
A New Framework for US Refugee and Humanitarian Policy

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The end of the Cold War has brought new opportunities and challenges to US refugee and humanitarian policy. While the end of superpower tensions has led to the resolution of many Cold War related conflicts and enabled millions of refugees to return home, it has in no way brought an end to the problem of population displacement. In fact, the number of refugees and internally displaced persons worldwide is on the rise. In 1983, the total population of refugees was eight million and that of internally displaced persons was less than four million. By 1993, these populations had risen to 18 million and 25 million, respectively.

The challenges to US refugee and humanitarian policy in this new era are limitless:

- millions of people have become uprooted by ethnic tensions, human rights abuses, and warfare;
- ethnic violence and the breakdown of borders threaten the former Soviet Union and the former Yugoslavia;

- a humanitarian and political crisis with migration implication is occurring near US borders in Haiti;
- and there is massive human suffering in Somalia.

At the same time, however, economic and social problems in the US have caused American policy to turn away from international involvement and focus more on domestic affairs.

While international challenges and domestic constraints present opposing demands on scarce political and financial resources, there are new opportunities for striking a balance between isolating the US from these problems and responding to all demands for overseas humanitarian assistance. Positive outcomes of the end of the Cold War, increased international cooperation and new approaches to working within countries at risk of population displacement, will enable the US to improve its reaction to humanitarian crises by limiting its time and resource investments and orienting its response toward long-term solutions. At the same time, the US must not use these new opportunities as an excuse to renege on its commitment to respect the fundamental rights of refugees to seek protection outside of their countries, and not to be forcibly returned to source—it will need to rely more heavily upon the access and flexibility of multilateral structures and non-governmental organizations.

Encouraging a Solution-Oriented Approach to Problems of Displacement

During the Cold War, many of the world's largest refugee populations lived for extended periods of time in UN administered camps: Cambodians in Thailand; Afghans in Pakistan; Mozambicans in Malawi; Ethiopians in Sudan; and Palestinians in various areas adjacent to Israel. For better or worse, in the post Cold War era, the readiness of donor and host states to support such long-term care and maintenance programs for refugees is likely to be greatly reduced. Therefore, it is in the mutual interest of the US, the international community, as well as the refugees, to approach problems of displacement with an

orientation toward early solutions. From the beginning of the crisis, the international community needs to look at how the locus and modalities of assistance and protection can contribute to the objective of preventing further displacements and resolving the political, economic, or environmental problems that have already caused movements.

There is a danger, of course, that such a solutions-oriented approach can erode commitments to principles such as the right of people to seek asylum and the right of refugees to be protected from forcible repatriation. For example, there are concerns that the recent engagement of the United Nations High Commissioner for Refugees (UNHCR) as the lead UN agency inside Bosnia—aimed, in part, at preventing “ethnic cleansing”—reduced, or gave the appearance of reducing commitments to the principles of the rights of people to leave their country and to seek asylum. There was concern that UNHCR’s aid for the repatriation of Afghan refugees in Pakistan and Iran encouraged their return while civil conflict was still continuing in Afghanistan. Regarding Cambodia, there were criticisms were voiced that refugee repatriation was driven by the priority given to support for the political agreements reached in the peace negotiation process. And, there are criticisms that the 1989 Comprehensive Plan of Action concerning the handling of Vietnamese asylum-seekers compromised international principles in an effort to respond to the political need to bring movements of boat people out of Vietnam under control.

The practical reality is that in the post-Cold War era the commitment of host and donor nations to addressing refugee and humanitarian issues is not unlimited. Awareness of these limits—even while trying to prevent the erosion of human rights and humanitarian principles—is essential to the effectiveness of humanitarian assistance and protection initiatives.

Focusing on Humanitarian Problems Closer to the Source

The US refugee and humanitarian system developed in the context of the Cold War, when it was believed that little

could be done to assist or protect people living under repressive regimes until they left their countries. In fact, the US encouraged people in pro-Communist countries to leave and tried to destabilize these governments and economies by withholding aid, and, in some cases, imposing trade embargoes. For example, the US cut off aid and trade to Vietnam and Cuba, while allowing large numbers of refugees from these countries to remain permanently in the United States.

With the end of the Cold War, the priorities that permeated US refugee and humanitarian policy for the past forty years no longer apply. The Cold War rationale for humanitarian action is being replaced by a greater interest in addressing the root causes of population displacement, thus eliminating the reasons for people to become uprooted. These are new opportunities for the US to target its humanitarian action closer to the source of the problem. First, involvement within the countries where humanitarian emergencies occur is no longer obstructed by the risk that such action will spark a superpower confrontation. Second, access to populations at risk of displacement within their countries of origin was limited during the Cold War by governments that claimed that such outside intervention would infringe upon their sovereignty. Today, the international community, mandated by US-backed Security Council resolutions, is addressing problems before international displacement occurs, rather than waiting for people to leave their homelands. There are many forms that such an approach can take, including assistance and protection to people who are caught in the midst of conflict, support for countries that are trying to recover from war, and reintegration of returning refugee populations.

Repatriation

During the Cold War, a large portion of the American contribution to refugee situations was its voluntary contributions to UNHCR and other UN agencies for the long-term care and maintenance of refugees in camps. The resolution of many

Cold War related conflicts has meant that millions of refugees are able to return home. In recognition of the potential for large-scale voluntary repatriation during the 1990s, the UN High Commissioner for Refugees has called this period the "decade of repatriation."

While the end of fighting signals the prospect of returning home for many of the world's refugees, if repatriation is not supported by adequate planning and resources, it has the potential to destabilize progress toward rehabilitation and reconstruction. Premature or poorly planned repatriation operations can strain fragile economies and contribute to unresolved tensions over scarce employment and land opportunities.

The incentives for the US to support repatriation operations are clear. These efforts reduce the international community's responsibility toward refugees by helping countries to find a long-term solution for refugee populations and removing the burden of supporting refugees from host countries—many of whom are developing countries themselves. Countries receiving returned refugees need a great deal of support as they begin to face the aftermath of protracted war: demilitarization, rehabilitation of war-torn infrastructures, a restarting of the economy, and often a post-war election. By encouraging and contributing to comprehensive post-conflict aid programs, including repatriation, the US can help set these countries on a course of reconstruction and reconciliation that will lessen the chances that conditions will deteriorate back to where refugees will have to flee. By investing in long-term solutions now, the US can avoid having to provide long-term emergency assistance to these countries and the refugees they could potentially produce in the future.

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Relief to Development Continuum

Rather than serving as an instrument for promoting development and reducing the risk of humanitarian emergencies, the primary objective of US foreign assistance during the Cold War was to support allies. As long as the US felt that aid was assisting to sustain friendly relations with key states and leaders, the efficient use of that aid for development or disaster prevention and response was not a high priority. Thus, aid continued to flow to many governments, such as those in Zaire under Mobutu, and Somalia under Siad Barre, even though it was known that the general population was not deriving any benefit from this aid. While the US will clearly continue to support its friends following the end of the Cold War, without the threat of their sliding into the Soviet camp it is now more possible to push for an agenda of sustainable development.

Since most humanitarian problems occur in developing countries and are at least partially caused by problems of underdevelopment, policies that promote social, infrastructural, and economic development will help offset the risk of emergencies. When efforts to address the conditions of a humanitarian crisis include an emphasis on long-term, sustainable development, the likelihood of the crisis recurring is decreased. Incorporating development capacities and orientations into emergency relief operations can facilitate steps toward reconstruction and development when peace accords are reached. Activities that would promote the transition from relief to development include local institution building, rebuilding of destroyed infrastructure, and relief that is sensitive to local markets.

Prevention

In focusing attention closer to the source of the problems that cause people to become uprooted, the US and the international community are placing growing emphasis on how population displacement can be prevented by giving attention

to the economic and political problems that could potentially cause people to flee across international borders. This focus on prevention has taken the form of detecting the early warnings of population displacement, providing assistance to civilians caught in the midst of conflict and providing greater assistance and protection to internally displaced persons. The crisis proportions that the problems in Somalia and the former Yugoslavia had to reach in order for the international community to act, however bear witness to the fact that crises cannot be prevented if the will to respond to early warning does not exist.

This concern with prevention was expressed by US officials in their statements before the UN Conference on Human Rights in Vienna in June 1993. The US Government has also encouraged the Commission on Security and Cooperation in Europe (CSCE) to examine the links between ethnic disputes and large-scale movements of people and encouraged the development of early warning mechanisms to alert governments of the prospects of large-scale population displacements, thus giving them advance time to respond. The UN High Commissioner for Refugees, Mrs. Sadako Ogata, has also given priority to prevention and is encouraging key states, such as the US, to take early positive measures to prevent new movements of refugees. This includes increased commitment on UNHCR's part to provide assistance and protection to internally displaced persons inside countries from which, failing such efforts, large-scale refugee movements would likely occur.

Preserving Fundamental Principles of Refugee Protection

While the US should take advantage of new possibilities to prevent population displacements and to contribute to the return and reintegration of refugees, it should not lose sight of the fundamental principles of refugee protection: the right to seek asylum and not to be forcibly returned to a country where one fears persecution. A risk of new opportunities for working within the countries from which displaced persons originate is that the US and other traditional countries of asylum and re-

settlement will use this as an excuse not to accept refugees onto their own shores.

Resettlement

Through its refugee resettlement program, the US has traditionally brought refugees from a country of first asylum, where they are usually living in camps, to the United States, where they are often unified with their families and allowed to remain as permanent residents. During the Cold War, US decisions on what refugees would be resettled to the US were made largely on the basis of Cold War ideology. In fact until the passage of the Refugee Act of 1980, the US defined refugees as persons fleeing from Communist countries. With the Refugee Act of 1980, the US brought its domestic law into compliance with international standards of refugee protection. Throughout the 1980s, however, decisions on resettlement continued to follow foreign policy priorities giving preference to persons fleeing Communist countries such as the Soviet Union and Vietnam, or from other "enemy" states, such as Iran.

Without the Cold War rationale for resettlement decisions, there is a danger that the US refugee resettlement program will be implemented without clear objectives. In this period of change, the US should not remain blindly committed to old priorities for resettlement without reassessing what groups might be most in need in the current international context. At the same time, the US should follow through with commitments it made in the past and not simply abandon them in an effort to update the program to comport with today's realities. Any efforts to change the US refugee resettlement program should not lose sight of the program's two primary functions: first, to provide a durable solution for refugees who are unable to return to their countries of origin or to remain permanently in their countries of first asylum, and second, to protect refugees whose lives or safety would otherwise be threatened.

It is important for the US to see the future of its resettlement program within the broader context of the international

community's increasing interest in a solution-oriented approach to problems of displacement. In addition to continuing to see its resettlement program as a contribution to the objective of durable solutions for displaced populations, the US should work with the UNHCR to identify those refugees who are most in need of resettlement for reasons of protection. While refugee repatriation is the ideal solution to a refugee situation, repatriation is not safe or desirable for some refugees and they should be given priority in the resettlement program.

Asylum and Safe Haven

While hundreds of thousands of persons have sought asylum in the United States over the course of the past forty years, only a fraction of those persons have been granted asylum or given permission to remain in the United States on a temporary basis. The fact that all of these people come to the US in the pursuit of asylum makes the US a country of first asylum. Nevertheless, the US has not put in place the procedures and mechanisms necessary to manage this reality and responses to asylum seekers are therefore often handled as a crisis situation.

As with the refugee resettlement program, decisions on political asylum have usually coincided with foreign policy interests. For example, during the 1980s, Nicaraguan asylum seekers who were fleeing the US-opposed Sandinista government received more generous treatment than Salvadorans who were fleeing a US-backed government. In recent years, however, the Immigration and Naturalization Service (INS) has taken steps to de-politicize the asylum adjudication process through the creation of a professional cadre of asylum officers. Largely because insufficient resources and energies were put into it in the past, the asylum system is now plagued by inefficiencies and weighed down by a backlog of over 300,000 cases. An asylum seeker is often able to live and work in the United States for years before a determination is made on whether or not he or she is a refugee. Fearing abuse of the system, the US

has taken measures to deter people from ever having access to the asylum system. The most blatant example is that since May 1992, the US has interdicted and forcibly repatriated Haitians fleeing their country by boat without first determining whether or not they have a claim to asylum. The US has recently built into its asylum procedures a \$130 charge for submitting an asylum application, making it the only country in the world to impose such a fee on asylum seekers.

Reforms are currently underway in the US government aimed at making the asylum system more efficient and less vulnerable to abuse. These include doubling the corps of the INS officers, streamlining the asylum process, and increasing resources devoted to the asylum system. It is hoped that these changes will allow the US to provide access to an asylum system for those who need it while maintaining adequate control over our borders.

Regional Initiatives

In its efforts to balance commitments to refugee protection with domestic restraints on receiving refugees and asylum seekers, it is in the US interest to look to regional initiatives as a mechanism for responding to refugee movements. When a migration crisis develops in the region, a comprehensive approach should be taken collectively among the nations of the region that not only addresses the migration itself, but also the factors that are causing it.

The recent experience of the US with large numbers of people fleeing Haiti is illustrative of the dangers of perceiving such a movement solely as a US problem without convincing other nations in the region to play a part in responding. While the US did try to persuade other countries to receive some of the Haitians, when these efforts failed, it took the extreme position of approaching unilaterally by interdicting and returning all Haitians.

The Haiti experience should be seen as an example of the diplomacy and leadership with which the US will need to

act in order to mobilize regional responses in the future, rather than as an example of the impossibilities of internationalizing a migration crisis that is in the vicinity of the US. Rather it should take advantage of the post Cold War climate of greater international cooperation to encourage comprehensive, regional approaches to population displacement. In a case such as Haiti, where large numbers of persons are fleeing a country at once, the US should push for the establishment of temporary safe havens throughout the region where people can receive assistance and protection until determinations can be made regarding their migration status. By working towards cooperative arrangements that distribute the burden of receiving asylum seekers among a number of countries, the US can play a leadership role in continuing to uphold the fundamental principles of refugee protection.

Updating the Institutional Framework

Within this new context, the US is coming to rely more heavily upon multilateral institutions to carry out its refugee and humanitarian policy. As it turns toward a greater emphasis on addressing humanitarian problems closer to the source, the US will need to expand the reach of its institutional structures through a greater reliance on multilateral initiatives and non-governmental organizations. In its efforts to promote permanent solutions for existing refugee problems, the US will need to play a leadership role in mobilizing international and regional institutions.

Increased Cooperation with Multilateral Institutions

Multilateral organizations, such as the UN and regional organizations like the Organization for African Unity and the Organization of American States, have a worldwide or regional presence that makes them better placed, but not necessarily better equipped, to play a role in peacekeeping, monitoring, and early warning. In many cases, they are in a much better position to assist internally displaced persons, promote human

rights, and encourage emergency prevention measures in all parts of the world. As institutions composed of member governments, they are able to bring countries into collaborative arrangements more effectively than could be done outside of these structures. Despite all of these advantages, multilateral institutions also have many constraints that must be surmounted before they can fulfill the many demands that will be placed upon them in the post-Cold War era. As a leader in the international humanitarian system, the US should view overcoming these obstacles as one of the major objectives of its humanitarian agenda in the post Cold War era.

Since a comprehensive approach to humanitarian problems draws on the expertise of the full range of UN agencies working with humanitarian issues, such as UNHCR, UNICEF, UNDP, WHO, and WFP, the UN needs to increase its capacity to coordinate its humanitarian response. The UN Department of Humanitarian Affairs (DHA) was established to attain this coordination, but the record to date falls short of expectations. Despite the shortcomings of the DHA, the US needs to encourage the UN Undersecretary-General for Humanitarian Affairs to serve as a more effective point for leadership as well as policy and program coordination concerning early warning, response to and resolution of humanitarian problems. Regarding coordination of response to humanitarian crisis, the US should also promote other models of response, such as having one UN agency take the lead in a humanitarian crisis as the UNHCR has done in former Yugoslavia.

In order to meet the many peacekeeping demands that will be placed upon the UN in the post Cold War era, its capacity in this area will need to be significantly improved. The UN peacekeeping system does not allow for rapid deployment of peace keepers, since they must be supplied by different member states. In addition, since the UN must answer to member states, including the United States, UN peacekeeping operations must necessarily be influenced by the individual agendas of member states. Thus, although the UN has resources in

virtually every country, its institutional limitations often make for a slow and uncoordinated response.

The crisis in Somalia provides an example of the limitations of the UN response. The United Nations withdrew from Somalia at the same time as other organizations during the escalation of the conflict in 1991. Due partially to the breakdown of a functioning government and the lack of security in Somalia, the UN was unable to coordinate a response to the famine for over a year. Efforts to send in peace keepers were unsuccessful for most of 1992, due in part to a reluctance of the US in the UN Security Council to approve the allocation. This was in sharp contrast to the US quick response once a political decision was made with such actions as an airlift organized within a few weeks in 1992 and a rapid deployment of US troops.

The increasing involvement of the Security Council in addressing humanitarian crises presents an additional issue. Does involvement in humanitarian crises of a body designed for security issues erode the humanitarian principles of the UN? While humanitarian action in internal conflicts used to be left to the International Committee of the Red Cross, there has been mounting pressure from UN member states to get involved with humanitarian assistance in the increasing number of internal conflicts. In Iraq, the Security Council-mandated intervention on behalf of the Kurds was justified on the grounds that the potential international displacement of the Kurds posed a threat to international security. The UN interventions in Bosnia and Somalia were not justified in terms of international security but rather on the grounds that the UN had to create the security conditions necessary to allow the delivery of badly needed humanitarian relief.

Increased Reliance on Non-Governmental Organizations

International and indigenous non-governmental organizations (NGOs) are able to quickly intervene in crises without the political and bureaucratic constraints of a government or

the United Nations. NGOs have offices in or are located in many developing countries, and are often in a position to monitor human rights, access internally displaced persons, and implement relief-to-development projects. In addition, NGOs can play a role in bringing humanitarian crises to the attention of governments and the UN and can pressure them to take action. In carrying out a new humanitarian agenda which will extend to places and populations the US institutions are not currently designed to reach, the US will need to rely increasingly on the access and flexibility of non-governmental organizations.

The crucial role that international NGOs played in the recent humanitarian crisis in Somalia underlined that they are cost-effective, rapidly deployable, flexible, and able to serve as complements to the work of US and UN institutions. Without the efforts of NGOs, the Somalia crisis probably would have been much worse.

Indigenous NGOs are particularly important in any emergency situations as they will provide a link to a country's civil society and will remain in the country after the crisis passes. If the US is to effectively utilize indigenous NGOs as partners in its efforts to bring long-term solutions to humanitarian problems, it needs to work to transfer capacities to them so that they will be able to carry on the efforts once the international community withdraws its involvement.

Increased Coordination within the US Government

The post-Cold War presents new challenges for US Government agencies working with humanitarian policy. The situations and needs of the beneficiaries of US refugee and humanitarian policy are different today than they were previously. US institutions and procedures need to be updated to reflect these new realities. Few changes have been made to the US Government agencies relating to refugee and humanitarian policy and most retain the structures and priorities that they developed to meet the challenges of the Cold War period. With

this continued Cold War orientation, US Government institutions have been unable to capitalize on the positive outcomes of the Cold War's end, making it difficult for the US to implement a humanitarian policy that comports with the new realities.

In addition to the organizations that have addressed refugee and humanitarian issues in the past, the US military is becoming more involved. During the crisis in Somalia, the US military demonstrated its ability to quickly address security problems and participate in famine relief. Since the size of the US military and budget were clearly justified during the Cold War, the end of superpower confrontation has raised questions as to the function that these structures will serve in this new era and whether they should be curtailed. The use of the military for humanitarian purposes has therefore not only filled a need in the humanitarian response capacity of the US, but has utilized capacities developed in a different era to meet the challenges confronting the US today.

Some structural changes have occurred in US government institutions that indicate a movement toward bringing US institutions and policies in line with post-Cold War realities. The recently created Office of Global Affairs in the US State Department cuts across geographic and functional lines and addresses such issues as population, refugees, migration, international labor, democracy promotion, and human rights. By combining these related issues and putting them under one of the five Under Secretaries of State, this reorganization shows an increasing concern in the US Government for taking a comprehensive approach to humanitarian issues.

An October 1993 speech given by President Clinton to the UN General Assembly reflected an interest in capitalizing on positive outcomes of the Cold War. He expressed that the US hoped to work with the UN to share the cost of achieving and maintaining peace among nations. He also called for a reassessment of nations' contributions to the UN, and stated his commitment to meeting the US financial obligations to the UN.

Conclusion

The framework that the US developed for refugee and humanitarian policy during the Cold War is no longer applicable to today's realities. In building a new framework for humanitarian action, the US should take advantage of the gains of the end of the Cold War. In particular, it should consider the new possibilities for working within the countries where humanitarian emergencies occur and increased opportunities to find permanent solutions through international cooperation.

New opportunities to work closer to the source of humanitarian problems will allow the US to contribute to permanent solutions that will limit the time and resources it will need to invest in the long term. Rather than devoting extensive resources to the long-term care and maintenance of refugees in camps, the US can focus more attention on the permanent solution of repatriation. Rather than emphasizing what can be done to assist refugees once they have left their countries, the US can help prevent the need for them to ever leave. Rather than providing aid to prevent developing countries from falling to Communism, the US can direct aid toward sustainable development. This will decrease the likelihood of those countries falling into war and other humanitarian crises that will cost lives and large amounts of relief and rehabilitative aid. In seizing new opportunities to prevent and resolve problems of displacement, the US must not abandon its commitments to fundamental principles of refugee protection.

There are also many incentives for the US to incorporate into its new humanitarian framework the opportunity to work more closely with multilateral structures and a non-governmental organizations. By recognizing the many advantages that multilateral structures have for carrying out humanitarian action within the countries where problems occur, the US can increase the impact of its own investment while limiting the chances that it will get into an ongoing relationship of direct support to a dependent population or country. Similarly, by

calling upon multilateral institutions to promote regional and international initiatives for providing asylum, resettlement and safe haven options, the US can fulfill its commitments to international refugee protection in a framework of international cooperation rather than in a way that fuels fears that the US must carry all of the burden of responding to these needs.

By using a solution-oriented approach to humanitarian problems and limiting its direct involvement in many crises through reliance on NGOs and multilateral institutions, the US will be better able to strike a balance between isolation and over involvement. A framework which builds on the gains of the end of the Cold War will make US policy better able to respond to both the domestic restraints and international demands of the Post-Cold War era. ●

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