

INTERNATIONAL AND MULTILATERAL ACTION ON REFUGEES
ISSUES FOR THE NINETIES

by
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October 4, 1992.

Introduction

As the late Jimmy Durante used to say it, 'you ain't seen nothing yet.' Only what you ain't seen isn't funny. The world has at least 5,000 nations, that is groups of humans with distinct languages, cultures and histories. It has less than 200 states. If I may proffer a quote that I used to introduce an article published in this year's annual *World Refugee Survey*, ***"No enduring world order can be created which ignores the ubiquitous yearnings of nations in search of roots in an ethnic past, and no study of nations and nationalism that completely ignores that past can bear fruit."***¹

Canadians know what those nationalist yearnings mean first hand - not only from Quebec and our own aboriginal peoples, but we supply the peace keepers to the divisions between the Greeks and Turks on Cyprus and most recently in Yugoslavia. States all over the world are breaking down into their national components. I depicted an ominous scenario in that article I already quoted from *World Refugee Survey*. "In Eastern Europe borders are under question as regional communist empires collapse from the weight of their own economic mismanagement and suppression of freedom. And this is only the beginning. The implosion of India, of Indonesia, of the largest country in Africa, Nigeria, has yet to occur, though each has had or is experiencing degrees of rebellion against central state authority. The rebellions of the Sikhs or of the Ibos are not akin to the secessionist Southern states in the USA forced to reunite to forge the common American nation. For India, Indonesia and Nigeria are not nations forged by states, but each consists of nations which existed prior to the construction of the state. The question is whether, when these nationalist forces erupt in these and other states all over the world in a way that will make the

present period appear relatively tranquil, will the world abandon the post-war refugee regime?"

Nationalism is but one of the forces putting pressure on the disintegration of the nation state. The pressures of nationalism are towards implosion. There is a second major pressure - the explosion of state boundaries in the face of the globalization of the world economy. No state can control and manage the development of its economy any longer. One reason has been the globalization of the money supply. Again we do not have to refer to academic treatises or the latest week's issue of *The Economist*. At the end of September, Canadian interest rates were hiked two points (the highest single hike since the depression) as the dollar dropped below eighty cents, threatening a resumption of upward inflationary pressures at a time when the economy lags, unemployment is extremely high and we have a large unused productive capacity. More importantly than this symptom is the fact that what counts as money is no longer clear and distinct. So it is difficult to say what there is to control assuming it even can be controlled. Unprecedented proportions of the debts of states are held by foreigners. When the monetarists and supply side theorists gained control of economic policy at the beginning of the eighties, it was at the very same time that these very levers of state economic policy began to slip from state control. Many economists suspect that the creation of currencies, such as the ECU, to dominate a much larger market are merely fingers in the dike of the globalization of the money supply and market at the same time as other levers on economic policy - interest rates, trade practices, taxation policy, etc. - remain in state control. In other words, we are in for a long period of unsettled economic times as the instruments for making economic policy begin to skew further and further out of alignment. It is enough to make one believe

in astrology and the fortune bestowed upon us when the astrological signs are aligned.

Nationalism implodes the state. The civil society has exploded state boundaries in far more fundamental ways than the globalization of trade, the creation of free trade areas, the development of English as the international lingua franca of trade, technology and science, the development of mass air transport and of worldwide communication networks of phones and televisions. All these human artifacts are above and beyond the effects of the changes in the natural world such as large population increases of humans and the despoliation of the environment.

Accompanying these changes are large movements of peoples - labour, business, tourists, students. As the ability of the state to control and direct its economy weakens, as the state increasingly raises the spectre of fear instead of relying on the modern device of well conditioned patriotism to hold its people together, the state can no longer bribe its citizens with their own money to expand the welfare state. The ability to allocate surplus value to the state sector has been declining just as the costs of health care, of pensions, of social programs have expanded exponentially.

No wonder we do not trust politicians. They have been put in charge of the state of which we are members, but the institutions charged with providing us with protection are no longer congruent with those other societies of which we are members - the welfare society, the civil society and the nation. The problem is not that we have no one qualified to run the store. The problem is that the business which the store was set up to run has migrated elsewhere. And what do we do as international and nationalist forces batter our ability to regulate store hours and tell customers when they can and

cannot enter, as shareholders seek out the still surviving stores to attempt to buy shares in what appears to be a securer bet, and as victims of other collapsing neighbourhoods flee to our own? We start to bar our windows, put up metal shutters, install video and alarm systems and put triple dead locks on the front door.

Where we once advertised for new customers, we now dream of surviving with the customers we have. Even as we accommodate more people, we begin to set up the defensive barriers that are only signs and symptoms that our whole system of protecting our members, which is the business the state is in, can no longer be carried out in our present premises. But instead of recognizing our premises are obsolete, we revert to age old patterns of reinforcing the barriers to provide the premises with greater security. And as more and more strangers come to shop, and as more and more of them come with lesser education, fewer clothes on their backs and even less sense of any loyalty to anyone or anything given the traumas they have come through to get here, we begin to question our own immediate past dedication to assisting strangers in need, at the same time as we recruited new members and served our own customers.

In other words, instead of seeing the world as one made up of rich versus poor nations, with tides of migrants and refugees striving to migrate from the East and the South and overwhelm our prosperity, we would be better to view ourselves as belonging to a neighbourhood in decline and our efforts at barring our windows and guarding our doors as symptoms of what is happening to ourselves rather than as defences against population pressures from without.

It is not that the Third World is now on our doorstep. The paradigm is the very reverse. We are on the door steps of the Third World. Not in terms of impoverishment. There is

plenty of food in the kitchen and more stocks on the shelf than ever before. That is why we can so easily deceive ourselves. We are on the door steps of the Third World in terms of lack of political self control, or, rather, the sense of losing political self control. We begin to realize what it is to live without security where we are no longer in control of our own destiny. We distrust politicians because we have entrusted them with controlling our ship of state as the tides of world forces have treated our captains as if they were in the stern of canoes running the white water rapids of our northern rivers. And we distrust strangers, not really for the threat they bring, but because they tell us what we refuse to believe - our neighbourhood is in decline. **And not because of them!** Somewhere deep down - not very deep down - we know it. But they get the blame anyway.

There has been a tendency to see those in favour of control as the antithesis of those who open the hearts and doors to refugees. When government officials argue that the only way that they can maintain their current humanitarian posture is by demonstrating that they are in control and managing the refugee system, critics tend to view the expressed humanitarianism as empty rhetoric to disguise the government's cold-hearted efforts to ratchet down the intake of refugees and prevent them from arriving on our shores. The recent facts of history may be inconsistent with this interpretation. But critics merely argue that facts and intentions need not coincide, for the closed door policy is really the intent of the government; the officials have simply been unable to execute that intent. Psychology may also be inconsistent with this interpretation. Not only may humanitarianism and self-control go together, self-control can be an integral element to a humanitarian. Rather than citing my own studies of Ghandi, let me offer Blanche Cook's recent

biography of Eleanor Roosevelt.² Eleanor was terrified of irrational behaviour which could not be managed and controlled. She disciplined and cultivated her own power of self-control just as she expanded the causes she championed and the areas of her good works. The more assured she was in her self-control, the more inexhaustible and effective she became as a humanitarian .

Envision the state and its government as analogous to the mind, our nationalist feelings as the sentiments and sometimes passions of the heart that bind us together, the civil society as the expression of our will, entrepreneurship and creativity which resents being fettered by any outside authority, and the welfare system as the caretaker of the body as a whole. The state was viewed as maintaining control, ensuring the passions of the heart served its purposes as it set boundaries and limits which allowed the civil society to thrive as the state ensured the body was taken care of and not exhausted by the exertions of the collective will. Whether or not this was the best or most apt vision of human psychology or the social polity, it closely resembles the bourgeois ideal. The function of the state was to hold nationalist passions and creative entrepreneurial will in a coherent frame while preserving the integrity and health of the body politic and the individuals that were its parts. It is this coherence and congruency that has begun to unravel.³

It is with this picture in mind that I want to discuss four issues concerned with international action: the norms of membership, early warning systems, humanitarian intervention abroad and inhumanitarian intervention domestically.

Membership Norms

This first will be very easy. We are members of a number

of societies and communities at one and the same time. At least four are macro-societies as mentioned above. We are citizens of states, members of ethnic groups, participants of a welfare regime and members of civil societies.

In the latter we are the most atomic of individualists according to most theoreticians. The libertarians would see this membership in terms of our individual rights as the necessary prerequisite to exercise our freedom to sell our labour, hold property and conduct business. Membership in the civil society is the primary if not almost the only membership that really counts, for all other memberships are merely instrumental devices to advance the individual as a member of the civil society. In pure theory, these theoreticians advocate a vision of pareto optimality, if there were only no border controls, so that individuals could distribute themselves around the world according to their own best interests resulting, in some of their calculations, in a doubling of world GDP.

Liberals also extol the primacy of membership in the civil society, but material rights of labour exchange, property ownership and entrepreneurship are but the prerequisites which allow us to exercise our spiritual free will. Humans are primarily holders of civil and political rights, and a prosperous society is merely a condition for advancing civil and political freedoms.

There have been critiques of atomistic theories. For example, economists, such as Oded Stark at Harvard, who have studied migration in terms of economic theory to test whether in fact individuals move to maximize their incomes, have shown how important the family is as a key factor in migration, how important security for the family looms in the determination of who moves and where. Further, the sociologists and

economists have already taught us the importance of ethnic factors - whether it is the old boys club or ethnic enclaves in urban cities - in the economic success of the individual. These economic factors are quite aside from the importance of the psychological security and the importance of national membership on rites of passage in birthing, emerging into adolescence, in marriage and in death. Similarly, Charles Taylor offers a communitarian critique⁴ of the Kantian picture of ourselves as rational autonomous agents with a *subjective* right where the individual is given the responsibility and role in enforcing an immunity from outside interference to ensure the respect due to them so that morality is seen primarily as the product of an individual self-legislator rather than a product of family socialization. Others have seen the modern transformation of our moral premises as the source of decay of any public morality.⁵

Individualists of either the liberal civil rights school or the libertarian school would have us forget or reduce to unimportance the ethnic and religious factors of membership. Nationalists and fundamentalists, on the other hand, often underestimate the civil rights and self interest factors or, what is worse, project their communal ideals onto these areas, as they pursue collective goals and willingly sacrifice individual rights (and individuals) in that pursuit.

Theoreticians who took the civil society as basic and as made up either of individuals in liberal theory, or, alternatively, considered individuals only as members of conflicting classes in the attempt to create a new communalism to substitute for the old religions and recruit nationalism as an affective force for their own collective goals, ignored or tried to use nationalism for their own purposes. The

communists have demonstrably failed with their experiment. The liberals are at the end of their tether and, like Trudeau, they refuse to recognize their own illusions but, instead denounce the "irrationality" of those who support the importance and value and reality of other forms of membership than simply membership in the civil society.

The only thing the liberals and libertarians agree on as they fight over which types of membership is most important, most fundamental, most natural, is that the state is an artifact, a human creation based on a contract in which each individual is given rights and the state is set up to protect those rights at the same time as it protects its citizens. The more serious of the theorists always recognized that these two functions of the state were inherently at odds. In stressing the rights of the citizen, politicians from Jefferson to Eisenhower may rail at the dangers of standing armies. In stressing the physical security of the individual as well as their primacy as rational calculators of their own self interests, theorists from Hobbes to Gauthier may laud the importance of the state in providing security for the individual. They all presumed a homogeneous nationality to deal with affects as they stressed the importance of "rational" and "man". They were unprepared and still are unprepared for multiculturalism, overlapping memberships in different national and religious communities and even multiple citizenships.

And what happens when the state is entrusted not only with our security from marauders, thieves, warring armies, etc., but from the fates of genetics and disease, from the disabilities of age and accident. What happens when our welfare security and not just our physical security is transferred from the family to the state at the very same time when the state as an artifact to advance the civil society has

become weaker and weaker?

I repeat these themes of my introduction simply to say that world federalists, or others who would simply transfer our concepts of individual membership to some form of a world wide state in a utopian vision, have failed to address the complexities and incongruities and paradoxes that have developed in these overlapping types of membership.

The United Nations itself rests on a fundamentally obsolete model - the strict sanctity of the sovereign state and its primacy as an instrument and even building block of collective security. So except when one large member state in the name of the pure artificiality of the boundaries between it and a neighbouring small state, commits blatant aggression, the United Nations fumbles and stumbles as Yugoslavia implodes, as Somalia reverts to anarchy and the instruments of the state disintegrate altogether, as Afghanistan, having thrown off the tyranny of economic collectivism, reverts to the destructive militant rivalries of tribe and religion, as even Germany, in the effort to throw off its Nazi heritage of the most venomous and destructive of universal religious scientisms - the belief in race - wedded to nationalism, finds it difficult to cope as mobs attack refugees at the same time as its efforts in partnership with France to create a new supranational multinational state artifact through Maastricht stumbles.

The fact is we are totally bereft of a new theory of membership and its rights and how to coalesce these various forms of membership on a world scale to ensure the peace and security of humans while preserving the natural order. When John Rawls published his twentieth century classic, *A Theory of Justice*, in 1971, resurrecting classical political theory

and insisting that principles of distributive justice were the essence of political theory, who then recognized that his model of distributive justice, applicable only to those who already had membership in an existing liberal state, was but the last and perhaps the most brilliant theoretical apologetic of American liberalism just as it began to go into decline?

Early Warning

In the face of these fundamental challenges to both our inherited theory and from the reality that confronts us daily, how do we respond? I am part of a project working with UN officials to construct an Early Warning System to allow the UN to anticipate, prepare for and respond to mass migratory movements produced by man-made disasters (notice the lack of gender neutral language in this context; we do not say human-made). We have constructed a model with information sharing among humanitarian relief and UN agencies at the base, supplemented by intelligence analysis and communication, with all this material used as a foundation for fostering cooperation and coordination amongst diverse humanitarian agencies.

Thus, we install Jan Eliasson to foster cooperation among the disparate UN and non-Un agencies set up to deal with these disasters. But he is given the responsibility without the shared information base, the analytic intelligence branch, or, for that matter, the physical personnel, equipment and offices to carry out such an enormous responsibility. Further, when you recognize that the office is set up on the basis of a doctrine of "good offices", of using its influence to bring about cooperation among agencies dedicated to serving the same ends but wedded to different cultures about means so that we have created a humanitarian regime of what I once called "bleeding hearts and bloody minds", when you recognize these

and a host of other negative factors, one is inclined to throw up one's hands in despair before one even begins.

When these humanitarian agencies are juxtaposed with forces of violence amongst which they must work, the problem becomes much more ominous. Humanitarian involvement in situations of conflict where state and military controls are still in place is one thing. But to undertake such efforts where state control is exercised but its existence is denied is another. Further, when there is no coherent "state" authority to oppose these disruptive forces, humanitarian cooperation appears as a chimera.

The fact is, if early warning systems are to be set up to foster humanitarian coordination, there has to be a coordinating power with a coherent will to make use of that information. But we provide the early warning and coordinating arm of the international agency with the paltriest budget. And this in the face of one conflict, that of Yugoslavia, from which there are already two million homeless. 300,000 refugees are scattered throughout Europe, most in Germany but 40,000 in Sweden. The property damage already totals over \$60 billion dollars. Two million people are homeless. 40% of Croatian industrial capacity has already been destroyed. Thus, the value of the property damage is but a fraction of the real losses in terms of future wages and the production of material goods. Even as we now face the threat of another 200,000 Bosnian refugees flooding into Western Europe, we still move hesitatingly and in piecemeal terms to handle a conflict that is a threat to the peace and security of Europe quite aside from the widespread suffering and the enormous numbers of refugees produced.

Did we know the tragedy was coming? Could we have prepared for it? Most certainly, yes. On the other hand, the

conflict was not inevitable. It was not simply a product of age old ethnic and religious rivalries merely held in check by Tito authoritarianism. This was a conflict fostered by political leaders intent on creating a state entity congruent with state economies and a homogeneous nation to tie the state together. In search of this ideal model of the congruent nation-state controlling its own civil society, a war between peoples over land was fostered by political leaders.

Not all writers who assume political office are liberals like Vaclav Havel. Dobrica Cosic, the current President of rump Yugoslavia, is a well-known Serbian novelist. He authored the document of the Serbian Academy of Arts and Science of 1986 which advocated restoration of Serbs to their rightful place in the political galaxies denied all these years by alleged victimization by foreign influences. In 1987, Milosevic pledged to carry out this nationalist program. Before the war with Slovenia, before the war with Croatia, before the war with Bosnia-Herzegovina, Serbia instigated the creation of a Committee for the Protection of Kosovo Serbs in the autonomous area of Kosovo, a territory within the Serbian republic where 90% of the inhabitants were Albanians. Public demonstrations were organized as a pretext and cover for the militant take-over of institutions. Serbian colonists were sent out to settle in Kosovo. The Serb language was made the official language of the region. 6,000 Albanian-speaking teachers were dismissed. The pattern of the use of irregular militias to intimidate and drive out local majorities was initiated as the Serbian minority set out on its path of ethnic cleansing had begun.

The issue was not lack of information on what was emerging, but lack of an intelligence tool to use that information and the lack of a political body which could take the information and analysis and translate it into policy options for a body with the political muscle and will to carry

those options out. The UN offers tokenism. The United States, though assuming some leadership in the organization of the belated but partially effective economic boycott, has largely deferred a leadership role to the EEC. The EEC has been divided between the faction led by Germany which has been much more willing to condemn the Serbian aggression and expansionist efforts as it engages in "ethnic cleansing", and the Greeks who see the threat as coming from Muslims in Bosnia allied with Turkey, or, even more ominously, with Iran, and from Macedonia, perceived threats which have inclined the Greeks to side with Serbia.

We - or most of us here I expect - are dedicated humanitarians, putting our shoulders to the wheel regardless of our weakened state and the forces arraigned against us. We plough on. We work at creating, at the very least, an information structure through which the core six or eight international agencies engaged in emergency relief and refugee work can pool data and analysis, not in order to create a cooperative council - that would be far too ambitious - or even to create the intelligence apparatus that might be helpful in anticipating and planning responses to these human eruptions of death and destruction - but simply to share information. Yet the discussions occur every six months or so over years, as if we had all the time to spare in the world. And then everybody is too busy with the urgent crises at hand to come to the meeting we had planned before, perhaps in recognition that even this very modest attempt to create an Early Warning System is but a quixotic effort, given the variety and complexity of windmills against which we are tilting and the enormous hurricane force winds driving their rotation.

Thus when we speak of going even beyond information sharing and cooperation to develop institutional norms and procedures for cooperative action, a visitor from an alien

planet might believe we have lost all sense of reality given what he or she sees around and would consider the meetings planning an Early Warning System in the sanctuary of a university merely musings of people who are truly mad, who have chosen the sanctuary of the maddest of all places - a university - to discuss their wild musings. One knows they are truly wild because the issues are discussed and analyzed with such detachment that, in the face of the death and destruction around, an outside observer immediately knows that we are all unhinged.

The inadequacies in the development of an Early Warning System are but clues to the vast gap between espoused ideals and the support available. There is an information and coordination chasm to counter root causes of refugee flows which truly threaten international peace, quite aside from the total inability of the UN system to do anything about internal mass violations of human rights within states. If the EEC does so little with respect to a conflict from the Second World right on its doorstep and which threatens its stability in the South-east, what can the UN be expected to do in Somalia, Sudan and Mozambique where death and slaughter are prevalent and on the increase?

Humanitarian Intervention

Early warning is about information sharing, analysis, thinking and planning. It is not about action. What about action? What about the vision of collective security that was at the heart of the vision of the UN? For a single historical moment under the leadership of the United States for perhaps its own self-interested motives, the world was galvanized into collective military action to stop Saddam Hussein in his tracks in spite of the denunciations of the those wary of the use of military might, particularly under the leadership of

the United States with its own record of imperial military intervention, in spite of those unwilling to sacrifice lives in defence of a monarchy which neither respected human rights (though not the grossest of abusers of those rights) nor assumed a mantle of a benevolent supporter of the poor and impoverished, in spite of those who saw this assault as another indignity heaped on the Arab world by western interests in controlling the life supply of oil to the industrialized countries, and from those in the west simply chary of using military means in the aftermath of Vietnam when economic sanctions might work given a longer time frame.

But this was not "humanitarian" intervention. This was the classic protection of the fundamental principle of state sovereign rights. The classic case of humanitarian intervention emerged when the Kurds, fleeing the wrath of Saddam Hussein in the aftermath of his defeat and withdrawal from Kuwait, and their efforts to use that defeat to assert their own autonomy and, perhaps, even independence, were forced into mass flight. There was no intervention when they were allowed to cross into Iran and the fundamentalist enemies of the West offered them a sanctuary in full concurrence with its obligations to refugees under UN agreements. There was intervention when the Turks, contrary to their obligations, prevented the entry of the fleeing Kurds, and then only when international television showed the plight of hundreds dying on the cold mountains as the world sat watching.

Whatever the mixture of motives, the action of Saddam Hussein, even though it was not aggression against another state but simply against a national group of its own citizens, was declared a threat to peace and security of the region justifying military intervention under the Charter to create safe havens and protect the Kurds. The Turks were not denounced for their breaches in their obligations to provide

sanctuary to fleeing refugees as their self-interests in this case were recognized as paramount. Was this a precedent for a breach in the humanitarian accord? Was the humanitarian intervention a breach in the power accord of the sanctity of sovereign states, not in cases of need and widespread famine, or even in cases of mass human rights violations by states against their own citizens, but simply in cases where the oppression by a state of its own citizens causes such a large mass movement of peoples that the movement is not only a humanitarian disaster for those who flee, but a threat to the stability of the region? Perhaps only a modest gain, but a gain nevertheless.

Well Yugoslavia proved otherwise. The blatant aggression of the Serbs, futilely against the Slovenes, more effectively against the Croats and most destructively against the Bosnians, or, more precisely, the Muslim and Croatian Bosnians, invited only economic sanctions and ritual condemnations. A humanitarian intervention in such mountainous terrain would require huge forces, would pose real risks at loss of life as experienced mountain fighters, who had an excellent record even against the huge Nazi war machine, chewed up the humanitarian forces in a guerilla warfare. Besides the political picture was far too confusing as Croats, allies of the Bosnians, also appeared to be in cahoots with the Serbs in dividing up Bosnia-Herzegovina. Further, mercenary Muslims sent by Iran were reinforcing the Bosnian Muslims. And was there perhaps some truth in the Bosnian Serb fears that they would become an unprotected and victimized minority in an independent state in which Muslims would be the dominant minority?

Yugoslavia was a military, political, ethnic and religious quagmire if not a mine field. This was quite aside from the historical memories that identified different parts

of the European community, initially asked to take the lead in these eruptions in its own backyard, with different factions, immobilizing the political will of the Europeans, or, more accurately, delaying the exercise of that will while ensuring that when it was exercised the efforts would be half-hearted.

Even humanitarian intervention to protect the delivery of relief supplies was based on totally inadequate support. This is also true in Somalia. The military forces committed to humanitarian purposes are overstretched and undersupplied. And the political will to do more seemed entirely absent. Compassion fatigue now characterizes state policy. Though a great deal of effort was made, it was totally inadequate. The internal troubles of the United States, of Canada, of Europe have taken centre stage as the human disasters grew.

Thus, though efforts are made to help, they come nowhere near to meeting the even modest vision planted when three old imperial powers led the international effort to assist and protect the Kurds. Even modest grounds for humanitarian intervention, based only on threats to international peace and security rather than on massive human rights violations, seemed to revert to a vision and a dream rather than becoming institutionalized as an option in the arsenal of those dedicated to protecting humans from being victimized.

What however could one expect when it was so difficult to organize the world to even deliver charity - food and clothing - let alone to organize to provide the police and military forces to protect ethnic minorities in a conflictual world.

The fact is the world could not even agree on what humanitarian intervention was, what arrangements were appropriate between UN and state auspices, what rationale could justify such intervention, particularly in light of the

fact that in most cases the extent of casualties, the costs, the demands all over the world, etc., would make humanitarian intervention an unrealistic option. Further, the principle of the sanctity of the sovereign state, the foundation stone of the UN, was at odds with a concern for individuals and masses in distress.

Mass Movements other than Convention Refugees

But only a very small portion of the large numbers on the move are Convention refugees. And even for these and their kissing cousins, those fleeing different ideological, ethnic and tribal factions in a civil war, the mechanisms of the international community are overstretched far beyond any realistic capacity to respond to all the crises.

One of the problems of this overextension of obligations is that there are a myriad of other types of mass movements beyond those of refugees who legally do not fall under UN and UNHCR protection. And I am ignoring for the moment the internally displaced fleeing internal strife and conflict who number almost twice the seventeen million refugees around the world. And I am ignoring the tremendously larger numbers who flee rural poverty to occupy shanty towns on the periphery of the megalopolises that were once habitable cities.

We lack a convention to protect those who cross international borders fleeing civil war. We lack a convention to protect the rights of labourers migrating from one country to another, but who can be kicked out at will with few

protections as we saw both when Saddam Hussein conquered Kuwait and the Egyptians, Bangladeshis, Filipinos, etc. fled, and then, when the monarchy was restored with the defeat of Hussein, hundreds of thousands of Palestinian workers, who had lived in Kuwait for decades, were expelled even though only a minority had actively sided with the Iraqis. We cannot even protect women servicing the flesh trade in the guise of entertainers who work in Japan, or the nannies who are exploited in Hong Kong.

The world humanitarian system is overstretched, asked to do more all the time with less resources to do it. But most importantly, there is the absence of a coherent structure to take responsibility for each crisis.

The Need for Multilateral Harmonization

In the face of a total vacuum in any intellectual coherence depicting rights and obligations of the individuals rather than the states who belong to this human world, in the absence of agreed upon international norms, with an early warning system in the foetal stages of development, in light of the gross inadequacies of international protective regimes let alone the mechanisms able to protect the lives of the mass numbers of people on the move for the widest variety of reasons, the western states through a number of vehicles - Schengen, Dublin, the informal consultations - have been exploring means of cooperating to respond to these pressures and irregular movements.

These states could make the effort to create regional regimes to guarantee protection and expand and enhance the international legal regime already in place. They could enhance in their own constitutions and domestic laws the protections needed for the wide variety of peoples on the

move. In other words they could, at the very least, develop a coherent regional legal structure for dealing with irregular movements of migrants. Instead, Europe in particular has not even faced up to the fact that its member countries are immigration countries.

Even within the very narrow area of Convention refugees where we have seen the greatest developments in international and case law, the decision making authority varies from state to state, from bureaucratic authorities in some countries raised on a culture that their job was to keep out uninvited guests to relatively independent quasi judicial authorities in other jurisdictions. The procedural protections are widely varied as well. In some jurisdictions, the hearings are strictly private, quite aside from the wishes of a claimant. In some, the claimant has no right to an oral hearing, in others, no right to counsel. In Canada, the benefit of doubt is given to evidence provided by the claimant while in other jurisdictions the relative balance may only be in favour of the claimant. Or the claimant may be required to truly prove that he or she is a convention refugee, in which case the balance shifts in favour of the state in resisting such claims.

Then when the Canadian system is compared to these other jurisdictions, journalists or other observers interpret the more generous rates of acceptance of the Canadian system to the fact that we are patsies subject to organized smuggling rings playing on Canadian naiveté.

Where strides have been made in harmonization, they have been made in interdiction. Or division of responsibilities have substituted for harmonization schemes. Or when harmonization is utilized, it is as a rhetorical tool to divide up responsibilities in spite of the inherent force at work in such a strategy of moving standards of protection

downwards to the lowest common denominator.

If the West cannot even get its act together to harmonize its procedures in the narrow area of providing protection for Convention refugees, not only to minimize abusive claims or to prevent asylum shopping, but to create a fair and efficacious mechanism to protect Convention refugees while dividing the burden of successful claimants among the member states according to an equitable formula, then how can they be expected to provide leadership in creating a coherent international regime to cover the wide gamut of involuntary movements. Instead the Western states expend most of their efforts in cooperating to develop deterrence strategies which are openly aimed at shifting the burden of protecting refugees from one jurisdiction to another. Thus, paradoxically, they cooperate in the area where their interests least coincide. This is quite aside from the fact that harmonization of proceedings could provide considerable savings from the 6-7 billion dollar cost of western refugee determination systems, savings which could go a long way to benefit international refugees who now receive but a small fraction of such funds in spite of their considerably larger numbers.

Conclusion

I am not here to play the role of Cassandra. But if we are to attempt to pool our efforts to understand and deal with the movement of peoples, and the wide range of such movements, then we would do well to understand the forces at work undermining such efforts, the lack of critical self-consciousness which encourages us to follow old paths when they mere are stopgap measures, the limited tools available and the incongruence of the various mechanisms available. We live in an age of enormous challenges, but an age where we face these hurricane challenges with the tools of primitive

farmers. Thus while we act out of hope I believe we should all attempt to see with the vision and insights of the blind Theseus.

Thus, although the agenda for the nineties has been set forth from the negative basis of a critical look at the present, it does contain an agenda of thought and action for the nineties. And I have presented it in order of lexical priority that I believe are the major issues in the refugee field for the nineties. They are not the only issues to say the least. I am not even sure they are the most urgent, since issues such as the relationship of refugees and gender are important topics for both research and action. Nevertheless, they are among the most important issues and I believe that I have ordered them in what I think is their importance.

The first issue dealing with normative theory may seem esoteric. But without a coherent intellectual and normative road map that reconciles principles of distributive justice with membership theory we are lost without a compass. Early warning may appear as either a pipe dream or an unnecessary extravagance, since the problem does not seem to be the timeliness of warnings but the ability to mobilize an appropriate response. But unless we have the information and the analytic tools and mechanisms to face the crises, let alone the institutions of cooperation necessary to deal with them, then we will simply be faced year after year with another situation of mass starvation and distress where our publics decry the inadequate preparation and lack of political will of our international bodies as they clamour for the instantaneous responses demanded from their pricked consciences to situations that many of us have known were building towards a crises for months.

Humanitarian intervention may be read as a euphemism for

militarism in the guise of humanitarianism only to be applied when it is based on self interest and where sustained and forceful militant resistance is unlikely. But it a doctrine which we must clarify and prepare for, set forth both the theoretical normative and descriptive grounds and the institutional and mechanical tools to put it into place. With respect to involuntary movements of peoples, some efforts are going into the efforts to broaden the protections afforded convention refugees to other groups, such as those who flee civil strife. Efforts are being made to create protection regimes for groups such as international labour migrants. Others want to create separate regimes for each of the different groups of migrants. But this must be done systematically, coherently and comprehensively. The piecemeal and patchwork approach of the past demands replacement by a broader more encompassing vision.

There are at least two traditions for responding to the force and urgency of the imminent dangers that surround us as we face the emergence of a new world disorder which I depicted at the beginning of this paper. They can be found in the intellectual foundations of the West. One is to pull up the drawbridge and retreat to the safety of the familiar. In intellectual discourse, this pattern was set by Theognis, the gnomic poet of the sixth century BC who tried to codify the aristocratic educational traditions of classical Greek life, and like Pindar, the lyricist for Thebes, to rally his fellow Megarians in his *Sayings to Cyrnus* to resist the new Ionian proclamation and discovery that we all belonged to a singular world-order. Like most of his fellow poets, akin to Eliot and Pound in this century, rather than playing the role of legislators for mankind, these poets were obstreperous reactionaries revolted with the social and intellectual revolution that assaulted them from all sides.

Inspired by pride in the merits and accomplishments of their own mainland tribal cultures in opposition to the universalist naturalism of the Ionian thinkers that threatened to wash ashore from the islands of free thought in the Eastern Mediterranean and the espousal of a universal order determined by nature, Theognis set forth to teach male bonding rooted in the wedding of the material and spiritual, in the Greek case, the nobility of the perfect body disciplined by a harmonious soul. A system of morality was espoused to enhance the familiar and resist the strange, to blame the problems of the new economic disorder and fractures threading through the social structure on the masses and the mixture of aliens among them, arguing that the lack of social cohesion would lead to conflict and disorder. For example, in the second poem of the book, Theognis declares the physical structure of the city is the same, but the people there, and those striving for and achieving authority roles, are now different. Lacking traditions (that is, his traditions) they lack standards and they lie and cheat to achieve their place in the polis. The strangers are portrayed as lying, deceiving and treacherous.

But the central issue of the poem is justice. And justice depends on personal trust. Personal trust can only be built up by people who know one another and share common values. Change produces a crisis of confidence and credit, not just in the monetary sense. Justice depends on well-tested loyalties. And justice is defined not in distributive but in protective terms.

This is a doctrine that had been espoused in vulgar form by McCarthyites and, most currently, by the neo-fascists of East Germany. But it has its more aristocratic apologists where adherence to the familiar becomes a code word for exclusiveness, where assimilation of the stranger is seen as

the incorporation of an alien body. And the issue is not divorced from economic well-being. For Theognis is clear that the decline in wealth of his people is related to the incorporation of strangers into authoritative membership in the polity.

There is another Western tradition. It is associated with a universalism that disparages the particular as backward, as insular, as economically debilitating. It is a message that reaches towards a universal order of membership. It is a tradition that goes back to the myth of the tower of Babylon, the building of a polis in which we all can be equal citizens. Unfortunately, this "scientific" model for mankind is as unworkable as the insular model of communitarianism is reactionary.

Thus, the only viable enterprise is one which attempts to build a coherent rather than a universal order, one that builds on and respects differences rather than one which directly or indirectly homogenizes differences. That is why we must build the new order creatively and not defensively, and build it on the positive traditions which celebrate the values of difference while lauding mutual respect and recognition. That is why a UN built on an image of an abstract world order of universal rights of individuals and the sanctity of sovereign states is inadequate as the powerful forces of nationalism demand their place in the sun. May all of us, whether brown, black or pink, wear the same protective gel as we enjoy the warmth of the rays of the same sun while we also protect ourselves against the cancer of its ultra violet rays.

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ENDNOTES

1. Anthony D. Smith, The Ethnic Origin of Nations. Oxford: Basil Blackwell, 1986, p.5.

2. Blanche Wiesen Cook, *Eleanor Roosevelt: Vol I, 1882-1933*, New York: Viking, 1991.

3. This is a very different picture than one which suggests that the ills of the post Cold War era are attributed to external factors - the clash of the poor South versus the rich North, the neo-Marxist vision that is offered to replace the now defunct East-West ideological divide and conflict. Another alternative explanation in terms of external forces is to envision the clash as one between civilizations - Islam or the Orient versus the West, where the passions are enlisted not in the name of a national culture but in the name of an organized system of beliefs tied to a more ancient ideological tradition than the bourgeois state. If internal factors are blamed, reductionist explanations usually ascribe blame to one internal factor primarily - stupid and irresponsible leaders, the irrational passions of nationalism, material greed or the unjust system of distribution of benefits.

4. Charles Taylor, *Sources of the Self: The Making of the Modern Identity*, Cambridge, Mass.: Harvard University Press, 1989.

5. Shelley Burt argues (*Virtue Transformed: Political Argument in England, 1688-1740*) that the idea of public or civic virtue was dead by the 1740s. "When people have a say over their own lives, they do not usually choose to dedicate those lives to the public and its good."