

# **Refugees and Humanitarian Ethics: Beyond the Politics of the Emergency**

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# I

The contemporary era is often portrayed as one characterized by a vast expansion in the scope as well as a dramatic acceleration and intensification of social, economic, cultural and other human activities and relations.<sup>1</sup> That a single term — *globalization* — is usually attached to this dynamic process should not efface the unevenness of its impact and effects. Vandana Shiva problematizes “globalization” precisely for this reason. She criticizes the Western world’s obsession with identifying problems as “global” as a means of deflecting its own complicity and responsibility for these problems. The “global,” for Shiva, “represents a particular *local* and *parochial* interest that has been globalized through its reach and control.”<sup>2</sup> Similarly, while the globalization of economic activity, especially in terms of production and finance, may have spurred many to proclaim the onset of an unprecedented condition of “time-space compression,”<sup>3</sup> the question of *how* different people experience and are affected by this disruption to their received spatiotemporal orientations is one that needs to be explored. The enhanced mobility that is associated with globalization obviously means one thing for tourists and members of the “transnational managerial class” and quite another for international domestic workers and “mail-order” brides.<sup>4</sup> Doreen Massey has commented on the “power geometry” of time-space compression, noting the unequal forms of power and privilege involved in one’s relation to flows and movement: “Different social groups have distinct

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<sup>1</sup>David Held and Anthony McGrew, “Globalization and the Liberal Democratic State,” *Global Transformation: Challenges to the States System*, Yoshikazu Sakamoto, ed. (Tokyo: United Nations University Press, 1994), pp. 57-84.

<sup>2</sup>Vandana Shiva, “Conflicts of Global Ecology: Environmental Activism in a Period of Global Reach,” *Alternatives* 19:2 (1994), p. 196. Emphasis added. Seen from this perspective, it is not surprising that in many parts of the world the expansion of the “global” economy brings about a reduction on the status of women in these societies. Elsewhere, Shiva provides the example of the ability of multinational corporations to gain ownership over seeds through “intellectual property rights” provisions in GATT. Such provisions, she argues, have the effect of dispossessing rural women in India of their economic subsistence, their local power, and their control over traditional forms of knowledge. See Vandana Shiva, “GATT, Agriculture, and Third World Women,” in Maria Mies and Vandana Shiva, *Ecofeminism* (London: Zed Books, 1993), p. 238.

<sup>3</sup>David Harvey, *The Condition of Postmodernity* (London: Basil Blackwell, 1990).

<sup>4</sup>On the “international political economy of bodies,” see Jan Jindy Pettman, “Border Crossings/Shifting Identities: Minorities, Gender, and the State in International Perspective,” *Challenging Boundaries: Global Flows, Territorial Identities*, Michael J. Shapiro and Hayward R. Alker, eds. (Minneapolis: University of Minnesota Press, 1996), especially pp. 264-267.

relationships to this anyway differentiated mobility: some people are more in charge of it than others; some initiate flows and movement, others don't; some are more on the receiving-end of it than others; some are effectively imprisoned by it.”<sup>5</sup>

The unequal social and economic effects of contemporary political processes such as globalization have not gone entirely without notice within the discipline which makes global (or at least “international”) processes its object of concern. The discipline of International Relations (IR) has recently seen a renewed interest in studies which attempt to engage in the normative and ethical dimensions of world politics. In this essay I will explore how this increased concern for international ethics has been applied to the “problem” of global refugee flows. That refugees constitute an object of ethical concern is difficult to dispute. The persecution and violence that has resulted in the forced displacement of millions of people this century from their homes, families, and everyday life is surely cause enough for normative concern. Such concern is especially timely given the mounting evidence that integration into the world economy that comes with globalization plays a significant role in precipitating large migratory movements, including refugee flows.<sup>6</sup> To be sure, not only does the number of refugees worldwide continue to increase (from 1.5 million refugees in 1951, to more than 14 million in 1995, together with an additional 13 million returnees, internally and otherwise displaced people),<sup>7</sup> but the conditions and circumstances that bring about these mass movements have also multiplied. When the United Nations High Commissioner for Refugees (UNHCR) was first established in 1951, the primary cause of refugee movements was identified as political persecution by repressive governments. Today, by contrast, a small academic industry has

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<sup>5</sup>Doreen Massey, “A Global Sense of Place,” in Doreen Massey, *Space, Place, and Gender* (Minneapolis: University of Minnesota Press, 1994), p. 149. Compare: Jacques Attali, *Millennium: Winners and Losers in the Coming World Order* (New York: Random House, 1991).

<sup>6</sup>Hélène Pellerin, “Global restructuring in the world economy and migration: the globalization of migration dynamics,” *International Journal* 48 (Spring 1993), pp. 240-254.

<sup>7</sup>UNHCR, *The State of the World's Refugees: In Search of Solutions* (New York: Oxford University Press, 1995), p. 247.

developed to study the “complex emergencies” from which so many current refugee flows arise.<sup>8</sup> The severity and scope of such crises in human displacement have been such that, in recent years, the UNHCR has explicitly defined the refugee phenomenon as being both a humanitarian and a human rights issue.<sup>9</sup>

At the same time that refugees are defined in terms of a “humanitarian emergency” and thus as an object of ethical concern, they are also defined as a crisis in international order. The current UN High Commissioner for Refugees, Sadako Ogata, speaks to this point: “The subject of refugees and displaced people is high on the list of international concerns today not only because of its humanitarian significance, but also because of its impact on peace, security and stability. The world cannot reach a new order without effectively addressing the problem of human displacement.”<sup>10</sup>

The wording of the High Commissioner’s statement is worth reflecting upon for it points to a fundamental ambiguity that characterizes conventional multilateral responses to the phenomenon of global refugee flows: what is the relationship between a commitment to humanitarian action on the one hand, and to the principles and norms which underline the “peace, security, and stability” of the international system of states on the other? While the first commitment appeals to a common *human* identity as the basis for multilateral humanitarian action, the second directs our concern toward maintaining a world order which insists upon *citizenship* as the authentic ethico-political identity. In the discussion that follows I wish to explore this ambiguity by investigating the conditions under which refugees have been classified as an object of humanitarian concern. This,

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<sup>8</sup>The UNHCR defines a “complex emergency” as a “large scale event, often triggered by a natural disaster, exacerbated by internal or international armed conflict with serious human rights violations and large scale suffering among the civilian population, resulting in large numbers of refugees and displaced persons.” See: UNHCR, *The State of the World’s Refugees: The Challenge of Protection* (New York: Penguin Books, 1993), pp. 83-101.

<sup>9</sup>UNHCR, *The State of the World’s Refugees: In Search of Solutions*, pp. 57-96; Sadako Ogata, “Human Rights, Humanitarian Law and Refugee Protection,” *Human Rights and Humanitarian Law: The Quest for Universality*, Daniel Warner, ed. (The Hague: Martinus Nijhoff Publishers, 1997), pp. 135-141. The ethically-situated nature of international responses to refugee flows is also emphasized in the subtitle of the most recent UNHCR publication, *The State of the World’s Refugees 1997-98: A Humanitarian Agenda* (New York: Oxford University Press, 1997).

<sup>10</sup>Sadako Ogata, “Foreword,” in UNHCR, *The State of the World’s Refugees: The Challenge of Protection*, p. iii.

in turn, means investigating how the category of the “refugee” has been invented and naturalized. I will stress that the contemporary range of ethical possibilities that inform multilateral responses to refugee flows is intimately related to ongoing struggles surrounding the nature and location of “political” community and identity. This paper will consequently focus on the question of whether international humanitarian responses to refugee flows work to reinforce or transform the constitutive principles of modern statist conceptions of community, identity, and world order.

## II

To highlight humanitarian and human rights considerations when assessing how states should cooperate on a phenomenon of the international system of states is a noteworthy development within the field of international relations. Until quite recently, to speak of “ethics” and “international relations” as anything other than two separate and distinct fields of inquiry would have been interpreted by the IR mainstream as proof of a profound, perhaps even dangerous, naïveté to the “realities” of world politics. Questions of ethical behaviour and ethical responsibility in the international realm were seen as altogether incommensurable with the doctrine of political (neo)realism that dominated the discipline during the Cold War. The hegemonic influence of what Jim George has called the “egoism-anarchy thematic” of (neo)realism effectively ensured the marginalization of any perspective which did not interpret world politics as the pursuit of power politics by amoral, self-interested and utility-seeking sovereign states acting in a dangerous anarchic realm.<sup>11</sup>

The past decade, however, has seen a resurgence in what some have called “new normative approaches” to international relations theory.<sup>12</sup> In this respect, the recent re-publication of Mervyn Frost’s 1986 effort, *Towards a Normative Theory of International Relations*, speaks to the continued relevance of Frost’s original observation — that while the practice of international relations is

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<sup>11</sup>Jim George, “Realist ‘Ethics,’ International Relations, and Post-modernism: Thinking Beyond the Egoism-Anarchy Thematic,” *Millennium: Journal of International Studies* 24:2 (Summer 1995), pp. 195-223.

<sup>12</sup>Chris Brown, *International Relations Theory: New Normative Approaches* (New York: Columbia University Press, 1992).

saturated with normative issues, requiring judgments about what ought to be done, the study of international relations has been strangely bereft of ethical concerns.<sup>13</sup> Frost is correct to emphasize how the disjuncture between “international relations” and “ethics” has been reinforced by the prevalence of a positivist epistemology which insists upon the strict separation of subject and object, facts and values, and the empirical and the normative. The current reappraisal of the normative elements of international relations is therefore part of a more general shift within the discipline away from the quantitative emphasis of positivism and toward more reflexive, interpretive, and critical approaches to world politics.<sup>14</sup> The apparent popularity of this reappraisal, moreover, has recently prompted Chris Brown to declare that the discipline of international relations is “a dismal science no longer.”<sup>15</sup>

There are good reasons for taking pause before celebrating the onset of an allegedly ethically-situated discipline of international relations. As we shall see, these hesitations become especially acute when one contextualizes IR’s increased concern for normative issues with how they are usually applied to refugee movements. Here, however, I want to highlight two initial points of concern in particular. In the first place, the “new normative approaches” for the most part rely upon specifically liberal, rights-based ethical theories drawn from the dominant traditions of Western moral and political theory. This point becomes especially important when we are confronted with what seems to be a plethora of available ethical approaches to international relations. The tendency to isolate these as competing traditions serves, naturally, to obscure the similarities and common historical and intellectual foundations of these perspectives.<sup>16</sup>

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<sup>13</sup>Mervyn Frost, *Toward a Normative Theory of International Relations* (Cambridge: Cambridge University Press, 1986). This book is re-published in an revised and expanded version as *Ethics in International Relations: A Constitutive Theory* (Cambridge: Cambridge University Press, 1996).

<sup>14</sup>Fiona Robinson, “Globalizing Care: Ethics, Feminist Theory, and International Relations,” *Alternatives* 22:1 (Jan.-Mar. 1997), pp. 114-115. See also Mark Neufeld, *The Restructuring of International Relations Theory* (Cambridge: Cambridge University Press, 1995).

<sup>15</sup>Chris Brown, “A dismal science no longer,” *Radical Philosophy* 82 (March/April 1997), pp. 49-50.

<sup>16</sup>Robinson, “Globalizing Care,” p. 117.

For a discipline which attempts to be global in scope, the easy (and often openly chauvinistic) manner in which non-Western ethical traditions are excluded from serious consideration is certainly cause for alarm, not celebration. R.B.J. Walker points to the dangers involved in such myopic moralism, noting that “one person’s normative project may well be another person’s reification of contingent dominations or expression of chauvinistic arrogance on a global scale.”<sup>17</sup>

A second set of concerns arises from how the “new normative approaches” uncritically accept some very old categorical distinctions between life inside and outside sovereign states. This casual acceptance does not change the considerable difficulties that come with extrapolating ethical categories from state-centric moral philosophies to the global stage of “international ethics.” The major concern here is that such applications tend to forget the conditions under which these moral philosophies owe their existence. In particular, they obscure the considerable violence that is expended to sustain and reproduce the sovereign political space that allows for the development and performance of ethical principles. The dangers involved with this peculiar form of amnesia can be clearly demonstrated by a critical reading of Mervyn Frost’s *Ethics in International Relations: A Constitutive Theory*. In this study, Frost develops a theory of international ethics by employing Dworkin’s “constructive theory method” to identify eighteen “settled norms” within the field of international relations. Most of these follow directly from the first two norms — the preservation of the state system and the principle of state sovereignty. Frost’s understanding of global ethics is thus unabashedly state-centric: all normative concerns in international relations are predicated upon what is good for states. From this perspective, the challenge becomes to develop an ethical theory which can provide the best moral justifications for the international system of sovereign states.

Frost considers the existing justifications for the state system — order-based theories, utilitarian theories, and rights-based theories — to be insufficient to the task of reconciling norms which are centred on the preservation of state sovereignty with norms seeking to preserve the rights of autonomous individuals. He attempts to bridge these two ethical concerns with a “constitutive

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<sup>17</sup>R.B.J. Walker, “Norms in a Teacup: Surveying the ‘New Normative Approaches,’” *Mershon International Studies Review* 38 (1994), p. 268.

theory of individuality” which draws heavily upon arguments from Hegel’s *Philosophy of Right*.<sup>18</sup> However, while Frost goes into some detail to demonstrate that individuals simultaneously constitute themselves as moral and ethical subjects by virtue of their participation in institutions such as the family, civil society, and (most perfectly) the state, he stops short of describing the *violent performances* Hegel considered integral to the constitution of ethical subjects. Here, Frost’s reading of Hegel is consistent with most political theorists in that he emphasizes those constitutive practices which are *internal* to the state.<sup>19</sup> What is missing, however, is recognition of the significance Hegel places on those constitutive practices which are *external* to the state. In particular, Frost’s analysis excludes from consideration the important role *war* plays in Hegel’s theory of actualizing ethical life for both the individual and the state. This omission is significant for it effaces an important process by which the coherence and unity of the state is created and sustained. Moreover, since Hegel believed that such coherence is achieved through the dynamics of negation, warring violence can therefore be understood as one of the ultimate acts of negation — that is, the violent effacement of an Other’s subjectivity in order to bolster and maintain the identity of the Self.<sup>20</sup>

For Hegel, war is an important, even “necessary”<sup>21</sup> practice in the quest to actualize the ethical community of the state. Hegel criticizes the Kantian notion of “perpetual peace” on the basis that individuals in a peaceful civil society tend to assume that this form of human association is the final and most desirable form of political community. Civil society, however, is only one “moment” (albeit an important and necessary moment) in the development of social relations. A condition of

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<sup>18</sup>Frost, *Ethics in International Relations*, pp. 141-159.

<sup>19</sup>See, for example, Z.A. Pelczynski, “The Hegelian Conception of the State,” *Hegel’s Political Philosophy: Problems and Perspectives*, Z.A. Pelczynski, ed. (Cambridge: Cambridge University Press, 1971), pp. 1-29. An important exception is Shlomo Avineri, *Hegel’s Theory of the Modern State* (Cambridge: Cambridge University Press, 1974), especially chapter ten.

<sup>20</sup>Michael Shapiro, *Violent Cartographies: Mapping Cultures of War* (Minneapolis: University of Minnesota Press, 1997), pp. 41-47.

<sup>21</sup>Michael Shapiro has recently commented on Hegel’s “advocacy” of war. He notes that Hegel considers war a “necessity” because it is a “consequence of his philosophically constructed commitments to the state, to the organic connection between the individual and the state, and, most crucially, to the dynamics of negation in the maintenance of both.” Shapiro, *Violent Cartographies*, p. 42.



civil peace, in Hegel's estimation, leads people to become entirely individualistic — that is, to understand political community and social organization only as a means of maximizing their own private ends. Consequently, the centrifugal forces of civil society are always at risk of going too far, of exceeding the state's capacity to contain individualistic interests and desires within an organic whole. As such, civic life threatens the ethical unity of the state. As Hegel states: "In peace civil life continually expands: all its departments wall themselves in, and in the long run men stagnate. Their idiosyncrasies become continually more fixed and ossified. But for health the unity of the body is required, and if its parts harden themselves into exclusiveness, that is death."<sup>22</sup>

Individuals in civil society thus need to be shaken out of their complacency and compelled to recognize that political community involves much more than just their own narrowly-defined interests. Hegel considers war as a positive means of drawing the divergent and particular interests of civil society to coalesce into a unified whole. In a state of war, individuals cease to consider only themselves and instead become aware of their membership in the larger community of the state. War has the higher significance that by its agency, as I have remarked elsewhere, "the ethical health of peoples is preserved in their indifference to the stabilization of finite institutions; just as the blowing of the winds preserves the sea from the foulness which would be the result of a prolonged calm, so also corruption in nations would be the product of prolonged, let alone 'perpetual', peace."<sup>23</sup> In sum, Hegel emphasizes that war should not be seen as a negative or contingent feature of the modern state, but rather as an important and positive means by which the competing forces of civil society can be contained and thus reestablish the ethical unity of the state.

The adequacy of Frost's state-centric "constitutive theory" of international ethics is thus seriously put into question by this failure to consider the violent performances that constitute the basis of his ethical theory. Moreover, Frost's attempt to sidestep such criticisms by claiming that his is a "secular interpretation" of Hegel which "does not require us that we understand or accept

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<sup>22</sup>G.W.F. Hegel, *Philosophy of Right*, Trans. T.M. Knox (Oxford: Oxford University Press, 1967), Addition #188 to §324, p. 295.

<sup>23</sup>*Ibid.*, §324, p. 210.

Hegel's metaphysical system" comes across as very unconvincing.<sup>24</sup> There is much more at issue here than whether one accepts or rejects Hegelian metaphysics. What is at stake is more *political* than metaphysical. Indeed, what is most illuminating about Hegel's writings on the relationship between ethics, war, and the state is his willingness to recognize and confront the violent *practices* which help constitute the space within which the performance of ethical relations is possible. His analysis demonstrates that the space of politics is not just *there* in some timeless fashion. Rather, political space is created and sustained by ongoing human activity, some of which is of a very violent character. Thus, to assume that state sovereignty is some unproblematic and foundational "settled norm" of modern political life is to engage in an act of reification which obfuscates the real, historical political *practices* of identity and community formation and contestation.<sup>25</sup> Sovereignty, in this sense, is not so much a thing, a static principle to be invoked, as an *effect* of various practices (statism).<sup>26</sup> From this perspective, state sovereignty should not be assumed so much as explained. As Cynthia Weber explains: "It is not possible to talk about the state as an ontological being — as a political identity — without engaging in the political practice of constituting the state. Put differently, to speak of the sovereign state at all requires one to engage in the political practice of stabilizing this concept's meaning."<sup>27</sup>

A number of downfalls come with approaches to international ethics which do not reflect upon their statist conditions of possibility. One is that they mask the significance of social, cultural, economic, and political practices which do not necessarily abide by the logic and codes of the

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<sup>24</sup>Frost, *Ethics in International Relations*, p. 143.

<sup>25</sup>Warren Magnusson, "The Reification of Political Community," *Contending Sovereignties: Rethinking Political Community*, R.B.J. Walker and Saul H. Mendlovitz, eds. (Boulder: Lynne Rienner Publications, 1990), pp. 45-60.

<sup>26</sup>Richard K. Ashley and R.B.J. Walker, "Reading Dissidence/Writing the Discipline: Crisis and the Question of Sovereignty in International Studies," *International Studies Quarterly* 34:3 (1990), pp. 367-416.

<sup>27</sup>Cynthia Weber, *Simulating Sovereignty: Intervention, the State and Symbolic Exchange* (Cambridge: Cambridge University Press, 1995), p. 3. See also Thomas J. Biersteker and Cynthia Weber, eds., *State Sovereignty as Social Construct* (Cambridge: Cambridge University Press, 1996).

sovereign territorial state.<sup>28</sup> Another is that the important connections between ethical possibilities and political community get forgotten. Walker, for one, finds as “implausible” the idea “that ethics is something to be applied to rather than constitutive of international relations, and that ethics is somehow separable from politics.”<sup>29</sup> He suggests that international relations theory be understood as “already constituted through accounts of ethical possibility.”<sup>30</sup> From this perspective, the language of humanitarianism and human rights which surround refugee situations should be connected to some fundamental questions about the nature and location of political community as well as the corresponding range of ethical possibilities that are related to this understanding.

### III

While select groups of migrating people have been called “refugees” for almost as long as the Westphalian system of states — the term was first applied to the French Huguenots who fled to England after the Edict of Nantes was revoked in 1685 — most conventional accounts identify the refugee “problem” as a particularly twentieth century political phenomenon.<sup>31</sup> Before this time the international migration of people was left largely unregulated. Passports were more commonly employed to control internal migrations within, for example, the Russian and Ottoman empires than

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<sup>28</sup>See especially David Campbell, “Political Excess and the Limits of the Imagination,” *Millennium: A Journal of International Studies* 23:2 (1994), pp. 365-375; David Campbell, “Political Prosaics, Transversal Politics, and the Anarchical World,” in Shapiro and Alker, *Challenging Boundaries*, pp. 7-31.

<sup>29</sup>R.B.J. Walker, *Inside/Outside: International Relations as Political Theory* (Cambridge: Cambridge University Press, 1993), p. 79.

<sup>30</sup>*Ibid.*, p. 51.

<sup>31</sup>For different readings on the “modern” nature of refugees, compare: Michael Marrus, *The Unwanted: European Refugees in the Twentieth Century* (New York: Oxford University Press, 1985); Gil Loescher, *Beyond Charity: International Cooperation and the Global Refugee Crisis* (New York: Oxford University Press, 1993); Nicholas Xenos, “Refugees: The Modern Political Condition,” *Alternatives* 18:4 (Fall 1993), pp. 419-430. For discussions on the linguistic and social origins on the category of “refugee,” compare: Aristide R. Zolberg, Astri Suhrke, and Sergio Aguayo, *Escape From Violence: Conflict and the Refugee Crisis in the Developing World* (New York: Oxford University Press, 1989), pp. 3-16; Nevzat Soguk, *Refugee Matters: Refugee Regimentations as Practices of Statecraft* (Arizona State University, Unpublished Ph.D. Dissertation, 1995), pp. 73-82.

they were for regulating inter-state travel, where they only became a common requirement in the 1910s.<sup>32</sup> Moreover, the sheer number of individuals who have been forced to migrate as refugees this century is largely unprecedented, as is the scope of protection offered to refugees by the international community. Indeed, many commentators prefer the term “exile” to “refugee” when characterizing individuals who fled their home countries because of political persecution before this century. As the historian Michael Marrus notes, nineteenth century European exiles were generally “individuals who had chosen their political path, rather than large masses of people torn loose from their society and driven to seek refuge.”<sup>33</sup> Moreover, while political exiles were exposed to hardship and suffering, a degree of prior affluence was usually a necessary precondition for procuring the means to flee abroad in the first place. The class privilege which characterized the political economy of exile of the nineteenth century was such that “the world of political exiles was that of the relatively well-to-do or, at least, of the once well-to-do.”<sup>34</sup> Radical political activists from the lower classes faced much bleaker fates. For them, “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.”<sup>35</sup>

Conventional narratives on the rise of the modern regime of international refugee protection place its roots in the extraordinary and violent events that transformed early twentieth century Europe. The First World War, the Russian Revolution, and the collapse of the Ottoman and Austro-Hungarian empires had caused an unprecedented mass displacement of peoples — twenty million by most estimates. These migrants, moreover, were denied the protection that the comparatively cosmopolitan life of exile had previously offered some. As Hannah Arendt grimly observed, the violent transformations of the early twentieth century brought about migrations of groups who, unlike their happier predecessors in the religious wars, were welcomed nowhere and could be assimilated nowhere. Once they had left their homeland they remained homeless, once they had left

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<sup>32</sup>Daniel C. Turack, *The Passport in International Law* (Lexington, MA: Lexington Books, 1972).

<sup>33</sup>Marrus, *The Unwanted*, p. 15.

<sup>34</sup>*Ibid.*, p. 20.

<sup>35</sup>Zolberg, *et al.*, *Escape From Violence*, p. 11.

their state they became stateless; once they had been deprived of their human rights they were rightless, the scum of the earth.<sup>36</sup>

The scope of the refugee problem was such that no state acting unilaterally could hope to address it effectively. International voluntary relief organizations such as the International Committee of the Red Cross were similarly overwhelmed. The recognition that some form of international cooperation was required on the refugee question led to the League of Nations appointing its first High Commissioner for Refugees, Fridtjof Nansen, in 1921.

The subsequent history of international cooperation on the mass movement of refugees and stateless persons is one of international organizations characterized by highly constrained spatial and temporal orientations. From the outset, the League of Nations considered the refugee problem a temporary one. The League felt considerable pressure from governments facing refugee flows for its “refugee work [to] be liquidated with the utmost rapidity.”<sup>37</sup> Consequently, the international organizations the League established to deal with refugees were all conceived as short-term, ad hoc operations with limited mandates. As Aristide Zolberg and his coauthors point out, the precisely worded designations of the League’s refugee offices betray their ad hoc, geographically-specific character: “High Commissioner on behalf of the League in connection with the problems of Russian Refugees in Europe” (1921) and, later, the “High Commissioner for Refugees coming out of Germany” (1933).<sup>38</sup> These geographical and national limitations were matched by strict financial constraints. League funds were to be spent only on administrative matters and not for funding direct relief operations for the displaced. As one commentator observes: “For most of the interwar period, the international refugee regime ran on extremely limited ad hoc budgets put together without benefit of long-range planning.”<sup>39</sup>

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<sup>36</sup>Hannah Arendt, *Imperialism, Vol. II of The Origins of Totalitarianism* (New York: Harvest, 1968), p. 147.

<sup>37</sup>*Ibid.*, p. 161.

<sup>38</sup>Zolberg, *et al.*, *Escape from Violence*, pp. 19-20.

<sup>39</sup>Loescher, *Beyond Charity*, p. 37.

In the refugee studies literature, the ad hoc character of these early attempts at international cooperation on the refugee question is usually presented as evidence of an imperfect and incomplete refugee regime still in the process of development. In the field of international relations a “regime” is typically understood as those “principles, norms, rules, and decision-making procedures” which work to constitute an intersubjective form of knowledge that allows actors (usually states) to cooperate on a common problem, such as the international flow of refugees.<sup>40</sup> Seen in these terms, the international refugee regime is generally considered to have gone through two major stages of development. The first stage considers those international organizations which predated the UNHCR. Here, the League of Nations High Commissioner for Refugees, the Nansen International Office for Refugees, the Intergovernmental Committee on Refugees, and the International Refugee Organization are all seen as representing progressive steps in the evolution of an effective regime of refugee protection. The significance of these early, tenuous and non-systematic attempts at international protection, it is said, lies not so much in their successes or effectiveness (which anyway were always limited), but rather in their promulgation of the *idea* of international protection for refugees. This idea, the story goes, is only realized in 1951 with the adoption of the Convention Relating to Status of Refugees and the establishment of the UNHCR.<sup>41</sup>

While it is surely correct to make a distinction between the more extensive and permanent activities of the UNHCR and the limited capacities of its predecessors, it is nonetheless important to consider the strikingly similar way in which each of these organizations — UNHCR included — was initially conceived. Like its predecessors, the UNHCR, too, was initially considered to be only a temporary organization. The UNHCR was established to deal specifically with refugee flows caused by the Second World War and with émigrés from the communist governments of central and eastern Europe. The number of displaced people in Europe at this time was considerable. A 1945 U.S. State Department report estimated the number of uprooted people as being between 20 and 30 million.<sup>42</sup> The refugee “problem,” however, was once again framed as episodic, as a periodic crisis

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<sup>40</sup>Stephen Krasner, ed., *International Regimes* (Ithaca: Cornell University Press, 1983).

<sup>41</sup>Soguk, *Refugee Matters*, pp. 116-124.

<sup>42</sup>Loescher, *Beyond Charity*, p. 46.

which required an immediate emergency response. As such, the UNHCR was given a limited mandate and a projected life span of only three years. The High Commissioner, moreover, was allocated a small administrative budget of only \$300,000 and was prohibited from raising revenue directly, or even spending any funds directly on refugees.<sup>43</sup>

The international organizations charged with protecting refugees in the twentieth century have repeatedly been confronted with a “diffuse and enduring”<sup>44</sup> phenomenon of modern political life, yet they have consistently been conceived in terms of providing a solution to a crisis or emergency issue. One effect of this formulation is that when refugees appear in IR studies they are similarly addressed as “emergency” situations. As such, the refugee phenomenon is typically incorporated into discourses which are entirely practical and operational in nature — what years ago Robert Cox identified as “problem solving” discourses.<sup>45</sup> The immediacy — indeed, the “emergency” — of refugee situations encourages a short-term, crisis-oriented attitude. Daniel Warner comments:

Refugee studies has traditionally been an extremely practical discipline that spent little time with philosophical or methodological problems simply because there was little time to devote to these questions. Reflection on underlying assumptions has not been possible when confronted with emergency situations. I vividly remember the current High Commissioner saying to a well-known scholar at the end of a

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<sup>43</sup>This limitation on financial control continued to haunt the UNHCR throughout its nearly five decades of operation. The widening gap between assessed needs and likely sources of resources reached a crisis point in the late 1980s when the UNHCR registered a \$40 million deficit. In 1989, member states refused for the first time to approve the UNHCR budget. These financial difficulties affected the UNHCR’s ability to secure stable leadership. In October 1989, High Commissioner Jean Pierre Hocke resigned and his successor, Thorval Stoltenberg, also resigned only 13 months later. See Alex Cunliffe, “The Refugee Crisis: A Study of the United Nations High Commission for Refugees,” *Political Studies* 43:2 (June 1995), pp. 278-290.

<sup>44</sup>Lal Jayawardena, “Foreword,” *Mistrusting Refugees*, E. Valentine Daniel and John Chr. Knudsen, eds. (Berkeley: University of California Press, 1995), p. viii.

<sup>45</sup>Robert W. Cox, “Social Forces, States and World Order: Beyond International Relations Theory,” *Neorealism and its Critics*, Robert O. Keohane, ed. (New York: Columbia University Press, 1986), pp. 204-254.

presentation: ‘That was very well Professor, but what I am to do with the problem tomorrow morning?’<sup>46</sup>

As Cox recognized, however, the major concern with “problem solving” perspectives — especially when they operate under the strict temporal limitations imposed by “emergency” situations — is that they invariably concentrate their attention on the practical ways in which *order* and *normalcy* can be reinstated. Critical questioning of both the unequal power relations and desirability of this order are de-emphasized, marginalized, or ignored.

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<sup>46</sup>Daniel Warner, “Constructing a Productive Other” [Book Review], *International Journal of Refugee Law* 7:2 (1995), p. 372.



#### IV

In a recent and remarkable essay aptly titled “Beyond Human Rights,” Giorgio Agamben problematizes the way refugees have been classified as a humanitarian emergency. He puts the matter in provocative terms: The concept of refugee must be resolutely separated from the concept of “human right,” and the right of asylum . . . must no longer be considered as the conceptual category in which to inscribe the phenomenon of refugees. The refugee should be considered for what it is, namely nothing less than a limit-concept that at once brings a radical crisis to the principles of the Nation-State and clears the way for a renewal of categories that can no longer be delayed.<sup>47</sup>

All classifications have social conditions for their production and historical circumstances which make them credible. Agamben argues that classifying refugees in humanitarian terms has the effect of downplaying the possibilities for political transformation inherent in this identity. Moreover, he argues that the principal reason refugees constitute a “problem” or “emergency” to the international system of states lies in “the very ambiguity of the fundamental notions regulating the inscription of the *native* (that is, of life) in the juridical order of the Nation-State.”<sup>48</sup> The “problem” of refugees and their identity is thus one which cuts to the heart of how we understand the nature and location of political community and identity.

The legal definition of the term refugee is established by the 1951 UN Convention Relating to the Status of Refugees as applying to any person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his [sic] nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality but

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<sup>47</sup>Giorgio Agamben, “Beyond Human Rights,” *Radical Thought in Italy: A Potential Politics*, Paolo Virno and Michael Hardt, eds. (Minneapolis: University of Minnesota Press, 1996), p. 162.

<sup>48</sup>*Ibid.*, p. 161.

being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.<sup>49</sup>

Legal definitions only go so far, however, in communicating the actual lived experiences of refugees. In a recent attempt to redress the limitations of juristic definitions, the UNHCR has established an Internet archive of visual images of refugees.<sup>50</sup> The purpose of the website is identified by its title — *What is it like to be a refugee?* The ensuing photographs attempt to answer this question on refugee identity with their representations of the world's displaced persons. On one screen we see the image of a refugee family fleeing with 250,000 other Rwandans all on the same day in April 1994. On another is a photograph of an elderly Bosnian woman who has become “internally displaced” within her own community. These photographs — and others representing the struggles of Tajik, Somali, Vietnamese, and other refugees — reflect how the recent proliferation in refugee numbers has been matched by an unprecedented polymorphism and complexity in the causes, underlying dynamics, and effects of global refugee flows. Consequently, viewing the visual archive can leave one with the sense that no simple or singular answer to the question of refugee identity (or “refugeeness”) is possible. Current conditions strongly suggest that the answer to the website's initial question must necessarily be plural, ambiguous, and historical.

The diversity in the lived experiences of the refugees represented in the UNHCR's visual catalog gives testament to the sheer scope and complexity of contemporary refugee flows. At the same time, however, the organization insists that behind these experiences born out of particular contexts and circumstances lies a common underlying identity which is universally shared among all refugees. This universalist perspective is perhaps best represented in the photograph that opens the visual archive and which accompanies the website's original question on the nature of refugeeness (See Figure 1). At first, the photograph seems to be an enigmatic choice for a title page representation. No actual person — a refugee or otherwise — can be found anywhere in the picture.

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<sup>49</sup>UNHCR, *The State of the World's Refugees: The Challenge of Protection*, pp. 169-170. The original time and geographical restraints of this definition are eliminated with the 1967 Protocol Relating to the Status of Refugees. In addition, regional agreements such as those adopted by the 1969 Organization of African Unity Convention and announced in the 1984 Cartagena Declaration have augmented the definition of refugee to meet the special needs and circumstances of Africa and Latin America, respectively.

<sup>50</sup>See <<http://www.unhcr.ch/images/>>.

Portrayed rather is a single long-sleeved shirt suspended in front of a makeshift shelter. The framing of the photograph is further notable for its ambiguity: Has the shirt been abandoned by an individual who, for reasons beyond his or her control, has been forced into flight? Or, is this a portrait of a refugee's shirt, hanging to dry in front of the temporary structure that is serving as his or her shelter? In both scenarios, however, the essential humanitarian message is clear — the emptiness of the shirt signifies the emptiness that all refugees feel when they are forced to sever their ties with their home. To the question “What is it like to be a refugee?” the answer must therefore be understood in terms of a profound sense of lack. Like the empty shirt, the life of the refugee is typically seen as suffering from emptiness. Another recent UNHCR representation of refugee life captures this perspective: In some ways, becoming a refugee makes life desperately simple, and empty. No home, no work, no decisions to make today, and none to make tomorrow. Or the next day. Refugees are the victims of persecution and violence. Most hope that, one day, they may be able to rebuild their lives in a sympathetic environment. To exist again in more than name.<sup>51</sup>

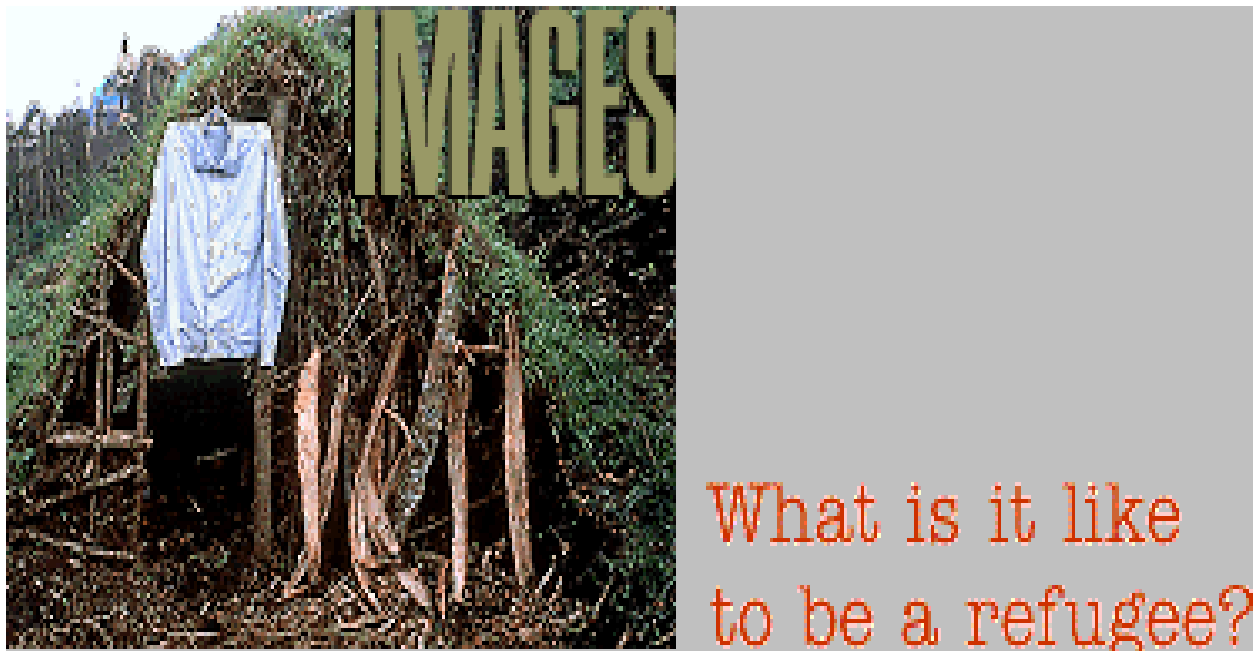


Figure 1

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<sup>51</sup>UNHCR, “Focus: Ethnic Conflict,” *Refugees* 93 (1993), p. 48.

While these humanitarian representations of refugee life in some ways capture the material and psychological difficulties that result from the experience of being forcibly displaced from one's home, they are far from unproblematic. In the first place, representations cannot merely expect to convey one thing as another without political effect. In a recent article, Liisa Malkki demonstrates how humanitarian representations of refugees act as an intervening force in world politics. Malkki notes how both the mass media and the publications of humanitarian and international organizations perform such a role, transforming refugees into what she calls "speechless emissaries."

One of the most far-reaching, important consequences of . . . established representational practices is the systematic, even if unintended, silencing of persons who find themselves in the classificatory space of "refugee." That is, refugees suffer from a peculiar kind of speechlessness in the face of national and international organizations whose object of care and control they are. Their accounts are disqualified almost *a priori*, while the languages of refugee relief, policy science, and "development" claim the production of authoritative narratives about refugees.<sup>52</sup>

Humanitarian representational practices, Malkki argues, attempt to disturb the common distinction between refugee and non-refugee by promoting a vision of a shared and common humanity. Such representations, however, often end up portraying an undifferentiated "raw" or "bare" vision of humanity in which the individuality of refugees — as well as the historical and political circumstances which forced them to take this identity — is masked. Malkki argues that "in their overpowering philanthropic universalism, in their insistence on the secondariness and unknowability of *details* of specific histories and specific cultural or political contexts, such forms of representation deny the very particulars that make people something other than anonymous bodies, merely human beings."<sup>53</sup> From this perspective, the opening photograph of the UNHCR's website is notable for how it links "refugeeness" with invisibility, acorporeality, and emptiness.

As Malkki's analysis indicates, one of the central difficulties with representational practices which portray refugees as "mere humans" is that all notions of political agency are, in a word, emptied from refugee subjectivity. Refugees, from this perspective, are but a "problem" in need of

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<sup>52</sup>Liisa H. Malkki, "Speechless Emissaries: Refugees, Humanitarianism, and Dehistoricization," *Cultural Anthropology* 11:3 (1996), p. 386.

<sup>53</sup>*Ibid.*, pp. 388-389. Emphasis in original.

a solution. There are numerous difficulties with this view, not least because the experience of exile often has a profound *politicizing* effect on refugees. For instance, the UNHCR has considered voluntary repatriation as the preferred “solution” to exile since at least the early 1980s. The rationale for this preference is the liberal notion that an individual’s “home” is inextricably connected to the territorially-based homogenous community in which he or she resided before flight. However, despite the great deal of attention given to how best to achieve the goal of voluntary repatriation, very little has been said about what it *means* to “go home” for refugees. While this experience is far from homogenous (and, indeed, this is precisely the point), the idea that a symmetrical relationship exists between a refugee’s “home” and his or her country of origin is far from unproblematic.<sup>54</sup> “Home,” as Benedict Anderson has famously argued, is often an “imagined community” and the temporal duration of a refugee’s exile will affect his or her memory of home.<sup>55</sup> In the case of Guatemalan return movement, for example, one commentator has argued that an “imagined return community” has been symbolically constructed by returning Mayan refugees: As in other imagined communities, a common history has been constructed — one that emphasizes the struggle of the poor (Indian) for material improvement, autonomy and dignity, against the rich and their army who wanted to break the back of the poor and take over their land; and a common future is envisaged, in which the refugees return together, reconquer the land, and establish settlements where they can look after each other.<sup>56</sup>

Under the slogan “Return is struggle, not resignation,”<sup>57</sup> many returning refugees have taken active steps to transform their “imagined” community into a “real” one. In the first place, the Mayan refugees have resisted multilateral solutions to their plight which treated them as passive, voiceless, agentless victims. For instance, when the UNHCR negotiated a voluntary repatriation agreement

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<sup>54</sup>Daniel Warner, “Voluntary Repatriation and the Meaning of Return to Home: A Critique of Liberal Mathematics,” *Journal of Refugee Studies* 7:2/3 (1994), p. 160-174.

<sup>55</sup>Benedict Anderson, *Imagined Communities* (London: Verso, 1983).

<sup>56</sup>Finn Stepputat, “Repatriation and the Politics of Space: the Case of the Mayan Diaspora and Return Movement,” *Journal of Refugee Studies* 7:2/3 (1994), p. 181.

<sup>57</sup>*Ibid.*, p. 178.

with Mexican and Guatemalan governments in 1986, 45,000 refugees in southern Mexico elected members to a Permanent Commission (CCPP) to represent their interest in negotiating the terms of a *communal* return movement. Another important aspect of this struggle has been the personal and organized attempts by women returnees — many of whom were politicized both as refugees and as women during their exile in Mexico — to challenge the male dominated decision-making structures and practices of their communities.<sup>58</sup>

Malkki's analysis captures much of what is at stake politically with the contemporary refugee phenomenon: refugees are silent — or rather, silenced — because they do not possess the proper political subjectivity (i.e., citizenship) through which they can be heard. It is in this sense that the assumptions informing the humanitarian representations of refugees she describes correspond to a culturally-specific form of discriminations which Jacques Derrida has labeled *logocentric*. Briefly, logocentric distinctions are hierarchically arranged binary oppositions in which one privileged term (*logos*) provides the orientation for interpreting the meaning of the subordinate term.<sup>59</sup> Refugees have been negatively defined as registering a twofold *lack* with respect to the privileged resolutions to questions of political identity (citizenship) and community (nation-state). Refugees signify an emptiness, an incompleteness *vis-à-vis* the meaningful positive presence to political subjectivity that state citizenship provides. Here, citizenship is understood not only in its common guise as the performance of political rights, but also “in its broad sense as cultural initiative or effective presence in the public space (the capacity of being ‘listened to’ there).”<sup>60</sup> Consequently, refugees, as Hannah Arendt recognized, represent a problem not of geographical, but of political space.<sup>61</sup> Refugees are people deprived of their human rights first and foremost because they are denied access to a political space which allows for a meaningful political presence: “They are deprived, not of the right to

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<sup>58</sup>Roman Krznaric, “Guatemalan Returnees and the Dilemma of Political Mobilization,” *Journal of Refugee Studies* 10:1 (1997), pp. 61-78.

<sup>59</sup>Jacques Derrida, *Of Grammatology*, Trans. Gayatri Chakravorty Spivak (Baltimore: John Hopkins University Press, 1976).

<sup>60</sup>Etienne Balibar, “Propositions on Citizenship,” *Ethics* 98 (July 1988), p. 724.

<sup>61</sup>Arendt, *Imperialism*, p.174.

freedom, but of the right to action; not of the right to think whatever they please, but of the right to opinion.”<sup>62</sup>

The chapter in *Imperialism* which addresses the normative dimensions of international responses to refugee flows, Arendt entitled “The Decline of the Nation-State and the End of the Rights of Man.” Giorgio Agamben has recently emphasized how we should continue to take this formulation seriously for it correctly links “the fate of human rights with the fate of the modern Nation-State in such a way that the waning of the latter necessarily implies the obsolescence of the former.”<sup>63</sup> Here, it is important to remind ourselves that the principle of state sovereignty upon which the interstate system depends already posits a resolution to the problem of “human rights.” In an important study, Andrew Linklater has characterized the development of international relations in terms of a moral conflict between claims to citizenship and claims to humanity. Does one place an obligation toward humanity and strive for ethical universality, or does one place an obligation toward one’s fellow citizens in a political association and therefore settle for ethical particularity? The modern practice of international relations, Linklater argues, is thus predicated on the early modern trade-off between “men” and citizens.<sup>64</sup> The terms of this trade-off, classically represented in the work of Thomas Hobbes, compelled individuals to direct their primary moral obligation not toward humanity, but rather toward their fellow citizens in the bounded political community of the modern sovereign state. Walker explains the logic of this citizen/human resolution:

As a response to questions about whether ‘we’ are citizens, humans, or somehow both, the principle of state sovereignty affirms that we have our primary and often overriding political identity as participants in a particular community, but asserts that we retain a connection with ‘humanity’ through our participation in a broader global — international — system. As citizens, we may aspire to universal values, but only on the tacit assumption that the world ‘out there,’ that supposedly global or states

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<sup>62</sup>*Ibid.*, p. 176.

<sup>63</sup>Agamben, “Beyond Human Rights,” p. 161.

<sup>64</sup>Andrew Linklater, *Men and Citizens in the Theory of International Relations*, 2nd ed. (London: MacMillan Press, 1990).

system, is in fact a world of particular states — of dangers, or of other communities, each aspiring to some notion of goodness, truth, and beauty.<sup>65</sup>

Refugees disturb this resolution to the extent that they represent a conceptual, empirical, and physical breach in the relationship between “humans” and “citizens.” Consequently, conventional humanitarian responses to refugee crises focus on returning to refugees statist identities so as to restore the conditions under which they may once again enjoy a properly “human” life as citizens.

Nevzat Soguk illustrates how this statist resolution to obligations toward “humanity” gets worked out in practice with reference to the humanitarian response to the Kurdish refugee crisis of 1991. Soguk contrasts the claims made by prominent world leaders (e.g., George Bush) regarding the essentially humanitarian nature of the allied intervention into Iraqi Kurdistan with the precise, state-centric wording of the UN Security Council Resolution 688 which provided the basis and justification for the intervention. Soguk’s reading of the Resolution highlights how the normative context of the intervention is framed not in terms of relieving human suffering, but on the basis of maintaining the “peace and security” of the international system.

The *object* of the intervention, in this discourse is not human-beings as *victims of a state gone aberrant*. Rather, the *object* of intervention, the resolution instructs us, is human-beings as *refugees*. The *object* is not refugees as human-beings, but human-beings as refugees, in the words of the resolution, “flowing towards and across international borders and [effecting] cross-borders incursions, which threaten international peace and security in the region.”<sup>66</sup>

The “humanitarian crisis” is defined here not so much in terms of human beings in need of protection as ensuring that the constitutive principles and categories of modern political life (i.e., sovereignty and citizenship) are restored and stabilized. Refugees, Soguk suggests, must therefore be conceived as objects of the practices of statecraft — that is, of practices which are “oriented not so much to care for the needy, the displaced, the one in crisis, the refugee, as to produce and

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<sup>65</sup>R.B.J. Walker, “Gender and Critique in the Theory of International Relations,” *Gendered States: Feminist (Re)Visions of International Relations Theory*, V. Spike Peterson, ed. (Boulder: Lynne Rienner, 1992), p. 189.

<sup>66</sup>Nevzat Soguk, “Humanitarian Interventions as Practices of Statecraft: Re-Crafting State Sovereignty in Refugee Crises,” *Refuge* 15:3 (June 1996), p. 25.



privilege the practical/representational sources of the state's claim to territorial sovereignty, namely the citizen to which the state owes its *raison d'être*."<sup>67</sup>

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<sup>67</sup>*Ibid.*, p. 27.

## V

The tradition of the oppressed teaches us that the “state of emergency” in which we live is not the exception but the rule. We must attain to a conception of history that is keeping with this insight. Then we shall clearly realize that it is our task to bring about a real state of emergency.<sup>68</sup>

In a 1939 review of the international efforts addressing the “refugee question,” an international lawyer commented on how refugee identity should be conceived as a temporary condition: “The status of the refugee is not, of course, a permanent one. The aim is that he [sic] should rid himself of that status as soon as possible.”<sup>69</sup> To conceive, as Walter Benjamin does, of emergencies as “not the exception but the rule” is at once to problematize the assumptions about political identity and community that allows this lawyer to so easily incorporate the phrase “of course” into his discussion. Refugee situations are by their very nature emergency or crisis situations and appeals for humanitarian assistance and protection of refugees are usually formulated according to this general principle. Situations deemed emergencies, however, are always interesting because they reveal the often unquestioned and under-theorized assumptions about what constitutes a “normal” state of affairs. Considering humanitarian responses to crisis situations as both an expression *and* an active constitutive force of a particular world order allows one to question how such responses figure in the continued regulation of the established world order or in the process of transforming that order.<sup>70</sup>

The discourse of humanitarian ethics works to deny refugees political agency and define them as possessing temporary, aberrant identities because, as Agamben points out, “there is no autonomous space in the political order of the Nation-State for something like the pure human in

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<sup>68</sup>Walter Benjamin, “Theses on the Philosophy of History,” in Walter Benjamin, *Illuminations*, Trans. Harry Zohn (New York: Schocken Books, 1968), p. 257.

<sup>69</sup>R. Yewdall Jennings, “Some International Law Aspects of the Refugee Question,” *The British Yearbook of International Law* vol. 20 (1939), p. 98.

<sup>70</sup>Robert W. Cox, “Multilateralism and World Order,” in Robert W. Cox with Timothy Sinclair, *Approaches to World Order* (Cambridge: Cambridge University Press, 1996), pp. 494-497.

itself.”<sup>71</sup> Here, the principle of state sovereignty can be understood as providing a historical resolution to some very old ethical problems, including, significantly, the relationship between the universal (i.e., humanity) and the particular (i.e., citizenship).<sup>72</sup> It does so, moreover, through demarcating the space for ethics and political life as residing securely within the sovereign space of the state. Outside this space of order lies the familiar anarchical space of international relations where the conditions for sustaining a properly ethical life are absent. Consequently, international ethics does not merely involve the application of an external body of rules, norms and principles to political circumstances requiring moral judgment. Rather, the ethical and the political must be conceived as mutually constitutive and immanent to one another. The case of refugee movements demonstrates the important limits to humanitarian approaches to multilateralism which are primarily oriented at recoding statist identities and communities.

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<sup>71</sup>Agamben, “Beyond Human Rights,” p. 162.

<sup>72</sup>R.B.J. Walker, “International Relations and the Concept of the Political,” *International Relations Theory Today*, Ken Booth and Steve Smith, eds. (University Park, Penn.: Pennsylvania State University Press, 1995), pp. 306-327.

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