal and comprehensive discrimination, which in effect deprived them of the possibility of making a living. As intended, these measures led to departures, totaling about 150,000 by 1938. Another 126,500 fled Austria following the Anschluss. Nearly half a million Spaniards, both soldiers and civilians, escaped to France following the collapse of the Republicans in early 1939; of these, however, about 150,000 to 200,000 were soon repatriated.[55]

The problems posed by the resurgent refugee crisis were aggravated by the deepening worldwide economic depression, which brought another round of immigration restriction. Because of the problems the Jewish exodus from Germany posed to neighboring countries, the Assembly of the League decided in October 1933 to appoint another High Commissioner, "for Refugees coming out of Germany." This ad hoc measure brought out the political implications of the emerging international regime: The recognition of a group as refugees was tantamount to a formal charge by the international community that one of its members was engaging in persecution. As it was, "in order not to give offence to the German Government," the Assembly formally made the High Commissioner independent of the League, accountable to his own governing body, but Germany subsequently resigned from the League, and the High Commissioner was once again made responsible to the Assembly. In 1938, the Soviet Union in turn objected to any kind of League protection for its exiles.[56]

These rudimentary international institutions were not effective. The first High Commissioner for Refugees from Germany resigned "in the conviction that he was virtually powerless."[57] In 1938, as the crisis became worse, the Assembly decided to set up a single High Commissioner's office responsible for all League work on refugees, but the High Commissioner's limitations were evident from the unwillingness of member states to assume greater responsibilities in dealing with the crisis. Nor were the member states open to persuasion by anyone else, as indicated by the failure of the Evian Conference, convened by President Franklin D. Roosevelt in 1938 on the problem of refugees from Germany and Austria—that is, Jews—to come up with a solution to their plight. Its one contribution was the formation of the Intergovernmental Committee on Refugees, headed from 1939 onward by the High Commissioner himself.

Nevertheless, interwar developments were significant in that they distilled the concept of refugee from the European historical experience to date and made it concrete by creating a set of specialized agencies. These in turn were located in a more comprehensive institution that represented the concept of international community. This process inspired the notion that the international community, that is, the League's member states, collectively were obligated to a category of persons designated as refugees. It is important to note that the idea of refugee thereby gained some independence from the actions of particular states, as the issue raised by the appointment of the High Commissioner for Refugees from Germany indicates. Although the response was still tentative, it was a step toward the formation of more permanent international institutions for dealing with refugees. Another significant step was specifying the rights to which those so identified were entitled—travel documents, education, right to work in the receiving country, and so forth—as codified in a 1933 convention regarding the international status of refugees.[58]

The groups of refugees that came within the domain of successive High Commissioners generally were the classical types, but as already noted, they were considered on an ad hoc basis and "from above." Viewed from the vantage point of the present, the League regime was highly collectivist, responsive almost exclusively to the claims of states and groups (nationalities). It stopped short of devising a mechanism whereby any person might independently lay claim to being a refugee and thus obtain the benefits that the international community now offered to those who achieved that status.

However, under the pressure of subsequent events, a more universalistic regime was started in the late 1930s. Amidst the growing awareness of the high stakes involved, its general purpose was to establish criteria for the refugee groups, which led to an emphasis on political causes. A draft resolution prepared by the Institute of International Law for its 1936 session thus defined a refugee as "any person who, by reason of political events in his State of origin, has either left the territory of that State, whether voluntarily or under expulsion. . . ."[59] In the same vein, the principal contemporaneous study of refugees stated that the refugee "is distinguished from the ordinary alien or migrant in that he has left his former territory because of political events there, not because of economic conditions or because of the economic attractions of another territory."[60] But these criteria evoked considerable resistance by state officials. As one observer reported,

> The customary arguments against accepting a general legal status for political refugees are that it might encourage countries to get rid of their unwanted people and that many might emigrate who would otherwise remain in their countries even under serious disabilities.[61]

Moreover, as was brought out in the preparatory work leading up to the establishment of the International Refugee Organization during World War II, the Institute of International Law's definition, "if adopted, might have meant multiplying the number of refugees *ad infinitum.* Some exact definition seemed essential of what is meant by 'political events'."[62]

The most obvious problem in this respect, still unresolved today, was that with a growing number of states adopting some form of authoritarian rule, much of the globe's population could be thought of as victims of "political events." Moreover, looking back from the perspective of a world in which self-government is the norm, it can be argued that the category of "victims of political events" could also apply to the masses of people then living under colonial rule. Those concerned with the development of refugee-oriented institutions therefore insisted on a definition that would deny refugee status to very large numbers, as this would both jeopardize the possibility of their obtaining special consideration from the international community and undermine established state authority. Accordingly, the author of a study published in 1953 under the sponsorship of the U.N. High Commissioner for Refugees points out that "even . . . if 'political events' can be distinguished from other social phenomena . . . the mere fact that a man has left his country solely because political events there were not to his liking does not suffice to confer on him the status of refugee and any ensuing advantages."[63]

This observation introduced and justified the definition that was actually adopted by the 1951 Convention Relating to the Status of Refugees. According to its author, it follows as a matter of course that "the political events which in the country of origin led to his departure *must be accompanied by persecution or the threat of persecution against himself or at least against a section of the population with which he identifies himself.*"[64]

The Second European Crisis

The 1951 convention was the critical event in the institutionalization of the post–World War II regime. It was the capstone of disparate efforts to deal on an ad hoc basis—much as had occurred after World War I—with a European refugee crisis that was even more overwhelming than the earlier one. According to the first comprehensive postwar survey, the total number of Europeans displaced in the six years of war, 1939 to 1945, was around thirty million. At the end of the war, of these, eleven million survivors were outside their country and in need of assistance.[65] At the same time, additional refugees were being generated by postliberation conflicts, such as the civil war in Greece between Communist partisans and the returning royal government, and clashes among countries of Eastern and Southern Europe that had resumed their elusive pursuit of ethnic homogeneity and geopolitically desirable boundaries.

Remarkably, most of these refugees were settled within a few months after the end of hostilities. In some cases there were population exchanges between neighboring countries, similar to earlier ones in the Balkans. But a distinctive element after World War II was the appearance of refugees from the Nazi and Fascist governments, who could hardly be thought of as ''innocent victims.'' In some cases entire ethnic groups came to be viewed as ''collaborators,'' such as the Yugoslavian Croats, who perceived the Nazis' ''new order'' as an opportunity to liberate themselves from Serbian domination and so supported the puppet government of Ante Pavelic. Many of these collaborators fled with the retreating Germans; unable to return, they were later joined by many other escaping Marshal Tito's retribution, which was hardly limited to proven collaborators. The question of innocence also arose with respect to the largest refugee flow, from Eastern Europe, of over twelve million people of German descent—some old settlers, others recently implanted by the Nazis—who retreated with the German forces or were expelled from Czechoslovakia, Poland, Hungary, Romania, and Yugoslavia. However, their political status did not become an international issue, because nearly all were taken in by the two Germanies then in the making.[66]

Another ambiguous case was the two million Soviet citizens who were outside their country at the end of the war, including prisoners of war, forced laborers, and anti-Soviet activists—mostly non-Russian ethnics from European Russia—who had fought on the German side. Despite vociferous protests, including many from ordinary citizens who had no wish to return under Josef Stalin's rule, the Allies agreed to Soviet demands for their return. Although the bulk of them were sent back very quickly, operations slowed down when it was learned that many were being dealt with harshly merely because of their having lived abroad, as if contact with the outside world were a source of political contamination.[67] In the light of this notorious episode, the assertion shortly afterwards as a principle of the new international regime—that a person's decision to leave ''merely because of political events not to his liking'' is not sufficient to confer refugee status—acquired a sinister connotation.

International efforts to deal with refugees began once again on an ad hoc basis, but with some advance planning and a more comprehensive scope, encompassing both material and legal needs. The original model was the ''relief and refugee'' administrations established by the British and Americans in the Middle East early in the war.[68] In 1943, the United States secured widespread international support for the organization of a comprehensive body along similar lines, the United Nations Relief and Rehabilitation Administration (UNRRA), which was to oversee most of the immediate relief and repatriation operations in postwar Europe. But its scope did not extend to the longer-term needs of those who could not be returned, and the agency was soon caught up in nascent Cold War tensions as its American sponsor tried to harness refugee assistance to foreign policy considerations. These controversies, as well as the eruption of new refugee problems outside Europe, discouraged the organization's comprehensiveness.

At the end of 1946, the International Refugee Organization (IRO) was established to deal with ''the last million'' in Europe, a task it was expected to complete by the end of 1951, after which the agency was scheduled to go out of existence. Within the new agency, the ideological cleavage that shaped the postwar international political system weighed against adoption of a universalistic conception of refugees:

> Western countries sought to include large numbers of dissident and anti-Communist elements; Eastern countries tried to exclude those whom they believed were deadly

> political enemies. Both sides agreed that the international community had no obligation to the many millions of Germans who remained unsettled in Europe in 1946. Beyond this, the IRO reflected a broad compromise between East and West, designating broad categories of persons to be assisted rather than offering an abstract definition to be used for all cases.[69]

But in other respects, the IRO was a major institutional innovation, shifting away from the collective approach that had marked previous international efforts toward a more individual one that was inherently more appropriate to a universalistic orientation. This was reflected principally in its operational structure, founded on the notion of applicants who were to be processed by a specialized staff of "eligibility officers" in order to ascertain whether they came within the organization's mandate.[70]

These procedures were carried over into the U.N. High Commissioner's Office for Refugees (UNHCR), established by the General Assembly in December 1949 as the successor to the IRO. Although the new organization's mandate was again limited, initially to a three-year period, many assumed that it would become a permanent agency.[71] The UNHCR's domain was somewhat more comprehensive than the IRO's, extending to all displaced Europeans not repatriated or permanently resettled, including the ambiguous categories noted earlier and excluding only common and war criminals; but it remained exclusively concerned with Europe.[72] Although there were a number of major refugee flows originating elsewhere while the UNHCR was being established, they were either ignored by the international community or dealt with through ad hoc institutional arrangements.

The first of these waves of refugees came from the Indian subcontinent after the partition of India in August 1947. As discussed in Chapter 5, the territorial division was decided on to relieve the rising tensions between the Hindu and Muslim communities. Because the two populations to some extent overlapped, the partition had created religious minorities in each of the two new states. With the outbreak of widespread hostilities, whose toll mounted to over half a million dead, about fourteen million people fled across what now had become international borders to what they considered their homeland. The fledgling governments of India and Pakistan were left to deal with a huge resettlement problem, involving extremely poor populations whose mass dwarfed that of Europe's refugees, with little assistance from the international community.

The first body of non-European refugees for whom the new international community did assume responsibility were the homeless and stateless Palestinians, on whose behalf the General Assembly created the United Nations Relief for Palestine Refugees (UNRPR) late in 1948. In December 1949 the UNRPR was replaced by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), still in existence today. The exodus from the districts that became the state of Israel in the months preceding and following the proclamation of independence in May 1948 numbered between 700,000 and 800,000, amounting to at least three-quarters of the Arab population. Triggered in late 1947 by the breakdown of British authority and rising communal violence, the movement broadened in April 1948, when Zionist military forces launched preemptive strikes against potentially hostile Arabs and retaliated against Arab attacks on Jewish settlements, and again on May 15 when Israel and its neighbors went to war. During this conflict, many were driven from their homes on grounds of security. After the armistice, which left Israel with a larger territory than provided for under the partition resolution, more were expelled or fled to avoid living under Israeli authority.[73] Over the next several years, most Jews also were expelled or fled from Arab countries in the Middle East and North Africa; of these, about 750,000 resettled in Israel, the rest mainly in France.[74] Because of Israel's law of return or the possession of French citizenship (i.e., those refugees originating in Algeria) all of these people had a place to go to and so did not enter the ranks of international refugees.

Owing to the lack of concern for the plight of refugees on the Indian subcontinent, the exceptional attention accorded to the Palestinians can be attributed less to humanitarian considerations than to the emergence of the Palestine problem as a prominent issue on the United Nations' political agenda. The UNRPR and UNWRA were byproducts of the intervention of the United Nations as a third party in the Palestine conflict following the relinquishment by a weakened Britain of its mandatory responsibilities in the wake of World War II. Much like the U.N.'s intervention itself, the UNWRA was largely an instrument of U.S. policy: The agency was designed to resolve the Middle East conflict by turning Palestinians into attractive economic assets in the eyes of Arab receiving states, so as to overcome their resistance to resettlement.[75] However, as discussed further in Chapter 9, the policy failed because of opposition from both the Arab states and the refugees themselves, who over time began to act on their own behalf. Conversely, because of its eminently political character, UNRWA remained peripheral to the postwar refugee organization, as did the United Nations Korean Reconstruction Agency established in 1950, in the wake of the ''police action,'' which closed its doors in 1958.

The principal institutional development was the UNHCR. Despite its initial limitations, over time the agency assumed responsibility for a variety of groups in every region in the world, except for the Palestinians. From a more analytic perspective, its evolution represented significant steps toward the bureaucratization—in the Weberian sense—of international assistance to refugees. The most important of these steps was the formation of a professional staff that had definite objectives.[76] But this in turn made the issue of definition more pressing, as it was necessary to establish operational criteria to enable the staff to carry out their appointed tasks.

Not surprisingly, the issue of scope was ''one of the most difficult to resolve.''[77] It was agreed early on to remove protection of the ''stateless'' (left over from the Nansen days) from the High Commissioner's jurisdiction, leaving the office to deal exclusively with refugees. In regard to defining the latter, the choices were between enumerating the categories, as had always been done before, and formulating a broader definition. In keeping with models of bureaucratic development, experienced IRO staff argued in favor of the latter, because the enumerative approach had proved cumbersome to implement. But many of the member states objected to a universal definition on the grounds that it would mortgage the future, as it would mean that new groups of refugees who exhibited the specified characteristics would fall automatically in the embrace of the High Commissioner's office.[78] This debate distinguished between two projects: on the one hand, the statute itself, pertaining to international action and the establishment of an agency for this purpose, and, on the other hand, a convention of member states, directed toward national action and imposing binding obligations on the signatories.

The universalists triumphed on both fronts. According to the resolution adopted by the General Assembly on December 14, 1950, the High Commissioner's mandate extended, first, to persons already considered to be refugees under previous international agreements or under the IRO's constitution; second, to people living outside their country of origin as the result of events occurring before January 1, 1951, and unable or unwilling to avail themselves of its protection ''owing to a well-founded fear of being persecuted'' or ''for reasons other than personal convenience''; and finally and most important, to

> any other person who is outside the country of his nationality, or if he has no nationality, the country of his former habitual residence because he has or had well-founded fear of persecution by reason of his race, religion, nationality or political opinion and is unable or, because of such fear, is unwilling to avail himself of the protection of the government of the country of his nationality, or, if he has no nationality, to return to the country of his former habitual residence.[79]

Essentially the same definition was adopted by the ''Convention Relating to the Status of Refugees'' enacted in 1951. The most noteworthy change was the joining in the enumeration of ''membership of a particular social group'' to ''political opinion.'' This was added by the Geneva conference at Sweden's initiative, apparently with no other motive than ''to stop a possible gap'' in the coverage afforded by the other, more specific categories.[80] However, the obligations undertaken by the signatories were restricted to persons who had become refugees before January 1, 1951, and pertained to Europeans only. The discrepancy between the domains of the UNHCR and of the convention prevailed until 1967, when a protocol was enacted to eliminate time and space limits from the convention.[81]

By capturing the classic types encompassed by the notion of refugee—that is, members of target groups and more active political dissenters—the convention's statute codified essential elements of the Western experience. But it was a major departure from historical precedent, in that the international community assumed for the first time some degree of responsibility for persons who qualified as refugees without any temporal or geographical limitations. The definition on which the statute was grounded became a widely accepted concept in contemporary international law as well as in—by way of the convention and the protocol, the domestic law of the signatories, whose number has grown to include nearly all states in the international community. At the same time, a number of states included in their constitution the right of asylum for political activists.[82]

As noted earlier, the selection of ''persecution'' as the key operational criterion was in keeping with the desire of the international community to make the status of refugee exceptional, so as to preclude overwhelming numbers. Observe, first, that this omits victims of egregious exploitation. Second, this definition is predicated on distinguishing between the victims of what might be called nefarious political routine, a huge category that includes most of the citizens of repressive states or societies, who form a large part of the world's population, and those who are singled out as targets of extraordinary malevolence by some agent.[83] Although the U.N.'s language does not specify who that agent might be, it was generally assumed from the outset to be the government, ''either in that it initiated or encouraged the persecution, or that it could not or did not provide protection to its national from persecutory actions or threats by other elements within this society.''[84]

By the same token, this definition suggested that the determinants of persecution were exclusively internal to the appropriate state. Reflecting the fact that international law is founded on the concept of sovereignty—that is, on the notion that the world is divided into a finite set of states with mutually exclusive jurisdiction over segments of territory and clusters of population—this definition contributed to the crystallization of an ''internalist'' vision of the refugee phenomenon. But such a conceptualization negates the fundamental point of the preceding analysis, namely, that persecution is related to broad historical processes in which complex internal and external forces interact.

The statute, the convention, and the protocol institutionalized elements of a more universalistic regime, but from the beginning they also exhibited features that diverged from universalistic norms. These divergences can be attributed mainly to the emergence of a bipolar world locked in cold war. Aside from the Greek Communists who fled to the Soviet Union after the civil war, from the late 1940s onward, nearly all new European refugees were escaping the harsh economic conditions and political repression accompanying the transformation of the Eastern European governments into Soviet-style regimes. Although these states went to extraordinary lengths to seal their borders, there were waves of departures before the task was completed as well as a massive relocation of people from East to West Germany by way of Berlin—owing to the peculiarities of the four-power occupation arrangements—amounting to some 3.5 million from 1951 until the Berlin Wall was built in 1961 to close this loophole. Movement was otherwise limited to a trickle of escapes, except for the sudden exodus of 200,000 following the crushing of the Hungarian uprising in 1956.[85]

Although the more prominent dissenters among them could make a case for asylum on grounds of persecution for reasons of political opinion, most others could not, as escape from routine oppression was not enough to qualify as a refugee. However, to the extent that the refugees could demonstrate that they were systematically discriminated against because of their class origins (e.g., with respect to educational opportunities and employment), a case for their meeting the convention's criteria could be made. For example, the UNHCR responded to the Hungarian emergency by tentatively according refugee status to anyone coming out, postponing individual determination of ''persecution,'' if needed, to a later time. This was later invoked as a precedent for accepting prima facie evidence of refugee status for large groups in the developing world as well.[86]

The Western states individually also tended to favor people leaving the East. Some Western European authorities judged the convention's language as too narrow for this purpose but were reluctant to stretch it for fear of ''devaluating'' formal refugee status under the convention. This reluctance gave rise to the so-called B-status, which first developed in Scandinavian legal-administrative practice in the 1960s, under which residence permits were issued on ''humanitarian grounds'' and other benefits were kept just short of convention standards.[87]

Albeit a major financial supporter of the UNHCR from the outset, the United States shunned the U.N. definition as a guide for its own admissions. Having refused during the interwar period to make special provisions for refugees, the United States shifted to a more generous stance, partly in response to constituency pressures, but mostly as a weapon in the Cold War.[88] First, various measures were devised to stretch existing immigration laws in order to admit European displaced persons. Although the Immigration and Nationality Act of 1952 reenacted existing discriminatory restrictions and still failed to make any provisions for refugees, it gave the attorney general discretionary authority to parole any alien into the United States for reasons of emergency or if ''deemed strictly in the public interest.'' This provision was used repeatedly to admit large numbers from Eastern European countries and, later on, from Cuba and Indochina.

The Refugee Relief Act of 1953 provided for taking in as ''refugees'' 189,000 persons who could not be accommodated under the small quotas for their respective countries; these categories included Eastern Europeans and German expellees, Dutch ex-colonials from Indonesia, and Greek and Italian victims of natural disasters. The act was identified in a National Security Council memorandum as a device to ''encourage defection of all USSR nationals and 'key' personnel from the satellite countries'' in order to ''inflict a psychological blow on Communism'' and, ''though less important, . . . material loss to the Soviet Union'' insofar as the emigration pertained to professionals.[89] The Refugee–Escapee Act of 1957 made additional room for existing applicants from the same groups but also included a more general provision for admitting as refugees in the future those persons fleeing persecution in Communist or Middle Eastern countries.

In 1965 the United States for the first time reserved part of its annual entry quota for refugees, but the definition was revised only in 1980, and subsequent practice indicates that the old policy of attributing refugee status almost exclusively to people from Communist countries still prevails.[90]

Despite these limitations, the legal framework developed by the Western states proved adequate to deal with the population movements of the 1950s and the 1960s with which they were particularly concerned: Europeans from Communist countries and, later, non-European, Chinese, and Cubans. Beyond the humanitarian considerations, it is evident that this suited the political purposes of the Western Alliance at the height of the Cold War. As it was, given the restrictions on exit, the burden to the receivers was not very heavy, except in the case of Germany—which, in retrospect, derived considerable economic benefits from the huge number of workers that this entailed.

Challenges from the Developing World

By about 1960, however, major population movements originating in the developing world created mounting pressures to give them international assistance. The most glaring shortcoming of the international arrangements was the limitation of the convention's domain to pre-1951 Europe, a deficiency that was overcome in 1967. Although the UNHCR itself was not so limited, it faced even more profound problems arising from the very nature of the flows. To this, there was no single solution, because the situations encountered in the various regions differed considerably, as did the local responses to them. Because the flows themselves will be examined in subsequent chapters, these developments will be considered here only as they relate to changing notions of who is a refugee.

Despite the unruliness of its political development, Latin America has produced very few refugees. The protracted violence of the Mexican Revolution in the early decades of the twentieth century undoubtedly helped raise the rate of emigration to the United States above the level induced by economic factors alone, but this historical experience was largely forgotten. As the now-classic 1965 study of the Inter-American Commission on Human Rights notes:

> Throughout the history of Latin America there has . . . been a significant, if not large, number of Latin American nationals who have temporarily moved into exile for political reasons. . . . The political exiles of years past flowed rather easily into the neighbouring Latin countries where culture, tradition and language pose few barriers; furthermore, the political exiles have frequently been of the wealthier elements, and they have not become burdens on the economy of the absorbing state.[91]

However, this generosity by the region's states with respect to their exiles constituted a form of authoritarian collusion because, as Albert Hirschman has pointed out, the provision of easy ''exit'' helped reduce the intensity of ''voice'' within each.[92]

Accordingly, there was little responsiveness in the region to the broader concerns of the U.N. convention, and an unwillingness to assume the obligations it entailed. Instead, the traditional orientation was formalized into a common regional policy focusing on asylum seekers rather than refugees, with the criterion for recognition being political activism or, more properly, "political crime" *(delite politico).*[93] An elaborate system of inter-American law was developed to specify procedures for the individual *asilado,* conditions permitting extradition, inviolability of foreign missions, and the distinction between common crimes and political offenses.

However, the Latin American situation changed dramatically in the 1960s, with the appearance of large international population movements that claimed refugee status and whose social composition was much more diversified. The massive outflows from Cuba and, later, Chile, Nicaragua, El Salvador, and Guatemala severely strained existing legal codes and prompted a call by the Organization of American States (OAS) for more members to accept the somewhat broader obligations of the U.N. convention and to adopt its language in national legislation.[94]

In contrast, postwar developments in Asia replicated the crisis-ridden experience of Europe. Nevertheless, except for the Palestinians, the problem of refugees did not capture the attention of the international community, because most of them found havens in the region. Although few states had formal provisions for asylum—to the extent that those seeking admission were expelled or fleeing "conationals"—they were generally let in. As we shall see in Chapter 6, this was true also for most of those leaving China as a result of its revolution. However, in 1957, the U.N. General Assembly entrusted to the UNHCR the task of assisting large numbers of Chinese in Hong Kong, even though they did not fully satisfy the statutory definition because of complications inherent in the existence of two Chinas.[95] This assistance constituted a precedent that led to a steady expansion of the High Commissioner's domain on an ad hoc basis throughout the developing world. Other groups that were included were Algerians fleeing to Tunisia and Morocco to escape the effects of French counterguerrilla campaigns (1958–61), and Angolans who escaped under similar circumstances to what is now Zaire (1961). This was subsequently applied to other liberation struggles in southern Africa.

Legitimized around 1960 through the umbrella doctrine of "good offices," these practices broadened the institutional concept of refugee. Initiated largely by the UNHCR's specialist staff in response to new problems in the African setting, this development was in keeping with established propositions concerning the role of officials in fostering the growth of government more generally. As Goodwin-Gill reports, conditions of underdevelopment in Africa made individual assessments of refugee status impractical, and the staff also felt that although it might not be possible to establish a "well-founded fear" on an individual case-by-case basis, people should benefit from refugee status when there was no doubt that "political conditions" had compelled the flight of the entire group in question. As noted earlier, a precedent for this had been established for the Hungarian crisis of 1956. On a more political plane, Goodwin-Gill suggested that the approach "was almost certainly influenced by factors such as the desire to avoid the imputation on newly independent states which is carried by every determination that a well-founded fear of persecution exists."[96]

The broadened conceptualization was further formalized in 1969 in the Convention on Refugee Problems in Africa negotiated by the Organization of African Unity (OAU). Article I begins with a restatement of the established U.N. definition centering on persecution and then adds:

2. The term "refugee" shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country or origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.[97]

Reflecting the historical experience of Africa, much as the 1951 convention did for Europe, this formulation came into existence largely as an expression of political solidarity on behalf of the ongoing struggles against white rule in southern Africa, as well as retrospectively in Algeria, which drove large number of persons to seek refuge in other countries. But it also captured the emerging realities of a continent where instability and upheavals of various kinds cast masses of deprived people across international borders in order to stay alive and where man-made calamities interacted with natural catastrophes to threaten the survival of entire communities. The inclusion of foreign intervention and "events seriously disturbing public order" as grounds for according refugee status was tantamount to arguing that victims of such processes are similar to those of persecution and hence equally worthy of special consideration. It can also be understood as a collective claim by African states in regard to the international community. Moreover, as suggested by Goodwin-Gill's observation concerning the UNHCR's expanded role, the broadened definition was also self-serving, as it enabled African states to acknowledge people as refugees without imputing "persecution" to anyone, thus obfuscating the responsibility of the OAU's members in generating the flows.

In the early 1970s the UNHCR's mandate was extended further to include people in refugeelike situations if no other agency were available to provide relief, and it applied in at least one case even to people who stayed in their own country.[98] But the mandate's inadequacies became more problematic in the latter part of the decade, when it appeared that the developing world was producing more and more refugees and that a larger proportion of them would land on the international community's doorstep. Moreover, these flows were no longer confined to their region of origin but impinged on Western receivers at a time when the energy crisis followed by a severe economic downturn prompted a general belt tightening and a feeling that charity must begin at home. It was the conjunction of deteriorating circumstances in the developing world and among Western industrial societies that precipitated the century's third refugee crisis, which forms the subject of this book.

Conclusion: In Fear of Violence

An examination of the historical matrix of contemporary concepts and institutional practices shows that the basic features and relative stability of the current refugee situation can be attributed to a stalemate between contradictory tendencies. On the one hand, there has been a secular evolution from particularistic practices, reflecting the willingness of specific states to grant asylum to individuals and groups of special concern, to a more universalistic definition of refugees and a concomitant institutionalized apparatus for dealing with them, founded on the acknowledgment by a duly constituted international political community of a special obligation toward the categories of persons specified in that definition. At the same time, however, the states that compose this community continue to exercise considerable discretion in implementing the definition and in interpreting their obligations to those acknowledged as refugees.

The contradiction itself reflects divergent global trends: on the one hand, a more widespread adherence to a core of common humanitarian values and, on the other, the increasing economic inequality and persistence of strategic competition among national states. These features of global social organization also account for a comprehensive order pertaining to the general international population movement, which provides the context in which contemporary practices concerning refugees must be understood. Its most relevant features are the maintenance by many states of prohibitions against exit, and the generalization of severe restrictions against immigration, particularly among affluent countries with liberal governments that attract the world's unfortunates. Within a shrinking world subject to violent upheavals affecting large and very poor populations and resulting in the appearance of all kinds of people on everyone's doorstep in search of assistance, it becomes vital to distinguish refugees from international migrants.

Combining the responses to the twentieth-century crises, the current institutional meaning of refugee is a composite of three categories founded on the causes of the refugees' departure. The first two, constituting the U.N. definition, are a formalization of the classic types. They include the refugee as an activist, engaging in some politically significant activity that the state seeks to extinguish; and the refugee as a target, by misfortune of belonging—often by accident of birth—to a social or cultural group that has been singled out for the abuse of state power. The major change in the definition since its inception in the 1950s is the emergence of a third category, the refugee as a mere victim. This covers persons displaced by societal or international violence that is not necessarily directed at them as individuals but makes life in their own country impossible. Although recognized by the League of Nations after World War I, and again by U.N. agencies after World War II, this category was deliberately not included in the 1950 statute, the 1951 convention, or the 1967 protocol. However, it was reintroduced as upheavals in the developing world came to the attention of the international political community in the 1960s, and then was generalized in the "good offices" doctrine. At the same time, the category was formally institutionalized at the interstate level in Africa, where it accounted from the outset for the major part of refugee flows, as our regional analysis will show.

Population movements falling into these three categories are included in our study. Because not all such people have been formally recognized as refugees by international organizations or particular states, we shall sometimes refer to them as "recognized" or "unrecognized" refugees. This does not mean that we are setting ourselves up as a court of hearing to determine the status of individuals or groups; rather, more careful terms minimize the dangers of terminological legitimization as noted in the introduction and are thus a prerequisite of critical thinking about refugees and refugee policy. We shall also propose a definition that arises from the three categories mentioned. But to be relevant to political and ethical discourse about refugees, this definition must be theoretically coherent, meet acceptable normative criteria, and provide a suitable foundation for operational guidelines in making decisions.

Most discussions of what makes refugees distinctive have focused on a combination of two different characteristics of their movement: It is involuntary, as opposed to voluntary, and is occasioned by political, as opposed to economic, causes. In practice, these two are considered equivalent: We thus get a couplet, "voluntary economic = migrants" and "involuntary political = refugees." But this conceptualization is problematic in a number of ways.

With reference to the voluntary/involuntary dimension, Jacques Vernant suggested that to qualify as a refugee rather than a migrant, a person must be "the victim of events for which, at least as an individual, he cannot be held *responsible*."[99] This clearly rules out, say, a common criminal fleeing abroad to escape punishment. Beyond this, the concept of responsibility works reasonably well in the case of target groups, particularly when the group in question is one to which people belong by accident of birth, as with race or nationality. It is also applicable to uninvolved bystanders who are caught up in the cross fire of civil war or similar situations—that is, the category we term *victims*.

This definition is more problematic, however, with respect to the third category, dissenters. Unlike, say, Armenians in Turkey or Jews in Nazi Europe, Huguenots who converted to Catholicism were allowed to live in the same way that all other French did. And so if they rejected this alternative, they must have made a choice, and hence their flight to escape the consequences of their decision cannot be said to be entirely "involuntary." Much the same might be said today, for example, of someone opposing the established regime in Chile, Zaire, or Cuba. Indeed, it is precisely because dissent does entail the exercise of personal choice that those who engage in it are admirable.[100]

Thus it can be seen that the determination of whether movement is voluntary or involuntary must refer ultimately to some doctrine of rights. Indeed, it is understood in international law that the U.N. definition of refugees "encompasses those who are threatened with sanctions for struggling to protect their human rights" as delineated by a variety of instruments, most prominently the Universal Declaration of Human Rights; and despite some remaining ambiguities, this specification is adequate to our purposes.[101]

The voluntary/involuntary dimension also requires a consideration of the costs of staying as against leaving. Although Vernant does not specify what kinds of "events" he has in mind, it is evident that they must be of a grave sort. People who run for their lives are exercising such a limited choice that we usually do not consider their movement voluntary at all. Movement is most clearly involuntary when it is forced—that is, when it occurs as a response to life-threatening violence, exercised by an agent or occurring as a by-product of circumstances. *Violence* includes both clear and immediate physical violence, and coercive circumstances that have similarly threatening effects. *Life* includes both biological existence and social existence, and the basic material and organizational conditions necessary to maintain them. The more immediate and intense the life-threatening violence is, the more clearly a person is a refugee rather than a migrant. This introduces the notion of a degree of need, and it follows that any categories established on this basis are not dichotomous but located along a continuum.

The other dichotomy, economic versus political, is problematic as well. This was already noted by Vernant, who remarks in his 1953 book:

> Today more than at any other period, it is difficult to distinguish between events which are political and those which are not. A man's economic situation is no longer looked on as a "natural" phenomenon, but as a responsibility of the State. The view is steadily gaining ground that the modern State is responsible for the living conditions of its nationals—a perfectly reasonable view given the part played by the State in the organization and direction of the national economy. . . . In a great many States any measure, whatever its nature, is a political event. In recent years, the States initiating strictly controlled economies have enforced drastic changes in the working and living conditions of many sections of their population, arbitrarily directing them to new occupations.[102]

But in fact the difficulty of distinguishing between political and economic migration-inducing events was hardly new, even then.

For example, in the case of the Russian Jews of the 1880s, not only were the economic and political causes of their migration inextricably mixed, but the economic ones also were themselves in part induced by policies designed to undermine the Jews' economic position. Another case in point is that of the Irish during the Great Hunger of the late 1840s.[103] As is well known, the ongoing Irish emigration escalated dramatically after 1846, following a catastrophic food shortage resulting from successive failures of the potato crop, due to a blight compounded by bad winters. Although these conditions were found also in other parts of Western Europe where rural populations relied on the potato as a major staple, the Irish situation was more life threatening because the disaster befell a society that, even in good years, was unable to meet its subsistence needs. Any analysis of why this was so must consider a broad complex of causes, including several centuries of British policy.

From the second half of the sixteenth century onward, successive English regimes decapitated Irish society of its elites and confiscated their lands for the benefit of immigrant colonists and absentee landlords. By the beginning of the nineteenth century, 95 percent of the land was owned by Protestants. In the wake of the Glorious Revolution, Catholics were deprived of their political rights, and British policies toward them paralleled the contemporaneous policies of Louis XIV toward the Huguenots.[104] Because the mercantilist system prevented investment by Protestant landlords in commercial agriculture or other productive undertakings that might compete with England, they derived their income essentially by exacting the maximum rent from subsistence-level tenants. The Irish adapted by producing very large families, enabling some members to engage in migrant labor for cash income and others to grow potatoes on very small plots. Although this was a "rational" solution at the level of the individual family, it worsened conditions for the collective whole, by stimulating a growing demand for land and, hence, steadily increasing rent. The Great Hunger of the 1840s was only the worst of numerous famines. In contrast with England and Scotland, Ireland had no system of public relief: In bad times the only alternative to starvation was emigration. Viewed in this light, the responses of the English landlords and British authorities to the famine itself amounted to an opportunistic deportation policy—as was indeed charged at the time not only by the Irish themselves but also by Americans who objected to the massive influx of immigrants, particularly undesirable because they were both poor and Catholic.

The movement of both the Jews and the Irish was caused by an inextricable mix of political and economic causes; it must be located close to the "involuntary" end of the continuum; and a good case can be made that at specific times they emigrated in order to survive—that the waves between 1846 and 1854 for the Irish, and 1882 to 1885 and 1905 to 1908 for the Jews, can be attributed to "life-threatening violence." But it should be noted that it was necessary for them to do so only because of the unavailability of adequate help *in situ*. If, say, the Irish community in the United States had sent large amounts of food to their unfortunate kinsmen or if the U.S. authorities had contributed such assistance and Britain had accepted it, as well as undertaken relief operations of its own, the life-threatening danger would have been averted, and emigration would have no longer been necessary for survival. With respect to the Jews, economic relief would not have been enough, but one can imagine conditions under which diplomatic pressures might have been successfully applied to the Russian government to cease its actively anti-Jewish practices and to restrain those engaging in pogroms.

In the end, then, the key issue from the perspective of concerned humanitarians is not only whether the movement is involuntary and essentially political but also whether the immediate, intense suffering of the victims can be relieved by helping them in their own country—through policies of their own government or combined with favorable external initiatives—or if relief is possible only by enabling them to move abroad—that is, by providing them with a refuge.[105] This final consideration suggests how theoretical and normative concerns can be integrated into a coherent framework for critical analysis.

The common element that merges the three categories into a coherent set and distinguishes them from others is violence. We shall therefore define refugees as persons whose presence abroad is attributable to a well-founded fear of violence, as might be established by impartial experts with adequate information. In cases of persecution covered by the statutory definition, the violence is initiated by some recognizable internal agent, such as the government, and directed against dissenters or a specified target group. The presence of the victims abroad may be the result of flight to avoid harm or the result of expulsion, itself a form of violence. But flight-inducing violence may also be an incidental consequence of external or internal conflict, or some combination of both, and affect groups that are not even parties to that conflict. Violence may also be inflicted indirectly, through imposed conditions that make normal life impossible.

When defined in this manner, refugees are also distinctive in that they form a category of unfortunates who can be assisted only abroad, unless conditions change in their country of origin. It is because of this that they have a strong claim to a very special form of assistance, including temporary or permanent asylum in the territory of states of which they are not members. Our theoretically grounded definition is thus consistent with ethical considerations, which dictate an approach to the problem of refugees founded on the distinctive and urgent needs of the people concerned.

It is also realistic, in that the operational criteria can be applied to administrative decisions concerning priorities for assistance and admission. For example, they make it possible to distinguish refugees from persons who move as a consequence of natural disaster. Most victims of malnutrition and slow starvation in the developing world should not be considered as refugees because most of them can be assisted *in situ* in their own countries. Given international sovereignty, however, it is often easier to change such conditions for the short term than to change the political economy that is at the root of much of it, or the deliberate political actions that cause flight.[106] People cast abroad by famine are refugees to the extent that the famine is itself a form of violence, as in the case of confiscatory economic measures or extremely unequal property systems maintained by brutal force, the inability to meet subsistence needs because of unsafe conditions, or the refusal of the state to accept international assistance.

One of the main conclusions of this book is that the causes of life-threatening conditions in the developing world stem from an interpenetration of national and transnational, or global, processes. But the world is organized as a set of mutually exclusive states that constitute paramount membership communities, on which individuals normally depend for protection against violence, and for the maintenance of conditions that enable them to survive materially. As people forced to move abroad in order to survive, either because their own state is the cause of their predicament or because it is unable to meet these basic requirements, such people are genuine international outcasts, stateless, in the deep meaning of the term, as suggested a generation ago by Arendt and recently restated by Sacknove.[107] That is the sense in which their predicament stems from distinctively political conditions.

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NOTES

Preface

1. William Petersen, ''Migration. I Social Aspects,'' in *International Encyclopedia of the Social Sciences* (New York: Macmillan, 1968), vol. 10, pp. 286–92; Brinley Thomas, ''Migration. II. Economic Aspects,'' ibid., pp. 292–300; Louise W. Holborn, ''Refugees. I World Problems,'' ibid., vol. 13, pp. 361–73; Judith T. Shuval, ''Refugees. II Adjustment and Assimilation,'' ibid., pp. 373–77. Note that the authors of the article on migration are men, on refugees women. Although the editors of the encyclopedia evidently thought of ''migration'' and ''refugees'' as wholly different subjects, Petersen pointedly rejects the ''arbitrary and misleading definition'' of migration adopted by the United Nations in 1953, which deliberately excluded refugees, and points out that refugees constitute a large portion of total international population movements (p. 290). Brinley Thomas makes a similar observation, but then goes on to focus exclusively on nonrefugee movements. Consequently nowhere in the encyclopedia is there a discussion of the causes of refugees.

2. E. F. Kunz, ''The Refugee in Flight: Kinetic Models and Forms of Displacement,'' *International Migration Review* 7, 2 (Summer 1973), pp. 125–46.

3. Barry N. Stein and Sylvano M. Tomasi (eds.), ''Refugees Today,'' *International Migration Review* 15, 53/54 (Spring–Summer 1981); and Gilburt D. Loescher and John A. Scanlan, ''The Global Refugee Problem: U.S. and World Response,'' *The Annals* 467 (May 1983). The latter contains A. R. Zolberg, ''The Formation of New States as a Refugee-generating Process,'' pp. 24–38.

4. Charles B. Keely, *Global Refugee Policy: The Case for a Development-Oriented Strategy* (New York: Population Council, 1981), p. 25.

5. Leon Gordenker, *Refugees in International Politics* (New York: Columbia University Press, 1987).

6. Aristide R. Zolberg, ''Contemporary Transnational Migrations in Historical Perspective: Patterns and Dilemmas,'' and Astri Suhrke, ''Global Refugee Movements and Strategies of Response,'' in Mary M. Kritz (ed.), *U.S. Immigration and Refugee Policy: Global and Domestic Issues* (Lexington, Mass.: Heath, 1983).

7. Sergio Aguayo, *El Exodo Centroamericano: Consecuencias de un Conflicto* (Mexico, D.F.: Consejo Nacional de Fomento Educativo, 1985).

8. ''Social Conflict and Refugees in the Third World: The Cases of Ethiopia and Afghanistan,'' unpublished manuscript, 1984.

9. See *Refugees: Dynamics of Displacement: A Report for the Independent Commission on International Humanitarian Issues* (London: Zed Books, 1986).

10. "International Factors in the Formation of Refugee Movements," in Dennis Gallagher (ed.), "Refugees: Issues and Directions," *International Migration Review* 20, 2 (Summer 1986), pp. 151–69. Gallagher also enabled us to present our ideas to the Washington refugee community at the Carnegie Endowment in Washington in February 1985.

11. Presentations were given at the Eighth Annual Legal Conference on Immigration and Refugee policy organized by the Center for Migration Studies (CMS) in Washington, D.C., March 1985; at a conference on "Sociology of Exile" convened by Peter Rose at Smith College the following May; and at the July 1985 meetings of the International Political Science Association in Paris. The CMS paper was published as Aristide R. Zolberg and Astri Suhrke, "Genesis of Refugee Movements in the Third World: Implications for U.S. Policy," in Lydio F. Tomasi (ed.), *In Defense of the Alien*, vol. 8 (New York: Center for Migration Studies, 1986), pp. 150–59.

Chapter 1

1. Jacques Vernant, *The Refugee in the Post-War World* (London: Allen & Unwin, 1953), p. 5.

2. Guy S. Goodwin-Gill, *The Refugee in International Law* (Oxford, England: Clarendon Press, 1983), pp. 5–6.

3. *Le Petit Robert* (Paris: Société du Nouveau Littré, 1978), p. 1641.

4. Unless otherwise indicated, the material in this section is drawn from Aristide R. Zolberg, "State-Formation and Its Victims: Refugee Movements in Early Modern Europe," presented as a Verhaegen Lecture at Erasmus University, Rotterdam, 1982. The successive waves originating in the Low Countries over the century extending from the 1540s to the 1630s probably amounted to the largest flow of European refugees on record in relation to the country of origin's population size. Overall, it entailed the relocation of about one-fifth of the population of the southern provinces that remained under Spanish rule (approximately contemporary Belgium) to the northern ones, which in 1609 gained their independence as the United Provinces (approximately contemporary Netherlands).

5. *Oxford English Dictionary* (Oxford, England: Oxford University Press, 1971), p. 2468.

6. Major sources used include Janine Garrisson, *L'Edit de Nantes et Sa Révocation: Histoire d'une Intolérance* (Paris: Seuil, 1985); *Les Huguenots* (Paris: Archives Nationales, 1985); Emmanuel LeRoy Ladurie, "Avant-Propos" to Bernard Cottret, *Terre d'Exil. L'Angleterre et Ses réfugiés, 16e–17e siècles* (Paris: Aubier, 1985), pp. 1–52.

7. It has been suggested that in between 950 and 1250, Western Europe "witnessed a fundamental and irreversible experience in the attitude to deviants," leading to the formation of a "persecuting society" that is "the forerunner and origin of the atrocities of the religious wars and executions of the Reformation period, and the Holocaust of the twentieth century." (M. T. Clanchy, in *Times Literary Supplement*, January 11–17, 1987, p. 990, reviewing R. I. Moore, *The Formation of a Persecuting Society* (Oxford, England: Blackwell, 1986). On absolutism, see especially Perry Anderson, *Lineages of the Absolutist State* (London: New Left Books, 1974).

8. *Refugees*, September 1985, p. 17.

9. Aristide R. Zolberg, "International Migrations in Political Perspective," in Mary M. Kritz, Charles B. Keely, and Silvano M. Tomasi (eds.), *Global Trends in Migration: Theory and Research on International Population Movements* (New York: Center for Migration Studies, 1981), pp. 5–7.

10. There is little doubt that the Nazis' original objective with respect to Jews in Germany and later in the Europe they controlled was expulsion. The unwillingness of most other countries, including the leading liberal democracies, to take in Jewish refugees is well documented also. What is less clear is the precise role that the unavailability of an alternative place for the Jews played in shifting Nazi policy to the "final solution." On these matters, see Hannah Arendt, *The Origins of*

Totalitarianism (New York: Harcourt Brace Jovanovich, 1973), esp. pp. 269–90; David S. Wyman, *Paper Walls: America and the Refugee Crisis* (Amherst, Mass.: University of Massachusetts Press, 1968); and David S. Wyman, *The Abandonment of the Jews. America and the Holocaust, 1941–1945* (New York: Pantheon Books, 1984).

11. Orlando Patterson, *Slavery and Social Death: A Comparative Study* (Cambridge, Mass.: Harvard University Press, 1982).

12. Eric J. Hobsbawm, *The Age of Revolution, 1789–1848* (New York: Mentor, 1962).

13. *Oxford English Dictionary,* 1971, p. 24681.

14. Robert R. Palmer, *The Age of Democratic Revolution* (Princeton, N.J.: Princeton University Press, 1959), p. 188.

15. Ibid., p. 188. Unfortunately, Palmer does not provide the data on which he bases this estimate. It is noteworthy that he uses his finding to argue that "there was a real revolution in America, and that it was a painful conflict, in which many were injured."

16. A. R. Zolberg, "The Roots of American Refugee Policy," *Social Research* 55, 4 (Winter 1989), pp. 649–78.

17. Michael R. Marrus, *The Unwanted: European Refugees in the Twentieth Century* (New York: Oxford University Press, 1985), p. 15. Unless otherwise indicated, information on nineteenth-century European refugee flows is drawn from this work.

18. Ibid., p. 20.

19. On the transportation of the Irish to Australia, see Robert Hughes, *The Fatal Shore* (New York: Vintage, 1988), pp. 181–202.

20. Marrus, *The Unwanted,* p. 24.

21. This analysis is broadly drawn from Karl Polanyi, *The Great Transformation* (Boston: Beacon Press, 1957); and Geoffrey Barraclough, *Introduction to Contemporary History* (Baltimore: Penguin, 1967).

22. The expression "unmixing of peoples" has been attributed to Lord Curzon, with reference to the Balkan Wars (Marrus, *The Unwanted,* p. 41).

23. Hannah Arendt, *The Origins of Totalitarianism,* new ed. (New York: Harcourt Brace Jovanovich, 1973), p. 290. For a fuller discussion of her contribution, see Zolberg, "The Formation of New States."

24. Arendt, *Origins,* p. 275.

25. Ibid., p. 268.

26. Their predicament was compounded when the great powers imposed on the newly created states a variety of minorities treaties as a condition for their recognition, with additional guarantees by an outside body, the League of Nations. As a result, the minorities were blamed for preventing the new states from achieving the full national sovereignty to which they aspired.

27. Arendt, *Origins,* p. 278.

28. Ibid., p. 269.

29. In particular, most of the formally stateless Europeans originated in Russia and included many antirevolutionary émigrés of Russian nationality ("White Russians"). They came under the protection of the high commissioner for Russian refugees and were accorded "Nansen" passports under the League of Nations. Arendt's suggestion that anti-Semitism was more virulent in the "successor states" than elsewhere is surely questionable. For example, during the interwar period, Jews achieved full citizenship in both Poland and Hungary and, despite the prevalence of anti-Semitism, participated prominently in their economic, cultural, and political life. Their situation in Russia improved after the revolution as well. And finally, it is hardly necessary to point out that Germany, where the doctrine of national rights was developed most systematically, was hardly a "successor" state.

30. Marrus, *The Unwanted,* p. 34.

31. Ibid., pp. 33–35.

32. Ibid., pp. 40–50.

33. Ibid., pp. 96–106.

34. Greek acquired Thessaly in 1881, Crete in 1908, and Macedonia—whose population was about evenly divided between Greek Orthodox and Muslims, which were the administrative categories used throughout this episode—plus several important islands as the result of the Balkan wars in 1913.

35. Signed on January 30, 1923, the convention was to become official upon the conclusion of a peace treaty, which in fact took place about a year and a half later, providing for the return of Western Thrace to Turkey.

36. Sources for the Armenian case include Marrus, *The Unwanted,* pp. 75–81; Robert Melson, "A Theoretical Inquiry into the Armenian Massacres of 1894–1896," *Comparative Studies in Society and History,* 24, 3 (July 1982), pp. 481–509; Leo Kuper, *Genocide* (New Haven, Conn.: Yale University Press, 1981), pp. 101–19; Philip D. Curtin, *Cross-Cultural Trade in World History* (Cambridge, England: Cambridge University Press, 1984), pp. 179–206.

37. Kuper, *Genocide,* p. 118.

38. Eugene M. Kulisher, *Europe on the Move, War and Population Changes, 1917–1947* (New York: Columbia University Press, 1948), p. 51 and n. 50.

39. U.S. Bureau of the Census, *Historical Statistics of the United States, Colonial Times to 1957* (Washington, D.C.: U.S. Government Printing Office, 1960), Series C 88–114, pp. 56–59.

40. Arendt points out that the Nazis relied heavily on such collusion for the pursuit of their policies (*Origins,* p. 269 and footnote on same page. See also Wyman, *Paper Walls;* and Henry L. Feingold, *The Politics of Rescue: The Roosevelt Administration and the Holocaust, 1938–1945* (New Brunswick, N.J.: Rutgers University Press, 1970).

41. Marrus, *The Unwanted,* pp. 53–61; Kulisher, *Europe on the Move,* pp. 54–56. As the armies fell back before German advances, huge masses of panicked civilians followed in their wake. Moreover, like their Ottoman counterparts, the tsarist authorities forcibly relocated two large population groups that might welcome the Germans as liberators—the Jews of the Pale and the Volga Germans, descendants of eighteenth-century colonists. Dumped into regions already suffering from war-induced deprivation, these unwelcome strangers were usually set upon by the local population.

42. Kulisher, *Europe on the Move,* p. 97.

43. Alan Dowty, *Closed Borders: The Contemporary Assault on Freedom of Movement* (New Haven, Conn.: Yale University Press, 1987), pp. 63–67.

44. Ibid., p. 68.

45. In addition to Dowty, see the discussion by Albert O. Hirschman, "Exit, Voice, and the State," in his *Essays in Trespassing: Economics to Politics and Beyond* (Cambridge, England: Cambridge University Press, 1981), pp. 246–65.

46. Recent cases in point are Indochina and Cuba, as discussed in the regional chapters. Other instances include a plea from the government of the Crown Colony of Hong Kong to China and some strong signals from the West to Polish general Wojciech Jaruzelski in 1983. The terms *confusion* and *dilemma* were used by William Shawcross in reference to the Western positions at the 1979 conference on Indochinese refugees, in *The Quality of Mercy, Cambodia, and Holocaust and Modern Conscience* (New York: Simon & Schuster, 1985), pp. 93–94.

47. Marrus, *The Unwanted,* p. 51; Kulisher, *Europe on the Move,* pp. 248–49.

48. These are not mutually exclusive: The United States, for example, simultaneously prohibited immigration from Asia and in World War II persecuted Japanese citizens.

49. *Welfare agencies* is a short-hand term referring to both the private and public sectors and to both local and national governments. For a more extensive theoretical discussion, see Zolberg, "International Migrations," pp. 3–27; and A. R. Zolberg, "Dilemmas at the Gate," paper presented at the American Political Science Association meeting, Denver, 1982. Some of the empirical details are presented in A. R. Zolberg, "International Migration Policies in a Changing World System," in William H. McNeill and Ruth S. Adams (eds.), *Human Migration: Patterns and Policies* (Bloomington: Indiana University Press, 1978), pp. 265–79. The United States and Germany led the way in the 1880s, one by means of measures explicitly directed against the importation

of contract labor from China—but in effect, prohibiting Chinese immigration altogether—and the other by barring the way to incoming Poles, including both agricultural workers and the Jewish exodus, as well as deporting many who had arrived earlier. In England, where nearly all controls on the entry of aliens had been swept away by the great wave of liberal reform, the arrival of poor Jews from the East in the 1880s, mostly in transit to the United States but of whom enough stayed behind to establish a substantial community in London, stimulated efforts to erect new barriers, culminating in the enactment of the restrictive Aliens Act in 1906. This was reinforced in 1910 and made much more severe at the onset of World War I. The "white dominions" (Canada, Australia, New Zealand, and South Africa) followed suit.

50. The explanation for French exceptionalism lies in the widely shared concern of elites with their declining population—particularly in the face of demographic growth in Germany—and subsequently exacerbated by the immense losses of men in World War I. In this perspective, immigration was seen as an asset rather than a liability. Most of the refugees were "White Russians."

51. E. P. Hutchinson, *Legislative History of American Immigration Policy 1798–1965* (Philadelphia: University of Pennsylvania Press, 1981), p. 108. Similar exonerations were included in subsequent legislation as well; however, the quota acts of the 1920s specifically did not accord priority of entry to refugees.

52. The concept of *international regime,* which has gained wide currency in the scholarly literature of international relations, refers to principles, norms, rules, and decision-making procedures around which actor expectations converge within a broad sphere of activity, such as international trade. For a recent discussion, see Stephen D. Krasner, "Regimes and the Limits of Realism: Regimes as Autonomous Variables," Krasner (ed.) *International Régimes* (Ithaca, N.Y.: Cornell University Press, 1983), pp. 1–22.

53. This amounted to 1.5 million within the first five years, after which Mussolini imposed restrictions on exit in the name of national pride and economic autarchy (Marrus, *The Unwanted,* p. 125).

54. Ibid., p. 130; Bismarck ordered a similar expulsion in 1885. On Poland between the wars, see Pawel Korzec, *Juifs en Pologne: La Question Juive Pendant l'Entre-Deux-Guerres* (Paris: Presses de la Fondation Nationale des Sciences Politiques, 1980).

55. Marrus, *The Unwanted,* p. 193.

56. Vernant, *The Refugee,* p. 25.

57. Ibid.

58. Louise W. Holborn, *Refugees: A Problem of Our Time: The Work of the United Nations High Commissioner for Refugees, 1951–1972* (Metuchen, N.J.: Scarecrow Press, 1975), p. 15.

59. Vernant, *The Refugee,* p. 6, n. 3.

60. Sir John Hope Simpson, *The Refugee Problem—Report of a Survey* (London: Oxford University Press, 1939), p. 4.

61. Louise W. Holborn, "The Legal Status of Political Refugees, 1920–1938," *American Journal of International Law,* 32 (1939), pp. 680–703.

62. Vernant, *The Refugee,* pp. 6–7, n. 31.

63. Ibid., p. 6.

64. Ibid., p. 7.

65. Kulisher, *Europe on the Move,* p. 305. Other surveys include two by Joseph B. Schechtman, *European Population Transfers, 1939–1945* (New York: Oxford University Press, 1946); and *Postwar Population Transfers in Europe, 1945–1955* (Philadelphia: University of Pennsylvania Press, 1962). There is also a summary in Marrus, *The Unwanted,* pp. 296–345.

66. Schechtman, *Postwar Population Transfers,* p. vii; Marrus, *The Unwanted,* p. 193.

67. This episode is the subject of Nikolai Tolstoi, *The Silent Betrayal* (New York: Scribner, 1978). Interest was revised by the publication in 1986 of the same author's *The Minister and the Massacre,* in which he asserts that the late Harold Macmillan bore a major responsibility for the return—a charge questioned by other historians (*New York Times,* June 10, 1986, and *The Economist,* August 23, 1986).

68. Marrus, *The Unwanted,* pp. 317–24.

69. Ibid., p. 341.

70. Vernant, *The Refugee,* p. 35.

71. Holborn, *Refugees,* p. 68.

72. Vernant, *The Refugee,* p. 40.

73. Nearly everything pertaining to numbers and causes of the Palestinian exodus is controversial. The estimates used here are from Janet L. Abu-Lughod, "The Demographic Transformation of Palestine," in Ibrahim Abu-Lughod (ed.), *The Transformation of Palestine* (Evanston, Ill.: Northwestern University Press, 1971), pp. 139–64; and Janet L. Abu-Lughod, "Palestinians: Exiles at Home and Abroad," *Current Sociology* (forthcoming, 1988). See also Laurie A. Brand, "Palestinians out of Palestine: An Examination of the Origins of the Palestinian Refugee Problem and the Status of Palestinians in Diaspora," paper presented at the Fourth International Conference on Refugees in the Islamic World, Bellagio, October 1987. On the conflict itself, see Simha Flapan, *The Birth of Israel: Myths and Realities* (New York: Pantheon, 1987), esp. pp. 83–118.

74. H. H. Ben-Sasson (ed.), *A History of the Jewish People* (Cambridge, Mass.: Harvard University Press, 1976), pp. 1066–77; H. H. Smith (ed.), *Israel: A Country Study* (Washington, D.C.: U.S. Government Printing Office, 1979), pp. 304–5.

75. See Edward H. Buehrig, *The UN and the Palestinian Refugees: A Study in Non-territorial Administration* (Bloomington: Indiana University Press, 1971); and David P. Forsythe, "The Palestine Question: Dealing with a Long-Term Refugee Situation," *Annals of the American Academy of Political and Social Science,* 467 (May 1983), pp. 89–101.

76. The signal importance of staff in this sense is also emphasized by David Kennedy in "International Refugee Protection," *Human Rights Quarterly,* 8 (1986), pp. 1–9.

77. Holborn, *Refugees,* pp. 73–77.

78. Ibid., pp. 76–77.

79. Goodwin-Gill, *The Refugee,* p. 6.

80. Atle Grahl-Madsen, *The Status of Refugees in International Law* (Leyden: Sijthoff, 1966), vol. 1, pp. 217–20.

81. Goodwin-Gill, *The Refugee,* pp. 270–76.

82. Two French constitutions (1946 and 1958) provide asylum to persons persecuted "by reason of actions in favor of liberty"; the German Federal Republic's basic law does so as well. The 1949 Hungarian Constitution states that foreign citizens "persecuted for their democratic attitude or their activities in the interest of the liberation of the peoples" will be given asylum, and Soviet law contains similar provisions. A number of developing countries do so as well.

83. A word of clarification is required here, as Marrus, *The Unwanted,* p. 358, has attributed this distinction to "Political scientist Aristide Zolberg." What Zolberg actually does in the 1983 article cited by Marrus ("The Formation," p. 26) is first to observe that such a distinction is inherent in the U.N. definition and then to characterize it as "valid and feasible." However, with respect to the latter point, research leading to the present book has led Zolberg to qualify his judgment.

84. Holborn, *Refugees,* p. 95.

85. Marrus, *The Unwanted,* pp. 360ff.

86. Leon Gordenker, *Refugees in International Politics* (New York: Columbia University Press, 1987), p. 39.

87. Goran Melander, *Flyktning i Norden* (Stockholm: Norstedt and Söners Forlag, 1979). For a more extensive discussion of these matters, see Astri Suhrke, "Global Refugee Movements and Strategies of Response," in Mary M. Kritz (ed.), *U.S. Immigration and Refugee Policy: Global and Domestic Issues* (Lexington, Mass.: Heath, 1983), pp. 157–62.

88. The development of postwar U.S. refugee policy is definitively treated in Gil Loescher and John A. Scanlan, *Calculated Kindness: Refugees and America's Half-Open Door, 1945–Present* (New York: Free Press, 1986).

89. National Security Council, "Psychological Value of Escapees from the Soviet Orbit," Security Memorandum, March 26, 1953.

90. Recent studies of the subject include Dennis Gallagher, Susan Forbes, and Patricia Weiss Fagen, *Of Special Humanitarian Concern: U.S. Refugee Admissions Since Passage of the Refugee Act* (Washington, D.C.: Refugee Policy Group, September 1985); and Norman Zucker and Naomi Zucker, *The Guarded Gate: The Reality of American Refugee Policy* (San Diego: Harcourt Brace Jovanovich, 1987), pp. 209–64.

91. Organization of American States, *Report on the Political Refugees in America;* Prepared by the Secretariat of the Inter-American Commission on Human Rights, OAS/Ser. L/V/II.11, doc. 7, rev. 2, September 1, 1965.

92. Albert Hirschman, *Exit, Voice, and Loyalty* (Cambridge, Mass.: Harvard University Press, 1972).

93. Hector Gros Espiel, "El Derecho Internacional Americano Sobre Asilo Territorial y Extradicion en Sus Relaciones con la Convenion de 1951 y el Protocol de 1967 Sobre Estatuto de los Refugiados," rev. 1, working document prepared for the May 1981 conference at UNAM, Mexico City.

94. Organization of American States, "Instrumentos Regionales en Materia de Asilo. Asilo Territorial y Extradicion. La Cuestion de los Refugiados ante las Posibilidades de una Nueva Codification Interamericana" (Preliminary study prepared by the Office of Development and Codification of International Law for the May 1981 conference at UNAM, Mexico). More ambitious suggestions advanced by semiofficial and private organizations call for the incorporation of the OAU's definition into the inter-American legal system.

95. Goodwin-Gill, *The Refugee,* p. 7.

96. Ibid., p. 8.

97. Ibid., p. 281.

98. Gordenker, *Refugees,* p. 40. The extension was occasioned by the formation of Bangladesh in 1971 and applied to people who crossed from East Pakistan into India; the within-country case referred to is Cyprus (1974).

99. Vernant, *The Refugee,* p. 3 (emphasis added).

100. In the same vein, it was asserted at a recent conference that "exiles must always be distinguished from refugees" because "they don't have the collective innocence of victims" (As reported in the *Times Literary Supplement,* May 15, 1987, p. 516).

101. A. Grahl-Madsen, "Identifying the World's Refugees," in *Annals of the American Academy of Political and Social Science,* 498 (May 1983), p. 13. A major source of ambiguity is that in the sphere of political dissent, it is often difficult to draw the line between a struggle to protect one's human rights and the commission of a crime. For example, many countries require military service of their citizens, and international law recognizes such requirements as legitimate, and so leaving one's country to escape punishment for refusing to serve is generally not admitted as grounds for according asylum. Yet there is also an ancient tradition of distinguishing between "just" and "unjust" wars, and since World War II it has become well established that under appropriate circumstances, citizens are morally obligated to refuse service to their state.

102. Vernant, *The Refugee,* p. 5.

103. The most recent comprehensive study of Irish emigration is by Kerby A. Miller, *Emigrants and Exiles: Ireland the Irish Exodus to North America* (New York: Oxford University Press, 1985).

104. Ladurie, "Avant-Propos," p. 48.

105. The crucial distinction between people who can be helped *in situ* and those who can be assisted only abroad is borrowed from Michael Walzer, "The Distribution of Membership," in Peter G. Brown and Henry Shue (eds.), *Boundaries: National Autonomy and Its Limits* (Totowa, N.J.: Rowan and Littlefield, 1981).

106. Although this is not our immediate concern, it should be noted that on the basis of the criteria established, asylum should be accorded to populations whose physical environment has

deteriorated to the point of being permanently unable to sustain life—as in cases of extreme desertification.

107. Andrew E. Sacknove, "Who Is a Refugee?" *Ethics* 95 (January 1985), pp. 274–85.

Chapter 2

1. *New York Times*, February 16, 1986, p. E3 (hereafter cited as *NYT*). Basic data are from U.S. Committee for Refugees, *World Refugee Survey: 1986 in Review* (Washington, D.C.: American Council for Nationalities Service, 1987) (hereafter cited as *WRS*, with appropriate year).

2. This stance was due to the persistence of a special regional framework founded on the common membership of these countries in ex-French West Africa. On the Guinean exodus, see Robert O. Matthews, "Refugees and Stability in Africa," *International Organization* 26, 1 (1972), p. 63. The estimate cited is from *Le Monde*, July 7 and September 17, 1982 (hereafter cited as *Monde*).

3. *NYT*, December 9, 1982; C. M. Eya Nchama, "La Décolonisation de la Guinée Equatoriale et le Problème des Réfugiés," *Genève-Afrique*, 20, 1 (1982), pp. 114–21.

4. The outflows from Nigeria involved about 2 million in 1983 and 700,000 in 1985 (some of them returnees from the first expulsion). The largest number were Ghanaian, with others from Benin, Chad, and Niger (*NYT*, May 13, 1985; *The Economist*, May 4, 1985). One of the earliest documented expulsions occurred in the Ivory Coast in 1958; see Aristide R. Zolberg, *One-Party Government in the Ivory Coast* (Princeton, N.J.: Princeton University Press, 1964), pp. 245–49; and Herschelle Sullivan Challenor, "Strangers as Colonial Intermediaries: The Dahomeyans in Francophone Africa," in William A. Shack and Elliot P. Skinner (eds.), *Strangers in African Societies* (Berkeley and Los Angeles: University of California Press, 1979), pp. 67–83.

5. This brutal displacement is continuing. See, for example, "Apartheid's Refugees Lose Ground to Bulldozers," *NYT*, May 29, 1986.

6. United Nations General Assembly, 41st sess., "Role of the Office of the United Nations High Commissioner for Refugees in Africa," JIU/REP/86/2, March 1986, p. 1.

7. For example, in the early nineteenth century, the southern part of the continent was engulfed in a process of competitive state-formation known as the *mfecane*, which drove escaping populations northward into what is today Zimbabwe. The Arab and European slave trades triggered innumerable flows of refugees, largely lost to history. The imposition of European rule in the late nineteenth and early twentieth centuries did so as well, as Africans periodically tried to escape the harsh exactions, which included forced labor, the diversion of agricultural activity from subsistence to cash crops, military service, and unaccustomed taxation. The subsequent reorganization of Africa into mutually exclusive territorial entities governed by competing European powers entailed the imposition of restrictions on international movement. From the time of imperial consolidation around the end of World War I until the end of the colonial period, Africans were for the most part confined to their territory of origin, except when their rulers promoted international labor migrations or allowed small numbers to seek education abroad.

8. Matthews, "Refugees," pp. 63–64. A more comprehensive estimate for 1966 enumerated a much higher total of 920,838 refugees for sub-Saharan Africa alone; see Hugh C. Brooks and Yassin El-Yahouty (eds.), *Refugees South of the Sahara: An African Dilemma* (Westport, Conn.: Negro Universities Press, 1970), pp. 293–95; 2,500 North African refugees in sub-Saharan Africa have been deducted from the figures cited therein. Aderanti Adepoju provided an earlier analytic overview similar to the present one; see his "The Dimension of the Refugee Problem in Africa," *African Affairs*, 81, 322 (1982), pp. 21–35.

9. Harold Nelson (ed.), *Nigeria: A Country Study* (Washington, D.C.: U.S. Government Printing Office, 1981), p. 60.

10. UNHCR figures as cited in W. T. S. Gould, "Refugees in Tropical Africa," *International Migration Review*, 8, 3 (1974), pp. 413–30.

11. In a letter to *NYT*, December 13, 1981.

ESCAPE FROM VIOLENCE
Conflict and the Refugee Crisis in the Developing World

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